

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;

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: \_\_\_\_\_, 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

  
\_\_\_\_\_  
David J. Perkins, Esq., Bar No. 3232  
David P. Silk, Esq., Bar No. 3136  
CURTIS THAXTER LLC  
One Canal Plaza, P.O. Box 7320  
Portland, ME 04112-7320  
(207) 774-9000  
dperkins@curtisthaxter.com  
dsilk@curtisthaxter.com

Attorneys for Plaintiffs Jeffrey R. Mabee, Judith B. Grace, The Friends of the Harriet L. Hartley Conservation Area, and Upstream Watch

Dated: February \_\_\_, 2022

\_\_\_\_\_  
David B. Losee, Esq., Bar No. 6500  
DAVID B. LOSEE, LLC  
7 Highland Avenue  
Camden, ME 04843  
(860) 707-3215  
david@loseelaw.com

Attorney for Plaintiff Upstream Watch

Dated: February \_\_\_, 2022

\_\_\_\_\_  
Kimberly J. Ervin Tucker, Esq., Bar No. 6969  
48 Harbour Pointe Drive  
Lincolntonville, ME 04849  
(202) 841-5439  
k.ervintucker@gmail.com

Attorney for Jeffrey R. Mabee, Judith B. Grace, and The Friends of the Harriet L. Hartley Conservation Area



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.

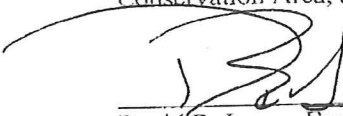
FOR PETITIONERS/PLAINTIFFS JEFFREY MABEE, JUDITH GRACE, THE FRIENDS OF HARRIET L. HARTLEY CONSERVATION AREA, AND UPSTREAM WATCH

Dated: February \_\_, 2022

\_\_\_\_\_  
David J. Perkins, Esq., Bar No. 3232  
David P. Silk, Esq., Bar No. 3136  
CURTIS THAXTER LLC  
One Canal Plaza, P.O. Box 7320  
Portland, ME 04112-7320  
(207) 774-9000  
dperkins@curtisthaxter.com  
dsilk@curtisthaxter.com

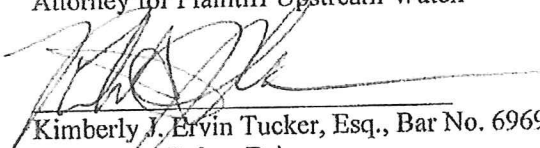
Attorneys for Plaintiffs Jeffrey R. Mabee, Judith B. Grace, The Friends of the Harriet L. Hartley Conservation Area, and Upstream Watch

Dated: February 14, 2022

  
\_\_\_\_\_  
David B. Losee, Esq., Bar No. 6500  
DAVID B. LOSEE, LLC  
7 Highland Avenue  
Camden, ME 04843  
(860) 707-3215  
david@loseelaw.com

Attorney for Plaintiff Upstream Watch

Dated: February 14, 2022

  
\_\_\_\_\_  
Kimberly J. Ervin Tucker, Esq., Bar No. 6969  
48 Harbour Pointe Drive  
Lincolnville, ME 04849  
(202) 841-5439  
k.ervintucker@gmail.com

Attorney for Jeffrey R. Mabee, Judith B. Grace, and The Friends of the Harriet L. Hartley Conservation Area

FOR INTERVENOR-PLAINTIFF AARON M. FREY, ATTORNEY GENERAL

Dated: February 17, 2022



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Lauren Parker, AAG, Bar No. 5073  
Scott Boak, AAG, Bar No. 9150  
6 State House Station  
Augusta, ME 04333-0006  
(207) 626-8800  
lauren.parker@maine.gov  
scott.boak@maine.gov

FOR RESPONDENT/DEFENDANT CITY OF BELFAST, MAINE

Dated: February 10, 2022



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Kristin M. Collins, Esq., Bar No. 8324  
Stephen E.F. Langsdorf, Esq., Bar No. 3500  
Sigmund D. Schutz, Esq., Bar No. 8549  
Preti Flaherty Beliveau & Pachios LLP  
45 Memorial Circle  
Augusta, ME 04330  
kcollins@preti.com  
slangsdorf@preti.com  
sschutz@preti.com

FOR INTERVENOR-DEFENDANT NORDIC AQUAFARMS, INC.

Dated: February \_\_\_, 2022

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Melissa A. Hewey, Esq., Bar No. 3587  
David M. Kallin, Esq., Bar No. 4558  
DRUMMOND WOODSUM  
84 Marginal Way, Suite 600  
Portland, ME 04101-2480  
(207) 772-1941  
mhewey@dwmlaw.com  
dkallin@dwmlaw.com

FOR INTERVENOR-PLAINTIFF AARON M. FREY, ATTORNEY GENERAL

Dated: February \_\_\_, 2022

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Lauren Parker, AAG, Bar No. 5073  
Scott Boak, AAG, Bar No. 9150  
6 State House Station  
Augusta, ME 04333-0006  
(207) 626-8800  
lauren.parker@maine.gov  
scott.boak@maine.gov

FOR RESPONDENT/DEFENDANT CITY OF BELFAST, MAINE


Dated: February \_\_\_, 2022

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Kristin M. Collins, Esq., Bar No. 8324  
Stephen E.F. Langsdorf, Esq., Bar No. 3500  
Sigmund D. Schutz, Esq., Bar No. 8549  
Preti Flaherty Beliveau & Pachios LLP  
45 Memorial Circle  
Augusta, ME 04330  
kcollins@preti.com  
slangsdorf@preti.com  
sschutz@preti.com

FOR INTERVENOR-DEFENDANT NORDIC AQUAFARMS, INC.

Dated: February 9, 2022



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Melissa A. Hewey, Esq., Bar No. 3587  
David M. Kallin, Esq., Bar No. 4558  
DRUMMOND WOODSUM  
84 Marginal Way, Suite 600  
Portland, ME 04101-2480  
(207) 772-1941  
mhewey@dwmlaw.com  
dkallin@dwmlaw.com