

STATE OF MAINE
LAND USE REGULATION COMMISSION

IN THE MATTER OF

PLUM CREEK MAINE)	
TIMBERLANDS, LLC)	
CONCEPT PLAN)	PREFILED REBUTTAL
)	TESTIMONY OF
MOOSEHEAD LAKE REGION)	RICHARD HARRIS PODOLSKY
)	
ZONING PETITION ZP 707)	

Based upon my knowledge of the study area, past field work conducted in the area, my report, and my professional knowledge, experience and judgment I do not believe that the Concept Plan would adversely impact any species of birds including but not limited to: Northern Goshawk, Scarlet Tanager, Cape May Warbler, Bay-breasted Warblers, Rusty Blackbirds, Least Bittern or Bald Eagles. Specifically, I believe these and other bird species would have ample and adequate habitat with or without the implementation of the Concept Plan. It is further my professional opinion that available avian habitat in the Concept Plan would be largely maintained at the landscape level resulting in negligible, regional impact on birds or their habitats. Indeed, in some cases and for some species, I believe that overall avian habitats might be enhanced because the Concept Plan would result in creation of new habitat types, specifically forest gaps and “edge” communities that may attract birds to these new habitat types. In addition, forest habitat taken out of production and left to develop into middle and late successional

forest would clearly benefit Cape May Warbler, Bay-breasted warbler, Northern Goshawk, and Scarlet Tanager, all species associated with more mature forest types.

Regarding loons, human recreational use of lakes has been both blamed for population declines and considered to be unrelated to declines (McIntyre and Barr 1997). Incubating adult loons do tend to leave nests when humans approach thereby leaving eggs vulnerable to predation and death from exposure. Furthermore, anecdotal evidence suggests that speedboat waves may cause loon nests to be lost due to overwash. And while development of shoreline and islands has been implicated in the loss of optimal nest sites, it has also been shown that by providing loons with shelter from weather and waves or with nest platforms these impacts can be mitigated or completely avoided (McIntyre and Barr 1997). Indeed, other studies report that loons can and do successfully breed on many lakes that host lakeside development (McIntyre 1997, Jung 1991, Taylor and Vogel 2003) for example on Pocomoonshine Lake, Big Lake, and Grand Falls Flowage - near Princeton, Maine (Norm Famous Personal Communication).

It is further my understanding that development sites will not be located on any loon nests and therefore loons are not likely to be directly impacted by shoreline development and all development will be subject to a detailed and site-specific subdivision review process, which will consider impact on loons and other natural resources. If a loon nest were located within a development zone, the site plan would be designed to incorporate an appropriate buffer or other mitigation mechanism as deemed appropriate. Finally, as mentioned above, it should be possible to mitigate any potential of negative impact of development on loons if these and other best practices are integrated into the Concept Plan.

Regarding Least Bitterns and Rusty Blackbirds, these species are both associated with wetlands and as such are afforded significant, and in my professional judgment, sufficient protection. Churchill Stream, where the Least Bittern was found nesting this year is in the Balance Conservation easement. Further no wetlands will be developed and in the rare instance that a wetland is impacted at all during subdivision stage, it is my understanding that this impact will be minimized and subject to very close review by several federal agencies as well LURC.

Regarding the Least Bittern, there is no risk of wetland impacts at the location where the Least Bittern was detected north of Long Pond. The road network adjacent to this wetland is in operation and will maintain the existing water levels, wetland hydrology, and water chemistry, thus insuring that the wetland vegetation community remains free of human alteration (Norm Famous Pers. Com.).

Although Rusty Blackbirds may nest in the dense vegetation in reverting clearcuts, their primary feeding habitat is in wetlands where no development will take place. Furthermore, Rusty Blackbirds presently defend territories in wetlands at three developed sites along the Lily Bay Road in Lily Bay Township as well as multiple wetlands along the Toe-of-the-Boot Road, Demo Road, Spencer Bay Road, and Golden Road, all well-traveled thoroughfares (Norm Famous Pers. Com.). In terms of potential human disturbance from recreational fisherman and ATV enthusiast, breeding Rusty Blackbird territories are now present in wetlands that are popular fishing destinations and in wetlands where ATV trails cross through Rusty Blackbird territories. Furthermore, for the portion of the Rusty Blackbird population that breeds in reverting coniferous

clearcuts, there is an abundance of this type of habitat throughout the region, and such habitat will be maintained, (Norm Famous Pers. Com.).

In conclusion, it is my professional opinion that the Concept Plan will not have an adverse impact on birds including, Northern Goshawk, Scarlet Tanager, Cape May Warbler, Bay-breasted Warbler, Rusty Blackbird, Least Bittern, and Common Loon.

McIntyre, J. W., and J. F. Barr. 1997. Common Loon (*Gavia immer*). In *The Birds of North America*, No. 313 (A. Poole and F. Gill, eds.). The Academy of Natural Sciences, Philadelphia, PA, and The American Ornithologists' Union, Washington, D.C.

Jung, R.E. 1991. Effects of human activities and lake characteristics on the behavior and breeding success of common loons. *Passenger Pigeon* 53:207-218.

Taylor, K. M., and H. Vogel 2003. Summary of New Hampshire Loon Preservation Committee loon activities in 2002. Unpublished Report Loon Preservation Committee. Moultonborough, NH.

Date: 9/20/2007

Signed: Richard H. Podolsky

STATE OF MAINE
COUNTY OF Knox, SS.

Sept. 20, 2007

Then personally appeared the above-named Richard Podolsky and made oath that the foregoing testimony by him/her subscribed is true and correct to the best of his/her knowledge, information and belief. Wherein statements made are based on information and belief, he/she believes them to be true.

Lori Edwards Ball

Notary Public

Print Name: Lori Edwards Ball

Commission expires: August 13, 2014

LORI EDWARDS BALL
Notary Public • State of Maine
My Commission Expires August 13, 2014