



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
45 RADAR ROAD
ASHLAND, MAINE 04732-3600

AMANDA E. BEAL
COMMISSIONER

JUDY C. EAST
EXECUTIVE DIRECTOR

MEMORANDUM

Date: August 5, 2020
To: Commission Members
From: Billie MacLean, Regional Supervisor, Permitting and Compliance Division
Re: Administrative Settlement Agreement for Enforcement Case
EC 2020-9
Roger J. and Pamela L. Fortier, Winterville Plt., Aroostook County, Maine

In the fall of 2019, the Roger and Pamela Fortier constructed a two-story, 26-foot by 34-foot by 28-foot tall dwelling with a 6-foot by 6-foot entryway instead of the two-story, 26-foot by 34-foot by 25-foot tall dwelling with a 6-foot by 9-foot entryway authorized by BP 16163. They had also filled and graded approximately 5,000 square feet of the Fortier property with gravel with a steep 50% grade around the edges that had not been stabilized over the winter in accordance with the provisions of Section 10.27, F, 7 of the Commission's Land Use Districts and Standards. See 01-672 C.M.R. ch. 10, § 27 (F). As constructed, the dwelling is approximately 3 feet taller in height than authorized by BP 16163 and 3 feet higher than what is allowed under the provisions of Section 10.11,C,1,b,(2) of the Commission's Land Use Districts and Standards. See 01-672 C.M.R. ch. 10, § 11(C). The alleged violations occurred at 50 South Frosty Hill Lane, Winterville Plantation, Aroostook County (See *Attachment A - Location Map(s)*.) The development exceeds the Commission's standards for the height of a structure located less than 100 feet from a waterbody (Section 10.11,C,1,b,(2)). The description of approved activities can be found in Building Permit BP 16163 (see *Attachment B - Building Permit BP 16163*). The description of activities relating to this violation can be found in the draft Administrative Settlement Agreement (see *Attachment C - Administrative Settlement Agreement*).

In June of 2020, The Fortiers removed a substantial amount of fill material in order to regrade the area between the dwelling and the lake to a 5:1 (20%) slope. In addition, except for the driveway area, all of the fill was loamed, seeded, and mulched prior to June 15, 2020.

This agreement requires the Fortiers to pay a civil penalty of \$4,500, plant a vegetative buffer for screen within 100 feet of Saint Froid Lake, only conduct normal maintenance and repair of the



dwelling with entryway and landing with steps, disclose the settlement upon sale, and pay to record the settlement.

Staff recommend ratification of the attached Settlement Agreement.

Attachments:

Attachment A – Location Maps

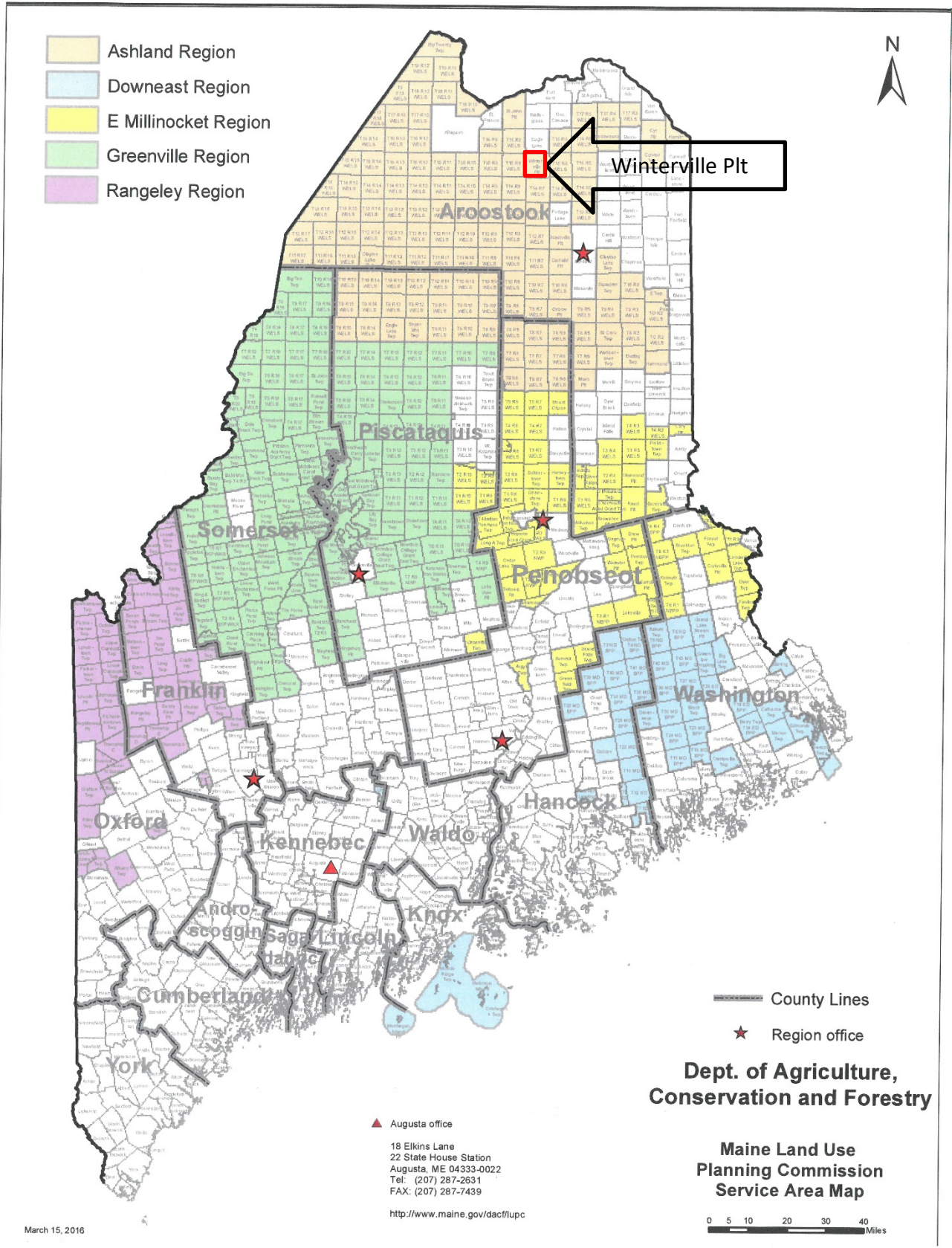
Attachment B – Building Permit BP 16163

Attachment C – Draft Settlement Agreement

ENFORCEMENT CASE EC 2020-9

**Roger J. and Pamela L. Fortier
Winterville Plt., Aroostook County, Maine**

Attachment A Location Maps



- Ashland Region
- Downeast Region
- E Millinocket Region
- Greenville Region
- Rangeley Region



County Lines

★ Region office

Dept. of Agriculture,
 Conservation and Forestry

Maine Land Use
 Planning Commission
 Service Area Map

▲ Augusta office
 18 Elkins Lane
 22 State House Station
 Augusta, ME 04333-0022
 Tel: (207) 287-2631
 FAX: (207) 287-7439

<http://www.maine.gov/dacf/lupc>

0 5 10 20 30 40 Miles



ENFORCEMENT CASE EC 2020-9

**Roger J. and Pamela L. Fortier
Winterville Plt., Aroostook County, Maine**

Attachment B

Building Permit BP 16163

BUILDING PERMIT BP-16163

MAINE LAND USE PLANNING COMMISSION
Department of Agriculture, Conservation and Forestry

Based on the information you have submitted in the attached application and supporting documents, the staff of the Land Use Planning Commission concludes that, if carried out in compliance with the conditions of approval below, your proposal will meet the criteria for approval, 12 M.R.S.A. §685-B(4) of the Commission's statutes and the provisions of the Commission's *Land Use Districts and Standards*. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.


LUPC Authorized Signature

4/30/2019
Effective Date

CONDITIONS OF APPROVAL

General Conditions

1. **At least one week prior to commencing the permitted activities**, the permittee or the designated agent must contact the Commission staff and notify them of the estimated date construction work will start. Notice may be provided in writing, in person, by email, or by calling. If you leave or send a message, please include your full name, telephone number, permit number, and the date the work will start.
2. **Prior to commencing the permitted activities**, the permittee, or the designated agent acting on behalf of the permittee, must provide a copy of the permit, including its attached conditions, to contractors that will be performing work or will be responsible for work at the site.
3. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
4. This permit is dependent upon and limited to the proposal as set forth in the application and supporting documents, except as modified by the Commission in granting this permit. Any variation is subject to prior review and approval of the Maine Land Use Planning Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Planning Commission law.
5. Structures authorized under this permit, as well as filling/grading/soil disturbance and cleared openings created as part of construction activities authorized under this permit, must be located to meet the road, property line, water and wetland setback distances, exterior dimensions and building heights listed in Sections 4, 7 and 8 and approved by this permit.
6. Temporary and permanent sedimentation control measures must be implemented to effectively stabilize all areas of disturbed soil and to catch sediment from runoff water before it leaves the construction site so that sediment does not enter water bodies, drainage systems, water crossings, wetlands or adjacent properties. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have been installed and stabilized. Once in place, such devices shall be maintained to ensure proper functioning.
7. Effective, temporary stabilization of all disturbed and stockpiled soil must be completed at the end of each work day. All temporary sedimentation and erosion control devices shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.
8. Cleared openings created as part of construction activities authorized under this permit must be effectively stabilized and revegetated.
9. All imported fill material must be free of hazardous or toxic materials and must not contain debris, trash, or rubbish.
10. Unless otherwise proposed in Question 8.4 and by the submittal of **Exhibit G, Erosion and Sediment Control Plan**, and approved by this permit, soil disturbance must not occur when the ground is frozen or saturated.
11. Topsoil must not be removed from the site except for that necessary for construction activities authorized in this permit. Topsoil must be stockpiled at least 100 feet from any water body.

12. The permittee shall not advertise Land Use Planning Commission approval without first obtaining approval for such advertising. Any such advertising shall refer to this permit only if it also notes that the permit is subject to conditions of approval.
13. In the event the permittee should sell or lease this property, the buyer or lessee shall be provided a copy of the approved permit and conditions of approval. The new owner or lessee should then contact the Land Use Planning Commission to have the permit transferred into his/her name. If there are no additional changes the transfer can be accomplished on a Minor Change Form.
14. All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto neighboring properties, water bodies, or roadway so as to impair driver vision or to create nuisance conditions.
15. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.
16. The permittee shall secure and comply with all applicable licenses, permits, authorizations, and requirements of all federal, state, and local agencies including but not limited to: Air and Water Pollution Control Regulations; Subsurface Wastewater Disposal System approval from the Local Plumbing Inspector and/or Maine Department of Health and Human Services, Subsurface Wastewater Program; and the Maine Department of Transportation, Driveway Entrance Permit, a physical E-911 address from your County Commissioner's Office.
17. Once construction is complete, the permittee shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.

