

Email sent Thu 1/16/2020 1:03 PM
To: Jami MacNeil (DEP)
Cc: Jay Clement (USACE)
From: Jeffrey Spinney

Jami & Jay,

I'm trying my best to go through this stuff in order and remain calm. I know this is long, but there is a lot of detail that is important. There is a lot of commentary/captions that i have serious issue & disagreement with, but I am sticking to the summary photos and captions Word doc you asked about unless you have other specific questions, in the online photo album, many of the pictures are not even taken at my site and/or are at other locations that are otherwise from misleading views/angles/locations etc. and associated commentary provided by Weary that is simply not accurate in some places or in some respects. Having to respond to this stuff puts me in a hard position as i have to repetitively try and back things up with actual fact(s) to counter claims, assertions, or other insinuations that may or may not even be accurate to begin with. I am concerned that if i don't strike thee things down, they take on undue weight or a life of their own in the process.

I have been trying to provide as much info as i can, but at some point, it seems that this permitting process has turned into a tool for commenters to just turn up seemingly endless concerns or statements. Now Philbrick is investigating other issued permits along the river? To what end? Will i be expected to answer questions on those permits too? The longer of the two Weary word documents you had attached is full of flat out wrong info/surmising that he apparently believes, i can't even begin to respond to that and the Bolen/Ervin is again full of permuted legal jargon in hopes i wont have it reviewed to see the flaws in it. I have had my legal review those comments worthy of review, and they assure me there is no problem in right/ title /interest and my desire to grant this access, land use license, etc. Any changes to any necessary legal paperwork/etc that may (or may not) be proved/needed in future to correct something (should a winning legal challenge ever come forth) will be easily remedied and it is clear that the hope here is to muddy the initial permitting process in hopes of derailing that. It should go without saying that any necessary change (if it ever occurred) would of course be reviewed with DEP/ACE as necessary and applicable, but i don't see that need (to change) arising to be honest.

Where do we see this going now in terms of the permitting process? I showed this info to some members of the past planning boards and past selectman and they are floored. As one said, we never had any complaints all these years about this site, what is driving this now other than i am applying for the permits in the right way and am allowing access to the river in an official capacity to people who are not in the desired class or do not otherwise participate in the activities such as the 'Champagne on the Sheepscot' that the pompous, self-important people like Weary, Philbrick, and others do.

I saw a comment somewhere in this mess saying something to the effect of the comments in favor are from time gone by, or the commenters in favor don't know or understand, or that the commenters are not writing multiple letters such as some commenters are. etc....again, this is that self-important, pompous attitude that folks in Alna are sick of in the name of 'conservation'. As evidenced by the numerous things i have agreed to, and are willing to do to support this, and expenses i am willing to go through to make it 'right'. We are willing to do the right things to protect the resource, and even that doesn't seem good enough at times. It appears that we supposed to change our current, desired, and historical use to that which fits the agenda of the commenters. Even then would that be enough? As a landowner, i have some rights too.

As you both know, the permitting process should not be used by objectors to just simply wear an applicant down in hopes that the applicant gives up which seems to be where we are or are at least very near.

I'm sorry if i sound frustrated, this is wearing even me down. Its not about you guys, i know you are doing the right things.

-jeff

1.) Looking at the first photo in word doc, it appears to be some sort of scanned in old photo. Therefore I am not able to state or argue authoritatively what the date of this would be based on that.. I can just barely make out where the ramp area is because of shadows and it appears to have not been in use at that particular time based on the overgrowth of stuff on the ramp. That grass as you explained to me and are aware shifts around a bit year to year and the tide being up in photo also makes it take on a different/deceiving appearance sometimes. i have noticed over the years that the grass fades back from the edge as you use an area and (sometimes) creeps back in when you don't. In some areas under the overhanging oaks (like those several of which are in this location) there are areas that remain bare entirely, i assume due to the foliage dropping/shading as well. I think we looked at another one of those particular places as an alternative site during your site visit. I also see what appears to be some sort of low ferns or something of that sort seeming to grow in the upland parking/driving area too as, which suggests to me that this could possibly be even a much older picture. It is really hard to tell as its not a great photo and shadowing/resolution is poor.

