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February 14, 2020

Via Email – [Jami.macneil@maine.gov](mailto:Jami.macneil@maine.gov)  
And United States Mail, First Class  
Jami MacNeil  
Environmental Specialist III  
Maine Dept. of Environmental Protection  
Bureau of Land Resources  
28 Tyson Drive  
Augusta, ME 04330

Re: Permit Application of Jeffrey Spinney, Alna, Maine

Dear Jami:

Thank you for sharing the draft NRPA permit which your department has recommended be granted to Mr. Spinney. Please find below our thoughts and comments on the draft. We are also in receipt of comments offered by Gordon Smith of Verrill Dana on behalf of Carol Ervin. We agree with those recommendations and incorporate them here.

We respectfully disagree with the determination that Mr. Spinney's right, title, and interest is dispositive of the questions as to whether the true applicant has demonstrated such standing. There is no doubt that Mr. Spinney has a deed to the land. There similarly is no doubt that the Golden Ridge Sportsman's Club does not. Everything in Mr. Spinney's materials reflects that the true "applicant" is the Club; yet the Club has no "right, title, and interest." Your draft concludes that the Club is an "assign" of Mr. Spinney. The word "assigns" is an ancient word with import only in a deed or other document conveying title. See Black's Law Dictionary. Here the Club has no such conveyance of any interest.<sup>1</sup> Since Mr. Spinney's application is for a common pier rather than a private pier, it is clear the application is for a pier and ramp he proposes to build is not for him, but rather for the Club, the Club is the proper applicant. But, where it has no right, title and interest, it cannot receive a permit. No right, title, and interest in the true proposed user of the ramp and pier has been shown.

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<sup>1</sup> As we have discussed before, a terminable, revocable license is not a conveyance of title.

The department's broad and incorrect interpretation of the word "assigns" is also at direct odds with the stated terms of the Town of Alna in discontinuing the right of public access over and across Reed Road in its discontinuance, an additional copy of which is attached hereto. It terminates the public easement in the road. It reserves access for Mr. Spinney and those to whom he conveys his land ("his heirs and assigns"). It is evident from that discontinuance that the Town intended to stop the use of this road for the public. Yet, the Club claims a right of access over that very road, despite the discontinuance. The draft permit must be modified to correct and reverse this error of law. There is no doubt that the analysis the DEP has conducted has been dependent on the fact that Mr. Spinney purports to be developing a common use facility. Yet, the road discontinuance in limiting the right of access did not allow such broad use.

We urge the DEP to reconsider its draft; find that the true applicant, the Golden Ridge Sportsman's Club, has no right, title, and interest, and deny the permit in full.

Alternatively, so that the permit is not at direct odds with the limited rights of access which the town intended to preserve in its order of discontinuance, we would ask that the following clarifications, additions, and conditions be added to the permit before it is finally approved.

- A. Under Facts 6a, in the event of termination of the license, the removal and downsizing referenced should have a deadline. We recommend no more than within 30 days.
- B. Also under Facts 6a, where there is a "contingency plan" if the club is dissolved, the permit should require that all such downsizing be subject to any local permitting requirements.
- C. These issues of removal in the event of termination of the license of dissolution of the Club are also addressed in Facts, item 6c on page 12, and Other Considerations section 7d, page 13 and Conditions, section 8, on page 14 and should be consistent concerning the duty to promptly remove and assure compliance with local ordinances.
- D. Under the Conditions section, item 8 on page 14, the 6 month lapse timeframe is unreasonable particularly given the limitations on the use of the road anticipated by the discontinuance. We would recommend that be lowered to 30 days.

