

STATE OF MAINE
WALDO COUNTY, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-2021-

UPSTREAM WATCH,)
)
Plaintiff,)
)
v.)
)
CITY OF BELFAST,)
)
Defendant,)
)
and)
)
NORDIC AQUAFARMS, INC.,)
)
Party-In-Interest.)

**NOTICE, ACKNOWLEDGMENT,
AND ACCEPTANCE OF
SERVICE OF SUMMON
BY MAIL**

To: Nordic Aquafarms, Inc.
c/o Joanna B. Tourangeau, Esq.
DrummondWoodsum
84 Marginal Way, Suite 600
Portland, ME 04101-2480

The enclosed summons and complaint are served pursuant to Rule 4(c)(1) of the Maine Rules of Civil Procedure and 80B(a).

Complete the acknowledgment and acceptance part of this form and return one copy of the completed form in the enclosed postage-paid return envelope so that it will be received by the sender within 20 days of the date of mailing.

As required by the summons, an answer to the complaint must be filed within 20 days from the date you acknowledge receipt of this notice, or judgment by default may be entered against defendant with the consequences described in the summons.

Dated: March 22, 2021

/s/David J. Perkins

David J. Perkins, Bar No. 3232
CURTIS THAXTER LLC
One Canal Plaza, Suite 1000
P.O. Box 7320
Portland, ME 04112-0612
(207) 774-9000

dperkins@curtisthaxter.com

Attorney for Petitioner Upstream Watch

STATE OF MAINE
WALDO COUNTY, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-2021-

UPSTREAM WATCH,)
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Plaintiff,)
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v.)
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CITY OF BELFAST,)
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and)
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NORDIC AQUAFARMS, INC.,)
)
Party-In-Interest.)

**ACKNOWLEDGMENT OF
RECEIPT AND ACCEPTANCE
OF SERVICE OF SUMMONS
AND COMPLAINT (80B
PETITION)**

As counsel for party-in-interest Nordic Aquafarms, Inc., I acknowledge that I received a copy of the summons and the complaint (Rule 80B Petition For Review Of Governmental Actions With Independent Claims for Declaratory Relief) (“80B petition”) in the above-captioned matter. I represent that I am authorized to accept service and hereby accept service of the summons and complaint (80B Petition) on behalf of party-in-interest Nordic Aquafarms, Inc. I understand that to avoid judgment by default against party-in-interest Nordic Aquafarms, Inc., an answer to the complaint (80B petition) must be filed as required by the summons. I further represent that by accepting such service, party-in-interest Nordic Aquafarms, Inc. hereby waives all defenses relating to insufficiency of service of process.

Date: _____

Joanna B. Tourangeau, Esq. (#9125)
DrummondWoodsum
84 Marginal Way, Suite 600
Portland, ME 04101-2480
jtourangeau@dwmlaw.com
Attorney for party-in-interest
Nordic Aquafarms, Inc.

STATE OF MAINE
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AND COMPLAINT (80B
PETITION)**

As counsel for party-in-interest Nordic Aquafarms, Inc., I acknowledge that I received a copy of the summons and the complaint (Rule 80B Petition For Review Of Governmental Actions With Independent Claims for Declaratory Relief) (“80B petition”) in the above-captioned matter. I represent that I am authorized to accept service and hereby accept service of the summons and complaint (80B Petition) on behalf of party-in-interest Nordic Aquafarms, Inc. I understand that to avoid judgment by default against party-in-interest Nordic Aquafarms, Inc., an answer to the complaint (80B petition) must be filed as required by the summons. I further represent that by accepting such service, party-in-interest Nordic Aquafarms, Inc. hereby waives all defenses relating to insufficiency of service of process.

Date: _____

Joanna B. Tourangeau, Esq. (#9125)
DrummondWoodsum
84 Marginal Way, Suite 600
Portland, ME 04101-2480
jtourangeau@dwmlaw.com
Attorney for party-in-interest
Nordic Aquafarms, Inc.

STATE OF MAINE

SUPERIOR COURT

DISTRICT COURT

Waldo, ss.

Location _____

Docket No. AP-2021-

Docket No. _____

Upstream Watch Plaintiff

v.
Nordic Aquafarms, Inc.

