



JANET T. MILLS
GOVERNOR

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

AMANDA E. BEAL
COMMISSIONER
SAMANTHA HORN
ACTING EXECUTIVE DIRECTOR

Memorandum

To: LUPC Commissioners
CC: Intervenors and Interested Persons
From: Tim Beaucage, Senior Planner;
Samantha Horn, Acting Executive Director; and
Billie MacLean, Regional Supervisor
Date: August 29, 2019
Re: Staff Recommendation – Zoning Petition ZP 768 Fish River Chain of Lakes Concept Plan;
Irving, Aroostook County

Introduction

On June 1, 2017, Irving (Petitioner) submitted a zoning petition ZP 768 proposing to rezone a portion of their property in northeastern Aroostook County to the Resource Protection Plan (P-RP) Subdistrict as a concept plan. A full summary of the administrative history is attached.

The September 11 meeting will include the Commission's deliberations, and possible decision on the proposed rezoning. Staff will make a brief presentation which will include key components of the plan and a summary of the riparian buffers and reserved land.

If approved at the September 11 meeting, the plan would be effective as soon as September 26th, and staff will meet with members of the community to review the plan and answer questions.

Concept Plan Summary

Zoning Petition ZP 768 proposes the Fish River Chain of Lakes Concept Plan. This 30-year plan includes approximately 51,000 acres within six townships in Aroostook County. Generally, the plan:

- Identifies areas where development will be focused:
 - nine residential development areas (approximately 1,200 acres) within which up to 330 dwelling units may be permitted;
 - four development areas for commercial and light industrial development (approximately 430 acres), collectively providing opportunities for economic development and community uses like affordable housing; and
 - one development area (approximately 51 acres) tailored to recreational development;



- Restricts for the life of the plan, residential development throughout the rest of the plan area;
- Establishes procedures for the possible sale of approximately 400 existing leased lots, which will include deeded road access, likely enlargement of the lots, and availability of additional land for replacement wastewater disposal systems;
- Includes approximately 16,764 acres to be placed in a permanent conservation easement – which facilitates sustainable forest management, secures public recreational access, prohibits residential development, and enhances resource protections. This easement will be held and monitored by the Forest Society of Maine.
- Secures permanent or long-term public access to lakes through the Long Lake Beach, Cross Lake Boat Launch, and a future public trailered ramp on Square Lake.

These are just a few highlights of the concept plan; a full summary is located in Section 1,E of the attached plan.

Summary of Issues / Concerns

Throughout the process, the Commission staff, parties, the public, and governmental agencies have provided extensive testimony. The topics and concerns included:

- Amount and location of development (southern end of Cross Lake and all of Square Lake);
- Phosphorus impacts, particularly within the Cross Lake Watershed which is currently heavily impacted by phosphorus export from lands outside the plan area and outside the Commission's service area;
- The amount and configuration of the conservation easement, and the resources included or not included;
- Details about the sale of lease lots;
- Future responsibilities of road associations;
- Details about the responsibility for and extent of road maintenance;
- Possible impacts on fisheries and recreation;
- Existing and future impacts on public roads within a neighboring community;
- Hillside development; and
- Secondary development pressures and effects;

See paragraphs 9,A through F of the staff recommendation for discussion of several topics.

Notable Changes Since the Hearing

In response to the public hearing in 2018, the Petitioner made a number of notable changes to the Concept Plan, including:

- Enhanced Resource Protections by:
 - adding more than 2,000 acres of land to the permanent conservation easement – protecting routes for wildlife movement across the landscape (*see maps 6 and 7*);
 - establishing riparian buffers and standards based on the resources present (*see Appendix C, section 3.2,(f); and Section 10.30,B,5,f.*);
 - updating the standards for the sizing and design of water crossings (*see Section 10.30-FRL, B,1.*);
 - requiring third-party inspections every other year for all hillside development (*see Section 10.25,E-FRL.*);

- allowing a number of standards to be amended over time (e.g., Sections 10.02 (definitions); 10.25,F (noise and lighting), 10.25,L (phosphorus control), 10.25,M (erosion and sedimentation control), and 10.27,C (mineral exploration and extraction.) (see Volume 2, Part 2 of prior versions¹);
- requiring hillside development to address both screening and defensible space (see Section 10.25,E-FRL,1,b.);
- protecting Square Lake from unregulated secondary development (see Section 10.34-FRL,C.);
- revising phosphorus mitigation credit provisions to follow the Maine Department of Environmental Protection’s recommended practices (see Section 10.32-FRL,D.);
- Redirected or otherwise restricted uses by:
 - eliminating a development area and relocating the allowed units to another location (see map 7 and map 26 of prior versions of the Concept Plan²);
 - eliminating “Marina” as an allowed use;
- Improved value of public benefits by:
 - strengthening provisions for public ownership/long-term lease of public water access sites (see Section 10.25,L-FRL);
 - adding marketing requirements for the commercial and economic development areas (see Section 1,G,1,b,(4));
- Addressed operational concerns by:
 - identifying minimum road maintenance standards and clarified how and when associations would be created and how existing associations could be involved (see Section 10.29-FRL);
 - adjusting the Concept Plan formatting, structure, and phrasing to improve, simplify, or otherwise clarify procedures (see Part 2)

Additional Edits

On August 14 the Commission’s staff suggested edits to the Concept Plan (attached). The suggested edits include typographical errors and clarifications. However, one edit would affect an intended outcome by addressing two competing requirements.

The Concept Plan requires the three public water access sites to be conveyed to a public entity. The Concept Plan also requires all lot owners and lessees, with deeded rights to use common infrastructure, to be members of the association managing the common infrastructure. However, because public entities may experience legal or political challenges to being association members, a change was made to provide public entities flexibility in how they participate in, or otherwise contribute to, the association. (see item 20 of the suggested edits, or Section 10.29-FRL,A of the Concept Plan).

The attached Concept Plan³ incorporates the staff suggested edits.

¹ www.maine.gov/dacf/lupc/plans_maps_data/resourceplans/fishriverlakes/petition_amend_061717/Volume2-ConceptPlan.pdf

² www.maine.gov/dacf/lupc/plans_maps_data/resourceplans/fishriverlakes/concept_plan/2018-04-12_JDI_MAPAMENDMENTS.pdf

³ Identified as the “Deliberation Version” with maps dated August 19, 2019.

Implementing Parties

The Concept Plan and the related conservation easement include requirements and expectations of the Petitioner and the holder of the conservation easement (“implementing parties”). On August 21st, the Petitioner and the Forest Society of Maine filed confirmation that each are individually willing and prepared to accept and implement their responsibilities as included in June 2019 version⁴ of the Concept Plan and related Fish River Chain of Lakes Conservation Easement.

Staff Recommendation

Staff recommends that the Petitioner has adequately demonstrated that the proposal to rezone approximately 51,000 acres to a Resource Plan Protection (P-RP) Subdistrict complies with applicable requirements, and that the Commission approve Zoning Petition ZP 768 and the attendant *Fish River Chain of Lakes Concept Plan* (“Deliberation Version”).

Deliberation Process

Staff will present key issues and be ready for Commission questions and discussion. The hearing record will be available for review at the meeting and has been available on the Commission’s website⁵ for review throughout the process by the Commission, parties, and members of the public. Because the record has closed, no new evidence will be accepted at this meeting.

Attachments:

Memo Attachment 1: August 14 Staff Suggested Edits

Memo Attachment 2: Staff Recommendation

Staff Recommendation Attachment A: Full Administrative History

Staff Recommendation Attachment B: Proposed Concept Plan

⁴ As corrected or clarified by the August 14, 2019 LUPC staff suggested edits.

⁵ www.maine.gov/dacf/lupc/plans_maps_data/resourceplans/fishriverlakes_prp015.html



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Memorandum

To: Irving and the Forest Society of Maine
CC: Fish River Lakes Leaseholders Association; Natural Resources Council of Maine; Ms. Pierson; and Sandy Point & Connection Lane Road Association
From: Tim Beaucage, Senior Planner
Date: August 14, 2019
Re: Suggested Staff Edits – Fish River Chain of Lakes Concept Plan

In accordance with the eighth procedural order, the LUPC staff offer the following suggested edits. In addition to items identified by the LUPC staff, the following are viewed as also addressing comments submitted on July 1, 2019 by the Fish River Lakes Leaseholders Association (items 1, 3a, 4b; 5; and parts of 4a and 6); and one comment from Ms. Pierson (unnumbered).

Suggested Edits

1. Correct Section 1,D,3,a, “Upon filing of notice pursuant to Section 10.33,A,3 with the Commission, an individual development area (e.g., D-FRL-RS) will be automatically changed to M-FRL-GN or applicable protection subdistricts, with overlaying P-RP, as correspond to the zoning designation(s) in effect immediately prior to the effective date, provided...” thus removing the development area designation without removing the location from the plan or the related P-RP designation.
2. Clarify Section 1,G,1,c,(3),(a) to reflect the understood intent, “Provide the buyer with a legal right of vehicular access over Petitioner’s land/roads to the camp lot, and-or, 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”
3. Update or otherwise correct footnote 2 within Section 1,G,1,e to reflect that the resource management plan is incorporated into the easement, “For the purposes of this section only, “agreement” means an agreement, contract, or plan appended to the Fish River Chain of Lakes Concept Plan (e-g.i.e., DWA Agreement; and OBF Agreement;~~and Resource Management Plan~~).”
4. Correct Section 1,H, Table 5, Areas for Residential Development ... “2-91.9”



5. Correct the following maps in Section 1,I:
 - a. In the event that the FRLLA comment (#4,a) regarding improperly numbered license lots, is correct; Maps 13 and 17 should be adjusted to label the correct license lot number.
 - b. Clarify Map 9, consistent with prior versions, by labelling the map as “Access to Development ~~Areas~~” or “Access to Existing and Allowed Development.” And, related to item 2 above, illustrate the Irving portions of the Square Lake Road as “Potential Access to Development” (i.e., the thicker line).
 - c. Correct all appropriate maps regarding those portions of new development areas that were to extend to a water body. By way of example, Cross Lake B used to include purple ‘fingers’ that extended between license lots to the shoreline of Cross Lake; revised maps no longer illustrate this intended outcome.
 - d. Correct the boundary between the Square Lake Infill (southern end) and the conservation easement. At least Maps 7 and 8 illustrate these areas as overlapping, also Map 6 of the easement may need to be corrected.
 - e. Maps 9, 17, and 18 illustrate areas with a white and black stippling. It is not clear what information or feature is identified.
 - f. Clarify Map 15 by illustrating Cross Lake B. While the license lots are the primary subject, the relationship between the licenses and this development area will be important.
 - g. Correct the label for Map 18 “~~Cross Lake-6~~Square Lake”.
6. Consistent with the zone acronyms, revise the nomenclature in Part 2 of the plan to improve the distinction between citing the provisions of Chapter 10 and the supplemental/companion standards in the Plan. Specifically, include “-FRL” (stated as ‘dash FRL’) as appropriate and revise each reference in the Concept Plan appropriately. Note that some plan elements currently include a “-1” to serve this purpose; each of these would also be changed to “-FRL.” This will also result in corresponding clarifications to Section 2,B Explanatory Table.

The following illustrate this through several examples, each including a heading from the Plan and a possible citation:

10.02-FRL SUPPLEMENTAL DEFINITIONS

‘... in accordance with Section 10.02-FRL,14.’

10.21,A-FRL COMMERCIAL INDUSTRIAL DEVELOPMENT ZONE (D-FRL-CI)

‘... in accordance with Section 10.21,A-FRL,3,c,(1).’

10.23-A-FRL PROTECTION SUBDISTRICT CLARIFICATIONS

‘... as provided by Section 10.23-A-FRL,1,b,(2),(c).’

10.25,E-FRL SUPPLEMENTAL HILLSIDE STANDARDS

‘... in accordance with Section 10.25,E-FRL,1,a.’

10.25,L-FRL PHOSPHORUS CONTROL

“[The standards within Section 10.25,L in effect at the time apply, except that Section 10.32-FRL governs phosphorus allocations.]”

10.26-FRL DIMENSIONAL REQUIREMENTS

‘Section 10.26-FRL,A through F represent the minimum dimensional requirements for...’

10.33-FRL NOTICE OF PLANNED ACTIVITIES

‘... pursuant to Section 10.33-FRL the proposed activity...’

7. Correct the reference to the concept plan maps (i.e., “...Section 1,~~H~~...”) within the description for Sections 10.21,A,2; C,2; M,2; N,2; 10.22,A,2; and 10.23-A,1,a,(1).
8. Clarify and otherwise unify the structure of Section 10.21,M,3,a with other sections.
 - “(1) Those uses listed as “Uses Allowed Without a Permit” within the Residential Development (D-RS) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time except as provided in Section 10.21,M,3,a,(2).
 - (2) Notwithstanding Section 10.21,M,3,a,(1), the following uses shall be allowed without a permit:
 - (a) Docking structures: Temporary docking structures; ...”
9. Correct the two following items in Section 10.21,N,3,c:
 - a. (11)... “Shoreland alterations, including ~~and~~ permanent on-shore...”
 - b. (13)... “moderate-density subdivisions~~r~~ and”
10. Correct the citation in Section 10.23-A,1,a,(2) to match other zones, “Except as authorized by Sections 1,D,3 and 10.08 no new protection subdistricts...”
11. Clarify Section 10.23-A,1,b,(2),(c) by the following use listing to account for those portions of a common water access site that need to occur below the normal high water mark (i.e., in a P-WL) and that temporary docking structures are also located within ‘open water’ P-WL subdistricts.

“(c) Water access sites: ~~Public and remote w~~Water access sites in accordance with Section 10.27,L; and

(d) Docking structures: Temporary docking structures; ...”

12. Correct the title for Section 10.25,E-1 to match Chapter 10, “~~Scenic Character, Natural and Historic Features~~Natural Character and Cultural Resources”
13. Correct Section 10.27,L,1,a to list “...; picnic shelter; bulletin boards; ...” as a type of structure that could be part of a common water access site.
14. Clarify Section 10.28,B,2,a “Existing Camp Lots. A camp lot, as defined in Section 10.02-A, satisfying the following conditions does not require Commission approval...” [Also see clarification for Section 10.33,B,1, below.]
15. Match the phrasing in Section 10.28,B,2,m
 - “(1) The lot ~~or parcel~~ is created...
 - (2) The lot is located...”
16. Match the phrasing in Section 10.28,B,2,n
 - “(1) The lot is one of six lots allowed...
 - (2) The lot is one of ~~the~~ six lots allowed...”
17. Clarify Section 10.28,B,2,n, to confirm that an additional lot is allowed,
 - “n. **In-fill Lots within or Serving Certain Camp Lot Areas.**
 - ...
 - (2) The lot is one of the six lots allowed within the Square Lake Infill area consistent with the residential development unit cap in Section 10.28,C; or
 - (3) The lot is created within Square Lake East or Square Lake Yexas in accordance with, and for the purposes of, Section 10.34,A,5,h.”
18. Clarify Section 10.32,C,3 in order to match provisions/cross references in Section 10.33:
 - “a. ... conveyance and shall provide notice, in accordance with Section 10.33, to the Commission and the DEP sufficient to allow the Commission to track compliance with this rule. ...
 - d. ...In each case, Petitioner or owner shall provide notice, in accordance with Section 10.33, to the Commission and the DEP of the intent to ...”
19. Revise Section 10.33,A to reflect other plan provisions, and to confirm the information needed with the related notices.
 - a. Revise sub-section A:
 - “1. Prior to any lot divisions or the transfer of any lands within the Plan Area, as allowed by Section 10.28;~~and~~
 - 2. Prior to the allocation, revocation, or surrender of any phosphorus allocation authorized by Section 10.32,C;;
 - 3. Prior to a zone modification to revert to prior management or protection subdistricts in accordance with Section 1,D,3; and
 - 4. At the time of creation or expansion of an association in accordance with Section 10.29,B,9.”

b. Revise sub-section B:

“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.

...

3. Associations: Where the notice regards the creation or expansion of an association, the name of the association, contact information, and identification of the applicable infrastructure must be filed with the Commission.

4. Commission staff, within 14 days of the...”

20. The plan requires all lot owners and lessees to be members of the related association. However, we understand that some public entities may experience legal or political challenges to being association members, yet public use of related roads should not be overlooked. In order to ensure that these public elements can be carried out, the plan should incorporate a fair alternative.

“Section 1,E. Elements of the Plan

...

13. Access

...

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.”

...

“Section 10.29 Associations

Common infrastructure (e.g., roads and common facilities, such as roads, open space, water access sites and stormwater management structures) may be managed by a road association or an owner association.

A. Joining Associations.

1. All lot owners or lessees with deeded rights to use common infrastructure are required to be members of the association managing the common infrastructure.
2. Notwithstanding Section 10.29,A,1, owners or lessees of lots accessed directly from a public road, and public entities, shall not be required to be a member of a road association.

Associations and public entities are encouraged to work out an agreement through which, subject to allocation by the Maine Legislature or applicable budgetary authority, the public entity would contribute a fair percentage of the minimum maintenance and repair costs through financial contributions or in-kind services. ...”

21. Revise Section 10.30,B,5,f for consistency with other provisions “...no more than approximately one-third of the total basal area shall be removed within a ~~20~~-25 year time period...”

22. Correct the citation in Section 10.34,C,3,b, “...Section 10.34,C,2,~~bc~~(5)...”

23. Clarify the conservation easement (both the stand alone/formal version and Appendix C in the plan):

- a. Section 1.18 – “...associated signs and Structures, and wells, but does not include permanent sawmills or other permanent forest processing facilities.”
- b. Section 3.2,(b),(iv),(C),(8), “...Forest health: practices to promote forest health or to mitigate greater damage to the Conservation values ~~of~~ due to natural...”
- c. Section 4.1,a,(iv) is ambiguous or confusing.

“(iv) as Grantor may determine to be required to access or service (A) Structures existing as of the date of the grant of this Conservation Easement, as identified in the Baseline Documentation, (B) Structures used for nature observation (including, but not limited to, observation blinds and platforms), (C) Trails, or (D) Structures required for the administration and collection of fees pursuant to Section 6.2 hereof; ~~provided, however that under no circumstances may there be more than one (1) “cell” tower on the Protected Property at any point in time provided that Grantor first obtains the consent of Holder;~~

...

- (b) All such roads, driveways and/or Utility Structures shall be located, designed, placed, and constructed in a manner so as to (A) minimize the amount of Protected Property utilized, and (B) minimize undue adverse effects on the Conservation Values; when prior consent of Holder is required, it shall be granted only upon a determination by Holder that this standard is met. All such roads, driveways and/or Utility Structures shall be constructed, placed, or expanded only in accordance with all necessary regulatory approvals, including, but not limited to, permits required for the development that is to be accessed or serviced by such roads, driveways and/or Utility Structures. Under no circumstances may there be more than one (1) “cell” tower on the Protected Property at any point in time, and for which Grantor must first obtain the consent of Holder.”
- d. Section 8.7 Insurance. “Each Party shall maintain insurance policies ~~in~~ of a commercially reasonable type, ...”
- e. Section 10.1 Initial Contribution – “... An additional contribution by the Grantor to the Holder in the amount of \$25,000 shall be made to support the creation of the Baseline Documentation Report described in ~~s~~Section 5.1.”
- f. Exhibit A-1, Area 6. Consistent with item 5,d above, confirm that the conservation easement boundary as illustrated on area 6 at the southern end of the Square Lake Infill, does not overlap with the development area. Note that the property description in Exhibit A-2 appears to be correct (*i.e.*, the description at “n;” however, due to the scale of the map, we have raised this here to confirm that the two areas do not overlap.

24. Unify or otherwise correct formatting throughout the Plan:

- a. punctuation (*e.g.*, Sections 10.27,L,3,a and c “Hand carry launches~~;~~” and “Trailerred ramps~~;~~”);
- b. formatting (*e.g.*, bold, italics, alignment), such as Section 10.29,B,1 through 3;
- c. numbering (*e.g.*, the six sub-items within Section 10.29,B); and
- d. correct all instances of “and/or” with “or” as the Commission interprets “or” to include the possibility of “and”.

**COMMISSION DECISION
IN THE MATTER OF
ZONING PETITION ZP 768**

THE FISH RIVER CHAIN OF LAKES CONCEPT PLAN

AUGUST 29, 2019 RECOMMENDATION

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COMMISSION DECISION
IN THE MATTER OF

Fish River Chain of Lakes Concept Plan
For Certain Lands Under The Ownership Of
Allagash Timberlands, Aroostook Timberlands, and Maine Woodlands Realty Company,
Aroostook County

Findings of Fact and Decision

ZONING PETITION ZP 768

The Maine Land Use Planning Commission, at a meeting of the Commission held September 11, 2019, at Brewer, Maine, after reviewing the petition and supporting documents submitted by Irving Woodlands, L.L.C. for Zoning Petition ZP 768, public comments, Intervenor and Interested Persons comments, governmental review agency comments and other related materials on file, pursuant to 12 M.R.S. Section 681 *et seq.* and the Commission's Standards and Rules, finds the following facts:

1. PETITIONER

Allagash Timberlands LLC, Aroostook Timberlands LP,, and Maine Woodlands Realty Company (“Irving”)
PO Box 5777
Saint John, NB E2L 4M3

2. LOCATION OF PROPOSAL

The Plan Area¹ is comprised of portions of Irving’s ownership within the following six minor civil divisions in Aroostook County:

- Cross Lake Township;
- Madawaska Lake Township;

¹ The Plan Area is generally shown on Attachment A, and is more specifically identified as the P-RP Subdistrict on the Official Land Use Guidance Maps contained in Appendix A of Attachment B.



- Sinclair Township;
- T15 R 5 WELS;
- T16 R 5 WELS; and
- T17 R 3 WELS

3. PRESENT ZONING WITHIN THE PLAN AREA

- General Development (D-GN) Subdistrict
- Residential Development (D-RS) Subdistrict
- General Management (M-GN) Subdistrict
- Flood Prone Protection (P-FP) Subdistrict
- Fish and Wildlife Protection (P-FW) Subdistrict
- Great Pond Protection (P-GP) Subdistrict
- Shoreland Protection (P-SL) Subdistrict
- Wetland Protection (P-WL) Subdistrict

4. PROPOSED ZONING FOR THE PLAN AREA

Resource Plan Protection (P-RP) Subdistrict

5. SIZE OF PARCEL TO BE REZONED

Approximately 51,000 acres (owned)

6. PROPOSAL

Irving seeks a change in subdistrict boundaries from the present Management, Development and Protection Subdistrict designations to a Resource Plan Protection (P-RP) Subdistrict² and approval of the attendant *The Fish River Chain of Lakes Concept Plan* (hereinafter, “Concept Plan”), attached hereto as Attachment B. Generally, the Concept Plan:

- Facilitates limited residential and commercial development. Development areas at Long, Cross and Square Lakes would allow up to 330 residential units, and limited, small-scale commercial uses would be allowed in a mixed-use zone in the Yexas area at Square Lake. In addition, certain areas for the growth of the Sinclair and Guerette communities will be made available for sale or lease and would accommodate commercial, light industrial, and institutional activities (*Section 1,E,1.*);

² The land comprising the P-RP Subdistrict is hereinafter collectively referred to as the “Plan Area.” The Plan Area is generally shown on Attachment A, and is more specifically identified as the P-RP Subdistrict on the Official Land Use Guidance Maps contained in Appendix A of Attachment B.

- Provides for public recreational trail access to the Plan Area and enables commercial recreation opportunities by allowing a limited number of remote rental cabins and remote campsites (*Section 1,E,12.*);
- Provides for permanent or long-term public access to lake resources. Within a year of the effective date of the Plan, the existing Cross Lake boat launch must be conveyed to a public entity, and the Van Buren Cove beach must be leased for 99 years to a public entity. (*Section 1,G.*) Property and access rights for a Square Lake boat launch at Square Lake East or Square Lake Yexas must be conveyed to a public entity early in the Square Lake development process and the launch must be operational and available to the public before more than 15 lots or units may be approved. (*Section 10.34-FRL,B.*) Public hand carry launches may be made available at Dickey, Little California, and Carry ponds. (*Section 10.27,L-FRL,1.*);
- Requires permanent conservation in the form of a 16,760-acre perpetual working forest conservation easement, focused on the areas around Square Lake, Carry Pond, and the Mud-Cross thoroughfare, as well as some areas to the west of Cross Lake. The easement provides for a future large mammal migration corridor and enacts additional protections for high-value brook trout streams, and other habitat. (*Appendix C.*);
- Establishes a consistent process for the sale of existing lease lots. The purchasers of the lots will in most cases have back lots and in all cases have access to back land, as needed, for future septic installations to protect lake water quality, and predictability about access rights, homeowners' associations and road maintenance responsibilities. (*Section 10.28-FRL,B,2,a.*);
- Improves upon the current regulatory requirements by enacting custom standards for hillside developments, implementing a phosphorus budget program in the Long Lake, Mud Lake, Cross Lake, and Square Lake watersheds, and utilizes a phased approach for development at Square Lake. (*Sections 10.25,E-FRL; 10.25,L-FRL; and 10.34-FRL,B.*); and
- Retains the majority of the Plan Area in working forest and provides flexibility for additional community growth in the future without overburdening the highly desirable lake shorelines (*Map 2*).

The proposal does not authorize residential or commercial development to begin: it establishes a framework that sets up the process for review of future development applications.

7. ADMINISTRATIVE HISTORY

The administrative process undertaken to review the proposal by the Commission and, under its direction, by the LUPC staff, extended for over four years and reflects the scale and complexity of the proposal and the public interest in it. In 2011, Irving initiated informal discussions with Commission staff of its ideas for a concept plan for its ownership within the Fish River Lakes region.

In October 2013, the Commission conducted a public pre-application site visit.

In December 2014, Irving filed its original Zoning Petition ZP 768 and formally submitted a revised petition in June 2017. The 2017 petition was deemed complete for processing on August 31, 2017.

In October 2017, the Commission received a project overview and conducted a public site visit. The site visit included six different stops during which staff provided a brief summary of plan elements at or visible from the site and offered attendees an opportunity to travel through and briefly observe the variety of settings included as part of the proposal. Parties and assorted members of the public attended each part of the site visit.

In April 2018, in response to staff feedback and questions, Irving filed the first set of amendments to the proposal. The amendment provided additional supporting material, and either clarified or bolstered assorted sections of the proposed concept plan.

In May 2018, the Commission held two days of adjudicatory hearings on Zoning Petition ZP 768, in which six formal parties (Irving, plus three Intervenors and two Interested Persons) were provided the opportunity to participate and offer testimony. During this same time period, the Commission also held two evening public hearing sessions on Zoning Petition ZP 768, during which dozens of members of the public testified before the Commission.

In June 2018, as part of its post hearing brief, Irving filed the second set of amendments to the proposal. The amendments responded, in part, to a number of issues raised during the hearing process, generally: roads; water access sites; development areas; the conservation easement; hillside development standards; phosphorus; and sustainable forestry principles/outcome-based forestry.

In June 2019, Irving filed a revised plan that responded to numerous other comments submitted during the hearing.

In August 2019, the specific text of amendments that the Commission found to be required by statute and its regulations was finalized. Each of the parties with implementing responsibilities³ under the Concept Plan (“implementing parties”) informed the Commission that they were prepared to accept the responsibilities set forth in the amendments.

Finally, today the Commission formally approves the Concept Plan set forth in Attachment B, and adopts the associated P-RP Subdistrict identified on the Official Land Use Guidance Maps contained in Appendix A of Attachment B.

The full administrative history of this proceeding is set forth in Attachment A.

³ Implementing parties include the Petitioner and the Forest Society of Maine.

8. REVIEW CRITERIA

A. Statutory Criteria For Adoption Or Amendment Of Land Use District Boundaries

In accordance with 12 M.R.S. § 685-A(8-A), “A land use district boundary may not be adopted or amended unless there is substantial evidence that:

- (1) The proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan and the purpose, intent and provisions of [Ch. 206-A (Use Regulation)]; and
- (2) The proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.”

B. Statutory Criteria For Amendment Of Land Use Standards

In accordance with 12 M.R.S. § 685-A(8-B), “Adoption or amendment of land use standards may not be approved unless there is substantial evidence that the proposed land use standards would serve the purpose, intent and provisions of [Ch. 206-A (Use Regulation)] and would be consistent with the comprehensive land use plan.”

C. Ch. 10 Review Criteria For Concept Plans And Associated Redistricting

In accordance with Chapter 10, Section 10.23,H,6 of the Commission's rules, the Commission may approve a concept plan and any associated redistricting only if it finds that all of the following criteria are satisfied:

- (1) The plan conforms with redistricting criteria;
- (2) The plan conforms, where applicable, with the Commission's Land Use Districts and Standards;
- (3) The plan conforms with the Commission's Comprehensive Land Use Plan;
- (4) The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criteria is matched by comparable conservation measures;
- (5) The plan has as its primary purpose the protection of those resources in need of protection, or, in the case of concept plans, includes in its purpose the protection of those resources in need of protection;
- (6) In the case of concept plans, the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources; and

- (7) In the case of concept plans, conservation measures apply in perpetuity, except where it is demonstrated by clear and convincing evidence that other alternative conservation measures fully provide for long-term protection or conservation.

D. Ch. 10 Review Standards For Structures Adjacent To Lakes

In accordance with Chapter 10, Section 10.25,A (Review Standards for Structures Adjacent to Lakes) of the Commission's rules, the standards set forth below must be met for all subdivisions and commercial, industrial, and other non-residential structures and uses proposed on land adjacent to lakes. These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes.

In applying the standards set forth below, the Commission shall consider all relevant information available including the Maine Wildlands Lake Assessment Findings (Appendix C of this chapter), and relevant provisions of the Comprehensive Land Use Plan.

- Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildlands Lakes Assessment;
- Water quality: The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
- Traditional uses: The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture;
- Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed;
- Natural character: Adequate provision has been made to maintain the natural character of shoreland[s];
- Lake management goals: The proposal is consistent with the management intent of the affected lake's classification; and
- Landowner equity: Where future development on a lake may be limited for water quality or other reasons, proposed development on each landownership does not exceed its proportionate share of total allowable development.

9. REVIEW OF EVIDENCE PERTAINING TO REVIEW CRITERIA, FACTUAL FINDINGS AND LEGAL CONCLUSIONS THEREON

A. Existing Uses And Resources Within And Surrounding The Plan Area

The Plan Area⁴ is situated in Northern Aroostook County within the St. John River Valley Region, which encompasses parts of the Fish River Chain of Lakes, including Long Lake, Mud Lake, Cross Lake and Square Lake. This region has a long history of agricultural, industrial, and working forest uses. Long Lake is the start of the eastern branch of the Fish River. From Long Lake, the Fish River flows southwest to Mud Lake to Cross Lake and then to Square Lake. Thoroughfares, or sections of flowing water, connect the four great ponds. The Plan Area is bisected by State Route 161, which is located between Mud Lake and Cross Lake. Outside the Plan Area, the Fish River flows from Square Lake to Eagle Lake where it merges with the western branch of the Fish River and then flows north into the Saint John River.

This section generally describes the predominant existing resources and uses of the area, namely (i) commercial forestry, forest resources, and other natural resources, and (ii) scenic and recreational resources and outdoor recreational uses. The area also supports a wide variety of other natural and cultural resources, many of which are representative of the jurisdiction’s extensive resource base. The existing Protection Subdistricts within the area⁵ – including subdistricts that identify and protect lakes and ponds, rivers and streams, wetlands, and other resources – are an indicator of this variety.

Further details regarding the existing uses and resources within the area are contained in the administrative record.⁶

(1) Existing Forest And Other Natural Resources, And Existing Commercial Forestry Uses

The Plan Area is largely undeveloped and forested and has historically been managed for timber harvesting, which is a substantial economic driver in the area. The plan area also contains abundant natural resources, and there are large sections of shoreline, particularly on Long Lake and Cross Lake, that are developed with residential structures, both seasonal and year-round. The

⁴ For purposes of describing the existing uses and resources within and surrounding the Plan Area, the Commission considered the lands within the Plan Area, the approximately 51,000 acres with significant shoreline frontage on four of the Lakes within the Fish River Chain of Lakes: Long Lake, Mud Lake, Cross Lake, and Square Lake, as well as all water bodies and wetlands within the boundaries of or contiguous with the boundaries of the P-RP Subdistrict. These are collectively referred to as “the Plan Area.” In addition, there are a number of separately owned parcels located adjacent to the Plan Area, including the lots that comprise Sinclair Village, Guerette Village, the 4,100 acres between Cross and Square Lakes, and the Eagle Lake Public Lands Reserve, they are collectively referred to as “the surrounding area”.

⁵ For the Plan Area itself, these are listed in section 3 and identified on the Official Land Use Guidance Maps of the 6 minor civil divisions comprising the Plan Area (see Concept Plan, Appendix A).

⁶ Petition, May 2017, Vol 1, Tab 15 and Appendix A.

majority of these residential lots were created prior to the Commission's inception and are currently being leased or licensed to camp owners. Currently, there are no commercial businesses in the Plan Area, however, there was historically a commercial sporting camp, the Yexas Camps (also known as the Gorfinkle Camps and the Square Lake Camps) on the southeast shore of Square Lake.

Forest resources within the Plan Area contain an abundant and diverse array of other natural resources, including extensive wetlands, rivers, streams, lakes, remote ponds, and other aquatic habitats; miles of undeveloped shores and riparian areas; diverse and extensive wildlife, plant, and other terrestrial habitats, including habitats of rare, threatened and endangered flora and fauna and natural plant communities, and plentiful wildlife and fish.

Typical of the forest land in northern Maine, the Plan Area provides habitat for a wide array of wildlife species, including common species of mammals (*e.g.*, moose, white-tailed deer, black bear, fox, coyote, and snowshoe hare), over 100 species of birds (*e.g.*, warblers, flycatchers, thrushes, vireos, sparrows, finches, wading birds, waterfowl, raptors, corvids); and wildlife species of moderate to very high conservation value (*e.g.*, Canada lynx, bats, bald eagle, rusty blackbird, Great Blue Heron and the Small Mouth Pond Snail).

The Plan Area also supports several species of fish, including brook trout, rainbow smelt, and landlocked salmon. Long Lake is considered as one of the best lakes for salmon fishing in Maine and the Maine Department of Inland Fisheries and Wildlife (the MDIFW) ranks it first in the 27 lakes that are rated for size quality.⁷

The Cross Lake Fen, located above the western shore of Cross Lake and which is partly within the plan area, is listed as a "Focus Area" by the State of Maine, Beginning with Habitat Program.⁸ Focus areas are natural areas of statewide ecological significance that contain unusually rich concentrations of at-risk species and habitats. The Cross Lake Fen contains more than 1,500 acres of inland waterfowl and wading bird habitat, approximately 40% of which are on Irving Woodlands ownership and in the Plan Area. The Cross Lake Fen also contains several rare and exemplary natural communities, as well as two rare plant species. Other known botanical resources within the Plan Area include an S1 community of pigmy waterlily; the Cross Lake Bog, another large inland waterfowl and wading bird habitat; and several small stands of old growth hemlock and red oak.

To manage its entire 1.255 million acres of land ownership in Maine, of which the Plan Area comprises approximately 4%, Irving Woodlands directly employs 30 forestry professionals and contracts for logging and other

⁷ Petition, May 2017, Vol. 1, Appendix A, p. 11.

⁸ Petition, May 2017, Vol. 1, Appendix A, p. 19.

services with another 2,000 people. Irving Woodlands provides a sustainable wood supply to over 20 separate businesses in Maine.⁹

These existing forest and other natural resources, and the commercial forestry use that takes place as a result, exemplify on a landscape scale two of the four principal values of the jurisdiction: “the economic value of the jurisdiction derived from working forests and farmlands, including fiber and food production, largely on private lands,” and the value of the jurisdiction for “diverse, abundant and unique high-value natural resources and features.”¹⁰ The Commission therefore finds that protecting these existing forest and other natural resources, and further protecting the ability to continue commercial forestry in the area, to be of importance to the people of the State of Maine.

(2) **Existing Recreational And Scenic Resources, And Existing Outdoor Recreational Uses**

The Plan Area is set around a chain of lakes surrounded by undeveloped, forested hills. The lakes and rivers in the region are an important contributor to the scenic and recreational resource quality of the area. The Plan Area includes all or portions of four lakes and three ponds that have a variety of aesthetic qualities, including miles of undeveloped shoreline, points, coves, beaches and wetlands. The thoroughfares connect the four lakes and provide for travel by boat from lake to lake, particularly in the springtime. The scenic character of the shoreline of these lakes and the thoroughfare varies with geographic, topographic and ecologic conditions as well as the amount of existing development.

Recreational uses within the Plan Area comprise both primitive and motorized outdoor pursuits, including fishing, hunting, camping, swimming, hiking, paddling, boating, cross-country skiing, snowshoeing, snowmobiling, and all-terrain vehicle (ATV) riding.¹¹ The most significant recreational resource in the immediate vicinity is the 24,083-acre Eagle Lake Unit of Maine Public Reserved Land, which is located adjacent to the west side of the Plan Area.¹²

In order to recreate in the area, recreationists depend, to varying degrees, on both the natural landscape and the recreational infrastructure that is located on privately-owned land and on public land in the region.

The Plan Area itself contains a range of recreational landscape settings from semi-primitive (*e.g.*, limited access, no recreation infrastructure, and away from permanent settlements) to developed areas (*i.e.*, easy access by roads,

⁹ Petition, May 2017, Vol. 1, Appendix D.

¹⁰ CLUP, 2010, p. 2.

¹¹ Petition, May 2017, Vol 1, Appendix A, pp. 25-26.

¹² Petition, May 2017, Vol 1, Tab 16.

recreation infrastructure, and close to permanent settlements). Nearby parcels that are publicly owned include Maine Public Reserved Land (Eagle Lake Unit) and the Town of Van Buren Conservation Easement in Cyr Plantation.

While existing recreational infrastructure within the area and immediately adjacent to it is limited, it includes motorized recreational trails (*e.g.*, the ITS snowmobile trail system, and ATV trails); boat launches and marinas (*e.g.*, trailered boat launches on Long Lake, Cross Lake and Square Lake; and a commercial marina at the Long Lake Sporting Club); a paint ball course along Route 161 in Guerette Village; campgrounds (*e.g.*, Long Lake Campground and Lakeview Camping Resort on Long Lake, and Water's Edge Campground on Mud Lake); and a range of overnight lodging facilities (*e.g.*, commercial sporting camps, hotels, motels, and bed and breakfasts).

Many of the recreational resources and infrastructure in the region are accessible and usable by recreationists because of Irving's voluntary "open lands" policy, whereby Irving Woodlands allows free public access to land in this region for many types of outdoor recreational uses.¹³ Notwithstanding this policy, there are recreational resources in the area that are remote or difficult to access, including remote ponds, streams, and vast tracts of forested, undeveloped lands.

These recreational and scenic resources and associated outdoor recreational uses exemplify the other two principal values of the jurisdiction: the "diverse and abundant recreational opportunities, including many types of motorized and non-motorized activities..." and the "natural character values" of the jurisdiction, "which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers."¹⁴ The Commission therefore finds that protecting these existing recreational and scenic resources, and further protecting the outdoor recreational uses that occur due to their existence, to be of importance to the people of the State of Maine.

B. The Proposed Land Use District Is Consistent With The Comprehensive Land Use Plan And The Purpose, Intent And Provisions Of Ch. 206-A (12 M.R.S. § 685-A(8-A)(A))

The purpose of the law establishing the Land Use Planning Commission is to "extend the principles of sound planning, zoning, and development to the unorganized and deorganized townships of the State: To preserve public health, safety and general welfare; to support and encourage Maine's natural resource-based economy and strong environmental protections; to encourage appropriate residential, recreational, commercial and industrial land uses; to honor the rights and

¹³ May 2017, Concept Plan Vol 2, Tab 1, p. 19.

¹⁴ CLUP, 2010, p. 2.

participation of residents and property owners in the unorganized and deorganized areas while recognizing the unique value of these lands and waters to the State; to prevent residential, recreational, commercial and industrial uses detrimental to the long-term health, use and value of these areas and to Maine's natural resource-based economy; to discourage the intermixing of incompatible industrial, commercial, residential and recreational activities; to prevent the development in these areas of substandard structures or structures located unduly proximate to waters or roads; to prevent the despoliation, pollution and detrimental uses of the water in these areas; and to conserve ecological and natural values.” 12 M.R.S. § 681

The principles of “sound planning, zoning, and development” and the detailed policies by which it will achieve the purpose and intent of the law are embodied in the CLUP that the statute requires the Commission to adopt, as well as the Commission’s rules. The last revision to the CLUP was in 2010, and this is the version against which consistency of the Concept Plan is evaluated. Because the statutory purpose and scope was amended in 2012, the CLUP is interpreted in light of the current law.

In evaluating the Concept Plan’s consistency with the CLUP and Ch. 206-A, the Commission considered the statutory purpose and scope; the statutory criteria for adoption or amendment of land use standards; the broad goals of the CLUP; and the principal values of the jurisdiction identified in the CLUP. The Commission also finds of particular relevance a number of CLUP goals and policies with respect to development, natural resources, and cooperative efforts with landowners. The Commission’s findings with respect to these provisions are set forth below.

(1) **The Concept Plan Is Consistent With The Purpose, Intent And Provisions Of Ch. 206-A**

The Commission considers consistency with the broad goals of the CLUP, described below, to be a key part of consistency with Ch. 206-A. Legislative amendments to the statutory purpose and scope (12 M.R.S. § 681.) in 2012 emphasized the importance of the unorganized and deorganized areas of the state to many groups in Maine, from property owners to the general public. The Concept Plan, as proposed, considers and balances the needs of the many affected stakeholder groups. In combination, this balancing as well as consistency with the CLUP constitutes consistency with the statute.

(2) **The Concept Plan Is Consistent With The Criteria For Amendment Of Land Use Standards (12 M.R.S. § 685-A(8-A)(B))**

Pursuant to 12 M.R.S. § 685-A(8-B) of the statute, the Commission evaluated the Concept Plan’s amended land use standards to ensure that they “serve the purpose, intent, and provisions of [Ch. 206-A]” and are consistent with the CLUP. These include a number of standards that are either new or have been modified from their current form in Chapter 10. For example:

- Standards¹⁵ to ensure that scenic character in the area is protected have been expanded to specifically address hillside development in order to implement the CLUP’s policy to “protect the scenic values of coastal, shoreland, mountain, recreation and other scenic areas.” Generally, these include requiring development proposals to provide design standards, to involve professionals who are trained and have experience in the application of visual quality management and avoiding development that extends above the ridgeline.
- Existing Chapter 10 standards for phosphorus control have been modified¹⁶ to address the need identified by the Maine Department of Environmental Protection (MDEP) and local residents to protect water quality in Cross Lake, which is already impaired due to inputs from lands higher in the watershed. This is consistent with policies in the statute and the CLUP about water quality protection.
- Standards for how the approximately 400 existing lease lots may be sold have been strengthened to ensure appropriate treatment of future septic systems, legal road access and maintenance, and clarification of lot boundaries¹⁷. This will help address leaseholder concerns about future access and road maintenance (*FRLLA testimony topic one.*) as well as protect water quality and public safety.

Consistent with the CLUP’s provisions governing concept plans and their binding effect on both the Commission and the landowner, the Commission may not during the thirty-year term of the Concept Plan modify certain identified regulatory standards and procedures set forth therein except upon agreement with the petitioner. The Concept Plan explicitly distinguishes between those provisions which are subject to amendment by the Commission, and those which may only be amended during its thirty-year term upon agreement between the Commission and the Petitioner. It is important to note, however, that the Concept Plan’s terms expressly respect the Legislature’s undiminished authority to enact statutory changes applicable to the Plan Area.

(3) **The Concept Plan Is Consistent With The Broad Goals Of The CLUP And The Specific Natural Resources Goals And Policies Of The CLUP, And Protects The Jurisdiction’s Principal Values**

The broad goals of the 2010 CLUP are:

- Support and promote the management of all the resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine and property owners and

¹⁵ Concept Plan, Section 10.25,E-FRL.

¹⁶ Concept Plan, Section 10.32-FRL.

¹⁷ Concept Plan, Sections 10.28-FRL,B,2,a; 10.31-FRL; and 1,E,13 and 14.

residents of the unorganized and deorganized townships, to ensure the separation of incompatible uses, and to ensure the continued availability of outstanding quality water, air, forest, wildlife and other natural resource values of the jurisdiction.

- Conserve, protect and enhance the natural resources of the jurisdiction primarily for fiber and food production, outdoor recreation and plant and animal habitat.
- Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreational opportunities.

The Concept Plan’s focus on working forests, economic opportunity for the local community, public recreational opportunity, conservation of sensitive fisheries resources and wildlife habitat, water quality protection, and long-term stability for local camp owners fall squarely within these broad goals. As such, the Concept Plan provisions meet the needs of the public, local residents, and the landowner, and protect the important natural resources in northern Aroostook County.

The CLUP’s principal values similarly emphasize working forests, recreational opportunities, natural resource protection, and natural character of the area. The Concept Plan guides and shapes proposed development in ways that improve long-term outcomes in all these areas, as compared to future haphazard development.

Finally, although the natural resource goals of the CLUP are numerous, the Concept Plan will further the goals in the CLUP’s Forest Resource, Plant and Animal Habitat Resources, Recreational Resources, and Water Resources sections, by providing a well-managed working forest with enhanced stream buffers, increasing public recreational opportunities, and heightening water quality protection, including by tightly controlling phosphorus allocations within the Cross Lake watershed. Section 10.25,E-FRL of the Concept Plan addresses the CLUP’s scenic resources goal through enhanced standards for hillside forestry practices and screening techniques for development.

(4) The Concept Plan Is Consistent With The CLUP Goals And Policies Regarding The Location Of Development

The CLUP goals and policies regarding location of development focus on locating new development close to existing development and services, and away from sensitive natural resources or working lands. In addition, the policies “discourage growth which results in scattered and sprawling development patterns.” (2010 CLUP, I,A,3.)

The Concept Plan is consistent with these goals and policies because it:

- Takes the potential for scattered and sprawling future development and concentrates it in appropriate locations. (Map 2.) This is particularly true at

Square Lake, where working forest conservation easement on nearly all of the remaining shoreline will prevent future development on most of the lake, and instead focuses a predictable, and reasonable, level of development in one development area that is an area of historic sporting camp development on the east shore. Following the public hearing, development was largely moved away from the less accessible West side of Square Lake, in response to public and party comments. (*FRLLA, testimony Topic 2, St Peter; NRCM testimony p. 8.*)

- Makes reasonable arrangements for road access and maintenance for the existing approximately 400 lease holders when the lots are sold, as well as up to 330 future lots. (*Sections 1,E,13 and 14; and 10.29-FRL.*) This will prevent an inefficient system of casual access agreements that could lead to deteriorating roads and problems with service provision.
- Focuses residential, commercial, and recreational development in locations where they can be served by fire, ambulance and solid waste services. Access routes that were unreasonably long in the first iteration of the plan were amended to require that, for example, development in the Sinclair Village area will have access via Barn Brook Road, which provides significantly more direct access for emergency services. (*Map 2.*)
- Creates residential development areas that are, with the exception of Square Lake, an extension of existing areas of camp development, and at Square Lake focuses development such that it will not create undue adverse impacts on the character of the lake. (*Map 2.*) Concerns voiced by many members of the public and by the Fish River Lakes Leaseholders Association (the FRLLA) and the Natural Resources Council of Maine (the NRCM) about development nodes at Square Lake and at the southern end of Cross Lake are understandable, but the Commission notes that 1) the development on Cross Lake is an extension of an existing pattern of intense camp development, 2) the development at Square Lake will be concentrated at the site of former development, rather than scattered around the shoreline and 3) the heightened subdivision and hillside standards contained in the plan will reduce the impacts from these developments. In addition, in the absence of a plan, there would be substantial risk of scattered development that would have a greater impact than the proposed aggregated, regulated development.

(5) The Concept Plan Is Consistent With The CLUP Goals And Policies Regarding Economic Development

The economic development goal of the 2010 CLUP is: “Encourage economic development that is connected to local economies, utilizes services and infrastructure efficiently, is compatible with natural resources and surrounding uses, particularly natural resource-based uses, and does not diminish the jurisdiction’s principal values.”

One of the challenges in the local area, especially in Sinclair, is that the land ownership pattern makes it difficult to site new business. As discussed above, the Concept Plan makes available appropriately-sited commercial development areas that are to be offered for sale or lease at market rates. Those areas will remain available for the life of the plan, enabling the local community to grow if economic conditions can support such growth. The proposed commercial areas are close to villages and do not diminish the natural resources and working forests of the area.

(6) The Land Not Included In Any Development Area Is Consistent With The CLUP

The Plan Area and surrounding region is strongly tied to the working forest and to close-knit village communities and camp developments. It is possible that in the future the communities will wish to expand. Taking this into account, the Concept Plan conserves in perpetuity through a conservation easement to be held by the Forest Society of Maine a total of 16,760 acres in areas that are remote, high-value, or vulnerable, but allows that other lands within the Plan Area may be converted to other uses after the life of the Concept Plan, subject to Commission policies and rules at the time. This is appropriate both in terms of the balance that the petitioner is required to achieve to offset the development permissions granted, and in leaving open the possibility of growth in the local community in the future. This approach is consistent with the CLUP, in particular the goals for location of development, economic development, land conservation, forest resources, plant and animal habitat resources, and recreational resources.

(7) Conclusions

For the reasons set forth herein, the Commission concludes that there is substantial evidence in the record that the Concept Plan is consistent with the standards for district boundaries, the purpose and intent of Chapter 206-A, and the CLUP's development goals and policies to:

(i) guide development to appropriate areas, (ii) avoid scattered and sprawling development patterns, (iii) safeguard the principal values of the jurisdiction, including a working forest, integrity of natural resources, and remoteness and (iv) ensure that, at the site level, it is feasible to fit development harmoniously into the existing natural environment. This conclusion applies both to the Concept Plan as a whole and to the individual development areas contained within it.

C. A New District Designation Is More Appropriate For The Protection And Management Of Existing Uses And Resources Within The Affected Area (12 M.R.S. § 685(8-A)(B))

This section addresses the Commission's determination with respect to the second of the two independent and alternative criteria set forth in 12 M.R.S. § 685-A(8-A)(B):

whether “a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.”¹⁸

In reaching its determination as to whether the new P-RP Subdistrict is “more appropriate,” the Commission is, in particular, guided by the CLUP and whether the Concept Plan will more effectively achieve the CLUP’s vision, goals and policies as they relate to existing resources and uses than do the existing subdistricts. As part of its evaluation, the Commission examined the likely pattern and amount of development in the affected area over the next 30 years if there were no proposed Concept Plan and Irving Woodlands (or subsequent owners) instead utilized existing law and regulations to achieve the development that it determined to be in its interest. By undertaking such an examination, the Commission can determine whether the Concept Plan more appropriately addresses the possible detrimental effects of this anticipated development in the affected area than does existing zoning. As such, the Commission first sets forth the threats to existing uses and resources under the Commission’s current zoning approach, based on the Commission’s findings regarding the anticipated future amount and pattern of development and resulting anticipated impacts to existing resources and uses absent Concept Plan implementation, and then makes findings that support the Commission’s conclusion that the Concept Plan will better protect and manage existing uses and resources than the Commission’s current zoning approach.¹⁹

(1) The Historic Amount And Pattern Of Residential Second Home Development at Square Lake

The northern Aroostook County region has historically experienced small amounts of overall residential development. In contrast to that overall trend, however, the Fish River Chain of Lakes is an attractive location for waterfront development. The Plan Area includes approximately 380 of the 1,089 residences in the surrounding area. Of the residences in the region, approximately 88 are not within shoreland areas, leaving the remaining 1,001 (92%) as shorefront development. Because many of the available lots have, in the past, been leased as opposed to offered for sale, investment in those properties has been cautious. As the existing Irving leases in the Plan Area

¹⁸ For the purpose of making these determinations as required by the Commission pursuant to 12 M.R.S. § 685-A(8-A)(B)), the “affected area” Plan Area and all water bodies within the boundaries of or contiguous with the boundaries of the P-RP Subdistrict.

¹⁹ While the Commission sets forth in the following paragraphs the anticipated adverse impacts of haphazard, incremental development caused in part by the statutory exemptions to the Commission’s subdivision review, it does so in light of its conclusion that the Concept Plan development is appropriate, meaning it is, among others, consistent with CLUP goals and policies regarding the location of development for areas with special planning needs. (See paragraph 9,B). Thus, consistent with its past concept plan decisions, the Commission continues to find that “development options based on statutory exemptions that exist outside of the Commission’s policies and regulatory framework [e.g., the “two-in-five” exemption] should not be used as a rationale for approving projects which do not [otherwise] fulfill the Commission’s policies and rules.” (LUPC: Zoning Petition ZP 604, p. 19.) Eliminating the unintended harmful effects of these statutory exemptions is a desirable component of a concept plan but cannot carry the day unless the concept plan first and foremost serves as an alternative mechanism for meeting the Commission’s development goals and policies.

are offered for sale over time, development along shorelines is expected to continue to be in demand.

(2) **The Anticipated Future Amount And Pattern Of Residential Second Home Development Without The Concept Plan Is Likely To Be Substantial, Incremental And Haphazard**

There is substantial land available in the petitioner's ownership, on or near the shoreline of all the lakes within the Plan Area. This land could be developed over time with additional residential home lots – either through zoning for subdivision in some locations, or in almost all areas through 2-in-5 exempt lot development. In particular, there is substantial shoreland area still available on Cross and Square lakes. Many current leaseholders appear to be eager to purchase their lots, and despite the overall decline in demand for year-round housing in the area, sales of future waterfront or water-access lots are expected to be strong. Over the next 30 years (the life of the proposed plan) there is opportunity, through the 2-in-5 exemption, for more than 130 units to be built, in scattered fashion, near the shore of Square Lake in Irving ownership, and a far higher number when considering hillside or other backlands. Similarly, at Cross Lake and Long Lake, the buildout potential for incremental, exempt lot development far exceeds the proposed units in the Concept Plan, especially when considering that many of the proposed units in the Plan Area will either be on backlands, away from the water, or in subdivisions that will have a limited number of waterfront lots and will utilize backlots and shared water access.

(3) **Without The Concept Plan, Existing Resources And Uses Within the Affected Area Will Likely Experience Significant Adverse Impact From Incremental And Haphazard Development**

(a) *Without the Concept Plan, Existing Forest Resources And Uses Will Likely Experience Significant Adverse Impact From Incremental And Haphazard Development*

Scattered development is detrimental to maintaining a working forest because of conflicts between harvesting operations and residents, particularly related to noise and traffic safety issues. Scattered development also makes it more difficult to maintain large harvest blocks, or to plan flexibly for wildlife and other natural resources. The type and amount of development that is anticipated to occur in the absence of a plan would be likely to cause these problems.

(b) *Without The Concept Plan, Existing Scenic And Recreational Resources And Uses Will Likely Experience Significant Adverse Impact From Incremental And Haphazard Development*

There is currently no guaranteed public water access to Cross and Square Lakes, and the access points that are commonly used by the public on Cross, Square, and Long Lakes are all privately held and

made available informally. In the absence of a plan, residences will likely be built that often result in numerous private water access sites, and the public could easily lose access to these lakes as landowners convert these informal public access points to private use. Public entities are available to hold public access sites, should such public access sites become available. (*ARCC testimony p. 2, MDIFW testimony p. 5.*)

All of the lakes, but Square Lake in particular, are vulnerable to scattered future camp development spreading along the shoreline. Square Lake is a desirable lake with a semi-remote feel that would be attractive for future development. In fact, some of the area identified as Square Lake Yexas is currently designated as the General Development (D-GN) Subdistrict – a subdistrict which allows a variety of types of non-residential development. For example, current zoning would allow uses such as: auto service stations; commercial and light industrial uses having a gross floor area of more than 2,500 square feet; and marinas (a term that is not specifically limited in size, scope, or scale). The existing wild brook trout fishery and the semi-remote feel of the lake could both be in jeopardy from some types of commercial development as well as uncontrolled camp development in the future.

Multiple parties and members of the public have commented that the commercial development zone proposed in the plan for the east side of Square Lake is inappropriate and will cause permanent harm to the character of the lake. (*NRCM testimony pp. 10-16; FRLLA – St Peter testimony pp. 3-6; Bouchard; Terrell; and BHANEC.*) However, the Concept Plan will significantly limit the type, scale, and quantity of non-residential development that would be allowed in the Yexas (D-FRL-YX) zone. (*Concept Plan, Section 10.21,N-FRL,3,c.*) Only uses such as real estate, retail, restaurants and recreation will be allowed; there can be no more than four such uses in total; and they must each be less than 2,500 square feet in size. Recreational lodging facilities are also allowed. More intense uses such as auto repair garages or laundry mats are prohibited.

In the absence of a concept plan, the opportunity for a public launch on Square Lake would be by chance. Further, without a public launch each one of the over 50 existing residential units on the lake (in addition to other haphazard development discussed in paragraph 9,C,(2)) could obtain a permit for a private trailered ramp. In addition to the cumulative impacts of a large number of private ramps, this would create a serious inequity between private and public access to a public resource. (*MDIFW testimony pp. 5-6, 8; BHANEC p. 6; Morrow; and Bouchard.*)

MDIFW also suggests that anglers will seek out other opportunities in the region because of a significant increase in activity on the lakes in the Plan Area.²⁰ To address this, the MDIWF suggested that the Concept Plan address public access on a number of other lakes in the region. The Commission finds that the amount of development proposed and the resulting projected boating activity will be incremental and otherwise does not warrant this mitigation. (*MDIFW testimony pp. 6-8; BPL testimony p. 2.*)

Potential scenic impacts from future potential haphazard development are significant and are discussed in paragraph 9,D,1, and water quality is discussed in paragraph 9,E,3.

(4) The Concept Plan Is More Appropriate For The Protection And Management Of Existing Natural Resources

(a) *Development Will Be Better Guided To Appropriate Locations Due To Prospective Decision-Making That Considers Natural Resources*

The Concept Plan guides development away from the majority of the shoreline of Square Lake, which comprises the most sensitive shoreline in the Plan Area. Most development allowed within the development areas at Cross and Long Lakes will be on backlands – away from the shorelines. And, as depicted on Concept Plan map 2, the community and economic development areas are sited to be well away from lakeshores or sensitive brook trout streams, and near major public roads and established communities. These locations were chosen after feedback from resource agencies and environmental NGOs about the most and least desirable locations for future development. For example, a community and economic development area that was initially proposed for Rt. 161 in Madawaska Lake Township has now been moved far to the west because of feedback about wildlife passage through the area. And in the final version of the plan, a portion of that wildlife passage area is in permanent conservation easement to facilitate wildlife crossing of Rt. 161. (*FSM testimony p.9.*)

Further, while locations designated for development may contain small or scattered areas that are not suitable for development (*e.g.*, steep slopes, soils, or other natural resource limitations); the Development Areas have been i) located to avoid concentrations of these constraints; and ii) sized and configured to include sufficient land to accommodate the allowed development while avoiding

²⁰ MDIFW and BPL assert that the Concept Plan is deficient regarding public access needs. First, they note that because Mud Lake lacks a publicly available hand-carry launch or trailered ramp, the Concept Plan should include one. Through several iterations or amendments to the Concept Plan, the Petitioner proposed the construction of a hand-carry launch on Mud Lake. However, these sites were found to be unsuitable for this use; that element is no longer part of the Concept Plan.

sensitive resources that may be present. Subsequent subdivision and development proposal review processes will ensure that sensitive resources are taken into consideration in the detailed design of the developments. (*Pierson testimony pp. 2-3.*)

(b) *The Conservation Easement Offers Greater Natural Resource Protections Than Existing Zoning*

The conservation easement is strategically located and formulated to provide, in perpetuity, greater natural resource protections than current zoning. The conservation easement eliminates all residential and most commercial uses and focuses on conservation values in the context of timber harvesting and recreational uses. All existing protection zones will still apply, and the conservation easement adds substantial restrictions on top of those existing protections. For example, the conservation easement²¹:

- Protects the majority of the shoreline around Square Lake and Carry Pond, which otherwise are desirable places for development;
- Provides a wildlife passage area across Route 161 to allow migration routes even if the surrounding area experiences development over time;
- Provides enhanced buffering for important brook trout streams that is substantially more stringent than current forestry standards;
- Includes important additional restrictions on residential and non-forestry commercial uses in perpetuity; and
- Requires that all forestry activities are compatible with conservation values as spelled out in the conservation easement, with verification systems in place.

(5) **The Concept Plan Is More Appropriate For The Protection And Management Of Existing Scenic And Recreational Resources**

Some of the primary public benefits of the plan address the lack of guaranteed access to recreational resources in the Plan Area. This is a critical component of the plan, as public management of recreational use of the lakes such as boating and fishing would become nearly impossible in the absence of public access. In addition, the plan incorporates scenic protections that are more stringent than the Commission's typical regulatory structure.

(a) *Public Access To Recreational Resources Is Permanently Guaranteed*

As illustrated on Map 2, the Concept Plan incorporates public water access points at Square Lake, Cross Lake and Van Buren Cove, held

²¹ Concept Plan, Map 2; and FRCLCE, Section 3.2.

by public agencies, to ensure access beyond the life of the Concept Plan. At Square Lake and Cross Lake, the public water access sites will be held in fee by a public entity. At Van Buren Cove, a public entity will hold a 99-year lease.

The conservation easement guarantees public pedestrian access in perpetuity, and the Plan Area will remain open, for the life of the Concept Plan, to levels of motorized trail access that are comparable to the access voluntarily provided by the landowner in recent years.

(b) *Development Will Be Guided To Appropriate Locations Due To Prospective Decision-Making That Considers Scenic And Recreational Resources*

Evidence in the record about recreational and scenic impacts focused particularly on the boating experience on Square Lake and the south end of Cross Lake. In those areas, users of the public water bodies expect to have a quiet boating experience with relatively few other users present. As there is no development proposed for Mud lake, and Long Lake is already heavily used, these waterbodies were not a point of contention with regard to recreational boating.

The petitioner conducted an analysis of recreational boating potential on the lakes in the Plan Area. The method of analysis was based on the Recreation Opportunity Spectrum (ROS) and Water and Land Recreation Opportunity Spectrum (WALROS) systems, sometimes used in evaluations of actions on public and private lands in both the western U.S. and parts of the northeastern U.S.

Each section of the water body was characterized and anticipated maximum numbers of boats were estimated in the analysis. For Square Lake, assuming that 15% of all the current and potential camps had a boat on the lake at one time, plus traffic from public access points, the estimate of the maximum number of boats on the lake at any one time was 67. This is for an 8,000 acre lake, which results in approximately 119 acres per boat.

The Bureau of Parks and Lands (the BPL) commented that the WALROS class system's use in the petition is not entirely consistent with how it is implemented at federal agencies, and that the classes in this case are arguably tilted toward the developed end of the spectrum by a full class. BPL expressed concerns about a change in character of the boating experience on Square Lake, but expresses that a change in character is less likely on the southern end of Cross Lake. (*BPL testimony p. 2.*)

Similarly, MDIFW comments indicate that there is currently low use of Square Lake, and present aerial boat counts from 2015. The counts indicate a mean number of boats on the lake that is consistently less

than 10. MDIFW points out that, using only this factor, the lake would qualify as a “primitive” class. The agency expresses concerns about changing the character of the lake, and also concerns about additional fishing pressure on what is a naturally-reproducing, native fishery. (*MDIFW testimony p. 8.*)

Commission staff commented to the petitioner during the review process that some of the classifications may need to be adjusted down to account for the relatively undeveloped nature of the shoreline, and light boat traffic. This was particularly true for Square Lake. Commission staff recommended that Square Lake be evaluated at classes of Rural Natural for the north half, and Semi-Primitive for the southern half. The petitioner revised the calculation of acceptable boating numbers to demonstrate that the proposal will generate a reasonable number of boat trips, even at the lower class. (JDI, testimony exhibit 19.) Following an examination of the revised acceptable boating numbers, review of likely traffic from a public launch, and review of the party testimony, Commission staff recommended to the petitioner that development on Square Lake be phased, with up to 100 units allowed in the first phase, and the final 30 units allowed only if buildout during the first phase was not causing unreasonable effects on the fisheries or the boating experience. The petitioner adopted this suggestion, which is incorporated into the plan as revised. Boating traffic is not expected to approach the calculated total of 67 boats, except on the busiest summer weekends, and a figure of 119 acres per boat falls near the dividing line between semi-primitive and rural natural in the WALROS classification system. The evidence suggests that this level of development will somewhat change the character of the lake, but that concentrating and limiting the development, including the elimination of the possibility of a marina, will contain the change in character to an acceptable level.

In guiding future development, the Concept Plan limits the number of residential units on Square Lake to a total that is not expected to cause undue adverse impacts on the recreational experience. The phasing requirement also serves as a way to check and see if the outcomes of the development with regard to scenic, recreational and fisheries impacts are as expected before authorizing the final 30 units for Square Lake. This is in contrast to the potential, in the absence of a concept plan, for scattered residential development along the majority of Square Lake’s shoreline and no central point for trailered launching, which could result in the proliferation of private trailered ramps. As noted in paragraph 9,C,3,b, Commercial development on Square Lake will be limited in type and amount and will serve the residential and public recreational uses to minimize the need for extensive vehicle traffic along the access road. This contained, well-

planned development area is a better alternative than spreading residential development along the shoreline and having inadequate infrastructure to accommodate the new use.

At Cross Lake, the Concept Plan conserves the southern tip and some areas to the west of the lake and focuses much of the development on backlands, behind existing camp development. Open space lands between Cross Lake D and E development areas (*i.e.*, D-FRL-RS residential development zone), will remain undeveloped. While some change will happen in the boating experience at the southern end of Cross Lake, the mix of backland development, conservation, and limited shoreland development will produce a pattern of development that is more compact, easier to serve, and less disruptive to natural resources and working forests than scattered lots that are created haphazardly over time.

(c) *The Conservation Easement Offers Greater Scenic And Recreational Resources Protections Than Existing Zoning*

With the exception of some protected deer yard areas, the current zoning²² allows for typical forest management and single lot residential development. Existing zoning does not require any public recreational resource access, nor does it provide any special restrictions on building or harvesting near important brook trout streams to ensure healthy fisheries, including a highly-valued sport fishery. The conservation easement provides for limited, but assured, public access to the Plan Area that is comparable to today's system of use by permission, but which will now be guaranteed in perpetuity. Further, the conservation easement spells out key natural resource values that must be protected within the easement area, including heightened buffer standards around key brook trout streams.

(6) Conclusions

For the reasons set forth above, the Commission concludes there is substantial evidence in the record that the Concept Plan is more appropriate for the protection and management of existing uses and resources within the affected area than the existing district designations.

Additionally, for the reasons set forth above, the Commission finds that the Concept Plan better protects the principal values of the jurisdiction, better achieves the specific goals and policies of the CLUP, and significantly furthers the Commission's vision for the jurisdiction, than is provided by existing district designations. Therefore, the Commission concludes that the Concept Plan and the associated P-RP Subdistrict are more appropriate for

²² E.g., General Management (M-GN) Subdistrict, Residential Development (D-RS) Subdistrict, and Great Pond Protection (P-GP) Subdistrict.

the protection and management of existing uses and resources within the affected area than are the existing district designations.

D. The Proposed Land Use District Has No Undue Adverse Impact On Existing Uses Or Resources (12 M.R.S. § 685-A(8-A)(B))

In this section the Commission addresses whether the change in zoning will cause undue adverse impact to existing uses or resources and concludes that it will not.²³

To determine whether the Concept Plan satisfies 12 M.R.S. § 685-A(8-A)(B), the Commission evaluated the following existing uses and resources, among others, located within the Plan Area and considered whether impacts to those uses and resources attributable to the Concept Plan are unduly adverse: (i) scenic resources within and surrounding the Plan Area, including lake shores and scenic hillsides; (ii) recreational resources and uses, including primitive recreational pursuits such as fishing and paddling, and motorized recreational pursuits such as boating, snowmobiling and all-terrain vehicle riding; (iii) wildlife and plant resources, including riparian habitat, wildlife travel corridors, natural plant communities, whitetail deer, waterfowl and wading birds, bald eagles, salmon, and wild brook trout; (iv) cultural, historical and archaeological resources; (v) soils and wetlands resources; and (vi) community services such as waste management, fire protection and emergency services, law enforcement, education, and other governmental services.²⁴ Depending on the use or resource that might be impacted, the Commission extended the geographic range of its evaluation beyond the Plan Area.

The rezoning granted in the Concept Plan does not imply or guarantee Commission approval of any specific development proposed within the Plan Area pursuant to this rezoning. The Concept Plan, however, does establish review processes, including subdivision and development permit approvals, and, at Square Lake, Schematic Design Plan approval. These processes require natural resource inventory submissions as part of each subsequent site-specific development review to further avoid, minimize and mitigate impacts of the Concept Plan on the natural and cultural resources and uses within and surrounding the Plan Area. In the normal course of review of these projects, natural resource agency comments will be sought, as is suggested by the FRLLA, and as is the standard practice of the Commission.

²³ Where the Commission found credible evidence of potential undue adverse impacts to existing uses and resources from the Concept Plan as proposed by Irving Woodlands, the Commission met with Irving Woodlands and governmental review agencies with expertise in resource protection and management to ensure that the Concept Plan, as finally amended, would have no undue adverse impact on existing uses or resources.

²⁴ Complete information on these and other natural and cultural resources and uses issues are contained in the administrative record.

(1) **The Proposed Land Use District Has No Undue Adverse Impact On Existing Scenic Or Recreational Uses Or Resources**

Potential impacts to existing scenic or recreational uses or resources has been a key component of the testimony from parties, governmental agencies and the public. Hillsides, viewed from the lakes, are of particular interest because there is limited existing hillside development in the Plan Area, and views of future hillside developments could change the experience of boaters on the lakes, a principal form of local recreation. Further, the number and type of boats on the lakes also has an impact on the recreational experience of boaters. A topic which received less emphasis, but which is nonetheless important, is the availability of recreation activities away from the large lakes, including motorized trail networks and access to ponds that are popular for fishing.

Regarding Scenic Resources:

Following its approval of the Moosehead Region Concept Plan, the Commission adopted general hillside development standards for the Commission's entire service area. The Commission's hillside development standards account for the visual sensitivity of the lake resource and help ensure that residential development blends in with the surroundings, although the resulting vegetation will not hide the development entirely. The Concept Plan for the Fish River Chain of Lakes supplements the Commission's hillside development standards, in recognition of the sensitivity of views from the water, particularly at Square and Cross Lakes. Section 10.25,E-FRL of the Concept Plan requires mandatory inspections every two years to determine compliance with vegetative clearing plans. Those mandatory inspections will help avoid situations where the hillside development standards become meaningless due to non-compliance. The combination of enhanced hillside development standards and aggregation of development into limited portions of the Plan Area visible from the lake is more protective of visual resources than is the scattered development that would likely occur absent the Concept Plan.

In addition, the amount of proposed development allowed by the Concept Plan is compatible with the lakes when taking into account the Wildlands Lake Assessment ratings and current use patterns, as described in paragraph 9,F,5. The largest change will be at Square Lake. However, there are already lakeshore residences on Square Lake; the new development will be aggregated and screened; a large majority of the shoreline will be permanently conserved; and the location of the new development will only be perceptible from some portions of the lake, due to topography and distance. If the development at Square Lake requires a waiver of adjacency, and therefore development may happen faster than allowed under the 2-in-5 system of lot division, there will be some impact in the short term on visual resources. However, this is balanced in the long run and is mitigated through

the enhanced regulatory requirements for hillside development, as well as the Square Lake sequencing requirements; Square Lake reserved land system; Square Lake Schematic Design Plan which requires aggregation of shoreline development features; and the extent and location of the conservation easement; all discussed elsewhere in this decision document.

Regarding Recreational Resources And Uses:

Boating: The lakes in the Fish River Chain of Lakes experience substantially different levels of boating. This is driven by current levels of development and access. Long Lake experiences enough boating traffic already that the scale of development that is proposed is unlikely to substantially alter the feel of the lake. Cross Lake is classified as “heavily developed”, with approximately 260 camps already ringing the shoreline. Despite that development pattern, and a well-maintained trailered ramp that is currently open to the public, the boat traffic is generally light. Square Lake is the most lightly traveled because the current access does not permit large boats, and the lake can experience high winds, making travel in small boats safe only on certain days. Many members of the public, intervenors and government agencies particularly commented on the character of Square Lake. (*for example, FRLLA – Jandreau, NRCM, MDIFW, BHANEC, and TU.*)

Because of the current limited access to Square Lake, the MDIFW commented that public access would be desirable. Without a concept plan, there is no guarantee that public access would be achieved; currently, there is no public land on the lake that is designated as an access point for boats. The Concept Plan requires that a public launch be operational before most of the development at Square Lake can occur. A public trailered ramp and additional development at Square Lake is likely to substantially increase boating traffic. However, as is discussed in paragraph 9,C,5,b, the level of increase in boating traffic will not create an undue adverse impact. Additionally, the Commission’s review the Schematic Design Plan submission will further ensure that the arrangement and capacity of the waterfront facilities at Square Lake meet the needs of the allowed uses, but also minimize the impact of the development on the boating experience at Square Lake.

A publicly owned launch at Cross Lake and a long-term public lease at Van Buren Cove on Long Lake are also parts of this Plan that provide for public access to the water, as opposed to the current private arrangements that are not guaranteed into the future.

Fishing: Increased public access to the lakes will also increase access to the fisheries resource. This is generally desirable, except that in the case of Square Lake, the MDIFW expressed concern that increased fishing pressure may potentially impact the native brook trout fishery. This does pose a dilemma, since, over time, haphazard development is also likely to pose a

risk to the native fishery and provide no public access. The most logical course is to put some reasonable limits on development while also enhancing habitat protections to give the native stocks the best chance of maintaining healthy populations. The Concept Plan does both: development is limited to levels below what would otherwise be allowed, and it is phased in with a check on fisheries condition before authorizing the final development units; and the conservation easement requires enhanced buffers on certain high-value brook trout streams that feed into Square Lake. Issues of fisheries health will be of strong interest to the Commission during the permitting process.

Pond access: Carry Pond, which has a small native fishery and is proximate to a public road, is protected in the Concept Plan through the permanent conservation easement. The conservation easement prohibits most development and enhances resource protections by increasing the width of, and reducing the extent of timber harvesting that can occur within, the riparian buffer. Several other small ponds will also be available for fishing and boating during the life of the plan.

Motorized trail availability: The Concept Plan maintains a comparable level of motorized trail access as is currently in place. In the non-easement areas, this will be for the life of the plan.²⁵

Conclusions

Through enhanced standards and careful placement of development and conservation, the Concept Plan avoids impacts to scenic and recreation resources where possible, and minimizes them when necessary. Grants of land for permanent public access and the conservation of resources through easement serve as mitigation for those impacts that cannot be avoided. By employing these measures, the Concept Plan ensures that there will be no undue adverse impact on scenic and recreational existing uses and resources.

(2) The Proposed Land Use District Has No Undue Adverse Impact On Existing Wildlife or Plant Uses Or Resources

Comments on wildlife and plant impacts have been predominantly related to impacts on native fish populations, protection of certain bog and stream complexes, and some occurrences of habitat for other species such as deer, wading birds, and rare plants. There has also been comment regarding the function of the area as passage for large mammals moving through northern Maine to Canada.

Fish: MDIFW, in particular, expressed concerns about impacts to native fisheries, and that sentiment was echoed by some individuals and groups who

²⁵ Concept Plan, Section 1,E,9.

gave testimony. The most sensitive waterbody in this regard is Square Lake, but the concern existed to lesser degrees on most of the lakes and ponds in the Plan Area. The primary threats identified included direct impacts from development on streams that provide important habitat; increase in fishing pressure; and non-native species introductions.²⁶

The proposed conservation easement includes enhanced stream buffers for key areas that host native fish species around Square Lake, and the Concept Plan includes an enhanced water crossing standard to guarantee adequate fish passage for all roads in the Plan Area, including land management roads. The conservation easement language was also strengthened to clarify the management plan provisions. Twenty-four residential development units were moved from the west side of square lake to the east side and made contingent on an assessment of the impact of Square Lake East development on fisheries. The conservation easement area was enlarged to include Carry Pond and much of its tributaries, which host a small native fishery and are relatively close to a public road, making it a likely fishing destination in the coming years, despite relatively low fishing pressure currently.

The Commission also considered the potential risks of creating public access and additional development at Square Lake, both in terms of the risk of non-native species introductions and direct impacts to the fishery. As described in paragraph 9,C,(5) about boating impact, the Commission felt that planned and monitored development of Square Lake could be kept at a level that does not produce an undue adverse impact, and the creation of public access was a distinct benefit of doing so through a concept plan. After considering the comments regarding stream buffers, Commission staff recommended that the petitioner add substantial buffers on certain streams, and these changes are reflected in the current draft of the conservation easement. The addition of stream buffers in the conservation easement area is intended to be extra insurance for the native fish population and serves as mitigation for any potential harm to the fishery. There is little the Commission can do to prevent introduction of non-native species, whether that comes from haphazard development of camps and informal public access over time, or from formal public access and planned development. However, as individual developments are permitted, any MDIFW recommendations about the design of the developments and the trailered ramp facilities that may raise awareness of the issue or allow for monitoring of boat launches will be taken into serious consideration.

Bogs and stream complexes: As MDIFW and NRCM commented, some places within the Plan Area are already unlikely to be developed. When choosing among potential sections of the Plan Area to conserve, the

²⁶ Avoidance, minimization, and mitigation strategies that were suggested were: a scaling back of development; increases in the stream protections included in the conservation easement area; and an increase in the size of the conservation easement. After hearing public testimony, Commission staff recommended, and the petitioner adopted, changes in these areas, although the changes are not as extensive as some commenters requested.

Commission focused first on areas most at risk of development. While the Bog and stream complexes are very valuable, and ideally would be subject to a conservation easement, they are not the places most at risk because there is already some level of protection for them through natural resource laws. The Commission instead focused on areas that were likely, over time, to be developed with residential dwellings or commercial uses, and were important for overall habitat conservation in the area. These priorities are discussed elsewhere in this section.

Other wildlife: MDIFW identified a number of other wildlife resources that should be protected. Some of these protections are accomplished currently through zoning or voluntary agreements. One type of protection that MDIFW stressed was riparian buffers. Enhanced buffers were incorporated in particular locations within the conservation easement area. All locations in the Concept Plan Area are subject to the sustainable forestry management practices in section 10.30-FRL of the Concept Plan, including 100 foot riparian buffers for flowing waters, which is a higher standard than exists in current forestry regulations. Other of the recommendations for protection of species that may occur in the Plan Area are best addressed through review at the time of a development proposal or through implementation of the conservation easement.