Speculating, if it was indeed the summer before i bought (2002), then i suspect that's could be why it was not in use as it was likely for sale for some time and recent previous owners (as i understand it from my friends who tried to gain access which they had used in previous years before) were not terribly friendly or accommodating to locals seeking use of property for hunting/fishing/etc. Additionally, I do not see the survey pin which should be plainly visible on shoreline between me and bolen from when the bolen lot was created from my lot. One more reason that I question the vintage of this. Finally, when I toured the property with realtors, we drove a suburban down (on the road you will see my car in pics below on) to the waterfront to look at the waterfront area and drove around without issue which is a fairly large vehicle the size of my truck. The driving area opening in this picture appears to not be sufficient for that.

Regardless, no dock would have existed at that time before my purchase (that i know of since the old brick yard pier just downriver on my property at one of the alternate sites we looked at) since i permitted & built the dock in summer of 2003. I also notice that, based on density of trees/forest in background it was clearly before my loggers thinned out the forest of fir trees from that entire area of the property per the forester/management plan. I can't recall what year that was , but obviously sometime after i purchased property circa 2002. My forester/logger cut & cleaned up that entire property as it was heavily over forested/under harvested and not doing well to improve the stand. Again, this is commercial forestry harvesting supervised by a license forester and all part of my management plan and i can only guess that is why there is so much more light through canopy in photo 2. Time of day is also hard to know which affects light through tree canopy down there a lot as its uphill to the westward. . The trees hang out over the banking on the west side (my side) significantly reaching for the sun.

To be clear regarding the dock structure, the second photo shows only a partially installed dock with a quickly thrown together replacement ramp as the old one broke. You can see it is not even properly attached properly and was temporary. This was NOT the first install even if it's the first one Weary decided to photograph. (see attached picture of planning board notes from original permit & notes from our files in March 2003 indicating i might not build until '04 but i did end up building in summer of '03). Now for some context, i believe at the time Weary was still out in California or DC (or wherever he was out of state) and not yet owner of this property or even living here. Also, given that he is in a different town, he may not have even known about the permit or first install of dock which might explain his assumption or gap in perceived timeline and his bizarre claim that i didn't build a dock for 4 years after i got a permit. In 2004 his parents estate was probated and he and his sister became technically the owners, apparently he didn't move here until 2011 as he states on his website. Frankly,

this should really bring into questions the knowledge he is bringing to the table on this. He hasn't exactly been here all of the 70 years he's trying to make you think he has.

"For 17 years (15 as president) he served on the board of his condominium association in Washington, D.C., and, in 2011, relocated to his 18th century farmhouse and tree farm on the banks of the Sheepscot River in Midcoast Maine."

<https://www.fieldstoneconsulting.com/bio.php>

My divorce from 1st marriage was final in July of '06 (see the deed i had to provide in my NRPA), i had built the dock when i was first married a few years before when i originally got the permit from town (permit app submitted in Feb 2003, approved in March of 2003), i believe that i built that following summer. The July 2007 picture Weary includes is likely just an annual installation from that year. (note: the temporary yellow ropes run to shore instead of the granite blocks that i had probably yet to float out as lateral anchors for floats).

Again, this picture shows a subset (2/3 or so of and in a temporary orientation) of what i was permitted for as a seasonal structure. As you know there is therefore no need for a DEP permit on a seasonal use dock despite the claims that this is permanent structure.

I will concede that it was not clearly understood back then that I needed an ACE permit in addition to the local permit for a seasonal structure. Jay, you, and I have already discussed that as early as the premeeting or possibly even before in in my initial investigation of this permitting process and we agreed (as i understood it from our premeeting) that we would request an 'after the fact ACE permit' on that part which is seasonal but keep it all in the context of the NRPA as an overall project for consistency/completeness of that process or whatever you want to call it.

As some context, at that time I originally permitted this locally, i was much younger & less experienced/knowledgable, not involved in local planning board matters and had no idea as to the rules & complexity of shoreland zoning, etc. I was operating solely on and limited to, guidance that i was provided at the time by those in charge (CEO & board at the time). Nobody ever over the years complained to the town or planning board in any official capacity and many local people used or passed by on river and/or knew this site existed. It was not a secret by any means.