Party in Interest
~~Defendant~~

SUMMONS
M.R. Civ. P. 4(d)

Address

The Plaintiff has begun a lawsuit against you in the ~~(District)~~ (Superior) Court, which holds sessions at (street address) Waldo Judicial Center, 11 Market Street, in the ~~Town~~ City of Belfast, County of Waldo, Maine. If you wish to oppose this lawsuit, you or your attorney **MUST PREPARE AND SERVE A WRITTEN ANSWER** to the attached Complaint **WITHIN 20 DAYS** from the day this Summons was served upon you. You or your attorney must serve your Answer, by delivering a copy of it in person or by mail to the Plaintiff's attorney, or the Plaintiff, whose name and address appear below. You or your attorney must also file the original of your Answer with the court by mailing it to the following address: Clerk of ~~(District)~~ (Superior) Court, 11 Market Street, Belfast, Maine 04915
(Mailing Address) (Town, City) (Zip)

before, or within a reasonable time after, it is served. Court rules governing the preparation and service of Answer are found at www.courts.maine.gov.

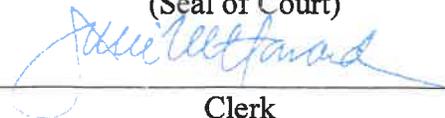
IMPORTANT WARNING

IF YOU FAIL TO SERVE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU IN YOUR ABSENCE FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR EMPLOYER MAY BE ORDERED TO PAY PART OF YOUR WAGES TO THE PLAINTIFF OR YOUR PERSONAL PROPERTY, INCLUDING BANK ACCOUNTS AND YOUR REAL ESTATE MAY BE TAKEN TO SATISFY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS LAWSUIT, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

If you believe the plaintiff is not entitled to all or part of the claim set forth in the Complaint or if you believe you have a claim of your own against the Plaintiff, you should talk to a lawyer. If you feel you cannot afford to pay a fee to a lawyer, you may ask the clerk of court for information as to places where you may seek legal assistance.

Date: March 22, 2021

(Seal of Court)



Clerk

David J. Perkins, Bar No. 3232
(Attorney for) Plaintiff

Curtis Thaxter LLC Address
One Canal Plaza/ PO Box 7320
Portland, ME 04112-7320 Telephone
774-9000 dperkins@curtisthaxter.com

STATE OF MAINE

County of _____, ss.

On _____ (date), I served the Complaint (and Summons) upon Defendant _____

by delivering a copy of same at the following

address: _____

to the above-named Defendant in hand.

to _____ (name), a person of suitable age and discretion who

was then residing at Defendant's usual residence.

to _____ (name), who is authorized to receive service for Defendant.

by (describe other manner of service):

Costs of Service:

Service: \$ _____

Travel \$ _____

Postage \$ _____

Other \$ _____

Total \$ _____

Agency _____

Signature _____

David J. Perkins, Esq.
dperkins@curtisthaxter.com

March 22, 2021

Brooke Otis, Clerk
Waldo County Superior Court
11 Market Street
Belfast, ME 04915

Re: Upstream Watch v. City of Belfast and Nordic Aquafarms, Inc.
Docket No. AP-2021-

Dear Ms. Otis:

Enclosed for filing, please find the following:

1. Summary Sheet;
2. 80B Petition With Independent Claim For Declaratory Relief; and
3. Motion To Specify Future Course Proceeding And Notice Of Motion with a proposed order.

Also enclosed is a check in the amount of the required filing fee (\$175).

Thank you for your assistance.

Sincerely,



David J. Perkins

/lk

Enclosures

cc (w/encs.): City of Belfast c/o City Manager, Erin Herbig
Amy Flood, Municipal Clerk
Joanna B. Tourangeau, Esq. (via email: jtouangeau@dwmlaw.com)
David B. Losee, Esq., (via email: david@loseelaw.com)
David P. Silk, Esq. (via email: dsilk@curtisthaxter.com)

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RULE 80B PETITION FOR REVIEW OF
GOVERNMENTAL ACTIONS WITH
INDEPENDENT CLAIMS FOR
DECLARATORY RELIEF

Plaintiff Upstream Watch (“Upstream” and “Plaintiff”), by and through its counsel, states as its complaint the following:

COUNT I
(Rule 80B Review of Governmental Actions)

1. Plaintiff is a not-for-profit 26 U.S.C. § 501(c)(3) corporation registered to transact business in the state of Maine having an office and principal place of business at 67 Perkins Road, Belfast, County of Waldo, Maine.
2. Defendant City of Belfast (“City”), is a municipal corporation located in Waldo County, State of Maine, organized pursuant to the laws of the State of Maine.
3. Nordic Aquafarms, Inc. (“Nordic”) is a Delaware corporation registered to transact business in the State of Maine, with an office and principal place of business at 159 High Street, City of Belfast, Waldo County, State of Maine.

