

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Friday, November 22, 2019 8:36 AM
To: MacNeil, Jami
Subject: RE: Reed Road

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No problem, i believe also the 2nd selectman wrote something regarding the status of reed road and confirmed its discontinuance from the town too.

-----Original Message-----

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Friday, November 22, 2019 8:32 AM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: Reed Road

Thank you Jeff.

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, November 21, 2019 6:18 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: Reed Road

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Attached please find the '08-'09 town report cover and the article from '07 spring meeting showing vote/outcome info.

Thanks,
-j

York, Marylisa

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Tuesday, November 26, 2019 2:28 PM
To: MacNeil, Jami
Subject: Re: RE: nrpa?

Follow Up Flag: Follow up
Flag Status: Flagged

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Ok. Thanks

> On Nov 26, 2019, at 1:32 PM, MacNeil, Jami <Jami.MacNeil@maine.gov> wrote:

>
> Hi Jeff,
>
> Sorry, it definitely will not be issued next week. I am working on the draft and then it needs to be read and edited by others, and sent out as a draft to you and to a few interested persons who have requested a draft. Then we have to allow five business days for additional comments on the draft, then we can issue the final decision.

>
> Best,
>
> -Jami MacNeil
> Environmental Specialist III
> Bureau of Land Resources
> Maine Department of Environmental Protection
> (207) 446-4894 | jami.macneil@maine.gov

>
> -----Original Message-----
> From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
> Sent: Tuesday, November 26, 2019 12:11 PM
> To: MacNeil, Jami <Jami.MacNeil@maine.gov>
> Subject: nrpa?

>
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>
> Hi Jami,
>
> Do you anticipate having a decision before Monday or Tuesday? Today is the filing deadline if i want to get on this months planning board agenda for final review at town level.

>
> I just didn't want to miss the deadline if you were anticipating coming back in next few days.

>
>
> Thanks,
> -jeff

>
> -----Original Message-----
> From: MacNeil, Jami <Jami.MacNeil@maine.gov>
> Sent: Friday, November 22, 2019 8:32 AM
> To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
> Subject: {EXTERNAL} RE: Reed Road
>
> Thank you Jeff.
>
> -Jami MacNeil
> Environmental Specialist III
> Bureau of Land Resources
> Maine Department of Environmental Protection
> (207) 446-4894 | jami.macneil@maine.gov
>
> -----Original Message-----
> From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
> Sent: Thursday, November 21, 2019 6:18 PM
> To: MacNeil, Jami <Jami.MacNeil@maine.gov>
> Subject: RE: Reed Road
>
> EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.
>
> Attached please find the '08-'09 town report cover and the article from '07 spring meeting showing vote/outcome info.
>
>
> Thanks,
> -j

York, Marylisa

From: MacNeil, Jami
Sent: Thursday, December 5, 2019 10:31 AM
To: Spinney, Jeffry
Subject: additional public comments
Attachments: Permit Application of Jeffrey Spinney, Alna, Maine; Public comments - Spinney/Golden Ridge Sportsman's Club permanent structure installations; Additional comments; Letter to Alna Planning Board re Spinney Pier/Ramp Application

Hi Jeff,

FYI, some additional comments came in over the last few days.

Best,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: MacNeil, Jami
Sent: Thursday, December 5, 2019 10:51 AM
To: 'Spinney, Jeffry'
Subject: RE: additional public comments
Attachments: Sheepscot River

I forgot to send this one with the last batch. That's it for now.

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: MacNeil, Jami
Sent: Thursday, December 05, 2019 10:31 AM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Subject: additional public comments

Hi Jeff,

FYI, some additional comments came in over the last few days.

Best,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: Clark, Colin A
Sent: Thursday, December 5, 2019 9:26 AM
To: mckthomas@gmail.com
Cc: MacNeil, Jami
Subject: Spinney Pier and Ramp Project

Good Morning,

I have been working with Jami M. the project manager for this application and something has come up that we need to get you guidance on. The local ordinance land use table below lists the activity proposed as a "No" in each district for installing structures extending below the normal high water line. Which essentially is saying the PB would not even be able to hear the application since it is not an accepted use. The town is more restrictive than Chapter 1000 in this regard and I wanted to find out if the town is planning on updating the ordinance to make this allowable? If not I figured I would advise that approving the project via the PB could open the town up to a legal challenge by folks not approving of the project .

Please take a look at the ordinance it is #17b of the land use table and let Jami and I know your thoughts.

Thanks

TABLE 1. LAND USES IN THE SHORELAND ZONE

<u>LAND USES</u>	<u>DISTRICT</u>				
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>HI</u>	<u>AE</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes
4. Timber harvesting	yes	PB	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	PB	PB	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	no	no	no	no
10. Mineral extraction including sand and gravel extraction	no	no	no	no	no
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	no
14. Aquaculture	PB	PB	PB	PB	no
15. Principal structures and uses					
A. One and two family residential, including driveways	PB1	PB6	PB	PB	no
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no	no	PB	no
D. Industrial	no	no	no	no	no
E. Governmental and institutional	no	no	no	no	no
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	PB	PB	PB	no
16. Structures accessory to allowed uses	PB1	PB6	PB	PB	no
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
a. Temporary	PB	PB	PB	PB	PB
b. Permanent	no	no	no	no	no
18. Conversions of seasonal residences to year-round residences	PB2	PB7	LPI	LPI	no
19. Home occupations	PB	no	PB	PB	no
20. Private sewage disposal systems for allowed uses	no	LPI	LPI	LPI	no
21. Essential services	PB3	PB3	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	PB	no
24. Individual, private campsites	PB	PB	PB	PB	no
25. Campgrounds	no	no	no	no	no
26. Road, driveway or railroad construction	no4	no4	PB	PB	no
27. Land management roads	yes	PB	yes	yes	yes
28. Backing facilities	no	no	PB	PB	no

Colin A. Clark
 Shoreland Zoning Coordinator in the Bureau of Land Resources
 Maine Department of Environmental Protection
 Tel (207) 441-7419
www.maine.gov/dep

York, Marylisa

From: MacNeil, Jami
Sent: Thursday, December 5, 2019 10:10 AM
To: Spinney, Jeffry
Cc: Clement, Jay L CIV USARMY CENAE (US)
Subject: RE: RE: NRPA application, clarifications

Hi Jeff,

Those rocks are okay in this situation. I do caution you that round rocks tend to fall out of place more easily, so there may be more maintenance for you.

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Wednesday, December 04, 2019 4:25 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Cc: Clement, Jay L CIV USARMY CENAE (US) <Jay.L.Clement@usace.army.mil>
Subject: Re: RE: NRPA application, clarifications

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Hi, So there is no wave energy at this location (we discussed this way back and it is in the nrpa form i believe).

Stone between planks would be angular as it would be crushed to size of course. Coloration will be as natural as available/sourced locally.

The purpose of riprap (around piles) is actually to prevent ice from gripping and lifting posts. Not prevent erosion per se from wave energy.

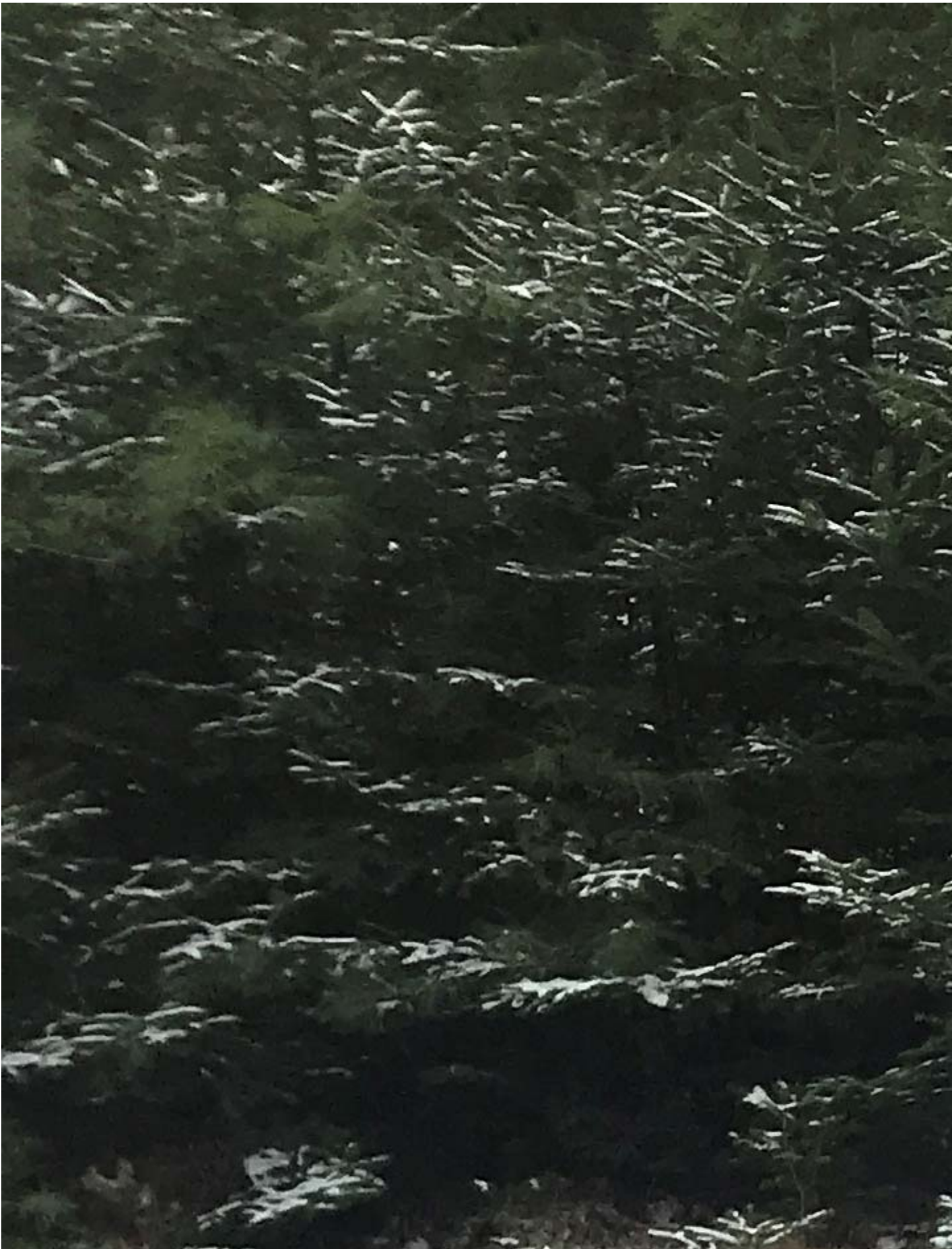
Am i calling it the wrong thing perhaps? If so im sorry. Do tell me the right term please.

I have a large selection of smooth stones to prevent ice grippage i was going to use. All natural in color of course and they match existing stone on shore in texture and color. See attached pic(s). As an engineer, i have to think that the ice is less likely to grip a smooth surface than an angular one. I see this regularly in practice down there in winter time. If it does grip a rock, at least it wont lift a pile. That was my intent.

Totally get the washing of stone upland in terms of between planks. I had assumed that. Thats easy.

Let me take a look at float sizing and see what i can do and get back to you. The size has never been an issue but if

thats 



the only problem. Ill Be willing to compromise and change it i guess just to move forward.

thanks,
Jeff

On Dec 4, 2019, at 3:50 PM, MacNeil, Jami <Jami.MacNeil@maine.gov> wrote

Hi Jeff,

I have viewed the embedded pictures and appreciate your responses to the visual impact questions. However, the proposed float system is still relatively large and we'd like to know if it can be reduced. The NRPA requires impacts to be minimized to the extent practicable.

Riprap shape should be angular to disperse wave or wake energy. Crushed stone between planks is okay but must be clean – pre-washed in an upland area, more than 75 feet from the resource, to get rid of loose sediments. Color should match natural stone as well as possible.

I'm copying Jay for consistency. I forgot to copy him on the last email.

Thanks,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>

Sent: Wednesday, November 27, 2019 2:09 PM

To: MacNeil, Jami <Jami.MacNeil@maine.gov>

Subject: RE: NRPA application, clarifications

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Ok, let me take a look at these things.

I thought i had already provided significant amount of visual evidence on the dock with its 3 sections in? i know bill weary likes to show everybody his various pictures, but they only show a part of the dock in at the times he happened to go take pictures. He doesn't seem to get that for some reason. Have you seen all of the pictures embedded in my map showing the various pictures, site lines, etc?.

I will address any inconsistencies in the drawings of course, im guessing offhand that it must be what is above and what's below the tide line.

In terms of the rip rap, i had envisioned and specified in the plans/commentary natural stone since its not trying to prevent 'wave action' like it does on coast, shape isnt a critical feature. I also have quite a bit around here onsite i can use. I just figured stone that looks like stones already there would be best. Around the planks themselves, will have to have some sort of crushed 3-4" minus stone as it needs to fit in /fill the gaps between planks. Does that make sense? Is there some suggested material/choice? That seems to be what is used at all the local ramps i have checked out and it can be gotten right up the street from here.

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, November 27, 2019 12:01 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} NRPA application, clarifications

Hi Jeff,

I've come up with a few additional comments/questions:

Can the float size be minimized further to reduce visual impact and shading of the resource?
Please elaborate on the type of riprap to be used around the edge of the boat ramp and the base of the pilings. Color, shape, and approximate size?
The boat ramp is shown as 36 feet long in the Top View plan but is shown as 40 feet long in the Elevation View plan. Can you clarify the proposed dimensions?

Lastly, can you provide a revised version of the four plan sheets that is cleaner and more legible than the ones we have currently? I can understand them, but they need to be clear even to people unfamiliar with these types of projects, who may be scrutinizing the plans if the Order gets challenged.

I am out the rest of the week for the holiday, and at a conference Monday and Tuesday, but I can respond to any questions on Wednesday. There isn't an urgent rush for cleaned-up plans, but within 2 weeks would be ideal.

Thanks, and have a great holiday weekend.

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: Clark, Colin A
Sent: Thursday, December 5, 2019 2:36 PM
To: thomas mckenzie
Cc: MacNeil, Jami
Subject: RE: Spinney Pier and Ramp Project

Thanks for the info. If you could please advise what comes of the meeting so we can figure out how to assist and proceed.

Have a great holiday season

Colin A. Clark
Shoreland Zoning Coordinator in the Bureau of Land Resources
Maine Department of Environmental Protection
Tel (207) 441-7419
www.maine.gov/dep

From: thomas mckenzie <mckthomas@gmail.com>
Sent: Thursday, December 05, 2019 10:19 AM
To: Clark, Colin A <Colin.A.Clark@maine.gov>
Cc: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: Re: Spinney Pier and Ramp Project

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Colin,

i spoke with the selectboard and they have advised we speak with the town attorney re the entire matter. Therefore i cannot comment at this time.

tom

On Thu, Dec 5, 2019 at 9:26 AM Clark, Colin A <Colin.A.Clark@maine.gov> wrote:

Good Morning,

I have been working with Jami M. the project manager for this application and something has come up that we need to get you guidance on. The local ordinance land use table below lists the activity proposed as a "No" in each district for installing structures extending below the normal high water line. Which essentially is saying the PB would not even be able to hear the application since it is not an accepted use. The town is more restrictive than Chapter 1000 in this regard and I wanted to find out if the town is planning on updating the ordinance to make this allowable? If not I

figured I would advise that approving the project via the PB could open the town up to a legal challenge by folks not approving of the project .

Please take a look at the ordinance it is #17b of the land use table and let Jami and I know your thoughts.

Thanks

TABLE 1. LAND USES IN THE SHORELAND ZONE

<u>LAND USES</u>	<u>DISTRICT</u>				
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>HI</u>	<u>AE</u>
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2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes
4. Timber harvesting	yes	PB	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	PB	PB	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	no	no	no	no
10. Mineral extraction including sand and gravel extraction	no	no	no	no	no
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	no
14. Aquaculture	PB	PB	PB	PB	no
15. Principal structures and uses					
A. One and two family residential, including driveways	PB1	PB6	PB	PB	no
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no	no	PB	no
D. Industrial	no	no	no	no	no
E. Governmental and institutional	no	no	no	no	no
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	PB	PB	PB	no
16. Structures accessory to allowed uses	PB1	PB6	PB	PB	no
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
a. Temporary	PB	PB	PB	PB	PB
b. Permanent	no	no	no	no	no
18. Conversions of seasonal residences to year-round residences	PB2	PB7	LPI	LPI	no
19. Home occupations	PB	no	PB	PB	no
20. Private sewage disposal systems for allowed uses	no	LPI	LPI	LPI	no
21. Essential services	PB3	PB3	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	PB	no
24. Individual, private campsites	PB	PB	PB	PB	no
25. Campgrounds	no	no	no	no	no
26. Road, driveway or railroad construction	no4	no4	PB	PB	no
27. Land management roads	yes	PB	yes	yes	yes
28. Boating facilities	no	no	no	no	no

Colin A. Clark
Shoreland Zoning Coordinator in the Bureau of Land Resources

Maine Department of Environmental Protection
Tel (207) 441-7419

York, Marylisa

From: Spinney, Jeffrey <Jeffrey.Spinney@LibertyMutual.com>
Sent: Thursday, December 5, 2019 11:58 PM
To: Clark, Colin A
Cc: MacNeil, Jami; thomas mckenzie; tomalbee@tidewater.net
Subject: FW: Fwd: Spinney Pier and Ramp Project

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Colin,

So that you are aware, I have handed over the Alna PB chair status on this matter to an alternate person, Tom Albee (cc:), but as the person whose file you are working on and somebody with a relatively good deal of knowledge about our town's history/workings in interpreting ordinances in Alna, i just want to list out a few projects that the town has permitted in the shoreland zone (through several boards over the years) I figure that perhaps you have not seen or even that Tom Mckenzie may not even be aware of all of these in his short tenure with us.

You can see these items along with embedded images/photos both of sites where possible and of town records i was able to locate on my interactive google map:

<https://www.google.com/maps/d/edit?hl=en&mid=1MKT7vOb8jPFpJ6FaAl703kOVm1g&ll=44.07962361673176%2C-69.60522285384877&z=16>

Sorted by rough area:

<date (year) approved by PB> – <brief description>

<above (north) my property on river>

2016 – retaining wall (replacement) along river (at or below the HAT line) in Head Tide Village (uncertain as to NRPA status)

2008 – permanent haul out for launching small craft Barth/Conboy property in existing location (no NRPA permitted that I can find even though minutes show that 'DEP may care but it's okay to us to repair without enlarging' (per approval minutes dated 3/3/2008) when town granted this permit)

<trout brook tributary on margin of tidal zone of Sheepscot river>

2018 – Railway bridge structure

<below (south) my property on river – Town of Alna side only>

2006 – 60' long ramp to 10x10 float w/ embedded permanent support piles (no NRPA)

2016 – 8x12 dock 3x16 pier, 3x35 aluminum ramp w/ permanent support piles (no NRPA)

WHITTEMORE (exact date unknown, circa 2015/2016) – pier, ramp, float with permanent support piles (no NRPA)

2018 – NRPA & town permitted 6x20 permanent pier, 3x50 ramp, 10x16 float, haul out

2007 – pier, ramp, float permitted (no NRPA)

COLBY (exact date unknown, post 1999/2000 as that's when land sold/house built) – 5x60 permanent pier, 4x32 ramp, 10x20 float, haul out (uncertain as to NRPA status)

<Pinkham pond>

3 permitted floats with support piles & float haul outs running into highwater mark (Pinkham Pond is a non-tidal, great pond).

As you can see from the above list, the town has consistently granted permits for docks with permanent aspects (most often support or anchor piles at or just below the HAT (High water mark for Pinkham pond)) (e.g. seasonal floats with permanent anchor or support piles). In addition, the town also granted a few permanent piers (extending below/beyond HAT line, supported underneath by piles) since the NRPA effective date (year) of 1988 (presumably all with proper NRPA permitting but i can only confirm 1).

Since i have been on the board (roughly since 2012) i believe i have only seen 2 or 3 (including mine) NRPA applications. 1.) Head tide dam (removal/alteration) 2.) boyle (2018 – permanent pier/ramp/float construction) and 3.) RR Bridge on permanent piles (not 100% on if there was an NRPA or not here) and 4.) mine. As evidenced, I don't believe anybody in past boards knew NRPA was necessary (for DEP) specifically for 'permanent anchor/support piles holding a seasonal structure' or that that those piles "constituted a structural component of the dock system and therefore it is a pier." (see your earlier email response to me below).

As i mentioned when i reached out to you when i first noticed this, it is believed (and practiced as exhibited) by several different planning boards in town over the years that the text in the section 15 is dominant/controlling over the table in section 14. This supports the notion that elaborative text is dominant over an abbreviated chart or table meant for easy reference.

Furthermore, in fact, on page 13 (start of section 14 in our ordinance) it clearly states: 'All land use activities, as indicated in Table 1, Land Uses in shoreland zone, shall conform with all of the applicable land use standards in Section 15.'

So, any potential 'conflict' is actually mitigated by design and preempted by the statement that the elaborative text (section 15) rules over the table. Specifically in this case, stating that with the proper NRPA permitting and demonstration to the board that the temp solution did not work, the planning board is authorized to evaluate and approve a permanent one.

I had also provided a similar set of information on 10/17 to both the Army Corps & DEP when asked to opine on this as part of NRPA follow up questions back in October.

While the town has requested an opinion from legal counsel, i wanted to make sure you had all of this other info as well. Legal may take some time.

Please let me know if you have any questions or if i can help in any other way.

-jeff

From: Clark, Colin A <Colin.A.Clark@maine.gov>
Sent: Tuesday, October 08, 2019 10:29 AM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Cc: thomas mckenzie <mckthomas@gmail.com>; MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: {EXTERNAL} RE: NRPA / Shoreland zone question

Good Morning I have been looking over your application with Jamie and have reviewed your submitted questions. For clarity I have include Thomas Mckenzie the Local CEO and Jamie MacNeil on this email in case they have something to add. The piles would be considered a structural component of the pier and end given the following language " New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection

Act." you would need to have planning board approval stating that a temporary pier or dock would not be feasible. Being the anchor point for the temporary portion of the structure is what makes this a pier and that is what lead to the PB approval being required.

Hope this information clears things up a bit I do understand this may not be the answer you were looking for but it is based on the regulations.

Take care

Colin A. Clark

Shoreland Zoning Coordinator in the Bureau of Land Resources Maine Department of Environmental Protection Tel (207) 441-7419

<https://nam03.safelinks.protection.outlook.com/?url=www.maine.gov%2Fdep&data=02%7C01%7CJami.MacNeil%40maine.gov%7C97eebb33a5fa42f8501e08d74bfe05d9%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637061426734157029&data=mcNRRGWS9xjWy0iYt%2BNaf6Vr3jzj%2F7Vh67LE6jkjf9g%3D&reserved=0>

----- Forwarded message -----

From: **Clark, Colin A** <Colin.A.Clark@maine.gov>

Date: Thu, Dec 5, 2019 at 9:26 AM

Subject: Spinney Pier and Ramp Project

To: mckthomas@gmail.com <mckthomas@gmail.com>

Cc: MacNeil, Jami <Jami.MacNeil@maine.gov>

Good Morning,

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2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes
4. Timber harvesting	yes	PB	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	PB	PB	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	no	no	no	no
10. Mineral extraction including sand and gravel extraction	no	no	no	no	no
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	no
14. Aquaculture	PB	PB	PB	PB	no
15. Principal structures and uses					
A. One and two family residential, including driveways	PB1	PB6	PB	PB	no
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no	no	PB	no
D. Industrial	no	no	no	no	no
E. Governmental and institutional	no	no	no	no	no
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	PB	PB	PB	no
16. Structures accessory to allowed uses	PB1	PB6	PB	PB	no
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
a. Temporary	PB	PB	PB	PB	PB
b. Permanent	no	no	no	no	no
18. Conversions of seasonal residences to year-round residences	PB2	PB7	LPI	LPI	no
19. Home occupations	PB	no	PB	PB	no
20. Private sewage disposal systems for allowed uses	no	LPI	LPI	LPI	no
21. Essential services	PB3	PB3	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	PB	no
24. Individual, private campsites	PB	PB	PB	PB	no
25. Campgrounds	no	no	no	no	no
26. Road, driveway or railroad construction	no4	no4	PB	PB	no
27. Land management roads	yes	PB	yes	yes	yes
28. Backing facilities	no	no	PB	PB	no

Colin A. Clark
 Shoreland Zoning Coordinator in the Bureau of Land Resources

Maine Department of Environmental Protection
 Tel (207) 441-7419

www.maine.gov/dep

York, Marylisa

From: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Sent: Monday, December 9, 2019 9:10 AM
To: Spinney, Jeffry; MacNeil, Jami
Subject: RE: new drawings & misc

Follow Up Flag: Follow up
Flag Status: Completed

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At this stage Jeff, we just need you to decide on a final proposal so that we can conclude our permit processes. Concrete planks are an industry standard and wouldn't get scoured away with ice action like a fill material might, thereby reducing the amount of maintenance you might need. Ultimately it's your call. Time to move on.

If, as some claim, you will not be able to obtain local approval, you should probably resolve that once and for all. You could withdraw state and federal permit applications and then resubmit once the town makes its decision. Please advise us one way or another.

Jay

-----Original Message-----

From: Spinney, Jeffry [mailto:Jeffry.Spinney@LibertyMutual.com]
Sent: Saturday, December 7, 2019 6:10 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: [Non-DoD Source] new drawings & misc

Hi Jami & Jay,

I am working on the new drawings & float system adjustment we (jami and I) had talked about last week but I also wanted to let you know about a couple of other small refinements I'm considering making, looking for your feedback

1.) I am moving the piles currently at the HAT line to above the hat line and just making the aluminum ramp another ~5' longer (i need to get a final measurement for drawings but i think that's accurate enough for this discussion) accordingly to reach that far, new drawings will reflect this of course. The ramp is more costly to me, but it seems to remove a serious point of contention from the equation at the town level.

2.) Accordingly, the large rip rap will then no longer be necessary to protect those 2 HAT line piles. New drawings will reflect that and below HAT square footage calc will be reduced appropriately. (~18 ft² i believe this is from my notes)

Question: After those changes, does the dock portion still fall under NRPA? or is it then a modification of a seasonal dock, permitted only from the ARMY Corps since it would only be a seasonal structure waterward of the HAT line?

Either way, i know it makes sense to probably keep it all together as part of the overall big picture of the project, i was just curious as to your perspectives on that.

Then, on the boat ramp portion of the project

3.) perhaps, instead of the precast concrete planking on boat ramp, i might look at some sort of natural surfacing material instead. I have seen what i might describe as 'washed shale' (washed in the upland area) screened, gravel material used on other small ramps around the state. What are your thoughts on such a thing? Do you happen to know what the material is called that is used? I was reding perhaps that a good combination seems to be: 1.) underlayment fabric (as suggested in our premeeting) 2.) a layer of 3-6" stone (i am told it is good for " drainage, stabilizing soft areas, slope protection, and erosion control.") and then 3) a final layer of 1-3" stone material which then interlocks all together and packs tight. Perhaps compact if necessary during placement. All would be graded/washed upland appropriately. I need to locate sources for the material, but I'm fairly confident i can find something natural looking in those sizes locally.

This would seem to fall in line with repair, re-grade, and resurfacing the existing ramp. Any detritus material displaced (as we previously have discussed) will still be brought upland and used for beneficial purposes on site. Volume displaced, handling, etc would still be the same as before. I believe that this will serve the same functional purpose as concrete planks and provide a more adequate/safe/consistent base for vehicle (and human) traction while maintaining an erosion free surface.

Please let me know your thoughts on my thoughts.

Thanks,
-jeff

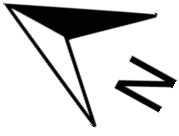
York, Marylisa

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Wednesday, December 11, 2019 10:12 AM
To: MacNeil, Jami; Clement, Jay L CIV USARMY CENAE (US)
Cc: jeff spinney
Subject: updates
Attachments: DockPlans (1).pdf; Appendc-1.jpg; appendc-2.jpg; Revised notes.pdf

Follow Up Flag: Follow up
Flag Status: Completed

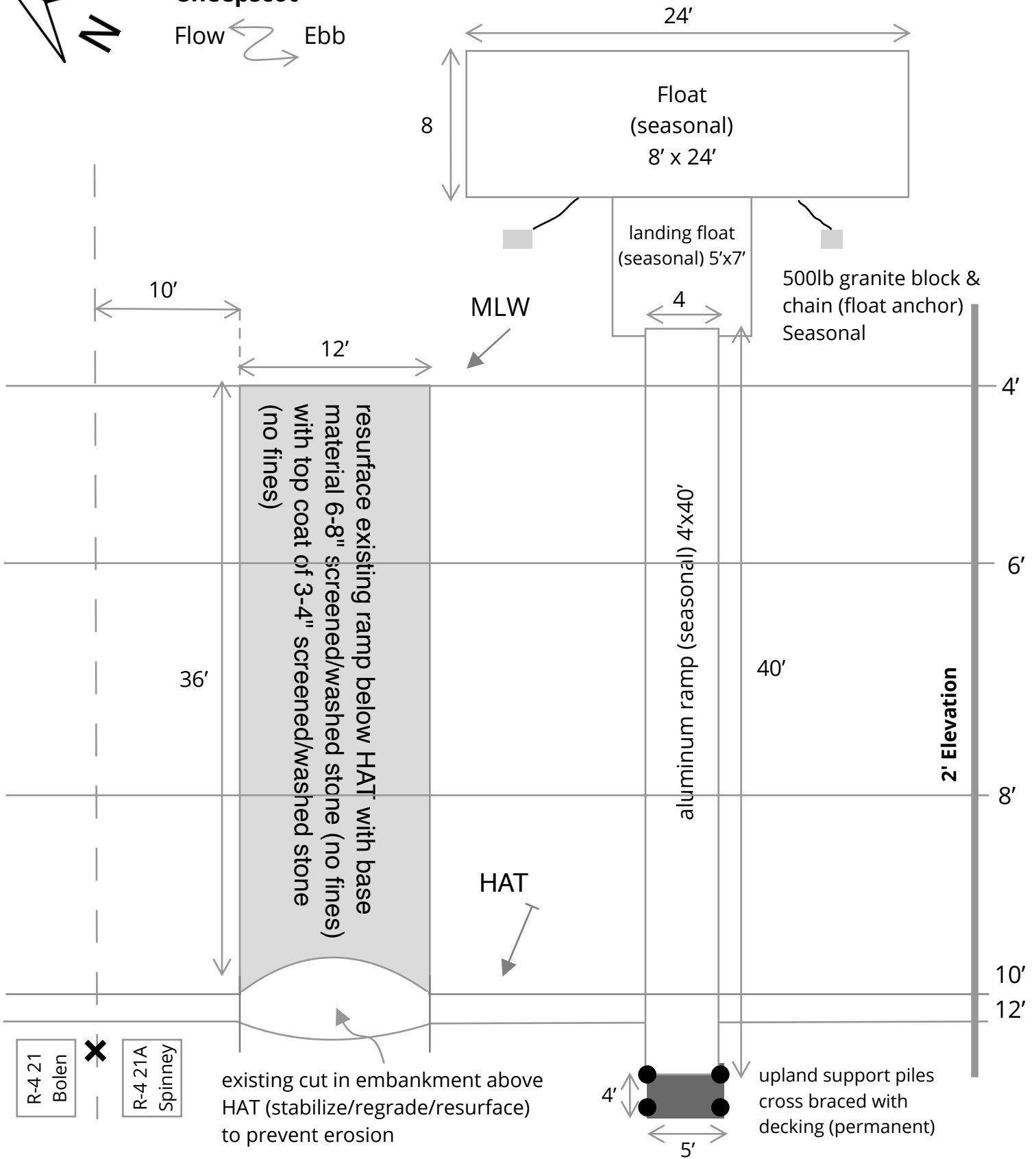
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Please see attached



Sheepscot

Flow Ebb



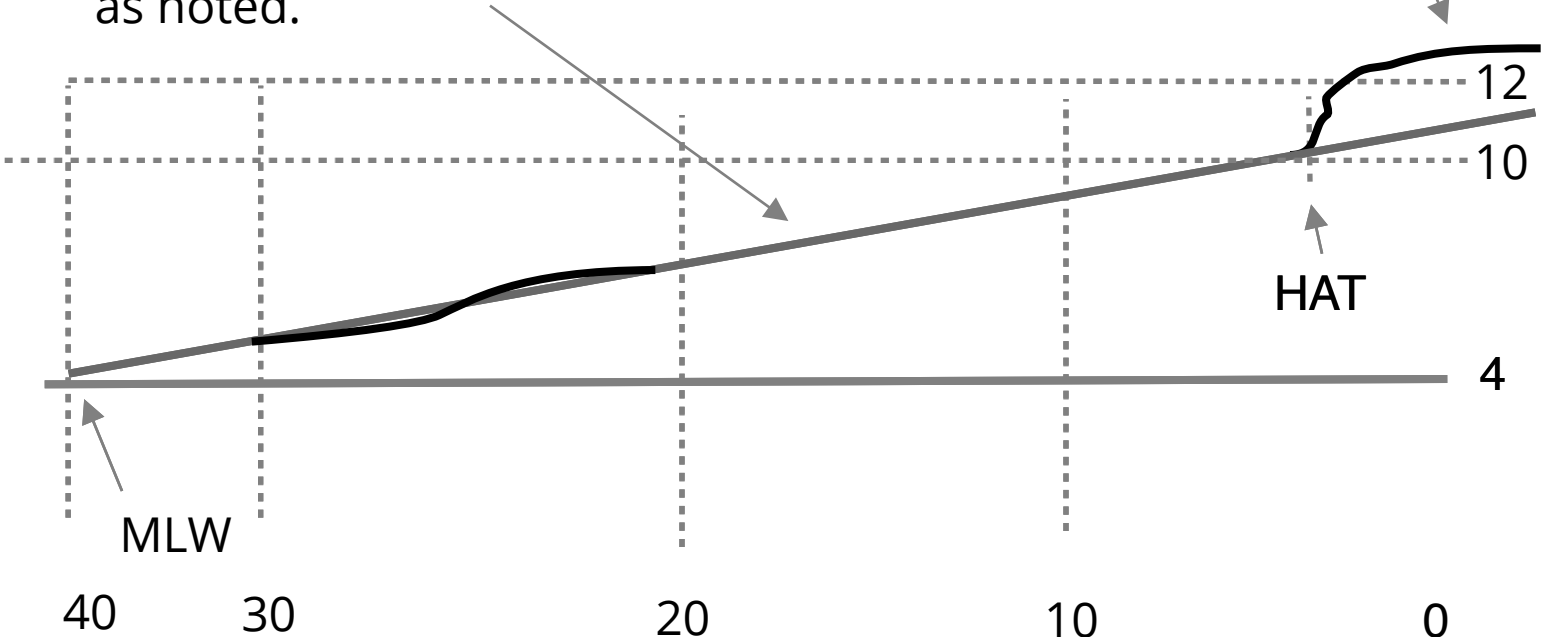
Title: Top view with 2' contours

Revised Date
December 9, 2019

Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535

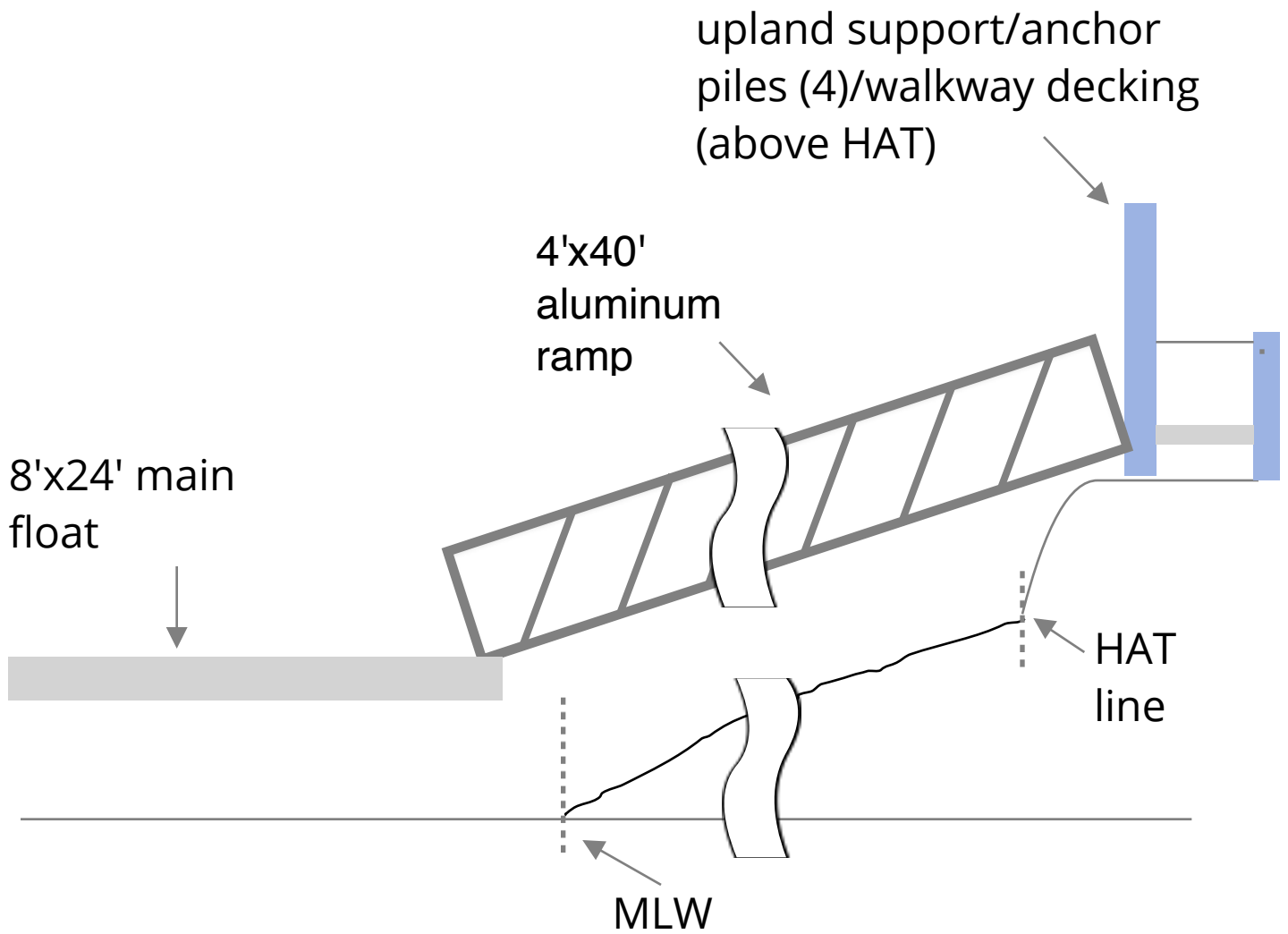
Existing cut in embankment
above HAT (stabilize/regrade/
resurface)

regrade/resurface existing ramp base area (12'x36')
below HAT (between MLW and HAT)
Angular stone subbase material (no fines), prepared
as noted.



