

IN THE MATTER OF

| | | |
|---|---|---------------------------------------|
| NORDIC AQUAFARMS, INC. |) | APPLICATIONS FOR AIR EMISSION, |
| Belfast, Northport and Searsport |) | SITE LOCATION OF DEVELOPMENT, |
| Waldo County, Maine |) | NATURAL RESOURCES PROTECTION ACT, and |
| |) | MAINE POLLUTANT DISCHARGE ELIMINATION |
| A-1146-71-A-N |) | SYSTEM (MEPDES)/WASTE DISCHARGE |
| L-28319-26-A-N |) | LICENSES |
| L-28319-TG-B-N |) | |
| L-28319-4E-C-N |) | MOTION TO INTERVENE IN BOARD |
| L-28319-L6-D-N |) | PROCEEDINGS ON REMAND RELATING |
| L-28319-TW-E-N |) | TO NORDIC AQUAFARMS INC. |
| W-009200-6F-A-N |) | SUBMITTED BY THE FRIENDS OF |
| |) | THE HARRIET L. HARTLEY |
| |) | CONSERVATION AREA |
| |) | |
| |) | |

Dated: July 5, 2020

This matter is before the Board of Environmental Protection (“Board” or “BEP”) on remand from the Law Court of the 80C appeal of the Board’s 11-19-2020 Orders, in BCD-22-48. On remand, the Friends of the Harriet L. Hartley Conservation Area (“Friends”) (collectively herein “Petitioners”), move to intervene in the Board proceedings concerning Nordic Aquafarms Inc. (“Nordic”), pursuant to 33 M.R.S. § 478(1)(b).