As i have said, the only person to ever say anything (privately to somebody in town) was Weary and i then voluntarily went to the planning board, discussed the concern, and together we reviewed & determined there was no actual issue. As far as i or anybody else in town knew, that was the end of it.

Further, the planning board (actual several different boards composed of different people) as well as a couple of CEO's site visited and approved some other items at this site: (e.g. the original dock of course, a camp at the campsite just set back from dock area in pictures, the NRPA permit initial review site visit, as well as the CEO site visit over the years no less than 3-4 times for various reasons. And don't forget the DEP site visit for NRPA process. During the camp permitting site visit, measurements were taken to/from the shoreline including the dock area as a natural part of the setback siting process. Any non-compliance, had it existed, would have been obvious to the board at that time.

This type of use pier/ramp/float is currently and was never uncommon and overt waterfront use in Alna as there were several others along river to the south of me and friends and family and others used this area over the years, and it was never presented as a problem. Many in town are trying to understand why this is causing such an issue right now and looking very closely at the supposed conservation effort that seems to be more of a NIMBY agenda preventing common person use than conservation. Again to reiterate, the (seasonal) pier, dock and float components were all the same, the supporting posts under the deck were made taller, moved to side, and braced together better when installed but it was still seasonal and in same footprint. I just don't think

some people understand what seasonal actually means in terms of shoreland zoning.

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NEW BUSINESS

Magikhats Business Permit- Debra Churchill was present to explain her plans for breeding and selling cats. The cats, mostly the males, will be housed in the barn. There will be less than a dozen cats at any one time. The board approved the permit without conditions.

Jeff Spinney- Ramp and Float into the Sheepscot River. Jeff was present to discuss his plans for putting a private use ramp and float into the river near his northern property line. Peter reviewed the observations made by an earlier site visit conducted by himself and Marjory Whitehurst. Jeff indicated that he may not get around to building and installing it this year. The board approved the permit.

Peter Tischbein
Peter Tischbein
Secretary

Copy from '03 PB

NOTICE

The Alna Planning Board
has called a meeting

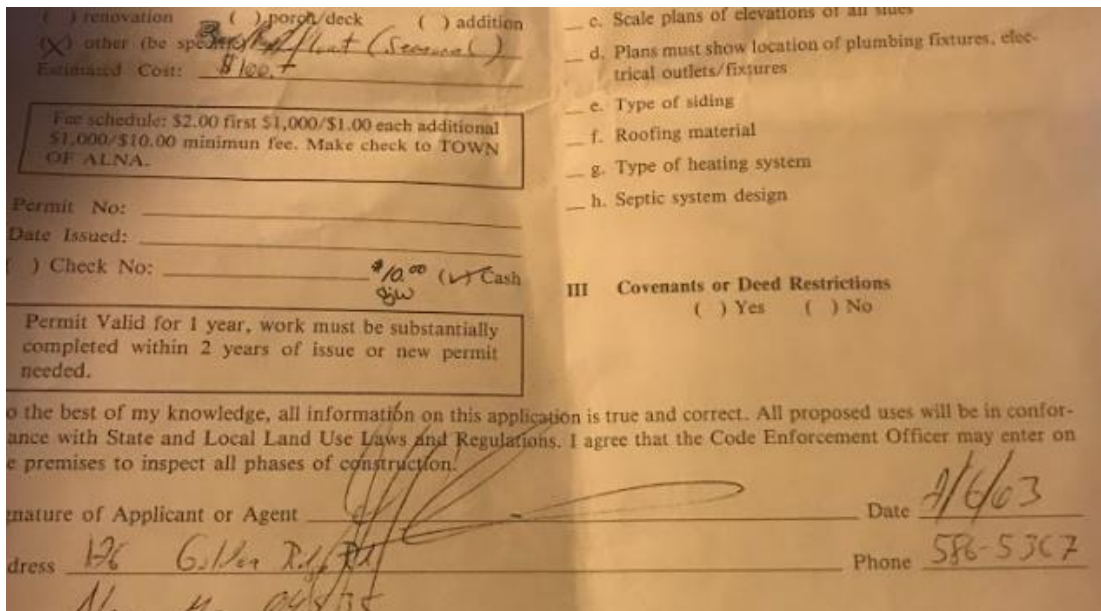
DATE: March 3, 2003

TIME: 6:30

PLACE: Alna Town Hall

Agenda: This will be a routine Planning Board meeting. The subject(s) to be discussed will include, but not necessarily be limited to, the following:

