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MAINE LAND USE REGULATION COMMISSION
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RESOURCE PLAN
FOR THE NORTHERN PORTIONS OF
METINIC ISLAND,
KNOX COUNTY, MAINE

Pursuant to 10.16,F of
the Maine Land Use Regulation Commission's
Land Use Districts and Standards

August 1992

RESOURCE PLAN FOR THE NORTHERN PORTIONS OF METINIC ISLAND KNOX COUNTY, MAINE

1. INTRODUCTION

Metinic Island, 301 acres in size, is one of over 3,000 islands along the coast of Maine. Located approximately 7 miles offshore from the mainland town of St. George in Knox County, the island has a 200–year history of human habitation, with variation in the nature and extent of this use. Records suggest that Metinic was inhabited year–round and farmed throughout most of the 19th century. Then, concurrent with the deterioration of island–based economies in Maine, the population and use of Metinic appear to have declined in the 20th century to the current seasonal use of a portion of the southern half of the island and intermittent use of the north half for overnight camping, hiking, hunting, and other primitive recreational uses.

Today, Metinic Island supports a large population of nesting seabirds, and is one of only 381 of the 3,000 coastal islands in Maine that have recent records of 5 or more nesting seabirds. The island has a history of use as a seabird nesting island; records of seabird use date back to the 1920s and 1930s (see Appendix B). Metinic Island is large compared to most seabird nesting islands, which average 21.5 acres. Much of the island is cropped meadow due to intensive grazing by the island sheep population. Approximately 75 acres, most on the central portion of the island, are densely forested with spruce and fir, with some areas of heavy undergrowth.

Until recently, ownership of the island remained in the hands of two families and the island sustained relatively little development. Today, the southern portion of the island is owned by one family and supports a number of dwellings and associated structures located in two Residential Development Subdistricts (D–RS) which together comprise ten (10) acres. This area serves as the locus of a family business, primarily fishing and lobstering, during the warmer months. The northern half is undeveloped except for two unused, deteriorating buildings on the north end of the island. In 1985, a court ordered the division of the northern half of Metinic Island into 8 parcels held by a total of nine individuals. Some parcels were owned jointly. Since the partition, these lots have been further divided or transferred such that 13 lots exist on the northern end of the island, owned by ten individuals. Appendix A shows current property ownership on the island.

2. JURISDICTION

Metinic Island lies within the jurisdiction of the Maine Land Use Regulation Commission (hereafter referred to as "the Commission" or "LURC") pursuant to 12 M.R.S.A. §682(1). The Commission administers land use planning and zoning responsibilities for areas without local government or without local authority to administer these responsibilities, and thus has regulatory authority over land use planning, zoning, and development activities on the Island. In 1978, the Commission designated a number of land use subdistricts for Metinic Island which remain in place today. Currently, approximately 171 acres are in the Shoreland Protection Subdistrict (P–SL1), 118 acres are in the General Management Subdistrict (M–GN), and 10 acres are the Residential Development Subdistricts (D–RS).

The Commission, in its Comprehensive Plan and Section 10.16,C of its Land Use Districts and Standards, gives special consideration to coastal nesting islands (islands used for nesting by seabirds during their breeding period) considered essential to the maintenance of seabird populations. "Essential" areas are defined as the following: (1) areas providing habitat for one percent or more of Maine's total island breeding population of a particular species; or (2) areas providing habitat for several breeding species, such that the sum of the individual species'

percentages of their respective state breeding populations is one percent or more; or (3) areas which, in the Commission's judgement, are essential to the distribution and abundance of a specific species of seabird.

The Commission, under Section 10.16,F of its Land Use Districts and Standards, may designate an area as a Resource Plan Protection Subdistrict (P–RP) to provide for the more efficient and effective management of single or multiple Protection Subdistricts than can be realized through the use of other Protection Subdistricts and their related standards. To approve a Resource Plan, the Commission must find that all of the following criteria are satisfied:

(i) The plan conforms with redistricting criteria;
(ii) The plan conforms, where applicable, with the Commission's Land Use Districts and Standards;
(iii) The plan conforms with the Commission's Comprehensive Land Use Plan;
(iv) The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces; and
(v) The plan has as its primary purpose the protection of those resources in need of protection.

3. PURPOSE OF PLAN

The goal of this Resource Plan for Metinic Island is to create a comprehensive land use management program for the island which provides a flexible alternative to applying the Fish and Wildlife Protection Subdistrict (P–FW) while providing for the protection of seabird resources. This program will provide for carefully planned, limited development and will incorporate measures to mitigate the deterioration of seabird nesting habitat and adverse impacts on nesting colonies.

This Resource Plan enables the landowners and the Maine Land Use Regulation Commission to comprehensively plan for the future of the island in a manner that provides limited development opportunities to landowners, while protecting important natural resources on the island. The Plan defines the nature and extent of future land use on the island, thereby increasing predictability to landowners regarding reasonable uses of the land and enabling the Commission to ensure that the cumulative impact of such uses will not unduly affect natural resources.

Under this Plan, the use of the island for seasonal residential purposes continues. The Plan allows the construction and use of a number of dwellings with seasonal limitations, and ensures that new dwellings and associated infrastructure will be located and constructed in a manner designed to have the least impact on the seabird resource. It also incorporates management strategies needed to mitigate impacts on nesting seabirds and their habitat.

4. PETITIONERS & AREA OF PLAN

This Resource Plan applies to all of Metinic Island, except the lot identified in Appendix A as Lot 12. It is proposed by the following owners having a legal right, title, or interest in the subject real estate on the Island: Gregory J. Farris; Arthur L. Rackliff, Jr.; Valerie Rough; Peter B. Smyth; Bert E. Witham; Donni K. Witham; Eugene C. Witham; Elmer R. Witham; and Robert Witham (hereafter referred to as "Landowners"). This Plan is binding upon the Landowners, their successors, heirs, and assigns, for the duration of the Plan.

5. DESCRIPTION OF METINIC ISLAND'S SEABIRD RESOURCES

Current Status of the Resource

Today, Metinic Island is one of less than 400 coastal seabird nesting islands in Maine. These islands provide nesting habitat for 20 species of colonial seabirds (those that nest in groups at locations called colony sites). Four of these species currently nest on Metinic Island: eiders, arctic terns, herring gulls, and black–backed gulls and reports indicate that black guillemots have nested on the island in recent years as well. Historic accounts attest to the presence of these species, as well as laughing gulls, common terns, and Leach's storm petrels, nesting on the island in decades past (see Appendix B). Metinic Island is also a Class A Coastal Wildlife Concentration Area, by definition an area of national or state significance for coastal wildlife.

In the spring and summer of 1991, the Maine Department of Inland Fisheries and Wildlife (hereafter referred to as "MDIFW") conducted a census of common eider, tern, and gull nesting activity, and a visual estimate of black guillemots. The entire island was censused and individual nests counted. Appendix C shows nest locations as mapped in the 1991 census, and the results are described below.

GULLS

The census located 290 gull nests (including black–backed and herring gull). The majority of the gull nesting activity occurred on the southern half of the island, predominately concentrated on the southern tip.

EIDERS

The 1991 census located 401 common eider nests, indicating that Metinic Island supports more than 1% (1.4% in 1991) of the statewide nesting population of common eiders. The majority of eider nests were located in the densely vegetated and forested portions of the island, unusual since eiders generally nest in open areas. The remainder were scattered throughout the open areas, usually associated with vegetative clumps or other sources of vertical cover (see Appendix C). The island sheep population and the presence of gulls has had a marked influence on the distribution of nesting eiders. Eiders on Metinic Island demonstrate a strong preference for vertical cover in selecting nest sites. The island sheep population keeps vegetation cropped close to the ground, excepting unpalatable shrubs such as bayberry. The short grass and unrestricted movement of sheep combine to limit nesting habitat for eiders.

TERNS

One arctic tern colony, located on the northern end of the island, comprised 23 nests, according to the June 1991 survey by MDIFW. Two additional tern nests were found on the island, one at the southern tip, and another along the southwest shore (see Appendix C). Based on the results of the 1991 survey, Metinic Island supports over 1% (approximately 1.1% in 1991) of the statewide arctic tern population. The presence of sheep may be limiting nesting opportunity for arctic terns on Metinic Island. Since terns nest on open ground, nests are possible only in areas that are not trodden by animals, such as cobble beaches.

GUILLEMOTS

Black guillemot nests were not counted in MDIFW's 1991 survey. Guillemot nests occur in rock crevices above the normal high water mark and are often difficult to locate. 161 black guillemots were observed by MDIFW flushing off of the island or island perimeter. No

determination was made as to whether birds sighted were nesting, but MDIFW believes it likely that black guillemots are nesting on the island.

Future Status of the Resource

Based on the history of use of Metinic Island by nesting seabirds, the island is expected to continue to support healthy populations of nesting seabirds. Nevertheless, it is impossible to anticipate future influences on seabird populations without regular monitoring of the resource. This Plan may be amended in the future to reflect changes in the status of the seabird resource, as provided in Section 11, provided that any changes in the status of the resource purported to justify any such amendment are confirmed by MDIFW based on regular monitoring of the resource over an extended period of time.

6. SEABIRD NESTING BEHAVIOR AND MANAGEMENT CONSIDERATIONS

Nesting Behavior

Gulls, eiders, and terns usually nest in colonies ranging from a few breeding pairs to thousands of a single species on some islands. The relative seclusion and absence of mammalian predators offered by coastal islands are likely important features and may be a major reason Maine's seabird colonies have survived. Each spring, these birds return to the islands for nesting and raising of young. The nesting and chick–rearing period generally runs from late April through August, depending on the species.

GULLS

Herring gulls and black–backed gulls are both abundant in Maine, although black–backed gulls are relative newcomers, first known to breed in the state in the 1920s.

EIDERS

Despite near extirpation in the early 1900s, eiders are relatively abundant in Maine today. The eider is the only colonial nester among Maine waterfowl. It is also the only species of waterfowl that nests exclusively on Maine's coastal islands. Eiders generally nest by the last week in April. Nest sites occur in unconcealed spots in grass or weeds, but dense areas screened by raspberry or bayberry bushes are preferred. Nesting on wooded islands is uncommon. On wooded islands, eiders often choose sites under blowdowns or under spruce trees with low branches. On Metinic Island, it is possible that eiders use wooded areas because the non–forested areas are heavily grazed and trampled by sheep.

Once incubation starts, female eiders leave their nests very infrequently. During incubation, females rarely feed, leaving occasionally to get drinking water. Eider ducklings hatch after 26 days. Within twenty–four hours, the mother leads the ducklings from the nest to the water. The journey from the nest to the water may be hazardous because the ducklings are vulnerable to predation by gulls and other hazards. Nesting of eiders is usually complete by mid–June.

Because of their intense commitment to incubation, eiders can nest successfully in the midst of a gull colony. However, human and other forms of disturbance may cause loss of eggs and hatchlings which are vulnerable to predation and exposure. When disturbed, both gulls and eiders leave their nests, but gulls generally return sooner and predate on unprotected eider eggs and hatchlings.

TERNS

Maine's tern population, unlike that of many other island nesting seabirds, is depressed and is not increasing. Populations of common and arctic terns declined dramatically from 16,000 pairs in the 1930's to about 4,800 pairs in 1991 in response to increased predation, competition for nest sites by a burgeoning gull population, and other factors. Terns once nested on at least 175 islands in Maine, but they now nest on less than 20. Metinic Island is one of the few historic nesting islands still occupied by nesting terns.

Arctic terns, the species currently nesting on Metinic, are listed as a species "Of Special Concern" by MDIFW. Nesting terns, both arctic and common, have been recorded on Metinic Island as far back as the 1930s (see Appendix B). The State currently supports 2,200 nesting pairs of Arctic terns. Recently, intensive management efforts to save terns have resulted in the re–establishment of large tern colonies on six Maine islands where 90% of the state tern population is now nesting. The remainder are still looking for stable nesting locations. Traditional nesting sites, such as Metinic Island, are most likely to provide suitable locations provided other factors are not limiting.

Terns normally nest on the edge of cobble beaches and adjacent grassy areas. Their breeding period extends from May through July. If a nesting tern colony is disturbed, the entire colony will rise into the air, creating opportunities for predation of eggs and young by gulls. Damage to eggs and chicks can also occur if adults are disturbed during adverse weather conditions, such as rain, fog, or low temperatures. Moreover, tern eggs are well–camouflaged, making them vulnerable to crushing.

GUILLEMOTS

An estimated 3,000 black guillemot pairs currently breed in Maine. Black guillemots lay their eggs deep in rock crevices, where they are safe from predatory gulls and protected from human disturbance to some degree. Their breeding period extends from May through July.

Wildlife Management Considerations

Wildlife management considerations in this Plan focus on minimizing permanent loss of nesting habitat, limiting opportunities for disturbance of birds during the nesting season, and enhancing habitat to mitigate impacts of development.

Loss of nesting habitat may be minimized by limiting the amount of development and by preserving habitat in undeveloped areas. The impact of development can be minimized in part by siting structures away from nesting areas, and limiting the amount of landscape alteration associated with structures, roads, trails, and infrastructure. Control of sheep should help to mitigate the impacts of development on nesting habitat and nesting birds. It is important to guide and control opportunities for human disturbance during the nesting season, so activities are limited during the nesting season, in combination with other measures designed to minimize disturbance to colonies.

Several of these strategies are utilized in this Plan. The Plan provides for a low density of development on the island to minimize loss of habitat and disturbance. It employs building setbacks from the water to minimize visual impacts on nesting seabirds and to preserve the area most commonly used by terns, eiders, and guillemots for nesting. The Plan limits activities during the eider nesting period to minimize disturbance during this critical time and it minimizes disturbance to tern nesting habitat through building setbacks and by locating the northern access road away from the tern colony in that area.

7. LAND USE ACTIVITIES

This section specifies which land use activities are allowed without a permit, which are allowed with written notification to LURC, and which require a permit from LURC. Uses not specifically mentioned in this section are prohibited, except as specifically provided for in this Plan. All uses, whether allowed without a permit, allowed by notification, or allowed with a permit, must be undertaken in accordance with the General Standards listed in Section 8 of this Plan, except as specifically excepted in the Plan. Terms not defined in section 13 of this Plan shall have the meaning given them in Chapter 10 of the Commission's Land Use Districts and Standards.

A. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Maine Land Use Regulation Commission, provided that they are not undertaken from April 1st through June 15th in any year without prior approval of the Commission, except that primitive recreation, emergency operations, storage of boats and equipment, and wildlife and fishery research, surveys, and management practices are allowed without seasonal limitation:

(1) Primitive recreation;
(2) Emergency operations conducted for the public health, safety, and welfare;
(3) Wildlife and fishery research, surveys, and management practices approved by state or federal agencies;
(4) Storage of boats, moorings, and navigation equipment;
(5) Normal maintenance and repair activities;
(6) Surveying and other resource analysis;
(7) Level A road projects;
(8) Operation of motor vehicles on roads and trails;
(9) Primitive campsites.

B. Uses Allowed by Written Notification

The following uses are allowed following written notification to LURC in accordance with the procedures described below and provided they are not undertaken between April 1st and June 15th in any year without prior approval of the Commission:

(1) Trail construction;
(2) Non–permanent docking and mooring structures;
(3) Level B road projects;
(4) Forest management and timber harvesting in accordance with General Standards;
(5) Construction of fences.

At least 21 days prior to undertaking any of the above–listed activities, the landowner shall submit to LURC written notification of the proposed activity. The notification shall be submitted on the form provided in Appendix D or other appropriate form specified by the Commission. Upon receipt of the notification, the Commission will review the notification and:

(1) If the Commission identifies concerns regarding the proposed activity, it will contact the landowner within 21 days of its receipt of the notification. If the Commission's concerns are not subsequently addressed by the landowner

through modifications of the proposed activity, then the landowner must apply for and obtain a permit from the Commission prior to undertaking the activity;

(2) If the Commission does not notify the landowner of concerns within the 21–day period following its receipt of the notification, the landowner may proceed with the activity.

C. Uses Allowed with a Permit

The following uses are allowed upon issuance of a permit by the Commission:

(1) Permanent docking and mooring structures, including boat ramps and ways;
(2) Single–family dwellings;
(3) Accessory structures;
(4) Permanent non–commercial campsites, except as provided for in Section 8,A,(2),(i) of this Plan;
(5) Home occupations;
(6) Filling and grading;
(7) Level C road projects;
(8) Forest management and timber harvesting in excess of standards listed in Section 8 of this Plan;
(9) Helicopter landing site;
(10) Agricultural management activities;
(11) Other structures and uses which the Commission determines are consistent with the purposes of this Resource Plan and of the Comprehensive Land Use Plan and are not detrimental to the resources protected thereunder.

D. Prohibited uses

Any use not expressly allowed, with or without a permit, is prohibited, except that allowed uses may be amended by the Commission pursuant to Section 7,C,(11) of this Plan.

8. GENERAL STANDARDS FOR PERMITTED USES

The following standards apply to all land use activities on Metinic Island, whether allowed without a permit, by written notification to LURC, or by permit.

A. DEVELOPMENT STANDARDS

(1) Lots

(a) Except for the parcel currently owned by Donni K. Witham and the lots formerly owned jointly by Elmer and Eugene Witham, no further division of a lot of record in existence as of July 1, 1991 is allowed. Reconfiguration of existing lots, by transfer to an abuttor is allowed provided no additional lots are created.

The lot currently owned by Donni Witham may be further divided to create a maximum at any time of no more than 3 lots. Any such division must comply with LURC requirements pertaining to division of lots and must not create a subdivision without prior approval by the Commission.

The 2 lots formerly owned jointly by Elmer and Eugene Witham were divided in 1992 into a total of 4 lots, 2 of which were conveyed to Elmer Witham and 2 to Eugene Witham. They may not be further divided.

(2) Structures

(a) A number of dwellings and associated accessory structures currently exist on the southern portion of the island (lot 12, as shown in Appendix A) in two D–RS zones. A maximum of fourteen (14) single–family dwellings, and associated accessory structures, shall be allowed on the northern half of the island (lots 1–11 and lot 13, as shown in Appendix A), provided the provisions of paragraphs (b)–(h) following are met for each structure. Dwellings shall be allocated as follows: one (1) is allocated to the lot presently owned by Bert Witham; three (3) are allocated to the lot presently owned by Donni Witham; one (1) is allocated to the more northerly lot owned by Eugene C. Witham; one (1) is allocated to the more southerly lot owned by Eugene C. Witham, provided that the Commission and MDIFW, after consultation with Eugene Witham, locate and approve a suitable building site on the lot that minimizes disturbance to the seabird nesting habitat and resources; one (1) is allocated to the more southerly owned lot by Elmer R. Witham, provided that the Commission and MDIFW, after consultation with Elmer R. Witham, locate and approve a suitable building site on the lot that minimizes disturbance to the seabird nesting habitat and resources, and one (1) is allocated to his more northerly lot only as provided for in the following paragraph; two (2) are allocated to the lots presently owned by Gregory Farris, provided such lots are reconfigured to an east–west orientation unless MDIFW and the Commission approve a building site on the western parcel in its current configuration (as shown in Appendix A) in which case reconfiguration of the lots is not required; and one (1) each to lots presently owned by Peter Smyth, Arthur L. Rackliff, Jr., Robert Witham, and Valerie Rough.

Two unused and deteriorated, non–conforming structures exist on the northern end of the island, one of which falls within the Shoreland Protection Subdistrict (P–SL). One structure is located on the lot owned by Donni Witham and the other on the lot owned by Elmer R. Witham. Under current LURC standards, these structures may not be reconstructed or used for any purpose. In the event this Plan is amended pursuant to section 11, paragraph 2 to reflect the permanent abandonment of the northern end of the island by the terns and, thus, removal of the 660–foot setback requirement for structures (established in subparagraph (c) below), Donni Witham and Elmer R. Witham may apply, subject to the allocation formula, for a waiver of the minimum setback distance from the normal high water mark. However, such reduced setback may not be less than 100 feet from the normal high water mark for a structure within the former 660–foot zone.

(b) A building permit from the Maine Land Use Regulation Commission is required for all structures, in accordance with the requirements of the Land Use Districts and Standards. However, because this Resource Plan is designed to provide for the protection of nesting seabirds, in reviewing an application for development proposed in accordance with this Plan the Commission will not deny a building permit application that meets the requirements of this Plan based on undue adverse impacts on nesting seabirds protected under this Plan.

(c) All structures, principal and accessory, and permanent campsites shall be located a minimum of 250 feet from the normal high water mark of tidal waters, excepting those structures allowed under this Plan and determined by the Commission to be necessary to a water–dependent use. It is the goal of this Plan to minimize clearing of existing vegetation and loss of habitat; therefore, this Plan establishes a preference for siting structures allowed under this Plan in existing clearings. Based on available information, it appears that most landowners can locate authorized structures in existing clearings and meet the 250–foot setback requirement. However, if the characteristics of a site make it impossible to locate a structure that is both 250 feet back from the normal high water mark and within an existing clearing, then the landowner may apply for a waiver of the setback requirement. In such cases, LURC may reduce the setback requirement to the minimum extent necessary, such that structures are located within existing clearings but conform to the setback requirement to the maximum extent possible.

In addition, all structures and campsites shall be located a minimum of 660 feet from the outermost edge of the tern colony that is located on the northern end of the island. (The location of the tern colony and associated setbacks are shown in Appendix E.) Where development of a lot is demonstrated to be substantially adversely affected by this setback requirement, the landowner may apply for a waiver of the setback from the normal high water mark. In such cases, the Commission may waive the setback from the normal high water mark to the minimum extent necessary provided, however, the setback from the normal high water mark is no less than 100 feet and the 660–foot setback is maintained.

(d) The footprint of each dwelling shall not exceed 2,000 square feet. An additional 1,000 square feet of footprint per dwelling is allowed for exterior, unenclosed decks. Decks larger than 1,000 square feet are allowed provided the combined footprint of the dwelling and exterior decking does not exceed 3,000 square feet, but in no case shall the footprint of enclosed living space exceed 2,000 square feet. In addition, the combined footprint of all accessory structures associated with a dwelling shall not exceed 2,000 square feet.

(e) Dimensional requirements for lots and structures shall be in accordance with Section 10.17,B,1 of the Commission's Land Use Districts and Standards, except that building height shall not exceed 35 feet.

(f) Subsurface sewage disposal requirements shall be in accordance with Section 10.17,B,4 of the Commission's Land Use Districts and Standards and the Maine State Plumbing Code.

(g) In any given year, construction and related activities may be undertaken only during the period between August 1 and March 1 (of the following year).

(h) Dwellings and campsites may not be occupied between April 1 and June 15.

(i) Upon application for a building permit by a landowner and subsequent approval of the permit by the Commission, one permanent campsite is

allowed without further permit approval at the building site until such time as the building is completed in accordance with the permit, provided the landowner specifies the location of the campsite in the building permit application.

(3) Clearing for Development

(a) Clearing of an area associated with a dwelling and associated accessory structures, lawns, gardens, and clearings shall not exceed 20,000 square feet. For dwellings located in existing clearings, cleared areas and viewsheds may be maintained provided the total area maintained as a clearing does not exceed 20,000 square feet. For dwellings located in areas vegetated with trees and/or shrubs, a clearing of no more than 20,000 square feet may be created and maintained.

(b) No clearing or vegetative disturbance is allowed within 250 feet of the normal high water mark of tidal waters, except as provided in (a) above or where a waiver has been granted to the structural setback requirement. Where such a waiver has been granted, clearing is allowed as provided in (a) above provided that no clearing is allowed within 100 feet of the normal high water mark of tidal waters.

(4) Docks, Boat Landings, Roads

(a) The island currently has one existing boat landing and dock on the southern portion of the island. One additional boat landing and one dock is allowed on the north end of the island to serve landowners owning land on the northern portion of the island. A single, permanent dock may be allowed by permit from the Commission if the applicant demonstrates that use associated with the dock can be buffered from the seabird resource through creation of visual or vegetative buffers and other measures to ensure minimal disturbance. All land traffic from the boat landing shall utilize the west side of the landing area to minimize disturbance to any nearby tern colony or nesting areas.

(b) There are currently no roads on the northern portion of the island. One road or accessway may be permitted on the northern half of the island but must follow the route described below to minimize disturbance to the tern colony: it shall begin at the west side of the beach that serves as the landing area and shall run southwest, generally following the centerline of the island, following the swale between the rise of land to the east and the stone wall to the west (see Appendices A and E). The travel portion of this accessway shall be no more than 12 feet wide (the right–of–way width is 20 feet).

(c) Operation of motorized vehicles within 660 feet of the tern colony is prohibited between April 1 and July 15, and operation of motorized vehicles on the remainder of the island is prohibited between April 1 and June 15.

B. OTHER STANDARDS

(1) Pets & Other Domestic Animals

(a) Free–roaming pets are prohibited on the island.

(b) Introduction of wild animals to the island is prohibited. [NOTE: Raccoons, mink, weasels, skunk, and other animals are efficient predators. White–tailed deer and others will severely damage seabird nesting habitat.]

(2) Agricultural management activities

(a) Domestic livestock shall generally be limited to the southern half of the island (lot 12 on Appendix A) as a pre–existing use. Livestock may be allowed on portions of the northern half of the island only if approved by state or federal agencies as a wildlife management practice under Section 7,A of this Plan. In all cases, it is the responsibility of the owners of livestock to control the movement of their livestock as directed by the Plan or as specified in any conditions associated with wildlife management practices permitted under this Plan.

(3) Forest management and timber harvesting

(a) Selective cutting of no more than 20% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level, on any acre in any ten–year period is permitted, provided that a well–distributed stand of trees and other vegetation is maintained at all times;
(b) Timber harvesting operations shall not create openings in the forest canopy greater than five thousand square feet, and such openings shall be at least one hundred feet apart;
(c) Forest management and timber harvesting shall not be undertaken between April 1 and June 15 of any year.

(3) Helicopter access

(a) Helicopter access is an allowed use only at a single landing site permitted under Section 7,C,(9) in accordance with the terms and conditions of the permit. Terms and conditions may vary depending on the location of that landing site.

(4) Miscellaneous

(a) Introduction of pioneering noxious plants such as purple loosestrife is prohibited. [NOTE: These plants can choke out indigenous vegetation that is valuable to wildlife.]

9. DURATION OF PLAN

This Resource Plan shall remain in effect for a period of twenty (20) years from the effective date of this Plan. Prior to its expiration, the Plan may be renewed and extended in accordance with Section 10.16,F of the Commission's Land Use Districts and Standards upon approval of the Commission and the Landowners. The Landowners must provide the Commission with written notice of whether they intend to extend or renew the Plan one (1) year prior to the expiration of this Plan. If the Plan is proposed for renewal, the proposal must be substantially complete and submitted to the Commission six (6) months prior to the expiration date of the

existing Plan. If the Landowners or the Commission do not wish to renew the Plan, or cannot agree upon the terms of a renewal, the Commission will, in conformity with its comprehensive plan, statutes, and standards, designate appropriate zoning concurrent with expiration of the existing Plan.

This Plan shall be binding on Landowners entering into this Plan, and their heirs and assigns, for the duration of the Plan.

10. EFFECTIVE DATE OF PLAN

This Plan shall take effect September 4, 1992, following approval by the Maine Land Use Regulation Commission. Within thirty (30) days of the effective date of this Plan, a copy of the approved Plan will be filed by the Commission in the Knox County Registry of Deeds. Upon the lease or conveyance of a lot that is included within this Plan, the landowner shall reference the existence of this Plan and any amendments thereto in the the lease or deed conveying the lot.

11. AMENDMENT OF PLAN

Upon mutual agreement of the landowners and the Commission, this Resource Plan may be amended from time to time due to unanticipated changes in the seabird resource including those conditions described below or for other necessary reasons:

If, during the term of the Plan, a parcel or parcels totalling more than 25% of the total land area of the island is conveyed to a state or federal government agency for the primary purpose of conservation or preservation of natural resources, the Commission may, upon written request by the landowners, review the Plan to evaluate the effect, if any, of such conveyance on the conservation and viability of the seabird resource. If after such review the Commission determines that amendment of the Plan is warranted and in keeping with the purposes and intent of this Plan, the Plan may be so amended upon petition by the landowners; or

Furthermore, if, during the term of this Plan, the Commission or MDIFW concludes, based upon regular monitoring and assessment, that unanticipated changes in the presence or viability of the seabird resource have arisen and are persistent, the Plan may be amended to most appropriately respond to those changes if such amendments are in keeping with the purposes and intent of this Plan. If after consultation with MDIFW, this monitoring and assessment demonstrates to the satisfaction of the Commission that the terns have abandoned the northern end of the island and no longer use the area as habitat due to conditions unrelated to or arising from human disturbance, habitation, or presence, and such change is not transient but is permanent, the Commission may, upon petition by the landowners, review and amend this Plan to reflect this change. However, review and amendment of the Plan relating to the terns may not occur within the five (5) year period following the effective date of this Plan.

Amendments must meet the criteria of approval listed in Section 10.16,F,6 of the Commission's Land Use Districts and Standards and shall be in keeping with the purposes and intent of this Plan.

Amendments to this Plan must be promptly filed in the Knox County Registry of Deeds.

12. LIMITATIONS

Nothing in this Plan shall be construed to limit or prohibit the Maine Land Use Regulation Commission from administering and enforcing statutory provisions enacted subsequent to the effective date of this Plan.

13. DEFINITIONS

Definitions of certain terms used in this Plan are contained in this Section. Terms not defined in this Section shall have the meaning given them in Chapter 10 of the Commission's Land Use Districts and Standards.

Accessory Use or Accessory Structure:
A use or structure subordinate to a permitted or conditional use or structure and customarily incidental to the permitted or conditional use of the structure. A deck or similar extension of the principal structure is considered part of the principal structure.

Agricultural management activities:
Land clearing, tilling, fertilizing, including spreading and disposal of manure, liming, planting, harvesting or cultivating crops, pasturing of livestock and other similar or related activities, but not the construction, creation or maintenance of land management roads, nor the land application of septage, sludge and other residuals and related storage and composting activities.

Coastal Nesting Island:
An island used for nesting by sea birds during their breeding period.

Commission:
The Maine Land Use Regulation Commission.

Docking or Mooring Structure:
A structure placed in or near water primarily for the purpose of securing and/or loading or unloading boats and float planes, including but not limited to docks, wharfs, piers, and anchoring devices, but excluding boat houses and float plane hangars. When associated with this phrase, the term "permanent" shall mean facilities in place for longer than 7 months in any calendar year. For purposes of this Plan, the term "docking facilities" shall have the same meaning as "docking or mooring structure".

Dwelling Unit:
A room or group of rooms designed and equipped for use primarily as living quarters, including any home occupations, for one family. The term shall not include buildings or parts of buildings used as a hotel, motel, commercial sporting camp or other similar facility which is rented or leased on a relatively short term basis; provided, however, the term shall include a tourist home operated as a home occupation.

Home Occupation:
Any business, occupation or profession which is carried on in a dwelling unit or structure accessory to a dwelling unit by a member of the family residing in the dwelling unit. The conduct of such business, occupation or profession must be clearly incidental and secondary to the use of the dwelling unit for residential purposes,

compatible with the allowed uses, and must occupy no more than 25 percent of all floor area of the dwelling unit or of the total combined floor area of the dwelling unit and accessory structure in which the occupation is carried out.

Level A Road Projects:
Reconstruction within existing rights–of–way of public or private roads other than land management roads, and of railroads, excepting bridge replacements. Examples of such activities include, without limitation, culvert replacements, resurfacing, ditching, and bridge repair.

Level B Road Projects:
Minor relocations, and reconstructions, involving limited work outside of the existing right–of–way of public roads or private roads other than land management roads and of railroads; bridge reconstruction and minor relocations whether within or outside of existing right–of–way of such roads.

Level C Road Projects:
Construction of new roads, and relocations or reconstruction of existing roads, other than that involved in Level A or Level B road projects, such roads shall include both public and private roadways excluding land management roads.

Non–Permanent Docking or Mooring Structure:
Docking or mooring structures which are in place for less than seven months during any calendar year upon or over submerged lands.

Normal High Water Mark of Tidal Waters:
That line on the shore of tidal waters reached by the shoreward limit of the rise of the medium tides between the spring and the neap. This line may be identified where appropriate by discerning the debris line left by tidal action.

Normal Maintenance and Repair:
Unless otherwise provided, any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in use, change in location, change in size or capacity.

Permanent Non–Commercial Campsite:
An outdoor area designed for overnight occupancy, where limited clearing of vegetation or structural development including, but not limited to, tent platforms, lean–tos, privies, and picnic tables, occurs on the site.

Primitive Campsite:
An outdoor area used for transient, overnight occupancy in tents, provided there is no clearing of vegetation or structural development, including but not limited to, tent platforms, lean–tos, privies, and picnic tables on the site.

Primitive Recreation:
Those types of recreational activities associated with non–motorized travel, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, canoe portaging, cross country skiing, and snowshoeing.

Principal Building:
Any building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises. All buildings on one land parcel

related to agricultural management activities, including without limitation the dwelling(s) of the owner or lessee of land used for agricultural management activities, his employees engaged in such use and members of their families, shall be considered as one principal building. All buildings on one land parcel related to forest management activities, including without limitation the dwelling(s) of the owner or lessee of land used for forest management activities, his employees engaged in such use and members of their immediate families, shall be considered as one principal building.

Structure:
"Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to, buildings, mobile homes, walls, fences, billboards, signs, piers and floats." 12 M.R.S.A., Section 682.

Tidal Waters:
All waters or portions thereof which customarily ebb and flow as the result of tidal action.

Trail:
A route or path other than a roadway, and related facilities, developed and used primarily for recreational activities including but not limited to hiking, backpacking, cross–country skiing and snowmobiling, which passes through or occurs in a natural environment. Related facilities may include but not be limited to subsidiary paths, springs, view points, and unusual or exemplary natural features in the immediate proximity of the trail which are commonly used or enjoyed by the users of the trail.

Water–Dependent Uses:
Those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These uses include commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities, waterfront dock and port facilities, boat building facilities, navigation aides, basins and channels, uses dependent upon water–borne transportation that cannot reasonably be located or operated at an inland site and uses which primarily provide general public access to marine or tidal waters.

Wildlife Management Practices:
Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, impounding water, controlled hunting and trapping, controlled grazing of domesticated animals, relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species.

BY: _____
Gregory J. Farris

_____
Arthur L. Rackliff, ~~Jr.~~

_____
Valerie Rough

_____
Peter B. Smyth

_____
Bert E. Witham

_____
Donni K. Witham

_____
Eugene C. Witham

_____
Elmer R. Witham

_____
Robert Witham

APPROVED BY THE MAINE LAND USE REGULATION COMMISSION AT ELLSWORTH, MAINE, THIS 20TH DAY OF AUGUST, 1992.

SEAL

By: _____
David E. Boulter, Director
Maine Land Use Regulation Commission

State of Maine, County of Kennebec, SS November 18, 1992

Then personally appeared the above named David E. Boulter and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me, _____
Jeannine Y. Lapointe, Notary Public, My Commission expires Sept. 5, 1996

APPENDICES

APPENDIX A – Map of current property ownership on Metinic Island.

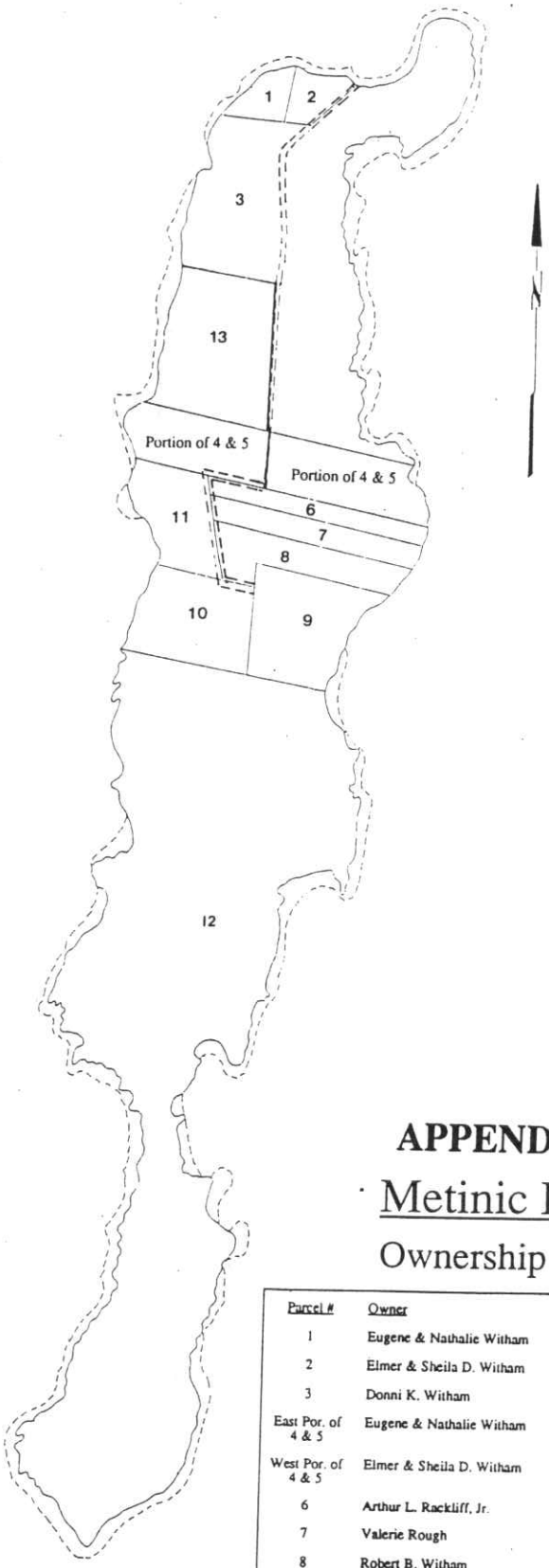
APPENDIX B – List of historical records of colonial nesting seabirds on Metinic Island, from Korschgen, Carl. 1976. Historical Review of Seabirds Nesting in Maine (Appendix I). U.S. Fish and Wildlife Service. Unpublished Report.

APPENDIX C – Map showing results of 1991 MDIFW Metinic Island Seabird Census.

APPENDIX D – Notification form for activities allowed by notification to LURC.

APPENDIX E – Detail map of location of known tern colony

APPENDIX F – LURC zoning map showing extent of P–RP zone



APPENDIX A

Metinic Island

Ownership Map

Parcel #	Owner	Area	Book/Page
1	Eugene & Nathalie Witham	3.42 AC	1581/294
2	Elmer & Sheila D. Witham	3.42 AC	1581/298
3	Donni K. Witham	64.0 AC	
East Por. of 4 & 5	Eugene & Nathalie Witham	10.4 AC	1581/294
West Por. of 4 & 5	Elmer & Sheila D. Witham	10.0 AC	1581/298
6	Arthur L. Rackliff, Jr.	5.11 AC	673/131
7	Valerie Rough	6.07 AC	673/131
8	Robert B. Witham	8.13 AC	535/302
9	Gregory Farris	13.59 AC	477/160
10	Gregory Farris	12.69 AC	477/160
11	Peter B. Smyth	9.11 AC	1123/246
12	Metinic Island Inc. (N/F Post)	100.0 AC	
13	Bert E. Witham	20 AC	

05/06/76********** SEA-BIRD INVENTORY**********

APPENDIX B

HISTORICAL INFORMATICN-COLONIAL NESTING SEA-BIRDS ON MAINE ISLANDS

ISLAND	ISLAND NAME	COUNTY	LATITUDE LONGITUDE	MAP NO.	CHART NO.	SIZE(HA)
63-584	METINIC I	KNOX	4353 69 7	080	12030	0300

DATE OF OBSERVATION	SPECIES CBSERVED	OBSERVATION		OBSERVER	SOURCE
RANGE	GUILLEMOT	50 PAIRS	(1965-1973)	DRURY	DRURY 1974
RANGE	GREAT BLACK_BACKED GULL	200 PAIRS	(1965-1973)	DRURY	DRURY 1974
65	GREAT BLACK_BACKED GULL	40-50 NESTS IN 1965		DRURY	DRURY 1966
68	GREAT BLACK_BACKED GULL	ACTIVE COLONY IN 1968		ME. UNIT	ME. UNIT
RANGE	HERRING GULL	300 PAIRS	(1965-1973)	DRURY	DRURY 1974
68	HERRING GULL	ACTIVE COLONY IN 1968		ME. UNIT	ME. UNIT
RANGE	LAUGHING GULL	30 PAIPS	(1965-1973)	DRURY	DRURY 1974
RANGE	COMMON TERN	6 PAIRS	(1965-1973)	DRURY	DRURY 1974
21	COMMCN TERN	ACTIVE COLONY IN 1921			NORTON UNPUB
31	COMMON TERN	ACTIVE COLONY IN 1931			NORTON UNPUB
71	COMMON TERN	2 PAIRS IN 1971		MASS AUD	MASS AUD SOC
RANGE	ARCTIC TERN	350 PAIRS	(1965-1973)	DRURY	DRURY 1974
69	ARCTIC TERN	100 PAIRS IN 1969		DRURY	DRURY 1969
71	ARCTIC TERN	250 PAIRS IN 1971		MASS AUD	MASS AUD SOC
RANGE	PETREL	FEW	(1965-1973)	DRURY	DRURY 1974
00	PETREL	SMALL COLONY IN 1900		DUTCHER	DRURY 1973
73	PETREL	FEWER THAN 20 PAIRS IN 1973		DRURY	DRURY 1973
RANGE	EIDER	PRESENT (1200 PAIRS)	(1965-1973)	DRURY	DRURY 1974
65	EIDER	PRESENT IN 1965		DRURY	DRURY 1966
060868	EIDER	28 NESTS (EST 100-125 BIRDS) IN 1968		MAINE UNIT	H.L.MENDALL
31	TERNS	300 ARTIC COMMON NESTING IN 1931		NORTON-ALLN	NORTON-ALLEN
31	TERNS	ACTIVE COLONY IN 1931			NORTON UNPUB
37	TERNS	ACTIVE COLONY IN 1937		PALMER	PALMER 1938
69	TERNS	100 PAIRS IN 1969		MASS AUD.	MASS. AUDUBON

From Carl Korschgen. 1976. Appendix I. Historical Review of Seabirds Nesting in Maine. U.S. Fish and Wildlife Service. Unpublished Report

APPENDIX C

Metinic Island

Seabird Census

SEABIRD CENSUS	
Eider nests	401
Gull nests	290
Arctic tern nests	25
Black guillemot (estimate)	160*

LEGEND

● - Eider nests

X - Gull nests

⊕ - No. of tern nests

By: ME Dept. of Inland Fisheries & Wildlife (Spring 1991)

BK 1652 PG077

APPENDIX D

NOTIFICATION FORM FOR SPECIFIED ACTIVITIES PURSUANT TO THE METINIC ISLAND RESOURCE PLAN

Submission of this Notification Form to LURC is required for the following activities when proposed on portions of Metinic Island covered by the Metinic Island Resource Plan:

(1) Trail construction;
(2) Non–permanent docking and mooring structures;
(3) Level B road projects;
(4) Forest management and timber harvesting in accordance with General Standards outlined in Section 8 of the Resource Plan;
(5) Fence construction.

A Notification must be filed with the Land Use Regulation Commission at least 21 days PRIOR to the date operations are scheduled to commence in accordance with provisions of the Resource Plan. Commencement of such activities without adhering to the procedures outlined in the Plan is a violation of Land Use Regulation Commission laws and is subject to enforcement action.

NOTIFICATION FORM

1. LANDOWNER:_____

2. TOWNSHIP: METINIC ISLAND

   COUNTY: KNOX COUNTY

3. PROPOSED ACTIVITIES: (Check all proposed activities, A thru E).

   A. _____ Trail construction

   B. _____ Non–permanent docking and mooring structures

   C. _____ Level B road projects

   D. _____ Forest management and timber harvesting in accordance with general standards outlined in the Plan

   E. _____ Fence construction

4. DESCRIPTION OF ACTIVITY:

   Please provide a detailed description of the activity proposed, including the following information:

   (a) A description of the area that will be affected:_____

_____

_____

_____

(b) A description of the activity:_____

_____

_____

_____

_____

(c) A description of the manner in which the activity will be undertaken, including measures that will be taken to minimize impacts on nesting seabirds and their habitat:

_____

_____

_____

_____

5. PERIOD OF OPERATIONS: **NOTIFICATION MAY BE FOR A MAXIMUM TWO–YEAR PERIOD ONLY.**

_____/_____19___ To _____/_____ 19___

Season(s): _____ Spring _____ Summer _____ Fall _____ Winter _____ Year–round

6. LOCATION MAP:

You must submit a map showing the boundaries of your property and the location of the area where the proposed activities will take place.

7. STATEMENT OF RESPONSIBILITY

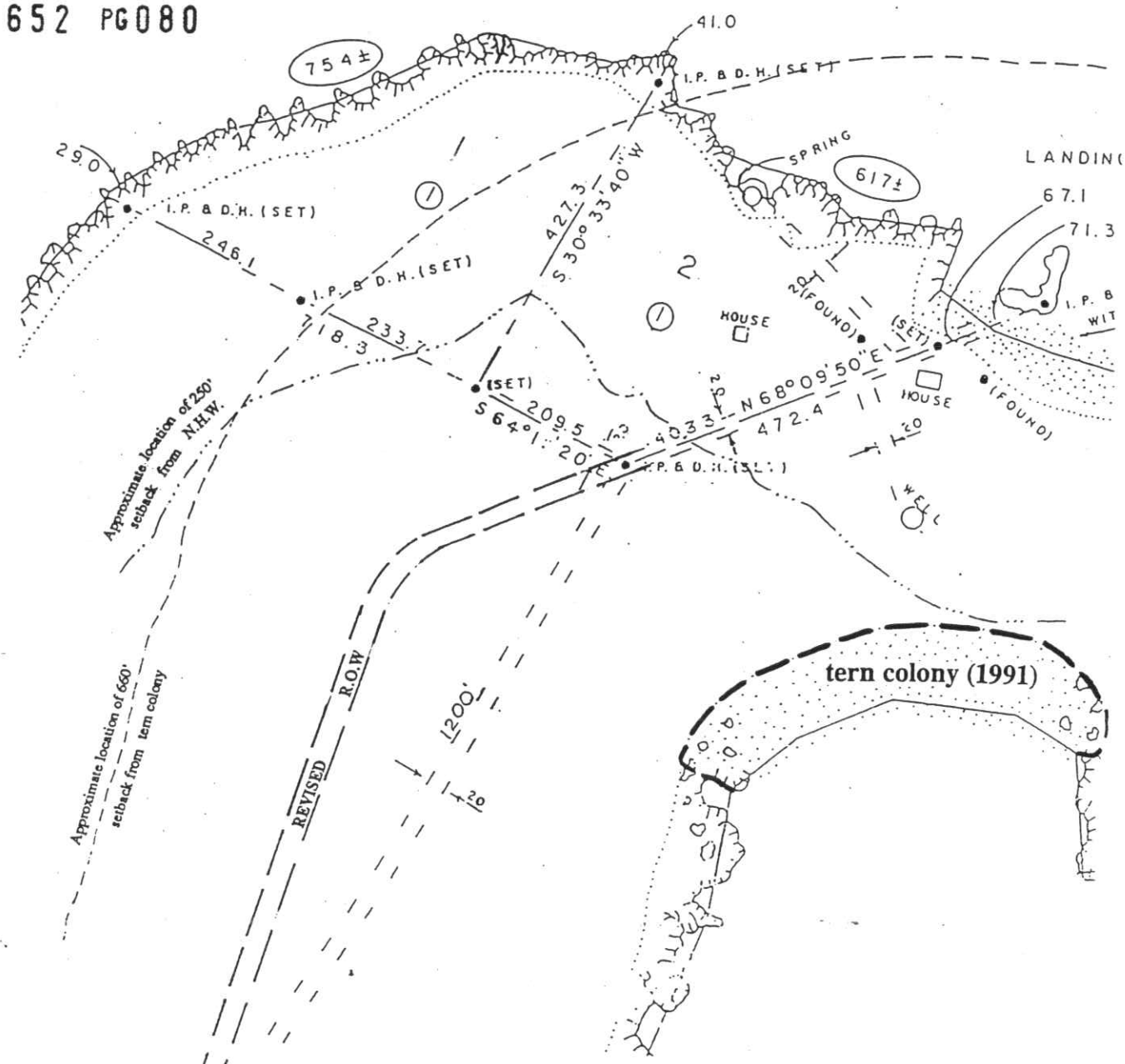
I certify that I will be responsible for the proper execution of the proposed activities, that I am familiar with the applicable requirements of the Metinic Island Resource Plan, and that the activities will be conducted in compliance with requirements set forth in the Plan.

Authorized Signature:_____ Date:_____

Name:_____ Telephone:_____

Mailing Address:_____

_____



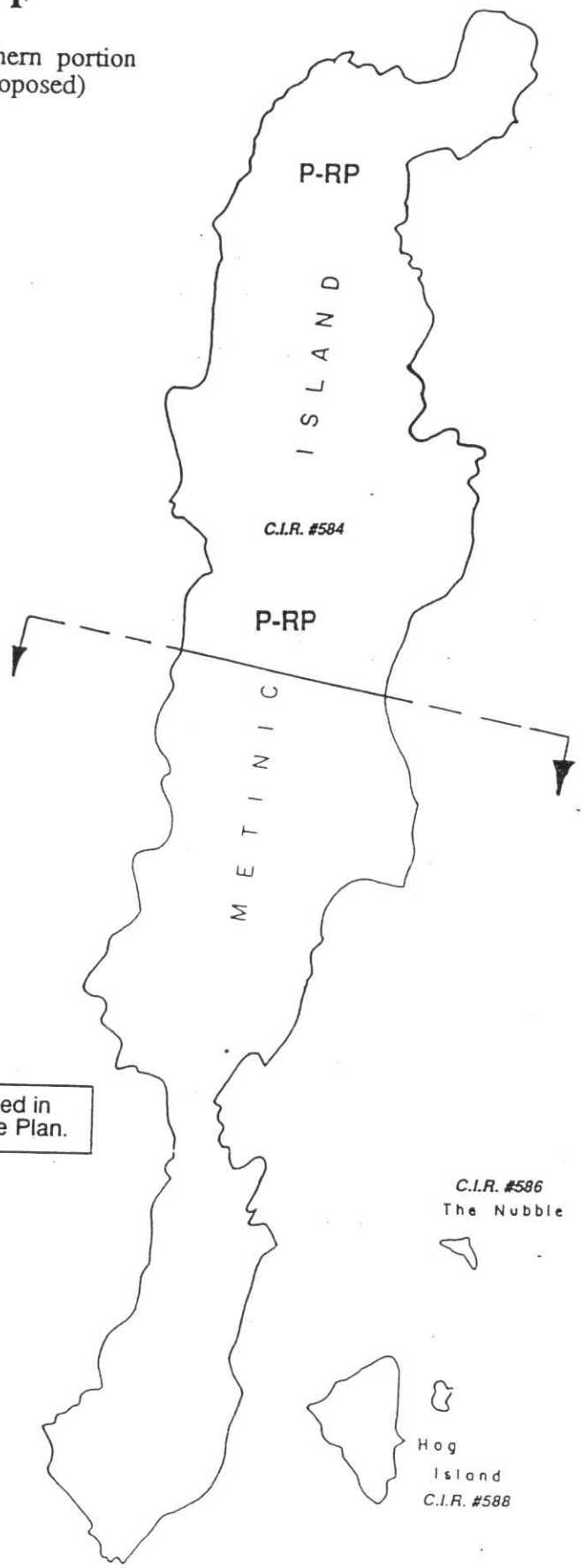
APPENDIX E

Metinic Island

Detail Map

APPENDIX F

MLURC Zoning on Northern portion of Metinic Island (Proposed)



Note: Southern portion not included in the Metinic Island Resource Plan.

KNOX SS: RECEIVED
92 NOV 18 PM 3:29
ATTEST:
Belle M. Crane
REGISTER OF DEEDS