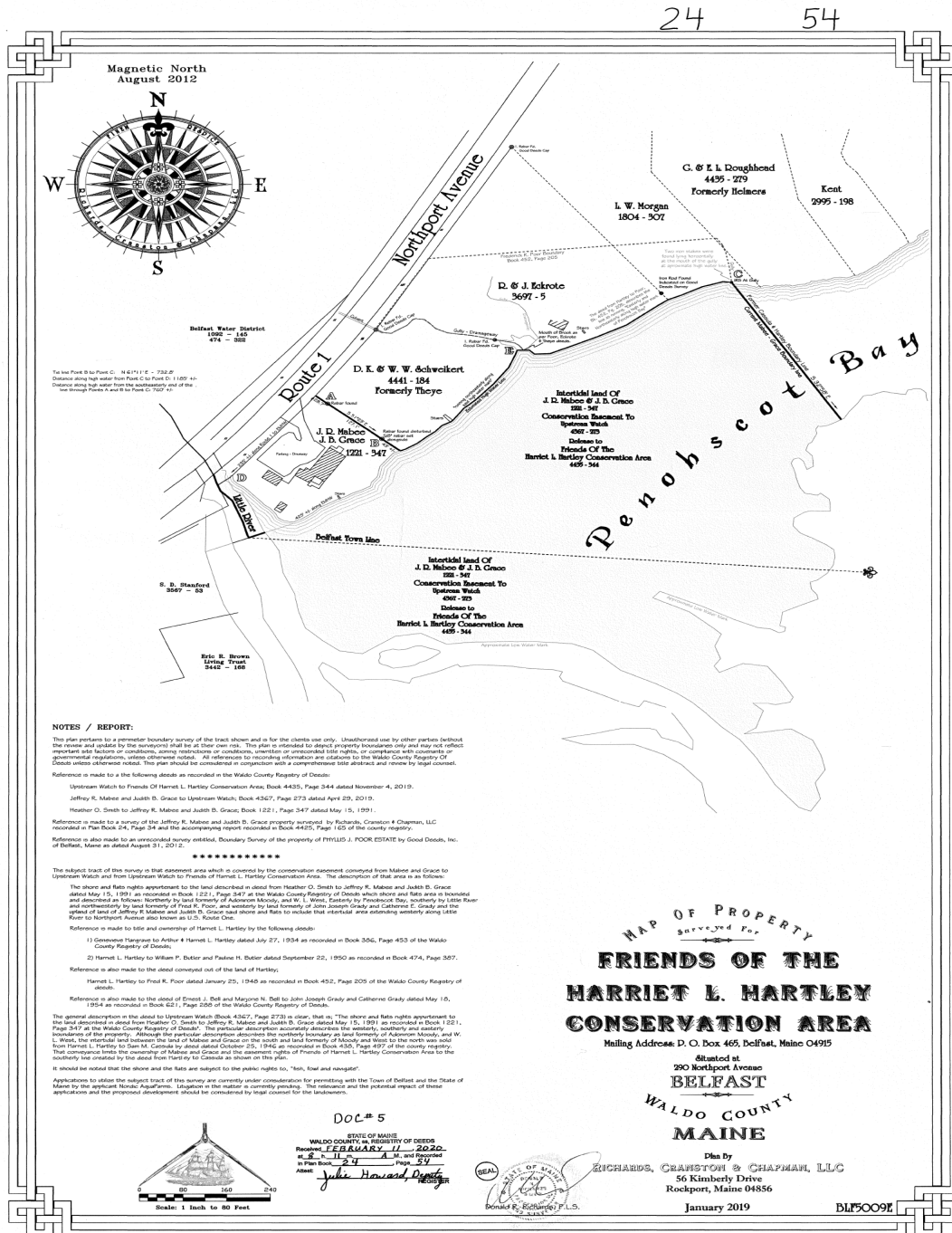
Background

Here, a Decision of the Law Court entered on February 16, 2023 made determinations that establish, *as a matter of law*, that Nordic lacks TRI in all of the land proposed for development or use, including: (i) upland Lot 36; and (ii) the intertidal land adjacent to Lot 36.

On 4-29-2019, Jeffrey R. Mabee and Judith B. Grace (“Mabee-Grace” or “Mabee and Grace”) created a conservation easement on their intertidal land, pursuant to 33 M.R.S. § 476, et seq., and recorded that conservation easement in the Waldo County Registry of Deeds (“WCRD”) (WCRD Book 3673, Page 273).

The 4-29-2019 Conservation Easement named a Maine registered non-profit corporation, Upstream Watch, as its “Holder.”

The 4-29-2019 Conservation Easement includes all the intertidal land on which the lots designated as "Belfast Tax Map 29, Lots 38, 37, 36 and 35 front.



See survey plan by Donald R. Richards, PLS, LF, recorded in the Waldo County Registry of Deeds at Book 24, Page 54.

The 4-29-2019 Conservation Easement contains protections and prohibitions to keep Mabee-Grace's intertidal land in its "natural condition," including prohibition on dredging and commercial and industrial development in this environmentally sensitive estuary.

On November 5, 2019, Friends was assigned the 4-29-2019 Conservation Easement by Upstream Watch and Friends accepted the Assignment as the "Holder" of the Conservation Easement (WCRD Book 4435, Page 344).

On February 10, 2020, Friends moved to be designated as an Intervenor in the Board proceedings. Based on the close proximity of this request to the commencement of the Board's hearings on the Nordic project, the Board denied that motion as "untimely."

Despite that determination, Friends participated in the public portions of the 2020 Board hearings on Nordic; filed motions in the subsequent Board proceedings; and initiated 80C appeals as an Interested and Aggrieved Party with Intervenors Mabee and Grace and the Lobstering Representatives.

At all times since the creation of the 4-29-2019 Conservation Easement Nordic has challenged the validity and enforceability of the Conservation Easement held by Friends and attempted to conspire with other actors, including the Eckrotes and the City of Belfast, to penalize Friends for performing its statutory and contractual duties to protect the Harriet L. Hartley Conservation Area from misappropriation, degradation and destruction by Nordic.

To that end, Nordic, the Eckrotes and the City of Belfast have challenged the validity and enforceability of the Conservation Easement in the title claims cases (BELSC-RE-2019-18 and WAL-22-19) and in proceedings before the Board, the Bureau of Parks and Lands, and the City of Belfast, as well as 80B and 80C appeals of permits, licenses and leases granted to Nordic by local and State agencies.

On February 16, 2023, the Maine Supreme Judicial Court, sitting as the Law Court (hereinafter "Law Court"), determined that: "Mabee and Grace own the intertidal land abutting their own upland property and the intertidal land abutting the upland properties of the Schweikerts, the Eckrotes, and Morgan [Lots 37, 36 and 35 respectively]. Mabee and Grace's property is outlined in the solid and dashed green lines in Figure 5." *Mabee v. Nordic Aquafarms, Inc., et al.*, 2023 ME 15, ¶¶ 14 and 17 (image of Figure 5 below on page 3).