Title: Side View - Ramp side view with elevation

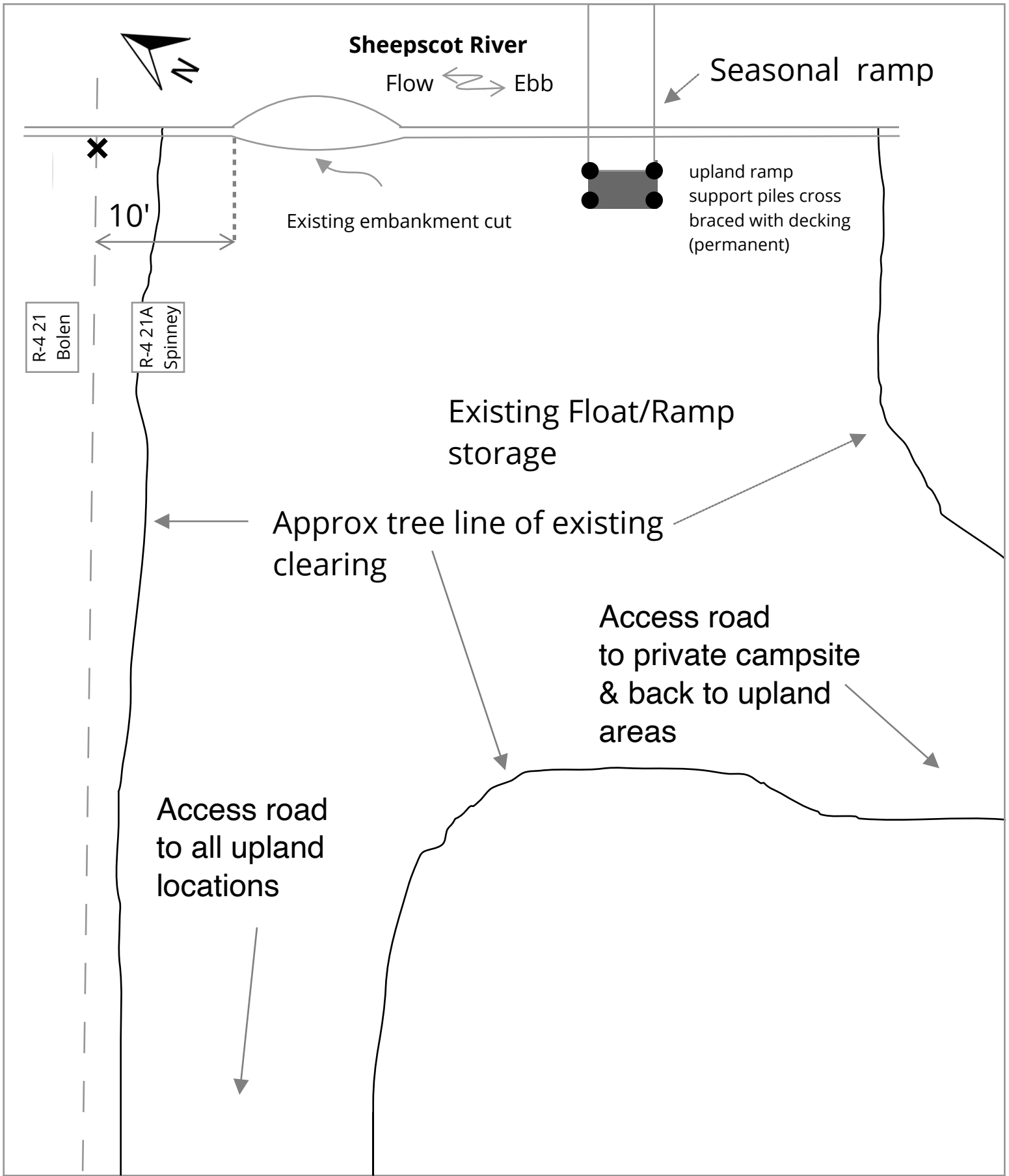
Revised Date December 9, 2019
Prepared By Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535



Title: Side View - float/ramp/upland support

Revised Date
December 9, 2019

Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535



Title: Site access - General overview

Revised Date
December 9, 2019

Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535

FOR UPLAND DISPOSAL:

Contact the Division of Solid Waste Management at (207) 822-6300:

Contacted: Yes No If yes, attach a copy of any correspondence.
Permitted: Yes No If yes, provide the permit number _____

*Joni MacNeil (DEP)
Contacted Solid Waste Dept.*

FOR OCEAN DISPOSAL:

N/A

Submit as **Attachment 15**, a copy of the test results performed in accordance with the U.S. Environmental Protection Agency and the Army Corps of Engineers' document entitled "Regional Implementation Manual for the Evaluation of Dredged Material Proposed for Disposal in New England Waters" (May 2002). This is available from the Army Corps of Engineers. (207) 623-8367

NOTE: Applicants are **STRONGLY** recommended to contact the DEP prior to performing any sediment sampling. Improperly sampled or analyzed sediments may have to be retested.

Submit as **Attachment 16**, a copy of a map showing the proposed transportation route to the disposal site.

List all municipalities adjacent to the proposed transportation site:

See access rd map in NRPA to upland disposal area.

A copy of the application must be submitted to all municipalities adjacent to the proposed transportation site.

Submit as **Attachment 17**, a copy of the notice of the proposed transportation route. A copy of the proposed transportation route must be published in a newspaper of general circulation in the area of the proposed route. (The notice of the proposed route must include compass bearings or Loran coordinates). The notice must be published under the heading "NOTICE TO FISHERMEN".

N/A

(pink)

APPENDIX C: APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

SUPPLEMENTAL INFORMATION FOR DREDGING ACTIVITIES IN A COASTAL WETLAND, GREAT POND, RIVER, STREAM OR BROOK

(Discard this part if dredging is not proposed as part of your activity.)

The DEP and the Corps strongly recommend that applicants schedule a pre-application meeting prior to submitting an application for dredging.

dated DEP/H/MY 7/19

Volume to be dredged:	~ 8 cu. yds.	
Sq. ft. to be dredged:	~ 180 sq. ft.	
Max. depth of dredging below existing grade:	~ 12"	
Type of material (example: sand, silt, clay, gravel. etc.) to be Dredged:	Mixed med/clay/gravel	
Describe what erosion and sediment control measures will be used during the dredging operation. (attach separate sheet if necessary):	Existing turbidity curtain/screen in place for ongoing boat launch project will be used. Work will be performed at low tide.	
Describe how and where the dredge spoils will be dewatered (attach separate sheet if necessary): Show dewatering location and erosion control measures on activity drawings.	Upland disposal area in field or gravel pit can be used as preferred/vegetated by DEP. See NRPA map for location of disposal area. Material to be used for beneficial use upland.	
What equipment will be used for the dredge?	Crane/tractor doing work placing stone	
Disposal Location: (Check one)	Upland disposal: <input checked="" type="checkbox"/> On site (Beneficial use) <input type="checkbox"/> Landfill <input type="checkbox"/> Other _____	Ocean disposal: Federal Disposal Site <input type="checkbox"/> Arundel <input type="checkbox"/> Portland <input type="checkbox"/> Rockland <input type="checkbox"/> Other

(pink)

Jami & Jay,

I am submitting a revised set of plans/drawings as discussed. I have done an extensive amount of research and have come up with some carefully thought out revisions which I feel will meet all requirements as we have discussed over time. I will outline my thoughts briefly in the numbered points below:

I am also resubmitting a clarified appendix c, as I realized that perhaps I did not state the use of material for beneficial use clearly enough and I also adjusted the volume approximation (from 7 to 8 yards³) to match my further refined approximation.

Finally, the local permit pending NRPA completion & final review that I was asked to refile by the board a few weeks ago, is being withdrawn and will be updated to match the NRPA permit and resubmitted to the town in future for consideration.

Thanks,

-j

- 1.) The regrading/resurfacing of the existing boat ramp portion of the project is closely adhering to the existing topography whenever possible to reduce any potential cut or fill in the submerged/submersible zone and decrease any resulting environmental impacts.
- 2.) The ramp profile is approximately 15% grade and consistent with the existing topography. As a ramp designed for and used by small trailered fishing boats, in doing so, it is less likely to affect any hydraulics of the river to minimize any potential scouring or sedimentation. In addition, this slope is enough to allow the boat to be launched/retrieved without the vehicle being in the water which aids in preserving water quality/environment impact while still maintaining a safe angle for vehicle traction. As well, the area under the trailer tongue should be above the waterline so the operator does not have to stand in the water to operate/access the boat trailer or winch during launch or retrieval. The proposed resurface material provides a far more consistent texture from MLW to HAT than the existing mixed material and will also aid greatly in vehicle traction which has been a problem in the past.

- 3.) The 'facility sizing' is a common means of managing or controlling the water based usage in a launch site. To put in layman's terms, the real-world physical limits (parking, access road, etc.) all govern and limit the use. In general, the parking area and number of launch lanes should provide no more capacity than the desired level for the type of use, user experience, and user safety. As has been discussed before, the site has finite parking at current time and there are no plans for expanding that in the future thereby limiting concurrent use naturally. The existing access road is also conducive to small trailered fishing craft only behind a standard tow vehicle, exceptionally large or heavy vehicles or multi-axle trailers carrying large boats would not be able to realistically operate at this launch site and should not be of concern.
- 4.) Optimal alignment of a launch ramp in the river is from perpendicular to the bank line, to an allowance of up to 30 degrees rotation downstream to best fit the river flow line at the specific site. My existing ramp is approximately perpendicular to the shoreline in accordance with this principal and any regrading/resurfacing would continue to maintain this.
- 5.) As you are aware, I had originally reviewed several 'seasonal solutions' for the ramp resurfacing, then pivoted to a permanent solution at the concern of IF&W in their review with Army Corps due to concerns with intertidal mud and supratidal dirt substrates being a mess through seasonal insertion/removal of the seasonal. We then proceeded with investigating a more permanent solution (precast planks with sub base preparation).

I believe that we are now at a hybrid approach which brings the best of both worlds. I have adjusted the proposal to have the same subbase preparation as this is considered (by the town CEO and others) to be a non-conforming maintenance activity (repair/regrade/stabilization) of existing use. Further, the town shoreland zoning authorizes explicitly the filling and earth moving of <10 cubic yards by planning board permit.

The existing ramp resurfacing will use materials chosen carefully sized & screened and prepared/washed to prevent the erosion and other potential concerns of IF&W, DEP, while also being large enough to withstand or minimize any likely movement/lateral scour (and therefore repairs) based on water velocity/energy and typical freeze patterns observed at the site.

The river as has been previously noted is considered 'protected/ low energy' with velocity less than 1 m/sec as confirmed by numerous observations over the years.

As an engineer, I have spent many hours studying and factoring the vast arrays of data produced by Army, US Dept of Interior, and many others. Specifically, "Bank Stabilization Design Guidelines <https://www.usbr.gov/tsc/techreferences/mands/mands-pdfs/A-BankStab-final6-25-2015.pdf>" there is a great section "4.4 Computing Erosive Force and Assessing

Material and Methods Suitability” which aims to simplify things and ultimately provides the following table as a guide:

Table 4–2. Permissible Shear and Velocity Resistance Values for Selected Lining Materials (Fischenich 2001)¹

Boundary Category	Bank Material Type	Permissible Shear Stress (lb/sq ft)	Permissible Velocity (ft/sec)	Citation(s) (²)
Soils	Fine colloidal sand	0.02 - 0.03	1.5	A
	Sandy loam (noncolloidal)	0.03 - 0.04	1.75	A
	Alluvial silt (noncolloidal)	0.045 - 0.05	2	A
	Silty loam (noncolloidal)	0.045 - 0.05	1.75 – 2.25	A
	Firm loam	0.075	2.5	A
	Fine gravels	0.075	2.5	A
	Stiff clay	0.26	3 – 4.5	A, F
	Alluvial silt (colloidal)	0.26	3.75	A
	Graded loam to cobbles	0.38	3.75	A
	Graded silts to cobbles	0.43	4	A
	Shales and hardpan	0.67	6	A
Gravel/Cobble	1-in.	0.33	2.5 – 5	A
	2-in.	0.67	3 – 6	A
	6-in.	2.0	4 – 7.5	A
	12-in.	4.0	5.5 – 12	A
Vegetation	Class A turf	3.7	6 – 8	E, N
	Class B turf	2.1	4 – 7	E, N
	Class C turf	1.0	3.5	E, N
	Long native grasses	1.2 – 1.7	4 – 6	G, H, L, N
	Short native and bunch grass	0.7 - 0.95	3 – 4	G, H, L, N
	Reed plantings	0.1-0.6	N/A	E, N
	Hardwood tree plantings	0.41-2.5	N/A	E, N
Temporary Degradable RECPs	Jute net	0.45	1 – 2.5	E, H, M
	Straw with net	1.5 – 1.65	1 – 3	E, H, M
	Coconut fiber with net	2.25	3 – 4	E, M
	Fiberglass roving	2.00	2.5 – 7	E, H, M
Non-Degradable RECPs	Unvegetated	3.00	5 – 7	E, G, M
	Partially established	4.0-6.0	7.5 – 15	E, G, M
	Fully vegetated	8.00	8 – 21	F, L, M

(table 4-2 continued)

Bank Stabilization Design Guidelines

Boundary Category	Bank Material Type	Permissible Shear Stress (lb/sq ft)	Permissible Velocity (ft/sec)	Citation(s) (²)
Riprap	6 – in. d50	2.5	5 – 10	H
	9 – in. d50	3.8	7 – 11	H
	12 – in. d50	5.1	10 – 13	H
	18 – in. d50	7.6	12 – 16	H
	24 – in. d50	10.1	14 – 18	E
Soil Bioengineering	Wattles	0.2 – 1.0	3	C, I, J, N
	Reed fascine	0.6-1.25	5	E
	Coir roll	3 – 5	8	E, M, N
	Vegetated coir mat	4 – 8	9.5	E, M, N
	Live brush mattress (initial)	0.4 – 4.1	4	B, E, I
	Live brush mattress (grown)	3.90-8.2	12	B, C, E, I, N
	Brush layering (initial/grown)	0.4 – 6.25	12	E, I, N
	Live fascine	1.25-3.10	6 – 8	C, E, I, J
	Live willow stakes	2.10-3.10	3 – 10	E, N, O
Hard Surfacing	Gabions	10	14 – 19	D
	Concrete	12.5	>18	H

¹ Ranges of values generally reflect multiple sources of data or different testing conditions.

² Citations:

A. Chang, H.H. (1988).	F. Julien, P.Y. (1995).	J. Schoklitsch, A. (1937)
B. Florineth. (1982)	G. Kouwen, N.; Li, R.M.; and	K. Sprague, C.J. (1999).
C. Gerstgraser, C. (1998)	Simons, D.B., (1980)	L. Temple, D.M. (1980).
D. Goff, K. (1999).	H. Norman, J. N. (1975)	M. TXDOT (1999)
E. Gray, D.H., and Sotir, R.B. (1996)	I. Schiechl, H.M. and R. Stern. (1996).	N. Data from Author (2001)
		O. USACE (1997).

As can be seen in the table above, 6” stone(gravel) is rated for 4-7.5 ft/sec velocity, 2” stone (smaller than proposed, but 3” is not explicitly listed) (gravel) is rated at 3-6 ft/sec.

Given the low energy (1 m/sec = 3 ft/sec) observed nature at this location, the slightly larger stone (3") should be more than adequate (2" meets, 3" should exceed design criteria) especially when interlocked/compacted with the larger angular stone as a base and minimize likelihood of any scour and therefore need for continued repairs. It should be noted that the entire bed shall be as close to flush with the existing topography as feasible to further minimize both potential hydrological and visual impacts.

Furthermore, regarding the potential for 'ice scour', over the years I have directly observed at this location that the ice does not so much laterally scour in the river with flow of river. Due to the rising/falling tides, the flexural strength of brackish ice is relatively low, and it is constantly being broken up. The embankment quickly acquires a protective layer of ice as a result, this helps to reduce the net scour effect of a mass of ice traveling down river at or near the velocity of the water. This kinetic energy of any potential resulting impact is essentially absorbed/consumed in some combination of the protective ice and any other armament that may be in place. In this case, the larger stone sub-base being proposed to assist in absorbing this energy. Historical evidence from the site suggests that necessary repair from ice scour will be minimal if any and likely not an issue.

The major problems I have had at the location has been to ice jacking (vertical lifting of the piles near shoreline by the freezing of ice and uplift as tide comes in.) Ice jacking is often overcome through the process of driving piles deeper to increase their tractive frictional forces on surrounding earthen material, but since these were seasonal/temporary posts, that solution was not applicable. To be clear, the only 'damage' to date sustained has been from ice jacking of posts. Please note: No "crushing" of any docks/pier has occurred at this site (as you normally see on a lake shore during expansion and shifting of ice on lake) which only further supports the analysis, conclusion, and proposed solution. Will address specific dock related changes section below.

I am very confident that the properly prepared 6-8" angular stone subbase placed on fabric underlayment material, topped with a skim of 3-4" angular interlocking material (all properly washed and rid of fines smaller than the nominal specified size) would create the proper and safe boat ramp surface that I desire while at the same time alleviating the concerns through careful analysis of impact to the resource. All material from the portion of ramp area displaced during the resurfacing will be used for beneficial purpose per DEP regulations in upland area away from resource and the estimated volume necessary (estimated ~8 yards³ but not to exceed the town limit of 10 yards³ in any circumstance) fits within the regulation limits as has been discussed.

This final resulting surface, in the future should such a need arise, could also be used either as a base for a temporary solution similar to those as we had evaluated in the beginning of the NRPA process (the subbase preparation would alleviate the concerns about placement of seasonal structures raised then) or it could even be used as a subbase for a permanent solution once the town clarifies any potential inconsistency in the ordinances as needed. I strongly feel that this is a 'metered' solution, sized appropriately for use and conditions, that meets or exceeds all specified requirements at the State, Town, and Federal level as well as the needs of the folks potentially using the ramp and balances the protection of the resource through minimization and careful thought.

Obviously, any potential future work would also be conditional upon any state/federal/town level permitting as necessary.

I recently observed in an issued permit issued by the State of Maine in 2017 which contained a conditional item based on a commitment of periodic, documented, evaluation of onsite conditions, excerpted here for your review:

"C. monitor for erosion issues biweekly, and take one picture biweekly, of the trailer lane for damage from trailered boats and wheeled vehicles throughout the 2017 boating season (from the launch repair date to October 31, 2017); and D. install 10-foot or 12-foot wide pre-cast concrete boat ramp planks on the trailer lane of the ramp should launching create erosion and damage to the lake bottom during the monitor timeframe. If no damage is observed from trailered boats or wheeled vehicles along the trailer lane, the Applicants are not proposing to install the pre-cast concrete boat ramp planks."

I therefore propose that we condition this permit (if this is indeed a concern of DEP/ARMY) in a similar fashion. I will commit to photographic monitoring on a biweekly basis for a full season of use to ensure that the engineering lives up to its expectations and does not put the resource in danger. Should there be evidence of an impending problem with erosion through use, then I will then move to either addressing via a seasonal or permanent solution at that time. This allows us to conclude the permitting process that we are all invested in, while also ensuring the proper and ongoing protection of resource.

Please let me know if there are any concerns/clarifications/questions as i have tried to summarize a great deal of detailed information in a short explanation.

Now, for the dock related portion of the discussion of changes.

I have made the following changes to the design of the dock system:

- 1.) I removed the two proposed permanent 12"-16" piles & proposed protective rip rap at the HAT line and moved them above HAT line at top of embankment. This further minimizes the direct impact by approx. 18 ft² to coastal wetland and eliminates the concern at the town level for a new permanent structure at/below the HAT line should that concern be ultimately proven to be true. The 4 supporting upland piles have been placed at the top of the embankment, and now have a low (~1' tall) "deck" surface that is 4'x5' connecting the piles along with cross bracing. The deck allows users to step up from ground and onto raised ramp and provides necessary clearance from ramp to embankment surface necessary to provide clearance as tide & float lowers. The gantry design of the front/waterward two piles is still relevant in new location as it is used to assist in lifting & removing ramp. This design change should provide sufficient anchorage for the 40' aluminum (seasonal) ramp, connected to the float system that is in the water at all times while eliminating the local concern of a new permanent structure at or below HAT.

- 2.) The float system (seasonal) has been reviewed and altered to further minimize the potential indirect impacts and adhere to minimal size for the use. The existing landing float has been changed from 5'x16' and is now proposed to be 5'x7' (~44% reduction in size). I believe that with a reconfiguration of floats, this will support weight of ramp and persons walking across it. The main float components will also be reconfigured so that total size (not inclusive of previously mentioned landing float) will be reduced from 8'x32' to 8'x24'. A reduction of 25%. ADA and other construction standards that I have reviewed for guidance indicate that a (main) float should be no less than 8' wide for stability/safety reasons, and I believe that the 24' length should allow for maximum concurrent common use by a reasonable number (2-3) of people as is likely expected based upon capacity planning and ultimately governed by available facilities (e.g. parking, etc.).

- 3.) I have also made clearer in diagram the two granite blocks & chains (seasonal) that are used as anchors on the float system.

- 4.) I have increased the length of the aluminum ramp (seasonal) by 5' to account for the movement of the piles to top of banking above HAT.

Notable Reference material:

- 1.) <http://watercraft.ohiodnr.gov/Portals/watercraft/PDFs/FacilityStandards.pdf>

- 2.) <https://www.usbr.gov/tsc/techreferences/mands/mands-pdfs/A-BankStab-final6-25-2015.pdf>

- 3.) https://www.publications.usace.army.mil/Portals/76/Publications/EngineerManuals/EM_1110-2-1612.pdf

York, Marylisa

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, December 12, 2019 12:35 PM
To: MacNeil, Jami
Cc: Clement, Jay L CIV USARMY CENAE (US)
Subject: FW: conditional monitoring

Follow Up Flag: Follow up
Flag Status: Flagged

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Jami - Fyi – the issued permit I mentioned linked below (amendment to GP-3434). Acknowledging the project appears much bigger than mine, but the notable/applicable thing(s) here are 1.) conditional monitoring if desirable and 2.)the specification of a minimum size sieve for material to ensure no fines are introduced to resource. I see this type of wording as a way to simply further articulate/specify the material if so desired.

<https://www.maine.gov/dacf/lupc/signedpermits/gp3434a.pdf>

Jay – not sure if you're interested in this too, but just in case.

York, Marylisa

From: MacNeil, Jami
Sent: Thursday, December 12, 2019 12:14 PM
To: Spinney, Jeffry
Subject: FW: updates
Attachments: example road sections.docx

I forgot to attached the example cross sections. These are for roads but I'm sure you can see how to apply them to a boat ramp.

Thanks,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: MacNeil, Jami
Sent: Thursday, December 12, 2019 12:11 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: RE: updates

Hi Jeff,

Thank you for the revised plans and narrative. As we discussed on the phone, please provide transverse cross sections of the boat ramp to help clarify the depth of the subbase layer and surface layer of stone, and to show how the ramp will tie into the existing grade. Please also provide the updated impact numbers (direct and indirect) to the coastal wetland.

Lastly, if you can give me a more specific reference (location, applicant name, Order #) for the 2017 permit you mentioned in your revised narrative, I can look it up and see if it's appropriate to apply here.

Thank you,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, December 12, 2019 9:42 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>; Clement, Jay L CIV USARMY CENAE (US) <Jay.L.Clement@usace.army.mil>
Cc: jeff spinney <jeff.spinney@gmail.com>

Subject: RE: updates

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please let me know if you need more engineering details/computations for materials analysis, etc.

It gets fairly complicated and hard to 'type up' pretty quickly so I tried to reasonably summarize. I want you to both understand, this is a well-established, supported material analysis & design selection tailored to this particular sites dynamics. Not a whimsical selection.

-j

-----Original Message-----

From: Spinney, Jeffry

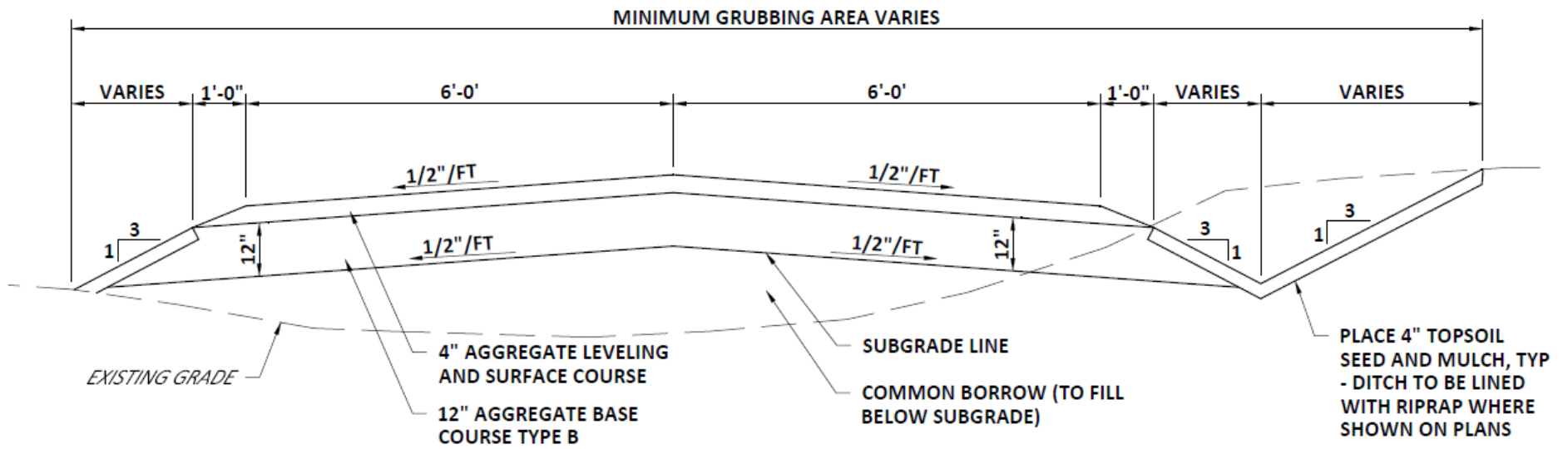
Sent: Wednesday, December 11, 2019 10:12 AM

To: MacNeil, Jami <Jami.MacNeil@maine.gov>; Clement, Jay L CIV USARMY CENAE (US) <Jay.L.Clement@usace.army.mil>

Cc: jeff spinney <jeff.spinney@gmail.com>

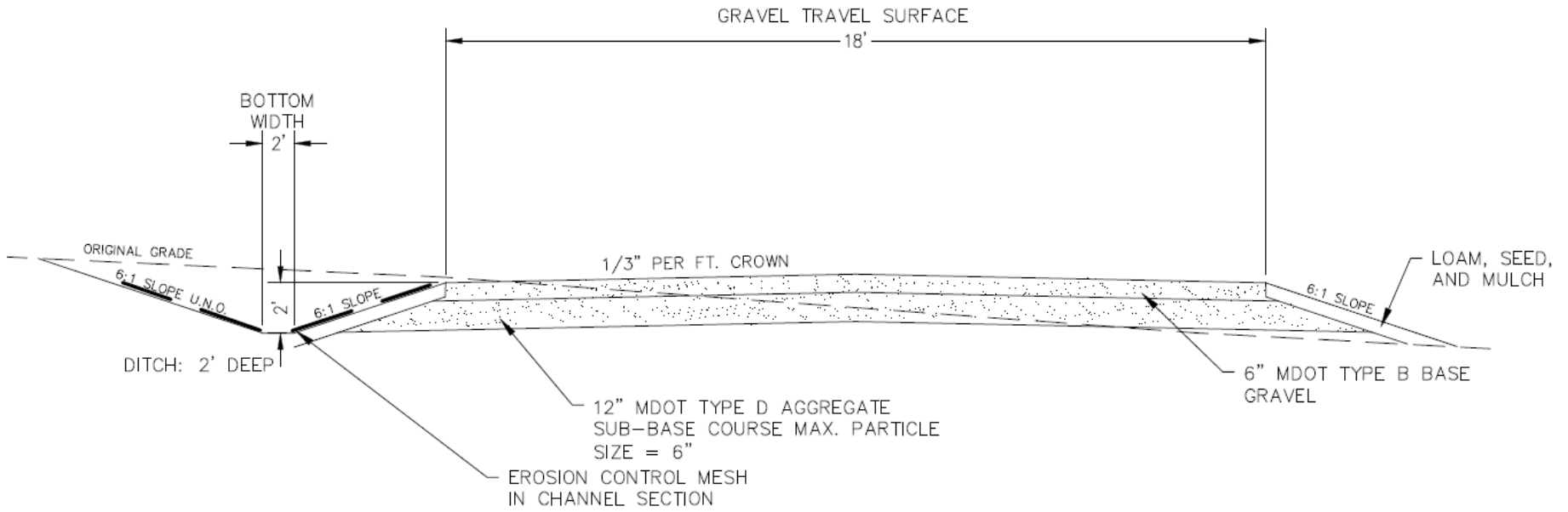
Subject: updates

Please see attached



TYPICAL ACCESS ROAD SECTION

SCALE: NTS



TYPICAL GRAVEL DRIVEWAY SECTION | C1
NOT TO SCALE

York, Marylisa

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, December 12, 2019 4:42 PM
To: MacNeil, Jami
Subject: RE: Hold
Attachments: 1.pdf; 2.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ok, im sure you understand i would refer to get it sorted out as soon as possible.

Attached are the two sectional drawings. One for the 'upper' area (but below HAT) and one for the lower area (but above MLW). I tried to put in notes to explain that the max depth in lower area would be 12" (that's where the most volume exists) and the remainder in the typical upper area would be 6" or tapering down where it is already stable. Not to exceed the volumes specified / governed by town.

I did put in an 'existing grade' to show it is not a side slope situation and flush with surface.

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, December 12, 2019 4:03 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: Hold

The Hold is technically indefinite. I don't have a way to put a limit on it. You can tell us to take it off Hold at any time, but if we reach a deadline and don't feel we have enough information to make a decision, we will end up issuing a denial based on lack of information. However, I have no intention of allowing it to drag out any more than necessary.

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, December 12, 2019 3:59 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: Hold

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Is it an indefinite hold or is there a bound to the hold say a couple weeks to get past holidays? I am good with going out a couple weeks past holidays like you mention, i just don't want to completely waive any deadline and fall into some big void unintentionally.

I've got the sectioned plans just about done right now and will be sending them over in a sec.

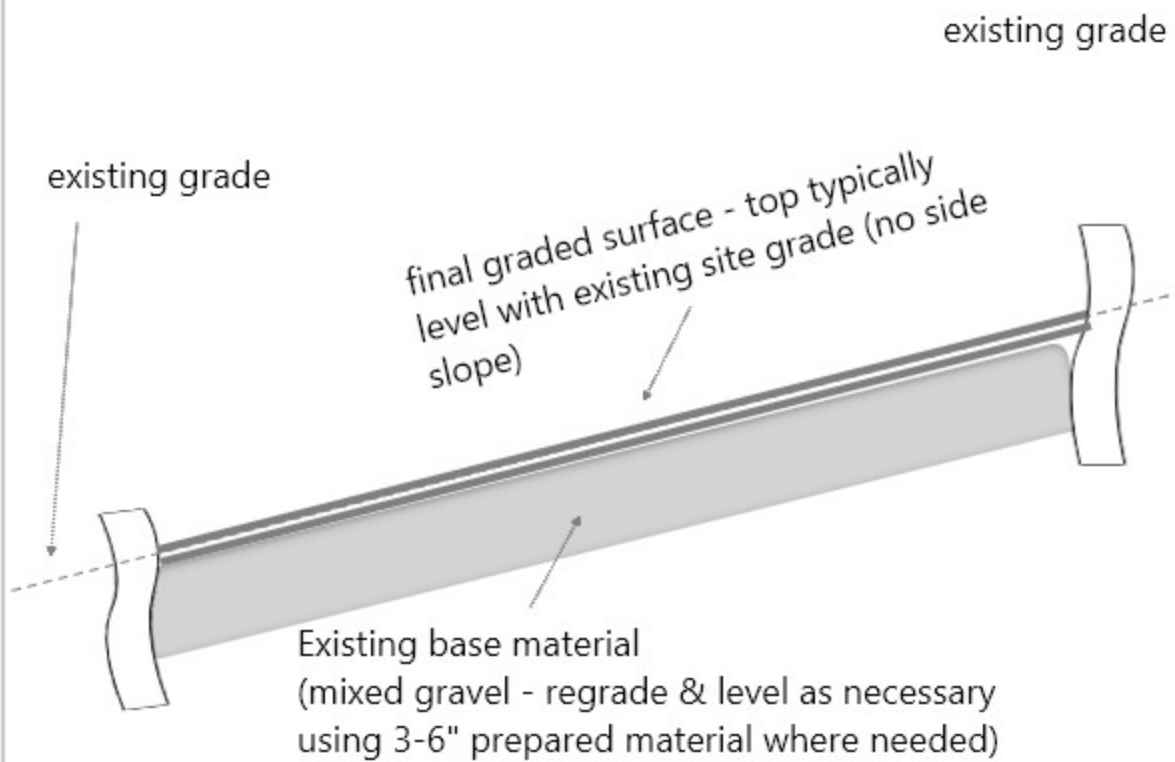
From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, December 12, 2019 3:48 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} Hold

Hi Jeff,

Given the upcoming holiday and various vacation days, and given that prior to issuing a decision we have to first send out a draft of the permit to all who have requested it, allow 5 business days, and then read and catalogue any additional public comments we receive, I think January 7 is not quite enough time for us to get this out on time. I'd like to place the application on Hold. This doesn't mean we can't continue to work on it, but it removes the deadline. However, I can't do that without applicant permission. Are you okay with us putting it on Hold?

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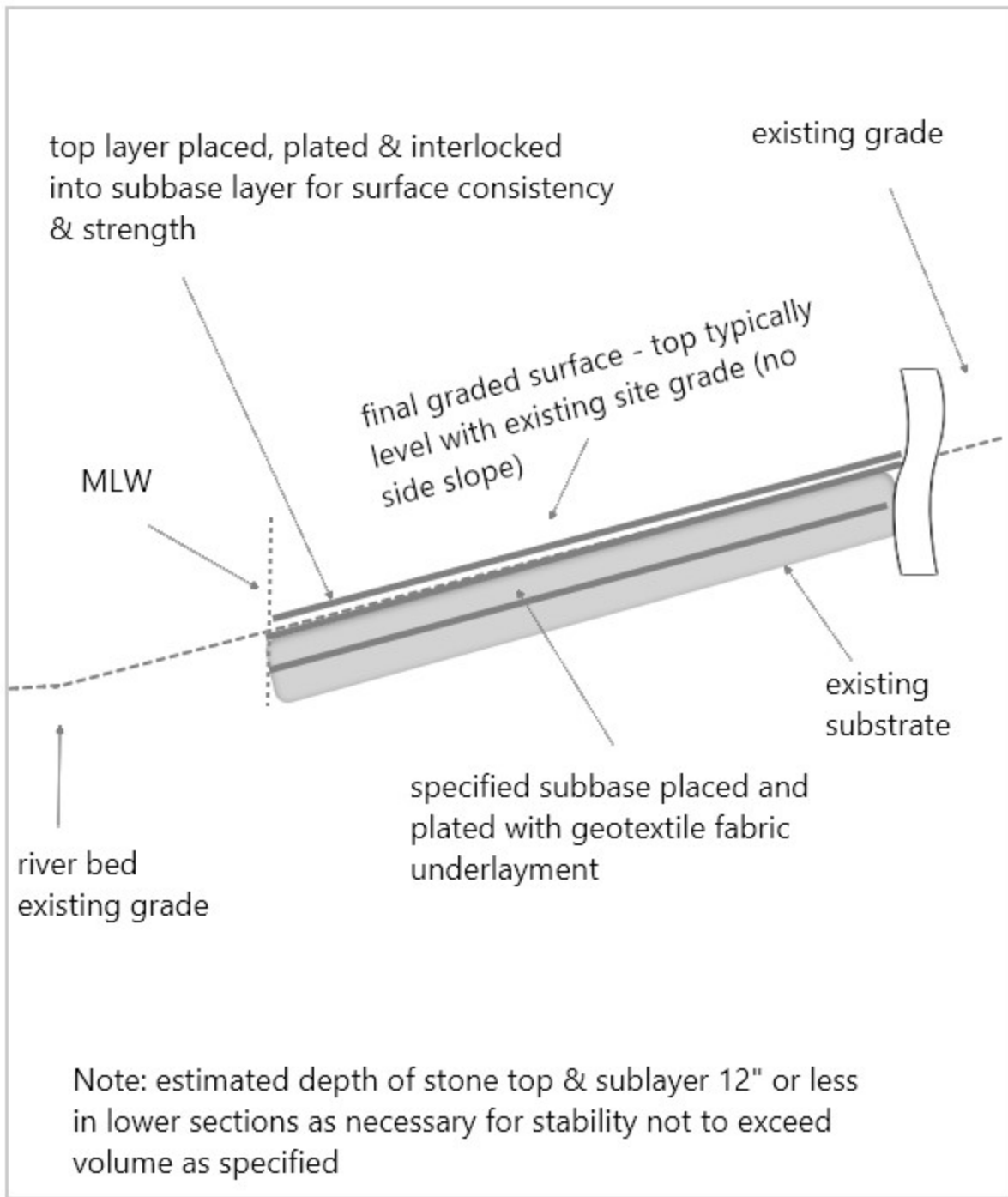
NOTE: existing base material graded and used whenever possible in typical upper section



Section view upper ramp area (below HAT) - typical

Revised Date
December 9, 2019

Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535



Section view lower ramp - typical

Revised Date
December 9, 2019

Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535

York, Marylisa

From: MacNeil, Jami
Sent: Thursday, December 12, 2019 2:27 PM
To: Spinney, Jeffry
Cc: Clement, Jay L CIV USARMY CENAE (USA)
Subject: RE: impact numbers question

I mean 440 s.f. direct, 370 s.f. of indirect. By "rounding" I mean to the nearest integer ending with a 5 or 0. 440 is already round enough.

You do not need to update any forms, I will use this email chain to document the change. The calculations and explanation are adequate.

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, December 12, 2019 2:15 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: RE: impact numbers question

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Ok, Did you mean 450ft^2 ? (440ft^2 is the computed actual $12 \times 36 + \text{blocks}$) or are you thinking there is enough error by including the blocks? Do i fill out the new form (pink form)? or just make this part of the response to you? Do you need all this detail or just the totals for direct and indirect?

-----Original Message-----

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, December 12, 2019 2:08 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: {EXTERNAL} RE: impact numbers question

Hi Jeff,

We can round up a bit but we can't add 20 s.f. to direct impact as a contingency. So let's go with 440 s.f. of direct impact and 370 s.f. of indirect.

Thanks,

-Jami MacNeil
Environmental Specialist III

Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, December 12, 2019 1:42 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: impact numbers question

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Here are my working notes/history of changes on this. Is this what your looking for or too much detail/confusing? Leave blocks in or take them out? Same for (elevated) ramp? I assumed here that the blocks are direct and the ramp is indirect.

Looking for confirmation/guidance I'm computing it the expected way. Note, i round the final numbers off to account for any construction variance ad to ensure permit compliance. I assume that is ok?

Thanks,
-j

-Looking back at the original NRPA application, direct impact was listed as 475 ft². I believe that we had reduced some rip-rap between ramp and dock (not around piles early on) and eliminated 25 ft². (i believe the discussion circled around the fact that DEP feels that (natural) erosion on embankments is normal, etc. and we did not need to do the optional embankment rip-rap.) which brought it to 450 ft².

Now, with latest changes, subtracting the two piles/rip-rap protection for such reduced by 18 ft². For a new grand total of 432 ft² direct impact (440 ft² if you include the two seasonal mooring blocks).

To circle around and confirm this number, if we multiply the total area below HAT of ramp (per plans, including the otherwise topographically occluded section at upper end of 12'x36' ramp rectangle for simplicity) = 432 ft². (each anchor block is approx. 2'x2' area = 8 ft² for a total of 440 ft² direct impact counting blocks)

Then, in order to accommodate any variance in construction methods, material placement, etc. and ensure proper permitting compliance. I would round this figure up to an even 460 ft² for a margin of error.

TOTALS:

#####

Total direct impact reduction of 5.3% @ 450 ft². (3.2% reduction @ 460 ft² if you include the two seasonal mooring blocks in this count)

#####

Total indirect impact of float system (not previously accounted for on NRPA) was reduced to 227 ft² (25% reduction of main float size to 8'x24', 54% reduction of landing float size to 5'x7') Inclusive of the portion of the ramp over the

resource (approx. 4'x35' over resource or 140 ft²), indirect impact total is 367 ft² which i would round to 370 ft² for construction variance, etc.

#####

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Tuesday, December 17, 2019 8:46 AM
To: MacNeil, Jami
Subject: Re: RE: Hold

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Ok. Thanks jami.

On Dec 17, 2019, at 8:08 AM, MacNeil, Jami <Jami.MacNeil@maine.gov> wrote:

Hi Jeff,

The Hold only applies to DEP, no to the Army Corps review process. We will continue to work diligently to complete this one. Thank you for the new section plans, I will incorporate these and get back to you with any comments on the draft.

