

**RESOURCE PROTECTION PLAN
AND
RECREATION MANAGEMENT PLAN
FOR THE
EAST BRANCH OF THE PENOBSCOT RIVER
IN
TOWNSHIP 5 RANGE 8 WELS**



Effective June 27, 2002

**RESOURCE PROTECTION PLAN
AND
RECREATION MANAGEMENT PLAN
FOR THE
EAST BRANCH OF THE PENOBSCOT RIVER
IN
TOWNSHIP 5 RANGE 8 WELS**



Haskell Rock Pitch

Originally adopted in 1981;
2002 renewal submitted by Irving Woodlands LLC;
Adopted June 12, 2002 by the Maine Land Use Regulation Commission

Effective June 27, 2002

All photos courtesy of John Titus, Bureau of Parks and Lands, Department of Conservation

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**APPLICATION AND RESOURCE PROTECTION PLAN FOR
RETAINING THE DISTRICTING OF CERTAIN LANDS ON THE
EAST BRANCH OF THE PENOBSCOT RIVER
IN TOWNSHIP 5 RANGE 8 WELS**

APPLICATION

Irving Woodlands LLC hereby proposes a Resource Protection Plan (sometimes called the "Plan" or "P-RP") and petitions the Maine Land Use Regulation Commission (sometimes called "LURC" or "Commission") to retain the current P-RP, Resource Plan Protection Subdistrict, pursuant to the Land Use Districts and Standards of the Commission. The management practices and usage of the lands proposed for coverage by the Resource Protection Plan and P-RP Subdistrict ("the Resource Protection Plan Lands") will be managed and the resources utilized according to the provisions set forth in a Resource Protection Plan and Conservation Easement (the "Easement") attached hereto. The standards contained with the attached plan, when taken as a whole, are at least as protective of the natural environment as standards for the present protection, development and management subdistricts that would apply in the absence of the proposed plan. By setting forth land use restrictions and allowable activities in the Plan, the need for permit applications to the Commission is reduced. The primary, and indeed, the sole purpose of the Resource Protection Plan is to protect and utilize the resources of the area, including, but not limited to the land and water resources.

Pursuant to the requirements of Section 10.16, F, 5, Resource Plan Protection Subdistrict, of the Commission's Land Use Districts and Standards, the following information is submitted:

- a. The proposed Plan conforms to the purposes of the P-RP subdistrict by providing for efficient management of what would otherwise be multiple adjoining or overlapping management, protection and development subdistricts. The Plan sets forth land use activities that may be carried out in a 500-foot corridor on each side of the East Branch of the Penobscot River in Township 5 Range 8 WELS and provides a mechanism for the State of Maine to administer recreational activities on the Resource Protection Plan lands. Without the legal authority to use the landowner's lands, as has been conveyed by the Easement, the level of protection and recreation administration desired by the State would not be possible, nor could it be provided by zoning which would otherwise apply. The Conservation Easement, which is part of the Plan, prohibits residential and most commercial development in a 500-foot corridor along each side of the river. Alternative LURC zoning can only provide equivalent protection in a zone up to 250 feet wide. Also, timber harvesting and road standards are extended from the required 250 feet to 500 feet. These three factors combine to provide a higher level of protection than can be achieved by alternative LURC zoning.

- b. The area of the proposed P-RP Protection Subdistrict is shown on the maps attached as Appendix A.
- c. Management procedures, the Conservation Easement, and other formalized procedures which will replace regulations that would otherwise apply are all set forth in the attached Plan. The Resource Protection Plan achieves equal or better protection of resources in the area than alternative zoning because Irving Woodlands has covenanted to limit land uses as specified in the Plan and Easement.
- d. Irving Woodlands LLC certifies that it is the owner of the land that will be included in the P-RP Subdistrict.
- e. Irving Woodlands proposes that the Resource Protection Plan be applicable for a period of ten (10) years from the date of Commission approval. Since the Conservation Easement is perpetual, a long term Resource Protection Plan is feasible. At the end of the ten-year period, the landowner may seek to renew the Plan.
- f. With certain limited exceptions, the Resource Protection Plan does not allow structural development by Irving Woodlands, although the State of Maine can erect certain administrative structures if it obtains leases for Administrative Areas as defined in the Deed of Conservation Easement. In addition, structures on existing leases may be erected subject to LURC approval.
- g. Subdivision of the Resource Protection Plan area is not permitted.

