

SETTLEMENT AGREEMENT

This **SETTLEMENT AGREEMENT** (the “Agreement”) is made and entered into by, between, and among MANAGEMENT CONTROLS LLC, a Florida limited liability company with a mailing address of P.O. Box 2058, Auburn, Maine, 04211 (hereinafter “Management Controls”); ROBERT DURANT, an individual with a residence at 29 Beaver Pond Road in Casco, Maine 04015 (“Durant”); BIG LAKE MARINE, LLC, a Maine limited liability company with a mailing address of P.O. Box 741, Windham, Maine 04062 (hereinafter “Big Lake Marine”); DURANT EXCAVATING, LLC, a Maine limited liability company with a mailing address of P.O. Box 741, Windham, Maine 04062 (hereinafter “Durant Excavating”); Q-TEAM INC., D/B/A Q-TEAM TREE SERVICE, a Maine corporation with a mailing address of P.O. Box 4096, Naples, Maine, 04055 (hereinafter “Q-Team”), and the INHABITANTS OF THE TOWN OF RAYMOND, a municipal corporation located in the County of Cumberland, State of Maine (hereinafter the “Town”), as of the date that this Agreement is fully-executed by the parties (the “Effective Date”). Hereinafter, Durant, Big Lake Marine, and Durant Excavating shall be collectively referred to as the Durant Parties. Hereinafter, Management Controls, the Durant Parties, and Q-Team shall be collectively referred to as the “Responsible Parties.” Hereinafter, the Responsible Parties and the Town will be collectively referred to as the “Parties” and individually as “Party,” as the case may be.

WHEREAS, the Town is a municipal corporation organized under the laws of the State of Maine;

WHEREAS, Susan L. Look is the duly-appointed Town Manager authorized under law to act on behalf of the Town;

WHEREAS, Donald Buteau is the managing member of Management Controls;

WHEREAS, Management Controls is the owner of certain real property located at 28 Whitetail Lane, Raymond, Maine, and described in the deed recorded in the Cumberland County Registry of Deeds in Book 38666, Page 124, currently shown on Assessor’s Tax Map 1 as Lot 20 (hereinafter “28 Whitetail”);

WHEREAS, Management Controls is the owner of certain real property located at 18 Fernwood Road, Raymond, Maine, and described in the deed recorded in the Cumberland County Registry of Deeds in Book 35622, Page 143, currently shown as Assessor’s Tax Map 1 as Lot 22 (hereinafter “18 Fernwood”);

WHEREAS, Durant is an authorized person for, and sole member of, Durant Excavating and Big Lake Marine;

WHEREAS, the Durant Parties maintain construction and excavating operations and were engaged by Management Controls to provide earthmoving, earth filling, vegetation removal, and other services at 28 Whitetail and 18 Fernwood (collectively, the “Properties”), and the Durant Parties did undertake such work at the Properties, but failed to obtain all necessary permits for such work;

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WHEREAS, Aaron Gosselin is an authorized person for Q-Team;

WHEREAS, Q-Team provides tree services and was engaged by Management Controls to provide tree services to 18 Fernwood, and Q-Team did provide such services in or about late September and early October 2021;

WHEREAS, circa September 2021 through October 18, 2021, the Durant Parties, engaged in earthmoving, earth filling, and vegetation removal, at the Properties;

WHEREAS, neither Management Controls, the Durant Parties, nor Q-Team (collectively, the “Respondents”) submitted any applications for any Town permit(s) for any soil disturbance, tree removal, or purported shoreline stabilization project relating to the Properties;

WHEREAS, on October 26, 2021 the Town conducted inspections at the Properties and observed numerous violations of the Town’s Shoreland Zoning Ordinance (the “SZO”), including, among other things:

- filling and earthmoving of more than 10 cubic yards without a permit, as required by the SZO;
- filling and earthmoving of more than 10 cubic yards without taking effective erosion and sedimentation control measures, as required by the SZO;
- the expansion or enlargement of the shoreline without a permit from the Town's Planning Board, as required by the SZO;
- removal of vegetation less than three (3) feet in height within 100 feet of the normal high water line of Sebago Lake (the “NHWL”), in violation of the SZO;"
- removal of vegetation less than three (3) feet in height within 100 feet of the NHWL, without a permit from the CEO, in violation of the SZO;
- completion of a purported shoreline stabilization project without a permit from the Town's Planning Board, in violation of the SZO;
- completion of a purported shoreline stabilization project from the land, when it could have been completed from a barge, in violation of the SZO;
- removal of trees within 100 feet of the NHWL, creating an illegal opening in the canopy in excess of 250 square feet, in violation of the SZO; and

removal of vegetation from what would have been three (3) 25 foot by 50 foot grids, where the grids do not contain enough points, for purposes of the SZO, to support selective removal of otherwise healthy trees, in violation of the SZO.

WHEREAS, as a result of the SZO violations the Town issued notices of violation relating to 18 Fernwood to Management Controls on December 16, 2021, to Durant Excavating on December 21, 2021, to Q-Team on January 25, 2022, to Big Lake Marine on March 10, 2022, and to Durant, d/b/a “Big Lake Marine Construction,” on March 10, 2022;

WHEREAS, Management Controls, Durant Excavating, Big Lake Marine, and Q-Team submitted administrative appeals of the notices of violation relating to 18 Fernwood to the Raymond Zoning Board of Appeals (the “ZBA”).

WHEREAS, as a result of the SZO violations the Town issued notices of violation relating to 28 Whitetail to Management Controls on January 28, 2022, to Durant Excavating in January 28, 2022, to Big Lake Marine on March 10, 2022, and to Durant, d/b/a “Big Lake Marine Construction,” on March 10, 2022;

WHEREAS, Management Controls, Durant Excavating, and Big Lake Marine submitted administrative appeals of the notices of violation relating to 28 Whitetail to the ZBA;

WHEREAS, the ZBA held *de novo* hearings relating to the notices of violation the Town issued regarding the Properties;

WHEREAS, the ZBA issued written decisions on each of the administrative appeals it received from Management Controls, Q-Team, Durant Excavating, and Big Lake Marine;

WHEREAS, Management Controls, Q-Team, Durant Excavating, and Big Lake Marine initiated a total of six (6) Rule 80B actions in the Cumberland County Superior Court against the Town seeking review of the ZBA’s seven (7) written decisions, while also asserting additional claims¹;

WHEREAS, the Cumberland County Superior Court consolidated the six Rule 80B actions into a single docket number, under the caption of *Management Controls, LLC v. Town of Raymond, et al.*, Docket No. AP-2022-037;

WHEREAS, in late 2022, Durant for himself, but also seeking to encompass the assets and liabilities of Durant Excavating, and Big Lake Marine through an alleged disincorporation of Durant Excavating and Big Lake Marine, sought Chapter 13 bankruptcy protection in the United States Bankruptcy Court for the District of Maine (the “Bankruptcy Case”);

WHEREAS, on February 8, 2023, the United States Bankruptcy Court entered an order confirming that the automatic stay did not prohibit the Town from participating in the pending Rule 80B actions, nor did it prohibit the Town from pursuing any enforcement counterclaims against any party;

¹ Specifically, Management Controls initiated a Rule 80B action relating to the Fernwood Property in Docket No. AP-22-37; Management Controls initiated a Rule 80B action relating to the Whitetail Property in Docket No. AP-22-55; Q-Team initiated a Rule 80B action in Docket No. AP-22-43; Durant Excavating initiated a Rule 80B action relating to the Fernwood Property in Docket No. AP-22-44; Durant Excavating initiated a Rule 80B action relating to the Whitetail Property in Docket No. AP-22-45; and Big Lake Marine initiated a Rule 80B action in Docket No. AP-22-49.

WHEREAS, On April 20, 2023, the Town filed enforcement claims against the Responsible Parties, as authorized by 30-A M.R.S. § 4452, seeking an order requiring the correction or abatement of the violations that exist at the Properties, the assessment of civil penalties, and the recovery of the Town’s attorneys’ fees, costs and expenses of litigation;

WHEREAS, on or about December 11, 2023, the Maine Department of Environmental Protection (the “DEP”) issued Permit No. L-29916-4D-A-N, authorizing the restoration of the Properties (the “Permit”), a true and correct copy of which is attached hereto as **Exhibit 1**;

WHEREAS, the Permit approved a restoration plan prepared by Ransom Consulting LLC, and depicted on a set of plans titled “Figure 5-2 Proposed Restoration Plan” and “Figure 8-1 Erosion and Sedimentation Plan” (the “Restoration Plan”). True and correct copies of the Restoration Plan are attached hereto as **Exhibit 2**.

WHEREAS, the Parties wish to settle, resolve, and discharge all claims that they may have against one another;

NOW, THEREFORE, in consideration of the Parties’ agreements herein, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties agree as follows:

1. **Acknowledgements by the Responsible Parties.** Each of Management Controls, the Durant Parties, and Q-Team acknowledge that they are responsible for the violations of the SZO by each of them at the Properties, as described in the above-referenced notices of violation, except as otherwise determined by the ZBA.

2. **Resolution of Notice of Violation issued to Q-Team.** Q-Team and the Town agree to resolve the Notice of Violation issued to Q-Team by entering into a consent agreement between Q-Team and the Town in substantially the form attached hereto as **Exhibit 3**. Such consent agreement shall be executed within seven (7) days of the Effective Date of this Agreement.

3. **Resolution of Notices of Violation issued to Management Controls and Durant Parties.**

a. Management Controls, the Durant Parties, and the Town agree to resolve the Notices of Violation issued to Management Controls and the Durant Parties by jointly moving the Cumberland County Superior Court for entry of a Consent Judgment in substantially the form attached hereto as **Exhibit 4**, within seven (7) days of the Effective Date of this Agreement.

b. The Town hereby authorizes Management Controls and the Durant Parties to complete the work described in the Permit and the Restoration Plan and is deemed to have awarded any necessary municipal permits to Management Controls and the Durant Parties to do the same. For avoidance of doubt, Management Controls’ authority and approval to complete the work contemplated hereby is not contingent in any way on that work being completed by the Durant Parties, and may be completed by any contractor competent to complete such work.

c. This Agreement is intended to, and shall, fully resolve all claims set forth herein, between the Town, Management Controls, and the Durant Parties (and each of their respective officers, directors, members, managers, shareholders, agents, and representatives); provided however, that nothing in this sub-paragraph is intended to or shall effect a release of the Parties' respective obligations hereunder.

d. Management Controls will collaterally assign to the Town its interests in whatever note, payment obligation, and security it receives from the Durant Parties, but Management Controls will retain the right to enforce said rights in the absence of an event of a default of any obligation under the Settlement Agreement and/or the Consent Judgment. Such assignment will be in substantially the forms attached hereto as **Exhibit 5**.

e. The Town shall amend its filed proof of claim in the Durant bankruptcy proceeding to reflect a general unsecured claim in the amount of \$640,000 (the "Town GUC"). The Durant Parties hereby stipulate that the Town GUC arises out of a regulatory enforcement proceeding, and thus is not dischargeable according to 11 U.S.C. § 523(a)(7).

f. The Town hereby conditionally assigns its bankruptcy claim against Durant to Management Controls. In the event the Restoration, as defined by the Consent Judgment, is not completed by the Completion Date, as described in the Consent Judgment, and/or the obligation to pay the Town the sum of \$640,000, as described in Paragraph 2 of the Consent Judgment is not fulfilled, the Town's bankruptcy claim will revert to the Town.

g. The Town, Management Controls, and the Durant Parties agree to seek any appropriate orders to authorize and implement this settlement.

4. **Acknowledgments and Representations.**

a. The decision by the Parties to enter into this Agreement has not been induced in any way by any other Party or any representative or person acting on behalf of any Party and, further, no Party relies upon any statement or representation made by any other Party or their agent, attorney, or any other person representing any other Party in connection herewith.

b. Each of the Parties acknowledge that they have reviewed and entered into this Agreement with the advice and assistance of counsel and any other advisers they deem necessary and appropriate.

c. The Parties each represent that the execution of this Agreement has been duly authorized.

d. The Parties agree that they are bound by the duty of good faith in connection with their obligations described herein.

e. The Parties agree that they will cooperate and execute any documents needed to effectuate the terms of this Agreement.

f. The Town represents that at the meeting of the Town of Raymond Board of

Selectmen on April 8, 2024, the Board of Selectmen duly approved the resolution of the above-described land use violations and those matters described in the notices of violation, described above, based on the terms and conditions set forth herein and authorized the Town Manager to sign this Agreement on behalf of the Town.

5. The Agreement shall be enforceable whether Durant's bankruptcy is pending or not. The Durant Parties specifically agree to be bound even in the event the Bankruptcy Case is dismissed. The Durant Parties shall be free to incorporate the settlement terms contemplated hereby into a modified chapter 13 plan, and Management Controls and the Town shall be deemed to support such terms, but no provision of any Plan proposed by the Durant Parties or approved by the Bankruptcy Court shall alter the terms of the Agreement. For the avoidance of doubt, in the event Bankruptcy Case is dismissed, the Parties agree that this Agreement shall be fully enforceable, except only for those portions having relevance to the Bankruptcy Case, *i.e.*, Paragraphs 3(e), 3(f).

6. **Entire Agreement.**

This Agreement is contractual in nature, and constitutes the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof. No subsequent promises or agreements shall be binding or shall modify this Agreement unless signed by the Parties hereto. To the extent any Maine law shall be amended or enacted subsequent to the Effective Date hereof, such law shall not modify this Agreement unless agreed to by all Parties hereto or unless Maine law otherwise requires that it do so.