4. Nordic submitted five permit applications for land use approvals under the City's Ordinances to the City's Planning Board ("Planning Board").

5. At the start of the hearing process the Planning Board conducted on Nordic's five permit applications, Plaintiff submitted detailed information to the Planning Board showing its standing to appear and participate in that process.

6. Based on Plaintiff's submittals, the Planning Board determined Plaintiff had standing and on August 5, 2019 granted Plaintiff "interested party" status thus entitling Plaintiff to participate as a party in the administrative proceedings.

7. Plaintiff subsequently attended and participated fully as a party in approximately twenty Planning Board sessions regarding Nordic's five permit applications.

8. Plaintiff submitted comments and made presentations to the Planning Board on multiple occasions regarding Nordic's five permit applications and whether Nordic had met its burden to show full compliance, legally and factually, with the relevant City Code provisions applicable to the five land use applications.

9. On December 22, 2020, the Planning Board voted to approve Nordic's five applications for land-use permits ("Planning Board Decision").

10. Pursuant to the City's Code of Ordinance, Part II, subpart B, Art. II § 102-134(a), on January 18, 2021, Plaintiff filed an appeal of the Planning Board Decision with the City's Zoning Board of Appeals (the "Board") contending that the Planning Board Decision should be vacated and reversed as that decision was based on errors of law, abuses of discretion, and not supported by evidence in the record.

11. The Board is a board authorized by and governed by statutes, 30-A M.R.S. § 2691 and 30-A. M.R.S. § 4353, and by the City's Code of Ordinance, Part II, subpart B, Art. II § 102-

132 to hear appeals from the Planning Board on an appellate review basis, whereby the Board must limit its review of the Planning Board Decision to the record established before the Planning Board and may not accept new evidence as part of its appellate review.

12. 30-A M.R.S. § 4353(3) which governs the Board states: “The board shall reasonably notify the petitioner, the planning board, agency or department and the municipal officers of any hearing. These persons must be made parties to the action. All interested persons must be given a reasonable opportunity to have their views expressed at any hearing.” (emphasis supplied)

13. At a meeting held on February 18, 2021, Plaintiff’s timely appeal from the Planning Board Decision was presented to the Board.

14. Despite the fact that Plaintiff was the petitioner before the Board, and 30-A M.R.S. § 4353(3) requires the Board to make the petitioner before the Board a party to the appeal, and be given a reasonable opportunity to express its views, the Board unlawfully deemed Plaintiff not to have party status.

15. Despite the fact that the Planning Board specifically found Plaintiff to have standing, and no other party to the Planning Board proceedings appealed to the Board that factual determination, the Board sua sponte and unlawfully, required Plaintiff to present evidence to the Board to demonstrate standing anew as a precondition to hearing Plaintiff’s appeal.

16. Specifically at the Board’s February 18, 2021 meeting, an alternate member of the Board, seated due to a conflict, challenged whether Plaintiff had standing to appeal.

17. The Board Chair then instructed Plaintiff to respond to the challenge in writing on or before noon on March 1, 2021, and that the matter of standing would be considered at the Board’s meeting on March 4, 2021.

18. On March 1, 2021, prior to noon, Plaintiff submitted to the Board a lengthy response.

19. On March 4, 2021, the Board voted not to receive or consider anything filed by Plaintiff after January 18, 2021.

20. At the same meeting, despite the fact Plaintiff submitted to the Board detailed information showing its standing to appear and pursue its appeal, in utter disregard of that information, and in disregard of its own procedure, the Board voted that Plaintiff lacked standing to take an appeal to the Board from the Planning Board Decision and refused to hear Plaintiff's appeal.

21. One week later, on March 11, 2021, the Board met again to approve formally the vote taken at its meeting of March 4, 2021.

22. Prior to that meeting, the Board Chair placed on the agenda a request that the Board meet with its counsel in executive session to reconsider the Board vote taken on March 4, 2021, to not hear Plaintiff's appeal. When the agenda item was reached, the Board's Chair spoke in favor of going into executive session to consult with counsel. A transcript of the Board's Chair's remarks is appended hereto as Exhibit A.