Development in Flood Prone Areas

18. The permitted structure(s) must be constructed according to the information submitted in the **Supplement S-4: Requirements for Development in Flood Prone Areas and associated Exhibits**.
19. Notwithstanding Condition 3, construction activities authorized within P-FP subdistricts, FEMA zones, and other areas prone to flooding must be substantially started within 180 days of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
20. All other required state or federal permits must be submitted to the Commission PRIOR to the start of construction.
21. The permitted structures must be designed or modified and adequately anchored to prevent flotation (excluding floating piers and docks), collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
22. The permittee(s) must use construction materials that are resistant to flood damage, use construction methods and practices that will minimize flood damage, and use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
23. Unless your structure qualifies as an exempt accessory structure (Question 15 of the S4 Supplement) or lobster or fishing shed (Question 22), any new construction or substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, and when located within Zone VE, meet the requirements for Coastal Floodplains in Section 10.25,T,2,p.
24. Upon completion of the lowest floor of all permitted structures, a FEMA Elevation Certificate completed by a professional land surveyor or professional engineer must be submitted to the Commission for review and approval prior to any further construction activities.

RECEIVED

For office use:

Tracking No. 50945 BP-16163 Fee Received \$237.60

APR 29 2019

MAINE LAND USE PLANNING COMMISSION Department of Agriculture, Conservation and Forestry

Building Permit

For All Residential Development

1. APPLICANT INFORMATION

Applicant Name(s) ROGER & PAMELA FORTIER Daytime Phone 207-576-5749 FAX N/A Mailing Address 502 MARSH ROAD Email RO5FORTIER@ROADRUNNER.COM Town SABATTUS State ME Zip Code 04780

2. PROJECT LOCATION AND PROPERTY DETAILS

Township, Town or Plantation WINTERVILLE PLANTATION County AROOSTOOK Tax Information (check tax bill) Map: 010 Plan: Lot: 5 Deed or Lease Information (check deed or lease) Book: 1734 Page: 30 Lease #: Lot size (in acres, or in square feet if less than 1 acre) .54 Lot Coverage (in square feet) 884 938 All Zoning on Property (check the LUPC map) P-FP, DRS, M-GN Zoning at Development Site P-FP Road Frontage. List the name(s) and frontage(s) (in feet) for any public or private roads, or other rights-of-way adjacent to your lot: Road #1: SOUTH FROSTY HILL LANE Frontage 75 ft. Road #2: Frontage ft. Water Frontage. List the name(s) and frontage(s) (in feet) for any lakes, ponds, rivers, streams, or other waters on or adjacent to your lot: Waterbody #1: ST. FROID LAKE Frontage 75 ft. Waterbody #2: Frontage ft.

LUPC Approved Subdivision. List the LUPC approved subdivision number: SP and SP Lot #: If your property is not part of subdivision previously approved the Commission, please continue to Land Division History below. (check your deed or contact the LUPC office that serves your area)

Land Division History table with columns for date, parties, and acreage. Includes entries for Anthony Collins, Sharon Ellis (1/12/1997, 10 acres), Annette Newberry to Roger & Pamela Fortier (8/23/2011, .54), and Dale & Elizabeth Collins to Anthony Collins, Sharon Ellis, and Annette Newberry (7/6/2005, State of Maine -> Dale & Elizabeth Collins 11/12/1986).

3. EXISTING STRUCTURES OR USES (Fill in a line for each existing structure)

Table for existing structures with columns: Type of structure, Year built, Exterior dimensions (LxWxH), Type of foundation, and Horizontal Distance (in feet) of structure from nearest: Road, Property line, Lake or pond, River or stream, Wetland, Ocean/Coastal Wetlands.

BP 16163

4. PROPOSED STRUCTURES OR USES (INCLUDING DRIVEWAYS AND PARKING AREAS) (Use additional sheet if needed)

4.1 What is the proposed use of your property? Residential only Residential with Home Occupation* Campsite**

Type of structure (dwelling, garage, deck, porch, shed, driveway****, camper, RVs, parking lots, etc.)	Proposal (check all that apply)							Exterior dimensions (in feet) (LxWxH)	Horizontal Distance (in feet) of structure from nearest:					
	New structure***	Reconstruct***	Expand	Relocate	Remove	Enclose deck/porch	Permanent foundation***		Change dimensions or setbacks	Road	Property line	Lake or pond	River or stream	Wetland
DWELLING	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	26 X 34 X 25'	20'	15'	63'		
Bulkhead Entrance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6' x 9'	20'	17'	83'		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						

* 4.2 HOME OCCUPATIONS: If use of your property includes expanding or starting a home occupation, you must complete Supplement S-1: Questions for Home Occupations. Contact the LUPC office serving your area or download at www.maine.gov/dacf/lupc/. Please note additional fees apply to home occupations, see instructions for the appropriate fees.