Notwithstanding the foregoing paragraph, Management Controls and the Durant Parties are contemporaneously entering into a separate agreement (the "Separate Agreement") regarding, among other things, completion of the Restoration Plan and payments to the Town. The Town is not a party to the Separate Agreement and the Parties to this Agreement acknowledge and agree that the Separate Agreement is not and cannot be construed as an amendment of this Agreement. The Parties to this Agreement further acknowledge and agree that the Separate Agreement does not alter, amend, or limit the duties owed by Management Controls and the Durant Parties to the Town under this Agreement nor does it alter or amend the duties owed by the Town to Management Controls and the Durant Parties under this Agreement.

7. **Amendment.**

This Agreement may only be amended in a writing signed by the Parties.

8. **Severability.**

If any provision of this Agreement, or the application thereof, becomes or is declared by a court or arbitrator of competent jurisdiction to be illegal, void, or unenforceable, the remainder of this Agreement will continue in full force and effect. The Parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that

will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

9. **Counterparts.**

This Agreement may be executed by facsimile or electronic signature and in counterparts, each of which shall be deemed to be an original and all of which, taken together, shall constitute one agreement binding on the Parties.

10. **Rules of Construction.**

The Parties waive the application of any law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

11. **Disputes Relating to the Agreement.**

The Parties agree that this Agreement, and any disputes arising out of it, shall be governed under the laws of the State of Maine, without regard to any choice of laws provisions or conflicts of laws principles. The Parties also agree that any disputes relating to the violation of any provision of the Agreement or any disputes otherwise arising under this Agreement shall be resolved in courts in Maine, unless otherwise provided herein, and that attorneys' fees and costs incurred in connection with any such disputes shall be awarded to the substantially-prevailing party.

12. **Voluntary Act.**

The Parties acknowledge that they have carefully read and understand the contents of this Agreement and that they each sign it as their own free act and deed.

IN WITNESS WHEREOF, the Parties have executed this Agreement by affixing their signature below.

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THE TOWN OF RAYMOND, MAINE

Dated: _____

By: Susan L. Look
Its: Town Manager

MANAGEMENT CONTROLS, LLC

Dated: _____

By: Donald Buteau
Its: Managing Member

**Q-TEAM, INC., D/B/A Q-TEAM TREE
SERVICE**

Dated: _____

By: Aaron Gosselin
Its: General Manager

DURANT EXCAVATING, LLC

Dated: _____

By: Robert Durant
Its: Managing Member

BIG LAKE MARINE, LLC

Dated: _____

By: Robert Durant
Its: Managing Member

ROBERT DURANT

Dated: _____

Robert Durant

Ex. 1 to Settlement Agreement



DEPARTMENT ORDER

IN THE MATTER OF

MANAGEMENT CONTROLS, LLC) NATURAL RESOURCES PROTECTION ACT
Raymond, Cumberland County) GREAT POND ALTERATION
REPAIR SHORELINE STABILIZATION) WATER QUALITY CERTIFICATION
L-29916-4D-A-N (after-the-fact approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S. §§ 480-A–480-JJ, Section 401 of the Clean Water Act (33 U.S.C. § 1341), and Chapters 310 and 315 of the Department’s rules, the Department of Environmental Protection (Department) has considered the application of MANAGEMENT CONTROLS, LLC (applicant) with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: On August 10, 2021, the Department accepted a Natural Resources Protection Act (NRPA) Permit-By-Rule (PBR #72924), pursuant to Section 8 of the Chapter 305 Permit by Rule Standards for the installation of riprap to stabilize the applicant’s existing shoreline at 18 Fernwood Road, which lies along the shoreline of Sebago Lake in the Town of Raymond. On October 26, 2021, Department staff met on the project site with the Code Enforcement Officer of the Town of Raymond and other officials and determined that the approved activity had not been completed according to the relevant PBR standards. On November 17, 2021, the Department issued a Notice of Violation (NOV #2021-082-L) to Management Controls, LLC, for the activity. Specifically, in the NOV, the Department requested the submittal of a restoration plan to remove all unapproved structures and fill within and adjacent to the great pond in addition to re-establishing a vegetated buffer adjacent to the great pond. As part of the requested corrective actions, the Department required the submittal of permit applications for any activities subject to review under the NRPA.

B. Summary: The 2021 riprap activity described above was installed improperly and portions of it are now failing. The applicant is seeking after-the-fact approval under the NRPA for the placement of approximately 400 linear feet of riprap and soil disturbance within 75 feet of the normal high-water line of Sebago Lake at both 18 Fernwood Road and 28 Whitetail Lane, which is adjacent to 18 Fernwood Road and is also owned by the applicant. The applicant is also seeking approval for the implementation of a restoration plan on the remainder of 18 Fernwood Road and 28 Whitetail Lane properties. The restoration plan consists of the removal and replacement of significant portions of the 2021 riprap; the planting of native shrubs, trees, and other vegetation; the construction of a new six-foot-wide access way and four-foot-wide set of stairs leading to the resource; the installation of a removeable bollard; and the removal of an existing concrete hot tub pad placed adjacent to the resource. The applicant also proposes to reconstruct a 300-

foot-long engineered revetment along the shorefront of 28 Whitetail Lane, which is currently failing. The proposed project is shown on a set of plans titled “Figure 5-2 Proposed Restoration Plan” and “Figure 8-1 Erosion and Sedimentation Control Plan” prepared by Ransom Consulting, LLC, and dated September 21, 2022, with a latest revision date of October 5, 2023.

C. Current Use of the Site: The project site is located across two adjacent shorefront properties on Sebago Lake. Both properties are developed with single-family residences. The approximate nine-acre parcel (18 Fernwood Rd) is identified as Lot #22 on Map #1 of the Raymond tax maps. The approximate three-acre parcel (28 Whitetail Lane) is identified as Lot #20 on Map #1 on the Raymond tax maps.

D. Public Interest: During its review of the application, the Department received several letters from the Town of Raymond raising concerns about the proposed project, including a boat ramp that was proposed in the original application, compensation requirements, alternatives analysis, and design specifications for the proposed project. The Department’s analysis of the applicability of its rules concerning compensation and alternatives analysis is provided in Finding 6 of this Order.

During the review of the application, the applicant committed to remove the proposed boat ramp and existing concrete hot tub pad and agreed to weekly inspection reports as requested by the Town.

2. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

The NRPA, in 38 M.R.S. § 480-D(1), requires an applicant to demonstrate that the proposed project will not unreasonably interfere with existing scenic, aesthetic, recreational and navigational uses.

In accordance with Chapter 315, *Assessing and Mitigating Impacts to Scenic and Aesthetic Uses*, the applicant submitted a copy of the Department’s Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed restoration work. The applicant also submitted several photographs of the proposed project site and surroundings. Department staff visited the project site on October 26, 2021, and August 2, 2022.

The proposed project is located on Sebago Lake, which is a scenic resource as defined by Chapter 315 § 5(H), as it is a great pond visited by the public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. Nearby properties are a mix of residential uses with limited views of the resource, through vegetation, and undeveloped properties. The natural character of the shoreline along these properties consists of cobbles and boulders. The proposed project is visible from the resource. The applicant has redesigned the 2021 riprap to be more compatible with the character of surrounding natural shorefronts on Sebago Lake. The applicant proposes to remove 4,280 square feet of riprap that was installed in 2021 and to install native trees and shrubs that, once fully grown, will approximate the vegetation that

existed prior to the 2021 violation. These measures will minimize the visibility of the project from the scenic resource.

Department staff utilized the Department's Visual Impact Assessment Matrix (Matrix) in its evaluation of the proposed project and the Matrix showed a severe impact for the project as it exists today. In its evaluation of the currently proposed restoration project, the Matrix showed an acceptable visual impact rating for the proposed project once completed. The proposed restoration measures and plantings will restore the shoreline to a vegetated condition. To ensure the success of the proposed restoration project, the applicant must monitor the plantings and the plantings must be maintained or replaced as necessary to achieve 85-90% survival after five full growing seasons. The applicant must submit an as-built planting plan to the Department the year the plantings are installed. The applicant must also submit a narrative, photographs, and an amended planting plan, documenting survivorship of the plantings and any corrective actions taken, after each of the five growing seasons following the planting. All required plans must be submitted no later than December 31 of the year the plan is required. Based on the information submitted in the application, the visual impact rating and the site visits, the Department determined that the location and scale of the proposed activity will be compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area, provided that the applicant takes appropriate steps to ensure the plantings survive, as described above. Therefore, the Department finds that the proposed restoration project will be reasonably consistent with the visual character of the natural shoreline and the scenic impact on existing uses of Sebago Lake will be minimal.

The Department determined that based on the nature of the proposed project and its location on the shore, there are no existing recreational or navigational uses of the resource that would be unreasonably impacted.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of Sebago Lake, provided that the applicant monitors and maintains the plantings as described above.

3. SOIL EROSION:

The NRPA, in 38 M.R.S. § 480-D(2), requires an applicant to demonstrate that the proposed project will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

The applicant submitted both a construction plan and an erosion and sedimentation control plan which describe specific measures that were, and will be, utilized pre-, during, and post-construction. Temporary erosion and sedimentation controls will be maintained until disturbed soils are stable; those controls will consist of a floating turbidity curtain placed below the low water line, an erosion control mix berm along the top of the slope, and hay or straw mulch covering all disturbed soils. Work will be done

in dry conditions when the water level of Sebago Lake is low. Work will be conducted both by barge via the resource and from the upland of both properties.

The applicant identified an area of potentially soft soils under the surface which is indicated on the plans along the shorefront of 18 Fernwood Road. The applicant proposes to have the design engineer on site while construction is occurring in this area. To date, this area has remained stable with no visible signs of failure.

Details of the construction, erosion control and revegetation plan are outlined on a set of plans titled “Figure 5-2 Proposed Restoration Plan,” and “Figure 8-1 Erosion and Sedimentation Control Plan” prepared by Ransom Consulting, LLC, and dated September 21, 2022, with a latest revision date of October 5, 2023. Based on its review of the plans and methods of construction, the Department finds the proposed construction methods and erosion control plan are appropriate for the soil conditions. However, to ensure compliance with this standard, the design engineer shall evaluate the area of potentially soft soils immediately following the removal of enough of the existing riprap from the area necessary to allow for proper evaluation of soil conditions. The engineer shall notify the Department of their findings, and if the Department determines that the construction methods or erosion control plan must be amended to prevent unreasonable erosion and ensure site stability, the applicant shall amend the plan and receive Department approval for the plan prior to resuming construction.

The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment provided that the design engineer evaluates the identified area of potentially soft soils immediately following the removal of enough of the existing riprap from the area necessary to allow for proper evaluation of soil conditions, notifies the Department of their findings, and, if the Department determines that the construction methods or erosion control plan must be amended to prevent unreasonable erosion and ensure site stability, receives Department approval for an amended plan prior to resuming construction.

4. HABITAT CONSIDERATIONS:

The NRPA, in 38 M.R.S. § 480-D(3), requires an applicant to demonstrate that the proposed project will not unreasonably harm significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

The project site consists of two altered adjacent residential shorelines, which are currently devoid of shrubs and trees and armored with riprap. According to photographs submitted in the application and Department staff’s observations while on site, the lake bottom consists of gravely mud with scattered cobbles and boulders. Prior to the 2021 construction, the shoreline consisted of shrubs and trees at 18 Fernwood Road and the shoreline was armored with riprap and contained few trees and shrubs at 28 Whitetail

Lane. The shoreline classification by the Maine Geological Survey in this area of Sebago Lake is classified as glacial till, which includes the presence of boulders and cobbles.

According to the Department's Geographic Information System (GIS) database, there are no mapped Essential or Significant Wildlife Habitats located on either parcel.

The Maine Department of Inland Fisheries and Wildlife (MDIFW) reviewed the proposed project and submitted comments dated July 14, 2022, and October 7, 2022. In its review, MDIFW stated that access points to the resource should be minimized and was generally not supportive of private boat ramps beyond what was historically present at the site. MDIFW commented that no boulders should be removed from the lake for the shoreline stabilization component of the project. Subsequently, the applicant revised its plans to remove the previously proposed boat ramp and a second set of access stairs. The applicant does not propose to use boulders obtained from the lake.

After consideration of the project plans, including the restoration plan, the site visits and agency review comments, the Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

5. WATER QUALITY CONSIDERATIONS:

As discussed in Finding 3, the applicant proposes to use temporary erosion and sediment control measures during construction to minimize impacts to water quality from siltation. Further, all work located below the high-water line will be done during dry conditions.

The Department does not anticipate that the proposed project will violate any state water quality law, including those governing the classification of the State's waters.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

In 2021, the applicant cleared vegetation and installed riprap on two shorefront parcels. Approximately 500 linear feet of shorefront across the two parcels were impacted by the applicant removing trees and vegetation and installing riprap. In this permit application, the applicant proposes to remove and replace significant portions of the previously installed riprap. The applicant also proposes to plant native shrubs, trees, and other vegetation along the shoreline, construct a new access way and set of stairs leading to the resource, install a removeable bollard to facilitate seasonal dock removal, remove an existing concrete hot tub pad, and install an engineered revetment along an existing portion of failing riprap. Overall, the currently proposed project will affect 8,480 square feet of area below the high-water line of Sebago Lake. It will restore 4,280 square feet and will impact 4,170 square feet of shoreline below the high-water line. No work will occur below the low-water line. Great Ponds are classified as wetlands of special significance pursuant to Chapter 310 § 4.

The proposed seasonal dock will not be attached to the proposed set of stone access steps; it will be pinned to ledge. Because the seasonal dock will be in place seven months or less in any calendar year, it will not meet the definition of a permanent structure under the NRPA. When in place, the dock will temporarily alter 1,020 square feet below the high-water line of Sebago Lake via shading.

