




not ripe. *Id.* Thus, there is no “standing” argument for the TMF Defendants or the Town to preserve at all.

Based on the Plaintiffs’ understanding of the procedure in this case, such a “preservation” of either a ripeness or standing claim is not necessary because this Court has indicated that the prescription trial and any decision rendered therefrom would be *de bene esse*. Black’s Law Dictionary defines *de bene esse*: “[a]s conditionally allowed for the present; in anticipation of future need.” Black’s Law Dictionary 180 (Pocket 3d ed. 2006). Maine law allows court hearings and testimony to be held *de bene esse*. *E.g. Henriksen v. Cameron*, 622 A. 2d 1135, 1147, fn. 4 (Me. 1993) (“Black’s Law Dictionary, 5th ed. 1979, defines *de bene esse* as ‘proceedings which are taken provisionally and are allowed to stand ... for the present, but which may be subject to future exception or challenge, and must then stand or fall according to their intrinsic merit and regularity’”) (dissenting opinion).

This Court has already declared that, in order to ensure witness participation at this trial, the prescriptive easement trial will occur first, followed by a trial on title. Therefore, any decision on prescriptive easement made by this Court will be *de bene esse* and will stand subject to this Court’s decision on title later this year.<sup>2</sup>

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<sup>2</sup> To the extent a decision is not made *de bene esse*, Plaintiffs seek to preserve argument regarding ripeness but do not see this to be a potential issue.