

## Ed Pentaleri

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Jami MacNeil  
Bureau of Land Resources  
Maine Department of Environmental Protection  
28 Tyson Drive  
Augusta, ME 04330  
By email: Jami.Macneil@maine.gov

Dear Ms. MacNeil,

I am a resident and former selectman for the Town of Alna. My wife and I live in the Head Tide Historic district, where we have property with frontage on the Sheepscot River. I am writing in opposition to the NRPA permit for a boat ramp and dock that Jeff Spinney has applied for on the his property in Alna at tax map R-4, parcel 21A.

After attending a meeting of the Alna Planning Board on the evening of December 5, presided over by Mr. Spinney in his capacity as Planning Board chair, and after reviewing all information regarding his application that I believe to be currently available in the public record, I would like to share with you the significant concerns that I have over Mr. Spinney's permit application.

Many of my concerns relate to inconsistencies between Mr. Spinney's NRPA permit application and the permit application he has made to the Town of Alna. Others relate to multiple aspects of his NRPA application that are inconsistent with Alna's Shoreland Zoning Ordinance (SZO). I doubt that you will be surprised to know that many of the concerns I have separately addressed to members of the Alna Planning Board are likely to be of at least equal relevance to your review. Therefore, I have included that letter as an email attachment, and ask that you consider that correspondence in addition to the information I am providing here.

In this letter, I wish to focus on two principal sets of concerns:

- (a) Elaboration of the inconsistency between the proposed use versus prevailing current uses, and
- (b) Errors, inconsistencies, and issues with the information Mr. Spinney has included on his NRPA permit application that should be corrected prior to any approval

## **Inconsistent with Current Uses**

Here I wish only to make a few points that I have not made separately in my letter to members of Alna's Planning Board.

- (i) A satellite survey of the section of the river in question clearly shows that Mr. Spinney's previously permitted boat launching facility is nearly a mile above river from nearest comparable boat launch, located on the Newcastle side of the river, as shown in Figure 1. The nearest comparable boat launch on the Alna side of the river is approximately 1 1/4 miles downriver (Figure 2). While the extent to which the dock on the Newcastle side remains in current use is unclear, it is evident that the boat launch on the Alna side is principally, if not exclusively used for non-motorized watercraft.