The Department's Chapter 310 *Wetlands and Waterbodies Protection* rules interpret and elaborate on the NRPA criteria for obtaining a permit. The rules guide the Department in its determination of whether a project's impacts would be unreasonable. Each application for a NRPA permit that involves a great pond alteration must provide an analysis of alternatives. A proposed project would generally be found to be unreasonable if it would cause a loss in wetland area, functions and values and there is a practicable alternative to the project that would be less damaging to the environment.

A. Avoidance. The applicant submitted an alternatives analysis for the proposed project completed by Ransom Consulting, LLC, and dated September 23, 2021. The purpose of the proposed project is to stabilize an eroding shoreline and to restore (where possible) the applicant's shorefront on both parcels to conditions that existed prior to the installation of the riprap. Pursuant to Chapter 310 § 5(A), a practicable alternative less damaging to the environment is considered to exist for activities proposed in, on, or over wetlands of special significance unless the activity is among the types listed. The construction of a shoreline stabilization project is among the activities specifically listed in Chapter 310 § 5(A)(1)(h).

According to photographs submitted in the applications and Department staff's observations while on site, both properties exhibited an eroding shoreline. For this application, the applicant considered four different restoration options that would allow it to become compliant with applicable regulations, all of which are described in the application materials. The applicant selected option four as its preferred alternative because it met the project goals to stabilize the shoreline and restore the site and has the least amount of square footage of impact in and adjacent to the resource. The applicant stated that there is no other practicable alternative that stabilizes and restores the shoreline while avoiding further impacts to the resource.

B. Minimal Alteration. In support of an application and to address the analysis of the reasonableness of any impacts of a proposed project, an applicant must demonstrate that the amount of great pond to be altered will be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicant stated that it minimized the impacts to the resource by limiting the riprap to areas necessary to address shoreline erosion (approximately 4,170 square feet) and by removing a significant amount of riprap both within and adjacent to the great pond (approximately 4,280 square feet), while installing native plantings along the shorefront that will approximate pre-existing conditions when fully grown. Additionally, the applicant states that it has further minimized impacts to the resource by proposing to remove an existing concrete hot tub pad that was adjacent to the resource and limiting their access points to the water to a single set of stairs and a seasonal dock.

The Department has reviewed the applicant's alternatives analysis and finds that in order to address the eroding shoreline and restore areas where riprap was previously installed, some impacts to the resource cannot be avoided. The Department finds that the selected alternative, option four, will minimize impacts in and adjacent to the resource. The Department finds that limiting access points to the water to a single set of stairs and a seasonal dock and the removal of the hot tub pad further minimize the impacts to the resource. The Department further finds that the proposed project is a reasonable engineering solution to shoreline erosion utilizing a mixture of plantings and structural measures (toe boulders).

C. Compensation. The Department received comments from the Town of Raymond suggesting that compensation should be required for the project. In accordance with Chapter 310 § 5(C)(6)(c), neither a functional assessment nor compensation is required for a great pond alteration (single, complete project) that does not place any fill below the normal high-water line, except as necessary for shoreline stabilization projects, and has no adverse effect on aquatic habitat as determined by MDIFW or the Department. The placement of fill below the normal high-water line is necessary for this shoreline stabilization project. The goal of the project is to restore the project site to conditions that existed prior to the 2021 construction while stabilizing the eroding shoreline. Based on the project plans, multiple site visits, and the Department's review, the Department finds that the proposed project will not have an adverse effect on aquatic habitat. Based on this conclusion and on agency comments, the Department determined that neither a functional assessment nor compensation is required.

The Department finds that the applicant has avoided and minimized impacts to Sebago Lake to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

7. OTHER CONSIDERATIONS:

The Department finds, based on the design, proposed construction methods, and location, the proposed project will not inhibit the natural transfer of soil from the terrestrial to the marine environment, will not interfere with the natural flow of any surface or subsurface waters, and will not cause or increase flooding. The proposed project is not located in a coastal sand dune system, is not a crossing of an outstanding river segment, and does not involve dredge spoils disposal or the transport of dredge spoils by water.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S. §§ 480-A–480-JJ and Section 401 of the Clean Water Act (33 U.S.C. § 1341):

A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses provided that the applicant monitors and maintains planted vegetation as described in Finding 2.

- B. The proposed activity will not cause unreasonable erosion of soil or sediment provided that the design engineer evaluates the area of soft soils and consults with the Department prior to any changes to the proposed restoration plans.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S. § 480-P.

THEREFORE, the Department APPROVES the application of MANAGEMENT CONTROLS, LLC, to reconstruct a 300-foot-long riprap revetment and a set of steps, install a removeable bollard, and restore approximately 400 linear feet of shoreline, all as shown on plans in the record and as described in Finding 1, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. The applicant shall monitor the plantings and the plantings shall be maintained or replaced as necessary to achieve 85-90% survival after five full growing seasons. The applicant shall submit an as-built planting plan to the Department the year the plantings area installed. The applicant shall also submit a narrative, photographs, and an amended

planting plan, documenting survivorship of the plantings and any corrective actions taken, after each of the following five growing seasons. All required plans shall be submitted no later than December 31 of the year the plan is required.

- 5. The applicant shall hire the design engineer, who shall evaluate the area of potentially soft soils immediately following the removal of enough of the existing riprap from the area necessary to allow for proper evaluation of soil conditions. The engineer shall notify the Department of their findings, and if the Department determines that the construction methods or erosion control plan must be amended to prevent unreasonable erosion and ensure site stability, the applicant shall amend the plan and receive Department approval for the plan prior to resuming construction.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DONE AND DATED IN AUGUSTA, MAINE, THIS 11TH DAY OF DECEMBER, 2023.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 
For: Melanie Loyzim, Commissioner

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

DHMS/L29916AN/ATS#89587

<p align="center">FILED December 12th, 2023 State of Maine Board of Environmental Protection</p>
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Natural Resources Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCES PROTECTION ACT, 38 M.R.S. §§ 480-A ET SEQ., UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. Time frame for approvals. If construction or operation of the activity is not begun within four years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- F. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- G. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: August 2021

Contact: (207) 314-1458

SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner.

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)) or a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)) or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A person filing an appeal with the Board should review Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#); and the DEP's [Rule Concerning the Processing of Applications and Other Administrative Matters \(Chapter 2\)](#), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Not more than 30 days following the filing of a license decision by the Commissioner with the Board, an aggrieved person may appeal to the Board for review of the Commissioner's decision. The filing of an appeal with the Board, in care of the Board Clerk, is complete when the Board receives the submission by the close of business on the due date (5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board, as determined by the received time stamp on the document or electronic mail). Appeals filed after 5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board will be dismissed as untimely, absent a showing of good cause.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or electronic mail and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
ruth.a.burke@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee; and if a hearing was held on the application, (3) any intervenors in that hearing proceeding. **Please contact the DEP at 207-287-7688 with questions or for contact information regarding a specific licensing decision.**

REQUIRED APPEAL CONTENTS

A complete appeal must contain the following information at the time the appeal is submitted.

1. *Aggrieved status.* The appeal must explain how the appellant has standing to bring the appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions of law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing criteria that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license to changes in specific license conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for hearing must be filed as part of the notice of appeal, and it must include an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any witnesses would testify. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed supplemental evidence must be submitted with the appeal. The Board may allow new or additional evidence to be considered in an appeal only under limited circumstances. The proposed supplemental evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Requirements for supplemental evidence are set forth in [Chapter 2 § 24](#).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see [38 M.R.S. § 346\(1\)](#); 06-096 C.M.R. ch. 2; [5 M.R.S. § 11001](#); and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 bill.hinkel@maine.gov, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

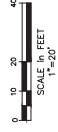
Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. The DEP provides this information sheet for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.

Ex. 2 to Settlement Agreement

SHORELINE RESTORATION
RAYMOND, ME

Project No: MANAGEMENT CONTROLS, LLC
18 FERNWOOD ROAD
RAYMOND, ME 04071

Client: STATE OF MAINE
NATHAN L. DILL, P.E. #14142
NATHAN L. DILL, P.E. #14142
400 COMMERCIAL STREET
SUITE 404
PORTLAND, ME 04101
207.772.2891

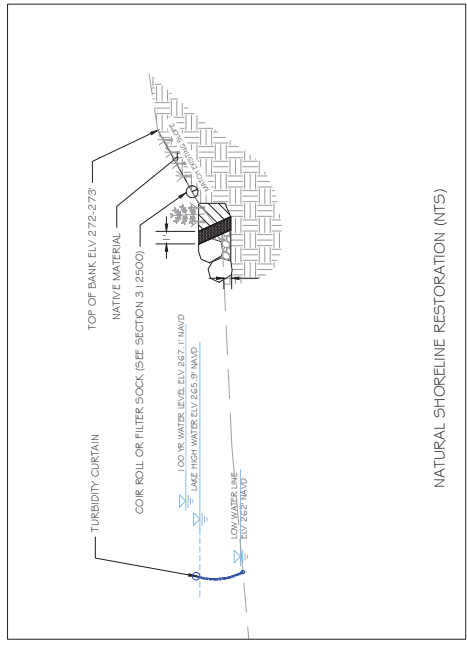
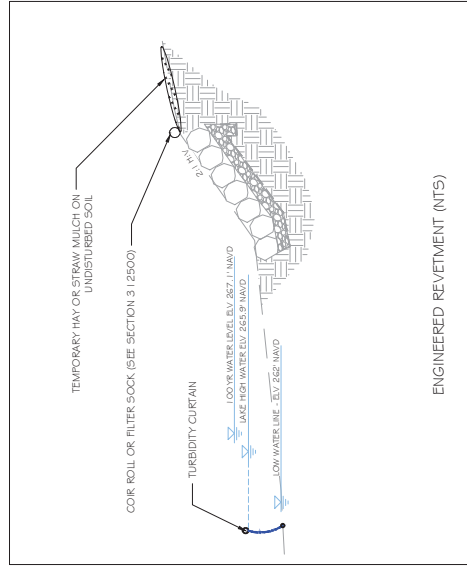
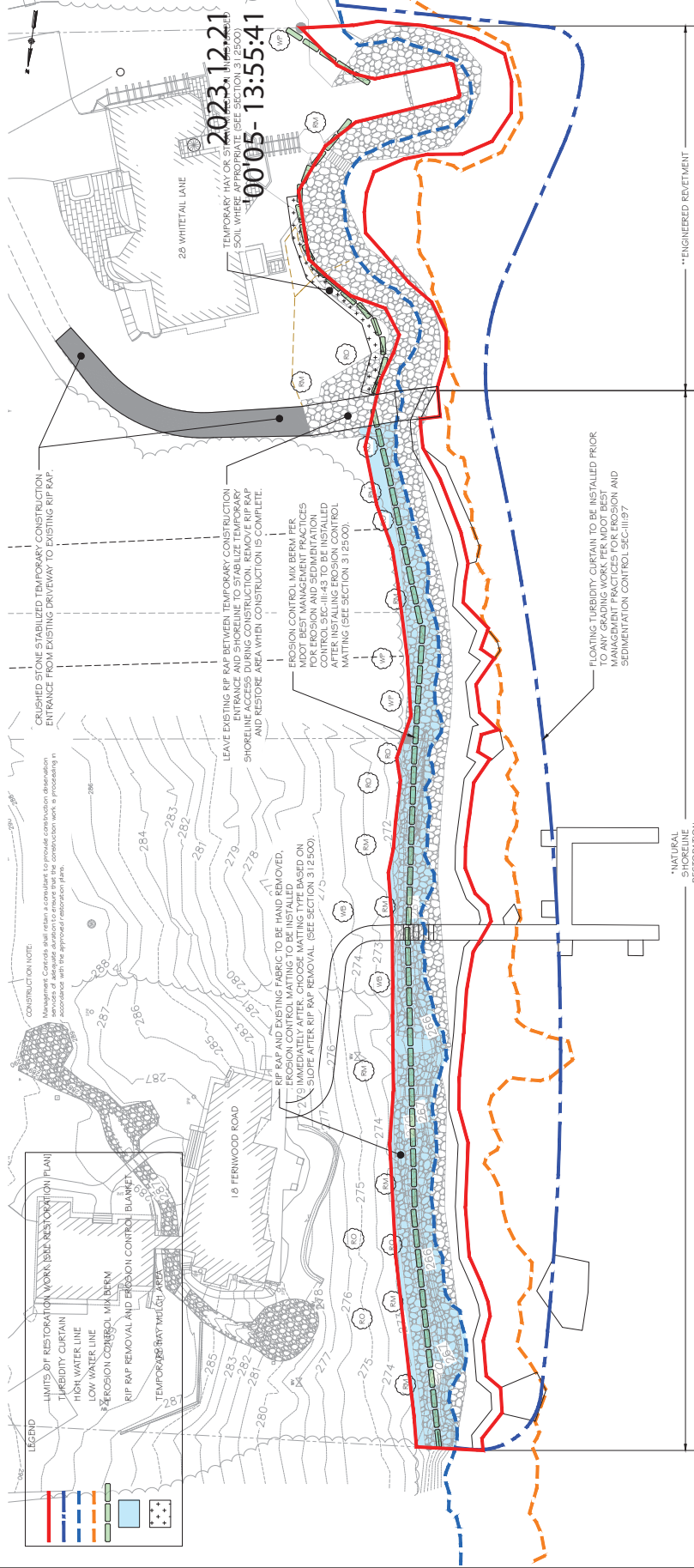


RANSOM Consulting, LLC.
600 Commercial Street, Suite 104
Raymond, ME 04071
Tel: 607.772.2898
www.ransomconsulting.com

**FIGURE 8-1
EROSION AND
SEDIMENTATION
CONTROL PLAN**

E	10-04-23	Date
D	09-20-23	Revised/Issue
C	02-09-23	Revised/Issue
B	09-21-22	Revised/Issue
A	08-08-22	Revised/Issue

Prepared by: [Blank]
Checked by: [Blank]
Drawn by: [Blank]
Project: 222.05020
Scale: OCT. 2023
Sheet No: 1/2



EROSION AND SEDIMENTATION CONTROL NOTES

Reference: Project Specifications Section 31.500 - Erosion and Sedimentation Controls.