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, December 12, 2019 4:42 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: Hold

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From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, December 12, 2019 4:03 PM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: Hold

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-Jami MacNeil

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From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, December 12, 2019 3:59 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: Hold

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From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, December 12, 2019 3:48 PM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} Hold

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Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: MacNeil, Jami
Sent: Tuesday, December 17, 2019 2:01 PM
To: Cally Aldrich; Steven Cheff; Doreen Conboy; cervin@yrlaw.com; baileybolen@gmail.com; Gordon Smith; Gerry Flanagan; alnaboca@gmail.com; Cathy Johnson; Del Merritt; Jody Jones; Ed Pentaleri; Allen Philbrick; Philbrick, Jeff; Metcalf, Judy; Dick Picard; Dorothy Renda; Honor Sage; Kinne Stires; Paul Tenan; Michael Trask; William A Weary
Cc: Spinney, Jeffry
Subject: Spinney NRPA application, notice of revisions
Attachments: DockPlans (1).pdf; Revised notes.pdf

To all interested persons:

This notice is being sent as a courtesy to all persons who have submitted written comments to the Department regarding DEP application #L-28397-4E-A-N for the construction of a boat ramp and pier system in Alna as proposed by Jeffry Spinney. Please find attached a copy of revised plans and accompanying narrative for the project. The Department is currently reviewing the application under Maine's Natural Resources Protection Act (NRPA). The Department received these revisions on December 11, 2019, and will incorporate them into the review. The statutory deadline for the Department to reach a final decision on the application is January 7, 2019. Written comments will be accepted until a decision is issued.

Please note that only comments that pertain to the NRPA will be considered relevant to the Department's review. Comments on the Town of Alna's review process or the local Shoreland Zoning Ordinance should be directed to the Town.

The Department's record for the application is available to be viewed at any time in our Augusta office. If you wish to view the record, please call our File Room (207-287-7283) to schedule a time that is convenient for you.

Sincerely,

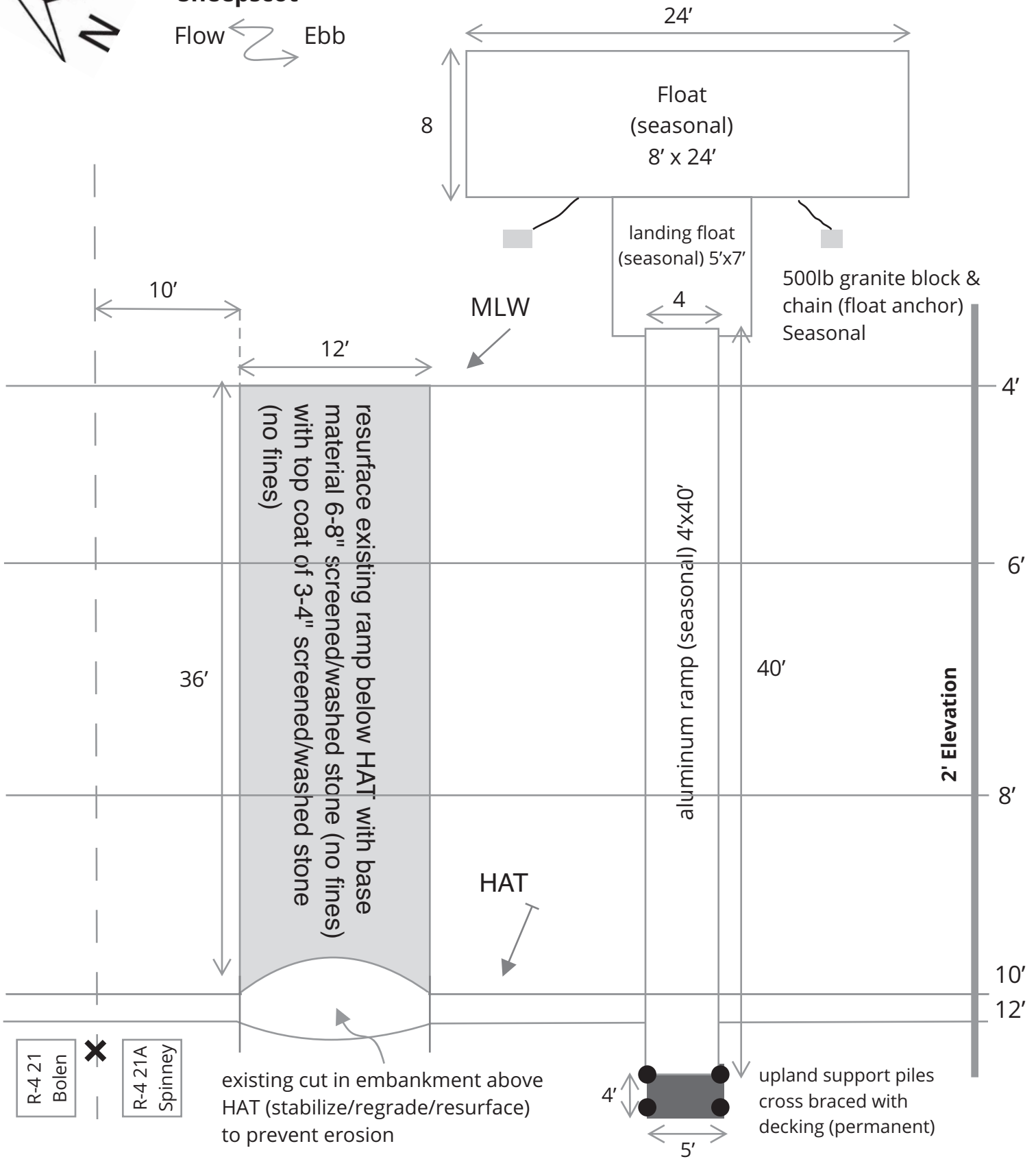
-Jami MacNeil

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Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov



Sheepscot

Flow Ebb



Title: Top view with 2' contours

Revised Date
December 9, 2019

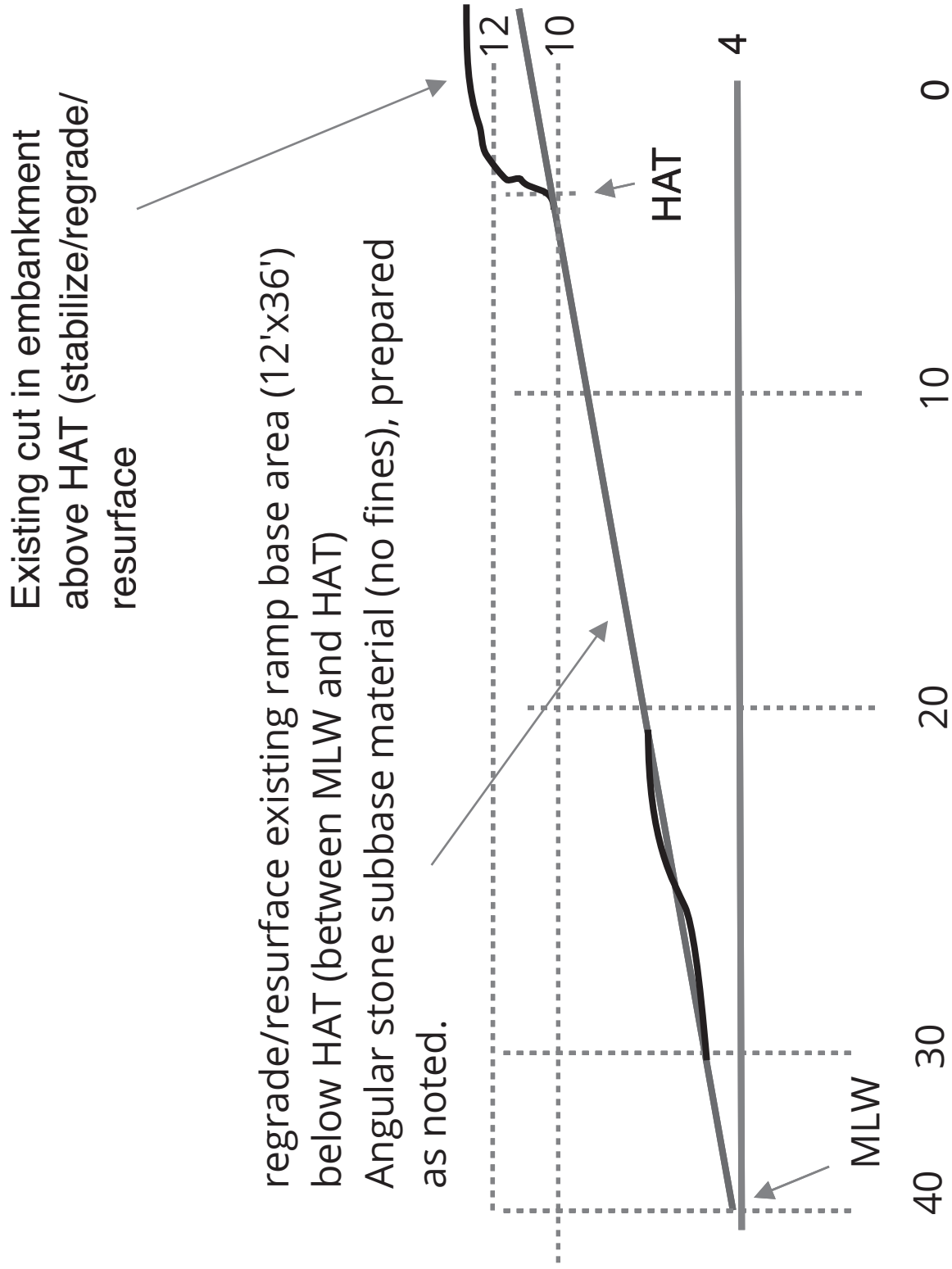
Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535

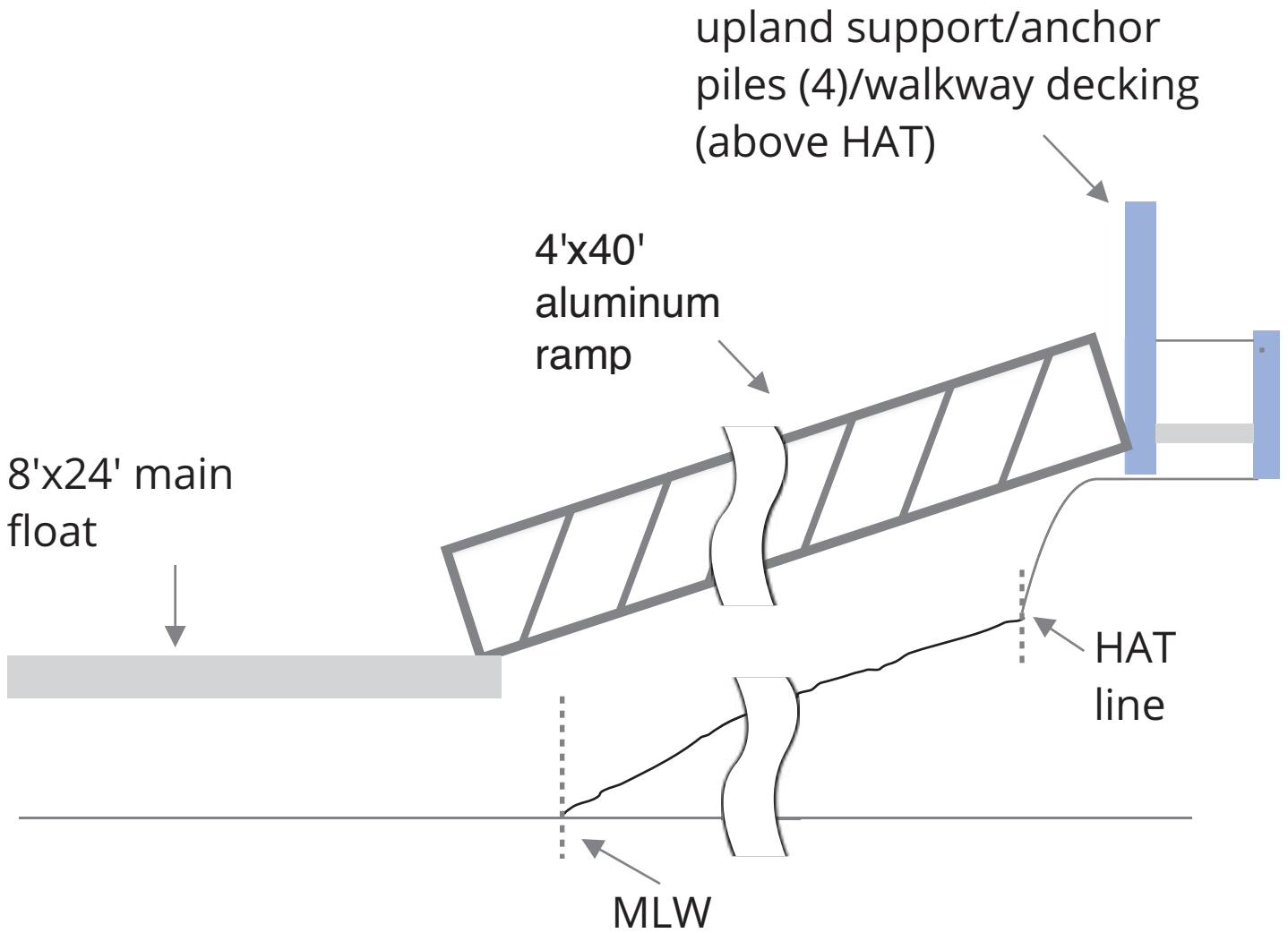
Title: Side View - Ramp side view with elevation

Revised Date
December 9, 2019

Prepared By

Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535

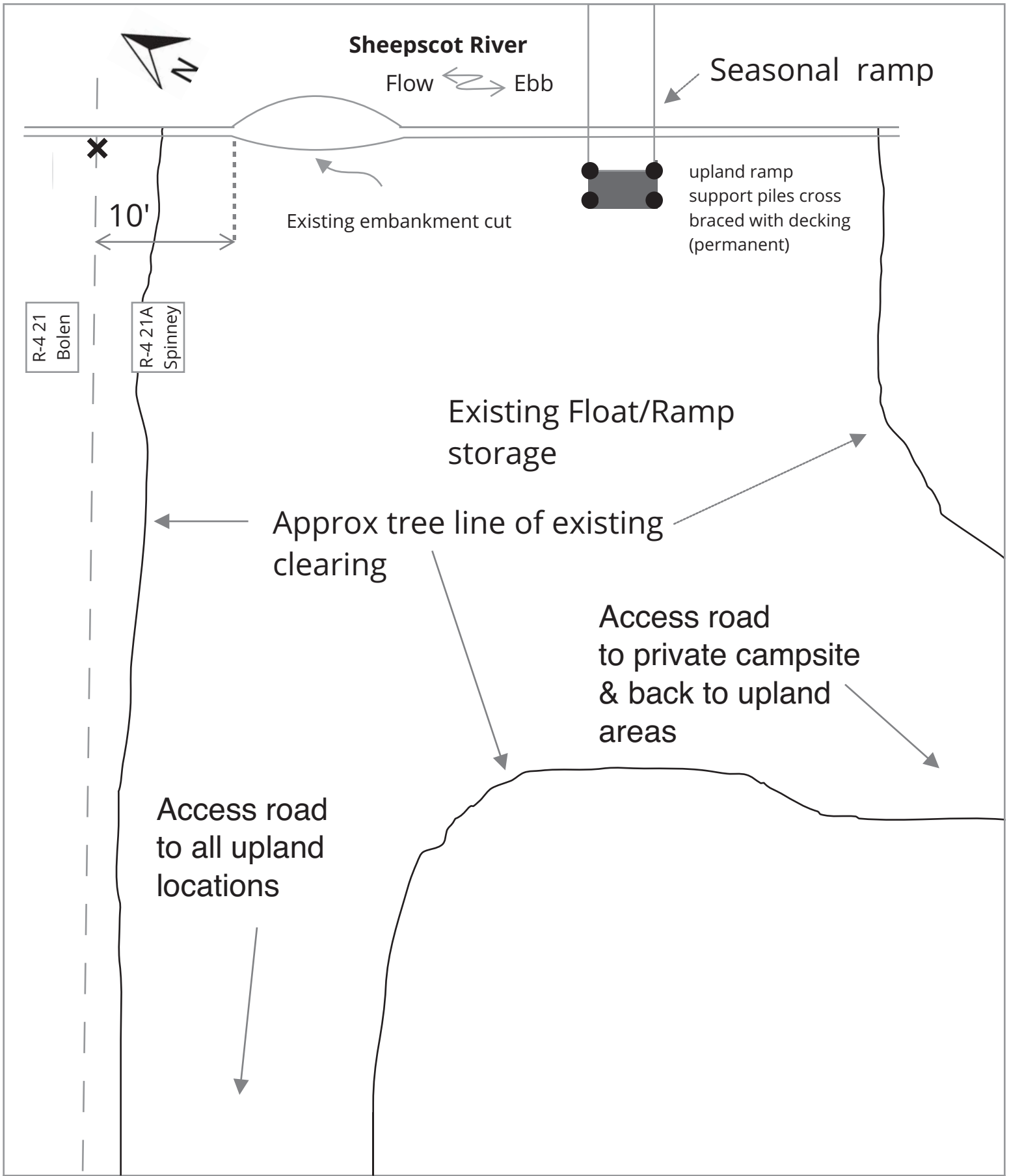




Title: Side View - float/ramp/upland support

Revised Date
December 9, 2019

Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535



Title: Site access - General overview

Revised Date
December 9, 2019

Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535

Jami & Jay,

I am submitting a revised set of plans/drawings as discussed. I have done an extensive amount of research and have come up with some carefully thought out revisions which I feel will meet all requirements as we have discussed over time. I will outline my thoughts briefly in the numbered points below:

I am also resubmitting a clarified appendix c, as I realized that perhaps I did not state the use of material for beneficial use clearly enough and I also adjusted the volume approximation (from 7 to 8 yards³) to match my further refined approximation.

Finally, the local permit pending NRPA completion & final review that I was asked to refile by the board a few weeks ago, is being withdrawn and will be updated to match the NRPA permit and resubmitted to the town in future for consideration.

Thanks,

-j

- 1.) The regrading/resurfacing of the existing boat ramp portion of the project is closely adhering to the existing topography whenever possible to reduce any potential cut or fill in the submerged/submersible zone and decrease any resulting environmental impacts.
- 2.) The ramp profile is approximately 15% grade and consistent with the existing topography. As a ramp designed for and used by small trailered fishing boats, in doing so, it is less likely to affect any hydraulics of the river to minimize any potential scouring or sedimentation. In addition, this slope is enough to allow the boat to be launched/retrieved without the vehicle being in the water which aids in preserving water quality/environment impact while still maintaining a safe angle for vehicle traction. As well, the area under the trailer tongue should be above the waterline so the operator does not have to stand in the water to operate/access the boat trailer or winch during launch or retrieval. The proposed resurface material provides a far more consistent texture from MLW to HAT than the existing mixed material and will also aid greatly in vehicle traction which has been a problem in the past.

- 3.) The 'facility sizing' is a common means of managing or controlling the water based usage in a launch site. To put in layman's terms, the real-world physical limits (parking, access road, etc.) all govern and limit the use. In general, the parking area and number of launch lanes should provide no more capacity than the desired level for the type of use, user experience, and user safety. As has been discussed before, the site has finite parking at current time and there are no plans for expanding that in the future thereby limiting concurrent use naturally. The existing access road is also conducive to small trailered fishing craft only behind a standard tow vehicle, exceptionally large or heavy vehicles or multi-axle trailers carrying large boats would not be able to realistically operate at this launch site and should not be of concern.
- 4.) Optimal alignment of a launch ramp in the river is from perpendicular to the bank line, to an allowance of up to 30 degrees rotation downstream to best fit the river flow line at the specific site. My existing ramp is approximately perpendicular to the shoreline in accordance with this principal and any regrading/resurfacing would continue to maintain this.
- 5.) As you are aware, I had originally reviewed several 'seasonal solutions' for the ramp resurfacing, then pivoted to a permanent solution at the concern of IF&W in their review with Army Corps due to concerns with intertidal mud and supratidal dirt substrates being a mess through seasonal insertion/removal of the seasonal. We then proceeded with investigating a more permanent solution (precast planks with sub base preparation).

I believe that we are now at a hybrid approach which brings the best of both worlds. I have adjusted the proposal to have the same subbase preparation as this is considered (by the town CEO and others) to be a non-conforming maintenance activity (repair/regrade/stabilization) of existing use. Further, the town shoreland zoning authorizes explicitly the filling and earth moving of <10 cubic yards by planning board permit.

The existing ramp resurfacing will use materials chosen carefully sized & screened and prepared/washed to prevent the erosion and other potential concerns of IF&W, DEP, while also being large enough to withstand or minimize any likely movement/lateral scour (and therefore repairs) based on water velocity/energy and typical freeze patterns observed at the site.

The river as has been previously noted is considered 'protected/ low energy' with velocity less than 1 m/sec as confirmed by numerous observations over the years.

As an engineer, I have spent many hours studying and factoring the vast arrays of data produced by Army, US Dept of Interior, and many others. Specifically, "Bank Stabilization Design Guidelines <https://www.usbr.gov/tsc/techreferences/mands/mands-pdfs/A-BankStab-final6-25-2015.pdf>" there is a great section "4.4 Computing Erosive Force and Assessing

Material and Methods Suitability” which aims to simplify things and ultimately provides the following table as a guide:

Table 4–2. Permissible Shear and Velocity Resistance Values for Selected Lining Materials (Fischenich 2001)¹

Boundary Category	Bank Material Type	Permissible Shear Stress (lb/sq ft)	Permissible Velocity (ft/sec)	Citation(s) (²)
Soils	Fine colloidal sand	0.02 - 0.03	1.5	A
	Sandy loam (noncolloidal)	0.03 - 0.04	1.75	A
	Alluvial silt (noncolloidal)	0.045 - 0.05	2	A
	Silty loam (noncolloidal)	0.045 - 0.05	1.75 – 2.25	A
	Firm loam	0.075	2.5	A
	Fine gravels	0.075	2.5	A
	Stiff clay	0.26	3 – 4.5	A, F
	Alluvial silt (colloidal)	0.26	3.75	A
	Graded loam to cobbles	0.38	3.75	A
	Graded silts to cobbles	0.43	4	A
	Shales and hardpan	0.67	6	A
Gravel/Cobble	1-in.	0.33	2.5 – 5	A
	2-in.	0.67	3 – 6	A
	6-in.	2.0	4 – 7.5	A
	12-in.	4.0	5.5 – 12	A
Vegetation	Class A turf	3.7	6 – 8	E, N
	Class B turf	2.1	4 – 7	E, N
	Class C turf	1.0	3.5	E, N
	Long native grasses	1.2 – 1.7	4 – 6	G, H, L, N
	Short native and bunch grass	0.7 - 0.95	3 – 4	G, H, L, N
	Reed plantings	0.1-0.6	N/A	E, N
	Hardwood tree plantings	0.41-2.5	N/A	E, N
Temporary Degradable RECPs	Jute net	0.45	1 – 2.5	E, H, M
	Straw with net	1.5 – 1.65	1 – 3	E, H, M
	Coconut fiber with net	2.25	3 – 4	E, M
	Fiberglass roving	2.00	2.5 – 7	E, H, M
Non-Degradable RECPs	Unvegetated	3.00	5 – 7	E, G, M
	Partially established	4.0-6.0	7.5 – 15	E, G, M
	Fully vegetated	8.00	8 – 21	F, L, M

(table 4-2 continued)

Bank Stabilization Design Guidelines

Boundary Category	Bank Material Type	Permissible Shear Stress (lb/sq ft)	Permissible Velocity (ft/sec)	Citation(s) ⁽²⁾
Riprap	6 – in. d50	2.5	5 – 10	H
	9 – in. d50	3.8	7 – 11	H
	12 – in. d50	5.1	10 – 13	H
	18 – in. d50	7.6	12 – 16	H
	24 – in. d50	10.1	14 – 18	E
Soil Bioengineering	Wattles	0.2 – 1.0	3	C, I, J, N
	Reed fascine	0.6-1.25	5	E
	Coir roll	3 – 5	8	E, M, N
	Vegetated coir mat	4 – 8	9.5	E, M, N
	Live brush mattress (initial)	0.4 – 4.1	4	B, E, I
	Live brush mattress (grown)	3.90-8.2	12	B, C, E, I, N
	Brush layering (initial/grown)	0.4 – 6.25	12	E, I, N
	Live fascine	1.25-3.10	6 – 8	C, E, I, J
	Live willow stakes	2.10-3.10	3 – 10	E, N, O
Hard Surfacing	Gabions	10	14 – 19	D
	Concrete	12.5	>18	H

¹ Ranges of values generally reflect multiple sources of data or different testing conditions.

² Citations:

A. Chang, H.H. (1988).	F. Julien, P.Y. (1995).	J. Schoklitsch, A. (1937)
B. Florineth. (1982)	G. Kouwen, N.; Li, R.M.; and	K. Sprague, C.J. (1999).
C. Gerstgraser, C. (1998)	Simons, D.B., (1980)	L. Temple, D.M. (1980).
D. Goff, K. (1999).	H. Norman, J. N. (1975)	M. TXDOT (1999)
E. Gray, D.H., and Sotir, R.B. (1996)	I. Schiechl, H.M. and R. Stern. (1996).	N. Data from Author (2001)
		O. USACE (1997).

As can be seen in the table above, 6” stone(gravel) is rated for 4-7.5 ft/sec velocity, 2” stone (smaller than proposed, but 3” is not explicitly listed) (gravel) is rated at 3-6 ft/sec.

Given the low energy (1 m/sec = 3 ft/sec) observed nature at this location, the slightly larger stone (3") should be more than adequate (2" meets, 3" should exceed design criteria) especially when interlocked/compacted with the larger angular stone as a base and minimize likelihood of any scour and therefore need for continued repairs. It should be noted that the entire bed shall be as close to flush with the existing topography as feasible to further minimize both potential hydrological and visual impacts.

Furthermore, regarding the potential for 'ice scour', over the years I have directly observed at this location that the ice does not so much laterally scour in the river with flow of river. Due to the rising/falling tides, the flexural strength of brackish ice is relatively low, and it is constantly being broken up. The embankment quickly acquires a protective layer of ice as a result, this helps to reduce the net scour effect of a mass of ice traveling down river at or near the velocity of the water. This kinetic energy of any potential resulting impact is essentially absorbed/consumed in some combination of the protective ice and any other armament that may be in place. In this case, the larger stone sub-base being proposed to assist in absorbing this energy. Historical evidence from the site suggests that necessary repair from ice scour will be minimal if any and likely not an issue.

The major problems I have had at the location has been to ice jacking (vertical lifting of the piles near shoreline by the freezing of ice and uplift as tide comes in.) Ice jacking is often overcome through the process of driving piles deeper to increase their tractive frictional forces on surrounding earthen material, but since these were seasonal/temporary posts, that solution was not applicable. To be clear, the only 'damage' to date sustained has been from ice jacking of posts. Please note: No "crushing" of any docks/pier has occurred at this site (as you normally see on a lake shore during expansion and shifting of ice on lake) which only further supports the analysis, conclusion, and proposed solution. Will address specific dock related changes section below.

I am very confident that the properly prepared 6-8" angular stone subbase placed on fabric underlayment material, topped with a skim of 3-4" angular interlocking material (all properly washed and rid of fines smaller than the nominal specified size) would create the proper and safe boat ramp surface that I desire while at the same time alleviating the concerns through careful analysis of impact to the resource. All material from the portion of ramp area displaced during the resurfacing will be used for beneficial purpose per DEP regulations in upland area away from resource and the estimated volume necessary (estimated ~8 yards³ but not to exceed the town limit of 10 yards³ in any circumstance) fits within the regulation limits as has been discussed.

This final resulting surface, in the future should such a need arise, could also be used either as a base for a temporary solution similar to those as we had evaluated in the beginning of the NRPA process (the subbase preparation would alleviate the concerns about placement of seasonal structures raised then) or it could even be used as a subbase for a permanent solution once the town clarifies any potential inconsistency in the ordinances as needed. I strongly feel that this is a 'metered' solution, sized appropriately for use and conditions, that meets or exceeds all specified requirements at the State, Town, and Federal level as well as the needs of the folks potentially using the ramp and balances the protection of the resource through minimization and careful thought.

Obviously, any potential future work would also be conditional upon any state/federal/town level permitting as necessary.

I recently observed in an issued permit issued by the State of Maine in 2017 which contained a conditional item based on a commitment of periodic, documented, evaluation of onsite conditions, excerpted here for your review:

"C. monitor for erosion issues biweekly, and take one picture biweekly, of the trailer lane for damage from trailered boats and wheeled vehicles throughout the 2017 boating season (from the launch repair date to October 31, 2017); and D. install 10-foot or 12-foot wide pre-cast concrete boat ramp planks on the trailer lane of the ramp should launching create erosion and damage to the lake bottom during the monitor timeframe. If no damage is observed from trailered boats or wheeled vehicles along the trailer lane, the Applicants are not proposing to install the pre-cast concrete boat ramp planks."

I therefore propose that we condition this permit (if this is indeed a concern of DEP/ARMY) in a similar fashion. I will commit to photographic monitoring on a biweekly basis for a full season of use to ensure that the engineering lives up to its expectations and does not put the resource in danger. Should there be evidence of an impending problem with erosion through use, then I will then move to either addressing via a seasonal or permanent solution at that time. This allows us to conclude the permitting process that we are all invested in, while also ensuring the proper and ongoing protection of resource.

Please let me know if there are any concerns/clarifications/questions as i have tried to summarize a great deal of detailed information in a short explanation.

Now, for the dock related portion of the discussion of changes.

I have made the following changes to the design of the dock system:

- 1.) I removed the two proposed permanent 12"-16" piles & proposed protective rip rap at the HAT line and moved them above HAT line at top of embankment. This further minimizes the direct impact by approx. 18 ft² to coastal wetland and eliminates the concern at the town level for a new permanent structure at/below the HAT line should that concern be ultimately proven to be true. The 4 supporting upland piles have been placed at the top of the embankment, and now have a low (~1' tall) "deck" surface that is 4'x5' connecting the piles along with cross bracing. The deck allows users to step up from ground and onto raised ramp and provides necessary clearance from ramp to embankment surface necessary to provide clearance as tide & float lowers. The gantry design of the front/waterward two piles is still relevant in new location as it is used to assist in lifting & removing ramp. This design change should provide sufficient anchorage for the 40' aluminum (seasonal) ramp, connected to the float system that is in the water at all times while eliminating the local concern of a new permanent structure at or below HAT.

- 2.) The float system (seasonal) has been reviewed and altered to further minimize the potential indirect impacts and adhere to minimal size for the use. The existing landing float has been changed from 5'x16' and is now proposed to be 5'x7' (~44% reduction in size). I believe that with a reconfiguration of floats, this will support weight of ramp and persons walking across it. The main float components will also be reconfigured so that total size (not inclusive of previously mentioned landing float) will be reduced from 8'x32' to 8'x24'. A reduction of 25%. ADA and other construction standards that I have reviewed for guidance indicate that a (main) float should be no less than 8' wide for stability/safety reasons, and I believe that the 24' length should allow for maximum concurrent common use by a reasonable number (2-3) of people as is likely expected based upon capacity planning and ultimately governed by available facilities (e.g. parking, etc.).

- 3.) I have also made clearer in diagram the two granite blocks & chains (seasonal) that are used as anchors on the float system.

- 4.) I have increased the length of the aluminum ramp (seasonal) by 5' to account for the movement of the piles to top of banking above HAT.

Notable Reference material:

- 1.) <http://watercraft.ohiodnr.gov/Portals/watercraft/PDFs/FacilityStandards.pdf>

- 2.) <https://www.usbr.gov/tsc/techreferences/mands/mands-pdfs/A-BankStab-final6-25-2015.pdf>

- 3.) https://www.publications.usace.army.mil/Portals/76/Publications/EngineerManuals/EM_1110-2-1612.pdf

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Wednesday, December 18, 2019 3:09 PM
To: MacNeil, Jami
Subject: Re: RE: ramp surface, materials and monitoring

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Gotcha. Sounds reasonable.

On Dec 18, 2019, at 3:01 PM, MacNeil, Jami <Jami.MacNeil@maine.gov> wrote:

Yes, that is the form and fee schedule. The fee is currently \$167 for a minor revision. If it came to that, we would require the form, plan sheets, photos, a narrative to describe the work, a construction plan, and an erosion control plan. No public notice is required for minor revisions.

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Wednesday, December 18, 2019 10:03 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: ramp surface, materials and monitoring

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I assume this must be the minor revision form?
<https://www.maine.gov/dep/land/sitelaw/revision.pdf>

and fee schedule:

<https://www.maine.gov/dep/feeschedule.pdf>

seems reasonable.

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, December 18, 2019 8:56 AM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: {EXTERNAL} ramp surface, materials and monitoring

Hi Jeff,

We have discussed the new proposed ramp surface material and the Department feels pre-cast planks would probably be a better choice to resist being moved by ice; however, if you want to stay with the rock (gravel/cobble) surface, we can include a condition for monitoring and replacement with pre-cast concrete planks if needed. The condition will be that you submit photos of the ramp at low tide in November to show a pre-winter condition, and then again after ice-out, probably in April or early May, to show the post-winter condition. We will probably ask for this monitoring schedule for three winters after construction. If the Department determines that the rock surface is resulting in too much erosion, you will need to submit to us a Minor Revision application to install pre-cast concrete planks instead.

Can you confirm if you want us to proceed with the latest plans (rock surface for ramp) and the above condition, or if you would rather revert to pre-cast concrete planks?

Thank you,

-Jami MacNeil

Environmental Specialist III

Bureau of Land Resources

Maine Department of Environmental Protection

(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Wednesday, December 18, 2019 9:58 AM
To: MacNeil, Jami
Cc: Clement, Jay L CIV USARMY CENAE (USA)
Subject: RE: ramp surface, materials and monitoring

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Sorry i hit button too soon, hands are cold. 😊

, i meant lets go ahead with the monitoring option / latest plans

From: Spinney, Jeffrey
Sent: Wednesday, December 18, 2019 9:53 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: RE: ramp surface, materials and monitoring

Ok, that's fine. lets go ahead with that.

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, December 18, 2019 8:56 AM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: {EXTERNAL} ramp surface, materials and monitoring

Hi Jeff,

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Can you confirm if you want us to proceed with the latest plans (rock surface for ramp) and the above condition, of if you would rather revert to pre-cast concrete planks?

Thank you,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Sent: Thursday, December 19, 2019 1:01 PM
To: Spinney, Jeffry; MacNeil, Jami
Subject: RE: ramp surface, materials and monitoring

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

So do we have your final design now Jeff, no further changes? Tough to wrap this up when the parameters keep shifting.

-----Original Message-----

From: Spinney, Jeffry [mailto:Jeffry.Spinney@LibertyMutual.com]
Sent: Wednesday, December 18, 2019 9:53 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: [Non-DoD Source] RE: ramp surface, materials and monitoring

Ok, that's fine. lets go ahead with that.

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, December 18, 2019 8:56 AM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: {EXTERNAL} ramp surface, materials and monitoring

Hi Jeff,

We have discussed the new proposed ramp surface material and the Department feels pre-cast planks would probably be a better choice to resist being moved by ice; however, if you want to stay with the rock (gravel/cobble) surface, we can include a condition for monitoring and replacement with pre-cast concrete planks if needed. The condition will be that you submit photos of the ramp at low tide in November to show a pre-winter condition, and then again after ice-out, probably in April or early May, to show the post-winter condition. We will probably ask for this monitoring schedule for three winters after construction. If the Department determines that the rock surface is resulting in too much erosion, you will need to submit to us a Minor Revision application to install pre-cast concrete planks instead.

Can you confirm if you want us to proceed with the latest plans (rock surface for ramp) and the above condition, or if you would rather revert to pre-cast concrete planks?

Thank you,

-Jami MacNeil

Environmental Specialist III

Bureau of Land Resources

Maine Department of Environmental Protection

(207) 446-4894 | jami.macneil@maine.gov <mailto:jami.macneil@maine.gov>

York, Marylisa

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, December 19, 2019 1:06 PM
To: Clement, Jay L CIV USARMY CENAE (USA); MacNeil, Jami
Subject: RE: ramp surface, materials and monitoring

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Yes, the design submitted seems to work at the town level, the DEP level, and hopefully at yours. DEP recommends using a monitoring scheme similar to the one i noted from an earlier permit in my notes.

-----Original Message-----

From: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Sent: Thursday, December 19, 2019 1:01 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>; MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: {EXTERNAL} RE: ramp surface, materials and monitoring

So do we have your final design now Jeff, no further changes? Tough to wrap this up when the parameters keep shifting.

-----Original Message-----

From: Spinney, Jeffry [mailto:Jeffry.Spinney@LibertyMutual.com]
Sent: Wednesday, December 18, 2019 9:53 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: [Non-DoD Source] RE: ramp surface, materials and monitoring

Ok, that's fine. lets go ahead with that.

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, December 18, 2019 8:56 AM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Cc: Clement, Jay L CIV USARMY CENAE (USA) <Jay.L.Clement@usace.army.mil>
Subject: {EXTERNAL} ramp surface, materials and monitoring

Hi Jeff,

We have discussed the new proposed ramp surface material and the Department feels pre-cast planks would probably be a better choice to resist being moved by ice; however, if you want to stay with the rock (gravel/cobble) surface, we can include a condition for monitoring and replacement with pre-cast concrete planks if needed. The condition will be that you submit photos of the ramp at low tide in November to show a pre-winter condition, and then again after ice-out, probably in April or early May, to show the post-winter condition. We will probably ask for this monitoring

schedule for three winters after construction. If the Department determines that the rock surface is resulting in too much erosion, you will need to submit to us a Minor Revision application to install pre-cast concrete planks instead.

Can you confirm if you want us to proceed with the latest plans (rock surface for ramp) and the above condition, or if you would rather revert to pre-cast concrete planks?

Thank you,

-Jami MacNeil

Environmental Specialist III

Bureau of Land Resources

Maine Department of Environmental Protection

(207) 446-4894 | jami.macneil@maine.gov <mailto:jami.macneil@maine.gov>

York, Marylisa

From: MacNeil, Jami
Sent: Monday, December 30, 2019 1:53 PM
To: 'Spinney, Jeffry'
Subject: NRPA application, additional public comments
Attachments: Pentaleri - Second Comment Letter on Spinney NRPA Permit Application.pdf; Revised Spinney application comments

Hi Jeff,

Attached are a couple of additional comment letters on the NRPA application, for your information. You do not need to provide a response. The permit draft is still under review and I will reach out if we need anything else from you.

Have a happy New Year,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

Ed Pentaleri

956 Head Tide Hill Rd
Alna, ME 04535
edpentaleri@gmail.com

December 27, 2019

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 writing in regard to the revised DEP application #L-28397-4E-A-N for the construction of a boat ramp and pier system in Alna as proposed by Jeffrey Spinney. I will reserve to a separate letter remarks I intend to make that relate specifically to the revisions you circulated on December 17th in regard to Appendix C and the detailed design. Here I wish to focus only on one specific shortcoming of Mr. Spinney's current submittals that I think must be cured in order for you to be able to complete your analysis and review of his application.

Specifically, Mr. Spinney has premised his *entire* request to modify and expand the dock/ramp on uses he envisions for a club he incorporated earlier this year. Although he provides nebulous outlines as to the nature of certain activities that will be available to members of his club, he provides none of the *specific* details that would be required in order for you to evaluate whether his proposed solution has been "minimized to the greatest extent possible for the proposed use." Instead of addressing these points directly, Mr. Spinney repeatedly uses phrases in the application itself, in correspondence with you, and in public comments he has made at meetings of Alna's Planning Board about having "no plans at this time" for various activities. Likewise, he repeatedly indicates that things that would help to specify the club activities, such as the club's bylaws and permitted uses, are "still being worked out." I submit to you that until such plans are finalized and such details are "worked out," neither you nor members of the community know what it is specifically that he is asking to have considered. Furthermore, as I shall elaborate below, many of the details he has failed to provide are essential to your review, and would become evident if you were to require him to specify details of his proposed use in the manner that would be necessary for him to obtain the business permit required under Alna's Building Ordinance.

I have referred repeatedly in my previous correspondence to the sensitivity and importance of understanding the specific “nature, frequency, and intensity” of uses that will be made by Mr. Spinney’s club. My point here is that without understanding these specifics, it is not possible for either the DEP or the Army Corps of Engineers to understand whether the structures Mr. Spinney is proposing are appropriately permitted for the legitimate uses that might actually be made by members of his club. Indeed, given that Mr. Spinney has not yet obtained the local permits that would be required to operate the club, not only do you have insufficient information to judge the appropriateness of his application in terms of these nature/frequency/intensity parameters, but (perhaps more importantly) you do not know whether such club activities will even be permitted *at all*. Therefore, at this point, you have no way of knowing whether his application should be reviewed in terms of (a) the commercial club use he has vaguely described, (b) the context of much more limited personal use, or (c) something intermediate between these extremes. Not only would a local permit for his club provide a critical basis for determining that the use he proposes will even be allowed, but much of the information he would have to provide in obtaining such a permit would be essential to identifying alternatives, determining alternative is preferred, and finally, the analysis as to whether the preferred solution has been appropriately minimized.