23. The Board's Chair's request and remarks to the contrary notwithstanding, the Board voted 3 to 2 not to go into executive session and not to discuss the case with its lawyer but rather to endorse the action taken at its meeting of March 4, 2021.

24. The Board's decision to dismiss Plaintiff's appeal based on an alleged lack of standing, and refusal to hear on an appellate basis Plaintiff's appeal from the Planning Board Decision, was contrary to State statute which expressly made Plaintiff as the petitioner before the Board a party to the appeal, to the Planning Board finding that Plaintiff had standing to challenge

Nordic's five land use permit application, to the Plaintiff's submissions in the record before the Planning Board, to the initial submission to the Board, and to the subsequent submission to the Board,.

25. The Board's vote on March 4, 2021 to deny Plaintiff standing to pursue its appeal was based on errors of law, unlawful procedures, misapplication of the law to the facts, abuses of discretion and findings unsupported by the record.

26. Plaintiff as an aggrieved party has timely appealed to this Court from the Board's March 4, 2021 vote. 30-A M.R.S. § 2691(3)(H).

27. This Court has jurisdiction to review the governmental actions taken by the Planning Board and the Board for errors of law, unlawful procedures, misapplication of the law to the facts, abuses of discretion and findings unsupported by the record.

28. Both the Planning Board Decision and the Board's March 4, 2021 vote were based on errors of law, unlawful procedures, misapplication of the law to the facts, abuses of discretion and findings unsupported by the record.

WHEREFORE, Plaintiff Upstream Watch respectfully requests that this Court vacate the Board's decision not to hear Plaintiff's appeal from the Planning Board Decision, find that by virtue of the Planning Board Decision, 30-A M.R.S. § 4353(3) and/or material submitted to the Board, Plaintiff had standing and the right to pursue its appeal to the Board and be a party in all proceedings before the Board on the appeal, or, in the alternative, if the court finds that Plaintiff has exhausted its administrative remedies, and if the court elects to not remand this matter to the Board, but to review the Planning Board Decision directly, that the Court vacate the Planning Board Decision as it was based on errors of law, unlawful procedures, abuses of discretion and findings unsupported in the record, and order that any and all permits the Planning Board granted

to Nordic be vacated. Plaintiff requests such other relief as the court deems just and proper, including if applicable equitable relief, and that Plaintiff be awarded its costs.

COUNT II
(Request for Declaratory Relief)

29. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1 through 28 above as if more fully set forth herein.

30. A dispute exists between Plaintiff and the City whether when acting in its appellate capacity to review a Planning Board decision, the Board has any authority to condition hearing the appeal on the petitioner establishing standing.

31. A dispute exists between Plaintiff and the City whether when acting in its appellate capacity to review a Planning Board decision, the Board has any authority to take new evidence, and substitute its judgment for that of the Planning Board on whether the petitioner has standing to be party before the Planning Board and/or the Board.

32. A dispute exists between the Plaintiff and the City whether 30-A M.R.S § 4353(3) (and 30-A M.R.S. § 4351) preempts the City from adopting any ordinance provision including City of Belfast, Code of Ordinance, Part II, subpart B, Art. II § 102-134(a), that would grant to the Board authority to deny party status to the party taking an appeal to the Board from a Planning Board decision.

33. A dispute exists between the Plaintiff and the City whether 30-A M.R.S § 4353(3) (and 30-A M.R.S. § 4351) preempts the City from adopting any ordinance provision including City of Belfast, Code of Ordinance, Part II, subpart B, Art. II § 102-134(a), that would grant to the Board when acting in an appellate capacity power to accept new evidence and to decide de novo a factual determination made by the Planning Board.

34. The City's Ordinance provides: "An administrative appeal shall be taken within 30 calendar days from the vote taken by the [Planning Board] from which a party is aggrieved Forms for appeal shall be those approved by the Zoning Board of Appeals, and the aggrieved person shall set forth on said forms the grounds for the appeal." The City claims said ordinance controls and under said ordinance Plaintiff lacked standing (which Plaintiff denies).

35. Title 30-A M.R.S. § 4353(3) provides: "Parties. The board shall reasonably notify the Plaintiff, the planning board, agency or department and the municipal officers of any hearing. These persons must be made parties to the action. All interested parties must be given a reasonable opportunity to have their views expressed at any hearing." Plaintiff claims the statute controls and requires the City and its Board to acknowledge Plaintiff's statutory right to be a party to the proceedings before the Board on Plaintiff's appeal from the Planning Board Decision.

