

**IN RE: APPEAL OF DEPARTMENT ORDER L-28397-4E-A-N  
Jeffrey Spinney, Licensee. Pier System and Boat Ramp, Alna**

**OPPOSITION TO MOTION CONTINUE APPEAL HEARING**

Licensee/Appellee Jeffrey Spinney hereby opposes Appellants'/Abutters Motion to Continue the hearing in the above-captioned appeal. While it is true that three appeals of local Planning Board and Code Enforcement Officer decisions related to this project are pending before the Town of Alna Board of Appeals, those appeals do not stand to alter the issues raised in the present appeal before the BEP. When the Licensee filed his prior requests for continuance, his application before the Town of Alna had been denied, and an appeal was pending. There was a significant chance that the DEP-permitted project would not be permitted at the local level, and that the BEP appeal would therefore be rendered moot. There was also a possibility that the Licensee was going to modify the project to a degree that would substantively alter the issues on appeal.

The posture of this case is now very different than it was when the prior continuances were granted. The Licensee presented his application again to the Town of Alna Planning Board, and the Planning Board granted that application on December 10, 2020. The Licensee subsequently received a construction permit from the Town Code Enforcement Officer and completed the permitted earthwork and resurfacing of the subject boat ramp. DEP staff has since inspected the work and found no issue (a copy of the inspection report has been submitted for inclusion in the Board's record). With the work already completed, there is no longer a significant possibility that the issues before the Board will become moot. Even if the appellants in the current town appeal are successful, that does not necessarily mean the local permit would ultimately be rescinded, or that the Town's Code Enforcement Officer and Board of Selectmen would require the completed earthwork to somehow be undone. This latter point is especially

important considering the fact that the Town and Mr. Spinney have entered a settlement agreement which would prevent the Town from taking enforcement action related to the permitted work.

Given the above, and the Licensee's understandable desire to resolve all pending legal matters related to this already completed work, the Licensee asks that the Board proceed with hearing of this appeal on the next available agenda.

Dated: January 21, 2021

By: Appellee/Licensee Jeffry Spinney



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Kristin M. Collins, Esq. – Bar No. 9793  
Preti Flaherty Beliveau & Pachios LLP  
45 Memorial Circle  
Augusta, ME 04330  
207.791.3292  
kcollins@preti.com