Inspection Requirements

Contractor shall inspect all erosion and sedimentation control measures on a weekly basis and within 48 hours after rain-fall events and shall keep a log of these inspections. Any issues identified during these inspections shall be reported to the Town of Raymond Civil Engineering Office (CEO) within 24 hours of each inspection. Any changes to the erosion control plan during construction shall be documented and submitted to the town CEO with weekly inspection reports.

Erosion Control Measures and Site Stabilization

The primary emphasis of the erosion & sediment control plan is as follows:

- Rapid vegetation of exposed areas to minimize the period of soil exposure.
- Rapid stabilization of drainage paths to avoid channel erosion.
- The use of on-site measures to capture sediment (erosion control berm, silted hay bales etc.)

The following temporary and permanent erosion and sediment control devices will be described as part of the site development. These devices shall be installed as indicated on the plan as approved by the Town of Raymond Civil Engineering Office (CEO) and approved by the Town of Raymond for Designers and Engineers (most recent revision).

Temporary Erosion Control Measures

The following measures are planned as temporary erosion & sedimentation control measures during construction. These measures shall be removed within 30 days after permanent erosion control measures are installed.

1. Check sheet shall be maintained for all erosion control measures. See figure 8-1 for appropriate location. Leave existing rip rap between temporary construction entrance and shoreline in place to stabilize shoreline during construction. Remove rip rap and restore access way to natural shoreline when construction is complete.
2. Silt fences or silt socks or silt socks systems shall be installed downstream of any disturbed areas to trap silt before sediment and the silt area is vegetated. The erosion control berms shall be installed per the details provided and inspected regularly, including before and after a storm event (0.5 inches or greater). Repair shall be made if signs of undermining at the center or the edges or impending of large volumes of water behind fence or berm, the barrier shall be replaced with a stone check dam.
3. Stone, hay mulch and hydroseeding is intended to provide cover for bare or eroded areas until vegetation is established and should be applied within 7 days at a rate of 115 pounds per 1000 square feet. Hydroseeding shall be applied to slopes of 3:1 or steeper than 1:2 percent shall be mulched by applying straw. Mulch placed on slopes of equal to 15 percent shall be mulched by applying straw. Mulch placed on slopes of equal to 15 percent shall be mulched by applying straw. Slopes steeper than 3:1 shall have an erosion control blanket or rip rap.
4. Use established conservation seed rate of 100% annual ryegrass or field brome grass. Seeding application rate shall be 40 lb/acre.
5. Temporary silt socks, silt traps, gabrioles, or common excavation will be provided off the site and onto the surrounding roadway.
6. All disturbed areas that are within 75 feet of an undisturbed wetland shall receive mulch or erosion control mesh fabric, within 48 hours of initial disturbance of soil. All areas within 75 feet of an undisturbed wetland shall be mulched prior to any predicted rain event (within 48 hours of the 48-hour window). In other areas, the time period may be extended to 7 days.
7. Stone and local rock shall be used to control mud and silt or necessary. Additional stone shall be added to the stabilized construction entrance to minimize the tracking of material off the site and onto the surrounding roadway.
8. Storm drain catch basin inlet protection shall be provided through the use of stone sediment barriers or approved sediment bags (such as Silt Sock). Installation details are provided in the specifications. Sediment shall be removed and the barrier reset to its original dimensions when the sediment has accumulated to half the design depth of the barrier. The barrier shall be removed when the storm drain inlet has been established.
9. Water and/or calcium chloride shall be furnished and applied in accordance with MHDOT (Massachusetts Department of Transportation) Water and/or Calcium Chloride shall be used (100 lbs per 1000 sq ft of the site).
10. Lumber and steel is intended to be used as the primary permanent vegetative measure for all bare areas not provided with other erosion control measures, such as rip rap.
11. Water from construction trench, dewatering or temporary storm diversion shall pass first through a filter bag or secondary containment structure (e.g. hay bale lined pool) prior to discharge. The discharge site shall be selected to avoid flooding, icing, and sediment accumulation. The discharge area shall be protected with a filter bag or containment structure be least within 75 feet of a protected natural resource.

Permanent Erosion Control Measures

The following permanent erosion control measures have been designed as part of the Erosion/Sedimentation Control Plan:

1. All areas disturbed during construction, but not subject to other restoration (grading, riprap, etc.) will be seeded, limed, fertilized, mulched, and staked.

2. Please refer to the Turf and Grasses specification (Section 320200) for seed mix and application rate.

Implementation Schedule

The following construction sequence shall be required to insure the effectiveness of the erosion and sedimentation control measures are optimized:

Note: For all grading activities, the contractor shall exercise extreme caution not to overexpose the site by leaving the disturbed area. The construction of BMPs should either be performed after the primary construction activities are completed. Erosion control measures need to be implemented to protect the BMPs from being clogged with construction sediment.

1. Install eroded zone to stabilized construction entrances.
2. Install perimeter erosion control berm as shown on Figure 8-1
3. Install turbidity curtain as shown on Figure 8-1.
4. Commence & complete restoration and construction work.
5. Restore disturbed areas.
6. One the site is stabilized and a 90% catch of vegetation has been established, remove all temporary sediment control measures.
7. Touch up berm, seed, and replace any plants that did not survive.

Note: All bare areas not subject to final paving, riprap, or gravel shall be vegetated. Prior to construction of the project, the contractor shall submit to the owner a schedule for the completion of the work, which will satisfy the above construction sequence in the specified order. The schedule shall be submitted to the owner for review and approval. The schedule shall also be scheduled or phased to reduce the extent of the exposed area as specified below. The intent of this sequence is to provide for erosion control and have structural measures such as erosion control berm and construction entrances in place before large areas of land are stripped.

The work shall be conducted in sections which shall:

1. Limit the amount of exposed area to those areas in which work is expected to be undertaken during the preceding 30 days.
2. Vegetate the disturbed areas as quickly as possible. All areas shall be permanently stabilized within seven days of final grading or before a storm event or a temporarily stabilized area shall be established for areas within 75 feet of an undisturbed wetland and 7 days for all other areas.
3. Erosion-prone planed, inlet and drainage systems as early as possible into the construction phase.

Winter Stabilization Plan

The winter construction period is from November 1 through April 15. If the construction site is not stabilized within seven days of final grading or before a storm event or riprap by November 15th, then the site shall be protected with snow/ice stabilization.

Winter excavation and earthwork shall be completed each day or as often as possible as controlled by the contractor. Exposed areas shall be limited to those areas in which work is expected to occur and complete in the next fifteen (15) days and that can be mulched within one day prior to snow/ice cover.

All areas shall be considered to be bare until the surface gravel is installed within pavement/building footprint and prevent the proper installation of hay bales and sediment fill fences.

The contractor shall install any added measures, which may be necessary to control erosion/sedimentation from the site dependent upon the actual site and weather conditions. Continuation of earthwork operations on additional areas shall not begin until the exposed soil surface being worked has been stabilized, in order to minimize areas without erosion control protection.

1. Sediment Barriers

During freeze conditions, sediment barriers shall consist of wood/stone that forms a fence and prevent the proper installation of hay bales and sediment fill fences.

2. Mulching

An area shall be considered bare until area of future form and seed have been banded, seeded and mulched. Hay and straw mulch shall be applied at a rate of 150 lb. per 1000 square feet. Mulch shall be applied to all areas within 75 feet of an undisturbed wetland and 75 feet of all other areas. The straw shall be removed down to a one-inch depth or less prior to application. The mulch shall be applied to all areas within 75 feet of an undisturbed wetland and 75 feet of all other areas or erosion control matting. An area shall be considered to have been stabilized when exposed surfaces have been either mulched with straw or hay at a rate of 150 lb. per 1,000 square feet (15 tons/acre) and adequately anchored that ground surface is not visible through the mulch.

Between the dates of November 1 and April 15th, all mulch shall be anchored by peg lines, through the mulch then cover is sufficient. After November 1st, mulch and anchoring of all bare soil shall occur at the end of each final grading workday.

3. Mulching on Slopes and Ditches

Slopes shall not be left exposed for any extended time of work suspension unless fully mulched and anchored with peg and settings or with erosion control blankets. Mulching shall be applied at a rate of 200 lbs/1,000 sq ft on all slopes greater than 8%. Mulch setting shall be used to anchor mulch in all drainage ways with a slope greater than 3% for slopes exposed to direct winds and for all other slopes greater than 8%. Erosion control blankets shall be used to stabilize erosion control blankets on all slopes except ditch beds.

4. Dewatering

Between the dates of October 15th and April 15th, boom or seal will not be required. During construction, dewatering shall be required for all areas where water is present. All areas shall be protected with mulch or temporarily seeded and mulched until such time as the final treatment can be applied. If this date is after November 1st and if the exposed area has been treated with mulch or temporarily seeded and mulched, the contractor shall install a minimum of three times higher than specified for permanent seed and then mulched. Dormant seeding may be selected to be placed prior to the placement of mulch and fabric netting. The contractor shall be responsible for the maintenance of the dewatering system. The contractor shall use a minimum of 4" of boom and need an application area of 2,000 SF. All areas needed during the winter shall be inspected in the spring for adequate catch. All areas must be fully vegetated (less than 30% catch) shall be revegetated by replacing boom, seed and mulch. If dewatering is required, water that has filtered through areas shall be revegetated in the spring.

5. Dewatering

Water from construction trench dewatering shall pass first through a filter bag or secondary containment structure (e.g. hay bale lined pool) prior to discharge. The discharge site shall be selected to avoid flooding, icing, and sediment accumulation.

6. Inspection and Monitoring

Maintenance measures shall be applied as needed during the entire construction season. After each rainfall, snow storm or period of thawing and runoff, the site contractor shall inspect the site for erosion and sedimentation. The contractor shall be responsible for the maintenance and mulching. The contractor shall in the spring inspect and repair any damage and/or erosion. The contractor shall be responsible for the maintenance of the dewatering system. The contractor shall use a minimum of 4" of boom and need an application area of 2,000 SF. All areas needed during the winter shall be inspected in the spring for adequate catch. All areas must be fully vegetated (less than 30% catch) shall be revegetated by replacing boom, seed and mulch. If dewatering is required, water that has filtered through areas shall be revegetated in the spring.

Standards for Timely Stabilization of Construction Sites During Winter

1. Standard for the timely stabilization of disturbed soils

By September 15th the applicant shall seed and mulch all disturbed soils on areas having a slope less than 15%. If the applicant fails to stabilize these soils by this date, then the applicant shall take one of the following actions to stabilize the soil for late fall and winter:

Stabilize the soil with temporary vegetation—By October 15th the applicant shall seed the disturbed soil with hay or straw at 75 pounds per 1000 square feet and anchor the mulch with plastic netting. The applicant shall monitor growth of the ryegrass over the next 30 days. If the ryegrass fails to grow at least three inches or cover at least 75% of the disturbed soil before November 15th, then the applicant shall mulch the area for over winter protection as described below.

Stabilize the soil with mulch—By November 15th the applicant shall mulch the disturbed soil by spreading hay or straw at a rate of at least 150 pounds per 1000 square feet on the area so to be stabilized. The mulch shall be applied to all areas within 75 feet of an undisturbed wetland and 75 feet of all other areas. The straw shall be removed down to a one-inch depth or less prior to application. The mulch shall be applied to all areas within 75 feet of an undisturbed wetland and 75 feet of all other areas or erosion control matting. An area shall be considered to have been stabilized when exposed surfaces have been either mulched with straw or hay at a rate of 150 lb. per 1,000 square feet (15 tons/acre) and adequately anchored that ground surface is not visible through the mulch.

All areas shall be considered to be bare until the surface gravel is installed within pavement/building footprint and prevent the proper installation of hay bales and sediment fill fences. The contractor shall install any added measures, which may be necessary to control erosion/sedimentation from the site dependent upon the actual site and weather conditions. Continuation of earthwork operations on additional areas shall not begin until the exposed soil surface being worked has been stabilized, in order to minimize areas without erosion control protection.

SHORELINE RESTORATION RAYMOND, ME	
Project No:	MANAGEMENT CONTROLS, LLC 18 FERNWOOD ROAD RAYMOND, ME 04071
City Register:	 NATHAN L. DILL, P.E. #14142 LICENSED PROFESSIONAL ENGINEER 400 COMMERCIAL STREET SUITE 404 PORTLAND, ME 04101 207.772.2891
RANSOM Consulting, LLC. 400 Commercial Street, Suite 103 Portland, ME 04101 Tel: 607.772.2898 www.ransomct.com	
EROSION AND SEDIMENTATION CONTROL NOTES	
D	10-04-23
E	09-20-23
C	02-09-23
B	NRPA PERMITTING 09-21-22
A	SITE PLAN FOR APPROVAL 08-08-22
No.	Revision/Issue
Design by	Drawn by
Checked by	Reviewed by
RDK	MS
Project:	222.05920
Date:	OCT. 2023
Sheet No.:	2/2
of	2

2023.12.21
12:31:23
'0005-

Ex. 3 to Settlement Agreement

CONSENT AGREEMENT

THIS AGREEMENT is entered into this __ day of April, 2024, by, between, and among Q-TEAM INC., D/B/A Q-TEAM TREE SERVICE, a Maine corporation with a mailing address of P.O. Box 4096, Naples, Maine, 04055 (hereinafter “Q-Team”), and the INHABITANTS OF THE TOWN OF RAYMOND, a municipal corporation located in the County of Cumberland, State of Maine (hereinafter the “Town”).