36. Title 30-A M.R.S. § 2691(3)(C) states in part: "Unless otherwise established by charter or ordinance, the board shall conduct a de novo review of any matter before the board subject to the requirements of paragraph D. If a charter or ordinance establishes an appellate review process for the board, the board shall limit its review on appeal to the record established by the board or official whose decision is the subject of the appeal and to the arguments of the parties. The board may not accept new evidence as part of an appellate review."

37. Plaintiff asserts the above City's Code of Ordinance, being contrary to State statutes that govern the jurisdiction and authority of the Board, and/or being preempted under 30-A M.R.S. § 4351, is invalid.

38. Plaintiff asserts the procedure the Board used to deny Plaintiff a hearing on Plaintiff's appeal of the Planning Board Decision exceeds the Board's lawful authority and is

therefore unlawful, and denies Plaintiff due process rights secured to it under the State and United States Constitutions.

39. Title 14 M.R.S. § 5954 provides that “[a]ny person ... whose rights, status or other legal relations are affected by a statute [or] municipal ordinance ... may have determined any question of construction or validity arising under the ... statute, [or] ordinance ... and obtain a declaration of rights, status or other legal relations thereunder.”

40. Plaintiff’s rights are affected by the City’s interpretation of the City’s Code of Ordinance, Part II, subpart B, Art. II § 102-134 and 30-A M.R.S. §§ 4351 and 4353(3).

41. Plaintiff seeks a declaration of its rights including but not limited to whether Code of Ordinance, Part II, subpart B, Art. II § 102-134 is valid or whether Title 30-A M.R.S. § 4353 is controlling, whether Plaintiff, as the petitioner, after already establishing standing before the Planning Board must when seeking appellate review by the Board of the Planning Board Decision as a precondition to having its appeal heard by the Board show anew to the Board it has standing and whether the Board has any authority when acting in an appellate capacity to usurp the Planning Board’s determination not subject to any appeal by any other party to the Planning Board process, take new evidence and to make a de novo determination.

42. Pursuant to the Uniform Declaratory Judgment Act, Title 14 M.R.S. §§ 5951, et seq., this Court has jurisdiction to address and decide this dispute and issues.

WHEREFORE, Plaintiff Upstream Watch respectfully requests that this Court declare whether the City Code of Ordinance, Part II, subpart B, Art. II § 102-134 is valid or whether it is preempted by 30-A M.R.S. §§ 4351 and 4353(3) which provide that in an appeal before a zoning board of appeals, the petitioner must be made a party to the appeal, and whether the Board’s taking of evidence on whether Plaintiff had standing exceeded its authority under State law, 30-

A M.R.S § 2691(3)(C), which prohibits the Board from accepting new evidence as part of an appellate review, and to grant such other relief as this Court deems just, including equitable relief, and award Plaintiff its costs of suit.

Dated: March 22, 2021

/s/David J. Perkins

David J. Perkins, Bar No. 3232
David P. Silk, Bar No. 3136
Curtis Thaxter LLC
One Canal Plaza, Suite 1000; P.O. Box 7320
Portland, ME 04112-7320
dperskins@curtisthaxter.com
dsilk@curtisthaxter.com

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

Attorneys for Plaintiff
Upstream Watch

EXHIBIT A

Subject: Transcript from ZBA

00:00
item number four is a request for myself
00:03
for an executive session i would like to
00:05
before we do that
00:06
i would like to read a statement for the
00:08
board
00:09
uh and
00:13
is i would like to take this opportunity
00:15
to expand on an important point that i
00:17
was attempting to make at our meeting
00:19
last week
00:20
that is the point of standing in this
00:22
case or in any case
00:24
the board of appeals is a quasi-judicial
00:27
judicial board which means that we act
00:29
as
00:29
judges in that we are expected to take
00:32
an impartial
00:33
and fair approach to our proceedings and
00:35
findings
00:37
with that in mind it is not impartial or
00:40
fair to dismiss the possibility
00:42
of a state of establishing standing
00:44
because an appellant did not properly
00:46
fill out their application form
00:48
in this case we had a reasonable
00:50