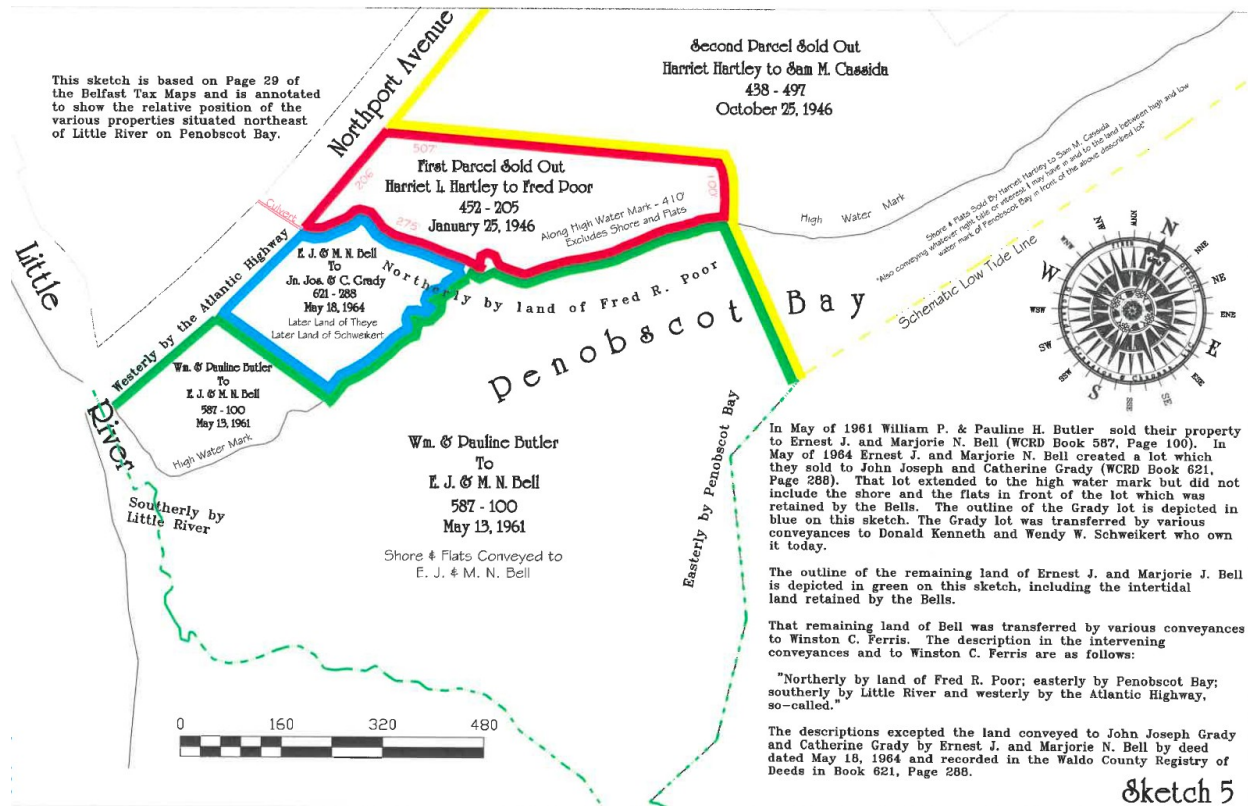


FIGURE 5

The Law Court also determined that Mabee and Grace created an enforceable Conservation Easement on their intertidal land that is held by Friends (*Id.* at ¶¶ 59, 61). Moreover, the Law Court declared that a restriction imposed in the 1946 deed from Mabee-Grace’s predecessor-in-interest Harriet L. Hartley to the Eckrotes’ predecessor-in-interest Fred R. Poor limits the use of the Poor parcel (which today includes Lot 36 and much of Lot 35) to “residential purposes only” and prohibits any for-profit business being conducted on the parcel without the agreement of Harriet L. Hartley, her heirs or assigns, thereby benefiting the land now owned by Mabee and Grace (and all other parcels that were part of Hartley’s retained estate. That restriction runs with the land conveyed to Poor, binding Poor’s successors, and is enforceable by successors to Hartley’s benefitted land. *Mabee v. Nordic Aquafarms, Inc., et al.*, 2023 ME 15, ¶ 58 and f.n. 13.

Holders of land benefitted by Hartley’s “residential purposes only” servitude with the right to enforce that restriction include Mabee and Grace and Friends. Successors of Poor bound by the “residential purposes only” servitude include the Eckrotes, the City of Belfast and Nordic.

In an attempt to evade the prohibitions and protections in the Conservation Easement and an adverse judicial ruling on ownership of the intertidal land adjacent to Lot 36 in the title claims cases, Nordic and the City of Belfast (“City”) entered into an ultra vires agreement dated 4-21-2021 in which the City would use eminent domain to take: (i) Mabee-Grace’s ownership rights in intertidal land on which Lot 36 fronts; (ii) terminate the conservation easement held by Friends; and (iii) extinguish Mabee-Grace’s (and several other property owners’) rights to enforce the “residential purposes only” servitude on Lot 36.

However, this scheme did not succeed in any of these three goals.

