

ORDER OF CONDEMNATION

CITY OF BELFAST, MAINE
(23 MRS § 3021 et. seq. and 30-A MRS 3101)

KNOW ALL PERSONS BY THESE PRESENTS: The Notice of Intent to Condemn Real Property Interests to adopt this Condemnation Order has been seasonably and publicly posted by the City of Belfast, Maine, a duly chartered municipal corporation, with a principal place of business at Belfast City Hall, 131 Church Street, Belfast, ME 04915, as described herein, and additional notice via FEDEX mailings were provided to the following named persons and entities:

REGARDING THE INTERTIDAL ZONE AS DEPICTED AND DESCRIBED IN SCHEDULE A:

Jeffrey R. Mabee
Judith B. Grace
290 Northport Avenue
Belfast, ME 04915-1219
Tax Map 29 Lot 38
Book 1221 Page 347

Friends of the Harriet L. Hartley Conservation Area
c/o Jeffrey R. Mabee, Registered Agent
PO Box 465
Belfast, ME 04915
Book 4435 Page 344

Elizabeth Cooper Rankin
320 Dash Ave
Media, PA 19063-1308

REGARDING THE RESIDENTIAL PURPOSES UNDERSTANDING AS DESCRIBED IN SCHEDULE B:

Jeffrey R. Mabee
Judith B. Grace
290 Northport Avenue
Belfast, ME 04915-1219
Tax Map 29 Lot 38
Book 1221 Page 347

Peter A. Rasmussen

Adrienne R. Boissy
46001 Mather Lane
Chagrin Falls, OH 44022
Tax Map 29 Lot 31
Book 3525 Page 133

Michael H. Giles
Jayne C. Giles
15 Tozier Street
Belfast, ME 04915
Tax Map 29 Lot 32
Book 2728 Page 60

J. Thomas Kent, Jr.
Joan L. Kent
11 Tozier Street
Belfast, ME 04915
Tax Map 29 Lot 33
Book 2995 Page 198

Gary Roughead Revocable Living Trust
u/a/d April 19, 2017
8105 Great Run Lane
Warrenton, VA 20186
Tax Map 29 Lot 34
Book 4576 Page 278

Lyndon W. Morgan
1 Tozier Street
Belfast, ME 04915
Tax Map 29 Lot 35
Book 1804 Page 307

Pursuant to and consistent with 1 MRS 816, 30-A MRS 3101, and 23 M.R.S.A. § 3021 et seq., the Belfast City Council, in their capacity as the Municipal Officers of the City of Belfast, Maine, gave seasonable notice of their intentions to Condemn and take by the process of Eminent Domain the fee interest in and to the right, title and interest of the Intertidal Zone of certain real property described in Schedule A and depicted on Exhibit 1 attached to Schedule A, and the intention to Condemn and take the interests in and to the Residential Purposes Understanding rights, to the extent they exist, as described in Schedule B, by having posted notices at least 7 days in advance in these public places: (i) the City of Belfast City Hall Building located at 131 Church Street, Belfast, ME 04915, (ii) the Official Website of the City of Belfast, and (iii) in the vicinity of 282 Northport Avenue, Belfast, Maine, which is depicted on Tax Map 29 Lot 36. The postings were completed on August 4, 2021.

A public hearing was conducted on August 12, 2021 by the Belfast City Council sitting at 131 Church Street, Belfast, Maine. Thereafter the Belfast City Council voted to approve this Condemnation and taking by Eminent Domain of the property rights described and depicted in Schedule A and Schedule B as attached hereto, and to pay Damages determined by the Belfast City Council to be just compensation, in consideration of the advice of a Maine Licensed Certified General Appraiser, in the amounts and to each property owner listed in Schedule C, attached hereto.

At the public hearing, the Belfast City Council adopted legislative findings as described in Schedule D, attached hereto, consistent with Eminent Domain authority to municipalities provided in 1 MRS 816, 23 MRS 3021 et seq., and 30-A MRS 3101, the public exigency, the inability to purchase property rights at fair market value, and the authority to take curative action for defective title, as the joint and several bases for condemnation.