WHEREAS, the Town is a municipal corporation organized under the laws of the State of Maine;

WHEREAS, Susan L. Look is the duly-appointed Town Manager authorized under law to act on behalf of the Town;

WHEREAS, Management Controls, LLC is the owner of certain real property located at 18 Fernwood Road, Raymond, Maine, described in the deed recorded in the Cumberland County Registry of Deeds in Book 35622, Page 143, and currently shown on Assessor’s Tax Map 1 as Lot 22 (hereafter “18 Fernwood”);

WHEREAS, Aaron Gosselin is an authorized person for Q-Team;

WHEREAS, Q-Team provides tree services, was engaged to provide tree services to 18 Fernwood, and did provide tree services to 18 Fernwood circa late September and early October 2021;

WHEREAS, Q-Team did not submit any application for any Town permit(s) for any tree removal relating to 18 Fernwood;

WHEREAS, on October 26, 2021 the Town conducted an inspection at 18 Fernwood and observed numerous violations of the Town’s Shoreland Zoning Ordinance (the “SZO”), including, among other things, removal of trees within 100 feet of the NHWL, creating an illegal

opening in the canopy in excess of 250 square feet, in violation of the SZO, and removal of vegetation from what would have been three (3) 25 foot by 50 foot grids, where the grids do not contain enough points, for purposes of the SZO, to support selective removal of otherwise healthy trees, in violation of the SZO.

WHEREAS, as a result of the SZO violations the Town issued a notice of violation to Q-Team on January 25, 2022;

WHEREAS, Q-Team submitted an administrative appeal of the notice of violation relating to 18 Fernwood to the Raymond Zoning Board of Appeals (the “ZBA”);

WHEREAS, the ZBA held *de novo* hearings relating to the notice of violation the Town issued regarding 18 Fernwood and issued a written decision on Q-Team’s administrative appeal;

WHEREAS, Q-Team initiated a Rule 80B action in the Cumberland County Superior Court against the Town seeking review of the ZBA’s written decision, while also asserting additional claims, under Docket No. AP-22-43;

WHEREAS, the Town filed enforcement claims against Q-Team, as authorized by 30-A M.R.S. § 4452, and seeking assessment of civil penalties against Q-Team and seeking to recover the Town’s attorneys’ fees, costs, and expenses of litigation from Q-Team;

WHEREAS, the Parties wish to settle, resolve, and discharge all claims that they may have against one another;

NOW THEREFORE, the Town and Q-Team agree, so as to fully resolve any and all violations that the Town has issued or could issue concerning 18 Fernwood to Q-Team and the allegations related thereto, as follows:

1. Upon execution of this Agreement by the parties and following the payment of the civil penalty described in Paragraph 2, below, Q-Team and the Town shall promptly file a

Stipulation of Dismissal with Prejudice and Without Costs as to Q-Team's Rule 80B claims and the Town's enforcement claims against Q-Team, in the form attached hereto as **Exhibit A**.

2. Q-Team shall pay a civil penalty to the Town in the amount of \$10,000 by bank or cashier's check made payable to the Town of Raymond on or before April 15, 2024.

3. In the event Q-Team fails or refuses to comply with any of the terms of this Agreement, the Town will issue a Notice of Violation to Q-Team and it shall be deemed in violation of this Agreement and shall be liable to the Town for a civil penalty of \$250 per day for each day the violation(s) continue and such further relief as a court may deem appropriate, including, without limitation, injunctive relief and payment of reasonable attorney's fees and costs incurred by the Town to bring an action to enforce this Agreement.

4. Q-Team represents and warrants i) that it has read this Agreement, ii) that it has had the opportunity to confer with any attorney(s) of its choice, to the extent it deems necessary, concerning this Agreement and the terms and conditions hereof, iii) that it understands the terms, conditions, requirements, and effect of this Agreement, and iv) that it is executed voluntarily.

5. Each of the Parties represent and warrant that the person signing this Agreement on its respective behalf has authority to bind it and that the Party's execution of this Agreement is not in violation of any by-laws, covenants, and/or other restrictions placed upon it by its respective entity.

6. The Parties waive the application of any law, regulation, holding, or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

7. This Agreement may be executed by the Parties in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8. This Agreement shall be binding on Q-Team and each of its successors or assigns.

9. This Agreement is intended to, and shall, fully resolve all claims set forth herein, between the Town and Q-Team (and each of their respective officers, directors, members, managers, shareholders, agents, and representatives); provided, however, that nothing in this paragraph is intended to or shall effect a release of the Parties' respective obligations hereunder.

10. At the meeting of the Town of Raymond Board of Selectmen on April 8, 2024, the Board of Selectmen approved the resolution of the above-described land use violations and those matters described in the Notice of Violation, described above, based on the terms and conditions set forth herein and authorized the Town Manager to sign this Agreement on behalf of the Town.

Dated: April __, 2024 **Q-TEAM INC., D/B/A Q-TEAM TREE SERVICE**

By: Aaron Gosselin
Its: General Manager

Dated: April __, 2024

INHABITANTS OF THE TOWN OF RAYMOND

By: Susan L. Look
Its: Town Manager, duly authorized

Exhibit A to Consent Agreement

STATE OF MAINE
CUMBERLAND, SS.

SUPERIOR COURT
CIVIL ACTION
Docket No. AP-2022-37
Docket No. AP-2022-43

MANAGEMENT CONTROLS, LLC,
Plaintiff / Petitioner,

v.

TOWN OF RAYMOND, Defendant /
Respondent / Counterclaim Plaintiff / Third-
Party Plaintiff,

v.

ROBERT DURANT, Third-Party Defendant.

**STIPULATION OF DISMISSAL
WITH PREJUDICE**

Q-TEAM, INC. d/b/a Q-TEAM TREE
SERVICE, Plaintiff / Petitioner /
Counterclaim Defendant,

v.

TOWN OF RAYMOND, Defendant /
Respondent / Counterclaim Plaintiff.

COMES NOW, Management Controls, LLC; Q-Team, Inc., d/b/a Q-Team Tree Service (“Q-Team”); Robert Durant; Durant Excavating, LLC; Big Lake Marine, LLC; and the Town of Raymond, by and through counsel, pursuant to M.R. Civ. P. 41(a)(1)(ii), and hereby stipulate to the following: the dismissal of the Complaint for Review of Governmental Action Pursuant to M. R. Civ. P. 80B Joined with Independent Claims, filed by Q-Team, in Civil Action Docket No. AP-2022-43; and the dismissal of all enforcement counterclaims asserted against Q-Team by the Town of Raymond in Defendant/Respondent’s Counterclaims for Enforcement with Third-Party Complaint Against Robert Durant, filed by the Town in Civil Action Docket No. AP-2022-37. These dismissals are with prejudice and without costs.

Dated: April __, 2024

Dated: April __, 2024

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Leah B. Rachin, Bar No. 9363
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Bergen & Parkinson
62 Portland Road, #25
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(207)985-7000
*Attorneys for Robert Durant, Durant
Excavating, LLC, and Big Lake Marine, LLC*

Dated: April __, 2024

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Attorneys for Town of Raymond

Ex. 4 to Settlement Agreement

MANAGEMENT CONTROLS, LLC,
Plaintiff / Petitioner,

v.

TOWN OF RAYMOND, Defendant /
Respondent / Counterclaim Plaintiff / Third-
Party Plaintiff,

v.

ROBERT DURANT, Third-Party Defendant.

Docket No. AP-2022-37

DURANT EXCAVATING, LLC, Plaintiff /
Petitioner / Counterclaim Defendant,

v.

TOWN OF RAYMOND, Defendant /
Respondent / Counterclaim Plaintiff.

Docket No. AP-2022-44

DURANT EXCAVATING, LLC, Plaintiff /
Petitioner / Counterclaim Defendant,

v.

TOWN OF RAYMOND, Defendant /
Respondent / Counterclaim Plaintiff.

Docket No. AP-2022-45

BIG LAKE MARINE, LLC, Plaintiff /
Petitioner / Counterclaim Defendant,

v.

TOWN OF RAYMOND, Defendant /
Respondent / Counterclaim Plaintiff.

Docket No. AP-2022-49

MANAGEMENT CONTROLS, LLC,
Plaintiff / Petitioner / Counterclaim
Defendant,

v.

TOWN OF RAYMOND, Defendant /
Respondent / Counterclaim Plaintiff.

Docket No. AP-2022-55

CONSENT JUDGMENT

WHEREAS Management Controls, LLC (“Management Controls”), Durant Excavating, LLC (“Durant Excavating”), Big Lake Marine, LLC (“Big Lake Marine”), Robert Durant (“Durant”), and the Town of Raymond (the “Town”) (collectively, the “Parties”) have agreed to resolve their differences concerning the properties located at i) 28 Whitetail Lane, Raymond, Maine, and more particularly described in the deed recorded in the Cumberland County Registry of Deeds in Book 38666, Page 124 and currently shown on Assessor’s Tax Map 1 as Lot 20 (“28 Whitetail”) and ii) 18 Fernwood Road, Raymond, Maine and more particularly described in the deed recorded in the Cumberland County Registry of Deeds in Book 35622, Page 134 and currently shown on Assessor’s Tax Map 1 as Lot 22 (“18 Fernwood”),¹ owned by Management Controls and worked on by Durant Excavating, Big Lake Marine, and Durant;

WHEREAS, Management Controls, Durant Excavating, Big Lake Marine, and Durant each acknowledge that they are responsible for land use violations committed by each of them at the Properties and described in notices of violation issued to them by the Town, except as otherwise determined by the Town of Raymond’s Zoning Board of Appeals; and

¹ 28 Whitetail and 18 Fernwood shall collectively be referred to as the “Properties.”

WHEREAS, the parties have agreed to entry of this Judgment in order to resolve the matters identified in the Rule 80B petitions filed by Management Controls, Durant Excavating, and Big Lake Marine, as well as the matters identified in the Town's Counterclaims for Enforcement against Management Controls, Durant Excavating and Big Lake Marine with Third-Party Complaint against Robert Durant, all filed in the above-referenced docket numbers.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. **Restoration Plan.** Management Controls, Durant Excavating, Big Lake Marine, and Durant (the "Restoration Parties") are jointly and severally responsible for completing the restoration of the Properties (the "Restoration"), as described and authorized in Permit No. L-29916-4D-A-N, issued by the Maine Department of Environmental Protection on or about December 11, 2023 (the "Permit"), including the restoration plan approved by the Permit and depicted on a set of plans titled "Figure 5-2 Proposed Restoration Plan" and "Figure 8-1 Erosion and Sedimentation Plan" (the "Restoration Plan"). True and correct copies of the Permit and the Restoration Plan are attached hereto as **Exhibit 1** and **Exhibit 2**.

A. The Town is deemed to have authorized the Restoration Parties to complete the work described in the Permit and Restoration Plan, and is deemed to have awarded any necessary permits that it is authorized to issue to the Restoration Parties to do the same.

B. The Restoration shall be completed by October 31, 2025, except as extended as provided for in Paragraph 1(C)(iii), below (the "Completion Date").

C. The Restoration shall begin when Durant is notified by Ransom Consulting that it is appropriate for work to begin. In the event that Durant does not

begin work on the Restoration within fourteen (14) days of receiving notice from Ransom Consulting, the following shall apply:

i. Management Controls will promptly notify the Town of Durant's failure to perform and the steps it is taking to identify an alternative contractor;

ii. As soon as reasonably practicable thereafter, Management Controls shall notify the Town of the alternative contractor it has retained to complete the Restoration, provide the Town with a copy of its contract with the alternative contractor, and provide the Town with documentation evidencing that it has paid a reasonable deposit to said alternative contractor to secure performance;

iii. Management Controls will use best efforts to retain an alternative contractor that will be able to complete the Restoration by October 31, 2025;

iv. In the event it is not reasonably practicable for the alternative contractor to complete the Restoration by October 31, 2025, and so long as Management Controls has taken the steps described in Paragraph 1(C), Management Controls shall be entitled to seek the Town's consent to extend the Completion Date until October 31, 2026, which consent the Town shall not unreasonably withhold.

v. If Management Controls or the Town contends that it is aggrieved as a result of the other party's performance under Paragraph 1(C), Management Controls or the Town, as the case may be, shall be entitled to have the performance at issue reviewed by the Hon. (Ret.) Ellen Gorman who shall

determine whether such performance was in compliance with Paragraph 1(C) or not.

D. Management Controls and the Town shall jointly engage a third-party engineering firm (the “Engineering Firm”) to conduct periodic inspections of the Properties while the Restoration Parties are completing the Restoration.

i. Management Controls shall pay up to \$5,000 of the costs to engage the Engineering Firm.

ii. While the Restoration is being completed, the Engineering Firm shall conduct period inspections to determine whether the work is proceeding in conformity with the terms of the Permit.

iii. At the earlier of the purported completion of the Restoration or the Completion Date, the Engineering Firm shall determine whether the Restoration has been completed by the Completion Date and it shall determine whether the Restoration was completed in conformity with the terms of the Permit. The Engineering Firm shall provide written notice of its determinations to the Restoration Parties and to the Town.

iv. If the Engineering Firm determines that the work is not proceeding in conformity the terms of the Permit, that the Restoration has not been completed by the Completion Date, and/or that the Restoration was not completed in conformity with the Permit, the following shall apply:

a) The Engineering Firm shall provide written notice of its determinations to the Restoration Parties and to the Town.