Given his years of service as a member of Alna’s Planning Board, and the number of business permits that have come before him, it is impossible to believe that Mr. Spinney is unaware that the club he described in his NRPA application requires a permit under Alna’s Building Ordinance. Indeed, the very first sentence of the Building Ordinance states that “[t]he purposes of the ordinance are to provide for safety, health and public welfare through [...] regulations for businesses.”

To demonstrate the necessity, relevance, and importance that completing the local permitting process has to enabling your review to proceed, please consider the following points about the local ordinance.

(A) The definition of a business under the ordinance clearly requires that Mr. Spinney’s club will be required to obtain a permit in order to operate in the manner described in his NRPA application. In particular, the ordinance defines a “business” as (emphasis added), “[a]ny enterprise engaged in the sale, lease, production or distribution of any products, equipment, supplies, goods, commodities, *including* plants and animals, or *services which are* sold, *leased* or distributed *by the owner* or an affiliated person where revenue exceeds \$500 per year.”

Mr. Spinney has clearly indicated in his application that he intends for the activities of his club to be supported through annual memberships, which are in every way equivalent to a fixed annual lease of access to and use of the land and amenities he intends to provide. The scale of improvements, the size of the membership, and the scope of activities make it clear that the operational costs the memberships would be required to cover would be far in excess of the \$500 threshold required for exemption.

(B) Among other things, obtaining a local building permit under the ordinance would require showing that the club and associated facilities

- Satisfy required setbacks¹ (Section 14A)
- Provide parking and vehicle access² adequate to for the specific nature, frequency, and intensity of uses for which the permit is to be granted (Section 14B and 20C).
- Include sewage and waste disposal that are adequate for the proposed use (Section 20A and 20C).
- Prohibit, minimize, or mitigate nuisances such as noise, noxious odors, water pollution, *etc.* (Section 20C)

(C) In addition to granting a permit for uses not to exceed those requested by the applicant, it is common for such permits to either deny certain specific uses, or to approve subject to conditions. An understanding of any such denials or conditions could obviously be of fundamental importance to completing your analysis as to whether the proposed solution is justified by the proposed use, whether it has been minimized to the greatest extent possible, whether alternatives have been adequately explored and identified, and whether the proposed solution is the preferred alternative among those that have been considered.

For all of the reasons described above, it seems to be essential that you require Mr. Spinney obtain a business license for the club he uses as the principal justification for his NRPA permit application. In the interest of ensuring that you are able to correctly perform the review and analyses necessary for processing his application, I ask that you require Mr. Spinney to obtain such a license and to provide you with documentation of the specific uses that have been approved before you render any decision.

Sincerely yours,



Ed Pentaleri

¹ It appears that the setback from the property line is only about half that required by Section 14A of Alna's Building Ordinance. This is obviously important in that you cannot correctly evaluate the proposed solution if it cannot be located as proposed as a result of inadequate setback from the property line, and if new or modified access is required as a result.

² Clearly, your review should consider whether any aspect of the proposed uses trigger a requirement for modifications or improvements to the segment of road access or parking that fall within your jurisdiction, and should be informed by the maximum specific uses to be permitted under the local building ordinance. Likewise, the same factors are likely to inform your assessment as to whether the proposed solution is consistent with the maximum permitted number of simultaneous users.

York, Marylisa

From: Spinney, Jeffrey <Jeffrey.Spinney@LibertyMutual.com>
Sent: Monday, January 6, 2020 9:16 AM
To: MacNeil, Jami
Subject: FW: Non profit

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Fyi – the club non-profit status is shown in screenshot below as indicated on the state’s website. This also shows the ‘former’ name so you know it’s the same entity.

Verizon LTE 2:01 PM 65%

icrs.informe.org

Corporate name search

Information Summary

[Subscriber activity report](#)

This record contains information from the CEC database and is accurate as of: Wed Dec 18 2019 14:00:47. Please print or save for your records.

Legal Name	Charter Number	Filing Type	Status
GOLDEN RIDGE SPORTSMAN'S CLUB	20200250ND	NONPROFIT CORPORATION (T13-B)	GOOD STANDING
Filing Date	Expiration Date	Jurisdiction	
05/24/2019	N/A	MAINE	
Other Names	(A=Assumed ; F=Former)		
GOLDEN RIDGE SPORTSMAN'S CLUB, LLC	F		

Clerk/Registered Agent

JEFF SPINNEY
126 GOLDEN RIDGE ROAD
ALNA, ME 04535

[Back to previous screen](#) [New Search](#)

Click on a link to obtain additional information.

List of Filings [View list of filings](#)

Obtain additional information:

Certificate of Existence [\(more info\)](#) [Short Form without amendments \(\\$10.00\)](#) [Long Form with amendments \(\\$10.00\)](#)

You will need Adobe Acrobat version 3.0 or higher in order to view PDF files. If you encounter problems, visit the [troubleshooting page](#).

< > G 19 ...

York, Marylisa

From: MacNeil, Jami
Sent: Tuesday, January 7, 2020 10:38 AM
To: Nault, Denis-Marc
Subject: RE: Spinney Boat Ramp - Alna
Attachments: Alna_Spinney_BoatRampPier_10_19.docx

Hi Denis,

Thank you again for the comments you provided for this project. I'm writing up the permit and I want to be precise, as there are many interested persons for this project. Can you just clarify for me whether the last line of your memo, which states, "No impact to traditional commercial harvest activities of access" should read "or access," and if I should take this to mean navigation?

Thank you,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Nault, Denis-Marc <Denis-Marc.Nault@maine.gov>
Sent: Thursday, October 24, 2019 10:16 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: Spinney Boat Ramp - Alna

Jami,

Very sorry for the delay in getting you my comments for this project.

Denis

Denis-Marc Nault, Supervisor

Maine Department of Marine Resources
Division of Shellfish Management
22 Coaling Station Ln.
Lamoine, ME 04605
Office: (207) 667 6790
Cell: (207) 592-0512
denis-marc.nault@maine.gov
[Municipal Shellfish Program Website](#)

DMR Wetlands Alteration Project Review

Project Information

Review Date 10/10/2019

DEP Application #: L-28397-4E-A-N

Applicant: Jeff Spinney

Contact: Jeff Spinney

Location: Alna, Sheepscot River

Type of Project: Private Boat ramp

DEP Contact: Jami McNeil

DMR Reviewer: Denis Nault

Project Description

The applicant proposes to construct a private boat ramp, 4' x 35' aluminum ramp to a 5' x 16' float with a 8' x 32' perpendicular float along rip-rap for shoreline stabilization on an undeveloped residential property. The private boat ramp is a 10' x 36' concrete plank boat ramp with gravel rip rail 1' on both sides. The use is for a private recreational club for recreational activities on the upper Sheepscot.

Site Description

The site is located on the western shore Sheepscot River in Alna approximately 2.5 miles north of the FALLS IN Sheepscot Village. The proposed project is on an undeveloped residential 120 acre lot. The shore is wooded vegetated bank to a narrow mud flat. The water quality is classified as Restricted for shellfish harvesting. There are no significant shellfish or marine worms present. This area sees no shellfish or marine worm harvesting activity due habitat.

Project Impact

The proposed private boat launch will have minimal impact to marine habitat but no impact to shellfish and marine worm resources. There portions of Sheepscot River just upstream from this project that are listed as Sea Run fish spawning and rearing habitat. The construction activity of placement and of the gravel base and concrete planks should be done during a winter work window (November 8th – April 8th). This is due to the removal of soft sediments in the inter-tidal.

The construction of the seasonal pier, ramp and floats can be done at any time period.

This proposed private boat ramp and dock system will have a minimal impact on the marine habitat and little on marine resources. No impact to traditional commercial harvest activities of access.

York, Marylisa

From: MacNeil, Jami
Sent: Wednesday, January 8, 2020 8:16 AM
To: Spinney, Jeffry
Subject: RE: additional comments
Attachments: Application of Jeffrey Spinney of Golden Ridge Road in Alna to construct permanent dock and boat access ramp on the Sheepscot River; RE: Revised Spinney application comments; Alna Spinney dock NRPA application 1 5 20.docx; Pentaleri - Third Comment Letter on Spinney NRPA Permit Application - Final.pdf

See attached.

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Tuesday, January 07, 2020 4:21 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: additional comments

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jami,

Would you mind forwarding those to me when you get a second? Thanks, -j

P.O. Box 551
Alna, ME 04535
cjohnson@tidewater.net

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

Jan. 5, 2020

Re: NRPA application for a common shared boat ramp and pier, 126 Golden Ridge Road, Alna, ME 04535

Dear Ms. MacNeil,

Thank you for forwarding Jeff Spinney's revised application for a Natural Resources Protection Act permit for a boat ramp and pier on the Sheepscot River on tax map R-4, parcel 21A.

Mr. Spinney's revised application in no way resolves the concerns I expressed in my earlier letter and I urge you to deny this application.

Mr. Spinney's revised application still proposes a "common or shared pier, dock, or wharf" and boat ramp with permanent elements including a buried fabric base, two types of rip-rap, and vertical pilings within the shoreland zone for the use of an ill-defined "club." While details about this club, including bylaws, number of users, and type of uses remain unexplained, it is clear that the impacts on the shoreland zone and the character of this section of the Sheepscot River would be significantly more intense and adverse than would be the case for a temporary facility for a single individual family, and violate the NRPA and Chap. 315.

Apparently, Mr. Spinney cleared an area of marsh and created a temporary boat ramp in 2012. No permit from DEP or the ACE for this earlier alteration of the marsh and shoreland area has been provided. I urge you to investigate whether the existing opening and destruction of the marsh and shoreland violated the NRPA and should be the subject of an enforcement action. If this earlier activity was in violation of the NRPA, which I believe that it was, Mr. Spinney should be required to remediate the site – and should not be allowed to use his earlier, unapproved construction activity to justify this further significant expansion of construction and use in this area.

Based on photographs of the river over multiple years, it is clear that there has been no pier at the site since at least 2016. The proposed use is clearly new and much more intensive than any permitted activity that has existed in this stretch of the river in decades.

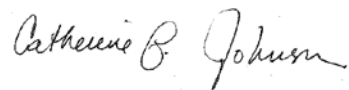
Under the Natural Resources Protection Act, 38MRS §480-D(1), the applicant is required to show that "the activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational

uses.” (Emphasis provided.) Chapter 315 of the Department’s rules sets forth the state policies for protecting the scenic, aesthetic, recreational and navigational uses of our state.

It is clear under Chap. 315, §10 and under the NRPA application form, Appendix A, § 1(F)(3) that the Sheepscot River is a scenic resource protected under the NRPA. It appears that no visual impact assessment as described in Chap. 315, §7 has been completed. If one had been completed, it certainly would have found that the proposed development would have a significant adverse effect on the scenic and aesthetic uses of that stretch of the Sheepscot and would unreasonably interfere with those uses.

Given all the adverse impacts such a development would cause, I urge the Department to deny this permit application.

Sincerely,

A handwritten signature in cursive script that reads "Catherine B. Johnson". The signature is written in black ink on a white background.

Catherine B. Johnson

Cc:

Jay Clement, Army Corps of Engineers; Jay.L.Clement@usace.army.mil

Ed Pentaleri

956 Head Tide Hill Rd
Alna, ME 04535
edpentaleri@gmail.com

January 7, 2020

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 write to you again in opposition to revised DEP application #L-28397-4E-A-N for the construction of a boat ramp and pier system in Alna as proposed by Jeffery Spinney. Specifically, I write in regard to the manner that the currently proposed design would continue to cause unreasonable interference with existing scenic, aesthetic, recreational and navigational uses for the sensitive portions of the Sheepscot adjacent to the project site. In consideration of these impacts, I request that you reject the permit application. Indeed, given that the previously existing structures have been built in flagrant violation of requirements to obtain permits required under the Natural Resources Protection Act, it seems that a more appropriate outcome would be for your department to require removal of the existing structures, remediation of the site to its original condition, and penalties that may be allowable for such violations.

To the extent that you ultimately do approve a project that derives from this application, I request that you do so only for a project that is consistent in its scale, size, and general design with the dock and ramp that were originally approved *ca* 2003 at the local level for personal use. Even then, I ask that any such approval be granted only subject to mitigations and conditions of use allowed to you pursuant to the Natural Resources Protection Act, 38MSRA §480-D(1), and the rules set forth under Chapter 315, §8.

Concerns Regarding Your Review

Before discussing the specific objections I have with the revised design, I feel it necessary to express concerns I share with many members of the community in regard to (a) uncertainty we have as to whether Mr. Spinney's application is being accepted by you as being on behalf of shared/common vs. individual use, and (b) remarks you made in your email message of December 17, 2019 suggesting that your review will not involve consideration of local ordinances. In particular, although the plain language of the application indicates that it is for a "[c]ommon or shared recreational pier, dock, or

wharf,” with the explicit statements in the “Activity Description” that it is to be “used by a recreationtioanl [*sic*] club for day use,” your department appears to be accepting representations Mr. Spinney makes in separate correspondence that the application is being made as an individual, and then only for his personal use. This, despite his acknowledgement to you that the club to which he refers is the “Golden Ridge Sportsman’s Club, LLC,” and that he has taken concrete steps toward the club-oriented use by incorporating the club in May of last year.

Because we think that any of these representations should lead reasonable people to accept the application as being made on behalf of the commercial club use that he’s so clearly described, we have addressed our correspondences to you on the assumption that you would be reviewing the application not as being on behalf of Jeff Spinney’s personal use as an individual, but rather on behalf of Jeff Spinney, sole proprietor of the Golden Ridge Sportsman’s Club, LLC. While we have objections to his application *in either capacity*, the especially severe adverse impacts that may result from the as-yet inadequately documented activities of the club on the existing scenic, aesthetic, recreational and navigational uses of this sensitive segment of the Sheepscot are of greatest concern.

Without clarity from your department as to whether it will interpret the application as the commercial application that it so clearly is, or as an individual application for personal use, members of the community are not able to address comments to you that are most pertinent to your review, impairing the ability of the interested parties to be effective in their government petitions. With this in mind, I think it is imperative that you clearly express to the interested parties in a timely manner which capacity (shared/common vs. individual) you will be reviewing the application. Should you choose to interpret the application on an individual basis, for personal use, I think your decision should be supported by a well reasoned rationale. In this cases, I also believe that you should require the application to be revised, both to eliminate references to the club, and to reduce the size of the proposed facility in alignment with individual use.

As for your consideration of town ordinances, although I acknowledge that it is unreasonable to expect that you perform a bottoms-up analysis of compliance with local ordinances for applications that come before you, I submit that when patently clear inconsistencies are brought to your attention, it *does* represent an appropriate and reasonable use of resources for you to take such non-compliance into account, as doing so could clearly reduce the likelihood that you might needlessly expend resources in reviewing proposals that should have no possibility of obtaining local approvals. Indeed, your consideration of such inconsistencies need not be burdensome. Quite the opposite, it could simply involve placing the burden on the applicant to show compliance as a condition of your further consideration.

In fact, while this burden *should* fall to the applicant at all levels of review, it is quite possible that failure of the NRPA review to consider patent violations of local ordinances

may have precisely the opposite effect. Given the deference that non-professional local boards may give to the higher-level NRPA review made by career professionals such as yourself, the burden may inappropriately fall to the community to demonstrate such non-compliances during local permit review, rather than leaving the burden with the applicant to demonstrate compliance, as should be the case.

Concerns Over Revised Design

Given the uncertainty described above as to the basis for your review, combined with (a) my belief that the application is, in fact, being made on behalf of the club enterprise, and (b) concerns as to the adverse impacts such use might entail, many aspects of my comments below continue to relate to the possibility of club-driven uses. Likewise, for reasons I have just described, I am also using this opportunity to bring to your attention some additional issues that relate to local ordinances that I think are appropriate for your review to take into consideration.

1. Despite the fact that the proposed size of the floating dock has been reduced from 8x32 feet to 8x24 feet, the revised design nevertheless represents a *doubling* of the size of the dock, as compared with the previously documented 8x12-foot dock.¹ Although the smaller previous dock was evidently sufficient for Mr. Spinney's personal use over many, many years, the new dock will accommodate multiple boats and/or personal watercraft. While the increased size of the dock itself will have adverse impacts upon existing scenic and aesthetic uses of the river, there is a greater concern within the community in regard to the nature, frequency, and intensity of *uses* that may result from allowing a larger structure to be built.

During the December 5, 2019 meeting of the of the town's Planning Board, Mr. Spinney acknowledged that uses of the dock by club members may include water-skiing and/or the use of personal watercraft (Jet Skis). Despite acknowledging these potential uses, he declined to discuss the parameters of such uses. As I've noted in my most recent previous letter to you, Mr. Spinney has yet to obtain the business permit required by the town's building ordinance for the club he says he intends to operate on his property. Obtaining such a permit would require, among other things, that the club's activities be described and bounded. Absent such specificity, it should be abundantly clear that the club's potential uses of the proposed dock/ramp for ski boats and Jet Skis could have dramatic and adverse impacts upon the existing scenic, aesthetic, and recreational uses of this stretch of river, which are currently dominated by kayaking, canoeing, fishing, and hunting. Likewise, intensive uses by ski boats and Jet Skis could be highly incompatible with safe navigation by kayakers and canoeists.

¹ Refer to the letter addressed to the Town of Alna Planning Board, which I forwarded to you along with my initial letter to you, both of which were attached to email I addressed to you on December 13, 2019.

While I continue to believe it to be in everyone's best interest to ensure that the parameters of permitted uses are expressly defined *before* any permits are issued, I also believe that one of the most important steps toward ensuring that *actual* uses of the dock/ramp remain compatible with existing uses is to deny a permit for any structure larger than that which has previously been used.

2. Over the course of years, Mr. Spinney has demonstrated a sustained and flagrant disregard for legal restrictions related to construction at this site. He has done so, for example, by failing to obtain NRPA permits for previous dock/ramp structures,² construction of permanent structures (Figure 1) without even a local permit to do so, and construction of those permanent structures below the HAT line (Figure 2), which is prohibited by local ordinance. Combined with the evasiveness he has demonstrated in regard to questions about the potential club-related uses of the proposed structure, this has led to a very high level of mistrust for Mr. Spinney within the community.



Figure 1. June 24, 2012 photo of Jeff Spinney in the process of constructing a permanent pier. Noteworthy is that even as the permanent pier was being constructed, water was already at or above the pilings closest to the river, despite the likelihood that this photo was not taken at or near the time of highest annual tide.

² This, despite the reasonable expectation that given his years of service on the local Planning Board, Mr. Spinney should be more likely than most to be aware of the need for such permits, particularly given the clear statement in §14 of Alna's Shoreland Zoning Ordinance that "In addition to a Town of Alna permit, a Department of Environmental Protection permit, under the Natural Resources Protection Act, is required for many of the Land Use activities of Table 1. It is recommended that a permit applicant contact the DEP LandBureau at 287-2111 for further information prior to starting any activity in, over, or within 75 feet of the Sheepscot River, a great pond, a stream or a wetland. Failure to obtain a DEP permit can result in court action and significant fines."

Given this history, the suggestion in the revised submittal that you should consider “facility sizing” as a sufficient means of “managing or controlling the water based usage [of the] launch site” should be taken as completely unacceptable. In making this suggestion, Mr. Spinney implicitly acknowledges the strong concerns that have been expressed in regard to the scope of possible uses he has described for his club, concerns for the possibility that these uses might expand over time, and the adverse effects that such activities may have on existing scenic, aesthetic, recreational, and navigational uses. Instead of proposing a genuine “metered solution” the carefully worded discussion he presents makes plainly clear that his greatest desire is for the permits he seeks to be unencumbered by any explicit use restrictions beyond the physical limits of the proposed design and the site themselves.



Figure 2. July 31, 2012 photo after completion of Spinney’s permanent pier structure, showing tide level above the second row of permanent pilings.

Although he claims that “the parking area and number of launch lanes should provide no more capacity than the desired level,” he is careful not to specify *whose* desire he refers to (his or the many other interested parties in the community). Nor does he describe what this desired capacity means in objective or quantifiable terms, such as (a) the maximum number of simultaneous users that the site and design would support, (b) the number of daily users, (c) the types of boats that would be able to access the

site, or any of a multitude of other factors likely to be relevant to the potential for adverse impact upon existing uses.

Similarly, his arguments that “the site has finite parking at current time and there are no plans for expanding that in the future” is completely hollow, offering neither a commitment not to expand parking in the future, nor any objective, quantifiable, or enforceable means of limiting such expansion. Nor does his past behavior give any reason to believe these claims in the first place.

Finally, although he closes his argument by suggesting that the existing access road is only suitable for use by “small trailered fishing craft behind standard tow vehicles” and that “exceptionally large or heavy vehicles or multi-axle trailers carrying large boats would not be able to realistically operate at this launch site,” his argument is again rendered meaningless by his failure to define or specify *any* of the terms he uses in advancing the argument (“small,” “standard,” “exceptionally,” *etc.*). Here again, although he wants you to accept the existing access road as a meaningful constraint on site uses, he has carefully avoided any commitment to refrain from making future improvements that could have the effect of increasing the capacity.

Perhaps it should go without saying, given the arguments I’ve elaborated above, that there is strong sentiment within the community that *any* permit that may eventually be granted should be accompanied by explicit limits as to the specific nature, frequency, and intensity of allowed uses. If Mr. Spinney truly believes (or would have you believe) that the proposed design or the existing site conditions are sufficient to adequately protect the resource and to protect against adverse impacts on existing uses, then he should have no objection to a redundant “belt-and-suspenders” action on your part to clearly and objectively specify what uses are permitted in a manner that is enforceable.

3. Mr. Spinney’s offer to submit to periodic, self-documentation of on-site conditions makes no sense whatsoever. Most important, of course, is that any permitted structures and activities at the site should, in their very design, be certain not to result in adverse impacts to the protected resource, rather considering alternatives only after an adverse impact has occurred. In the event that monitoring were to be required, however, any such monitoring should be performed by a disinterested third party, and should not include an arbitrary *a priori* limit against extending such monitoring beyond a single season.
4. Although it has not been previously noted in correspondence to you, it is significant that the proposed location of the dock/ramp is only 10 feet from the property line, as compared with the 20-foot minimum setback required by the town’s building

ordinance.³ While local ordinances allow for a somewhat smaller setback in limited instances,⁴ such a reduction is possible *only if the original structure existed in its current location prior to December 14, 1970, and then only with the concurrence of the abutting property owner*. Not only does the age of the structure in question fall far short of that required for an exemption, but given the Ervin/Bolen objections you have received in regard to the proposed permit, it is clear that the concurrence required for such an exemption will not be forthcoming. Regardless of whether a local permit was previously granted, or whether such permits were granted in accordance with setback requirements that were in place at the time, *there is therefore no path forward for obtaining the local permits required for the expanded structure at the location that has been proposed by Mr. Spinney*. In order to obtain the required permits, Mr. Spinney will have to propose a new site. Because such changes may necessitate modifications to site access, and/or design changes associated with conditions specific to the new site, such changes would also likely require a new NRPA permit review. Even though these changes would be driven by local ordinance, it would be reasonable for you to condition further consideration of Mr. Spinney's permit on his demonstration that local permits are feasible for the site he has identified.

5. It is worth noting that although *certain* aspects of the design (such as the size of the floats) have been reduced in the revised plans, the increased height of the structure in the revised design is likely to exacerbate its scenic and aesthetic impacts. That said, the revised drawings submitted by Mr. Spinney are not properly dimensioned, providing no way to judge the increased height of the pier, the pilings, and the ramp above the river. Absent such annotations, there is no way for you to re-evaluate its expected scenic and aesthetic impacts on existing uses, and no way to determine whether the as-built structure complies with the proposed design.
6. Finally, I would like simply to make note of a couple of errors or misrepresentations about our local ordinances that are made in the revised submittal.

First, in regard to his suggestion that the proposed dock/ramp expansion might be considered to be a “non-conforming maintenance activity,” I point out that §12b of Alna's Shoreland Zoning Ordinance (SZO) explicitly states precisely the opposite:

“Repair and Maintenance: This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations *which do not involve expansion of the non-conforming use or structure* [emphasis

³ Alna Building Ordinance §14(A): No structure or subsurface sewage disposal system shall be closer than 50 feet to the center line of any street or highway and shall be setback at least 20 feet from any adjoining lot.

⁴ Alna Building Ordinance §23(B): The setback for an addition to a structure may be reduced to 10 feet from an adjoining lot provided that the original structure existed in its current location prior to December 14, 1970 and that the owner of the adjoining lot states in a notarized document that they have no objection to the reduction.

added], and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may required. Applicable permits are required.”

Second, Mr. Spinney’s claim that moving the permanent concrete piles he proposes to a location above the HAT line “eliminates the concern at the town level for a new permanent structure at/below the HAT line” misstates and misrepresents the restrictions in the local ordinance with respect to permanent structures. Specifically, §15(c)6 of the SZO clearly states that “[n]ew permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible.” Not only has Mr. Spinney failed to make any attempt whatsoever to demonstrate that a temporary pier is not feasible, it is not at all clear that he has any basis for making such claims, given that the structure he most recently built (without either the local or state permits required) included a permanent pier that extended below the HAT line.

I thank you for your kind consideration of my letter. Although I regret that it has been necessary for it to be so long, I hope you will recognize that this as a reflection on how deeply flawed Mr. Spinney’s application is, that it should not be approved, and that any approval that may ultimately result from your review should be carefully conditioned.

Sincerely yours,



Ed Pentaleri

York, Marylisa

From: MacNeil, Jami
Sent: Wednesday, January 8, 2020 12:53 PM
To: Spinney, Jeffry
Subject: RE: additional comments

I will let you know if we need anything.

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Wednesday, January 08, 2020 12:39 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: additional comments

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Incredibly frustrating. A lot of very twisted and some very factually wrong information and accusations. I assume that the DEP would ask for response if any of this came into scope for consideration.

-----Original Message-----

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, January 08, 2020 8:16 AM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: additional comments

See attached.

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Tuesday, January 07, 2020 4:21 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: additional comments

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jami,

Would you mind forwarding those to me when you get a second? Thanks, -j

York, Marylisa

From: Seiders, Heather
Sent: Wednesday, January 15, 2020 1:48 PM
To: MacNeil, Jami
Subject: RE: Maine boating laws

Hi Jami,

I did not call DMR. I am thinking that Adam Gormley with the warden service may be able to provide some information but he is out of the office till next week. I also put in a call to the regional fisheries biologist to see what they know about the site.

ACOE may be able to help with determination of federal versus internal waters.

I will let you know if I hear anything.
Heather

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, January 15, 2020 1:43 PM
To: Seiders, Heather <Heather.Seiders@maine.gov>
Subject: RE: Maine boating laws

Hi Heather,

Thanks, I really appreciate it. Please do let me know if you find out anything else. I called the warden service at the Sidney office, and they suggested contacting DMR Marine Patrol since it's tidal. I will try them, unless you've already reached out.

Thanks again,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Seiders, Heather <Heather.Seiders@maine.gov>
Sent: Wednesday, January 15, 2020 1:37 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Cc: Linscott, Thomas <Thomas.Linscott@maine.gov>
Subject: RE: Maine boating laws

Hi Jami,

I have calls in to a couple of different people at IF&W regarding this issue.

Our navigational aid supervisor said that even though it is tidal, headway speed still applies. This was my understanding as well. A river would need to be over 400+' wide for a motorboat to travel above headway speed since it is 200' from either shoreline.

Several rivers in Maine are under 400' wide and see motorized use. I am thinking that the warden service would be where you can find some answers, but I am trying to find the correct person.

I wanted to let you know that I am working on this and will get back to you when I hear from them.

Heather

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, January 15, 2020 9:30 AM
To: Seiders, Heather <Heather.Seiders@maine.gov>
Subject: RE: Maine boating laws

I am reviewing a NRPA application for a boat launch on the Sheepscot River in Alna, below Head Tide Dam. The river is tidal in this area. I believe it would be categorized as "federal waters," rather than "internal waters" (per [12 MRS § 13001](#)). The neighbors who are against the project have brought up the fact that pursuant to [12 MRS § 130068-A\(13\)](#), watercrafts may not operate at more than "headway speed" within 200 feet of the shoreline, and the river here is no more than 300 feet wide (they argue that therefore, motorized boats cannot reasonably operate on this stretch of the river and the project does not have a valid purpose).

I am trying to determine if this restriction applies to federal waters, and if I am correct that the river is a "federal water" at this site. If the restriction does apply here, does it effectively prohibit motorized boats from operating on this stretch of the river, or could a boater operate at headway speeds and still reasonably navigate and enjoy the river? I do not have experience operating motorized boats so it's hard for me to gauge.

Thanks,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Seiders, Heather <Heather.Seiders@maine.gov>
Sent: Wednesday, January 15, 2020 9:10 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: Maine boating laws

Hi Jami,

I think it would depend on which guidelines. All enforcement is IF&W. We are responsible for navigational aids. If you give me a quick summary of the issue, I can help get you in touch with the correct person.

Heather

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, January 15, 2020 9:07 AM
To: Seiders, Heather <Heather.Seiders@maine.gov>
Subject: Maine boating laws

Hi Heather,

Do you know who I could ask about Maine boating laws? I have some specific questions about the guidelines (as given in [this pdf](#)) and the statute or chapter rules behind these guidelines. Would you be able to answer those for me?

-Jami MacNeil

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(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: MacNeil, Jami
Sent: Wednesday, January 15, 2020 2:14 PM
To: Brosnan, Kathleen
Subject: boating rules
Attachments: Proposed ramp & dock.kmz

Good Afternoon,

I am a licenser in DEP's Land Bureau and I am currently reviewing a permit application under the Natural Resources Protection Act (NRPA) for a proposed boat launch on the Sheepscot River in Alna. The river is tidal in this location, and only 200-300 feet wide. The purpose of the boat ramp is to provide access for motorized boats owned by a local recreational club to the stretch of river north of the reversing falls in Sheepscot Village and south of Head Tide Dam. This area is otherwise difficult to access by motorboat.

Some of the neighbors who are opposed to the project have brought to my attention a state law that prohibits operating a watercraft at anything faster than "headway speed" within 200 feet of any shoreline (see [12 MRS § 13068-A\(13\)](#)). I would like to know if this law applies to tidal rivers, and if so, who is responsible for its enforcement in those areas. I would also like to discuss how the exception for "active fishing" comes into play with this restriction.

Would you be able to answer this for me, or direct me to someone who can? I have attached the project location for reference.

Thank you,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: MacNeil, Jami
Sent: Wednesday, January 15, 2020 2:16 PM
To: Spinney, Jeffry
Cc: jay.l.clement@usace.army.mil
Subject: comments, please respond
Attachments: 2020.01.09 Weary additional comments.docx; RE: Revised Spinney application comments; 2020.01.10 Ervin Ltr to DEP re Spinney NRPA Application(13455253.1).pdf; Photos and captions from webpage.docx

Hi Jeff,

Attached are three additional comment letters or emails from interested persons. In light of these comments, the Department would like you to respond to the following:

1. Mr. Weary has provided photographs with dates and captions on a webpage at this link: https://photos.google.com/share/AF1QipOVqk0KjDt3zFlybyQy0ANZihwqUvX_lyJbJz6HXywrKaIGET3E3pVRZXar13k2vQ?key=NG5NZWpsS0JweDV6MjNEWHZ2OUVHNNHnteE9ZckxR. Do you contest any of the dates and captions? The main ones I am interested in are the ones that clearly show your shorefront at the project site. See the attached "Photos and captions from webpage" Word doc for reference. In particular, the first photograph, allegedly taken in 2003.
2. Please respond to Mr. Philbrick's comment on the suitability of the Wiscasset public boat launch as an alternative (detailed in his email, attached, dated 1/10/2020).
3. As mentioned in the Ervin comment letter dated 1/10/2020, pursuant to [12 MRS § 13068-A\(13\)](#), Maine boating laws prohibit operating a watercraft any faster than "headway speed" within 200 feet of the shoreline, except while actively fishing. Please provide a response on whether it is feasible for club members to use the proposed boat launch and operate motorized watercraft on the river while complying with this restriction.

Thank you,

-Jami MacNeil

Environmental Specialist III
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Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

January 9, 2020

Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333
207-446-4894
Jami.macneil@maine.gov
Jay.L.Clement@usace.army.mil

Dear Jami:

You have asked that any comments relating to NRPA requirements on the revised application submitted by Mr. Spinney be sent to you as soon as possible. Thank you again for your work on this continuing set of challenges. This letter supplements comments submitted to your office October 7 and November 27. I send it to Jay Clement as well, since a number of these issues are relevant to his review.

To refresh memory, I am one of three abutters to Mr. Spinney's property. I have a 250-acre tree farm with one and a third miles of frontage on the Sheepscot River, all in a conservation easement with Maine Woodland Owners, on whose board I serve. I have known the river for the 70 years since my parents acquired the property in 1950. I serve on the Lands Working Group of Midcoast Conservancy.

My objections to the revised version of Mr. Spinney's application remain largely the same as to the original, with some questions about the revised application and additional evidence confirming earlier concerns:

1. The boat launch, even as reconfigured in the revisions, is permanent, as would be the dock. Permanent structures are prohibited by the Alna SZO.
2. As to Mr. Spinney's claim, shared with the Planning Board, that his revised plan for the boat ramp should be considered repair and maintenance for an existing and grandfathered structure, there is no evidence of a prior permit for that ramp. This must be considered new work, a new and permanent structure, prohibited.
3. At this point, the DEP's separate consideration of Mr. Spinney's and the club's interests may make sense. Yet there is no application from the club, no resolution

to support such an application that was passed by members and officers, no inclusion of town permits for doing business there (including parking, campground, rifle range, etc.), no provisions for parking and storage of boats and trailers, no guarantee through easement of access to the river, no request to expand usage beyond the personal, no recognition of the potential impact of District 1 Resource Protection. Mr. Spinney's application, moreover, depends on projected use by the club. An application for personal use would read quite differently and result in a proposal more closely matching what he built earlier this century (permanent though it was). For Mr. Spinney's use, a seasonal dock clearly is possible: Below the powerlines, on the Newcastle side of the river, such a dock (permitted by DEP and town) has been in place since the mid-1990s. It would be difficult, in other words, in seeking a permit for the prohibited permanent structure to claim that a seasonal one was not feasible.

4. Finally, as has been noted in prior letters, the application (and the revisions) do not address required questions to the applicant about prior permits and conformity to NRPA rules. Further research into each of these areas, the answers to which are relevant to your review, fills out our understanding of the site and its recent history. The picture that emerges does not square with the impression the application gives of a well-established, smoothly running, long-time dock and ramp installation based on the permit of 2003, actively used by his club, and ready for expanded motorboat access. I have found and concluded:
 - a. That there only have been six or so years of a dock on the river, not the roughly 20 claimed. Indeed, the property was acquired in 2002.
 - b. That the installations built must be considered improperly permitted.
 - c. That concerns over the application's fit with NRPA only have grown since its submission and require a decision in line with stated guidelines.
 - d. That grandfathering a \$10,000 permanent, multi-purpose, deep-water dock-installation that includes permanent cement/rip-rap boat launch through salt marsh on the basis of an improper permit for a small, seasonal, wood, \$100 dock – and on a narrow, shallow, silting-up, protected and widely recognized and celebrated stretch of wild and undeveloped river cannot be justified. Two friends knowledgeable in local environmental issues told me early on in this process to relax, saying that the proposal was so ludicrous it could go nowhere.

Elaborations on the research leading to the above conclusions follow in two sections, on chronology and permitting of installations and on NRPA rules.

For both of these sections, research has been into the actual 2003 application to the Planning Board, which Mr. Spinney could not find and that an abutter produced, the Alna SZO, the NRPA, Google Earth photos, and my own photographs. The photography has been decisive in filling in and understanding the issues. The link to the photographs – including Google Earth – is:

<https://photos.app.goo.gl/zzDqeYYLQ4oJWU2z8>

You may well wish to examine those photographs (and the annotations to them) before reading the following text.

A. Research results on the application’s missing answer to prior use and permitting

Site chronology (best understood in the context of the photographs)

The application claims that “The existing pier, ramp, and float (located approximately 10 feet south of the existing ramp) has been at this location for approximately 20 years and used seasonally.” Although permitted in May of 2003, no dock appeared in the river until the summer of 2007, and I could find evidence of construction only in the spring of that year. That 2007 dock – and there was no ramp – is visible in the Google Earth photo that year and again in 2010 (there were no Google Earth photos in 2008 or 2009). But no dock appears in 2011, and it could not have: The 2007 installation was wrecked by the ice by 2011. In July of 2012 Mr. Spinney built a new dock, larger and more substantial than the first and with six pilings into the riverbank. This time a ramp/boat launch was cut into the salt marsh and the salt marsh under the dock removed. (The extent of the river’s salt marsh is evident in the Google Earth photo of 1997, taken at low tide.) Google Earth shows the new dock out in the river in 2012 and 2013. By late 2014, that installation too, had been too severely damaged by ice to permit attachment of a dock. Neither Google Earth nor my own photography shows any dock in the river thereafter, and photos also show nothing in the way of supporting structures along the banks, either.

In short, there may have been a dock in place 2007-2010 and 2012-2013, i.e., six of the 16 or 17 years since issuance of the original permit. This in no way constitutes 20 years of a single installation. Today, there is nothing on site but the gravel left after removal of the salt marsh and an enlarged shoreland clearing.

Permitting

Moreover, the installations Mr. Spinney has built show no evidence of proper permitting. No permits were submitted with his application (and no changes made in the revisions), and the DEP accepted his claim that they could not be found. The 2003 permit quickly was located by one of his abutters; no one ever has found any others from the following years.

The 2003 application was for a “dock, ramp, and float (seasonal),” with no SZO required site plan or drawings, and signed by the Planning Board May 5. As noted above in the chronology, four years had passed before the dock appeared; permits automatically expire in a year without substantial progress toward completion. The 2007 dock did not, then, have a valid permit. Moreover, the 2007 installation was not, as the application for the 2003 permit claimed, seasonal: Pilings were sunk into the riverbank below high-water mark and a gangway extended out over the salt marsh to the planks descending to the float. If it really had been no more than seasonal, the dock would have required a DEP permit (none exists in its records); since it was permanent, it should not have been built. No ramp was built then, and because of the invalidity of the long-expired 2003 permit, Alna’s prohibition of permanent structures, and strictures on removal of salt marsh, any new ramp off in the future would require new permitting. No grandfathering of any ramp is valid.

Mr. Spinney tells us that his installation “is used by a recreational club for swimming fishing, hunting, and members pool their resources through annual club membership dues to maintain the common infrastructure such as the gun range located upland on the property, the camping area, the dock, and the boat ramp.” If such a club had used his facilities since 2003, they would have fallen under the category of shared use, perhaps commercial use, and would not have conformed to the personal permit granted by the Planning Board for the dock. The only papers that exist for a club were filed in May of 2019, and no such permits are known to have been applied for or issued since May 2019. And, as noted in the preceding section, there was no dock before 2007 and none since 2013; a boat launch only was cut in 2012, and if it has been used since in the absence of a dock, we have no data on frequency of use by club members and with what kind of craft.

The new dock of 2012 (shown under construction by Mr. Spinney) received no permit either, for Mr. Spinney or for any club. It is possible that the Planning Board considered this new installation a simple replacement and, so, not needing a new permit. But a year had passed since the first dock had been in place, which normally would necessitate a new permit. Moreover, this dock, still permanent, was far more substantial in its pilings in the riverbank, and a permanent and new excavation of the salt-marsh riverbank was made, not only for a boat launch, but also for clearance under the new dock structure. Application was made for neither of these new projects, and no permits were issued, in violation of Alna's SZO.

As noted, before, no claim can be made that the revised application's proposal for a boat launch rests upon its grandfathering. If the claim is to rest on its inclusion in the 2003 permit, that claim would be invalid:

- That ramp would have been permanent.
- Such a ramp would have required an excavation of salt marsh and another permit.
- No ramp existed before 2012, eight years after expiration of the 2003 permit.

If the DEP now is being appealed to for a permit, it should have been approached in 2012 and was not. The same would apply to permitting by the Army Corps of Engineers for excavations.