Rare plants: Comments by the Maine Natural Areas Program (*MNAP Feb. 20, 2018.*) indicated that additional inventories and protection of certain classes of rare plant communities were warranted. Through discussions with FSM and Commission staff, the language in the conservation easement was strengthened to better articulate the requirement for implementation and review of a management plan that meets the conservation goals of the easement. Sections 3, 4 and 6 of the conservation easement require an evaluation of allowed uses against the impacts to the “Conservation Values”, which encompass “...natural communities, sensitive sites, which include at a minimum all S1 and S2 documented plants, wildlife and habitats occurring on the property, and the ecological values of these areas...” (*FRCLCE section 1.10,d.*) In addition, portions of the areas that MNAP recommended for easement expansion were included in the revised easement. Section 10.30-FRL of the Concept Plan articulates Forest Sustainability Goals for the entire plan area. It will be incumbent upon Irving, or subsequent owners, to work with resource agencies to obtain information that will inform their harvest planning and achieve the forest sustainability goals as specified in the Concept Plan.

Wildlife Passage: The Nature Conservancy (June 21, 2018) and FSM (pre-filed testimony) recommended an addition to the conservation easement area for the purpose of providing wildlife passage in case the route 161 are becomes built-up over time, reducing access for migrating wildlife. This is based on work of the Staying Connected Initiative. The revised conservation

easement includes one-half mile of conservation easement on both sides of Route 161 in Madawaska Lake Township to accomplish this purpose.

Conclusions

The Commission concludes that the terms of the Concept Plan and the conservation easement, particularly because of revisions responsive to public and agency comments, are sufficient to ensure that there will be no undue adverse impact on existing wildlife or plant uses or resources.

(3) The Proposed Land Use District Has No Undue Adverse Impact On Existing Community Uses Or Resources

To determine whether the Concept Plan will have an undue adverse impact on resources or uses, the Commission considered the following community services: transportation, waste management, water supply, fire protection and emergency services, police and law enforcement, education, health care, and general government services.

Based on its review of the record, the Commission finds that most of these community services are likely to have sufficient capacity to serve the development contemplated by the Concept Plan. Where such capacity does not presently exist, the Commission finds that the likely pace of development will allow these services to catch up with demand.²⁷ The Commission therefore concludes that the Concept Plan will have no undue adverse impacts on community services. The facts and analysis supporting the Commission's conclusion with respect to certain specific community services are presented in the paragraphs immediately below.

(a) The Concept Plan Will Not Cause Undue Adverse Impact To Transportation Infrastructure Or Traffic Safety

The Plan Area is accessible from State Routes 161 and 162. Maine Department of Transportation (the MDOT) confirmed that the anticipated amount of new traffic generated from development allowed within the Plan Area would not have an unreasonable effect on current level of service of these roads.²⁸

²⁷ In addition, because the matter before the Commission is a rezoning petition, the focus in evaluating community impacts is on the feasibility of providing community services without undue adverse impact on governments and communities – that is, does capacity exist or is there evidence that it can be created without an undue burden on providers, given the projected amount, location, and pace of development proposed? The details of how the service will be provided (for example, direct hauling of solid waste to licensed disposal sites versus using a local transfer station) must be presented, with additional documentation by providers of the services that the arrangements are satisfactory to them, at the time of submission of subdivision or development permit applications for proposals within the Plan Area.

²⁸ Petition, May 2017, Vol. 1, Tab 25, p. 2.

The Long Lake portion of the Plan Area is accessible from the Town of Van Buren over the Lake Road, a portion of which is maintained by the Town. After considering the evidence in the record, the Commission finds that the proposed plan's impact to the public roads in the Town of Van Buren will not constitute an undue adverse impact, however, the Commission understands the Town of Van Buren's concern about maintenance. To address a portion of the town's concern and also to address the Aroostook County Commissioners' concerns over additional impacts and demands, the Concept Plan establishes minimum maintenance requirements, procedures to create new or expand existing road associations, and the framework for certain expectations regarding cost sharing. There are approximately seven existing formal road associations, three informal associations, and any number of other relationships/agreements in place. As developments contemplated by the Concept Plan are built, other associations will be created, and the roads used for access may be used by the members of more than one association.

The Commission appreciates the concerns expressed by several parties and members of the public regarding the regularity of road maintenance and overall quality of access. Such issues—whether the road will be plowed in the winter, establishing a fee schedule, and identifying the overall quality of access—are best determined by the association members. The Commission finds that the Concept Plan includes appropriate minimum expectations and procedures, but is also provides the necessary level of flexibility.²⁹ (*FRLLA testimony – St. Peter pp. 2-4, Ouellette, Roberts; Vincent; Morrow; and Cormier.*) Further, when leases are sold or new lots are created, deeded access must be provided and the geographic and physical bounds of any maintenance rights and responsibilities must be specified. This also means that the Concept Plan is appropriately flexible enough to respond to conditions and factors that exist at the time the lots are sold or created.

With respect to development design, the Commission finds that the Concept Plan recognizes the need for limiting the number of driveway cuts on to Route 161 for Cross Lake B and designating certain roads as access routes that will minimize conflicts with ongoing forest management operations in order to preserve safe traffic flow.³⁰ The details would be determined as part of each subdivision or development permit review.

Therefore, the Commission finds that the Concept Plan will not cause undue adverse impact to transportation infrastructure or traffic safety.

²⁹ Concept Plan, Sections 1,E,13 and 14; and section 10.29-FRL.

³⁰ Petition, May 2017, Vol. 1, Tab 25, p. 2. (see also Concept Plan, map 9.)

(b) *The Concept Plan Will Not Cause Undue Adverse Impact To The Provision Of Waste Management Services*

Waste management entails several forms of solid waste – land clearing debris, construction and demolition debris, municipal solid waste, and universal and bulky waste – and sludge from septic systems and potentially other wastewater treatment systems. Each of these forms of solid waste is discussed below:

Land Clearing, Construction And Demolition Debris: No land clearing, construction or demolition is proposed as part of the Concept Plan. The Commission finds that disposal of debris from activities allowed by the Concept Plan is a matter that is most appropriate to be determined as part of each subdivision or development permit review.

Municipal Solid Waste and Universal and Bulky Waste: Tri-County currently contracts with Aroostook County for recycling and disposal of solid waste generated from within the Plan Area. Irving Woodlands presented a signed letter from Tri-Community Recycling and Sanitary Landfill that it has capacity at its Fort Fairfield facility for this type of waste generated within the Plan Area.³¹

Septage Sludge: Several septic tank pumpers serve the existing development in the Plan Area, each of which were contacted during the review process. No comments were received. The Sinclair Sanitary District is also an option for potential development in CD-2. The Sinclair Sanitary District does have some limited capacity to take on new development. However, engineered upgrades to the district's overall capacity and treatment capabilities may be required to provide treatment for certain commercial/industrial wastes and any high volumes of inflows associated with commercial operations.³²

Considering all these factors, the Commission finds that the Concept Plan will not cause undue adverse impact upon the provision of waste management services.

(c) *The Concept Plan Will Not Cause Undue Adverse Impact To Water Supply*

No comments were received with regards to impacts to water supply. Due to the absence of public water supply systems in the area, water supply will be provided by individual or common drilled wells. The Concept Plan requires a demonstration, as part of the filing of a development or subdivision permit, that a healthy and sufficient water supply will be reasonably available for the development. As a result,

³¹ Petition, May 2017, Petition of Rezoning, Vol. 1, Tab 10, p. 3.

³² Petition, May 2017, Petition of Rezoning, Vol. 1, Tab 10, p. 1.

the Commission finds that the Concept Plan will not cause undue adverse impact to water supply.

(d) *The Concept Plan Will Not Cause Undue Adverse Impact To Fire Protection And Emergency Services*

The Concept Plan development is projected to generate a number of new fire-related dispatches per year once the development is built out. Fire Protection Service currently is provided by the Aroostook County North Lakes Fire and Rescue Department, which has three substations serving Cross Lake, Mud Lake, Long Lake, Madawaska Lake and Square Lake. North Lakes Fire and Rescue has entered into written mutual-aid agreements with the Towns of Stockholm, St. Agatha, and Fort Kent, and the Caribou Fire and Ambulance Department. Budgetary responsibilities for this service are part of the annual budget process for the department. The Maine Bureau of Forestry provides forest fire protection and frequently responds to structural fires, sometimes as a first responder, in order to prevent their spread to surrounding forests.

The Concept Plan does not change, or exempt development from, existing regulations, such as the Maine Fire Marshall's Office requirement and life safety codes.

The Concept Plan development is projected to generate a number of new ambulance calls per year once the development is built out. Ambulance services in the majority of the Plan Area are provided by Ambulance Service, Inc. Caribou Fire & Ambulance also provides service to the Madawaska Lake Region. The Plan Area is either within the service area of Cary Medical Center in Caribou or Northern Maine Medical Center in Fort Kent. Emergency calls to 911 from landlines go to Penobscot County, while calls from cell phones are handled by the Department of Public Safety dispatch in Houlton. All call are then transferred to the appropriate dispatch in Aroostook County.³³

The service providers commented that they could handle additional calls attributed to development of the Plan Area. Thus, the Commission finds that the Concept Plan addresses fire protection and emergency service sufficiently to avoid undue adverse impacts. However, as highlighted by the Aroostook County Commissioner's testimony, the conditions of access roads affect response times, and therefore, public safety. While the Concept Plan includes minimum road maintenance requirements (as discussed in paragraph 9,D,(3),(a), above), review of subsequent subdivision proposals will consider road conditions and the quality of road access as they regard public safety.

³³ Petition, May 2017, Petition of Rezoning, Vol. 1, Tab 24.

(e) *The Concept Plan Will Not Cause Undue Adverse Impact To Law Enforcement Services*

Law enforcement in the Plan Area is provided by the Aroostook County Sheriff's Department and the Maine Department of Public Safety, Maine State Police. Service providers stated that they will be able to manage the increased demand on services with no decrease in service quality. Thus, the Commission finds that the Concept Plan will not cause undue adverse impact to law enforcement services.

(f) *The Concept Plan Will Not Cause Undue Adverse Impact To Public Education Services*

The school administrative units serving the area – MSAD #27 in Fort Kent and MSAD #33 in Agatha and Frenchville – have suffered declines in enrollment over the past decade and have capacity to accept the projected increases from the development.³⁴ The Commission finds that the Concept Plan will not cause undue adverse impact to public education services.

(g) *The Concept Plan Will Not Cause Undue Adverse Impact To Other General Government Services*

General government services (besides those already discussed) include maintenance of public roads (other than State Routes 161 and 162), registration, administrative, permitting, and enforcement services. The primary providers of these services are the counties, the Towns of Van Buren, New Canada, and Fort Kent and the Land Use Planning Commission. Counties are responsible for road maintenance and provide other countywide services, such as Registries of Deeds. Among the general government services provided by the municipalities are: fishing and hunting licenses, motor vehicle registration, recreation vehicle registration, voting booths, tracking of vital statistics records, public library, municipal recreational facilities, and maintenance of local streets and sidewalks for visitors as well as town residents. The Land Use Planning Commission provides planning and permitting and code enforcement services.

It is likely that any increased demand for these services can be absorbed by the providing agencies, although one area that is currently deficient and likely to be stressed by the proposed development would be permitting and compliance monitoring. To mitigate this issue and assist the Commission in the enforcement of vegetation clearing and water quality standards, the Concept Plan contains provisions that establish a mandatory third-party inspection and reporting system financed by subdivision homeowner's

³⁴ Petition, May 2017, Petition of Rezoning, Vol. 1, Tab 10.

associations. Therefore, the Commission finds that these government services will not be unduly adversely impacted by the Concept Plan.

(h) *The Concept Plan Will Not Cause Undue Adverse Impact To The Commercial Viability Of Existing Businesses*

Generally, the record demonstrates that Concept Plan development will be an economic boost to an area that is dwindling in population. Although mainly seasonal in nature, the proposed residential development will benefit local businesses. Some commenters stated that non-residential development will have an undue adverse impact on the viability of existing businesses within the Plan Area. However, the commercial services that the Concept Plan contemplates at Square Lake will serve new development and will be so far off the main road that it is unlikely to draw existing traffic. Development in the Community and Economic Development Areas in the Plan Area will be by local businesses as the economy allows.

The Commission finds that the Concept Plan will not have an undue adverse economic impact on existing businesses, and may benefit those businesses.

(4) **The Proposed Land Use District Has No Undue Adverse Impact On Other Existing Natural Or Cultural Uses Or Resources**

In addition to those resources and uses specifically discussed above, the record contains information regarding a range of other resources and uses existing within and surrounding the Plan Area, including: (i) water quality; (ii) ambient noise levels; (iii) air quality; and (iv) cultural, historical and archaeological resources. Descriptions of these existing natural and cultural resources are contained in the administrative record. As set forth below, the Commission finds that there will be no undue adverse impacts on other existing natural or cultural uses or resources.

Throughout the proceeding, numerous parties, governmental review agencies, and members of the public presented information, analysis and argument regarding the Concept Plan's impacts on these natural and cultural resources. Issues presented in testimony and comments, as well as during hearings, included the following:

(a) *The Concept Plan Will Not Cause Undue Adverse Impact To Water Quality*

There is a water quality problem at Cross Lake. Residents described periodic algal blooms that are worsening over time and impairing their enjoyment of the lake resource. Indeed, the MDEP reports that Cross Lake fails to meet water quality standards. The MDEP's assessment states that "While the principle reason for impairment of Cross Lake is inputs of phosphorus from agricultural activities located

primarily in the Dickey Brook watershed, runoff from roads and harvesting operations also contribute to the problem.” (MDEP, December 7, 2017.)

At the hearing, members of the public and intervenors requested changes to the petitioner’s initial Phosphorus management strategy. Some of the specific comments related to closer adherence to the MDEP’s standard process for assessing mitigation credits and also to inspections of appropriate maintenance of phosphorus control measures such as vegetative buffers.

The Concept Plan establishes a system that limits allowable phosphorus exports from lands within the Plan Area. This system is incorporated in the Concept Plan as section 10.32-FRL. It caps phosphorus exports from development areas and establishes a system for flexibly assigning phosphorus allocations to each Development Area. Allocations to Development Areas may not exceed the limits established in the Concept Plan, however, phosphorus mitigation projects in other locations in the Cross Lake watershed may be used to offset additional development activity in the Cross Lake development areas in accordance with standard MDEP practices. The revision eliminated the suggested 1:1 mitigation credit ratio in favor of existing MDEP practice for such calculations (currently a 2:1 ratio). Caps also apply to non-development area lands, but documentation of phosphorus generating activities is only required if mitigation credit will be sought.

The MDEP has opined that the Concept Plan should meet the Department’s goals provided that the on-the-ground activities are consistent with what is anticipated and required in the Concept Plan document and subsequent permits; that phosphorus loading from activities outside the Plan Area do not increase significantly; and that harvesting activities are conducted in ways that are consistent with harvesting methods over recent decades. (MDEP June 6, 2019.)

The Concept Plan anticipates that phosphorus control method inspections may be needed, depending on the development that takes place in the Cross Lake watershed. Inspection requirements will be tailored to the circumstances at the time that a phosphorus management plan is prepared and reviewed by the MDEP.³⁵

Based on a review of the record, the Commission finds that the proposed Phosphorus control plan is more likely to successfully control phosphorus than would be the case with haphazard development. Considering that the bulk of the Phosphorus inputs to the watershed are from agriculture and other unregulated activities, it is reasonable to control Phosphorus from planned development, but

³⁵ Concept Plan, Section 10.32-FRL,E.

not to prevent all development: such an outcome would not be equitable. The Commission is mindful that, during permit reviews, realistic measures to control phosphorus such as vegetative buffers will need to be emphasized, rather than highly technical solutions such as engineered water retention systems that may fail over time.

(b) *The Concept Plan Will Not Cause Undue Adverse Noise Impacts*

The Concept Plan supplements the Commission's jurisdiction-wide standards for noise³⁶ to clarify that sounds emanating from snowmobiles, ATVs, vehicles, event-related activities and forestry and forestry-related activities are exempt from the noise threshold requirements. The primary areas in which this could be an issue are near and within existing dense residential areas, particularly the existing lease lots. New developments must be designed to buffer residences from potential sound-generating activities.

The primary type of development that will be located in proximity to the existing neighborhoods of camps is common water access sites for the new subdivisions. Prior versions of the Concept Plan included broad reductions in minimum dimensional requirements, and the ability for common water access sites to include playground equipment. (*FRLLA testimony Topic One – St. Peter pp. 5-6.*) Many of the common water access sites may be located in fairly small areas between existing camp lots, thus presenting a risk of creating noise impacts on the neighboring residential uses. To address this problem, the Concept Plan was revised to restore most dimensional requirements and be clear about the types of structures that could be located at a common water access site.

(c) *The Concept Plan Will Not Cause Undue Adverse Impact To Air Quality*

No comments or concerns regarding air quality were submitted. Nuisance issues such as dust generated from construction traffic are matters that can be addressed at subsequent subdivision and development review stages. Certain types of facilities permitted in specific land use zones within the Plan Area (*e.g.*, sawmills in the D-FRL-CI zone, fuel burning equipment associated with commercial development) will be subject to the State air emission licensing program and will be required to maintain compliance with State and Federal air quality laws and standards.

³⁶ Chapter 10, Section 10.25,E-FRL.

(d) *The Concept Plan Will Not Cause Undue Adverse Impact To Cultural, Archaeological And Historical Resources*

Based on information submitted by Irving Woodlands in consultation with the Maine Historic Preservation Commission (the MHPC), four pre-historic archaeological sites have been identified within the Plan Area, three near Cross Lake and one near Square Lake. The Commission finds that archaeological and historical resources of varying levels of significance likely exist within the Plan Area and that some of these resources may meet the eligibility criteria for listing in the National Registry of Historic Places;³⁷ and based on recommendations made the MHPC, Phase I archaeological survey work will need to be conducted in advance of future ground disturbance or development.³⁸

The means to mitigate adverse impacts to archaeological and historical resources, whether they are known now or discovered during subsequent survey work, are well established (*e.g.*, legal or physical protections of the resource, or archaeological data recovery) and are best determined at the site-specific permit review phase.

(5) **Conclusions**

In summary, based on the findings set forth above, the Commission concludes that the Concept Plan will cause no undue adverse impact to existing uses or resources within and surrounding the Plan Area.

E. The Proposed Land Use District Is Consistent With The P-RP Subdistrict (12 M.R.S. § 685(8-A)(A) And Its Criteria For Approval (Ch. 10.23,H Of The Commission’s Rules)

The Commission may adopt or amend a land use district boundary if there is substantial evidence that, among other criteria, the proposed land use district “is consistent with the standards for district boundaries in effect at the time...” (12 M.R.S. § 685(8-A)(A)). The criteria for approval of a P-RP subdistrict are:

- The plan conforms with redistricting criteria and the CLUP;³⁹

³⁷ Petition, May 2017, Rezoning Petition, Vol. 1, Tab 9.

³⁸ Petition, May 2017, Rezoning Petition, Vol. 1, Tab 9.

³⁹ The Commission’s findings and conclusions regarding the Concept Plan’s conformance with the statutory criteria for adoption or amendment of land use district boundaries (12 M.R.S. § 685-A(8-A)) and the CLUP are set forth in sections 9,B. through 9,E.

- The plan conforms, where applicable, with the Commission’s Land Use Districts and Standards (Chapter 10);⁴⁰
- The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces;
- The plan includes in its purpose the protection of those resources in need of protection;
- Any development gained through any waiver of the adjacency criterion is matched by comparable conservation measures;
- The plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources; and
- Conservation measures apply in perpetuity, except where it is demonstrated by clear and convincing evidence that other alternative conservation measures fully provide for long-term protection or conservation.

(1) **The plan conforms, where applicable, with the Commission’s Land Use Districts and Standards (Chapter 10)**

The Concept Plan conforms with Chapter 10 because:

- The Concept Plan leaves most provisions in Chapter 10 as “LUPC Amendable Provisions”, which means that as the Commission amends its land use standards over time, resources will benefit from, and development will be accountable to, the same regulatory provisions as would otherwise apply.
- The Concept Plan employs the structure and phrasing of the Commission’s rules to build upon regulations that are familiar to the public and that are responsive to the regulatory authority of the LUPC and the MDEP.
- Most land use standards within the Concept Plan are equal to or exceed the standards contained in Chapter 10, and any exceptions have been considered in balance with other protective measures.

⁴⁰ Irving, through Zoning Petition ZP 768, is not concurrently seeking approval of any detailed, site-specific development proposals, although seeking such concurrent development approval is a permissible request under Concept Plans. As such, the Commission consideration of the Concept Plan’s conformance with its Land Use Districts and Standards (Chapter 10) is limited to a review of whether it would be feasible for anticipated site-specific developments to comply with the Commission’s rules applicable to subdivision and development permit reviews. The Commission also considered such regulatory feasibility in assessing, among others, the Concept Plan’s consistency with the CLUP (see paragraph 9,B.), and whether the Concept Plan would have undue adverse impact on existing uses or resources (see paragraph 9,D.).

Based on a review of the record, the Commission finds that the plan conforms, where applicable, with the Commission's Land Use Districts and Standards.

(2) **The Concept Plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces**

As noted above, the Concept Plan deviates from Chapter 10 to a limited extent. Specifically, as is common for concept plans, this plan reduces certain dimensional requirements. Otherwise, deviations from Chapter 10 largely represent standards that have been added as supplemental requirements.

- The Concept Plan includes additional supplemental standards that address hillsides, noise and lighting, and subdivisions. In fact, while Chapter 10 now includes standards addressing hillside development, at the time it was submitted, the Concept Plan responded to a deficiency in the Commission's regulations by addressing hillside development. (*Concept Plan, sections 10.25,E-FRL; 10.25,F-FRL; and 10.25,Q-FRL.*)
- The Concept Plan includes additional procedures and opportunities for the replacement of subsurface wastewater disposal systems for the license lots. (*Concept Plan, section 10.31-FRL.*)
- The Concept Plan prohibits certain uses, including private trailered ramps, which reduces cumulative pressures upon resources. (*Concept Plan, part 2, sections C and 10.27,L-FRL.*)
- Consistent with all concept plans, as is part of their purpose, the Plan Area has been assessed at a landscape scale in order to avoid vulnerable resources and focus development in areas that are generally appropriate.
- The plan also includes provisions, such as third-party inspections and sequencing requirements, that serve to provide additional safeguards against adverse impacts. (*Concept Plan, section 10.25,E-FRL and 10.34-FRL.*)

Based on a review of the record, the Commission finds that the concept plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces.

(3) **The Concept Plan includes in its purpose the protection of those resources in need of protection**

One of the fundamental purposes of the Concept Plan is to protect from harm the existing natural and cultural resources located within and surrounding the Plan Area, including the forest resources, wildlife and plant resources,

recreational and scenic resources, and community resources.⁴¹ These are the resources that the CLUP recognizes as comprising the principal values which make the jurisdiction so special.

The Commission finds that the Concept Plan includes specific provisions that ensure that these existing resources and, consequently, the four principal values are permanently protected from threats that they face absent the Concept Plan – particularly threats stemming from incremental, haphazard development. These provisions significantly restrict and regulate land uses not only on the lands protected by the terms of the FRCLCE but also within the development areas themselves. They include:

- Numerous significant restrictions regarding the location, scale, and nature of development within the 2,143 acres that comprise the Concept Plan development areas, and rigorous land use standards and processes, all of which are designed to protect existing resources, as well as explicit acknowledgment and reinforcement of the Commission’s legal authority at subsequent development review stages to require detailed resource inventories to determine or confirm the presence of natural resources within areas proposed for development and to protect those resources from harm, including by continuing to apply the natural resources protections afforded by the Commission’s Protection Subdistricts as these protections adapt and evolve over time. (*Concept Plan, sections 10.25,E-FRL; 10.25,F-FRL; and part 2, sub-chapter IV.*)
- For the approximately 16,764 acres that are subject to the FRCLCE, the permanent prohibition of residential development, and numerous significant permanent restrictions on the location, scale, and nature of non-residential development. (*FRCLCE, section 3.2.*) The restrictions contained in this conservation easement collectively will forever protect a combination of forestland values, aquatic resources and wetland values, wildlife, plant and natural community values, recreational values, and scenic values at a landscape scale.

In addition, the Concept Plan includes provisions to provide additional protections for specific resources, including:

- Fisheries Resources: The Concept Plan and the conservation easement include increased protections⁴² for fisheries resources by increasing riparian buffers as determined by lake or stream. Specifically, each riparian buffer is limited in two ways: i) the degree to which timber harvesting may occur (*i.e.*, no harvesting, or harvesting up to one-third of the basal area within a certain period); and ii) whether machines may

⁴¹ These resources are generally described in paragraph 9,A. and more specifically discussed in paragraph 9,E.

⁴² Concept Plan, Section 10.30-FRL,B,5,f; and FRCLCE, Section 3.2,f.

leave tracks. The distances to which these limits apply respond to the fishery resource involved.

- Square Lake: The Concept Plan requires an additional planning step (Schematic Design Plan Review) prior to development at Square Lake. This is in response to the potential for development to affect the lake experience. The reserved land designation at Square Lake will protect against effects on fisheries and the character of the lake by preventing secondary development pressure. (*Concept Plan, section 10.34-FRL.*)
- Water quality: The Plan Area includes several hundred existing lease lots, largely used for residential development. Most of these leases were created prior to 1971 and often do not meet minimum dimensional requirements, such as minimum shoreline frontage, minimum acreage, and minimum shoreline setbacks. (*Concept Plan, section 10.31-FRL.*)

The Concept Plan anticipates the sale of these leases. As is common practice, in most cases, the lots will be enlarged at the time of sale to include “back lots,” which will likely result in most lots being less nonconforming. Additionally, the Concept Plan provides the opportunity and procedures through which additional land (“back land”) may be available for the replacement waste water disposal systems. Both back lots and back land will contribute to locating waste water disposal systems away from lake resources.

- Deer Wintering Areas: Sections 1,E,6 and 10.30-FRL,B,5 of the Concept Plan require long-term management of Deer Wintering Areas (DWAs) through a cooperative agreement that is incorporated as Appendix D of the Concept Plan. The purpose of the agreement is to manage for sustainable winter habitat for deer, in part, by directing the timing of timber harvesting activity and establishing guidelines for road construction, recreational use, and travel corridors. While these agreements are typically voluntary and often last for five years; the Concept Plan requires the Petitioner to maintain a comparable agreement for the life of the Concept Plan.

While some parties have raised concern over resources not included in the conservation easement, most notably the Cross Lake Bog, there is some regulatory protection today, and the Concept Plan does not reduce any existing regulatory protections afforded to these resources.

Based on these and other provisions contained in the Concept Plan, the Commission finds that the Concept Plan sufficiently includes in its purpose the protection of those resources in need of protection.

(4) **The Concept Plan Strikes A Reasonable And Publicly Beneficial Balance Between Appropriate Development And Long-Term Conservation Of Lake Resources (Ch. 10.23,H,6,f Of The Commission's Rules)**

Unlike other governing review criteria applicable to concept plans whose purposes are predominantly to prevent harm and protect the public's health, safety and welfare,⁴³ the criterion that a concept plan must strike "a reasonable and publicly beneficial balance between appropriate development and long-term conservation" is intended to ensure that both the landowner and the public are receiving benefits as a result of the Concept Plan that neither would be entitled to in its absence, and that these benefits are "balanced" in a manner that is publicly beneficial.

For the landowner, these benefits include being permitted to develop certain lands that would not otherwise be permitted under the Commission's traditional zoning framework, provided the development is "appropriate." For example, the Concept Plan provides certain waivers of the Commission's adjacency criterion, whereby Irving obtains zoning authority to develop in locations and at a scale and pace that is not afforded through the Commission's typical zoning approach. The Concept Plan also provides Irving with predictability regarding certain Commission actions related to (i) where development will and will not be allowed in the Plan Area, (ii) the type of development that will and will not be allowed in each development area, (iii) the maximum number of dwelling units and overnight accommodation units permitted within the thirty-year term of the Concept Plan, and (iv) the development standards and procedures that will remain static versus those that may change during the term of the Concept Plan. While the Commission's approval of the Concept Plan does not constitute a pre-approval of any subsequent required permits within the Plan Area, Concept Plan approval does represent a commitment by the Commission that the development described in this Concept Plan is acceptable to the Commission provided that any subdivision or other development proposed within the Plan Area is consistent with the purposes, descriptions, and permitted uses set forth in the applicable Concept Plan land use zones, meets the Commission's statutory and regulatory criteria, and otherwise complies with the Concept Plan's provisions.

For the public, the benefits include substantial long-term conservation, access to recreational resources to which it would not be entitled in the Concept Plan's absence, and the availability of land for economic development in or near existing villages. At its most basic level, these public entitlements are (i) the protection of natural and cultural resources (including recreational and scenic resources) through the permanent elimination of certain threats to these resources, as provided for pursuant to the terms of the conservation

⁴³ E.g., "The proposed land use district has no undue adverse impact on existing uses or resources," 12 M.R.S. § 685-A(8-A)(B); and "The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces," Chapter 10.23,H of the Commission's rules.

easement and the other terms of the Concept Plan, (ii) the legal guarantee of public access to use and enjoy those resources permanently, particularly the granting of permanent or long-term rights for public boat launches, and recreational access to areas within the conservation easement, and (iii) the guaranteed availability for sale or lease of substantial plots of land, appropriately zoned, on which local business or community facilities such as elderly housing could be established in an area that is currently constrained by land ownership patterns.

While the Commission interprets this criterion to mean that substantial public entitlements must be provided upon approval of a concept plan, and finds that they are in this Concept Plan, it also finds that the required “balance” can only be struck if the Concept Plan development is appropriate and if resources are sufficiently conserved. The Commission’s findings that lead it to conclude that the Concept Plan does indeed strike a balance between appropriate development and long-term public benefits that is both reasonable and publicly beneficial are set forth below.

(a) *The Concept Plan Ensures That Development Is Appropriate*

As set forth in paragraphs 9,B through E, the Commission carefully evaluated the development components of the Concept Plan from numerous vantage points, including whether the scale of proposed development as a whole and as proposed for each development area (i) is consistent with the CLUP, (ii) is more appropriate for the protection and management of uses and resources than existing zoning, and (iii) does not cause any undue adverse impacts to existing resources and uses within and surrounding the Plan Area. Based on its review, the Commission finds that the Concept Plan development elements:

- Are consistent with the CLUP goals and policies regarding the location of development;
- Avoid both cumulative and individual undue adverse impacts to the jurisdiction’s principal values;
- Avoid both cumulative and individual undue adverse impacts to natural, cultural, and community resources and uses;
- Ensure the separation of incompatible uses;
- Contribute to satisfying a public need for orderly, prospective, well-planned growth in the region; and
- Contribute to achieving the Commission’s vision for the jurisdiction.

Based on these findings, the Commission concludes that the development allowed by the Concept Plan is “appropriate,” meaning

the development elements are of a location, type, and scale, and are governed by rigorous land use standards and review processes such that the tests stated above have been met.⁴⁴

(b) *The Concept Plan Provides Publicly Beneficial Conservation Which Includes The Conservation Of Lake Resources*

In evaluating the Concept Plan in light of the “long-term conservation” requirement, the Commission examined whether the Concept Plan’s conservation elements provide both:

- The minimum amount of conservation necessary to accomplish the comprehensive planning objective of concept plans, meaning to encourage long-range planning as an alternative to haphazard, incremental development; and
- Conservation elements of a location, amount, and type to realize public benefits to which the public is not entitled under the Commission’s traditional zoning framework.

Based on the Commission’s findings set forth below, the Commission concludes that the Concept Plan provides a reasonable and publicly beneficial amount, type and nature of long-term conservation of resources, including lake resources.

(i) *The Concept Plan Provides The Requisite Amount Of Conservation To Accomplish The Comprehensive Planning Objective Of Concept Plans*

The CLUP states that “The goal of concept planning is to encourage long-range planning based on resource characteristics and suitability as an alternative to haphazard, incremental development... To accomplish the comprehensive planning objective of concept plans, the width of zones should generally be designed to encompass all lake-related development planned for the area over the life of the concept plan, or 500 feet, whichever is more.”⁴⁵

The Concept Plan includes all land in Irving’s ownership that is located within 500 feet of the lakes and ponds within the affected area. The Concept Plan conserves key shores and backlands. Of particular note is the conservation of 11.4 miles of shoreline on Square Lake, which constitutes the extinguishment of development rights to all but the 2.5 miles of shoreline at Square

⁴⁴ Had the Commission alternatively found that the Concept Plan development failed to meet any of these tests, it would have concluded that the development was not “appropriate” and, pursuant to Chapter 10, Section 10.23,H,6,f, no amount or type of public benefit would have been able to reverse this conclusion and thus this regulatory requirement would not have been satisfied.

⁴⁵ CLUP, 2010, pp. C7 and C9.

Lake E/Yexas and 6 infill lots on the West side of the lake. In some areas where a conservation easement was not practical, either due to ownership issues or the small size of the parcels, open space designations were created that will make subdivision development contingent on setting aside those shorelands for trails or other open space uses. (*Concept Plan, section 1,E,4.*)

Many backland areas were also conserved, however, there are substantial backland areas that are subject only to the terms of the 30-year Plan, not to permanent conservation easements. This is appropriate because the area is, in general, not remote, and may be an appropriate place for community expansion after 30 years. The areas that were important in dealing with threats to long-term resource protection and lake character were appropriately protected through conservation easement or subdivision regulation.

Therefore, the Commission finds that the Concept Plan provides a sufficient amount of protection of shore and backland area to accomplish the comprehensive planning objective of concept plans.

(ii) *The Concept Plan Provides The Amount, Location And Type of Conservation To Satisfy The Requisite Public Benefits*

Many of the public concerns on the record focus on the same resources, uses, and rights that the Commission finds are likely to be significantly and adversely impacted by land use changes that would occur in the absence of this Concept Plan – that is, if Irving or a subsequent landowner utilizes existing laws and regulations to pursue alternative proposals permitted under the Commission’s current laws and regulations. As set forth in paragraph 9,C, above, such land use changes would largely stem from haphazard, incremental development permissible under the Commission’s current zoning framework and from the creation of lots exempt from subdivision review (so-called “two-in-five” development). This development would likely include a substantial amount of development along shores of lakes and ponds, in backland areas within the viewsheds of lakes and ponds, and in other areas of high recreational and scenic value. The location, nature and amount of such haphazard, incremental development would also result in substantial restrictions on public access and use of these publicly valued resources, including for outdoor recreational pursuits.

The Commission finds that the amount, location and type of conservation provided in the Concept Plan, together with provisions for public boat launches, not only alleviates these threats but ensures that the public forever benefits from both the

permanent protection of resources within the affected area and the legal guarantee of public access to use and enjoy these resources – entitlements that could not be attained under the Commission’s current zoning framework. The Commission further finds that, given the scale of the proposed development – up to 330 residential units and limited commercial development – conservation of 16,764 acres is sufficient.

The conservation easement, together with the granting of fee ownership of public boating access points and long-term public lease of the Van Buren Cove beach access point, provide important, long-term public benefits in the areas most suitable for those benefits. If a conservation easement were to be created for all Plan Area lands, the local communities would lose flexibility in the future for development in areas that may be suitable. This contrasts with other places in the Commission’s service area which are more remote or environmentally sensitive. In this case, protection of the lands around Square Lake, portions of Cross Lake, all of Carry Pond and Little California Pond, and the Mud/Cross thoroughfare and a significant portion of those backlands, are sufficient to fulfill the conservation goals.

As such, the Commission finds that the Concept Plan provides the amount, location and type of conservation to realize the requisite public benefits described above.

(c) *The Concept Plan Provides Substantial Community Economic Development Benefits In Addition to Long-term Conservation of lake Resources*

The local area has substantial residential and community development already, in contrast to some other parts of the UT that are more remote. Many rural communities in Maine are struggling to maintain population, and the Sinclair and Guerette areas are no exception. One of the barriers to the health of the local villages is available land for economic activity that is well-sited near state routes, near villages, and on reasonable soils. The Concept Plan makes available substantial land area for 30 years. This is sufficient time for local economic development efforts to take advantage of this benefit, if the local economy warrants such projects. Although this is in contrast to traditional views of public benefits coming only in the form of conservation easements, in this case the nature of the local circumstances warrant a view of planning that takes into account several factors, including conservation, but also economic health of the community. An unintended consequence of shutting out development by conserving land in areas that are close to existing populated areas is that it may push future development to less appropriate areas, causing fragmentation of habitat. Planning at the

scale of a chain of lakes that surround several villages requires thought to all of the components of a healthy community, including environmental protection, the maintenance of substantial undeveloped areas, recreation access, and economic opportunity. These factors all work together to maintain the quality of place that is the mission of the agency.

(d) *Conclusions*

Based on its analysis of the facts in the record, the Commission concludes that the Concept Plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources; and the Concept Plan provides substantial community economic benefits. Additional benefits that have been suggested by parties, for example the funds suggested by MDIFW, may be desirable, but are not necessary to reach a finding of publicly beneficial balance.

(5) **The Concept Plan Development Gained Through A Waiver Of The Commission's Adjacency Criterion Is Matched By Comparable Conservation Measures (Ch. 10.23,H,6,d Of The Commission's Rules)**

In order to approve a concept plan and the associated change in zoning, the Commission must find that “[t]he plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criterion is matched by comparable conservation measure[s].”⁴⁶

In reaching its determination as to whether the Concept Plan satisfies the “comparable conservation” criterion, the Commission is guided in particular by the CLUP descriptions of the adjacency criterion.⁴⁷ These descriptions are set forth in paragraph 9,B,(4), above. The Commission notes that, as a general matter, waivers of adjacency in concept plans are fitting because they come in tandem with, and are dependent upon, affirmative conclusions that must be reached by the Commission with respect to a concept plan’s consistency with the CLUP, including (i) findings that development is consistent with the goals and policies pertaining to the location of development and is otherwise “appropriate,” and (ii) because a concept plan must ultimately be an alternative to haphazard, incremental growth.⁴⁸ Below,

⁴⁶ Chapter 10, Section 10.23,H,6,d of the Commission’s rules.

⁴⁷ CLUP, 2010, pp. 6 and 62.

⁴⁸ The Commission notes that in this Concept Plan, both the “balance” and “comparable conservation” criteria trigger requirements for conservation of an amount, location and type that address the impacts of haphazard, incremental development. However, these criteria serve two distinct purposes. The “balance” criterion requires that certain public benefits are granted above and beyond those that would otherwise be realized under the Commission’s current zoning framework. These public benefits must be provided irrespective of whether a waiver of adjacency is

the Commission sets forth its findings with respect to whether the conservation elements of the Concept Plan are sufficient to prevent harm from the development allowed through waivers of adjacency – that is, development in locations and of a scale and intensity that would otherwise not be permitted.

(a) *The Concept Plan Requires A Substantial Waiver Of Adjacency*

According to Commission staff analysis of development in the Concept Plan as it was proposed by the Petitioner in its June 2019 revised plan, and as adjacency was interpreted at that time, approximately 206 of the 330 dwelling units that are proposed meet the adjacency criterion, in terms of both distance from and character of nearby development. Approximately 124 of the proposed dwelling units within Square Lake East and Square Lake Yexas did not meet the adjacency criterion. The 24 residential dwelling units allowed for affordable housing in CD-2, which are not included in the lake cap of 330, would meet the adjacency criterion.

The Commission finds that 124 of the 330 residential units require a waiver of adjacency.

Commercial development in the Plan Area is proposed as a public benefit in the case of the CD areas, and at the suggestion of Commission staff in the case of Yexas, to provide services and public access to East side of Square Lake. While some of these commercial units are non-adjacent, they are included in the Concept Plan to provide benefits related to sound planning, and the Commission finds that these units are consistent with the purposes of the adjacency principle.

(b) *Absent Specific Action (e.g., Conservation or other Plan provisions), The Secondary Effects Of Development Requiring A Waiver Of Adjacency Would Likely Harm The Natural And Cultural Resources Of The Affected Area*

While the Concept Plan development that requires a waiver of adjacency is of a location, scale and type that is appropriate and thus will not unduly adversely affect the resources within and surrounding the Plan Area, the Commission finds that, absent specific provisions imposed by the Concept Plan, the secondary development pressures that this allowed development would generate would likely trigger future haphazard, incremental development in adjoining areas, which would harm existing natural and cultural resources.

granted. In contrast, the “comparable conservation” criterion is only required for concept plans where waivers of the adjacency criterion are requested. This criterion ensures that any potential harm deriving from such waivers in fact will not occur.

Although no specific numerical record evidence exists regarding the likely scale of secondary development that may follow from this waiver of adjacency, the record shows that, absent the Concept Plan, development pressures in the region will likely continue to occur in the affected area in a haphazard and unplanned way, as is permissible through lot creation exempt from subdivision review (so-called “two-in-five” development). This development would likely come in the form of (i) kingdom lot development (very large lots owned by an individual primarily for residential or recreational use), (ii) shorefront development, and (iii) backland development within the viewshed of lakes, ponds, and rivers. Given that the number of units requiring a waiver of adjacency are a significant portion of the development contemplated in the Concept Plan, and that the Concept Plan has the potential to accelerate the rate of development beyond historic development rates, it is reasonable to assume that the Concept Plan development requiring a waiver of adjacency would substantially contribute to these secondary development pressures in the absence of adequate conservation measures. The likely resource impacts of such secondary development pressures, set forth in paragraph 9,C,(3), would include harm to the long-term protection and management of the existing forest resources, wildlife and plant resources, and recreational and scenic resources

(c) *The Concept Plan Provides Sufficient Protections To Prevent Harm From The Secondary Effects Of Development Requiring A Waiver Of Adjacency*

The plan has addressed secondary development pressures (in part), in several ways. Primarily, all other shoreline on Square Lake will be permanently conserved, as discussed in paragraph 9,D. However, once there is recreational infrastructure at Square Lake Yexas and road access rights, secondary development pressures are likely on the hills overlooking Square Lake. To deal with this issue, the Concept Plan includes the Reserved Land. The Reserved Land includes the hillsides behind the two Square Lake development areas, which locations would be desirable for residential development. The reserved land designation (*section 10.34-FRL,C.*) will occur prior to any development on Square Lake, it will restrict all residential development and all lot creation and will be implemented through permit conditions that will remain in place, beyond the life of the plan, until and unless the Petitioner can demonstrate certain adverse impacts have not occurred. The designation will be sufficiently effective and durable. This reserved land element was added to the plan in response to testimony by the public and parties (particularly NRCM) at the hearing, and in response to Commission staff analysis.

Other Plan Areas, in Madawaska Lake Township and the eastern edge of T16 R 5 WELS, were raised on the record as areas of potential

future development pressure (*including Pierson, July 2019.*). These areas are separated by distance and landforms from Square Lake, may be adjacent to other development that does not require a waiver of adjacency, or may be otherwise appropriate, and moderately attractive, for small-scale secondary growth. There is no compelling evidence that there is a threat to these lands from secondary development pressure.

(d) *Conclusions*

Based on its analysis of the facts on the record, the Commission finds that the conservation elements of the Concept Plan are sufficient to prevent harm from the development requiring a waiver of adjacency. Therefore, the Commission concludes that the development gained through the Commission's waiver of the adjacency criterion is matched by comparable conservation measures, thus making the Concept Plan at least as protective of the natural environment as the subdistrict which it replaces.

(6) **The Concept Plan Conservation Measures Apply In Perpetuity (Ch. 10.23,H,6,g Of The Commission's Rules)**

To approve a concept plan, the Commission must find that "conservation measures apply in perpetuity, except where it is demonstrated by clear and convincing evidence that other alternative conservation measures fully provide for long-term protection or conservation."⁴⁹ In evaluating the Concept Plan in light of this requirement, the Commission considered, among others, the longevity of the Concept Plan's conservation elements, the timing of execution of conservation elements, the provisions within the conservation easements related to holder and third party holder enforcement rights and amendment of conservation easement, and holder qualifications.

The facts and analysis set forth below lead the Commission to conclude that the Concept Plan conservation measures apply in perpetuity and fully provide for long-term protection of resources and uses.

(a) *The FRCLCE Applies In Perpetuity*

The Concept Plan includes a conservation easement that provides in-perpetuity conservation of approximately 16,700 acres of land within and contiguous with the Plan Area. The Concept Plan also requires that the conservation easement will be executed within one year of the Concept Plan effective date. The Concept Plan stipulates that should the Petitioner fail to satisfy any of the applicable requirements of the implementation schedule, the Commission shall immediately cease processing of any and all subdivision and development applications

⁴⁹ Chapter 10, Section 10.23,H,6,g of the Commission's rules.

under the Concept Plan unless and until the Petitioner satisfies all such requirements.

(b) *The FRCLCE is Enforceable and Appropriately Difficult To Amend*

The FRCLCE contains specific provisions to ensure that the holder maintains the legal authority and means to effectively enforce the protective terms of this conservation easement. For example:

- The FRCLCE imposes substantial limits on the total number of divisions of the protected property, thus minimizing the monitoring of performance of multiple landowners practicable for the holder.
- The FRCLCE is bound by statutory limitations to the termination or amendment of conservation easements. Specifically, the conservation easement cannot be terminated or amended in such a manner as to materially detract from the conservation values intended for protection without the prior approval of the court. Further, the Attorney General is a party to any such action to terminate or amend the easement.
- The Attorney General can independently enforce the terms of the FRCLCE.

(c) *The Holder Is Qualified To Hold The FRCLCE*

In considering whether the Forest Society of Maine (the FSM) is qualified to hold the FRCLCE, the Commission evaluated the qualifications of the FSM against its Guidelines for the Selection of Conservation Easement Holders.⁵⁰

In reviewing the record evidence, the Commission finds that FSM operates for public conservation purposes and has the commitment and, in light of the protective legal terms contained in the FRCLCE, the capability to monitor and enforce the FRCLCE.

(d) *Conclusions*

Based on its analysis of the facts on the record, the Commission finds that the Concept Plan's conservation measures apply in perpetuity.

(7) **Conclusions**

In summary, based on a thorough review of the record evidence and analysis of the provisions of the Concept Plan, including the terms and conditions of the FRCLCE, the Commission concludes that there is substantial evidence that the Concept Plan and the associated P-RP Subdistrict is consistent with the standards for district boundaries in effect at this time, and fully satisfies

⁵⁰ LURC: Nov. 10, 2004, Guidelines for Selection of Conservation Easement Holders.

the criteria for approval contained in Chapter 10, Section 10.23,H of the Commission’s rules.

F. The Concept Plan Is Consistent With The Review Standards For Structures Adjacent To Lakes (Ch. 10.25,A Of The Commission’s Rules)

In applying the criteria for adoption or amendment of land use district boundaries pursuant to 12 M.R.S. § 685-A(8-A), the Commission considered the following review standards set forth in Chapter 10, Section 10.25,A of its rules, which otherwise must also be met for all subdivisions and commercial, industrial and other non-residential structures and uses proposed on land adjacent to lakes.

Consistent with Chapter 10, Section 10.25,A, the Commission considered, among other factors, the Wildlands Lakes Assessment findings and relevant provisions of the CLUP in applying these review standards. The Commission’s findings and conclusions with respect to each of these review standards is set forth below.

(1) The Concept Plan Will Not Adversely Affect Significant Or Outstanding Natural And Cultural Resource Values

The Commission finds that many of the lakes and ponds adjoining or encompassed by the Plan Area include one or more fisheries, wildlife, scenic, shore character, botanic, cultural and physical resource values identified as significant or outstanding in the Wildlands Lakes Assessment. For example, the six lakes and ponds directly affected by the Concept Plan’s development components are rated as follows:

	Resource Value Ratings (S = Significant; O = Outstanding)						
	Fisheries	Wildlife	Scenic	Shore Character	Botanic	Cultural	Physical
Cross Lake	S				O	S	
Long Lake	S					S	
Mud Lake	S					S	
Square Lake	O					S	S
Carry Pond	S					S	
Dickey Pond	S						

The Commission considered the resource value ratings for these lakes and ponds in reaching its conclusions that the Concept Plan (i) is consistent with the CLUP, particularly the natural and cultural resources goals and policies set forth therein, and (ii) will cause no undue adverse impacts to existing uses and resources.

Consistent with its findings in paragraph 9,D, above, wherein the Commission evaluates the Concept Plan’s impacts on existing natural and cultural resources within and surrounding the Plan Area – including the natural and cultural resources associated with lakes and ponds and their

shores – the Commission finds that the significant and outstanding natural and cultural resource values, on individual lakes as well as in the aggregate, will not be adversely affected by the Concept Plan or the associated P-RP Subdistrict.

(2) **The Concept Plan Will Not Have An Undue Adverse Impact On Water Quality**

As set forth in paragraphs 9,D and E, the Commission finds that the Concept Plan will not have an undue adverse impact on water quality. Specifically, the Commission finds that the Concept Plan puts in place: (i) review standards and processes that establish phosphorus export budgets for the Long, Mud, Cross, and Square Lake watersheds, each accounting for development and non-development activities, (ii) procedures for the conveyance of “back land” and for enlargement of existing license lots, both improving the likelihood that replacement subsurface waste water disposal systems will be further separated from lake resources, and (iii) requirements for the vast majority of the Plan Area that all forest management activities be conducted in a manner that meets or exceeds current standards for setbacks and buffering. In reaching this determination, the Commission considered the effect of the Concept Plan in isolation as well as in conjunction with other development that may occur on lakes and ponds affected by the Concept Plan.

(3) **The Concept Plan Will Not Have An Undue Adverse Impact On Traditional Uses And Will Not Substantially Alter The Diversity Of Lake-Related Uses Afforded Within The Region**

As discussed in paragraphs 9,A, C, and D, the Plan Area includes a diversity of lake experiences. Many comments from the public and parties focus on the development allowed around Square Lake, and the presumed impact it will have on the character of the lake. (*NRCM testimony pp. 17-19; FRLLA topic 3 testimony – St. Peter pp. 7-8 and Jandreau; LeClaire; Monahan; Fields; Vincent; Trout Unlimited; Hill; Terrell; Cormier; BHANEC; and Maine Audubon*) However, there are two primary factors involved. First, the amount of development proposed by the Concept Plan is consistent with development that could otherwise occur (see paragraph 9,C,(3)), except that now the development will not be sprawling along most of the 13.9 miles of shoreline owned by the Petitioner. Further, much of the development will be located away from the shoreline. Second, as discussed in paragraph 9,D, the assessments required as part of the sequencing requirements serve as an additional safeguard. As a result, the lake related uses on Square Lake will be affected, but they will not be substantially altered on the lake or the range of lake experiences in the region.

The Commission sets forth its findings and conclusions with respect to the Concept Plan’s impacts on recreational uses in paragraph 9,D. As set forth in these paragraphs, the Commission finds that the Concept Plan has no undue

adverse impact on traditional recreational uses and the existing diversity of lake-related uses, including the economic value of the service area for diverse and abundant recreational opportunities (particularly for primitive pursuits). In reaching this determination, the Commission evaluated the effect of the Concept Plan on, among others, non-exclusive recreational opportunities, and non-intensive public recreation, including the diversity of motorized and non-motorized lake-related recreational uses in the region, and the character and intensity of development allowed by the Concept Plan.

(4) The Concept Plan Maintains The Natural Character Of Shorelands

In reaching its conclusions regarding the Concept Plan's effect on natural character,⁵¹ the Commission evaluated the Concept Plan's effect on the natural character of the shorelands of lakes and ponds within and surrounding the Plan Area. The Commission finds that the Concept Plan acts to protect shoreland areas by: i) permanently protecting from development shorelands within the Plan Area, pursuant to the terms of the FRCLCE; and ii) includes specific provisions that impose vegetation clearing restrictions both along the shore and within lake viewsheds. Therefore, the Commission concludes that adequate provision has been made to maintain the natural character of the shorelands affected by the Concept Plan.

(5) The Concept Plan Is Consistent With The Management Intent Of Lake Classifications

In evaluating the location, amount and type of development contemplated for the lakes and ponds within and surrounding the Plan Area, the Commission considered, among other factors, the management classifications of these waters, including the attendant management intent of their classifications as set forth in the CLUP.⁵²

The Concept Plan contemplates development on and nearby the shores of six water bodies – Carry Pond, Dickey Pond, Cross Lake, Long Lake, Mud Lake, and Square Lake. The Commission's findings with respect to these six water bodies are set forth below.

- *Carry Pond, Dickey Pond, Long Lake, Mud Lake, and Square Lake – Management Class 7:*

Management Class 7 water bodies consist of all lakes not otherwise classified, including many lakes which have multiple outstanding or significant resource values identified in the Wildlands Lakes Assessment. The management intent for these lakes is one of multiple use, including for resource conservation, recreation, and timber production, giving

⁵¹ The Commission's findings regarding the Concept Plan's effect on natural character is set forth in paragraph 9.B.

⁵² CLUP, 2010, pp. C-9 through C-11.

specific consideration to identified resource values when evaluating the merits of lake-related rezoning and permit applications.

As set forth above, the Commission specifically considered the significant and outstanding resource value ratings for Carry Pond, Dickey Pond, Long Lake, Mud Lake, and Square Lake in assessing whether development contemplated for these water bodies would adversely impact existing resources and uses. Based on these considerations, the Commission concludes that the location, amount and type of development contemplated for these five water bodies is consistent with the multiple use management intent of Management Class 7 water bodies.

- *Cross Lake – Management Class 5:*

Management Class 5 water bodies are lakes that are heavily developed. The management intent for these lakes is to support additional development around these water bodies, as long as such development is both responsible and the significant natural resource values of these water bodies are conserved.

In evaluating the location, amount and type of development contemplated for Cross Lake, the Commission finds of particular relevance that the Concept Plan (i) locates most of the ‘Cross Lake’ development areas more than 400 feet from the shoreline; (ii) new development areas along the shoreline are configured to facilitate clustering; (iii) imposes hillside standards for development areas visible from public vantage points (*e.g.*, lakes); and (iv) permanently prohibits development and takes other measures to permanently protect, pursuant to the terms of the FRCLCE, 2 miles of the remaining shoreland areas.

The CLUP also identifies Long Lake as a lake approaching heavily developed status – lakes with less than 20 acres or 1,000 feet of frontage per dwelling unit taken as an average around the entire lake. However, nearly all new units allowed proximate to Long Lake would be more than 400 feet from the shoreline, thus outside the area of direct influence to the lake. Further, the hillside development standards included in the concept plan will also apply to these locations.

In light of these and other provisions contained in the Concept Plan, the Commission finds that the development contemplated for this Management Class 5 lake, and a lake that is approaching heavily developed status, is responsible. Thus, the Commission concludes that the development contemplated for these lakes is consistent with the management intent of Management Class 5 water bodies.

(6) The Concept Plan Maintains Landowner Equity

The Commission finds that the Concept Plan attends to landowner equity in that it does not authorize development that exceeds the Petitioner’s proportionate share of total allowable development for the following reasons:

First, none of the development contemplated in the Concept Plan exceeds either of the two general planning guidelines set forth in the CLUP, which were designed to preserve the natural character of lakes and prevent conflicts between incompatible uses.⁵³ Specifically, shore development contemplated in the Concept Plan will not exceed an average of one dwelling unit per 400 feet of shore frontage within the Petitioner's ownership, and one dwelling unit per ten acres of lake surface area.

Second, the provisions of the Concept Plan ensure that specific water quality information, including phosphorus export allocations, were based on the percentage of each watershed owned by the Petitioner.

Third, the Commission finds that nothing in the Concept Plan precludes adjoining or nearby landowners from petitioning and obtaining zoning and permit approvals from the Commission for development adjacent to any of the six water bodies as long as such proposals satisfy governing review criteria.

(7) Conclusions

Based on the facts set forth above with respect to each of the review standards for structures adjacent to lakes, the Commission finds that it is feasible to undertake the development contemplated under the Concept Plan in a manner that complies with the review standards for structures adjacent to lakes; more specific assessment will be made as part of the review of subsequent subdivision and non-residential development proposals. Therefore, the Commission concludes that the Concept Plan and the associated P-RP Subdistrict are consistent with the review standards set forth Chapter 10, Section 10.25,A.

10. CONCLUSIONS

Based on the above Findings and the facts and supporting documents as represented in the administrative record of Zoning Petition ZP 768, the Commission reaches the following Conclusions:

- A.** The Concept Plan and the associated P-RP Subdistrict are consistent with the standards for district boundaries, the Commission's Comprehensive Land Use Plan, and the purpose, intent, and provisions of Ch. 206-A (the Use Regulation Law).
- B.** The Concept Plan and the associated P-RP Subdistrict have no undue adverse impact on existing uses or resources.
- C.** The Concept Plan and the associated P-RP Subdistrict are more appropriate for the protection and management of existing uses and resources within the affected area.

⁵³ CLUP, 2010, p. C-5.

- D. The land use standards contained in the Concept Plan serve the purpose, intent and provisions of Chapter 206-A and are consistent with the Commission’s Comprehensive Land Use Plan.
- E. The Concept Plan and the associated P-RP Subdistrict satisfy the Criteria for Review of Chapter 10, Section 10.23,H. Specifically:
 - (1) The Concept Plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criterion is matched by comparable conservation measures.
 - (2) The Concept Plan includes in its purpose the protection of those resources in need of protection.
 - (3) The Concept Plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources.
 - (4) The Concept Plan’s conservation measures apply in perpetuity.
- F. The Commission has fully considered the standards set forth in Chapter 10, Section 10.25,A (Review Standards for Structures Adjacent to Lakes) of the Commission’s rules in reaching its conclusions regarding the criteria for adoption or amendment of land use district boundaries.

Therefore, the Commission approves the petition of Irving Maine Timberlands, L.L.C. and Irving Land Company to rezone approximately 51,000 acres to a Resource Plan Protection (P-RP) Subdistrict per the maps attached hereto as Appendix A of Attachment B, and make effective the attendant *The Fish River Chain of Lakes Concept Plan*.

In accordance with 5 M.R.S. section 11002 and Maine Rules of Civil Procedure 80C, this decision by the Commission may be appealed to Superior Court within 30 days after receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person.

DONE AND DATED AT BREWER, MAINE THIS 11th DAY OF SEPTEMBER 2019.

By: _____
Samantha Horn, Acting Executive Director

This change in subdistrict designation is effective on September 26, 2019.

Attachments

A: Administrative History

B: The Fish River Chain of Lakes Concept Plan (“Deliberation Version”)

Zoning Petition ZP 768 – Fish River Chain of Lakes Concept Plan

ATTACHMENT A: FULL ADMINISTRATIVE HISTORY

A. October 2013 – March 2015: Filing And Processing Of Original Zoning Petition

1. In June 2013, the Commission conducted a preapplication meeting with the Petitioner, and offered initial yet informal feedback about a possible concept plan.
2. On October 9 and 10, 2013, the Commission received a brief introduction to the anticipated proposal, and conducted a public pre-application site visit. The site visit included stops at four locations¹ during which the Petitioner provided a brief summary of Concept Plan elements at or visible from the site. Parties and assorted members of the public attended the site visit.
3. On December 24, 2014, Irving filed its original Zoning Petition ZP 768 to the Commission to rezone approximately 51,000 acres of its ownership in northern Aroostook County to a P-RP Subdistrict in order to implement a thirty-year Concept Plan. Public notice of the petition was posted in accordance with Section 4.05,(4) of the Commission’s Chapter 4 Rules of Practice.² Paper copies of the proposal were made available for public inspection at the Commission’s Augusta and Ashland offices, the Fort Kent town office, and the Aroostook County Commissioners office. Digital copies of the proposal were posted for review and download on the Commission’s publicly available FTP site and the Commission’s webpage³ dedicated to the review of the proposal.
4. In January and February 2015, state and federal resource agencies advised the Commission whether the petition contained sufficient information to begin the formal review process; some agencies identified additional information needs.
5. In late January through March 2015, Commission staff provided feedback to the Petitioner regarding: i) elements of the petition that were complete and incomplete for processing^{4,5};

¹ Stops included: Van Buren cove, Sinclair village, Cross Lake boat launch, and “Yerxas camps.”

² This notice included the following methods and recipients: i) listing of the petition on the Commission’s period list of applications received; ii) the Commission maintained list of persons interested in receiving postal or e-mail notices about the project (308 recipients) (later this list was incorporated into the Commission’s GovDelivery system); iii) publication of a legal notice in two newspapers of general circulation in the area (*i.e.*, the Bangor Daily News, and the St. John Valley Times); iv) posting notice on the Commission’s website; and v) notice by registered mail to all persons owning or leasing land within 1,000 feet of the proposed project.

³ www.maine.gov/dacf/lupc/plans_maps_data/resourceplans/fishriverlakes_prp015.html

⁴ “Completeness” memos: January 26, 2015; February 17, 2015; and March 13, 2015.

⁵ “Complete for processing” means that the information provided is sufficient to understand the proposal and therefore to begin the formal review process. This finding does not necessarily mean that the Commission has sufficient information to hold a public hearing on the proposal, nor is it a final disposition on the zoning petition. Additional information may be requested of the petitioner by the Commission during the review process.

and ii) other feedback and information requests⁶. In response to the Petitioner's request, staff provided this feedback periodically.

B. June 2017 – December 2018: Filing And Processing Of Revised Zoning Petition

1. In June 2017, Irving submitted a revised zoning petition to the Commission. The revision responded both to items found incomplete and the other feedback, as identified in 2015. Key revisions included:

- a. Adding a process for replacement septic systems for the existing lease lots;
- b. Revised Concept Plan provisions regarding water access sites, both private and public;
- c. Added the proposed development of a hand-carry launch on Mud Lake;
- d. Revised unit caps for the development areas and established a unit cap for each lake;
- e. Added a resource management plan to accompany the conservation easement;
- f. Revised numerous residential development areas and community and economic development (CD) areas;
- g. Added provisions regarding homeowners associations and road associations;
- h. Added a commitment and deadline for the removal or restoration of structures at Yexas; and
- i. Removed the freezing of the standards in Section 10.25,P regarding the protection of natural resources.

This set of revisions is often referred to as “the Petition”, as distinguished from the April 2018, June 2018, and June 2019 amendments.

2. On August 9, 2017, in accordance with Chapter 4 and prior to any requests, the Commission determined that a hearing would be valuable due to anticipated public interest and the high probability that information presented at a public hearing would assist the Commission in reaching its decision.
3. On August 31, 2017, the Commission deemed the petition complete for processing.
4. On September 13, 2017, the Commission posted public notice of the petition pursuant to Ch. 4.05(4) of the Commission's rules.⁷ This notice: i) confirmed the petition was complete for processing; ii) announced that a hearing would be held; iii) set a deadline for petitions to intervene; and iv) identified four locations where paper copies of the proposal were available for public inspection.

⁶ “Other feedback” memos: February 3, 2015 and March 16, 2015.

⁷ This notice included: i) listing of the petition on the Commission's period list of applications received; ii) the Commission's list of persons interested in receiving notices about the project (*i.e.*, GovDelivery); iii) publication of a legal notice in two newspapers of general circulation in the area (the Bangor Daily News, and the St. John Valley Times); iv) appropriate state and federal agencies; v) county officials; vi) legislators whose districts encompass the project; vii) posting notice on the Commission's website; and viii) presumptive implementing parties (*i.e.*, Forest Society of Maine as the proposed easement holder).

5. In October 2017, the Commission received a project overview and conducted a public site visit. The site visit included six different stops⁸ during which staff provided a brief summary of Concept Plan elements at or visible from the site, and offered attendees an opportunity to travel through and briefly observe the variety of settings included as part of the proposal. Parties and members of the public attended each part of the site visit.
6. On or prior to October 10, 2017, the Commission received petitions to intervene from five parties:
 - a. The Fish River Lakes Leaseholders Association (FRLLA or Leaseholders Association);
 - b. The Natural Resources Council of Maine (NRCM);
 - c. Ms. Carol Pierson;
 - d. The Forest Society of Maine (FSM); and
 - e. The Sandy Point and Connection Lane Road Association (SP & CLRA or Road Association)
7. On October 19, 2017, the Presiding Officer issued the First Procedural Order, which addressed all initial procedural issues:
 - a. Intervenor status was granted to: The Fish River Lakes Leaseholders Association; The Natural Resources Council of Maine; and The Forest Society of Maine; and
 - b. Intervenor status was denied for: Ms. Carol Pierson; and The Sandy Point and Connection Lane Road Association. However, the order also set a deadline of November 6, 2017, for those parties denied intervenor status to submit additional information should they wish to request interested person status.
 - c. Confirmation of the service list and filing requirements; and
 - d. Set a deadline for the petitioner to provide each Intervenor with a complete paper and electronic copy of the petition.
8. On November 1, 2017, the Presiding Officer held the first pre-hearing conference call, which was attended by the Petitioner and the intervenors. The conference provided an overview of the anticipated process; identified the review criteria relevant to the Commission's review of the proposal; and described next steps, including the filing of detailed issues lists, anticipated witnesses, and discussed the need for pre-filed testimony.
9. Prior to the deadline of November 6, 2017, the Commission received requests for interested person status from two parties:
 - a. Ms. Carol Pierson; and
 - b. The Sandy Point and Connection Lane Road Association.

⁸ Stops included: Long Lake Camps; Waters Edge RV Resort; St. Peters Store (including short walk); driving on Cyr Road; Cross Lake boat launch; intersection of two unnamed roads off of Disy Crossover Road; and Yexas / Square Lake East.

10. On November 2, 2017, the Presiding Officer issued the Second Procedural Order, which set a deadline for the filing of detailed issues lists and statements; and extended the deadline by which copies of the petition were to be provided to intervenors.
11. On November 17, 2017, the Presiding Officer issued the Third Procedural Order, which granted interested person status to Ms. Pierson and the Sandy Point and Connection Lane Road Association; and set a deadline for these parties to file a detailed issues list.
12. On March 16, 2018, the Presiding Officer issued the Fourth Procedural Order, which summarized the March 5 pre-hearing conference call, and:
 - a. set a deadline by which the Petitioner would provide an outline of any updates to the proposal, and for the specific updates;
 - b. confirmed the dates for hearing and a draft schedule of topics; and
 - c. identified topics for which pre-filed testimony would be required and set a deadline by which pre-filed testimony was to be filed;
 - d. set a deadline for parties to provide a list of witnesses and topic issues on which they would be testifying.
13. On March 29, 2018, the Petitioner filed an outline of the updates to be filed in April. Responding to resource agency comments and intervenor issues lists, the filing described additional supporting information, and amendments to the Concept Plan and maps.
14. On April 6, 2018, the Presiding Officer issued the Fifth Procedural Order, which summarized the April 4th pre-hearing conference; and finalized several procedural matters, such as confirming or adjusting deadlines previously set, addressing exhibits and demonstrative aids, and governmental agency participation in the hearing.
15. On May 11, 2018, the Presiding Officer issued the Sixth Procedural Order, which updated the hearing location and confirmed the deadline for post-hearing briefs.
16. On April 12, 2018, in response to staff feedback and questions, the Petitioner filed the first set of amendments to the proposal. Topics addressed by the amendment included: inclusion of shorelines; hillside development, Yexas/Square Lake E development; subdivision standards; cluster development standards; floodplains; uses in M-GN affecting owners in D-RS; minimum lot size; assurance of public benefits; trail access; community and economic development areas; land divisions; conservation easement; sustainable forestry principles; access; service provisions; allowed uses; recreational boating numbers; phosphorus; roads; outcome-based forestry agreement; and eighteen revised maps.
17. On May 22, 23, and 24, the Commission held a hearing on Zoning Petition ZP 768. The technical sessions provided the opportunity for the six formal parties (Petitioner, plus three Intervenors and two Interested Persons), and representatives of two governmental agencies (the Maine Bureau of Forestry and the Town of Van Buren) to testify. The two evening sessions provided opportunities for members of the public to offer testimony.
18. On June 22, 2018, the first comment period closed. The Petitioner, Leaseholders Association, NRCM, and Ms. Pierson's agent submitted post hearing briefs. As part of its

post hearing brief, the Petitioner filed the second set of amendments to the proposal. The amendments responded to numerous issues raised during the hearing process, generally: roads; water access sites; development areas; the conservation easement; hillside development standards; phosphorus; and forestry. The Commission also received public comments from 21 individuals or organizations.

19. On July 13, 2018, the rebuttal period closed. The Commission received rebuttal comments from the Leaseholders Association and from one member of the public.

C. 2019: June 2019 Revised Zoning Petition

1. On May 17, 2019, the Presiding Officer issued the Seventh Procedural Order, which addressed revisions to the petition and Concept Plan, and established a schedule for the submission of comments on the revised petition. Specifically, the order set deadlines by which:
 - a. the Petitioner would file its revised Concept Plan and supporting petition materials;
 - b. certain resource agencies and parties were to file comments on the revised Concept Plan; and
 - c. the petitioner and proposed conservation easement holder were to file statements addressing whether each is prepared to accept and implement the responsibilities stated in the revised Concept Plan and related conservation easement; and
 - d. the Commission staff would file an updated list of the hearing record.
2. On May 29, 2019, to facilitate comments by appropriate resource agencies, the Petitioner filed those portions of the revised Concept Plan regarding i) phosphorus control and ii) water crossings . This submission included changes to the Concept Plan and additional supporting materials regarding phosphorus data for Mud Lake watershed.
3. On June 7, 2019, the Petitioner filed amendments to the petition and Concept Plan. Among other topics, the revisions included:
 - a. Increasing the size of the proposed conservation easement;
 - b. Eliminating the proposed new development area on the west side of Square Lake;
 - c. Clarifying road maintenance responsibilities and access;
 - d. Revising the phosphorus control rules;
 - e. Providing enhanced buffers on certain streams in the Square Lake Watershed;
 - f. Addressing secondary development on the east side of Square Lake;
 - g. Eliminating certain controversial uses from the Concept Plan; and
 - h. Eliminating the freezing of certain standards.
4. On June 7, 2019, the Maine Department of Environmental Protection filed comments regarding the Concept Plan revisions dated May 29, 2019.

5. Between June 28 and July 1, 2019, the Commission received comments on the June 2019 Revision from Ms. Pierson, the leaseholder's association, and the Natural Resources Council of Maine.
6. On August 5, 2019, the Presiding Officer issued the Eighth Procedural Order, which addressed changes to the schedule, clerical edits to the Concept Plan, and a request regarding the location of Commission deliberations.
7. On August 14, 2019, the Commission staff recommended clarifications and other minor changes to the Concept Plan.
8. On August 21, 2019, final commitments and statements were filed. Specifically:
 - a. the Petitioner confirmed it is prepared to implement its responsibilities set forth in the Concept Plan and Fish River Chain of Lakes Conservation Easement; that its ownership within the Plan Area, as amended, has not changed since June 2017; and that the Petitioner accepts the August 14 staff recommended clarifications to the Concept Plan and the conservation easement.
 - b. the Forest Society of Maine confirmed it is prepared to accept and implement its responsibilities set forth in the Fish River Chain of Lakes Conservation Easement, including the August 14, 2019, staff recommended clarifications.
9. On August 27, 2019, the hearing record closed.

ACRONYMS

This document or the related decision document include the following acronyms:

· ARCC	Aroostook County Commissioners
· BHANEC	Backcountry Hunters and Anglers New England Chapter
· BPL	Bureau of Parks and Lands, Maine Department of Agriculture, Conservation, and Forestry
· CLUP	Comprehensive Land Use Plan
· DEP	Maine Department of Environmental Protection
· DHHS	Maine Department of Health and Human Services
· FRCLCE	Fish River Chain of Lakes Conservation Easement
· FRLLA	Fish River Lakes Leaseholders Association
· FSM	Forest Society of Maine
· GIS	Geographic Information Systems [mapping software]
· JDI	JD Irving (Petitioner)
· LUPC	Land Use Planning Commission, Maine Department of Agriculture, Conservation, and Forestry ⁹
· MDACF	Maine Department of Agriculture, Conservation, and Forestry
· MDIFW	Maine Department of Inland Fisheries and Wildlife
· MDOT	Maine Department of Transportation
· MBF	Maine Bureau of Forestry
· MHPC	Maine Historic Preservation Commission
· MNAP	Maine Natural Areas Program
· MRS	Maine Revenue Service
· M.R.S.	Maine Revised Statutes
· MSAD	Maine School Administrative District
· NGO	Non-Governmental Organization
· NLF & R	North Lakes Fire & Rescue
· NRCM	Natural Resources Council of Maine

⁹ “Commission staff” herein refers to the administrative staff to the Land Use Planning Commission and/or consultants retained by the Land Use Planning Commission to assist in the agency’s review of Zoning Petition ZP 768; “Commission” herein refers to the nine-member voluntary citizen board of Commissioners of the Land Use Planning Commission.

- . OAG Office of the Attorney General
- . P-RP Resource Plan Protection Subdistrict
- . ROS Recreation Opportunity Spectrum
- . SP & CLRA Sandy Point and Connection Lane Roads Association
- . TU Trout Unlimited
- . USACE U.S. Army Corp of Engineers
- . USFWS U.S. Fish and Wildlife Service
- . UT Unorganized and Deorganized Territories of Maine
- . WALROS Water and Land Recreation Opportunity Spectrum

The Fish River Chain of Lakes Concept Plan



Deliberation Version



IRVING WOODLANDS, LLC

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PART 1: CONCEPT PLAN DESCRIPTION

A. INTRODUCTION AND PURPOSE

1. Concept Planning

The Land Use Regulation Commission (LURC), now the Land Use Planning Commission (the LUPC or Commission) established concept planning in 1990 as part of its Comprehensive Land Use Plan (CLUP). The criteria for approval of concept plans are outlined in the provisions establishing the Resource Plan Protection Subdistrict (P-RP) of the Commission's *Land Use Districts and Standards* (Chapter 10).

Concept plans are a flexible alternative to traditional shoreland regulation and were established to encourage long-range land use planning based on resource characteristics and site suitability, and to prevent haphazard, incremental development. The planning process necessary to prepare a concept plan encourages landowners to chart the future of their ownership in a manner that is both thoughtful and forward-looking.

The Commission encourages the use of concept plans through its willingness to consider adjusting certain existing standards and policies, such as the adjacency principle, provided any such adjustments are matched by comparable conservation. Such adjacency adjustments have been made in this concept plan, and have been matched by comparable conservation.

2. The Fish River Chain of Lakes Concept Plan

The Fish River Chain of Lakes Concept Plan (the Concept Plan or Plan) rezones approximately 51,015 acres of land around four of the lakes that comprise the Fish River Chain of Lakes in northern Aroostook County to create a new Resource Protection Subdistrict (P-RP). The Concept Plan is made effective by the Commission's approval of Zoning Petition ZP 768. Terms used in the Concept Plan have the same meanings provided in Chapter 10 or the Addendum in Part 2.

The Concept Plan does not propose any specific development, but rather identifies areas for further development and for conservation. Among other things, the Concept Plan:

- a. specifies certain locations where development will be allowed;
- b. prescribes and limits the types of development that will be allowed in each development area;
- c. prescribes a maximum number of development units or lots that will be allowed in each development area;
- d. provides appropriate standards and review processes for development;
- e. protects certain areas through a permanent conservation easement; and
- f. prohibits lot creation and residential dwellings for the life of the plan in all other plan areas.

In addition, the Plan Area includes approximately 425 existing licensed or leased camp lots, which were established prior to the Petitioners' ownership of the Plan Area. The Concept Plan provides a comprehensive solution to address concerns regarding access and the siting, installation and maintenance of replacement subsurface waste water disposal systems on those lots. The Concept Plan also establishes a process that would allow Petitioners to expand many of the camp lots, thus in general making them less nonconforming with current dimensional standards.

B. PETITIONERS

The Petitioners are Aroostook Timberlands LP, Allagash Timberlands LLC, and Maine Woodlands Realty Company, owners of the Plan Area. They are referred to throughout the Concept Plan as Petitioners, which term shall include their successors and assigns.

C. CONCEPT PLAN AREA

The Plan Area encompasses approximately 51,015 acres, which are identified as those lands within the boundaries of the P-RP Subdistrict, as adopted on the Official Land Use Guidance Maps attached as Appendix A.

The Plan Area includes land within 6 unorganized townships: Cross Lake Township, Madawaska Lake Township, Sinclair Township, T15 R5 WELS, T16 R5 WELS, and T17 R 3 WELS. The closest organized towns are to the north of the Plan Area: St. Agatha, Madawaska, and Frenchville. Grand Isle and Van Buren are to the east of the Plan Area; New Sweden and Westmanland are to the south of the Plan Area; and Eagle Lake and New Canada are to the west of the Plan Area. The Plan Area includes approximately 34.5 miles of frontage on Long Lake, Mud Lake, Cross Lake, and Square Lake, as well as frontage along the thoroughfares that connect the lakes. The Plan Area also encompasses Carry Pond, Dickey Pond, and Little California Pond, as well as several other named and unnamed streams and other waterbodies. The Plan Area is traversed by two State roads (Route 161 and Route 162) and a network of forest management roads, as well as a transmission line corridor in close proximity to Route 161.

The primary use of the lands in the Plan Area is forest management. However, there is existing development both in and adjacent to the Plan Area, including the Village of Sinclair, camp lots in the Plan Area (as well as many others outside of it) and a number of recreational resources, such as campsites and points for water access.

D. EFFECTIVE DATE, DURATION, EXPIRATION, AND AMENDMENT

1. Effective Date, Duration, and Expiration

The terms, conditions, and provisions of the Concept Plan shall apply for an initial term of 30 years from the effective date, as this term is defined in the Chapter 10 Addendum, Section 10.02-FRL.

With Petitioners' consent, the Commission may extend the initial term of the Concept Plan with or without modification. If Petitioners intend to renew the Concept Plan, they must provide the Commission with written notice at least one year prior to the expiration of the initial term. If the Concept Plan is proposed for renewal, the petition for renewal must be substantially complete and submitted to the Commission at least six months prior to its expiration date. Any decision to extend the term would be preceded by public notice and opportunity to comment. Absent such extension, the Concept Plan will expire at the end of the initial term.

Following expiration of the Concept Plan, the Commission shall designate new zoning for the Plan Area in accordance with statute, Chapter 10, and the CLUP, as may be in effect at that time.

2. Amendments

Upon mutual agreement of Petitioners and the Commission, the Concept Plan may be amended on one or more occasions. Proposed amendments must be made by Petitioners in writing and will be subject to Commission review and approval in accordance with statute, Chapter 10, and the CLUP. Notice of a proposed amendment to the Plan is governed by Section 4.05 of the Commission's *Rules of Practice* (Chapter 4), as may be amended from time to time. Amendments to the Concept Plan, upon adoption, will be promptly filed by Petitioners in the Northern Aroostook County Registry of Deeds.

Revision or renewal of the plans and agreements included in Part 3, Appendices, do not constitute a Plan amendment.

3. Zone Modifications

The following zone modifications do not constitute a Plan amendment.

- a. Upon filing of a notice pursuant to Section 10.33-FRL,A,3 with the Commission, an individual residential development area (*e.g.*, D-FRL-RS) will be automatically changed to M-FRL-GN or applicable protection subdistricts, with overlaying P-RP, as correspond to the zoning designation(s) in effect immediately prior to the effective date, provided such development area has not been approved for development or subdivision since the effective date and there have been no changes in the location or status of protected natural resources that would make the prior zoning designation(s) inappropriate. In a timely manner, the Commission staff shall by zoning petition amend the applicable plan maps.
- b. Upon filing of a zoning petition, a P-WL zone boundary may be modified for subsequent development of a remote campsite or a remote rental cabin, provided the landowner demonstrates that the project will be built on upland soils and in conformance with the Concept Plan, including Section 10.23-A-FRL.