expansion expectation
00:52
that the opponent would be able to
00:54
properly attempt to make his case for
00:56
standing
00:56
to establishing grieved party on the
00:59
application
01:00
but if this were somebody who may not be
01:02
familiar with establishing grieve party
01:04
we should certainly give them a chance
01:06
to make their case for standing
01:08
regardless of whether or not it was
01:10
stated on the application
01:12
form to be impartial and fair we need to
01:15
afford that same opportunity in this
01:17
case
01:19
if we look at the mature material that
01:20
was presented to us which comes from the
01:22
planning board
01:24
we can find that the nordic operation
01:25
will draw large amounts of water
01:27
from the local aquifer this presents
01:30
a real expectation that this could
01:32
adversely affect wells
01:34
in the area of nordic even those who are
01:37
not a butters
01:38
the planning board fully realized this
01:41
possibility
01:42
and put in conditions in the permit to
01:44

require that nordic drill
01:45
new wells if this event should occur
01:48
occur
01:49
this alone can easily establish a
01:52
grieved
01:53
party status i believe that we need to
01:56
go back
01:57
and rescind our motion to refuse to give
01:59
standing to upstream watch
02:01
and take any actions necessary to give
02:03
them standing as an aggrieved
02:05
party they certainly deserve the right
02:08
to make their case
02:09
and appear before the zba assured any
02:11
qualified
02:12
qualifying party that presents an appeal
02:15
to us i hope this argument convinces you
02:19
that we need to give these people
02:20
standing and hear this case
02:22
but if not i believe that this case will
02:24
be appealed to superior court
02:26
where it would probably be found that
02:28
they should certainly that they
02:29
certainly do have standing
02:31
and it will be remanded back to us to
02:33
continue with the hearing
02:35
if that should happen we certainly would
02:37
have egg on our face
02:40

and with this i would like to make the

02:44

motion

02:48

that

02:59

i move that the board went to executive

03:02

session pursuant to title 1

03:04

main revised statute sections 405 6e

03:08

for the sole purpose of consultation

03:10

with the board's legal counsel

03:12

concerning the legal rights and duties

03:14

of the city

STATE OF MAINE
WALDO COUNTY, ss.

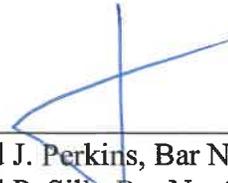
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**MOTION TO SPECIFY FUTURE
COURSE OF PROCEEDING**

Pursuant to Rule 80B(i) of the Maine Rules of Civil Procedure, Plaintiff, Upstream Watch file this motion requesting the Court to specify the future course of proceedings, including without limitation, the timing of briefs and arguments, the scope of issues to be addressed in the briefs given that below the City of Belfast Zoning Board of Appeals refused to undertake a review of Plaintiff's appeal, and timing of discovery on the independent counts other pretrial proceedings, including pretrial conferences.

Dated: March 22, 2021



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David P. Silk, Bar No. 3136
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7 Highland Avenue
Camden, Maine 04843
(860) 707-3215
david@loseelaw.com

Attorneys for Plaintiff
Upstream Watch

NOTICE OF MOTION

Pursuant to Rule 7 of the Maine Rules of Civil Procedure, opposition to this Motion must be filed not later than 21 days after the filing of the Motion, unless another time is provided by the Rules of Court. Failure to file a timely objection will be deemed a waiver of all objections to this Motion which may be granted without further notice or hearing.

STATE OF MAINE
WALDO COUNTY, ss.

SUPERIOR COURT
CIVIL ACTION
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UPSTREAM WATCH,)
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CITY OF BELFAST,)
)
Defendant,)
)
and)
)
NORDIC AQUAFARMS, INC.,)
)
Party-In-Interest.)

**ORDER ON
MOTION TO SPECIFY FUTURE
COURSE OF PROCEEDING**

UPON CONSIDERATION of the Plaintiff’s Motion To Specify Future Course
Proceeding, with/without objection, the motion is granted.

IT IS SO ORDERED that the clerk shall schedule a conference of counsel to schedule the
timing of briefs and arguments, the scope and timing of discovery and other pretrial proceedings,
including additional pretrial conferences.

The clerk is directed to incorporate this order in the docket by reference pursuant to Rule
79(a).

Dated: _____

Justice, Superior Court

CONTAINS NONPUBLIC DIGITAL INFORMATION

MAINE JUDICIAL BRANCH

This summary sheet and the information it contains do not replace or supplement the filing and service of pleadings or other papers as required by the Maine Rules or by law. This form is required for the Clerk of Court to initiate or update the civil docket. The information on this summary sheet is subject to the requirements of M. R. Civ. P. 11.