Respectfully submitted,

IRVING WOODLANDS LLC

SUMMARY OF PLAN ELEMENTS

A summary of the basic elements of Irving Woodlands' resource protection plan for the East Branch of the Penobscot River in Township 5 Range 8 (T5R8) WELS follows.

Conservation Easement

The conservation easement donated by Great Northern Nekoosa Corporation to the State of Maine in 1981 permanently gave up rights to develop the land within 500 feet of the East Branch of the Penobscot River for commercial or residential structures, except those related to timber harvesting, mineral extraction, and the development, in accordance with LURC requirements, of camps and campgrounds on existing lease lots within the easement areas. New roads within the corridor are limited by the conservation easement to those that provide access to roads existing within the corridor, and realignments and reconstructions of roads and bridges. Consequently, the conservation easement itself constituted a transfer to the State in perpetuity of substantial development rights. Rights reserved by the company or not otherwise given up remain subject to all regulatory requirements of State and Federal agencies (including LURC).

Finally, the conservation easement transferred to the State the right to regulate and manage recreational activities within the Penobscot corridor through T5R8 WELS. The State may exercise these rights primarily through leases of various recreational access and use areas. Under this concept, the State's Bureau of Parks and Lands, in cooperation with other State agencies and Irving Woodlands LLC can implement a plan for recreational uses within the East Branch corridor in T5R8.

Resource Protection Plan

The landowner's resource protection plan, which incorporates the conservation easement as an appendix, provides standards for all major land uses reserved by the company under the easement. These standards are substantially similar to those provided under the LURC standards for the zones that would be applicable within the corridor were the plan not in effect (P-SL, P-WL, P-RR, P-FP and D-GN). The resource protection plan, however, provides that LURC protection district standards apply to lands within 500 feet of the river, whereas the requirements for the protection subdistricts (covering timber harvesting and road construction, for example) would apply only to lands within 250 feet on either side of the East Branch in T5R8.

Under the resource protection plan, developments within lots already leased by the landowner for camps or campgrounds remain subject to all the usual LURC requirements and restrictions. The proposed resource protection plan prohibits any new land subdivision within the corridor.

While the terms of the conservation easement apply only to a 500-foot corridor along the river, the resource protection plan applies to the 500-foot corridor and the riverbed itself. The duration of this revised plan is 10 years, at the end of which Irving Woodlands LLC may seek to renew it.

Memorandum of Agreement

A memorandum of agreement covered Great Northern Nekoosa Corporation's original proposal. The agreement, which is among the exhibits to the plan, provided for the timely and orderly donation by the Company of the conservation easement. It also provided for submission of the proposed resource protection plan and recreation management plan to the Commission for its approval. The agreement was executed on behalf of Great Northern and by the Governor on behalf of the State. However, the final donation of the easement and creation of the resource protection plan district were subject to the review and approval of the Land Use Regulation Commission.

Recreation Management Plan

As indicated above, the conservation easement provided for the transfer to the State of the right to manage and regulate recreational uses within the Penobscot corridor. In coordinating this management effort, the State's Bureau of Parks and Lands, in cooperation with the Department of Inland Fisheries and Wildlife and Great Northern, developed a recreation management plan for future recreational uses within the corridors of both the East and West Branches of the Penobscot River. That plan was approved by the Commission as a component of the original P-RP resource protection plan. Because use levels on the East Branch in T5R8 over the past twenty years did not warrant active recreational management, the revised recreation management plan, developed by the State and Irving Woodlands as part of this revised P-RP, no longer includes administrative areas for the East Branch.