- c. Upon filing of a zoning petition, the boundaries of any development zone (e.g., D-FRL-CI; D-FRL-GN; D-FRL-RS; or D-FRL-YX), or management or protection subdistrict may be modified for the purpose of establishing more accurate zone boundaries. Any boundary modification request shall be submitted for the Commission's consideration along with supporting documentation that must include, at minimum, boundary surveys, updated Concept Plan maps, updated spatial data of any proposed boundary modifications, and documentation that the total acreage of land within the development zone will not materially change.
- d. The boundaries of any zone may be modified resulting from areas identified by the Federal Emergency Management Agency (FEMA) as areas of special flood hazard on Flood Insurance Rate Maps, Flood Boundary and Floodway Maps or Flood Hazard Boundary. The Commission shall promptly notify the Petitioner and each affected landowner of any such boundary modification. The notification shall include, at a minimum, supporting documentation from FEMA, and a map illustrating the Plan Area affected. In a timely manner, the Commission staff shall by zoning petition amend the applicable plan maps.
- e. Upon filing an application for approval or amendment of a Schematic Design Plan, the boundary of the D-FRL-RS zone may be modified to include Square Lake Reserved Land. Such a change in zoning is governed by Section 10.34-FRL.

Notice of a proposed zone modification listed above shall be governed by Section 4.05 of the Commission's *Rules of Practice* (Chapter 4), as may be amended from time to time.

4. Severability

The provisions of the Concept Plan may be severable. If a portion of the Concept Plan is invalidated by a court of competent jurisdiction, within 60 days of a final, unappealable judgment, Petitioners and the Commission shall mutually agree in writing to invalidate the entire Concept Plan; otherwise, the invalid provision shall be deemed severable. If Petitioners and the Commission elect to invalidate the entire Concept Plan, such election shall not affect the validity of the Conservation Easement, any other conveyances, or any approved development under the Concept Plan.

E. ELEMENTS OF THE PLAN

1. Development Areas

The Concept Plan identifies where new development may be located. There are 9 Residential Development Areas (D-FRL-RS), largely following the standards of the D-RS district in Chapter 10. There are three General Development Areas (D-FRL-GN), largely following the standards of the D-GN subdistrict in Chapter 10. There is one Commercial/Industrial Development Area (D-FRL-CI), largely following the standards of the D-CI Subdistrict in Chapter 10. There is one Square Lake Yexas development area (D-FRL-YX), which is modeled after the D-GN Subdistrict, but tailored to allow uses and activities that are supportive of the recreational nature of the area and of future residential development. The purposes, descriptions, and allowed land uses within the Development Areas are set forth in Sub-Chapter II of Chapter 10 and the Addendum.

2. Schematic Design Plan

The Concept Plan requires a Schematic Design Plan for development of the Development Areas on the east side of Square Lake. The purpose of the Schematic Design Plan is to facilitate the early identification of issues that pertain to the goals and objectives of the Concept Plan by requiring a conceptual layout of potential roads, buildings, open spaces, and other uses, and presenting possible phasing of development options. Approval of a Schematic Design Plan will be required prior to any development or conveyance of the lot for the public trailered boat ramp in Square Lake East or Square Lake Yexas Development Areas. The provisions of the Schematic Design Plan are set forth in Section 10.34-FRL.

3. Reserved Land

The Concept Plan identifies approximately 679 acres of reserved land on the east side of Square Lake (the “Square Lake Reserved Land” or “Reserved Land”). The Reserved Land is i) an area that, within the development units and residential lots cap for Square Lake, may be utilized for development during the life of the Plan, as well as ii) an area where secondary development pressure may exist after the life of the Plan. The Reserved Lands are designated as either M-FRL-GN or a protection subdistrict, although that may be changed to D-FRL-RS pursuant to Sections 10.34-FRL,A,7 and 10.34-FRL,C. The designation of Square Lake Reserved Land allows for continuation of traditional uses of this area, such as forestry, and provides for future consideration of the suitability of this area for development, both during and after the Concept Plan. Reserved Land will be subject to a Commission order (a “reserved land designation order”) that will endure after the life of the Concept Plan. The provisions for Reserved Land are contained in Section 10.34-FRL of the Chapter 10 Addendum.

4. Open Space

The Concept Plan identifies three areas as “open space”: two associated with Long Lake B and one associated with Cross Lake E. These areas are intended to be associated with the adjacent Development Areas, thus ensuring a comprehensive planning process for all lakefront lands in the Concept Plan, and are not accountable to the standards of Section 10.25,S of Chapter 10.

5. Replacement of Subsurface Wastewater Disposal Systems for Existing Camp Lots

The Concept Plan creates opportunities for replacing subsurface waste water disposal systems on existing camp lots in the Plan Area. The majority of these lots were approved and developed prior to Petitioners’ ownership and, in many instances, prior to the establishment of the Commission. The Concept Plan will create “back lots” for most camp lots, increasing the opportunities that replacement septic systems can be sited in the future farther away from the lakes, thus improving water quality. The provisions are set forth in Section 10.31-FRL.

6. Deer Wintering Areas (DWA) Requirement

The Concept Plan requires active monitoring and updating changes in wintertime deer use to ensure the long-term management of DWAs through voluntary cooperative agreements between the Petitioner and the Department of Inland Fisheries and Wildlife. The agreements will be substantially in accordance with the voluntary cooperative agreement included as Appendix D, as may be amended on one or more occasions.

7. Sustainable Forestry Requirements

The Concept Plan requires that forestry activities within the Plan Area will be conducted using sustainable forest management practices known as Outcome Based Forestry (OBF) or standards that are at least as protective as OBF. These practices include watercourse and wetland buffer requirements, aesthetic timber harvesting, maintenance of biological diversity, and promotion of overall forest health. The provisions for OBF are set forth in Section 10.30-FRL of the Chapter 10 Addendum.

8. Traditional Recreational Activities

Other than in developed areas, the Concept Plan memorializes public access for traditional recreational activities, such as boating, fishing, hiking, hunting, and similar activities. Petitioners do reserve the right to make and enforce reasonable rules to protect public safety, safeguard conservation values, ensure compliance with all applicable laws, and safely accommodate forestry operations.

9. ATV/Snowmobile Access.

Other than in developed areas, the managed use of ATVs and snowmobiles by the public will also be allowed on dedicated trails that have been marked for these uses. ATV owners must register with local clubs and follow recreational use guidelines based on Petitioners' motorized recreational use policy. Snowmobiles must have current state of Maine registration. Petitioners will evaluate the availability of trails for ATV and snowmobile use on an annual basis and modify them based on ongoing development, harvesting, and other forest management activities. Petitioners reserve the right to make and enforce reasonable rules to protect public safety, safeguard conservation values, ensure compliance with all applicable laws, and safely accommodate forestry operations.

10. Public Access to the Lakes

The Concept Plan identifies three areas that will improve public access to lakes within the Plan Area.

- (a) **Long Lake.** The beach at Van Buren Cove will be leased for 99 years to a public entity for use as a public access point.
- (b) **Cross Lake.** The Cross Lake boat launch, picnic area, parking lot, and beach will be conveyed to a public entity for use as a public access point.
- (c) **Square Lake.** Land on the east side of Square Lake will be conveyed to a public entity for development of a trailered ramp and associated facilities.

The provisions for public water access sites are set forth in Section 10.27,L-FRL.

11. Water Access Sites for New Development

The Concept Plan provides rules that limit the number and size of water access sites, such as docks and hand-carry launches, that can be developed in association with upland residential development. The rules for water access sites are modeled after Chapter 10 and are set forth in Section 10.27,L-FRL. Section 1,J also provides illustrations of how these requirements could be implemented under typical situations.

12. Remote Campsites and Remote Rental Cabins

To enhance outdoor recreational opportunities, the Concept Plan makes available designated areas for development of public or commercial remote campsites and remote rental cabins. These facilities may be owned or operated by public or private entities and may require reservations or usage fees. Interested operators will need to have the financial and technical capacity to develop, manage, and maintain such facilities. Petitioners will grant the operator(s) sufficient property rights at that time, such as through sale, lease, or an easement, and the operator(s) will be responsible for development, management, and maintenance of such facilities, including obtaining and complying with all necessary permits. Remote campsites and remote rental cabins will be allowed in the approximate locations shown on Map 8 and are listed in Section 10.28-FRL,B,2,I. The exact location of such facilities will be determined as part of a permitting process.

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.

15. Conservation Easement

Approximately 16,764 acres will be placed in permanent conservation in accordance with the terms of the Conservation Easement, substantially in the form attached as Appendix C of the Concept Plan. The Concept Plan provides that either protection subdistricts or M-FRL-GN will apply to the lands subject to the Easement Area and will, in combination with the terms and conditions of the Conservation Easement, regulate land uses in that area. Among other things, the Conservation Easement will allow sustainable forestry, authorize public recreational access, and bar residential development. Monitoring and enforcement of the terms, conditions, and provisions of the Conservation Easement will be conducted by the easement holder. The purposes, descriptions, and allowed land uses within the protection subdistricts and M-FRL-GN are set forth in Sub-Chapter II of the Chapter 10 Addendum.

F. DEVELOPMENT REVIEW PROCESS AFTER CONCEPT PLAN APPROVAL

Permit applications for land uses and structures proposed within the Plan Area, including subdivisions and other projects, may be submitted to the Commission or other applicable permitting authorities subsequent to the effective date. Any such applications to the Commission will be reviewed and acted on pursuant to the Commission's statutory and regulatory standards, including the provisions in the Concept Plan and any applicable LUPC Amendable Provisions. Applications to other permitting authorities will be subject to the applicable statutory and regulatory standards of such authorities. For example, projects subject to the Site Location of Development Act, 38 M.R.S. §§481 *et seq.*, will be reviewed by the Maine Department of Environmental Protection (the DEP).

G. CONCEPT PLAN IMPLEMENTATION SCHEDULE

This section sets forth and directs the timing of implementation of certain development, conservation, and other elements of the Concept Plan. The absence of any listing, below, of an element of the Concept Plan requiring implementation subsequent to the effective date of this Concept Plan should not be understood to constitute a waiver of implementation of that requirement at the appropriate time, as set forth elsewhere in this Concept Plan. Should the Petitioner fail to satisfy any of the applicable actions required by this section, the Commission shall immediately cease processing of any and all subdivision or development applications under the Concept Plan unless and until the Petitioner fully satisfies all such requirements. The Commission will not take action to require that the Petitioner complete any of the actions set forth below, except in the event that the Petitioner begins actual development within any development area, creating new lots, or selling camp lots without first fully satisfying all applicable sequencing required herein. Nothing in this section shall be construed as limiting the Commission's remedies for non-compliance with standards and requirements set forth in any other section of the Concept Plan.

Upon request by the Petitioner, the Commission shall confirm in writing whether each of the actions required herein has been completed in accordance with the Plan.

1. Timing of Implementation of Concept Plan Elements

a. Actions required no later than 30 calendar days following the effective date of the Concept Plan.

Within 30 days following the effective date, the Petitioner shall:

- (1) file GIS data to the Maine Revenue Service (MRS) regarding existing ownership bounds within the Plan Area; and
- (2) record the zoning petition decision document and approved Concept Plan at the Northern Aroostook County Registry of Deeds; and notify the Commission of the date and book and page or plan number of such recording.

b. Actions required no later than one year following the effective date.

Prior to one year following the effective date, the Petitioner shall:

- (1) Easement. Execute the Fish River Chain of Lakes Conservation Easement in substantially the form approved in the Concept Plan; record it at the Northern Aroostook County Registry of Deeds; and notify the Commission of the date and book and page numbers of the recording;
- (2) Cross Lake. Donate the existing Cross Lake boat launch, picnic area, parking lot, beach, and public vehicular access rights to a public agency;
- (3) Long Lake. Execute a 99-year lease at nominal cost with a public entity approved by the Commission for management of the beach as a public access point; and
- (4) CD Areas. Offer land within all CD areas for sale or lease at fair market value and ensure that notice of the offer is commercially reasonable to alert the public, such as by listing and

advertising with a real estate broker or agent, placing a prominent sign at the site that is visible from the public roadway, or providing notice to regional, county, or local economic development organizations.

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:
 - (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.

d. Square Lake Sequence of Development

The sequencing of development on Square Lake is set out in Section 10.34-FRL.

e. Renewal, amendment, substitution, or termination of an appended plan or agreement.

Within 30 days of any modification¹ of the period or terms of an appended agreement², the Petitioner shall present the Commission with a digital copy of the signed modified document. In the case of a terminated agreement, the Petitioners' notice of such shall satisfy this requirement.

Digital copy shall mean a digital version of the document in a reliable text searchable form (*e.g.*, MS Word; text-based pdf; or OCR pdf). Reliability of text searches do not include signatures and seals.

¹ For the purposes of this section only, "modification" means: amendment, renewal, termination, or substitution.

² For the purposes of this section only, "agreement" means an agreement, contract, or plan appended to the Fish River Chain of Lakes Concept Plan (*i.e.*, DWA Agreement; and OBF Agreement).

H. STATISTICAL SUMMARY

The following information provides a more detailed statistical breakdown of the Plan Area. The acreages, percentages, dimensions, and other figures listed below and throughout the Plan are calculated using GIS and readily available data. The figures may be revised or corrected as new information warrants.

TABLE 1 OVERVIEW	
Total Plan Area	51,015± acres (79.7 square miles)
Total Shoreline Owned by Petitioners	34.5± miles (Long, Mud, Cross, and Square Lakes, and Long/Mud, Mud/Cross, and Cross/Square thoroughfares)
Shoreline Currently Occupied	9.4± miles
Number of Existing Camp Lots in Plan Area	425±

TABLE 2 CONSERVATION ELEMENTS	
Area in Conservation Easement	16,764± acres (26.2± square miles) total 16,133± acres (25.2± square miles) total within the Plan Area 31.6% of the Plan Area 631± acres outside of the Plan Area
Conservation Easement by Township Cross Lake Township T15 R5 WELS Madawaska Lake Township T16 R5 WELS	6,473± acres 3,000± acres 1,823± acres 5,468± acres
Area with Restrictive Zoning (M-FRL-GN) (Plan area minus conservation easement, development areas, existing residential and expansion areas, and open space).*	32,701± acres (51.1 square miles)
Protected Shorelines (lakes, ponds, and thoroughfares)	28.7± miles of undeveloped shoreline in Plan Area 19.9± miles of shoreline in Conservation Easement 69% of all undeveloped shoreline owned by Petitioners in Plan Area

* Existing/expanded residential areas: Long Lake: 154 acres; Cross Lake: 262 acres; Square Lake: 85 acres)

TABLE 3	
RATIO OF CONSERVATION EASEMENT SHORELINE TO SHORELINE IN NEW DEVELOPMENT AREAS	
Long Lake	
<i>No shoreline conserved / 0.1± miles of potential development on shoreline</i>	
Mud Lake	No new development area proposed
<i>1.7± miles of shoreline conserved / 0.0 miles of potential development on shoreline</i>	
Cross Lake	Ratio: 2.5:1
<i>2.0± miles of shoreline conserved / 0.8± miles of potential development on shoreline</i>	
Square Lake	Ratio: 7.6:1
<i>11.4± miles of shoreline conserved / 1.5± miles of potential development on shoreline</i>	
Carry Pond	Ratio: totally conserved shoreline
<i>1.6± miles of shoreline conserved / 0.0 miles of potential development on shoreline</i>	
Little California Pond	Ratio: totally conserved shoreline
<i>0.6± miles of shoreline conserved / 0.0 miles of potential development on shoreline</i>	
SUMMARY: Lakes, ponds, and thoroughfares	
<i>Lakes/ponds: 17.3± miles of shoreline conserved / 2.3± miles of potential development on shoreline</i>	
<i>Thoroughfares: 2.6± miles conserved / No development</i>	
TOTAL: 19.9± miles of shoreline conserved / 2.3± miles of potential development on shoreline	
Ratio: 8.6:1	

TABLE 4 OWNERSHIP BREAKDOWN BY TOWNSHIP			
TOWNSHIP	ACRES IN PLAN AREA (APPROX.)	WATERBODIES	ROADS
Cross Lake Township	21,277	Cross Lake, Mud Lake, Dickey Pond, Little California Pond, Cross Lake Bog, Cross Lake Fens, Mud/Cross Lake thoroughfare, Dimock Brook, Daigle Brook, Dickey Brook, West Fork Dickey Brook, East Fork Dickey Brook, Harris Brook, Pelletier Brook, Black Brook, Snare Brook, California Brook	Route 161/Caribou Road, Route 162, Square Lake Road, Ouellette Road, West Side Road, Ackerson Road, Guerette Road, Thoroughfare Road, Cyr Road, St. Peter Road, Saint Euthrope Cemetery Road, Sunset Lane, Ford Road, Little Cottages Road, Austin Road, Huntress Road, Windy Cove Road, Jay Road, Durgin Road, Shady Lane Road, Duck Cove Road, Sylvios Road, Cormier Road, May Road, Sandy Point Road, Connection Lane, Garcelon Road, Cooper Road, Cote Road, Beaulieu Road
Sinclair Township	9,737	Mud Lake, Long Lake, Long/Mud Lake thoroughfare, McLean Brook, West Fork McLean Brook, North Fork McLean Brook, Armstrong Brook	Main Street/Sinclair Road/Route 162, Herbert Drive, Irving Road, Sullivan Road, Treatment Plant Road, Thoroughfare Road, Shore Road
T17 R3 WELS	5,325	Long Lake (Van Buren Cove), Violette Stream, Mud Brook	Town Line Road, Lake Road, Sullivan Road, Irving Road, West Van Buren Cove Road, East Road
T16 R5 WELS	7,040	Square Lake, Cross Lake, Cross Lake Fens, Square/Eagle Lake thoroughfare, California Pond Brook, Barstow Brook, Butler Brook, Black Brook, Halfway Brook	Square Lake Road, Gorfinkle Road, Black Brook Road, Landing Road, Disy Road, Mifs Lane, Gagnon Road
Madawaska Lake Township	4,642	Carry Pond, Black Brook, Carry Brook	Black Brook Road, Route 161, To Lake Shore Road, Sullivan Road
T15 R5 WELS	2,994	Square Lake, Goddard Brook, Little Goddard Brook	Square Lake Road, Blackstone Road
TOTAL	51,015		

TABLE 5 DEVELOPMENT SUMMARY	
Area of New Development Areas	1,643± acres (2.6± square miles)
Percentage of Plan Area in New Development Areas	3.2%
Area for Residential Development Areas	1,213± acres (1.9± square miles)
Open Space <i>(not included in Development Area figures)</i>	85 acres
Reserved Land <i>(not included in Development Area figures)</i>	679 acres
Area for Community & Economic Development Areas	430± acres (0.7± square miles)
Shoreline in New Development Areas	2.3± miles
Total Number of New Residential Units Allowed	330 units
Potential Affordable Housing in CD-2	24 units

TABLE 6 RESIDENTIAL DEVELOPMENT ZONES				
Development Area	Township	Size in Acres (Approx.)	Development Area Sub-Cap	Development Area Cap
Long Lake A	T17 R3 WELS	129	50	Long Lake: 75
Long Lake B	T17 R3 WELS	30	15	
Long Lake C	Sinclair Twp.	120	25	
Cross Lake A	Cross Lake Twp.	109	30	Cross Lake: 125
Cross Lake B	Cross Lake Twp.	86	30	
Cross Lake C	Cross Lake Twp.	57	30	
Cross Lake D	T16 R5 WELS	187	35	
Cross Lake E	T16 R5 WELS	163	60	
Square Lake East	T16 R5 WELS	281	109	Square Lake: 130
Square Lake Yexas	T16 R5 WELS	51	67*	
Square Lake Infill	T16 R5 WELS	1	6	
TOTAL		1,214	—	330

*Up to 17 of which may be single family residences

TABLE 7 COMMUNITY/ECONOMIC DEVELOPMENT ZONES (CD AREAS)				
Development Area	Township	Size in Acres (Approx.)	Lot Cap	Max Lot Coverage
CD-1	Cross Lake Twp.	281	30	50% of total area
CD-2	Sinclair Twp.	73	5	50% of total area
CD-3	Cross Lake Twp.	11	2	
CD-4	Cross Lake Twp.	63	6	50% of total area
TOTAL		428	43	

STATISTICAL SUMMARY BY WATER BODY

1. Long Lake

Lake area: 6,000± acres
Total shoreline: 33.1± miles
Total developed shoreline: 27.5± miles
Total occupied lots: 775± (including Petitioners' lots)

Shoreline owned by Petitioners: 4.0± miles
Shoreline occupied by Petitioners' camp lots: 3.0± miles
Number of Petitioners' camp lots: 150
Permanent conservation easement: none
Potential shoreline residential development: Infill: 0.1± mile

2. Long Lake / Mud Lake thoroughfare

Length: 0.5± mile
Shoreline owned by Petitioners: none
Shoreline occupied by Petitioners' camp lots: none
Number of Petitioners' camp lots: none
Permanent conservation easement: none
Potential shoreline residential development: none

3. Mud Lake

Lake area: 972± acres
Total shoreline: 6.0± miles
Total developed shoreline: 1.0± mile
Total occupied lots: 24± lots (all non-Petitioner owned)

Shoreline owned by Petitioners: 3.6± miles
Shoreline occupied by Petitioners' camp lots: none
Number of Petitioners' camp lots: none
Permanent conservation easement: 1.7± miles of shoreline
Potential shoreline residential development: none

4. Mud Lake / Cross Lake thoroughfare

Length: 1.9± miles
Shoreline owned by Petitioners (both sides): 3.4± miles
Shoreline occupied by Petitioners' camp lots: 0.5± mile
Number of Petitioners' camp lots: 19
Permanent conservation easement: 2.0± miles of shoreline
Potential shoreline residential development: none

5. Cross Lake

Lake area: 2,515± acres
Total shoreline: 13.1± miles
Developed shoreline: 6.2± miles
Total occupied lots: 305± lots (including Petitioners' lots)

Shoreline owned by Petitioners: 9.0± miles
Shoreline occupied by Petitioners' camp lots: 4.8± miles
Number of Petitioners' camp lots (including those on stream at north end): 237
Permanent conservation easement: 2.0± miles of shoreline
Potential shoreline residential development: 0.8± mile

6. Cross Lake/Square Lake thoroughfare

Length: 0.8± mile
Shoreline owned by Petitioners (east side only): 0.6± mile
Shoreline occupied by Petitioners' camp lots: none
Number of Petitioners' camp lots: none
Developed shoreline (non-Petitioner land): 0.2± mile
Permanent conservation easement: 0.6± mile of shoreline
Potential shoreline residential development: none

7. Square Lake

Lake area: 8,150± acres
Total shoreline: 19.4± miles
Total developed shoreline (includes Petitioners' lots, non-Petitioner lots, and Square Lake Yexas):
3.7± miles
Total occupied lots: 60± (including Petitioners' lots)
Shoreline owned by Petitioners: 13.9± miles
Shoreline occupied by Petitioners' camp lots: 1.0± mile (west side of Square Lake)
Number of Petitioners' camp lots: 19
Permanent conservation easement: 11.4± miles of shoreline
Potential shoreline residential development: 1.5± miles

8. Carry Pond

Pond area: 66± acres
Total shoreline: 1.6± miles
Shoreline owned by Petitioners: 1.6± miles
Number of Petitioners' camp lots: none
Potential shoreline development: remote campsite or remote rental cabin

9. Dickey Pond

Pond area: 16± acres
Total shoreline: 1.3± miles
Shoreline owned by Petitioners: 1.3± miles

Number of Petitioners' camp lots: none

Potential shoreline development: remote campsite or remote rental cabin

10. Little California Pond

Pond area: 7± acres

Total shoreline: 0.6± mile

Shoreline owned by Petitioners: 0.6± mile

Number of Petitioners' camp lots: none

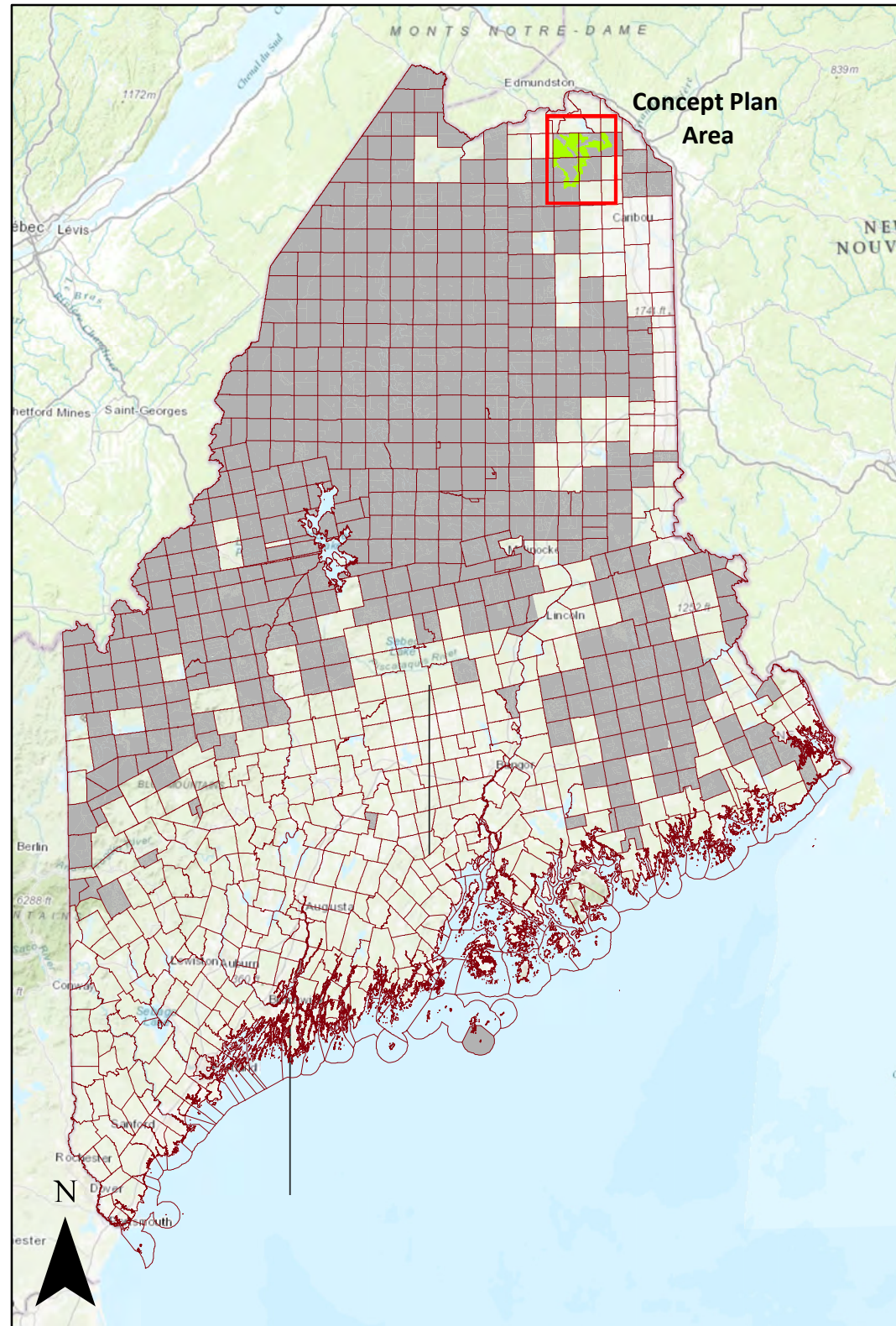
Potential shoreline development: remote campsite or remote rental cabin

I. CONCEPT PLAN MAPS

The following maps specify the locations of the development zones, the conservation easement, and other Concept Plan elements:

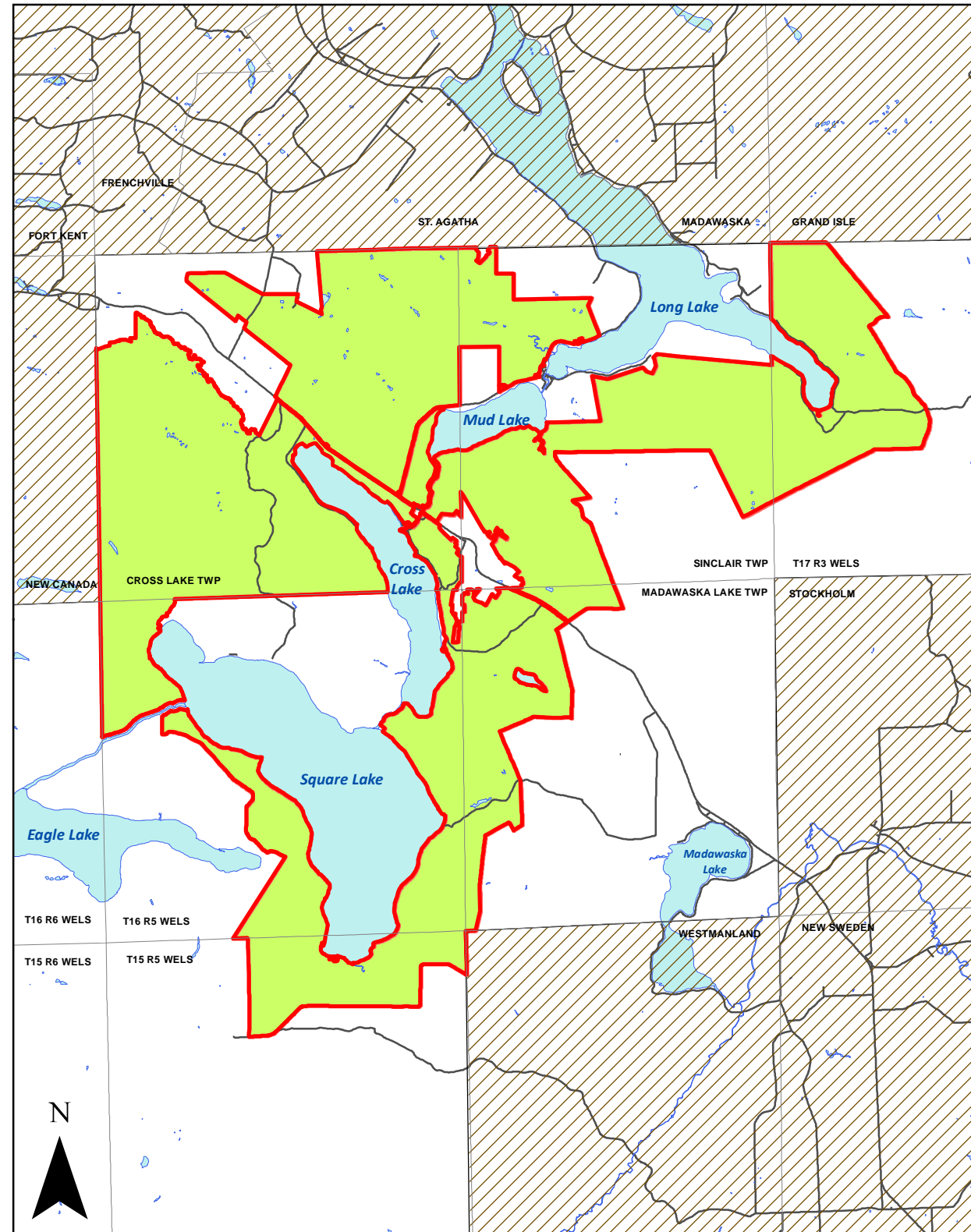
- Map 1. Location Map
- Map 2. Concept Plan Summary
- Map 3. Development Areas: Long Lake A and B
- Map 4. Development Areas: Long Lake C and CD-1 through CD-3
- Map 5. Development Areas: Cross Lake A, B, and C, and CD-3 and CD-4
- Map 5A. Development Areas: LUPC Subdistricts – Cross Lake A and B; CD-3 and CD-4
- Map 5B. Development Areas: LUPC Subdistricts – Cross Lake D and E; Square Lake East and Square Lake Yexas
- Map 6. Development Areas: Cross Lake D and E
- Map 7. Development Areas: Square Lake East; Square Lake Yexas; and Reserved Land
- Map 8. Remote Campsites and Remote Rental Cabins
- Map 9. Access to Existing and Allowed Development
- Map 10. Watersheds
- Map 11. Camp Lots – Long Lake: Northeast Side
- Map 12. Camp Lots – Long Lake: Southeast Side and West Side
- Map 13. Camp Lots – Cross Lake: North End A
- Map 14. Camp Lots – Cross Lake: North End B
- Map 15. Camp Lots – Cross Lake: North End C
- Map 16. Camp Lots – Cross Lake: Mud Lake / Cross Lake Thoroughfare
- Map 17. Camp Lots – Cross Lake: South of Mud Lake / Cross Lake Thoroughfare
- Map 18. Camp Lots – Square Lake

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State of Maine LUPC Unorganized Territories

0 20 40 80 120
Miles



Concept Plan Area

0 2.5 5 10
Miles

LOCATION MAP

Fish River Chain of Lakes Concept Plan

Legend

- Major Roads
- Organized Towns
- Water Bodies
- Concept Plan Area

Concept Plan Map Sources

- Irving Woodlands LLC
- MEDOT
- NRCS Soil Survey 1964
- Maine LUPC
- MIF&W
- Maine Natural Areas Program
- ME Office of GIS
- Maine Revenue Service
- U.S. Fish and Wildlife Service

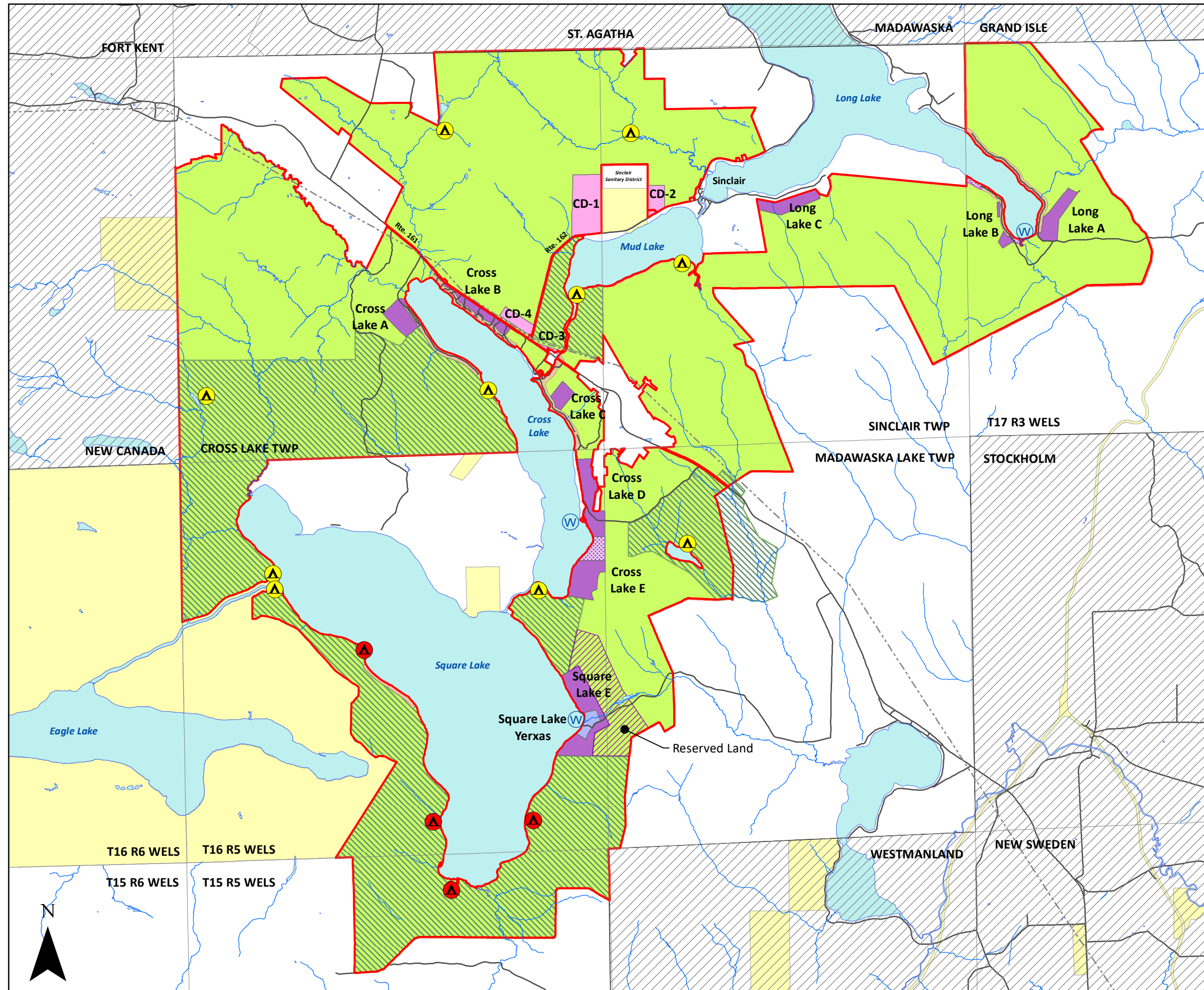
Basemap Sources

- ESRI



CONCEPT PLAN SUMMARY

Fish River Chain of Lakes Concept Plan

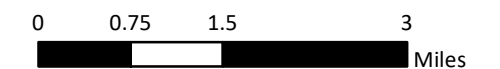


Legend

- Public Water Access Sites
- Existing Campsite
- Potential Remote Campsite/Rental Cabin
- Major Roads
- Streams
- Transmission Line
- Organized Towns
- Water Bodies
- D-FRL-YX (Yexas)
- Comm/Econ Development Zones
- Residential Development Zones
- Residential Open Space
- Reserved Land
- Existing/Expanded D-FRL-RS
- Conservation Easement
- Maine Public Reserve Land
- Concept Plan Area

Note

1. This map should not be relied on to identify the Protection Subdistricts located within the Concept Plan Area. The Official Land Use Guidance Maps show or refer to all Protection Subdistricts within the Concept Plan Area.

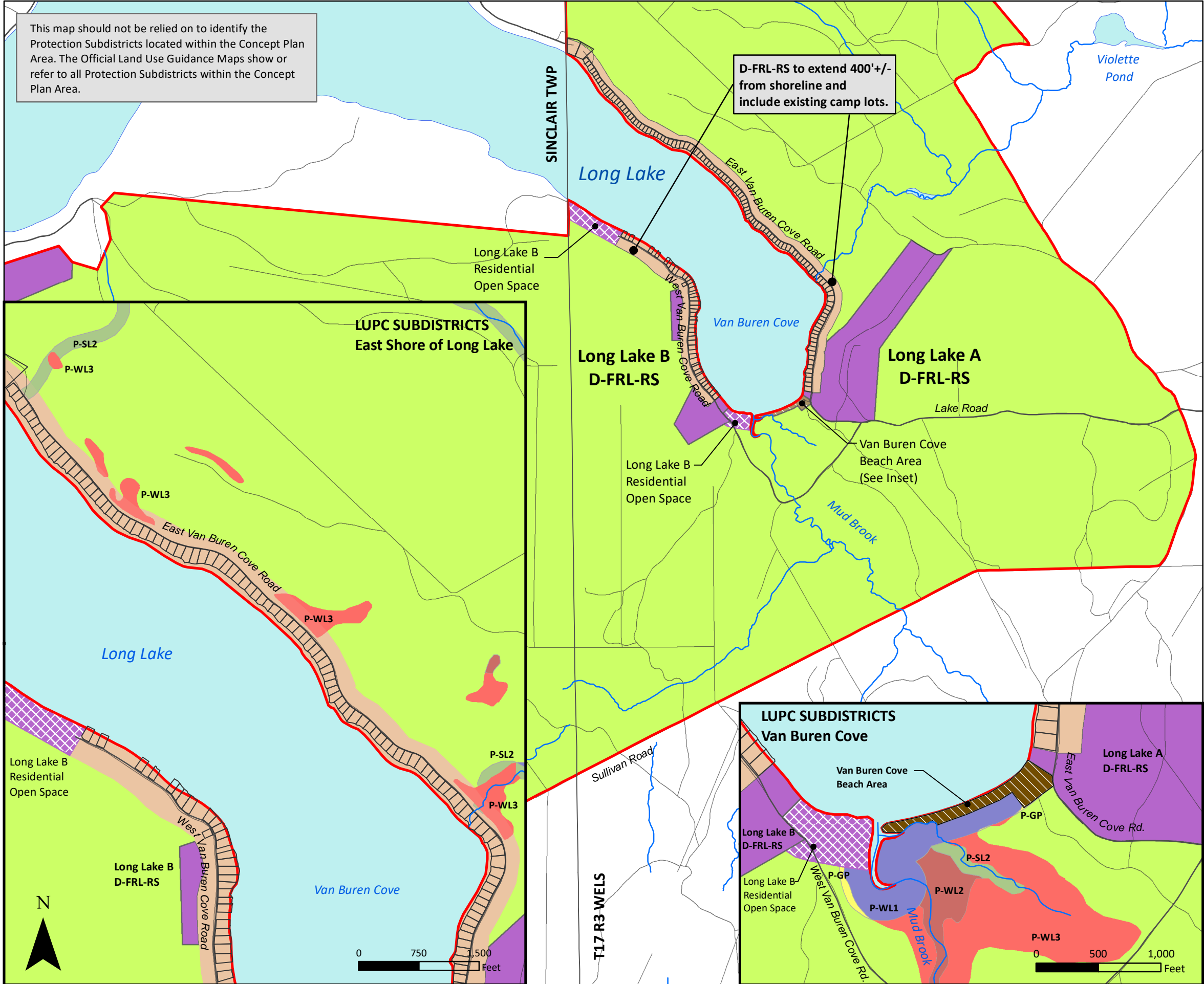


August 19, 2019

MAP 2

This map should not be relied on to identify the Protection Subdistricts located within the Concept Plan Area. The Official Land Use Guidance Maps show or refer to all Protection Subdistricts within the Concept Plan Area.

D-FRL-RS to extend 400'+/- from shoreline and include existing camp lots.

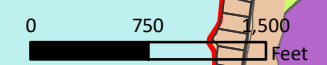
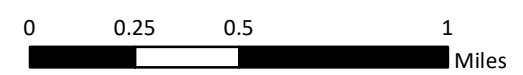


DEVELOPMENT AREAS

Long Lake A & B Fish River Chain of Lakes Concept Plan

- ### Legend
- Major Roads
 - Secondary Roads
 - Existing Camp Lots
 - Concept Plan Area
 - Van Buren Cove Beach
 - D-FRL-RS
 - Residential Open Space
 - Existing/Expanded D-FRL-RS
 - M-FRL-GN / Protection Subdistricts
 - P-GP: Great Pond Protection
 - P-SL2: Shoreland Protection
 - P-WL1: Wetland Protection
 - P-WL2: Wetland Protection
 - P-WL3: Wetland Protection

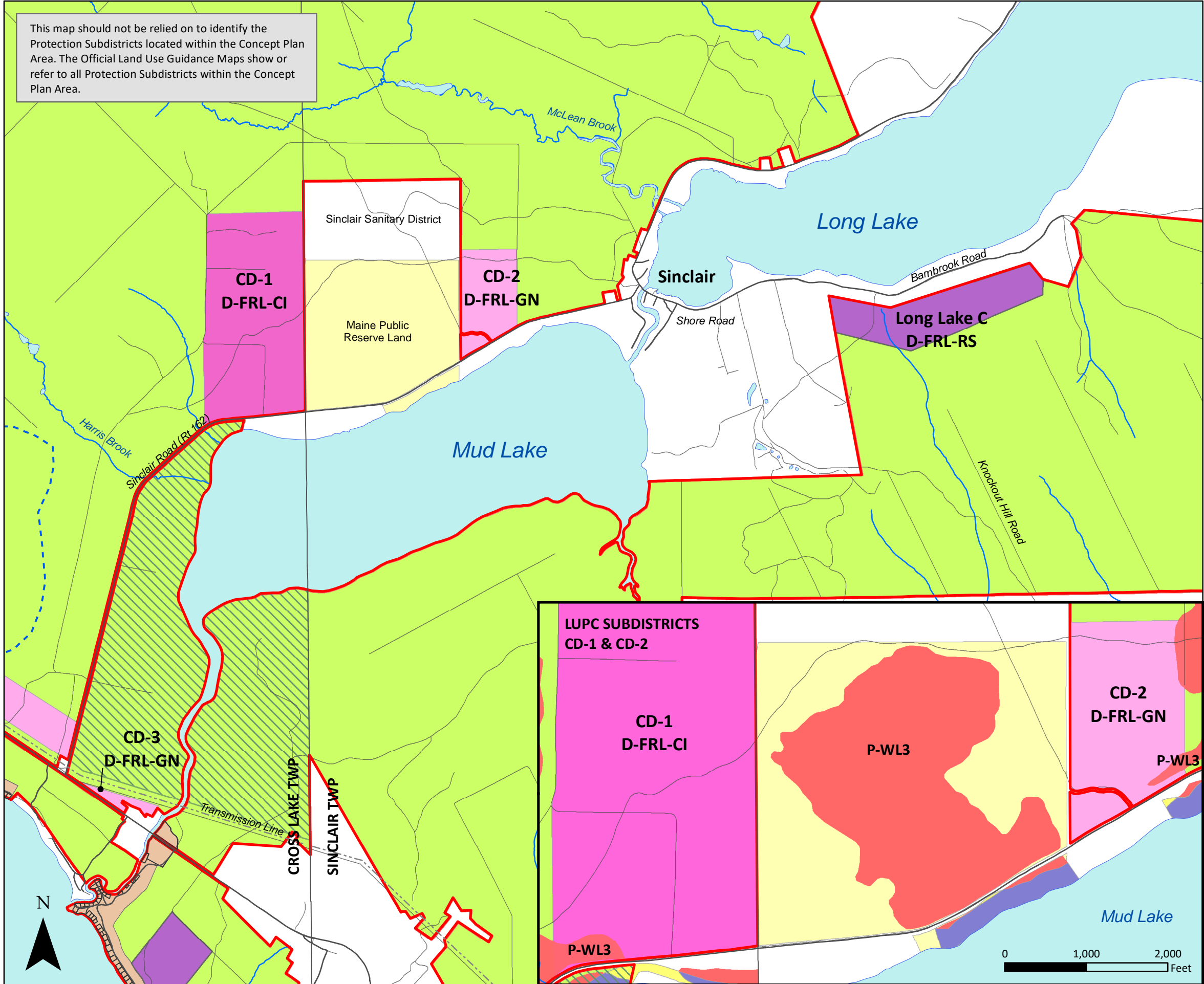
- ### Notes
1. Plan area will be rezoned to P-RP (Resource Plan Protection).
 2. Proposed D-FRL-RS includes lands currently zoned D-RS.
 3. Infill lots (meeting minimum lot requirements) will be allowed along the shoreline on the west side of Van Buren Cove and will be counted toward the 15-lot unit cap for Long Lake B. Infill lots are not included in the area calculation for Long Lake B.



August 19, 2019

MAP 3

This map should not be relied on to identify the Protection Subdistricts located within the Concept Plan Area. The Official Land Use Guidance Maps show or refer to all Protection Subdistricts within the Concept Plan Area.

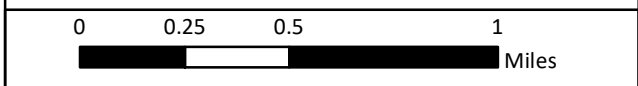


DEVELOPMENT AREAS

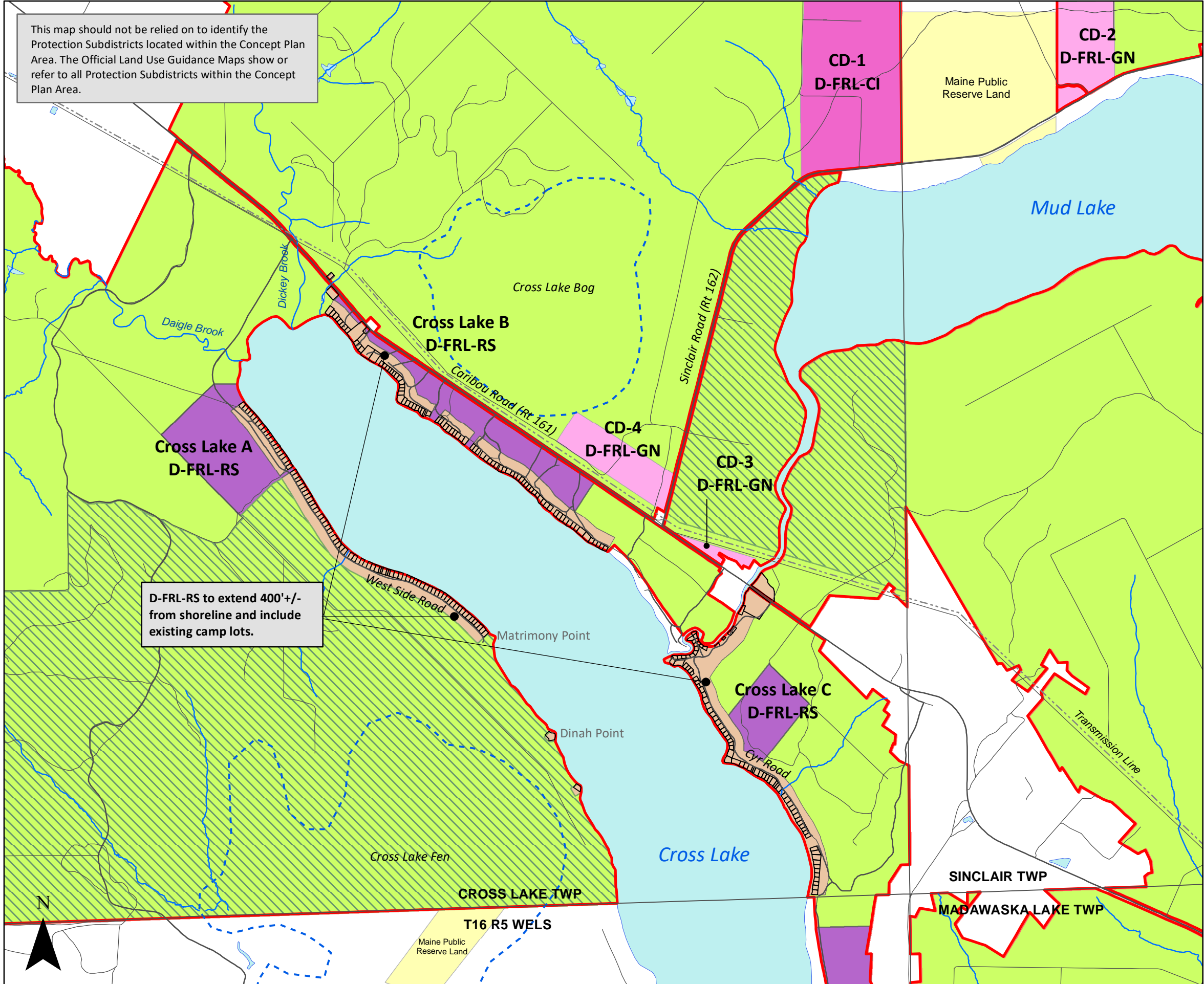
Long Lake C & CD-1,2,3 Fish River Chain of Lakes Concept Plan

- ### Legend
- Major Roads
 - Secondary Roads
 - - - Transmission Line
 - ⋮ Cross Lake Bog
 - ◻ Existing Camp Lots
 - ▭ Concept Plan Area
 - D-FRL-CI
 - D-FRL-GN
 - D-FRL-RS
 - Existing/Expanded D-FRL-RS
 - M-FRL-GN / Protection Subdistricts
 - ▨ Conservation Easement Area
 - Maine Public Reserve Land
 - P-GP: Great Pond Protection
 - P-WL1: Wetland Protection
 - P-WL3: Wetland Protection

- ### Notes
1. Plan area will be rezoned to P-RP (Resource Plan Protection).
 2. Proposed D-FRL-RS includes lands currently zoned D-RS.



This map should not be relied on to identify the Protection Subdistricts located within the Concept Plan Area. The Official Land Use Guidance Maps show or refer to all Protection Subdistricts within the Concept Plan Area.



D-FRL-RS to extend 400'+/- from shoreline and include existing camp lots.

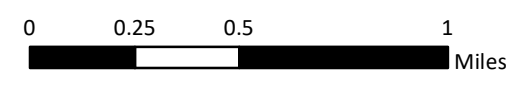
DEVELOPMENT AREAS

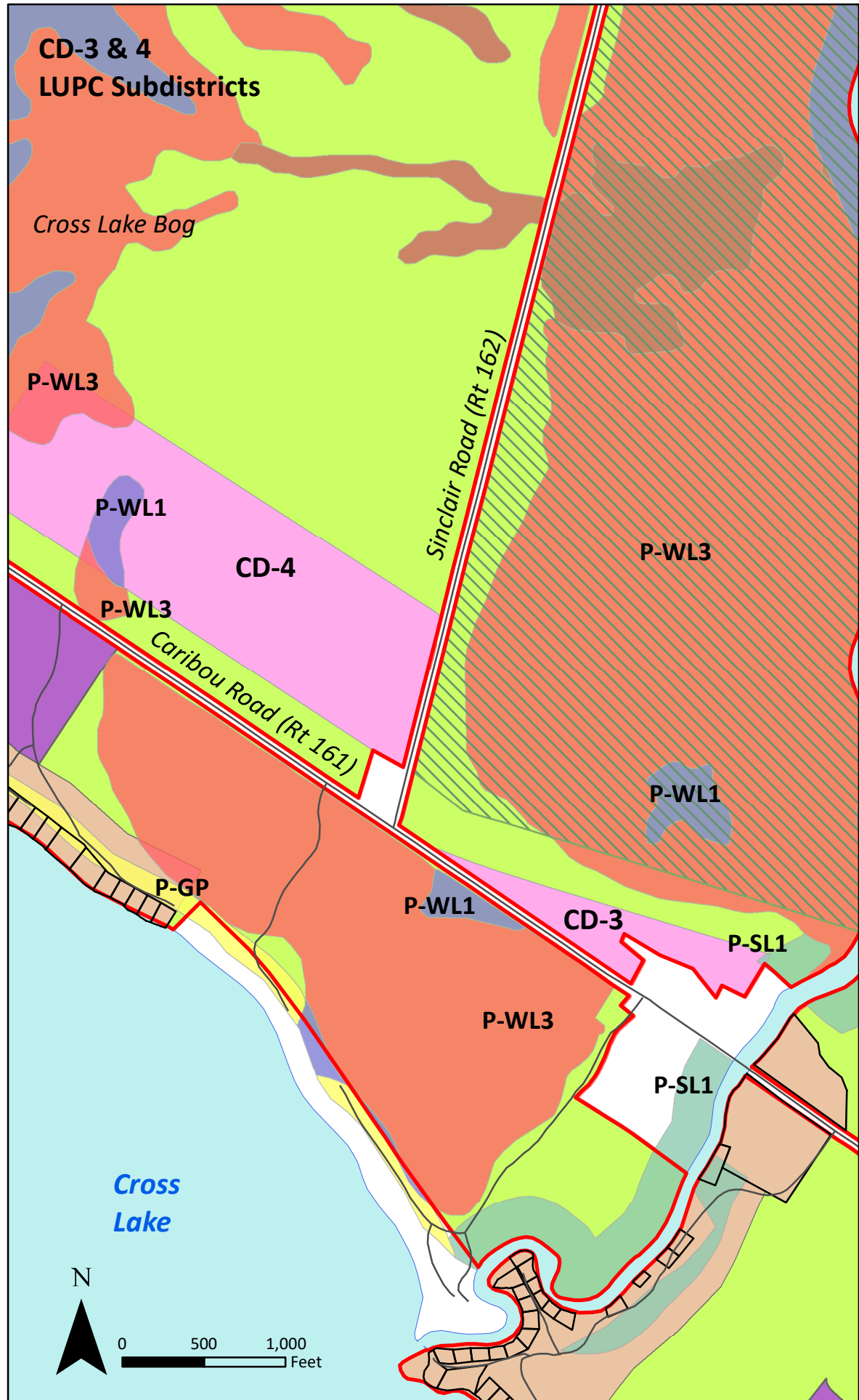
Cross Lake A, B, C, & CD-3,4 Fish River Chain of Lakes Concept Plan

Legend

- Major Roads
- Secondary Roads
- - - Transmission Line
- ⋯ Cross Lake Bog & Fen
- ◻ Existing Camp Lots
- ▭ Concept Plan Area
- D-FRL-CI
- D-FRL-GN
- D-FRL-RS
- ▨ Existing/Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- ▨ Conservation Easement Area
- Maine Public Reserve Land

- ### Notes
1. Plan area will be rezoned to P-RP (Resource Plan Protection).
 2. Proposed D-FRL-RS includes lands currently zoned D-RS.
 3. LUPC Subdistricts in Cross & Square Lake development areas are illustrated in maps 5A and 5B.





DEVELOPMENT AREAS

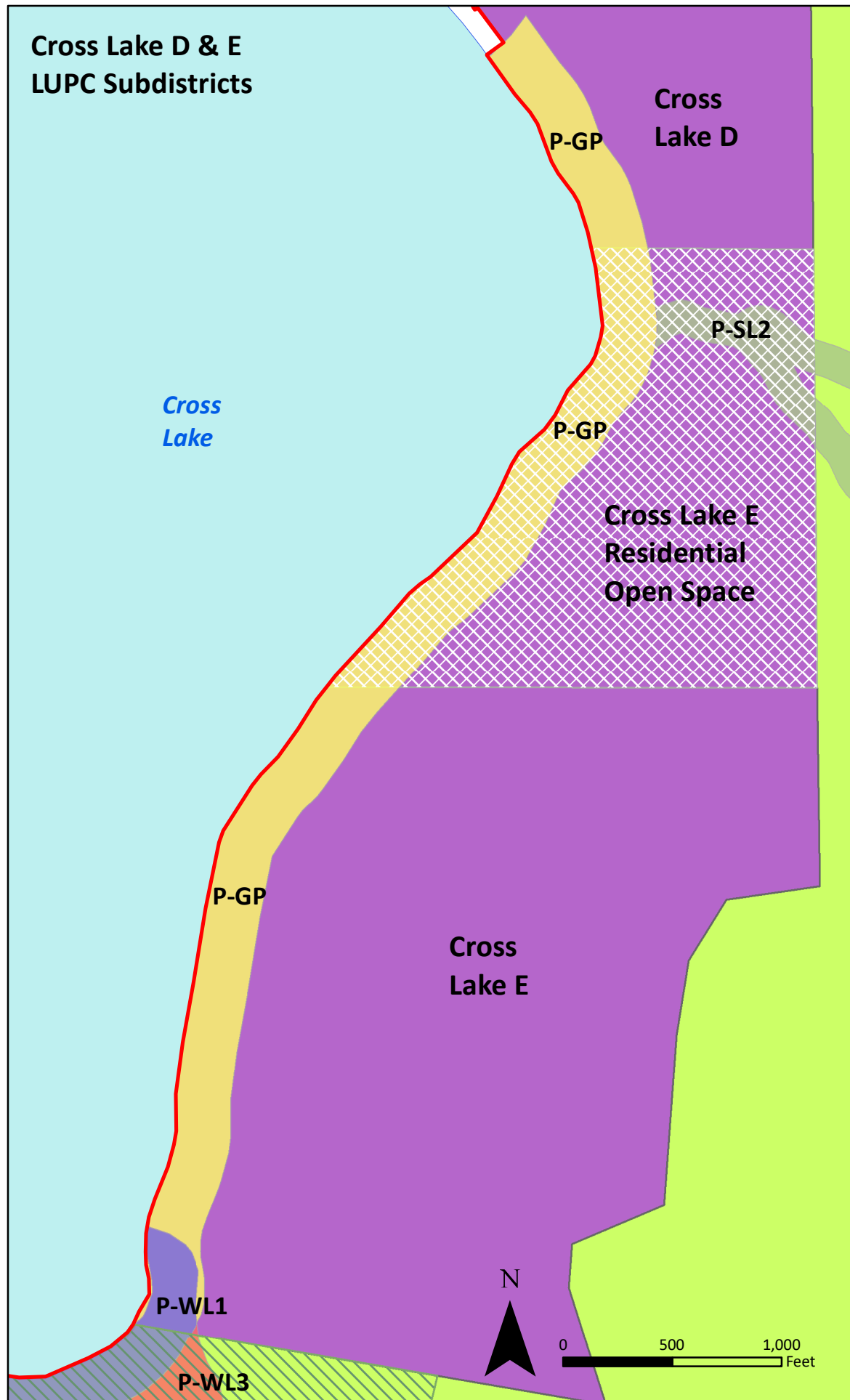
LUPC Subdistricts: Cross Lake A,B, & CD-3,4

Fish River Chain of Lakes Concept Plan

Legend

- Major Roads
- - - Transmission Line
- Existing Camp Lots
- Concept Plan Area
- D-FRL-GN
- D-FRL-RS
- Existing/Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- Conservation Easement Area
- P-FP: Flood Prone Protection
- P-FW: Fish/Wildlife Protection
- P-GP: Great Pond Protection
- P-SL1: Shoreland Protection
- P-WL1: Wetland Protection
- P-WL2: Wetland Protection
- P-WL3: Wetland Protection

- Notes**
1. Plan area will be rezoned to P-RP (Resource Plan Protection).
 2. Proposed D-FRL-RS includes lands currently zoned D-RS.
 3. This map should not be relied on to identify the Protection Subdistricts located within the Concept Plan Area. The Official Land Use Guidance Maps show or refer to all Protection Subdistricts within the Concept Plan Area.



DEVELOPMENT AREAS

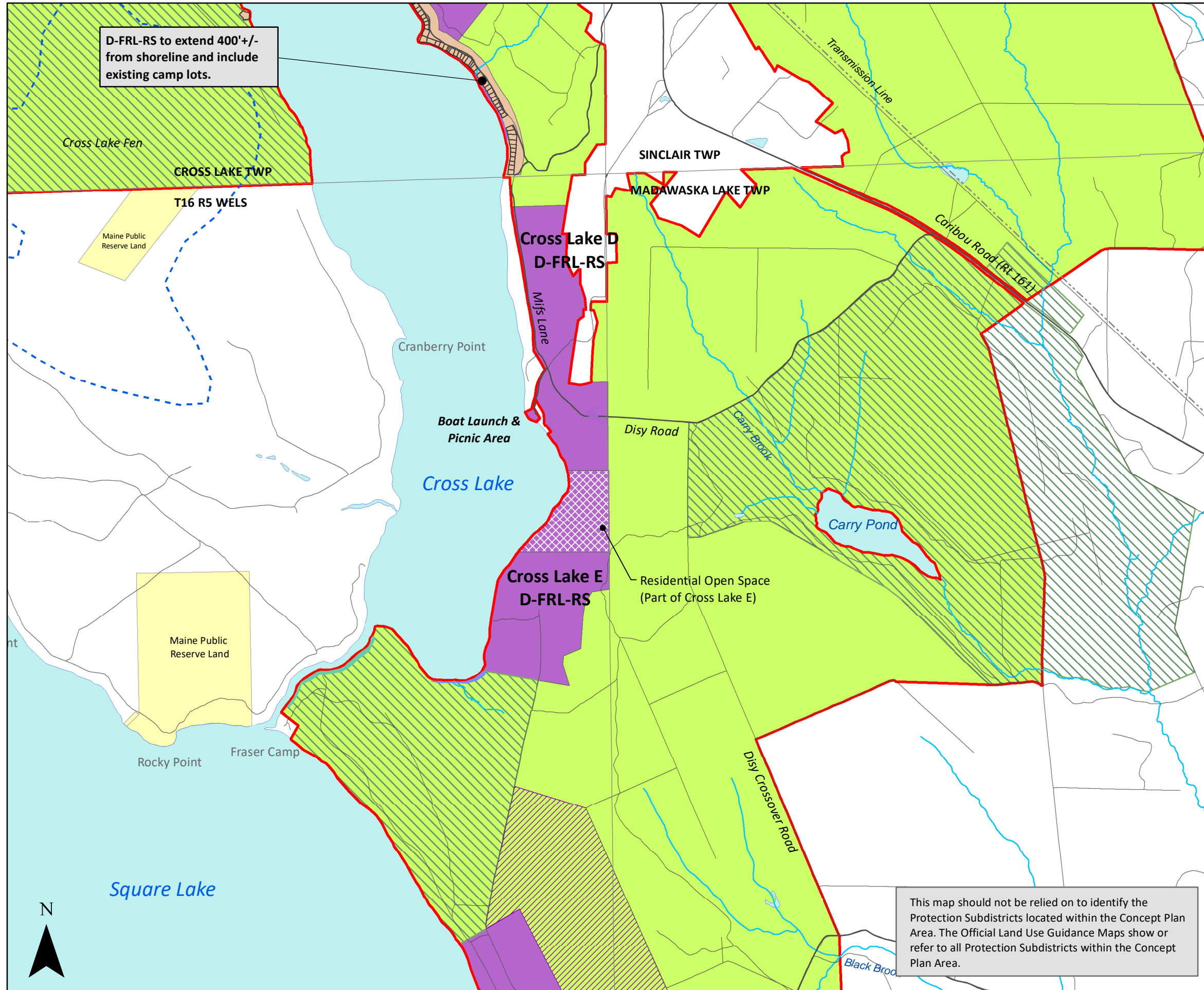
LUPC Subdistricts: Cross Lake D,E, Square Lake E & Yexas

Fish River Chain of Lakes Concept Plan

Legend

- Major Roads
- - - - Transmission Line
- Existing Camp Lots
- Concept Plan Area
- D-FRL-GN
- D-FRL-RS
- Residential Open Space
- D-FRL-YX (Yexas)
- Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- Conservation Easement Area
- P-GP: Great Pond Protection
- P-SL2: Shoreland Protection
- P-WL1: Wetland Protection
- P-WL3: Wetland Protection

- Notes**
1. Plan area will be rezoned to P-RP (Resource Plan Protection)
 2. Proposed D-FRL-RS includes lands currently zoned D-RS
 3. This map should not be relied on to identify the Protection Subdistricts located within the Concept Plan Area. The Official Land Use Guidance Maps show or refer to all Protection Subdistricts within the Concept Plan Area.



D-FRL-RS to extend 400'+/- from shoreline and include existing camp lots.

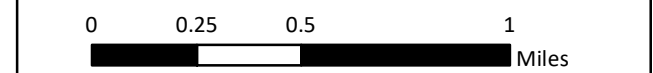
DEVELOPMENT AREAS

Cross Lake D & E Fish River Chain of Lakes Concept Plan

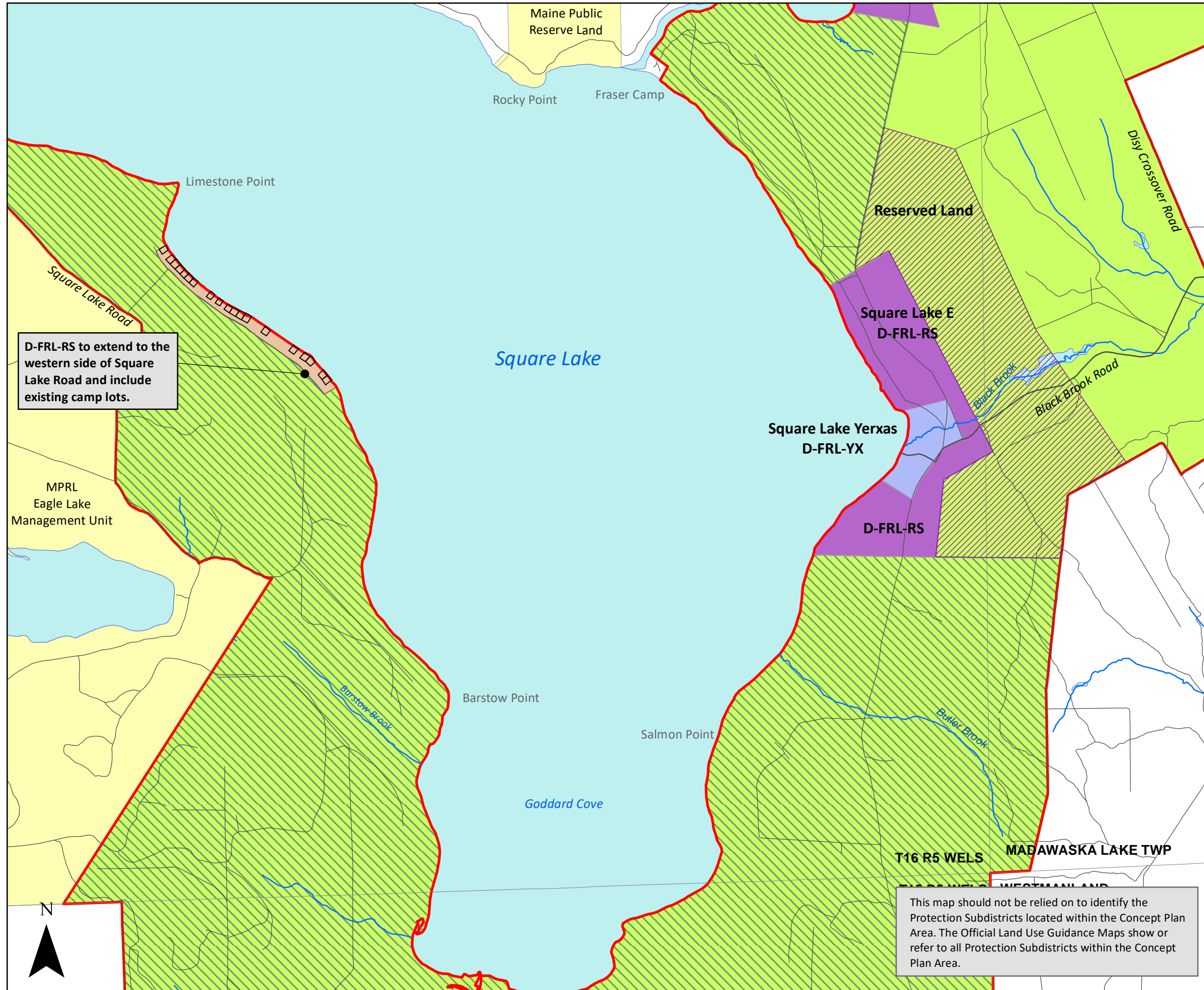
Legend

- Major Roads
- Roads
- - - Transmission Line
- ⋯ Cross Lake Fen
- Existing Camp Lots
- ▭ Concept Plan Area
- D-FRL-RS
- ▨ Residential Open Space
- ▧ Reserved Land
- ▩ Existing/Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- ▨ Conservation Easement Area
- Maine Public Reserve Land

- Notes**
1. Plan area will be rezoned to P-RP (Resource Plan Protection).
 2. Proposed D-FRL-RS includes lands currently zoned D-RS.
 3. LUPC Subdistricts in Cross & Square Lake development areas are illustrated in maps 5A and 5B.



This map should not be relied on to identify the Protection Subdistricts located within the Concept Plan Area. The Official Land Use Guidance Maps show or refer to all Protection Subdistricts within the Concept Plan Area.



DEVELOPMENT AREAS

Square Lake E, Yexas, & Reserved Land

Fish River Chain of Lakes Concept Plan

Legend

- Major Roads
- Roads
- Existing Camp Lots
- ▭ Concept Plan Area
- ▭ D-FRL-YX (Yexas)
- ▭ D-FRL-RS
- ▨ Reserved Land
- ▭ Existing/Expanded D-FRL-RS
- ▭ M-FRL-GN / Protection Subdistricts
- ▨ Conservation Easement Area
- ▭ Maine Public Reserve Land

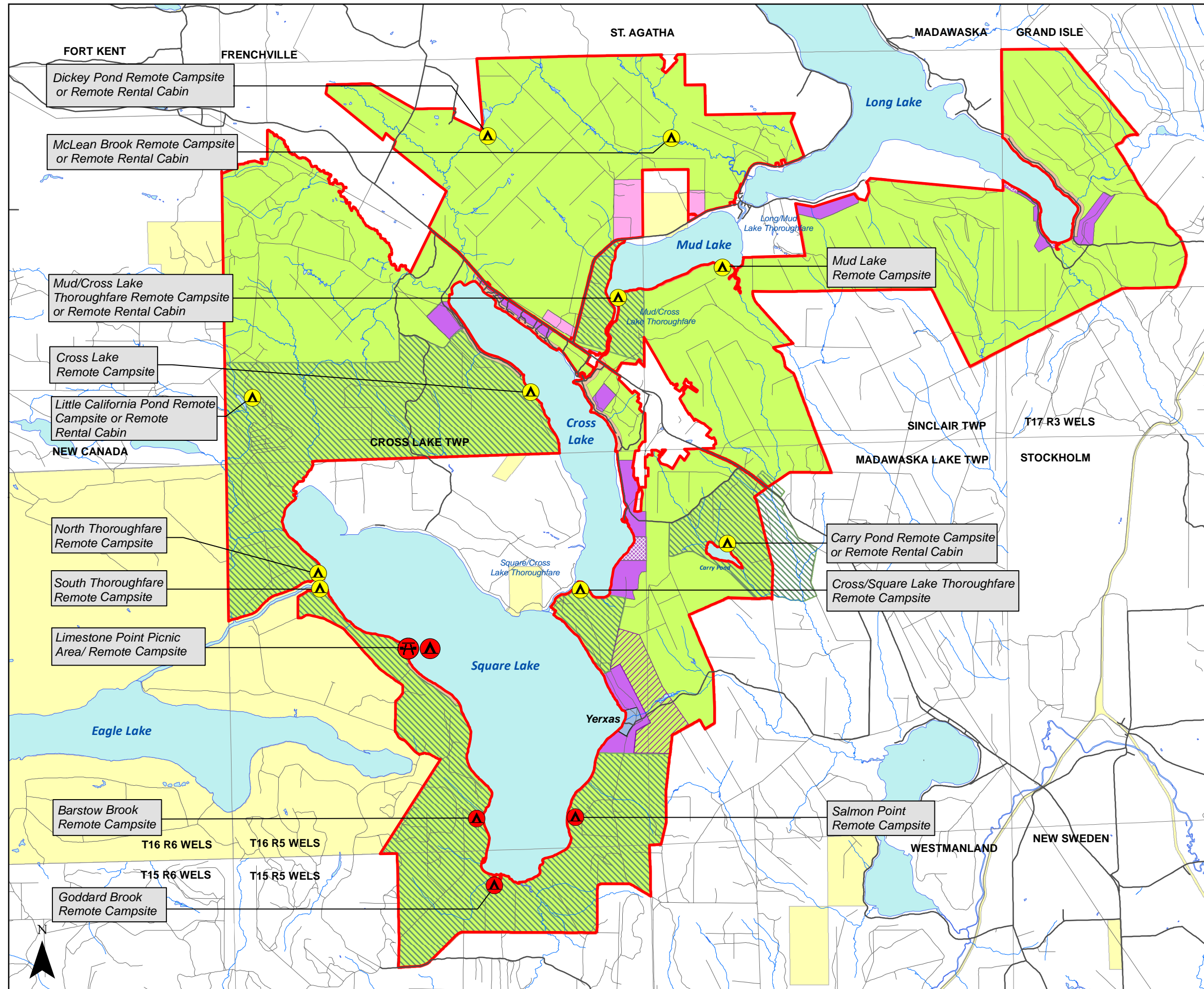
- #### Notes
1. Plan area will be rezoned to P-RP (Resource Plan Protection).
 2. Proposed D-FRL-RS includes lands currently zoned D-RS.
 3. Up to six infill lots (meeting minimum lot requirements) will be allowed on the western shoreline of Square Lake where zoned D-FRL-RS and will be counted toward the 130 unit cap for Square Lake.
 4. LUPC Subdistricts in Cross & Square Lake development areas are illustrated in maps 5A and 5B.



This map should not be relied on to identify the Protection Subdistricts located within the Concept Plan Area. The Official Land Use Guidance Maps show or refer to all Protection Subdistricts within the Concept Plan Area.

Remote Campsites and Remote Rental Cabins

Fish River Chain of Lakes Concept Plan



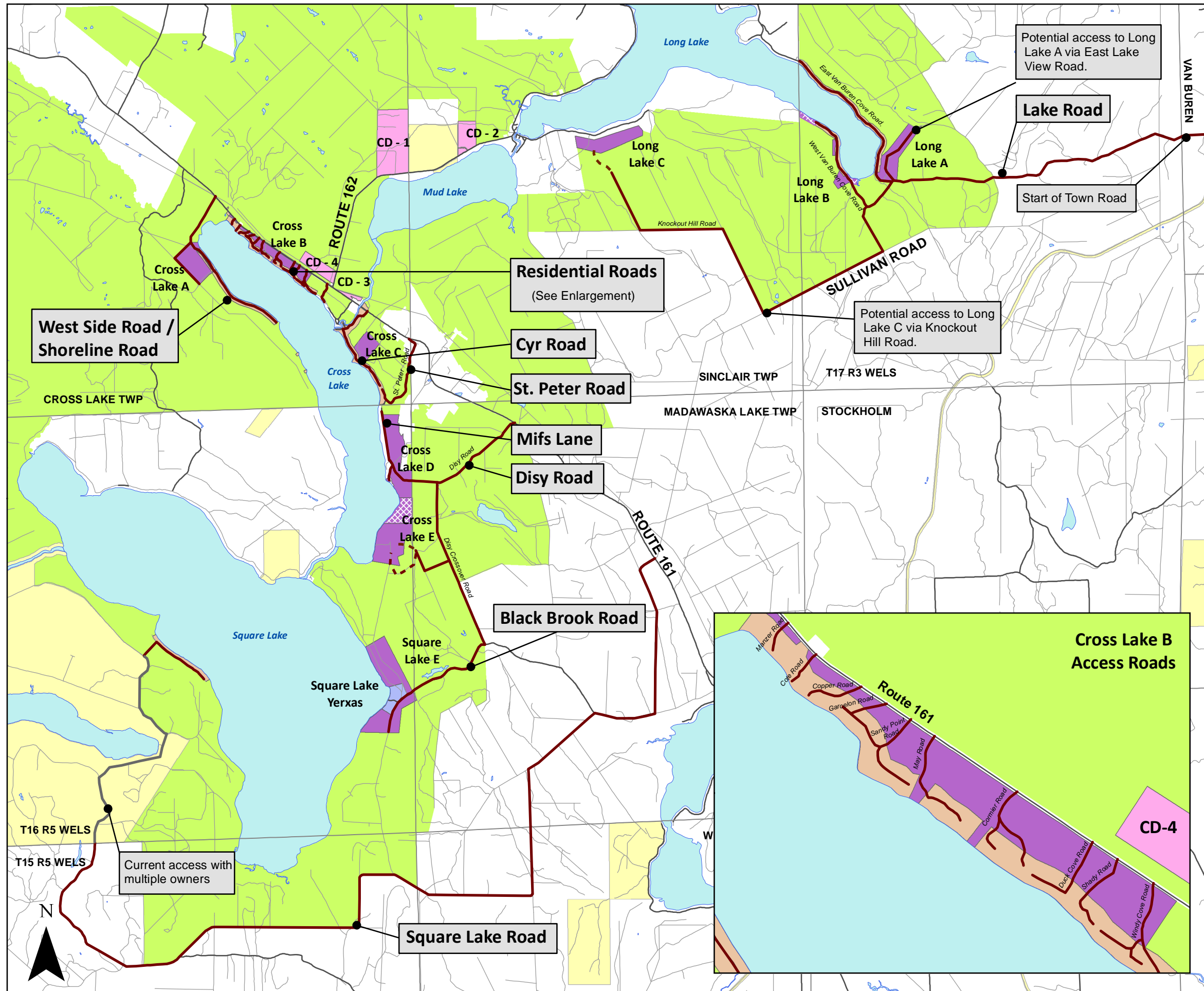
Legend

- Ex. Campsite
- Potential Remote Campsite or Remote Rental Cabin
- Ex. Picnic Area
- Major Roads
- Secondary Roads
- Streams
- D-FRL-YX (Yexas)
- Comm/Econ Development Zones
- Residential Development Zones
- Residential Open Space
- Reserved Land
- Existing/Expanded D-FRL-RS
- Conservation Easement Area
- Maine Public Reserve Land
- Concept Plan Area

- Notes**
1. See Concept Plan narrative for specific details.
 2. Locations for all potential Remote Campsites and Remote Rental Cabins are approximate.