What explains the Planning Board's behavior in this history? Apart from what has been laid out above, the town's carefully developed 2005 comprehensive plan was adamant in its insistence on the river's value:

The Sheepscot River is an important asset to Alna, the State of Maine, and the nation, not only because of its geological, ecological, and natural values, but also because of its fisheries habitat and recreational value.

And the importance of enforcing Alna's SZO, appeared four times in the final section of "goals, policies, and strategies." Moreover, in a well-publicized issue (January 2015) over construction of a 400-pound treehouse and removal of dead trees around it in the shoreland zone, the Planning Board required the new owner to plant replacement trees, remove the tree house, and pay a \$1,000 fine. Members lectured a shocked and surprised owner in no uncertain terms, as quoted in the Wiscasset Newspaper:

- “There really isn’t any reason that you shouldn’t have known that the rivers in Maine are sacrosanct.”
- “This has attracted some attention in town, and we have to be diligent in our responses.”
- “It’s a man-made intrusion into a sensitive area.”
- “Any time trees are harvested in the shoreland zone or in a resource protection district, approval and permission is needed from the town to remove even hazard trees.”
- “Not enforcing the rules could lead other property owners to question why they can’t build next to the river.”

Members of the Planning Board also noted that the State allows daily fines of \$100 to \$2,500 for violation of SZO.

In the interests of consistency, the Planning Board might now be considering remediation of the shoreland clearing, replacement of the removed salt marsh, and, perhaps, imposition of fines.

B. Research and additional data on the section of the application (and revised application) on conformity with the NRPA

At the outset

As has been noted many times, NRPA requires an applicant “to demonstrate that a proposed activity will not unreasonably interfere with existing scenic and aesthetic uses.” Also as noted, that does not appear in the application or revisions to it.

The purpose of that response is to allow the DEP, implementing the NRPA, to consider, in conducting its review, “the significance of the scenic resource, the existing character of the surrounding area, the expectations of the typical viewer, the extent and intransience of the activity, the project purpose, and the context of the proposed activity.”

The definition of scenic resource (NRPA, chapter 315, paragraph 10) reads:

The Department considers a scenic resource as the typical point from which an activity in, on, over, or adjacent to a protected natural resource is viewed. This list of scenic resources includes, but is not limited to, locations of national, State, or local scenic significance. A scenic resource visited by large numbers who come from across the country or state is generally considered to have national or statewide significance. A scenic resource visited primarily by people of local origin is generally of local significance.

In this instance, that means the stretch of the Sheepscot River on which the proposed installation would occur, and visual impact must be assessed from that perspective, the only publicly accessible perspective.

Already at the time of submission of the original application, the evidence was clear, even if omitted from the application. Federal, state, and local groups, land trusts and environmental agencies, all have celebrated this stretch of the river and, through their written and financial support, made possible the protection of much if not most of the shoreline above the powerlines (upriver from the village of Sheepscot) and up to Head Tide. Citations no longer are necessary.

What is of interest in this regard has been the relative lack of evidence of DEP interest in these questions, a question raised at the first Planning Board meeting on the application. Perhaps that has been because the process really was just beginning, and no formal consideration yet had taken place. Perhaps that discussion has been ongoing out of public view. Now, particularly in view of additional information assembled since then, is the appropriate time to give the NRPA the priority it deserves and requires. I trust that now is taking place.

Since submission of the application

Since submission of the application, in public comments and in a growing email list of 50 and more of individuals strongly opposed to the application for just the reasons of inconsistency with “existing scenic and esthetic uses.” These individuals, both new to the area and in some cases long-timers going back as far as 70 years, know and love the river, and support enforcement of the Alna SZO by the town’s Planning Board and application by the DEP of the NRPA. The attendance and outspoken opposition of about 20 of these individuals at two Planning Board meetings underlines the concern. Consistent among the arguments are the following:

- Current and existing usage on this stretch of the river is of canoes and kayaks. The river’s quiet beauty not only increasingly is known to paddlers, but also attracts them.
- Motorboats and the additional boat launch sure to follow this one, if permitted, would forever alter the scenic and esthetic character of this stretch of the Sheepscot River.
- Motorboats are not appropriate to the depth of the river (from the bottom of whose 100-foot-width at low tide grass can be seen growing) and must operate without wake within 200 feet of shore, hence making use of 17-foot motorboats impractical (<https://www.maine.gov/ifw/docs/maine-boating-laws.pdf>). The public launch in Wiscasset is entirely appropriate for the boats and the trailers on which they arrive.
- That the scale of the project is out of character with the site and proposed use. A 40-foot aluminum arc extending above and out over the salt marsh at a bend in a narrow river only 100 feet wide at low tide and on a stretch of river totally lacking in any structures provides a visual impact illustrative of the worst of what the NRPA assesses in “landscape compatibility,” “scale contrast,” and “spatial dominance.”

Also since submission of the application, public comments in support of the application not only have been few, but also have offered as evidence life in and around the village of Sheepscot, on a different stretch of the river, 40 and 50 years back, and in no way constitute “existing use.”

The 2005 Alna comprehensive plan, recently reviewed for this response, declared (as noted) the river one of the town’s greatest resources and asked for ongoing collaboration in its conservation with the Sheepscot Valley Conservation Association (whose land-trust successor, Midcoast Conservancy, has written in opposition to the application). Not yet referenced has been the existence of the Bass River Preserve on this stretch of the river.

Finally, the period of time passed since submission of the application has allowed assembly of the linked collection of photographs of this part of the Sheepscot River, with a quick overview of the river’s unique beauty on Google Earth. These photographs underline and summarize much of the opposition. Again, the link is:

<https://photos.app.goo.gl/zzDqeYYLQ4oJWU2z8>

Since submission of the application, in short, opposition has become more focused, intense, and widespread -- and reinforces all earlier evidence on the lack of conformity between application and NRPA goals. The DEP now has all it needs to make the appropriate decision.

This has been a long and extraordinary project, one I wish might have begun long before submission of any application, and, so, have saved Mt. Spinney, you, and many others considerable time and effort. On the other hand, perhaps this process itself is what was intended as a means to bring all complexities to light and make the right decision. Thank you again for your time and effort on it.

Sincerely,

William A. Weary

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January 10, 2020

Jami MacNeil
Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

Re: Spinney NRPA Application #L-28397-4E-A-N for Pier and Boat Ramp

Dear Jami,

I am writing on behalf of Carol Ervin regarding your review the above-referenced application for a Natural Resources Protection Act permit to construct a pier and boat ramp on the Sheepscot River. Ms. Ervin, owner of property at 99 Angier Road in Alna, is Mr. Spinney's direct abutter to the north and submits the following comments.

1. The Stated Project Purpose Cannot Be Legally Carried Out and therefore the Alternatives Analysis based on that Purpose is Invalid

Under Maine boating laws, the arm of the Sheepscot River that the Spinney ramp would access is not wide enough to allow motorized watercraft to operate at greater than "headway speed." This de facto prohibition on normal motorboat use means that stated project purpose – to provide an access point to launch motorized watercraft for operation in this particular area of the Sheepscot River – cannot be legally carried out. As such, the alternatives analysis based on that project purpose is flawed and does not support a conclusion that no less environmentally damaging practicable alternative exists.

Specifically, "A person may not operate a watercraft at a speed greater than headway speed while within the water safety zone . . ." 12 M.R.S.A. §13068-A(13)(A). The term "headway speed" means "the minimum speed necessary to maintain steerage and control of the watercraft while the watercraft is moving." *Id.* §13068-A(13)(B). "Water safety zone" means "The area of water within 200 feet of any shoreline, whether the shoreline of the mainland or an island." The Boater's Guide to Maine Boating Laws and Responsibilities, published by Maine Department of Inland Fisheries and Wildlife and Maine Department of Marine Resources (2018) at 52 [hereafter "Guide to Maine Boating Laws"].

In addition, “Whoever operates any watercraft, vessel, water skis, surfboard, similar device or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State at a speed greater than is reasonable and proper, having due regard for traffic, proximity to wharves, docks, moorings or shores, and for any other conditions then existing, shall be guilty of a Class E crime.” 38 M.R.S.A. § 281. Improper speed means greater than headway speed within 200 feet of any shoreline. Guide to Maine Boating Laws at 41.

Thus, within 200 feet of the shoreline of the Sheepscot River, it is illegal to operate watercraft beyond the minimum speed necessary to maintain steerage and control of the watercraft. In other words, the river must be a minimum of 400 feet wide to permit normal motorboat use beyond headway speed.

At the location of the proposed ramp and pier, the Sheepscot is approximately 160 feet wide. Going upstream, the Sheepscot becomes narrower. Going downstream, the Sheepscot remains less than 200 feet wide for approximately 7,000 feet below the proposed ramp and pier. The Sheepscot does not exceed 400 feet in width until the Sheepscot Road crossing in Sheepscot Village, which is immediately upstream of the mill dam reversing falls.

Accordingly, in the area of the Sheepscot that would be accessed by the proposed Spinney boat ramp and pier, except for a few hundred feet of flats upstream of the reversing falls, normal motorboat use beyond headway speed is illegal.

The stated purpose of the proposed ramp and pier is to “provide for access in a unique area where it would otherwise not be possible due to the old mill dam falls in Sheepscot village.” Spinney Application Attachment 1. The application’s alternatives analysis states, “There are no reasonable alternatives to this access on this particular river segment as it is bounded to the south by the reversing falls at the old mill dam site and no northern launch facility exists or is planned effectively making a captive segment of the river inaccessible without the continued use of this launch point.” Spinney Application Attachment 2.

Thus, the applicant’s alternatives analysis is fatally flawed because it is based on a project purpose – motorboat access above the reversing falls – that is illegal above headway speed.

Furthermore, the applicant has not “demonstrated the need, whether public or private, for the proposed alteration,” 06-096 CMR 310(9)(A)(4), because the need the alteration is purporting to meet is impermissible. Under an alternatives analysis based on a project purpose that could be lawfully carried out – for example, provision of access for non-motorized vessels on this segment of the Sheepscot – there is no need for a boat ramp engineered to accommodate heavy trailered motorboats. Under that valid project purpose, a practicable alternative would exist by “reducing the size, scope, configuration or density of the project as proposed.” 06-096 CMR 310(9)(A)(2). Finally, access already exists to the Sheepscot below the reversing falls where the river is wide enough to allow for legal motorboat operation at normal speeds.

“Although the NRPA does not empower the Board to regulate boating directly, the purpose of the NRPA is to prevent the degradation of protected resources (including coastal

wetlands) caused by human use. The use of the structure cannot be divorced from the structure itself.” *Hannum v. Bd. of Env'tl. Prot.*, 2006 ME 51, ¶ 14, 898 A.2d 392, 397 (internal citations omitted).

Accordingly, Mr. Spinney has not met his burden to demonstrate that, under a valid project purpose, there is no less environmentally damaging practicable alternative to his proposed ramp/pier and his application must be denied. 06-096 CMR 310(9)(A).

2. The Applicant Has Not Provided Evidence that Supports Department Consideration of any Public Benefit Provided by the Proposed Ramp and Pier

The revocable land access agreement between Jeff Spinney and the Golden Ridge Sportsman’s Club (“Club”) and the Club bylaws do not provide a basis for the Department to give any consideration to public benefit in determining whether the proposed alteration would result in an unreasonable impact.

“When considering whether a single activity is reasonable in relation to the direct and cumulative impacts on the resource, the department considers factors such as . . . the type and degree of benefit from the activity (public, commercial or personal).” 06-096 CMR 310(9)(D). This provision of NRPA regulations is the basis for the Department’s preference for permitting shared use piers over individual use piers.

However, the documentation provided by Mr. Spinney that purports to demonstrate that his proposed ramp and pier would be a shared use facility do not allow for such consideration of benefit.

The “Land Use License Agreement” that is intended to provide the Club with access across Mr. Spinney’s property to reach the boat launch can be revoked by Mr. Spinney at any time without justification. Agreement § 4.3 (Revocation by Licensor). Furthermore, the signatories to the agreement are both Mr. Spinney. In other words, the agreement is a legal fiction that does not actually establish rights for anyone other than Mr. Spinney to access his pier and ramp. Similarly, the Club bylaws provided by Mr. Spinney do not identify any person or entity other than Mr. Spinney with authority over the Club. No Club members have been identified and membership is only available upon sponsorship by an existing member. Bylaws Article III.

Accordingly, there is no evidence that anyone other than Mr. Spinney will have rights to use the pier and ramp he is proposing to build. As such, his application must be viewed as providing only an individual benefit to Mr. Spinney and not any benefit to the public.

Thank you for your attention to these comments.

Sincerely,



Gordon R. Smith

Selected photographs and captions from:

https://photos.google.com/share/AF1QipOVqk0KjDt3zFlybyQy0ANZihwqUvX_lyJbJz6HXywrKaIGET3E3pVRZXar13k2vQ?key=NG5NZWpsS0JweDV6MjNEWHZ2OUVHNNteE9ZckxR

Submitted by William Weary in comment letter dated 1/9/2020, RE: NRPA application #L-28397-4E-A-N



Summer 2003: After 2002 purchase of the property and May 2003 permit and before any work on a dock. Note the salt marsh along the clearing, permanently removed in the years to come. Note also the background foliage.



July 13, 2007: The first dock installation now is complete, four years after issuance of permit. Note short extension over the riverbank, narrow width of actual dock-plank, all of wood, no railings. For comparison purposes later, check the size of the clearing. Although still permanent, the size is small.



June 24, 2012: The new dock is going in, Jeff Spinney working on it. Note that there now are six pilings into the river bank, making it "more" permanent.



July 13, 2012: The installation is complete. Note longer dock down to the float.



July 31, 2012: Looking up river from the new installation.



July 31, 2012: The cut for a boat launch is clearly visible as well as a more open stand of trees behind.



August 22, 2019: Wreckage and float on the shore, the cuts for dock and boat launch clear, as well as an enlarged clearing on shore.

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, January 16, 2020 1:03 PM
To: MacNeil, Jami
Cc: Clement, Jay L CIV USARMY CENAE (USA)
Subject: FW: comments, please respond

Follow Up Flag: Follow up
Flag Status: Completed

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

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.

Cost from
03 PB

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

03 PD NOTICE

The Alna Planning Board

has called a meeting

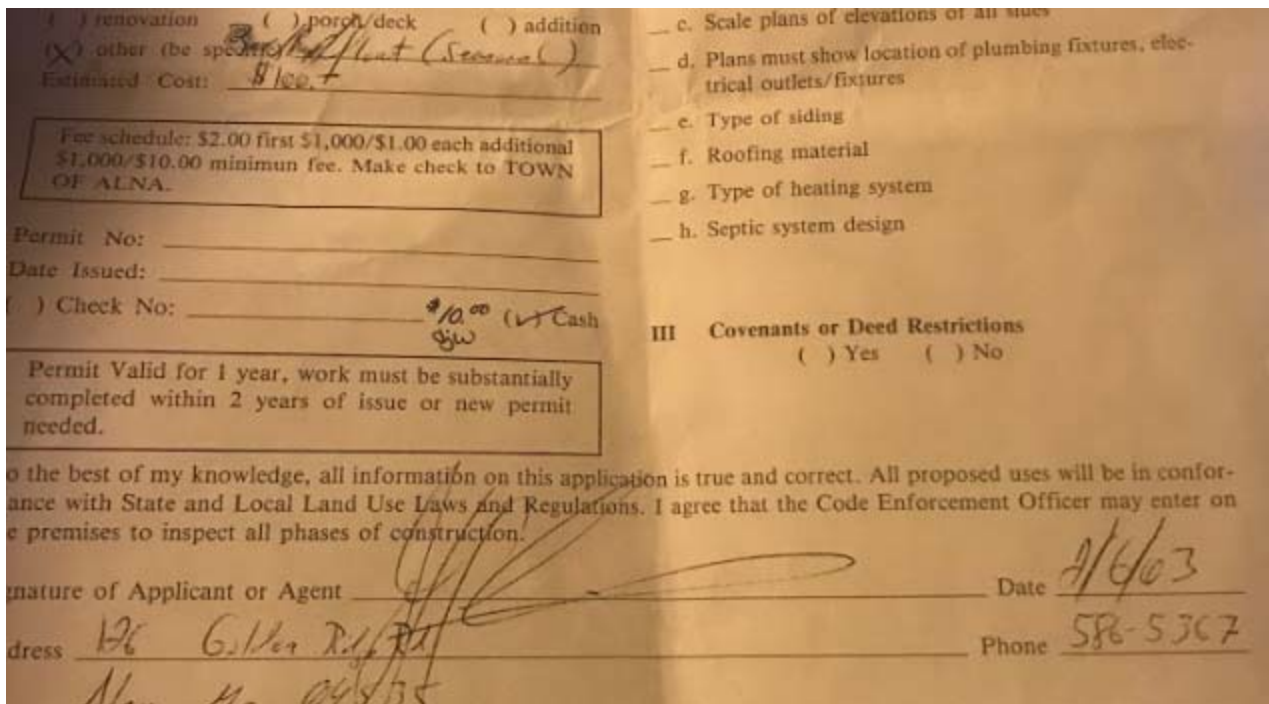
DATE: March 3, 2003

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-byass/fix project) is a tourist attraction for the most part, not a desirable place to drive hauling a boat & trailer.

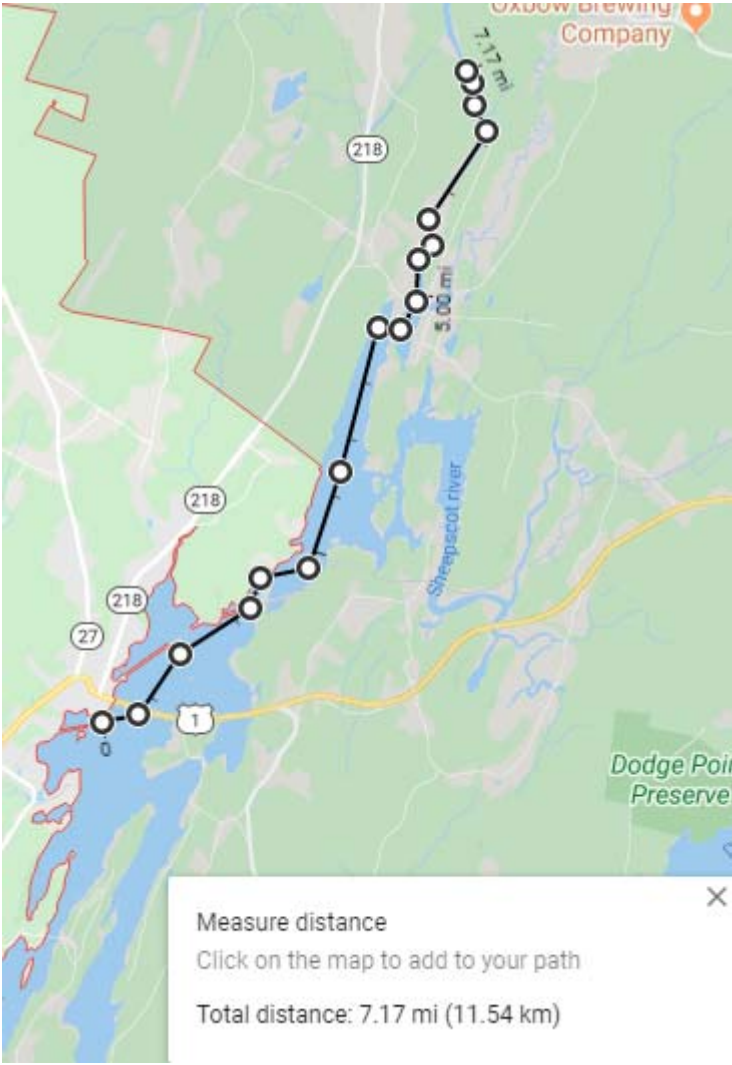
I just did a quick measurement, It is just over 7 miles by water from the Wiscasset launch, and that includes traversing the reversing falls in Sheepscot. If the tide is not timed right, you can become stuck on either side or risk crossing at a dangerous time. Crossing the large open bay from the launch 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

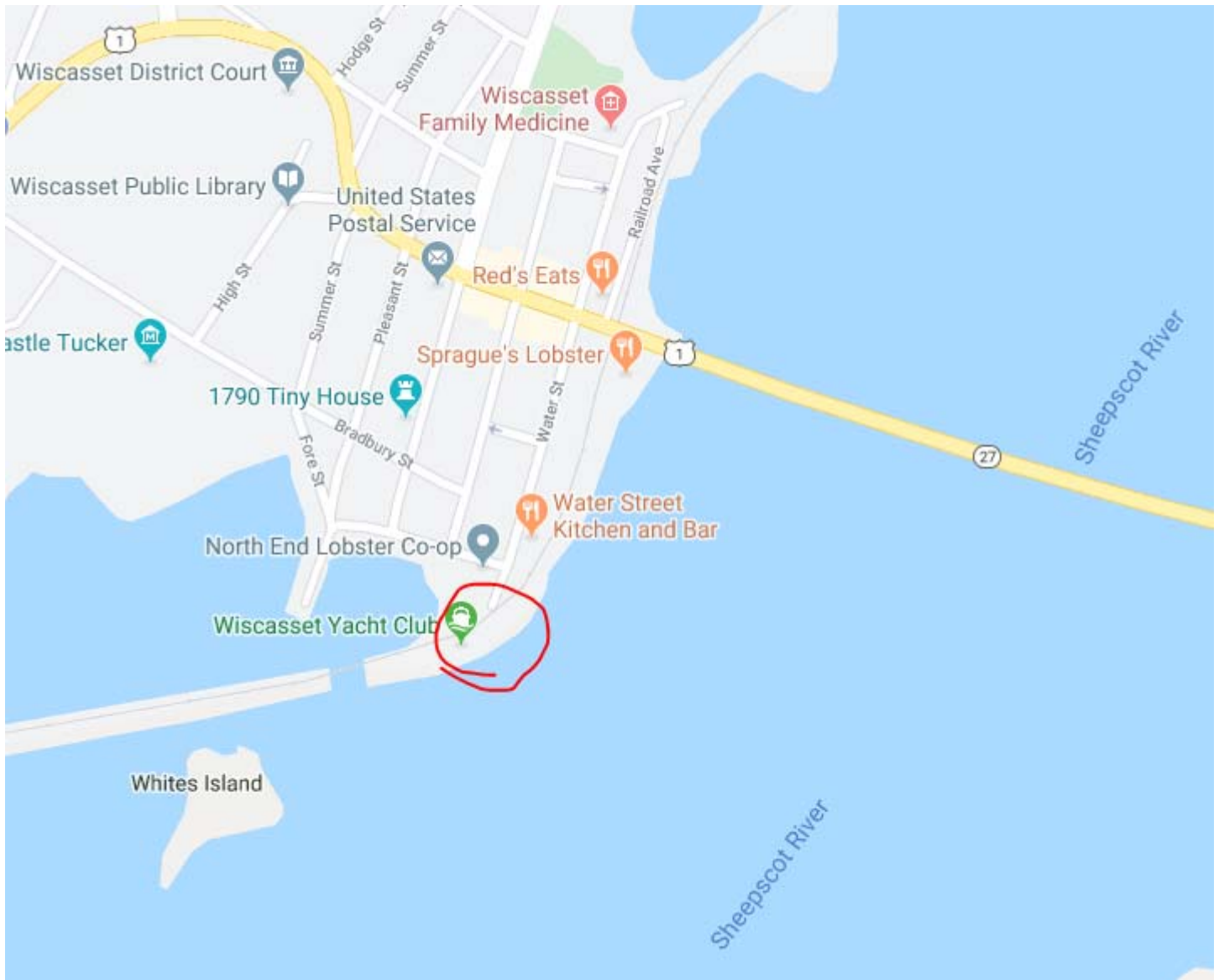
early morning hunting/fishing, or other 'time dependent' things. It may not even be possible to get the timing right to cross the falls at all. Once the falls start to run, it could be exceptionally dangerous to try and cross in a boat not meant to do so (not a whitewater kayak). As you are aware, DEP 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 al 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.

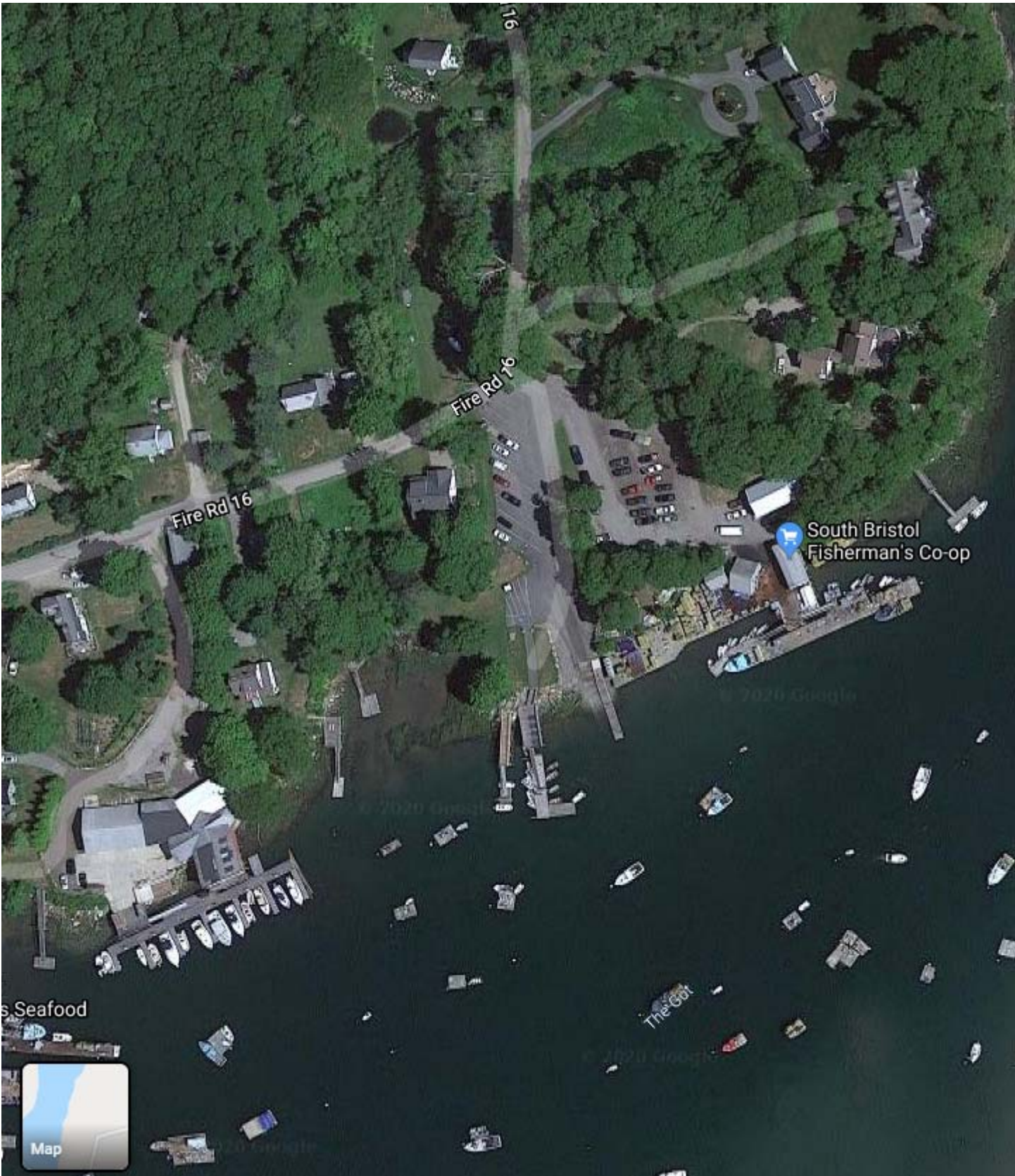
Somehow, folks manage to comply with State (and federal) maritime laws. I have personally captained large yachts and commercial vessels through here over the years and i can also tell you the tour boats 60+ in length from Boothbay run this multiple times per day for much of the summer.



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.



York, Marylisa

From: MacNeil, Jami
Sent: Friday, January 17, 2020 1:34 PM
To: Spinney, Jeffry
Subject: RE: ?

Hi Jeff,

You're close. You also add the land assessment value, so the cost becomes $3.61 + 0.30 = \$3.91/\text{square foot}$. And yes, x2 because it's coastal wetland. So the total would be $432 \times 3.91 \times 2 = \$3,378.24$. This amount would be due prior to construction, but not necessarily before the permit is issued.

It is looking likely that this compensation fee will be required, but I am still working on final confirmation.

Thank you,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Friday, January 17, 2020 12:30 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: ?

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jami,

Regarding compensation, I assume this is the program what we are talking about?

<https://nam03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fdep%2Fland%2Fnrpa%2Ffs-nrcomp.html&data=02%7C01%7CJami.MacNeil%40maine.gov%7Cf368088b158a4968dda608d79b72fa7f%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637148791113030295&sdata=yRk8GaAcYKPRQtBrLtGhsCrvY1538QWLU2DcDVT%2Bis8%3D&reserved=0>

I just want to confirm how this gets calculated before i explain to others:

I found the fee schedule and it shows Lincoln county - \$3.61/ft

https://nam03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fdep%2Fland%2Fnrpa%2Ffiles_and_NRCP%2Ffiles-in-lieu-fee.pdf&data=02%7C01%7CJami.MacNeil%40maine.gov%7Cf368088b158a4968dda608d79b72fa7f%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637148791113030295&sdata=7NglULZFir1chay1IHsRXDgi0RR0HrLtotParNxBbX4%3D&reserved=0, and the 2x multiplier due to coastal wetland that you mentioned.

So, in looking at the latest plans and assuming the maximum of the entire 12'x36' footprint of ramp is considered direct impact multiplied by \$3.61/ft², then im looking at 432 square ft x 2 x3.61 or \$3191.04, does this seem right?

do i need to pay this up front? It would seem from text i just saw below that i do. Please let me know either way.

Note: All ILF contributions received by the Department will be placed in the Maine Natural Resources Conservation Fund (MNRCF) and made available for grant awards to qualified natural resource conservation projects. The Department prefers to collect contributions into the MNRCP prior to the issuance of a Department permit; however, payment may be made a condition of a Department permit upon request by the applicant. The Department reserves the right to deny a request for conditional payment of a compensation fee based on an applicant's prior payment record.

While I'm certainly not thrilled about it i guess it seems that if I can't find other pictures to dispute this, then i have no choice so I'm just planning ahead.

Please let me know,
-jeff

York, Marylisa

From: Seiders, Heather
Sent: Tuesday, January 21, 2020 2:22 PM
To: MacNeil, Jami
Cc: Linscott, Thomas
Subject: RE: Maine boating laws

Hi Jami,

I wanted to let you know that I haven't received additional information that would help regarding federal versus internal waters. I hope that you have had better luck!

With regard to motorized boating on a river, my personal concern would be whether there is adequate water depth in that area.

I will let you know if I hear anything else.
Heather

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, January 15, 2020 9:30 AM
To: Seiders, Heather <Heather.Seiders@maine.gov>
Subject: RE: Maine boating laws

I am reviewing a NRPA application for a boat launch on the Sheepscot River in Alna, below Head Tide Dam. The river is tidal in this area. I believe it would be categorized as "federal waters," rather than "internal waters" (per [12 MRS § 13001](#)). The neighbors who are against the project have brought up the fact that pursuant to [12 MRS § 130068-A\(13\)](#), watercrafts may not operate at more than "headway speed" within 200 feet of the shoreline, and the river here is no more than 300 feet wide (they argue that therefore, motorized boats cannot reasonably operate on this stretch of the river and the project does not have a valid purpose).

I am trying to determine if this restriction applies to federal waters, and if I am correct that the river is a "federal water" at this site. If the restriction does apply here, does it effectively prohibit motorized boats from operating on this stretch of the river, or could a boater operate at headway speeds and still reasonably navigate and enjoy the river? I do not have experience operating motorized boats so it's hard for me to gauge.

Thanks,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Seiders, Heather <Heather.Seiders@maine.gov>
Sent: Wednesday, January 15, 2020 9:10 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: Maine boating laws

Hi Jami,

I think it would depend on which guidelines. All enforcement is IF&W. We are responsible for navigational aids. If you give me a quick summary of the issue, I can help get you in touch with the correct person.

Heather

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, January 15, 2020 9:07 AM
To: Seiders, Heather <Heather.Seiders@maine.gov>
Subject: Maine boating laws

Hi Heather,

Do you know who I could ask about Maine boating laws? I have some specific questions about the guidelines (as given in [this pdf](#)) and the statute or chapter rules behind these guidelines. Would you be able to answer those for me?

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: MacNeil, Jami
Sent: Wednesday, January 22, 2020 4:04 PM
To: Gilbert, Deirdre
Cc: Gormely, Adam; Seiders, Heather; Theriault, Christl F.
Subject: RE: Federal and Internal waters and Headway Speed
Attachments: Proposed ramp & dock.kmz; DSCN2617.JPG; DSCN2611.JPG; DSCN2612.JPG; DockPlans (1).pdf

Thanks all, for your attention to this.

Dierdre, per our phone conversation I have attached the location of the project under review (also a few pictures of the project site and the plan set). The project is a proposed boat ramp and dock system on the Sheepscot River in Alna, for use by members of a local recreation club. The club collectively owns about 10 vessels, ranging from 12'-17' in length. This 7-mile section of the river is otherwise difficult to access due to the reversing falls in Sheepscot Village to the south, and Head Tide Dam to the north.

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Essentially, does DMR or IF&W see any reason motorized boats could not operate here?

Your time is much appreciated. Feel free to call if you want to discuss.

Best,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Seiders, Heather <Heather.Seiders@maine.gov>
Sent: Wednesday, January 22, 2020 2:06 PM
To: Theriault, Christl F. <Christl.F.Theriault@maine.gov>
Cc: Gilbert, Deirdre <Deirdre.Gilbert@maine.gov>; Gormely, Adam <Adam.Gormely@maine.gov>; MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: Federal and Internal waters and Headway Speed

Hi Christl,

I haven't been able to track it down and I am not sure if Jami (DEP) has gotten an answer either. I have copied Jami on this email so that Dierdre and Adam could be in direct contact.

Thank you for following up.
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Hi Heather,

Was anyone able to help you answer this? I don't have the answer but I cc'd Deirdre Gilbert at DMR and she may be able to put you in touch with someone who does know the answer. Thank you,

Christl Theriault
Assistant to the Commissioner
Maine Dept of Inland Fisheries & Wildlife
Commissioner's Office
284 State St, SHS 41
Augusta ME 04333
Office: (207) 287-1197
Fax: (207) 287-6395
mefishwildlife.com | [facebook](https://www.facebook.com/mefishwildlife) | [twitter](https://twitter.com/mefishwildlife)

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Thanks.
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Subject: Federal and Internal waters and Headway Speed

Good morning Heather,

I received your VM. Here is the statute and rule language related to Federal waters, internal waters and headway speed. Are you in the office today? I can give you a call when you have a minute, maybe I can help answer questions you may have.

DMR Statute:

GENERAL PROVISIONS §6001. Definitions For the purposes of this Part, the following words shall have the following meanings, unless a different meaning is required by the context. [PL 1977, c. 661, §5 (NEW).] 48-B. Territorial waters. "Territorial waters" means all waters of the State within the rise and fall of the tide seaward to the 3-nautical-mile line as shown on the most recently published Federal Government nautical chart, but does not include areas above any fishway or dam when that fishway or dam is the dividing line between tidewater and fresh water.

Title 12 Statute:

**SUBPART 6
RECREATIONAL VEHICLES
CHAPTER 933
GENERAL RECREATIONAL VEHICLE PROVISIONS**

§13001. Definitions

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§13068-A. Operating watercraft; prohibitions

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(1) While actively fishing; or

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(2) A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E

§13072. Harbor masters on inland waters

5. Mooring sites. The regulation of moorings in inland waters is governed by Title 38, except that Title 38 may not be construed to require the municipal officers of a town that does not border or contain territorial waters to appoint a harbor master upon the request of a person desiring mooring privileges or the regulation of mooring privileges. Nothing in this subsection limits or expands a municipality's authority to regulate moorings under Title 38 or as otherwise provided in law.

Ch 13 Rule:

13.05 Safety Equipment on Motorboats and Other Watercraft

The operator of any watercraft on the waters of this State shall be responsible to ensure that such watercraft is equipped as specified in this rule. Nothing in this regulation rule shall be construed to permit the operation of any watercraft on the federal waters in this State unless they conform to all applicable federal laws and regulations pertaining thereto.

G. Watercraft at Anchor

Any watercraft anchored on solely internal waters from sunset to sunrise, may display in lieu of the above navigation lights, a single all-round white light. Exception: manually propelled watercraft shall have ready at hand a lantern or flashlight showing a white light which shall be exhibited in sufficient time to prevent collision.

J. Towboats

Towboats, when towing booms or rafts of wood products on solely internal waters of this State, shall display, in addition to the required lights for the watercraft, a flashing or pulsating amber light on either or both the towboat and the towed raft.