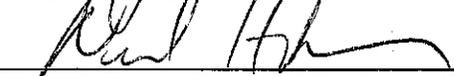
THEREFORE, The Municipal Officers, sitting as the Belfast City Council, and waiving the second reading as provided by the Belfast City Charter, hereby Resolve, Order and Appropriate this Condemnation Order to take by Eminent Domain the real property interests described and depicted in Schedules A and B, from the property owners therein named, by unanimous vote on August 12, 2021.

RESOLVED, ORDERED AND APPROPRIATED, this 12th day of August, 2021.

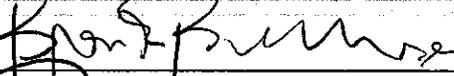
By the City Council of Belfast, Maine:



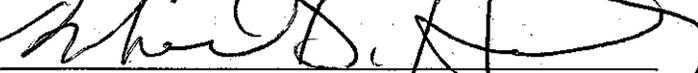
Mary Mortier, Ward 1 City Councilor



Neal Harkness, Ward 2 City Councilor



Brenda Bonneville, Ward 3 City Councilor



Michael Hurley, Ward 4 City Councilor



Paul Dean, Ward 5 City Councilor

SCHEDULE A – CITY OF BELFAST CONDEMNATION ORDER
INTERTIDAL ZONE DESCRIPTION
TAX MAP 29 LOT 36

The fee interest in real property which is hereby condemned and taken by the process of Eminent Domain by the City Council of the City of Belfast, is more particularly described as follows, to wit:

A certain lot or parcel of intertidal land located easterly of Route One (a.k.a. Northport Avenue) and on the westerly shore of Penobscot Bay in the City of Belfast, County of Waldo, State of Maine, shown as the 5.1 acre "Intertidal Zone" on attached Exhibit 1 on which it is referenced as owned by Janet and Richard Eckrote, and as subsequently conveyed to the City of Belfast in a deed recorded in Book 4679 Page 167 of the Waldo county Registry of Deeds, and said Intertidal being more particularly described as follows:

COMMENCING at a 5/8 inch rebar with survey cap stamped "GOOD DEEDS" found on the easterly right-of-way line of Route One at the most westerly corner of land of Lyndon G. Morgan as described in a deed recorded in Book 1804, Page 307 of the Waldo County Registry of Deeds.

THENCE S 54°53'45" E along said land of Morgan a distance of 429.01 feet to a 5/8 inch rebar found.

THENCE S 54°53'45" E along said land of Morgan a distance of 26.1 feet to the high water mark of Penobscot Bay and the **TRUE POINT OF BEGINNING**.

THENCE S 31°35'52" E along said intertidal land of Morgan a distance of 777 feet more or less to the low water mark of Penobscot Bay.

THENCE westerly, southeasterly, southwesterly, and northwesterly along said low water mark of Penobscot Bay a distance of 820 feet more or less to intertidal land of Donald K. Schweikert and Wendy W. Schweikert as described in a deed recorded in Book 4441, Page 184 of the Waldo County Registry of Deeds.

THENCE N 35°41'53" W along said intertidal land of Schweikert a distance of 834 feet more or less to the high water mark of Penobscot Bay at the mouth of a brook which is N 89°41'01" E a distance of 42.5 feet from a 5/8 inch rebar with survey cap stamped "GOOD DEEDS" found in the center of a gully which rebar is S 55°54'53" W a distance of 322.89 feet from said rebar found at said land of Morgan 26.1 feet from the high water mark of Penobscot Bay.

THENCE easterly and northeasterly along said high water mark of Penobscot Bay a distance of 440 feet more or less back to the True Point of Beginning.

MEANING and intending to describe 5.1 acres of the Intertidal Zone as shown on Exhibit 1 attached hereto.

The parcel described herein is the intertidal portion of that land conveyed from the Estate of Phyllis J. Poor to Janet and Richard Eckrote as described in a deed recorded in Book 3697, Page 5 of the Waldo County Registry of Deeds. See also Deed from Janet and Richard Eckrote to the City of Belfast as recorded in Book 4679 Page 157 of the Waldo County Registry of Deeds.

All directions are referenced to the Maine Coordinate System of 1983 (2011), East Zone. All distances are grid distances with a combined scale factor of 0.9999186.