First, a Stipulated Judgment entered on 3-2-2022 in the pending eminent domain action (*Mabee and Grace, et al. v. City of Belfast, et al.*, Docket No. BELSC-RE-2021-007 -- signed by counsel for all parties *including Nordic* -- held in relevant part that:

- A. Pursuant to Maine’s conservation easement statute, 33 M.R.S. §§ 477-A(2)(B) and 478, the City is prohibited from unilaterally amending or terminating the Conservation Easement, if valid, which may be accomplished only by a court in an action in which the Attorney General is made a party; and
- B. The City’s actions, including its Condemnation efforts with respect to the Conservation Easement and the Intertidal Land, did not amend or terminate the Conservation Easement because they were not approved by a court in an action in which the Attorney General was made a party.

(Stipulated Judgment, p. 3; Exhibit 1, attached hereto and incorporated herein).

Thus, pursuant to the 3-2-2022 Stipulated Judgment, even if the City currently has “taken” ownership of the intertidal land adjacent to Lot 36, it has taken that land subject to the protections and prohibitions in the Conservation Easement held by Friends. Further, contrary to prior claims by Nordic’s counsel in BEP filings, no amendment of the Conservation Easement changing the Holder from Friends to the City was made through the filing of the 8-12-2021 Condemnation Order (WCRD Book 4693, Page 304).

Second, Nordic and the City failed in their attempt to use eminent domain to extinguish Mabee and Grace’s (and several other property owners’) right to enforce the “residential purposes only” servitude on upland Lot 36 (Id. at Schedule B, pp. 313-314), because the City failed to “take” Friends’ right to enforce the “residential purposes only” servitude on Lot 36 as a “holder” as a “successor” of Hartley’s land benefitted by that servitude by including Friends on Schedule B and paying Friends just compensation for its rights under the servitude. Thus, Friends continues to have the right to enforce that servitude on Lot 36 to prohibit any for-profit business being conducted on Lot 36 by Nordic.

Third, an Order was entered by the Waldo County Superior Court in the same case on June 12, 2023, setting the Future Course of Proceedings with respect to the Conservation Easement and the Role of the Attorney General. In that Order, proposed by the Attorney General’s Office, the Court held in relevant part that:

No action to maned or terminate the conservation easement shall proceed, and the Court will stay any such claims, until there is a final judgment by this court as to all claims challenging the validity of the eminent domain order.

6-12-2023 Order in RE-2021-007, p. 2.

In other words, no action can proceed to amend or terminate the Conservation Easement held by Friends until and unless the City of Belfast prevails in the pending challenges to its use of eminent domain to benefit Nordic. (Exhibit 2).

ARGUMENT

Thus, taken together, the four above-referenced Orders establish that: (i) the protections and restrictions in Friends’ Conservation Easement are still in full force and effect, are still enforceable, and will stay in full force and effect without amendment or termination possible, until and unless the City of Belfast prevails in the pending eminent domain case; and (ii) Friends retains the right, as a matter of law, to enforce the “residential purposes only” servitude on upland Lot 36.

As a result, the City of Belfast lacks the legal capacity to grant Nordic an easement that would authorize any activity violating the protections and prohibitions in the Conservation Easement or the “residential purposes only” servitude on Lot 36. Accordingly, the 9-3-2021 City-to-Nordic easement (Exhibit 3) cannot be used by Nordic to demonstrate TRI in upland Lot 36 or the adjacent intertidal land.

To the extent that Nordic intends to assert in the Board’s proceedings on remand from the Law Court that the 9-3-2021 City-to-Nordic easement grants Nordic the right to violate the Conservation Easement in the intertidal land adjacent to Lot 36, Nordic is attempting to affect the Conservation Easement. As such, Friends has an absolute statutory right to intervene in the Board’s proceedings pursuant to 33 M.R.S. § 478(1)(b), which provides that “[a]n action affecting a conservation easement may be brought or intervened in by . . . [a] holder of the easement”.

Accordingly, Friends moves to intervene as a designated “Intervenor” in the Board’s proceedings relating to Nordic on remand.

Dated this 5th day of July, 2023.

/s/ Kimberly J. Ervin Tucker
Kimberly J. Ervin Tucker, Bar No. 6969
Counsel for Petitioners
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INDEX OF EXHIBITS

- 1 3-2-2022 Stipulated Judgment in RE-2021-007
- 2 6-26-2022 Order Specifying the Future Course of Proceedings Relating with Respect to the Conservation Easement and the Role of the Attorney General
- 3 9-3-2021 City-to-Nordic Easement

STATE OF MAINE
WALDO, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. RE-2021-0007

JEFFREY R. MABEE, et al.,)
)
 Plaintiffs/Petitioners,)
 v.)
)
 CITY OF BELFAST,)
)
 Defendant/Respondent,)
 and)
)
 NORDIC AQUAFARMS, INC.,)
)
 Intervenor/Defendant.)

