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\$659.60

~~Proposed~~  
LEASE AGREEMENT

LEASE made this 27th day of March, 2014, by and between the Town of Freeport, a municipal corporation located in Cumberland County, Maine with a mailing address of 30 Main Street, Freeport, Maine 04032 ("Landlord") and Carter Becker, doing business as Falls Point Marine INC, with a mailing address of 3 South Freeport Road, Freeport, Maine 04032 ("Tenant").

WITNESSETH:

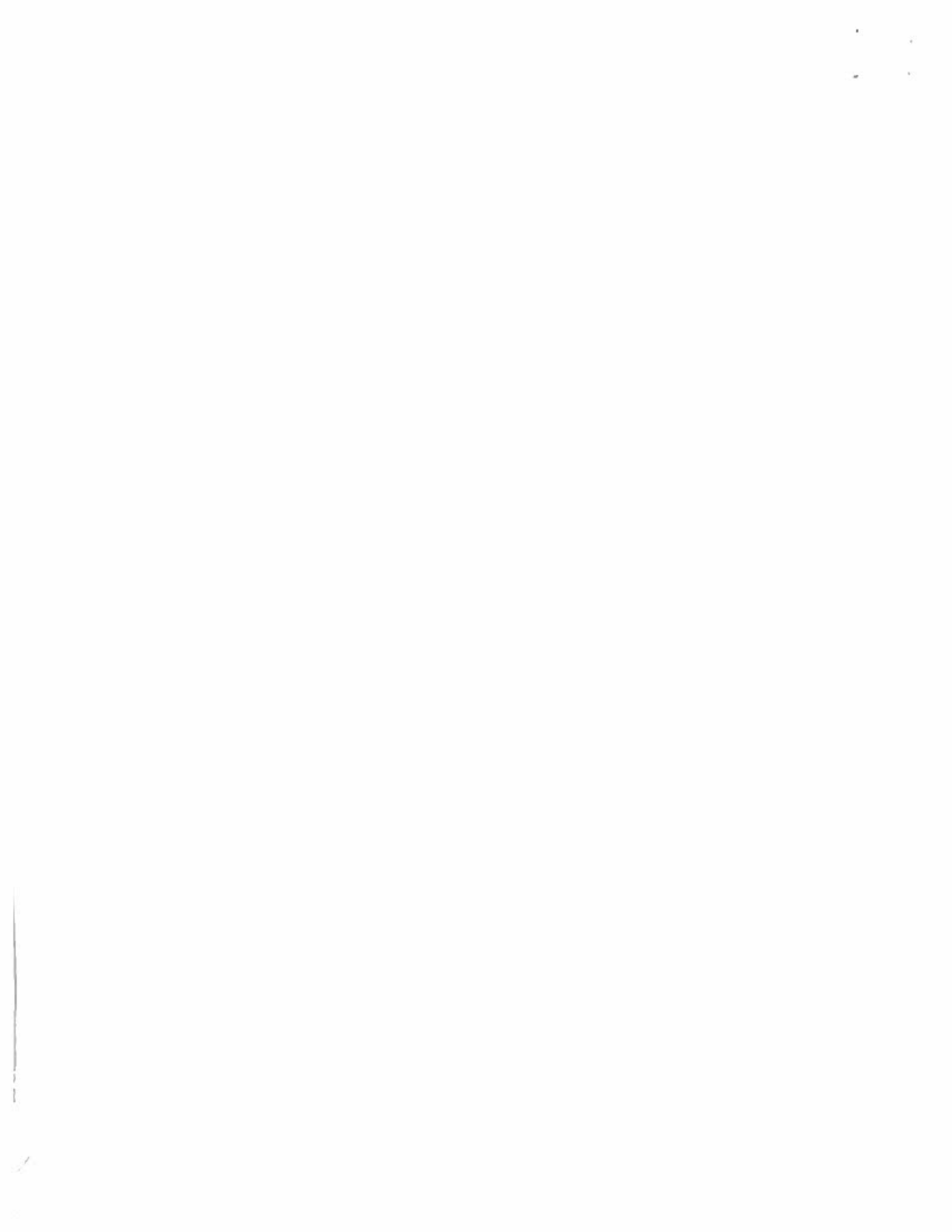
1. Premises Leased. Landlord does hereby Lease to Tenant, and Tenant does hereby Lease from Landlord, the entire building and lot north of the boat ramp and a portion of the lot at the southerly end of the site located at 3 South Freeport Road, Freeport, Maine, commonly known as the Dunning Boatyard. The land and conditions of use are more particularly described in Exhibit A attached hereto and made a part hereof (the "Premises").