- 1) Ray Robitaille - Proposed subdivision.
- 2) Myles Jordan - Rebuilding of Structure in the Shoreland Zone of the Sheepscot River
- 3) Jeff Spinney - Placement of Ramp & Float in the Shoreland Zone of the Sheepscot River.



In terms of size/construction of dock, as i have explained before, at the time, I was simply using extra materials from some construction on my home that i had and that was all i had and was willing to do at the time. The cost 'estimate' on the local building permit listed seems to be a point of strong contention among commenters, but as i was advised back then, there is a minimum fee of \$10 which was advised to go with and paid (fee schedule in attached picture from permit - \$2 – first \$1000, \$1 each additional \$1000, \$10 min) which covers up to \$10,000 in 'estimated cost' and that's what i was told to put down vs worrying about the minutia of figuring what the actual costs of my future structure would actually be. I think it's irrelevant, but since so many commenters complain about this, i will say that the most parts/material was free and the few things bought were actually wedding presents to me for my first marriage (yes, i actually registered for some things from Hamilton Marine). Before one of these lawyers attempts to say that i 'lied' on the building permit form, the \$100 in 'estimated cost' to me was actually quite accurate because of the fact i got many parts as wedding gifts. Regardless, i still had to pay the minimum fee (\$10). Even today, as a local planning board, we would advise applicants to take an honest guess and if they are well under the \$10k mark, just pay the minimum and don't worry about the minutia of calculating as this is not the critical item on the form. It is simply a means to collect a nominal fee to offset planning board/CEO expense. The intent is nothing more than that and this is a universal local building permit that doesn't always fit the circumstance perfectly.

The jetski dock you see in the photo and the jetski sitting on it is actually only 1/2 of the set/pair of skis & floats i owned back then. Apparently, i only had one in at the time but i do think one blew an engine way back then (i am staring at a piston from it on a shelf as i write this) so maybe the other was in the shop, i can't be certain almost 13 years later. Normally, the two jetski drive on floats were attached side by side on the south end (to rear of the ski shown in picture) of the float as the second section. I never had any complaints registered about my use with jetskis. I used them fairly often and as i said before, used to take my dogs for rides up and down the river without any complaints or problems. While i don't own any now, nor do i intend to, as i pointed out to the ire of others, there is no law against them or any other power boat on the river and it is technically navigable water all the way to head tide dam and historically was used for transportation/commerce and that sets a pretty significant legal precedence to keep it open that way.

The 'deck' you see of the 'pier' portion of the dock was made from rough sawn 2" hemlock that i cut & milled myself as it was conceptually 'free' to me. Initially, It just rested on the top of the posts (the shear weight was in theory helpful here) you see (there were other posts underneath too you just can't really see in photos but i assure you, they were there). The original posts i put in ended up being too low as i had miscalculated some higher tides and i finally put in 'taller' posts in 2012. I (re)used some pressure treated material that i had then as landscape timbers and built them in 'sets' so i could remove them, the deck was bolted laterally to the timbers with large carriage bolts at time of install. At the same time they came out (or at least i acquired) with

impact guns and GRK style 6"+ screws which allowed me to easily /quickly and strongly brace them together temporarily too. Again, the point was to have something that was temporary and removeable.

Note: The hemlock decking still remained the same through the years. I would drag it back onto shore from posts and pull the posts. Reverse process in spring, insert post sets and drag deck out onto them and bolt it. In fact, I cut that deck up and burned it just this summer just before you visited i think as it was finally getting too rotten to fix and i had intended to replace with aluminum ramp. Placing and removing that deck and posts sets (sometimes in Jan or Feb or sometimes in early spring) was a real pain in my ass and i often had to get a couple buddies to help as it was never easy. Sometimes i would wait until the hottest part of summer until i really wanted it, sometimes i would wait until ice was a problem to and go remove it. This is why i am seeking to install an aluminum ramp of the same length to run from the shore down to the floats. Simply put, i need something easier as I'm too old for this and I can afford to do that now.