13.06 Water Sports

1. No person shall operate a watercraft on the internal waters of this State for the purpose of towing a person or persons on water skis, surfboards, aquaplanes, or similar devices in a water safety zone as defined in Title 12, Section 13001, paragraph 29, nor shall any person manipulate any watercraft, tow rope or other device by which the direction or location of water skis, surfboards, aquaplanes or similar devices may be affected or controlled in such a way so as to cause these devices, or any person on them, to approach within the water safety zone.
2. **13.07 Motor Size Restrictions on Certain Internal Waters**

Christl Theriault

Assistant to the Commissioner

Maine Dept of Inland Fisheries & Wildlife

Commissioner's Office

284 State St, SHS 41

Augusta ME 04333

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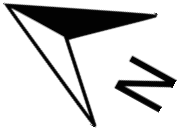
2019.09.06



2019.09.06

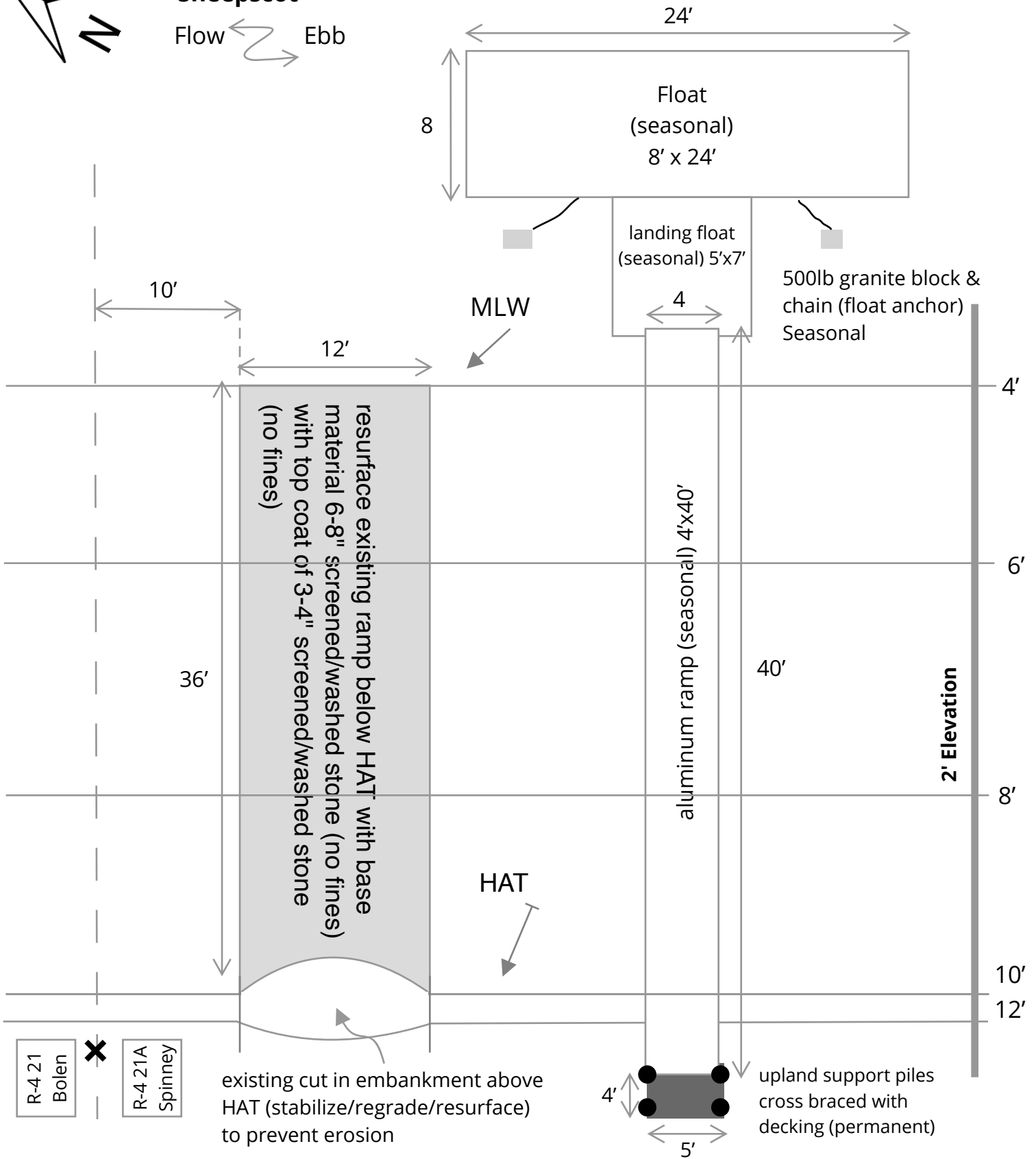


2019.09.06



Sheepscot

Flow Ebb



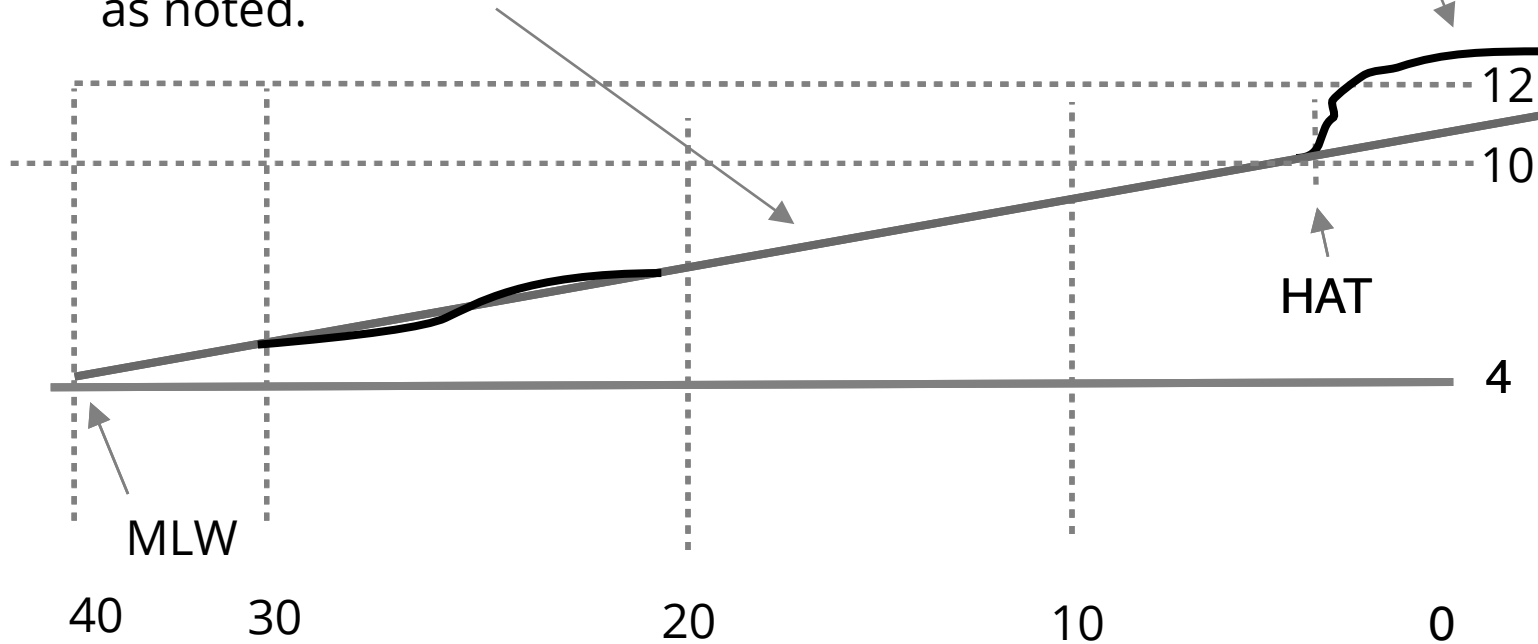
Title: Top view with 2' contours

Revised Date
December 9, 2019

Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535

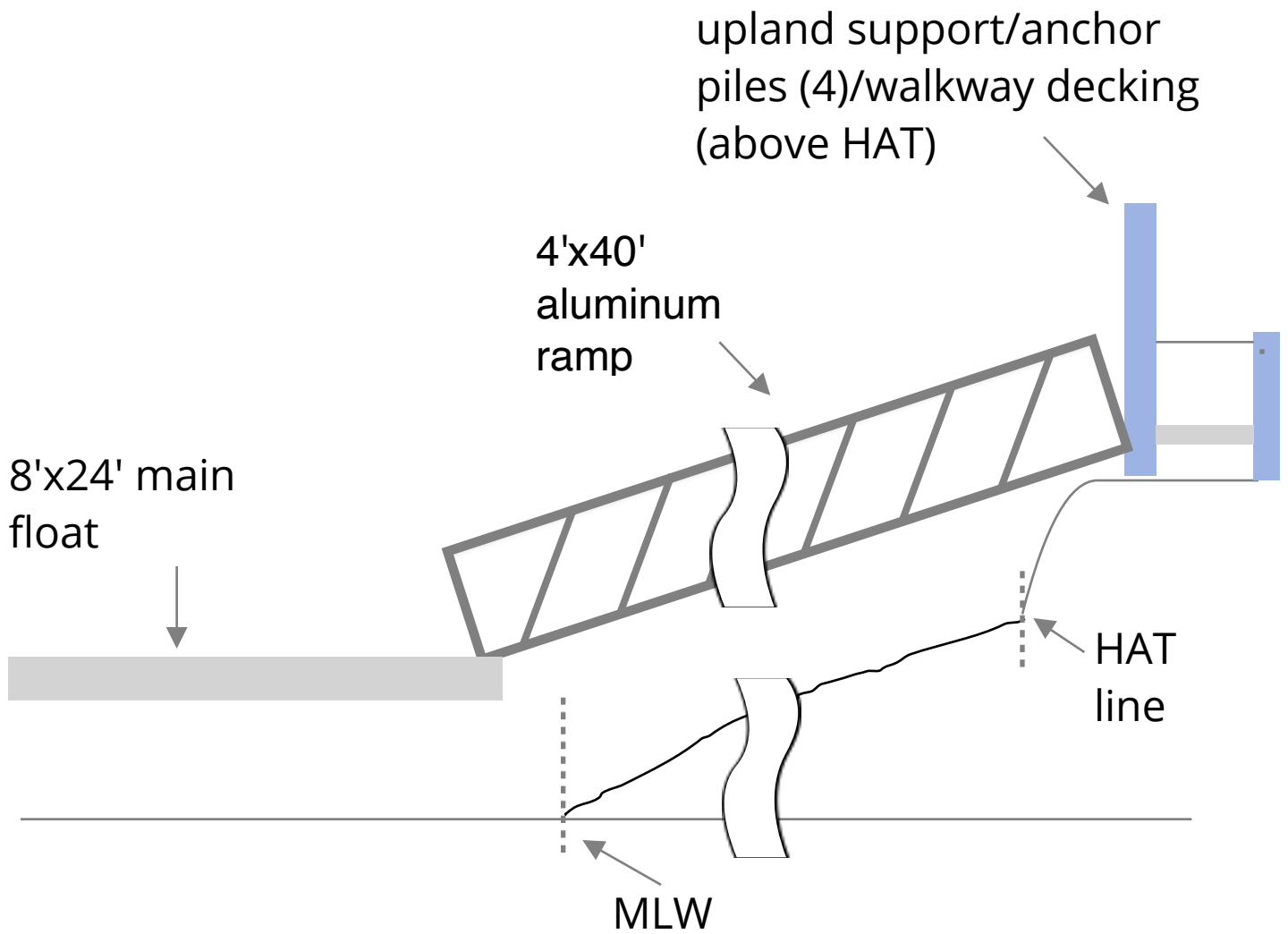
Existing cut in embankment
above HAT (stabilize/regrade/
resurface)

regrade/resurface existing ramp base area (12'x36')
below HAT (between MLW and HAT)
Angular stone subbase material (no fines), prepared
as noted.



Title: Side View - Ramp side view with elevation

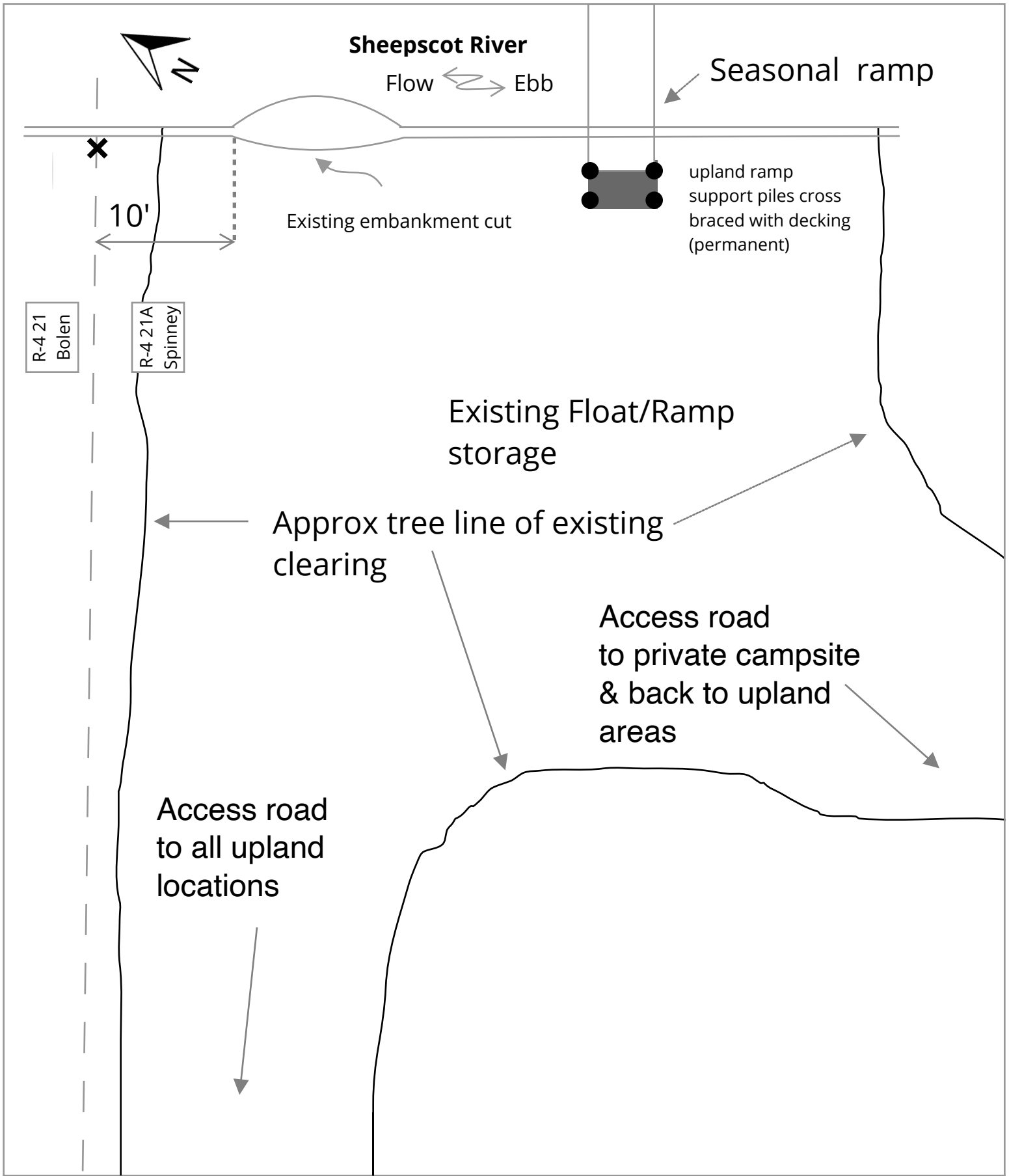
Revised Date December 9, 2019
Prepared By Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535



Title: Side View - float/ramp/upland support

Revised Date
December 9, 2019

Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535



Title: Site access - General overview

Revised Date
December 9, 2019

Prepared By
Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535

York, Marylisa

From: Seiders, Heather
Sent: Thursday, January 23, 2020 8:38 AM
To: MacNeil, Jami
Subject: RE: Federal and Internal waters and Headway Speed

Hi Jami,

You are correct.

Have a good day.

Heather

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, January 23, 2020 8:37 AM
To: Seiders, Heather <Heather.Seiders@maine.gov>
Cc: Linscott, Thomas <Thomas.Linscott@maine.gov>
Subject: RE: Federal and Internal waters and Headway Speed

Thanks Heather. The structure extends about 55 feet from the shore, and the river is about 200 feet wide, so they are less than 1/3 across. So I think they meet that restriction, if I understand it correctly.

-Jami MacNeil

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Bureau of Land Resources
Maine Department of Environmental Protection
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To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Cc: Linscott, Thomas <Thomas.Linscott@maine.gov>
Subject: RE: Federal and Internal waters and Headway Speed

Hi Jami,

I was reviewing the information that you sent to Deirdre and noted that they would be installing a floating dock. As an FYI, Under our Navigational Aids Rules and Regulations; Section 5. Other waterway marking devices and anchored or stationary waterborne structures: No structures may be placed beyond the water safety zone (200 feet from any shore) or one-third the distance to the opposite shore, whichever is less.

Please let me know if you have any questions.

Heather

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, January 22, 2020 4:04 PM
To: Gilbert, Deirdre <Deirdre.Gilbert@maine.gov>
Cc: Gormely, Adam <Adam.Gormely@maine.gov>; Seiders, Heather <Heather.Seiders@maine.gov>; Theriault, Christl F.

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York, Marylisa

From: MacNeil, Jami
Sent: Friday, January 24, 2020 10:20 AM
To: Gilbert, Deirdre; Gormely, Adam
Cc: Seiders, Heather; Theriault, Christl F.
Subject: RE: Federal and Internal waters and Headway Speed

Thank you all for looking into this. This information is helpful to my review. I will reach out if I need further input.

Best,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Gilbert, Deirdre <Deirdre.Gilbert@maine.gov>
Sent: Friday, January 24, 2020 9:30 AM
To: Gormely, Adam <Adam.Gormely@maine.gov>; MacNeil, Jami <Jami.MacNeil@maine.gov>
Cc: Seiders, Heather <Heather.Seiders@maine.gov>; Theriault, Christl F. <Christl.F.Theriault@maine.gov>
Subject: RE: Federal and Internal waters and Headway Speed

Lt. White also reviewed and confirmed that section of the river is tidal. He is in agreement with Lt. Gormely.
Thanks,
Deirdre

From: Gormely, Adam <Adam.Gormely@maine.gov>
Sent: Thursday, January 23, 2020 1:49 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>; Gilbert, Deirdre <Deirdre.Gilbert@maine.gov>
Cc: Seiders, Heather <Heather.Seiders@maine.gov>; Theriault, Christl F. <Christl.F.Theriault@maine.gov>
Subject: RE: Federal and Internal waters and Headway Speed

Looking at it as much as I can, it appears to be tidal. Both agencies could enforce the head way speed statute. In short, the statue prevents the operation of a motor boat at greater than headway speed within 200' from shore. Unless the river is 400 feet wide the boats are required to be operated so they do not create a wake, slow... that can be a problem for boaters wanting access to bigger water. We have seen this on other rivers that lead to open water. I am happy to talk about it so please feel free to call me anytime.

Adam Gormely

Game Warden Lieutenant

Maine Dept of Inland Fisheries & Wildlife
Bureau of Warden Service
15 Game Farm Road
Gray, Maine 04039
(207) 657-2345 x3 (Gray Regional Headquarters)
(207) 657-3030 (State Police Dispatch)
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RECREATIONAL VEHICLES
CHAPTER 933
GENERAL RECREATIONAL VEHICLE PROVISIONS**

§13001. Definitions

As used in this subpart, unless the context otherwise indicates, the following terms have the following meanings.

11. Federal waters. "Federal waters" means all waters that are not internal waters and are subject to the jurisdiction of the United States.

13. Internal waters. "Internal waters" means waters under the exclusive jurisdiction of the State.

§13068-A. Operating watercraft; prohibitions

13. Headway speed only. The following provisions govern speeds in certain zones.

A. A person may not operate a watercraft at a speed greater than headway speed while within the water safety zone or within a marina or an approved anchorage in coastal or inland waters except:

(1) While actively fishing; or

(2) While picking up or dropping off one or more persons on water skis in the water safety zone if a reasonably direct course is taken through the water safety zone between the point that the skiers are picked up or dropped off and the outer boundary of the water safety zone. [PL 2003, c. 655, Pt. B, §380 (NEW); PL 2003, c. 655, Pt. B, §422 (AFF).]

B. For the purposes of this subsection, "headway speed" means the minimum speed necessary to maintain steerage and control of the watercraft while the watercraft is moving. [PL 2003, c. 655, Pt. B, §380 (NEW); PL 2003, c. 655, Pt. B, §422 (AFF).]

C. The following penalties apply to violations of this subsection.

(1) A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E

§13072. Harbor masters on inland waters

5. Mooring sites. The regulation of moorings in inland waters is governed by Title 38, except that Title 38 may not be construed to require the municipal officers of a town that does not border or contain territorial waters to appoint a harbor master upon the request of a person desiring mooring privileges or the regulation of mooring privileges. Nothing in this subsection limits or expands a municipality's authority to regulate moorings under Title 38 or as otherwise provided in law.

Ch 13 Rule:

13.05 Safety Equipment on Motorboats and Other Watercraft

The operator of any watercraft on the waters of this State shall be responsible to ensure that such watercraft is equipped as specified in this rule. Nothing in this regulation rule shall be construed to permit the operation of any watercraft on the federal waters in this State unless they conform to all applicable federal laws and regulations pertaining thereto.

G. Watercraft at Anchor

Any watercraft anchored on solely internal waters from sunset to sunrise, may display in lieu of the above navigation lights, a single all-round white light. Exception: manually propelled watercraft shall have ready at hand a lantern or flashlight showing a white light which shall be exhibited in sufficient time to prevent collision.

J. Towboats

Towboats, when towing booms or rafts of wood products on solely internal waters of this State, shall display, in addition to the required lights for the watercraft, a flashing or pulsating amber light on either or both the towboat and the towed raft.

13.06 Water Sports

1. No person shall operate a watercraft on the internal waters of this State for the purpose of towing a person or persons on water skis, surfboards, aquaplanes, or similar devices in a water safety zone as defined in Title 12, Section 13001, paragraph 29, nor shall any person manipulate any watercraft, tow rope or other device by which the direction or location of water skis, surfboards, aquaplanes or similar devices may be affected or controlled in such a way so as to cause these devices, or any person on them, to approach within the water safety zone.
2. **13.07 Motor Size Restrictions on Certain Internal Waters**

Christl Theriault

Assistant to the Commissioner

Maine Dept of Inland Fisheries & Wildlife

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Information that you wish to keep confidential should not be included in email correspondence.

York, Marylisa

From: MacNeil, Jami
Sent: Friday, January 24, 2020 11:38 AM
To: Spinney, Jeffry
Subject: RE:
Attachments: Spinney Dock Proposal on the northern section of the tidal estuary of the Sheepscot River; 2020.01.22 Cheff additional comments.pdf; 2020.01.19 letter to DEP.doc

Hi Jeff,

We have received the attached comment letters in the past week. We are not looking for any formal response from you on these, but you can add them to your records. Mr. Philbrick came to the office to view the file once more. No other news to report. I am working on the draft.

Best,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Friday, January 24, 2020 9:07 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject:

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi jami, just checking in to see what new things has happened this week.

Thanks,
-jeff

A Response to the Proposed Sheepscot River Development

i.e. Spinney Dock and Golden Ridge Sportsman's Club

Written and researched by Steven W. Cheff

12/2019-1/2020

I. OUTLINE.

A. Description & Current Use of the Sheepscot River-Upper Estuary 2020.

1. Description
2. Current Use
 - a. Canoeing and kayaking
 - b. Walking and hiking.
 1. Preserves Bass falls, Trout brook and other preserves
 2. Private access
 - c. Bird watching
 - d. Fishing
 - e. Swimming
 - f. other
3. What is NOT on the river.
 - a. Motorized boats
 - b. Permanent structures, including docks,
 - c. Campgrounds
 - d. Waterfowl hunting
 - e. Noise pollution



B. Adverse Effects of the Proposed Development

1. The proposed activity will unreasonably interfere with existing scenic and aesthetic uses of the Sheepscot River and will disrupt the current uses of the river.
2. The proposed activity will disrupt wetlands and wildlife habitat along the Sheepscot river.
 - a. DEP Rules and other legal documents
 - Sheepscot River Management Plan
 - DEP Chapters 310, 315, & 325
 - others
 - b. What the development entails
 - c. Effects on habitat and wildlife
 - i. Disruption of habitat
 - ii. Noise pollution
 - iii. Increased nonpoint pollution and shoreline erosion
 - iv. Introduction of Invasive species.

C. Supporting Documents

Why the DEP, the town of Alna, and Army Corps should reject the Proposed Sheepscot River Development. (Spinney Dock and Golden Ridge Sportsman's Club)

A. Description & Current Use of the Sheepscot River-Upper Estuary

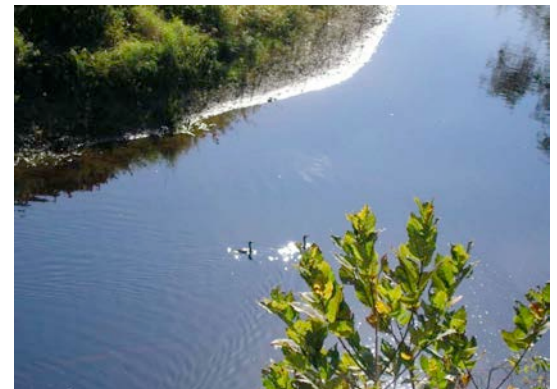
1. Description of the Sheepscot upper Estuary

- “The 58 mile long Sheepscot River rises in the hills of West Montville, widens into Sheepscot Pond in Palermo, then falls swiftly over rocks and gravel through the rural Whitefield countryside to the picturesque village of Coopers Mills, where spars for the U.S.S. Constitution were cut. Farther downstream it drops over the Head Tide Dam to mix with the incoming tide, flowing by the delightful antique houses of Alna. After meandering through Sheepscot Village, with its reversing falls, the river slides through Newcastle and Wiscasset” <https://mainerivers.org/watershed-profiles/sheepscot-river/>
- The Sheepscot River upper tidal estuary is the 3-4 mile stretch between Sheepscot Village and Head Tide (where the proposed development is planned). This 3-4 mile stretch of river is about 20-50 feet wide and 4-5 feet deep at low tide and about 50-100 feet wide and 4-15 feet deep at high tide. Twice a day, during the diurnal high tide, the river escapes its natural mud banks and overflows by a foot or two onto tidal marshes filled with grasses essential creating essential habitat for fish, bird, and invertebrate breeding. This is an ideal ecosystem for many organisms.

Upper Estuary



Cormorants Upper River Estuary



- “Streams enter the river here, Trout brook, the Dyer River in Sheepscot Village and the Marsh River and Deer Meadow Brook just above Wiscasset. The Marsh River/Deer Meadow Marsh complex is a highly productive brackish marsh system (rare in Maine) that harbors many threatened and endangered species”. “Life thrives in the river’s rich tidal mud flats and salt marshes, which support rare mussels and plant species. Fish and invertebrates attract osprey, eagles and other mammals that feast on the river’s bounty. Its forested banks provide habitat for moose, white-tailed deer, and many other creatures”.

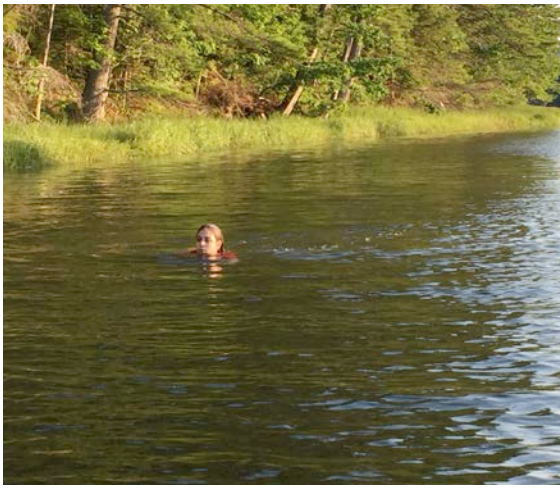
<https://mainerivers.org/watershed-profiles/sheepscot-river/>

Near Ben Brook close to proposed development



2. Current use of Sheepscot River Estuary from the Village up to Head Tide

“In the spring, canoes and kayaks blossom with the first wildflowers. As the river races to the ocean, full with the melting snow, excellent rapids appear, especially between King’s Mills and Alna’s Head Tide Dam. As the seasons change, residents and visitors use the river and its banks for bass and trout fishing or turkey and deer hunting. The lazy days of summer find children splashing in the swimming holes, with



their adult companions splashing away beside them, and community members enjoying swimming the warm waters. Cross-country skiing and snowshoeing have become popular winter sports especially with plentiful winter snows. The section from North Whitefield to Sheepscot is often paddled by kayakers and canoeists, and several preserves provide trails to the river, including Palermo Preserve, Whitefield Salmon Preserve, Bass Falls, Trout Brook preserve, Griggs Preserve, and Oven's Mouth (Sheepscot River Management plan Jan26.07)

a. Canoeing and kayaking

On any summer weekend there are dozens of kayakers and canoeist who paddle up and down the river, enjoying the peace and serenity of a river without powerboats.

b. Walking and hiking.

1. Preserves

a. Bass falls preserve <https://www.midcoastconservancy.org/preserve/sheepscot-valley/bass-falls-preserve/>

The Bass Falls Preserve in Alna was purchased in 1998 with assistance from National Fish & Wildlife Foundation, Land for Maine's Future, the Sweetwater Trust and the Grand Circle Foundation. The SVCA recently purchased an additional 36 acres abutting the preserve, more than doubling its size. Hiking trails lead through mixed forestlands to the Sheepscot River and an old fishing camp.

*The proposed development is less than ¼ mile from here

b. Trout brook preserve <https://www.midcoastconservancy.org/preserve/sheepscot-valley/trout-brook-preserve/>

2. Private access

c. Bird watching, d. Fishing e. Swimming



3. Current Use-What is NOT on the river

a. There are few, if any motorized boats. There are no ski boats or personal watercraft**

- Current Maine law states that boats cannot operate within 200 feet of a shore if they are creating a wake. This encompasses the entire upper estuary. This precludes water skiing, jet skis, and other activities suggested by the developer from this section of river.

b. There are no permanent structures, including docks, on this stretch of river and only three or four houses visible from the river.

c. There are no camping sights on this stretch of river.

d. There is no waterfowl hunting on this stretch of the river.

e. There is very little noise pollution on this stretch of the river.

This is contrary to most of the views expressed by those supporting the development

**“It is illegal to operate any vessel in a reckless manner. Specifically, it is illegal to operate a vessel towing a person(s) on any device within 200 feet of any shoreline, including islands, unless operating in a manner that does not endanger any person or property while picking up or dropping off a person on water skis, surfboard, or other device in a way that causes the device or the person on the device to move within 200 feet of any shoreline, including islands”.

<https://www.boat-ed.com/maine/handbook/page/48/Requirements-for-Towing-Skiers/>

Improper Speed or Distance is not keeping a proper speed and distance while operating a vessel. You may not:

- a. Operate at a rate of speed that is not reasonable and prudent for existing conditions. Operators must regulate their speed to avoid endangering, injuring, or unnecessarily inconveniencing another vessel and its occupants, whether anchored or underway. Operators also must also consider the effect of their vessel's wake on waterfront piers, floats, other property, or shorelines.
- b. Operate a vessel at greater than “headway speed” within 200 feet of any shoreline, including islands or within a marina or an approved anchorage in coastal or inland waters “Headway Speed” means the slowest speed at which it is still possible to maintain steering and control of the vessel.

<https://www.boat-ed.com/maine/handbook/page/38/Unlawful-Operation/>

B. ADVERSE EFFECTS OF THE PROPOSED DEVELOPMENT

1. The proposed activity will unreasonably interfere with existing scenic and aesthetic uses of the Sheepscot River and will disrupt the current uses of the river.

a. Statutes. Chapter 315. ASSESSING AND MITIGATING IMPACTS TO EXISTING SCENIC AND AESTHETIC USES.

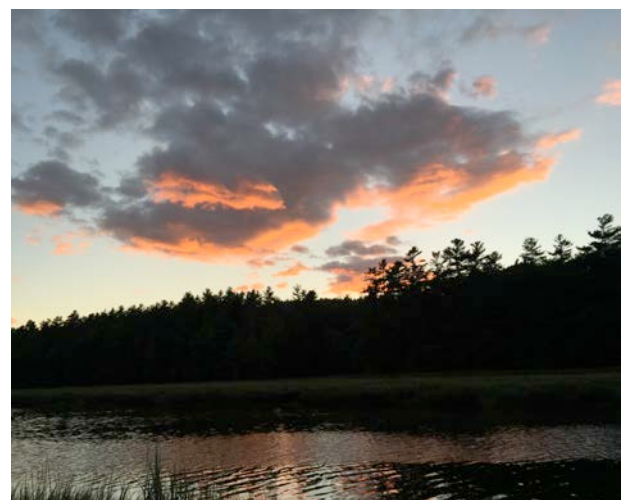
“Applicants for permits under the NRPA are required to demonstrate that a proposed activity meets the standards of the NRPA that have been established by the Legislature. Standard 1 in Section 480-D of the NRPA requires an applicant to demonstrate that a proposed activity will not unreasonably interfere with existing scenic and aesthetic uses”. Unreasonable adverse visual impacts are those that are expected to unreasonably interfere with the general public’s visual enjoyment and appreciation of a scenic resource, or those that otherwise unreasonably impair the character or quality of such a place.

***b. The SVCA is actively working to protect the **Forever Wild**

Corridor, a three-mile stretch of river from Alna Head Tide to Sheepscot Village. Only three houses are visible from the river in this entire stretch. But since it is located in fast-developing midcoast Maine, preservation of this wild experience is of tremendous importance.

<https://mainerivers.org/watershed-profiles/sheepscot-river/>

c. The Sheepscot River is recognized by the State Legislature as an Outstanding River Segment (12 M.R.S.A § 403). This designation places the Sheepscot among those rivers which, because of their “unparalleled natural and recreational values, provide irreplaceable social and economic benefits to the people in their existing state”. New dams and water diversions are prohibited without specific authority of the Legislature. Outstanding River Segments are also given additional protections under the Natural Resources Protection Act



(NRPA) and Shoreland Zoning. The "unparalleled natural and recreational values" of the Sheepscot are many. In addition to its importance as breeding and rearing habitat for federally endangered Atlantic salmon and short-nosed sturgeon, the Sheepscot supports a number of other anadromous fishes, has important freshwater and tidal wetland plant communities, supports native brook trout in the upper reaches, and is well-known regionally for its beauty and recreational value. (Sheepscot River Management plan Jan26.07.)

2. The proposed activity will disrupt wetlands and wildlife habitat along the Sheepscot river.

a. DEP Rules and other legal documents

i. DEP Chapter 335. SIGNIFICANT WILDLIFE HABITAT

This chapter applies to an activity that takes place in, on, or over a significant wildlife habitat, or adjacent to significant wildlife habitat contained within a freshwater wetland, and requires approval from the department pursuant to the Natural Resources Protection Act. Even if the activity has no practicable alternative, and the applicant has minimized the proposed alteration as much as possible, *the application will be denied if the activity will have an unreasonable impact on protected natural resources or the subject wildlife.* "Unreasonable impact" means that one or more of the standards of the NRPA at 38 M.R.S.A. §480-D will not be met. In making this determination, the department considers the area of the significant wildlife habitat affected by the activity, including areas beyond the physical boundaries of the project and the cumulative effects of frequent minor alterations of significant wildlife habitats.

ii. DEP Chapter 310: WETLANDS AND WATERBODIES PROTECTION

Emergent Marsh Vegetation. Plants that: 1. are erect, rooted and herbaceous; 2. grow in semi-permanently to permanently flooded areas; and 3. do not tolerate prolonged inundation of the entire plant. Examples of emergent marsh vegetation include cattails, burreed, tussock sedge, rice cut grass, pickerel weed, arrowhead and bulrush.

iii. "The tidal wetlands downstream of Alna village and in neighboring Newcastle have been identified by the Maine Natural Areas Program as a Focus Area of Ecological Significance. The salt marshes, mud flats, support rare mussels and several species of rare plants, such as the salt marsh false foxglove (*Agalinis maritima*)". (Sheepscot River Management plan Jan26.07.)

iv. "Estuaries are fragile ecosystems, vulnerable to natural and man-made disturbances. The forces of nature—such as winds, tidal currents, waves, and temperature—all affect the estuary's natural balance. Human activities on land can harm estuary health,

Low tide looking up river just below the power lines. Sturgeon and bass jumping.



Winter on the Sheepscot



often degrading living conditions for estuary residents and visitors. Stream and river banks can be damaged by erosion, outdated agricultural or forestry methods, or construction too close to the stream. Fish numbers then decline because their nesting and feeding areas are destroyed. Dams, invasive species, and poor boating and fishing habits cause even more damage”.

<https://www.fisheries.noaa.gov/estuary-habitat#challenges-for-estuaries>



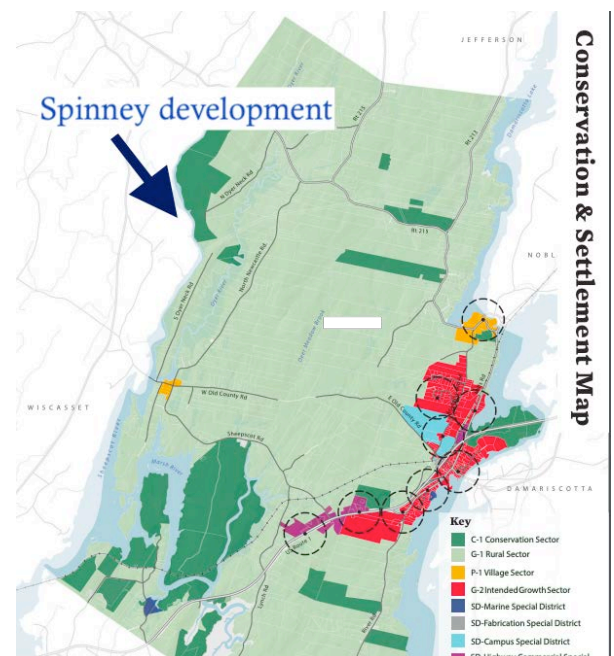
This is looking at the area where the Town of Newcastle has declared this a conservation sector of the Sheepscot.

V. The Sheepscot is one of the last remaining rivers with remnant populations of the nearly extinct native Atlantic salmon. These and other anadromous fish such as striped bass, shad, alewife and eel, return from the sea to spawn in the river’s clean gravel bottom before migrating back to the ocean. <https://mainerivers.org/watershed-profiles/sheepscot-river/>

vi. **Newcastle Comprehensive plan

This conservation area in Newcastle is directly across the river from the proposed development. *C-1 Conservation Sector The Conservation Sector includes lots entirely protected from development in perpetuity, through purchase or easement, including land acquired for conservation, open space, farming, public access and recreation; and, timber harvesting and forestry management.*

https://www.newcastlemaine.us/wp-content/uploads/2018/03/CONDENSED-Newcastle-Comp-Plan_Final-Public-Hearing-Draft_04232018.pdf



b. What the Development entails

1. The dock itself
 - a. The building and use of the dock by dozens of people will adversely affect this small area. More importantly, allowing the dock will set a **PRECEDENT**
 - b. Allowing a permanent large boat launch on the upper Sheepscot estuary will set a precedent, that once set, will make it difficult to prohibit other such developments.
2. Motorized Boats on the river
 - a. Damage to the abiotic component of the estuary ecosystems
 - boat wakes hit shoreline and excessive erosion of shoreline (see picture)
 - increased nonpoint pollution dues to use of a hunting club
 - increased oil and gas in the water
 - b. Damage to the biotic part of the estuary ecosystem. Noise, oil and gas, wakes and
 - Disturbance of invertebrates
 - Disturbance of plant species
 - Disturbance of fish and birds
3. A hunting and camping club (no specifics given). Who knows what this means.

c. Effect on habitat and wildlife

i. Habitat destruction

- The upper reaches of the brackish estuary of the Sheepscot from the reversing falls to Head Tide contain some pristine breeding grounds for fish, birds and many invertebrates. There are multiple small inlets on the River (Ben Brook, Trout Brook) that are guarded from the general waves and currents of the River. Since most boats can only ride the River near high tide, the ensuing wakes could cause significant damage to riparian areas that rarely deal with large waves. Boat wakes at high tide would do immeasurable damage to nesting sites, spawning grounds, and invertebrate habitats
- “Boating activity is a primary disturbance, as it induces biological stress and morphological changes along the coastline. This high-energy environment that boat wakes create has resulted in loss of surrounding oyster reefs and salt marsh vegetation, ultimately leading to shoreline and habitat erosion”.
“Mitigating Erosional Effects Induced by Boat Wakes with Living Shorelines”
<https://www.mdpi.com/2071-1050/10/2/436/htm>
- “Review of boat wake wave impacts on shoreline erosion and potential solutions for the Chesapeake Bay”
http://ccrm.vims.edu/2017_BoatWakeReviewReport.pdf
- How do boats affect aquatic ecosystems?
“Boats interact with the aquatic environment by a variety of mechanisms, including emissions and exhaust, propeller contact, turbulence from the propulsion system, waves produced by movement, noise, and movement itself. In turn, each of these impacting mechanisms may have multiple effects on the aquatic ecosystem. Sediment re-suspension, water pollution, disturbance of fish and wildlife, destruction of aquatic plants, and shoreline erosion are the major areas of concern”
“The Effects of Motorized Watercraft on Aquatic Ecosystems”
http://www.trpa.org/wp-content/uploads/2010-WI-Dept-of-Natural-Resources_UW-Boats-effects-on-ecosystems.pdf

ii. Noise pollution if boats and hunting are allowed

- Active motorboats will destroy the peace and quiet that all of the residents enjoy living here. Detrimental effects of boating on marine fauna has recently been recognized, and linked to noise levels (Codarin, et al., 2009; Slabbekoorn, et al., 2010). Other effects may include strikes from propellers (Killgore, et al., 2011; Balazik et al., 2012) or pollution from outboard exhaust (Situ and Brown, 2013). Noise from boats may increase stress levels of fish (Smith, Kane & Popper, 2004). While the passage of boats may break up schools and cause increased activity and energy expenditure due to the movement away from the disturbance. Animals living within estuaries are particularly vulnerable to potential adverse effects of recreational boating because, relative to open coastal regions, they are often spatially restricted in terms of depths and width, especially during the high tide.

“Does boat traffic cause displacement of fish in estuaries?”

<https://www.nrc.gov/docs/ML1434/ML14345A583.pdf>

“Impacts of recreational motorboats on fishes: A review” (2014)

https://www.researchgate.net/publication/261837999_Impacts_of_recreational_motorboats_on_fishes_A_review

iii. Increased nonpoint pollution and shoreline erosion

The Sheepscot River Watershed Management Plan, written in 2007 concludes that nonpoint pollution is one of the biggest risks to the health of the Sheepscot River.

<http://www.kcswcd.org/Projects/Sheepscot/WHOLE%20PLAN%20Jan26.07.pdf>

The proposed development will increase the release of oil and gas into the watershed. The boat wakes will also hasten the erosion of shoreline

iv. Introduction of Invasive species

It sounds as if many of the people who wish to use the River could possibly be from out of state.

This greatly increases the risk of the introducing of non-native species into the ecosystem.