- ** 4.3 CAMPSITES: If use of your property includes a campsite for your personal use (e.g., will not be rented):
- a. Will the tents, tent trailer(s), pickup camper(s), recreational vehicle(s), trailer(s) or similar devices be located on the lot for less than 120 days in a calendar year? YES NO
 - b. Will the camper(s), trailer(s), and/or recreational vehicle(s) be registered and road ready? YES NO
 - c. Will the campsite have access to an on-site pressurized water supply (and not a self-contained water tank with pump)? YES NO
 - d. Will the campsite have access to permanent structures other than an outhouse, fireplace, picnic table, or lean-tos? YES NO

*** 4.4 RECONSTRUCTIONS OR NEW ACCESSORY STRUCTURES: If you are constructing a new accessory structure, reconstructing an existing structure, or adding a permanent foundation:

- a. If the structure or foundation will not meet the LUPC's minimum setback distances from property lines, roads, water bodies or wetlands, explain what physical limitations (lot size, slope, location of septic system, etc.) prevent the structure or foundation from meeting setbacks: lot size, lot depth
- b. For reconstructions, has the existing structure been damaged, destroyed or removed from your property? YES NO
 If YES, was the structure in regular active use within a 2-year period preceding the damage, destruction or removal? YES NO
 If YES, provide the date the structure was damaged, destroyed or removed: 10/2018

**** 4.5 DRIVEWAYS: If you are located on a public road:

- a. Are you constructing a new driveway or entrance or changing a current driveway in a way that will increase traffic volume, or create a safety or drainage concern regarding a State or State-Aid Highway? YES NO
 If YES, you must submit Exhibit H: Driveway/Entrance Permit. Note: If your property is located along a County or Town/Plantation Road, you should check with that office before submitting this application to see what is required.

5. SUBSURFACE WASTEWATER DISPOSAL (SEPTIC SYSTEM) (Note: Exhibit may be required. See instructions)

- 5.1 Mark the existing type of system serving the property: None Combined Subsurface System (Tank, leach field)
 Primitive Subsurface Disposal (Privy, graywater – non-pressurized); Common Sewer (Connected to a sewer district)
 Holding Tank Self-Contained Camper or RV Other _____
- 5.2 Will any expanded, reconstructed, or new structures include new bedrooms or bathrooms; add plumbing, water fixtures, pressurized water, or the ability for human habitation; or otherwise generate additional wastewater? YES NO
 If YES, you may need to submit Exhibit E: Subsurface Wastewater Disposal. (see instructions)

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6. DEVELOPMENT IN FLOOD PRONE AREAS (Note: Supplement may be required. See instructions.)

6.1 Is your proposed activity located within a mapped P-FP (Flood Prone Area Protection) Subdistrict, a mapped FEMA (Federal Emergency Management Agency) flood zone, or an unmapped area prone to flooding?

P-FP Subdistrict... YES NO
FEMA Flood Zone... YES NO
Unmapped Area Prone to Flooding... YES NO

If you answer YES to any of these questions, you must complete Supplement S-4: Development in Flood Prone Areas. Contact the LUPC office serving your area or download at www.maine.gov/dacf/lupc/application_forms/index.shtml.

7. VEGETATIVE CLEARING (Note: Exhibit may be required. See instructions.)

7.1 What is the total amount of proposed vegetative clearing not including the driveway and the footprint of proposed structures? NA 600 sq. ft.

If you answer NA (not applicable) for 7.1 go to Section 8.

7.2 Will the total amount of existing and proposed vegetative clearing within 250 feet of any lakes or rivers be less than 10,000 square feet? YES NO NA Total: 600 sq. ft.

7.3 Will the proposed clearing be located at least 50 feet from the right-of-way or similar boundary of all public roadways? YES NO NA How Close? 20 feet

7.4 Will the proposed clearing be located at least 75 feet from the normal high water mark of any body of standing water less than 10 acres in size, any coastal wetland, or flowing water draining less than 50 square miles? YES NO NA How Close? 73 feet

7.5 Will the proposed clearing be located at least 100 feet from the normal high water mark of the lake or river? YES NO NA How Close? 63' 73 feet

7.6 If you answer NO to any of these questions, please explain why your vegetative clearing proposal is necessary and how it will not create an undue adverse impact on the resources and uses in the area: FOR THE PROTECTION OF THE NEW STRUCTURE

7.7 Buffering in Prospectively Zoned Areas. Is your property located in one of the following Prospectively Zoned Plantations or Townships?

Adamstown Twp. Dallas Pt. Lincoln Pt. Magalloway Pt.
Rangeley Pt. Richardsontown Twp. Sandy River Pt. Townships C, D, and E. YES NO

If YES, please complete the following table regarding the width of the vegetative buffers at the narrowest point between the existing and proposed structures and the nearest applicable road, property line, and subdistrict setbacks as applicable:

Table with 5 columns: Standard Minimum Required, Road, Side Property Line, Rear Property Line, Subdistrict Boundary. Row 1: 25 feet in D-GN, D-GN2, D-GN3; 50 feet in D-RS, D-RS2, D-RS3; 75 feet in D-ES and D-CI; 15 feet; 15 feet; 50 feet Buffer to other Subdistricts. Row 2: This property: feet

Note: You may be required to submit Exhibit F: Documentation for Exceptions to Buffering Requirements. (See instructions)

8. SOIL DISTURBANCE, FILLING AND GRADING AND EROSION CONTROL (Note: Exhibit may be required. See instructions.)

8.1 Will your project involve disturbing soil or filling and grading? YES NO

If YES, please answer the following questions. If NO, continue to Section 9.

8.2 What is the total area of proposed soil disturbance or filling and grading? 4,224 sq. ft.

8.3 What is the total square feet of soil disturbance or filling and grading within 250 feet of a body of standing water, flowing water, or wetland? 4,224 sq. ft.

8.4 Will all soil disturbance or filling and grading be done when the ground is frozen or saturated? YES NO

If YES, you will need to submit Exhibit G: Erosion and Sedimentation Control Plan

8.5 Will any fill used be free of hazardous or toxic materials, trash and rubbish? YES NO

8.6 How and when will disturbed areas be seeded or stabilized at the end of the construction season and at the completion of the project? BY CONTRACTOR

Question 8 continues onto the next page...