The sectional floats have not changed in all this time. Again, there were originally three 'sections' of float; Three wood (2 plus landing float), one (two attached side by side as one unit) nylon drive on/off that made up the footprint. The posts/deck/ramp allowed you to get to them. I would simply haul them up/out using the boat ramp area just like i would launch the jetskis anything else i have had over the years there. If i didn't need a section, then i might not put it in or i might wait until i did need it to do so. I don't recall any requirements either prohibiting my doing so or using the docks the way i wanted or didn't want according to my fancy that summer. I was simply permitted up to a permitted size (e.g. the footprint) and that's it and I just couldn't keep it in more than 7 months in order to be seasonal which was not ever a problem that i can recall.

Going forward, i am swapping out the two nylon jetski sections (because i sold jetskis) out to a regular wooden dock section of same size/shape/footprint which i don't see as being an issue, i haven't completed building that yet but it and the main sections are both upland to make my work easier. (in case you wonder, i use the forks and the boat ramp to float a section over and pick it up and drive upland as necessary for repairs/storage/etc. – realistically, i can only pick up out of the water at max probably an 8x12 section more or less and transport up the road which is (one reason it is sectional in construction) Being sectional also allows me to put in/take out what parts I want at any particular time.

A theme of the complaints seems to be that on one hand that this temporary dock is really permanent (or 'more permanent' than somebody might like) (e.g. more than 7 months), but then on the other hand it is seemingly complained that it's not in enough of the year or not necessarily in every year or certain parts are or are not in at the time a particular person or google earth happened to snap a photo. During this entire time, the floats, the ramp, the pier deck, etc. have (other than when parts are being maintained or otherwise worked on upland) been sitting more or less in the storage area near waterfront. Based on the tree cover, overhang, etc. You cant always see this either from the air or from the shore. Obviously if i have a section upland, or whatever....it too wouldn't be visible. I had never imagined this would ever be the cause of a problem.

The July 31, 2012 photo complaining about the 'more open stand' of trees was taken by Weary apparently after the loggers had been through that area. They removed the a large amount of the standing fir throughout the whole stand area behind waterfront as it was systematically dying

Weary and i discussed this explicitly in fact when i showed him around. The licensed forester was overseeing that as always.

The photo with commentary of 'the wreckage' of my dock as Weary calls it in his commentary from 2019 is not wreckage at all. I had launched the main float section and set it aside in order to get it out of the way (as you, Jami, saw when you site visited) in order to be able to picture, measure, and get clear pics for this NRPA permitting process. The single set of posts leaning against the banking/tree then were there as i was setting them and using them to measure from and plan/visualize the overall layout. I eventually dragged them back up with the others in the storage area with some float sections and misc. and the main float is now upland as i mentioned being worked on as a winter project. Here are two pics from today showing the leg sets stacked in storage and a float and granite blocks/chains also sitting in storage on left. They are typically sitting in/around

this area with enough room for me to get through and work during winter. (as an aside, you can also see my new yellow Maine milfoil sign from the DEP invasive species people for the ramp installed as directed by that team). Obviously the dock/pilings/anchors shown in storage are not permanent as is being claimed. I will admit, there were probably times when i set dock posts in too early and regretted it (e.g. before last ice/snow and then had to fix them) or hauled out at times too late (after 1st ice or snow and froze my ass off doing so) but i had no choice as i either wanted/needed access to river at that time to do something or was too busy or whatever, but i still had to in order to comply with the seasonal requirement (<7 months in place) I had permitted for



2. Wiscasset launch as alternative: . I thought that we had already addressed the Wiscasset launch site previously, perhaps I'm mistaken. Regardless, the Wiscasset boat ramp is not 'down town' in the walking/reds eats area of Wiscasset as you might not be aware. That is the main area DOT has been fighting over with Wiscasset almost my entire life and over the years they have tried many solutions to the traffic problem (blinking lights, crosswalks, stop lights, turning lanes, etc) as you probably know. The boat ramp is located on south side of down town area, say approx. a quarter mile or so at/beside the Wiscasset Yacht club. In the summer, boat/trailer parking is somewhat

limited and often full from spillover from town and streets are narrow to & from which really stinks. Further, it's on the south side of Route 1, whereas Alna is on the North side, getting across Route 1 and winding through town with a trailer can be tricky/dangerous in the summer with pedestrians/cars/etc. all over the place gawking around.