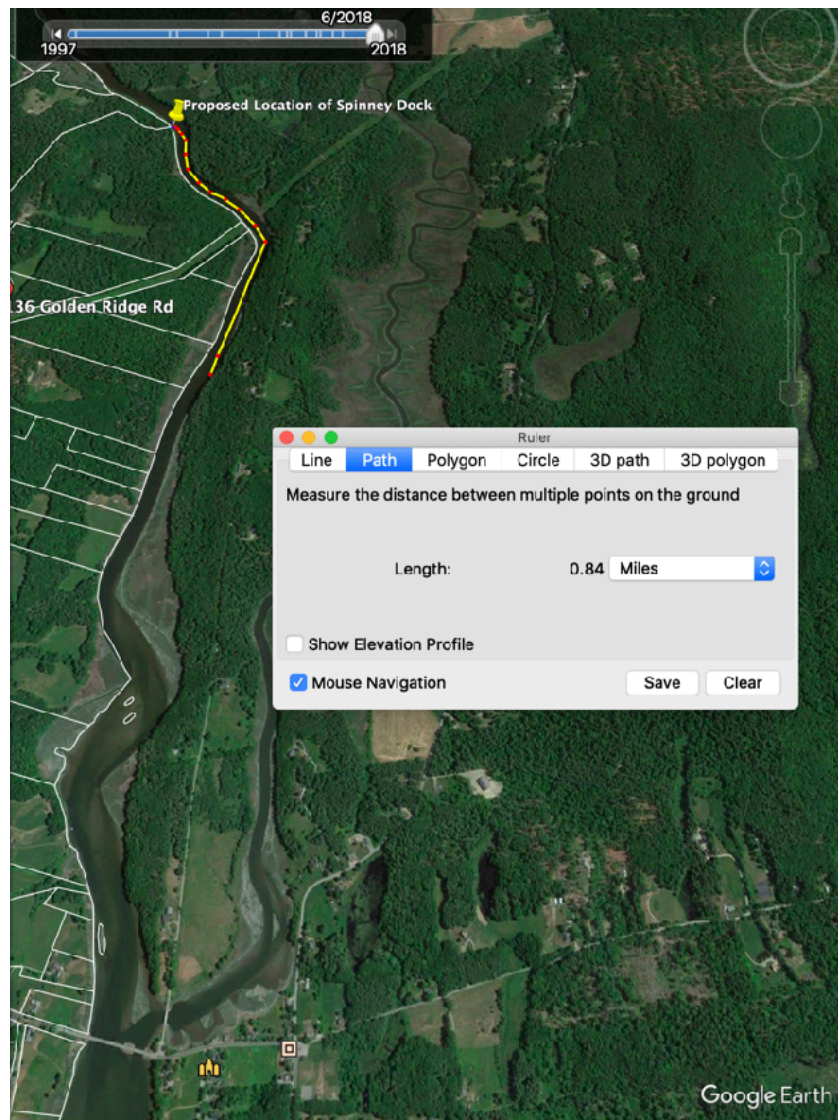


Figure 1: Distance to nearest comparable boat launch (Newcastle side).