The persons and entities from whom the Belfast City Council hereby Condemns and takes the real property interests described and depicted herein by the process of Eminent Domain, are as follows:

Jeffrey R. Mabee
Judith B. Grace
290 Northport Avenue
Belfast, ME 04915-1219
Tax Map 29 Lot 38
Book 1221 Page 347

Friends of the Harriet L. Hartley Conservation Area
c/o Jeffrey R. Mabee, Registered Agent
PO Box 465
Belfast, ME 04915
Book 4435 Page 344

Elizabeth Cooper Rankin
320 Dash Ave
Media, PA 19063-1308

SCHEDULE B – CITY OF BELFAST CONDEMNATION ORDER
RESIDENTIAL PURPOSES UNDERSTANDING
TAX MAP 29 LOT 36

The right, title, and interest herein referred to as the “Residential Purposes Understanding,” hereby Condemned by the Belfast City Council, is described in a Deed from Harriet L. Hartley to Fred R. Poor, dated June 19, 1946, and recorded in Book 452 Page 205 of the Waldo County Registry of deeds, and is more fully set forth as follows, to wit:

“The lot or parcel of land herein described is conveyed to Fred R. Poor with the understanding it is to be used for residential purposes only, that no business for profit is to be conducted there unless agreed to by Harriet L. Hartley, her heirs or assigns.”

The owners of parcels of land and Deed and Tax Map references for each alleged ownership interests that are possibly benefitted by said Residential Purposes Understanding, and therefore the list of parcels of land and current owners for whom said possible benefit is hereby condemned and taken by the process of Eminent Domain by the City of Belfast, are as follows:

1. Jeffrey R. Mabee
Judith B. Grace
290 Northport Avenue
Belfast, ME 04915-1219
Tax Map 29 Lot 38
Book 1221 Page 347

2. Peter A. Rasmussen
Adrienne R. Boissy
46001 Mather Lane
Chagrin Falls, OH 44022
Tax Map 29 Lot 31
Book 3525 Page 133

3. Michael H. Giles
Jayne C. Giles
15 Tozier Street
Belfast, ME 04915
Tax Map 29 Lot 32
Book 2728 Page 60

4. J. Thomas Kent, Jr.
Joan L. Kent
11 Tozier Street
Belfast, ME 04915
Tax Map 29 Lot 33
Book 2995 Page 198

5. Gary Roughead Revocable Living Trust
u/a/d April 19, 2017
8105 Great Run Lane
Warrenton, VA 20186
Tax Map 29 Lot 34
Book 4576 Page 278

6. Lyndon W. Morgan
1 Tozier Street
Belfast, ME 04915
Tax Map 29 Lot 35
Book 1804 Page 307

SCHEDULE C: REASONABLE VALUATION DAMAGES TO BE PAID

The following reasonable valuation amounts shall be paid to each person and entity for which alleged property rights and title defects have been herein condemned by the Belfast City Council:

REGARDING THE INTERTIDAL ZONE AS DEPICTED AND DESCRIBED IN

SCHEDULE A:

	Reasonable Valuation Amount:
Jeffrey R. Mabee	\$ 4,000.00
Judith B. Grace	
290 Northport Avenue	
Belfast, ME 04915-1219	
Tax Map 29 Lot 38	
Book 1221 Page 347	
Friends of the Harriet L. Hartley Conservation Area	\$ 36,000.00
c/o Jeffrey R. Mabee, Registered Agent	
PO Box 465	
Belfast, ME 04915	
Book 4435 Page 344	
Elizabeth Cooper Rankin	\$ 1,200.00
320 Dash Ave	
Media, PA 19063-1308	

REGARDING THE RESIDENTIAL PURPOSES UNDERSTANDING AS DESCRIBED IN
SCHEDULE B:

Jeffrey R. Mabee \$ 500.00

Judith B. Grace

290 Northport Avenue

Belfast, ME 04915-1219

Tax Map 29 Lot 38

Book 1221 Page 347

Peter A. Rasmussen \$ 500.00

Adrienne R. Boissy

46001 Mather Lane

Chagrin Falls, OH 44022

Tax Map 29 Lot 31

Book 3525 Page 133

Michael H. Giles \$ 500.00

Jayne C. Giles

15 Tozier Street

Belfast, ME 04915

Tax Map 29 Lot 32

Book 2728 Page 60

J. Thomas Kent, Jr. \$ 500.00

Joan L. Kent

11 Tozier Street

Belfast, ME 04915

Tax Map 29 Lot 33

Book 2995 Page 198

Gary Roughead Revocable Living Trust

\$ 500.00

u/a/d April 19, 2017

8105 Great Run Lane

Warrenton, VA 20186

Tax Map 29 Lot 34

Book 4576 Page 278

Lyndon W. Morgan

\$ 500.00

1 Tozier Street

Belfast, ME 04915

Tax Map 29 Lot 35

Book 1804 Page 307

SCHEDULE D: OUTLINE OF CERTAIN LEGISLATIVE FINDINGS OF THE BELFAST CITY COUNCIL

1. The City of Belfast (City) entered into an Options and Purchase Agreement and an Evaluation Agreement, both dated January 30, 2018, by and between the Belfast Water District (BWD) and Nordic Aquafarms Inc. (Nordic), which provide significant public benefits to the citizens of Belfast, the BWD, and the ratepayers of the BWD, as well as the broader economic benefits to Belfast and Waldo County stemming from the Nordic project and City ownership of the Waterfront Parcel containing the Little River Trail network. These agreements from January 30, 2018 have been amended through the Fourth Amendment To Evaluation Agreement and Options and Purchase Agreement, dated April 21, 2021 (Collectively, "Agreements"). The City Council hereby notes the recitations, facts and obligations of the parties in the Fourth Amendment To Evaluation Agreement and Options and Purchase Agreement as if fully set forth herein.

2. In April and again in October, 2018 the City Council and Belfast Planning Board conducted hearings and meetings, which resulted in the adoption of multiple land use and Comprehensive Plan amendments, which adopted the land use laws that allowed the Nordic project to proceed to application; all of which involved significant time and resources of City Staff, elected and appointed officials.

3. In 2018 and 2019 the City successfully defended a law suit challenging the adoption of the land use laws adopted that provided for the uses required for the Nordic project, at significant financial expense and City Staff time and resources.

4. On June 8, 2018 the Maine Public Utilities Commission (PUC), in Docket No. 2018-00043 authorized the sale of BWD land, including approximately 40 acres of waterfront land (Waterfront Parcel) on the Little River and Reservoir to the City, and the sale of the balance of the land to Nordic, pursuant to the Agreements. The PUC also approved the Water Supply Agreement by and between the BWD and Nordic. The PUC reviewed the following specific direct benefits asserted by the BWD which benefit both the BWD and its ratepayers, due to the purchase price money and substantial future water sale revenues, in approving the sale of land and the Water Supply Agreement:

- Upgrade its infrastructure;
- Keep rates as low as possible for ratepayers;

- Bring a third well on line;
- Move its headquarters and garage facilities to a more favorable location;
- Reduce chlorine costs;
- Potentially divest itself of lower dam, which the District considers to be a liability. (See, PUC Order, pg. 20)

The PUC also referenced the additional indirect benefits asserted by the BWD to benefit the BWD and its ratepayers, including “The City of Belfast maintaining the Little River Trail” and that the sale of land proceeds would “redound to the benefit of its ratepayers” as the BWD relocated its garage and headquarters and creation of jobs in the area. (See, Order, pg. 20.)

The PUC also referenced that the Town of Northport had voted, at a Special Town Meeting on April 25, 2018, to waive its rights to purchase the portion of BWD land located in Northport which was comprised of approximately 16 acres on the Little River Reservoir, which the BWD is obligated to sell to the City as a portion of the Waterfront Parcel. (See, Order, pg. 16.)

The PUC found that the sale of land to the City and Nordic was not adverse to the public interest and was not inconsistent with the interests of the utility’s ratepayers. (See, Order, pgs. 19 and 21).

The City Council notes with support the facts considered by the PUC in its findings, and the City Council finds they are consistent with the public benefits, public purposes and permanent public uses of the BWD and the City’s Waterfront Parcel on the Little River and Reservoir.

5. Prior to April 2019, which was 15 months after the Options to Purchase and Evaluations Agreements were executed in January 2018, no claim had been made to the Eckrotes by anyone claiming title to the intertidal area adjacent to Eckrote. (See for reference see Jeffery Mabee Letter to the Editor, Republican Journal, dated May 16, 2021, in which he states no knowledge of a claim of ownership until an Attorney from Upstream Watch so suggested; see deed creating conservation easement as recorded on April 29, 2019 in Book 4367 Page 273).