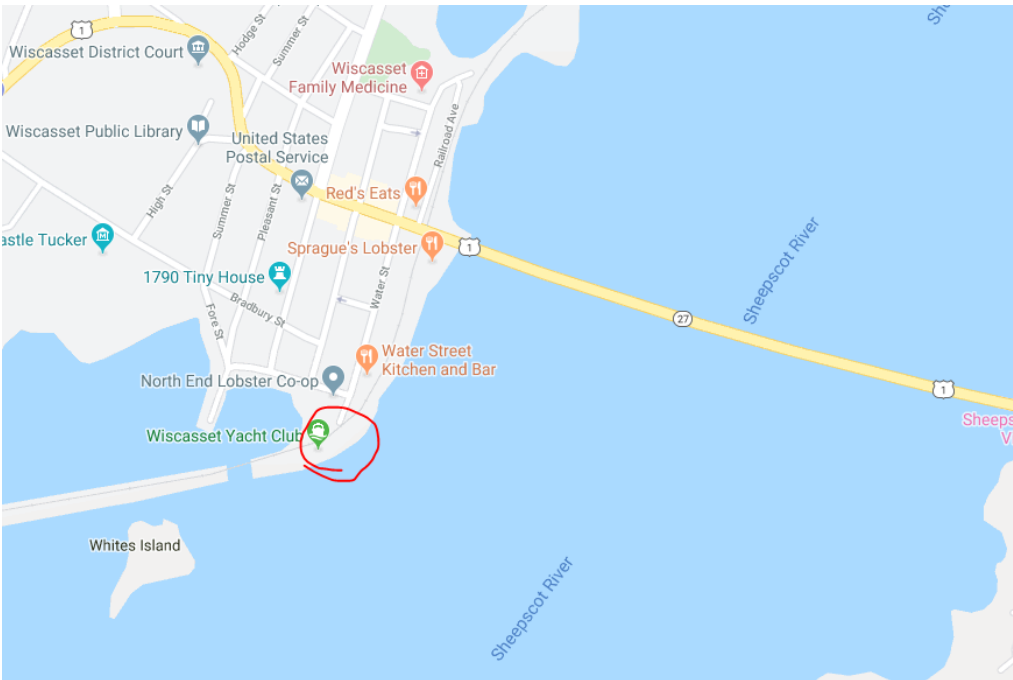
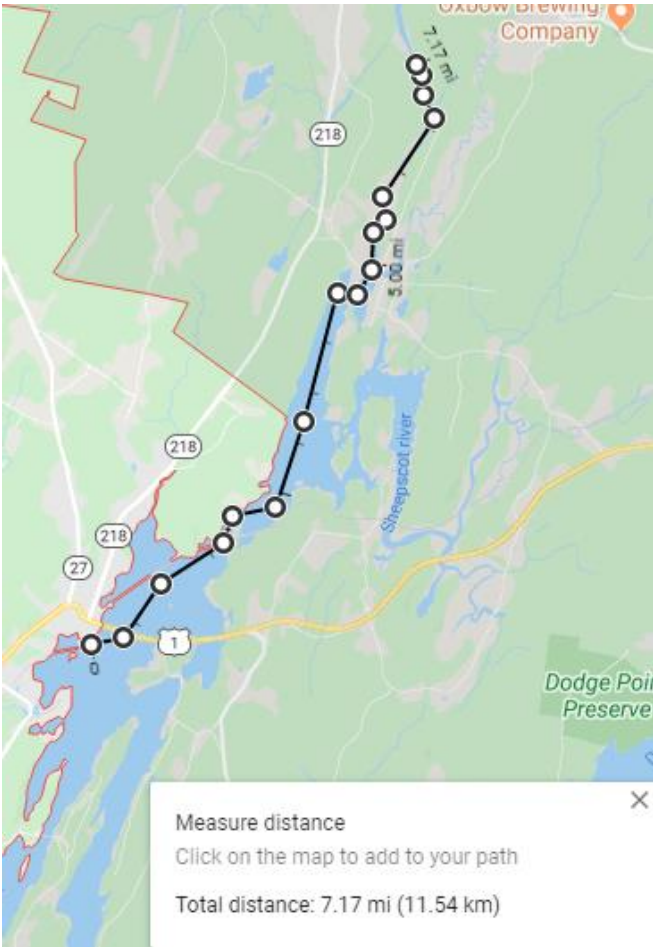
In general, most residents of Alna avoid Wiscasset like the plague in the summer. We try to stay North of Route 1. Wiscasset (especially the downtown which is the area of route 1/DOT focus of the latest bypass/no-bypass/fix project) is a tourist attraction for the most part, not a desirable place to drive hauling a boat & trailer.