- b) The Restoration Parties, or any of them, shall have twenty-one (21) days to cure any deficiencies identified by the Engineering Firm in its determinations, unless the Engineering Firm determines that more time to cure is reasonable and necessary (the “Cure Deadline”).
- c) If the Restoration Parties, or any of them, have not cured any deficiencies identified by the Engineering Firm in its determinations by the Cure Deadline, the following shall apply:
 - i. the Town shall be entitled to seek and obtain injunctive relief from this Court compelling performance under this Consent Judgment;
 - ii. the Town shall be entitled to have the Court assess penalties in the amount of up to \$2,500 per day for each day deficiencies in the performance under this Consent Judgment exist;
 - iii. the Town shall be entitled to recover any attorney fees, expert witness fees, and costs it incurs seeking the relief identified in Paragraph 1(D)(iv)(c); and
 - iv. Before the Town seeks Court intervention, as described in this Paragraph 1(D)(iv)(c), the Town must provide advance notice to the Plaintiffs of not less than twenty-one (21) days, during which time

any deficiencies identified the Engineering Firm's determinations may be cured.

- E. The Restoration Parties must promptly provide notice to the Town
 - i. when work begins on the Restoration;
 - ii. when work begins in the area described as "Approximate Area for Potential Presence of Unsuitable Soils" on Figure 5-2, which is part of Exhibit 2, hereto; and
 - iii. of any notice, report, plan, or any other communication they are required to provide to the DEP under the terms of the Permit.

2. **Payment to Town for civil penalties and enforcement costs.** The Restoration Parties are jointly and severally responsible for paying the Town the total amount of \$640,000 (the "Payment"), for civil penalties and to reimburse the Town for the attorney fees, expert witness fees, and costs it has incurred in connection with the enforcement actions it has taken against the Restoration Parties, as permitted by 30-A M.R.S. § 4452 (the "Payment").

A. At least \$540,000 of the Payment will be made to the Town on or before June 15, 2024; and

B. The balance of the Payment will be made to the Town on or before October 31, 2024.

3. **Anticipatory Repudiation of any Obligation Contained in this Consent Judgment.** Notwithstanding Paragraph 1(D)(iv), above, in the event of an anticipatory repudiation of the obligation to complete the Restoration or of any other obligation contained in this Consent Judgment, each party reserves the right to demand adequate assurance of performance and in the failure of receiving such, such party may proceed to seek the relief

outlined in Paragraph 1(D)(iv) and/or as otherwise provided by applicable law.

4. **Dismissal of Complaints filed by Management Controls and the Durant Parties.** The Complaints filed by Management Controls and the Durant Parties in the above-captioned matters are dismissed with prejudice and without costs.

5. **Additional Relief:**

A. Management Controls shall not permit any new or further encumbrances against the Properties, without the Town's consent. Management Controls acknowledges that its failure to comply with this requirement shall be considered a material default of its obligations hereunder. For the avoidance of doubt, nothing contained herein shall preclude Management Controls from drawing on any now-existing line of credit secured by either or both of the Properties up to the existing face amount of such mortgages as of March 13, 2024.

B. The Town shall not seek to obtain an execution lien against any real property owned by Management Controls, so long as there is no material default in the obligations owed under this Consent Judgment by the Restoration Parties.

C. The Town shall not seek to obtain an execution lien against any real estate owned by Durant, so long as there is no material default in the obligations owed under this Consent Judgment by the Restoration Parties.

D. The Parties shall be bound by the duty of good faith and fair dealing in connection with their obligations described herein.

E. The Parties shall cooperate and execute any documents needed to effectuate this Consent Judgment.

6. **Notice.** Whenever notice is required to be provided as part of this Consent

Judgment, such notice shall be in writing and delivered by electronic mail, courier, or by registered or certified mail (return receipt requested) to the following addresses:

A. If to Management Controls: Management Controls, LLC
Attn: Donald Buteau
P.O. Box 2058
Auburn, ME 04211

With a copy to: Jeffrey Piampiano, Esq.,
jpiampiano@dwmlaw.com
Drummond Woodsum
84 Marginal Way, Ste. 600
Portland, ME 04101-2480

B. If to Durant, Durant Excavating, or Big Lake Marine:

Robert Durant
29 Beaver Pond Road
Casco, ME 04015

With a copy to: Gregory P. Braun, Esq.
gbraun@bergenparkinson.com
Bergen & Parkinson, LLC
62 Portland Road, Ste. 25
Kennebunk, ME 04043

C. If to the Town: Town of Raymond
Attn: Code Enforcement Officer
401 Webbs Mills Road
Raymond, ME 04071

With a copy to: Eric J. Wycoff, Esq.
ewycoff@pierceatwood.com
Pierce Atwood LLP
254 Commercial Street
Portland, ME 04101

7. Except as provided for herein, all claims in the above-referenced docket numbers are dismissed with prejudice and without costs.

8. This Court shall retain jurisdiction over this matter in the event any intervention is required in connection herewith.

9. All parties waive any rights to appeal from entry of this Judgment.

10. The Clerk is directed to enter this Judgment on all above-referenced docket numbers by reference pursuant to M. R. Civ. P. 79(a).

Dated: _____

Justice, Maine Superior Court

Exhibit 1 to Consent Judgment



DEPARTMENT ORDER

IN THE MATTER OF

MANAGEMENT CONTROLS, LLC) NATURAL RESOURCES PROTECTION ACT
Raymond, Cumberland County) GREAT POND ALTERATION
REPAIR SHORELINE STABILIZATION) WATER QUALITY CERTIFICATION
L-29916-4D-A-N (after-the-fact approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S. §§ 480-A–480-JJ, Section 401 of the Clean Water Act (33 U.S.C. § 1341), and Chapters 310 and 315 of the Department’s rules, the Department of Environmental Protection (Department) has considered the application of MANAGEMENT CONTROLS, LLC (applicant) with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: On August 10, 2021, the Department accepted a Natural Resources Protection Act (NRPA) Permit-By-Rule (PBR #72924), pursuant to Section 8 of the Chapter 305 Permit by Rule Standards for the installation of riprap to stabilize the applicant’s existing shoreline at 18 Fernwood Road, which lies along the shoreline of Sebago Lake in the Town of Raymond. On October 26, 2021, Department staff met on the project site with the Code Enforcement Officer of the Town of Raymond and other officials and determined that the approved activity had not been completed according to the relevant PBR standards. On November 17, 2021, the Department issued a Notice of Violation (NOV #2021-082-L) to Management Controls, LLC, for the activity. Specifically, in the NOV, the Department requested the submittal of a restoration plan to remove all unapproved structures and fill within and adjacent to the great pond in addition to re-establishing a vegetated buffer adjacent to the great pond. As part of the requested corrective actions, the Department required the submittal of permit applications for any activities subject to review under the NRPA.

B. Summary: The 2021 riprap activity described above was installed improperly and portions of it are now failing. The applicant is seeking after-the-fact approval under the NRPA for the placement of approximately 400 linear feet of riprap and soil disturbance within 75 feet of the normal high-water line of Sebago Lake at both 18 Fernwood Road and 28 Whitetail Lane, which is adjacent to 18 Fernwood Road and is also owned by the applicant. The applicant is also seeking approval for the implementation of a restoration plan on the remainder of 18 Fernwood Road and 28 Whitetail Lane properties. The restoration plan consists of the removal and replacement of significant portions of the 2021 riprap; the planting of native shrubs, trees, and other vegetation; the construction of a new six-foot-wide access way and four-foot-wide set of stairs leading to the resource; the installation of a removeable bollard; and the removal of an existing concrete hot tub pad placed adjacent to the resource. The applicant also proposes to reconstruct a 300-

foot-long engineered revetment along the shorefront of 28 Whitetail Lane, which is currently failing. The proposed project is shown on a set of plans titled “Figure 5-2 Proposed Restoration Plan” and “Figure 8-1 Erosion and Sedimentation Control Plan” prepared by Ransom Consulting, LLC, and dated September 21, 2022, with a latest revision date of October 5, 2023.

C. Current Use of the Site: The project site is located across two adjacent shorefront properties on Sebago Lake. Both properties are developed with single-family residences. The approximate nine-acre parcel (18 Fernwood Rd) is identified as Lot #22 on Map #1 of the Raymond tax maps. The approximate three-acre parcel (28 Whitetail Lane) is identified as Lot #20 on Map #1 on the Raymond tax maps.

D. Public Interest: During its review of the application, the Department received several letters from the Town of Raymond raising concerns about the proposed project, including a boat ramp that was proposed in the original application, compensation requirements, alternatives analysis, and design specifications for the proposed project. The Department’s analysis of the applicability of its rules concerning compensation and alternatives analysis is provided in Finding 6 of this Order.

During the review of the application, the applicant committed to remove the proposed boat ramp and existing concrete hot tub pad and agreed to weekly inspection reports as requested by the Town.

2. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

The NRPA, in 38 M.R.S. § 480-D(1), requires an applicant to demonstrate that the proposed project will not unreasonably interfere with existing scenic, aesthetic, recreational and navigational uses.

In accordance with Chapter 315, *Assessing and Mitigating Impacts to Scenic and Aesthetic Uses*, the applicant submitted a copy of the Department’s Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed restoration work. The applicant also submitted several photographs of the proposed project site and surroundings. Department staff visited the project site on October 26, 2021, and August 2, 2022.

The proposed project is located on Sebago Lake, which is a scenic resource as defined by Chapter 315 § 5(H), as it is a great pond visited by the public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. Nearby properties are a mix of residential uses with limited views of the resource, through vegetation, and undeveloped properties. The natural character of the shoreline along these properties consists of cobbles and boulders. The proposed project is visible from the resource. The applicant has redesigned the 2021 riprap to be more compatible with the character of surrounding natural shorefronts on Sebago Lake. The applicant proposes to remove 4,280 square feet of riprap that was installed in 2021 and to install native trees and shrubs that, once fully grown, will approximate the vegetation that

existed prior to the 2021 violation. These measures will minimize the visibility of the project from the scenic resource.

Department staff utilized the Department's Visual Impact Assessment Matrix (Matrix) in its evaluation of the proposed project and the Matrix showed a severe impact for the project as it exists today. In its evaluation of the currently proposed restoration project, the Matrix showed an acceptable visual impact rating for the proposed project once completed. The proposed restoration measures and plantings will restore the shoreline to a vegetated condition. To ensure the success of the proposed restoration project, the applicant must monitor the plantings and the plantings must be maintained or replaced as necessary to achieve 85-90% survival after five full growing seasons. The applicant must submit an as-built planting plan to the Department the year the plantings are installed. The applicant must also submit a narrative, photographs, and an amended planting plan, documenting survivorship of the plantings and any corrective actions taken, after each of the five growing seasons following the planting. All required plans must be submitted no later than December 31 of the year the plan is required. Based on the information submitted in the application, the visual impact rating and the site visits, the Department determined that the location and scale of the proposed activity will be compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area, provided that the applicant takes appropriate steps to ensure the plantings survive, as described above. Therefore, the Department finds that the proposed restoration project will be reasonably consistent with the visual character of the natural shoreline and the scenic impact on existing uses of Sebago Lake will be minimal.

The Department determined that based on the nature of the proposed project and its location on the shore, there are no existing recreational or navigational uses of the resource that would be unreasonably impacted.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of Sebago Lake, provided that the applicant monitors and maintains the plantings as described above.

3. SOIL EROSION:

The NRPA, in 38 M.R.S. § 480-D(2), requires an applicant to demonstrate that the proposed project will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

The applicant submitted both a construction plan and an erosion and sedimentation control plan which describe specific measures that were, and will be, utilized pre-, during, and post-construction. Temporary erosion and sedimentation controls will be maintained until disturbed soils are stable; those controls will consist of a floating turbidity curtain placed below the low water line, an erosion control mix berm along the top of the slope, and hay or straw mulch covering all disturbed soils. Work will be done

in dry conditions when the water level of Sebago Lake is low. Work will be conducted both by barge via the resource and from the upland of both properties.

The applicant identified an area of potentially soft soils under the surface which is indicated on the plans along the shorefront of 18 Fernwood Road. The applicant proposes to have the design engineer on site while construction is occurring in this area. To date, this area has remained stable with no visible signs of failure.

Details of the construction, erosion control and revegetation plan are outlined on a set of plans titled “Figure 5-2 Proposed Restoration Plan,” and “Figure 8-1 Erosion and Sedimentation Control Plan” prepared by Ransom Consulting, LLC, and dated September 21, 2022, with a latest revision date of October 5, 2023. Based on its review of the plans and methods of construction, the Department finds the proposed construction methods and erosion control plan are appropriate for the soil conditions. However, to ensure compliance with this standard, the design engineer shall evaluate the area of potentially soft soils immediately following the removal of enough of the existing riprap from the area necessary to allow for proper evaluation of soil conditions. The engineer shall notify the Department of their findings, and if the Department determines that the construction methods or erosion control plan must be amended to prevent unreasonable erosion and ensure site stability, the applicant shall amend the plan and receive Department approval for the plan prior to resuming construction.

The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment provided that the design engineer evaluates the identified area of potentially soft soils immediately following the removal of enough of the existing riprap from the area necessary to allow for proper evaluation of soil conditions, notifies the Department of their findings, and, if the Department determines that the construction methods or erosion control plan must be amended to prevent unreasonable erosion and ensure site stability, receives Department approval for an amended plan prior to resuming construction.

4. HABITAT CONSIDERATIONS:

The NRPA, in 38 M.R.S. § 480-D(3), requires an applicant to demonstrate that the proposed project will not unreasonably harm significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

The project site consists of two altered adjacent residential shorelines, which are currently devoid of shrubs and trees and armored with riprap. According to photographs submitted in the application and Department staff’s observations while on site, the lake bottom consists of gravely mud with scattered cobbles and boulders. Prior to the 2021 construction, the shoreline consisted of shrubs and trees at 18 Fernwood Road and the shoreline was armored with riprap and contained few trees and shrubs at 28 Whitetail

Lane. The shoreline classification by the Maine Geological Survey in this area of Sebago Lake is classified as glacial till, which includes the presence of boulders and cobbles.