**ORDER SPECIFYING THE
FUTURE COURSE OF
PROCEEDINGS WITH
RESPECT TO THE
CONSERVATION EASEMENT
AND THE ROLE OF THE
ATTORNEY GENERAL**

The Stipulated Judgment entered on March 2, 2022 already resolved most issues raised in Count VII of Plaintiffs’ First Amended Complaint, stating in relevant part that:

- A. Pursuant to Maine’s conservation easement statute, 33 M.R.S. §§ 477-A(2)(B) and 478, the City is prohibited from unilaterally amending or terminating the Conservation Easement, if valid, which may be accomplished only by a court in an action in which the Attorney General is made a party; and
- B. The City’s actions, including its Condemnation efforts with respect to the Conservation Easement and the Intertidal Land, did not amend or terminate the Conservation Easement because they were not approved by a court in an action in which the Attorney General was made a party.

Stipulated Judgment, p. 3. Following entry of the Stipulated Judgment And Dismissal Without Prejudice on March 2, 2022, the Attorney General is no longer a party to the captioned matter.

There are no claims pending in this action by the City of Belfast or the Attorney General regarding the amendment or termination of the conservation easement. Count VII (interference with conservation easement) of the First Amended Complaint has been dismissed pursuant to the May, 2022 Order of this Court.

The Attorney General takes the position that resolution of all challenges to the validity of the City of Belfast’s eminent domain action is a prerequisite to adjudication of any action to

Entered on the Docket: 6/12/2023

amend or terminate the conservation easement at issue here. (See BPL Mot. to Dismiss 4 n.3, Law Court Docket No. WAL-22-299 (Mar. 6, 2023).)

For purposes of judicial economy, final resolution of all remaining counts in this action addressing the validity of the eminent domain action should occur prior to the initiation of any action to amend or terminate the conservation easement. Accordingly, the Court ORDERS as follows:

1. No action to amend or terminate the conservation easement shall proceed, and the Court will stay any such forthcoming claims, until there has been a final judgment by this Court as to all claims challenging the validity of the eminent domain order.
2. To the extent the parties' briefing on the remaining claims in the First Amended Complaint, or any claims challenging the City's eminent domain in a subsequent amended complaint, addresses property interests related to the conservation easement at issue and/or the effect of the City's eminent domain actions on such interests, all such briefing shall be served on the Attorney General, represented by Assistant Attorneys General Lauren Parker and Scott Boak.

Pursuant to the Stipulated Judgment, the Attorney General may freely intervene without leave of Court with respect to any issue involving the conservation easement.

Dated:

6/12/23



JUSTICE, Superior Court

ATTEST Stacy L Grant, Waldo Co Registry of Deeds

EASEMENT

City of Belfast, a municipal corporation having an address of 131 Church Street, Belfast, Maine 04915 (the "Grantor"), for consideration paid, grants unto **Nordic Aquafarms, Inc.** a Delaware corporation having an address of c/o Nordic Aquafarms, 159 High Street, Belfast, Maine 04915 (the "Grantee"), its successors and assigns forever, a permanent easement for aquaculture piping installation, operation and maintenance and a temporary easement allowing construction on the Property (defined below), which shall be recorded with the Waldo County Registry of Deeds and described as follows:

PERMANENT EASEMENT

The perpetual right to enter upon land described as: the land granted and conveyed to the Grantor by deed of Richard Eckrote and Janet Eckrote, individuals with a mailing address of 42 Grandview Avenue, Lincoln Park, New Jersey, 07035, which deed is recorded at Book 4679 Page 157 of the Waldo County Registry of Deeds (the "Eckrote Deed"), the interests conveyed to the Grantor by Grantee by deed dated July 10, 2021, which deed is recorded at Book 4679 Page 160 of the Waldo County Registry of Deeds (the "Hartley Rights Deed"), and such rights related to the real property described in the Eckrote Deed and Hartley Rights Deed as may be acquired by the Grantor subsequent to the recording of those deeds and prior to the date hereof (such land and interests collectively may be referred to herein as the "Property") for the following purposes and together with additional rights as follows:

1. the right to install, operate, maintain, replace, upgrade and remove and undertake all other activities deemed necessary and reasonable to facilitate obtaining water from and discharging effluent into the Atlantic Ocean for its facility located adjacent to the Property with all necessary fixtures and appurtenances, including subsurface (and not overhead) electric or other energized control lines as required for the operation of the said conduit and/or piping, in the location approved by the Belfast Planning Board through by permits issued in December, 2020 as such may be amended or revised; and
2. the right to make connections with the conduits or piping at the boundaries of the Property; and
3. the right to trim, cut down, and/or remove bushes, grass, crops, trees or any other vegetation, to such extent as is necessary for any of these purposes in the reasonable judgment of Grantee; and
4. the right to change the existing surface grade of the Property as is reasonably necessary for any of these purposes; and
5. the right to enter on, alter and disturb the Property at any and all times for any of these purposes, upon reasonable written notice to the City of Belfast, which shall not be less than 48 hours, except in the case of an emergency.