0 0.5 1 2 Miles

August 19, 2019 **MAP 8**




ACCESS TO EXISTING AND ALLOWED DEVELOPMENT

Fish River Chain of Lakes Concept Plan


- ### Legend
- Potential Access to Development
 - Existing Woods Road
 - D-FRL-YX (Yexas)
 - Comm/Econ Development Areas
 - Residential Development Areas
 - Residential Open Space
 - Existing/Expanded D-FRL-RS
 - Maine Public Reserve Land
 - Concept Plan Area

- ### Notes
1. Access to CD-1, 2, 3, and 4 to be off State Roads or other existing roads.



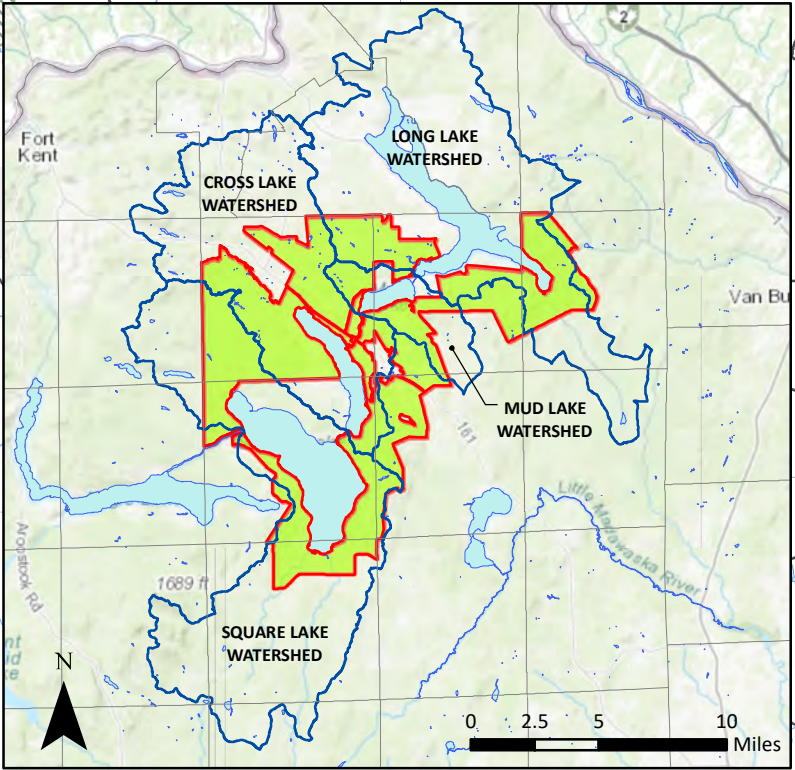
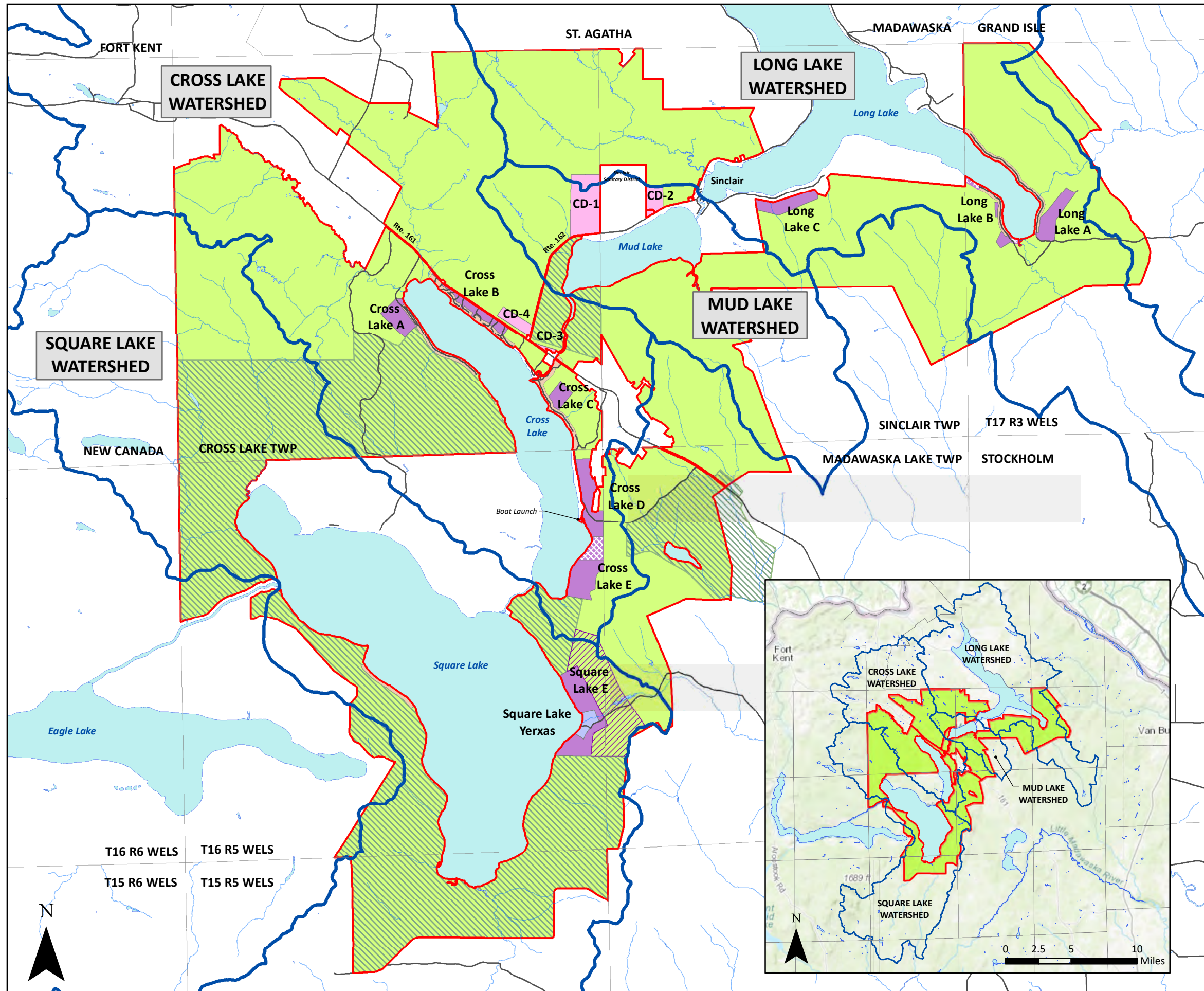
IRVING WOODLANDS, LLC

0 0.75 1.5 3 Miles



August 19, 2019

MAP 9



WATERSHEDS

Fish River Chain of Lakes Concept Plan

Legend

- Major Roads
- Streams
- ▭ Watershed Boundary
- ▭ Water Bodies
- ▭ D-FRL-YX (Yexas)
- ▭ Comm/Econ Development Zones
- ▭ Residential Development Zones
- ▭ Residential Open Space
- ▭ Reserved Land
- ▭ Existing/Expanded D-FRL-RS
- ▭ Conservation Easement Area
- ▭ Concept Plan Area

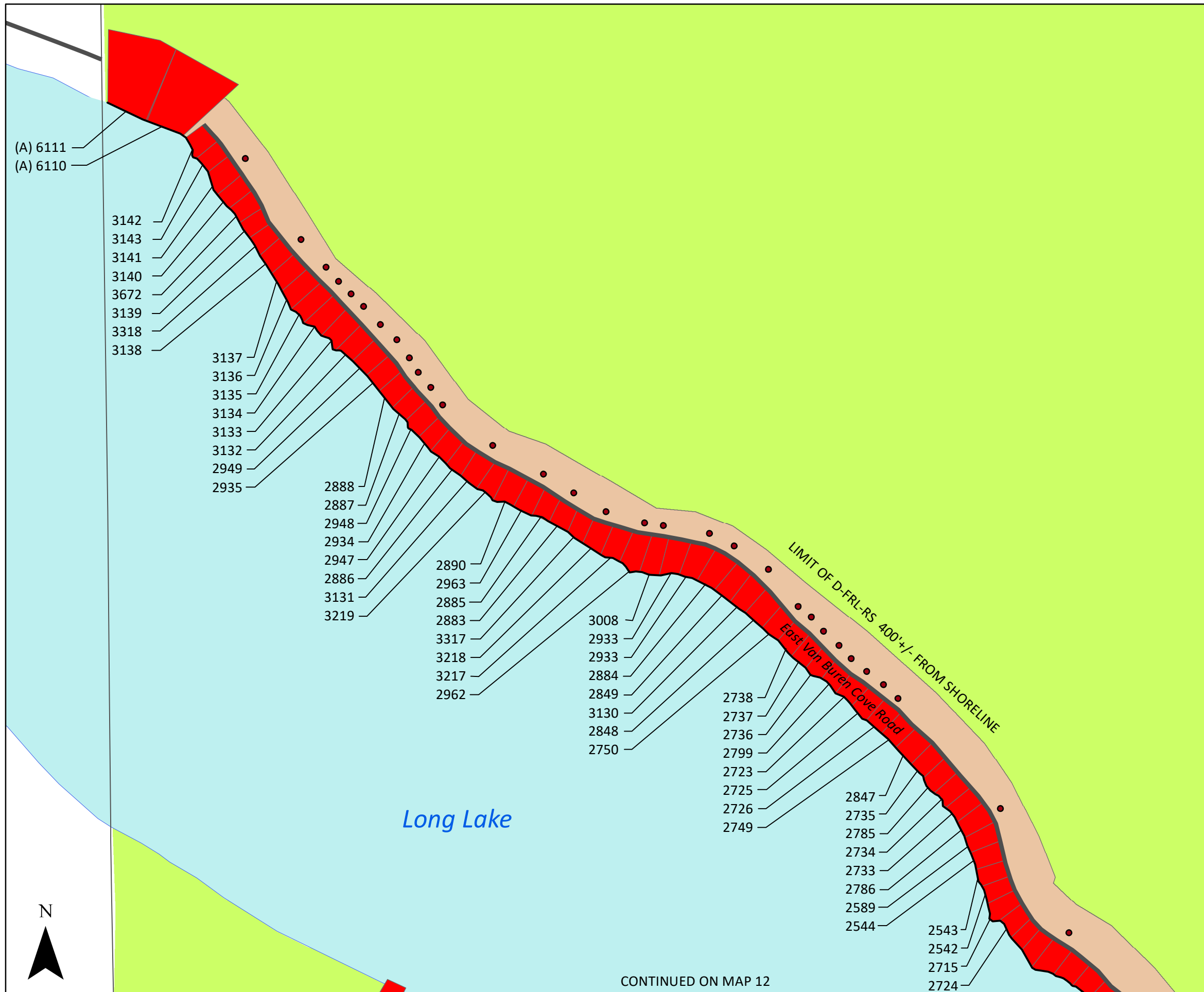
Total Watershed Acreage

Long Lake Watershed	49,450 Acres
Mud Lake Watershed	7,404 Acres
Cross Lake Watershed	37,627 Acres
Square Lake Watershed	48,402 Acres

Source
Irving Woodlands, LLC

IRVING
IRVING WOODLANDS, LLC

0 0.75 1.5 3
Miles



CAMP LOTS

Long Lake: Northeast Side
**Fish River Chain of Lakes
 Concept Plan**

Legend

- Existing Roads
- Existing/Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- Existing Camp Lots
- Additional Licensed Land

Key

(A) Existing lot is >40,000 SF.

- Notes**
1. Final location and area of back lots will be based upon survey information.
 2. Back lots will typically include the area under the access road.

Source

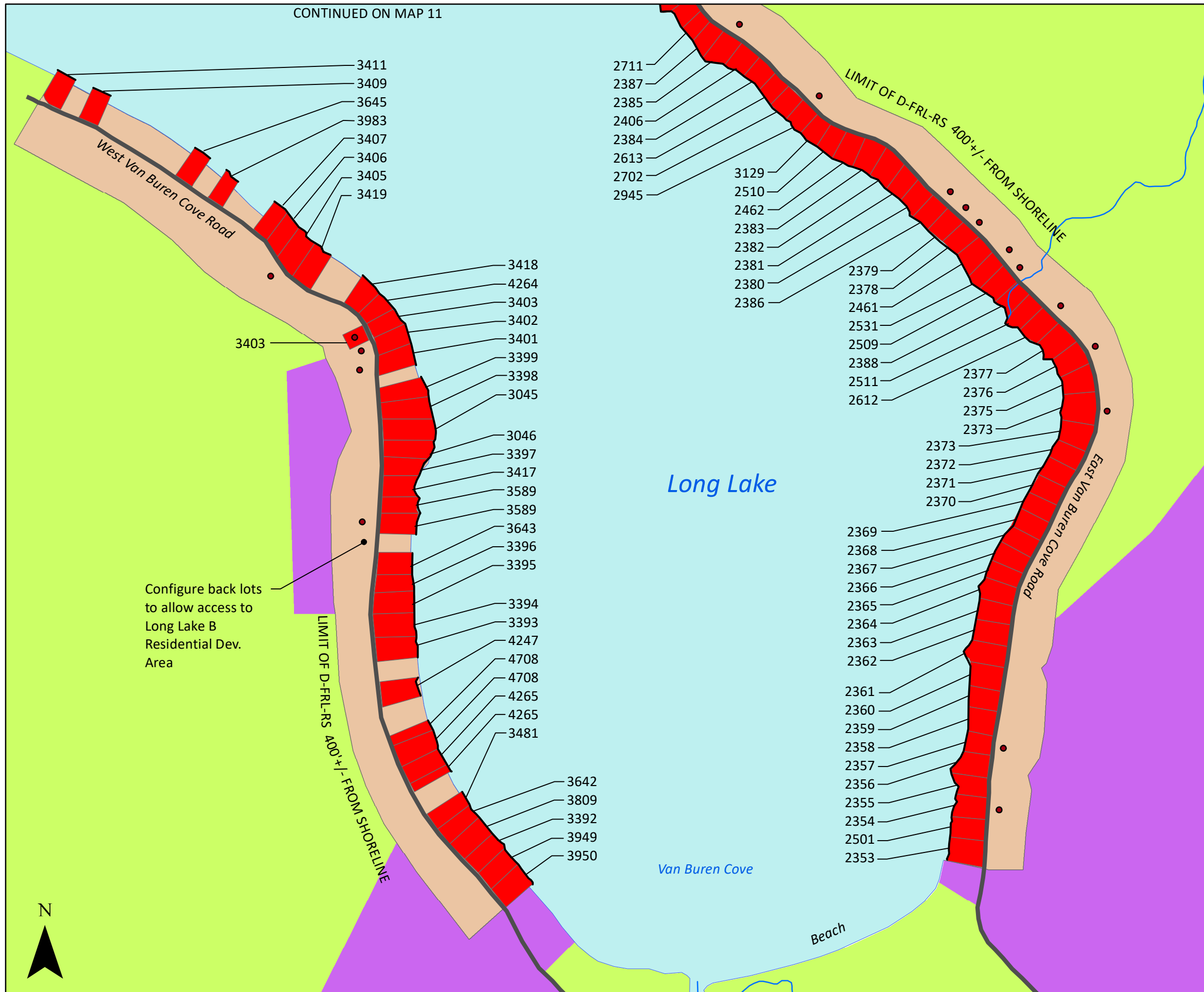
Irving Woodlands, LLC

IRVING WOODLANDS, LLC

0 300 600 1,200
 Feet

CONTINUED ON MAP 12

CONTINUED ON MAP 11



Configure back lots to allow access to Long Lake B Residential Dev. Area

CAMP LOTS

Long Lake: Southeast Side and West Side

Fish River Chain of Lakes Concept Plan

Legend

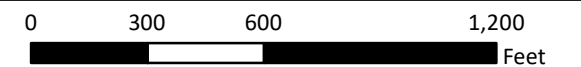
- Existing Roads
- D-FRL-RS
- Existing/Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- Existing Camp Lots
- Additional Licensed Land

Notes

- Final location and area of back lots will be based upon survey information.
- Back lots will typically include the area under the access road.

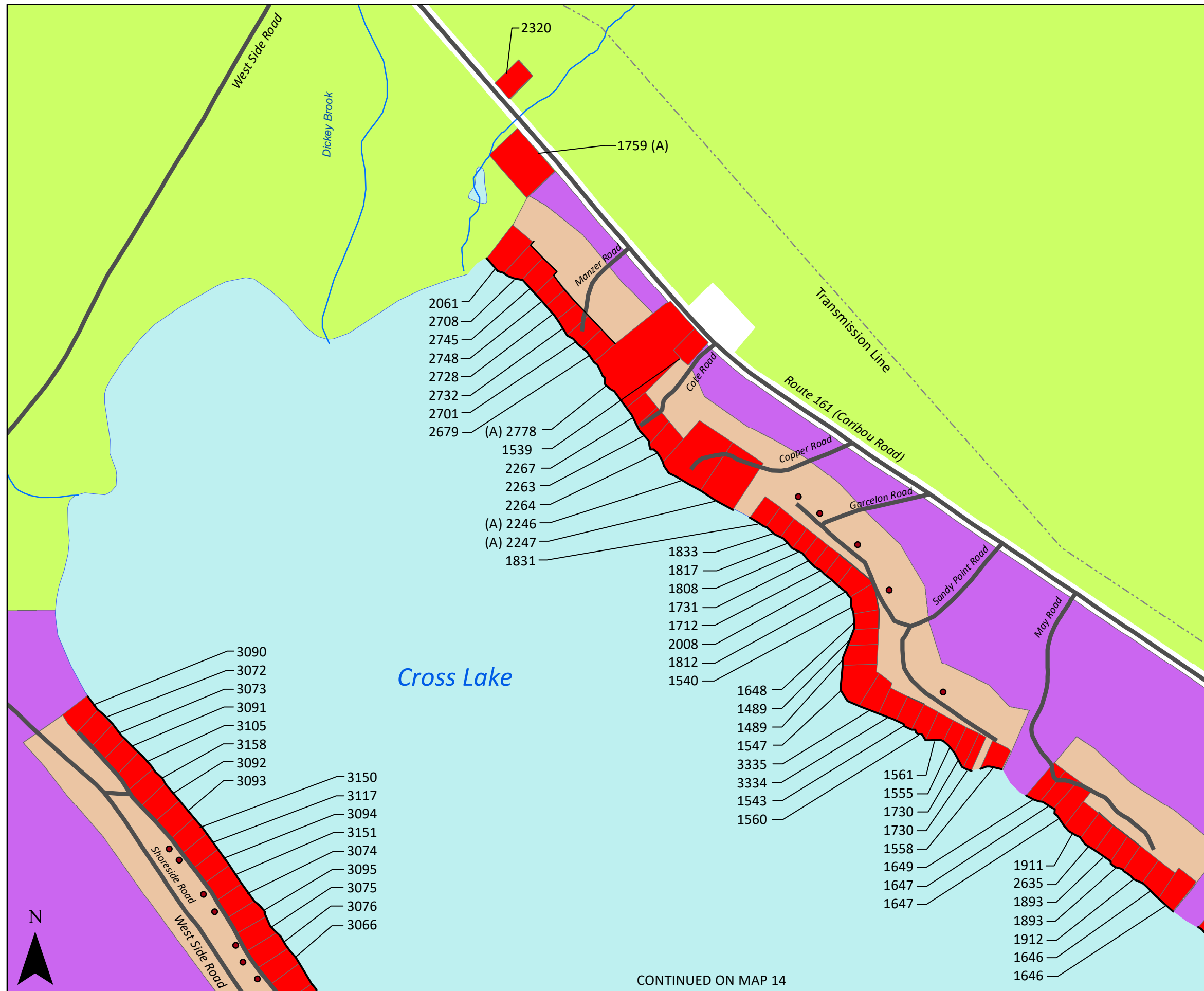
Source

Irving Woodlands, LLC



August 19, 2019

MAP 12



CAMP LOTS

Cross Lake: North End A
Fish River Chain of Lakes
Concept Plan

Legend

- Existing Roads
- - - Transmission Line
- D-FRL-RS
- Existing/Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- Existing Camp Lots
- Additional Licensed Land

Key
 (A) Existing lot is >40,000 SF.

- Notes**
1. Final location and area of back lots will be based upon survey information.
 2. Back lots will typically include the area under the access road.
 3. Additional licensed lot on the west side of Sandy Point Road at the intersection of Route 161, current bound unknown.

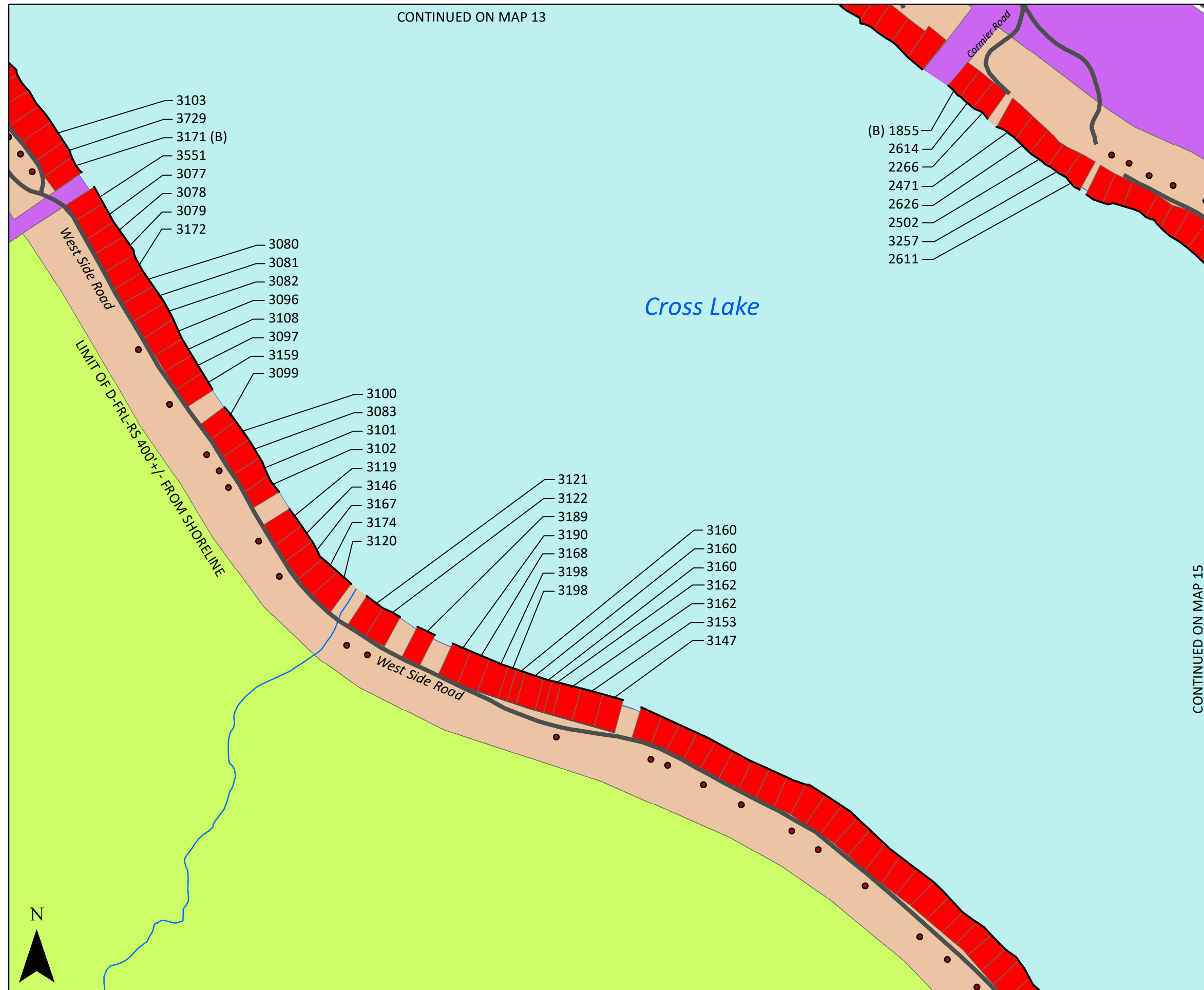
Source
 Irving Woodlands, LLC

IRVING
 IRVING WOODLANDS, LLC

0 300 600 1,200
 Feet

CONTINUED ON MAP 14

CONTINUED ON MAP 13



CAMP LOTS

Cross Lake: North End B Fish River Chain of Lakes Concept Plan

Legend

- Existing Roads
- D-FRL-RS
- Existing/Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- Existing Camp Lots
- Additional Licensed Land

Key

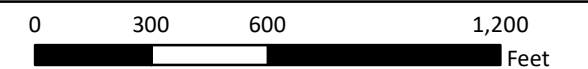
(B) Back lot restricted by lot configuration, road alignment, or lot(s) on opposite side of road.

Notes

1. Final location and area of back lots will be based upon survey information.
2. Back lots will typically include the area under the access road.

Source

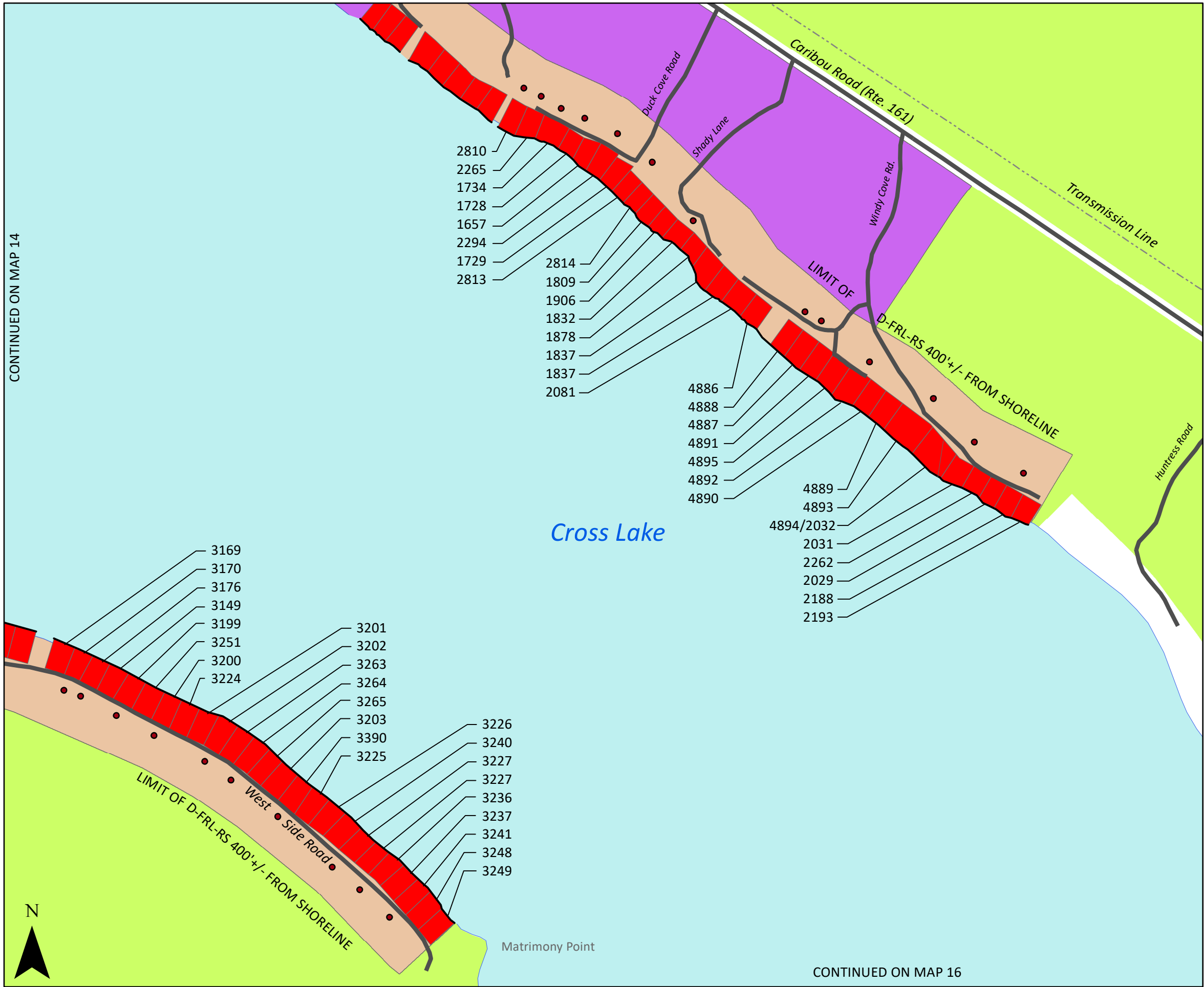
Irving Woodlands, LLC



August 19, 2019

MAP 14

CONTINUED ON MAP 15



CONTINUED ON MAP 14

CONTINUED ON MAP 16

CAMP LOTS

Cross Lake: North End C
**Fish River Chain of Lakes
 Concept Plan**

Legend

- Existing Roads
- - - Transmission Line
- D-FRL-RS
- Existing/Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- Existing Camp Lots
- Existing Back Lot

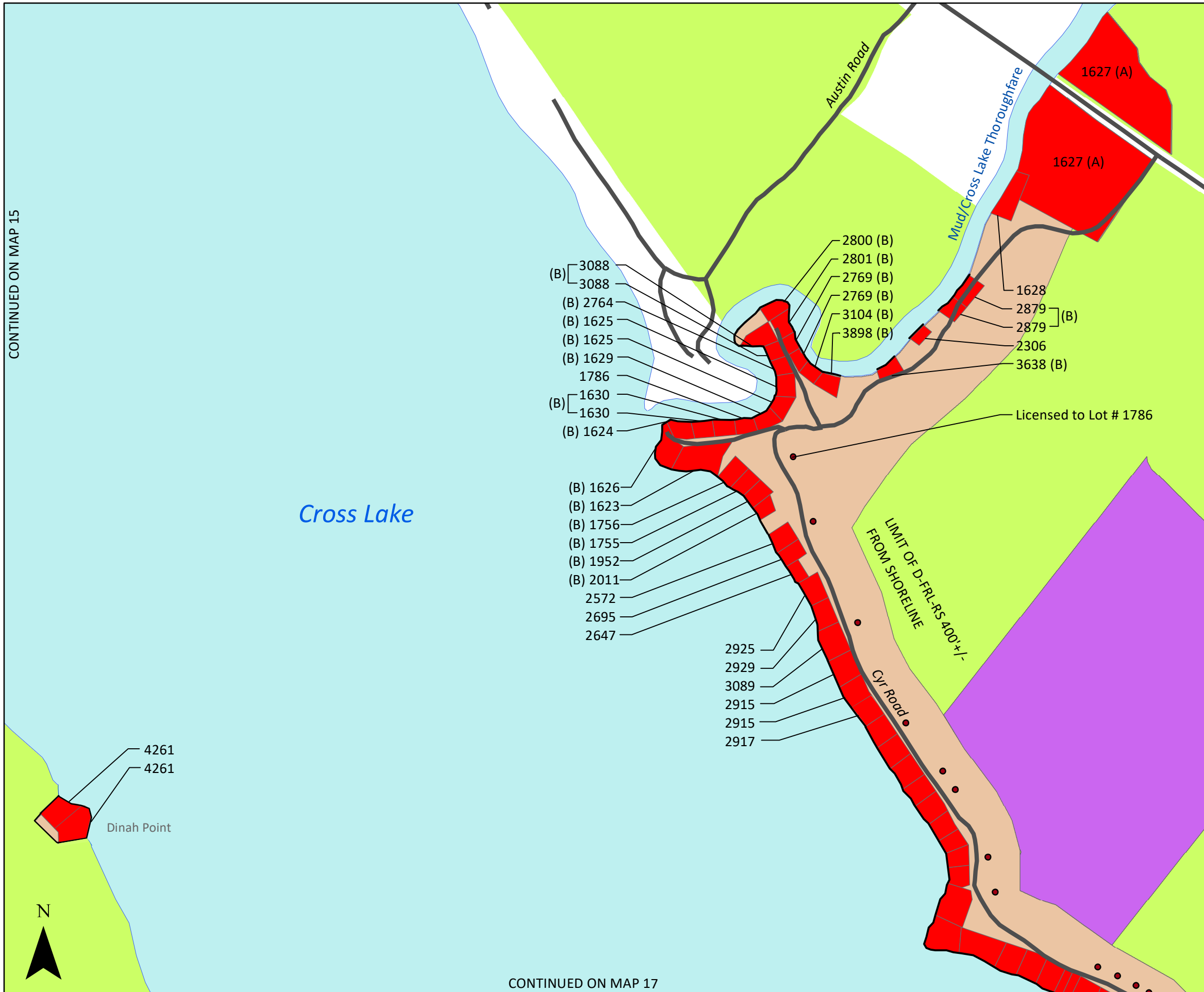
- Notes**
1. Final location and area of back lots will be based upon survey information.
 2. Back lots will typically include the area under the access road.

Source
 Irving Woodlands, LLC

IRVING
 IRVING WOODLANDS, LLC

0 300 600 1,200
 Feet

CONTINUED ON MAP 15



CONTINUED ON MAP 17

CAMP LOTS

Cross Lake: Mud/Cross Lake Thoroughfare

Fish River Chain of Lakes Concept Plan

Legend

- Existing Roads
- D-FRL-RS
- Existing/Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- Existing Camp Lots
- Additional Licensed Land

Key

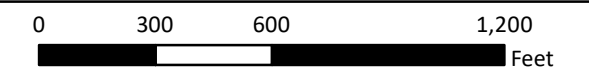
- (A) Existing lot is >40,000 SF.
- (B) Back lot restricted by lot configuration, road alignment, or lot(s) on opposite side of road; provide back land.

Notes

1. Final location and area of back lots will be based upon survey information.
2. Back lots will typically include the area under the access road.
3. Additional licensed lot on Cyr Road, current bound unknown.

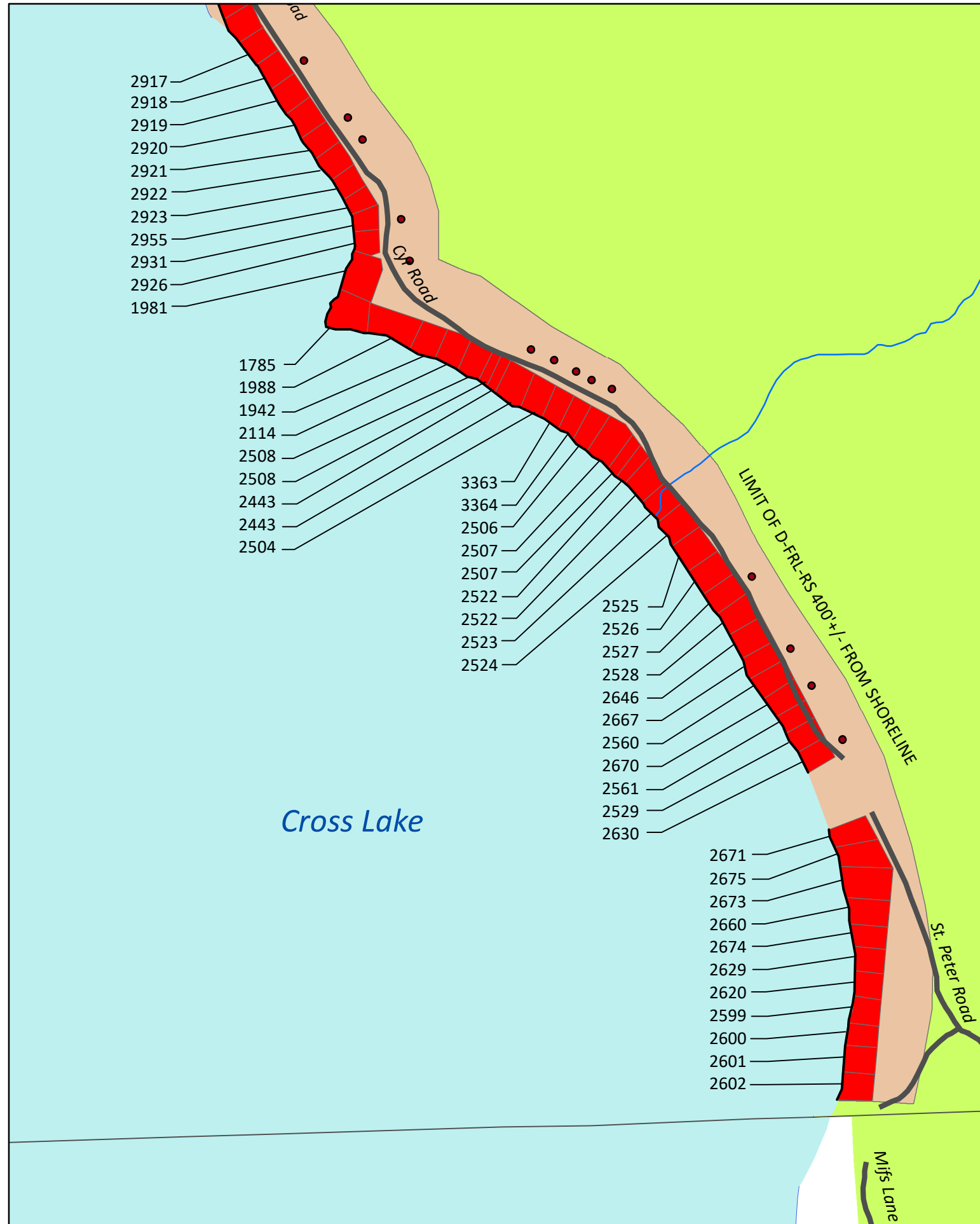
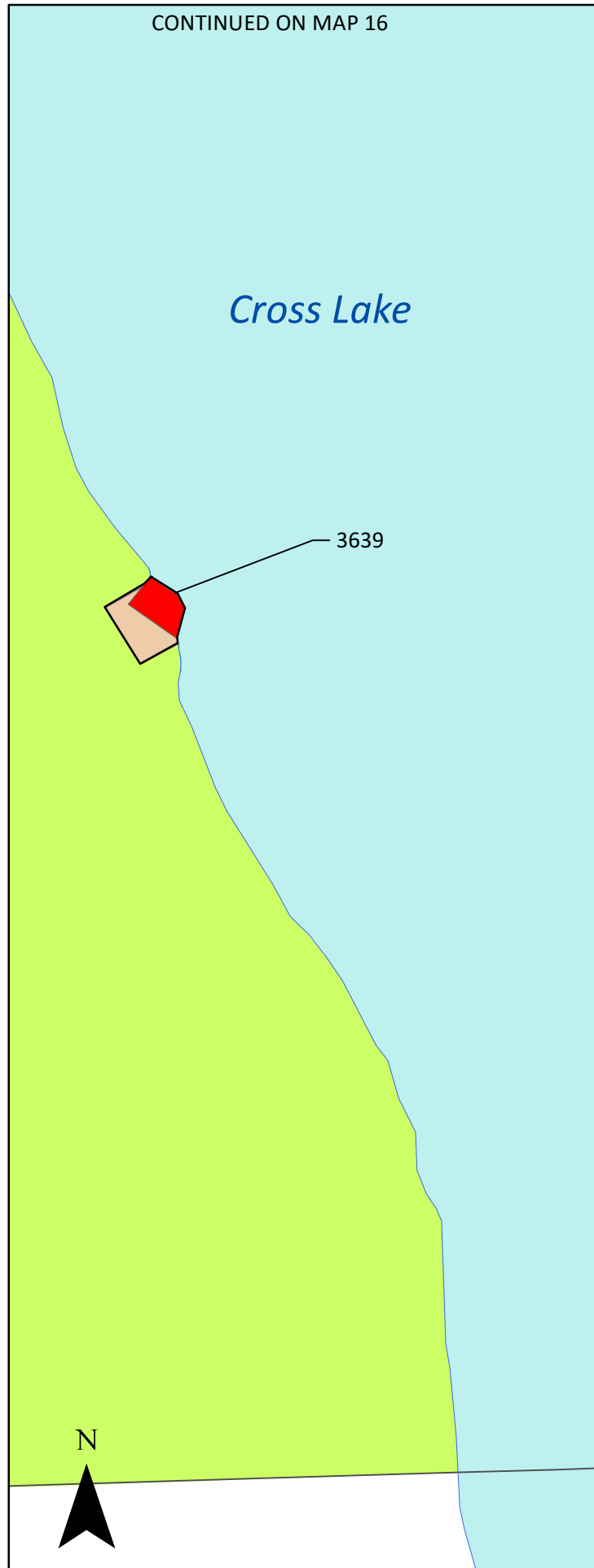
Source

Irving Woodlands, LLC



August 19, 2019

MAP 16



CAMP LOTS

Cross Lake: South of Cross/Mud Lake Thoroughfare

Fish River Chain of Lakes Concept Plan

Legend

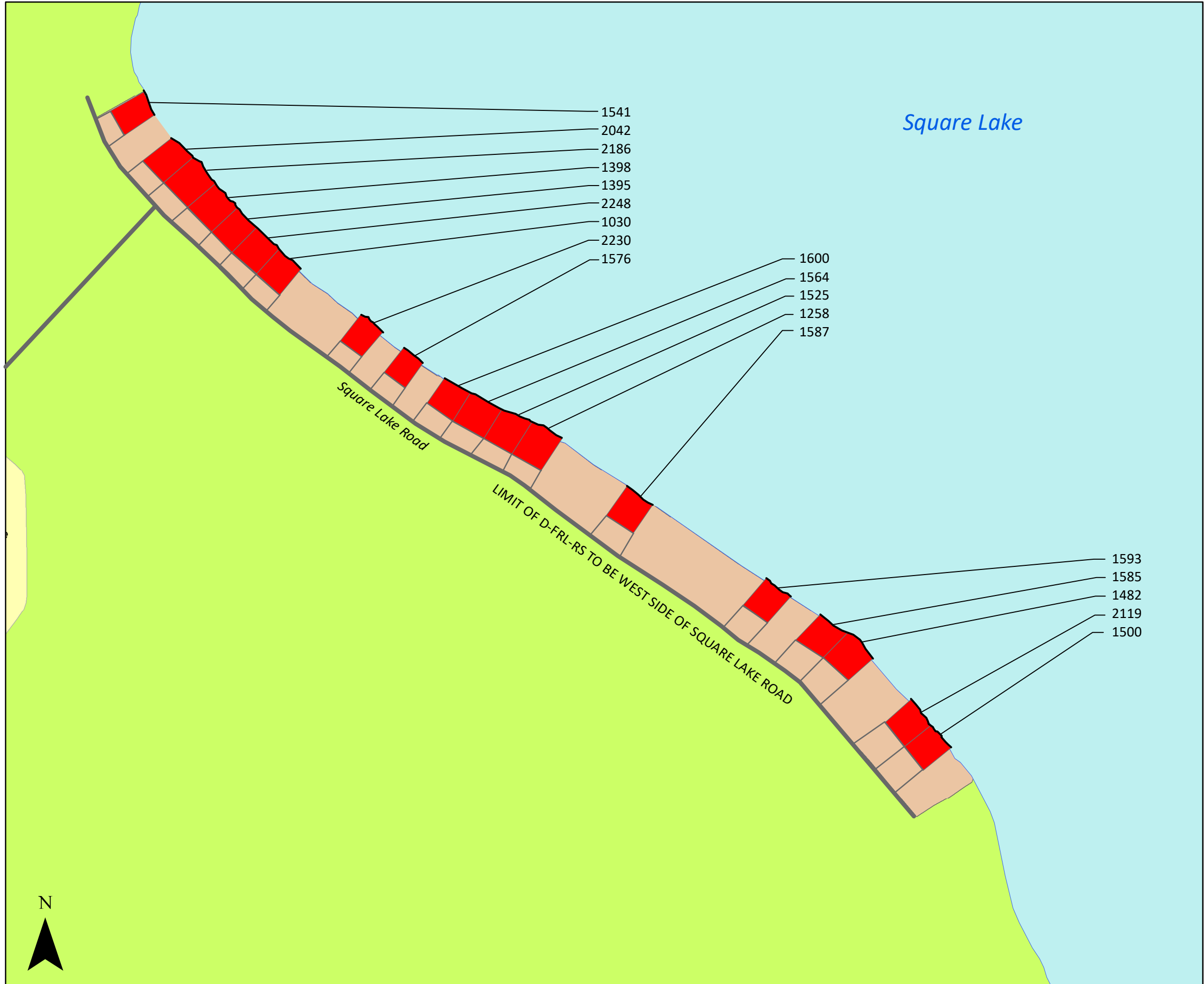
- Existing Roads
- Existing/Expanded D-FRL-RS
- M-FRL-GN / Protection Subdistricts
- Existing Camp Lots
- Additional Licensed Land

- ### Notes
1. Final location and area of back lots will be based upon survey information.
 2. Back lots will typically include the area under the access road.
 3. Additional licensed lots on east side of Mifs Lane, current bound unknown.

Source
Irving Woodlands, LLC

IRVING WOODLANDS, LLC







0 300 600 1,200 Feet



CAMP LOTS

Square Lake Fish River Chain of Lakes Concept Plan

Legend

-  Existing Roads
-  D-FRL-RS
-  M-FRL-GN / Protection Subdistricts
-  Maine Public Reserve Land
-  Existing Camp Lots
-  Additional Licensed Land

Notes

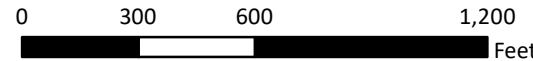
1. Final location and area of back lots will be based upon survey information.
2. Back lots will extend to west side of Square Lake Road.
3. Back lots will typically include the area under the access road.

Source

Irving Woodlands, LLC



IRVING WOODLANDS, LLC



August 19, 2019

MAP 18

J. WATER ACCESS SITES FIGURES

The following figures are intended to be illustrative only. If the figures conflict with the specific language of the Chapter 10 Addendum, the Addendum language shall control.

**FIGURE 1
WATER ACCESS SITES: HAND CARRY**

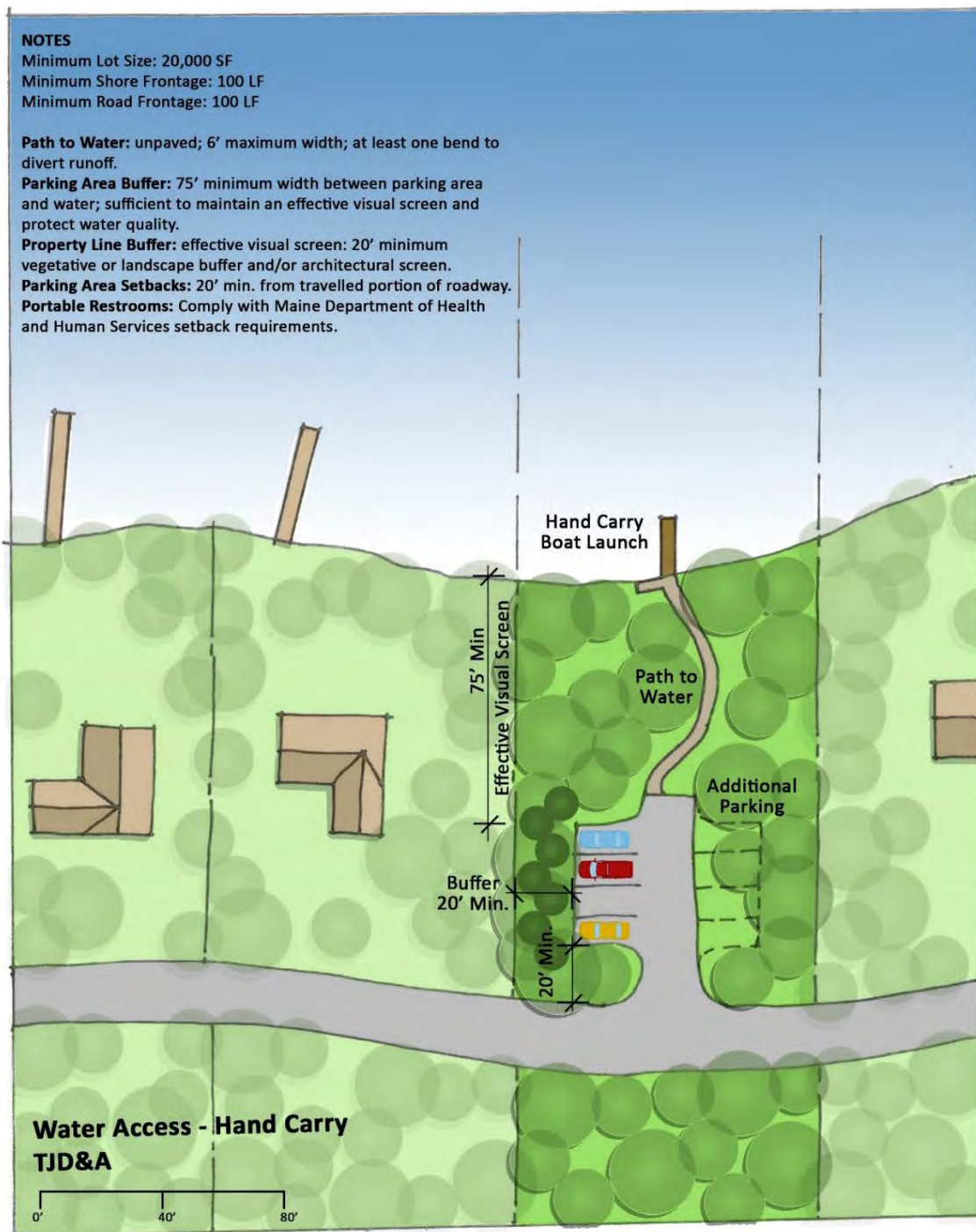


FIGURE 2
WATER ACCESS SITES: DOCKS FOR LESS THAN 20 BOATS

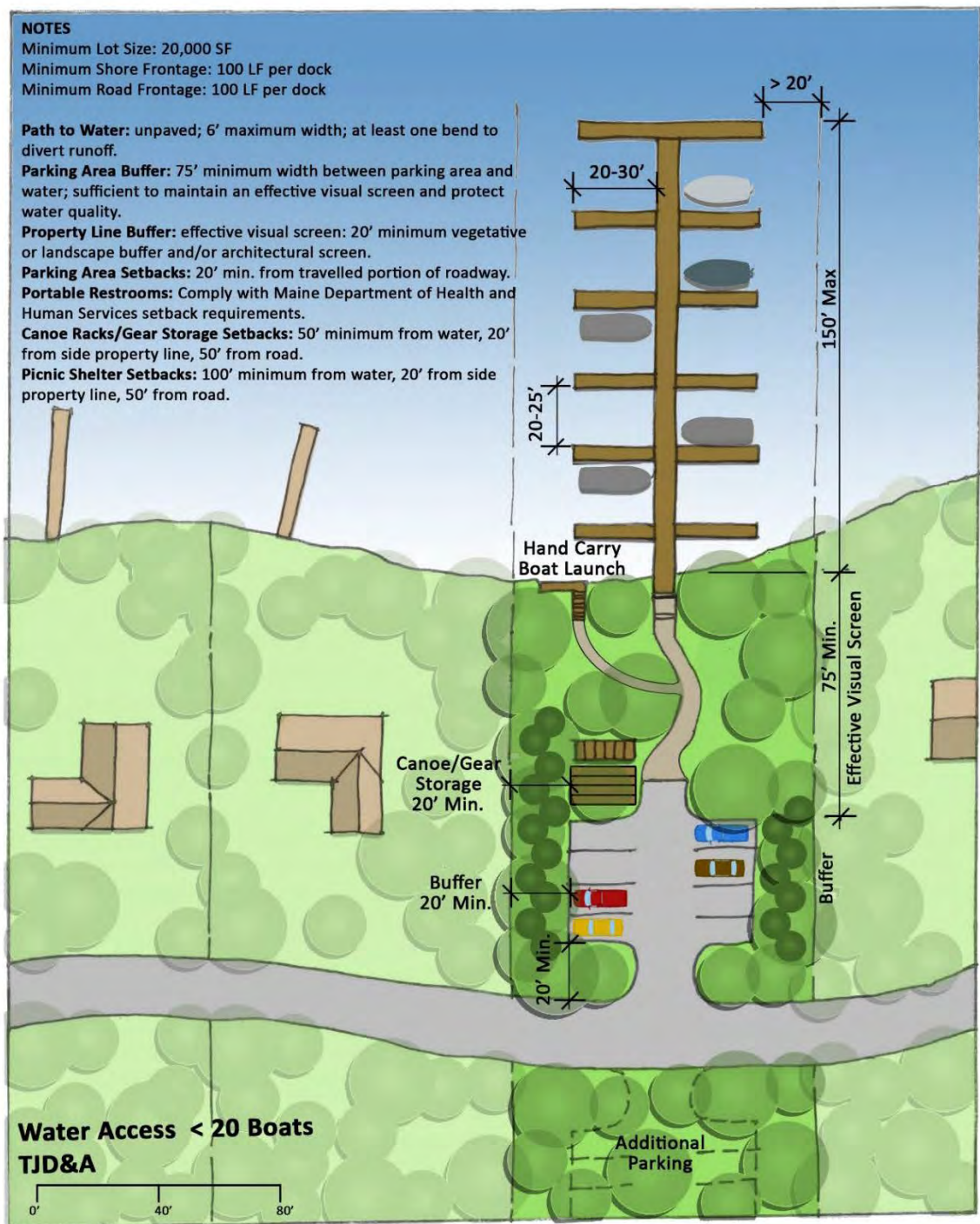


FIGURE 3
WATER ACCESS SITES: DOCKS FOR MORE THAN 20 BOATS

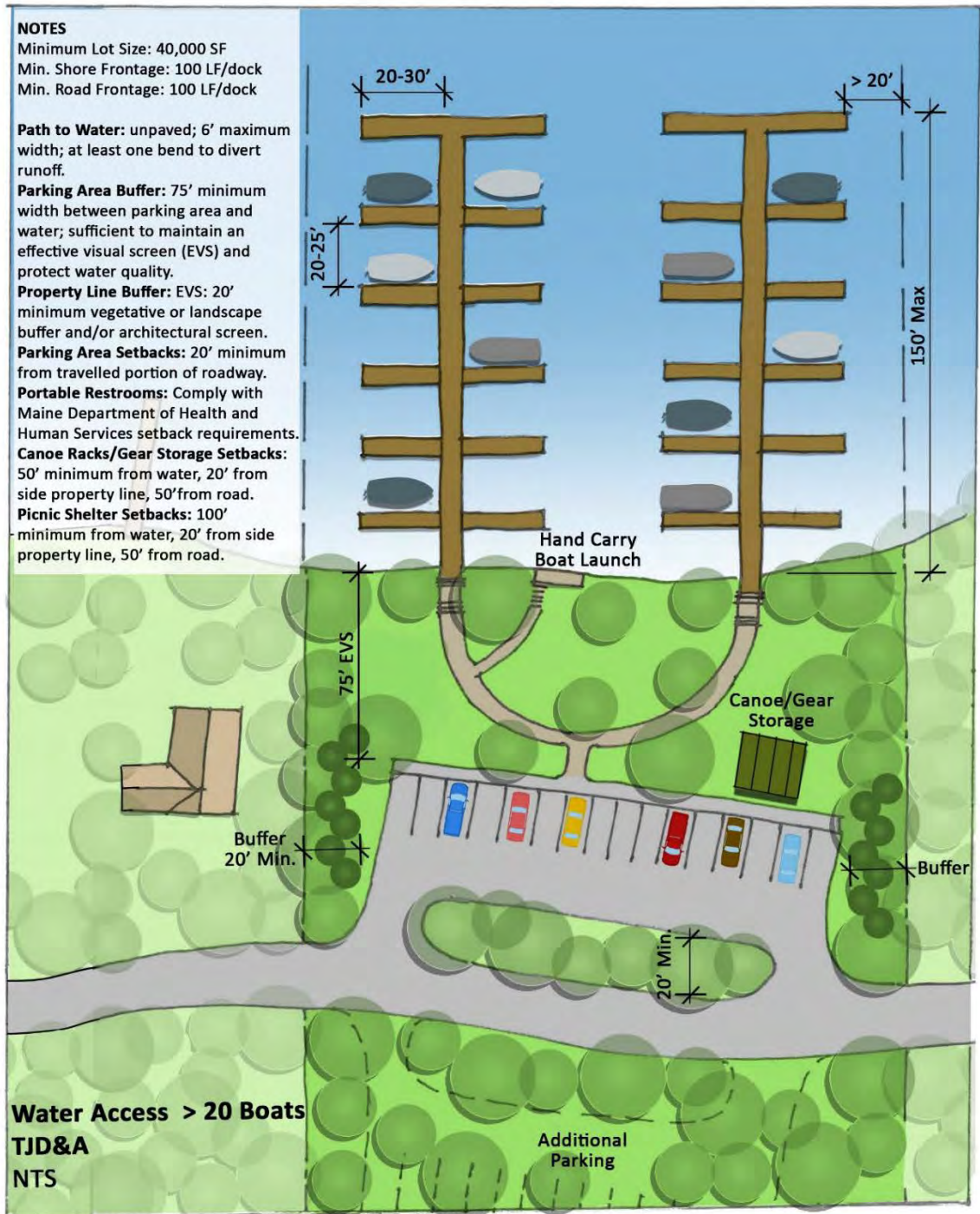
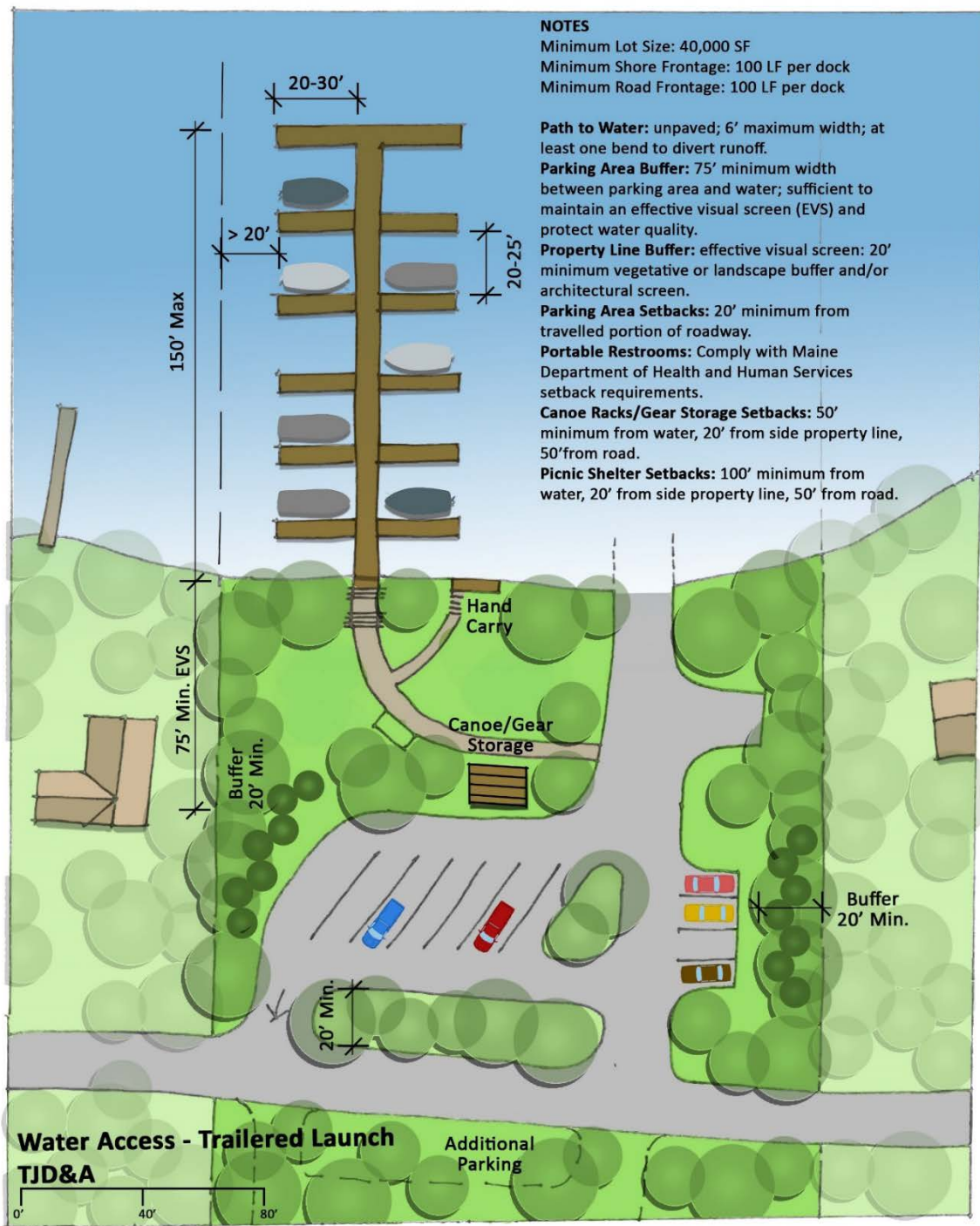


FIGURE 4
WATER ACCESS SITES: TRAIERED LAUNCH



**ADDENDUM TO THE COMMISSION’S
LAND USE DISTRICTS AND STANDARDS (CHAPTER 10)**

A. APPLICABILITY AND ORGANIZATION

This addendum (referred to throughout as the “Chapter 10 Addendum” or the “Addendum”) to the Commission’s Land Use Districts and Standards (currently found in Chapter 10) contains regulatory provisions that include, inter alia, the land use zones into which the Resource Protection Plan Subdistrict (P-RP) established in the Concept Plan has been divided, and development standards and review procedures that apply to development and other land uses authorized pursuant to the Concept Plan (hereinafter collectively and individually, “Addendum Provisions”). The Addendum Provisions are applicable only to the Concept Plan and are integral parts of it.

As an initial matter, statutory changes that would otherwise apply to the Plan Area will be fully applicable notwithstanding the existence of the Concept Plan.

With respect to Chapter 10, the Concept Plan takes the following actions:

- **Standards that are Frozen:** Some provisions of Chapter 10 are included in their entirety in the Addendum. These provisions will be in effect throughout the Plan Area, but will apply only as set forth below (meaning, the language of Chapter 10 is “frozen” as written in the addendum, and subsequent amendments to these Chapter 10 provisions shall not apply to the Plan Area). The only exception to this will be if the Concept Plan itself is amended, pursuant to Section 1,D of this Plan.
- **Supplemental Standards:** Some provisions of the Addendum do not have comparable provisions within Chapter 10. All of these types of Addendum Provisions also will be in effect throughout the Plan Area and apply in addition to Chapter 10 (meaning, those provisions in the addendum apply in addition to or “supplement” Chapter 10). They are likewise frozen as written in the Plan, unless the Plan is amended pursuant to Section 1,D of this plan.
- **LUPC Amendable Provisions:** The remaining provisions of Chapter 10 are not directly addressed in this Addendum, and will be allowed to “float.” These provisions will apply throughout the Plan Area as included in Chapter 10 in effect at the time. If, through rulemaking, the Commission revises any of these provisions or adopts new provisions, the revised or new provision shall apply throughout the Plan Area, except if the subject matter of the revision already has been directly addressed by one or more of the Addendum Provisions. In such a situation, the Addendum Provision shall control if the Commission reasonably determines that the revision is more stringent than the Addendum Provisions. Provisions governed by this paragraph are part of the “LUPC Amendable Provisions.”

B. EXPLANATORY TABLE

The following table lists the provisions contained in this Addendum and explains the effect of each Addendum Provision on the existing Chapter 10 provision.³

CHAPTER 10 PROVISION	ADDENDUM PROVISION
Sub-Chapter I: General Provisions	
10.02 Definitions	Addendum supplements this section with Section 10.02-FRL.
Sub-Chapter II: Land Use Zones and Subdistricts	
10.21 Development Zone	Addendum adds and freezes these zones, except where the text in the zone specifically references LUPC amendable use listings.
10.21,A Commercial & Industrial Development Zone (D-FRL-CI)	
10.21,C General Development Zone (D-FRL-GN)	
10.21,M Residential Development Zone (D-FRL-RS)	
10.21,N Square Lake Yexas Zone (D-FRL-YX)	
10.22 Management Zone	Addendum Section 10.23-A-FRL identifies all protection subdistricts as LUPC Amendable Provisions, except where the text in this section references specific use listings as being frozen or supplemented.
10.22,A General Management Zone (M-FRL-GN)	
10.23 Protection Subdistricts	
Sub-Chapter III: Land Use Standards	
10.25 Development Standards	Addendum does not freeze or supplement this section, except that Section 10.32-FRL governs phosphorus allocations.
10.25,E Natural Character and Cultural Resources	
10.25,F Noise and Lighting	
10.25,L Phosphorus Control	

³ This table is intended to be a guide only. If it conflicts with a specific provision of the Chapter 10 Addendum, the Addendum provision shall control.

CHAPTER 10 PROVISION	ADDENDUM PROVISION
10.25,Q Subdivision and Lot Creation	
10.25,Q,1	Addendum replaces this sub-section with Section 10.28-FRL.
10.25,Q,2 through the end	Addendum supplements these sub-sections with Section 10.25,Q-FRL.
10.26 Dimensional Requirements	
10.26,A through F	Addendum freezes these sections as Sections 10.26-FRL,A through F.
10.26,G Exceptions to Dimensional Requirements	Addendum supplements this section with Section 10.26-FRL,G-1.
10.27 Activity Specific Standards	
10.27,B Vegetation Clearing	Addendum freezes this section as Section 10.27,B-FRL.
10.27,L Trailered Ramps, Hand Carry Launches, Water-Access Ways	Addendum freezes this section as Section 10.27,L-FRL.

Sub-Chapter IV: Supplemental Review Processes and Requirements

10.28-FRL Limitations on Numbers of Units Within New Residential Development Areas	
10.29-FRL Owners and Road Associations	
10.30-FRL Sustainable Forestry Management Practices	
10.31-FRL Replacement of Subsurface Waste Water Disposal Systems For Camp Lots	
10.32-FRL Phosphorus Control for Cross, Long, Mud, and Square Lake Watersheds	
10.33-FRL Notice of Planned Activities	
10.34-FRL Square Lake Planning and Development	

Addendum supplements Chapter 10 with these standards;
New addendum provisions – no comparable Chapter 10 provision

**ADDENDUM TO THE COMMISSION'S
LAND USE DISTRICTS AND STANDARDS (CHAPTER 10)**

SUB-CHAPTER I: GENERAL PROVISIONS

10.02-FRL SUPPLEMENTAL DEFINITIONS

[The following shall apply in addition to the definitions in Section 10.02 in effect at the time.]

- 1. Back Lands:**

Land in the Plan Area, where available, for lessees, licensees, or owners of camp lots for siting, installing, and maintaining a replacement subsurface waste water disposal system in accordance with and subject to Section 10.31-FRL. For any individual camp lot, the back lands, if available, shall be within 500 feet of the normal high water mark of the nearest lake and within 2,500 feet of the nearest boundary of the camp lot.
- 2. Back Lot:**

Land in the Plan Area to be added to each camp lot, where available, prior to or upon the first sale of the camp lot after the effective date.
- 3. Camp Lot:**

A lot in the plan area that is or was leased or licensed that legally exists as of the effective date. The approximate location of the camp lots are shown on Maps 11 through 18 of the Concept Plan.
- 4. Concept Plan:**

The Concept Plan for the Fish River Chain of Lakes, established pursuant to Zoning Petition ZP 768, as it may be amended from time to time pursuant to Section 1,D, which consists of the following:

 - a. Part 1: Concept Plan Description;
 - b. Part 2: Addendum to the Commission’s *Land Use Districts and Standards* (Chapter 10); and
 - c. Part 3: Appendices.
- 5. Concept Plan Area:**

The area specifically described and identified in the Concept Plan and depicted on the Official Land Use Guidance Maps as being within the boundaries of the Resource Plan Protection Subdistrict (“P-RP”) established pursuant to Zoning Petition ZP 768. The Concept Plan Area is also referred to as the “Plan Area.”
- 6. Development Area:**

An area (including the sub-areas, development zones, and protection zones located therein) described in Section 1,E,1 and identified as a “development area” on the Concept Plan maps in Section 1,I of the Concept Plan.
- 7. Development Zone:**

Land use zones identified on the maps contained in Section 1,I and described in Section 10.21 of the Concept Plan as: Commercial Industrial Development Zone (D-FRL-CI), General Development Zone (D-FRL-GN), Residential Development Zone (D-FRL-RS), and Square Lake Yexas Development Zone (D-FRL-YX).

8. Effective Date:

The date upon which the Concept Plan becomes effective by virtue of the Commission's approval of Zoning Petition ZP 768, which is { enter applicable date }.

9. Land Use Zone:

The area located within the boundaries of air, land or water delineated vertically or horizontally by the Commission pursuant to Zoning Petition ZP 768 to provide for distinct categories of uses or resources within the Plan Area. For purposes of the Concept Plan, the following land use zones, identified on the maps contained in Section 1, I and described in Sections 10.21 and 10.22 of the Concept Plan, shall apply: Commercial Industrial Development Zone (D-FRL-CI), General Development Zone (D-FRL-GN), Residential Development Zone (D-FRL-RS), Square Lake Yexas Development Zone (D-FRL-YX), and General Management Zone (M-FRL-GN).

10. LUPC Amendable Provision:

Either a provision of the Commission's *Land Use Districts and Standards* (Chapter 10) in existence as of the effective date that has not been frozen or replaced by the provisions contained in the Addendum, or a new or amended provision to the Commission's *Land Use Districts and Standards* promulgated subsequent to the effective date that the Commission determines is not inconsistent with the provisions contained in Part 2 of the Concept Plan.

11. Outcome based forestry:

A science-based, voluntary process to achieve agreed-upon economic, environmental, and social outcomes in the State's forests, as an alternative to prescriptive regulation, demonstrating measurable progress towards achieving statewide sustainability goals and allowing landowners to use creativity and flexibility to achieve objectives, while providing for the conservation of public trust resources and the public values of forests.

12. Petitioner:

Any one of Aroostook Timberlands LP, Allagash Timberlands LLC, and Maine Woodlands Realty Company, including any or all of their successors and assigns.

13. Selection Harvesting:

The silvicultural practice of harvesting trees by removal of single trees or small groups of trees to promote or maintain an uneven aged forest stand with two or more age classes of trees. This is typically done by removing approximately 1/3 of the basal area of a stand on periodic intervals depending on the species located on the site. The periodic intervals of harvest maintains continuous forest cover with low visual impacts, while allowing the establishment of new seedlings.

14. Water Access Site:

A lot or area primarily used for the accommodation of water access to multiple users. Depending upon the type of site, the term may include a hand-carry launch, trailered ramp, mooring structures, permanent on-shore structures to secure docks and moorings, picnic-shelters and related facilities, facilities for temporary storage of canoes, kayaks, and other small boats, bulletin boards, pathways, restroom facilities, storage sheds, parking areas, and similar small-scale accessory structures. Water access site does not include a temporary private docking structure that serves an individual residential use. For the purposes of this plan, water access sites are divided into three types:

Common Water Access Site:

A water access site that is associated with a Development Area owned, leased, or operated by an association and only available to members of that association.

Public Water Access Site:

A water access site that is owned, leased, or operated by a public entity and made available to all members of the public, with or without a fee.

Remote Water Access Site:

A water access site that is publicly or privately owned, leased, or operated, and made available to all members of the public, with or without a fee.

Water access sites are specifically designated in Section 10.27,L-FRL.

**ADDENDUM TO THE COMMISSION'S
LAND USE DISTRICTS AND STANDARDS (CHAPTER 10)**

SUB-CHAPTER II: LAND USE ZONES

10.21,A-FRL COMMERCIAL INDUSTRIAL DEVELOPMENT ZONE (D-FRL-CI)

1. Purpose

The purpose of the D-FRL-CI Zone is to allow for commercial, industrial, and other development that is not compatible with residential uses. Designation of a specific zone for the Plan Area for commercial and industrial development will ensure that other land values and community standards are not adversely affected and will provide for the location and continued functioning of important commercial and industrial facilities.

2. Description

The CD-1 development area, as delineated on the maps contained in Section 1,I of the Concept Plan, is located in the D-FRL-CI Zone.

Except as authorized by Sections 1,D,3 and 10.08, no additional areas within the Plan Area shall be designated as D-FRL-CI Zone, or added to or removed from the D-FRL-CI Zone identified herein.

3. Land Uses**a. Uses Allowed Without a Permit**

The following uses shall be allowed without a permit from the Commission within the D-FRL-CI Zone.

- (1) Those uses listed as “Uses Allowed Without a Permit” within the Commercial Industrial Development (D-CI) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time.

b. Uses Allowed Without a Permit Subject to Standards

The following uses shall be allowed without a permit from the Commission within the D-FRL-CI Zone and subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions:

- (1) Those uses listed as “Uses Allowed Without a Permit Subject to Standards” within the Commercial Industrial Development (D-CI) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.21,A-FRL,3,b,(2).
- (2) Notwithstanding Section 10.21,A-FRL,3,b,(1), the following uses shall be allowed as “Uses Allowed Without a Permit Subject to Standards” in in the D-FRL-CI zones:
 - (a) Mineral exploration activities: Level A and B mineral exploration activities, excluding associated access ways;
 - (b) Timber harvesting, in compliance with the requirements of Section 10.30-FRL, in any given development area within the D-FRL-CI Zone, if completed prior to submission of an application for a subdivision or other development approval in that development area.

- (3) Notwithstanding Section 10.21,A-FRL,3,b,(1), the following uses shall be prohibited in the D-FRL-CI Zone:

- (a) Hand-carry launches: All hand-carry launches.

c. Uses Requiring a Permit

The following uses, and related accessory structures, may be allowed within the D-FRL-CI Zone upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions:

- (1) Those uses listed as “Uses Requiring a Permit” within the Commercial Industrial Development (D-CI) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.21,A-FRL,3,c,(2) and (3) below.
- (2) Notwithstanding Section 10.21,A-FRL,3,c,(1), the following uses shall be allowed as “Uses Requiring a Permit” in the D-FRL-CI Zone:
 - (a) Mineral exploration activities: Access ways for Level A and B mineral exploration activities, and Level A and B mineral exploration activities which are not in conformance with the standards of Section 10.27,C;
 - (b) Mineral extraction including the use of mineral processing equipment and associated structures;
 - (c) Solar energy generation facility: Grid-scale energy generation facility not located on soils recognized by the U.S. Department of Agriculture as prime farmland soils; and
 - (d) Timber harvesting, in compliance with the requirements of Section 10.30-FRL, in any given development area within the D-FRL-CI Zone, if completed after submission of an application for a subdivision or other development approval in that development area.
- (3) Notwithstanding Section 10.21,A-FRL,3,c,(1), the following uses shall be prohibited in the D-FRL-CI zones:
 - (a) Hand-carry launches: All hand-carry launches;
 - (b) Recreational lodging facilities: All levels; and
 - (c) Trailered ramps: All trailered ramps.

d. Special Exceptions

- (1) Those uses listed as “Uses Allowed by Special Exception” within the Commercial Industrial Development (D-CI) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time.

e. Prohibited Uses

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in D-FRL-CI Zone.

10.21,C-FRL GENERAL DEVELOPMENT ZONE (D-FRL-GN)

1. Purpose

The purpose of the D-FRL-GN Zone is to recognize existing patterns of development in appropriate areas and to encourage further patterns of compatible development therein and adjacent thereto. It is the Commission's intent to promote these areas as future growth centers in order to encourage the location of compatible developments near each other and to minimize the impact of such development upon incompatible uses and upon public services and facilities. Thus the Commission's purpose is to encourage the general concentration of new development, and thereby avoid the fiscal and visual costs of sprawl, and to provide a continuing sense of community in settled areas.

2. Description

The following development areas, as delineated on the maps contained in Section 1,I of the Concept Plan, are located in the D-FRL-GN Zone:

- a. CD-2 Development Area;
- b. CD-3 Development Area; and
- c. CD-4 Development Area.

Except as authorized by Sections 1,D,3 and 10.08, no additional areas within the Plan Area shall be designated as D-FRL-GN zones, or added to or removed from the D-FRL-GN Zones identified herein.

3. Land Uses**a. Uses Allowed Without a Permit**

The following uses shall be allowed without a permit from the Commission within the D-FRL-GN Zone.

- (1) Those uses listed as "Uses Allowed Without a Permit" within the General Development (D-GN) Subdistrict of the Commission's Land Use Districts and Standards, as may be amended from time to time.

b. Uses Allowed Without a Permit Subject to Standards

The following uses shall be allowed without a permit from the Commission within the D-FRL-GN Zone and subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions:

- (1) Those uses listed as "Uses Allowed Without a Permit Subject to Standards" within the General Development (D-GN) Subdistrict of the Commission's Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.21,C-FRL,3,b,(2) and (3).