2. Term. The term of this Lease shall be five (5) years, from April 1, 2013 to March 31, 2018. Should the Town of Freeport decide to continue leasing the property at the expiration of the lease, for the same purpose for which the Premises is leased to Tenant, Carter Becker will be given the first right of refusal.

3. Rent. Tenant covenants and agrees to pay monthly rent of six hundred and fifty dollars (\$650.00). Payments are due the first day of each month. Late payments shall result in a \$25.00 penalty after the 10<sup>th</sup> of each month and a \$50 penalty thereafter after the 25<sup>th</sup> of the month. Tenant may make quarterly rental payments in advance and receive a 3% discount in the monthly rental fee.

4. Tenant's Covenants. Tenant acknowledges by entry thereupon that said Premises are in good and satisfactory order, repair and condition and covenants the following:

- (a) To pay, when due and without offset or deduction, all rent and other charges set forth herein; all charges for telephone and other communication systems used at, and supplied to, the Premises, and all charges for electricity, heat or other utilities supplied to the Premises.
- (b) Except as specifically herein otherwise provided, Tenant agrees that from and after the date that possession of the Premises is delivered to Tenant, and until the end of the term of this Lease, Tenant will keep neat and clean and maintain in good order, condition and repair (reasonable wear and tear excepted): all interior nonstructural portions of the Premises including, but not limited to; lamping (lamps, ballast's, bulbs, etc.); fixtures; interior walls; floors; ceilings; signs (including exterior signs where permitted); and all wiring electrical systems, interior building appliances, heating, and ventilation systems and equipment to the extent such systems, appliances and equipment are located entirely within the Premises. The Tenant also agrees to be responsible, at its expense, for the



removal of snow, mowing and maintenance of landscaping of the boatyard and agrees to keep the premises neat, orderly and in a workman like manner. The premises shall be kept free of garbage and debris in keeping with the neighborhood and the Freeport community's use of the boatyard for launching and recovery of boats and permitting parking of vehicles and trailers, and to not permit, keep or store materials outside the building other than boats, boat parts or materials used for boat repairs or marine contracting. The Tenant also agrees to provide toilet facilities for employees including the Tenant.

- (c) Not to injure or deface said Premises or building; not to permit on said Premises any auction sale, nuisance, not to permit the use of said Premises for any purpose other than set forth herein or any use thereof which is improper, offensive, contrary to law or ordinance, or liable to invalidate or increase the premiums for any insurance on the building or its contents or liable to render necessary any alterations or additions to the building (other than those agreed to in writing by Landlord). Tenant may not use or store in the Premises any chemicals or substances deemed to be hazardous under federal, state or local laws or regulations, except in compliance with such laws and regulations. Upon termination of this Lease, Tenant will, at its expense, remove all of its Hazardous Materials from the Premises and comply with all applicable state, local and federal laws as the same may be amended from time to time.
- (d) Not to assign this Lease nor make any sublease at any time without the Landlord's prior written consent.
- (e) Not to make any alterations or additions (except as herein agreed) without written permission from Landlord, which shall not be unreasonably withheld, nor to permit the making of any holes in any part of said building
- (f) That the landlord may enter the Premises with notice to install, maintain, use, repair and replace pipes, ducts, wires, meters and any other equipment, machinery, apparatus and fixtures in said Premises to serve said Premises
- (g) To save Landlord harmless and indemnified from any injury, loss, claim or damage to any person or property while on the Premises.
- (h) To insure Tenant and Landlord, as their interests appear, with comprehensive general liability insurance including Broad Form Comprehensive General Liability coverage on the Premises, naming the Town of Freeport as "Additional Insured", in such amounts and with such companies and against such risks as the Landlord shall reasonably require and approve but in amounts no less than one million dollars (\$1,000,000) combined single limit with a reasonable deductible. Further, said policy shall not be cancelable by the insuring insurance company upon less than thirty (30) days prior written notice to Landlord. Tenant shall provide landlord with proof of insurance coverage by March 1 of each year.