6. Following the construction contemplated under the Temporary Construction Rights described below pursuant to existing permits issued by the City of Belfast, and prior to the commencement of any additional construction activities referenced above, the Grantee shall meet with the appropriate officials of the City of Belfast and provide topographical and engineering plans to depict the installation, maintenance and replacement of the activities described above, and Grantee shall take into consideration and implement such reasonable requests as the City of Belfast may make to coordinate such activities with the then current and future municipal use, public use and maintenance of the Property by the City of Belfast

The Grantor reserves for itself, its successors and assigns each and every use, development, or enjoyment of the Property for any purpose that does not unreasonably interfere with the rights granted to Grantee, its successors and assigns.; and further provided that none of the following improvements may be made by the Grantor without the prior written consent of the Grantee, which shall not be unreasonably withheld:

1. Grantor shall consent to installation of a pump house should Grantee, in its sole discretion, determine one is needed to obtain necessary quality or quantity of discharge or intake; said pump house shall occupy a footprint no greater than is needed, based on industry standards..

2. No earth shall be removed, no fill may be added, and no other change shall be made to the final designed surface grade of the Property without the written permission of Grantee, to the extent that such actions may unreasonably interfere with the uses granted to Grantee herein.

3. Grantor shall not disturb the soil or install any structures or improvements, impermeable surfaces, or any facilities beyond those typical for the information, safety and convenience of passive public recreation and municipal uses on the Property.

4. Grantor shall exercise reasonable efforts to maintain the existing cottage currently on the Property for the benefit of the public.

TEMPORARY CONSTRUCTION RIGHTS

The right, for the period of time beginning as of the date hereof and through the construction of the project in accordance with the approvals, permits and licenses as authorized by the Code and Planning Office of the City of Belfast, State of Maine, and U.S. Army Corps of Engineers as such authorizations may be modified or amended from time to time, to enter upon the Property for the purposes of completing the construction of Grantee's land-based aquaculture facility ("Project"). All approvals shall be obtained by the Grantee and at Grantee's expense. Grantee acknowledges that this Easement Deed does not serve to provide any permit, license or permission that falls within the jurisdiction of the Code and Planning Office or Belfast Planning Board, be they present permits issued or permits which must be sought in the future.

Said right may include, but is not limited to, necessary excavating, placing of fill material, dredging, curbing, loaming, seeding, paving, installation of structures such as piping, culverts and sedimentation and erosion control structures, removal of trees, shrubs, bushes and other growth, selective cutting, trimming, and other necessary incidental work in grading and revegetating and stabilizing said adjoining land, in addition to the temporary placement of utility poles including all related fixtures, overhead wires, guys, etc. in order to allow for Project construction in accordance with all governing regulations and other requirements of law.

The rights granted with respect to the Temporary Easement Area are:

The right to enter upon the Property to install piping and perform the work as set forth herein, subject to the conditions described above; provided that condition 6, above, is hereby deemed satisfied for all existing Permits issued by the Belfast Planning Board.

Said right may include, but is not limited to, necessary excavating, placing of fill material, dredging, curbing, loaming, seeding, paving, installation of structures such as piping, culverts and sedimentation and erosion control structures, removal of trees, shrubs, bushes and other growth, selective cutting, trimming, and other necessary incidental work in grading and revegetating and stabilizing said adjoining land, in addition to the placement of temporary construction installations, in the form of utility poles including all related fixtures, overhead wires, guys, etc. in order to allow for Project construction in accordance with all governing regulations and other requirements of law, any of which temporary construction installations shall be removed in an expeditious manner after completion of the temporary construction work.

The real property benefitted by this appurtenant easement shall be the real property owned or to be acquired by the Grantee located generally west of U.S. Route 1 acquired or to be acquired by the Grantee from Belfast Water District, Samuel Cassida and Goldenrod Properties, LLC.

[End of page. Execution page follows.]

IN WITNESS WHEREOF, the said City of Belfast, has caused this instrument to be executed under seal by Eric Sanders, its Mayor, thereunto duly authorized this 3rd day of September, 2021.

CITY OF BELFAST

By: E. F. Sanders
Eric Sanders, Mayor

State of Maine
County of Waldo

Date: 9/3, 2021

Personally appeared the above named Eric Sanders, duly authorized, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the City of Belfast.

