

OPTION AGREEMENT AND LEASE

THIS AGREEMENT dated as of the 8<sup>th</sup> day of January, 1966, between VIRGINIA E. GRAY of Harborside, Hancock County, Maine, and PHILIP GRAY of Blue Hill, Hancock County, Maine (hereinafter called "Owners") and CALLAHAN MINING CORPORATION, an Arizona corporation with offices at 277 Park Avenue, New York, New York (hereinafter called "Callahan").

WITNESSETH THAT

In consideration of Fifteen Hundred Dollars (\$1,500.00) in hand paid by Callahan to Owners, the receipt of which is hereby acknowledged, and in further consideration of the covenants, agreements and promises herein contained, the parties hereto agree as follows:

1. Owners hereby give and grant unto Callahan the exclusive option to lease a certain lot or parcel of land situated at Harborside, in the Town of Brooksville, Hancock County, Maine, described in the lease hereinafter set forth.
2. Said option to lease shall continue in force and effect for one year from the date hereof, and may be extended by Callahan, in its sole discretion, for an additional period of one year upon payment to Owners of the additional sum of Fifteen Hundred Dollars (\$1,500.00) on or before one year from the date hereof.
3. The aforesaid option may be exercised by Callahan by giving written notice to Owners in accordance with the provisions hereof and upon the giving of such notice by Callahan, the following

lease shall become effective:

WITNESSETH, That Virginia E. Gray of Harborside, Hancock County, Maine, and Philip Gray of Blue Hill, Hancock County, Maine, do hereby lease, demise and let unto Callahan Mining Corporation, a corporation organized and existing under the laws of the State of Arizona and having a place of business in New York City, New York, a certain lot or parcel of land situated at Harborside in the Town of Brooksville, Hancock County, Maine, near the bridge at the outlet of Goose Falls Pond, bounded and described as follows, to wit:

Beginning on the highway at the north end of the bridge, thence northerly following the said highway to land formerly of the Bakeman heirs; thence in a general northwesterly direction following the Bakeman line to the water; thence following the water at low water mark to the place of beginning.

The above described lot is leased subject to a right of way over a road as now located on said lot, and the lessee covenants and agrees that it will not obstruct said right of way.

The lessee shall have the right to construct a dam or any part thereof on the demised premises for the purpose of draining all or part of the water from Goose Falls Pond and excluding all tide waters from entering Goose Falls Pond, and the primary purpose of this lease is to enable the lessee to build a dam to drain all or a part of the water from Goose Falls Pond and to prevent any tide waters from coming into the area of Goose Falls Pond. The lessors by the execution of this

lease hereby expressly consent to the construction of the dam and to the draining of all or part of the water from Goose Falls Pond.

The lessee shall also have the right to construct docks, piers, wharves, protective barriers, fences or other facilities on the demised premises. If the demised premises are used for a shipping point for ore concentrates, the lessee shall pay to the lessors, in addition to the rent hereinafter provided, twenty-five cents a dry short ton based upon the weight of a given shipment as received at the smelter, as shown on the net smelter return, for ore concentrates which are shipped from the demised premises.

The payment hereinbefore specified, if any shall be determined on a calendar quarter basis for shipments made during the preceding quarter upon which net smelter returns have been settled, and payment of same shall be made on or before the twenty-fifth day of the first month of the subsequent calendar quarter.

This lease does not include the right to construct, maintain or operate a mill of any type, including a mill for concentrating ores, on the demised premises, and said right is expressly excluded herefrom, provided however, that if the lessee determines that the right to construct, maintain or operate a mill on said premises is desirable, lessors hereby agree to lease said mill right to the lessee at a rent

to be agreed upon by the parties.

TO HOLD for the term of five years from the date of exercise of the aforesaid option. Upon the expiration of said five year term, the lessee shall have the right to renew the lease for one year and from year to year thereafter but not more than twenty-three (23) one-year renewals after, provided the lessee shall give notice in writing of its intention to renew the lease thirty days in advance of the expiration of the original term and thirty days in advance of the expiration of the term as renewed. The lease may be terminated by the lessee during any period of renewal by giving to the lessors thirty days notice in writing of its intention to terminate the lease. At the expiration of thirty days from the date of giving the notice to the lessors, the lease shall terminate, and the lessee shall thereupon vacate the premises, and it shall not be liable to pay any rent after termination of the lease.

P. S.  
9/12/22  
R. E. L.

During the five year term, the lessee shall pay to the lessors as rental for the demised premises the sum of Fifteen Hundred Dollars (\$1,500.00) per year payable on the First day of January in a given calendar year. If the lease is renewed, lessee shall pay rental to the lessors for the demised premises according to the following schedule unless or until the lease is terminated as hereinabove provided: Two thousand dollars (\$2,000.00) per year for the sixth through tenth years inclusive. Two thousand five hundred

Dollars (\$2,500.00) per year for the eleventh through fifteenth years inclusive; Three thousand Dollars (\$3,000.00) per year for the sixteenth through twentieth years inclusive and for any year thereafter. Except as provided in said rental schedule, the terms and provisions of the lease during any period of renewal shall be the same as those which apply during the original five year term.

Lessee hereby agrees to pay all taxes duly assessed against said premises during the term of this lease or any extensions thereof.

Lessors agree that this lease shall be assignable to any corporation in which Lessee owns the majority interest and otherwise shall be assignable only upon the written consent of lessors, which consent shall not be unreasonably withheld.

And the lessee does covenant to quit and deliver up the premises to the lessors or their attorney, peaceably and quietly, at the end of the term aforesaid, in as good order and condition -- reasonable use and wearing thereof, or inevitable accident, excepted -- as the same are, or may be put into by the said lessors, and not make or suffer any waste thereof. Lessee shall not use the demised premises as a dumping place for waste or unusable rock, except as necessary for the construction of docks, piers, wharves or other facilities on the demised premises. And the lessors

may enter to view and may declare the lease forfeited by lessee if it shall fail to pay the rent aforesaid, whether said rent be demanded or not, or if it shall make or suffer any strip or waste thereof, or shall fail to quit and surrender the premises to the lessors at the end of said term, in manner aforesaid, or shall violate any of the covenants in this lease by said lessee to be performed; provided, however, that the lessors shall give to the lessee written notice of their intention to declare the lease forfeited, specifying therein the default or defaults giving rise to such declaration and lessee shall have thirty days after receipt of such notice in which to cure such default or defaults and if same are fully cured, there shall be no forfeiture of the lease.

The lessee hereby agrees that it will indemnify and save harmless the lessors from any loss, cost, or expense to them as a result of any damages or injuries to third persons arising from lessee's operations on the demised premises during the term of this lease or any extension thereof.

4. In the event the aforesaid option is exercised other than on January 1 of an option year, no rent shall be due under the lease until the next succeeding January 1 after date of exercise of the option.

5. Owners agree to execute any lease or other legal document, if any, which may be necessary in opinion of counsel for Callahan

to carry out the intent of this agreement.

6. Any notice required or authorized to be given by this agreement shall be deemed sufficiently given if in writing and delivered to the party to whom addressed or deposited in the United States mail, registered or certified and with postage prepaid, addressed to such party as follows:

If to Owners: Dr. Philip Gray  
Blue Hill, Maine

If to Callahan: Callahan Mining Corporation  
277 Park Avenue  
New York, N. Y.

or at such other address as either party shall designate by written notice to the other party in accordance with this Section.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first above written.

Virginia E. Gray  
VIRGINIA E. GRAY

Philip Gray  
PHILIP GRAY

CALLAHAN MINING CORPORATION

Attest:

Charles J. [unclear]  
Secretary

By

Joseph J. Hall  
Pres.

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

On the \_\_\_\_\_ day of \_\_\_\_\_, 1966, before me personally came VIRGINIA E. GRAY to me known, and known to me to be the individual described in and who executed the foregoing instrument, and she acknowledged to me that she executed the same.

Notary Public

STATE OF MAINE  
HANCOCK, ss.

January 8, 1966.

Personally appeared the above-named PHILIP GRAY and acknowledged the foregoing instrument to be his free act and deed.  
Before me,

Herbert J. Libby  
Notary Public

STATE OF MAINE  
HANCOCK, ss.

January 8, 1966.

Personally appeared the above named Joseph T. Hall of CALLAHAN MINING CORPORATION, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said corporation.  
Before me,

Herbert J. Libby  
Notary Public

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Hale G. Joy, Editor

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## THEY'VE BEEN REAL BUSY SITTING TIGHT

Several residents of Castine have asked us to do something about the incessant whine of the drills at the Callahan mine on Cape Rosier. Their faith in our omnipotence is touching, but we hereby acknowledge that our influence in Augusta is nil. Our readers are welcome to the following information however.

On January 20, 1966, at a public hearing on the Callahan issue, State Geologist Robert Doyle stated: "Mining regulations are now in effect for those who hold Maine Mining Bureau licenses. Through control of the license, the Bureau can control operators so they do not become obnoxious." He added that a completely new mine safety law was being prepared to present to the 103rd Legislature, and that it should be in effect before Callahan ever starts mining.

Since then, neighbors of the mine have endured showers of flying boulders.

We recently asked Mr. Doyle about the reputed new law. "So far," he answered, "we have not been able to get anything going on a safety law because other State agencies who would become involved have not had an opportunity to study the situation so that they can be of assistance."

The only factor that would legitimately deny them an opportunity to study the situation would be an inability to read.

Tuesday Morning. June 20<sup>th</sup>

Dear Albert & Jean,

We received your letter yesterday (Monday). It isn't any use to send mail here. In fact I think it was a day longer. I think we usually receive your letters in 3 days and this was 4 not counting Sunday. I wonder where it was all that time!

I wish you folks were here to-day, the smell is unbearable, just like an old sewer. When we came home yesterday the smell was terrible as we came into the Cove before we got to the wharf. I wish there was some thing we could do about it. You know I called the Lib & Game or some one in Augusta last summer but it didn't do any good. I thought it might be some thing else to mention to your lawyer. I think Jimmie went to some one in Augusta just a few weeks ago about the pollution here in the harbor. I haven't heard any report, apparently the same old thing. I hope after the summer people come they will help us do some thing.

It was awfully noisy here last night. There was a blast about 5 o'clock with rocks flying. Brainard went over to the other house to see if it did any damage and the rock he left on the lawn that

damaged the clapboards was gone  
but we still have the clapboards for  
proof.

Your garden is coming good. I  
planted your peas over but only 2 came  
up. you have a little green tomato on  
one of your plants.

Peta + Bill were down last week  
and they stayed with us Saturday  
night. They went to church in usual  
Brooksville Sunday. Frederick's baby  
was christened and they were the  
god parents. They had lunch with  
Frederick and Isabela.

Brainard put his new boat into the  
water yesterday. They are going to use  
it over to the island while they paint  
their boats.

Your lawyer sounds like a smart  
fellow. We do hope he can do something.  
Miss Anita seems to be having the  
same trouble we had, delaying on every  
thing.

Will your court hearing be in another  
County? we take it that it will be, we hope so.

Have you any idea when you will  
be coming? Brainard hopes you will be  
here to receive your papers as we think  
it might be better than us having so  
much mail. I think the sooner we get at

thus might business be better as it may  
be ~~better~~ lighter later. It seems we are  
too late on every thing. They are going  
to be all the time and this noise may  
not be as loud.

Mr & Mrs Melas had an air mail  
letter come here yesterday. I remailed it  
as they haven't said yet when they are  
coming. we hope they will be here soon.

Miss Anita & Malcolm said they would  
help with an injunction but when we  
didn't get one they don't mention helping  
now. we will know better than to depend  
on them another time.

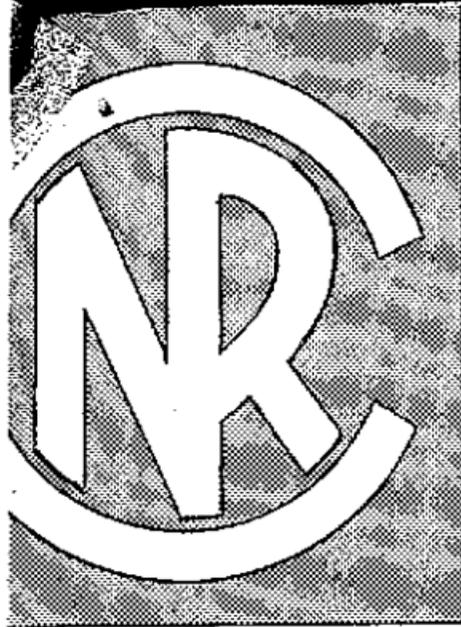
I must close and get to work here to-day.  
I went on the island yesterday and I have  
to go to rearings to morrow. It seems so  
good to have a day at home.

we are looking forward to seeing  
you folks soon. I hope you can get your  
papers from the printers soon so we can  
get them going before it is too late.

Miss Anita said she would take a  
dozen to circulate over to Castine. If you  
don't get here in time to have them come  
back to you it is O.K. for them to come  
to us. we can take some in person.

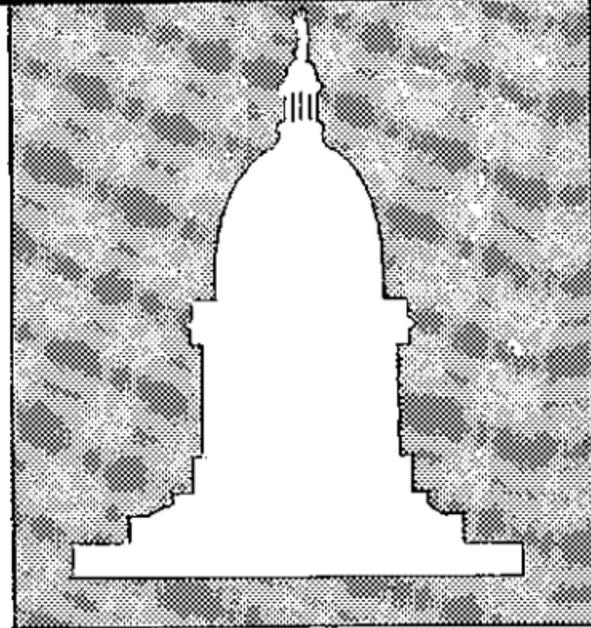
Best wishes to all from both of us.

Sincerely,  
Marian.



# CONSERVATION BULLETIN

a service of the  
NATURAL RESOURCES COUNCIL  
of MAINE



116 State Street

June 1967

Augusta, Maine 04330

Clinton B. Townsend, President

Marshall F. Burk, Exec. Sec'y.

OX-BOW COULD BE LAST MAJOR MAINE DDT SPRAYING

WETLAND LEGISLATION PASSES

On June 5, 1967 Governor Kenneth M. Curtis signed into law Legislative Document 1597 titled AN ACT to Regulate the Alteration of Wetlands. This bill was developed from the three different wetland documents introduced in the 103rd legislature was finally sponsored by the chairman of the Natural Resources Committee Senator Sewall of Penobscot.

The law will be added to Title 12 of the Revised Statutes as Sections 4701 to 4709. The Natural Resources Council supported this legislation at the public hearing and since the July 1964 Bulletin, which was entirely on the value of marshes, has publicized the need of wetland protection.

The law establishes a Wetland's Control Board composed of the Commissioners of Sea and Shore Fisheries and of Inland Fisheries and Game, the Chairman of the Water Improvement Commission, the Chairman of the State Highway Commission and the Forest Commissioner or their delegates.

The procedure for a hearing states that: "No person, agency or municipality shall remove, fill, dredge or drain sanitary sewage into, or otherwise alter any swamp, marsh, bog, beach, flat or other wetland bordering, coastal waters, or fill, dredge or drain sanitary sewage into such waters within such area, without filing written notice of his intention to do so, including such plans as may be necessary to describe the proposed activity, with the municipal officers in the municipality affected and with the Wetlands Control Board. Such notice shall be sent to each body by registered mail at least 60 days before such alteration is proposed to commence. The municipal officers shall hold a public hearing on the proposal within 30 days of receipt of the notice and shall notify by mail the person proposing the alteration and the public by publication in a newspaper published in the county where the wetlands are located, the Wetlands Control Board and all abutting owners of the hearing."

"Permit to undertake the proposed alteration shall be issued by the municipal officers within 7 days of such hearing providing the Wetlands Control Board approves. Such permit may be conditioned upon the applicant amending his proposal to take whatever measures are necessary to protect the public interest. Approval may be withheld by either the municipal officers or the board when in the opinion of either body the proposal would threaten the public safety, health or welfare, would adversely affect the value or enjoyment of the property of abutting owners, or would be damaging to the conservation of public or private water supplies or of wildlife or freshwater, estuarine or marine fisheries."

Appeal is provided for by the Superior Court. The violation section states that "Whoever willfully violates any provisions of this chapter shall be punished by a fine of not more than \$100 and the Superior Court shall have jurisdiction to restrain a continuing violation of this chapter at the suit of any person."

The Wetlands Control Board may exempt "such activity or activities or waive such procedural requirements as it deems not in consistent with the purposes of the chapter." It is also provided: "Nothing in this chapter shall prohibit the normal maintenance or repair of presently existing ways, roads or railroad beds nor the construction, maintenance and repair of private roads and bridges required or convenient to agriculture, or in a logging or lumbering operation, abutting or crossing said wetlands, provided no watercourse is substantially altered."

(continued)

There is some question as to the coverage of this act. It clearly covers coastal wetlands, but in it's final form is thought not to cover inland waters. However the act is ambiguous and could well be construed by a court to cover inland waters as well. It is to be hoped that in future legislatures this will be clarified so that the act clearly includes inland as well as coastal waters.

QUESTIONS RAISED ABOUT VALIDITY OF DICKEY PROJECT

For some time the directors of the Council have been discussing the Dickey-Lincoln Dam project on the St. John River at their regular monthly meetings. The Council took no formal action until its directors' meeting of June 2, 1967, when it considered the actions of a sub-committee which had met to consider the implications of Dickey. The Board adopted the following statement:

The Natural Resources Council feels that it cannot endorse the Dickey-Lincoln School hydro project before examining appropriate studies of the project's effect on the fish and wildlife habitat, the scientific and recreation opportunities, and the timber resources of the 200-square mile wilderness environment involved. Such detailed studies, giving full information on the broad social and economic implications of the project and its long range effects, are not yet available to aid the NRC and the general public in forming a sound opinion. Further, basing its judgment on the 1966 report of the Federal Reserve Bank (Boston), the NRC is inclined to the view that the project as a power-production facility is not economically sound; if it is to be built only to further area development objectives, the NRC suggests that positive alternatives be sought which will be less destructive of irreplaceable natural resources in the upper St. John River Valley.

Since the adoption of this statement, the staff of the Sub-Committee on Public Works of the House Appropriations Committee has made a report which, according to newspaper reports, casts doubt on the feasibility of the project on an economic basis. A copy of this report has been obtained by the Council. This report, as well as the Federal Reserve report of 1966, will be discussed in future Bulletins.

(C. B. Townsend.)

TIMELY READING

"MIKE KIRWAN'S BIG DITCH"

By William Schulz

Reader's Digest  
June 1967, Pages 59 - 64

"CANADA'S GARDEN OF WONDERS"

By David MacDonald

Reader's Digest  
June 1967, Pages 145 - 152

"THE TRUMPETER RETURNS FROM OBLIVION"

Condensed from National Wildlife

Reader's Digest  
June 1967, pages 190 - 194

LITTER WARNING FROM FISH AND GAME DEPT.

Fishermen, boaters, and others visiting Maine's waterways this summer will be "fair game" for wardens if they violate the state's litter laws, according to the Maine Fish and Game Dept.

All Department wardens are on watch for the small minority of outdoor enthusiasts who seem determined to spoil the beauty and safety of Maine's waters through the careless disposal of trash in and near them.

Every bottle thrown into the water and every piece of trash left on a beach moves a body of water a little closer to the point where it is no longer an enjoyable place to visit.

Locating litter violators is one of the jobs wardens do in addition to enforcing the fish and game laws. That they are doing a good job at it is attested to by the record of arrests and convictions they are compiling.

# # # # # # # # # #

"Just because some of us happen to live and work in Washington, we aren't necessarily steering the course of the conservation movement across this great land of ours.

"The real helmsmen in conservation are found in the towns and cities, on the farms and forests of our land. They live close to nature and they have a better understanding of the day-to-day problems involved in applying conservation principles to the use and management of natural resources.

"And like all helmsmen, they are informed. They have charts which are true and they can see with their own eyes the shoals and rough water that face them. They don't try to do their job on the basis of opinions; the facts are there before them and they can move, act, and turn the wheel to meet the whims and constant changes which Mother Nature always presents."

Thomas L. Kimball  
Executive Director  
National Wildlife Federation

\*  
\* As a Council member he had the interest to attend NRC meetings and was a \*  
\* source of guidance in legislative matters. Maine's natural resources benefited \*  
\* by his advice, council and actions. \*  
\*  
\* \* \* \* \*

B. C. Jordan Forestry Award

The B. C. Jordan forestry award was established by legislative resolve in 1909 through the generosity of Benjamin C. Jordan of Alfred. The Forest Commissioner is charged with administration of the funds and conditions of the award. The resolve set forth rules for the award. These rules have been modified by the Legislature in 1929 and 1947. The judging committees have made further interpretations of the rules as required by circumstances. The objective of the award is: To encourage the practice of good forest management by calling attention to young stands of uniform high quality resulting from use of recommended cultural operations.

Some of the specific rules that must be complied with are:

Minimum size area of ten acres. Larger acreage will be rated higher other conditions equal. - The majority of trees shall not exceed 20 feet in height or twenty years old at time of applications. Trees shall not be less than five feet high nor less than ten years old at time of award (1977).

Judging committees will consider the following points in the order listed:

- A. Right number of trees per acre.
  - B. Even distribution over the whole lot.
  - C. Health and thriftness of trees.
  - D. Adaptation of tree varieties to soil in which they stand.
  - E. Uniformity of tree size.
  - F. Size of trees.
  - G. size of area.
- A summary of time, cost or both spent on cultural operations by years and volume of products removed will be required at end of period. Prizes will be awarded as follows: First - \$125. Second - \$75. Third - \$50.

Further information and Applications may be obtained from your local Service Forester or Forest Commissioner, State Office Building, Augusta, Maine 04330.

50 Tanner Street  
Haddonfield,  
New Jersey 08033  
June 19, 1967

Mr. Francis Marsano  
c/o Eaton, Glass & Marsano  
Savings Bank Building  
Belfast,  
Maine 04915

Dear Mr. Marsano;

Received your letter today. I wish to undertake legal action against the Callahan Mining Corporation of New York. I am willing to abide by your guidance and judgement in conducting the matter.

If you feel an injunction against Callahan Minings' further blasting is impractical so be it.

With regard to your statement of "foreseeing little possibility that the Farnhams can recover for the loss of business." Do you think this case is best carried out on my part alone? As you know the Farnhams and I were together with Mr. Silsby. I ask you this with an eye to perhaps sparing the Farnhams both mental and financial strain and not with the idea of leaving them out on a limb.

They have suffered far greater losses than I as I'm sure you are aware, am I correct in assuming that it would be best to count on my case to provide them with some sort of relief from their rather hellish situation?

On the other hand do you feel a joint effort on our part would be helpful in a court case? If so I'm sure the Farnhams will gladly join in.

Lastly, how does your firm feel in regard to the case? This may not be a proper question to ask of you, but through past experience I am vitally concerned with employment of an attorney and firm that will go full bore on this case. It is not my intention to profit in a personal monetary sense, (although I am not averse to some remuneration in the matter) rather, I view this as a means of some protection for Cape Rasier and its inhabitants.

These are my questions, when time permits I would appreciate an answer.

I am having an accredited assayer and geologist looking over the rock samples, the one that struck the house as well as the ones I had acquired from the blasting area at the Callahan mine-site, with the permission of and witness of the mine watchman. I did this because of scuttlebutt I have heard on the Cape, that of "That rock could not have gone that far." I will send you a copy of the report as soon as I receive the results.

I have sent a letter to Mr. A.E. Herrick of Blue Hill, Maine the contractor I had engaged to do the repair work to the house, and have arranged for the work to be delayed until further notice. (much to my wifes chagrin)

I have also deleted (at your suggestion) the paragraph on Callahan's "irresponsible blasting procedures". The material is at the printers now and will be ready shortly-- if you like I will send you a copy.

I do not mean to make this a personal vendetta against Callahan Mining, but there must be some sort of control brought about in regard to this activity on Cape Rosier. The State, County and Town of Brooksville have gone over backwards to encourage this source of employment and tax gain. I realize the need for employment- but, this is a short term boom at best, little to no regard has been given to the inherent resources of the area, that of what the country is in-escapably running out of, natural beauty.

I believe in common sense and a degree of concern for this important asset now and for future generations. I do not consider myself a conservation faddist, I do love the outdoors, I'm sure others feel this way. From what I have heard and seen of Callahan's activities it is just a job get the ore and the hell with how. They have been given free reign, and don't they know it. (maybe it is a Vendetta)

I would like to meet you sometime at your convenience after the 6th of July, we should be up to Harborside at that time. Possibly we could meet for lunch I'll buy.

Please keep the file if you don't mind, I will pick it up from your office, as we will pass through Belfast on our way to Harborside.

Again, will you please send me a letter outlining the basis on which you would handle the case, and your approach to the problem. And your estimate of the projected cost of the litigation.

What would you like in the way of a retainer? (to facilitate getting under way with the case)

Enclosed is a check for \$45.00 for your efforts to date, and thank you for **SEEING** the Farnhams.

Sincerely yours,

Albert E. Sandecki

P.S.

I know Mr. Wiggins is quite right, so much so that I find myself thinking about his words quite a bit. It has been long, it is getting lonely and will be expensive, but if I do not follow my thoughts and feelings on this I believe I would think I have run out on something to which I could never return.

For fifteen years I have painted from this resource of man and nature, so you see I have no choice in the matter.

15 June 1967

Mr. F. B. Herrick  
Blue Hill,  
Maine.

Dear Mr. Herrick,

I'm sorry to be so on again, off again about the repair work to be done at my bungalow in Harborside.

Due to the advice of my attorney I have to tell you not to do the repairs as yet.

Seems that legal situations are in the offing and the bungalow will have to remain in its present state for a while.

I hope you will not be upset at this turn of events but I have no other choice at this time.

If in the future you would still consider doing the work I will let you know by letter when to go ahead.

Sincerely yours;

Albert Sundecki

RICHARD W. GLASS  
FRANCIS C. MARSANO

LORIMER K. EATON  
Of Counsel

AREA CODE 207  
TELEPHONE 338-1110

EATON, GLASS & MARSANO  
ATTORNEYS AT LAW  
SAVINGS BANK BUILDING  
BELFAST, MAINE

June 15, 1967

Mr. Albert Sandecki  
50 Tanner Street  
Haddonfield, New Jersey 08033

Re: Sandecki and Farnham vs. Callahan Mining

Dear Mr. Sandecki:

This is the letter which I promised I would get out to you this week. In the interest of having you receive it prior to the end of this week, I am writing it without having completed the research in as much detail as I had hoped to be able to.

In the event that you consider as primary relief an injunction against Callahan Mining Co. to prevent their further blasting, then and in that event, we would very much prefer that you seek other counsel.

I view your case and that of Mr. and Mrs. Farnham, whom I visited on Monday last, as being primarily one in the nature of trespass. In light of the activities of the mining company, I see nothing to preclude your recovery for the damages occasioned to your property. The maximum amount which would be recoverable would depend directly upon the method which we used to recover. The damages to you could be fairly substantial; of the two cases, I would say that yours is the better. I foresee little possibility that the Farnhams can recover for the loss of business.

There have been no cases in Maine dealing with this specific point. Cases in other states indicate what I would feel to be the law, that a person has the right to use his land in any manner not inconsistent or inherently dangerous. I recognize that the activities of Callahan Mining have in the past been inherently dangerous. The Farnhams have not indicated to me that their conduct has been consistent with that caliber of danger since the time of their observance of the bombardment which your cottage suffered. Therefore, my own feeling would be that their present activities are not inherently dangerous and are consistent with their use of their property. This does not preclude attempting to get an injunction against any further trespass on their part. There is law which would allow us to claim exemplary damages based upon their activities' being wanton misconduct. In the event that we were to undertake the case, any complaint which we would initiate against Callahan Mining would contain a count for wanton misconduct. The aspect of negligence, relative to Callahan Mining, is also difficult to pinpoint, but a doctrine known as res ipsa loquitur has been applied to mining operations in the past. I noticed in reviewing your file that some of the material therein contained indicates that you attempted to obtain rocks from the mining site itself. I assume that you did this with an eye towards a geological evaluation that the strata was similar in nature, or identical with, that rock which fell through your roof. This would, in large part, I believe, carry the case to the jury on the question of negligence, but in the event that the suit were to be based only upon negligence, damages would be those which were provable as a direct result,

June 15, 1967

and your limit might well be the property damage. Only in the event that we are able to recover on the theory of wanton misconduct, or something similar to it in nature, would we be entitled to exemplary or punitive damages, which hopefully would be where the real money lies.

There are other facets to the case. I have discovered that there is some law, though again none in Maine, which indicates that a drilling operation may be enjoined during certain periods of the day, provided that the circumstances are such that the drilling is inconsistent with the other uses of adjacent property. I certainly think that Harborside would qualify for injunctive action of this type. The entire area is residential and is a tourist area. For that reason, I would feel that the drilling during the night hours could possibly be stopped by court order. This is, however, not altogether clear. As I have indicated, there is some law on the matter, however.

I think that the Farnhams will have almost no opportunity to recover for the loss of their business. The right of an owner of his land to use it in the most beneficial way to him, would prevent this. I regret that this is so but I unfortunately feel that this is the law and that that principle would preclude their recovery. Very possibly they would be entitled to exemplary damages, in the event that we were able to establish sufficient circumstances to get our count of wanton misconduct to the jury.

I read with great interest the letter of Jack Wiggins of the Ellsworth American. His comments were very incisive and quite accurate. Indeed, prior to reading his letter and in speaking with the Farnhams, it occurred to me that the most satisfactory solution to the problem could well be a lease-hold arrangement between the Farnhams and you and Callahan Mining.

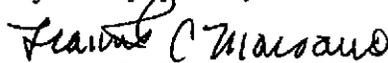
As Mr. Wiggins stated "Court battles are long, lonely and expensive." There are grounds upon which we can attack them. There is relief to which both you and the Farnhams will be entitled, but I do not see the relief as being coincidental with their termination of their operation. I sympathize with your cause; I live in Maine because I appreciate the same type of beauty which you perceive in Harborside.

With these thoughts in mind, you should now consider whether or not you wish us to do anything on the case. In the event that you do decide to I feel very strongly that you should not have your cottage repaired until such time as we try the case. The picture which the cottage presents conveys a grotesque quality which is unmatched by the pictures. Even in me, it created a sense of fear and I have the feeling that it would work to the same effect upon a jury.

I am enclosing herewith a bill for travel and time involved in the trip to the Farnhams. In the event that you decide to retain us, this amount would be applied against the retainer, since, in any case, I would have had to have made at least one trip to Harborside. We have no idea of what your plans are and for that reason, I am not now quoting you any prospective fee or fee arrangement.

I shall let the matter lie until I hear from you. We have no desire to handle the case in the event that you are interested primarily in a total injunction against Callahan Mining, since I feel that it would be impossible to obtain, and represent only a outlay of your money. In the event that you are not firmly committed to that course, and your file indicates that you may not be, then and in that event, upon further communication from you, I shall advise you of the arrangement which we would be happy to make and to discuss such further aspects of the case as we may then wish to discuss.

Very truly yours,

  
Francis C. Marsano

W. GLASS  
S. C. MARSANO

M. Albert Sandecki

50 Tanner Street

Haddonfield, New Jersey 08033

**EATON, GLASS & MARSANO**  
**ATTORNEYS AT LAW**

SAVINGS BANK BUILDING BELFAST, MAINE

STATEMENT OF YOUR ACCOUNT, June 15, 1967

DATE	DESCRIPTION	CHARGES		CREDITS	
1967 6/12	To: Services in re premises in Harborside, Me.  Travel and time	\$45	00		

Saturday Morning. June 10<sup>th</sup>

Dear Albert & Jean,

Just a hurried note this morning as I wanted to ask if you have a libel insurance. Some people tell me there is an insurance that protects <sup>any</sup> one from any thing they might say. I thought you might like to look into it if you don't already have it. we don't have it either and I don't think we can afford it. we just have to be careful.

we will call you Monday night after Mr Masano goes. He said he would be here about 5 or 6 o'clock and I don't know how long he will be here. Brainard hopes he can have a plenty of time to talk things over.

I think Brainard told you last night the old vague (mine) house is gone. He thought they burned it yesterday as he saw smoke over there. we walked over last night and it is a heart breaking sight over there. That is the way property goes when they get hold of it. we don't intend to <sup>get them</sup> get any of ours. I guess it is lucky for us now that they didn't buy our other house. It is too late for them to buy it now.

The rocks are still flying through the air. we haven't seen any rocks here since. I think we told you one struck our other house last week. Brainard saw rocks Thursday night. They blasted last night but we were gone. Malcolm & Andy spoke as though it was quite heavy.

Brainard is over across the road painting porches for the Deagues. They will be here the last of June.

I think you mentioned the guard rails at the bridge in some of those papers. The rails have been repaired now and the posts are up. AT P. 102  
your garden is coming good. I guess every thing has lived. I have watered it every night but last night, it rained yesterday.

I must close and get busy I have to do some cleaning to-day. I wish you would tell your friends that wanted to come that we don't think we will take any one this summer. I will ask Mr. Marano when he comes what he thinks if we should or should not. which would be better for us.

Best wishes to all from all of us.

Sincerely,

Maran.

We will be pleased when you folks get here, also the Deagues and other summer people. It is awfully lonesome. Perhaps you had better wait on telling your friends for sure about summer until we see Mr. Marano. We will let you know what he says. If you see your lawyer there please ask him too what he thinks. If we take guests we can take expenses out of income tax. Brainard thinks we should close up. We have been turning people away.

STATE OF MAINE

*File*

June 14, 1967

Inter-Departmental Memorandum Date

To Clayton P. Osgood, Chairman

Dept. Maine Mining Bureau

From Robert G. Doyle, Secretary

Dept. Maine Mining Bureau

Subject Minutes of the May Meeting of the Maine Mining Bureau

The regular meeting of the Maine Mining Bureau was held at 2:00 P.M., May 22, 1967, in the Department of Economic Development Photo Lab.

Attending for the Bureau were Joseph T. Edgar, Lyndon Bond, Richard Hebert, E. R. Hitchner, Clayton Osgood, Robert Doyle, and Leon Walker, Legal Counsel.

1. Blasting Operations at Callahan Mining Company.

The enclosed correspondence from Governor Curtis was the first thing on the agenda. It was reported that as a result of blasting operations at the Harborside property by the Callahan Mining Company, a summer resident whose property lies close to the operation had received damaged to his roof and yard from large boulders which had been shot at the time of the blast. It was also noted that Callahan had been dumping mud on the private property of the Holbrook Island Game Preserve in violation of the Legislative agreement concerning operation.

The Secretary reported that he had visited the property and, in company by Callahan officials, had examined the area concerned with both incidents.

The Secretary noted as follows:

A.) The letter from legal counsel for the Holbrook Island Preserve stated that mud had been dumped on the shore area outside the limits defined by the low tide mark established by the Mining Bureau a year before. The Secretary noted that there was no evidence of any such dumping in areas close to private property. It appears that the Holbrook Island group were merely anticipating that some dumping might be done, but had no evidence of such activity. All transport and mud dumping from the operation is being conducted within the limits of either State or Callahan property. The Secretary noted that the operations were being conducted in a workman-like manner and that no violations of any laws or regulations in this regard were being carried out.

B.) The Secretary also examined the area in and around the cottage owned by Mr. Sandecki whose property was damaged by blasted rocks from the Callahan operation. Mr. Sandecki's house is several hundred feet from the operations and it appears to be a fluke of extreme chance that any large boulders could reach his property. The Secretary discussed this problem with the Callahan engineers and found that these engineers have completely revised their blasting activities. This revision will guarantee that there will be no further such incidents.

I have been assured by Callahan that they will make every effort to control their blasting.

A sketch is included to show in more detail the area concerned with these two incidents.

2. New Method of Accounting.

Mr. Doyle proposed a new method of accounting for Mining Bureau activities in which a quarterly statement of activity will be prepared and submitted to the Bureau. Mr. Doyle submitted a quarterly budget for the calendar years 1965 and 1966. He also submitted a first quarter budget and expenditures' statement for 1967. After some discussion of this new system, it was suggested by the Chairman that the Secretary submit quarterly statements to him and the Bureau so that a close control of expenditures and budget can be maintained. The Secretary agreed to make this a regular part of his duties.

There being no other business, the meeting was adjourned at 3:15 P.M.

RGD:gb

50 Taber Street  
Haddonfield,  
New Jersey 08033  
June 7th, 1967

Mr. Herbert F. Silsby  
Silsby & Silsby Law Offices  
68 Main Street  
Ellsworth, 04605  
Maine

Sir;

I have received your bill as of this past June 2nd, and have just spoken with the Farnhams and I am given to understand that they have received the same billing.

Is this an error on your part or am I to believe that you actually feel the service you have rendered in this matter with Callahan Mining was worth \$200.00 on your part?

If you feel this is a proper fee, I would require a more detailed accounting of your efforts before considering payment.

Sincerely

Albert E. Sandecki

RICHARD W. GLASS  
FRANCIS C. MARSANO

LORIMER K. EATON  
Of Counsel

AREA CODE 207  
TELEPHONE 338-1110

EATON, GLASS & MARSANO  
ATTORNEYS AT LAW  
SAVINGS BANK BUILDING  
BELFAST, MAINE

June 6, 1967

Mr. Albert E. Sandecki  
50 Tanner Street  
Haddonfield  
New Jersey 08033

Dear Mr. Sandecki:

At the present time I am studying your file, as forwarded to me by Herbert T. Silsby, II, Esquire, but have not, as yet, given it the consideration it requires. I will, however, continue studying the file and be in touch with you again by the end of the week.

Very truly yours,



Francis C. Marsano

FCM/h

The Ellsworth American

ELLSWORTH, MAINE 04605

667-2545

June 5, 1967

Albert:

Mrs. Carter called me. The buyer backed out. She asked me if you were interested and how much you would pay. I told her you were a poor artist and didn't have more than \$3000 in the bank. She said "I guess that's about what we'd sell it for." You can take it from there.

She will show you through it if you wish next time you are up here. Contact her personally. Write her and let her know if you are interested and want to see it. I have no idea of its value, never having seen the inside. It may be a real shack. No plumbing, remember. ~~Perhaps~~ Perhaps she would come down even more, if you were serious. I think they would like to settle it. You have her address. Carry on.

Jack Wiggins

Jack W.