I. COUNTY OF FILING OR DISTRICT COURT JURISDICTION ("X" the appropriate box and enter the County or location)

- [X] Superior Court County: Waldo
[] District Court Location (city/town):

Initial Complaint: A complaint filed as an original proceeding. A filing fee is required.
Third-Party Complaint: An original defendant's action against a third party that was not part of the original proceeding. A filing fee is required.
Cross-Claim: An original defendant's claim against another original defendant. No additional fee is required.
Counterclaim: An original defendant's claim against an opposing party. No additional fee is required.
Reinstated or Reopened Case: Money Judgment Disclosures or post-judgment motions.

II. NATURE OF THE FILING

- [X] Initial Complaint
[] Third-Party Complaint
[] Cross-Claim or Counterclaim
[] Reinstated or Reopened case: Docket Number:

If filing a second or subsequent Money Judgment Disclosure, give the docket number of the first disclosure.)

III. REAL ESTATE OR TITLE TO REAL ESTATE IS INVOLVED

IV. MOST DEFINITIVE NATURE OF ACTION

("X" in ONE box. If the case fits more than one nature of action, select the one that best describes the cause of action.)

GENERAL CIVIL

Constitutional/Civil Rights

- [] Constitutional/Civil Rights

Contract

- [] Contract

Declaratory/Equitable Relief

- [] Declaratory Judgment
[] General Injunctive Relief
[] Other Equitable Relief

Non-Personal Injury Torts

- [] Auto Negligence
[] Libel/Defamation
[] Other Negligence
[] Other Non-Personal Injury Tort

Personal Injury Torts

- [] Assault/Battery
[] Auto Negligence
[] Domestic Tort
[] Medical Malpractice
[] Other Negligence
[] Other Personal Injury Tort
[] Product Liability
[] Property Negligence

Statutory Actions

- [] Freedom of Access
[] Other Statutory Action
[] Unfair Trade Practice

Miscellaneous Civil

- [] Administrative Warrant
[] Appointment of Receiver
[] Arbitration Awards
[] Common Law Habeas Corpus
[] Debt Collection
[] Brought by a debt collector as defined by 32 M.R.S. § 11002
[] Drug Forfeiture
[] Foreign Deposition
[] Foreign Judgments
[] HIV Testing
[] Land Use Enforcement (80K)
[] Minor Settlements
[] Other Civil
[] Other Forfeiture/Property Libel
[] Pre-Action Discovery
[] Prisoners Transfers
[] Shareholders' Derivative Action

REAL ESTATE

Foreclosures

- [] Foreclosure (ADR exempt)
[] Foreclosure (Diversion eligible)
[] Foreclosure (Other)

Title Actions

- [] Boundary
[] Easement
[] Eminent Domain
[] Quiet Title

Miscellaneous Real Estate

- [] Abandoned Road
[] Adverse Possession
[] Equitable Remedy
[] Mechanics Lien
[] Nuisance
[] Other Real Estate
[] Partition
[] Trespass

APPEALS (ADR EXEMPT)

- [] Administrative Agency (80C)
[X] Governmental Body (80B)
[] Other Appeal

CHILD PROTECTIVE CUSTODY

- [] Non-DHHS Protective Custody

SPECIAL ACTIONS

- [] Money Judgment Disclosure

ADA Notice: The Maine Judicial Branch complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation contact the Court Access Coordinator, accessibility@courts.maine.gov, or a court clerk.

Language Services: For language assistance and interpreters, contact a court clerk or interpreters@courts.maine.gov.

MAINE JUDICIAL BRANCH

V. M.R. Civ. P. 16B ALTERNATIVE DISPUTE RESOLUTION (ADR)

[X] I certify that pursuant to M.R. Civ. P. 16B(b), this case is exempt from a required ADR process because ("X" one box below):

- [] It falls within an exemption listed above (it is an appeal or an action for non-payment of a note in a secured transaction).
[] The plaintiff or defendant is incarcerated in a local, state, or federal facility.
[] The parties have participated in a statutory pre-litigation screening panel process with (name of panel chair) that concluded on (date of panel finding - mm/dd/yyyy).
[] The parties have participated in a formal ADR process with (name of neutral) on (date - mm/dd/yyyy).
[] The plaintiff's likely damages will not exceed \$30,000, and the plaintiff requests an exemption.
[X] The action does not include ADR pursuant to M.R. Civ. P. 16(a)(1).
[] There is other good cause for an exemption and the plaintiff has filed a motion for exemption.