According to the Department's Geographic Information System (GIS) database, there are no mapped Essential or Significant Wildlife Habitats located on either parcel.

The Maine Department of Inland Fisheries and Wildlife (MDIFW) reviewed the proposed project and submitted comments dated July 14, 2022, and October 7, 2022. In its review, MDIFW stated that access points to the resource should be minimized and was generally not supportive of private boat ramps beyond what was historically present at the site. MDIFW commented that no boulders should be removed from the lake for the shoreline stabilization component of the project. Subsequently, the applicant revised its plans to remove the previously proposed boat ramp and a second set of access stairs. The applicant does not propose to use boulders obtained from the lake.

After consideration of the project plans, including the restoration plan, the site visits and agency review comments, the Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

5. WATER QUALITY CONSIDERATIONS:

As discussed in Finding 3, the applicant proposes to use temporary erosion and sediment control measures during construction to minimize impacts to water quality from siltation. Further, all work located below the high-water line will be done during dry conditions.

The Department does not anticipate that the proposed project will violate any state water quality law, including those governing the classification of the State's waters.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

In 2021, the applicant cleared vegetation and installed riprap on two shorefront parcels. Approximately 500 linear feet of shorefront across the two parcels were impacted by the applicant removing trees and vegetation and installing riprap. In this permit application, the applicant proposes to remove and replace significant portions of the previously installed riprap. The applicant also proposes to plant native shrubs, trees, and other vegetation along the shoreline, construct a new access way and set of stairs leading to the resource, install a removeable bollard to facilitate seasonal dock removal, remove an existing concrete hot tub pad, and install an engineered revetment along an existing portion of failing riprap. Overall, the currently proposed project will affect 8,480 square feet of area below the high-water line of Sebago Lake. It will restore 4,280 square feet and will impact 4,170 square feet of shoreline below the high-water line. No work will occur below the low-water line. Great Ponds are classified as wetlands of special significance pursuant to Chapter 310 § 4.

The proposed seasonal dock will not be attached to the proposed set of stone access steps; it will be pinned to ledge. Because the seasonal dock will be in place seven months or less in any calendar year, it will not meet the definition of a permanent structure under the NRPA. When in place, the dock will temporarily alter 1,020 square feet below the high-water line of Sebago Lake via shading.

The Department's Chapter 310 *Wetlands and Waterbodies Protection* rules interpret and elaborate on the NRPA criteria for obtaining a permit. The rules guide the Department in its determination of whether a project's impacts would be unreasonable. Each application for a NRPA permit that involves a great pond alteration must provide an analysis of alternatives. A proposed project would generally be found to be unreasonable if it would cause a loss in wetland area, functions and values and there is a practicable alternative to the project that would be less damaging to the environment.

A. Avoidance. The applicant submitted an alternatives analysis for the proposed project completed by Ransom Consulting, LLC, and dated September 23, 2021. The purpose of the proposed project is to stabilize an eroding shoreline and to restore (where possible) the applicant's shorefront on both parcels to conditions that existed prior to the installation of the riprap. Pursuant to Chapter 310 § 5(A), a practicable alternative less damaging to the environment is considered to exist for activities proposed in, on, or over wetlands of special significance unless the activity is among the types listed. The construction of a shoreline stabilization project is among the activities specifically listed in Chapter 310 § 5(A)(1)(h).

According to photographs submitted in the applications and Department staff's observations while on site, both properties exhibited an eroding shoreline. For this application, the applicant considered four different restoration options that would allow it to become compliant with applicable regulations, all of which are described in the application materials. The applicant selected option four as its preferred alternative because it met the project goals to stabilize the shoreline and restore the site and has the least amount of square footage of impact in and adjacent to the resource. The applicant stated that there is no other practicable alternative that stabilizes and restores the shoreline while avoiding further impacts to the resource.

B. Minimal Alteration. In support of an application and to address the analysis of the reasonableness of any impacts of a proposed project, an applicant must demonstrate that the amount of great pond to be altered will be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicant stated that it minimized the impacts to the resource by limiting the riprap to areas necessary to address shoreline erosion (approximately 4,170 square feet) and by removing a significant amount of riprap both within and adjacent to the great pond (approximately 4,280 square feet), while installing native plantings along the shorefront that will approximate pre-existing conditions when fully grown. Additionally, the applicant states that it has further minimized impacts to the resource by proposing to remove an existing concrete hot tub pad that was adjacent to the resource and limiting their access points to the water to a single set of stairs and a seasonal dock.

The Department has reviewed the applicant's alternatives analysis and finds that in order to address the eroding shoreline and restore areas where riprap was previously installed, some impacts to the resource cannot be avoided. The Department finds that the selected alternative, option four, will minimize impacts in and adjacent to the resource. The Department finds that limiting access points to the water to a single set of stairs and a seasonal dock and the removal of the hot tub pad further minimize the impacts to the resource. The Department further finds that the proposed project is a reasonable engineering solution to shoreline erosion utilizing a mixture of plantings and structural measures (toe boulders).

C. Compensation. The Department received comments from the Town of Raymond suggesting that compensation should be required for the project. In accordance with Chapter 310 § 5(C)(6)(c), neither a functional assessment nor compensation is required for a great pond alteration (single, complete project) that does not place any fill below the normal high-water line, except as necessary for shoreline stabilization projects, and has no adverse effect on aquatic habitat as determined by MDIFW or the Department. The placement of fill below the normal high-water line is necessary for this shoreline stabilization project. The goal of the project is to restore the project site to conditions that existed prior to the 2021 construction while stabilizing the eroding shoreline. Based on the project plans, multiple site visits, and the Department's review, the Department finds that the proposed project will not have an adverse effect on aquatic habitat. Based on this conclusion and on agency comments, the Department determined that neither a functional assessment nor compensation is required.

The Department finds that the applicant has avoided and minimized impacts to Sebago Lake to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

7. OTHER CONSIDERATIONS:

The Department finds, based on the design, proposed construction methods, and location, the proposed project will not inhibit the natural transfer of soil from the terrestrial to the marine environment, will not interfere with the natural flow of any surface or subsurface waters, and will not cause or increase flooding. The proposed project is not located in a coastal sand dune system, is not a crossing of an outstanding river segment, and does not involve dredge spoils disposal or the transport of dredge spoils by water.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S. §§ 480-A–480-JJ and Section 401 of the Clean Water Act (33 U.S.C. § 1341):

A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses provided that the applicant monitors and maintains planted vegetation as described in Finding 2.

- B. The proposed activity will not cause unreasonable erosion of soil or sediment provided that the design engineer evaluates the area of soft soils and consults with the Department prior to any changes to the proposed restoration plans.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S. § 480-P.

THEREFORE, the Department APPROVES the application of MANAGEMENT CONTROLS, LLC, to reconstruct a 300-foot-long riprap revetment and a set of steps, install a removeable bollard, and restore approximately 400 linear feet of shoreline, all as shown on plans in the record and as described in Finding 1, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. The applicant shall monitor the plantings and the plantings shall be maintained or replaced as necessary to achieve 85-90% survival after five full growing seasons. The applicant shall submit an as-built planting plan to the Department the year the plantings area installed. The applicant shall also submit a narrative, photographs, and an amended

planting plan, documenting survivorship of the plantings and any corrective actions taken, after each of the following five growing seasons. All required plans shall be submitted no later than December 31 of the year the plan is required.

- 5. The applicant shall hire the design engineer, who shall evaluate the area of potentially soft soils immediately following the removal of enough of the existing riprap from the area necessary to allow for proper evaluation of soil conditions. The engineer shall notify the Department of their findings, and if the Department determines that the construction methods or erosion control plan must be amended to prevent unreasonable erosion and ensure site stability, the applicant shall amend the plan and receive Department approval for the plan prior to resuming construction.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DONE AND DATED IN AUGUSTA, MAINE, THIS 11TH DAY OF DECEMBER, 2023.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 
 For: Melanie Loyzim, Commissioner

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

DHMS/L29916AN/ATS#89587

<p>FILED December 12th, 2023 State of Maine Board of Environmental Protection</p>
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Natural Resources Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCES PROTECTION ACT, 38 M.R.S. §§ 480-A ET SEQ., UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. Time frame for approvals. If construction or operation of the activity is not begun within four years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- F. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- G. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: August 2021

Contact: (207) 314-1458

SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner.

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)) or a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)) or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A person filing an appeal with the Board should review Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#); and the DEP's [Rule Concerning the Processing of Applications and Other Administrative Matters \(Chapter 2\)](#), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Not more than 30 days following the filing of a license decision by the Commissioner with the Board, an aggrieved person may appeal to the Board for review of the Commissioner's decision. The filing of an appeal with the Board, in care of the Board Clerk, is complete when the Board receives the submission by the close of business on the due date (5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board, as determined by the received time stamp on the document or electronic mail). Appeals filed after 5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board will be dismissed as untimely, absent a showing of good cause.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or electronic mail and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
ruth.a.burke@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee; and if a hearing was held on the application, (3) any intervenors in that hearing proceeding. **Please contact the DEP at 207-287-7688 with questions or for contact information regarding a specific licensing decision.**

REQUIRED APPEAL CONTENTS

A complete appeal must contain the following information at the time the appeal is submitted.

1. *Aggrieved status.* The appeal must explain how the appellant has standing to bring the appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions of law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing criteria that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license to changes in specific license conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for hearing must be filed as part of the notice of appeal, and it must include an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any witnesses would testify. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed supplemental evidence must be submitted with the appeal. The Board may allow new or additional evidence to be considered in an appeal only under limited circumstances. The proposed supplemental evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Requirements for supplemental evidence are set forth in [Chapter 2 § 24](#).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see [38 M.R.S. § 346\(1\)](#); 06-096 C.M.R. ch. 2; [5 M.R.S. § 11001](#); and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 bill.hinkel@maine.gov, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. The DEP provides this information sheet for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.

Exhibit 2 to Consent Judgment

Ex. 5 to Settlement Agreement

**COLLATERAL ASSIGNMENT OF MORTGAGES
AND RELATED COLLATERAL DOCUMENTS**

This Collateral Assignment of Mortgages and Related Collateral Documents (the “Assignment” or this “Assignment”) is entered into as of this _____ day of April 2024 by **MANAGEMENT CONTROLS, LLC**, a Florida limited liability company with a mailing address of P.O. Box 2058, Auburn, Maine, 04211 (hereinafter the “Assignor”) in favor of **INHABITANTS OF THE TOWN OF RAYMOND**, a municipal corporation located in the County of Cumberland, State of Maine (hereinafter the “Town”). For purposes of this Assignment, the Town and the Assignor are collectively referred to as the “Parties.”

WHEREAS, the Parties have entered into a certain settlement agreement (the “Global Settlement Agreement”) among themselves, and Robert Durant, an individual with a mailing address of 29 Beaver Pond Road in Casco, Maine 04015 (“Durant”), Durant Excavating, LLC, a Maine limited liability company with a mailing address of P.O. Box 741, Windham, Maine 04062 (“Durant Excavating”), and Big Lake Marine, LLC, a Maine limited liability company with a mailing address of P.O. Box 741, Windham, Maine 04062 (“Big Lake Marine” and, together with Durant and Durant Excavating, the “Debtors”).

WHEREAS the Global Settlement Agreement contemplates the entry of a consent judgment as more particularly defined in and attached to the Global Settlement Agreement (the “Consent Judgment”), under which Consent Judgment the Debtors and the Assignor shall be jointly and severally liable for completion of a restoration plan with respect to properties at 28 Whitetail Lane, Raymond, Maine, and 18 Fernwood Road, Raymond, Maine, as more particularly set forth in the Global Settlement Agreement and the Consent Judgment and the Exhibits thereto (the “Restoration Plan”).

WHEREAS, the Global Settlement Agreement and the Consent Judgment are entered into to resolve the matters identified in the Rule 80B petitions filed by Assignor, Durant Excavating, and Big Lake Marine, as well as the matters identified in the Town’s Counterclaims for Enforcement against Assignor, Durant Excavating and Big Lake Marine with a Third-Party Complaint against Durant, all as more particularly set forth in the Global Settlement Agreement and the Consent Judgment.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Assignor hereby agrees with the Town as follows:

1. ASSIGNMENT AS SECURITY

To secure the prompt, punctual and faithful payment and performance of all and each of the Obligations (as that term is defined herein) of the Assignor to the Town, and any extensions, renewals, substitutions, modifications or replacements thereof, the Assignor hereby grants to the Town a security interest in and to, and pledges, assigns, transfers, conveys, and delivers to the Town, its successors and assigns, as collateral, the following described property now owned or hereafter acquired by Assignor and all proceeds thereof and all books, records and papers relating to the foregoing (all of which are sometimes referred to hereinafter as the "Collateral"):

(a) The rights of Assignor in, to, and under the following:

(i) Mortgage, Security Agreement, Assignment of Rights, Leases and Rents, and Financing Statement on property at 0 Longview Drive, Casco, Maine, from Robert Durant, Trustee of The RPC Land Trust U/A/D June 15, 2017, as Amended, and Robert Durant to Management Controls, LLC, which has been recorded at the Cumberland County Registry of Deeds at Book _____ Page _____; and

(ii) Mortgage, Security Agreement, Assignment of Rights, Leases and Rents, and Financing Statement on property at 120 Birchwood Road, Gray, Maine, from Robert Durant, Trustee of The RPC Land Trust U/A/D June 15, 2017, as Amended, and Robert Durant to Management Controls, LLC, which has been recorded at the Cumberland County Registry of Deeds at Book _____ Page _____; and

(iii) a junior Mortgage, Security Agreement, Assignment of Rights, Leases and Rents, and Financing Statement on property at 29 Beaver Pond Road, Casco, Maine, from Forever Green Properties, LLC to Management Controls, LLC, which has been recorded at the Cumberland County Registry of Deeds at Book _____ Page _____;

The above-described mortgages are collectively referred to as the "Mortgages" and the respective properties described in the Mortgages are collectively referred to as the "Properties"; and

(iv) Security Agreement from Robert Durant, Durant Excavating, LLC, and Big Lake Marine, LLC to Management Controls, LLC of even or near date herewith (the "Security Agreement");

(v) Corporate Guaranty from Forever Green Properties, LLC (the "Guarantor") of even or near date herewith, to guarantee the obligations of

Robert L. Durant and such entities through which he now or formerly did business (“Durant Entities”) to Management Controls, LLC (the “Guaranty”); and

(vi) Settlement Agreement by and among Assignor and the Debtors or near or event date herewith (the “Assignor-Debtors Settlement Agreement”).