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8. SOIL DISTURBANCE, FILLING AND GRADING AND EROSION CONTROL (continued from previous page)

8.7 What will you do (during site preparation, construction, cleanup, and post-construction) to stabilize disturbed soil and prevent sediment from entering water, wetlands, natural drainage systems, catch basins, culverts or adjacent properties?

CONTRACTOR TO USE SEDIMENT FENCE & SEED IT ASAP

8.8 What is the average slope of land between the area to be disturbed and the nearest waterbody or wetland? 2 % slope

8.9 What will the sustained slope of land be between the area to be disturbed and the nearest waterbody or wetland?..... 2 % slope

8.10 Please explain how your project will not create an undue adverse impact on the resources and uses in the area. Include information about erosion control devices and other plans to stabilize the site:

Be sure to include the following information on your site plans (Exhibits D1 and D2): size and location of the area to be disturbed, and the proximity of the area to be disturbed to water bodies, flowing waters, and wetlands.

9. LAND AND WETLAND ALTERATION (Note: Exhibit or Supplement may be required. See instructions.)

9.1 Will your proposal alter a total of one acre or more of land area, whether upland or wetland?..... YES NO

If YES, you must also complete Exhibit G: Erosion and Sedimentation Control Plan and Supplement S-3: Requirements for Wetland Alterations.

9.2 Will your proposal alter any amount of land that is mapped P-WL Subdistrict, or any ground below the normal high water mark of any lake, pond, river, stream, or intertidal area?..... YES NO

If YES, you must also complete Supplement S-3: Requirements for Wetland Alterations.

10. APPLICANT SIGNATURE (REQUIRED) AND AGENT AUTHORIZATION (OPTIONAL)

Agent Name	Daytime Phone	FAX	
Mailing Address		Email	
Town	State	Zip Code	

I have personally examined and am familiar with the information submitted in this application, including the accompanying exhibits and supplements, and to the best of my knowledge and belief, this application is complete with all necessary exhibits. I understand that if the application is incomplete or without any required exhibits that it will result in delays in processing my permit decision. The information in this application is a true and adequate narrative and depiction of what currently exists on and what is proposed at the property. I certify that I will give a copy of this permit and associated conditions to any contractors working on my project. I understand that I am ultimately responsible for complying with all applicable regulations and with all conditions and limitations of any permits issued to me by the LUPC. If there is an Agent listed above, I hereby authorize that individual or business to act as my legal agent in all matters relating to this permit application. I understand that while there is a required Statewide Maine Uniform Building and Energy Code (MUBEC) administered by the Maine Department of Public Safety, Bureau of Building Codes & Standards, the Commission's review is limited only to land use issues and the Commission does not make any findings related to the MUBEC, nor do the LUPC staff inspect buildings or enforce any provisions of that Code.

Please check one of the boxes below: (see "Accessing the Project Site for Site Evaluation and Inspection" just prior to the application form)

I authorize staff of the Land Use Planning Commission to access the project site as necessary at any reasonable hour for the purpose of evaluating the site to verify the application materials I have submitted, and for the purpose of inspecting for compliance with statutory and regulatory requirements, and the terms and conditions of my permit.

I request that staff of the Land Use Planning Commission make reasonable efforts to contact me in advance to obtain my permission to fully access the project site for purposes of any necessary site evaluation and compliance inspection.

All appropriate persons listed on the deed, lease or sales contract must sign below.

Signature(s) Roger Fortier
Pamela L Fortier

Date 4/25/2019
Date 4/25/2019

RECEIVED

APR 29 2019

LUPC - ASHLAND

EXHIBIT D-1: SITE PLAN

For office use:

50945

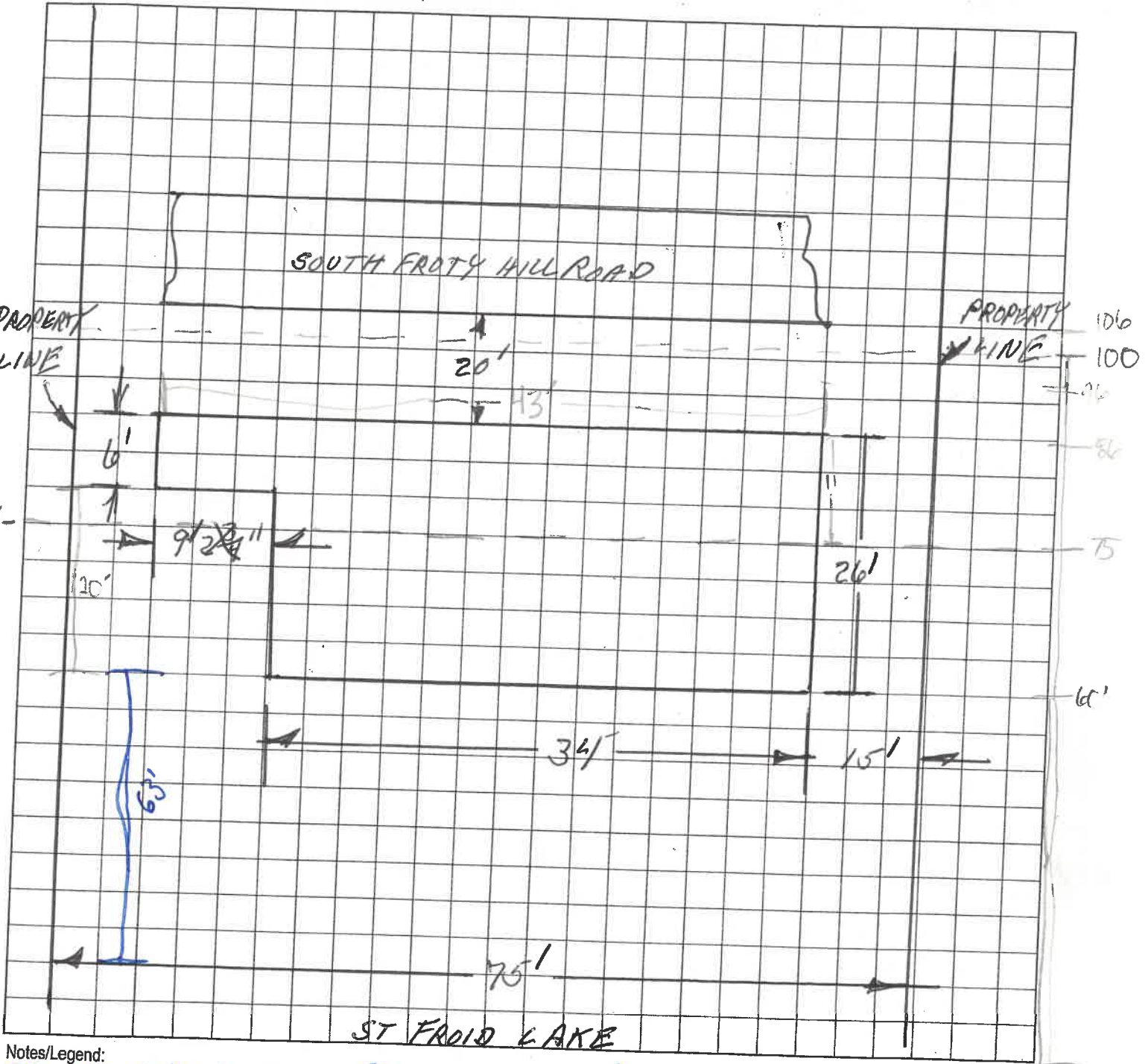
BP

16163

Tracking No.

Permit No.

Prepare a bird's-eye view site plan that shows your entire property and includes all the elements described for Exhibit D in the instructions. Do not use colors. Refer to the instructions for a sample site plan.



Notes/Legend:

50'-75' footprint = 510 sq ft < 750 sq ft
 75'-100' footprint = 428 sq ft
 total 938 sq ft < 1000

still under limits with 63' setback

ENFORCEMENT CASE EC 2020-9

Roger J. and Pamela L. Fortier
Winterville Plt., Aroostook County, Maine

Attachment C

Proposed Settlement Agreement



JANET I. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
45 RADAR ROAD
ASHLAND, MAINE 04732-3600

AMANDA E. BEAL
COMMISSIONER

JUDY C. EAST
EXECUTIVE DIRECTOR

ADMINISTRATIVE SETTLEMENT AGREEMENT
In the Matter of

Roger J. Fortier and Pamela L. Fortier)	STATE OF MAINE
502 Marsh Road)	LAND USE PLANNING COMMISSION
Sabattus, ME 04280)	Enforcement Case EC 2020-09

This Administrative Settlement Agreement (“Agreement”) by and among Roger J. Fortier and Pamela L. Fortier (“the Fortiers”) and the Maine Land Use Planning Commission (“the Commission”) is entered into pursuant to 12 M.R.S. § 685-C(8) and the Commission’s *Compliance and Enforcement Response Policy* (last revised April 5, 2013).

The Fortiers and the Commission agree as follows:

- Commission Authority: Pursuant to 12 M.R.S. Chapter 206-A, the Commission has regulatory authority over the activities described herein.
- Respondents: Roger J. Fortier and Pamela L. Fortier, who are residents of Sabattus, Maine.
- Location: The real property on which the violations alleged herein occurred (“the Fortier property”) is located in Winterville Plantation and is described in the deed dated August 23, 2011, from Anthony D. Collins, Sharon Ellis, and Annette Newberry to the Fortiers, recorded at the Aroostook County North Registry of Deeds in Book 1734, Page 50. The Fortier property is also identified in Winterville Plantation tax records as Map 10B, Lot 13 and as Lot 5 (Site 2) according to a survey and plan entitled “Property of the Bureau of Public Lands, showing camp lots on Site 1, Lots 21 to 33 and 21A to 29A, and Site 2, Lots 1 to 20, Fish Hatchery Road, St. Froid Lake, Winterville Plantation, Maine,” dated July, 1986, made by John B. Cahoun, RLS, which plan is recorded at the Aroostook North Registry of Deeds in Plan Book 19, Page 8. The Fortier property is approximately 0.54 acres in size and abuts Saint Froid Lake, a water body greater than 10 acres in size.
- Zoning: (M-GN) General Management Subdistrict
(D-RS) Residential Development Subdistrict
(P-FP) Flood Prone Area Protection Subdistrict
- Affected Water Body: Saint Froid Lake

The Commission has identified Saint Froid Lake as a management class 7, resource class 2, accessible, developed lake with the following resource ratings: significant fisheries resources, significant cultural resources, significant physical resources.