In addition, we would ask that the DEP consider additional conditions to bring the use more in line with an understanding of the Club being treated as guests or invitees of Mr. Spinney, as follows:

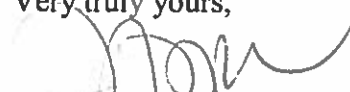
- a. The Permit Holder shall provide DEP with to any club license agreement within 15 days of execution in order for the enforcement of the permit conditions; and
- b. Annual club membership lists be provided to the DEP to assure compliance with the permit conditions by the members of the club;

Jami MacNeil  
February 14, 2020  
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I hope you will consider this request for revision when you revisit the application with the legal and review staff at DEP.

Again and as always, if you have any questions or comments upon our analysis, please do not hesitate to call.

Very truly yours,



Judy A. S. Metcalf

JASM/rt  
enclosure

cc: Jay Clement, Sr. Project Manager, USACE  
clients

vote to raise and appropriate for the

\$6,500.00

1 year was \$6,000.00

cept as written. Seconded Passed

e Treasurer's position to be appointed  
sition is an elected one at this time.

itten. Seconded discussion Failed

vote to raise and appropriate for the

\$15,500.00

1 year was \$1,000.00

d as written Seconded Discussion

nd to \$7,000.00 Seconded Passed

vote to raise and appropriate for the

in recommend the following for an

2008	2007
24,750.00	[19,435.00]
16,048.00	[6,825.00]
5,990.00	[4,020.00]
2,500.00	[2,000.00]
1,500.00	[0.00]
0.00	[2,500.00]
5,000.00	[2,500.00]
\$55,788.00	[\$37,280.00]

it as written. Seconded Discussion  
Department Administration amount by  
008 \$62,888.00. Seconded Passed

will vote to raise and appropriate for

\$1,500.00

accept as written Seconded Passed

Article 26: To see what sum the Town will vote to raise and appropriate for the  
Fire Truck Reserve Account.

Fire Department Recommends \$15,000.00

Note: The amount raised and appropriated last year was \$12,000.00

Motion made to accept as written Seconded Passed

Article 27: To see what sum the Town will vote to raise and appropriate for  
Emergency Preparedness.

Emergency Preparedness Director recommends \$1,450.00

Note: The amount raised and appropriated last year was \$0.00

Motion made to accept as written Seconded Passed

Article 28: To take up again Article 2 from the August eighth, 2007 meeting  
warrant, which was voted tabled until the March, 2008 Annual Meeting, said article  
reading as follows: To see if the Town will vote to approve the Municipal Officer's  
Order of discontinuance of a portion of the Nelson Road, dated July 11, 2007 and  
filed with the Town Clerk.

Motion made to accept as written Seconded Discussion Passed

Article 29: To see if the Town will vote to approve the Order of Discontinuance  
of the Reed Road lying between the Golden Ridge Road and property of Jeffrey A.  
Spinney a/k/a Jeffrey A. Spinney (Tax Map 4, Lot 21A), retaining no public easement  
whatsoever except as is necessary for access by Jeffrey A. Spinney a/k/a Jeffrey A.  
Spinney, his heirs and assigns, to access his property (Tax Map, 4 Lot 21A), provided  
however that the road abutter(s) and new owner(s) of the land underlying the retained  
discontinued roadbed shall have no obligation of any kind to maintain the retained  
easement. The Order of Discontinuance has been filed by the Selectmen with the  
Town Clerk and would discontinue the Reed Road lying between the Golden Ridge  
Road and property of Jeffrey A. Spinney a/k/a Jeffrey A. Spinney (Tax Map 4, Lot  
21A), and its present public easement, except as retained for access to the Spinney  
lot.

Motion made to accept as written Seconded Passed

Article 30: To see what sum the Town will vote to raise and appropriate for the  
General Highway Account.

Road Commissioner and Selectmen recommend \$40,000.00

Note: The amount raised and appropriated last year was \$35,000.00

Motion made to accept as written Seconded Passed

Article 31: To see what sum the Town will raise and appropriate for the Rabbit  
Path Bailey Road Reconstruction Account.

Road Commissioner recommends \$25,000.00

Note: The amount raised and appropriated last year was \$25,000.00

Motion made to accept as written Seconded Passed