“Finally, the use of recreational boats as vectors of aquatic invasive organisms is very real and has created major problems to the ecology of aquatic systems”.

https://www.researchgate.net/publication/261837999_Impacts_of_recreational_motorboats_on_fishes_A_review

D. Supporting Documents/Bibliography

a. Sheepscot River Management Plan

<http://www.kcswcd.org/Projects/Sheepscot/WHOLE%20PLAN%20Jan26.07.pdf>

b. DEP Documents

Maine DEP Chapter 310 WETLANDS AND WATERBODIES PROTECTION

https://www.maine.gov/dep/land/nrpa/310_booklet.pdf

Maine DEP Chapter 315 “ASSESSING AND MITIGATING IMPACTS TO EXISTING SCENIC AND AESTHETIC USES” & DEP Chapter 335 “SIGNIFICANT WILDLIFE HABITAT”

<https://www.maine.gov/dep/land/nrpa/>

c. Maine Midcoast Conservancy

<https://www.midcoastconservancy.org/>

c. Focus areas of Statewide ecological significance

https://www.maine.gov/dacf/mnap/focusarea/lower_sheepscot_river_focus_area.pdf

d. (KRIS) The Klamath Resource Information System. Some great maps pictures data about the Sheepscot watershed.

<http://www.krisweb.com/kris/sheepscot/krisdb/html/krisweb/backintr.htm>

e. The Estuary Book (1991) “A Guide to Promoting Understanding and Regional Management of Maine's Estuaries and Embayments”

<https://www.govinfo.gov/content/pkg/CZIC-gc512-m2-r84-1991/html/CZIC-gc512-m2-r84-1991.htm>

f. NOAA Fisheries “Estuary Habitat”

<https://www.fisheries.noaa.gov/estuary-habitat#challenges-for-estuaries>

g. Ecology of the Sheepscot River Estuary. Stickley, Alden P. 1959. US Department of the Interior.

<https://spo.nmfs.noaa.gov/sites/default/files/legacy-pdfs/SSRF309.pdf>

h, Newcastle Comprehensive Plan

https://www.newcastlemaine.us/wp-content/uploads/2018/03/CONDENSED-Newcastle-Comp-Plan_Final-Public-Hearing-Draft_04232018.pdf

i. Maine Boater Safety Handbook and Rules

<https://www.boat-ed.com/maine/handbook/page/1/Introduction/>

j. “Does boat traffic cause displacement of fish in estuaries?”

<https://www.nrc.gov/docs/ML1434/ML14345A583.pdf>

k. “Impacts of recreational motorboats on fishes: A review” (2014)

https://www.researchgate.net/publication/261837999_Impacts_of_recreational_motorboats_on_fishes_A_review

l. “Mitigating Erosional Effects Induced by Boat Wakes with Living Shorelines”

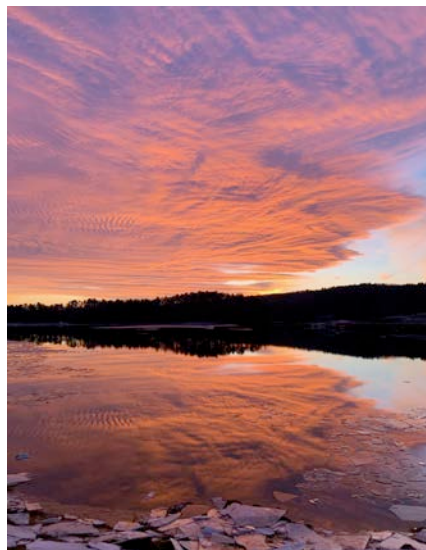
<https://www.mdpi.com/2071-1050/10/2/436/htm>

m. “Review of boat wake wave impacts on shoreline erosion and potential solutions for the Chesapeake Bay”

http://ccrm.vims.edu/2017_BoatWakeReviewReport.pdf

n. “The Effects of Motorized Watercraft on Aquatic Ecosystems”

http://www.trpa.org/wp-content/uploads/2010-WI-Dept-of-Natural-Resources_UW-Boats-effects-on-ecosystems.pdf



Paul Tenan

January 19, 2020

Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
28 Tyson Drive
Augusta, Maine 04330

Jami.macneil@maine.gov

Jay.L.Clement@usace.army.mil

Re: DEP application #L- 28397-4E-A-N for a permanent boat launch, separate dock, ramp, float with permanent support piling in the Sheepscot River Shoreland Zone.
Applicant: Jeff Spinney, 126 Golden Ridge Road, Alna ME 04535

Dear Ms. MacNeil,

I am writing at this time with comment on material submitted by the applicant and also interested members of the public. This letter is being sent by email to you and also to Jay Clement at the US Army Corps of Engineers.

As I summarize, the essence of the pending NRPA application requests three new permanent boating structures within the Shoreland consisting of a vehicle access boat launch, permanently installed piers to support new floating dock sections substantially greater in size than used at this site in the past, notwithstanding at the time their compliance or noncompliance with required local and state approvals. To carry out and justify use for the facility, there is a fourth proposed organization structure that would become, if approved, effectively the controlling party able for use of the permanently developed access to the Shoreland by way of a license from the property owner.

I want to first endorse the research, analysis and positions provided recently by Messrs. Weary and Penataleri, and Gordon Smith on behalf of his client, Carol Ervin. Combined, their work is the most complete available body of information, placed in context, since the onset of the application's review.

My remarks focus on the fourth new structure brought to bear upon the Sheepscot Shoreland that of the Golden Ridge Sportsman's Club filed with the State of Maine effective as a nonprofit corporation effective December 18, 2019.

Beginning in October 2019, application material and oral presentations at the Alna Planning Board presented the application as being on behalf of the property owner, Jeff Spinney as a private property matter. The explanation at the time, included that there may be an "informal" group up to 25 in number that may also use the river access for boating, fishing, and other recreation. At the December Planning Board meeting, the applicant suggested that an incorporated membership entity might be developed for involvement with use of the Shoreland developed facility. Without any reasoning for

non-disclosure, research showed that effective May 24, 2019 the Golden Ridge Sportsman's Club, LLC was established with Jeff Spinney as its registered agent, four months prior to when public review of this application began. Since then, the club's name was modified to the Golden Ridge Sportsman's Club and it also changed to a nonprofit corporation with Mr. Spinney retained as registered agent.

Applicant submissions during November to DEP regarding the legal relationships between the applicant and the Club raise a number of questions or pose unclear information regarding the proposal. The following are among the most significant, but no means a comprehensive list:

- Exhibit A: The Licensed Premises (from 11/7/19 client working draft of License document). The exhibit describes the following as licensed to the Club: street entry address, existing access road leading to site for boat ramp and dock at river... to provide "Access by members to the Sheepscot river with boat trailer for launching for hunting, fishing and other recreational purposes". The draft land use license agreement and draft club bylaws are vague about other property portions that might also provide the club with outdoor activity. If available, planning for parking seasonally and other services are not addressed. If not available to a club member under the agreements, then the limited use – access to the river in its upper reaches - reinforces that the proposal would be the sole facility in the upper Sheepscot with a narrow purpose of river access by vehicle and motor boats and selectively available to a private, small group of eligible users.

The applicant's response to Army Corps questions on November 6, 2019 (by email) emphasizes that the entire proposed facility is to be used for a few – defined by: active club membership, overall club membership size, eligibility based upon endorsement by existing members, residence eligibility limited to being a resident of the Town of Alna, and finally interested with activities where motorized, trailer carried boat craft are necessary. Further, the applicant's responses, the carefully worded draft land use license agreement, and Club bylaws suggest that parking and other services will not always be adequate to serve members and other visitors safely. The email referenced above from the applicant states that there is only available parking for 2-3 users at one time. This inadequacy should be alarming as to adequate planning for users, adequate resource for traffic safety, contingency planning for member demand, and finally just why is this proposal so physically oversized at the riverbank for access to the upper part of the Sheepscot, if so few users are expected based on experience as recent as this year.

- As a public participant, it does not appear to me that for a project of this size in a narrowing part of the river, that greater justification is not sought in areas such as project's financial soundness, funding sources to completion, project schedules to completion, drawings to include detail on key areas such as the land area surrounding the dock and launch, surface areas including shoreline where vegetation and trees will be removed, parking area location, and distance from dock, toilet and refuse locations, sign - in kiosk, invasive wash stands away from the launch area and much more. Statements of adequacy seem to necessitate verification, particularly when residential property is converting in part to a commercial endeavor. Without this level of attention and with this

project's experience to date, the prospect of another abandoned scar at this location is high, and detrimental to the river as a resource.

- Approval of this application does not provide public benefit for recreation for the general public, nor help protect a more encompassing natural resource for the public if the proposed permanent facility is permitted. Instead, it converts part of private residential property to a commercial entity that will serve a select few. Based on the application's target membership, less than four percent of Alna households could be involved with this commercial, private facility and no one from elsewhere in Lincoln County or in the State of Maine would be.

Thank you for your consideration of these remarks and information.

Sincerely,

Paul Tenan

Paul M. Tenan

Cc. Jay L. Clement, US Army
Corps of Engineers

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Friday, January 24, 2020 3:00 PM
To: MacNeil, Jami
Subject: Re: RE: RE:

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Gotcha. Thanks. Just received permit from army corps. Ill have to read through all this stuff. Have a good weekend.
ThanksJeff

> On Jan 24, 2020, at 1:39 PM, MacNeil, Jami <Jami.MacNeil@maine.gov> wrote:
>

There is a minimum 5-day comment period on the draft. The process is outlined in Department Rules Chapter 2, Section 18 (see attached).

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Friday, January 24, 2020 12:54 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: RE:

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Thanks,. Looking forward to seeing it, i assume then there is a comment period on the draft? Is that how that works? Then does it become final? Is there something that outlines this part of the process?

-----Original Message-----

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Friday, January 24, 2020 12:43 PM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: RE:

That is my goal.

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection

(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>

Sent: Friday, January 24, 2020 12:11 PM

To: MacNeil, Jami <Jami.MacNeil@maine.gov>

Subject: Re: RE:

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Are expecting a draft next week still?

> On Jan 24, 2020, at 11:42 AM, MacNeil, Jami <Jami.MacNeil@maine.gov> wrote:

>

Hi Jeff,

We have received the attached comment letters in the past week. We are not looking for any formal response from you on these, but you can add them to your records. Mr. Philbrick came to the office to view the file once more. No other news to report. I am working on the draft.

Best,

-Jami MacNeil

Environmental Specialist III

Bureau of Land Resources

Maine Department of Environmental Protection

(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>

Sent: Friday, January 24, 2020 9:07 AM

To: MacNeil, Jami <Jami.MacNeil@maine.gov>

Subject:

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi jami, just checking in to see what new things has happened this week.

Thanks,

-jeff

<mime-attachment>

<2020.01.22 Cheff additional comments.pdf>

<2020.01.19 letter to DEP.doc>

<DEP Rules Ch 2.docx>

York, Marylisa

From: MacNeil, Jami
Sent: Thursday, January 30, 2020 4:34 PM
To: Spinney, Jeffry
Subject: RE: RE: RE:

This is a commissioner decision (also known as a Department Order).

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, January 30, 2020 4:22 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: Re: RE: RE:

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Thanks for this info Jami, is this a board decision or a commissioner decision? I see in the chapter it seems to discuss both and i was just checking to make sure im reading the right parts.

Thanks, jeff

> On Jan 24, 2020, at 1:39 PM, MacNeil, Jami <Jami.MacNeil@maine.gov> wrote:
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Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

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To: MacNeil, Jami <Jami.MacNeil@maine.gov>
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Environmental Specialist III
Bureau of Land Resources
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(207) 446-4894 | jami.macneil@maine.gov

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Hi jami, just checking in to see what new things has happened this week.

Thanks,

-jeff

<mime-attachment>

<2020.01.22 Cheff additional comments.pdf>

<2020.01.19 letter to DEP.doc>

<DEP Rules Ch 2.docx>

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Monday, February 3, 2020 10:26 AM
To: MacNeil, Jami
Subject: RE: ?

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ok, that's not a problem and understandable....just making sure there wasn't some unknown thing. Thanks!

-----Original Message-----

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Monday, February 03, 2020 10:13 AM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: ?

Hi Jeff,

I've sent it to be edited but the folks above me are pretty busy. We'll get it out as soon as we can. It will come by email.

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Monday, February 03, 2020 9:54 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: ?

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jami, just checking in to see if there is another problem. I was under the impression that the draft was coming out sometime last week or is it something that comes in regular mail vs email and i just haven't gotten it yet?

Thanks,
-jeff

-----Original Message-----

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Friday, January 24, 2020 12:43 PM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: RE:

That is my goal.

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

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Sent: Friday, January 24, 2020 12:11 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: Re: RE:

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Are expecting a draft next week still?

York, Marylisa

From: MacNeil, Jami
Sent: Thursday, February 6, 2020 10:57 AM
To: Spinney, Jeffry
Subject: turbidity curtain

Hi Jeff,

I do not know firsthand, but I would suggest reaching out to a contractor certified to work in the shoreland zone. They can probably tell you where to buy those types of supplies. We have a list of certified contractors on our website: <https://www.maine.gov/dep/land/training/ccec.html>

Best,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, February 06, 2020 8:15 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: ?

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi jami, do you happen to know of a local or at least in state place that sells turbidity curtains? Thanks, jeff

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, February 6, 2020 12:44 PM
To: MacNeil, Jami
Subject: Re: permit draft -- final clarifications

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi jami. Im totally fine on item 1, and in principle on the agreement portion of 2. A little unclear as to the driver on the redesign of float and/or why that would be lost since a seasonal float isnt normally in purvue of dep to begin with and this was (with exception of alum ramp vs seasonal ramp/pier and some reduction in sizing per) permitted by the town and now has been permitted by army corps as-drawn.

Im on the road, ill call you in say half hour or so to discuss when in better area.

On Feb 6, 2020, at 12:03 PM, MacNeil, Jami <Jami.MacNeil@maine.gov> wrote:

Hi Jeff,

We are very close to issuing the draft, we just need to button up a few small details, or these could become points of contention for commenters.

1. We have determined that compensation will be required for the project. You and I had previously come up with a compensation fee based on 432 s.f. of direct impact from the boat ramp. However, the calculation should also include the mooring blocks. Thus, the total direct impact is 440 s.f., so the ILF amount is $440 \times 3.91 \times 2 = \$3,440.80$. Can you confirm that this amount will be paid into the ILF program prior to construction?
2. The permit draft will include a condition that if the Land License Agreement for the club is ever terminated and is not replaced by a similar legal instrument to allow the club access to the site, then the boat ramp must be removed and the area restored to its natural condition. This is to prevent the ramp from becoming the personal private ramp. Similarly, if the club were to lose access, the float system would need to be reduced, since it is currently larger than what we would approve for a non-shared, residential use. Can you provide a simple plan for the reduced pier system? Again, this would only come into play if the club lost its access to the project site. The reduced plan should show a float system that is only big enough for your own private use. This will prevent you from having to remove the entire pier system if the club loses their access.

You can call me if any of this is unclear. As soon as we get a response to these, we can make the final adjustments to the draft and send it out.

Best,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: MacNeil, Jami
Sent: Thursday, February 6, 2020 1:35 PM
To: Spinney, Jeffry
Subject: additional public comments
Attachments: 2020.01.29 Weary additional comments (DEPComment4).docx; Comment on Spinney NRPA Application #L-28397-4E-A-N

Hi Jeff,

These are the additional public comments we've received since I last updated you on 1/24/2020. For your records.

Best,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

January 29, 2020

Jami MacNeil
Environmental Specialist III
Maine Department of Environmental Protection
Jami.macneil@maine.gov
Jay.L.Clement@usace.army.mil

Dear Jami and Jay:

Recent correspondence between you and Jeff Spinney suggests some uncertainty about the linked photographs' dates and locations, "permanence" of the project, permitting criteria and procedures, and rights. The arguments to date are clear and need no repetition, but some clarity on the issues just raised may be of use. The photographs referenced here are linked in my letter of January 9:

<https://photos.app.goo.gl/zzDqcYYLQ4oJWU2z8>

1. **Dates.** All of the photographs are dated, accurately, those in 2007 and after with embedded digital time/date stamps (noted in my annotations), those earlier five shots scanned from boxes of slides that were dated and labeled on return from the processing labs (the collection of several hundred boxes – probably most of them of this property -- runs back into the 1950s).ⁱ
2. **First slide.** The first of the scanned slides – “summer 2003” – is indeed from that summer and, from my work calendars, more precisely during the last week of August, some four months after the permit issued May 5. When did construction on the new dock begin? Photos from November 2004 and summer 2006 (this last on Google Earth as well) show nothing on or over the river at the site.
3. **Alteration of the site.** Any questions about the shoreline prior to construction of the dock can be answered quickly by looking at the Google Earth photo of April 26, 1997.
4. **Locations.** Commentary on the photos indicates which ones were of the dock site. Others were included to supplement the other photos submitted to you and underline the scenic and esthetic character -- and current use -- of this stretch of the Sheepscot River.

5. **“Permanence.”** For both installations, the photographs show posts in the riverbank and gangway in early and full winter and early spring; they more easily may be visible by making a photo full-screen (clicking on it) and then clicking on the magnifying-glass on the upper righthand corner. I am trying to understand Mr. Spinney’s belief that he removed those posts and then replaced them each year. I also am remembering his elaboration on the fate of both installations, which he said was not the result of their being “crushed” by the ice, but of having been heaved up out of the riverbanks by it. “Seasonal” does not make sense to me.

6. **Criteria and process.** Like Mr. Spinney, I have difficulty understanding the criteria used by the Alna Planning Board in issuing permits and enforcing the town’s SZO. In the 2015 “tree house” case, entirely consistent with the town’s 2005 Comprehensive Plan and both its regular citation of the river as one of the town’s greatest resources and its insistence on enforcement of its SZO, the Planning Board fined the owner, forced removal and remediation, and declared that “rivers in Maine are sacrosanct,” that there could be no tolerance for “a man-made intrusion in a sensitive area,” that the project had “attracted some attention in town,” and that not addressing the violations would set a precedent. Yet a year-round dock, with float, boat ramp, and excavation of salt marsh – and, as Mr. Spinney suggests, a number of other such shoreland projects downriver -- apparently passed muster, and, also apparently, under the radar of the DEP and Army Corps. Mr. Spinney does note that I raised questions and that the planning board “determined there was no actual issue.”

7. **Rights.** Mr. Spinney correctly notes that he has rights. So, too, as captured in the NRPA, do the over 50 individuals opposed to this application who live on and beside the river between Sheepscoot village and Head Tide, as well as the hundreds of individuals attracted for paddling to this wild, undeveloped, and structureless stretch of river.

Thank you again for your work on this project.

Sincerely,

William A. Weary
293 North Dyer Neck Road
Newcastle, ME 04553

ⁱ Time/date stamps may be accessed by clicking on a photo, which enlarges it, and then clicking on the small “i” in the upper right hand corner.

York, Marylisa

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, February 6, 2020 3:18 PM
To: MacNeil, Jami
Subject: RE: permit draft -- final clarifications
Attachments: contngent floats1.jpg

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jami, attached is a 'contingency plan' sketch as requested showing a smaller float system that is consistent with others, as well as the current state of the boat launch ramp. It is a quick sketch, i used one of the old versions and modified it to try and keep it consistent.

I understand that we are trying to get ahead of 'questions/concerns' but at the same time, i glanced quick at the comments and i want to make sure these attempts are not going to an excess and into things that are frankly within the realm of law enforcement/marine patrol, etc. I can get behind the idea of ilf & restoring to current state, i think that is fair.

Does the fact that the mooring blocks are seasonal have any impact? Or do we just consider them permanent? And if so, can i just leave them in year round then? just curious, i probably will still put them in/take them out as i have. I suspect that its pretty insignificant, i think, like \$25 or so each..

Ill call you in a few to confirm you got this before heading out on the road again.

Thanks,
-j

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, February 06, 2020 12:02 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} permit draft -- final clarifications

Hi Jeff,

We are very close to issuing the draft, we just need to button up a few small details, or these could become points of contention for commenters.

1. We have determined that compensation will be required for the project. You and I had previously come up with a compensation fee based on 432 s.f. of direct impact from the boat ramp. However, the calculation should also include the mooring blocks. Thus, the total direct impact is 440 s.f., so the ILF amount is $440 \times 3.91 \times 2 = \$3,440.80$. Can you confirm that this amount will be paid into the ILF program prior to construction?
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come into play if the club lost its access to the project site. The reduced plan should show a float system that is only big enough for your own private use. This will prevent you from having to remove the entire pier system if the club loses their access.

You can call me if any of this is unclear. As soon as we get a response to these, we can make the final adjustments to the draft and send it out.

Best,

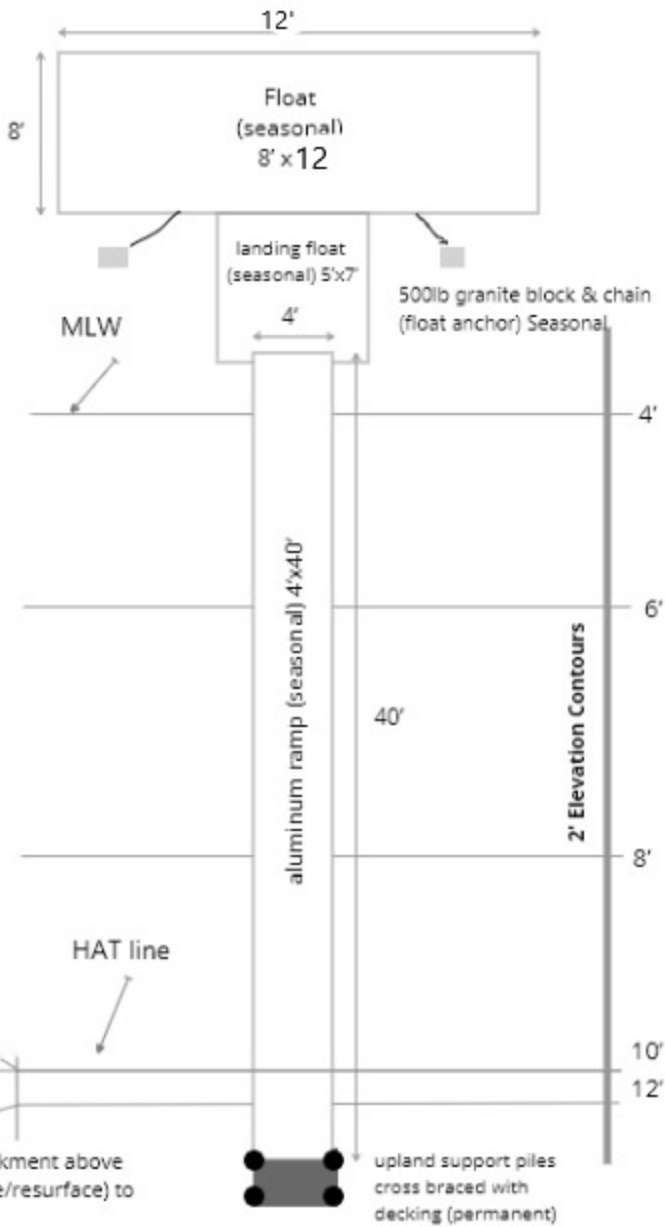
-Jami MacNeil

Environmental Specialist III

Bureau of Land Resources

Maine Department of Environmental Protection

(207) 446-4894 | jami.macneil@maine.gov



R-4 21 Boten X
 R-4 21A Spinney

Title: Top view with 2' contours (contingency plan)

Revised Date 2/6/2020

Prepared By Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535

York, Marylisa

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, February 6, 2020 3:23 PM
To: MacNeil, Jami
Subject: RE: permit draft -- final clarifications

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I missed an item i was supposed to confirm i guess, sorry. Im hurrying. Who/how do i pay the ILF? I will swing by and pay that as soon as permit is issued.

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Maine Department of Environmental Protection
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York, Marylisa

From: MacNeil, Jami
Sent: Thursday, February 6, 2020 3:37 PM
To: Spinney, Jeffry
Subject: RE: permit draft -- final clarifications

Hi Jeff,

This plan works, I just ask for one tiny change – can you remove the label “existing mixed gravel ramp area”? If this plan were to ever come into play, the ramp would be removed and restored, so we should remove mention of it on this particular plan.

The instructions to pay the ILF will be in the permit, but you would make the check out to “Treasurer, State of Maine,” and mail it or direct it to the attention of the In-Lieu Fee Program Administrator at 17 State House Station, Augusta, Maine 04333. You might be able to pay with a card if you come to the office, I’m not sure. I can find out if you like.

We have tried to draft a permit that does not overstep our jurisdiction. You can feel free to make comments once you’ve had a chance to read it.

Best,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

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2. The permit draft will include a condition that if the Land License Agreement for the club is ever terminated and is not replaced by a similar legal instrument to allow the club access to the site, then the boat ramp must be removed and the area restored to its natural condition. This is to prevent the ramp from becoming the personal private ramp. Similarly, if the club were to lose access, the float system would need to be reduced, since it is currently larger than what we would approve for a non-shared, residential use. Can you provide a simple plan for the reduced pier system? Again, this would only come into play if the club lost its access to the project site. The reduced plan should show a float system that is only big enough for your own private use. This will prevent you from having to remove the entire pier system if the club loses their access.

You can call me if any of this is unclear. As soon as we get a response to these, we can make the final adjustments to the draft and send it out.

Best,

-Jami MacNeil

Environmental Specialist III

Bureau of Land Resources

Maine Department of Environmental Protection

(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, February 6, 2020 3:48 PM
To: MacNeil, Jami
Subject: RE: permit draft -- final clarifications
Attachments: contngent floats2.jpg

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Version 2 with the existing ramp scrubbed out attached.

From: Spinney, Jeffrey
Sent: Thursday, February 06, 2020 3:18 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: permit draft -- final clarifications

Jami, attached is a 'contingency plan' sketch as requested showing a smaller float system that is consistent with others, as well as the current state of the boat launch ramp. It is a quick sketch, i used one of the old versions and modified it to try and keep it consistent.

I understand that we are trying to get ahead of 'questions/concerns' but at the same time, i glanced quick at the comments and i want to make sure these attempts are not going to an excess and into things that are frankly within the realm of law enforcement/marine patrol, etc. I can get behind the idea of ilf & restoring to current state, i think that is fair.

Does the fact that the mooring blocks are seasonal have any impact? Or do we just consider them permanent? And if so, can i just leave them in year round then? just curious, i probably will still put them in/take them out as i have. I suspect that its pretty insignificant, i think, like \$25 or so each..

Ill call you in a few to confirm you got this before heading out on the road again.

Thanks,
-j

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, February 06, 2020 12:02 PM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} permit draft -- final clarifications

Hi Jeff,

We are very close to issuing the draft, we just need to button up a few small details, or these could become points of contention for commenters.

1. We have determined that compensation will be required for the project. You and I had previously come up with a compensation fee based on 432 s.f. of direct impact from the boat ramp. However, the calculation should also include the mooring blocks. Thus, the total direct

impact is 440 s.f., so the ILF amount is $440 \times 3.91 \times 2 = \$3,440.80$. Can you confirm that this amount will be paid into the ILF program prior to construction?

2. The permit draft will include a condition that if the Land License Agreement for the club is ever terminated and is not replaced by a similar legal instrument to allow the club access to the site, then the boat ramp must be removed and the area restored to its natural condition. This is to prevent the ramp from becoming the personal private ramp. Similarly, if the club were to lose access, the float system would need to be reduced, since it is currently larger than what we would approve for a non-shared, residential use. Can you provide a simple plan for the reduced pier system? Again, this would only come into play if the club lost its access to the project site. The reduced plan should show a float system that is only big enough for your own private use. This will prevent you from having to remove the entire pier system if the club loses their access.

You can call me if any of this is unclear. As soon as we get a response to these, we can make the final adjustments to the draft and send it out.

Best,

-Jami MacNeil

Environmental Specialist III

Bureau of Land Resources

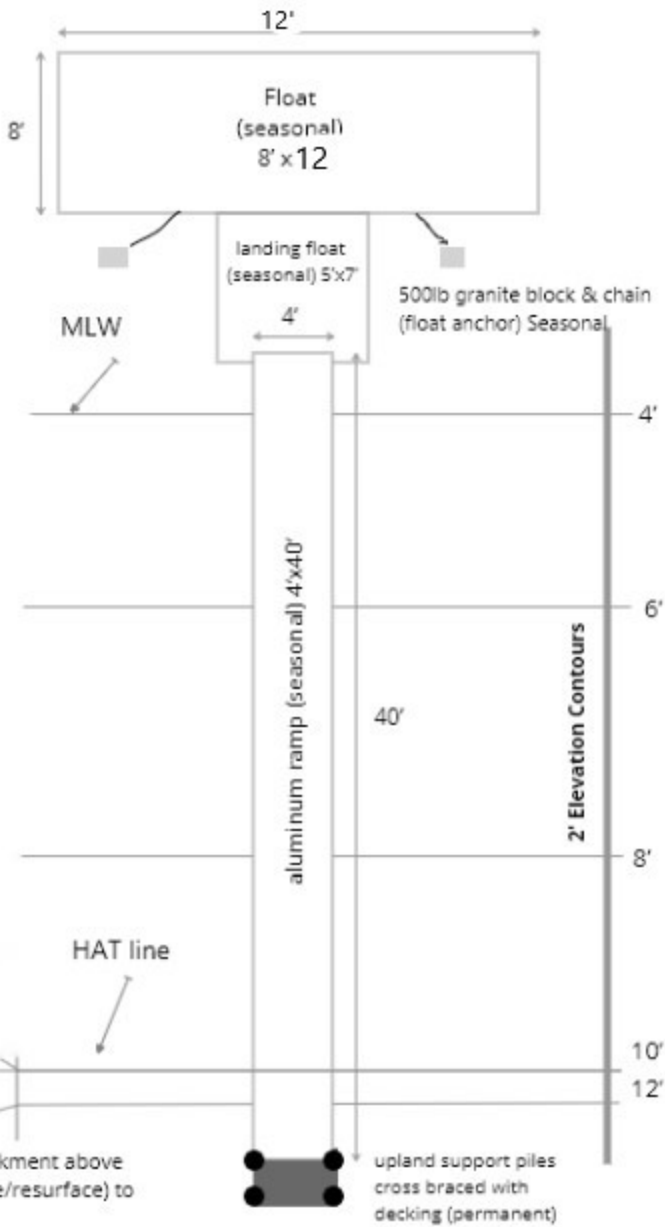
Maine Department of Environmental Protection

(207) 446-4894 | jami.macneil@maine.gov



Sheepscot River

Flow Ebb



Title: Top view with 2' contours (contingency plan)

Revised Date 2/6/2020 **Prepared By** Jeff Spinney, 126 Golden Ridge Road, Alna, ME 04535

York, Marylisa

From: DEP, DLRRAdminSupport
Sent: Monday, February 10, 2020 3:04 PM
To: MacNeil, Jami
Cc: cervin@yclaw.com; baileybolen@gmail.com; gsmith@verrill-law.com; Jay.L.Clement@usace.army.mil; jeffrey.philbrick@lchcare.org
Subject: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffry Spinney
Attachments: Spinney_Jeffry_L28397AN.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

Please find attached to this email a draft order for **NRPA permit, # L-28397-4E-A-N**, located in **Alna** for **Jeffry Spinney**. Please send all comments to the project manager, Jami MacNeil, at jami.macneil@maine.gov. Comments are due by close of business on **February 17, 2020**.

This electronic version of your **draft order** is an Adobe Acrobat .pdf file. If you don't have the Adobe Acrobat Reader on your computer, you can click on this link to download the free reader.

<http://www.adobe.com/products/acrobat/readstep2.html>

Thank you.



DEPARTMENT ORDER

IN THE MATTER OF

JEFFRY SPINNEY) NATURAL RESOURCES PROTECTION ACT
Alna, Lincoln County) COASTAL WETLAND ALTERATION
PIER SYSTEM AND BOAT RAMP) WATER QUALITY CERTIFICATION
L-28397-4E-A-N (approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of the Natural Resources Protection Act (38 M.R.S. §§ 480-A–480-JJ), Section 401 of the Federal Water Pollution Control Act (33 U.S.C. § 1341), and Chapters 310 and 315 of Department rules, the Department of Environmental Protection has considered the application of JEFFRY SPINNEY with the supportive data, agency review comments, public comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. Summary: The applicant proposes to construct a shared-use pier system and permanent boat ramp. The proposed pier system will consist of a permanent access platform and pilings in the upland, a four-foot-wide by 40-foot-long seasonal ramp, and a T-shaped seasonal float system, which will consist of a five-foot-wide by seven-foot-long landing float oriented perpendicular to the shoreline and an eight-foot-wide by 24-foot-long main float oriented parallel to the shoreline. The floats will be anchored by chains and two mooring blocks. The access platform will be anchored by four pilings connected by cross-bracing and located in the upland, approximately four feet from the highest annual tide line. The two pilings closest to the shoreline will form a gantry-style lift. The proposed boat ramp will be located several feet north of the pier system and will be constructed with a subbase layer of six- to eight-inch diameter stones laid over geotextile fabric, surfaced with a top layer of three- to eight-inch stones. The ramp will be approximately 12 feet wide by 36 feet long, extending to the line of mean low water (MLW). The applicant proposes to dredge up to eight cubic yards of material from the coastal wetland to install the ramp. The project will result in 440 square feet of direct impact to the coastal wetland due to the proposed boat ramp and mooring blocks, and 370 square feet of indirect impact to the coastal wetland due to shading from the proposed pier system. The project is being constructed for use by a recreation club known as the Golden Ridge Sportsman’s Club. The project is shown on six plan sheets entitled, “Site access – General overview,” “Top view with 2’ contours,” “Side View – float/ramp/upland support,” “Side View – Ramp side view with elevation,” “Section view lower ramp,” and “Section view upper ramp,” all dated December 9, 2019. The project site is located off Golden Ridge Road in the Town of Alna.

B. Current Use of the Site: The project site is an approximately 100-acre parcel of land that contains a residential structure in an upland location, approximately 0.3 miles from the coastal wetland, and an unimproved access road to the shoreline. The parcel is largely forested.

The project site is used seasonally as an informal launch for boats on trailers. The parcel is identified as Lot 21-A on Map R-4 of the Town of Alna's tax maps.

C. Title, Right, or Interest: An application must demonstrate that the applicant has title, right, or interest in the property proposed to be developed or used for the project sufficient for the nature and duration of the proposed development or use. The applicant submitted a quit claim deed, dated July 19, 2006, that conveyed Lots 21-A & 22 on Map R-4 of the Town of Alna's tax maps from Jeffrey Spinney and Emma Spinney to Jeffrey Spinney (the applicant). During the review, the Department received public comments that included the contention that the driveway to the subject property is restricted to residential use, citing a deed dated April 18, 1986, and recorded in book 1299, page 302 in the Lincoln County Registry of Deeds. In response to this comment, the applicant stated that the right-of-way described in the deed cited by the commenters is not the applicant's driveway, and that the applicant's driveway is known as Reed Road and was specifically conveyed to Jeffrey A. Spinney and Emma M. Page in a warranty deed dated August 26, 2002. The applicant submitted a map and a portion of the Town of Alna's annual report for 2008-2009 documenting the discontinuance of Reed Road as a town way, retaining no public easement except as is necessary for access by the applicant, his heirs and assigns. The applicant also submitted a draft copy of a Land Use License Agreement which will grant members of the Golden Ridge Sportsman's Club access to the proposed boat ramp and pier system. Some of the interested persons contended that the Golden Ridge Sportsman's Club does not constitute an "assign" based on the proposed Land Use License Agreement and would therefore not have legal access to the project site. The Department reviewed the submitted comments and documents, together with the supportive data and related information on file and determined that the submitted deed and additional documents demonstrate to the Department's satisfaction that the applicant has sufficient title, right or interest in all of the property that is proposed for development or use.

D. Public Comments: While the application was being reviewed, the Department received comments from approximately 21 interested persons or entities opposed to the project, some of whom own property abutting the project site. The Department also received several letters of support for the project. The Department reviewed all comments from the interested persons. The Department did not receive any requests for a public hearing during the 20-day period specified in the Department's Chapter 2 Rules governing the processing of applications.

The interested persons expressed a range of concerns, including the impact of increased motorized boat traffic and potential jet ski use on existing recreational uses such as kayaking, canoeing, and quiet enjoyment of the resource; adverse impacts to scenic and aesthetic qualities of the area, water quality, shoreline stability, wildlife and fish habitat, and sensitive plant communities; the potential introduction of non-native species through increased boat access; typographical errors and inconsistencies in the application; and a lack of information about the recreational club that will use the proposed pier system and boat ramp.

Commenters also argued that the project will result in a violation of Maine boating laws, and that the proposed boat ramp is unnecessary because there are alternative boating access points on the river.

Some commenters pointed out that the applicant did not submit a Site Conditions Report (Attachment 9 in the Natural Resources Protection Act (NRPA) application packet) prepared by a professional wetland scientist, however the Department determined that the applicant's Appendix B of the NRPA application packet, the MDEP Coastal Wetland Characterization Field Survey Checklist, adequately addresses the requirements listed under Attachment 9, and that activities directly impacting less than 500 square feet of coastal wetland do not require the assessment to be completed by a professional wetland scientist.

Multiple commenters raised concerns that the project is not allowed under the Town's Shoreland Zoning Ordinance, does not meet local setback requirements, or otherwise does not meet local ordinances. These arguments are based largely on the definition of various terms such as "existing structure," "permanent structure," "commercial activities," and "maintenance and repair" pursuant to local ordinances. The outcome of these arguments may also depend in part on previous Town decisions regarding the project site, and on the documentation, or lack thereof, of those decisions. The Department considered the interested persons' comments and the applicant's rebuttals to these comments, but ultimately concluded that, although these arguments merit thorough and serious consideration, it is the Town of Alna and not the Department that must determine how to apply local ordinances to the proposed project.

Some commenters contended that the applicant previously installed a pier at the project site without first obtaining a permit from the Department. The applicant responded that this structure was removed from the coastal wetland seasonally and therefore did not require a permit under the NRPA. Since the structure was subsequently removed from the coastal wetland, the Department determined that this complaint is resolved. Commenters also raised concerns about the removal of marsh vegetation from within the coastal wetland as a result of the applicant's past boat launching activities. Marsh vegetation is discussed further in Finding 6C.

The Department compiled a list of concerns raised by commenters that are relevant to the NRPA licensing criteria and asked the applicant to respond to them. The applicant's responses are discussed in the Findings below. The applicant addressed minor typographical errors and inconsistencies in the application to the Department's satisfaction. Boating laws are discussed in Finding 2. Wildlife, plant, and habitat considerations are discussed further in Finding 4. After a review of all public comments submitted to the Department, the Department determined that the applicant has addressed the interested persons' concerns to the extent that they relate to the scope of the Department's review.

2. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

The NRPA, in 38 M.R.S. § 480-D(1), requires the applicant to demonstrate that the proposed project will not unreasonably interfere with existing scenic, aesthetic, recreational and navigational uses.

In accordance with Chapter 315, *Assessing and Mitigating Impacts to Scenic and Aesthetic Uses*, the applicant submitted a copy of the Department's Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed project. The applicant also submitted several photographs of the proposed project site and the surrounding area. Department staff visited the project site on September 6, 2019.

The proposed project is located in the Sheepscot River, which is a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. The project site is located approximately midway along a 6.7-mile stretch of river between Head Tide Dam to the north and the reversing falls in Sheepscot Village to the south. The surrounding area contains occasional residential structures, lawns, and docks that are visible from the resource. A transmission line corridor crosses the river approximately 2,000 feet south of the project site.

To reduce the visibility of the proposed project from the resource, the applicant designed the pier system with materials similar to those of other ramp and float systems in the area. The permanent component of the proposed pier does not extend over the resource. In response to public comments on scenic concerns, the applicant conducted a photo-survey and submitted an electronic map with embedded photographs showing existing structures visible from the resource within approximately two miles of the project site. The applicant also submitted photo-simulations of the proposed pier system on the river. Based on the photo-survey and bends in the river, the applicant stated that the visibility of the proposed pier system will be relatively limited, extending approximately 900 feet to the north and approximately 1,150 feet to the south of the project site, with the visibility of the proposed boat ramp extending approximately 370 feet to the north and approximately 270 feet to the south of the project site. During the review, the applicant took measures to reduce the visual impact of the project including reducing the size of the proposed float system by 109 square feet, moving the permanent component of the pier system outside of the coastal wetland, and eliminating the riprap associated with the proposed pier pilings. The applicant does not propose to remove any trees from the shoreline to construct the project. The applicant stated that he designed the pier system and boat ramp to the minimum dimensions practicable and designed it with materials that will blend with the natural shoreline.