6. A lawsuit was commenced in 2019 which alleged title defects as to ownership in the Intertidal Zone of the Eckrote property. This litigation claims a defect in title to the Intertidal Zone immediately adjacent to the Eckrote land. This suit has created a substantial delay in the City acquisition and perpetual

preservation of the Waterfront Parcel and a delay in the BWD's ability to sell its land, purchase new facilities, commence the Water Supply Agreement revenues, begin planning infrastructure upgrades and maintenance with these proceeds. The closing among the BWD, the City and Nordic for the sale of land has been delayed pending resolution of the matter. The costs of new BWD facilities and new BWD infrastructure upgrades has risen dramatically in Belfast in the last three years.

7. On July 8, 2021 the City Council authorized the offer of fair market value, as determined by an independent Certified General Appraiser, to all who claimed or could claim, conflicting real property benefits described herein as the Residential Purposes Understanding as per Schedule B, and the ownership of the Intertidal Zone, described and depicted in Schedule A, hereto. This condemnation addressed those persons and entities which have refused to accept fair market value in return for a release of the alleged title defect real property rights in the Intertidal Zone and the Residential Purposes Understanding.

8. The City entered into a Purchase and Sale Agreement with Nordic Aquafarms Inc. on July 9, 2021, pursuant to and consistent with the Fourth Amendment, and the City has obtained a deed from Janet and Richard Eckrote for their property, and has obtained a Release Deed from Nordic Aquafarms Inc. for the release of possible title claims that certain Heirs of Harriet L. Hartley may have to the Intertidal Zone. These Deeds, which convey the upland and the intertidal area, are recorded in Book 4697 Page 157, and Book 4697 Page 160 of the Waldo County Registry of Deeds.

This is land located directly across Route 1 from the Waterfront Parcel and, with 500 feet along US Route One and 325 feet of Penobscot Bay shore frontage, as an extension of the Waterfront Parcel will secure over 40 acres of walking trails along the Little River Reservoir and Penobscot Bay. This will be a remarkable addition to the City's Parks, anchoring the City's most southerly public waterfront use and access for generations. The next closest public ocean access is located approximately 1.5 miles northerly at Belfast City Park.

All of this land including all of the shore frontage and intertidal area, consistent with the depictions on the Tax Maps of both the City of Belfast and the Town of Northport, and consistent with the James Dorsky survey entitled "Intertidal Zone Survey" revised through July 24, 2020, is located within the City of Belfast.

9. The property interests described in Schedules A and B are not used for agricultural, fishing or forestry or improved with residential homes, commercial or industrial buildings. No one resides in a dwelling house located on the property interests described in Schedule A and B.

10. The BWD is a public utility engaged in the generation and distribution of public water supply.

11. A component of the Nordic Project includes the generation and transmission of water treatment and discharge of highly filtered and treated sewer water through the underground pipes in the easement area described in Exhibit D to the July 9, 2021 Purchase and Sale Agreement.

12. Consistent with the facts in this matter, the direct and indirect public benefits and public purposes for both the City of Belfast and the BWD served by this condemnation are not prohibited, as referenced in 1 MRS 816(4) and 30-A MRS 3101.

13. The City will integrate the Waterfront Parcel trail and the Eckrote property to join significant permanent public uses and purposes in perpetuity as a passive recreation trail and combined park access to the former Eckrote (now City) upland, intertidal zone, and access to Penobscot Bay, with permanent public parking.

14. There exists public exigency sufficient to support this condemnation. The City has been unable to purchase rights to the alleged title defects from the parties in question. The exercise of eminent domain, which is done solely and exclusively in the City Councils' discretion, is necessary to clear ongoing alleged title defects to its land described in Schedules A and B and obtain the above recited public benefits for the City, the BWD, the BWD ratepayers, and the general public. The compensation amounts described in Schedule C are at fair market value and are reasonable.

15. The City Council hereby takes official notice of the public documents referenced herein and all other related documents available in the City of Belfast records and website, including the voluminous record of, and Permits issued by, the Belfast Planning Board.