I just did a quick measurement, It is just over 7 miles by water from the Wiscasset launch, and that includes traversing the reversing falls in Sheepscot. If the tide is not timed right, you can become stuck on either side or risk crossing at a dangerous time. Crossing the large open bay from the launch site, crossing under route 1 bridge, and then up river in a small fishing boat is sometimes not that pleasant (both the Wiscasset bay and the bay just above the rail bridge can be choppy) as it is a much larger open area than up in the river above the falls. In an open jon boat going 5 or 6 knots or so, the resulting trip is the better part of an hour each way (not really factoring in current either). A lot wasted in travel time & effort just to get back where you want to begin. It makes it impractical to spend an hour or two after or before work fishing before dark. In terms of early morning hunting/fishing, or other 'time dependent' things. It may not even be possible to get the timing right to cross the falls at all. Once the falls start to run, it could be exceptionally dangerous to try and cross in a boat not meant to do so (not a whitewater kayak). As you are aware, DEP has a history of permitting pier/ramp/floats under NRPA because Wiscasset public access is several miles away (e.g. Boyle, Clarks point, etc) and even more accessible to access than that from my location above the falls.

I attached a couple of map snippets to show where Wiscasset boat ramp is, and the route you have to take by water to get back. Note, the falls are ~5 miles north of there and you can see the comparison of open water crossing you do below and above that. In an small open fishing boat the chop that can be experienced across the larger open bays can really be unpleasant.

Honestly, based on his vast boating and general outdoors experience, i don't think Philbrick has any standing or reliability at determining what is or is not a reasonable alternative access. Again, to drive down to Wiscasset with a truck & trailer, cross route 1 in summer traffic, wind down the side streets between parked cars to the ramp, park, get unloaded, and then travel by boat all the way back in hopes of making a crossing at the falls within the window of opportunity needed to do so just to arrive where you are going. Not to mention the return trip and reverse of all of this and the time limitations the falls places on you as a sportsman. I have NEVER seen him on or near the river, or even out on the property doing anything outside either for work or for fun in all the years i have lived here. Not that it really matters i guess, but it just makes his comment such a matter seemingly bizarre.