- (2) Notwithstanding Section 10.21,C-FRL,3,b,(1), the following uses shall be allowed as “Uses Allowed Without a Permit Subject to Standards” in in the D-FRL-GN zones:
 - (a) Timber harvesting, in compliance with the requirements of Section 10.30-FRL, in any given development area within the D-FRL-GN Zone, if completed prior to submission of an application for a subdivision or other development approval in that development area.
- (3) Notwithstanding Section 10.21,C-FRL,3,b,(1), the following uses shall be prohibited in the D-FRL-GN zones:
 - (a) Hand-carry launches: All hand-carry launches; and
 - (b) Trailered ramps: All trailered ramps.

c. Uses Requiring a Permit

The following uses, and related accessory structures, may be allowed within the D-FRL-GN Zone upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions:

- (1) Those uses listed as “Uses Requiring a Permit” within the General Development (D-GN) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.21,C-FRL,3,c,(2) and (3) below.
- (2) Notwithstanding Section 10.21,C-FRL,3,c,(1), the following uses shall be allowed as “Uses Requiring a Permit” in the D-FRL-GN zones:
 - (a) Timber harvesting, in compliance with the requirements of Section 10.30-FRL, if conducted in any given development area within the D-FRL-GN Zone, if completed after submission of an application for a subdivision or other development approval in that development area;
 - (b) Multi-family Dwellings for Affordable Housing: In the CD-2 Development Area and in accordance with Section 10.28-FRL,C,2.
- (3) Notwithstanding Section 10.21,C-FRL,3,c,(1), the following uses shall be prohibited in the D-FRL-GN zones:
 - (a) Hand-carry launches: All hand-carry launches;
 - (b) Home-based businesses: Major home-based businesses;
 - (c) Recreational lodging facilities: All levels
 - (d) Residential: Single family dwellings, two-family dwellings, and multi-family dwellings, except in accordance with Section 10.21,C-FRL,3,d; and
 - (e) Trailered ramps: All trailered ramps.

d. Special Exceptions

The following uses, and related accessory structures, may be allowed within the D-FRL-GN Zone as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), and subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses within the development area with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Those uses listed as “Special Exceptions” within the General Development (D-GN) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.21,C-FRL,3,d,(2) and (3) below.
- (2) Notwithstanding Section 10.21,C-FRL,3,d,(1), the following uses shall be allowed as “Special Exception” in the D-FRL-GN zones:
 - (a) Commercial and industrial:
 - (i) Auto service stations or repair garages;
 - (ii) Light industrial uses and other commercial uses having a gross floor area of more than 2,500 square feet; and
 - (iii) Stores, commercial recreational uses not including recreational lodging facilities, and entertainment or eating establishments having a gross floor area of more than 2,500 square feet.
- (3) Notwithstanding Section 10.21,C-FRL,3,d,(1), the following uses shall be prohibited as “Special Exceptions” in the D-FRL-GN zones:
 - (a) Recreational lodging facilities: Level D (outside geographic allowance area).

e. Prohibited Uses

All uses not expressly allowed, with or without a permit or by special exception shall be prohibited in a D-FRL-GN Zone.

10.21,M-FRL RESIDENTIAL DEVELOPMENT ZONE (D-FRL-RS)

1. Purpose

The purpose of the D-FRL-RS Zone is to set aside certain areas for residential and other appropriate uses so as to provide for residential activities apart from areas of commercial development. The intention is to encourage the concentration of residential type development in and adjacent to existing residentially developed areas.

2. Description

The following development areas, as well as the camp lots and any other areas identified as D-FRL-RS, as delineated on the maps contained in Section 1,I of the Concept Plan, are located in the D-FRL-RS Zone:

- a. Long Lake A Development Area;
- b. Long Lake B Development Area;
- c. Long Lake C Development Area;
- d. Cross Lake A Development Area;
- e. Cross Lake B Development Area;
- f. Cross Lake C Development Area;
- g. Cross Lake D Development Area;
- h. Cross Lake E Development Area; and
- i. Square Lake East Development Area.

Except as authorized by Sections 1,D,3 and 10.08, no additional areas within the Plan Area shall be designated as D-FRL-RS Zones, or added to or removed from the D-FRL-RS Zones identified herein.

3. Land Uses**a. Uses Allowed Without a Permit**

The following uses shall be allowed without a permit from the Commission within the D-FRL-RS Zone.

- (1) Those uses listed as “Uses Allowed Without a Permit” within the Residential Development (D-RS) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.21,M-FRL,3,a,(2).
- (2) Notwithstanding Section 10.21,M-FRL,3,a,(1), the following uses shall be allowed without a permit:
 - (a) Docking structures: Temporary docking structures;

b. Uses Allowed Without a Permit Subject to Standards

The following uses shall be allowed without a permit from the Commission within the D-FRL-RS Zone and subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions:

- (1) Those uses listed as “Uses Allowed Without a Permit Subject to Standards” within the Residential Development (D-RS) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.21,M-FRL,3,b,(2) and (3).
- (2) Notwithstanding Section 10.21,M-FRL,3,b,(1), the following uses shall be allowed as “Uses Allowed Without a Permit Subject to Standards” in in the D-FRL-RS zones:
 - (a) Timber harvesting, in compliance with the requirements of Section 10.30-FRL, in any given development area within the D-FRL-RS Zone, if completed prior to submission of an application for a subdivision or other development approval in that development area.
- (3) Notwithstanding Section 10.21,M-FRL,3,b,(1), the following uses shall be prohibited in the D-FRL-RS zones:
 - (a) Hand-carry launches: All hand-carry launches which are not part of a water access site; and
 - (b) Trailered ramps: All trailered ramps which are not part of a water access site;

c. Uses Requiring a Permit

The following uses, and related accessory structures, may be allowed within the D-FRL-RS Zone upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions:

- (1) Those uses listed as “Uses Requiring a Permit” within the Residential Development (D-RS) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.21,M-FRL,3,c,(2) and (3) below.
- (2) Notwithstanding Section 10.21,M-FRL,3,c,(1), the following uses shall be allowed as “Uses Requiring a Permit” in the D-FRL-RS zones:
 - (a) Timber harvesting, in compliance with the requirements of Section 10.30-FRL, in any given development area within the D-FRL-RS Zone, if completed after submission of an application for a subdivision or other development approval in that development area; and
 - (b) Water access sites: Common and public water access sites in accordance with Section 10.27,L-FRL;

- (3) Notwithstanding Section 10.21,M-FRL,3,c,(1), the following uses shall be prohibited in the D-FRL-RS zones:
 - (a) Hand-carry launches: All hand-carry launches which are not part of a water access site; and
 - (b) Trailered ramps: All trailered ramps which are not part of a water access site.

d. Special Exceptions

The following uses, and related accessory structures, may be allowed within the D-FRL-RS Zone upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those uses within the vicinity or area likely to be affected by the proposal with which it is or may be incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Those uses listed as “Special Exceptions” within the Residential Development (D-RS) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.21,M-FRL,3,d,(2) and 3 below.
- (2) Notwithstanding Section 10.21,M-FRL,3,d,(1), the following uses shall be allowed as “Special Exception” in the D-FRL-RS zones:
 - (a) Docking structures: New or expanded permanent docking structures;
- (3) Notwithstanding Section 10.21,M-FRL,3,d,(1), the following uses shall be prohibited in the D-FRL-RS zones:
 - (a) Hand-carry launches: All hand-carry launches which are not part of a water access site; and
 - (b) Trailered ramps: All trailered ramps which are not part of a water access site.

e. Prohibited Uses

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in D-FRL-RS Zone.

e-1. Use of Water Access Sites

All new water access sites in the D-FRL-RS Zone shall be common, except for a trailered ramp in the Square Lake East Development Area, which will be public. Existing water access sites at Van Buren Cove and the Cross Lake Boat Launch shall be public, as described in Section 1,E,10 of the Concept Plan.

10.21,N-FRL SQUARE LAKE YERXAS ZONE (D-FRL-YX)

1. Purpose

The purpose of the D-FRL-YX Zone is to designate an area that can support a mixture of complementary uses that are compatible with the recreational nature of Square Lake and that support future residential development by creating a focal point for recreational and limited community services. This zone will allow uses of appropriate scale and require creative site planning for efficient use of the land. Because development has the potential to be built out over a longer period of time and will likely be reflective of market forces, a Schematic Design Plan will be approved by the Commission to guide development and help assure that the goals and policies of the Concept Plan are met.

2. Description

The Square Lake Yexas Development Area, as delineated on the maps contained in Section 1,I of the Concept Plan, is located in the D-FRL-YX Zone.

Except as authorized by Sections 1,D,3 and 10.08, no additional areas within the Plan Area shall be designated as D-FRL-YX Zone or added to or removed from the D-FRL-YX Zones identified herein.

3. Land Uses**a. Uses Allowed Without a Permit**

The following uses shall be allowed without a permit from the Commission within the D-FRL-YX Zone:

- (1) Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Forest management activities, except for timber harvesting;
- (3) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (4) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing, but not including hunting or trapping;
- (5) Surveying and other resource analysis;
- (6) Wildlife and fishery management practices.

b. Uses Allowed Without a Permit Subject to Standards**b1. Before approval of the Schematic Design Plan.**

The following uses shall be allowed without a permit from the Commission within the D-FRL-YX Zone before the Schematic Design Plan is approved pursuant to Section 10.34-FRL, subject to the applicable requirements set forth in Sub-Chapters III and IV.

- (1) Timber harvesting in compliance with the requirements of Section 10.30-FRL, in any given development area within the D-FRL-YX Zone, if completed prior to submission of an application for a subdivision or other development approval in that development area.

b2. After approval of the Schematic Design Plan.

The following uses shall be allowed without a permit from the Commission within the D-FRL-YX Zone, after the Schematic Design Plan is approved pursuant to Section 10.34-FRL, subject to the applicable requirements set forth in Sub-Chapters III and IV, and in the Schematic Design Plan:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
 - (a) The accessory structure is located in a subdistrict that allows the principal use; and
 - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (3) Docking structures: Temporary docking structures;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Home-based businesses: Minor home-based businesses;
- (7) Road projects: Level A road projects;
- (8) Service drops;
- (9) Signs;
- (10) Timber harvesting in compliance with the requirements of Section 10.30-FRL, in any given development area within the D-FRL-YX Zone, if completed prior to submission of an application for a subdivision or other development approval in that development area
- (11) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (12) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water;
- (13) Water access sites: Common and public water access sites in accordance with Section 10.27,L-FRL; and
- (14) Water crossings of minor flowing waters;

c. Uses Requiring a Permit

The following uses, and related accessory structures, shall be allowed with a permit from the Commission within the D-FRL-YX Zone, after the Schematic Design Plan is approved pursuant to Section 10.34-FRL, subject to the applicable requirements set forth in Sub-Chapters III and IV, and in the Schematic Design Plan:

- (1) Campsites, Residential;
- (2) Commercial Uses: Up to four commercial uses, each having not more than 2,500 square feet of gross floor area compatible with supporting recreational and residential uses in the area such as (but not limited to) the following, but excluding auto service stations or repair garages, laundry mats, and uses which may create a nuisance or unsafe or unhealthy conditions or are otherwise incompatible with recreational or residential uses:
 - (a) Businesses related to commercial recreation or real estate sales: such as guide services or real estate sales office;
 - (b) Facilities offering food or beverages prepared on the premises
 - (c) Retail stores and services, convenience store, limited retail fuel sales (not more than two fuel types with no more than one functioning dispenser per fuel type where each dispenser can serve no more than one vehicle, customer, or container simultaneously, except where the applicant can demonstrate that such a dispenser is not practicable);
- (3) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (4) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (5) Home-based businesses: Major home-based businesses;
- (6) Land management roads;
- (7) Recreation facilities: Public or private recreation facilities including, but not limited to, parks, playgrounds, and tennis courts;
- (8) Recreational lodging facilities:
 - (a) Level B;
 - (b) Level C;
 - (c) Level C – Expanded Access;
 - (d) Level D; and
 - (e) Level D – Expanded Access;
- (9) Residential: Single family dwellings, two-family dwellings, and multi-family dwellings, and in accordance with Section 10.28-FRL;
- (10) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,N-FRL,3,b; and
- (11) Shoreland alterations, including permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (12) Signs that are not in conformance with the standards of Section 10.27,J;
- (13) Subdivisions:
 - (a) Residential subdivisions: High- and moderate-density subdivisions; and

- (b) Commercial subdivisions: High- and moderate-density subdivisions, in accordance with Section 10.28-FRL;
- (14) Timber harvesting, in compliance with the requirements of Section 10.30-FRL, if conducted in any given development area within the D-FRL-YX Zone, if completed after submission of an application for a subdivision or other development approval in that development area;
- (15) Utility facilities compatible with residential uses, other than service drops, and wire and pipe line extensions which do not meet the definition of service drops;
- (16) Water access sites: Common and public water access sites in accordance with Section 10.27,L-FRL;
- (17) Water crossings of minor flowing waters that are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (18) Other structures, uses or, services that are essential to the uses listed in Section 10.21,N-FRL,3,a through c; and
- (19) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale, and intensity as other allowed uses.

d. Prohibited Uses

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in a D-FRL-YX Zone.

10.22,A-FRL GENERAL MANAGEMENT ZONE (M-FRL-GN)

1. Purpose

The purpose of the M-FRL-GN Zone is to permit forestry and agricultural management activities to occur with minimal interferences from unrelated development in areas where the Commission finds that the resource protection afforded by protection subdistricts is not required.

2. Description

The M-FRL-GN Zone is comprised of all areas within the P-RP subdistrict that are neither development zones (as delineated on the maps contained in Section 1,I of the Concept Plan), nor protection subdistricts (as delineated on the Commission's Official Land Use Guidance Maps).

No additional areas within the Plan Area shall be designated as M-FRL-GN Zones, or added to or removed from the M-FRL-GN Zone identified herein, except to make the M-FRL-GN Zone consistent with (a) any addition, subtraction, or other geographic modifications in protection subdistrict boundaries pursuant to Section 10.23, (b) for the purpose of establishing more accurate zone boundaries for any development zone pursuant to the provisions in Part 2, Sub-Chapter II of each such zone, or (c) as authorized in Section 1,D,3 and Section 10.08.

3. Land Uses**a. Uses Allowed Without a Permit**

The following uses shall be allowed without a permit from the Commission within the M-FRL-GN Zone.

- (1) Those uses listed as "Uses Allowed Without a Permit" within the General Management (M-GN) Subdistrict of the Commission's Land Use Districts and Standards, as may be amended from time to time.

b. Uses Allowed Without a Permit Subject to Standards

The following uses shall be allowed without a permit from the Commission within the M-FRL-GN Zone and subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions:

- (1) Those uses listed as "Uses Allowed Without a Permit Subject to Standards" within the General Management (M-GN) Subdistrict of the Commission's Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.22,A-FRL,3,b,(2) and (3).
- (2) Notwithstanding Section 10.22,A-FRL,3,b,(1), the following uses shall be allowed as "Uses Allowed Without a Permit Subject to Standards" in the M-FRL-GN zones:
 - (a) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
 - (b) Mineral extraction operations, less than 5 acres in size, except for gravel extraction less than 5 acres in size;
 - (c) Remote campsites in compliance with Section 10.28,B-FRL,2,I; and

- (d) Water access sites: Parking areas, roads, signs, and similar facilities associated with any water access site in accordance with Section 10.27,L-FRL;
- (3) Notwithstanding Section 10.22,A-FRL,3,b,(1), the following uses shall be prohibited in the M-FRL-GN zones:
 - (a) Campsites;
 - (b) Hand-carry launches: All hand-carry launches which are not part of a water access site; and
 - (c) Home-based businesses: Minor home-based businesses;

c. Uses Requiring a Permit

The following uses, and related accessory structures, may be allowed within the M-FRL-GN Zone upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions:

- (1) Those uses listed as “Uses Requiring a Permit” within the General Management (M-GN) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.22,A-FRL,3,c,(2) and (3) below.
- (2) Notwithstanding Section 10.22,A-FRL,3,c,(1), the following uses shall be allowed as “Uses Requiring a Permit” in the M-FRL-GN zones:
 - (a) Remote rental cabins, in accordance with Section 10.28,B-FRL,2,l;
- (3) Notwithstanding Section 10.22,A-FRL,3,c,(1), the following uses shall be prohibited in the M-FRL-GN zones:
 - (a) Campsites, Residential;
 - (b) Hand-carry launches: All hand-carry launches which are not part of a water access site;
 - (c) Home-based businesses: Major home-based businesses;
 - (d) Recreational lodging facilities: All levels;
 - (e) Residential: Single and two-family dwellings;
 - (f) Solid waste disposal facilities;
 - (g) Subdivisions; and
 - (h) Trailered ramps: All trailered ramps which are not part of a water access site.

d. Special Exceptions

The following uses, and related accessory structures, may be allowed within M-FRL-GN Zone as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), and subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions, provided the applicant also shows by substantial evidence that such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Those uses listed as “Special Exceptions” within the General Management (M-GN) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time, except as provided in Section 10.22,A-FRL,3,d,(2) and (3) below.
- (2) Notwithstanding Section 10.22,A-FRL,3,d,(1), the following uses shall be allowed as “Special Exception” in the M-FRL-GN zones:
 - (a) Subdivisions: Maple Sugar Processing Subdivisions (in accordance with Section 10.28-FRL);
- (3) Notwithstanding Section 10.22,A-FRL,3,d,(1), the following uses shall be prohibited as “Special Exceptions” in the M-FRL-GN zones:
 - (a) Recreational lodging facilities:
 - (i) Level C (occupancy may exceed the standard in Section 10.27,Q,1, Table A up to the Expanded Access occupancy limit, provided that the majority of occupancy is accommodated at campsites);
 - (ii) Level C – Expanded Access (inside the geographic allowance area); and
 - (iii) Level D – Expanded Access (inside the geographic allowance area).

e. Uses Regulated by the Maine Forest Service

Pursuant to statute, the following uses are not regulated by the Commission within M-FRL-GN Zone but are regulated by the Maine Forest Service.

- (1) Those uses listed as “Uses Regulated by the Maine Forest Service” within the General Management (M-GN) Subdistrict of the Commission’s Land Use Districts and Standards, as may be amended from time to time.

f. Prohibited Uses

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in M-FRL-GN Zone.

10.23-A-FRL PROTECTION SUBDISTRICT CLARIFICATIONS

1. Applicability

Except as specifically set forth below, the purposes, descriptions (including locations and configurations), land uses, and other terms and conditions of all protection subdistricts established pursuant to the Commission's *Land Use Districts and Standards* (Chapter 10, Section 10.23), as may be amended from time to time, float and are subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions. Except as specified below, this Addendum neither replaces nor supplements the provisions of Section 10.23.

a. Protection Subdistrict Boundaries

- (1) For all protection subdistricts established as of the effective date, the boundaries of which are either located partially or wholly within the boundaries of development areas depicted on the maps in Section 1,I of this Concept Plan, or adjoin any of these development areas, said boundaries shall not be amended in any manner that causes a reduction in acreage within any development area; and
- (2) Except as authorized by Sections 1,D,3 and 10.08, no new protection subdistricts shall be added to the Concept Plan Area that cause a reduction in acreage within any development area.

b. Land Uses

The following uses, and related accessory structures, may be allowed within any Protection Subdistrict (Section 10.23) and subject to the terms, conditions, and provisions of this Concept Plan, including all applicable requirements of the LUPC Amendable Provisions:

- (1) Those uses listed as "Uses Allowed Without a Permit", "Uses Allowed Without a Permit Subject to Standards", "Uses Requiring a Permit", or "Special Exceptions" may be allowed within the applicable Protection Subdistrict (Section 10.23) of the Commission's *Land Use Districts and Standards*, as may be amended from time to time, except as provided in Section 10.23-A-FRL,1,b,(2) through (5).
- (2) Notwithstanding Section 10.23-A-FRL,1,b,(1), the following uses shall be allowed as "Uses Requiring a Permit" in the P-FP, P-GP, P-SL, and P-WL Subdistricts:
 - (a) Hand-carry launches: Hand-carry launches as part of a public or remote water access site;
 - (b) Trailered ramps: Trailered ramps as part of a public or remote water access site;
 - (c) Water access sites: Water access sites in accordance with Section 10.27,L-FRL; and
 - (d) Docking structures: Temporary docking structures;
- (3) Notwithstanding Section 10.23-A-FRL,1,b,(1), the following uses shall be allowed as "Uses Requiring a Permit" in the P-GP and P-SL Subdistricts:
 - (a) Remote campsites, in accordance with Section 10.28-FRL,B,2,I; and

- (b) Remote rental cabins, in accordance with Section 10.28-FRL,B,2,I;
- (4) Notwithstanding Section 10.23-A-FRL,1,b,(1), the following uses shall be prohibited in all Protection Subdistricts (Section 10.23):
- (a) Hand-carry launches: All hand-carry launches which are not part of a water access site;
 - (b) Residential dwellings and uses;
 - (c) Subdivisions; and
 - (d) Trailered ramps: All trailered ramps which are not part of a water access site.
- (5) Other Changes:
- Any amendments to the protection subdistricts that are located within the boundaries of development areas that have the effect of prohibiting the construction of roads, trails, water crossings, water access sites, or other structures, which would otherwise be allowed within those protection subdistricts as of the effective date, shall not apply.

2. Development Standards

a. Stricter Standard Applies

Notwithstanding the foregoing, in conducting its review of any subdivision, or other development permit application submitted pursuant to this Concept Plan, the Commission has the full legal authority to apply all of the standards contained in natural resources laws and regulations in effect at the time of the filing of a complete permit application (hereinafter “current law”) regardless of whether the current law is stricter than what exists as of the effective date.

b. Resource Inventory and Assessment

In addition to all other submissions required in the Commission’s subdivision or other development permit application, all subdivision or other development permit applications shall include natural resources inventory maps that accurately depict to the satisfaction of the Commission all protected natural resources and resulting protection areas within the proposed development site, based upon natural resources laws and regulations in effect at the time of application and regardless of whether said protected natural resources are located within or outside of the protection subdistricts that are wholly or partially located within the proposed subdivision or development site.

**ADDENDUM TO THE COMMISSION'S
LAND USE DISTRICTS AND STANDARDS (CHAPTER 10)**

SUB-CHAPTER III: LAND USE STANDARDS

10.25,E-FRL SUPPLEMENTAL HILLSIDE STANDARDS

[The following shall apply in addition to the standards of Section 10.25,E in effect at the time. If hillside standards are included in Section 10.25,E in effect at the time, these standards will control.]

1. HILLSIDE RESOURCES.**a. Timber Harvesting on Hillsides in Development Areas.**

Timber harvesting on hillsides within the Long Lake A, Long Lake B, Long Lake C, Cross Lake D, Cross Lake E, Square Lake Yexas, and Square Lake East Development Areas that is visible from any lake or other public viewpoint is limited to selection harvesting only. This provision applies in such areas in addition to the provisions of Section 10.30-FRL.

b. Development on Hillsides.

Development on hillsides visible from a public viewpoint or waterbody shall meet the following standards to minimize unreasonable visual impacts on waterbodies and other public viewpoints.

- (1) Developments must be designed to fit harmoniously into the visual environment when viewed by the public from lakes and other public viewpoints. Planned limits of site clearing shall account for defensible space for fire safety purposes and also for retention of screening vegetation to minimize views of the development.
- (2) As part of an application for a new residential subdivision that may be visible from a lake or other public viewpoint, the applicant shall submit design standards for new construction to ensure that new housing units, garages, roads, lighting, and other components of the development will not have an unreasonable visual impact on scenic resources.
- (3) Subdivision planning shall include professionals who are trained and have experience in the application of principles of visual quality management and hillside development. As part of the planning process, the applicant shall identify areas with high and moderate visual sensitivity (both on and off the site) and take appropriate measures to avoid unreasonable visual impacts wherever necessary.
- (4) Alterations to existing contours for roads, driveways, utilities, homes, and non-residential structures shall be kept to a minimum by using design and construction techniques that are appropriate to the natural topography of the site.
- (5) The development shall be designed to ensure buildings, structures, and other improvements will not extend above the existing ridgeline or alter the forested ridge profile significantly when viewed from lakes and other public viewpoints.
- (6) The design standards to be provided by the developer shall include measures to address visual impacts from color, form, line, and texture. In each case, the developer should explore a range of options to determine what is most effective and appropriate for each

particular situation. Suitable techniques to minimize adverse visual impacts may include, but are not limited to, some or all of the following:

- (a) The use of colors and materials for siding, roofing, trim, chimneys, gutters and downspouts, retaining walls, foundations, fencing, and other building components that minimize color contrasts with the surrounding landscape;
 - (b) The use of shielded lighting used for roadways, community amenities, and residential structures/areas to prevent glare and off-site visibility (*e.g.*, the use of shields may effectively block visibility of light sources);
 - (c) Limiting the amount of windows and other reflective surfaces that may be visible from lakes or other public viewpoints;
 - (d) Minimizing the visual impact of cleared openings for building sites, septic systems, roads, driveways, utilities, or community uses from public vantage points (*e.g.*, maintaining a vegetative buffer of a sufficient height, density, and composition to make the cleared opening visually indistinct);
 - (e) Limiting clearing for views to minimize potential visual impacts from lakes and other public viewpoints (*e.g.*, narrow view openings between trees and beneath tree canopies downslope from development sites may be more effective than removal of mature trees);
 - (f) Building design that complements the site and topography (*e.g.*, avoiding long unbroken roof lines; orienting buildings so the longest axis is parallel to the natural contours; stepping the building down the slope rather than creating building pads requiring extensive excavation and slope filling);
 - (g) Preservation/maintenance of existing vegetation, where practicable, in areas necessary to help screen hillside development from lakes and other public viewpoints;
 - (h) Avoidance of steep slopes (*i.e.*, two or more contiguous acres with slopes of 20% or greater) and locating development in areas where sustained slopes are less than 15%; and not allowing development on slopes in excess of 25%; and
 - (i) Siting homes to avoid extensive areas of steep slopes immediately below the homesite where clearing may expose significant portions of the building.
- (7) Any permit approving an application for new residential subdivisions on hillsides will require as a condition of approval that a qualified third-party inspector review the development as built for compliance with these hillside development standards, unless an applicant can demonstrate that the development will not be visible from any lake or other public viewpoints. Inspections shall be completed every two years and the results reported to the homeowners association and the Commission. Examples of qualified third-party inspectors include engineers, landscape architects, foresters, surveyors, and similarly trained professionals. The cost of the inspection and report shall be paid for by the homeowners association.

10.25,F-FRL SUPPLEMENTAL NOISE AND LIGHTING STANDARDS

[The following shall apply in addition to the standards of Section 10.25,F in effect at the time.]

1. Noise.

- a. The sound pressure levels for the D-FRL-CI, D-FRL-GN, and all other zones shall be the same as specified for the D-CI, D-GN, and all other subdistricts, respectively. The sound pressure levels for the D-FRL-YX shall be the same as specified for the D-GN subdistrict.
- b. The following activities are exempt from the requirements of Section 10.25,F-FRL,1,a:
 - (1) Sounds emanating from snowmobiles, ATVs, and similar recreation vehicles;
 - (2) Sounds emanating from event-related activities such as outdoor concerts, fireworks displays, entertainment events, weddings, and similar functions and events;
 - (3) Sounds emanating from forestry and forestry-related activities conducted between 7:00 A.M. and 7:00 P.M.; and
 - (4) Sounds emanating from forestry and forestry-related activities up to 60 dB(A) between 7:01 P.M. and 6:59 A.M.

2. Lighting standards for exterior light levels, glare reduction, and energy conservation.

- a. In addition to all other requirements, exterior lighting for residential uses shall comply with the following standards:
 - (1) all light features shall be hooded and angled at least 45 degrees toward the ground;
 - (2) no light source may escape from above the horizontal plane of the fixture, and no light source (*e.g.*, bulbs) may be visible from outside the hood;
 - (3) flood lights shall be hooded, have motion-detecting activation features so they are normally in the off position, and may illuminate functional areas only (*e.g.*, garage doors, storage areas, walks, and drives);
 - (4) no light fixtures may be located above any eave line or parapet wall, or more than 21 feet above the ground; and
 - (5) no landscaping lighting, continuously illuminated floodlights, continuously illuminated bulbs stronger than 75 watts (incandescent or equivalent), or exposed bulbs may be used on any lot.
- b. Lighting that was lawfully in place on the effective date is exempt from the provisions of Section 10.25,F-FRL,2,a.

10.25,L-FRL PHOSPHORUS CONTROL

[The standards within Section 10.25,L in effect at the time apply, except that Section 10.32-FRL governs phosphorus allocations.]

10.25,Q-FRL SUPPLEMENTAL SUBDIVISION STANDARDS

[The standards within Section 10.25,Q,1 are replaced by Section 10.28-FRL. The standards within Section 10.25,Q,2 through the end in effect at the time apply, and are supplemented by the following standards.]

1. Access to Subdivisions.

As part of any subdivision review, the applicant must demonstrate that roads will provide adequate access for emergency services, as appropriate given the character of the specific development area. The analysis will include access roads from the subdivision out to an existing public roadway, even if this extends beyond the boundaries of the subdivision being proposed. The level of such service shall be appropriate to the setting, and thus may vary throughout the Plan Area.

2. Subdivision Buffers.

Where residential development areas in the D-FRL-RS zone are adjacent to lands in the M-FRL-GN zone, subdivisions shall be designed to provide the opportunity to incorporate sufficient buffers to provide visual separation and some sound attenuation from future forest management operations that may occur on the abutting land. The subdivision plan shall demonstrate that a sufficient buffer is being provided for the subdivision overall (*e.g.*, incorporating buffers into open space or requiring vegetated buffers) or that individual building lots have suitable vegetation and area to allow homeowners the opportunity to preserve a sufficient buffer to provide separation between homes and potential forest management activities.

3. ATV/Snowmobile Trails.

Where development areas are reasonably proximate to existing dedicated ATV or snowmobile trails, the subdivision plan shall consider the location of such trails and either incorporate them into the overall layout, with accommodations, as appropriate, for buffers, privacy, and acoustical separation from any potentially incompatible uses in the subdivision, or make reasonable efforts to work with Petitioner to offer a comparable trail outside of the development area.

4. Inspections.

Certain areas are subject to independent third-party inspections to determine compliance with standards regarding hillside resources referenced in Section 10.25,E-FRL and regarding phosphorus control referenced in Section 10.32-FRL.

5. Residential Open Space.

The residential open space areas in Long Lake B and between Cross Lake D and Cross Lake E, as identified on Maps 3 and 6, are not subject to the requirements of Section 10.25,S, with the exception of Sections 10.25,S,3 and 4.

10.26-FRL DIMENSIONAL REQUIREMENTS

The following dimensional requirements apply to all lots on which structural development is proposed unless otherwise provided by Sections 10.26,G and 10.26-FRL,G-1.

A. MINIMUM LOT SIZE

1. Residential Uses and Residential Campsites.

The minimum lot size for residential uses is 40,000 square feet per dwelling unit or residential campsite except where each dwelling unit is to use a common or community sewer and not on-site subsurface waste water disposal, the minimum lot size shall be 20,000 square feet per dwelling unit.

2. Commercial, industrial, and other non-residential uses.

The minimum lot size for commercial, industrial, and other non-residential uses involving one or more buildings is 40,000 square feet, except as provided in Sections 10.26-FRL,A,3 and 4.

3. Campsites.

There shall be no minimum lot size requirement for lots developed only with a campsite or remote campsite.

4. Water Access Sites.

The minimum lot size for a water access site is 20,000 square feet, except for water access sites serving more than 20 boats and public trailered ramps, which shall have a minimum lot size of 40,000 square feet.

B. MINIMUM SHORELINE FRONTAGE

1. For lots fronting on a flowing water draining more than 2 square miles but less than 50 square miles, a body of standing water less than 10 acres in size, or a coastal wetland, the minimum shoreline frontage shall be:
 - a. 150 feet per dwelling unit for residential uses;
 - b. 200 feet for commercial, industrial, and other non-residential uses involving one or more buildings;
 - c. 150 feet for a lot that only contains a residential campsite;
 - d. 100 feet for a lot that contains a hand carry launch;
 - e. 200 feet for a lot that contains a trailered ramp; and
 - f. 100 feet per dock for a site that contains a docking structure.
2. For lots fronting on a flowing water draining 50 square miles or more or a body of standing water 10 acres or greater in size, the minimum shoreline frontage shall be:
 - a. 150 feet per dwelling unit for residential uses;
 - b. 300 feet for commercial, industrial, and other non-residential uses involving one or more buildings;
 - c. 150 feet for a lot that only contains a residential campsite;
 - d. 100 feet for a lot that contains a hand carry launch;
 - e. 200 feet for a lot that contains a trailered ramp; and
 - f. 100 feet per dock for a site that contains a docking structure.
3. In the case of a lot which borders more than one water body, the shoreline frontage requirement must be met on each water body bordered by the lot.
4. Frontage shall be measured in a straight line between the points of intersection of side lot lines with the normal high water mark of the shoreline.
5. The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high water mark of a water body shall be equal to or greater than the applicable minimum shoreline frontage requirement.
6. The Commission may reduce the shoreline frontage to no less than 75 feet at sites with either a hand carry launch or a docking structure if the applicant demonstrates there will be no undue adverse impact to surrounding uses.
7. There shall be no minimum shore frontage requirement for lots developed only with a campsite or remote campsite.

C. MINIMUM ROADWAY FRONTAGE

1. Except as provided for in Section 10.26-FRL,C,6 below, the minimum roadway frontage shall be:
 - a. 100 feet per dwelling unit for residential uses;
 - b. 200 feet for commercial, industrial, and other non-residential uses involving one or more buildings;
 - c. 100 feet for a lot that only contains a residential campsite;
 - d. 100 feet for a lot that contains a hand carry launch;
 - e. 200 feet for a lot that contains a trailered ramp; and
 - f. 100 feet per dock for a site that contains a docking structure.
2. These requirements apply to any privately or publicly owned roadway that is used for public access, including roadways used by the public for which a toll is paid.
3. Where the lot is located at the end of a roadway or on a circular turnaround with an outside diameter of less than 25 feet, the roadway frontage requirements shall not apply.
4. Frontage shall be measured along the traveled portion of the roadway between the points of intersection of side lot lines with the traveled portion of the roadway.
5. In the case of a lot which borders more than one road, the roadway frontage requirement must be met on at least one roadway bordered by the lot.
6. There shall be no minimum roadway frontage requirement for lots developed only with a campsite or remote campsite or for lots developed with a remote rental cabin that do not front on a roadway.

D. MINIMUM SETBACKS

1. Setbacks shall be applied in the following manner:
 - a. Roadway setbacks apply to any privately or publicly owned roadway that is used for common or public access, including roadways used by the public for which a toll is paid, and shall be measured from the travelled portion of the roadway.
 - b. Shoreline setbacks shall be measured from the normal high water mark of the nearest shoreline of the applicable flowing water or body of standing water, and from the upland edge of non-forested wetlands located in P-WL1 subdistrict.
 - c. For the purposes of side property line setback requirements, side property lines shall be interpreted as extending into the water body or flowing water perpendicular from the points of intersection of the side property lines with the shoreline to 200 feet from the shoreline or not more than one-quarter the width of the navigable channel, whichever is less.
2. **Single-Family Residential Uses.**

The minimum setbacks for single-family residential structures are:

 - a. Shoreline setbacks:
 - (1) 75 feet from a flowing water draining less than 50 square miles, a body of standing water less than 10 acres in size, or a coastal wetland, and from the upland edge of non-forested wetlands located in P-WL1 subdistricts;
 - (2) 100 feet from a flowing water draining 50 square miles or more and of a body of standing water 10 acres or greater in size;
 - b. Roadway setbacks:
 - (1) 30 feet from roadways within the D-FRL-RS, D-FRL-GN, and D-FRL-YX zones;
 - (2) 50 feet from all other roadways;
 - c. Side and rear property line setbacks shall be 15 feet.

These setbacks also apply to all parking areas associated with single-family residential uses, those structures within a recreational lodging facility constructed solely for the housing of guests, remote rental cabins, and residential campsites.

3. **Multi-Family Residential, Commercial, Industrial, and Other Non-Residential Structures and Uses.**

The minimum setbacks for multi-family dwellings and commercial, industrial, and other non-residential principal and accessory structures, other than those described in Section 10.26-FRL,D,4 through 7, and except as provided in Section 10.27,Q, are:

a. Shoreline setbacks:

- (1) 100 feet from a flowing water draining less than 50 square miles, a body of standing water less than 10 acres in size, or a coastal wetland, and from the upland edge of non-forested wetlands located in P-WL1 subdistricts;
- (2) 150 feet from a flowing water draining 50 square miles or more and a body of standing water 10 acres or greater in size;

b. Roadway setbacks:

- (1) 30 feet from all roadways in D-FRL-RS, D-FRL-GN, and D-FRL-YX zones;
- (2) 75 feet from all other roadways;

c. Side and rear property line setbacks:

- (1) 25 feet for all structures and parking areas.

Except as provided for in Sections 10.26-FRL,D,2, and 4 through 7, these setbacks also apply to all parking areas associated with multi-family dwellings and commercial, industrial, and other non-residential uses, and all other structures within a recreational lodging facility, including, but not limited to, a main lodge, dining area, workshop, and parking area.

4. **Campsites.**

Notwithstanding Section 10.26-FRL,D,3, the minimum setbacks for the area designed for camping, including cleared or graded areas, fire rings, tables, and related construction, are:

a. Shoreline setbacks are 75 feet from a flowing water, body of standing water, and from the upland edge of non-forested wetlands located in P-WL1 subdistrict;

b. Roadway setbacks:

- (1) 30 feet from roadways in D-FRL-RS, D-FRL-GN, and D-FRL-YX zones, and 50 feet from roadways in all other zones,
- (2) Notwithstanding the above, the area designed for camping must be set back at least 10 feet from roadways internal to a campground, and campsite parking areas may be located adjacent to such roadways, except that the Commission may require a greater setback where necessary due to site conditions in order to protect public safety.

c. Side and rear property line setbacks are 25 feet.

5. Remote Campsites.

Notwithstanding Section 10.26-FRL,D,3, the minimum setbacks for remote campsites are:

- a. Shoreline setbacks are 25 feet, except that the Commission may require a greater setback from shorelines where necessary due to site conditions in order to avoid accelerated soil erosion or sedimentation of surface waters;
- b. Roadway setbacks are 50 feet; and
- c. Side and rear property line setbacks are 25 feet.

6. Common Water Access Sites.

Notwithstanding Section 10.26-FRL,D,3, the minimum setbacks for common water access sites are:

- a. Shoreline setbacks from a flowing water, body of standing water, and from the upland edge of non-forested wetlands located in P-WL1 subdistrict:
 - (1) 50 feet for canoe racks and gear storage;
 - (2) 75 feet for parking areas; and
 - (3) 100 feet for all other structures.
- b. Roadway setbacks:
 - (1) 50 feet for all structures; and
 - (2) 20 feet for parking areas.
- c. Side and rear property lines setbacks shall be 20 feet for all structures, parking areas, ramps, launches, and docking structures;

7. Public Water and Remote Water Access Sites.

Notwithstanding Section 10.26-FRL,D,3, the minimum setbacks for public and remote water access sites are:

- a. Shoreline setbacks:
 - (1) 100 feet for all structures and parking areas from a flowing water draining less than 50 square miles and a body of standing water less than 10 acres in size; and
 - (2) 150 feet for all structures and parking areas from a flowing water draining 50 square miles or more, a body of standing water 10 acres or more in size, or a coastal wetland, or from the upland edge of non-forested wetlands located in P-WL1 subdistricts.
- b. Roadway setbacks:
 - (1) 30 feet from roadways in D-FRL-RS, D-FRL-GN, and D-FRL-YX zones; and
 - (2) 75 feet from roadways in all other zones.
- c. Side and rear property line setbacks shall be 25 feet for all structures, parking areas, ramps, launches, and docking structures.

8. **Farm Stands and Recreation Supply Businesses without Structures.** All components of farm stands and all components of recreation supply businesses without structures, including all activity, storage, and parking areas associated with such stands and businesses, shall be set back at least 30 feet from the traveled portion of all roadways, provided such will not result in unsafe conditions. Farm stands and recreation supply businesses without structures must meet setbacks for commercial facilities as specified in Sections 10.26-FRL,D,3,a and c. Pursuant to Section 10.27,B-FRL, all vegetation clearing standards apply to development of a farm stand or recreation supply business without structures.

E. MAXIMUM LOT COVERAGE

1. Except as provided in Sections 10.26-FRL,E,3 and 4 below, the maximum lot coverage shall be 30% for all uses involving one or more buildings.
2. "Coverage" shall be calculated by determining the percentage of lot area covered by all impervious surfaces, which include but are not limited to, buildings, driveways, sidewalks, and parking lots.
3. For lots in a D-FRL-CI Zone that are not within 250 feet of a major flowing water or a body of standing water 10 acres or greater in size, the maximum lot coverage shall be 50% for all uses involving one or more buildings.
4. In addition to the maximum lot coverage standard, structures in the CD-1 development area shall have a footprint on any lot no greater than 4,000 square feet for any portion of the structure located within 250 feet of the traveled portion of Route 162.

F. MAXIMUM STRUCTURE HEIGHT

1. Except as provided for in Sections 10.26-FRL,F,2 through 4 below, the maximum structure height shall be:
 - a. 35 feet for residential uses, campsites, and residential campsites; and
 - b. 60 feet for commercial, industrial, and other non-residential uses involving one or more structures.
2. Structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater or coastal wetland shall be no higher than 35 feet. The Commission may apply this provision at greater distances from the normal high water mark of bodies of standing water having significant or outstanding scenic values where there is the likelihood that such structures would have an adverse impact on scenic values. Bodies of standing water having such scenic values are shown in Chapter 10 Appendix C.
3. Features of structures which contain no floor area such as chimneys, towers, ventilators and spires, and freestanding towers and turbines may exceed these maximum heights with the Commission's approval.
4. In the CD-1, CD-2, CD-3, and CD-4 development areas, the maximum structure height for commercial, industrial, and non-residential uses shall be 35 feet for any portion of a structure within 250 feet of the travelled portion of Routes 161 or 162.

10.26-FRL,G-1. SUPPLEMENTAL EXCEPTIONS TO DIMENSIONAL REQUIREMENTS

[The following shall apply in addition to the standards of Section 10.26,G in effect at the time. If conflicting exceptions are included in Section 10.26,G in effect at the time, these standards will control.]

1. For lots improved with public recreational facilities other than water access sites the minimum lot size is 20,000 square feet, the minimum shoreline frontage is 100 feet, and the minimum roadway frontage is 100 feet, provided:
 - a. the abutting land is subject, in perpetuity, to legally binding provisions that prohibit incompatible land uses in locations that would be adversely affected by the public recreational facility, and
 - b. the public recreational facility is otherwise sufficiently sized to fulfill the use for which it is designed.

Except as provided here, the dimensional requirements contained in Section 10.26-FRL,A through F apply to lots improved with public recreational facilities. For purposes of this section, public recreational facilities are trailheads and associated facilities that are owned, leased, or operated by a public entity and made available with or without a fee.

10.27,B-FRL VEGETATION CLEARING

Vegetation clearing activities not in conformance with the standards of Section 10.27,B-FRL may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of Section 10.27,B-FRL, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements shall apply to vegetation clearing activities for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, and agricultural management:

1. A vegetative buffer strip shall be retained within:
 - a. 50 feet of the right-of-way or similar boundary of any public roadway, except as provided for in Section 10.27,B-FRL,1,b, below;
 - b. 15 feet of the right-of-way or similar boundary of any public roadway in D-FRL-RS, D-FRL-GN, and D-FRL-YX zones;
 - c. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any coastal wetland or flowing water draining less than 50 square miles; and
 - d. 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.
2. Within this buffer strip, vegetation shall be maintained as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.
 - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other natural vegetation is maintained.

For the purposes of this section a “well-distributed stand of trees” adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 24 or more in a 25-foot by 50-foot rectangular area as determined by the following rating system.

Near other water bodies, tributary streams and public roadways a “well-distributed stand of trees” shall be defined as maintaining a rating score of 16 or more per 25-foot by 50-foot (1,250 square feet) rectangular area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2.0 to < 4.0	1
4.0 to < 8.0	2
8.0 to < 12.0	4
12.0 +	8

Table 10.27,B-FRL-1. Rating system for a well-distributed stand of trees.

The following shall govern in applying this rating system:

- (1) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot shall be adjacent to but not overlap a previous plot;
- (3) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and
- (5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section, “other natural vegetation” is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches in diameter at 4.5 feet above ground level for each 25-foot by 50-foot rectangular area. If five saplings do not exist, the landowner or lessee may not remove any woody stems less than two inches in diameter until five saplings have been recruited into the plot. In addition, the soil shall not be disturbed, except to provide for a footpath or other permitted use.

- c. In addition to Section 10.27,B-FRL,2,b above, no more than 40% of the total basal area of trees 4.0 inches or more in diameter, measured at 4.5 feet above ground level, may be removed in any ten-year period.
 - d. Pruning of live tree branches is prohibited, except on the bottom one-third of the tree provided that tree vitality will not be adversely affected.
 - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 square feet, these openings shall be established with native tree species.
3. At distances greater than 100 feet, horizontal distance, from the normal high water mark of a body of standing water greater than 10 acres, no more than 40% of the total basal area of trees four inches or more in diameter, measured at 4.5 feet above ground level, may be removed in any ten-year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all bodies of standing water greater than ten acres, and to the full depth of the P-AL zone. This requirement does not apply to the development of uses allowed by permit.

4. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.
5. When revegetation is required: (i) in response to violations of the vegetation standards set forth in Section 10.27,B-FRL,1 through 4; (ii) to address the removal of non-native invasive species of vegetation; (iii) as a mechanism to allow for development by permit that exceeds the vegetation standards of Section 10.27,B-FRL or the cleared opening standards of Section 10.27,Q,1,Table A,(4), including removal of vegetation in conjunction with a shoreline stabilization project; or (iv) as part of a mitigation plan for clearing associated with a recreational lodging facility, the revegetation must comply with the following requirements.
 - a. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional (examples include: arborist, forester, landscape architect, U.S.D.A. Natural Resources Conservation Service), that describes revegetation activities and maintenance. The plan must include a scaled site plan depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
 - b. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed. When part of a mitigation plan, revegetation must occur along the same segment of shoreline, road, or other resource affected by proposed uses or development, and at a density and configuration comparable to other naturally occurring forests on the site or in the vicinity.
 - c. Revegetation activities must meet the following requirements for trees and saplings:
 - (1) All trees and saplings removed must be replaced with native noninvasive species;
 - (2) Replacement vegetation must at a minimum consist of saplings;
 - (3) If more than three trees or saplings are planted, then at least three different species shall be used;
 - (4) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (5) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (6) A survival rate of at least 80% of planted trees or saplings is required for a minimum five years period from the time of planting. Replanting of trees or saplings that did not survive does not trigger a new five-year period.

- d.** Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three feet in height:
- (1) All woody vegetation and vegetation under three feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three feet in height as applicable;
 - (2) Woody vegetation and vegetation under three feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (3) If more than three woody vegetation plants are to be planted, then at least three different species shall be planted;
 - (4) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (5) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five years from the time of planting. Replanting of trees or saplings that did not survive does not trigger a new five-year period.
- e.** Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (1) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (2) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four inch depth of leaf mulch or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (3) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within Section 10.27,B-FRL for a minimum of five years from the time of planting.
- f.** The applicant may propose, and the Commission may approve or require, variations from the standards in Section 10.27,B-FRL,5,c through e if necessary to achieve effective buffering. The Commission may exempt an individual, whether an applicant or violator, from the requirement that the revegetation plan be prepared by a qualified professional in accordance with Section 10.27,B-FRL,5,a, when the proposed revegetation is routine and would not affect a particularly sensitive resource.

10.27,L-FRL WATER ACCESS SITES

1. Limitations on Number of Water Access Sites.

- a. Common Water Access Sites.** The number of common water access sites within the Plan Area developed after the effective date to serve the development areas shall be limited as follows:

Location	Number of Water Access Sites
Cross Lake A	1
Cross Lake B	1
Cross Lake C	1
Cross Lake D	1
Cross Lake E	2
Long Lake A	2
Long Lake B	1
Square Lake East	1
Square Lake Yexas	1

Table 10.27,L-FRL-1. Limitations to the number of new water access sites to serve development areas.

Each common water access site may include: a hand-carry launch; mooring structures; permanent on-shore structures to secure docks and moorings; facilities for temporary storage of canoes, kayaks, and other small boats; picnic shelter; bulletin boards; pathways; restroom facilities; storage sheds; and similar small-scale accessory structures.

- b. Remote Water Access Sites.** The number of remote water access sites within the Plan Area developed after the effective date to serve other locations shall be limited as follows to one each at:

- (1) Carry Pond;
- (2) Dickey Pond; and
- (3) Little California Pond.

Each remote water access site may include: a hand-carry launch; permanent on-shore structures to secure docks; bulletin boards; pathways; restroom facilities; and parking areas.

- c. Public Water Access Sites.** The number of public water access sites within the Plan Area shall be limited to one each at:

- (1) Long Lake: Van Buren Cove Beach;
- (2) Cross Lake: Cross Lake Boat Launch and Picnic Area; and
- (3) Square Lake: Square Lake East or Square Lake Yexas.

Each public water access site may include: a hand-carry launch; trailered ramp; moorings; permanent on-shore structures to secure docks and moorings; bulletin boards; pathways; restroom facilities; and parking areas.

2. Standards for Water Access Sites.

Unless otherwise indicated, all water access sites must meet the following requirements. In addition, where a permit is required, the proposal must meet the general Criteria for Approval, Section 10.24, and the Criteria for Wetland Alterations, Section 10.25,P.

- a. **Minimize Shoreline Disturbance.** Water access sites must be sited and designed to minimize, to the greatest extent practicable, the amount of shoreline used and to limit clearing along the shoreline.
- b. **Maintenance.** Every application for a permit, or permit by special exception, for a water access site must contain a description of the procedures the applicant will follow to maintain the facility on an ongoing basis to minimize erosion, sedimentation, and transport of phosphorus into the water body.
- c. **Erosion.** Eroded soil or fill material from disturbed areas must be prevented from entering a water body. Properly installed erosion control measures, such as staked hay bales and silt fence, must be in place before construction of the water access site begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized. Erosion and sedimentation control measures must comply with “Maine Erosion and Sediment Control BMPs,” Maine Department of Environmental Protection, as may be amended from time to time.
- d. **Runoff Diversion.** Parking areas, access roads, and pathways must divert runoff away from the water body to an area where it will infiltrate into the ground or pass through a sedimentation basin before reaching the water body or otherwise receive appropriate treatment.
- e. **Geoweb.** Geoweb cellular confinement systems must not be used below or within two vertical feet above the normal high water mark of the water body.
- f. **Concrete.** Uncured concrete must not be placed directly into the water. Concrete must be pre-cast and cured at least three weeks before placing it in the water or, where necessary, must be placed in forms and must cure at least one week before the forms are removed.
- g. **Washing.** No washing of tools, forms, or equipment used to construct the water access site may occur in or adjacent to the water body or wetland.
- h. **Lumber.** The use of untreated lumber is preferred. Pressure-treated wood approved by the U.S. Environmental Protection Agency for dock construction may be used. Chromated copper arsenate (CCA) treated wood must not be used. Creosote or pentachlorophenol (PCP) treated wood must not be used.
- i. **Machinery in Water.** Machinery may enter the water traveling or operating only on newly placed material or temporary mats and only when necessary to excavate or place material below the water level.
- j. **Debris.** Any debris generated during the work must be prevented from washing into the wetland or water body. If such debris does wash into the water, it must be removed from

the wetland or water body. Disposal of debris must be in conformance with the Solid Waste Law, 38 M.R.S. §§1301 *et seq.*

- k. **Parking Area Buffer.** Minimum shoreline buffer for parking areas serving water access sites: A vegetated or landscaped buffer at least 75 feet wide and sufficient to maintain an effective visual screen and protect water quality must be maintained or established to the greatest extent practicable between any parking area and the water body.
- l. **Property Line Buffer.** Minimum property line buffer for parking areas serving water access sites: A vegetated or landscaped buffer at least 20 feet wide or an architectural screen sufficient to maintain an effective visual screen must be maintained or established to the greatest extent practicable between any parking area and the side property lines of the lot.
- m. **Temporary Structures.** Once the locations, dimensions, and types of water access sites have been approved as part of a subdivision or development permit, temporary docking structures and temporary on-shore structures may be installed and re-installed without additional permits.
- n. **Access.** Any water access site located in a given development area must be open and accessible to all lot owners within that development area.
- o. **Associated Docking Systems.** For a public or commercial trailered ramp, an additional area up to 8 feet wide may be constructed using bituminous pavement, precast concrete planks, panels or slabs to support docking systems.

3. Standards for Specific Types of Water Access Sites.

Specific types of water access sites must meet the following standards, in addition to those of Sections 10.26 and 10.26-FRL, as applicable, and 10.27,L-FRL,1 and 2:

- a. **Hand carry launches.**
 - (1) The hand carry launch area and access pathway must not be paved and must be constructed of gravel, rock, vegetation, or other natural erosion resistant materials.
 - (2) The sloped portion of the launch above the normal high water mark must have a slope no greater than 18%.
 - (3) The access pathway must have a maximum width of 6 feet and must have at least one bend to divert channelized runoff.
 - (4) A landing area that is cleared of obstructions must be no wider than 20 feet and must extend no more than 20 horizontal feet below the normal high water mark.
 - (5) Filled or cut slopes at or below the normal high water mark must be protected with riprap.
- b. Docking structures shall be no longer than necessary, not to exceed 150 feet. If, however, the applicant demonstrates that 150 feet is impracticable, the Commission may allow the dock to be up to 200 feet in length.

c. Trailered ramps.

- (1) A trailered ramp having a slope in excess of 8% must be hard-surfaced except where the entity responsible for maintaining the water access site anticipates a level of use that does not justify the expense of a hard surface facility. Should the level of use increase such that erosion problems are likely to occur, the owner or operator shall insure that appropriate measures are taken to prevent or repair such erosion.
- (2) The portion of the trailered ramp used by the towing vehicle must have a slope no greater than 15% within 100 feet of the normal high water mark. The portion of the trailered ramp used by the trailer only must have a slope no greater than 20%.
- (3) The width of the trailered ramp must not exceed 20 feet for public or commercial trailered ramps, or 10 feet for private trailered ramps.
- (4) The uppermost 6 inches of the base of the trailered ramp must consist of crushed rock or screened gravel having 5% or less material passing a 200 mesh sieve.
- (5) Cut or filled slopes at or below the normal high water mark must be protected with riprap; cut or filled slopes above the normal high water mark must be protected by vegetation or riprap so they do not erode.
- (6) The total area disturbed in the construction of a trailered ramp shall not exceed 1,000 square feet within 50 feet of the normal high water mark.
- (7) Avoidance of Water Bodies. No portion of a trailered ramp or related facilities may be located in, on, or over wetlands, other than the water body being accessed, identified as P-WL1 on the Commission's zoning map for the project area. Parking areas, access roads, and paths must not be located in a stream, wetland designated as P-WL1, or other water body, except that an access roadway may cross a stream if requirements of Section 10.27,D, pertaining to water crossings, are met.

d. Accessory structures at common water access sites must:

- (1) Contain no more than 200 square feet of floor area per structure;
- (2) Not be constructed on a permanent foundation;
- (3) Not be habitable or inhabited;
- (4) Except for water dependent structures, be located not less than 50 feet from the normal high water mark of any water body or watercourse; and
- (5) Be screened by vegetation or topography from the water body.

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**ADDENDUM TO THE COMMISSION'S
LAND USE DISTRICTS AND STANDARDS (CHAPTER 10)**

**SUB-CHAPTER IV: SUPPLEMENTAL REVIEW PROCESSES AND
REQUIREMENTS**

10.28-FRL LOT CREATION AND LIMITATIONS

A. Purpose.

This section establishes overall limitations on the number of lots and development units that may be approved during the term of the Concept Plan, while still allowing flexibility regarding the number of development units in individual development areas. These density limitations will protect the quality and character of the lakes, while still providing flexibility for the design and development of the development areas and infill areas identified in this Concept Plan.

B. Limitations on Land Divisions, Lot Creation, and Subdivisions.

1. Administration.

- a. **Lots Created by Dividing a Parcel.** When a parcel is divided, the land retained by the person dividing land is always counted in determining the number of lots created unless the lot retained qualifies for any of the exemptions listed in Section 10.28-FRL,B,2 below. This figure illustrates two examples:

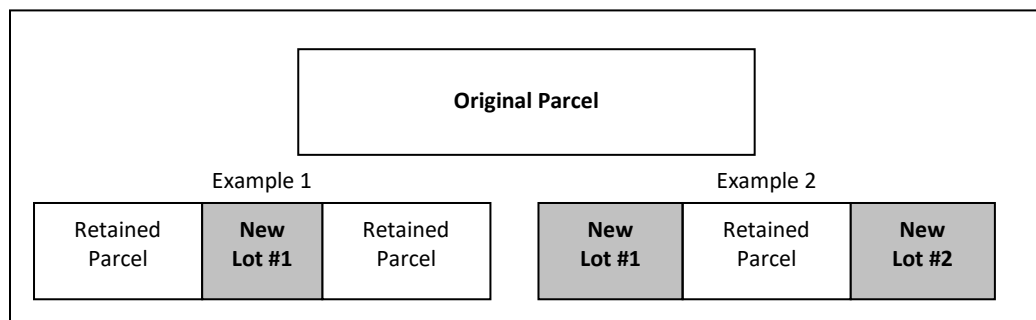


Figure 10.28-FRL-1. Two examples where two new lot lines were drawn, each resulting in the creation of three parcels.

- b. **Existing parcels.** For the purposes of the definition of subdivision in 12 M.R.S. §682(2) and in these rules, an “existing parcel” shall include the contiguous area within one township, plantation, or town owned or leased by one person or group of persons in common ownership.
- c. **Recorded Transactions.** All land divisions, subdivisions, and transfers that are recorded shall include the following as part of the recorded transaction, as further described in Part 3, Appendix B:
- (1) Clear enumeration of the specific development rights where limited to a specific number, responsibilities, and allocations as provided by the Concept Plan, such as: the number of lots, units, and water access sites; phosphorus allocations; and dedicated road access; and
 - (2) Reference to, and required compliance with, the terms and restriction of the Concept Plan.

- d. **Notice.** Prior to any lot divisions or the transfer of any lands within the Plan Area by the Petitioner, other than lots in an approved subdivision, the property owner shall submit a written notice of planned activities to the Commission. Such notice shall be completed in accordance with section 10.33-FRL.
- e. **Renewal of Leases.** For the purpose of counting lots under the Commission’s definition of subdivision, the renewal of a lease or license within a Commission approved subdivision shall not be counted as the creation of a lot. For the renewal of leases or licenses in other than Commission approved subdivisions, as is enumerated in Section 10.28-FRL,B,2,a, a lease or license that is renewed within two years of its expiration shall not be counted as the creation of a lot. Renewal of leases or licenses in other circumstances shall be counted as the creation of a lot.

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.

- b. **Transfer of Lots for Forest Management, Agricultural Management, or Conservation of Natural Resources.** A lot created in accordance with the following conditions does not require Commission review and approval:
 - (1) The lot is transferred and managed solely for forest management, agricultural management, or conservation of natural resources;
 - (2) The lot is at least 40 acres in size;
 - (3) If the lot is less than 1,000 acres in size, no portion of the lot is located within 1,320 feet of the normal high water mark of any great pond or river or within 250 feet of the upland edge of a coastal or freshwater wetland as these terms are defined in 38 M.R.S. §436-A;
 - (4) The original parcel from which the lot was divided is divided into an aggregate of no more than 5 lots; and
 - (5) When 3 to 10 lots each containing at least 40 acres in size are created within any 5-year period, a plan is recorded in accordance with 12 M.R.S. §685-B(6-A). Any subsequent division of a lot created from the original parcel within 10 years of the

recording of the plan in the registry of deeds or any structural development unrelated to forest management, agricultural management, or conservation creates a subdivision and may not occur without prior commission approval.

- (6) No more than 10 such lots or parcels are transferred during the term of the Concept Plan.

c. Retained Lots. A lot retained in accordance with the following conditions does not require Commission review and approval if the lot is retained by the person dividing the land, and for a period of at least 5 years the lot:

- (1) Is retained and not sold, platted, leased, conveyed, or further divided, except for transfer to an abutter pursuant to Section 10.28-FRL,B,2,d below; and
- (2) Is used solely for forest or agricultural management activities and associated structures and development such as buildings to store equipment or materials used in forest or agricultural management activities, land management roads, driveways consistent with forest or agricultural management activities, or natural resource conservation purposes.

Only one retained lot exempt under this Section 10.28-FRL,B,2,c may be created from any one existing parcel.

d. Transfers to an Abutter and Contiguous Lots. A lot created in accordance with the following conditions does not require Commission review and approval if the lot is transferred to an abutting owner of land provided the transferred property and the abutter's contiguous property is maintained as a single merged parcel of land for a period of 5 years. Where a lot is transferred to an abutter, or two or more contiguous lots are held by one person, the contiguous lots are considered merged for regulatory purposes except for:

- (1) Lots that are part of a subdivision approved by the Commission;
- (2) A land division certified by the Commission as qualifying under 12 M.R.S. §682-B; or
- (3) As provided in Section 10.11.

If the property exempted under this paragraph is transferred within 5 years to another person without all of the merged land, or without satisfying either subparagraph (1), (2), or (3) above, then the previously exempt division creates a lot or lots for purposes of Section 10.28-FRL.

e. Divisions by Court Order. A lot created solely by court order does not require Commission review and approval.

- f. Conservation Lots.** A lot created in accordance with the following conditions does not require Commission review and approval if the lot or parcel is transferred to a nonprofit, tax-exempt nature conservation organization qualifying under the United States Internal Revenue Code, Section 501(c)(3) and the following conditions are met:
- (1) For a period of at least 20 years following the transfer, the lot or parcel must be limited by deed restriction or conservation easement for the protection of wildlife habitat or ecologically sensitive areas or for public outdoor recreation;
 - (2) The lot or parcel is not further divided or transferred except to another qualifying nonprofit, tax-exempt nature conservation organization or governmental entity, 12 M.R.S. §682-B(3);
 - (3) The lot or parcel is at least 20 acres; and
 - (4) No more than 5 such lots or parcels are transferred during the term of the Concept Plan.
- g. Transfer to Governmental Entity.** A lot created in accordance with the following conditions does not require Commission review and approval if the lot or parcel is transferred to a municipality or county of the State, the State or an agency of the State, or an agency of the Federal government and the following conditions are met:
- (1) The lot or parcel is held by the governmental entity for the conservation and protection of natural resources, public outdoor recreation, or other bona fide public purposes and is not further sold or divided for a period of 20 years following the date of transfer;
 - (2) At the time of transfer the transferee provides written notice to the Commission of transfer of the lot or parcel, including certification that the lot or parcel qualifies for exemption under this subsection;
 - (3) The lot or parcel is at least 20 acres; and
 - (4) No more than 5 such lots or parcels are transferred during the term of the Concept Plan.
- h. Large Lots Managed for Forest or Agricultural Management Activities or Conservation.** A lot created in accordance with the following conditions does not require Commission review and approval if the lot transferred or retained following transfer contains at least 5,000 acres and if the following conditions are met:
- (1) The lot is managed solely for the purposes of forest or agricultural management activities or conservation and the lot is not further divided for a period of at least 5 years; and
 - (2) No more than 3 such lots or parcels are transferred during the term of the Concept Plan.

- i. Unauthorized Subdivision Lots in Existence For at Least 20 Years.** A lot does not require Commission review and approval if the lot or parcel when sold or leased created a subdivision requiring a permit that was not obtained and the subdivision has been in existence for 20 or more years, unless:
- (1) Approval of the subdivision under 12 M.R.S. §685-B was denied by the Commission and record of the Commission’s decision was recorded in the appropriate registry of deeds;
 - (2) A building permit for the lot or parcel was denied by the Commission under 12 M.R.S. §685-B and record of the Commission’s decision was recorded in the appropriate registry of deeds;
 - (3) The Commission has filed a notice of violation of 12 M.R.S. §685-B with respect to the subdivision in the appropriate registry of deeds; or
 - (4) The lot or parcel has been the subject of an enforcement action or order and record of that action or order was recorded in the appropriate registry of deeds. 12 M.R.S. §682-B(5).
- j. Land covered by the Fish River Chain of Lakes Conservation Easement.** A lot created by the transfer of any parcel or land covered by the Fish River Chain of Lakes Conservation Easement does not require Commission review and approval if the transfer is made pursuant to the terms and conditions of the Fish River Chain of Lakes Conservation Easement.
- k. Development Areas.** A lot created in any of the development areas, individually or collectively, and in part or in whole, does not require Commission review and approval if the lot is not an individual development lot, as provided in Section 10.28-FRL,B,3 or Section 10.28-FRL,C.
- l. Remote Campsites and Remote Rental Cabins.** A lot created in accordance with the following conditions does not require Commission review and approval if the lot or parcel is created and used for the purpose of a remote campsite or remote rental cabin and if the lot is located at one of the following locations. No such site may include more than one lot for this purpose. Unless limited below, each site may contain a remote campsite or remote rental cabin.
- (1) Carry Pond;
 - (2) Cross Lake:
 - (a) Cross Lake/Square Lake thoroughfare Campsite; and
 - (b) Dinah Point Campsite;
 - (3) Dickey Pond;
 - (4) Little California Pond;
 - (5) McLean Brook;

- (6) Mud Lake:
 - (a) Mud Lake Campsite; and
 - (b) Mud Lake/Cross Lake thoroughfare;
- (7) Square Lake:
 - (a) Limestone Point Picnic Area/Campsite;
 - (b) Salmon Point Campsite;
 - (c) Square Lake/Eagle Lake thoroughfare North Campsite;
 - (d) Square Lake/Eagle Lake thoroughfare South Campsite;
 - (e) Barstow Brook Campsite; and
 - (f) Goddard Brook Campsite;

m. Public Water Access Sites. A lot created in accordance with the following conditions does not require Commission review and approval if:

- (1) The lot is created and developed for the purpose of a public or commercial water access site; and
- (2) The lot is located in accordance with Section 10.27,L-FRL,1 and, where applicable, in accordance with Section 10.34-FRL;

n. In-fill Lots within or Serving Certain Camp Lot Areas. A lot created in accordance with the following conditions does not require Commission review and approval:

- (1) The lot is one of six lots allowed within the Long Lake B Infill area consistent with the residential development unit cap in Section 10.28-FRL,C; or
- (2) The lot is one of six lots allowed within the Square Lake Infill area consistent with the residential development unit cap in Section 10.28-FRL,C; or
- (3) The lot is created within Square Lake East or Square Lake Yexas in accordance with, and for the purposes of, Section 10.34-FRL,A,5,h

3. Allowed Divisions Requiring Subdivision Approval.

a. Residential Lots. Upon Commission approval, subdivisions shall be allowed minimal additional lots that, if created, shall be transferred and used only for development related administrative purposes (*e.g.*, subdivision roads, septic systems, common lot, open space, water access site, etc.). Otherwise, the number of lots within any development area or infill will be limited to a number that is consistent with the unit caps in Section 10.28-FRL,C.

- b. Nonresidential Lots.** Except for lots authorized by Section 10.28-FRL,B,2, the number of lots for nonresidential development shall be limited as follows:

Development Area	Maximum Number of Lots
Square Lake Yexas	
Commercial lots	4
Recreational Lodging Facility	1
Square Lake East or Square Lake Yexas	
Public trailered ramp	1
CD-1	30
CD-2	5
CD-3	2
CD-4	6

Lots exempt from Commission review and approval under Section 10.28-FRL,B,2 are not counted towards these maximum number of lots limits.

C. Limitations on Numbers of Residential Development Units.

The aggregate number of new residential development units in the development areas and infill areas zoned D-FRL-RS and D-FRL-YX during the term of the Concept Plan shall not exceed 330. CD-2 is not counted in this unit cap.

For the purpose of applying the unit caps, the Commission shall count all units authorized through Commission or DEP issued permits, regardless of whether individual building permits have been issued or construction has commenced on approved lots. Additionally, the Commission shall count all units that could be constructed on exempt lots that have been platted, sold, or developed in the Long Lake Infill and Square Lake Infill areas.

1. The maximum number of new residential development units in the development areas may be distributed as follows, but in no case shall the applicable “Lake Cap” be exceeded in the aggregate.

Development Area or Infill	Maximum Number of New Units	Lake Cap
Long Lake A	50	Long Lake: 75 units
Long Lake B & Long Lake B Infill	15	
Long Lake C	25	
Cross Lake A	30	Cross Lake: 125 units
Cross Lake B	30	
Cross Lake C	30	
Cross Lake D	35	
Cross Lake E	60	
Square Lake East	109	Square Lake: 130 units
Square Lake Infill	6	
Square Lake Yexas	67 (up to 17 of which may be single family residences)	
Total Cap		330

2. **CD-2:** The maximum number of new development units approved in CD-2 may be distributed as follows, but in no case shall exceed the Development Area Cap of 24.

Development Area	Maximum Number of New Units
CD-2	24
Development Area Cap	24

Development within CD-2 may include residential or non-residential development, or both. While this section establishes the maximum number of residential development units, Section 10.28-FRL,B,3 establishes the maximum number of lots allowed, regardless of use.

3. **Calculating New Units.** For purposes of calculating limitations on numbers of new residential development units pursuant to this section:
- a. Each single-family dwelling, each dwelling unit within a two-family or multi-family dwelling, each bed and breakfast facility, and each accessory structure intended for human habitation that has plumbing shall count as one development unit.
 - b. Back country huts, remote rental cabins, campgrounds, remote camps, remote campsites, outpost cabins, campsites, and other similar primitive accommodations shall not count as units.
 - c. Each room or suite intended for human habitation included within a Recreational Lodging Facility shall count as one unit, except that so long as they do not have separate kitchens, rooms that are parts of a suite shall not be counted as separate units, even if such rooms have a separate entry and egress or may occasionally be separately rented (“lock-off rooms”).

10.29-FRL ASSOCIATIONS

Common infrastructure (*e.g.*, roads and common facilities, such as roads, open space, water access sites, and stormwater management structures) may be managed by a road association or an owners association.

A. Joining Associations.

1. All lot owners or lessees with deeded rights to use common infrastructure are required to be members of the association managing the common infrastructure.
2. Notwithstanding Section 10.29-FRL,A,1, owners or lessees of lots accessed directly from a public road, and public entities, shall not be required to be a member of a road association.

Associations and public entities are encouraged to work out an agreement through which, subject to allocation by the Maine Legislature or applicable budgetary authority, the public entity would contribute a fair percentage of the minimum maintenance and repair costs through financial contributions or in-kind services.

B. Process.

1. Road associations shall be formed or expanded pursuant either to the Private Way law, 23 M.R.S. §§3101 *et seq.*, or the Nonprofit Corporation Act, 13-B M.R.S. §§101 *et seq.*, as either may be amended from time to time.
2. Owners associations shall be formed or expanded pursuant to the Nonprofit Corporation Act, 13-B M.R.S. §§101 *et seq.*, as may be amended from time to time, and must be approved as part of the subdivision approval process.
3. In the absence of an existing formal association:
 - a. The Petitioner shall notify all property owners or lessees benefitting from the road, lot, or infrastructure in writing at least 30 days in advance of formation of the association; and
 - b. Each owner or lessee shall be given an opportunity to participate in the process of creating the association.
4. Where an existing formal association will serve the intent of Section 10.29-FRL:
 - a. The Petitioner and association shall jointly notify current members and all additional property owners or lessees benefitting from the road, lot, or infrastructure in writing at least 30 days in advance of expanding the association (*i.e.*, adding the additional members and new infrastructure).

- b. Additional notice or procedural requirements may also be required by the association's bylaws;
5. The Petitioner shall provide written notice of the created or expanded association, in accordance with Section 10.33-FRL.
6. Documentation for the association shall be recorded at the Northern Aroostook County Registry of Deeds prior to sale, lease, or transfer of the first lot to be a member of that association.

C. Association Bylaws and Authority

1. Associations shall establish, maintain, and implement bylaws or similar legal arrangements that address, at a minimum:
 - a. Who is required or eligible to be a member, including how membership shall be determined for individual landowners and the developer, and shall address the specifics of the developer's control of the owners association while it continues to own property within the development;
 - b. How the association will be governed;
 - c. How often the association will meet;
 - d. The rights and responsibilities of the members;
 - e. The relationship to other associations, if any; and
 - f. Management and maintenance of specific roads, lots, and infrastructure, as may be necessary and appropriate.
2. Associations shall assess fees in a fair and equitable manner.
3. Associations shall have the authority to share maintenance responsibilities with other entities, such as other road associations or property owners, where roads, lots, or infrastructure benefit non-association members.

10.30-FRL SUSTAINABLE FORESTRY MANAGEMENT PRACTICES

All timber harvesting in the Plan Area shall comply, where applicable, with Section 10.27,E; the provisions of the agreement, Outcome Based Forestry Agreement # 2018-2, between Irving Woodlands LLC and the Department of Conservation, Maine Forest Service, dated November 11, 2018, as may be amended from time to time and so long as it remains in effect (“OBF Agreement”) (see Appendix E); and the outcome-based forestry principles pursuant to 12 M.R.S. §8869(3-A), as may be amended from time to time (“OBF Statute”). All timber harvesting in the Plan Area also shall comply with this Section 10.30-FRL. Where there is a conflict among these, Section 10.30-FRL shall apply, unless the outcome-based forestry principles pursuant to the OBF Statute, as may be amended from time to time, are more protective, in which case they shall govern. For areas within the Fish River Chain of Lakes Conservation Easement, nothing in this section shall be interpreted to supersede the terms of the easement pertaining to forestry management practices.

A. Application of Sustainable Forestry Practices.

- 1. Anti-backsliding.** If at any time during the life of the Concept Plan the OBF Agreement or the OBF Statute is not renewed or otherwise no longer effective, including if the land is sold, the landowner shall be required to continue to meet standards at least as stringent as those pursuant to the OBF Agreement and to develop a sustainable forestry management plan that is based on sustainable forestry practices, the OBF Agreement, and approved by the Commission, with input from Maine Forest Service and, when within the area protected by the Conservation Easement, by the easement holder. The provisions of this Section 10.30-FRL shall continue to apply until amended, for example, in conjunction with approval of a new sustainable forestry management plan. The intent of this provision is to ensure that the sustainable forestry practices within this Concept Plan remain effective even if the OBF Agreement or OBF Statute is no longer in effect to ensure that future regulatory provisions are no less stringent than those established in the OBF Agreement.
- 2. Antidegradation.** Overall levels of habitat quality achieved within the Plan Area pursuant to these sustainable forestry practices shall be maintained and protected, consistent with the OBF Agreement and OBF Statute.

B. Goals and Outcomes of Forest Sustainability.

- 1. Water Quality and Wetlands.** The Plan Area has a diverse range of aquatic habitats, including bogs, fens, thoroughfares, wetlands, streams, lakes, and ponds, that are recognized for their water quality and the quality of their fisheries, their undeveloped shorelines and riparian areas, and their ecological values. If carried out in accordance with the Concept Plan, forestry activities in the Plan Area will meet and or exceed the current LUPC or DEP standards for setbacks and buffering.

To minimize siltation and associated water quality degradation, new forestry roads shall be sited to minimize the number of stream crossings and will use current LiDAR or comparable data to make road layout and water crossing siting decisions. The design and sizing of

required spans shall have at least a minimum diameter of 120% of the bankfull and in all cases shall be sized to allow for fish and wildlife movement during normal flows and shall have adequate capacity for peak flows.

2. **Soil Productivity.** Soil productivity is important for regrowth of the forest resource. Forestry activities within the Plan Area will be conducted pursuant to policies to maintain or improve site productivity. This will include setting specific policies for limiting the total amount of roads and landings within the Plan Area and establishing site disturbance procedures for rutting. No more than 5% of the land base will be in forestry roads or landings within the areas that are zoned as M-FRL-GN. Rutting, which can cause erosion and soil compaction, is not allowed within watercourse buffers. If rutting begins to occur during the operation, the operation shall cease until the problem can be resolved. Outside of a water course buffer, no more than 30% of trails shall contain a rut (ruts are 12 inches deep and 60 feet long) in any given harvest area.
3. **Timber Supply and Quality.** The timber supply within the Plan Area is diverse and of high quality. To help sustain the timber supply and quality silviculture, activities will focus on stand tending and planting programs that optimize growth and long-term forest health. Clearcut areas with good site productivity will be replanted to a variety of spruce species, depending on soil types. Tolerant hardwood stands will be managed using selective harvesting to create uneven aged stands.

Planting and tending levels shall be determined as part of a forest management plan that is updated on a rolling basis.

4. **Aesthetic Impacts of Timber Harvesting.** The Plan Area has scenic qualities and aesthetic values that are intrinsic to the recreational resources and overall enjoyment by visitors. As part of the development of a forest management plan, planners shall identify, with input from stakeholders, areas that may have scenic or aesthetic value in the areas that are targeted for forestry activity. Within these areas, harvest operations will use methods that minimize the visual impacts. In addition, all forestry and planning staff will be trained in methods to minimize visual impact.

Forest management activities within development areas shall use aesthetic management practices, which will include at least the following:

- a. Areas that are considered of moderate or high scenic value will be identified prior to any harvesting activity;
- b. Within the areas identified as having moderate or high scenic value, only selective harvesting techniques will be permitted, which will limit tree removal to approximately 1/3 of the standing timber on an individual tree basis and retain the majority of the forest cover;
- c. Screening or buffering, as necessary, along road corridors or along trails to minimize visual impact based on harvesting activities and traffic volumes; and
- d. Highly visible locations (such as hillsides) with moderate or high scenic value will be modeled to identify potential visual impacts before operations begin and management planning will be adjusted to minimize impacts.

5. **Biodiversity.** The Plan Area has a diverse and extensive range of wildlife, forest, meadow, and other terrestrial habitats, including habitats of rare, threatened and endangered flora and fauna, natural communities, and places of significant ecological value. The maintenance of biological diversity with healthy populations of flora and fauna will be assured through a variety of practices including:
- a. **Deer Wintering Areas (DWAs).** Using current scientific and biological data, DWAs will be identified and managed to maintain or improve the quality of their habitat. Management of DWAs outside of State regulated areas will continue to be coordinated with Maine Inland Fisheries and Wildlife or its successor through cooperative agreements and partnerships.
 - b. **Late Successional Forest Policy.** Currently there are 2,500 acres of late successional forests within the Plan Area. These are important habitats for plant and animal species that rely on a mixture of dead and fallen trees and multiple canopy layers. Ten percent of each of the 5 major stand types of concern (old tolerant hardwood stands, old tolerant mixed wood stands, old cedar stands, old pine/hemlock stands, old softwood stands) will be maintained by acreage in late successional stage(s).
 - c. **Snag Policy.** As part of the forest management and harvesting operations, portions of standing dead and coarse woody debris across the harvest areas will be maintained. Where practicable, trees containing active stick or cavity nesting birds, large hollow trees that are providing wildlife dens or nests, and trees with decay exhibiting heavy use by cavity excavating birds should be left standing. In even aged harvesting prescriptions, these trees could form the nucleus of an island. If these trees are located near the edge of a block or an adjacent riparian zone, small adjustments to the block boundary should be made.
 - d. **High Conservation Value Forests.** At locations within the Plan Area that are identified as high conservation value forests, harvesting operations will be managed so as to minimize impacts to them or to avoid those areas altogether. High conservation value forests are those that possess one or more of the following attributes:
 - (1) forest areas containing globally, regionally, or nationally significant concentrations of biodiversity values;
 - (2) forest areas that are in or contain rare, threatened, or endangered ecosystems;
 - (3) forest areas that provide basic services of nature in critical situations (*e.g.*, watershed protection or erosion control); or
 - (4) forest areas fundamental to meeting the basic needs of local communities (*e.g.*, subsistence or health) or are critical to local communities' traditional cultural identity (*e.g.*, areas of cultural, ecological, economic, or religious significance identified in cooperation with such local communities).
 - e. **Important, Rare, Threatened, and Endangered Habitats.** Within the Plan Area, there are areas that provide important habitat for rare, threatened, and endangered species. These include stick nests, rare plant sites, and smelt streams. These areas will be

managed using techniques such as, but not limited to, timing of activities, maintaining buffers, or avoiding the area altogether.