Before me, W. S. Kelly
Attorney/Notary Public

Print Name: WILLIAM S. KELLY
My commission expires: ME BAR # 7077

STATE OF MAINE
WALDO, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. WALSC-RE-2021-007

JEFFREY R. MABEE, JUDITH GRACE,)
THE FRIENDS OF THE HARRIET L.)
HARTLEY CONSERVATION AREA, and)
UPSTREAM WATCH,)
)
Petitioners/Plaintiffs,)
and)
AARON M. FREY, ATTORNEY GENERAL)
)
Intervenor-Plaintiff,)
v.)
CITY OF BELFAST, MAINE,)
)
Respondent/Defendant,)
and)
NORDIC AQUAFARMS, INC.,)
)
Intervenor-Defendant.)

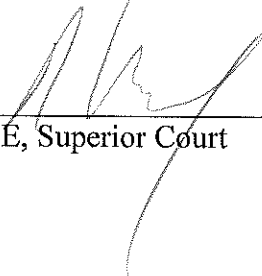
**ORDER ON THE PARTIES'
STIPULATED JUDGMENT
AND DISMISSAL WITHOUT
PREJUDICE**

The Attorney General has moved pursuant to M.R. Civ. P. 7, 41, and 54(b) for entry of the parties’ Stipulated Judgment and Dismissal Without Prejudice (the Stipulation) and for findings regarding the Stipulation. All parties have signed the Stipulation and consent to the Attorney General’s motion and requested relief. Regarding the Stipulation, the Court finds pursuant to Rule 54(b) that there is no just reason for delay with respect to entry of final judgment in favor of the Attorney General on his Count I, and the Court expressly directs entry of judgment on the Attorney General’s Count I through entry of the Stipulation. Accordingly, the Court grants the Attorney General’s motion and will separately enter the Stipulation.

The parties' voluntary dismissal without prejudice of the Attorney General's Count II and the City's counterclaim set forth in the Stipulation complies with M.R. Civ. P. 41(a)(1) because all parties to this action have signed the Stipulation. Moreover, because the Court is separately entering the Stipulation, the dismissal without prejudice of those counts in the Stipulation also complies with M.R. Civ. P. 41(a)(2). The Attorney General's Count II and the City's counterclaim are hereby dismissed without prejudice under the terms of the Stipulation.

Dated: _____

3/2/22



JUSTICE, Superior Court

STATE OF MAINE
WALDO, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. WALSC-RE-2021-007

JEFFREY R. MABEE, JUDITH B. GRACE,)
THE FRIENDS OF THE HARRIET L.)
HARTLEY CONSERVATION AREA, and)
UPSTREAM WATCH,)

Petitioners/Plaintiffs,)
and)

AARON M. FREY, ATTORNEY GENERAL)

Intervenor-Plaintiff,)
v.)

CITY OF BELFAST, MAINE,)

Respondent/Defendant,)
and)

NORDIC AQUAFARMS, INC.,)

Intervenor-Defendant.)

**STIPULATED JUDGMENT
AND DISMISSAL WITHOUT
PREJUDICE**

WHEREAS, Intervenor-Plaintiff Aaron M. Frey, Attorney General (the AG), filed a complaint in this matter on December 23, 2021 (the AG’s Complaint) that pleaded two counts for declaratory relief involving the conservation easement recorded in the Waldo County Registry of Deeds, Book 4367, Page 273 (the Conservation Easement);

WHEREAS, the Conservation Easement was conveyed by Plaintiffs Jeffrey R. Mabee and Judith B. Grace to Plaintiff Upstream Watch and later assigned to Plaintiff The Friends of the Harriet L. Hartley Conservation Area;

WHEREAS, the Conservation Easement states that it applies to certain intertidal land (the Intertidal Land) that Intervenor-Defendant Nordic Aquafarms, Inc. (Nordic) proposes to use as part of its proposed land-based aquaculture system;

AG

WHEREAS, the Intertidal Land is also the subject of condemnation proceedings by Respondent City of Belfast, Maine (the City), as described in the AG's Complaint;

WHEREAS, ownership of the Intertidal Land and the validity of the Conservation Easement are disputed and are the subject of a separate judgment by this Court in *Mabee v. Nordic Aquafarms, Inc.*, RE-2019-18 (Super. Ct., Waldo Cty.), which judgment has been appealed to the Maine Supreme Judicial Court, Dkt. No. WAL-22-19;

WHEREAS, Count I of the AG's Complaint involves the process for amending or terminating the Conservation Easement, assuming it is valid, pursuant to Maine's conservation easement statute, 33 M.R.S. § 477-A(2) & (2)(B), and Count II of the AG's Complaint involves alleged violations of the Conservation Easement, assuming it is valid;