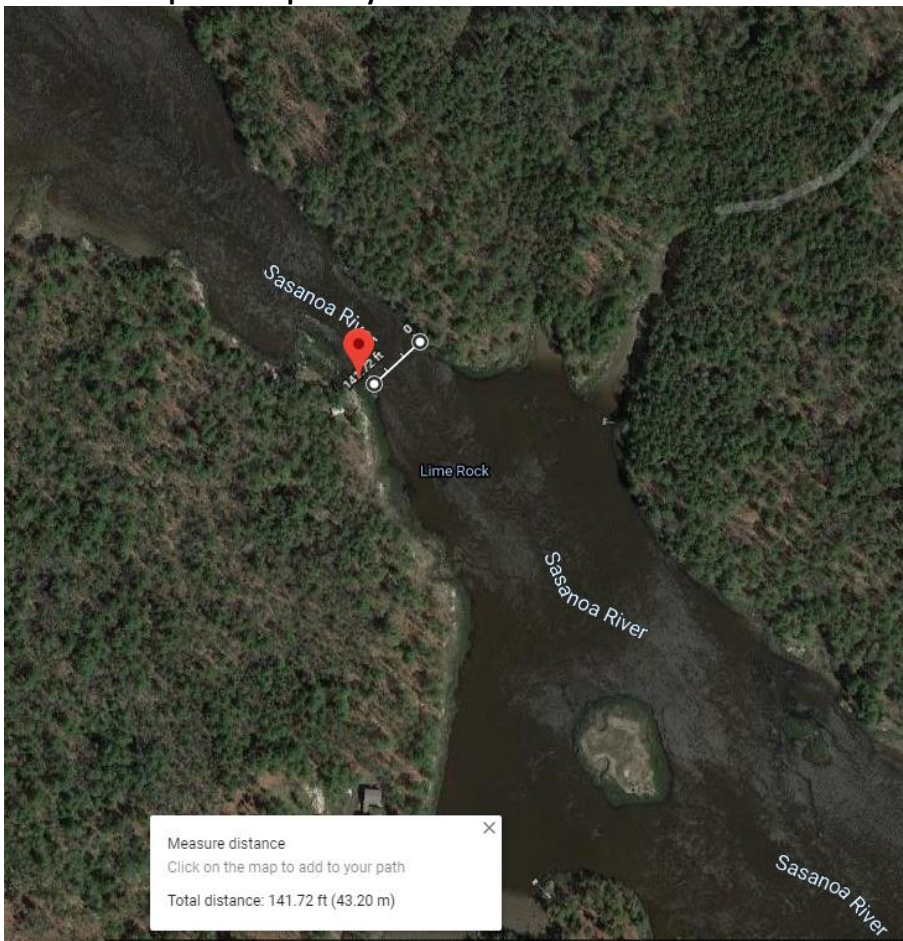
Additionally, and i guess this only applies to me personally since I live here, but I have some trailers that are not even road legal as they are intended to use and remain on property so i cant take them to Wiscasset.



3. Regarding the question of boating laws and headway speed, I do not envision speed being an issue with regard to myself/ my friends/or fishing/etc. Generally, you are not going fast when fishing and the fact that we are in a segment of river that is only 5-6 miles long (approx.) there is no particular need to go 'fast' in order to go fishing as you are not going far to get where you're going. As i have said before, I expect boats traveling up and down river to continue to adhere to all state/federal boating laws independent of my project. I see no issue with the feasibility of adhering to state law(s) be it fishing/boating/littering/etc. Navigation in a safe manner has NEVER been an issue here.

As for the ridiculous hail-Mary assertion Gordy outlines in his latest letter that i just can't let go without commenting on, that you can't legally motor boat in a place less than 200' wide, i think he should get on with the US Coast Guard or the Marine Patrol or whomever as applicable and start up some serious enforcement action around the Maine coast if this is indeed his stance. That should be an interesting conversation for sure since the coast is riddled with rivers and narrow channels that fall into this category. Attached you will see a quick picture of upper hells gate in the Sasanoa river (a major, heavily used route between Bath (also of the upper Kennebec above Arrowsic) and Boothbay harbor essentially). This is one of the most heavily traveled waterways in the summer in the mid-coast area, and it is well under 200' in width in a several sections. I will show a couple of examples of places less than 200' wide that have HEAVY boating traffic (legally). I can think of many, many places where you also pass within 200' of shoreline as that is where the main navigation channel goes and again, this is not a legal issue so i suspect that it is simply not as black and white or oe size fits all as he is trying to make it seem.

Somehow, folks manage to comply with State (and federal) maritime laws. I have personally captained large yachts and commercial vessels through here over the years and i can also tell you the tour boats 60+ in length from Boothbay run this multiple times per day for much of the summer.



Another example here is the entrance to oven's mouth in back river in Boothbay. 155' or so wide. Again, I have brought many large yachts into and out of this area one a regular basis including a large one that is berthed in here during the summer.



Finally, here is one last example and it in fact is where Carol and Bailey Bolen actually keep their boat so they should know better. The Gut at South Bristol. It happens to be one of the busiest channels/bridges on the maine coast and yet is just shy of 200' headed out into the east.