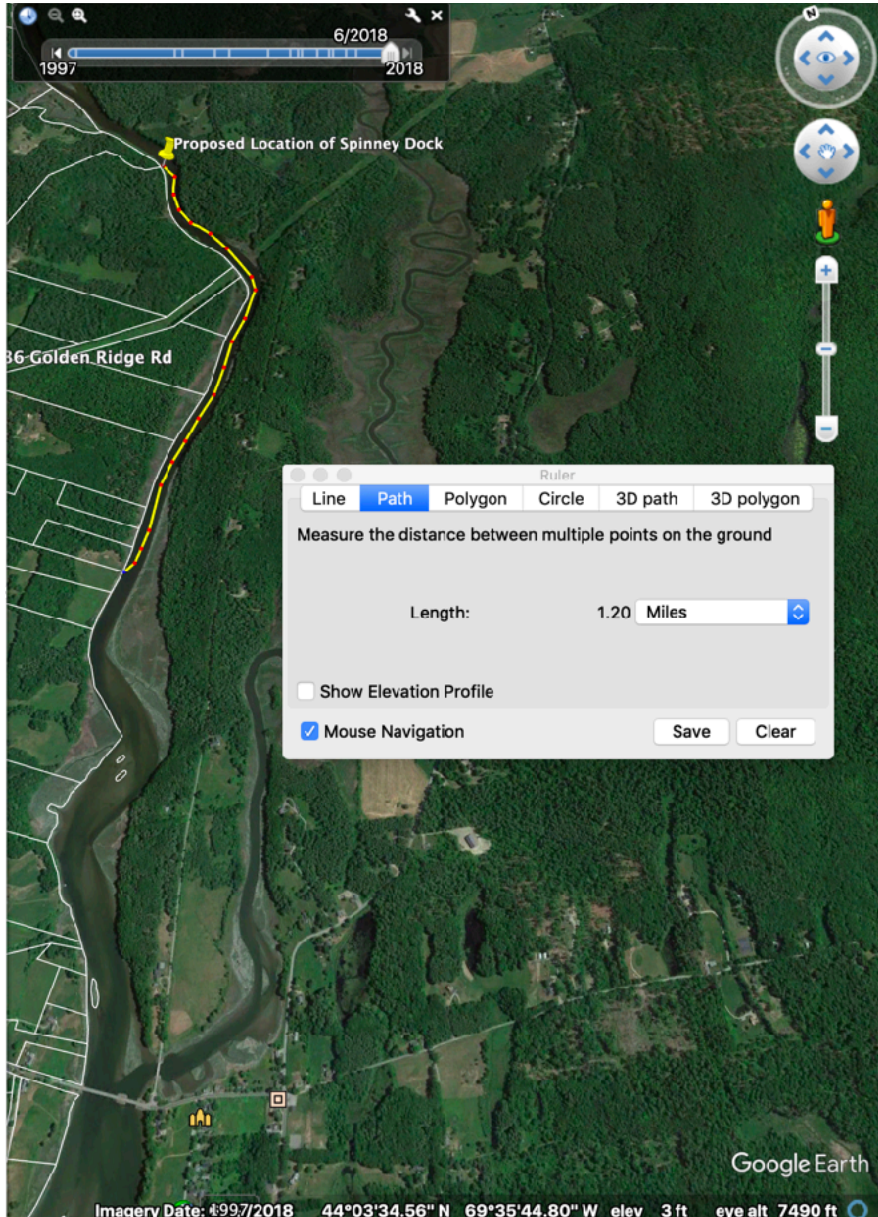


Figure 2: Distance to nearest comparable boat launch (Alna side)

In fact, the nearest boat launching facility that appears to have any current use involving motorized watercraft appears to be nearly 2 miles downriver from the site of Mr. Spinney’s proposed dock/ramp, on the Peele property, approximately 1/4 mile from the bridge in Sheepscot Village (Figure 3). There are no such facilities located upriver from the site of Mr. Spinney’s proposed dock/ramp.



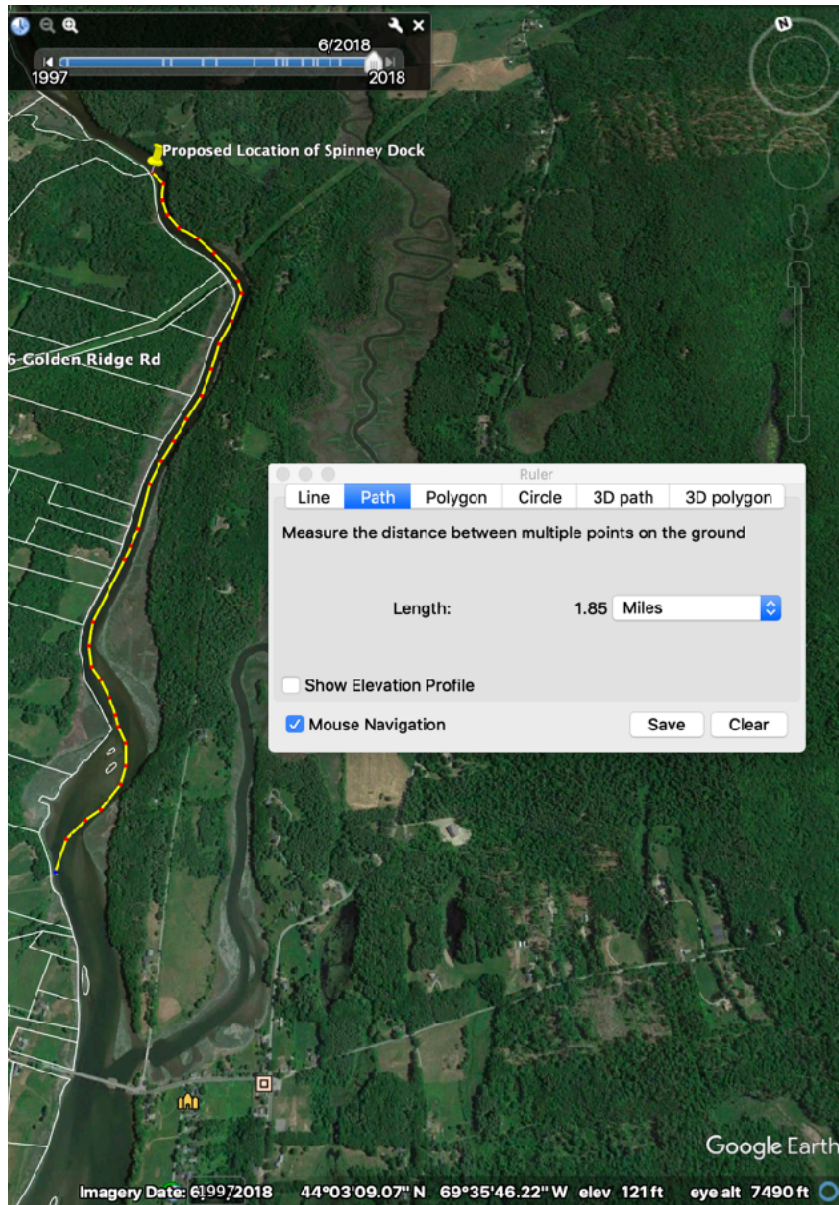


Figure 3: Distance to Peele boat launch (near Sheepscot Village)

