



Timson, Schepps & Peters, Inc.

Environmental Permitting Services
Geologic Consulting • Wetland Analyses

Lincoln County Commissioners
Court House
Wiscasset, ME 04578

14 August, 1989

RE: Wetlands on land located behind
Lincoln County Sherrif's Department, Wiscasset

Dear Commissioners,

Lemuel L. Brown has requested that I examine a parcel of land located behind the existing Lincoln County Sherrif's Department for the presence of wetland. The land is displayed on a plan prepared by Lem Brown entitled Proposed Conveyance From: Marion S. Lowndes, To: Lincoln County Sherrifs Department, Wiscasset, Maine and consists of a 0.17 acre "diamond" shaped parcel and an adjacent "triangular" shaped tract of land defined by a gravel apron behind the County Jailhouse and a property line shared with the Parsonage Lot of the First Congregational Church. For this purpose on 10 August 1989, I made a site visit to the above described parcel and was shown property boundaries displayed on the Plan by an employee of Mr. Brown's.

Wetland Definitions

Wetlands can be defined or identified in two contexts: 1) Ecologic Community and 2) Regulatory Jurisdiction. Definitions by the latter context generally utilize or depend on scientific criteria or terminology from the former and therefore in effect are a subset of the former. However in both contexts, the presence and extent of wetlands generally depends on three parameters: hydrology, soils and vegetation. Activities in wetlands are regulated at Federal State and Local levels of government.

Federally, activities in wetlands are regulated by the Corps of Engineers under the provisions of Section 404 of the Clean Water Act. Under this Act wetlands are defined by the three or multiple parameters referred to above and the methodology for this delineation is described in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" (US Army Corps of Engineers, US Environmental

Protection Agency, US Fish and Wildlife Service and USDA Soil Conservation Service, 1989).

At the State Level, activities in wetlands and adjacent land are regulated by the State of Maine Department of Environmental Protection (DEP) under the provisions of the Natural Resource Protection Act. By this Act wetlands are jurisdictionally defined based on size, location and the presence of appropriate vegetation. If basic requirements are met specific activities such as disturbance of soil adjacent to wetlands are allowed by specific Permit by Rule Standards. Jurisdictional definitions pertinent to freshwater wetland plant communities are the following:

"Freshwater Wetland means freshwater swamps, bogs and similar places which are:

- A. Of 10 or more contiguous acres;
- B. Characterized predominantly by wetland vegetation; and
- C. Not considered part of a great pond, coastal wetland, river, stream or brook." (Article 5-A, Sec.480-B.4)

"River, stream or brook means a channel between defined banks including the floodway and associated flood plain wetlands where the channel is created by the action of the surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of top soil containing water-borne deposits on exposed soil, parent material or bedrock." (Article 5-A, Sec. 480-B.9)

Floodplain wetlands means "The lowlands adjacent to a great pond, river, stream or brook which are periodically inundated with flood water due to the water body or water course overflowing its banks, and which are characterized by wetland vegetation." (Chapter 305, Sec. 1-B.10)

At the Local level, activities in wetlands are regulated by Planning Boards, Conservation Commissions and/or Code Enforcement Officers under various ordinances which vary from municipality to municipality. Generally these ordinances are based on criteria from the Federal or State definitions referred to above.

Site Visit

During the 10 August 1989 site visit, I examined the parcel with respect to the presence of wetland that would be subject to either Federal or State jurisdiction. Since it is the primary hydrologic feature near the site, special attention was paid to an area marked on the plan as "stream bed" which is located on the Lowndes and Congregational Church parcels.

On these parcels the stream bed indeed meets the above State definition of stream since it occurs in "a channel between defined banks" and has been "created by the action of surface water". Stagnant water, presumably from the recent rains, was standing in the stream channel. Due to the discontinuous extent of the water, the stream is likely to flow intermittently.

In contrast, the drainage ditch originating from the 12" CMP on the parcel in question and shown on the above referenced plan contained no water and is not a stream. This conclusion is based on evidence indicative of the origin of the ditch. On both sides of the ditch there exists excavation or cuts into fill leaving sides that have been stabilized by vegetation. Although there is evidence of recent soil disturbance in this area that is presumed to be associated with the clearing of vegetation, it is clear the banks had been excavated to form the ditch to drain the culvert. Therefore although intermittent action of surface water may serve to maintain the ditch, this feature was clearly not "created" by the action of surface water.

At the time of the site visit, vegetation on the subject parcel had been cut to the property lines but remained on the ground as slash and shrub or tree stumps. Therefore undisturbed vegetation remained between the offsite side of the property line and the "stream bed" located on the Congregational Church and Lowndes parcels. For a distance of 6 to 8 ft from the northwest side of the channel, there exists a community of wetland plants including: jewel weed, sensitive fern, horestail and wild rasin. This area would constitute a flood plain wetland by the State definition. The area would also meet the definition of wetland by Federal definition due to the presence of soils, vegetation and hydrology indicative of wetland.