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- (k) To hold all the property of Tenant, including fixtures, furniture, equipment and the like of the Tenant, or of any other owner situated at the Premises, at Tenant's own risk, to maintain such property in good working order and to pay any and all costs, charges and expenses in connection with its operation and maintenance.
- (l) To permit Landlord or its agents to examine the premises with reasonable notice at any reasonable time, or time when emergency access is needed, during the Lease term and, if Landlord shall so elect, to make any repairs or additions (structural or otherwise).
- (m) To pay Landlord's expenses, including reasonable attorney's fees, incurred in enforcing any obligation of this Lease which has not been complied with.
- (n) Not to suffer or permit any lien of any nature or description to be placed against the building, the premises or any portion thereof, attaching by reason of the conduct of the Tenant and to immediately pay and remove the same; this provision shall not be interpreted as meaning that the Tenant has any authority or power to permit any lien of any nature or description to attach to or be placed upon the Landlord's title or interest in the building, the Premises, or any portion thereof.
- (o) To maintain all safety appliances required by law or any public authority.
- (p) That the rights and remedies to which the Landlord may be entitled under the terms of this Lease are cumulative and are not intended to be exclusive of any other rights and remedies to which the Landlord may be properly entitled in case of any breach or threatened breach by Tenant of any portion of the Lease.
- (q) That acceptance by Landlord of a lesser sum than the gross rent, or other fees or charges then due shall not be deemed to be other than on account of the earliest installment of such rent or other fees or charges due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent or other payments be deemed an accord and satisfaction and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy in this Lease. The delivery of keys to any employee thereof shall not operate as a termination of this Lease or a surrender of the premises.
- (r) The Landlord may with reasonable notice,
- retain and use in appropriate instance keys to all doors within and into the premises. No lock shall be changed by Tenant without the prior written consent of landlord;
  - enter upon the Premises and exercise any and all of the Landlord's rights without being deemed guilty of an eviction, trespass or disturbance of Tenant's use or possession and without being liable in any manner to Tenant, as long as Landlord acts in good faith.





5. Damage or Destruction by Fire, Eminent Domain or Casualty. In the event that a substantial portion of the Premises or any part thereof shall be taken by eminent domain or shall be so damaged or destroyed by fire or unavoidable casualty that the Premises are thereby rendered untenable, then Landlord may terminate this Lease upon written notice to the Tenant and the rent shall be prorated as of the date of such termination.

6. Default and Landlord's Remedies. It is covenanted and agreed that if Tenant shall neglect or fail to perform or observe any of the covenants, terms, provisions or conditions contained in this Lease and on its part to be performed or observed within thirty (30) days after receipt of written notice of default, (except for payment of Base Rent or other monetary charges and except for default of Tenant's insurance requirements, for both of which there will be only a five (5) day cure period), or if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant's property by a court of competent jurisdiction, Landlord shall be entitled to all remedies available to Landlord at law and/or equity including, without limitation, the remedy of forcible entry and detainer. Tenant consents that in case of such termination, the rental payments shall accelerate and tenant shall forthwith pay to Landlord as damages a sum equal to the amount of rent and other payments called for hereunder for the remainder of the term, notwithstanding the foregoing Landlord shall be under an affirmative obligation to use good faith in efforts to mitigate its demands resulting from tenants breach. The net benefit of all such mitigation shall reduce tenants obligations hereunder. Notwithstanding the foregoing, in the event the Tenant violates this Lease by storing boats or equipment outside the two areas designated for storage, service, repair, or parking as shown on Exhibit A, or places on the premises materials prohibited by this Lease, and fails to correct the violation within five (5) days of receipt of written notice of violation, the Tenant shall pay the Landlord a penalty of \$25 per day of violation.

7. Notice. Written notice from Landlord to the Tenant shall be deemed to have properly been given if mailed by certified mail to the Tenant at the address set forth hereinabove. All notices to the Landlord and rent shall be sent to Landlord's address as hereinabove set forth.

8. Use of Premises. Landlord and Tenant acknowledge and agree that Tenant will use the Premises to operate a boat yard and provide marine services.

9. Building Improvements. The building will be leased as is. Any work performed must be authorized by landlord in advance. Any improvement to the building or other parts of the Premises shall be owned by the Landlord and shall not be removed by Tenant at the end of the term by expiration or termination of this Lease unless requested by Landlord, except that the Tenant shall be entitled to remove all trade fixtures prior to the end of the term, provided Tenant repairs any damage done to the Premises by their removal.

10. Security Deposit. Tenant shall be required to pay a security deposit equal to the first and last month's rent prior to occupying the property Total \$1,000.00. To be held by the Town with no interest to the Tenant.