The point here is that the river segment in question is currently very quiet and undeveloped. To the extent that the activities that Mr. Spinney envisions for members of his club may include the use of motorized watercraft such as ski boats, jet skis, and the like, such activities *could* be highly inconsistent with the current uses of this segment of the river, unless the specific nature, frequency, and intensity of such uses are expressly limited. *Should Mr. Spinney's permit application be approved, I urge you to do so subject to strict limits as to types of motorized watercraft that may be used at this location, as well as the frequency and intensity with which motorized watercraft may be used so that any such uses remain*

consistent with the prevailing quiet and peaceful uses that neighbors and visitors enjoy along this stretch of the river.

- (ii) After reading through numerous letters that have been submitted in support of Mr. Spinney’s application, the repeated reference to historical uses associated with motorized watercraft that once accessed the Sheepscot River at a launch site near the former location of the post office is noteworthy. While these represent somewhat interesting accounts of *historic* use of the the river, it is clear that such use ended many years, if not decades ago, and have no bearing whatsoever on *current* uses that must be considered in your review of the NRPA application. Furthermore, it is important to note that, even if these historic uses were pertinent to current uses, this launch site is located on the Dyer River, at a location that is approximately 2 1/3 miles downstream from Mr. Spinney’s proposed dock/ramp (Figure 4). The physical distance between the quiet and undeveloped section of river where Mr. Spinney proposes his dock/ ramp and the location much more developed site of the ramp that once existed in Sheepscot Village makes these historical accounts all the less relevant to the consideration of potential impacts upon current uses.