VI. PARTY AND ATTORNEY CONTACT INFORMATION

If you need additional space, list additional parties on an attachment and note "see attachment" in the appropriate section.

Please note: If a party is a government agency, use the full agency name or the standard abbreviation. If the party is an official within a government agency, identify the agency first and then the official, giving both name and title.

(a) PLAINTIFF(S)

("X" the box below to indicate the party type associated with the filing)

- [X] Plaintiff(s)
[] Third-Party Plaintiff(s)
[] Counterclaim Plaintiff(s)
[] Cross-Claim Plaintiff(s)

Is the plaintiff a prisoner in a local, state, or federal facility? [] Yes [X] No

Name (first, middle initial, last): Upstream Watch
Mailing address (include county): 67 Perkins Road
Belfast, ME 04040
Telephone:
Email: agrant7108@gmail.com

Name (first, middle initial, last):
Mailing address (include county):
Telephone:
Email:

(b) ATTORNEY(S) FOR PLAINTIFF(S)

If there are multiple attorneys, indicate the lead attorney. If all counsel do not represent ALL plaintiffs, specify which plaintiff(s) the listed attorney(s) represents.

Name and bar number: David J. Perkins, Bar No. 3232/ David P. Silk, Bar No. 3136
Firm name: Curtis Thaxter
Mailing Address: P.O. Box 7320
Portland, ME 04112-7320
Telephone: 207-774-9000
Email: dperkins@curtisthaxter.com/ dsilk@curtisthaxter.com

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MAINE JUDICIAL BRANCH

Name and bar number: David B. Losee, Bar No. 6500 (Lead)
 Firm name: DAVID B. LOSEE, LLC
 Mailing Address: 7 Highland Avenue
Camden, ME 04843
 Telephone: (860) 707-3215
 Email: david@loseelaw.com

(c) DEFENDANT(S)

("X" the box below to indicate the party type associated with the filing)

- Defendant(s)
- Third-Party Defendant(s)
- Counterclaim Defendant(s)
- Cross-Claim Defendant(s)

Is the defendant a prisoner in a local, state, or federal facility? Yes No

Name *(first, middle initial, last)*: City of Belfast
 Mailing address *(include county)*: Amy I. Flood, Municipal Clerk
131 Church Street, Belfast, ME 04915
 Telephone: 207-338-3370
 Email: _____

Name *(first, middle initial, last)*: _____
 Mailing address *(include county)*: _____
 Telephone: _____
 Email: _____

(d) ATTORNEY(S) FOR DEFENDANT(S)

If there are multiple attorneys, indicate the lead attorney. *If all counsel do not represent ALL defendants, specify which defendant(s) the listed attorney(s) represents.*

Name and bar number: _____
 Firm name: _____
 Mailing Address: _____
 Telephone: _____
 Email: _____

Name and bar number: _____
 Firm name: _____
 Mailing Address: _____
 Telephone: _____
 Email: _____

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MAINE JUDICIAL BRANCH

(e) PARTIES IN INTEREST

Name (first, middle initial, last): Nordic Aquafarms, Inc.
Mailing address (include county): 159 High Street, P.O. Box 283
Belfast, ME 04915
Telephone: 207-323-4911
Email: erik.heim@nordicaquafarms.com

Name (first, middle initial, last):
Mailing address (include county):
Telephone:
Email:

(f) ATTORNEY(S)

If there are multiple attorneys, indicate the lead attorney. If all counsel do not represent ALL parties in interest, specify which parties in interest the listed attorney(s) represents.

Name and bar number: Joanna B. Tourangeau, Bar No. 9125
Firm name: Drummond Woodsum
Mailing Address: 84 Marginal Way, Suite 600
Portland, ME 04101-2480
Telephone: 207-772-1941
Email: jtourangeau@dwmlaw.com

Name and bar number:
Firm name:
Mailing Address:
Telephone:
Email:

VII. RELATED CASE(S) IF ANY

Case name:
Docket Number:
Assigned Judge/Justice:

Date (mm/dd/yyyy): March 22, 2021

Signature of Plaintiff or Lead Attorney of Record

David J. Perkins, Bar No 3232
Printed Name of Plaintiff or Attorney

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