- f. **Riparian Zones.** Within the Plan Area riparian zones will be maintained to provide shade and protection for lakes and streams. Riparian zones shall be a minimum width of 100 feet on either side of flowing waters and from the normal high water mark of bodies of standing water. Within these riparian zones there shall be no harvesting within 25 feet of the buffered resource. The next 25 feet shall be a no track zone in which no tracking from harvesting equipment will be allowed. Within the 75 feet of the riparian zone beyond the no harvest area, no more than approximately one-third of the total basal area shall be removed within a 25-year time period. This large area of interconnected riparian zones also creates corridors for many different species to utilize for travel and foraging.

C. Public Accountability.

Forest management activities in the Plan Area will be subject to third-party verification by a recognized forestry certification program for sustainability (for example, Forest Stewardship Council or Sustainable Forestry Initiative). A forest management plan must be developed and approved by a licensed forester. Contractors must employ at least one certified logging professional. As part of the third-party certification an annual audit and site inspection will be required and the results will be made available to the public.

D. Economic Considerations.

The working forest is an important part of the local and regional economy. The majority of the Plan Area will remain available as “working forest” that contributes to the overall local economy, including businesses like pulp and paper mills, saw mills, and harvesters.

E. Social Considerations.

Access to private timberlands for hunting, fishing, camping, boating, snowmobiling, ATV riding, and other low-intensity recreational activities is an intrinsic aspect of the culture of Northern Maine. Traditionally managed access for recreational purposes will continue as long as such uses do not conflict with forest management operations or landowner values. This includes adopting the appropriate management policies for recreational users (for example, ATV and snowmobile use) and committing to allowing managed access to the Plan Area.

F. Forest Health.

Overall forest health is critical to the sustainability of the ecological and economic success of a working forest. Within the Plan Area, ongoing actions to maintain forest health will continue, such as insect and disease monitoring/management, fire suppression activities, and other forest health actions.

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

A. 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, 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

10.32-FRL PHOSPHORUS CONTROL FOR CROSS, LONG, MUD, AND SQUARE LAKE WATERSHEDS

A. Purpose.

This section establishes a flexible program to manage total phosphorus export from development activities in Development Areas of the Concept Plan. It also establishes a total phosphorus limit for all activities in both Development Areas and non-development areas within the watershed of Cross Lake. The purpose of the program is to protect water quality by establishing a total phosphorus budget for development activities around each of the four major lakes that are proposed to be rezoned with Development Areas: Long Lake, Mud Lake, Cross Lake, and Square Lake. The program allows for the allocation of phosphorus budgets to Development Areas and individual development sites, and to specific areas in a lake watershed by the Petitioner. These provisions are intended to be applied in addition to all other applicable phosphorus regulations, including those established in Section 10.25,L-FRL for development projects regulated by the Commission and by the Site Location of Development Act for those projects regulated by the Department of Environmental Protection, with the exception that this Section 10.32-FRL supersedes any requirement to allocate phosphorus export on a per-acre basis.

B. Phosphorus Budgets.

1. The phosphorus export limits resulting from development in the Plan Area for each of Long, Mud, Cross, and Square lakes shall be as follows:
 - a. **Long Lake.** All new development in the Long Lake Development Areas, together with any road construction or upgrades that are intended to facilitate access to the Long Lake Development Areas, shall not collectively exceed a maximum phosphorus export of 44.00 pounds per year (the “Long Lake Development Area Phosphorus Budget”).
 - b. **Mud Lake.** All new development in the Mud Lake Development Areas, together with any road construction or upgrades that are intended to facilitate access to the Mud Lake Development Areas, shall not collectively exceed a maximum phosphorus export of 39.00 pounds per year (the “Mud Lake Development Area Phosphorus Budget”).
 - c. **Cross Lake.** The total phosphorus budget for Cross Lake for all activities in the Plan Area within the lake’s watershed, including development and new or upgraded land management roads or landings, is 82.16 pounds per year (the “Cross Lake Phosphorus Budget”). All new development in the Cross Lake Development Areas, together with any road construction or upgrades that are intended to facilitate access to the Cross Lake Development Areas, shall not collectively exceed a maximum phosphorus export of 44.00 pounds per year (the “Cross Lake Development Area Phosphorus Budget”). Of this allocation, a minimum of 4.00 pounds per year shall be reserved for allocation within CD-3 or CD-4, and shall not be traded to other Cross Lake Development Areas, though additional allocations to CD-3 and CD-4 can be made. The difference between the Cross Lake Phosphorus Budget and the Cross Lake Development Area Phosphorus Budget is the “Remaining Cross Lake Phosphorus Budget.” This remaining budget covers forest

management activities and land management roads in the Plan Area within the lake's watershed and any development activities outside the Cross Lake Development Areas except road construction or upgrades noted above in this paragraph, which shall be covered by the Development Area Phosphorus Budget, and development activities on camp lots and back lots.

- d. **Square Lake.** All new development in the Square Lake Development Areas, together with any road construction or upgrades that are intended to facilitate access to the Square Lake Development Areas, shall not collectively exceed a maximum phosphorus export of 80.00 pounds per year (the "Square Lake Development Area Phosphorus Budget").

Once the Development Area Budget for an individual lake is reached, no more development may occur within that lake watershed, except that in the Cross Lake watershed, mitigation projects may be implemented to offset phosphorus export from a specific development project pursuant to Sections 10.32-FRL,B,2,b and 10.32-FRL,D. For the purpose of calculating phosphorus export, "development" or "development activities" shall mean alterations of the land including, but not limited to, filling and grading, shoreland alterations, and the construction or expansion of structures, cleared areas, driveways and roads, except that "development" or "development activities" shall not include forest management activities or land management roads.

2. Record keeping.

- a. Petitioner shall be responsible for managing development in the Development Areas to ensure that total phosphorus export from development does not exceed the Development Area Phosphorus Budget for each affected lake. Petitioner shall maintain accurate records demonstrating compliance with this program for the life of the Concept Plan. Records shall include, at a minimum, the date, location, and description and area of the activity, the calculated phosphorus export and allocation, and any permits that were issued for the activity.
- b. Within the Cross Lake watershed, if Petitioner wishes to claim a mitigation credit for phosphorus export reduction, as described in Section 10.32-FRL,D, Petitioner shall be responsible for maintaining records for calculating phosphorus export from development, new or upgraded land management roads and new or upgraded landings in Development Areas and non-development areas. The beginning date of such an analysis shall be April 9, 2018, which is the date of a memo from Stantec, on behalf of Irving, that describes the anticipated future non-concept plan activities that may generate phosphorus. If a mitigation credit is requested, Petitioner must provide records sufficient to demonstrate that the new phosphorus export since April 9, 2018 will not result in an exceedance of the Cross Lake Phosphorus Budget and to allow Commission review pursuant to Section 10.32-FRL,D.

C. Phosphorus Allocations.

1. **Allocation of a Lake’s Development Area Phosphorus Budget.** Except as provided below, the Petitioner may allocate all or portions of each specific lake Development Area Phosphorus Budget to Development Areas or to individual subdivisions within Development Areas in any manner that is consistent with the provisions of the Concept Plan and these rules.

For example, options might include, but are not limited to:

- Petitioner could choose to allocate the entire lake Development Area Phosphorus Budget to only some of the Development Areas, or to only certain subdivision projects, thus electing to leave other Development Areas undeveloped because there is no remaining budget; or
- Petitioner could choose to allocate a portion of the lake Development Area Phosphorus Budget to each Development Area.

When development rights are conveyed, when lots are created or conveyed, whether by sale, lease, or otherwise, or when the land is proposed for development, Petitioner or owner shall allocate a portion of the applicable Development Area Phosphorus Budget, measured in pounds of phosphorus per year, known as an “allocation.”

2. **Allocation of Remaining Cross Lake Phosphorus Budget.** At the time of conveyance of any land within the Plan Area that is within the Cross Lake watershed, Petitioner or owner must identify what portion of the Remaining Cross Lake Phosphorus Budget, if any, is being allocated as part of the transaction. The total phosphorus allocations for the Development Areas plus all other activities in the Cross Lake watershed shall not exceed the Cross Lake Phosphorus Budget.
3. **Allocation Process.**
 - a. Petitioner or owner shall clearly specify the allocation at the time of conveyance and shall provide notice, in accordance with Section 10.33-FRL, to the Commission and the DEP sufficient to allow the Commission to track compliance with this rule.
 - b. The Commission shall impose the allocation as a condition of approval in any subdivision permit or other development approval or certification for the affected land, and require that any approved subdivision plat indicate that a phosphorus allocation applies.
 - c. If Petitioner can demonstrate to the Commission that 1) not all of the allocation for a particular Development Area was used in a given project; and 2) any subdivision or development permits have been amended to eliminate the potential for additional phosphorus export in the future; then the Petitioner may return the remaining allocation back to the applicable lake Development Area Phosphorus Budget.
 - d. Subsequent owners may return allocations from a lake’s Development Area Phosphorus Budget to the Petitioner, and the Petitioner may re-assign those allocations to other developments or Development Areas within a given lake budget. Similarly, subsequent owners may return allocations from the Remaining Cross Lake Phosphorus Budget to

the Petitioner for potential reallocation. In each case, Petitioner or owner shall provide notice, in accordance with Section 10.33-FRL, to the Commission and the DEP of the intent to return or re-assign allocations sufficient to allow the Commission to track compliance with this rule. Parties other than the Petitioner shall not trade allocations other than with the Petitioner.

D. Mitigation Projects.

Within the Cross Lake watershed, the phosphorus export calculated for development activities may be offset through certified mitigation projects that generate mitigation credits by eliminating existing sources of phosphorus export. Examples of mitigation projects include, but are not limited to, eliminating and revegetating existing land management roads and landings and restoring natural hydrological conditions.

1. Calculation of mitigation credits shall be governed by the provisions of the “Maine Stormwater Management Design Manual, Volume II, Phosphorus Control Manual,” Maine Department of Environmental Protection, 2016, as may be amended from time to time, or as otherwise approved by the DEP. At least 30 days prior to the start of mitigation activity, the applicant must submit to the DEP documentation of pre-mitigation phosphorus export estimates.
2. Mitigation projects must be approved in advance by the Commission, with input from the DEP, and fully implemented before the Commission will certify the mitigation credits in writing. At the time of certification, the Petitioner must identify to which Development Area or development the mitigation credits will be applied.
3. Mitigation credits from mitigation projects in non-development areas will only be certified to the extent that Petitioner can demonstrate that the cumulative calculated phosphorus export from all development, land management roads and landings in the non-development areas of the Cross Lake watershed, and all land management roads and landings in the Development Areas, that were developed or upgraded after April 9, 2018 is no more than 35.87 pounds per year.

E. Phosphorus Control Measures.

Phosphorus control measures that reduce phosphorus export from a project are allowed and will be considered in determining the total export for compliance with the allocation applicable to a specific project.

1. Examples of phosphorus control measures include, but are not limited to, the use of vegetated buffers or level lip spreaders to eliminate channelized flow. Structural control measures for residential development are discouraged and can only be implemented pursuant to an operations and maintenance plan approved in advance by the LUPC or the DEP. Operations and maintenance plans for development areas within the Cross Lake watershed may require independent third-party inspections, if needed.
2. Phosphorus control measures shall be governed by the provisions of the “Maine Stormwater Management Design Manual, Volume II, Phosphorus Control Manual,” Maine Department of Environmental Protection, 2016, as may be amended from time to time.

10.33-FRL NOTICE OF PLANNED ACTIVITIES

- 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;
 2. Prior to the allocation, revocation, or surrender of any phosphorus allocation authorized by Section 10.32-FRL,C;
 3. Prior to a zone modification to revert to prior management or protection subdistricts in accordance with Section 1,D,3; and
 4. At the time of creation or expansion of an association in accordance with Section 10.29-FRL,B,9.
- 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.
 2. **Phosphorus Allocations.** When the notice regards the allocation, revocation, or surrender of any phosphorus allocation, a draft notice identifying the parties to the transaction, the size of the annual phosphorus allocation, the land area subject to the phosphorus allocation, the size of the remaining phosphorus budget, and any other information necessary to demonstrate compliance with Section 10.32-FRL must be filed with the Commission, with a copy to the Maine Department of Environmental Protection.
 3. **Associations.** Where the notice regards the creation or expansion of an association, the name of the association, contact information, and identification of the applicable infrastructure must be filed with the Commission.
 4. Commission staff, within 14 days of the date the notice was received, shall review the proposal and notify the owner in writing if:
 - 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.

10.34-FRL SQUARE LAKE PLANNING AND DEVELOPMENT

A. Schematic Design Plan.

1. Purpose and Applicability.

Prior to the conveyance of a lot for the public trailered boat ramp to a qualified public entity or any development within the Square Lake Yexas or the Square Lake East Development Areas, a Schematic Design Plan must be prepared by the Petitioner or another person with title, right, or interest in the areas included within the Schematic Design Plan, and approved by the Commission. The purpose of the Schematic Design Plan is to provide the general layout of the uses proposed for the Square Lake Yexas and Square Lake East Development Areas, present phasing of future development, and facilitate identification of issues that pertain to the goals and objectives of the Concept Plan so that they may be resolved before an applicant makes further investments in detailed subdivision or development applications.

The Schematic Design Plan must include all of the land within the Square Lake Yexas and Square Lake East Development Areas. The Schematic Design Plan also may include, either initially or through amendment, area originally identified as Square Lake Reserved Land. The Reserved Land has been identified as potentially suitable for future development and if included in an approved Schematic Design Plan shall be added in whole or in part to the Square Lake East Development Area and zoned D-FRL-RS.

The Schematic Design Plan process is intended to be general in nature, but must contain sufficient information to guide how the areas addressed in the plan will be developed in the future and how the intended uses will relate to each other and to the Square Lake environment. Once approved, the plan may be amended.

Commission approval of a Schematic Design Plan, or approval of a subsequent amendment of the plan, constitutes a formal determination by the Commission that the criteria in subsection 4 below have been satisfied. Subsequent development proposed by an applicant and consistent with the plan similarly is consistent with these criteria. In preparing subdivision or development permit applications consistent with an approved Schematic Design Plan, an applicant may rely on that approval with respect to the acceptability of the overall layout of the plan and its major elements, including phasing of critical elements of future development that are required for consistency with the goals and purposes of the Square Lake Yexas and Square Lake East Development Areas.

The Commission's review and approval of a Schematic Design Plan does not constitute a review, pre-approval, or an affirmative finding by the Commission that any subdivision or other development permit application or proposal satisfies applicable subdivision and other development review criteria, including, inter alia, those criteria found in 12 M.R.S. §685-B(4). Each subdivision and development permit application shall be individually evaluated for consistency with the approved Schematic Design Plan and must satisfy all relevant approval criteria in statute and the terms, conditions and provisions of this Concept Plan, including the LUPC amendable provisions.

2. Preapplication Conference.

A preapplication conference shall be held with the staff of the Commission and, if appropriate, representatives from relevant agencies prior to submission of a Schematic Design Plan. At this conference the procedures, regulations, and policies that will govern the application shall be discussed. The conference shall provide a forum for an informal discussion on the Schematic Design Plan and potential areas of consistency or inconsistency with other applicable requirements, prior to filing an application to approve the plan with the Commission. The conference proceedings shall be summarized in writing by the staff and made available to the applicant.

3. Contents of Schematic Design Plan.

An application for approval of a Schematic Design Plan must include the following items:

- a. A legal description of the boundaries of the Square Lake Yexas and Square Lake East Development Areas and any portion of the Square Lake Reserved Land proposed for addition to the Square Lake East Development Area, along with any proposed or anticipated changes in ownership, if known at the time of submittal, of any portions of the areas included in the plan.
- b. A narrative describing the proposed uses to be located within the development areas, including:
 - (1) How commercial development opportunities will be incorporated into the residential and recreational components of the Schematic Design Plan Area.
 - (2) How a public trailered boat ramp will be incorporated into the overall development.
- c. A general statement indicating anticipated phasing of development and establishing that the sequence of development will be consistent with Section 10.34-FRL,B.
- d. A statement of the applicant's evaluation and demonstration of the adequacy and availability of public facilities and services necessary to serve the envisioned development, to the extent that public services are intended to be utilized, and, if public services are not intended to be utilized, a statement indicating how such services will be provided by private means.
- e. A general statement that indicates how the natural resources of the area will be properly integrated into the planning and development.
- f. A statement demonstrating how the proposed development will meet the objectives and policies of the Concept Plan.
- g. A location map (drawn on a USGS topographic map base or equivalent, or Commission Land Use Guidance Map) that shows the boundaries of the Square Lake Yexas and Square Lake East Development Areas, any portion of the Square Lake Reserved Land proposed for inclusion, property lines, and the boundaries of any existing protection zones.

- h. A map showing existing site conditions, including contours at 10-foot intervals, water courses, unique natural conditions, forest cover, NWI mapped wetlands, field-verified wetland boundaries near critical development elements, lakes, ponds, existing buildings, road boundaries, property lines and names of adjoining property owners, scenic locations and other prominent topographical or environmental features.
 - i. A soils map of at least medium intensity that covers those portions of the Square Lake Yexas and the Square Lake East Development Areas identified in the plan as potential sites for future development. The description should use the soil group designations utilized in the Subsurface Waste Water Disposal Rules or the USDA Series names. If multiple phases of development are identified in the plan, for later phases the medium intensity soils mapping requirement may be waived by the Commission and required in a subsequent amendment, upon a determination by the Commission that the information presented in the plan it is reviewing is sufficient to ensure the document promotes well-planned, thoughtful development, over time, within the Square Lake Yexas and Square Lake East Development Areas. In no case shall the Commission waive this soils mapping requirement for commercial sites or necessary infrastructure, including but not limited to, access roads, utilities, and water access sites.
 - j. A conceptual site plan drawn at a scale of 1" = 50', or as otherwise approved by the Commission, that shows the general location of proposed development components, including commercial areas, roads, residential areas, public trailered ramp, open spaces, recreational areas, and utility systems, and the relationship to natural and already developed features in the area.
- 4. Procedure for Review.**
- a. **Application Fees.** A fee shall be assessed by the Commission for the processing of a Schematic Design Plan. Such a fee shall be the same as the flat fee portion assessed for a change to a development subdistrict, as established in the Commission's General Provisions (Chapter 1), as may be amended from time to time.
 - b. **Notices.** Notice of receipt by the Commission of an application for approval of a Schematic Design Plan, or a proposed amendment to a previously approved plan, is governed by Section 4.04(c) of the Commission's Rules of Practice (Chapter 4), as may be amended from time to time.
 - c. **Public Hearings.** A public hearing is not required as part of the Commission's review of a Schematic Design Plan application, however, the Commission, may elect to hold one. The Commission's consideration of whether to hold a public hearing on an application for a Schematic Design Plan, and the public notice requirements for any such public hearing, are governed by Section 4.04 of the Commission's Rules of Practice (Chapter 4), as may be amended from time to time.
 - d. **Decision.** In making its decision, the Commission shall make written findings of fact and issue an order either approving, approving with conditions, or denying the application. The Commission's decision shall constitute final agency action. Any successor(s)-in-interest to land covered by an approved Schematic Design Plan must comply with the plan, as well as with any applicable conditions of approval.

5. Criteria for the Approval or Amendment of a Schematic Design Plan.

The Commission shall approve a Schematic Design Plan only upon finding the plan:

- a. Conforms with the objectives and policies of the Concept Plan;
- b. Incorporates high quality site planning and design in accordance with accepted contemporary planning principles;
- c. Establishes or sets aside a reasonable amount of land for future commercial development to support recreational and residential development in the Square Lake Yexas and Square Lake East Development Areas;
- d. Establishes the location and size, including adequate space for parking and accessibility, of a public trailered ramp and water access site within the Square Lake Yexas Development Area;
- e. Provides for safe and efficient traffic circulation;
- f. Provides for shared water access to minimize the appearance and footprint of waterfront facilities for commercial and residential purposes. For example, a water access site, if proposed, shall be designed to accommodate growth from other shorefront or backland uses in the future, rather than building multiple, separate sites over time;
- g. Ensures that all lands in the Square Lake Yexas and Square Lake East Development Areas will be included in a subdivision permit or development permit as developable land, open space, or remaining land. Remaining land is land within an approved subdivision that is not proposed for development and is not permanently set aside as open space. Remaining land may be used for future phases of development through amendment of the permit or certification authorizing the subdivision of which the remaining land is a part. Remaining land also may remain undeveloped;
- h. Provides a designated space for lot owners on the west side of Square Lake to develop parking should it be needed to allow them to access their lots via the public trailered boat ramp referenced in Section 10.34-FRL,A,1; and
- i. Provides for the sequencing of development activity consistent with Section 10.34-FRL,B.

6. Amendments.

Any person holding a valid subdivision or development permit with a remaining legal interest in the permitted development, or any person with title, right, or interest in any area covered by the Schematic Design Plan or in the Square Lake Reserved Land if that person seeks to add all or a portion of the Reserved Land to the Schematic Design Plan Area, may apply to amend the approved Schematic Design Plan. If more than one person may apply to amend the Schematic Design Plan, a person may only amend portions of the Schematic Design Plan pertaining to the area in which he or she have title, right, or interest. Persons eligible to file an amendment application may file joint applications to address the area in which they jointly have title, right, or interest. Commission approval of any amendment

application requires finding that the criteria in Section 10.34-FRL,A,5 are satisfied. In conducting this review, the Commission shall consider the Schematic Design Plan, including the proposed amendment, as a whole and as the Schematic Design Plan applies to the entirety of the Square Lake Yexas and Square Lake East Development Areas and without consideration of divisions of ownership.

7. Inclusion of Reserved Land in Schematic Design Plan.

Commission approval of a Schematic Design Plan including land originally identified as Square Lake Reserved Land shall result in the Reserved Land:

- a. Becoming part of the Square Lake East Development Area;
- b. Being zoned D-FRL-RS; and
- c. Being removed from the area designated Square Lake Reserved Land.

Any existing reserved land designation order shall be administratively amended to reflect the change in Reserved Land, consistent with Section 10.34-FRL,C,3,a.

B. Sequence of Development.

1. Purpose and Applicability.

The purposes of sequencing requirements for Square Lake development are to 1) provide important recreational and commercial infrastructure for the anticipated residential development; 2) ensure the completion and availability of a public trailered ramp, which is a key public benefit of this Concept Plan; and 3) allow for review of the impacts of the development on the character and fisheries resource of the lake at select phases of the development.

All development within the Square Lake Yexas and Square Lake East Development Areas, as well as all Square Lake infill, must comply with the sequencing steps established in this subsection. The sequencing steps in this subsection refer to Commission permitting. If for any proposal the Commission would not have permitting authority and instead would be responsible for certifying the proposal to the Department of Environmental Protection, the sequencing steps in this subsection apply to the Commission's certification as though the certification were a permit.

2. Sequencing Steps.

- a. **Pre-development.** Before the Commission may approve any application for Square Lake infill or for residential or commercial development within the Square Lake Yexas and Square Lake East Development Areas, the lot for the public trailered ramp and related access rights, including public vehicular access rights from a public road, must be conveyed to a qualified public entity. A qualified public entity is a governmental organization with the capacity to construct and operate a public trailered ramp in that location.

After this sequencing step is satisfied, the Commission may act on applications for

subdivision approval for four commercial lots within the Square Lake Yexas Development Area and for subdivision or development permit approval for up to 15 development units or residential lots in the Square Lake Yexas and Square Lake East Development Areas, combined. Any further development on Square Lake also must comply with the following sequencing steps.

- b. Square Lake Infill.** Before the creation of any Square Lake infill lots, the public trailered ramp must be constructed and operating. After this sequencing step is satisfied, Square Lake infill lots may be conveyed and the Commission may act on building permit applications for residential development on the infill lots.
- c. Square Lake Yexas and Square Lake East Development Areas – More Than 15 Residential Lots or Development Units.** Sections 10.28-FRL,B and C cap the number of new development units and lots on Square Lake, as well as within the Square Lake Yexas and Square Lake East Development Areas. The total of the respective caps for the two development areas exceeds the cap for the entire lake, providing flexibility for the distribution of development units and lots between these two development areas, provided the overall lake cap is not exceeded.

Before the Commission may approve a subdivision or permit application that would authorize the cumulative number of development units or residential lots in the Square Lake East and Square Lake Yexas development areas to exceed 15:

- (1) The public trailered ramp must be constructed and operating; and
- (2) Four commercial lots in the Square Lake Yexas Development Area must be surveyed, accessible, and offered for sale.

After this sequencing step is satisfied, the Commission may act on applications for subdivision approval or permit approval for up to a cumulative total of 100 development units in the Square Lake Yexas and Square Lake East Development Areas, and the Square Lake Infill locations, that are otherwise consistent with the caps in Sections 10.28-FRL,B and C.

- d. Square Lake – More Than 100 Development Units.** Before the Commission may accept for processing a subdivision application or development permit application that would authorize the cumulative number of development units or residential lots in the Square Lake Yexas and Square Lake East Development Areas and the Square Lake infill locations to exceed 100 and before the Commission may accept for processing any subsequent subdivision application or development permit application authorizing additional development units or residential lots above the 100-lot threshold, the applicant must demonstrate:
 - (1) At least 70% of the previously authorized lots or development units have been developed with residential dwellings or commercial uses, there are no fewer than 60 development units, and these development units have been completed for at least one year prior to approval;
 - (2) On areas of Square Lake that are greater than one half mile from the Square Lake Yexas and Square Lake East Development Areas, existing boating use has not had

an undue adverse impact on the experience of lake users in pursuit of a relatively quiet and natural lake experience; and

- (3) The population of native fish in Square Lake is able to accommodate reasonably anticipated additional fishing pressure associated with the proposed residential lots and associated development.

A person aggrieved by a staff decision that a subdivision permit application or development permit application may not be accepted for processing because each of these criteria has not been satisfied may appeal the staff decision to the Commission pursuant to the process provided in Chapter 4.07,(1). A decision by the Commission that a subdivision permit application or development permit application may not be accepted for processing is final agency action and may be appealed to Superior Court. A decision by staff or the Commission to accept a subdivision application or development permit application for processing, after finding these criteria have been satisfied, shall be incorporated into and become part of the final decision and final agency action on the subdivision application. A decision by staff or the Commission to accept a subdivision application or development permit application for processing, after finding these criteria have been satisfied, by itself is not final agency action and not independently appealable.

C. Square Lake Reserved Land.

1. Purpose and Applicability.

The Square Lake Reserved Land is i) an area that, within the development units and residential lots cap for Square Lake, may be developed during the life of the Plan, as well as ii) an area where secondary development pressure may exist after the life of the Plan. The Reserved Lands are designated as either M-FRL-GN or a protection subdistrict, although that may be changed to D-FRL-RS pursuant to Section 10.34-FRL,A,7,b. The designation of Square Lake Reserved Land allows for continuation of traditional uses of this area, such as forestry, and provides for future consideration of the suitability of this area for development, both during and after the Plan.

2. Reserved Land Designation Order.

The Commission may issue a reserved land designation order. Such an order is the equivalent of a permit for the purpose of applying Chapter 4.

- a. **Application.** No later than the date on which a complete application for approval of the initial Schematic Design Plan is submitted to the Commission, the Petitioner or another person with title, right, or interest shall submit an application for a reserved land designation order. The application for the order shall identify the area sought to be designated as reserved land. This area shall include all of the Square Lake Reserved Land and identify any modification to the Reserved Land boundary made pursuant to Section 10.34,C,3,a since approval of the Plan.

b. Criteria for the Approval or Amendment of a Reserved Land Designation Order. The Commission shall approve an application for a reserved land designation order upon finding:

- (1) The applicant has title, right, or interest in the land proposed to be subject to the order; and
- (2) The land proposed to be subject to the order includes all of the Square Lake Reserved Land, except for any Square Lake Reserved land included in the Schematic Design Plan.

Amendment of a reserved land designation order is governed by Section 10.34-FRL,C,3.

c. Order. A reserved land designation order shall:

- (1) Identify the area designated as Reserved Land and subject to the order.
- (2) Specify that during the life of the Concept Plan use of the Reserved Land is subject to the terms of the Plan.
- (3) Specify that after expiration or termination of the Concept Plan, use of the Reserved Land is subject to the zoning and land use standards in effect at that time, and to any previously issued reserved land designation order.
- (4) Prohibit residential or commercial development except as allowed by the Concept Plan or, if after expiration or termination of the Plan, by amendment of the order in accordance with the terms of the order.
- (5) Include a condition establishing how the order may be amended or terminated after the expiration or termination of the Concept Plan. The condition shall provide that the order shall be amended and the area designated as Reserved Land shall be reduced in geographic scope upon an applicant demonstrating:
 - (a) On areas of Square Lake that are greater than one half mile from the Square Lake Yexas and Square Lake East Development Areas, existing boating use has not had an undue adverse impact on the experience of lake users in pursuit of a relatively quiet and natural lake experience; and
 - (b) The population of native fish in Square Lake is able to accommodate reasonably anticipated additional fishing pressure associated with potential development within the area proposed for removal from the designated Reserved Land.

Upon no remaining land being designated Reserved Land, the reserved land designation order shall be deemed terminated.

- d. Duration of Order.** A reserved land designation order shall continue in force and effect, including after expiration or termination of the Concept Plan, until the order is terminated.
- (1) During the life of the Plan, an order shall be terminated upon the addition of all of the Reserved Land to the Schematic Design Plan Area in accordance with Section 10.34-FRL,C,3,a.
 - (2) After expiration or termination of the Concept Plan, an order shall be terminated upon removal of the Reserved Land designation from all remaining land in accordance with Section 10.34-FRL,C,3,b.
- 3. Modification of Reserved Land Boundary and Amendment of Reserved Land Designation Order.**
- a. During the life of the Concept Plan, the boundary of the Reserved Land area may be modified through the addition of Reserved Land to the Schematic Design Plan Area. Such a modification shall only become effective upon Commission approval of the Schematic Design Plan including this area. Upon such approval of a Schematic Design Plan or amendment, the Commission shall simultaneously modify any existing reserved land designation order to reflect the updated boundary and reduction in the Reserved Land area. The Commission shall make this corresponding amendment to the order administratively and as part of the Schematic Design Plan approval process.
 - b. After expiration or termination of the Concept Plan, the boundary of the Reserved Land area may be modified, and the corresponding reserved land designation order may be amended or terminated, in accordance with the terms and conditions of the order required by Section 10.34-FRL,C,2,c,(5).

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FISH RIVER CHAIN OF LAKES CONCEPT PLAN

APPENDICES:

- A. OFFICIAL LAND USE GUIDANCE MAPS
- B. MINIMUM MANDATORY DECLARATIONS
- C. FISH RIVER CHAIN OF LAKES CONSERVATION EASEMENT
- D. DEER WINTERING AREAS (DWA) COOPERATIVE AGREEMENT
- E. OUTCOME-BASED FORESTRY (OBF) AGREEMENT

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APPENDIX A:

OFFICIAL LAND USE GUIDANCE MAPS

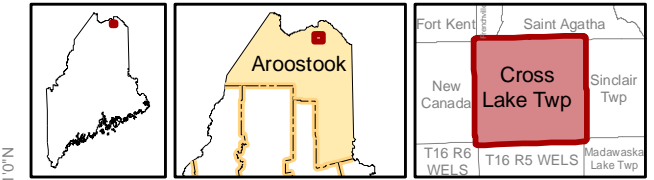
The following maps illustrate current zoning designations for the Plan Area, as may have been amended in accordance with the provisions of the Concept Plan. However, the zoning designations for neighboring properties may have been changed; see the most current Land Use Guidance Maps.

<u>Page</u>	<u>Land Use Guidance Map</u>
A-3	Cross Lake Township
A-4	Madawaska Lake Township
A-5	Sinclair Township
A-6	T15 R 5 WELS
A-7	T16 R 5 WELS
A-8	T17 R 3 WELS

Cross Lake Twp.



T17 R5 WELS
Aroostook County



Land Use Guidance Map
Department of Agriculture, Conservation and Forestry
Maine Land Use Planning Commission

Legend

DEVELOPMENT SUBDISTRICTS

- D-GN: General
- D-RS: Residential

MANAGEMENT SUBDISTRICTS

- M-GN: General

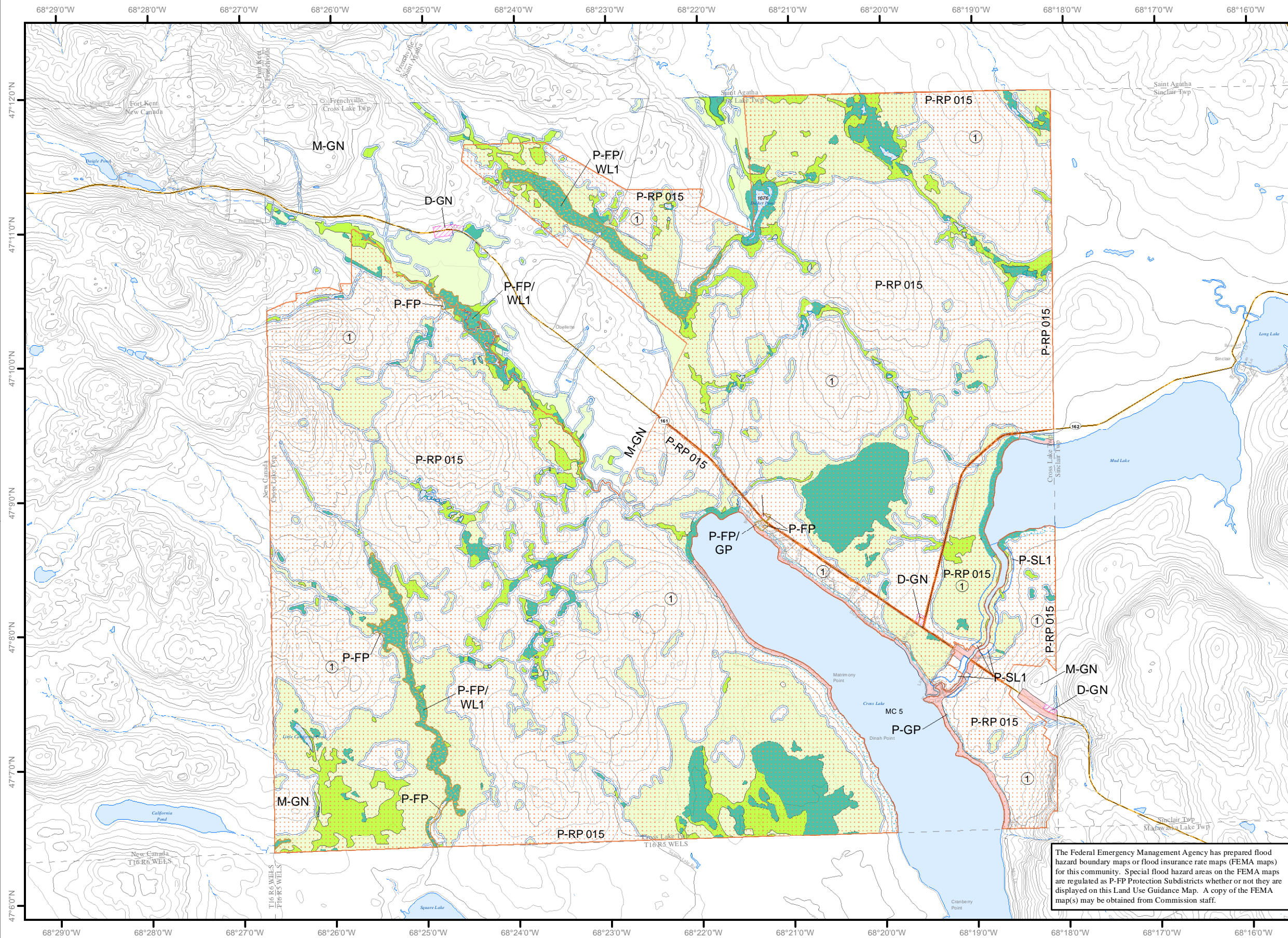
PROTECTION SUBDISTRICTS

- P-FP: Flood Prone
- P-GP: Great Pond
- P-RP: Resource Plan
- P-SL1: Shoreland - 250'
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- P-WL2: Scrub-shrub Wetlands
- P-WL3: Forested Wetlands

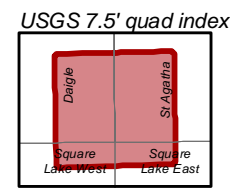
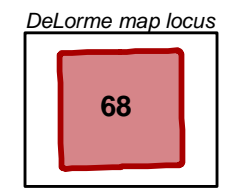
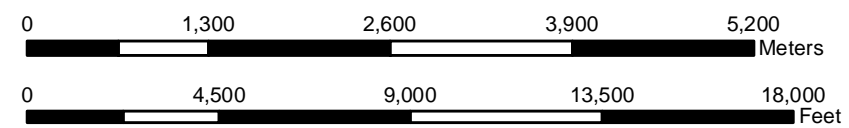
This map does not show all designated P-WL Subdistricts, such as non-tidal water bodies and freshwater wetlands within 25 feet of flowing waters.

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Amendments			
Location #	Zoning Permit	Effective Date	Remarks
			DRAFT MAP Deliberation Version



The Federal Emergency Management Agency has prepared flood hazard boundary maps or flood insurance rate maps (FEMA maps) for this community. Special flood hazard areas on the FEMA maps are regulated as P-FP Protection Subdistricts whether or not they are displayed on this Land Use Guidance Map. A copy of the FEMA map(s) may be obtained from Commission staff.



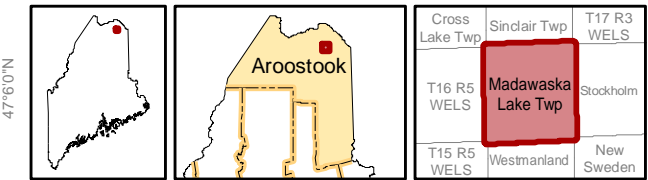
- Map amendment location
- Point at which a river drains 25 square miles - symbol points upstream (12 M.R.S. Sec. 682-B(4))
- MIDAS number: Unique number assigned to each standing body of water in Maine.
- Water Quality Limiting Lake - Refer to Section 10.23, E, 3.g of the Commission's Land Use Districts and Standards.
- Lake Management Classes - Refer to Section 10.02 (Definitions) of the Commission's Land Use Districts and Standards.

Madawaska Lake Twp.



T16 R4 WELS

Aroostook County



Land Use Guidance Map

Department of Agriculture, Conservation and Forestry

Maine Land Use Planning Commission

Legend

DEVELOPMENT SUBDISTRICTS

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- D-RS: Residential

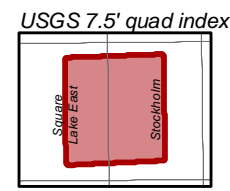
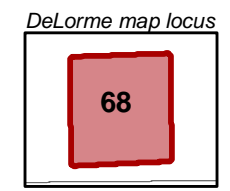
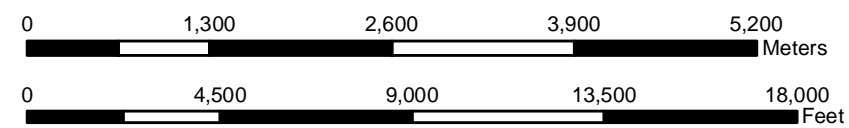
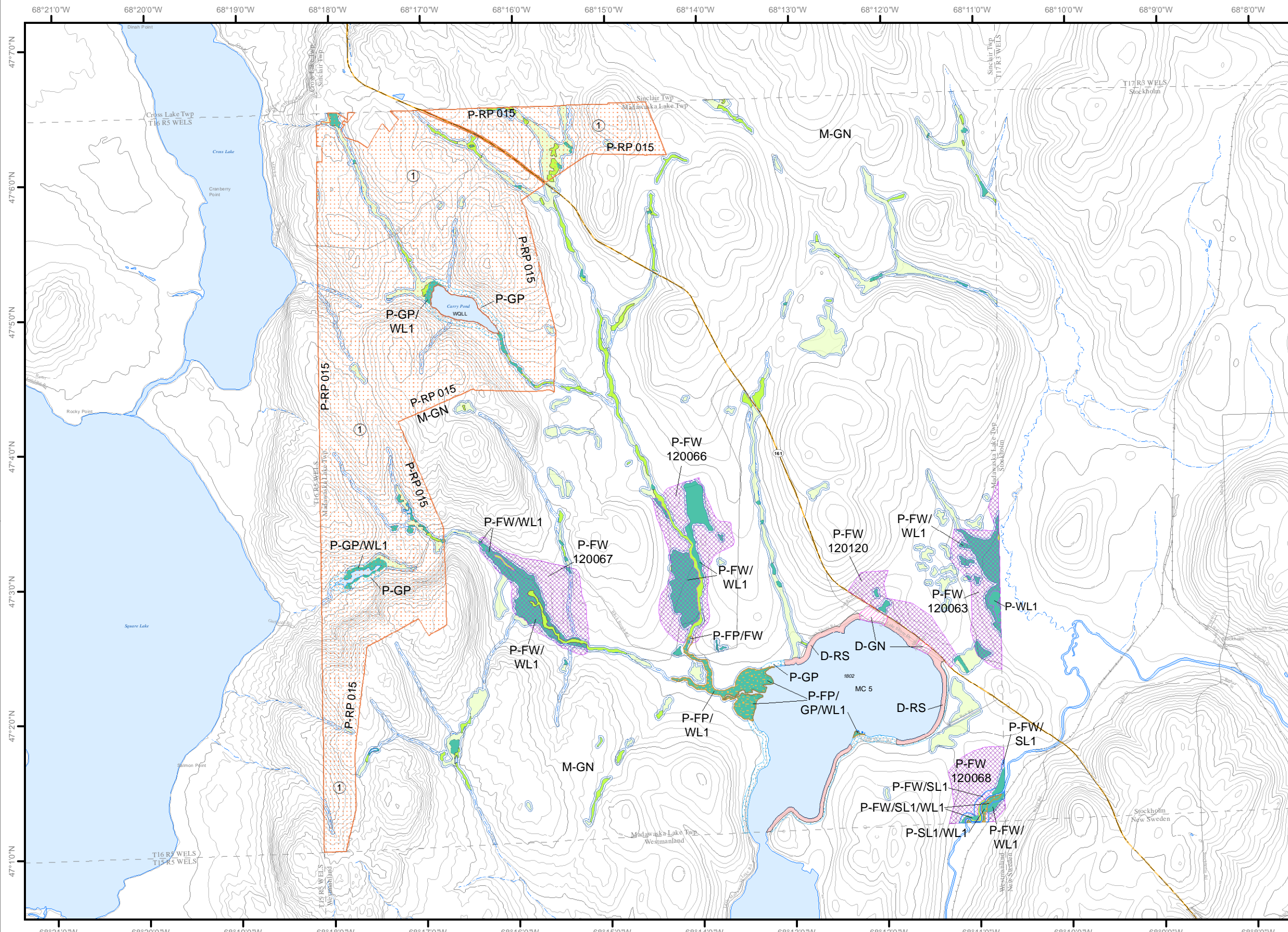
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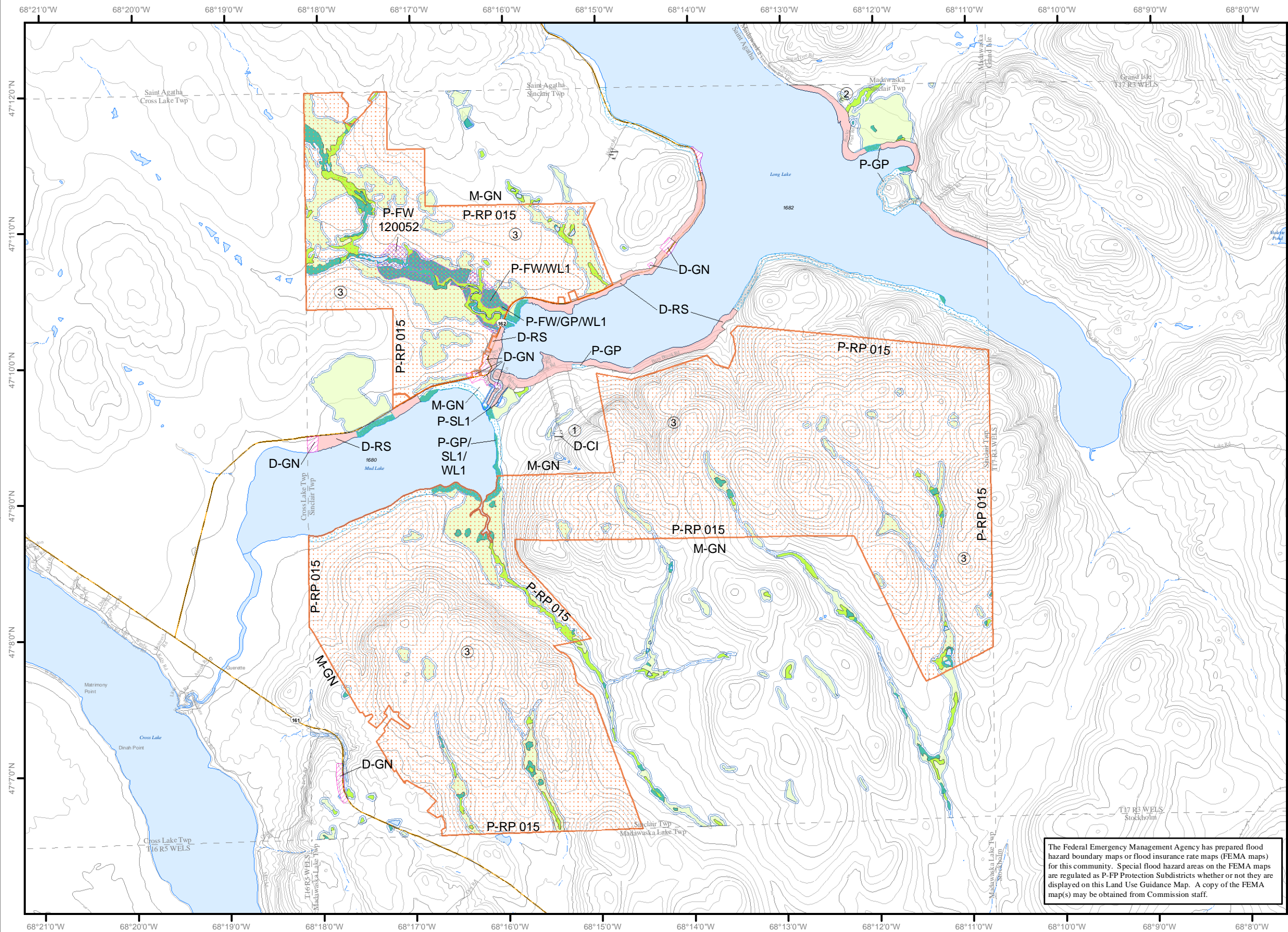
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Amendments			
Location #	Zoning Permit	Effective Date	Remarks
DRAFT MAP Deliberation Version			



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Sinclair Twp.

T17 R4 WELS
Aroostook County

Land Use Guidance Map
Department of Agriculture, Conservation and Forestry
Maine Land Use Planning Commission

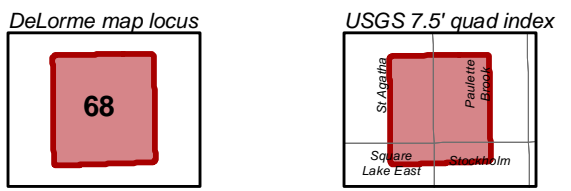
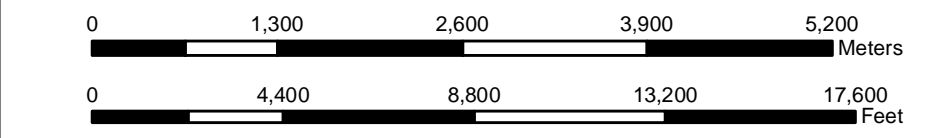
- Legend**
- DEVELOPMENT SUBDISTRICTS**
- D-CI: Commercial Industrial
 - D-GN: General
 - D-RS: Residential
- MANAGEMENT SUBDISTRICTS**
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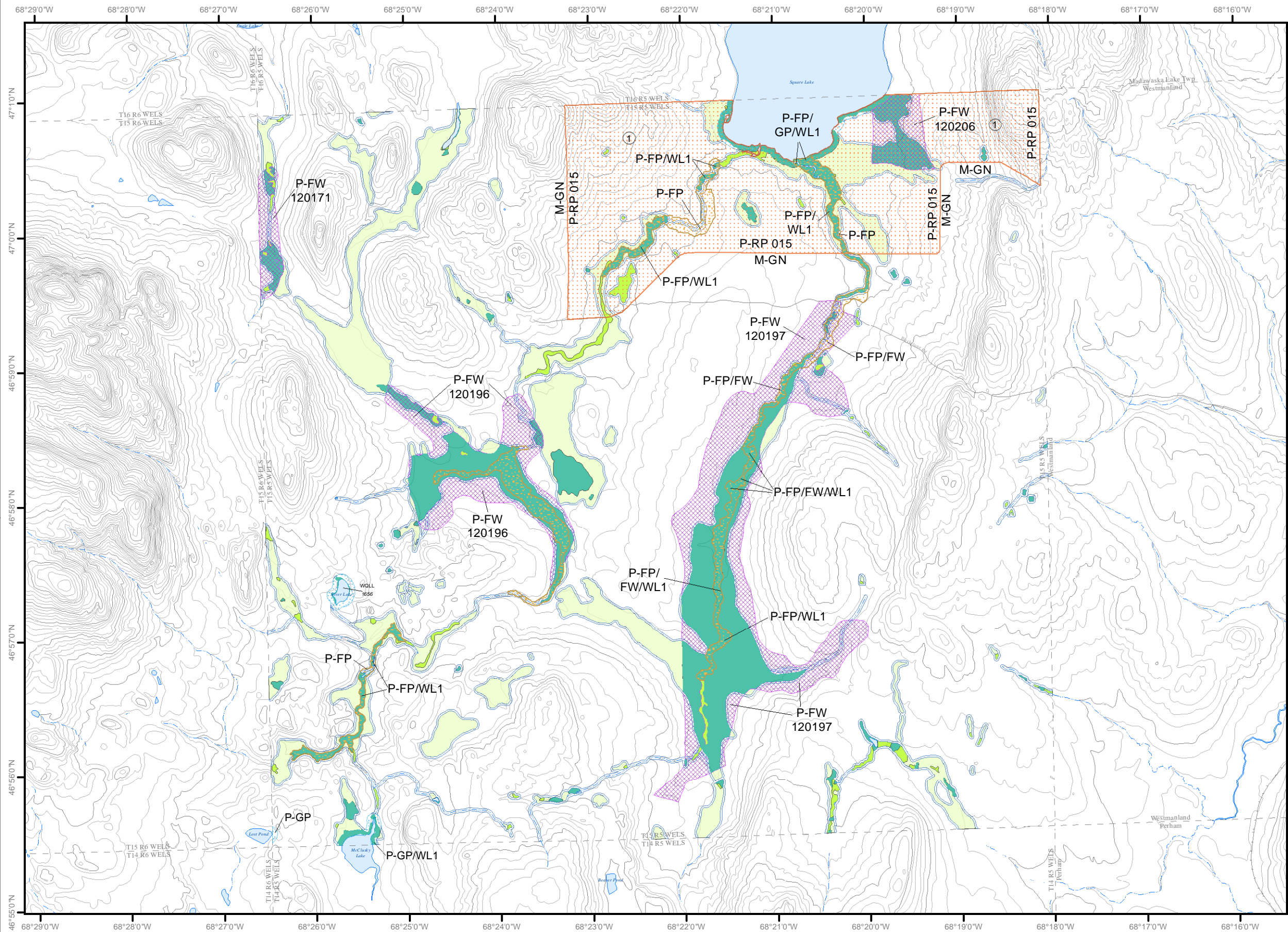
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2	ZP763	03/23/2017	



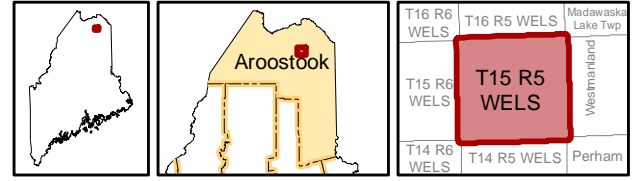
- ① Map amendment location
- ▲ Point at which a river drains 25 square miles - symbol points upstream (12 M.R.S. Sec. 682-B(4))
- 9999 MIDAS number: Unique number assigned to each standing body of water in Maine.
- WQLL Water Quality Limiting Lake - Refer to Section 10.23, E.3.g of the Commission's Land Use Districts and Standards.
- MC# Lake Management Classes - Refer to Section 10.02 (Definitions) of the Commission's Land Use Districts and Standards.



T15 R5 WELS



Aroostook County



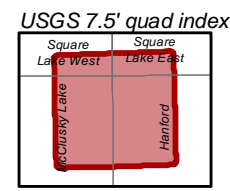
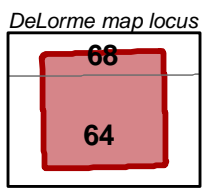
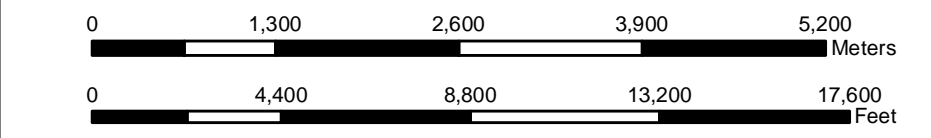
Land Use Guidance Map
 Department of Agriculture, Conservation and Forestry
 Maine Land Use Planning Commission

- Legend**
- PROTECTION SUBDISTRICTS**
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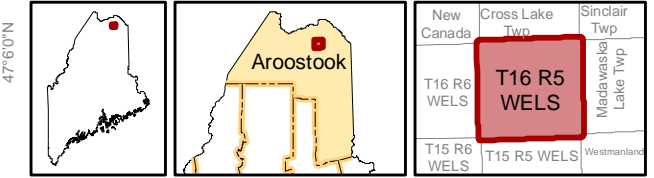


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T16 R5 WELS



Aroostook County



Land Use Guidance Map
 Department of Agriculture, Conservation and Forestry
 Maine Land Use Planning Commission

Legend

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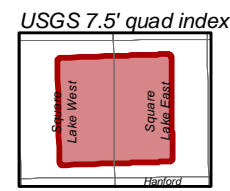
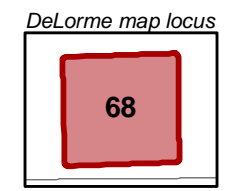
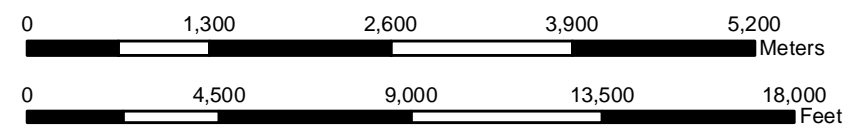
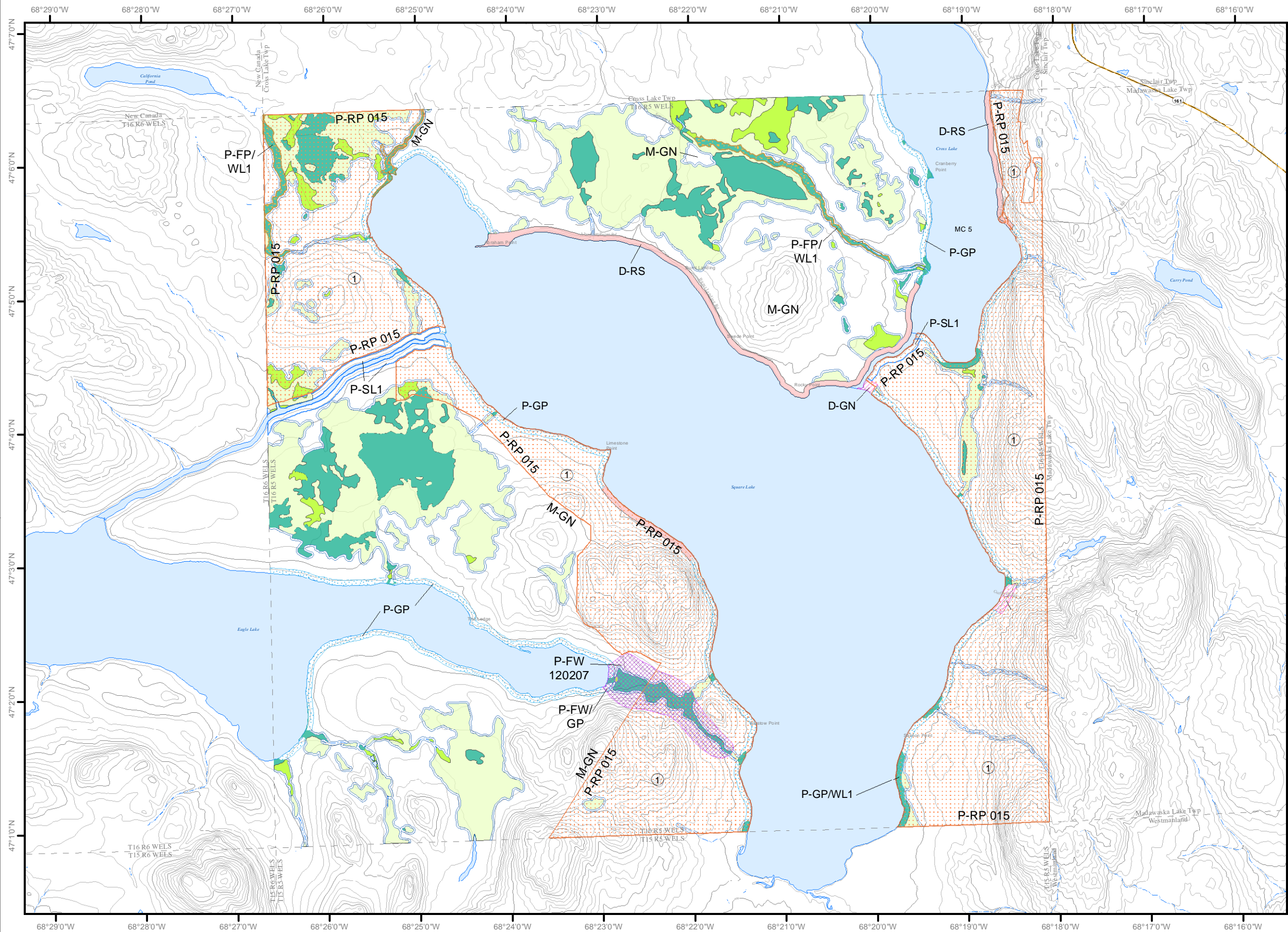
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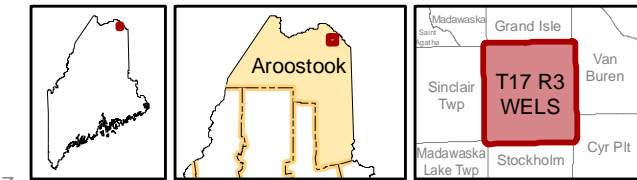


- Map amendment location
- Point at which a river drains 25 square miles - symbol points upstream (12 M.R.S. Sec. 682-B(4))
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- WQLL** Water Quality Limiting Lake - Refer to Section 10.23, E.3.g of the Commission's Land Use Districts and Standards.
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T17 R3 WELS



Aroostook County



Land Use Guidance Map
 Department of Agriculture, Conservation and Forestry
 Maine Land Use Planning Commission

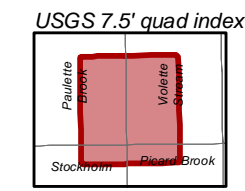
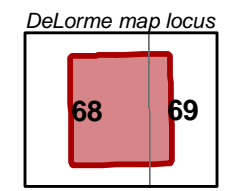
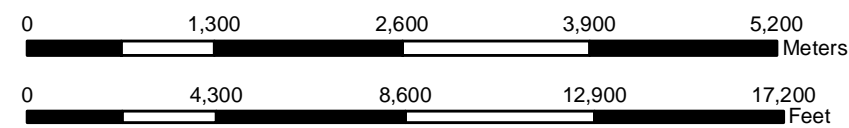
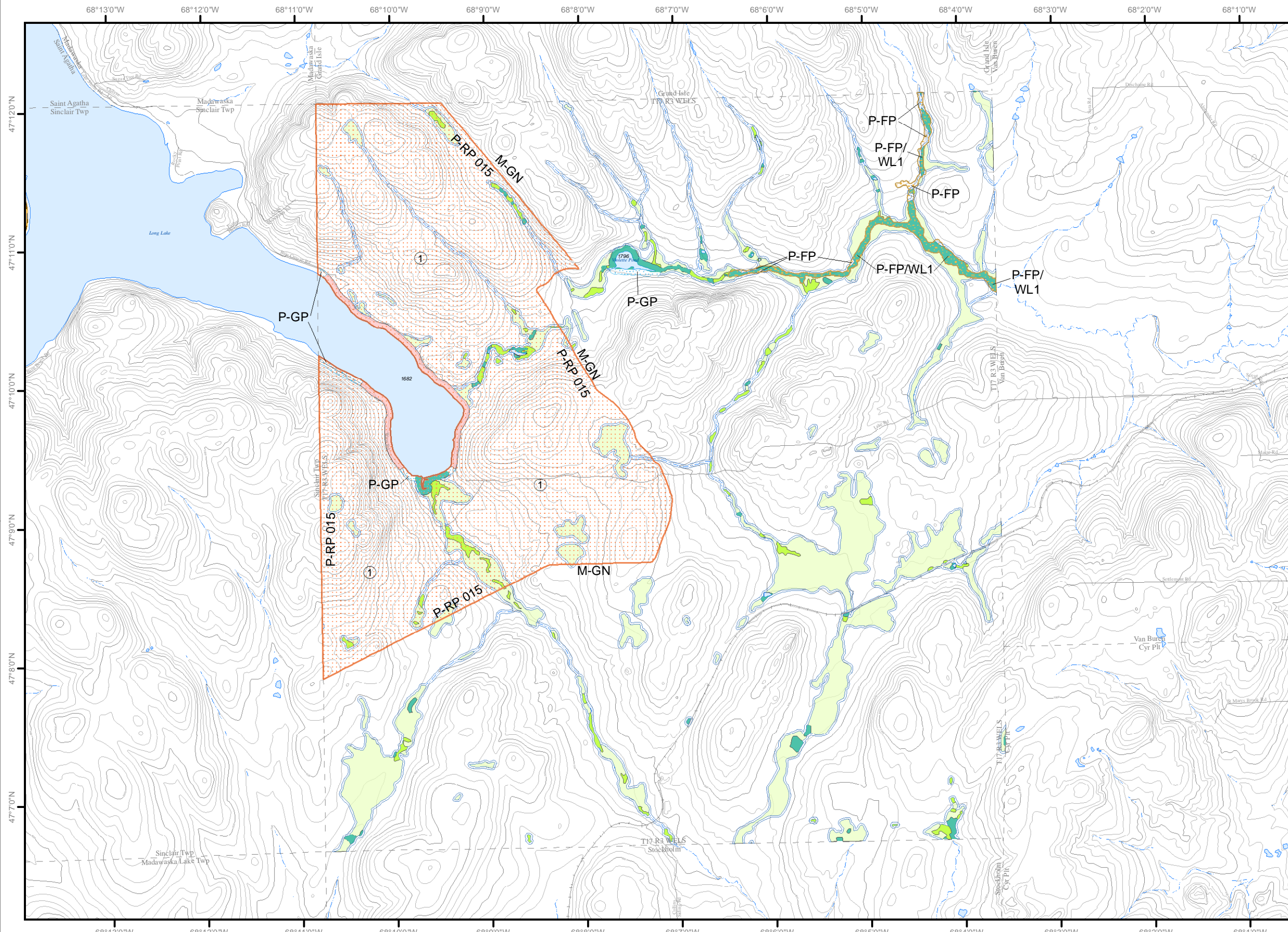
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This map is a reduced-size version and should not be considered definitive. Full sized, official Land Use Guidance Maps are available on the LUPC website or by request.

Amendments			
Location #	Zoning Permit	Effective Date	Remarks
DRAFT MAP Deliberation Version			



- ① Map amendment location
- ▲ Point at which a river drains 25 square miles - symbol points upstream (12 M.R.S. Sec. 682-B(4))
- 9999 MIDAS number: Unique number assigned to each standing body of water in Maine.
- WQLL Water Quality Limiting Lake - Refer to Section 10.23, E.3.g of the Commission's Land Use Districts and Standards.
- MC# Lake Management Classes - Refer to Section 10.02 (Definitions) of the Commission's Land Use Districts and Standards.

APPENDIX B:

MINIMUM MANDATORY DECLARATIONS

APPENDIX B. MINIMUM MANDATORY DECLARATION ELEMENTS

1. Mandatory Declaration Language

The mandatory declaration shall provide at a minimum:

- a. The following statement: “All or a portion of this land is subject to the Fish River Chain of Lakes Resource Protection Plan (P-RP) Subdistrict pursuant to Maine Land Use Planning Commission (the LUPC or Commission) Zoning Petition ZP 768 dated _____, as may be amended from time to time, recorded in the Aroostook County Registry of Deeds in Book _____, Page _____. A copy of ZP 768 is also available at the LUPC offices in Ashland and Augusta. The Concept Plan is scheduled to expire on _____, unless otherwise amended, extended, or renewed.”;
- b. A description of the deeded road access rights to the lot or parcel, as approved in advance by the Commission;
- c. The deed for each lot, except those that obtain access off of a public road, will include the following statement: “All lot owners shall be members of the [enter association name] and share in the said rights and responsibilities as provided in *[enter applicable reference]*.”; and
- d. The deed for each lot must include the following statement: "The lot shall not be further divided or reconfigured without written approval of the Maine Land Use Planning Commission."

2. Mandatory Declaration Elements

The mandatory declaration language set forth in this appendix applies to lands within the Plan Area. Nothing herein shall be construed as limiting the Commission’s authority to require the same or similar declarations to be recorded in connection with permit approvals for other forms of development consistent with the Concept Plan and applicable law.

Prior to or concurrent with the sale or other transfer of interest of any portion of any development area, owner shall record all Mandatory Declaration Elements against such property.

Mandatory Declaration Elements may not be modified or omitted from Declarations, except as follows:

- a. Changes made to the Mandatory Declaration Elements to correct scrivener’s errors, adjust numbering, supplement with subdivision- or development-specific references, or re-order terms shall be permitted without approval of the Commission.
- b. Terms may be added to Declarations so long as they are not inconsistent with the Mandatory Declaration Elements and the terms of the Concept Plan. Other than those transfers of interest that are exempt from Commission subdivision review pursuant to Sections 10.28-FRL of the Concept Plan, any such additional terms must be submitted to the Commission for review and approval as part of a subdivision permit application in order for the Commission to determine their consistency with the Mandatory Declaration Elements, the terms of the Concept Plan and any other terms and conditions of permits issued by the Commission.

APPENDIX C:

FISH RIVER CHAIN OF LAKES CONSERVATION EASEMENT

The following table of contents is not officially part of the conservation easement, and is included here only for user convenience.

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FISH RIVER CHAIN OF LAKES
CONSERVATION EASEMENT

Granted by

ALLAGASH TIMBERLANDS LP

to

FOREST SOCIETY OF MAINE,
as Holder

CONSERVATION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, ALLAGASH TIMBERLANDS LP with a place of business in Bangor, Maine (hereinafter referred to as “**Grantor**”, which word, unless the context clearly indicates otherwise, include Grantor’s successors and/or assigns, GRANTS to FOREST SOCIETY OF MAINE, a Maine not-for-profit corporation with a place of business in Bangor, Maine (hereinafter referred to as “**Holder**”, which word shall, unless the context clearly indicates otherwise, include Holder’s successors and/or assigns), with QUITCLAIM COVENANT, in perpetuity, the following described Conservation Easement on land located in Aroostook County, State of Maine, hereinafter referred to as the “**Protected Property**”, as described in Exhibit A-1 and as shown on maps in Exhibit A-2, each of which is attached hereto and made a part hereof by reference (“**Conservation Easement**”).

PURPOSE

The purpose of this Conservation Easement is to provide a significant public benefit by protecting in perpetuity the Conservation Values of the Protected Property and by allowing, but not requiring, the Protected Property’s continued operation as a Commercial Working Forest.

RECITALS

WHEREAS, the Protected Property is a predominantly forested land area of significant breadth and diversity, with important values including sizeable forests of high quality, productive soils, diverse wildlife and plant habitat, rare and endangered species habitat, extensive bogs, wetlands, streams, lakes, ponds, and other water bodies, and unique natural features, and qualifies as a “relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,” as that phrase is used in P.L. 96-541, Title 26 U.S.C. § 170(h)(4)(A)(ii), and in regulations promulgated thereunder; and

WHEREAS, the Protected Property contains popular recreational areas important to the people of the State of Maine, and guaranteed access to and use of the Protected Property by the public for Non-exclusive, Low-intensity Outdoor Recreation in perpetuity, consistent with the preservation and protection of the other values of the Protected Property and Grantor’s reserved rights, is in the public interest; and

WHEREAS, the Protected Property is capable of providing a continuing and renewable source of forest products; and

WHEREAS, Grantor has the reserved right to use the Protected Property for Forest Management Activities and to take other actions under the terms and conditions set forth in this Conservation Easement, in a manner that is consistent with the protection of the Conservation Values; and

WHEREAS, the Parties agree that the Conservation Easement and the Management Plan together are sufficient to ensure the protection of the Conservation Values; and

WHEREAS, the permanent protection of the Protected Property for conservation and for Non-exclusive, Low-intensity Outdoor Recreation, and the allowance of Motorized Recreation uses permitted pursuant to Section 6.1 hereof by the public, while permitting use of the Protected Property for Forest Management Activities and other uses allowed in this Conservation Easement, all in a manner that is consistent with the protection of the Conservation Values, will make a lasting contribution to the State of Maine;

WHEREAS, this Conservation Easement is granted in accordance with the terms and provisions of the Concept Plan approved by the Maine Land Use Planning Commission (“LUPC”) pursuant to Zoning Petition ZP 768 on _____[Date], of which the Protected Property is a part; and

WHEREAS, this Conservation Easement is granted not as a gift but pursuant to the terms of the Concept Plan and in consideration for and mitigation of certain development rights that will be or have been authorized by the LUPC; and

WHEREAS, Holder is a tax exempt public charity under §§ 501(c)(3) and 509(a) of the Internal Revenue Code of 1986, and the regulations thereunder, is qualified under § 170(h) of such Code to receive qualified conservation contributions and is qualified to hold conservation easements pursuant to Title 33 M.R.S. § 476(2)(B); and

WHEREAS, this Conservation Easement is created pursuant to Maine’s Conservation Easement Act, Title 33 M.R.S. §§ 476 *et seq.*

NOW THEREFORE, the Parties hereto have established this Conservation Easement affecting the Protected Property consisting of the following terms, conditions, restrictions, and affirmative rights, which shall run with and bind the Protected Property in perpetuity.

1. DEFINITIONS.

In this Conservation Easement, the following terms shall have the following meanings:

1.1 “AAA” has the meaning ascribed to such term in Section 18.1(b) hereof.

1.2 “Affiliate” means any corporation, partnership, limited partnership, limited liability company, trust, or other entity in existence on the date of this Conservation Easement or at any time thereafter: (a) controlled by a Party, (b) in control of a Party, or (c) controlled (directly or indirectly) by the same person or entity that controls a Party. The term “control” as used herein includes control through common ownership and/or management, or a trust which is established for the benefit of a Party.

1.3 “Arbitrator” has the meaning ascribed to such term in Section 18.2(a) hereof.

1.4 “Basal Area” means the area of cross-section of a tree stem at Diameter Breast Height, including bark.

1.5 “Baseline Documentation” means the baseline documentation report prepared in the manner described in Section 5 hereof.

1.6 “Campsite” means a camping location for tents, registered tent trailers, registered pickup campers, registered recreational vehicles, registered trailers or similar devices used for camping. Campsite does not include a camping location that has access to a pressurized water system or permanent Structures other than outhouses, fireplaces, picnic tables, picnic tables with shelters, or lean-tos. A Campsite shall include no more than 4 sites for transient occupancy by 12 or fewer people per site.

1.7 “Commercial Working Forest” means an area of land that is used for the production of revenue from Forest Management Activities.

1.8 “Concept Plan” means the concept plan of Maine Woodlands Realty Company, Allagash Timberlands LP, and Aroostook Timberlands LLC, entitled “The Fish River Chain of Lakes Concept Plan” and authorized by LUPC pursuant to Zoning Petition 768 approved on [DATE], as may be amended or extended.

1.9 “Conservation Easement” has the meaning ascribed to such term on Page 1 of this Conservation Easement.

1.10 “Conservation Values” means, in no particular order, each and all of the following values associated with the Protected Property:

- a) Forest Values. The condition of the Protected Property as a healthy, diverse in age and biological conditions, forest land area containing high quality, productive and non-eroding soils and capable of providing a continuing and renewable source of commercial forest products;
- b) Landscape-Scale Forestland Values. The condition of the Protected Property as a largely unfragmented, diverse, substantially natural, and sustainably managed forest land area;
- c) Aquatic Resources and Wetland Values. The Protected Property’s diverse and extensive bogs, fens, thoroughfares, wetlands, streams, lakes, ponds, and other aquatic habitats, including fisheries habitats, their water quality, undeveloped shorelines and riparian areas, and the ecological values of these areas;
- d) Wildlife, Plant, and Natural Community Values. The Protected Property’s diverse and extensive wildlife, plant, forest and other terrestrial habitats, habitats of rare, threatened and endangered flora and fauna, including natural communities, sensitive sites, which include at a minimum all S1 and S2 documented plants, wildlife, and habitats occurring on the property, and the ecological values of these areas;
- e) Recreational Values. The diverse and extensive opportunities on the Protected Property for Non-exclusive, Low-intensity Outdoor Recreation and/or certain

Motorized Recreation, consistent with the conduct of Forest Management Activities on the Protected Property; and

- f) Scenic Values. The scenic qualities of the Protected Property, as experienced from the lakes and thoroughfares in the Fish River Chain of Lakes and public vantage points, consistent with the conduct of Forest Management Activities on the Protected Property; and
- g) Other Special Site Values. The unique, historic, cultural, archaeological, geological, scientific or educational sites on the Protected Property, and the attributes and resources of these sites.

1.11 “Construction Materials” has the meaning ascribed to such term in Section 3.2(a) hereof.

1.12 “Diameter Breast Height” means the diameter of a standing tree measured 4.5 feet from ground level.

1.13 “Dispute” has the meaning ascribed to such term in Section 18.1 hereof.

1.14 “Division” has the meaning ascribed to such term in Section 7.1 hereof.

1.15 “Flowing Water” means a channel that has defined banks created by the action of surface water and has two or more of the following characteristics:

- a) It is depicted as a solid or broken line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map;
- b) It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years;
- c) The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water;
- d) The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed; and
- e) The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

Such waters are commonly referred to as rivers, streams, and brooks. Flowing water does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.

1.16 “FOAA” has the meaning ascribed to such term in Section 11.3 hereof.

1.17 “Forest Management Activities” means all aspects of planting, tending, harvesting, and removal of any and all forest products, by any and all current and future planting, harvesting, and removal techniques allowable under law (now or in the future). Forest Management Activities shall include, but are not limited to, the following activities and Grantor’s management of such activities: reforestation, planting, growing, cutting, tending, and harvesting trees, forest products, and other vegetation; construction, use, and maintenance of skid trails, skid roads, skidder bridges, log yards, landing and staging areas, land management roads, winter haul roads or other paths, roads, or trails used to provide pedestrian, domestic animal, and vehicular access on and from and within the Protected Property to carry out the Forest Management Activities on the Protected Property; clearing for reforestation; harvesting, pruning, girdling, thinning, or trimming trees and other vegetation; harvesting forest products with domestic animals or mechanical equipment; maintenance of fields and meadows, as identified in the Baseline Documentation; conducting timber cruising, forest management planning, forest stand improvement, forest crop selection, forest research, and other forest resource evaluation activities; cutting and removing forest products, including, but not limited to, trees, logs, poles, posts, pulpwood, firewood, chips, seeds, pinestraw, stumps, seed cones, bark, shrubs, lesser vegetation, and biomass; collection and processing of all sugar maple products; conducting fire control and other activities to prevent or control losses or damage to forest crops or forest products; identifying and marking boundaries; salvaging forest crops or forest products; marking timber and performing other activities to identify trees or areas for harvest; performing commercial and pre-commercial silvicultural treatments; disposing of harvesting debris and conducting post-harvest or site recovery activities; prescribed burning; applying in accordance with applicable statutes and regulations herbicides, pesticides, fungicides, rodenticides, insecticides, and fertilizers; removing, loading, and transporting timber and other forest crops and products; processing forest products with portable or temporary equipment designed for in-woods processing, including the establishment and maintenance of log merchandising yards; trimming, cutting, removing, burning, or otherwise disposing of any trees or vegetation that are diseased, rotten, damaged, or fallen; trimming, cutting, removing, or otherwise disposing of any trees or vegetation as is necessary to construct or maintain fire lanes, Trails, and any roads or Utility Structures permitted under this Conservation Easement; and any other similar activities.

1.18 “Forestry Improvements” means any and all Structures, facilities, improvements and utilities that are directly related to the conduct of Forest Management Activities, including, but not limited to, roads, fences, bridges, gates, maple sugar collection, portable sawmills, mobile chippers, and other equipment and facilities, associated signs and Structures, and wells, but does not include permanent sawmills or other permanent forest processing facilities.

1.19 “Fund” has the meaning ascribed to such term in Section 10.1 hereof.

1.20 “Fund Operator” has the meaning ascribed to such term in Section 10.1 hereof.

1.21 “Grantor” has the meaning ascribed to such term on Page 1 of this Conservation Easement.

1.22 “Herein” or “Hereof” mean in or of this Conservation Easement as a whole, and do not refer to any individual section, unless specifically indicated.

1.23 “Holder” has the meaning ascribed to such term on Page 1 of this Conservation Easement.

1.24 “Informational Signage” means informational signage related to uses and Structures authorized by this Conservation Easement.

1.25 “Low-intensity Outdoor Recreation” means non-motorized outdoor, nature-based recreational activities, including, but not limited to, boating, swimming, fishing, hiking, hunting, trapping, picnicking, nature observation, photography, horseback riding, tent and shelter camping, cross-country skiing, bicycling, snowshoeing, rock climbing, ice climbing, and enjoyment of open space.

1.26 “Motorized Recreation” means those uses approved as part of a Motorized Recreational Use Plan of motorized recreational vehicles designed to be used in a forested landscape on Trails, such as snowmobiles, all-terrain vehicles (ATVs) or similar vehicles, which recreation shall include designated trails but which recreation does not rely on additional structures like racetracks or grandstands or on surface alterations more intensive than an unpaved trail.

1.27 “Motorized Recreational Use Plan” means the plan of even date herewith regarding Motorized Recreation called for in Section 6.1 hereof, and any subsequent amendments thereto.

1.28 “LUPC” means the Maine Land Use Planning Commission, or any successor commission, organization or regulatory authority.

1.29 “Management Plan” means the Forest Management Plan to be prepared by a Maine licensed forester called for in Section 3.2(b) hereof, and any subsequent amendments thereto.

1.30 “Non-exclusive” means those activities available to the public in which participation is not prohibited or affirmatively restricted based on required membership or application of other discriminatory or exclusive criteria; provided, however, that the charging of a reasonable fee for service or for reimbursement of costs for these activities, in and of itself shall not cause an activity to be deemed “exclusive”.

1.31 “Original Percentage Reduction” has the meaning ascribed to such term in Section 17.9 hereof.

1.32 “Owner” has the meaning ascribed to such term in Section 10.2(c) hereof.

1.33 “Party” means any one signatory to this Conservation Easement and its successors and/or assigns.

1.34 “Parties” means all signatories to this Conservation Easement and their successors

and/or assigns.

1.35 “Permitted Construction Materials Removal Activities” has the meaning ascribed to such term in Section 3.2(a) hereof.

1.36 “Practicable” means available and feasible considering cost, existing technology, and logistics based on the overall purpose of the project.

1.37 “Qualifying Forestry Certification Program” means any of the following certification programs: (a) the Sustainable Forestry Initiative 2015-2019 Standards as in effect on the date hereof; (b) the Forest Stewardship Council Program as in effect on the date hereof; (c) for parcels of no more than 7,500 acres created and conveyed by Grantor to unaffiliated third parties and approved by Holder and Third Party with respect to each parcel, the American Tree Farm System Certification as in effect on the date hereof; (d) any successor program to those listed in subsections (a), (b), and (c) above; provided, however, that Holder shall have reviewed any successor program and determined that the standards and procedures of the successor program are no less protective of the Conservation Values than the program it is replacing; or (e) any similar certification program to those listed in subsections (a), (b), (c), and (d) above; provided that Holder shall have reviewed any similar certification program and determined that the standards and procedures of the certification program are no less protective of the Conservation Values than the certification programs listed in either subsections (a), (b), or (c), or their approved successor programs. Holder shall conduct such reviews in a timely manner. If Holder reasonably determines that the auditing process used or proposed to be used to determine compliance by Grantor with the standards of the qualifying certification program is administratively or technically incapable of making an accurate certification determination, Holder may remove a previously listed certification program from the list of qualifying certification programs, but only after the conclusion of all dispute resolution procedures pursuant to Section 18 hereof that may occur as a result of Holder’s reasonable determination, in which Holder’s determination of incapacity is upheld.

1.38 “Recreational Facilities” means (a) up to a total of 9 Campsites or Remote Rental Cabins, with no more than 3 of the Facilities being Remote Rental Cabins; and (b) new public boat launches and expansions of existing public boat launches that are identified in the Baseline Documentation.

1.39 “Remote Rental Cabin” means a building used only as a commercial lodging facility on a transient basis by persons primarily in pursuit of recreation in an isolated and remote setting. A remote rental cabin cannot be larger than 750 square feet in gross floor area; cannot be served by any public utilities providing electricity, water, sewer, or land-based data or telephone services; cannot have pressurized water; cannot have a permanent foundation; and cannot be located within 1,000 feet of any public road or within 1,000 feet of any other type of residential or commercial development.

1.40 “Resource Information System” means an information system established and maintained by Grantor in accordance with Section 5.3 hereof that is sufficient, in the reasonable judgment of Holder, to meet Grantor’s obligations pursuant to this Conservation Easement.

1.41 “Riparian Management Zone” means the area measured from the edge of the tree line to either side of the channel of Flowing Waters or from the normal high water mark of all other lakes and ponds that are subject to the management guidelines defined in Section 3.2(f);

1.42 “Stewardship Fund Agreement” has the meaning ascribed to such term in Section 10.1 hereof.

1.43 “Structure” means anything constructed or erected with a fixed location on, over, in and/or under the ground, or attached to something having a fixed location on, over, in and/or under the ground. A Structure may be primarily two dimensional, such as a paved road or parking lot or a sign, or three dimensional, such as a building, wall or piping. An unpaved road or trail shall not be considered a Structure.

1.44 “Taking” has the meaning ascribed to such term in Section 17.10 hereof.

1.45 “Trail” means all recreational trails, including, but not limited to, trails for Motorized Recreation and/or Non-exclusive, Low-intensity Outdoor Recreation.

1.46 “Utility Structures” means Structures associated with the distribution, but not transmission, of telecommunication or electrical power services, including, but not limited, to “cell” towers, and including, but not limited to, related systems and equipment. Structures associated with the distribution of services are sized to meet the needs for uses on the Protected Property or to sites contemplated in the Concept Plan. Structures associated with transmission of services are typically sized for regional distribution and do not provide for local access to said services.

1.47 “Water Extraction Activities” means any and all activities that are related to the surface and subsurface extraction of water for those uses permitted in Section 3.2(c) hereof.

2. PROHIBITED LAND USES AND STRUCTURES

The following land uses are specifically prohibited on the Protected Property unless expressly permitted elsewhere in this Conservation Easement: residential, commercial, industrial, and institutional uses. Structural development associated with the following land uses is specifically prohibited on the Protected Property unless expressly permitted elsewhere in this Conservation Easement: residential, commercial, industrial, and institutional uses. Without limiting the generality of the foregoing, the following Structures are all specifically prohibited on the Protected Property unless otherwise expressly permitted in this Conservation Easement: residential dwellings (including houses, apartment buildings, multi-family housing units, or mobile homes); permanent outdoor high-intensity lights; hostels, motels or hotels; billboards (other than directional and informational signs associated with permitted land uses); junk yards; landfills; energy generation or waste disposal facilities; new public or toll roads; and energy, electrical, or telecommunications, transmission or distribution systems. Further, no new filling, drilling, excavation, or alteration of the surface of the earth, no removal of soil,

minerals, sand or gravel, and no changes in the topography are allowed on the Protected Property unless otherwise expressly permitted elsewhere in this Conservation Easement.

3. PERMITTED LAND USES AND STRUCTURES

3.1 Permitted Land Uses and Structures. Grantor hereby expressly reserves the right, all as defined by and subject to the terms and conditions contained in this Conservation Easement including, but not limited to, those contained in Sections 3.2 and 6.2 hereof, to:

(a) undertake and conduct, or allow to be undertaken and conducted, on the Protected Property: (i) Permitted Construction Materials Removal Activities; (ii) Forest Management Activities; (iii) Water Extraction Activities; (iv) uses necessary or incidental to the construction, maintenance and operation of Recreational Facilities; (v) uses associated with the construction, placement, maintenance, and replacement of Informational Signage; (vi) Non-exclusive, Low-intensity Outdoor Recreation; and (viii) Motorized Recreation;

(b) construct, place, repair, maintain, expand and replace on the Protected Property: (i) new or expanded temporary or permanent roads, driveways and/or Utility Structures in accordance with Section 4 hereof; (ii) Structures existing as of the date of the grant of this Conservation Easement, as identified in the Baseline Documentation, (iii) Structures necessary or incidental to the uses and activities identified in Section 3.1(a) hereof; (iv) Structures associated with nature observation (including, but not limited to, observation blinds and platforms); (v) Trails; (vi) Structures required for the administration and collection of fees in accordance with Section 6.2 hereof; and (vii) Structures and improvements in furtherance of Non-exclusive, Low-intensity Outdoor Recreation and/or required for permitted Motorized Recreation uses pursuant to Section 6.1 hereof (including, but not limited to, trailheads, trailhead parking, bridges, benches, tables, erosion control systems, wells, springs, and signs for educational or informational purposes); provided, however such Structures may not be expanded without the consent of Holder, which consent shall be granted only upon a determination by Holder that such expansion will not result in an undue adverse effect on the Conservation Values. Notwithstanding the foregoing, the level of consultation, review, or consent of Holder required (A) for proposed expansion of Structures that qualify as Forestry Improvements, shall be governed by Section 3.2(b) hereof, and (B) for expansion of roads and Utility Structures, shall be governed by Section 4 hereof.

3.2 Terms and Conditions Governing Permitted Land Uses and Structures.

(a) Construction Materials Removal Activities.

(i) Grantor hereby expressly reserves the right to excavate or alter the Protected Property by removal (by quarrying or otherwise), processing with portable devices (such as crushers and screens), and storage of rock (including decorative rock), gravel, aggregate, sand, other similar construction or landscaping materials (collectively “**Construction Materials**”) and to construct, maintain, and operate Structures and facilities necessary for the same, in connection with (A) Forest Management Activities on the Protected Property; (B) Forest Management Activities on lands that are owned by Grantor or its Affiliates adjacent to

the Protected Property; (C) the construction and maintenance of roads that are used by Grantor or its Affiliates to access the Protected Property or lands adjacent to the Protected Property that are owned by Grantor or its Affiliates; provided that no reasonable alternative to the proposed excavation site exists that is within a two (2) mile radius of the proposed deposition site and is accessible by the then established road system. The permitted excavations or alterations of the Protected Property as identified in this Section 3.2(a)(i) are referred to hereinafter collectively as the “**Permitted Construction Materials Removal Activities**”. Grantor’s Permitted Construction Materials Removal Activities, including, but not limited to, any reclamation undertaken following such activities, shall be conducted in accordance with applicable laws and minimize undue adverse effects on the Conservation Values.

(ii) Grantor shall give Holder thirty (30) days’ notice prior to commencement of Construction Materials Removal Activities at a new or expanded site of one acre or greater. Grantor shall not commence such activities at noticed sites without the consent of Holder, which consent shall be granted only upon a determination by Holder that such activity will not result in an undue adverse effect on the Conservation Values and (B) for any proposed removal at such noticed sites that Holder reasonably believes would result in undue adverse effects to the Conservation Values, Holder by notice to Grantor may require that Grantor show that no reasonable alternative to the proposed site exists within a two mile radius on or off the Protected Property and accessible by the established road system. In all cases, Construction Materials Removal Activities will be designed and implemented to minimize undue adverse effects on the Conservation Values.

(iii) The right to conduct Permitted Construction Materials Removal Activities is subject to the requirement that the disturbed area for such activity does not exceed two (2) acres in size per extraction site and that no more than ten (10) acres within the Protected Property be actively disturbed and not revegetated and stabilized at any one time; provided that any site less than an acre in size, the materials from which are used solely for Grantor’s Forest Management Activities, shall not count for purposes of the 10-acre cap set forth above. The removal of loose surface decorative rock that does not materially disturb forest soils and vegetation is not subject to these restrictions.

(b) Forest Management Activities.

(i) General Conduct of Forest Management Activities; Management Plan. Grantor hereby expressly reserves the right to conduct Forest Management Activities on the Protected Property. All Forest Management Activities on the Protected Property, other than timber cruising and resource evaluation, shall be conducted in accordance with the Management Plan, which Grantor shall develop and maintain for so long as Forest Management Activities are occurring on the Protected Property. Grantor acknowledges that a purpose of the Management Plan is to guide Forest Management Activities so as to be in compliance with the terms and conditions of this Conservation Easement. The Management Plan shall both protect the Conservation Values and allow for the Protected Property’s continued operation as a Commercial Working Forest in accordance with the terms and conditions of the Management Plan. Grantor shall operate within the constraints of the Management Plan, and both the Management Plan and each associated annual operating plan, as part of activities contemplated in Section 3.2(b)(v) in

advance.

(ii) Outcome Based Forestry. While all or a portion of the Protected Property is enrolled in the Outcome Based Forestry program administered by the Maine Forest Service (or any successor agency), Forest Management Activities in such enrolled areas shall comply with the requirements of that program and any agreements executed between the Grantor and the Maine Forest Service.

(iii) Goals for Forest Management Activities. Forest Management Activities shall be carried out in a manner that, to the extent reasonably practicable, achieves each of the following goals (the “Forest Management Goals”):

- (A) Conservation and promotion of the ecological health and productivity of the forest;
- (B) Management that favors a diversity of forest age classes and native species composition;
- (C) Conservation of the aesthetic values of the Protected Property;
- (D) Protection of water quality;
- (E) Maintenance of soil productivity; and
- (F) Conservation of native plant and animal species and natural communities.

(iv) Forest Management Plan. Forest Management Activities on the Protected Property shall be performed under the supervision of a Maine licensed forester and in accordance with the Management Plan, which shall be prepared to comply, as applicable, with Sections 3.2(b)(ii) and/or 3.2(b)(iii) hereof. The Grantor and Holder acknowledge that the actual Forest Management Activities and outcomes on the Protected Property will determine the compliance with this Conservation Easement. The Management Plan will contain at least the following information:

- (A) A statement of the Grantor’s long term (between ten and twenty years from the date of the Management Plan) and short term (less than ten years from the date of the Management Plan) sustainable forest management goals;
- (B) A description of the Protected Property’s current forested and other natural resource conditions, including maps identifying timber stand types and ages, natural and physical features, and features subject to the Conservation Values;

(C) An explanation of how the Forest Management Goals set forth in Section 3.2(b)(iii) are being addressed, including the following sustainable forestry elements:

- (1) Stand quality: assessments of species composition and age classes, tree size and stocking, and timber quality, with measures to ensure that forest health is maintained or improved;
- (2) Sensitive sites: protection of documented rare, threatened, or endangered species habitat, and other unique and fragile natural areas, and known archeological sites;
- (3) Productive capacity: practices to protect and maintain soil productivity, water quality, riparian areas, and other unique natural resources;
- (4) Forest diversity: practices to encourage the full range of site-adapted native species, including a healthy balance of forest age classes, and forest ecosystem functions;
- (5) Fish and wildlife management: prescriptions to retain or create desirable wildlife habitats, including snags, cavity trees, woody debris, mast production, vernal pools, riparian habitat, deer wintering habitat and overall biological diversity;
- (6) Pesticide and herbicide: practices to minimize the need for use of pesticides and herbicides and employ current best management practices;
- (7) Invasive species: identification of invasive species present, and methods for their control or removal, as appropriate and feasible; and
- (8) Forest health: practices to promote forest health or to mitigate greater damage to the Conservation Values due to natural causes beyond Grantor's control, such as fire or insect or disease infestation.

(v) Additional Information. To ensure efficient and effective communications and coordination between the Grantor and Holder in implementing the terms and conditions of the Conservation Easement and the Management Plan, the Grantor agrees to provide Holder and, during the life of the Concept Plan the LUPC, the following additional information on an annual basis, on a date that is consistent on year-by-year basis and precedes the scheduled meeting(s) described in Section 8.9 hereto:

(A) Information on the location, size, and harvest method for all harvest blocks and other Forest Management Activities planned for the coming year, including, but not limited to, information about planned harvests that intersect with site specific features subject to the Conservation Values and all such information as it relates to documenting the values contained in the Conservation Values;

(B) Information on the location, size, and harvest method for all harvest blocks and Forest Management Activities referenced in Section 3.2(b)(v)(A) hereto that were harvested or performed in the previous year;

(C) A report demonstrating how long-term sustainability and productivity have been assessed in the previous year, with said report including at least the following information:

(1) Inventory, growth and yield status (e.g., updates on assumptions and modeling efforts); and

(2) Summary of actual harvest volumes compared to the projected harvest levels in the Management Plan;

(D) A report describing in detail all permitted non-Forest Management uses and activities, as set forth in Section 3.2 of the Conservation Easement, occurring on the Protected Property during the preceding year, including the existence of all permitted structures, as set forth in the Conservation Easement, that have been constructed or expanded on the Protected Property during the preceding year;

(E) A current and no less than annually updated list and/or database from the Resource Information System;

(F) A report of any regulatory fines imposed and mitigation required by any administrative agencies or judicial bodies during the preceding year for violations of applicable laws regulating Forest Management Activities on the Protected Property; and

(G) A report on staff and contractor training that pertains to the conduct of all Forest Management Activities occurring during the preceding year on the Protected Property that are relevant to Grantor's obligations under this Conservation Easement.

(vi) Review of Management Plan and Information to Holder. To assist the Holder and the Grantor in fulfilling their responsibilities under the terms of this Conservation Easement, the Grantor shall provide the Holder and the LUPC with a copy of the Management Plan in existence at the time of the grant of this Conservation Easement, if one exists, and, within twelve months after the grant of this Conservation Easement, shall provide, at Grantor's cost, a Management Plan satisfying the requirements of Section 3.2(b); thereafter, the Grantor shall provide the Holder and, during the term of the Concept Plan the LUPC, with any subsequent revisions to such plan or any new Management Plan at the Grantor's cost promptly following completion. If the Holder finds that any portion of the Management Plan is inconsistent with the terms of this Conservation Easement or that resulting Forest Management Activities could potentially result in a violation of this Conservation Easement, the Holder may provide written comments to the Grantor identifying those portions of the Plan and explaining any inconsistencies with the terms of this Conservation Easement.

(vii) Management Plan Obligations for a Transfer of Permitted Property. Upon the sale of all or a portion of the Protected Property, the new owner shall within twelve months provide to Holder and LUPC at owner's sole cost a Management Plan satisfying the requirements of Section 3.2(b). The Parties acknowledge that the Holder shall review such information for consistency with the terms of this Conservation Easement, but is neither entitled nor required to approve the Management Plan.

(viii) Management of Non-Commercial Vegetation. Grantor hereby expressly reserves the right to manage non-commercial vegetation on the Protected Property by cutting, pruning, and planting without the requirement of a management plan, as Grantor reasonably deems necessary to exercise the rights reserved to Grantor hereunder, including to accommodate Non-exclusive, Low-intensity Outdoor Recreation and Motorized Recreation uses permitted pursuant to Section 6.1 hereof. Managing non-commercial vegetation includes, but is not limited to, the removal of vegetation for safety purposes, for control of invasive plant species, and for the creation of scenic vistas and views from Trails, public roadways, roads, Recreational Facilities, overlooks, and public vantage points catalogued by Holder pursuant to Section 5.2 hereof, provided that all vegetation management shall be conducted in a manner that minimizes undue adverse effects on the Conservation Values. The incidental sale of vegetation cut or removed from the Protected Property in the exercise of Grantor's non-commercial vegetation management rights shall not require a management plan, and need not be addressed in the Management Plan.

(ix) Forestry Improvements. Grantor may develop, construct, place, maintain, install, replace, expand, and repair at any time and from time to time Forestry Improvements on the Protected Property without Holder's consent, subject to the provisions of Section 4 hereof provided that any such improvements shall be conducted in a manner that minimizes undue adverse effects on the Conservation Values. All Forestry Improvements permitted hereunder shall be developed, placed, installed, and constructed in accordance with applicable laws.

(x) Third-Party Certification.

(A) If Grantor seeks or maintains a third-party certification on the Protected Property, Holder shall be permitted to observe the audit process as it relates to the Protected Property and shall have access, subject to the provisions of Section 11 hereof, to Grantor's supporting information for the certification as it relates to the Protected Property.

(B) For purposes of obtaining or maintaining a certification from a Qualifying Forestry Certification Program, the qualifying auditing program shall audit and determine certification based upon a determination of Grantor's compliance with this Section 3.2(b) and the Management Plan, in addition to the requirements of such Qualifying Forestry Certification Program.

(C) So long as Grantor obtains or maintains a third-party certification from a Qualifying Forestry Certification Program that the Protected Property is being managed in accordance with the requirements of this Section 3.2(b) and the Management Plan, then there shall be a rebuttable presumption that Grantor is in full compliance with the

terms of the Management Plan. Notwithstanding this rebuttable presumption:

(1) Compliance with Management Plan. If Holder reasonably determines there to be a lack of compliance by Grantor with the Management Plan, and further determines that the certification standards and procedures as applied through the audit were materially flawed or otherwise reasonably inadequate to determine compliance with the Management Plan, Holder shall first seek to resolve all compliance issues with Grantor acting in good faith in accordance with Section 18 hereof. If this effort does not resolve all compliance issues, Holder shall follow the appeals process, if any, of said Qualifying Forestry Certification Program. If the appeals process is not completed within one year of submittal of an appeal by Holder to the Qualifying Forestry Certification Program, or Holder continues to believe that all issues relating to a violation have not been resolved notwithstanding the existence of certification, then Holder may enforce this Conservation Easement or the Management Plan as provided in Section 8 hereof. To rebut any presumption of compliance, Holder must demonstrate that the certification standards and procedures as applied through the audit were materially flawed or otherwise reasonably inadequate to determine compliance with this Conservation Easement or the Management Plan.

(2) Certification Audit and Violations. If the certification audit finds violations of this Conservation Easement or the Management Plan that do not result in the loss or proposed loss of certification, then no presumption of compliance with the Management Plan will apply to the practices that resulted in such violations. For all violations, whether resulting or not in the loss or proposed loss of certification, Holder shall first determine whether the remedial action (if any) sought by the Qualifying Forestry Certification Program for the violation has been implemented and, if so, whether such remedial action resolves the violation. If Holder concludes that the remedial action, if any, does not materially resolve the violation, then Holder shall seek to resolve any issues relating to the violation with Grantor acting in good faith. If Holder continues to reasonably believe that all issues relating to the violation have not been materially resolved by Grantor, Holder may enforce this Conservation Easement or the Management Plan as provided in Section 8 hereof.

(3) Violations After Completion of Audit. If Holder reasonably believes that a violation of this Conservation Easement or the Management Plan has occurred after the completion of the most recent certification audit, then Holder may immediately seek to enforce this Conservation Easement or the Management Plan, and compliance with this Conservation Easement and the Management Plan will be evaluated based upon the Forest Management Activities conducted and outcomes thereof. In such event, Holder shall first seek to resolve any compliance issue with Grantor acting in good faith. If this does not resolve issues relating to the violation, then Holder may enforce this Conservation Easement or the Management Plan as provided in Section 8 hereof.

(D) Absence of Third-Party Certification. In the absence of third-party certification of the Protected Property from a Qualifying Forestry Certification Program, including as a result of (1) the choice of Grantor to no longer seek third-party certification, (2) the failure to receive certification following an audit, or (3) the removal by Holder of the forestry certification program previously utilized by Grantor due to its administrative or

technical incapacity to make an accurate certification determination and the subsequent failure of Grantor to seek third-party certification from another Qualifying Forestry Certification Program, the Management Plan shall continue to govern Forest Management Activities on the Protected Property, and compliance with this Conservation Easement and the Management Plan will be determined by Holder based upon the Forest Management Activities conducted and outcomes thereof. In the absence of said third-party certification, subject to the provisions of Section 11 hereof, Grantor will provide Holder with the same types and detail of information required for a Qualifying Forestry Certification Program so that Holder can determine consistency with this Conservation Easement and the Management Plan, including sustainable forest management provisions.

(c) Water Extraction Activities. Grantor hereby expressly reserves the right to conduct Water Extraction Activities on the Protected Property for Forest Management Activities, including, but not limited to, watering of seedlings and firefighting.

(d) Recreational Facilities.

(i) Grantor hereby expressly reserves the right to develop, construct, maintain, expand, replace and operate, or to allow the development, construction, maintenance, expansion, replacement and operation of Recreational Facilities on the Protected Property. The development, construction and/or expansion of a Recreational Facility may only occur following the consent of Holder, which shall be granted unless Holder determines that such development, construction, and/or expansion of the Recreational Facility will have an undue adverse effect on the Conservation Values. Once developed, constructed, or expanded, said Recreational Facility may be operated, maintained, repaired, or reconstructed in kind and in place at any time and from time to time, without the consent of Holder.

(ii) Structures accessory to new or existing Recreational Facilities that (A) support septic treatment that are sized and used solely to meet the needs of the Recreational Facilities, or (B) that enable the generation of electric power from renewable energy sources, such as solar collectors or similar technology, or wind turbines, are permitted; provided, however, that the renewable energy generation source is both sized and used solely to serve the Recreational Facilities at which the renewable energy source is located, and construction, operation, and repair of a renewable energy source will minimize undue adverse effect on the Conservation Values.

(e) Informational Signage. Grantor hereby expressly reserves the right to construct, place, maintain, and replace at any time and from time to time Informational Signage on the Protected Property. In designing, constructing, and siting the Informational Signage, Grantor shall reasonably minimize the intrusiveness of the Informational Signage and ensure that Informational Signage reasonably blends in with the local setting.

(f) Riparian Management Zones and Standards. The following standards shall be applied to uses and structures within the Riparian Management Zones that are defined below.

(i) Riparian Buffers for Specified Waters. The following standards shall apply to a 200-foot riparian zone, measured from the normal high water mark or the edge of the tree line on either side of the channel, as applicable, on Little California Pond, Barstow Brook, Butler Brook, California Brook, Carry Brook, Goddard Brook, Little Goddard Brook, the thoroughfare between Cross Lake and Square Lake, and all associated tributaries that are Flowing Waters:

(A) No Structure Zone. There shall be no uses or structures, other than as allowed by Section 3.2(f)(iv) hereof, in the area between 0 and 75 feet from the normal high water line or the edge of the tree line on either side of the channel, as applicable; and

(B) Managed Harvesting Zone. Forest Management Activities in the remainder of the 200-foot riparian zone shall be consistent with Section 3.2(b) of the Conservation Easement and:

i. There shall be no tracking from forest management equipment allowed in the area between 75 and 100 feet from the normal high water mark or the edge of the tree line on either side of the channel, as applicable; and

ii. Forest Management Activities are allowed in the area between 75 and 200 feet from the normal high water mark or the edge of the tree line on either side of the channel, as applicable, that results in removal of no more than one-third of the Basal Area within a 25 year period.

(ii) Riparian Buffers for Carry Pond. The following standards shall apply to a 200-foot riparian zone, measured from the normal high water mark on Carry Pond:

(A) No Structure Zone. There shall be no uses or structures, other than as allowed by Section 3.2(f)(iv) hereof, in the area between 0 and 50 feet from the normal high water mark; and

(B) Managed Harvesting Zone. Forest Management Activities in the remainder of the 200-foot riparian zone shall be consistent with Section 3.2(b) of the Conservation Easement and:

i. There shall be no tracking from forest management equipment allowed in the area between 50 and 75 feet of the normal high water mark; and

ii. Forest Management Activities are allowed in the area between 50 and 200 feet from the normal high water mark that results in removal of no more than one-third of the Basal Area within a 25 year period.

(iii) Riparian Buffers on Other Waterbodies. The following standards shall apply to a 100-foot riparian buffer, measured from the normal high water mark or the tree line on either side of the channel, as applicable, on all ponds and lakes and all Flowing Waters not specifically addressed in Section 3.2(f)(i) or Section 3.2(f)(ii) herein:

(A) No Structure Zone. There shall be no uses or structures, other than as allowed by Section 3.2(f)(iv) hereof, in the area between 0 and 25 feet from the normal high water mark or the edge of the tree line on either side of the channel, as applicable; and

(B) Managed Harvesting Zone. Forest Management Activities in the remainder of the 100-foot riparian zone shall be consistent with Section 3.2(b) of the Conservation Easement and:

i. There shall be no tracking from forest management equipment allowed in the area between 25 and 50 feet from the normal high water mark or the edge of the tree line on either side of the channel, as applicable; and

ii. Forest Management Activities are allowed in the area between 50 and 100 feet from the normal high water mark or the edge of the tree line on either side of the channel, as applicable, that results in removal of no more than one-third of the Basal Area within a 25 year period.

(iv) Exceptions to No Structure Zone Standards. The following shall be allowed in the No Structure Zones set forth in this Section 3.2(f):

(A) Forest Management Activities to remove safety hazards;

(B) Forest Management Activities to mitigate and/or prevent forest disease and/or forest pest infestations, as recommended by a licensed Maine forester and provided that Grantor first obtains the consent of Holder;

(C) Forest Management Activities to enhance either terrestrial or aquatic wildlife habitat, as recommended by a qualified wildlife biologist or ecologist and provided that Grantor first obtains the consent of Holder;

(D) Trails and Campsites, provided Grantor first obtains the consent of Holder; and

(E) Forest Management Activities to the extent required to allow for the transportation of forest products across Flowing Waters, provided that no reasonable alternative exists and that there is no undue adverse effect on the Conservation Values.

4. ROADS, UTILITY STRUCTURES, AND EASEMENTS ON PROTECTED PROPERTY

4.1 Roads and Utility Structures.

(a) General. Grantor hereby expressly reserves the right to develop, construct, place, maintain, expand, replace and operate, or to allow the development, construction, placement, maintenance, expansion, replacement and operation, of any new temporary or permanent roads, driveways or Utility Structures on the Protected Property, or public roads abutting the Protected Property as follows:

(i) as Grantor may determine to be required to conduct Forest Management Activities occurring on the Protected Property pursuant to Section 3.2(b) hereof or outside of the Protected Property, or to access and/or service Forestry Improvements;

(ii) as Grantor may determine to be required to access and/or service the land uses and Structures permitted pursuant to Sections 3.2(a), 3.2(c), and 3.2(d) hereof, provided that Grantor first obtains the consent of Holder;

(iii) as Grantor may determine to be required to access or service locations in which Non-exclusive, Low-intensity Outdoor Recreation activities or motorized recreational uses permitted pursuant to Section 6.1 hereof are occurring or desired, either on the Protected Property or on government-owned or managed lands adjacent or reasonably proximate to the Protected Property, provided that Grantor first obtains the consent of Holder;

(iv) as Grantor may determine to be required to access or service (A) Structures existing as of the date of the grant of this Conservation Easement, as identified in the Baseline Documentation, (B) Structures used for nature observation (including, but not limited to, observation blinds and platforms), (C) Trails, or (D) Structures required for the administration and collection of fees pursuant to Section 6.2 hereof;

(v) as Grantor may determine to be required to access and/or service the land uses and Structures permitted by the Concept Plan, provided that Grantor first obtains the consent of Holder;

(b) All such roads, driveways and/or Utility Structures shall be located, designed, placed, and constructed in a manner so as to (A) minimize the amount of Protected Property utilized, and (B) minimize undue adverse effects on the Conservation Values; when prior consent of Holder is required, it shall be granted only upon a determination by Holder that this standard is met. All such roads, driveways and/or Utility Structures shall be constructed, placed, or expanded only in accordance with all necessary regulatory approvals, including, but not limited to, permits required for the development that is to be accessed or serviced by such roads, driveways and/or Utility Structures. Under no circumstances may there be more than one (1) "cell" tower on the Protected Property at any point in time, and for which Grantor must first obtain the consent of Holder.

4.2 Easements, Rights of Way, or Other Interests.

(a) Grantor hereby expressly reserves the right to grant permanent or temporary easement rights, rights of way, and/or other interests for (i) the conduct of any activity permitted on the Protected Property by this Conservation Easement, or (ii) as may be reasonably necessary in furtherance of any activity conducted on property adjacent to the Protected Property, provided that Grantor first obtains the consent of Holder, which shall be granted only upon a determination by Holder that no reasonable alternative location for said permanent or temporary easement rights, rights of way, and/or other interests exists outside the Protected Property and that they are located, designed, and placed in a manner so as to (A) minimize the amount of Protected Property utilized, and (B) minimize undue adverse effects on the Conservation Values.

(b) Any conveyance pursuant to Section 4.2 hereof shall explicitly state that it is made subject to this Conservation Easement and that Holder may enforce against the grantee of the conveyance for violations of the Conservation Easement resulting from the exercise of rights pursuant to such a conveyance.

5. BASELINE DOCUMENTATION AND UPDATING THEREOF

5.1 Preparation of Baseline Documentation. The Parties acknowledge and agree (a) that prior to the date of the grant of this Conservation Easement and in consultation with the LUPC, Holder has prepared and completed Baseline Documentation on the Protected Property consistent with the requirements of Section 5.2 hereof, and subject to the provisions of Section 11 hereof; (b) that Grantor has acknowledged to Holder the accuracy of the Baseline Documentation; and (c) that Holder has employed natural resources professionals and other experts as necessary to assist it in preparing and completing the Baseline Documentation. The Parties further acknowledge and agree that the purpose of preparing such Baseline Documentation, and subsequently updating the information contained in such Baseline Documentation by means of the Resource Information System, is to assist Grantor in achieving compliance with the terms and conditions of this Conservation Easement and to assist Holder in monitoring and enforcing the terms and conditions of this Conservation Easement.

5.2 Content of Baseline Documentation. The Baseline Documentation includes as of the date of the grant of this Conservation Easement: (a) documentation of the knowledge of the physical and biological condition of the Protected Property, its physical improvements, and the special sites and resources that may require special management, including, but not limited to, all such information as it relates to documenting the Conservation Values; (b) a cataloguing of scenic resources of high public value and the public vantage points from which such scenic resources are observed; (c) the most recent Qualifying Forest Certification Program audit and supporting documentation that includes all data, mapped information, procedures, and policies that make up Grantor's supporting information for its certification; (d) documentation required in Section 17.9 hereof regarding the valuation ratio; and (e) any other information required to determine initial compliance with the requirements of this Conservation Easement. The Baseline Documentation also describes where there are information deficiencies in the categories of information sought in this Section 5.2, if any. In compiling information described

in Section 5.2(a) hereof, Holder may obtain input from Federal and State natural resource agencies possessing knowledge of these issues.

5.3 Resource Information System. Upon the date of the grant of this Conservation Easement, Grantor shall establish and maintain a Resource Information System for the purpose of updating and keeping current over time the information contained in the Baseline Documentation, including sites and resources that may require special management, including, but not limited to, all such information as it relates to documenting the values contained in the Conservation Values. Grantor shall update the Resource Information System from time to time as new information becomes available. The Resource Information System shall, at minimum, include the data contained in the Baseline Documentation.

5.4 No Shield. All sites and resources that may be identified by Grantor or by Holder subsequent to the completion of the Baseline Documentation that otherwise would have met the criteria for inclusion in the Baseline Documentation pursuant to Section 5.2 hereof shall be added to the information contained in the Resource Information System at the time of identification and protected in accordance with this Conservation Easement and the Management Plan.

6. PUBLIC ACCESS

6.1 Grant of Public Access. It is Grantor's intent and objective that this Conservation Easement create a permanent right of non-motorized public access to, on, and across, and use of, the Protected Property for Non-exclusive, Low-intensity Outdoor Recreation, and to maintain opportunities for such uses of the Protected Property. In furtherance thereof, Grantor hereby grants to Holder, to hold on behalf of the public and for the public benefit, the right of non-motorized public access to, on, and across and use of the Protected Property (including use of the Protected Property by commercial guides, by customers of Campsites and Remote Rental Cabins, by commercial sporting camps, and by non-profit camping and educational and scientific institutions) for Non-exclusive, Low-intensity Outdoor Recreation as provided herein. To this end, Grantor agrees to take no action to prohibit or discourage non-motorized access to, on, or across the Protected Property nor to inhibit Non-exclusive, Low-intensity Outdoor Recreation by the public; provided, however, that Grantor reserves the right to make reasonable rules and regulations for different types of public use, and to control, limit, or temporarily prohibit, by posting and other means, any use by the public (including, but not limited to, night use, camping, loud activities, open fires, use of equipment, and areas of access) for purposes of (a) protecting public safety, (b) protecting the Conservation Values, (c) ensuring compliance with all applicable laws, and (d) accommodating Grantor's Forest Management Activities and other uses of the Protected Property permitted hereunder. Grantor hereby expressly reserves the right to allow, limit, or prohibit motorized recreational uses on the Protected Property, in the sole and absolute discretion of Grantor. Grantor may allow Motorized Recreation uses on the Protected Property only if Motorized Recreation uses are consistent with a Motorized Recreational Use Plan proposed by Grantor and consented to by Holder, which demonstrates that the Motorized Recreation described and located on trails/roads in the Motorized Recreational Use Plan is sited and will be operated in such a manner so as to minimize undue adverse effects to the Conservation Values. Grantor may

propose amendments of the Motorized Recreational Use Plan to Holder at any time for its consent. Grantor shall take reasonable efforts to ensure that all motorized recreational uses on the Protected Property are consistent with the Motorized Recreational Use Plan.

6.2 Fees. Grantor reserves the right to charge the public fees in an amount that in Grantor’s reasonable estimation, and subject to Holder’s consent, will recompense Grantor for the costs of any or all of (a) maintenance resulting from public recreational use of permitted roads to, on, and over the Protected Property (to the extent not otherwise recompensed), (b) maintaining permitted recreational Structures on the Protected Property, including, but not limited to, Recreational Facilities, (c) managing and developing Trails on the Protected Property, (d) managing both permitted Non-exclusive, Low-intensity Outdoor Recreation and permitted Motorized Recreation (including the cost of procuring necessary insurance), and (e) providing the services, personnel, and facilities required to administer and collect these fees. Grantor may assign the right to charge such fees to the State of Maine or other entity that assumes responsibility for any of the items described in clauses (a) – (e) of this Section 6.2. Notwithstanding any other provision hereof, Grantor expressly reserves the right to require a permit and charge fees without Holder’s consent and in an amount that exceeds Grantor’s costs for permitted commercial activities, including, but not limited to, fees for the use of the roads for transportation of forest products, “bear baiting”, and for commercial or for-profit enterprises (recreational or otherwise).

6.3 Limitation on Grant. Notwithstanding the foregoing, this Conservation Easement does not grant any easement, right of way, right of access, or other interest or license on, across, over, or affecting any other land of Grantor not included in the Protected Property, and this Conservation Easement does not, and shall not be construed to impose upon Grantor any obligation to provide or allow public access on, across, over, or affecting any land of Grantor not included in the Protected Property. Any such rights or licenses affecting any land of Grantor not included in the Protected Property, if granted by Grantor in its sole discretion, shall be by a separate instrument or instruments recorded in the Registry of Deeds where such other land is located, and no such rights or licenses shall arise by implication, necessity, or otherwise, and this Conservation Easement does not expand or extend any privilege or license currently provided by Grantor.

6.4 Immunity. Grantor and Holder claim all of the rights and immunities against liability for injury to the public to the fullest extent of the law under Title 14 M.R.S. § 159-A, under the Maine Tort Claims Act, Title 14 M.R.S. §§ 8101 *et seq.*, and/or under any other applicable provision of law or equity.

6.5 Right of Law Enforcement to Enter the Protected Property. Nothing in this Section shall be construed to prevent law enforcement or public safety personnel from entering the Protected Property at any and all times for the purposes of carrying out official duties in compliance with law.

7. CONVEYANCES AND DIVISION

7.1 Division Limitations.

(a) Notwithstanding that the Protected Property may be described as separate parcels, for the purposes of this Conservation Easement, the Protected Property shall be treated as a single merged parcel. Except to the extent otherwise provided in this Conservation Easement, the Protected Property shall remain in its current configuration as an entirety without division, partition, subdivision, or other legal creation of lots or parcels in separate ownership other than that of Grantor or its Affiliates (each a “**Division**”). The Grantor may divide the Protected Property provided that (a) not more than four (4) separate Divisions may be created and conveyed to others; and (b) any Division allowed pursuant to this Section 7.1 hereof shall not be subsequently re-divided into a smaller Division unless one of the divisions permitted in (a) above is transferred and counted to the total of the four (4) permitted divisions; provided, however, that the following Divisions are exempt from the limitations of this subsection: (i) any Division made to develop a Recreational Facility authorized by the Concept Plan, provided that any such Division is not larger than reasonably necessary for such purpose; and (ii) any Division to transfer ownership of a portion of the Protected Property to any governmental entity.

(b) With the consent of Holder, Grantor may enter into boundary line agreements to resolve *bona fide* boundary line disputes, provided that there will be no undue adverse effect on the Conservation Values and that the total acreage of land protected under this Conservation Easement shall not materially be reduced thereby without court order pursuant to Section 17.5 hereunder. A boundary line adjustment under this subsection shall not constitute a Division, and the portion of the Protected Property conveyed by the Grantor shall not be part of the Protected Property.

7.2 Extinguishment of Development Rights. Except as provided for by the terms of this Conservation Easement, all rights to develop or use the Protected Property that are expressly prohibited by this Conservation Easement are extinguished, and as a result of such extinguishment, shall not be available for transfer to any other lands pursuant to a transferable development rights scheme or cluster development arrangement or otherwise. Neither the Protected Property nor any portion thereof shall be included as part of the gross area of any other property not subject to this Conservation Easement for the purposes of determining density, lot coverage, or open space requirements under an otherwise applicable statute, regulation, or ordinance controlling land use and building density. For the avoidance of doubt, nothing in this subsection is intended to prohibit Grantor from undertaking practices or restrictions to its Forest Management Activities or other permitted land uses that are allowed by this Conservation Easement, but are additional to practices and restrictions required by the terms and conditions of this Conservation Easement all for the purposes of achieving carbon emissions or other environmental services credits, offsets, banking, or mitigation, the right to use the Protected Property for these purposes is not extinguished.

7.3 Transfer of Resource Information System Information. For any and all sales, transfers, or other conveyances by Grantor of some or all of the Protected Property that may occur pursuant to Section 7.1 hereof, Grantor shall, as a condition of conveyance, provide

transferee all information contained in the Resource Information System regarding the portion of the Protected Property being conveyed, subject to any confidentiality protections duly exercised by Grantor pursuant to Section 11 hereof.

7.4 Notice of Divisions. Grantor agrees to give Holder thirty (30) days prior notice of any Division of its interest in the Protected Property.

8. HOLDER'S RIGHTS AND OBLIGATIONS

8.1 Enforcement.

(a) Subject to Section 3.2(b), Holder has the right to enforce this Conservation Easement and the Management Plan in law and equity against Grantor for violation of the Conservation Easement or the Management Plan including for actions of its agents, employees, contractors or designees.

(i) Injunctive Relief. Holder shall have the right at law and in equity, including pursuant to Title 33 M.R.S. § 478, to obtain specific performance and/or enjoin a violation by temporary or permanent injunction, and to require the restoration of the Protected Property to the condition that existed as nearly as practicable to Holder's satisfaction, acting reasonably, prior to any such injury.

(ii) Damages. In any action to enforce the terms of this Conservation Easement, monetary damages shall be limited to those ordered as compensatory damages, and shall not include consequential, liquidated, or punitive damages. However, if the decision-maker finds that a violation of the terms of this Conservation Easement or the Management Plan was knowing, intentional, or willful, the decision-maker may award punitive monetary damages up to and including twice the economic benefit gained by Grantor from activities in violation.

(iii) Costs. If the decision-maker determines that this Conservation Easement or the Management Plan has been breached, the decision-maker shall also order Grantor to reimburse Holder for any reasonable costs of enforcement, including any court costs, reasonable attorney's fees, experts and consultant fees, out-of-pocket costs, staff time, and any other payments ordered by the decision-maker, including those incurred pursuant to Section 8.1(a)(iii) hereof, but not including those subject to Section 8.12 hereof.

(iv) Emergency Injunction. Notwithstanding the dispute resolution provisions of Section 18 hereof, Holder shall have the right in an emergency by proceedings in a court of competent jurisdiction at law and in equity to seek to enjoin a violation or, when in its reasonable judgment immediate action is necessary to prevent irreparable harm to the Conservation Values, an imminent violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Protected Property to the condition that existed as nearly as practicable to Holder's satisfaction, acting reasonably, prior to any such injury. The exclusive remedy available to Holder in such an action shall be injunctive relief.

(v) Presumption of Compliance. In any action to enforce the terms and conditions contained in Section 3.2(b) hereof, Holder shall have the burden of overcoming the presumption of compliance afforded by the existence of certification by a Qualifying Forestry Certification Program under Section 3.2(b) hereof.

(vi) Opportunity to Cure Violations. Prior to initiating any enforcement action, Holder shall provide Grantor with sixty (60) days prior notice of and opportunity to cure any breach, except where emergency circumstances require enforcement action without such delay, in which case Holder may bring immediate enforcement action pursuant to Section 8.1(a)(iv) hereof.

(b) Holder may not bring an enforcement action against Grantor for injury to or change in the Protected Property resulting from changes beyond the control or responsibility of Grantor, including, but not limited to, fire, flood, storm, and earth movement, from the actions of parties not under the control of Grantor (including Holder or any of its agents, employees, contractors or designees), or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property. In the event of injury to or change in the Protected Property in violation of this Conservation Easement caused by parties not under the control of Grantor, Grantor shall cooperate in good faith in any action brought by Holder seeking a remedy from such party.

8.2 Right of Entry and Release. Holder or its designee has the right to enter the Protected Property, including the right to travel on roads outside the Protected Property to which the Grantor has rights of access, for gathering information regarding the Protected Property and for inspection and enforcement purposes, at any time and from time to time and in a reasonable manner that is consistent with the Conservation Values, so long as Holder or its designee does not unreasonably disrupt, interfere, inhibit, or restrict any Forest Management Activities. Grantor makes no representation or warranty that either the Protected Property or any access thereto is able to support or is suitable for any particular vehicles, supplies, machinery or equipment (including heavy equipment and machinery) and access thereto will be conducted at the sole risk of Holder and its employees, agents, and contractors. Holder acknowledges: (a) industrial forestry activities regularly take place on the Protected Property; (b) such activities involve the use of large forestry equipment and motor vehicles, including trucks; (c) such forestry equipment utilizes the roads located on the Protected Property; and (d) that it will attempt at all times to cooperate with Grantor regarding safe access to the Protected Property. Holder agrees that for the purpose of its entry on the Protected Property in its exercise of Holder's rights hereunder, Grantor shall have no duty of care to Holder or Holder's agents and contractors (collectively, "Holder's Consultants") beyond that required of landowners in Title 14, M.R.S. § 159-A. Holder hereby releases Grantor and its subsidiaries and Affiliates (including the respective directors, officers, shareholders, members, trustees, beneficiaries, employees, principals, agents and representatives of the aforementioned entities) from any and all claims, demands, actions, suits, damages, liability, loss, costs, and expense based on a duty of care beyond that required of landowners in Title 14, M.R.S. § 159-A arising out of Holder's and anyone claiming under Holder, including, but not limited to, "Holder's Consultants", entry on the Protected Property in Holder's exercise of Holder's rights hereunder.

8.3 Holder Damage to Grantor's Property. If, in performing its duties on the Protected Property, including monitoring or enforcement activities, Holder or its employees, agents, or contractors cause damage to roads or any building or Structure located on the Protected Property, Holder will promptly inform Grantor of such damage and will be responsible for the reasonable cost and expense of repairing the damage. Grantor may elect to undertake the required repair work within ten (10) days or Grantor and Holder may agree on a contractor to perform the repair work, and which will be pursued with commercially reasonable diligence.

8.4 Permits. Prior to conducting any activities on the Protected Property, Holder will obtain, and will then maintain and comply with, all permits and approvals required by applicable laws in connection with such activities.

8.5 Cooperation. The Parties, and their Affiliates, if applicable, will cooperate to schedule and conduct their respective activities on the Protected Property to cause the least practicable interruption or reduction to each other's activities.

8.6 Forest Fire. Holder agrees that all activities of the Holder and its employees, contractors, and subcontractors on the Protected Property will be conducted in a manner that minimizes the risk of fire.

8.7 Insurance. Each Party shall maintain insurance policies of a commercially reasonable type, to include commercial general liability insurance and automotive liability insurance on all owned and non-owned hired vehicles, which policies shall be in amounts adequate to protect itself for risks associated with its activities on the Protected Property or related to this Conservation Easement and shall name the other Party as an additional insured on such policies. Each Party shall provide the other Party with proof of such insurance and additional insured endorsements upon request. Such insurance shall be non-cancelable without at least thirty (30) days' prior written notice to the other Party. Grantor shall be responsible for additional insurance premium costs, if any, for Holder's additional coverage or additional insured endorsements required by this Section 8.7. If Grantor fails to pay such costs, Holder shall have no obligation to carry such additional coverage or additional insured endorsements. Additionally, Holder agrees to require all contracts with third parties retained by Holder, or any contractor or agent of Holder engaged for the performance of work at the Protected Property not covered by Holder's insurance, to carry the following insurance in commercially reasonable amounts given the nature of the work to be performed at the Protected Property: (a) workers' compensation insurance and employers' liability insurance covering all persons employed in connection with the work, (b) commercial general liability insurance to protect it from claims for damages for bodily injury and property damage, and (c) automotive liability insurance on all owned, non-owned, and hired vehicles.

8.8 Right to Certain Information. In the absence of third-party certification under Section 3.2(b)(x) hereof, and subject to the provisions of Section 11 hereof, Grantor agrees to provide to Holder the types of information that would be made available to a third-party auditor, including, but not limited to, information contained in the Baseline Documentation and the Resource Information System, to the extent reasonably necessary for Holder to perform the

monitoring and enforcement responsibilities as set forth in this Conservation Easement.

8.9 Meetings. Grantor and Holder shall meet on at least an annual basis (or such other basis as is mutually agreed upon by the Parties) to review, monitor, and discuss implementation of the terms of this Conservation Easement, Management Plan, and annual operating plans.

8.10 Annual Reporting. Holder shall comply with the annual reporting requirements of Title 33 M.R.S. § 479-C. In addition, Holder shall provide written annual reports to the Grantor covering monitoring undertaken during the year; any easement violations found and actions taken as a result; emerging issues identified by the Holder or brought to the attention of the Holder by any other entity, and any other information relevant to monitoring the easement. Such written reports shall be maintained by Holder in its permanent records, and a copy of all such reports shall be provided to Grantor within thirty (30) days of filing.

8.11 Boundary Surveys. Grantor has the responsibility to adequately maintain boundaries of the Protected Parcel and shall provide Holder digital files of the boundaries sufficient for Holder to monitor and enforce this Conservation Easement. Holder, at its sole cost, has the right to conduct a professional boundary survey of the Protected Property, or any part thereof, if one is required to determine whether there is a violation of this Conservation Easement. Grantor shall reimburse Holder for such survey cost if it is determined through the results of such boundary survey that there was a material violation of this Conservation Easement.

8.12 Offset for Civil Penalties. In the event that any governmental agency or citizen obtains penalties or fines in an enforcement action against Grantor for a violation of law that is also a violation of this Conservation Easement, the amount of any such penalty or fine, including any amount paid toward supplemental environmental projects pursuant to Title 38 M.R.S. § 349(2-A) or other comparable State, federal, or local law, shall be credited against any corresponding award of monetary damages obtained by Holder through a subsequent enforcement action for the violation of this Conservation Easement or the Management Plan caused by the same underlying conduct unless the decision-maker determines the conduct was knowing, intentional, or willful under Section 8.1(a). Nothing in this paragraph subsection shall limit the right of Holder to pursue any equitable or other relief, including specific performance or restoration of the Protected Property.

9. ATTORNEY GENERAL RIGHTS

Nothing in this Conservation Easement shall be construed as limiting or removing any independent rights of the Attorney General of the State of Maine under Maine law to enforce the terms and conditions of this Conservation Easement and the Management Plan.

10. STEWARDSHIP FUND

10.1 Initial Contribution. For the purpose of providing support to Holder relating to its role as Holder of the Conservation Easement, Grantor, within sixty (60) days from the date of the grant of this Conservation Easement, shall make a contribution to the Holder pursuant to an agreement (the “**Stewardship Fund Agreement**”) of near or even date herewith between Grantor and Holder. The amount of the initial contribution by Grantor shall be \$275,000. The funds shall be managed and disbursed for monitoring purposes and in accordance with the terms of the Stewardship Fund Agreement.

An additional initial contribution by the Grantor to the Holder in the amount of \$25,000 shall be made to support the creation of the Baseline Documentation Report described in Section 5.1.

10.2 Additional Contributions. Additional contributions by Grantor to Holder shall be required as follows:

(a) Additional Contribution for Each Division of the Protected Property. For each Division of the Protected Property under Section 7.1 hereof, Grantor shall contribute \$50,000.

(b) Contributions Required Prior to Division. No conveyance of any portion of the Protected Property shall be made unless the contribution required by this Section 10.2 is made by Grantor on or before the date of the Division, and unless a certificate of Holder is recorded in the Registry of Deeds for the county in which the lot is located stating that the required contribution has been paid.

(c) Contributions Due to Absence of Third-Party Certification. In the absence of third-party certification of the Protected Property from a Qualifying Forestry Certification Program pursuant to Section 3.2(b)(vi) hereof, Grantor then owning that portion of the Protected Property (the “**Owner**”) shall contribute a one-time lump sum of \$20,000 to Holder, provided, however, that no such payment shall be required if the Owner discontinues all Forest Management Activities on that portion of the Protected Property and files an affidavit in the Registry of Deeds stating that all Forest Management Activities on that portion of the Protected Property have been discontinued. If the Owner discontinues all Forest Management Activities on that portion of the Protected Property and files an affidavit stating that all Forest Management Activities on that portion of the Protected Property have been discontinued, Forest Management Activities shall not be resumed on that portion of the Protected Property until the Owner has paid the \$20,000 to Holder or, until a certificate of Holder stating that the Owner has complied with the requirements of this subsection has been recorded in the Registry of Deeds.

(d) Adjustment to 2018 U.S. Dollars. Contributions to Holder required by this Section 10 shall be paid in the amounts indicated in U.S. dollars, adjusted for inflation and/or deflation for each year after 2018 based on the Consumer Price Index for all Urban Consumers (CPI-U) published by the Bureau of Labor Statistics of the U.S. Department of Labor or the successor thereto for each year after 2018, or if that index is discontinued, based on a similar index published by the United States Government and selected in accordance with

the terms of the Stewardship Fund Agreement.

(e) Continuing Lien. As and when they become due, all additional contributions and other amounts due to Holder under this Section 10 shall be continuing liens for the benefit of Holder against those portions of the Protected Property that give rise to the additional contributions or other amounts due. The lien(s) may be enforced by any means provided under Maine law, provided that action to enforce the lien(s) is brought within one-hundred and twenty (120) days of Holder's receipt of written notice of the absence of third-party certification giving rise to the lien(s). Without waiving or prejudicing any rights of collection and costs against Grantor, enforcement of the lien(s) shall proceed against the Owner of that portion of the Protected Property giving rise to the additional contribution, with notice to Grantor, and Holder shall be entitled to recover all reasonable, out of pocket costs of collection, including reasonable attorney's fees.

(f) Estoppel Certificates. In consideration of the foregoing, and as requested, Holder agrees to deliver estoppel certificates in a customary commercial form, certifying that all relevant amounts due under this Section 10 have been timely paid. Failure of Holder to deliver such estoppel certificates ten (10) business days following receipt of a written request containing all information material to the preparation and delivery of the certificates shall constitute a waiver of the lien(s) described in Section 10.2(e) hereof.

11. ACCESS TO RECORDS OF GRANTOR

11.1 Intent. Holder shall have access to records in the possession of Grantor to the extent reasonably necessary to perform the monitoring and enforcement responsibilities as set forth in this Conservation Easement. The Parties recognize that the identity of the holder of this Conservation Easement may change and that governmental agencies serving as Holder may be subject to public records laws. The intent of the Parties, therefore, is that (a) non-governmental organizations serving as Holder shall maintain as confidential proprietary information or trade secrets contained in records made available by Grantor to the maximum extent permitted by law, (b) governmental agencies serving as Holder shall maintain as confidential such records to the maximum extent allowed by law, including public records laws, and that (c) the existence of potentially proprietary information or trade secrets within such records will not impede the ability of Holder from accessing all information in the possession of the Grantor required for fully performing its monitoring and enforcement responsibilities.

11.2 Non-Governmental Organization as Holder. This subsection applies to a Holder that is a non-governmental organization. Grantor shall promptly make available to Holder upon request copies of any records reasonably necessary to perform monitoring or enforcement responsibilities under this Conservation Easement. To the extent Grantor concludes in good faith that such records contain proprietary information or trade secrets, Grantor may either (a) redact such proprietary information or trade secrets within said records, so long as the redacted information is not reasonably necessary for monitoring and enforcement and Grantor further provides a written explanation of the nature of the redacted information in sufficient detail to allow Holder to assess its need for the redacted information; or (b) submit the requested records in unredacted form clearly marked as "confidential." Holder shall maintain the

confidentiality of records Grantor submits under a claim of confidentiality to the maximum extent allowed by law, and shall promptly return to Grantor or at Grantor’s request destroy all records designated as “confidential” as soon as such records are no longer reasonably necessary to perform its monitoring and enforcement responsibilities, or upon the termination of Holder’s status as Holder.

11.3 Governmental Organization as Holder. This subsection applies to a Holder that is a governmental agency. Grantor shall promptly make available to Holder upon request copies of any records reasonably necessary to perform monitoring or enforcement responsibilities under this Conservation Easement. To the extent Grantor concludes in good faith that such records contain proprietary information or trade secrets, Grantor may either (a) redact such proprietary information or trade secrets within said records, so long as the redacted information is not reasonably necessary for monitoring and enforcement and Grantor further provides a written explanation of the nature of the redacted information in sufficient detail to allow Holder to assess its need for the redacted information; or (b) submit the requested records in unredacted form clearly marked as “confidential.” Holder shall consider any information Grantor may provide in support of a claim of confidentiality in determining whether (i) such records are reasonably necessary to perform monitoring and enforcement responsibilities, and (ii) such records are properly subject to disclosure or entitled to protection from disclosure under applicable public records laws, including Maine’s Freedom of Access Law, Title 1 M.R.S. §§ 401 *et seq.* (“FOAA”). Except to the extent required by law or court order, in the event that Holder determines that records subject to a claim of confidentiality by Grantor are subject to disclosure pursuant to FOAA or other applicable law, Holder shall, prior to disclosure, provide Grantor with written notice and a reasonable opportunity to obtain a court order barring disclosure.

11.4 Confidentiality in Court Proceedings. Records obtained by the Attorney General in connection with the enforcement of this Conservation Easement shall be governed by Title 33 M.R.S. § 478(4) and any other applicable provision of law.

12. DELINEATION AND MODIFICATION OF BOUNDARIES

Upon mutual agreement of Grantor and Holder, the boundaries of the Protected Property may be modified to establish an easily identifiable boundary to the Protected Property (such as a roadway or stream thread), provided that such boundary modification involves an insignificant amount of land and there is no more than a *de minimis* change in the total acreage of the Protected Property, and provided further that any such modification during the term of the Concept Plan is approved by LUPC. Any such modification shall not be considered a Division under Section 7.

13. NOTICES

13.1 Notice and Consent.

Notices and consent required or contemplated hereunder to any Party must be in writing and will be sufficient if served personally or sent by facsimile with receipt acknowledged,

electronic mail with receipt acknowledged, overnight mail with receipt acknowledged, or certified mail return receipt requested, addressed as follows:

To Grantor:	Irving Woodlands LLC 300 Union Street – 8 th Floor P.O. Box 5777 Saint John, NB E2L 4M3 Canada Attn: Co-Chief Executive Officer & Co-President Fax: (506) 632-6451
With a copy to:	J. D. Irving, Limited 300 Union Street, 12 th Floor P.O. Box 5888 Saint John, NB E2L 4L4 Canada Attn: Secretary Fax: (506) 658-0517
To Holder:	Forest Society of Maine 115 Franklin Street, 3 rd Floor Bangor, ME 04401 United States of America Attn.: Executive Director Fax: (207) 945-9229

or to such other authorized person as any Party may from time to time designate by written notice to the others in the manner set forth above. Notices given in accordance with this Section 13.1 will be deemed given on the date personally delivered or the date that receipt is acknowledged. In the event that such notice to a Party is returned as undeliverable, or receipt is not acknowledged, notice shall be sent by certified mail, return receipt requested, or by such commercial carrier as requires a receipt, and by regular mail to the Party's last known address on file with the Bureau of Taxation for the State of Maine, and with the Bureau of Corporations, Secretary of the State of Maine, if applicable, and the mailing of such notice shall be deemed in compliance with the notice provisions of this Easement.

14. LIENS, TAXES, INDEMNITY

14.1 Liens. Grantor represents that as of the date of the grant of this Conservation Easement there are no liens for money owed or mortgages outstanding against the Protected Property. Any portion of the Protected Property may be used to secure the repayment of debt, provided that any lien or other rights granted for such purpose are subordinate to all of the rights of Holder, including the right to enforce the terms, restrictions, and covenants created under this Conservation Easement. Under no circumstances shall Holder's rights be extinguished or otherwise affected by the recording, foreclosure, or any other action taken concerning any lien or other interest in the Protected Property.

14.2 Property Taxes. Grantor is responsible to pay and discharge when due all property taxes, assessments, and other costs, charges, liens, and encumbrances lawfully imposed upon or in connection with the Protected Property and to avoid the imposition of any liens or encumbrances that may affect Holder's rights hereunder. In the event a lien created against the Protected Property is to be executed, Holder, at its option, shall, after written notice to Grantor, have the right to pay funds to discharge the lien to protect Holder's interest in the Protected Property and to assure the continued enforceability of this Conservation Easement; provided, however, that Grantor first shall have the right to contest any such lien by legal proceedings. In the event Grantor elects to contest any property taxes, assessments, and other costs, charges, liens, and encumbrances by legal proceedings, Holder's right to pay and discharge such lien(s) shall not arise until and unless such lien(s) are determined as a result of such legal proceedings to be valid and enforceable against the Protected Property, or unless and until Grantor has abandoned its prosecution of such legal proceedings. If Holder exercises its right and pays funds to discharge a lien, Holder shall be entitled to recover such amount from Grantor.

14.3 Indemnity. Grantor acknowledges that Holder has no possessory rights in the Protected Property or any responsibility or right to control, maintain, or keep-up the Protected Property. Grantor is responsible for all costs and ownership, control, operation, maintenance, and upkeep of the Protected Property, and will indemnify, defend, and hold harmless Holder from any claims for damages that arise therefrom, except for harm proximately caused by Holder's negligent act or misconduct in performing its duties under this Conservation Easement, or as may arise out of Holder's workers' compensation obligations.

15. ASSIGNMENT OF CONSERVATION EASEMENT

This Conservation Easement is assignable by Holder with the consent of Grantor. Assignment of this Conservation Easement during the term of the Concept Plan to any entity may only occur after notice to and written approval by LUPC (or any successor) and Grantor, and only to an entity that (a) satisfies the requirements of Section 170(h)(3) of the Internal Revenue Code of 1986 and Title 33 M.R.S. § 476(2); (b) has land conservation as its primary goal or purpose and otherwise has goals and purposes that are reasonably consistent with protecting the natural, scenic, or open space values of real property; (c) agrees, in writing, as a condition of transfer, to monitor, enforce, and otherwise uphold the Conservation Values and abide by the terms and conditions of this Conservation Easement; (d) possesses both the financial resources and the demonstrated experience required to monitor and enforce large-acreage easements; and (e) has no potential conflicts of interest with its responsibilities to hold and enforce the Conservation Easement in a fair and impartial manner, and operates in the public interest and not for the benefit of private individuals or corporations. Grantor may only withhold consent of Holder's proposed assignment of this Conservation Easement upon a showing that the proposed assignee does not satisfy the requirements and qualifications set forth in this Section 15. Arbitration pursuant to Section 18 hereof of a decision to withhold consent of assignment shall be *de novo* and without deference to the withholding Party.

16. COMPLIANCE WITH MAINE CONSERVATION EASEMENT LAW

16.1 Conservation Easement Act. This Conservation Easement is created pursuant to Maine's Conservation Easement Act, Title 33 M.R.S. §§ 476 *et seq.*

16.2 Holder Qualification. Holder is qualified to hold conservation easements pursuant to Title 33 M.R.S. § 476(2)(B), and is a Qualified Organization under Section 170(h)(3) of the Internal Revenue Code of 1986, to wit: a publicly funded, non-profit, Section 501(C)(3) organization having a commitment and the resources to protect the conservation purposes of the donation and enforce the restrictions .

17. GENERAL PROVISIONS

17.1 Reservation of Rights. Grantor hereby expressly reserves to itself, its successors, and assigns all rights and use accruing from ownership of the Protected Property, including the right to engage in or permit others to engage in, including, but not limited to, by easement, lease, or otherwise, subject to this Conservation Easement, all uses of the Protected Property that are not prohibited by this Conservation Easement.

17.2 Protected Property Only. This Conservation Easement applies to the Protected Property only. Nothing herein shall be construed to impose any obligation, restriction, or other encumbrance on any real property not expressly made a part of the Protected Property.

17.3 Waiver of Certain Defenses. Grantor hereby waives any defense of laches, prescription, or estoppel for the failure or delay, for any reason whatsoever, of Holder to enforce this Conservation Easement or Management Plan. Only Holder, or the Attorney General to the extent authorized by applicable law, may enforce the terms of this Conservation Easement and the Management Plan. The failure or delay of the Holder, for any reason whatsoever, to do any action required or contemplated hereunder, or to discover a violation or initiate an action to enforce this Conservation Easement shall not constitute a waiver, laches, or estoppel of its rights to do so at a later time.

17.4 Obligations Terminated. A Party's rights and obligations under this Conservation Easement shall terminate when such Party ceases to have any interest in the Protected Property or this Conservation Easement, except that liability for acts or omissions occurring prior to transfer shall survive such transfer.

17.5 Discretionary Approvals, Consents and Amendments.

(a) **Discretionary Approvals.** Grantor and Holder acknowledge that certain activities by the Grantor may warrant the prior discretionary approval of Holder, and that Holder has the right to issue such discretionary approvals without prior notice to any other entity. Nothing in this subsection shall require either party to agree to any discretionary approval.

(b) **Consents.** For any activity requiring Holder's consent hereunder, consent shall not be unreasonably withheld, conditioned or delayed. In each case requiring consent, Grantor shall send a request for consent pursuant to Subsection 13.1 hereunder, including, at a

minimum, sufficient information to enable Holder to determine whether proposed plans are consistent with the terms of this Conservation Easement and would not have an undue adverse effect on the Conservation Values. Holder's consent shall be deemed granted if Holder has not responded to a request for consent within forty-five (45) days of receipt of such request, except as otherwise specifically stated in this Conservation Easement. In addition, where consent is required, Holder shall use all reasonable efforts to reach a decision on whether to provide such consent as quickly as is practicable.

(c) Amendments. Grantor and Holder recognize that rare and extraordinary circumstances could arise that warrant modification of certain of the provisions of this Conservation Easement. To this end, subject to more restrictive laws and regulations, if applicable law, Grantor and Holder have the right to agree to amendments to this Conservation Easement, provided that in the reasonable judgment of Holder, such amendment is consistent with the Conservation Values intended for protection under this Conservation Easement. Amendments will become effective upon recording at the Aroostook County Registry of Deeds. Nothing in this paragraph subsection shall require the Grantor or the Holder to agree to any amendment or to negotiate regarding any amendment. During the term of the Concept Plan, all rights of Holder to amend this Conservation Easement shall require the approval of LUPC.

(d) Further Limitations on Discretionary Approvals and Amendments. Notwithstanding the foregoing, without the prior approval of the court in an action in which the Attorney General is made a party as provided by Title 33 M.R.S. §§ 477-A(2)(B), Holder and Grantor have no right or power to approve any action or agree to any discretionary approval or amendment that would: (i) materially detract from the conservation values intended for protection; (ii) limit the term or result in termination of this Conservation Easement; or (iii) adversely affect the qualification of this Conservation Easement or the status of the Holder under applicable laws, including Title 33 M.R.S. §§ 476 *et seq.*, and Sections 170(h), 501(c)(3), 2522, and 2031(c) of the Internal Revenue Code, and regulations issued pursuant thereto.

17.6 Invalidity. If any provision of this Conservation Easement or the application of any provision to a particular person or circumstance is found to be invalid, the remainder of this Conservation Easement and the application of such provision to any other person or in any other circumstance shall remain valid. Nothing contained herein will result in a forfeiture of this Conservation Easement or reversion to Grantor of any rights extinguished or conveyed hereby. Failure to comply with the requirements of Title 33 M.R.S. §§ 477-A(1), (2)(A), or (3) shall not invalidate this Conservation Easement.

17.7 Governing Law. Interpretation and performance of this Conservation Easement shall be governed by the laws of the State of Maine. This Conservation Easement shall be liberally construed in favor of the grant to effect the conservation purposes of this Conservation Easement and the policy and purpose of the Maine Conservation Easement Act Title 33 M.R.S. §§ 476 *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the conservation purposes of this Conservation Easement shall govern.

17.8 Extinguishment. This Conservation Easement can only be terminated or extinguished including by eminent domain, whether in whole or in part, by prior approval of a court of competent jurisdiction in an action in which the Attorney General is made a party

pursuant to Title 33 M.R.S. § 477-A(2)(B). It is the intention of the Parties that an extinguishment or termination be approved by a court only if all of the Conservation Purposes of this Conservation Easement are impossible to accomplish. Should this Conservation Easement be terminated or extinguished as provided in this subsection, in whole or in part, Holder shall be entitled to be paid the greater of (i) the Original Percentage Reduction or (ii) the increase in value of the Grantor's estate resulting from such extinguishment, as determined by the court, or in the absence of such court determination, by the agreement of the parties or, in the absence of such agreement, by an independent appraiser mutually selected by Grantor and Holder. After satisfying its costs and expenses associated with any termination or extinguishment proceeding, Holder shall use its share of the proceeds or other moneys received under this subsection in a manner consistent, as nearly as possible, with the stated, publicly beneficial purposes of this Conservation Easement. This subsection shall not apply, and there will be no division of proceeds with respect to any sale, exchange or transfer of the Protected Property where the transferred Protected Property remains subject to the Conservation Easement whether explicitly or by operation of law.

17.9 Valuation. This Conservation Easement constitutes a real property interest immediately vested in Holder, which, for purposes of Section 17.8 hereof, the Parties stipulate to have a fair market value determined by multiplying the fair market value of the Protected Property unencumbered by the Conservation Easement (minus any increase in value after the date of the grant of this Conservation Easement attributable to improvements made by Grantor, which amount is reserved to Grantor) by the ratio of the value of the Conservation Easement at the time of this grant to the value of the Protected Property, without deduction for the value of the Conservation Easement, at the time of this grant. For the purposes of this subsection, the ratio of the value of the Conservation Easement to the value of the Protected Property unencumbered by the Conservation Easement shall remain constant (hereinafter the “**Original Percentage Reduction**”). The Parties have included the Original Percentage Reduction in the Baseline Documentation and shall amend such values, if necessary, to reflect any final determination thereof by the Internal Revenue Service or court of competent jurisdiction.

17.10 Condemnation. If either Holder or Grantor receives notice of the actual or threatened exercise of the power of eminent domain or a proposed acquisition by purchase in lieu of condemnation whether by public, corporate, or other authority (hereinafter a “**Taking**”) with respect to any interest in or any part of the Protected Property, the party who receives the notice shall promptly notify the other and the parties may proceed jointly or either party may at its discretion take such legal action as it deems necessary to: (a) challenge the Taking; (b) challenge the amount of allocation of any award tendered by the Taking authority; or (c) otherwise participate in, challenge or appeal such proceedings, findings or awards. Any third party counsel and consultants (including appraisers) hired by either party shall be reasonably acceptable to the other party. Each party shall be responsible for its own costs and legal fees, absent written agreement of the parties.

17.11 Comparative Economic Test. Pursuant to Title 33 M.R.S. § 478, no comparative economic test may be used to determine if this Conservation Easement is in the public interest or serves a publicly beneficial conservation purpose. In making this grant, Grantor has considered the possibility that uses prohibited by the terms of this Easement may become

more economically valuable than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. In addition, the unprofitability of conducting or implementing any or all of the uses permitted under the terms of this Conservation Easement shall not impair the validity of this Conservation Easement or be considered grounds for its termination or extinguishment. It is the intent of both Grantor and Holder that any such economic changes shall not be deemed to be changed conditions or a change of circumstances justifying the judicial termination, extinguishment or amendment of this Conservation Easement.

17.12 Requirement to Comply with Laws and Regulations. Nothing in this Conservation Easement is intended to supersede, eliminate, or otherwise change any obligation of Grantor under any applicable law, including, but not limited to, the obligation to obtain any and all required regulatory approvals for activities permitted under this Conservation Easement's terms. Nothing in this Conservation Easement may be construed to permit an activity otherwise prohibited or restricted by State, local, or Federal laws or regulations, with which Grantor shall have a responsibility to comply.

17.13 Section Headings. The word or words appearing at the commencement of sections and subsections of this Conservation Easement are included only as a guide to the contents thereof and are not to be considered as controlling, enlarging, or restricting the language or meaning of those sections or subsections.

17.14 Initiation Date of Certain Limitations. For purposes of calculating all acreage and other limits established for certain permitted uses and Structures in this Conservation Easement, said calculations shall commence on the date that is fifteen (15) days following the date of approval of the Concept Plan by LUPC.

17.15 Extended Meanings. In this Conservation Easement, words importing the singular number include the plural and vice versa, and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, firm, associations, trusts, unincorporated organizations, joint-stock companies, joint ventures, business units, divisions, Governmental Authorities and other entities.

17.16 Statutory References. In this Conservation Easement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute, regulation, rule, agreement, document, or section thereof is a reference to such statute, regulation, rule, agreement, document, or section as may be amended, modified, or supplemented (including any successor section and, with regard to statutes, any regulations made thereunder) and in effect from time to time.

17.17 Time. Whenever the last day for the exercise of any right or the discharge of any duty under this Conservation Easement falls on a Saturday, Sunday, or a legal holiday, the Party having such right or duty will have until the next day that is not a Saturday, Sunday, or legal holiday to exercise such right or discharge such duty.

18. DISPUTE RESOLUTION

18.1 Resolution of Disputes.

(a) Informal Dispute Resolution. Any controversy, claim, or dispute between the Parties arising out of or related to this Conservation Easement or the breach, termination, or invalidity hereof (“**Dispute**”) that cannot be resolved by the Parties within thirty (30) days after receipt by a Party of written notice of such Dispute from the other Party, will be referred to a panel consisting of a senior executive (President, a Vice President or similarly titled person) of each Party or any of its Affiliates, if applicable, with authority to decide or resolve the Dispute, for review and resolution. Such senior executives will meet and attempt in good faith to resolve the Dispute within twenty-five (25) days after receipt of such written notice.

(b) Voluntary Arbitration. If a Dispute has not been resolved within sixty (60) days after receipt of written notice, the Parties, by mutual agreement, may elect to submit the Dispute to binding arbitration, in which case the Dispute will be determined by final and binding arbitration in accordance with the Federal Arbitration Act, Title 9 U.S.C. § 10 (or if not applicable, the applicable State law), the then-current rules for arbitration of the American Arbitration Association, or any successor thereof (“**AAA**”), and the “Special Rules” set forth in Section 18.3 hereof. In the event of any inconsistency, the Special Rules shall control. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The decision of the arbitrator will be final and binding on the Parties thereto except as expressly provided herein. The arbitrator will hear and determine all questions of fact and law relating to any Dispute, including, but not limited to, any claim for final injunctive or other equitable relief, in which case, pursuant to Title 33 M.R.S. § 478, the arbitrator may deny equitable enforcement of this Conservation Easement only when it finds that change of circumstances has rendered this Conservation Easement no longer in the public interest or no longer serving the publicly beneficial conservation purposes identified in the Conservation Easement. By submitting an issue to arbitration through mutual agreement, the Parties do not intend to deprive any court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration, or of its jurisdiction pursuant to Title 33 M.R.S. §§ 477-A and 478, including post-arbitration jurisdiction to determine whether the award, in effect, terminated or amended this Conservation Easement in such a manner as to materially detract from the Conservation Values in violation of Title 33 M.R.S. §§ 477-A and 478.

(c) Notice of Arbitration. Prior to submitting an issue to arbitration by mutual agreement under Section 18.1(b), the Grantor and Holder shall provide notice to the Office of the Attorney General of their decision to submit a Dispute to binding arbitration. The Grantor and Holder shall allow the Attorney General an opportunity to fully participate in the arbitration should the Attorney General so elect. The notice to the Attorney General required by this Section 18.2(c) shall be provided in accordance with Section 13.1 to:

State of Maine
Office of the Attorney General
Natural Resources Division

6 State House Station
Augusta, Maine 04333

or to such other authorized person or address as the Attorney General may from time to time designate by written notice to Grantor and Holder.

18.2 Special Rules for Arbitration.

(a) The arbitration shall be conducted in Portland, Maine, unless otherwise agreed by the Parties. The arbitration shall be administered by AAA, who will appoint an arbitrator. If AAA is unwilling or unable to administer or is legally precluded from administering the arbitration, then either Party may substitute another arbitration organization that has similar procedures to AAA and that will observe and enforce any and all provisions of this Section. The provisions of Sections 18.1 and 18.2 hereof shall be binding on said substitute arbitrator. All Disputes shall be determined by one arbitrator; however, if the amount in controversy in a Dispute exceeds \$1,000,000 U.S. dollars, upon the request of either Party, the Dispute shall be decided by three arbitrators (for purposes of this Section, referred to collectively as the “**arbitrator**”).

(b) All arbitration hearings will be commenced within ninety (90) days of the demand for arbitration and completed within ninety (90) days from the date of commencement; provided, however, that upon a showing of good cause, the arbitrator shall be permitted to extend the commencement of such hearing for up to an additional sixty (60) days.

(c) The judgment and the award, if any, of the arbitrator shall be issued within thirty (30) days of the close of the hearing. The arbitrator shall provide a concise written statement setting forth the reasons for the judgment and for the award, if any. The arbitration award, if any, may be submitted to any court having jurisdiction to be confirmed and enforced only upon a determination by the court that the arbitration award is not inconsistent with Title 33 M.R.S. Sections 477-A and 478, and such confirmation and enforcement shall not be subject to arbitration.

(d) The arbitrator will give effect to statutes of limitations and any waivers thereof in determining the disposition of any Dispute and may dismiss one or more claims in the arbitration on the basis that such claim or claims is or are barred. For purposes of the application of the statute of limitations, the service on AAA under applicable AAA rules of a notice of Dispute is the equivalent of the filing of a lawsuit.

(e) The arbitrator shall have the power to award reasonable attorney’s fees and costs pursuant to the terms of this Conservation Easement.

(f) Notwithstanding the foregoing, for any dispute for which the provisions of Sections 3.2(b)(iv) and 8.1 hereof are applicable, the dispute resolution procedures contained in such sections shall govern.

(g) All information disclosed as a result of any arbitration proceeding, including the results of said arbitration, shall be confidential except to the extent provided by applicable law.

18.3 Conditions for ADR By Mutual Agreement of the Holder and Grantor. The parties by mutual agreement may, in addition to arbitration, submit the dispute to other forms of alternative dispute resolution, such as mediation. By mutual agreement, other conditions may be set under which the process of such alternative dispute resolution would proceed.

[the remainder of this page intentionally left blank]

IN WITNESS WHEREOF, Grantor has caused this Conservation Easement to be duly executed as of this ___ day of _____, 2020.

GRANTOR:

ALLAGASH TIMBERLANDS LP

By: Eagle Lake Timberlands Inc.,
a New Brunswick corporation,
its General Partner

By: _____

Name:

Its:

By: _____

Name:

Its:

PROVINCE OF NEW BRUNSWICK
COUNTY OF ST. JOHN, ss.

_____, 2020

Personally appeared the above-named _____,
of Eagle Lake Timberlands Inc., as general partner of Allagash Timberlands LP, a _____
_____ and acknowledged the foregoing instrument to be his/her free act and deed in his/her said
capacity and the free act and deed of said limited partnership.

Before me,

Notary Public

Printed Name: _____

My Commission Expires: _____

HOLDER ACCEPTANCE

The above and foregoing Conservation Easement was authorized to be accepted by the Forest Society of Maine, Holder as aforesaid, and said Holder does hereby accept the foregoing Conservation Easement, by and through _____, its _____, hereunto duly authorized, this ____ day of _____, 2020.

HOLDER:

Signed, sealed and delivered in the presence of: **FOREST SOCIETY OF MAINE**

By: _____
Name:
Its:

STATE OF MAINE
COUNTY OF _____, ss. _____, 2020

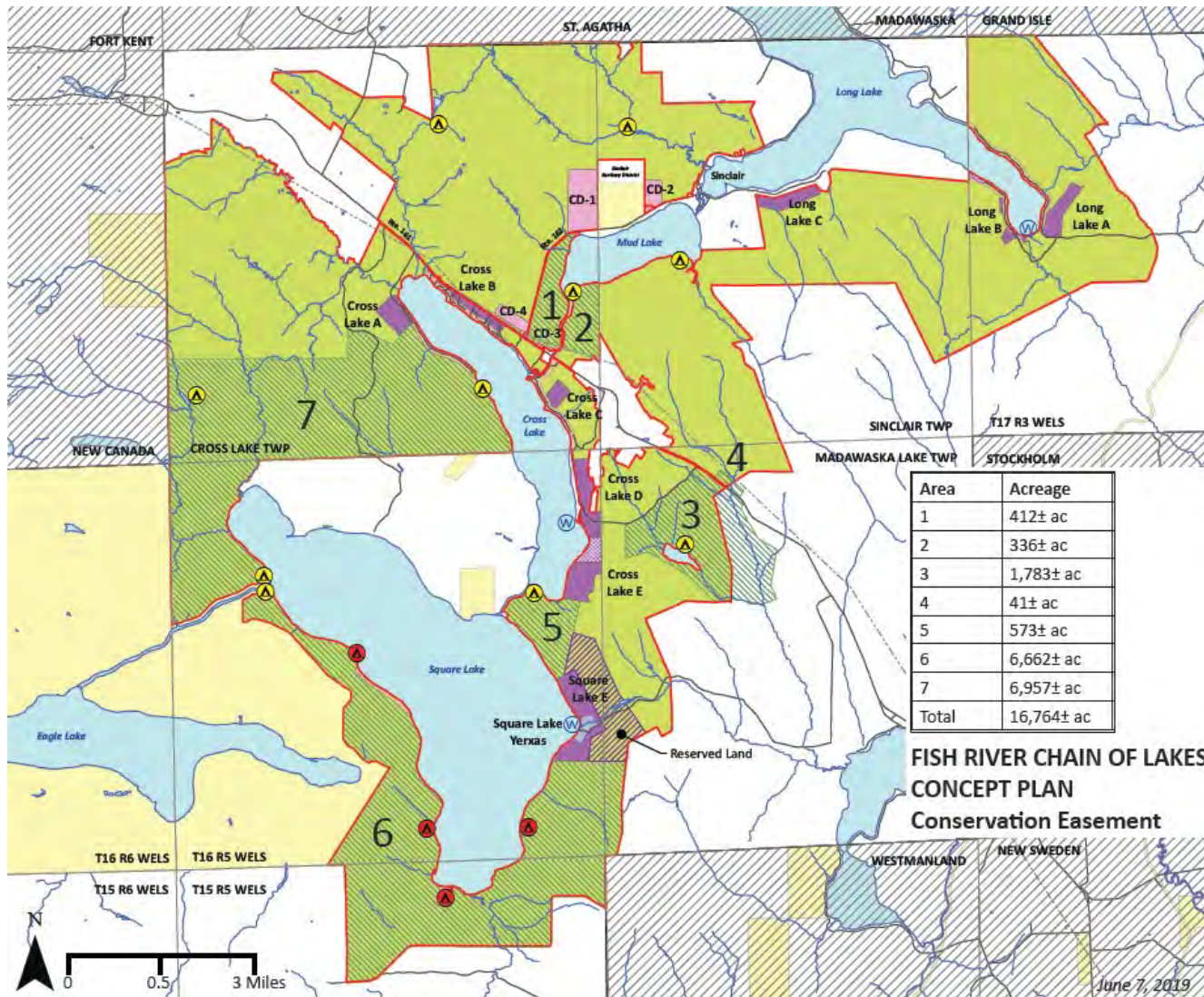
Then personally appeared _____, _____ an authorized representative of the above-named Holder and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity, and the free act and deed of said Holder.

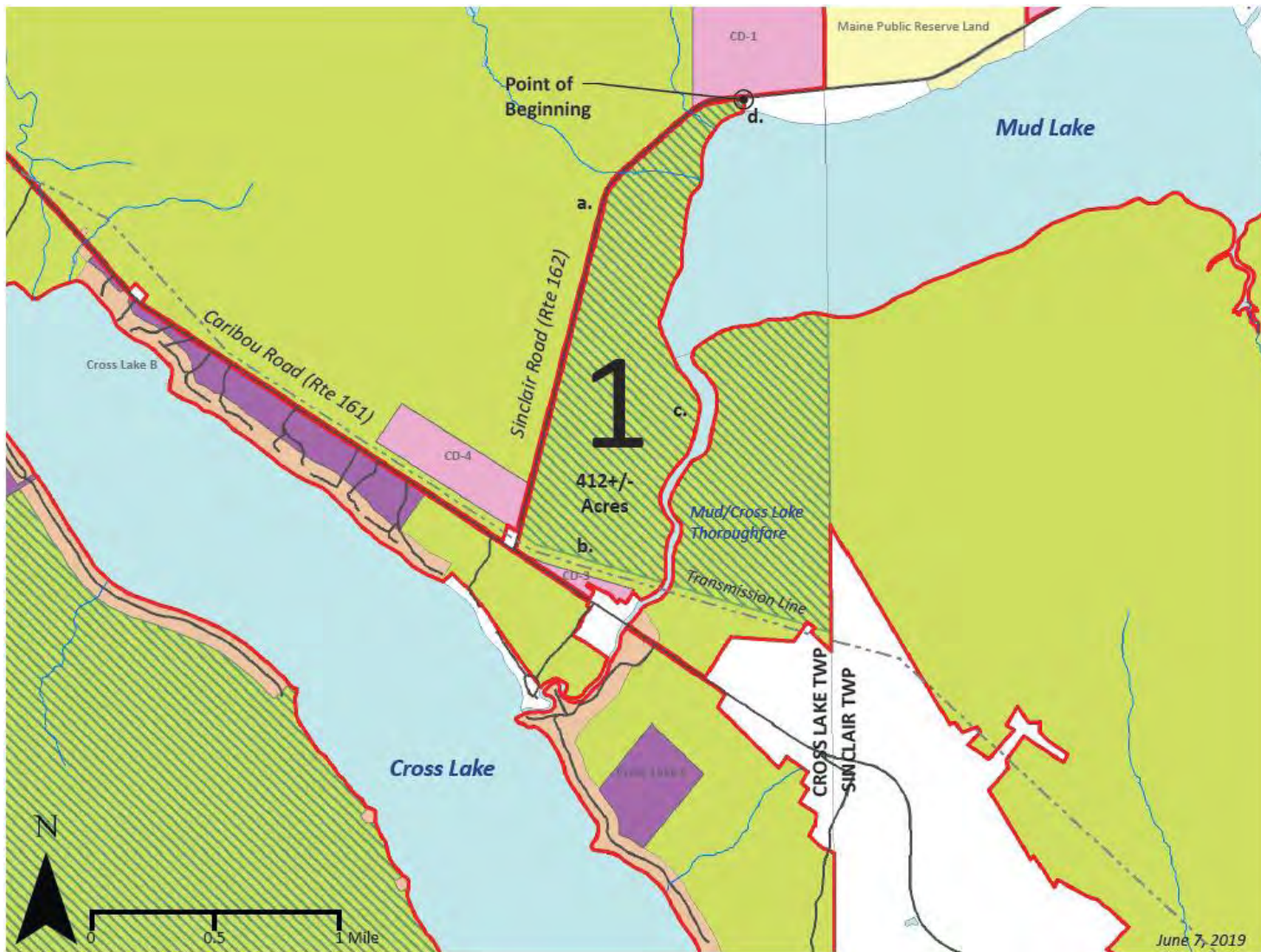
Before me,

Notary Public
Printed Name: _____
My Commission Expires: _____

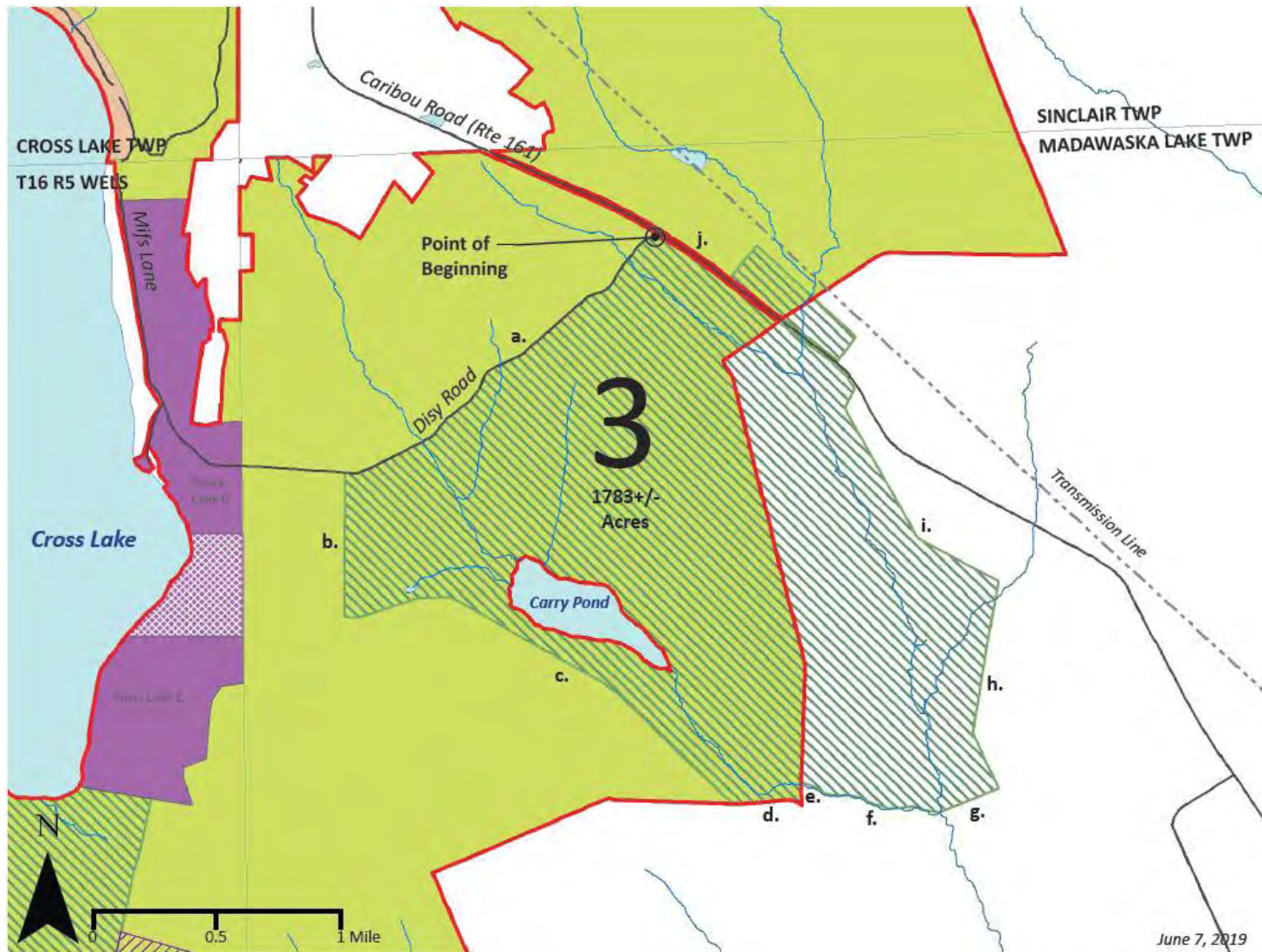
Exhibit A-1

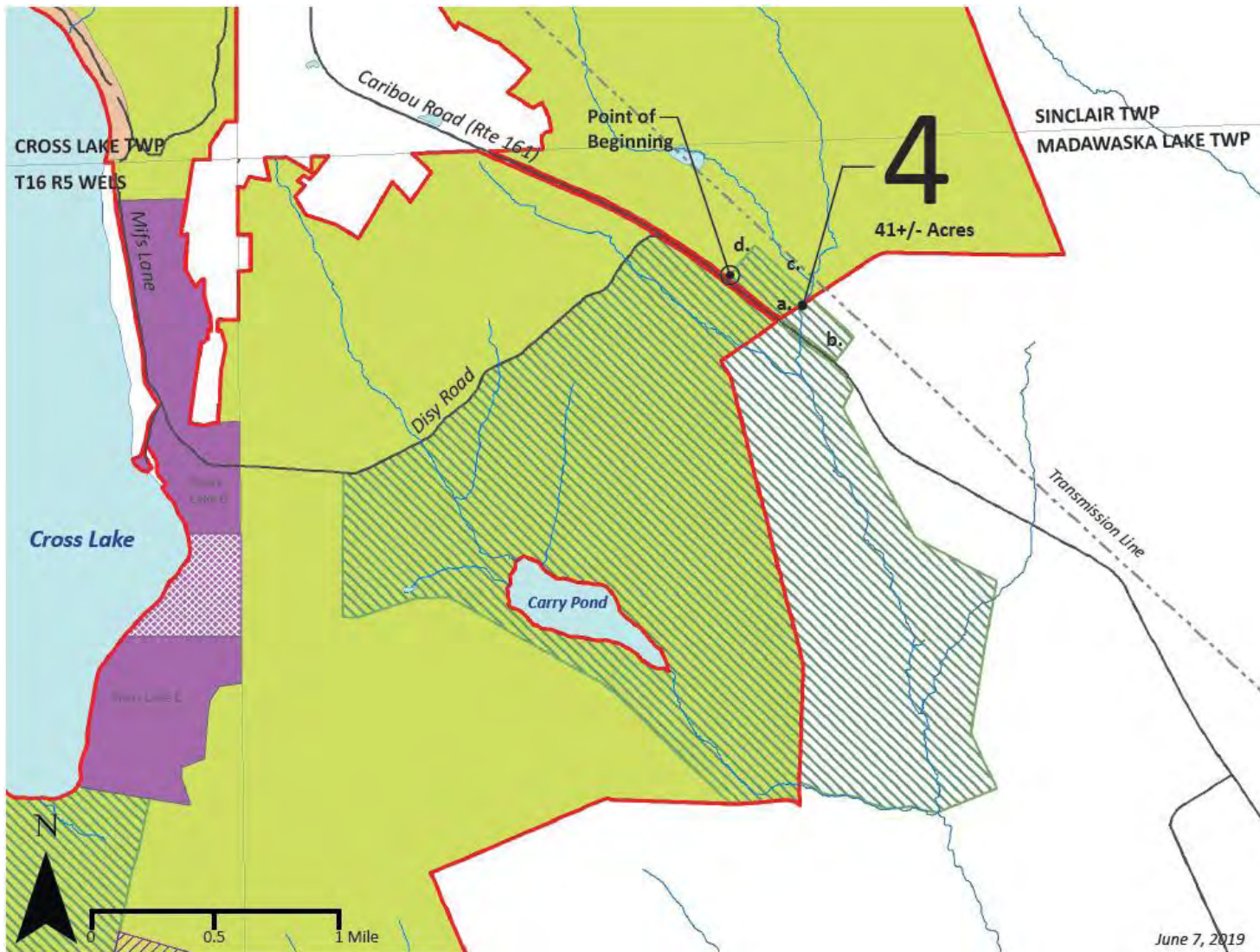
[MAPS – TO BE FINALIZED PRIOR TO EXECUTION]

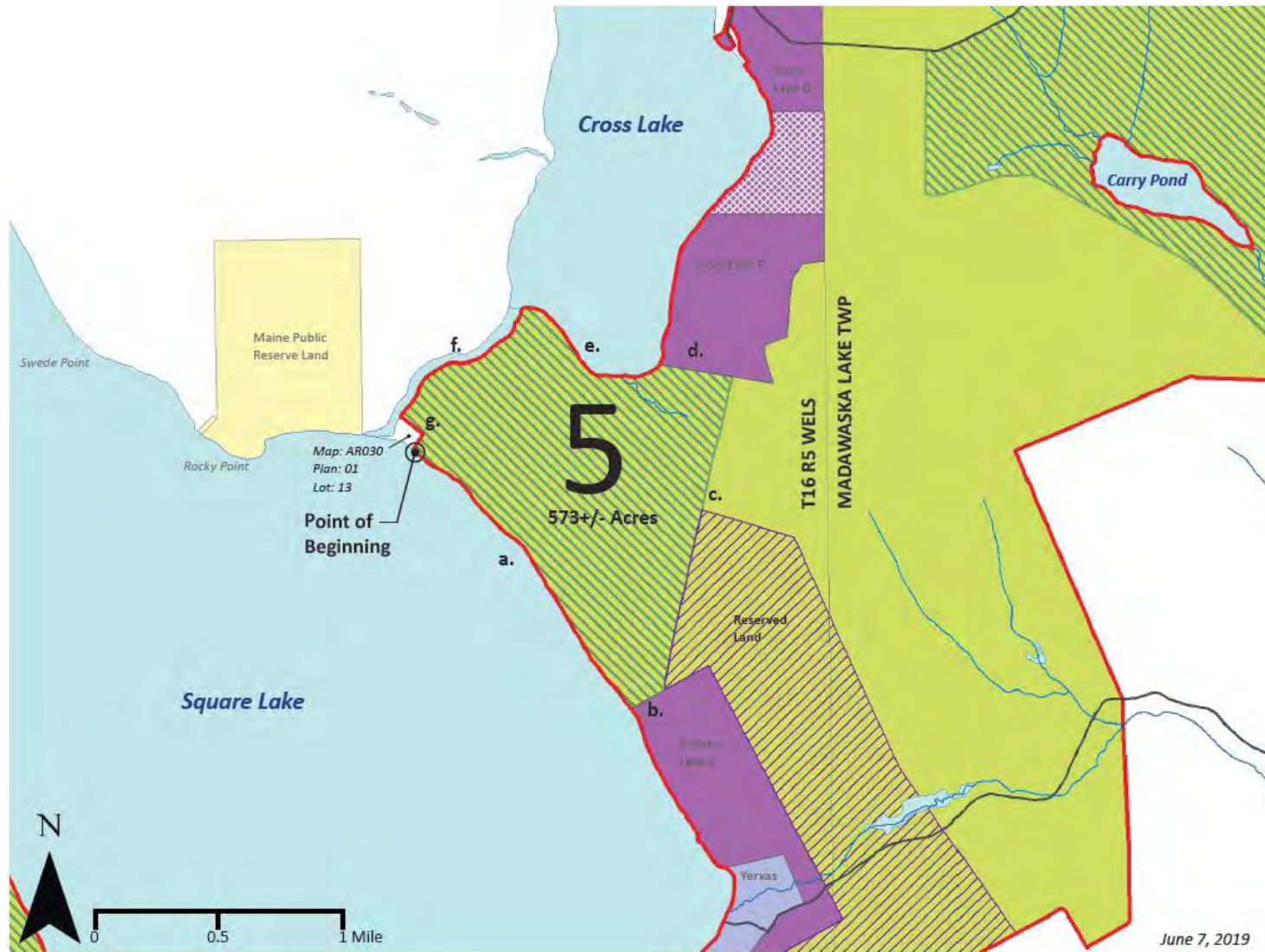


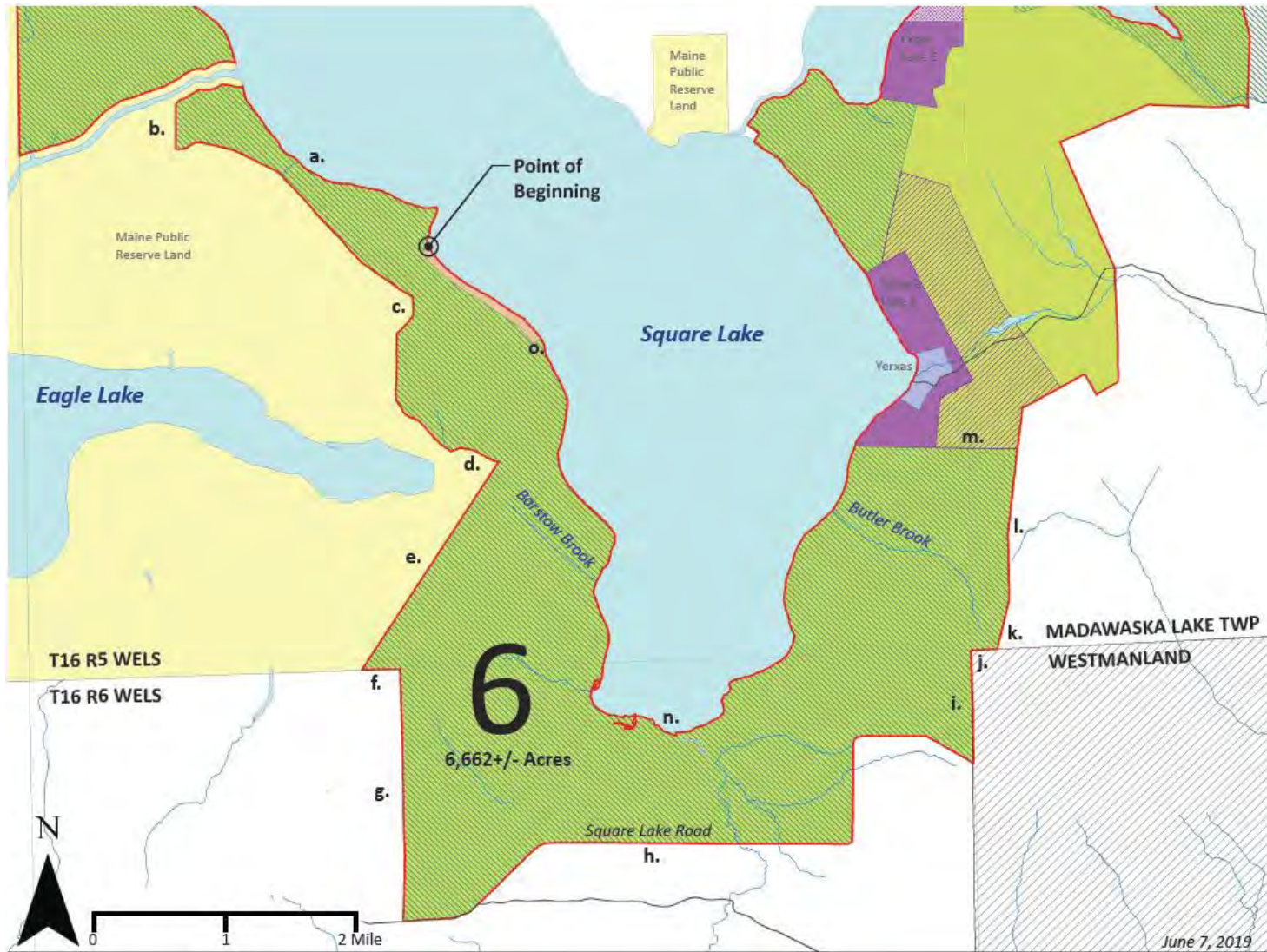












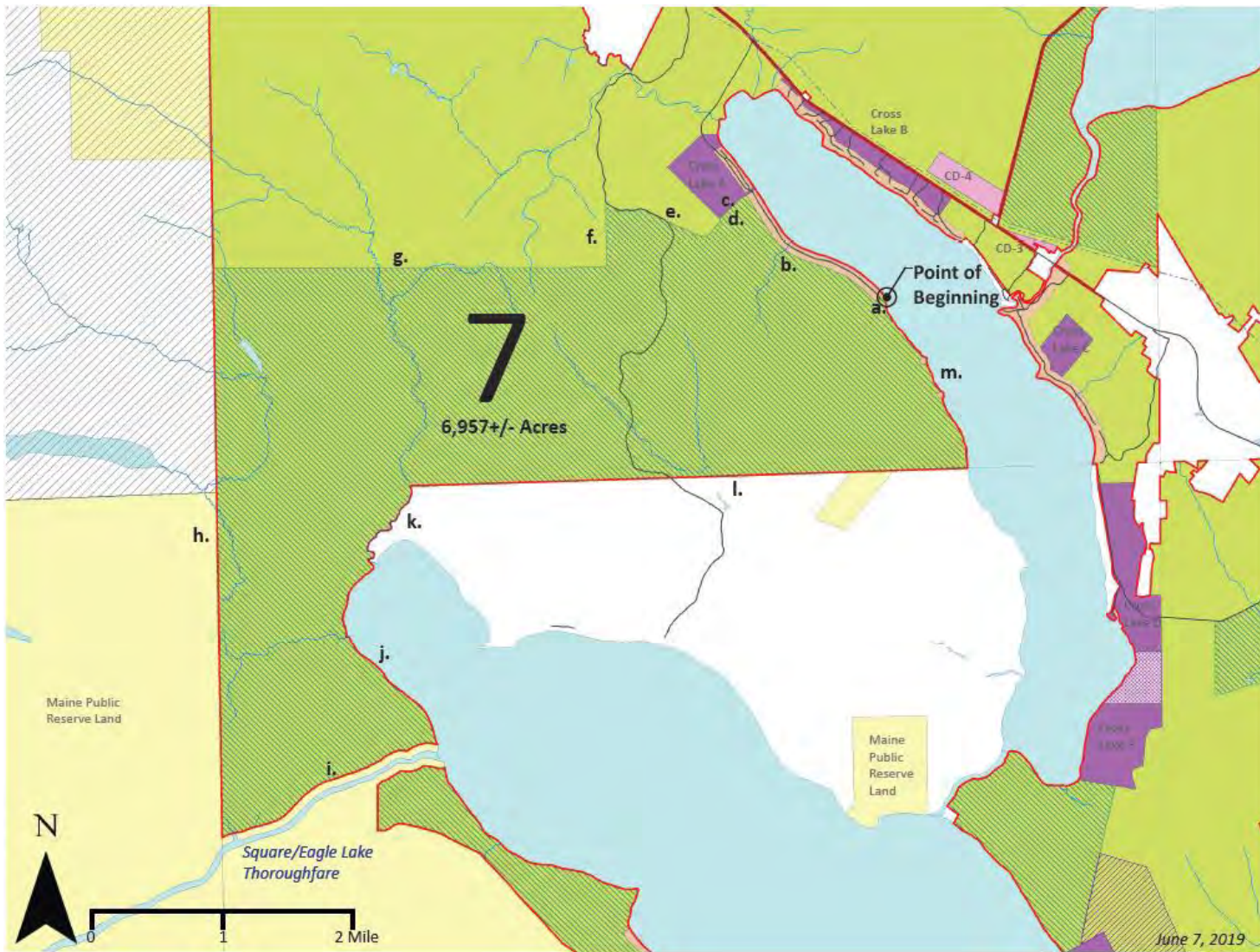


Exhibit A-2**[PROPERTY DESCRIPTION – TO BE FINALIZED PRIOR TO EXECUTION]****Area 1: WESTERN SHORE OF MUD LAKE AND MUD LAKE / CROSS LAKE THOROUGHFARE**

Beginning at the northeastern corner of Lot 68, Plan 01 in AR031 on Sinclair Road (Route 162) in Cross Lake TWP,

- a. thence 10,080± feet in a southwestern and southern direction along the eastern edge of Sinclair Road to a point 200 feet north of the northerly edge of the existing Emera electrical transmission corridor;
- b. thence 2,900± feet in an easterly direction to the western edge of the Mud Lake / Cross Lake thoroughfare maintaining a 200' setback from the northern edge of the existing transmission corridor;
- c. thence in a northerly direction along the western edge of the Mud/Cross Lake thoroughfare, continuing along the western edge of Mud Lake to the eastern side line of Lot 68, Plan 01 in AR031 where it intersects with Lot 59 Plan 01 Map AR031;
- d. thence north to the point of beginning.

Area 2: SOUTH OF MUD LAKE AND EAST OF THE MUD LAKE / CROSS LAKE THOROUGHFARE

Beginning at a point on the eastern shoreline of the Mud Lake / Cross Lake thoroughfare, 200 feet north of the northern edge of the existing Emera electrical transmission corridor;

- a. thence 2,650± feet southeast along a line 200 feet north of the northern edge of the existing electrical transmission corridor to the intersection of Lot 23.1;
- b. thence generally east along the rear property line of Lot 23.1 to the point of intersection with Lot 11.2;
- c. thence southeast along the rear property lines of lots 11.2 and 11.1 to the boundary line of Cross Lake TWP and T17 R4 WELS;
- d. thence 6,503± feet north along the boundary of Cross Lake TWP and T17 R4 WELS to the southerly shoreline of Mud Lake;
- e. thence in a westerly direction along the edge of Mud Lake, continuing south along the easterly side of the Mud Lake – Cross Lake Thoroughfare to the point of beginning.

Area 3: CARRY POND

Beginning at the centerline of the intersection of Disy Road and Route 161,

- a. thence 7,854± feet southwesterly along the centerline of Disy Road to a forestry road;
- b. thence 2,790± feet south along the centerline of the forestry road to a forestry road;
- c. thence 8,870± feet east and southeast along the centerline of the forestry road to a forestry road that corresponds to the boundary of the Concept Plan area;

- d. thence 1,300± feet easterly along a forestry road and the boundary of the Concept Plan area to a forestry road;
- e. thence 430± feet north along the centerline of the forestry road and the boundary of the Concept Plan area to the thread of a stream;
- f. thence 2,745± feet easterly along the thread of a stream to a point;
- g. thence 1,208± feet northeasterly in a line perpendicular to a forestry road;
- h. thence 4190± feet northwesterly and northeasterly to a forestry road;
- i. thence 5,054± feet northwesterly along the centerline of the forestry road to the intersection with Route 161;
- j. thence 4,790± feet along the southerly right-of-way of Route 161 to the point of beginning.

Area 4: NORTH OF ROUTE 161

Beginning at a point on the northerly right-of-way of Route 161, opposite the centerline of the intersection of Disy Road and Route 161,

- a. thence 2,600± feet southeasterly along the northerly right-of-way line of Route 161 to a point;
- b. thence 556± feet northeasterly to a point 200' south of the existing transmission corridor;
- c. thence 2,586± feet northwesterly, paralleling and 200' offset from the existing transmission corridor to a point,
- d. thence 794± feet southwesterly to the point of beginning.

Area 5: SOUTHERN SHORE OF CROSS LAKE TO EASTERN SHORE OF SQUARE LAKE, EAST OF CROSS LAKE / SQUARE LAKE THOROUGHFARE

Beginning at the southernmost corner of Lot 13, Plan 01 in AR030

- a. thence 6,625± feet in a southeasterly direction along the eastern shoreline of Square Lake;
- b. thence 720± feet in a northeasterly direction to the intersection of a forestry road;
- c. thence 6,231± feet in a northerly direction along the centerline of the forestry road;
- d. thence 1,321± feet in a westerly direction in a line generally perpendicular to the forestry road, to the southeastern shoreline of Cross Lake;
- e. thence following the southerly shoreline of Cross Lake, continuing in a westerly direction to the Cross Lake - Square Lake Thoroughfare;
- f. thence following the eastern shoreline of the Cross Lake - Square Lake Thoroughfare to the northern corner of Lot 13, Plan 01 in AR030;
- g. thence along the northern and eastern edge of Lot 13 Plan 01 to the point of beginning.

Area 6: SQUARE LAKE SOUTH OF SQUARE LAKE / EAGLE LAKE THOROUGHFARE

Beginning at the northeasterly corner of Irving licensed lot 1541,

- a. thence following the shoreline of Square Lake in a northerly direction to Limestone Point and continuing along the Square Lake shoreline in a northwesterly direction to the southeasterly boundary of the Maine Public Reserve land that parallels the Square Lake – Eagle Lake

- thoroughfare (this is a strip of land 300 feet in width that parallels the thoroughfare);
- b. thence 4,480± feet following the aforementioned boundary with the Maine Public Reserve land in a westerly and southerly direction to a forestry road;
 - c. thence 18,000± feet in a southeasterly direction along the centerline of the forestry road and the boundary of the Eagle Lake Public Reserve Land, to the intersection of another forestry road;
 - d. thence 1,950± feet in an easterly direction along the centerline of the aforesaid forestry road;
 - e. thence 9,500± feet (1.8 miles) S 33.6°± W following the eastern boundary of the State of Maine Eagle Lake Public Reserve Land to the intersection of the boundary between T16 R5 WELS and T15 R5 WELS;
 - f. thence 1,435± feet east along the aforesaid township boundary line to the intersection of a forestry road;
 - g. thence 9,620± feet southerly along the centerline of the forestry road to the intersection of Square Lake Road;
 - h. thence 26,500± feet starting in a northeasterly direction, along the centerline of Square Lake Road to the intersection of the town boundary line between T15 R5 WELS and Westmanland;
 - i. thence north along the aforesaid town boundary line to the point of intersection of T15 R5 WELS, Westmanland, T16 R4 WELS, and T16 R5 WELS;
 - j. thence 950± feet east along the town boundary line of Westmanland and T16 R4 WELS
 - k. thence 1,950± feet N 13.4°± E to the intersection with a forestry road;
 - l. thence 5,750± feet in a northern direction along the centerline of the forestry road;
 - m. thence 6,050± feet due west to the eastern shore of Square Lake.
 - n. thence 42,600± feet beginning south along the eastern, southern, and western shore of Square Lake to a point along the shoreline 250 feet southeast of the easternmost corner of Irving licensed lot 1500.
 - o. thence 325± feet in a southwesterly direction to the western edge of Square Lake Road.
 - p. thence continuing around the western edge of Square Lake Road and the western edge of the expanded D-FRL-RS zone to the point of beginning.

Area 7: CROSS LAKE FEN

Beginning at the northeastern corner of Irving licensed lot 3249;

- a. thence southwesterly for 400± feet along the eastern boundary of licensed lot 3249, (which accounts for a back lot for lot 3249);
- b. thence 6,518± feet northerly along a line 400 ± feet west of and paralleling the western shoreline of Cross Lake to the Cross Lake A development area;
- c. thence 1,350± feet in a southwesterly direction along the eastern boundary of the Cross Lake A development area, to the centerline of a forestry road;
- d. thence 100± feet in a southeasterly direction to the intersection of a forestry road;
- e. thence 4,880± feet northwesterly along the centerline of a forestry road to the intersection of another forestry road;
- f. thence 2,408± feet southerly along the centerline of a forestry road to the end of the road;
- g. thence 14,845± feet due west to the intersection with the boundary of T17 R5 WELS and New Canada;
- h. thence south 21,880± feet along the boundary of Cross Lake TWP and New Canada,

continuing south along the boundary of T16 R5 WELS, T16 R6 WELS, to the northwesterly boundary of the Maine Public Reserve land that parallels the Square Lake – Eagle Lake thoroughfare (a strip of land 300 feet in width);

- i. thence 9,050± feet in a northeasterly direction along the northern boundary of the aforementioned Maine Public Reserve Land to its intersection with Square Lake;
- j. thence 8,730± feet along the northwesterly shoreline of Square Lake to the centerline of Dimock Brook;
- k. thence in a northerly direction following the centerline of Dimock Brook to its intersection with the boundary of Cross Lake TWP and T16 R5 WELS;
- l. thence easterly along the aforementioned boundary of T16 R5 WELS and Cross Lake TWP to the western shore of Cross Lake;
- m. thence northerly along the western shore of Cross Lake to the point of beginning, excluding Irving Licensed Lot 3639 and any adjacent land that may be added to said lot, and excluding Irving Licensed Lots 4261 and any adjacent land that may be added to said lots.

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APPENDIX D:

DEER WINTERING AREAS (DWA) COOPERATIVE AGREEMENT

(As may be amended from time to time)

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A Strategy for the Management of Deer Wintering Habitat Areas in Maine

An Agreement Between

**The Maine Department of
Inland Fisheries and Wildlife**

And

Irving Woodlands LLC

MM/DD/YYYY



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I. Introduction & Background

1. Purpose of Agreement

Irving Woodlands LLC (“**Irving**”) and the Maine Department of Inland Fisheries and Wildlife (“**MDIF&W**”) have entered into this Agreement for the management of winter habitat for white-tailed deer and habitat for other species requiring mature forest on lands managed by Irving. This Agreement applies to the lands described in Appendix A attached hereto (the “**Properties**”), being (i) certain portions of land managed by Irving designated as Co-Operative Deer Wintering Areas (“**Co-Operative DWA’s**”); and (ii) all land managed by Irving designated by the Land Use Regulation Commission (“**LURC**”) as Zoned Fish and Wildlife Protection Sub-Districts (“**P-FW’s**”).

This Agreement is an alternate strategy to the designation of core active deer wintering habitat identified by the LURC as P-FW’s. This Agreement covers a larger land base allowing for increased flexibility and predictability of timber and habitat management. The management objectives set out in Section II below were agreed upon by Irving and MDIF&W after reviewing “Guidelines for Managing Deer Wintering Areas in Northern, Western, and Eastern Maine”.¹ All necessary guidelines of MDIF&W are included within this Agreement, while any guidelines specific to individual Co-Operative DWA’s will be addressed in separate agreements as they are developed.

2. Company Information

As of January, 2010:

- Irving’s total managed lands in Maine comprises approximately 1,255,000 acres;
- the total area of the Properties is 122,770 acres (approximately 9.8% of Irving’s total managed lands in Maine).

The Properties were selected by Irving in consultation with MDIF&W. Special consideration was given to areas with traditional winter use by white-tailed deer as documented by MDIF&W surveys. A breakdown of the Properties by township is provided in Appendix A.

The forest management objective for Irving is to practice sustainable forest management to maximize the long-term, sustainable flow of quality timber products from its managed lands. Along with the goal of sustainable timber supply, Irving recognizes non-timber values such as the maintenance of biodiversity and specific wildlife habitats, protection of water quality, preservation of unique and recreationally important areas, and consideration of public input. Irving regards sustainable forest management as maintaining and enhancing biological productivity and diversity of the forest, with the goal of assuring both an economic and ecological future for the forest and the people of Maine.

¹ Maine. Dept. of Inland Fisheries and Wildlife. Guidelines for Managing Deer Wintering Areas in Northern, Western and Eastern Maine (draft). Maine: Dept. of Inland Fisheries and Wildlife

3. Deer Wintering Habitat Criteria

To survive the winter season, deer seek habitats with a combination of cover and food that minimizes net energy loss. As winter conditions change from mild to moderate and then severe, the relative importance of cover versus food changes. Deer winter habitat has been defined for managing the winter habitat requirements. During the snow-free period of the year from spring to fall, deer range over most of the landscape and use a wide variety of forest and non-forest vegetation communities. However, as snow accumulates and temperature drops, deer spend more time in older conifer-dominated forest stands associated with watercourses and valleys. The area deer occupy during winter generally represents only 10 to 20 percent of the summer range. Deer often return to winter in the same locations from year to year. These traditionally used areas are called deer wintering areas or deer yards and are the focus of forest management activities to provide winter habitat.

Deer wintering areas include a variety of habitat components that may change with forest condition and management strategy. These habitat components contribute to the long-term functioning of a deer wintering area as a source of winter shelter and food. White-tailed deer utilize predominantly mature coniferous forest habitat during critical winter conditions. Suitable habitat areas provide relief from winter in more stable temperatures and humidity conditions, and lower snow depths. These areas are used approximately 3 to 5 months in the winter when snow depths are greater than 12 inches. Deer movements are considered to be restricted when snow depths reach 16 inches. While shelter is the most important component of these areas for wintering deer, an interspersed forest stands providing forage and sunlight is also required to provide quality habitat. Habitat suitable for deer in winter also provides quality habitat for numerous other species associated with mature forest.

Primary Winter Shelter

Primary Winter Shelter (“**PWS**”) consists of forest stands that provide shelter for deer during the most severe winter conditions.

PWS has the following:

- Softwood crown closure >70% mixed or solitary stands of cedar, hemlock, spruce, and fir.
- Stand height > or = 35 feet.

Secondary Winter Shelter

Secondary Winter Shelter (“**SWS**”) consists of forest stands that provide adequate shelter for all but the most severe winter conditions.

SWS has the following:

- Softwood crown closure between 50% and 70% mixed or solitary stands of cedar, hemlock, spruce, and fir.

- Stand height > or = 35 feet.

Travel Corridors

Successful functioning of deer wintering areas on a long-term basis requires travel corridors within the deer wintering area. Traditionally used corridors often follow streams and wetlands, or topographic features such as ridgelines and valleys. Functional corridors are wide enough to provide deer with sheltered travel ways throughout the yard, and are located to maintain direct access to winter shelter.

Winter Foods: Browse & Litterfall

Deer rely on fat reserves and an ability to minimize energy expenditures to survive during winter. Generally, hardwood and softwood winter browse only slows seasonal weight loss in deer, relative to eating nothing. Only the leaves of northern white cedar can sustain deer in winter without causing serious weight loss. Cedar and hemlock are long-lived species that provide high quality winter shelter and high-value winter food, although often in low abundance as ground-level forage in deer wintering areas.

Litterfall is a secondary source of food for wintering deer. It consists of softwood twigs, especially of cedar and hemlock, and arboreal lichens dislodged from the canopy throughout the winter by snow, ice and wind that become available to deer on the snow surface. As softwood stands mature, they develop more lichen biomass and contribute more litterfall. In spruce/fir dominated deer wintering areas, balsam fir contributes the majority of lichen and litterfall biomass. While difficult to measure, litterfall may comprise as much as 50% of the winter diet for deer and are independent of browse pressure.

Spring Foods

Winter browse and litterfall is very low in protein and insufficient to support deer fetal development. Most fetal development is delayed until the final trimester of pregnancy, generally after late-March. The availability of higher quality spring foods such as grasses and clovers close to deer wintering areas can influence survival of adults, body condition of lactating females, and thus survival of nursing fawns.

II. Management Objectives

Objectives for management of the Properties include:

- Active management to achieve sustainable winter habitat for white-tailed deer.
- To improve the quality of deer winter habitat and maintain >50% of the composite area in combined PWS and SWS when stand conditions allow, and where possible:
 - ❖ To maintain one half or more of this winter shelter acreage as PWS;
 - ❖ To develop 50 year management plans for all deer wintering areas meeting winter shelter criteria prior to conducting further harvesting operations.
- To include areas found to hold significant wintering deer populations into the Co-Operative DWA's until a healthy population has been reached.

- To give management consideration to other species of wildlife when appropriate.
- To improve forest stand vigor.
- To ensure that the Properties continue to contribute to an active, profitable forestry operation.
- To produce a balanced forest age-class structure in the long term within the Properties that will provide stable habitat levels to support a diversity of flora and fauna.

III. General Management Guidelines

Harvest Timing

Although harvesting will be allowed throughout the year, it will be encouraged in mid to late winter to provide food for deer. Regeneration harvest prescriptions will follow Irving's guidelines for vertical diversity within Co-Operative DWA's and P-FW's. Summer or fall harvests may occur in areas devoid of wintering deer populations or when land scarification is desired for favorable spruce seedbed.

Road Construction

The following guidelines will be encouraged in order to minimize habitat fragmentation and other potential negative effects while allowing access to the Properties for active forest management:

- Road right of ways within the Properties should be a maximum of 50 feet from standing timber to standing timber. This road width specification is very important within PWS and SWS areas. Areas needing additional right of way width (due to steep slopes, deep snow, etc.) should be reviewed and discussed with MDIF&W.
- Right of ways through historic travel corridors and water crossings should be narrowed to a maximum of 45 feet where possible.
- Roads within deer wintering areas can hinder deer movement in winter – the wider the opening the greater risk of restricting movement. Snow banks on plowed roads within deer wintering areas can also be an impediment to movement or may hold deer within road banks where they are exposed to vehicular accidents or coyote predation. Seasonal roads will be preferred method of access, but permanent roads will be allowed in non-active deer wintering areas or areas beneficial to spring food harvests (late winter/early spring harvests that provide deer feed). Irving should consult with MDIF&W on the location of such seasonal and permanent roads.
- When road construction is completed for an area, disturbed areas such as road shoulders, road ditches, and landings should be seeded in with an MDIF&W approved “wildlife mix” of grasses and/or herbaceous plants in order to stabilize soils and provide food for wildlife. A discussion should

occur between Irving and MDIF&W regarding disturbed areas within the Properties that are not appropriate for seeding.

- Assistance should be provided by MDIF&W for use of its ATV and seeder by Irving for seeding disturbed areas within the Properties, as time and equipment permit.

Silviculture

In certain cases, some level of silviculture treatments may be incorporated into the Properties where it is consistent with Irving's timber objectives. These treatments should include tree planting, herbicide applications, and pre-commercial thinning. One type of specialized treatment includes the planting of cedar seedlings in planted areas within the Properties. Irving should consult with MDIF&W in relation to these treatments.

Travel Corridors

To avoid isolation of habitat within the Properties, softwood or softwood/hardwood travel corridors (if present and of good quality) should be identified between softwood shelterwood and clearcut areas. The corridor between shelterwood areas should be approximately 330 feet (5 chains) wide. The corridor between clearcut areas should be approximately 660 feet (10 chains) wide. Riparian buffers along P-SL1 streams and Great Ponds should be 330 feet (5 chains) along each side of the waterbody, and along P-SL2 streams should be 200 feet along each side of the stream. Riparian areas that are considered significant travel corridors should be evaluated for expanded riparian buffers on a case-by-case basis. Irving should consult with MDIF&W on the location and width of the expanded riparian buffer. These travel corridors adjacent to shelterwood and clearcut prescriptions and riparian buffers should meet the deer wintering habitat criteria as defined in Section I.3 above.

Special Considerations

Both parties recognize that in certain situations, there may be factors which prevent desired habitat levels in the Properties. These factors include but are not limited to:

- A skewed forest age-class structure in a particular Co-Operative DWA or P-FW which requires extensive forest intervention to develop a more balanced age-class distribution.
- Natural influences such as insects, disease, fire, or storms may cause a loss of habitat.

Recreational Use

Existing recreational trails, including snowmobile and cross-country ski trails, within the Properties will be permitted. Other compatible uses will be allowed within the Properties, including but not limited to fishing, hunting, wildlife study, photography, trapping, and camping. Irving and MDIF&W should review all new trail development proposals within the Properties in order to ensure the least impact possible on deer wintering areas. Recreational activities may be evaluated by Irving and MDIF&W for current and potential conflicts with timber or wildlife habitat management. Portions of the Properties may be leased by Irving to private individuals for camp construction and recreational use. If located carefully, camp lots can provide recreational opportunities without conflicting with timber or wildlife habitat management. In order to prevent potential disturbance to deer in these leased areas, Irving should:

- Communicate the sensitive nature of these areas to lessees;
- Request that lessees adjust their activities so as to minimize disturbance to deer travel patterns (i.e., winter recreational activities including snowmobiling, snowshoeing, and cross-country skiing within the Properties);
- Inform lessees that dogs should be controlled at all times when in these areas; and
- Consult with MDIF&W on potential locations for the leased properties.

Where possible, Irving should also attempt to locate new lease sites in areas outside the Properties.

Foot Traffic Only Roads

Access roads within the Properties which dead-end within the Properties or will not be used as major thoroughfare passage may be designated as “Foot Traffic Only Roads”. Irving and MDIF&W should consult on any such access road designations. A sign should be erected to inform the public of the purpose of the foot traffic only designation and a means of discouraging vehicle access on these roads should be implemented.

iv. Terms of Agreement

Irving and MDIF&W acknowledge and agree as follows:

1. This Agreement establishes the objectives and guidelines (as set out in Sections II and III above, respectively) for all management activities within the Properties (as defined in Section I.1 above).
2. Any P-FW’s within the Co-Operative DWA’s will still require LURC permits. This Agreement will serve as the basis for the LURC Plan Agreement for any P-FW located on land managed by Irving and MDIF&W will ensure that any management activities

recommended for such P-FW's under this Agreement will conform to applicable LURC rules and regulations.

3. The management activities and operating plans for the Properties should be agreed to annually between Irving and MDIF&W. Irving and MDIF&W will meet each year to review management activities conducted on the Properties since the last annual meeting, determine if the operating plans are still appropriate, and agree on the next year's planned management activities. A time schedule will be established for the completion of management activities.
4. Subject to Irving meeting the management objectives set out in Section II above, timber harvesting prescriptions for the Properties should be discussed and agreed upon by Irving and MDIF&W.
5. Irving's goal, within five years of signing of this Agreement, will be to have a written management plan for each Co-Operative DWA prior to initiating forest management interventions on the ground. In the interim, prior to development of management plans and where conditions warrant, harvest plans should be jointly developed by Irving and MDIF&W and implemented on a case by case basis.
6. Where necessary, Irving and MDIF&W will mutually relocate Co-Operative DWA's to provide the best benefit to wintering deer on a case by case basis.
7. Subject to Section V.2 below, the term of this Agreement shall be five (5) years from the date of signing by both parties. Irving and MDIF&W expect to renew this Agreement at the end of the five year term.

v. **Resolution of Disagreements & Termination**

1. Irving and MDIF&W agree to employ the following protocol in an attempt to resolve any disagreements that may arise in the implementation of this Agreement:

Action by MDIF&W's Regional Wildlife Biologist and Irving's Management Forester

An attempt will be made to resolve disagreements at the level of Irving's Management Forester and MDIF&W's Regional Wildlife Biologist. In resolving disagreements, Irving's Management Forester and MDIF&W's Regional Wildlife Biologist will be guided by specific language contained in this Agreement, which outlines the principal management concerns, goals, and specifications for the Properties. In the event that the subject matter of the disagreement is not specifically addressed in this Agreement, they should be guided by the management objectives set out in Section II above.

Action by MDIF&W's Wildlife Management Section Supervisor and Irving's Operations Manager

In the event that Irving's Management Forester and MDIF&W's Regional Wildlife Biologist cannot resolve the disagreement, MDIF&W's Wildlife Management Section

Supervisor and Irving's Operations Manager will meet with them to review the area of disagreement and attempt to provide resolution. In resolving disagreements, MDIF&W's Wildlife Management Section Supervisor and Irving's Operations Manager will also be guided by the language of this Agreement, as well as its objectives.

Action by Technical Experts and Third Parties

In the event that MDIF&W's Wildlife Management Section Supervisor and Irving's Operations Manager cannot resolve the disagreement, Irving and MDIF&W may elect to consult with technical experts, seek the assistance of third parties, or both. The function of the technical experts or of the third parties will be to make recommendations designated to resolve the disagreement. These recommendations will not be binding on either Irving or MDIF&W.

2. Irving and MDIF&W shall each have the right, without penalty, to terminate this Agreement in writing at any time, rendering it immediately null and void. Upon such termination, neither party shall be liable to the other party for any compensation or damages whatsoever.

At the time of termination, or at any time following termination, MDIF&W reserves the right to prepare and submit P-FW zoning petitions to the LURC for areas previously covered by this Agreement that meet the standards of the Fish and Wildlife Protection Sub-district. MDIF&W will continue to conduct aerial and ground surveys to monitor deer use and to maintain the data necessary for the zoning of any part of the areas that meet such standards. Irving will be advised in advance and will have the option to choose to participate in these surveys and will have access to the information collected. The rights provided for in this paragraph shall survive the termination of this Agreement.

VI. Amendments

Amendments to this Agreement, including but not limited to any deviations from the requirements of this Agreement for an individual Co-Operative DWA plan development, shall be approved in writing by Irving and MDIF&W.

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vii. Execution

IN WITNESS WHEREOF the parties have executed this Agreement by their duly authorized officers as of MM/DD/YYYY.

Representative
Irving Woodlands LLC

Representative
Maine Department Inland Fisheries & Wildlife

Appendix A

Co-Operative DWA and LURC Zoned P-FW Summary
by
Township

Township	Yard Type	Acres
Allagash	Cooperative DWA	16715
	Zoned P-FW	2804
Ashland	Cooperative DWA	4052
Dudley	Cooperative DWA	145.5
	Zoned P-FW	225.5
Dyer Brook	Cooperative DWA	5223.5
Garfield Plt	Cooperative DWA	172.5
Hammond	Zoned P-FW	666.5
Masardis	Cooperative DWA	457.5
Merrill	Cooperative DWA	314
Nashville	Zoned P-FW	13.5
Oakfield	Cooperative DWA	578
Oxbow Plt	Cooperative DWA	1647.5
Portage Lake	Cooperative DWA	801.5
	Zoned P-FW	3991.5
St. John Plt.	Cooperative DWA	1084.5
Symrna	Cooperative DWA	2196.5
Stockholm	Cooperative DWA	114.5
T12R8	Zoned P-FW	81
T13R11	Cooperative DWA	788.5
	Zoned P-FW	1092
T13R7	Zoned P-FW	328
T14R10	Zoned P-FW	409.5
T14R11	Cooperative DWA	1255.5
	Zoned P-FW	895.5
T14R12	Cooperative DWA	1097.5
	Zoned P-FW	167

T14R14	Cooperative DWA	3024.5
	Zoned P-FW	1127.5
T14R15	Cooperative DWA	1085
T14R5	Zoned P-FW	954.5
T14R6	Cooperative DWA	2071
	Zoned P-FW	688
T14R7	Cooperative DWA	1278
	Zoned P-FW	814.5
T14R8	Cooperative DWA	2102.5
	Zoned P-FW	179.3
T14R9	Zoned P-FW	116.5
T15R10	Cooperative DWA	889
T15R11	Cooperative DWA	932
	Zoned P-FW	410
T15R12	Cooperative DWA	813
T15R13	Cooperative DWA	2622
	Zoned P-FW	1483
T15R14	Cooperative DWA	791.5
	Zoned P-FW	1602
T15R5	Cooperative DWA	2065
	Zoned P-FW	2420.5
T15R8	Cooperative DWA	1145
	Zoned P-FW	260.5
T16R12	Cooperative DWA	4582
	Zoned P-FW	352.7
T16R13	Zoned P-FW	2497
T16R4	Cooperative DWA	1658.5
	Zoned P-FW	1177.5

T16R5	Cooperative DWA	765
	Zoned P-FW	157.5
T16R8	Cooperative DWA	3683.5
T16R9	Cooperative DWA	259
	Zoned P-FW	280
T17R12	Cooperative DWA	489
	Zoned P-FW	1326.5
T17R13	Cooperative DWA	130.5
	Zoned P-FW	2612.5
T17R14	Cooperative DWA	558.5
	Zoned P-FW	656.5
T17R4	Cooperative DWA	421
	Zoned P-FW	174
T17R5	Cooperative DWA	342.5
T18R10	Cooperative DWA	287.5
T18R11	Cooperative DWA	600
	Zoned P-FW	2093.5
T18R12	Cooperative DWA	1109.5
	Zoned P-FW	1803
T19R11	Cooperative DWA	412
T6R6	Zoned P-FW	1034.5
T7R5	Cooperative DWA	1343
	Zoned P-FW	2076.5
T7R6	Cooperative DWA	2474.5
	Zoned P-FW	421
T7R7	Zoned P-FW	426.5

T8R4	Cooperative DWA	897.5
T8R5	Cooperative DWA	450.5
	Zoned P-FW	811.5
T8R6	Zoned P-FW	332.5
T9R4	Cooperative DWA	409.5
TCR2	Cooperative DWA	1187
	Zoned P-FW	870.5
Wallagrass	Cooperative DWA	116
	Zoned P-FW	1008
Westfield	Cooperative DWA	474.5
Westmandland	Cooperative DWA	3510.5
	Zoned P-FW	304.5

Total Cooperative DWA	80692.0
Total Zoned P-FW	41448.0
Grand Total	122770.5

APPENDIX E:

OUTCOME-BASED FORESTRY (OBF) AGREEMENT

(As may be amended from time to time)

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OUTCOME-BASED FORESTRY AGREEMENT #2018-2

This agreement by and between IRVING WOODLANDS LLC (the "Participant"), the DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY, MAINE FOREST SERVICE (the "MFS") is entered into pursuant to 12 M.R.S § 8003(3)(Q) and in accordance with MFS Forest Policy and Management Division procedures.

Whereas, the Maine Legislature has defined outcome-based forestry as "a science-based, voluntary process to achieve agreed-upon economic, environmental and social outcomes in the State's forests, as an alternative to prescriptive regulation, demonstrating measurable progress towards achieving statewide sustainability goals and allowing landowners to use creativity and flexibility to achieve objectives, while providing for the conservation of public trust resources and the public values of forests;" 12 M.R.S. §8868 (2-B) and

Whereas, in its 1999 State of the Forest report, the MFS stated that the state has "reached the limits of what a command and control regulatory framework has to offer [with respect to regulation of forest practices]. Command and control regulation has many limitations and may result in unintended consequences, such as forest fragmentation and premature harvesting to recover equity in a forest investment. The Maine Forest Service believes that the state should begin to focus more on outcome-based forestry regulation, on the premise that this approach will do more to promote, stimulate and reward excellent forest management yet still provide a baseline of regulatory protection for critical public resources;" and

Whereas, the Maine Legislature has endorsed outcome-based forestry and directed the MFS to pursue outcome-based forestry agreements consistent with legislative direction; and,

Whereas, upon review of information supplied by and activities conducted on land of the Participant, the panel of technical experts advising MFS on outcome-based forestry finds that the Participant has demonstrated that its forest management practices are protecting public values for the long-term; and,

Whereas, outcome-based forestry is intended to be a long-term approach to ensuring the sustainable management of Maine's forests; now therefore,

The Participant and the MFS agree as follows:

1. **Authority:** Pursuant to 12 M.R.S. Chapters 801 and 805, subchapter 3-A, the MFS has regulatory authority over the activities described herein.
2. **Partner to this agreement:** The Participant is a landowner and involved in forest management in the state of Maine. The Participant's primary office is located in St. John Plantation, Maine.
3. **Location:** The Participant manages approximately 1.25 million acres in the state of Maine.
4. **Application of this agreement; forest management plan:** This agreement applies to all forest management activities on lands owned by Allagash Timberlands, LP, Aroostook Timberlands, LLC, and Maine Woodlands Realty (as described in the Forest Management Plan) that are managed by the Participant in Maine (the

"Property"). The J.D. Irving Northern Maine Woodlands 2017-2042 Forest Management Plan dated October 2018 (the "Forest Management Plan") is incorporated in this agreement by reference, as it will guide the Participant on its activities on the Property. The Participant's Forest Management Plan has outlined targets for opening size, age class distribution, and harvest levels by silvicultural prescription. The Forest Management Plan will be updated and revised from time to time at the discretion of the Participant's Chief Forester to reflect substantive changes.

At the panel's request, the Forest Management Plan will address the following additional topics:

- A. 80-year forecast of harvest levels for spruce-fir and hardwood by economic zone;
 - B. 100-year forecast of spruce/fir harvest levels by forest stand type;
 - C. 100-year forecast of harvest area contributing to annual harvest by broad species groups; and,
 - D. Current and projected acreages by forest type over the planning period.
5. **Interpretation of this agreement:** In the context of this agreement, the use of terms including, but not limited to, "maximize," "minimize," and "optimize," and other similar terms are understood to mean that the landowner will take reasonable measures to achieve the specific outcomes identified.
6. **Panel of technical experts:** As required by 12 M.R.S. §8869 (3-A); the Governor of Maine has established a panel of technical experts (the "panel") to work with the Director of the Maine Forest Service to implement, monitor and assess the results of outcome-based forestry agreements. The makeup of the panel may change from time to time at the discretion of the Governor of Maine. Present membership on the panel is:
- A. Michael Dann, Forester;
 - B. Gary Donovan, Certified Wildlife Biologist;
 - C. Maxwell L. McCormack, Jr., Research Professor Emeritus of Forest Resources, University of Maine;
 - D. Charles Simpson, Eastern Regional Manager, Bureau of Parks and Lands;
 - E. David B. Struble, State Entomologist, Maine Forest Service; and,
 - F. Peter Triandafillou, VP Woodlands, Huber Resources.
7. **Desired outcomes of Outcome-based Forestry:**
- A. Achievement of the state's forest sustainability goals and outcomes for soil productivity; water quality; wetlands and riparian zones; timber supply and quality; aesthetic impacts of timber harvesting; biological diversity; public accountability; economic and social considerations; and, forest health (see Appendix).

- B. Improve timber quality and quantity through active forest management while reducing the forest's susceptibility to disease, insect infestations and damage caused by fire, wind and climate change.
 - C. Increase reforestation success, growth rates, and/or timber quality on site specific areas and on a landscape basis, using a variety of forest management techniques that may include but are not limited to the establishment of planted areas, vegetation management, matching species to site, tree improvement techniques, fertilization, and pre-commercial and commercial thinning.
 - D. Implement a credible program to maintain and protect adequate critical deer wintering habitat. The Participant shall confer with the Department of Inland Fisheries and Wildlife during the preparation and any necessary implementation of the program.
 - E. Provide opportunities to enhance economic development in the Participant's area of operations, consistent with the Participant's own economic success, including but not limited to direct and indirect employment, forest products sales, and recreational opportunities.
 - F. Continued certification to the standards of a nationally recognized sustainable forest management certification program.
8. **Exemptions from certain requirements of 12 M.R.S. §8869 and §8883-B, MFS Chapter 20 Rule, Forest Regeneration and Clearcutting Standards, and MFS Chapter 26 Rule, Forest Operations Notification Standards:** Provided that the Participant satisfies the conditions set forth in Section 7 and Section 10, respectively, of this agreement, the Participant is exempt from the following requirements of law and rule:
- A. Chapter 20 Rule Sections 4.A. and 5. The Participant will not create clearcuts larger than 250 acres without securing express written approval from the MFS.
 - B. 12 M.R.S. §8869 (2-A) and Chapter 20 Rule Sections 4.B.1 and 4.C.2. (clearcut separation zones).
 - C. 12 M.R.S. §8869 (3) and Chapter 20 Rule Section 4.C.1. (forest management plans for individual clearcuts larger than 20 acres).
 - D. 12 M.R.S. §8883-B (1) and Chapter 20 Rule, Section 4.C.1.d. and Chapter 26 Rule, Section 3.B. (prior notification, submission of harvest plans to the MFS for individual clearcuts larger than 75 acres).
9. **Modifications to certain requirements of 12 M.R.S. §8883-B and MFS Chapter 26 Rule, Forest Operations Notification Standards:** The Participant may operate subject to the following modifications of law and rule:
- A. Chapter 26 Rule, Section 3. The Participant must file one harvest notification per township harvested per two years. The Participant is not required to file harvest notification amendments with the MFS. However, the Participant is required to maintain internally adequate documentation of harvest activities by township to permit harvest inspections by the MFS and to facilitate work of the panel.

10. **Participant commitments:** The Participant agrees to and commits to the following as good faith demonstrations of its commitment to practice forestry in a manner that provides at least the equivalent forest and environmental protection provided by existing rules and any applicable local regulations:
- A. The Participant will provide sufficient data to enable the panel to monitor progress toward achievement of the state's sustainability goals and outcomes (see Appendix).
 - B. The Participant must maintain certification status with a nationally recognized sustainable forest management certification program.
 - C. A member(s) of the panel or a mutually agreeable designee(s) must be permitted to participate in any independent third party certification review of the Participant's forest management practices, if any, and to provide input to the independent third party on behalf of the panel.
 - D. The Participant must invite one member of the panel or a mutually agreeable designee to attend meetings and provide input to the Participant's Forest Research Advisory Committee.
 - E. Per the understanding reached with the Legislature's Agriculture, Conservation and Forestry Committee during its deliberations on LD 1847, which was enacted as Public Law 2013, Chapter 542, An Act To Clarify Outcome-Based Forestry, the Participant will annually invite members of the Committee to review the Participant's operations and management in the field upon request of the Committee.
 - F. The Participant will provide evidence of attainment of the desired outcomes described in Section 7 of this agreement through the use of metrics outlined in Section G, below.
 - G. The Participant will annually report to the MFS information about its harvest management and silvicultural metrics including, but not limited to:
 1. Acres of high risk separation zones harvested during the past year.
 2. Trends in silvicultural investments, including, but not limited to precommercial thinning and competition control, organized by Forest Operations Notification number or where commercial harvesting has not taken place in a township, by individual township.
 3. Estimates of harvest acreage summarized for the coming five-year period by silvicultural prescription, including overstory removal, commercial thinning, shelterwood, and clearcut.
 4. A more specific annual harvesting plan that describes the planned acreage for harvest for the upcoming year in each township by prescription, with clearcuts exceeding 250 acres individually mapped and identified.
 5. Annual harvest summary for the previous year, provided within 60 days of year end, a summary of the area harvested over the previous year by prescription (actual versus plan) and total volumes. Information will be made available for sites visited by the panel. The Participant will continue to provide

information on acres harvested by harvest type, by township, as required on the "Confidential Report of Timber Harvest."

6. Annual regeneration report for clearcuts. Acres planted by species and site class, organized by Forest Operations Notification number or where commercial harvesting has not occurred in a township, by individual township. Where available, information will be provided for sites where the panel conducts field verifications.
 7. Road density (miles per acre of ownership by township).
 8. Harvest opening size distribution (acres by opening size class for each harvest prescription by township).
 9. Development stage distribution (acres by development stage within each broad cover type class by township). Development stages to be reported are: regeneration, sapling, young, immature, mature, and overmature.
 10. Broad stand type distribution by economic zone. Stand types to be reported are softwood, mixed wood, hardwood, precommercial thinning, planted stands, young natural regeneration, and non-forest.
- H. The Participant will prepare and submit a report of the average clearcut size and total clearcut areas on an annual basis.
 - I. The Participant will provide a copy or copies of its policies addressing wildlife habitat features including, but not limited to, smooth-barked beech trees and stands, late successional forest, snags, and vernal pools.
 - J. A Maine Licensed Forester in the employ of the Participant will review and approve the landowner's Forest Management Plan.
 - K. The Participant will measure regeneration success on clearcuts, the results of which shall be made available for inspection by the MFS and the panel. In cases where regeneration is found to be inadequate, the Participant will implement a reforestation strategy in a timely fashion.
 - L. Harvests will be laid out with consideration for visual aesthetics in areas of moderate and higher visual sensitivity as determined by the Participant. The Participant's forest management staff will be proficient in managing and receive periodic training for visual aesthetics.
 - M. The Participant will prepare an annual report regarding its efforts and any active management undertaken to maintain and protect critical deer wintering habitat.
 - N. The Participant will accommodate other reasonable requests for information made by the MFS and the panel as mutually agreed upon.
11. **Sale and purchase of lands:**
- A. The Participant will be permitted to add any lands their ownership group purchases to this agreement, provided that the Participant promptly includes those same additional lands in its forest certification program and its management strategy and plans, and provided the Participant manages the lands to the same standards as the rest of its ownership. Similarly, this agreement

does not prohibit the Participant from selling some or its entire ownership group lands to an unaffiliated third party.

- B. Any lands sold would immediately upon transaction closing be removed from governance under this agreement and would be required to fully comply with all forest practices regulations for all subsequent activity. Any remaining lands managed by the Participant would continue to be governed by this agreement provided the lands remain credibly third party certified and managed according to the strategy outlined in the management plan.
- C. The Participant must notify the MFS of any sales or purchases of land covered under this section within 30 days of closing.

12. Anti-trust:

- A. All meetings will be conducted in compliance with state and federal anti-trust laws and regulations.
- B. Panel members will recuse themselves from participating in meetings or other panel activities when necessary to assure compliance.

13. Confidentiality:

- A. The parties recognize that portions of documents and other information that the Participant may be required, or may elect, to provide or make available to the MFS or the panel (irrespective of the form or manner in which such information is provided or made available) pursuant to or in connection with this agreement may contain information that constitutes a trade secret (as defined in 10 M.R.S. §1542 (4)) or proprietary information (as defined in 12 M.R.S. §8869 (13)), the public disclosure of which, or the use of which, other than for the express purposes set forth in this agreement could result in competitive harm and/or economic loss to the Participant or its subsidiaries and affiliates.
- B. The parties also recognize that pursuant to the Maine Freedom of Access Act ("FOAA"), the MFS, as a division of an agency of the state of Maine, has an obligation to make records in its possession available to members of the public, except in limited and defined circumstances. 1 M.R.S. §402 (3) and §408 (1). Some of those exceptions may apply to documents and other information provided or made available by the Participant to the MFS or the panel.
- C. Specifically, 1 M.R.S. §402(3)(A) exempts from disclosure "[r]ecords that have been designated confidential by statute." Two statutes may apply to information the Participant provides or makes available pursuant to this agreement and may exempt some information from disclosure under the FOAA.
- D. 10 M.R.S. §1542(4) designates certain information as trade secrets and not subject to disclosure by governmental subdivisions or agencies. Maine statute defines a trade secret as follows:
 - 1. "Trade secret" means information, including, but not limited to, a formula, pattern, compilation, program, device, method, technique or process, that:
 - a. Derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means

by other persons who can obtain economic value from its disclosure or use; and

- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

E. In addition, 12 M.R.S. §8869 (13) provides:

Confidential information.

Information provided to the bureau¹ voluntarily or to fulfill reporting requirements for the purposes of establishing and monitoring outcome-based forestry areas, as created pursuant to section 8003, subsection 3, paragraph Q, is public unless the person to whom the information belongs or pertains requests that it be designated as confidential and the bureau has determined it contains proprietary information. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available. The bureau, working with the landowner and the panel of technical experts appointed under subsection 3-A, may publish reports as long as those reports do not reveal confidential information.

- F. Therefore, if the Participant believes that information it is providing to the MFS or the panel "voluntarily or to fulfill reporting requirements for the purposes of establishing and monitoring outcome-based forest policy areas," is "proprietary information" as defined in 12 M.R.S. §8869 (13), it must request that the information be designated as confidential by the MFS. If the MFS determines that the information being provided contains "proprietary information," the MFS will designate that information as confidential. The MFS will notify the Participant whether the information has been designated as confidential or not within a reasonable period of time.

Notwithstanding the foregoing, the parties agree and acknowledge that the information listed or described on Schedule A to this Agreement shall be treated as having been designated by the MFS as proprietary and confidential without the requirement of a review on a case-by-case basis.

- G. If the MFS receives a request for information under the FOAA that it has designated as confidential, it will notify the Participant of that request within a reasonable of time. The MFS will also notify the Participant if it plans to disclose the information or deny the request.
- H. The Participant may require any panel member participating in the forest management certification audit to sign a confidentiality agreement. This agreement must be similar in scope and content to any confidentiality agreement required by the Participant of the auditor and/or any other participants in the audit. Information designated hereunder as confidential or proprietary shall not be made available to any panel member who has not executed such a confidentiality agreement.

¹ "Bureau of Forestry" and "bureau" are the statutory references to the Maine Forest Service.

- I. The parties recognize that the final determination about whether information is exempt from disclosure under the FOAA rests exclusively with Maine's courts. The parties also recognize that the MFS is bound by any decision rendered by a Maine court and that the MFS will comply with any final decision issued by a Maine court. The MFS reserves the right to appeal a decision issued by a Maine court if it determines in good faith that the decision contains an erroneous interpretation of the FOAA. 10 M.R.S. §1542(4) or 12 M.R.S. §8869 (13). The Participant also remains free to exercise its legal rights, including any appeal rights it might have, regarding any decision issued by a Maine court.
14. **Representations and Warranties:** The MFS hereby represents and warrants to the Participant that as contemplated by 12 MRS §8003 (3)(Q), after giving effect to this agreement, the MFS will not have designated more than six (6) outcome-based forestry agreement areas.
15. **Reimbursement:** The Participant will pay for reasonable expenditures incurred by MFS and the panel that result from its participation in the Participant's outcome-based forestry program, including but not limited to, mileage reimbursement, meals, and lodging.
16. **Duration of this agreement:** This agreement takes effect on 01 December 2018 and terminates on 30 November 2023. It is renewable at any time by mutual, written agreement between the MFS and the Participant.
17. **Amendments; Entire Agreement:** This agreement may be amended at any time by mutual, written consent of the parties. This agreement constitutes the entire agreement between or among the parties hereto with respect to the subject matter hereof, and supersedes any and all prior oral or written expressions, agreements or understandings with respect thereto.
18. **Termination of this agreement:** This agreement may be terminated prior to the expiration of the term:
- A. By mutual agreement of the parties.
 - B. By the Participant, effective upon at least ninety (90) days prior written notice to the MFS.
 - C. By the MFS effective upon at least ninety (90) days prior written notice to the Participant in the event that the Participant has materially breached any provision of this agreement and has failed to cure such breach to the reasonable satisfaction of the MFS within such ninety (90) day period or, in the event that such cure cannot reasonably be effectuated within such ninety (90) day period, such longer period as may reasonably be required, provided that the Participant continues to diligently pursue such cure.

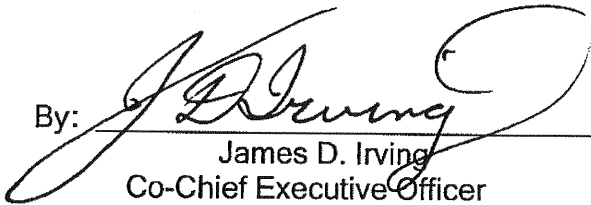
The parties agree and acknowledge that the termination of this agreement shall result only in the prospective loss to the Participant and the Property of the exemptions set forth in Section 8 hereof and the modifications set forth in Section 9 hereof, and that any actions, omissions, conditions or circumstances arising or prevailing prior to such termination or expiration shall be covered by the exemptions

provided pursuant to Section 8 hereof and the modifications provided pursuant to Section 9 hereof.

19. **Official Record:** This agreement shall not be effective nor become part of the official record unless and until it is signed by the Director of the Maine Forest Service.

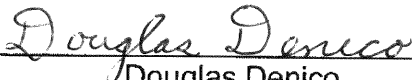
IN WITNESS WHEREOF, the parties hereto have executed this Outcome-based Forestry Agreement consisting of 13 pages, including Schedule A and the Appendix.

Irving Woodlands LLC

By:  Date: 11/22/2018
James D. Irving
Co-Chief Executive Officer
J.D. Irving, Limited



Department of Agriculture, Conservation and Forestry, Maine Forest Service

By:  Date: 11-22-2018
Douglas Denico
Director, Maine Forest Service

Schedule A. List of Proprietary and Confidential Information

The Participant has requested and the Director of the Maine Forest Service has determined that the following information which may be provided to the Panel is either considered confidential or proprietary information and must not be further circulated.

1. Annual Reporting Metrics that are currently provided to the MFS in the landowner reports of timber harvesting activities (confidential under 12 M.R.S. §8885 (4)).
Exception: Annual reporting on trends in silvicultural investments is not confidential by agreement of the Participant.
2. Maine management plan information that is not part of the annual Irving Woodlands Public Summary, such as:
 - a. Information regarding quantity and quality of the timber resource;
 - b. Information regarding sustainable and planned harvest levels; and,
 - c. Information regarding forest inventory and/or cover type and/or area distribution (confidential under 36 M.R.S. §579).
3. Employee or contractor, supplier or customer lists or employee or contractor specific information (proprietary information).
4. Pay rate and/or cost information (proprietary information).

APPENDIX. State of Maine Criteria, Goals, and Outcomes of Forest Sustainability.

1. Criterion 1: Soil productivity

- a. Goal: Maintain site productivity.
- b. Outcome: Site productivity will be maintained or improved, and the area in roads and yards will be minimized.

2. Criterion 2: Water quality, wetlands and riparian zones

- a. Goal: Maintain or improve the chemical, physical, and biological integrity of aquatic systems in forested areas and riparian forests.
- b. Outcomes: Forest management in shoreland areas protects water quality and aquatic and riparian forest biodiversity.

3. Criterion 3: Timber supply and quality

- a. Goal: Improve the quantity and quality of future timber supply when appropriate.
- b. Outcome: The management strategy and harvest levels for the lands will increase the quality and quantity of the forest resource as appropriate in the medium and long term (20 - 50 years).

4. Criterion 4: Aesthetic impacts of timber harvesting

- a. Goal: Minimize adverse visual impacts of timber harvesting.
- b. Outcomes:
 - 1. The landowner will minimize visual impacts of harvests, roads, landings and other management activities.
 - 2. The landowner's planning staff are trained in and apply principles of visual quality management.
 - 3. The landowner identifies areas with high and moderate visual sensitivity, and takes appropriate measures to avoid significant visual impacts whenever necessary.

5. Criterion 5: Biological diversity

- a. Goal: Maintain biological diversity with healthy populations of native flora and fauna, forest communities and ecosystems.

b. Outcomes:

1. Management addresses the habitat needs of the full range of species present.
2. Maintain or manage for acreage in the late successional (LS) condition through management and protection.
3. Maintain a reasonable component of standing dead trees, live cull trees, and down logs across the landscape (not necessarily on every acre).
4. High Conservation Value Forests are properly identified and values are protected on the ownership.
5. Rare, threatened and endangered species habitats are properly identified, and the land is managed to protect the habitats and occurrences of rare, threatened and endangered species.
6. Important plant communities are properly identified, and the land is managed to protect important plant communities.
7. Deer wintering areas are properly identified and managed to maintain or improve their value as winter cover for deer.

6. Criterion 6: Public accountability

- a. Goal: Demonstrate sustainable forestry and build public confidence that forest management is protecting public values for the long-term.

b. Outcomes:

1. The landowner will maintain independent 3rd party certification with a nationally recognized sustainable forestry management certification system without major, unresolved non-conformances on managed lands.
2. A Licensed Forester within the company will review and approve the landowner's Forest Management Plan.
3. The landowner will employ Licensed Foresters who are actively involved in the management, planning and supervision of operations on the land.
4. All timber harvesting contractors will employ at least one person possessing Certified Logging Professional or Qualified Logging Professional certifications or the equivalent.

7. Criterion 7: Economic considerations

- a. Goal: Optimize benefits to the local and regional economy while also achieving the goals specified for the other criteria, to the extent allowed by market conditions.
- b. Outcome: The landowner's management activities support as vibrant and diverse a forest products industry as is practicable, including loggers, truckers, and production facilities.

8. Criterion 8: Social considerations

- a. Goal: The landowner supports the communities surrounding their lands and operations, and except where special circumstances dictate otherwise, the landowner continues to provide historic and traditional recreational opportunities that do not conflict with the landowner's objectives or values.
- b. Outcome: The landowner provides opportunities for appropriate historic and traditional recreational uses that do not conflict with the landowner's values or objectives.

9. Criterion 9: Forest Health

- a. Goal: The forest is healthy and vigorous with no serious insect infestations or disease outbreaks.
- b. Outcome: The landowner does what is prudent and practicable to monitor for and prevent and control insects, disease, and fire, consistent with good practice in the industry and assists MFS in forest health monitoring programs on the ownership.