11. Holdover. If Tenant remains in possession of the Premises after the expiration of the term of this Lease, such possession shall be as a month-to-month tenant. During such month-to-month tenancy, the provisions of this Lease, except for Minimum Rent, shall be applicable. If Landlord and Tenant are negotiating an extension or renewal in good faith, the Minimum Rent shall continue at the same rate required by the Lease for the prior months for a period not to exceed three months; thereafter, Minimum Rent shall be increased to one and one half (1 1/2) times the then-current Minimum Rent for the period just preceding such termination. Landlord and Tenant may terminate any such month-to-month tenancy by giving the other party thirty (30) days prior written notice.

12. Entire Agreement. This Lease encompasses the entire agreement between the parties. It supersedes all prior agreements or understandings. In entering into this Lease, the parties are not relying on any agreement, understanding, or representation not contained herein. This Lease may only be amended only by a writing signed by both parties hereto.

13. When Lease Becomes Binding. Only the Town Manager of Landlord shall have authority to make or agree to make a lease or any other agreement or undertaking in connection herewith. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Leased Premises, and this document shall become effective and binding only upon the execution and delivery hereof by both Landlord and Tenant. All negotiations, considerations, representations and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by agreement in writing between Landlord and Tenant, and no act or omission of any employee or agent of Landlord shall alter, change, or modify any of the provisions hereof. All rights, obligations and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, trustees, receivers, legal representatives, successors and assigns of the said parties; and if there shall be more than one tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee, legal representative, trustee, receiver, legatee or other personal representative of Tenant unless the assignment to such party has been approved by Landlord in writing.

14. Limitation of Liability. Tenant agrees to look solely to Landlord's interest in the Premises and any applicable insurance coverage for recovery of any judgment from Landlord.

15. Contract Termination. Either party may terminate this Agreement within thirty days of the effective date of the Agreement by providing written notice. Should either party terminate the Agreement within the thirty-day period, the building must be vacated no later than June 1, 2003. Rent shall be paid in accordance with the terms of this Agreement until June 1, 2003.

16. Meetings. Both parties agree to meet annually (more often if necessary) to discuss issues surrounding the use of the facility.



17. Environmental Compliance. The Tenant shall comply with all local, state and federal environmental laws.

18. Boat Ramp/Channel. The Tenant shall keep the channel and boat ramp clear of tenant's boats, equipment and materials.

19. Noise Control. The tenant agrees that power equipment shall not be used outside the building earlier than 7:00 AM Monday to Friday, 8 AM on Saturday and 9 AM on Sunday.

WITNESS the execution hereof, under seal, in any number of counterpart copies, each of which counterpart copies shall be deemed an original for all purposes, as of the day and year first written above.

WITNESS:

Judith Hawley

THE TOWN OF FREEPORT, MAINE  
(LANDLORD)

By: Peter Joseph, Jr.

Peter Joseph, Jr., Town Manager

Judith Hawley

FALLS POINT MARINE

By: Carter Becker

Carter Becker





JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



GERALD D. REID  
COMMISSIONER

**Certified Mail #: 7020 0090 0001 5263 9864**

July 20<sup>th</sup>, 2020

Town of Freeport  
30 Main Street  
Freeport, Maine 04013

**Re: Notice of Violation, Carter Becker, Land Resources, Notice of Violation # EIS2020-075-L**

Dear Town of Freeport:

Enclosed is a Notice of Violation (“NOV”) alleging your failure to comply with Maine’s *Natural Resources Protection Act*, 38 M.R.S. §§ 480-A-480-JJ. The NOV relates to violations documented during a site inspection by Department staff on March 4<sup>th</sup>, 2020 at 3 South Freeport Road. These violations are more fully described in the attached NOV. The Department offers technical assistance which may assist you in returning to compliance and avoiding further enforcement action. If you require technical assistance concerning this NOV please contact the case manager identified below.

A NOV is an administrative notice that is required by Maine law to be sent to parties the Department believes are responsible for violations of Maine’s laws, Department’s rules, and/or orders, prior to initiating civil enforcement actions. A failure to take the actions described in this NOV, including your contacting me within the expected time deadline, will likely result in a decision to pursue an additional action. I appreciate your immediate attention to this matter.

Sincerely,

Claire Briggs  
Environmental Specialist  
Bureau of Land Resources



