

WORKING WATERFRONT COVENANT AND RIGHT OF FIRST REFUSAL

"In a nutshell"

INTRODUCTION & PURPOSE:

Working Waterfront Access Pilot Program grant funds are used to purchase certain development rights on a given piece of working waterfront property. A legal document called a working waterfront covenant granted by the land owner and held by the state will describe these restrictions. The purpose of this covenant is to ensure the permanent availability and affordability of the property for use by Commercial Fisheries Activities.

TOOL:

As described in law, a "working waterfront covenant" means an agreement in recordable form between the owner of working waterfront real estate and one or more qualified holders (in this case to be held by the Department of Marine Resources) to assure the continued and permanent access and availability and affordability of the working waterfront real estate for commercial fisheries uses (*33 M.R.S.A c. 6-A*)

METHOD:

Each covenant will be developed specifically to address the individual property to be protected considering the on-site improvements and the uses related to Commercial Fishing Activities. The covenant will permanently protect and preserve the property to ensure its availability and affordability for commercial fisheries operations. This is accomplished by limiting the property's use, alteration, or development in any manner that precludes its use for Commercial Fisheries Activities. The covenant "runs with the land" meaning that it is permanent and remains in place as a restriction on the use and value of the property regardless of future ownership.

PROPERTY OWNER RIGHTS:

The Grantor (property owner) retains all customary rights and privileges of property ownership. This includes the rights to control who can access the property (public and others) and the right to maintain and diversify the property within the limits of the covenant.

HOLDER'S RIGHTS:

The Holder (State) has the right to prevent, and require the correction of, any violations of the terms of this covenant. Holder also has the right to enter the Protected Property for the purpose of monitoring the terms of this covenant and inspecting for violations, so long as the Holder does not unreasonably interfere with Grantor's use of the property.

REPORTING:

Each year, Grantor will complete a form provided by the Holder, detailing any maintenance, alterations, repairs, and improvements to the Protected Property, as well as proposed activities for the subsequent year. Grantor and Holder will also meet annually, to discuss the past year and any future plans.

RIGHT OF FIRST REFUSAL:

The Holder will have a right of first refusal in the event the Grantor wants to sell or transfer the property. This allows the State to direct the sale of the property to fisherman who will continue to make use of and benefit from the commercial fishing capacity of the property. The price will be based in the value of the property as a working waterfront.

Grantor is the owner of the property.

Holder is the State of Maine, who will hold the covenant on the property and maintain a right of first refusal if the property is ever to be sold.