WHEREAS, the City answered the AG's Complaint on January 11, 2022, and pleaded a Counterclaim against the AG (the City's Counterclaim) seeking alternative relief with respect to the modification or termination of the Conservation Easement, assuming it is valid;

WHEREAS, the parties expect that the validity of the Conservation Easement will be finally determined by the Maine Supreme Judicial Court in Dkt. No. WAL-22-19, and in the meantime seek to streamline this action and stipulate to the process for any amendment or termination of the Conservation Easement should it be finally determined to be valid;

WHEREAS, by this filing the parties stipulate to: judgment in favor of the AG and against the City on Count I of the AG's Complaint; certain declarations regarding the process required for any amendment or termination of the Conservation Easement, assuming it is valid; and dismissal without prejudice of Count II of the AG's Complaint and the City's Counterclaim;

NOW, THEREFORE, upon agreement of and stipulation by the above-named parties, the Court ORDERS and DECREES as follows:

1. The Court has jurisdiction over the AG's Complaint pursuant to 4 M.R.S. § 105, 14 M.R.S. §§ 5951-5963, 14 M.R.S. § 6051(13), and 33 M.R.S. §§ 477-A(2) and 478.

2. Count I of the AG's Complaint states a claim upon which relief may be granted.

3. Judgment is entered in favor of the AG and against the City on Count I of the AG's Complaint and the Court declares as follows:

- a. Pursuant to Maine's conservation easement statute, 33 M.R.S. §§ 477-A(2)(B) and 478, the City is prohibited from unilaterally amending or terminating the Conservation Easement, if valid, which may be accomplished only by a court in an action in which the Attorney General is made a party; and
- b. The City's actions, including its Condemnation efforts with respect to the Conservation Easement and the Intertidal Land, did not amend or terminate the Conservation Easement because they were not approved by a court in an action in which the Attorney General was made a party.

4. Count II of the AG's Complaint and the City's Counterclaim are each dismissed without prejudice.

5. Except as specified herein, the parties reserve all of their respective rights and arguments with respect to the Conservation Easement. If the Conservation Easement is finally determined to be valid, the AG may freely intervene in this case without leave of Court to address any issues regarding the Conservation Easement, and the City may freely amend its pleadings without leave of Court to involve the AG as a party with respect to any proposed amendment or termination of the Conservation Easement.

6. The parties have entered into this Stipulated Judgment and Dismissal Without Prejudice voluntarily and waive any right they may have to appeal from any part of it.

7. The parties agree that this Stipulated Judgment and Dismissal Without Prejudice may be presented to the Court for entry and signature without further notice.

Dated: 3/2, 2022

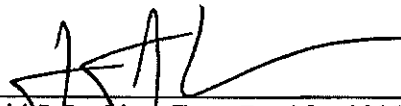


JUSTICE, SUPERIOR COURT

The UNDERSIGNED PARTIES, with knowledge of the terms of this stipulated judgment as to the AG's Count I and dismissal without prejudice of the AG's Count II and the City's Counterclaim, agree to those terms and to entry of this Stipulated Judgment and Dismissal Without Prejudice.

FOR PETITIONERS/PLAINTIFFS JEFFREY MABEE, JUDITH GRACE, THE FRIENDS OF HARRIET L. HARTLEY CONSERVATION AREA, AND UPSTREAM WATCH

Dated: February 15, 2022



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Dated: February ___, 2022

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Dated: February ___, 2022

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The UNDERSIGNED PARTIES, with knowledge of the terms of this stipulated judgment as to the AG's Count I and dismissal without prejudice of the AG's Count II and the City's Counterclaim, agree to those terms and to entry of this Stipulated Judgment and Dismissal Without Prejudice.

FOR PETITIONERS/PLAINTIFFS JEFFREY MABEE, JUDITH GRACE, THE FRIENDS OF HARRIET L. HARTLEY CONSERVATION AREA, AND UPSTREAM WATCH

Dated: February __, 2022

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Dated: February 10, 2022



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FOR INTERVENOR-DEFENDANT NORDIC AQUAFARMS, INC.

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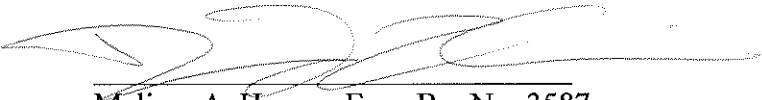
FOR RESPONDENT/DEFENDANT CITY OF BELFAST, MAINE

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FOR INTERVENOR-DEFENDANT NORDIC AQUAFARMS, INC.

Dated: February 9, 2022



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