**RESOURCE PROTECTION PLAN
FOR THE PORTION OF THE
EAST BRANCH OF THE PENOBSCOT RIVER
IN TOWNSHIP 5 RANGE 8 WELS**

Section I

INTRODUCTION

Background

The Land Use Regulation Commission's *Land Use Districts and Standards* provide for a unique alternative to the Commission's customary zones, whereby landowners may propose a resource protection plan for areas covered by multiple protection subdistricts. If the Commission finds the terms of such a plan acceptable, it may apply a P-RP (resource plan protection) district designation instead of the protection or management districts which would otherwise apply. Thereafter, the landowner becomes obligated, for the duration of the plan, to comply with the terms and standards of the approved plan. Terms of the plan can be amended only with both the landowner's and the Commission's consent. The purpose of this technique is to allow for greater flexibility in zoning requirements by enabling landowners to develop their land, while still insuring adequate land use zoning protection in the public interest. The fundamental requirement of this zoning designation is that the resource protection plan incorporate land use standards which, taken as a whole, are at least as protective of the natural environment as those standards which would otherwise be applicable under the Commission's conventional zoning.

The Penobscot waterway, including portions of the East and West Branches of the Penobscot River and associated lakes, has long been identified as having exceptional recreational value. In the 1970's, various management schemes were considered to maintain the special character of these areas while allowing continued commercial forestry activities. Federal and State studies undertaken in the late 1970's concluded that the Penobscot was worthy of special protection. Following proposals by Commission staff in 1979 to develop special recreation protection zoning for the corridors of the East and West Branches, Great Northern Nekoosa Corporation voluntarily developed a resource protection plan for the area.

In 1981 an agreement was reached which provided for a donation by Great Northern to the State of Maine of conservation easements pertaining to lands wholly owned along the East and West Branches of the Penobscot River and Lobster Lake and Stream (approximately 12 miles of lake frontage and 67 miles of river). The easements were the foundation of the resource protection plan for the waterway. While Great Northern Paper Company was the only landowner for the areas included in the plan as approved in 1981, Irving Woodlands LLC is now the sole landowner for the portion of the East Branch of the Penobscot flowing through Township 5 Range 8 WELS. This document represents a proposed renewal and revision of the original 1981 plan for the East Branch of the Penobscot River in T5R8 WELS.

Natural Resources

The Penobscot River basin, draining an area of approximately 8,750 square miles, is the largest river basin lying wholly within the State of Maine. It covers roughly one quarter of the state and encompasses Mt. Katahdin, the highest mountain in the state, as well as Baxter State Park, the state's largest public recreation area. Forests cover roughly 95 percent of the Penobscot River basin, with much of the forestland managed for pulp, paper or saw timber production.

A study of the East Branch of the Penobscot in the mid-1970s, authorized by Congress under the National Wild and Scenic Rivers Act, determined that the East Branch was eligible for inclusion in the National System. The study classified the 12-mile segment of the East Branch flowing from First Lake Matagamon in T6R8 WELS through T5R8 WELS as scenic and also identified the East Branch–Seboeis River system as one of the least developed watersheds in the northeast U.S. The East Branch of the Penobscot River from Grand Lake Matagamon to Medway, which includes the portion in T5R8 covered by this resource protection plan, was among the rivers identified as meriting special protection by executive order of Governor Brennan following the completion of the Maine Rivers Study in 1982.

The 107 miles of the East Branch of the Penobscot drain about 1,000 square miles of land. The main stem of the river from Grand Lake Matagamon to Medway is 42 miles long; the segment flowing through T5R8 WELS is approximately 9½ miles in length.

Scenic values along and from the river include numerous views of mountains in the northern part of Baxter State Park, as well as abundant whitewater rapids and waterfalls on the river itself. Of the eight waterfalls located on the East Branch, six lie within T5R8 WELS. Four of them, Pond Pitch, Grand Pitch, the Hulling Machine, and Bowlin Falls, occur within a ¾-mile stretch of the river in the southern half of T5R8. North of those four falls about two miles, are Stair Falls, a rough scenic drop, and Haskell Rock Pitch, a rocky cataract one mile south of Stair Falls. State evaluations of critical areas in the late 1970's and early 1980's recognized Grand Pitch as a significant waterfall and Haskell Rock Pitch, Stair Falls and the Hulling Machine as significant whitewater rapids. The evaluations also cited significant geological, scenic and/or historical resources at each of these locations and described the hydrologic resources on this segment of the Penobscot as an unusually compact waterfall/gorge/whitewater rapid complex with the widest variety of hydrologic features found within a relatively small area in the state.