(b) Any and all title insurance policies, title insurance binders, surveys, commitments or reports insuring or relating to the Properties;

(c) All right, title and interest of the Assignor in and to any other asset of the Debtors which has been or hereafter at any time is delivered to the Assignor to evidence or secure, or is in respect to, the obligations of the Debtors to the Assignor including, but not limited to, completion of the Restoration Plan and any and all other obligations arising under the Consent Judgment, the Global Settlement Agreement and the Assignor-Debtors Settlement Agreement.

2. ASSIGNOR’S REPRESENTATIONS, WARRANTIES AND COVENANTS

The Assignor makes the following representations, warranties and covenants to the Town:

2-1. The Assignor is the current lawful holder of the Mortgages, free and clear of all liens, encumbrances, attachments, security interests, pledges and charges upon Assignor’s rights thereunder. Furthermore, the Assignor has not made and will not make any other assignment of the Assignor’s rights under any of the Collateral.

2-2. Notwithstanding anything to the contrary herein contained, subject to the terms and conditions of Article 3 hereof, until the occurrence of an Event of Default, the Assignor shall have the full right to administer and enjoy the Collateral, to ask, demand, and receive any and all amounts which may become due and payable, and to take any other reasonable action or proceeding relative to the Collateral as the Assignor deems necessary or desirable in order to collect or enforce the payment of any and all amounts due or owing pursuant to the Collateral.

2-3. Upon the execution hereof, the Assignor shall execute and deliver to the Town, among other things, unconditional assignments of the Mortgages, as applicable to each of the Mortgages (the “Unconditional Assignments of Mortgages”) in form and substance satisfactory to the Town, which Unconditional Assignments of Mortgages shall be held by the Town in escrow pending the occurrence of an Event of Default hereunder as provided in Article 3 hereof.

3. TERMS AND CONDITIONS

3-1. Upon or at any time after the occurrence of any Event of Default (as further defined herein and which shall include, without limitation, any violation of or failure to comply with any of the terms of the Global Settlement Agreement or the Consent Judgment), the Town may, at its option, without notice to the Assignor, (i) record each or either Unconditional Assignments of Mortgage thereby terminating any and all rights of the Assignor to receive payments on the Collateral, to prosecute any foreclosure action with respect to the Properties, or to in any way administer or deal with the Properties, (ii) notify the Debtors, either in the name of the Assignor or the Town, to make payment directly to the Town at such address as the Town may specify, (iii) enforce any and all rights, remedies, powers, privileges and discretions of the Assignor under the Collateral, (iv) collect all sums due under the Collateral, including those past due and unpaid, according to the terms of the Collateral, (v) enter into such further agreements concerning the Collateral as the Town in its sole discretion shall determine including, without limitation, such modifications, extensions, forbearance arrangements and other agreements concerning the Properties or any other Collateral as the Town determines in the Town's sole discretion, and (vi) exercise any and all other rights, remedies, powers, privileges and discretions of the holder of the Collateral. Upon any one or more requests of the Town made after the occurrence of an Event of Default, Assignor shall deliver or cause to be delivered to the Debtors such notices as Town may direct, notifying the Debtors of the exercise by the Town of Assignor's rights under the Collateral, and directing the Debtors to make all payments with respect to the Collateral directly to Town. The Town shall not be liable for any act or omission to act pursuant to this Section except for any act or omission which is in actual bad faith.

Notwithstanding anything to the contrary contained herein, whether or not an Event of Default has occurred, the Assignor shall have no right or ability to release or discharge the Mortgage, and/or any other Collateral and/or to accept or record a deed-in-lieu of foreclosure with respect to any of such instruments without first obtaining and recording a release of the Mortgages from the liens of this Assignment. Assignor shall not amend, supplement, restate, revise, alter, forbear or otherwise renegotiate or enter into any agreement respecting the Mortgages without the express prior written consent of the Town. The filing of the Unconditional Assignments of Mortgages at the Cumberland County Registry of Deeds shall be conclusive evidence of the occurrence of an Event of Default hereunder. The filing of the Unconditional Assignments of Mortgages by the Town shall not be an accord and satisfaction of the Obligations and the Assignor shall remain liable to Town for all of the Obligations of the Assignor to the Town.

3-2. Upon the occurrence of any Event of Default, and at any time thereafter, the Town also shall have all of the rights and remedies of a secured party upon default under the Uniform Commercial Code as adopted in Maine, in addition to which the Town may sell or otherwise dispose of the Collateral and/or enforce and collect the Collateral

(including, without limitation, the liquidation of debt instruments, whether or not such instruments have matured and whether or not any penalties or other charges are imposed on account of such action), for application toward (but not necessarily in complete satisfaction of) the Obligations. The Assignor shall remain liable to the Town for any deficiency remaining following such application. The Town shall give the Assignor at least the greater of the minimum notice required by law or seven (7) days prior written notice of the date, time and place of any public sale of any Collateral or of the time after which any private sale or any other intended disposition of Collateral is to be made. The proceeds of any collection or of any sale or disposition of Collateral held pursuant to this Assignment shall be applied toward the Obligation (and any surplus remaining after payment of all sums due Town to be delivered to Assignee) in such order and manner as the Town determines in its sole discretion, any statute, custom, or usage to the contrary notwithstanding.

4. MISCELLANEOUS

4-1. As used herein, the following terms have the following meanings:

(a) “Obligation(s)” shall mean all indebtedness, liabilities and amounts, liquidated or unliquidated, owing by Assignor to Town at any time, each of every kind, nature and description, and the performance by Assignor of all acts, obligations, covenants, terms, and conditions, in each case whether now or hereafter arising, under this Assignment, the Global Settlement Agreement, the Consent Judgment or under any other documents executed and delivered pursuant thereto or in connection therewith, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including, without limitation, the obligation to make the Payment (as defined in the Consent Judgment) when and as due and the obligation to timely and satisfactorily complete the Restoration Plan. Without limiting the generality of the foregoing, said term shall also include all interest, penalties, attorney’s fees, expert witness fees, and costs chargeable to Assignor as may be sought and awarded in favor of the Town in connection with any proceeding for injunctive relief compelling performance under the Consent Judgment in accordance with the terms of the Global Settlement Agreement and Consent Judgment.

(b) “Event of Default” shall mean any default in the payment or performance of any of the Obligations, including, but not limited to, the breach of any representation, warranty or covenant under this Assignment and any default, breach or failure to pay or perform any obligations under the Global Settlement Agreement or the Consent Judgment, in each case beyond any applicable cure period. For the avoidance of doubt, the failure of Assignor to provide adequate assurance of performance upon demand as contemplated in the Consent Judgment, shall constitute an “Event of Default” under this Assignment.

4-2. This Assignment shall be deemed to be a contract made under the laws of the State of Maine and is intended to take effect as a sealed instrument under the laws of the State of Maine. This Assignment and all rights and obligations hereunder including matters of construction, validity and performance, shall be governed by the laws of the State of Maine without giving effect to the conflict of law provisions thereof. The Assignor submits itself to the jurisdiction of the courts of Maine for all purposes with respect to this Assignment and the Assignor's relationship with the Town.

4-3. Upon the full performance of all of the covenants and conditions contained in the Global Settlement Agreement, Consent Judgment and this Assignment, including, without limitation, timely and satisfactory completion of the Restoration Plan, the Town shall terminate the within Assignment and issue a release and/or discharge of the Collateral to Assignor.

WHEREFORE, the Assignor has caused its hand and seal to be affixed hereto this ____ day of April 2024

ASSIGNOR:

MANAGEMENT CONTROLS, LLC, a Florida limited liability company

By: _____

Printed Name:

Its:

STATE OF MAINE
CUMBERLAND, SS

April ____, 2024

Personally appeared the above named _____, the _____ of Management Controls, LLC, and acknowledged the foregoing instrument to be her/his/their free act and deed in said capacity, and the free act and deed of Management Controls, LLC .

Before me,

Attorney at Law/Notary Public

Print Name: _____

Commission Expires:

**ASSIGNMENT OF MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT RIGHTS, LEASES AND RENTS**

MANAGEMENT CONTROLS, LLC, a Florida limited liability company with a mailing address of P.O. Box 2058, Auburn, Maine, 04211, holder of that certain:

Mortgage, Security Agreement, Assignment of Rights, Leases and Rents, and Financing Statement on property at 0 Longview Drive, Casco, Maine, from Robert Durant, Trustee of The RPC Land Trust U/A/D June 15, 2017, as Amended, and Robert Durant to Management Controls, LLC, which has been recorded at the Cumberland County Registry of Deeds at Book _____ Page _____ (the "Mortgage"),

hereby assigns the Mortgage to **INHABITANTS OF THE TOWN OF RAYMOND**, a municipal corporation located in the County of Cumberland, State of Maine, together with all of Management Controls LLC's right, title and interest in and to the Mortgage and the obligations secured thereby as security for the payment and performance of Management Controls LLC's obligations under that certain Settlement Agreement and Consent Judgment dated April ____, 2024.

[This Page Ends Here – Signature Page to Follow]

WHEREFORE, the Assignor has caused its hand and seal to be affixed hereto this _____ day of April 2024

ASSIGNOR:

MANAGEMENT CONTROLS, LLC, a Florida limited liability company

By: _____

Printed Name:

Its:

STATE OF MAINE
CUMBERLAND, SS

April _____, 2024

Personally appeared the above named _____, the _____ of Management Controls, LLC, and acknowledged the foregoing instrument to be her/his/their free act and deed in said capacity, and the free act and deed of Management Controls, LLC .

Before me,

Attorney at Law/Notary Public

Print Name: _____

Commission Expires:

**ASSIGNMENT OF MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT RIGHTS, LEASES AND RENTS**

MANAGEMENT CONTROLS, LLC, a Florida limited liability company with a mailing address of P.O. Box 2058, Auburn, Maine, 04211, holder of that certain:

Mortgage, Security Agreement, Assignment of Rights, Leases and Rents, and Financing Statement on property at 29 Beaver Pond Road, Casco, Maine, from Forever Green Properties, LLC to Management Controls, LLC, which has been recorded at the Cumberland County Registry of Deeds at Book _____ Page _____ (the "Mortgage"),

hereby assigns the Mortgage to **INHABITANTS OF THE TOWN OF RAYMOND**, a municipal corporation located in the County of Cumberland, State of Maine, together with all of Management Controls, LLC's right, title and interest in and to the Mortgage and the obligations secured thereby as security for the payment and performance of Management Controls, LLC's obligations under that certain Settlement Agreement and Consent Judgment dated April ____, 2024.

[This Page Ends Here – Signature Page to Follow]

WHEREFORE, the Assignor has caused its hand and seal to be affixed hereto this _____ day of April 2024

ASSIGNOR:

MANAGEMENT CONTROLS, LLC, a Florida limited liability company

By: _____

Printed Name:

Its:

STATE OF MAINE
CUMBERLAND, SS

April _____, 2024

Personally appeared the above named _____, the _____ of Management Controls, LLC, and acknowledged the foregoing instrument to be her/his/their free act and deed in said capacity, and the free act and deed of Management Controls, LLC .

Before me,

Attorney at Law/Notary Public

Print Name: _____

Commission Expires:

**ASSIGNMENT OF MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT RIGHTS, LEASES AND RENTS**

MANAGEMENT CONTROLS, LLC, a Florida limited liability company with a mailing address of P.O. Box 2058, Auburn, Maine, 04211, holder of that certain:

Mortgage, Security Agreement, Assignment of Rights, Leases and Rents, and Financing Statement on property at 120 Birchwood Road, Gray, Maine, from Robert Durant, Trustee of The RPC Land Trust U/A/D June 15, 2017, as Amended, and Robert Durant to Management Controls, LLC, which has been recorded at the Cumberland County Registry of Deeds at Book _____ Page _____ (the "Mortgage"),

hereby assigns the Mortgage to **INHABITANTS OF THE TOWN OF RAYMOND**, a municipal corporation located in the County of Cumberland, State of Maine, together with all of Management Controls, LLC's right, title and interest in and to the Mortgage and the obligations secured thereby as security for the payment and performance of Management Controls, LLC's obligations under that certain Settlement Agreement and Consent Judgment dated April ____, 2024.

[This Page Ends Here – Signature Page to Follow]

WHEREFORE, the Assignor has caused its hand and seal to be affixed hereto this _____ day of April 2024

ASSIGNOR:

MANAGEMENT CONTROLS, LLC, a Florida limited liability company

By: _____

Printed Name:

Its:

STATE OF MAINE
CUMBERLAND, SS

April _____, 2024

Personally appeared the above named _____, the _____ of Management Controls, LLC, and acknowledged the foregoing instrument to be her/his/their free act and deed in said capacity, and the free act and deed of Management Controls, LLC .

Before me,

Attorney at Law/Notary Public

Print Name: _____

Commission Expires: