STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Docket No. KEN 20-262

ALLIANCE FOR RETIRED AMERICANS; DOUG BORN; DON BERRY; and **VOTE.ORG**,
Appellants/Plaintiffs,

v.

MATTHEW DUNLAP, in his official capacity as the Maine Secretary of State; and **AARON FREY**, in his official capacity as the Maine Attorney General,
Appellees/Defendants,

AND

DONALD J. TRUMP FOR PRESIDENT, INC.; REPUBLICAN NATIONAL COMMITTEE; NATIONAL REPUBLICAN SENATORIAL COMMITTEE; and **REPUBLICAN PARTY OF MAINE**,
Appellees/Intervenor-Defendants.

ON APPEAL FROM THE KENNEBEC COUNTY SUPERIOR COURT

APPELLANTS' REPLY BRIEF

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INTRODUCTION

According to the State and the Intervenors, the Election Day Receipt Deadline and current absentee ballot cure procedures—which will result in thousands of voters' ballots not being counted, or counted *only if* their vote is not "outcome determinative"—do "not implicate the right to vote at all." (St. Br. at 10, 22; Int. Br. at 13.) That is simply not true. "The right to vote includes the right to have the ballot counted." *Reynolds v. Sims*, 377 U.S. 533, 555 n.29 (1964) (quotation marks omitted).

Even under the State's own best-case scenario—which does not factor in newly emerging mail delays or higher participation rates of voters inexperienced at voting absentee—well over a thousand voters' ballots will not be counted in the November General Election due to late arrivals and curable issues with their signature envelope. *See* St. Br. at 6-7, 10 (estimating 600-700 late rejected ballots for November and noting that over 900 curable ballots were rejected for missing signatures in comparatively low turnout primary election). While the State may view the likely—and preventable—rejection of hundreds or thousands of votes as "*de minimus*[,]" St. Br. at 10, this is cold comfort to a voter attempting to exercise her individual right to vote. *See League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 244 (4th Cir. 2014) (discussing the "basic truth that even one disenfranchised voter—let alone several thousand—is too many"). The Court must

act to preserve the rights of these voters who, despite requesting and returning their absentee ballots, will not have their votes counted unless the relief the Voters request is granted.

Moreover, the State's response confirms that the specific remedies that the Voters seek on appeal are modest and would impose minimal administrative inconvenience on election officials. Tellingly, the State never contends that a two-day extension of the receipt deadline for absentee ballots postmarked on or before election day or a two-day post-election cure period would be unworkable considering other election administration deadlines—and for good reason, given that ballot counts need not even be finalized until that time. And the State even agrees that there must be a process by which voters can ensure that their ballots "challenged" because of a signature issue are counted in the event of a recount—in fact, the State asserts that such challenged voters "would have the opportunity to prove that they did, in fact, cast the ballot." (St. Br. at 37.) The problem is that the State has never actually implemented procedures to afford voters that opportunity. This Court should clarify that voters whose ballots are challenged for these reasons are permitted to submit information to prove they voted the ballot at least up to the deadline for filing a recount.

While the State urges this Court to defer to the Legislature's existing deadlines and procedures, the Legislature enacted them before a pandemic, before a fourteen-

fold increase in voting by mail, and before the United States Postal Service ("USPS") warned Maine it could not deliver absentee ballots on time to meet its statutory deadlines. Indeed, the Legislature never attempted to grapple with these issues; it adjourned in March, at the start of the pandemic, and it has not been back since, leaving this Court as the last bulwark standing to ensure that Mainers can successfully access the franchise despite the pandemic. The Voters ask no more of this Court than what Maine's Constitution requires—preservation of their fundamental right to vote in the upcoming election, a right which surely includes having their votes counted.

ARGUMENT

I. THE VOTERS HAVE SHOWN CLEAR VIOLATIONS OF THEIR CONSTITUTIONAL RIGHTS

A. The Election Day Receipt Deadline imposes an undue burden on the right to vote.

In its brief, the State did not contest the following: (1) that voting by mail is the safest option for voters; (2) that Maine has actively induced and asked voters to vote by mail; (3) that USPS has warned Maine it cannot deliver ballots by Election Day, even if voters request a ballot by—or even several days before—the statutory deadline; (4) that there were significant delays in sending out thousands of absentee ballots to voters in the last weeks of the July primary; (5) that there were an unprecedented number of late-arriving ballots in the July primary; and (6) that Maine is likely to have an unprecedented number of late-arriving ballots in the November

General Election.[1] While the parties disagree as to the precise number of ballots that are likely to be rejected for arriving after Election Day, even the State's best-case scenario of 600-700 late ballots, *see* St. Br. at 6-7, would be double the number of ballots that were rejected for that reason in the 2016 General Election. *See* Pl.'s Ex. 1 ¶ 200.

The State and Intervenors urge that the burden imposed on voters by the Election Day Receipt Deadline is slight because Maine did not experience a "disastrous primary" or have "thousands" of late ballots in its summer primary, as other states did.[2] *See* St. Br. at 23-24; Int. Br. at 16. But Maine need not experience a full-scale election meltdown before a court can find that an electoral system imposes unconstitutional burdens on voters. Nor is it fair to say that Maine's July primary was conducted "without a hitch." (Int. Br. at 16.) To the contrary, there were 1,300 rejected absentee ballots in the July 2020 primary, which is ten times more than the number rejected in the 2018 primary, and more than double the number rejected in the 2012, 2014, 2016, and 2018 primaries *combined. See* Pl.'s Ex. 32 ¶ 10.

[1] While the State did dispute the existence of mail delays, *see* St. Br. at 24-25, Maine's own legal filings against USPS described how Maine officials have received "thousands of calls about delayed mail," and residents "across southern Maine have experienced delays on as many as 65,000 pieces of mail." (Pl.'s Ex. 34 ¶¶ 185, 188.)

[2] Because Maine has a relatively small number of voters compared to other states, the Voters agree that Maine is not likely to have "tens of thousands" of disenfranchised voters, as Wisconsin or Pennsylvania might have had without relief, *see* St. Br. at 23. Given population differences, that comparison is not meaningful. Nor should that be the standard for relief.

To be sure, the Voters agree with the State that voters should plan ahead whenever possible to cast their votes. *See* St. Br. at 20. But the Voters disagree that voters *who request absentee ballots on or before the deadline set by Maine law for doing so* have acted irresponsibly or are somehow less entitled to have their lawful ballots counted. It is unacceptable that hundreds (if not thousands) of voters who follow the State's rules will nevertheless have their votes go uncounted. *See* A. 125-128. For that reason, among others, the State's reliance on *Rosario v. Rockefeller*, 410 U.S. 752 (1973), a case upholding a state's voter registration deadline, is misplaced. *See* St. Br. at 21. The Supreme Court found no burden on the right to vote in *Rosario* because the plaintiffs in that case "chose to disregard" the deadline. 410 U.S. at 762. Here, the Voters have shown, and Maine has all but admitted, that voters who request absentee ballots *by the State's deadline* will not be able to return them by mail by Election Day.

The Voters' proposed solution—counting ballots which are postmarked by Election Day but arrive shortly thereafter—is time-tested. Over a dozen states successfully used postmark systems before the pandemic, and many more have done so during the pandemic, even on relatively short timelines. Wisconsin implemented a postmark system in a matter of days in April after the Supreme Court's decision in *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1206 (2020). The State's claim that a postmark system would lead to "more rejected ballots," St.

Br. at 29, misrepresents both the Voters' requested remedy and the evidence presented below. To be clear: the Voters are not asking that Maine only count ballots that are postmarked, even when they arrive on or before Election Day. And the evidence shows that the universe of ballots that arrive after Election Day without a postmark is likely to be very small. While Mr. Stroman did testify that postal workers occasionally do not place a postmark on a ballot, he also made clear that it is the official policy of the USPS to postmark all ballots, that postal workers only skip postmarking if doing so would be "helpful" to the voter (that is, if the State does not require a postmark), and that postal workers *would not* skip postmarking if the State considered a postmark in determining the validity of a ballot. *See* 9/21 Tr. at 195:15-197:7. Moreover, Mr. Stroman confirmed that USPS has multiple means of quickly determining when a ballot was placed in the mail stream even without a postmark. *See id.* at 191-192, 214:24-216:2. Even in that scenario—that is, if a ballot arrives after Election Day without a postmark—that voter would be in no worse position than under current law, where the ballot would be outright rejected for arriving after Election Day. The Voters' requested relief can only help voters—it cannot hurt them.

B. The Absentee Ballot Cure Procedures impose an undue burden on the right to vote and violate procedural due process.

Neither the State nor the Intervenors even attempted to confront the two major flaws in Maine's absentee ballot cure procedures: (1) that election clerks will simply not have time to contact all voters whose ballots need curing by 8 P.M. on Election

Day, and (2) that the vast majority of ballots that need curing (those with missing signatures or incomplete certificates) can be fully cured only if the voter goes in person to sign their ballot or casts a whole new ballot that is received by mail by 8 P.M. on Election Day, neither of which is a realistic option for many voters for the reasons the Voters described in their Brief at 32-33. Instead, the State argues that the State's cure procedures are adequate because voters can confirm their identity over the phone, in which case their ballots[3] will be challenged, not outright rejected. *See* St. Br. at 35-36.

But the State ignores the two key facts that make these procedures inadequate. *First*, ballots can only be moved from the "rejected pile" to the "challenged pile" if the clerk has an opportunity to reach the voter by phone by 8 P.M. on Election Day, which the State has all but admitted will not happen for voters whose ballots are received on or near Election Day. *Second*, the State can only guarantee that those challenged ballots will be counted *if the voter's ballot is not outcome determinative*—that is, if the vote does not matter. *See* St. Br. at 10. To put it bluntly, a guarantee that the State will "count" a voter's ballot in a *tally*, but not in the *outcome of the election*, is no guarantee at all. The State's brief all but concedes this point, but counters that should these challenged absentee ballots "matter" to the

[3] Here, the Voters refer to ballots with missing signatures and incomplete certificates, as those ballots make up over 90% of the absentee ballots which need curing.

outcome of any election, the "voter would have the opportunity to prove that they did, in fact, cast the ballot." (St. Br. at 37.) The State's brief makes this assertion without offering any description of or citation to the procedures through which the voter would be afforded this opportunity, and for good reason: the State has never actually implemented any such procedures. For these reasons, additional procedural protections are warranted. This includes a two-day post-election cure period for all absentee ballots with signature issues, the ability to cure with a simple form affidavit, and clear procedures for voters whose ballots are challenged for signature to submit proof that they cast the ballot, and to enable them to do so at least until the deadline for calling a recount. *See* Opening Br. at 29-33. While the State contends that these additional procedural protections are not necessary, the State's brief notably makes no effort to demonstrate why implementing these specific protections would be unworkable—or even a minor inconvenience—for election officials.

Contrary to what the Intervenors contend, this Court can consider the Voters' challenges to the absentee ballot cure guidance under both procedural due process and undue burden on the right to vote frameworks. *See* Int. Br. at 29. Even well before the pandemic, courts regularly considered whether a state's absentee ballot rejection procedures complied with procedural due process, often finding that they did not. *See Saucedo v. Gardner*, 335 F. Supp. 3d 202, 215 (D.N.H. 2018) (state's absentee ballot rejection policies violated procedural due process); *Martin v. Kemp*,

341 F. Supp. 3d 1326, 1338-40 (N.D. Ga. 2018) (same); *Zessar v. Helander*, No. 05C1917, 2006 WL 642646, at *6-10 (N.D. Ill. Mar. 13, 2006) (same); *Raetzel v. Parks/Bellemont Absentee Election Bd.*, 762 F. Supp. 1354, 1358 (D. Ariz. 1990) (same).

C. This Court reviews constitutional violations de novo, not for clear error.

While the State invites this Court to review the proceeding below for clear error, *see* St. Br. at 16, it is black letter law that this Court reviews constitutional violations de novo. *See* St. Br. at 16-17; *In re Robert S.*, 2009 ME 18, ¶ 12, 966 A.2d 894. Indeed, while subsidiary facts found by the Superior Court—such as that Maine has a comparatively low COVID-19 death rate, *see* A. 33—should be reviewed for clear error, the Superior Court's opinion is, respectfully, notably lacking in facts, despite the "voluminous evidentiary record" the Voters submitted. *See* Int. Br. at 2. While the State suggests the Superior Court "did not credit" the testimony of Dr. Herron or Mr. Stroman, St. Br. at 21, in truth, the Superior Court's opinion did not engage with the Voters' expert testimony or findings (from Dr. Herron, Dr. Millard, Dr. Mohammed, or former Deputy Postmaster General Stroman), despite finding Voters' experts "very qualified" at the hearing. *See* Opening Br. at 14.

Similarly, while the State argues that irreparable harm, the balance of harms, and the public interest must be reviewed for clear error, *see* St. Br. at 14, the Superior Court's findings on all three factors were based on its conclusion that the Voters had

shown no constitutional violation, *see* A. 36-37 (describing these factors as "unnecessarily redundant" of the court's prior constitutional analysis). Should this Court hold that the Voters have shown a constitutional violation, the Superior Court's findings on the remaining preliminary injunction factors should receive little deference. *See, e.g.*, *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (holding that constitutional injuries "unquestionably constitute[] irreparable injury"). Injunctive relief is proper where maintaining the status quo would cause irreparable harm to the movant. *Dep't of Env't. Prot. v. Emerson*, 563 A.2d 762, 771 (Me. 1989). That is the situation here.

D. Absentee ballot procedures must comply with the Constitution and can impose undue burdens on the right to vote.

The Intervenors' argument that the burden on voting rights in this case is nonexistent because "in-person voting remains available," Int. Br. at 16, misunderstands the law. It wrongly assumes there can be no burden on voters unless it is impossible to access the franchise. That is not the standard. To find that any of the provisions at issue in this case impose a significant or severe burden on Mainers' voting rights, this Court need not find that access to the franchise is impossible—it need only find that voters' ability to access the franchise is impeded. *See Perez-Guzman v. Gracia*, 346 F.3d 229, 241 (1st Cir. 2003) (holding that burden need not be insurmountable before it can be considered severe); *Ohio State Conf. of N.A.A.C.P. v. Husted*, 768 F.3d 524, 545-46 (6th Cir. 2014) (finding a "significant

burden" on the right to vote where the state reduced opportunities for early voting but did not prevent voters from voting), *vacated on other grounds*, 2014 WL 10384647 (6th Cir. Oct. 1, 2014); *League of Women Voters of Fla., Inc., v. Detzner*, 314 F. Supp. 3d 1205, 1219 (N.D. Fla. 2018) (finding "significant burdens" on the right to vote where a policy did not prevent any college student from voting but increased the difficultly of early voting for college students); *Guare v. State*, 117 A.3d 731, 738 (N.H. 2015). Nor can Intervenors' argument be squared with the fact that many courts have found that state absentee balloting procedures impose undue burdens on the right to vote even where there is also an in-person voting option. *See, e.g.*, *Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1321 (11th Cir. 2019); *Price v. N.Y. State Bd. of Elections*, 540 F.3d 101 (2d Cir. 2008); *Ne. Ohio Coal. for the Homeless v. Husted*, 837 F.3d 612, 632 (6th Cir. 2016) (finding undue burden where absentee voter "may be disenfranchised based only on a technicality," even though Ohio provides for in-person voting).

The Intervenors' efforts to downplay the burden imposed on voters by absentee ballot procedures also ignores the practical reality that in-person voting will not in fact be "available" to many Mainers who will be voting absentee specifically to avoid exposure to COVID-19. As Maine's own polling place guidance recognizes, voting in person in 2020 presents dangers that require significant mitigation efforts to minimize the risk of transmission of the virus, including the use face masks, strict

social distancing, and plexiglass barriers. *See* Def. Ex. 1. But the State cannot guarantee that these procedures will be followed; the State's supplemental guidance to clerks states that "voters who are not wearing face coverings must be allowed to register and vote at the voting place."[4] Indeed, Maine CDC Director Dr. Nirav Shah agrees that "[v]oting entirely by mail entails the lowest risk of contracting COVID-19." (Def. Ex. 5 ¶ 24.)

If this Court finds that the challenged laws impose *any* burden on Mainers' right to vote—which they certainly do under any fair reading of *Anderson-Burdick*—the State would have to do more than just demonstrate that the justifications for the laws are "reasonable," as both Intervenors and the State claim. *See* Int. Br. at 8; St. Br. at 33. To the contrary, the Supreme Court has made clear that *Anderson-Burdick* balancing requires courts to make hard judgments and that even minimal burdens on the right to vote must be weighed against "the extent to which [the state's] interests make it *necessary* to burden the plaintiff's rights." *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (citation omitted) (emphasis added); *see also Ne. Ohio Coal. for the Homeless*, 837 F.3d at 632, 634 (finding only a "small burden" on voters but explaining "[w]e cannot find that Ohio's stated interests outweigh the burden that [the law] places on absentee voters"). Thus, even if this Court finds that the laws at

[4] *See* Supplemental Guidance on Absentee Voting Issued by the Office of the Secretary of State, Oct. 8, 2020, available at https://www.maine.gov/sos/cec/elec/temp/2020/supabvoting1120.pdf.

issue in this case impose only minimal burdens on the right to vote, it still must find that the State's interests make the imposition of those burdens *necessary*. Of course, should this Court find that the Election Day Receipt Deadline and current absentee ballot cure procedures impose more severe burdens on the right to vote, it must then find that each is narrowly tailored to a compelling state interest for those laws to withstand scrutiny. *See Norman v. Reed*, 502 U.S. 279, 280 (1992). Nor are the challenged provisions somehow owed special deference because they are deadlines. In *Anderson* itself, the U.S. Supreme Court invalidated a state deadline for filing nominating petitions, finding that the state's interest in that particular deadline was outweighed by the burdens it imposed on voters. *See Anderson v. Celebrezze*, 460 U.S. 780, 806 (1983). The same is true here.

II. *PURCELL* IS NOT A BAR TO RELIEF

Finally, the Court should not permit the Intervenors to transform *Purcell v. Gonzalez*, 549 U.S. 1 (2006), into an impenetrable shield for unconstitutional voting restrictions during election years. Courts regularly grant motions for temporary injunctions to protect voting rights in the final weeks of an election when necessary to protect voters.[5] Maine itself has correctly recognized that election regulations

[5] *See, e.g.*, *Spirit Lake Tribe v. Benson Cty., N.D.*, No. 2:10-CV-095, 2010 WL 4226614 (D.N.D. Oct. 21, 2010) (injunctive relief granted two weeks before the 2010 General Election); *Nat'l Ass'n for Advancement of Colored People State Conf. of Pa. v. Cortes*, 591 F. Supp. 2d 757, 767 (E.D. Pa. 2008) (injunctive relief granted less than one week before the 2008 General Election); *Common Cause/Ga. v. Billups*, 406 F. Supp. 2d 1326, 1377 (N.D. Ga. 2005) (injunctive relief granted approximately three weeks before election); *Bay Cty. Democratic Party v. Land*, 347 F. Supp. 2d 404, 438 (E.D. Mich. 2004) (injunctive relief granted approximately two weeks before the 2004 General Election).

must shift or give way, even shortly before an election, when necessary to protect voters. *See* Pl.'s Ex. 36 (Maine instituting new absentee ballot cure procedures 15 days before the July primary in response to this suit). *Purcell* expressly did not bar courts from granting relief shortly before an election. If anything, *Purcell* counsels in favor of relief in this case.

First, *Purcell* is a creation of the federal courts and effectively operates as a federal abstention doctrine when federal courts are asked to make certain types of changes to election laws shortly before the election. It is grounded, at least in part, in concerns about federalism, which do not apply when the court issuing the relief is, as here, a state court. *See, e.g.*, *Republican Party of Pennsylvania v. Cortes*, 218 F. Supp. 3d 396, 405 (E.D. Pa. 2016) (discussing federalism implications of federal court-ordered relief). Thus, it does not bind this court at all.

But even if *Purcell* had some applicability, Intervenors' suggestion that *Purcell* categorially "prohibit[s]" relief in election cases in the final weeks of an election is simply wrong. *See* Int. Br. at 33. *Purcell*, by its own terms, instructed that lower federal courts are "*required to weigh*" the possibility that a last-minute order would result in "voter confusion and consequent incentive to remain away from the polls." 549 U.S. at 4-5 (emphasis added). *Purcell* thus gave federal courts one more factor to consider in granting injunctive relief in election cases; it did not prohibit or bar courts from granting relief. *See id*.; *see also People First of Alabama v. Sec'y of*

State for Alabama, 815 F. App'x 505, 514 (11th Cir. 2020) ("*Purcell* is not a magic wand that defendants can wave to make any unconstitutional election restriction disappear so long as an impending election exists.").

To be sure, there *are* cases in which these factors—the risk of voter confusion and potential disenfranchisement—weigh in favor of denying relief when an election is already underway. In *Jones v. Secretary of State*, 2020 ME 117, -- A.3d --, for example, this Court properly recognized that these factors counseled against enjoining ranked choice voting in the November presidential election but not for other federal contests. As this Court explained, granting relief in that case, after voters had already received ballots instructing them to employ ranked-choice voting in the presidential contest, would have led to true voter confusion. *See id.* ¶ 4, n.3.

But the concerns that *Purcell* raised are not present in this case. Granting relief here would have virtually no effect on voter behavior—it would simply affect whether, after a ballot has been submitted, elections officials are required to count that ballot or offer the voter a meaningful opportunity to cure. As one court issuing an injunction just one week before a state's primary election explained, requiring state election officials to offer additional procedural protections, including a post-election cure period for absentee ballots, did not implicate *Purcell*:

> The concerns that troubled the Supreme Court in *Purcell* are not present in this instance. A voter filling out an absentee ballot will be entirely unaffected by an order enjoining the signature-matching requirement—a requirement that applies only after a ballot is submitted. In other

> words, there is no potential for voter confusion or dissuasion from voting because the process for submitting an absentee ballot will remain unchanged.

Self Advocacy Sols. N.D. v. Jaeger, No. 3:20-CV-00071, 2020 WL 2951012, at *11 (D.N.D. June 3, 2020); *see also Donald J. Trump for President, Inc. v. Way*, No. 3:20-cv-10753, ECF No. 75 at 26 (Oct. 6, 2020) (rejecting the Trump campaign's invocation of *Purcell* because the campaign "fail[ed] to explain how [counting ballots arriving after Election Day] will confuse voters or deter them from voting. These activities are conducted after a ballot is mailed. Voters do not need to take any new action and face no discouragement from casting a ballot."). Indeed, the Court need look no further than the State's own conduct for proof of this point: since this suit was filed, the State twice altered clerks' procedures for handling ballots rejected for signature issues, and in one case, did so just 15 days before the July primary. Yet the State reports no evidence of voter confusion or voters deterred from voting as a result.

Courts considering the precise claims raised in this case, even in the final weeks or days before an election, have granted relief when necessary to protect voters. *See Democratic Nat'l Comm. v. Bostelmann*, 451 F. Supp. 3d 952, 977 (W.D. Wis. 2020) (enjoining state's election-day-receipt deadline five days before state's April primary); *Martin*, 341 F. Supp. 3d at 1331-32 (enjoining election officials from rejecting absentee ballots without an adequate cure process two weeks before the

2018 General Election); *Fla. Democratic Party v. Detzner*, No. 16-CV-607, 2016 WL 6090943, at *9 (N.D. Fla. Oct. 16, 2016) (enjoining election officials from rejecting absentee ballots without an adequate cure period approximately three weeks before the 2016 General Election). The same relief is necessary here.

If anything, *Purcell* counsels in favor of granting relief. Concern about voter disenfranchisement led the *Purcell* Court to caution federal courts about tinkering with a state's election system in the weeks before an election. Here, the Voters ask this Court to *prevent* unnecessary disenfranchisement. This Court should weigh the risk of disenfranchisement if it allows the status quo to stand against the risk of disenfranchisement if it intervenes. The Voters respectfully submit that the circumstances weigh strongly in favor of intervention, during an unprecedented pandemic, under which the laws must bend or voters will be burdened and disenfranchised. As the State itself has said, "[t]he need for an effective vote-by-mail option is critical in Maine." (Pl.'s Ex. 34 ¶ 79.)

CONCLUSION

The Voters respectfully request that this Court reverse the Superior Court's Order and afford voters adequate relief to protect their fundamental right to vote.

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October 13, 2020

CERTIFICATE OF SERVICE

I certify that on October 13, 2020, this document was filed with the Court by hand delivery and e-mail, and was mailed and e-mailed to Thomas Knowlton, Esq. and Phyllis Gardiner, Esq., attorneys for the State, and Patrick Strawbridge, Esq., attorney for the Intervenors.

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