The Penobscot basin is rich with biological resources, supporting large animals such as black bear, deer and moose and high quality coldwater fisheries such as brook trout and landlocked salmon. The East Branch of the Penobscot above Wassataquoik Stream, including the portion of the river in T5R8, is noted for both significant and high quality native brook trout and landlocked salmon fisheries. In the mid-70s, the East Branch of the Penobscot River contained spawning and nursery habitat for Atlantic salmon. Current restoration activities for Atlantic salmon include the East Branch in T5R8 up to the dam at Grand Lake Matagamon.

Recreational Resources

People engage in a wide range of recreational activities throughout the year in, on and near the East Branch of the Penobscot in T5R8. Those activities include canoeing, kayaking, tubing, camping, fishing, hunting, hiking, snowmobiling, and riding ATVs.

The Telos Dam on Telos Lake enables water releases from the Allagash watershed into Webster Lake and Webster Brook, which flows into Grand Lake Matagamon, thus significantly affecting the water flows in the East Branch of the river. Those water flows are important for recreation on the East Branch. The Grand Lake Matagamon Lake Association took ownership of the dam on the south end of the lake in 2001. The lake association worked with Inland Fisheries and Wildlife staff to develop a water management plan for the dam. The plan manages water flows primarily for the benefit of the river's fisheries and flood control. The fall drawdown is timed to support spawning, followed by another drawdown in March to prepare for spring thaw and flooding. The recently developed plan maintained higher average flows in the summer of 2001 than in the past, but is subject to change as the lake association monitors water levels and responds to any problems that may arise in coming years.

While recreational use on the West Branch of the Penobscot can be determined in part from data collected at checkpoints operated by the Maine North Woods and Great Northern, activities on the East Branch of the river, which can be reached via Routes 11 or 159, are harder to track. The owners of Matagamon Wilderness Camps just north of T5R8 report that canoeing, kayaking and tubing use levels were higher in the late 1980's and early 1990's, and the owners of Bowlin Camps in the south of T5R8 concur that use levels have not increased in recent years. The Maine Forest Service oversees fire permits for various campsites along the East Branch, but the permits often do not specify which site within a township will be used. Furthermore, permits for guides can allow unlimited use at sites along a stretch of river for an entire year, so the MFS permits do not accurately portray use levels and trends.

The 1981 Resource Protection Plan (P-RP) and Recreation Management Plan for the Penobscot Waterway identified four campsites on the East Branch in T5R8 WELS that were proposed for consideration as administrative areas for recreational use. To facilitate recreational management under the plan, Great Northern would have granted leases to the State for those areas. Use levels on the East Branch during the 20-year term of the P-RP, however, didn't warrant that level of management, so the leases were not requested nor granted. The Maine Forest Service has issued fire permits and overseen use of the campsites on a more informal basis over the past 20 years.

A road runs along the western side of nearly the entire length of the river through T5R8, providing easy access to people who wish to camp on the river, whether or not they're canoeing or kayaking. The Recreation Management Plan groups individual camp cells within campsites, so that a campsite may contain multiple cells, some of which can accommodate more than one tent, vehicle or user. Overall, the condition of the cells and campsites on the western side of the river indicate moderate levels of use, probably enabled in large part by relatively easy access by road rather than from river access, as confirmed by forest rangers from their work checking fire permits over the years. In contrast, access to the eastern side of the river is more difficult, over

trails which in some cases are only accessible by foot and/or ATVs. For that reason, canoists, kayakers, and tubers are the primary users of campsites and cells on the eastern side of the river. Portages around the various falls and rapids lie on the western side of the East Branch. Brief descriptions of the campsites follow:

- North End: Three camping cells exist in a campsite that was not shown on the map in the 1981 Recreation Management Plan. The campsite lies on a side road off the Eagle Lake Tote Road, roughly 2-2½ miles from Matagamon Dam. All of the cells are very close to the river and are fairly well-worn from use.
- Stair Falls: The 1981 Recreation Management Plan showed the first of four proposed Administrative Areas (EB1) at Stair Falls. A lease/home sits on the western side of the river at Stair Falls. One camping cell exists in a campsite across the river, at the head of the falls.
- Haskell
Rock Pitch: One camping cell sits on the western shore of the river at Haskell Rock. The rock itself rises fairly dramatically from the middle of a stretch of rapids at a bend in the river, creating quite a distinctive sight as paddlers approach from upriver.
- Pond Pitch: Three camping cells exist in the campsite along Pond Pitch, one on the east and two on the west side of the river. Pond Pitch was the site of the second proposed Administrative Area (EB2) in the 1981 plan.
- Grand Pitch: The campsite at Grand Pitch contains four cells, with two located on each side of the river. The pitch is actually a waterfall that drops more than seven meters with a gorge below the falls that is more than seven meters deep. One cell on the western shore sits up above the falls. This site was the third proposed Administrative Area (EB3) in the 1981 P-RP.
- Hulling
Machine: The campsite at the Hulling Machine is located on the eastern side of the river in an area that is not accessible by road. This was the fourth proposed Administrative Area (EB4) in the original Plan.

Section II

PURPOSE AND OBJECTIVES

The purpose of this Resource Protection Plan is to provide for the continued effective management of the renewable forest and water resources while recognizing and protecting the recreational and other natural values of the East Branch of the Penobscot River in T5R8 WELS.

The objective of the Plan is to ensure a continuous yield of forest products to support manufacturing facilities, to protect water quality and quantity for present and potential uses, to provide for continued recreational uses associated with the river, and to provide for the continued protection of the natural character of the areas consistent with the land use activities proposed in this plan.

The State of Maine has been responsible for developing and implementing a Recreation Management Plan for public recreational uses within the river corridor. That Plan, as incorporated in Section VIII after approval by Irving Woodlands and LURC, will govern recreational uses of the lands described herein.



Haskell Rock

Section III

DESCRIPTION OF AREA TO BE INCLUDED IN THE RESOURCE PROTECTION PLAN

The following lands shall be included in the Plan:

- A. Those lands which are delineated on the maps (Appendix A) attached as part of this Plan and which are within 500 feet of the normal high water mark measured as a horizontal distance landward of such high water mark of those shoreland areas which on the effective date of this plan are wholly owned by Irving Woodlands LLC and not owned in common with others, and being more particularly described as follows:

Beginning at the point on the East Branch of the Penobscot River where said river intersects the north township line of T5 R8 WELS, and terminating at the point where said river intersects the south township line of said township.

- B. The area enclosed by the normal high water mark of the Penobscot River, beginning and ending as described in paragraph A, will be included in the P-RP Subdistrict.
- C. Islands lying within those sections of the Penobscot River beginning and ending as described in paragraph A.
- D. The area enclosed by the normal high water mark of any stream or brook running into those portions of the Penobscot River as described in paragraph A will be included in the P-RP subdistrict only up to the 500 foot outer boundary of the P-RP Subdistrict.

Section IV

LAND USE ACTIVITIES

The following land use activities will be allowed in the P-RP Subdistrict upon the terms and with the limitations specified. Definitions of terms used herein are contained in Appendix G. Nothing herein shall be construed as limiting Irving Woodlands' right to prohibit any land uses described in this Section.

A. The following uses shall be allowed without a permit from the Land Use Regulation Commission:

1. Primitive recreational uses including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing and snowshoeing;
2. Level A road projects;
3. Motorized vehicular traffic and snowmobiling on roads and trails;
4. Wildlife and fishery management practices;
5. Service drops;
6. Mineral exploration to determine the nature or extent of mineral resources provided such exploration is accomplished by hand sampling, test boring, or other methods which create minimal disturbance and reasonable measures are taken to restore the land to its original condition;
7. Surveying and other resource analysis;
8. Forest management activities, except for timber harvesting;
9. Non-permanent docking or mooring structures;
10. Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations;
11. Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
12. Normal maintenance and repair activities;
13. Boating; and
14. Use of ski and seaplanes and helicopters.