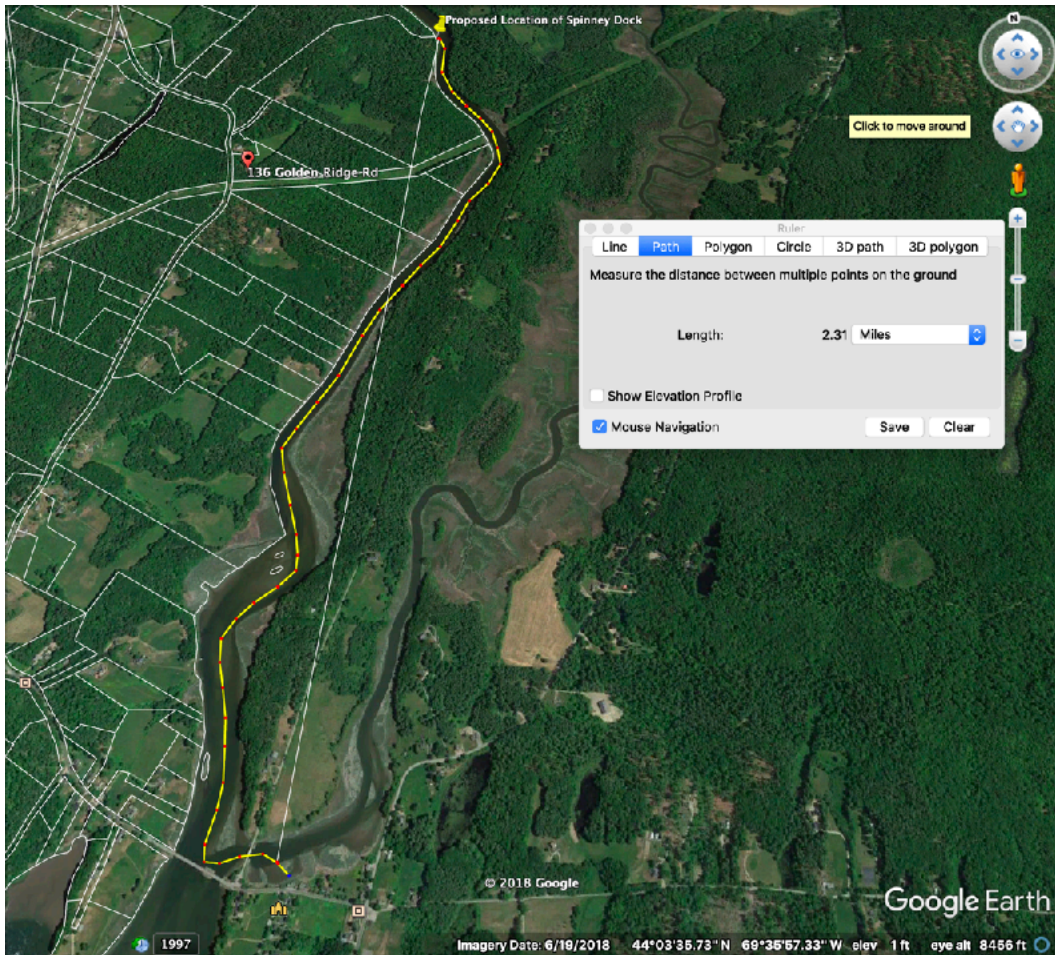


Figure 4: Distance to site of historic public boat launch in Sheepscot Village.

## Issues with Mr. Spinney's NRPA Permit Application

Unfortunately, there appear to be a number of shortcomings, errors, and inconsistencies in various aspects of Mr. Spinney's application for an NRPA permit that I ask you to consider having cured before you consider granting approval. I address these in the order in which they appear. For completeness, and because I may not be in a position to judge which issues are significant, I will address all issues that have come to my attention, independently of my sense as to which may be considered important.

1. In block 17 of the NRPA application Mr. Spinney submitted in September, he has indicated a lot size of 120 acres, whereas he has indicated lot size of 99 acres for the corresponding entry on his application for permit that he submitted in November with the Town of Alna. The figures on the two applications should be brought into alignment with the accurate figure.
2. The general instructions describe that "[t]his application form is to be used when requesting a permit for activities in, on, or over a great pond, coastal wetland, freshwater wetland, significant wildlife habitat, fragile mountain area and river, stream, or brook where the activity includes dredging, bulldozing, removing or displacing sand, soil, vegetation or other materials; draining or dewatering; filling, or any construction, repair, or alteration of a permanent structure." The instructions also indicate that "[i]t is also used for activities adjacent to certain protected natural resources (38 M RSA 480-C(1)). Given this guidance, should the application include design information for any portion of the road leading to the proposed dock/ramp?
3. The first paragraph of the instructions for the Tier 3 permit includes the statement that "The square footage of impact is based on the alteration or impact of the whole activity in the wetland." Likewise, the instructions for Appendix B, MDEP Coastal Wetland Characterization: Intertidal & Shallow Subtidal Field Survey Checklist clearly require that "[a]ctivities impacting over 500 square feet of coastal wetland require a functional assessment performed by a professional wetland scientist unless the Department determines that the activity will have minimal adverse impact on the functions and values of the wetland."

Based on the hand drawings that Mr. Spinney included in his application, it appears that his proposed project has direct and indirect impacts on an area substantially greater than 500 square feet. The 475 square foot area that Mr. Spinney has indicated for the project accounts only for direct impacts within the intertidal area, and fails to account for any indirect intertidal impacts. Likewise, it and fails to account for either direct or indirect subtidal impact areas.

While reasonable people may differ as to the specific bounds for each impact category, it appears that the only way that a total impact area smaller than 500 square feet can be obtained is by ignoring one or more of the impact areas that should be considered. Though I have no claim to be any more qualified than Mr. Spinney in regard to the



requested calculation, the table below is my attempt to estimate the impact area for the proposed dock/ramp. In the table, the direct impact area is based on the footprint of the concrete ramp, the aluminum ramp, and the floating dock, and corresponding anchors below the HAT. The estimated area for indirect impacts includes an additional potentially shaded area adjacent to the dock corresponding to the width of the concrete ramp, where boats may be moored.