6. Background Information:

- A. The Fortier property was originally developed with a pre-Commission 16-foot by 20-foot seasonal camp served by a special sewage disposal system with a pit privy. The seasonal camp was set back approximately 60 feet from the normal high water mark of Saint Froid Lake, 29 feet from the South Frosty Hill Lane, and 15 feet from the nearest property boundary line.
- B. On August 8, 1990, the Commission issued Advisory Ruling AR 90-161 to a previous owner, Dale A. Collins, stating that a permit would not be required for a 10-foot by 20-foot addition to the seasonal camp at the time. The seasonal camp with addition as proposed was to be 20 feet by 26 feet in size and set back 60 feet from the normal high water mark of Saint Froid Lake, 29 feet from the South Frosty Hill Lane, and 15 feet from the nearest property boundary line.
- C. On April 30, 2019, the Commission issued Building Permit BP 16163 (“BP 16163”) to the Fortiers, which approved construction of a 26-foot by 34-foot by 25-foot tall dwelling with a 6-foot by 9-foot entryway addition to replace the original seasonal camp. The original seasonal camp was removed from the Fortier property in October of 2018. The reconstructed structure was authorized to be located 63 feet from the normal high water mark of Saint Froid Lake, 20 feet from South Frosty Hill Lane, and 15 feet from the nearest property boundary line. BP 16163 also permitted approximately 600 square feet of vegetative clearing and approximately 4,224 square feet of soil disturbance as part of the development. Condition of Approval 5 attached to BP 16163 required, among other things, that the structure be of the exterior dimensions and building heights listed in the application and that the filling, grading, and soil disturbance and cleared openings be located and sized as listed in the application.
- D. On May 21, 2020, Commission staff inspected the Fortier property at the Fortiers' request to provide technical assistance regarding stabilization of earthen fill imported to the Fortier property. During the site inspection, Commission staff determined that the exterior dimensions of the dwelling approved by BP 16163 measured 26 feet by 34 feet by 28 feet tall with a 6-foot by 6-foot entryway. The as built height of the dwelling exceeds the approved height dimension by 3 feet. The height was measured from the mean original grade on the downhill side to the peak of the structure. As built, the dwelling is set back approximately 78 feet from the normal high water mark of Saint Froid Lake, 20 feet from South Frosty Hill Lane, and 15 feet from the nearest property boundary line.
- E. On July 8, 2020, Amendment A to Building Permit BP 16163 was issued to the Fortiers authorizing a 4-foot wide by 30-foot long access stairway over the bank to the shoreline and a 1-foot wide by 25-foot long retaining wall for support of the existing driveway. The steps were authorized to be located 28 feet from the normal high water mark of Saint Froid Lake, at least 50 feet from South Frosty Hill Lane and at least 15 feet from the nearest property boundary line. The retaining wall was authorized to be located 75 feet from the normal high water mark of Saint Froid Lake, 25 feet from South Frosty Hill Lane and 5 feet from the nearest property boundary line (with written approval from the neighbor).

7. Description of Activities:

- A. In the fall of 2019, the Fortiers constructed a two-story, 26-foot by 34-foot by 28-foot tall dwelling with a 6-foot by 6-foot entryway instead of the two-story, 26-foot by 34-foot by 25-foot tall dwelling with a 6-foot by 9-foot entryway authorized by BP 16163. They had also filled and graded approximately 5,000 square feet of the Fortier property with gravel with a steep 50% grade around the edges that had not been stabilized over the winter in accordance with the provisions of Section 10.27, F, 7 of the Commission’s Land Use Districts and Standards. See 01-672 C.M.R. ch. 10, § 27

(F). As constructed, the dwelling is approximately 3 feet taller in height than authorized by BP 16163 and 3 feet higher than what is allowed under the provisions of Section 10.11, C, b, (2) of the Commission's Land Use Districts and Standards. See 01-672 C.M.R. ch. 10, § 11(C).

B. The dwelling is 75 feet from the normal high water mark of Saint Froid Lake, 20 feet from South Frosty Hill Lane, and 15 feet from the nearest property boundary line. The fill extends to approximately 23 feet from the normal high water mark of Saint Froid Lake.

8. Violations: The actions described in paragraph 7 above resulted in violations of the following sections of 12 M.R.S. Chapter 206-A, the Commission's Land Use Districts and Standards, and BP 16163.

A. By constructing the dwelling at a total height of 28 feet, the Fortiers violated 12 M.R.S. § 685-B(5).

12 M.R.S. § 685-B(5). Commission authorization pursuant to this section shall permit only the arrangement and construction set forth in the approval as issued. Change in use, arrangement or construction shall be considered a violation of this chapter and punishable as provided in this chapter.

B. By constructing the dwelling at a total height of 28 feet, the Fortiers violated 01-672 C.M.R. ch. 10, § 10.11(C)(1)(b).

01-672 C.M.R. ch. 10, §10.11(C)(1)(b). The maximum height of all structures within 100 feet, horizontal distance, of the normal high water mark of bodies of standing water 10 acres or greater in size is 25 feet, or existing structure height, whichever is greater. Under 01-672 C.M.R. ch. 10, § 10.02(94), the height of structure is defined as "the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area".

C. By constructing the dwelling at a total height of 28 feet, the Fortiers violated Condition of Approval 5 of Building Permit BP 16163.

Condition 5 states "Structures authorized under the permit, as well as filling/grading/soil disturbance and cleared openings created as part of construction activities authorized under this permit, must be located to meet the road, property line, water and wetland setback distances, exterior dimensions and building heights listed in Sections 4, 7 and 8 and approved by this permit".

D. By not promptly stabilizing the fill on the property, the Fortiers violated 01-672 C.M.R. ch. 10, §10.21(M)(3).

01-672 C.M.R. ch. 10, §10.21(M)(3). Filling and grading activities not in conformance with the standards of Chapter 10, section 10.27, F require a permit issued by the Commission.

E. By not promptly stabilizing the fill on the property, the Fortiers violated 01-672 C.M.R. ch. 10, § 10.27(F)(7).

01-672 C.M.R. ch. 10, § 10.27(F)(7). All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation. Filled or graded areas, including all areas of disturbed soil, within 250 feet of water bodies and wetlands, must be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of Chapter 10.