- B. Subject to the provisions of paragraph E, the following uses shall be allowed without a permit when in conformance with the standards hereinafter set forth:
1. Timber harvesting when in conformance with the standards in Appendix C;
 2. Land management roads and water crossings of minor flowing waters which are in conformance with the standards in Appendix D and are permitted under the terms of the Easement;
 3. Mineral extraction affecting an area of less than three acres in size for road purposes when in conformance with the standards in Appendix E;
 4. Level B and C road projects when in conformance with the standards in Appendix D provided that no new Level C road projects shall be allowed except as expressly provided for in the Conservation Easement; and
 5. Those signs which are in conformity with the standards of Appendix F.
- C. The uses set forth in the preceding paragraph B which exceed the standards therein set forth shall be allowed when in conformance with the following procedures:
1. A notification in writing will be made to the LURC staff whenever a proposed activity will exceed the standards of paragraph B. All notifications shall be made at least 60 days prior to the commencement of the activity. The notification should be on the appropriate Department of Conservation form for the proposed activity. The activity will be allowed as provided in the notification after the 60 day period provided that:
 - a) No comments have been received from the LURC staff regarding the proposed activity; or,
 - b) An agreement has been reached between Irving Woodlands LLC and LURC resolving concerns expressed by LURC about the proposed activity and the activity is carried out in the manner specified in such agreement.
 2. In the event that there are questions raised by LURC which are not resolved to the satisfaction of LURC during the 60 day period, no action shall be taken by Irving Woodlands to implement the proposed activity for an additional 60 days or until a satisfactory agreement is reached between the LURC staff and the landowner.
 3. In the event that a satisfactory agreement cannot be reached by the end of the additional 60 day period, Irving Woodlands shall make formal application for a permit issued by the Commission and the appeals procedures then in effect under the LURC regulations shall be followed in order to resolve the issue provided that until such resolution the landowner shall not implement the proposed activity.

- D. Subject to the provisions of paragraph E, the following uses shall be allowed only upon the issuance of a permit from the Land Use Regulation Commission:
1. Campsites and campgrounds owned or operated by public or private entities except as these may be allowed without a permit under the Recreation Management Plan;
 2. Permanent docking or mooring structures;
 3. Administrative structures or areas as provided for in the Conservation Easement;
 4. Filling, grading, draining, dredging or alteration of water table or water level for other than mineral extraction;
 5. Mineral extraction affecting an area of three acres or more in size, for road purposes; and
 6. Other structures, uses, or services that are essential for the exercise of the uses allowed by this Resource Protection Plan which the Commission determines are consistent with the purposes of this subdistrict, the Comprehensive Land Use Plan and the Commission statutes and are not detrimental to the resources or uses which they protect.
- E. The uses set forth in paragraphs B and D shall be subject to the following further requirements:
1. Mineral extraction is prohibited in those areas which were zoned P-WL and P-RR prior to the Commission's approval of the original Plan;
 2. Filling, grading, draining, dredging or alteration of water table or level is prohibited in areas zoned P-RR prior to the Commission's approval of the original Plan; and
 3. In those areas zoned D-GN or P-SL where a lease was executed prior to the Commission's approval of the original 1981 Plan, the lessee or occupant of land other than Irving Woodlands shall be governed by the provisions of the *Land Use Districts and Standards* which are in effect in such subdistricts at the time of application.
- F. Prohibited Uses
1. All uses not expressly allowed, with or without a permit, under this Plan shall be prohibited.
 2. All land subdivisions shall be prohibited. Leases to the State for administrative structures and areas shall not constitute a subdivision for the purposes of this Plan.

Section V

MANAGEMENT AGENCIES

Irving Woodlands LLC is the principal administrator and the agency responsible for this Resource Protection Plan. The landowner shall insure that those land use activities described in this plan are carried out in conformance with the standards and procedures described herein.

It shall be the responsibility of the State of Maine to insure that public recreational uses are consistent with the requirements of the Resource Protection Plan Subdistrict.

Section VI

DURATION OF PLAN

The Resource Protection Plan will be in force for a period of ten (10) years from the date of Commission approval so long as the LURC law, or any amended or replacement version thereof, remains in effect. Since the Conservation Easement is perpetual, a long term Resource Protection Plan is feasible. At the end of the 10-year period, the landowner may seek to renew the Plan.