Further to the northwest, but still off the subject site, is a low bank which is also shown on the plan. This is not the bank of the stream in that it is located on the outer edge of the wetland. However the bank is significant in that it topographical defines the extent of the wetland. On the bank and beyond to the northwest are species indicative of an upland plant community including: apple trees, Norway maple, barberry, dandelion and Solomon seal.

On the part of the subject site that abuts the Congregational Church parcel, the bank is less distinct but generally trends along the property line. In this area, an upland community comprised of the species described above continues to persist offsite. Therefore the northwesterly boundary of the floodplain wetland continues to be located off the subject site. At only one point is the boundary nearer the subject parcel and this is near the middle "iron rod found" (plan) on the property line shared with the

Church where the boundary is coincident with the property line for a distance of approximately 6 to 8 ft. To the northeast of this the boundary again trends offsite.

The slash on the subject parcel was examined to determine what plant community formerly occurred onsite. Stumps of apple trees were found along with scattered branches of barberry. This vegetation is not indicative of wetland but upland.

Conclusions

A site visit was made to a parcel located behind the existing Lincoln County Sheriff Department in Wiscasset to determine whether wetlands exist at the site. Vegetation had recently been cut but was not removed from the site.

Based on the evidence of the nature of the former plant community at the site and the elevation of the site above an offsite area of confirmed wetland in a position separated from wetland by a prominent bank, there is no indication that even a wetland plant community occurs or had occurred on the site. Therefore jurisdictionally there is also no wetland on the site that meets Federal or State criteria.

An intermittent stream is located offsite to the southwest. A floodplain wetland is associated with this stream and is subject to State and Federal jurisdiction.

A drainage ditch that crosses the subject site does not meet the State definition of "river, stream or brook" since the ditch was not created by the action of surface water.

Work within 100 ft of the edge of the floodplain wetland adjacent to the site is allowed under the Permit by Rule Standards of the Natural Resource Protection Act.

The Activities of the Standards most germane to this project are: 1) All Activities and 2) Disturbance of Soil Material Adjacent to a Wetland or a Waterbody. In summary these require the use of standard erosion control methods and the maintenance of a buffer strip of natural vegetation for a minimum distance of 25 ft from the edge of wetland. Site specifically greater distances are required in accordance with a slope formula.

Included is a copy of the Permit By Rule Notification Form along with copies of the germane sections noted above. In the event you have questions or comments do not hesitate to call me at your earliest convenience(s).

Very Truly,

Colen R. Peters.

Colen R. Peters
Certified Geologist #220
Hallowell Office

cc: Lem Brown

**DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)
PERMIT BY RULE NOTIFICATION FORM**

(For use with DEP Regulation, Chapter 305, Section 1)

PLEASE TYPE OR PRINT

Name of Applicant: _____

Address: _____ Town/City: _____

State: _____ Zip Code: _____ Tel. No.: _____

LOCATION OF ACTIVITY

Name of Waterbody (or Freshwater Wetland Map and Location Numbers): _____

Name of Nearest Road and Directions to Site: _____

Town/City: _____ County: _____

Description of Project: _____

Attach to this form a location map with project site clearly marked. Either a **USGS topographical map** from an outdoor supply, hardware or book store or **The Maine Atlas and Gazetteer map** is acceptable. Permission has been granted by Delorme Mapping Company to copy the atlas for this purpose only. A map must accompany this permit form.

STATEMENT OF INTENT

I am filing notice of my intent to carry out work which meets the requirements for Permit by Rule under DEP Regulation, Chapter 305, Section 1. I will comply with all standards listed in paragraph 1(C)(1) "All Projects" and of the Paragraph(s) checked below:

- 1(C)(2) Disturbance of Soil Material Adjacent to a Wetland or Water Body
- 1(C)(3) Intake Pipes and Water Monitoring Devices
- 1(C)(4) Maintenance, Repair and Replacement of Structures
- 1(C)(5) Moorings (Permanent Anchoring Structures)
- 1(C)(6) Movement of Rocks or Vegetation by Hand
- 1(C)(7) Outfall Pipes (Including Ditches and Drain Tiles)
- 1(C)(8) Riprap
- 1(C)(9) Crossings (Utility Lines, Pipes and Cables)
- 1(C)(10) Stream Crossings (Bridges, Culverts and Fords)
- 1(C)(11) Maintenance, Repair and Minor Modification of State Transportation Facilities

I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife and Marine Resources to access the project site for the purpose of determining compliance with the rules.

Signature of Applicant: _____ Date: _____

Send white form with attachments to the: **Maine Department of Environmental Protection
State House Station 17
Augusta, Maine 04333**

Retain yellow copy as record of permit. Permits are valid upon receipt by the DEP for two years. No further authorization by DEP will be issued. **Permits issued under this section are invalid if the DEP finds any applicable standard has not been met. Work carried out in violation of any standard is subject to enforcement action, including a fine of up to \$25,000 for each day of violation.**