9. Remedial Measures Undertaken: The Fortiers have removed a substantial amount of fill material in order to regrade the area between the dwelling and the lake to a 5:1 (20%) slope. In addition, except for the driveway area, all of the fill was loamed, seeded, and mulched prior to June 15, 2020.
10. Official Record: This Agreement shall not be effective nor become part of the official record unless and until it is ratified by the Commission.
11. Conditions: To resolve the violations described in Paragraphs 7 and 8 above, the Fortiers agree to:
 - A. Within 15 days of the ratification date of this Agreement, pay a civil penalty in the amount of four thousand five hundred dollars (\$4,500). The payment must be made by bank check or money order made payable to the "Treasurer, State of Maine" c/o Maine Land Use Planning Commission, 22 State House Station, Augusta, Maine 04333-0022;
 - B. The existing 26-foot by 34-foot by 28-foot dwelling with 6-foot by 6-foot entryway and the existing lake-side landing with steps; the 1-foot by 25 foot retaining wall; and the 4-foot by 30-foot access stairway, as permitted or constructed, may remain on the property in its current location provided compliance with all of the terms and conditions of this Agreement. No further development of the Fortier property within 100 feet of the normal high water mark of Saint Froid Lake is allowed. The landing must not exceed 4 feet by 6 feet in size. Normal maintenance and repair of the dwelling with entryway and landing with steps is allowed; however, should 50% or more of the dwelling with entryway be removed, replaced, damaged or destroyed for whatever reason, it may not be repaired or replaced unless the repaired or replacement structure complies with the Commission's standards applicable at the time of the repair or replacement. The repair or replacement of more than 50% of the dwelling requires a permit from the Commission.
 - C. By September 30, 2020, plant a vegetative buffer for screening from Saint Froid Lake along the shoreline consisting of at least 12 hardwood or softwood trees of which no more than 25% may be hardwood trees. The trees must be planted in an irregular pattern in an area 35 feet lengthwise directly in front of the dwelling and 30 feet deep between the dwelling and the bottom of the fill. The trees must be: evenly distributed within the planted area, of species native to the area, at least 3 feet tall when planted, and spaced approximately 8-10 feet apart on center.
 - D. The Respondents and any subsequent owners or lessees of the subject property must ensure the survival of the planted trees by monitoring and replacement of damaged, diseased, and dead or dying trees within the same or similar species and size. No cutting of healthy shrubs, trees, or other naturally occurring vegetation, except for the existing lawn, may occur within 100 feet of the normal high water mark of Saint Froid Lake without prior approval from the Commission until August 30, 2030. Thereafter, cutting or removal of vegetation within 100 feet of the normal high water mark of Saint Froid Lake is allowed in accordance with the Commission's vegetative clearing standards in effect at the time.
 - E. The following actions to be taken by the Fortiers and the Commission to record this Agreement in the Aroostook County North Registry of Deeds: Within 10 days of signature by all parties hereto, the Fortiers must submit to the Commission the recording fee in the amount of \$32.00 to be paid to the Aroostook County North Registry of Deeds, for the recording of this Agreement. Payment must be by check or money order, made payable to the Aroostook County North Registry of Deeds. Upon receipt of payment, staff will record the Agreement in the Aroostook County North Registry of Deeds in a manner that causes it to be properly indexed to the Fortiers. If the Fortiers fail to submit the appropriate recording fee, the Commission may record the Agreement in the Aroostook County North Registry of Deeds without waiver of the violation caused by the Fortiers' failure to do so.

- F. The Fortier property may not be sold, leased or transferred until the conditions of this Agreement are fully complied with, and then such sale, transfer, or lease must be made with full disclosure of the terms of this Agreement to the buyer, lessee, or recipient and subject to terms of sale, lease, or transfer that obligate the buyer, lessee, or recipient of the property to fully comply with the terms of this Agreement. Any person acquiring all or any portion of the Fortier property does so subject to the terms hereof, and shall comply with the terms hereof.
- G. To the extent that any term or condition of BP 16163 may conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement control.

13. Release: In consideration for, but only upon completion of the actions called for in paragraph 11 above in accordance with the terms and conditions of this Agreement, the Commission and the Office of the Attorney General release their causes of action against the Fortiers arising from the violations on the subject property described in paragraphs 7 and 8 of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Administrative Settlement Agreement as of the latest signature date below.

Respondents:

By: _____
 Roger J. Fortier

Date: _____

STATE OF MAINE
 County of Androscoggin, ss

Date: _____

Personally appeared the above Roger J. Fortier and acknowledged the foregoing to be his free act and deed.

Before me,

 Notary Public

My Commission Expires: _____

 (Type or Print Name as Signed)

And

By: _____
Pamela L. Fortier

Date: _____

STATE OF MAINE
County of Androscoggin, ss

Date: _____

Personally appeared the above Pamela L. Fortier and acknowledged the foregoing to be her free act and deed.

Before me,

Notary Public

My Commission Expires: _____

(Type or Print Name as Signed)

Maine Land Use Planning Commission

STATE OF MAINE
County of _____, ss,

Date: _____

Personally appeared the above named Judy C. East, in her capacity as Executive Director of the Land Use Planning Commission, and acknowledged the foregoing to be her free act and deed in her said capacity and the free act and deed of the Land Use Planning Commission.

Before me,

Notary Public

My Commission Expires: _____

(Type or Print Name as Signed)

Office of the Maine Attorney General

By: _____
Lauren Parker, AAG

Date: _____