		Intertidal			
	Width (ft)	Length (ft)	Direct Impact Area (ft <sup>2</sup> )	Indirect Impact Area (ft <sup>2</sup> )	Total Intertidal Area (ft <sup>2</sup> )
Ramp + Rip-Rap:	12	36	432		572
Aluminum Ramp:	4	35		140	
<b>Total Intertidal:</b>			<b>432</b>	<b>140</b>	

		Subtidal			
	Width (ft)	Length (ft)	Direct Impact Area (ft <sup>2</sup> )	Indirect Impact Area (ft <sup>2</sup> )	Total Subtidal Area (ft <sup>2</sup> )
Main Floating Dock:	8	32	256		1288
Floating Runout Dock:	5	16	80		
Area between MLW and Main Dock:	16	27		432	
Boat Launching Area Beyond MLW:	10	20		200	
Boat Mooring Area Adjacent to Main Dock:	10	32		320	
<b>Total Subtidal:</b>			<b>336</b>	<b>952</b>	

		Direct Impact Area (ft <sup>2</sup> )	Indirect Impact Area (ft <sup>2</sup> )	Grand Total
<b>Total of Intertidal Plus Subtidal:</b>		<b>768</b>	<b>1092</b>	<b>1860</b>

Table 1: Estimate of area impacted by the proposed dock/ramp.

While it is not clear whether you have made a determination that the proposed activity will have minimal adverse impacts on the functions and values of the wetland, it otherwise appears evident (based on total impact area that is clearly greater than 500 square feet) that the intertidal & shallow subtidal field survey checklist, the functional assessment, and the attachment 9 site condition report should have been prepared by a professional wetland scientist.

4. Within the Appendix B checklist, it appears that Mr. Spinney has claimed that all life (including the category “other”) is absent from the impacted area. This seems hard to believe, at least in the subtidal zone, and reinforces the sense that an evaluation by a professional wetland scientist is likely called for in this instance.
5. Likewise, on the same checklist, it is unclear that Mr. Spinney has correctly captured all of the current uses of the site and the adjacent upland, which arguably should take consideration not only of the adjacent undeveloped areas both upstream and downstream, and might reasonably also include an annotation as to the existence of an upland residence.
6. It appears that an Appendix C should have been included in the application, at least to the extent that dredging would be required for the construction of the concrete boat ramp.

7. Many of the objections to the proposed project relate not only to concerns over potential changes in the nature and intensity of activities on the river as compared with prevailing current use, but also to the significantly greater footprint of the dock/ramp and corresponding extent into the river. Attachment 1 does not include in any useful level of detail, a description of the previously permitted dock/ramp structure requested in the instructions. Absent a more detailed description, it is not possible to gauge either the extent of currently permitted use, nor the extent of to which the applicant is seeking to expand his dock/ramp beyond that which has been in use since the initial permit was granted 16 years ago, in 2003. Dimensioned drawings would be a reasonable supplement to any narrative description, and would be helpful to support comparison with drawings for the proposed dock/ramp. Also relevant may be the *ca.* 2007 and 2012 satellite images I have included in the above-referenced letter to the Alna Planning Board that I have forwarded to you.
8. The attachment 2 Alternative Analysis submitted fails to consider alternatives that include “[r]educing the size, scope, configuration or density of the activity as proposed, thereby avoiding or minimizing the resource impact,” as requested in the instructions. One alternative that would be of significant interest in the community would be for Mr. Spinney to maintain a dock/ramp configuration no greater in size or extent into the river than that which has been permitted and used by him over the last 16 years. Likewise, reducing the scale of club activities to those supported by such a replacement dock/ramp would go a considerable way toward allaying concerns over the possibility that the club activities he envisions might in their nature or intensity be inconsistent with current use.
9. Inconsistencies are noted in the “Highest Annual Tide Line 2015” submission that is included as part of Attachment 6. In particular, the figure included here depicts a HAT line that is above the forest floor in some places, and below the tide line in others.
10. While it appears that the hand-drawn plans included in Attachment 1 satisfy part of the requirement for Attachment 5, is there any portion of the road leading to the dock/ramp that should be subject to review in terms of design, erosion control measures, *etc.*?

Thank you very much for your consideration of my inputs on this matter. Please feel free to contact me should you have any questions or desire further discussion.

Sincerely yours,



Ed Pentaleri