The Department staff utilized the Department's Visual Impact Assessment Matrix in its evaluation of the proposed project. The Matrix is used to assess the visual impact severity of a proposed project based on the distance and visibility of the project from a natural landmark or other outstanding natural or cultural feature, State, National, or locally-designated park or trail, and on the approximate number of people likely to view

the project from the resource or a public way per day. The severity rating is also based on the visual elements of landscape compatibility, scale contrast, and spatial dominance as defined in Chapter 315, § 9. The Department determined that the proposed project is directly visible from several vantage points on the water, may be viewed by more than 25 people per day, and is not visible from any natural landmark or other natural or outstanding cultural feature or from any State, National, or locally-designated park or trail. The Matrix showed an acceptable potential visual impact rating for the proposed project. Based on the information submitted in the application and during the review, the visual impact rating and the site inspection by Department staff, the Department finds that the location and scale of the proposed activity is compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area.

In response to public comments about impacts to existing uses, the applicant stated that the motorized boats which will be using the proposed project are not incompatible with kayaks and canoes in this location. The applicant stated that motorized boats currently use the Sheepscot River near the project site, which is located upstream of the reversing falls in Sheepscot Village and downstream of Head Tide Dam. The applicant submitted several letters of support from local residents to support this statement, as well as recent satellite imagery and photographs showing at least one motorized boat docked on this segment of river. The applicant submitted aerial photographs and measurements to demonstrate that the proposed pier will not block navigation of the river channel. The applicant elaborated that the recreation club consists of approximately 25 members and is not expected to grow substantially. Club members collectively own approximately 10 motorized vessels ranging in length from 12 to 17 feet. Based on limited parking at the project site, the applicant anticipates that no more than three motorized vessels will use the proposed boat ramp and pier system at any one time. The applicant has registered the club, known as the Golden Ridge Sportsman's Club, with the Maine Department of the Secretary of State as a nonprofit corporation. During the review, the applicant submitted a draft copy of bylaws for the club, as well as a draft Land Use License Agreement which will grant club members access to the proposed pier system and boat ramp. After reviewing the applicant's responses, the Department determined that the applicant has supplied adequate information about the anticipated uses of the proposed structures.

Several interested persons raised concerns that users of the proposed boat launch will violate Maine boating laws, specifically 12 M.R.S. § 13068-A(13)(A), which states that a person may not operate a watercraft at a speed greater than headway speed (i.e., the minimum speed necessary to maintain steerage and control) while within 200 feet of any shoreline. The commenters contended that, given the narrow width of the river at the project site, this law effectively prohibits the use of motorized vessels on the river, which would make the purpose of the proposed boat ramp (i.e., recreational access to the river for motorized boats) illegal. In response to these comments, the applicant pointed out examples of other waterbodies which are less than 400 feet wide and which experience routine traffic by motorized vessels, including the Sasanoa River between Bath and Boothbay Harbor, the entrance to Oven's Mouth on the Back River in Boothbay, and The

Gut in South Bristol. In consultation with both the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the Maine Department of Marine Resources (DMR), the Department determined that the restriction to headway speed pursuant to 12 M.R.S. § 13068-A(13)(A) does apply to the project site, extending at least as far north as Head Tide Dam and extending at least 1.5 miles south from the project site, depending on the tide cycle. This section of the river is essentially a “no wake” zone. The Department further determined that this restriction to headway speed is important in reducing shoreline erosion and water turbidity due to boat traffic, especially in narrow and shallow waterbodies such as the Sheepscot River. However, the Department also determined that the law only restricts the speed and does not fully prohibit the operation of motorized vessels within 200 feet of the shoreline. Further, the law includes an exception for a person who is operating a watercraft while actively fishing. The applicant has stated that access for fishing is a primary purpose of the proposed project. In light of these considerations, the Department determined that the restriction to headway speed does not undermine the purpose of the proposed boat launch provided that the applicant and his club members observe the restriction to headway speed at all times, except while actively fishing, or if they navigate to an area at least 200 feet from any shoreline. The restriction on watercraft speed is enforceable by both MDIFW and DMR. More broadly, pursuant to 38 M.R.S. § 281-285, the operation of any watercraft at a speed greater than is “reasonable and proper” is a Class E crime and this law is enforceable by every law enforcement officer in the State of Maine. To promote awareness and adherence to this law, the applicant must post a sign in a visible location at the proposed boat launch identifying the river as a “no wake” zone or a “headway speed only” zone.

DMR reviewed the project and commented that the project is located in an area with no significant shellfish or marine worm resources, and therefore no harvesting activities of these organisms. DMR stated that the proposed project should not cause any significant adverse impact to marine resources, traditional commercial harvest activities, or access based on the nature of the project and its location.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of the coastal wetland provided that prior to construction of the proposed boat launch, a speed restriction sign is posted at the boat launch as described above.

3. SOIL EROSION:

The NRPA, in 38 M.R.S. § 480-D(2), requires the applicant to demonstrate that the proposed project will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

The proposed boat ramp will be constructed from the upland and from within the coastal wetland. Equipment will access the site over the existing access road across the property. Prior to construction, the applicant will install a turbidity curtain around the work area. The work will take place during periods of low water; no equipment will remain in the

intertidal area between work sessions. Equipment will operate from the upland or from within the footprint of the proposed boat ramp. The boat ramp site will be graded to a 15% slope and prepared with a subbase of six- to eight-inch-diameter stones laid over geotextile fabric. The ramp will be surfaced with a layer of three- to four-inch-diameter stones. The applicant selected the ramp materials based on a technical guide (Report No. SRH-2015-25) on bank stabilization, issued by the U.S. Department of the Interior's Bureau of Reclamation, which predicts shear and velocity resistance values for various stabilizing materials. Prior to placement, all of the stone material will be washed of loose sediment in an upland area located greater than 75 feet from the resource. The ramp will be installed approximately flush with the existing grade. To ensure that the ramp does not result in unreasonable erosion due to ice or other processes, the applicant agreed to submit photographs of the ramp in a pre-winter and post-winter condition each November and April for three years to the Department for review. If the Department determines that the ramp materials are eroding, the applicant will install pre-cast concrete planks on the ramp surface. Prior to installing the concrete planks, the applicant would be required to submit new plans and any other pertinent information on the proposed activities to the Department for review and approval. In lieu of installing concrete planks, the applicant could remove the ramp and restore the coastal wetland to its natural condition.

The proposed pier system will be constructed from the upland. Pilings will be driven to refusal and cross-braced, with decking installed between them. The seasonal ramp and floats will be constructed on land and launched at the project site for installation. Material stockpiles will be stored greater than 25 feet from the resource and surrounded by temporary sediment barriers as needed. Upon project completion, any remaining disturbed areas will be loamed, seeded, and mulched. Any shrubs or trees removed incidentally will be replanted in accordance with the local Shoreland Zoning Ordinance.

The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment provided that the applicant submits to the Department photographs of the permanent boat ramp in a pre- and post-winter condition for three winters following construction and, if necessary, installs pre-cast concrete planks as described above.

4. HABITAT AND FISHERIES CONSIDERATIONS:

The NRPA, in 38 M.R.S. § 480-D(3), requires the applicant to demonstrate that the proposed project will not unreasonably harm significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

The project site is located on the western shore of the Sheepscot River, which is tidal in this location and therefore considered a coastal wetland. The site of the proposed boat ramp is a gradual slope to the intertidal zone. The intertidal substrate is mud. The site of the proposed pier system is a three-foot-tall embankment that drops steeply to the coastal wetland.

The coastal wetland to either side of the project site contains salt marsh vegetation. The adjacent upland contains an existing primitive camping area with an access road and room for limited, informal vehicle parking, and is otherwise forested.

According to the Department's Geographic Information System (GIS) database there are no mapped Essential or Significant Wildlife Habitats located at the site. MDIFW reviewed the proposed project and stated that the project will result in minimal impacts to wildlife.

In its review, DMR stated that the project as proposed would not cause any significant adverse impact to marine resources. DMR commented that portions of the Sheepscot River just upstream from the project site are listed as sea run fish spawning and rearing habitat and recommended that the boat ramp be constructed during a work window of November 8 to April 8 to minimize impacts to this habitat and to fish passing the site during construction activities.

The Maine Natural Areas Program (MNAP) of the Department of Agriculture, Conservation and Forestry reviewed the proposed project and commented that the project site is located in the vicinity of a rare plant (*Zanichellia palustris*) and a rare wetland plant community (mixed graminoid-forb saltmarsh). MNAP commented that the project as proposed will not directly impact either of these features but recommended that appropriate measures to prevent downstream siltation during construction of the proposed project should be employed. As discussed in Finding 3, the applicant proposes to use erosion and sedimentation control measures during construction to minimize siltation. MNAP commented that these measures, if installed and maintained appropriately, should adequately prevent siltation and avoid adverse impacts to the saltmarsh vegetation and associated species.

In response to public comments about the potential introduction of non-native organisms to the river system, the applicant obtained a standard sign from the Bureau of Water Quality's Invasive Aquatic Species Program to place at the proposed boat ramp to warn boaters to remove all plants and drain all water from boats and to instruct boaters not to release live bait. The applicant stated that the sign will be placed in clear view at the launch site. The Department determined that the placement of the sign is an adequate measure to prevent, to the extent practicable, the introduction of non-native organisms to the river.

The Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life, provided that construction of the boat ramp takes place during a work window of November 8 to April 8.

5. WATER QUALITY CONSIDERATIONS:

The applicant proposes to use treated lumber to construct the pier system. To protect water quality, all treated lumber must be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction.

In response to public comments about water quality, the applicant stated that no fueling will take place at the proposed project site, but as a precaution he will keep an emergency spill kit on site. The applicant further submitted Appendix C of the NRPA application, Supplemental Information for Dredging Activities, to address dredging concerns related to regrading within the intertidal area to construct the proposed boat ramp. The applicant proposes to remove approximately eight cubic yards of mixed mud, clay, and gravel from within the coastal wetland to regrade the intertidal area for the proposed boat ramp. The applicant proposes to use the dredge spoils for soil enhancement in upland gardens on site. The project was reviewed by the Bureau of Remediation and Waste Management's Division of Materials Management (DMM). DMM commented that based on the volume of dredge material and the proposed manner of disposal, the project meets the definition of "beneficial use" and therefore complies with Maine's Solid Waste Management Rules.

Provided that treated lumber is cured as described above, the Department finds that the proposed project will not violate any state water quality law, including those governing the classification of the State's waters.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicant proposes to directly alter 440 square feet of coastal wetland to construct the proposed boat ramp and install two mooring blocks. The applicant proposes to indirectly alter 370 square feet of coastal wetland due to shading from the proposed pier system. Coastal wetlands are wetlands of special significance.

The *Wetlands and Waterbodies Protection Rules*, 06-096 C.M.R. ch. 310 (last amended November 11, 2018), interpret and elaborate on the NRPA criteria for obtaining a permit. The rules guide the Department in its determination of whether a project's impacts would be unreasonable. A proposed project may be found to be unreasonable if it would cause a loss in wetland area, functions and values and there is a practicable alternative to the project that would be less damaging to the environment. Each application for an NRPA permit that involves a coastal wetland alteration must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

A. Avoidance. An applicant must submit an analysis of whether there is a practicable alternative to the project that would be less damaging to the environment and this analysis is considered by the Department in its assessment of the reasonableness of any impacts. Additionally, for activities proposed in, on, or over wetlands of special significance the activity must be among the types listed in Chapter 310, § 5(A) or a practicable alternative less damaging to the environment is considered to exist and the impact is considered to be unreasonable. Piers and boat ramps are both water dependent

uses as defined by Chapter 310, and the consideration of their proposed construction is allowed as set forth in Chapter 310, § 5(A)(1)(c). The applicant submitted an alternatives analysis for the proposed project dated August 23, 2019. The purpose of the proposed pier system is to improve access to the resource for a recreational club that uses the site for swimming, hunting, fishing, and boating. The purpose of the proposed boat ramp is to provide safer and more reliable access for the club members' motorized boats being launched from trailers. As discussed in Finding 1(C), the applicant submitted a draft Land Use License Agreement with the Golden Ridge Sportsman's Club which will provide club members legal access to the project site over the applicant's land. Some of the interested persons expressed concern that by its terms the proposed Land Use License Agreement could be revoked at will by the applicant, resulting in a private boat ramp. The applicant responded that the agreement will only be revoked if the club violates the terms of the agreement. The Department reviewed the proposed agreement and public comments and determined that if the Land Use License Agreement is terminated and is not replaced by another instrument of legal access for the club, the boat ramp must be removed and the float system reduced in size, as it would essentially be serving one private landowner. The applicant agreed and submitted a plan for a reduced float layout in which the boat ramp would be removed, and the main float reduced from 24 to 12 feet in length if the club were to lose access to the site. The plan is entitled, "Top view with 2' contours (contingency plan)" and is dated February 6, 2020.

In their collective comments, the interested persons identified a total of seven existing access points as possible alternatives to the proposed boat ramp. The applicant addressed the feasibility of each alternative and determined that these sites were either too far (at least seven miles) from the applicant's property, did not contain a road or suitable launch site for trailered boats at the shoreline, were private property, were isolated from the applicant's property by a physical barrier such as Head Tide Dam or the reversing falls, or a combination of these factors. The applicant concluded that there is no practicable access point for motorized boats to reach the river within the vicinity of the applicant's property except at the proposed project site. The Department concurs with the applicant's statement that other possible locations are either too far away to be practicable or are otherwise unsafe or inaccessible for the purpose of launching motorized vessels for use above the reversing falls in Sheepscot Village.

The applicant considered taking no action and continuing to launch boats from the project site over natural substrate. Although repeated launching by a single individual at this site may not result in unreasonable erosion, the applicant determined that repeated launching of vessels by multiple club members over time would result in erosion and degradation of the shoreline, and that a permanent stabilized ramp would prevent this erosion, improve safety for users, and prevent vehicles from being mired in the mud, necessitating further disturbance to remove them. The applicant considered alternate materials for the construction of the boat ramp including logging mats, removable concrete, and a roll-out aluminum mat that can be removed seasonally. Through discussions with the Department and the U.S. Army Corps of Engineers, the applicant determined that the repeated installation and removal of a temporary ramp would result in greater erosion and siltation in the resource over time than a permanent ramp.

The applicant also considered two other sites on the shoreline of his property for the construction of a boat ramp but determined that these sites would require tree removal, result in impacts to salt marsh vegetation, and/or require the construction of a new access road. In light of these considerations, the applicant stated that there is no practicable alternative to the proposed project that can meet the applicant's needs and avoids impacts to the resource.

B. Minimal Alteration. In support of an application and to address the analysis of the reasonableness of any impacts of a proposed project, an applicant must demonstrate that the amount of coastal wetland to be altered will be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicant stated that he designed the proposed pier system to the minimum dimensions necessary to provide adequate access for the recreation club's purposes. All parts of the pier system will be removed seasonally except for the minimal access platform and pilings located adjacent to the coastal wetland. During the review, the applicant reduced the size of the proposed float system by 109 square feet, moved the proposed pilings out of the coastal wetland, and eliminated six linear feet of riprap associated with the proposed pier pilings. The changes reduced the proposed direct impact to the coastal wetland by 43 square feet. The applicant stated that he designed the proposed boat ramp to the minimum dimensions needed to provide a safe and stable travel way for boat trailers. The applicant stated that the proposed project minimizes impacts to the coastal wetland to the greatest extent practicable.

C. Compensation. In accordance with Chapter 310, § 5(C)(6)(b), compensation may be required to achieve the goal of no net loss of coastal wetland functions and values. Compensation is generally required for projects that either cover, remove, or destroy marsh vegetation or result in over 500 square feet of fill in the resource. Although this project will not result in over 500 square feet of fill in the resource, the Department finds that the proposed permanent boat ramp will prevent the regeneration of marsh vegetation that would otherwise occur in the area that has been altered through past, unpermitted vehicle traffic. The Department finds that although a portion of the existing impact to marsh vegetation may have been caused by foot traffic or may have begun prior to the effective date of the NRPA, the impact area was expanded and perpetuated through the applicant's use of vehicles in the intertidal area, and this impact area is therefore subject to the current review, and that compensation is required. Based on the agency review comments, the site inspection, and other materials on file, the Department determined that the primary functions of the wetland at the project site include sediment/shoreline stabilization and recreation.

To compensate for lost functions and values of the coastal wetland, the applicant has agreed to make a contribution to the In-Lieu Fee (ILF) program of the Maine Natural Resource Compensation Program (MNRCP) in the amount of \$3,440.80, payable to, "Treasurer, State of Maine," and directly to the attention of the ILF Program Administration at 17 State House Station, Augusta, Maine 04333. The ILF payment must be received by the Department prior to the start of construction.

The Department finds that the proposed compensatory plan meets the requirements for the restoration, enhancement and preservation of freshwater wetland impacts outlined in Chapter 310. The Department further finds that by minimizing the size of the pier system, floats, and the boat ramp the applicant has avoided and minimized coastal wetland impacts to the greatest extent practicable. The Department finds that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project provided that prior to project construction, the applicant submits the ILF payment as described above, the applicant executes the Land Use License Agreement with the Golden Ridge Sportsman's Club as described above and submits a copy of the executed document to the Department, the applicant submits any changes to the Land Use License Agreement to the Department for review and approval prior to its execution, and, in the event that the Land Use License Agreement is terminated and is not replaced by another instrument of legal access for the club, or if the club is dissolved, the applicant removes the boat ramp, restores the coastal wetland to natural conditions, and reduces the size of the float system as described above.

7. OTHER CONSIDERATIONS:

The Department finds, based on the design, proposed construction methods, and location, the proposed project will not inhibit the natural transfer of soil from the terrestrial to the marine environment, will not interfere with the natural flow of any surface or subsurface waters, and will not cause or increase flooding. The proposed project is not located in a coastal sand dune system, is not a crossing of an outstanding river segment, and does not involve dredge spoils disposal beyond the boundaries of the subject parcel or the transport of dredge spoils by water.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S. §§ 480-A–480-JJ and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. § 1341):

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses provided that prior to construction of the proposed boat launch, a speed restriction sign is posted at the boat launch as described in Finding 2.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment provided that the applicant submits to the Department photographs of the permanent boat ramp in a pre- and post-winter condition for three winters following construction and, if necessary, installs pre-cast concrete planks as described in Finding 3.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life, provided that:

- the boat ramp is constructed during a work window of November 8 to April 8;
 - the applicant submits a payment to the ILF program as described in Finding 6;
 - prior to construction, the applicant executes the Land Use License Agreement with the Golden Ridge Sportsman's Club;
 - prior to execution of the Land Use License Agreement, the applicant submits any changes to agreement to the Department for review and approval;
 - the applicant submits a copy of the executed document to the Department, and,
 - in the event that the Land Use License Agreement is terminated, or if the club is dissolved, the applicant removes the boat ramp, restores the coastal wetland to natural conditions and reduces the float system as described in Finding 6.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters provided that treated lumber is cured as described in Finding 5.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S. § 480-P.

THEREFORE, the Department APPROVES the above noted application of JEFFRY SPINNEY to construct a pier system and permanent boat ramp as described in Finding 1, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. Prior to construction of the boat ramp, the applicant shall post a permanent sign in a visible location at the boat launch identifying the river as a "no wake" zone or "headway speed only" zone.

5. Construction of the boat ramp shall take place during a work window of November 8 to April 8.
6. All treated lumber shall be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction.
7. Prior to the start of construction of the boat ramp, the applicant shall execute the Land Use License Agreement granting the Golden Ridge Sportsman's Club the right to access and use the proposed pier system and boat ramp and shall submit a copy of the executed document to the Department. If the Land Use License Agreement is revised prior to its execution, the applicant shall submit a revised draft copy to the Department for review and approval.
8. If the Land Use License Agreement is terminated by the Licensor or Licensee and is not replaced by another instrument of legal access for the Golden Ridge Sportsman's Club within six months of the agreement termination, or if the club is dissolved, the applicant shall remove the boat ramp, restore the coastal wetland to its natural condition, and reduce the size of the main seasonal float to eight feet wide by 12 feet long.
9. For three years following construction of the permanent boat ramp the applicant shall submit photographs of the ramp in a pre-winter condition on or around November 1 and in a post-winter condition on or around April 30 to the Department for review. If the Department determines that the ramp materials are eroding, the applicant shall either remove the ramp and restore the coastal wetland to a natural condition or install pre-cast concrete planks on the ramp surface. Prior to installing the concrete planks, the applicant shall submit a minor revision application, plans, and any other pertinent information on the proposed activities to the Department for review and approval.
10. Prior to the start of construction, the applicant shall submit a payment in the amount of \$3,440.80, payable to "Treasurer, State of Maine," to the attention of the ILF Program Administrator at 17 State House Station, Augusta, Maine 04333.
11. Prior to the start of construction, the applicant must obtain approval pursuant to the Town of Alna's Shoreland Zoning Ordinance and submit a copy of the local permit to the Department for review.
12. Prior to the start of construction, the applicant must obtain all other applicable local permits and approvals.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DONE AND DATED IN AUGUSTA, MAINE, THIS ____ DAY OF _____, 2020.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
For: Gerald D. Reid, Commissioner

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

JM/L28397AN/ATS#84971

DRAFT



Natural Resources Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCES PROTECTION ACT, 38 M.R.S. §§ 480-A ET SEQ., UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. Time frame for approvals. If construction or operation of the activity is not begun within four years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- F. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- G. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: November 2018

Contact: (207) 287-2452

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S. §§ 341-D(4) & 346; the *Maine Administrative Procedure Act*, 5 M.R.S. § 11001; and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed more than 30 calendar days after the date on which the Commissioner's decision was filed with the Board will be dismissed unless notice of the Commissioner's license decision was required to be given to the person filing an appeal (appellant) and the notice was not given as required.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. An appeal may be submitted by fax or e-mail if it contains a scanned original signature. It is recommended that a faxed or e-mailed appeal be followed by the submittal of mailed original paper documents. The complete appeal, including any attachments, must be received at DEP's offices in Augusta on or before 5:00 PM on the due date; materials received after 5:00 pm are not considered received until the following day. The risk of material not being received in a timely manner is on the sender, regardless of the method used. The appellant must also send a copy of the appeal documents to the Commissioner of the DEP; the applicant (if the appellant is not the applicant in the license proceeding at issue); and if a hearing was held on the application, any intervenor in that hearing process. All of the information listed in the next section of this information sheet must be submitted at the time the appeal is filed.

INFORMATION APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time the appeal is submitted:

1. *Aggrieved Status.* The appeal must explain how the appellant has standing to maintain an appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions regarding compliance with the law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing requirements that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for public hearing must be filed as part of the notice of appeal, and must include an offer of proof in accordance with Chapter 2. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed evidence must be submitted with the appeal. The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered in an appeal only under very limited circumstances. The proposed evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Specific requirements for supplemental evidence are found in Chapter 2 § 24.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made easily accessible by the DEP. Upon request, the DEP will make application materials available during normal working hours, provide space to review the file, and provide an opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a license holder may proceed with a project pending the outcome of an appeal, but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, and will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, any materials submitted in response to the appeal, and relevant excerpts from the DEP's application review file will be sent to Board members with a recommended decision from DEP staff. The appellant, the license holder if different from the appellant, and any interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. The appellant and the license holder will have an opportunity to address the Board at the Board meeting. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see 38 M.R.S. § 346(1); 06-096 C.M.R. ch. 2; 5 M.R.S. § 11001; and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452, or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.

York, Marylisa

From: MacNeil, Jami
Sent: Monday, February 10, 2020 2:03 PM
To: Spinney, Jeffry
Subject: RE: permit draft -- final clarifications

Hi Jeff,

I do expect the draft to go out today. I was hoping for Friday but state offices were closed.

Thanks,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Monday, February 10, 2020 1:43 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: permit draft -- final clarifications

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Are we expecting to have a draft out today? Im guessing maybe you guys were out Friday and that's why i didn't see it then? I heard it was snowy/icy. Thanks,
-j

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, February 06, 2020 3:57 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: permit draft -- final clarifications

Thank you.

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, February 06, 2020 3:48 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: permit draft -- final clarifications

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Version 2 with the existing ramp scrubbed out attached.

From: Spinney, Jeffry
Sent: Thursday, February 06, 2020 3:18 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: permit draft -- final clarifications

Jami, attached is a 'contingency plan' sketch as requested showing a smaller float system that is consistent with others, as well as the current state of the boat launch ramp. It is a quick sketch, i used one of the old versions and modified it to try and keep it consistent.

I understand that we are trying to get ahead of 'questions/concerns' but at the same time, i glanced quick at the comments and i want to make sure these attempts are not going to an excess and into things that are frankly within the realm of law enforcement/marine patrol, etc. I can get behind the idea of ilf & restoring to current state, i think that is fair.

Does the fact that the mooring blocks are seasonal have any impact? Or do we just consider them permanent? And if so, can i just leave them in year round then? just curious, i probably will still put them in/take them out as i have. I suspect that its pretty insignificant, i think, like \$25 or so each..

Ill call you in a few to confirm you got this before heading out on the road again.

Thanks,
-j

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, February 06, 2020 12:02 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} permit draft -- final clarifications

Hi Jeff,

We are very close to issuing the draft, we just need to button up a few small details, or these could become points of contention for commenters.

1. We have determined that compensation will be required for the project. You and I had previously come up with a compensation fee based on 432 s.f. of direct impact from the boat ramp. However, the calculation should also include the mooring blocks. Thus, the total direct impact is 440 s.f., so the ILF amount is $440 \times 3.91 \times 2 = \$3,440.80$. Can you confirm that this amount will be paid into the ILF program prior to construction?
2. The permit draft will include a condition that if the Land License Agreement for the club is ever terminated and is not replaced by a similar legal instrument to allow the club access to the site, then the boat ramp must be removed and the area restored to its natural condition. This is to prevent the ramp from becoming the personal private ramp. Similarly, if the club were to lose access, the float system would need to be reduced, since it is currently larger than what we would approve for a non-shared, residential use. Can you provide a simple plan for the reduced pier system? Again, this would only come into play if the club lost its access to the project site. The reduced plan should show a float system that is only big enough for your own private use. This will prevent you from having to remove the entire pier system if the club loses their access.

You can call me if any of this is unclear. As soon as we get a response to these, we can make the final adjustments to the draft and send it out.

Best,

-Jami MacNeil

Environmental Specialist III

Bureau of Land Resources

Maine Department of Environmental Protection

(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: Spinney, Jeffrey <Jeffrey.Spinney@LibertyMutual.com>
Sent: Wednesday, February 12, 2020 2:12 PM
To: MacNeil, Jami
Subject: RE: FW: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffrey Spinney

Follow Up Flag: Follow up
Flag Status: Completed

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Thanks Jami this looks pretty reasonable from my perspective, i made a few notes as i read and have outlined them below:

- 1.) Where/how do we got the "25 people a day" may see this in the visual impact section. At the most, i think in all the years i have been here, i have seen 4-5 people in one day go by and that's only on a 'scheduled' nature trip (the rare exception not the rule) that the Sheepscot valley people used to do once or twice a summer where the paddle from head tide down to (wherever they go). I think Bill even had a picture of one of these events that showed maybe 4-5 people tops.

I don't know if that really matters or not a this point, just thought i wouldn't mention it since it seems completely high.

- 2.) I will look into getting a sign for the headway speed law, and ill post it with (above or below) the invasive species law sign that's already up at the suggested height (eye level), location (drivers side, water edge), that the invasive species people told me to put it at. Pic attached showing the location. Assume this is an equally ok place for your sign? A quick look around at sign makers shows me that it is far easier to find a 'no wake' sign, so ill probably go with that, here is an example.





- 3.) About the mooring blocks, since they are seasonal (removed in winter, shown on left side of the attached picture during the winter) then how come they fall into direct impacts? I thought this was 'permanent' stuff only? Or does this (calculating them as part of direct impact) mean that i can leave them in year round if i so choose? It's really just a curiosity thing, not a big deal either way to be honest.
- 4.) On page 1 you have 370 square feet of indirect impact, just trying to recall how that is computed. Assume this is 'shading' related stuff, right? If i calculate up the ramp at 4x40 that's 160ft², and since not even all of that is over marsh....im a little fuzzy on how this number comes to be. The docks are floating out past any marsh related stuff, so i wouldn't think those count.

Again, more just curiosity on my part & trying to get ahead of where likely commenters will question things more than anything.

- 5.) The revocation of license concern. I specifically put wording into this license to alleviate this concern from the get-go. section 4.3. The only way to revoke license is to have the club 1.) default and then 2.) not resolve within 30 days. This is (intentionally) completely on the club and not within my arbitrary control as commenters have suggested.

4.3 Revocation by Licensor. Notwithstanding any other provision of performance under this Agreement, the Licensor may, without remedy, revoke the License at any time. Such revocation will be effective after 30 days. Should such revocation impose any further obligation.

- 6.) I noticed in the alternate site section (top of page 11) it goes on to explain how i had two other sites, and that i indicated that they are not as desirable, i thought the dept was in agreement on this due to the 'tradeoffs' as you and i discussed after site visiting them. It does not indicate that the DEP agrees in this section, as it does in other sections, I was just wondering if there is a particular reason (if so what) or simple oversight in drafting/editing.

- 7.) Page 12, paragraph c – what does this mean? “the proposed activity will not unreasonably inhibit the transfer of soil from the terrestrial to the marine or freshwater...”

Maybe I'm being an idiot here, but i read this as 'this will NOT stop (inhibit) dirt (soil) from washing into water' which seems just odd or backwards to me. I thought we ARE trying to stop r inhibit dirt from getting in the water. Am i completely misunderstanding/misreading this? Or is the wording backwards from the intent by accident?

From: MacNeil, Jami <Jami.MacNeil@maine.gov>

Sent: Tuesday, February 11, 2020 3:07 PM

To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>

Subject: {EXTERNAL} FW: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffrey Spinney

Hi Jeff,

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-Jami MacNeil

Environmental Specialist III

Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: MacNeil, Jami

Sent: Monday, February 10, 2020 3:52 PM

To: cervin@yctrlaw.com; baileybolen@gmail.com; gsmith@verrill-law.com; Jay.L.Clement@usace.army.mil; jeffrey.philbrick@lchcare.org

Subject: RE: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffry Spinney

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Thank you,

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From: DEP, DLRRAdminSupport <DLRRAdminSupport.DEP@maine.gov>

Sent: Monday, February 10, 2020 3:04 PM

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Thank you.

York, Marylisa

From: MacNeil, Jami
Sent: Thursday, February 13, 2020 9:50 AM
To: Spinney, Jeffry
Subject: RE: FW: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffry Spinney
Attachments: RE: impact numbers question

Hi Jeff,

I agree that 25 people/day is a high estimate but I wanted to be conservative since we have no actual data either way. The visual impact rating still came out to be acceptable, so I do not think it's worth it to be less conservative. The "no wake zone" will be fine in that location. Even if the mooring blocks are removed seasonally, they are still attached to something permanent, just like the floats and gangway ramp, and since they make direct contact with the substrate we felt it was better to include them in the calculation of direct impacts. We have no problem with you leaving them in year-round.

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We understand that you will not revoke the club's access license arbitrarily. However, whether the club's access were to be removed arbitrarily or for good reason, if the club no longer has access then the boat launch would no longer be a structure that DEP would approve. This is why we decided to include special condition #8.

Regarding the last paragraph of Finding 6A on page 11 of the draft, your point is well taken and I will propose we add a statement in the final draft that the Department agrees that the alternative sites were not preferable.

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Let me know if you have further questions. I have not received any other comments on the draft yet.

Best,

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From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Wednesday, February 12, 2020 2:12 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: FW: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffry Spinney

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Sent: Thursday, February 13, 2020 10:25 AM
To: MacNeil, Jami
Subject: RE: FW: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffrey Spinney

Follow Up Flag: Follow up
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I get it in terms of the people/day thing, i agree being more conservative is probably best....i just didn't know if it made any difference on anything else or not which is why i mentioned it.

I wasn't really looking to change anything on the blocks or shading part...., i was just curious and making sure i can understand/defend/explain it to others as im sure i will have to. I totally forgot about the rounding part, duh. That's why my numbers weren't working out, my bad. No worries, I'm just being forgetful i guess. Totally my fault.

In terms of the revocation thing, i just wanted to make sure the DEP didn't see it in the way the Verril law guy is trying to say about it bring arbitrarily revocable, i specifically had it not that way. The condition is not a problem at all, and iwasnt looking to get rid of it, i just don't like when people say something that's not true and i wanted the record to be clear for what that's worth.

Man, that erosion statement is so goofy.....but, i did notice after looking around a bit that its in every single permit all over the place, it just seems so odd to me in the way it words it....but, who am I to argue i guess....haha.



Thank you again,
-j

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Sent: Thursday, February 13, 2020 9:50 AM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
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Sent: Monday, February 17, 2020 10:14 PM
To: MacNeil, Jami
Subject: RE: FW: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffrey Spinney

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Hi Jami,

I was just reading this over again and had a couple of questions:

1.) Page 16, section F from standard conditions:

“No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit”

I don't think it explicitly says in the permit that we will take the excavator below the high tide line, but obviously we will have to in order to place the stone and remove the mud/dirt it is displacing. Maybe this is being too picky on my part, but i just thought i would point this out before somebody else does.

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Thanks
-jeff

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From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Tuesday, February 18, 2020 11:48 PM
To: MacNeil, Jami
Cc: Clement, Jay L CIV USARMY CENAE (USA)
Subject: ROW deed

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Hi Jami & Jay (sorry Jay, not sure if you need this too or not so just being safe)

I read in today's round of comments on DEP draft permit that there is still a belabored concern surrounding right, title, and interest and access to my property by my guests.

Interestingly enough, I recently came across the attached additional right of way to my property, sold by Gertrude Sortwell, the owner (prior to the Philbricks) of their property, sold to Alonzo Reed (used to live in my house and owned a portion of my property). So, not sure if you want it for your records, but it is effectively a second right of way that I possess along the same roadway/driveway crossing Philbrick.

-jeff

T S,
ounty of Lincoln

York, Marylisa

From: MacNeil, Jami
Sent: Tuesday, February 18, 2020 1:21 PM
To: Spinney, Jeffry
Subject: RE: FW: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffry Spinney
Attachments: DEPltr AlnaNewcresidents.docx; Ltr to MacNeil re. Spinney Permit Application, Alna, Maine (03377530xAE394).pdf; DEP Comment 5.docx; _2-16-20_Response to the DEP Draft ApprovalA Response to the Proposed Sheepscot River Development_001.pdf

Hi Jeff,

Attached are the comments we've received on the draft. I haven't read them all yet. I will let you know if we need anything from you or if they result in any major changes.

Regarding your questions:

1. This is a standard condition for all NRPA permits. The permit draft specifies, in Finding 3, that some of the construction will take place from within the coastal wetland, so this is allowed for your project ("from within the footprint of the proposed boat ramp.")
2. I will bring this up with my supervisor but the Department's agreement or non-agreement with the facts or statements presented is usually reserved for the end of the Finding.
3. I would appreciate having the Army Corps permit for our files, if you would like to send it. If you want to send any local approvals for our files, I welcome those as well, although the permit, as currently drafted, will not require you to do so.

Thank you,

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cjohnson@tidewater.net

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28 Tyson Drive
Augusta, ME 04330
By email: Jami.Macneil@Maine.gov

Feb. 16, 2020

Re: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffrey Spinney

Dear Ms. McNeil,

We, the undersigned residents and landowners in Alna and Newcastle, disagree that the application for a pier and dock on the Sheepscot River filed by Jeffrey Spinney meets the legal requirements of the NRPA, and we urge you to deny the application.

The Department's draft decision fails to acknowledge the special and unusual character of the Sheepscot River north of the powerline. This is not a developed area with "structures, lawns and docks" as suggested by the draft decision, but rather a remote and undeveloped area with no road access and no visible riverside structures between the powerline and The Bend by Dock Road. Extensive conservation efforts and much money have been invested in recent years to retain in this area the river's natural, unspoiled character and to protect its conservation values and non-motorized recreation uses. All of the evidence in the record that mentions docks and motorized use on the river is referring to the portion of the river south of the powerline and in the vicinity of and south of Sheepscot Village, *not* the area north of the powerline in which the proposed development is located. For these reasons, we believe that the draft decision is inaccurate and that the application fails to meet the requirement of 38 M.R.S. § 480-D(1), which requires the applicant to demonstrate that the proposed project will not unreasonably interfere with existing scenic, aesthetic, recreational and navigational uses. It most emphatically will adversely and permanently affect, and diminish, the quiet non-motorized recreation taking place in this river section now.

The draft decision also fails to adequately address the long standing violations of the NRPA which exist at the site of the proposed permit. The draft decision acknowledges that "the area... has been altered through past, unpermitted vehicle traffic." Yet, despite this acknowledgment of previous violations, the Department imposes no fine nor requires any remediation of the site, and, instead, rewards the applicant by granting his application for further development at the site based upon the previous unpermitted development. The precedent that this decision would set

will invite future violations of the NRPA and future degradation of the Sheepscot River as well as other rivers in the state. This creates a gigantic loophole in the NRPA. [We note that the Department requires a \$3440.80 payment as compensation for the damage the proposed development would cause, but compensation would be required even if there had been no earlier violations. This compensation payment does not substitute for a fine and required remediation.]

For both of these reasons, we urge the Department to reverse its draft decision and deny the permit application.

However, if the Department chooses to grant this application, we urge the Department to amend the draft decision to require the following additional conditions:

1. Require the applicant to submit evidence that the Golden Ridge Sportman's Club has elected officers other than the applicant and require all documents required to be submitted, including the proposed Land Use License Agreement, be signed by both the applicant and by a duly elected officer of the Golden Ridge Sportman's Club, other than the applicant or any family member in residence on the property. These actions by the Sportsman's Club should be in accord with Article II (B) of the draft bylaws, when bylaws become adopted by the Club, and the Board's action should be documented by a resolution as recorded by the Club's secretary/treasurer.
2. Require the applicant to certify annually that the Golden Ridge Sportsman's Club continues to use and have legal access to the boat ramp/pier with such certification signed as well by an official, other than the applicant or any family member in residence on the property, in the Golden Ridge Sportsman's Club.
3. Limit membership in the Golden Ridge Sportman's Club to 25 individuals; limit access to the facilities to 25 including members and guests; limit vehicles using the site to three at any one time; require all parking to be outside the shoreland zone; and limit the number of boats launching from the pier and ramp and present on the river to three at any one time.

Thank you for your consideration of these comments.

Sincerely,

Carolyn B. Aldrich, Alna
Kate Aldrich, Alna
Tom Aldrich, Alna
Christine L. Anderson, Alna
Margaret Rigg Atwood, Newcastle
William M. Balch, Newcastle
William Bailey Bolen, Alna
Steve Cheff, Newcastle

Jesse Cheney, Alna
Stephanie Cheney, Alna
Xavier Comas, Alna
Doreen Conboy, Alna
Charles Culbertson, Alna
Collin Culbertson, Alna
Elizabeth Davis, Alna
Gordon Davis, Alna
Carol Ervin, Alna
Gerry Flanagan, Alna
Donna Flynn, Alna
Les Fossel, Alna
Meredith Fossel, Alna
Carol Gardner, Alna
Jon Gold, Newcastle
Betsey Hall, Alna
Erik Huber, Alna
Earl Ireland, Alna
Maria Jenness, Alna
Cathy Johnson, Alna
Christy Joyce, Newcastle
Chris Kenoyer, Alna
Linda Kirk, Alna
Jon Luoma, Alna
Patricia A Matrai, Newcastle
Del Merritt, Newcastle
Bridget Mullen, Alna
Albert Monaco, Alna
Ed Pentaleri, Alna
Debra Pentaleri, Alna
Jeff Philbrick, Alna
Karen Philbrick, Alna
Richard Picard, Alna
Stacey Rees, Alna
Dorothy Renda, Newcastle
Honor Sage, Alna
Leah W. Sprague, Newcastle
Susan Stires, Alna
A.McKinne Stires, Alna
Julie Niedhamer Tenan, Newcastle

Paul Tenan, Newcastle
Bill Weary, Newcastle

Cc: Commissioner Jerry Reid

February 14, 2020

Via Email – Jami.macneil@maine.gov
And United States Mail, First Class
Jami MacNeil
Environmental Specialist III
Maine Dept. of Environmental Protection
Bureau of Land Resources
28 Tyson Drive
Augusta, ME 04330

Re: Permit Application of Jeffrey Spinney, Alna, Maine

Dear Jami:

Thank you for sharing the draft NRPA permit which your department has recommended be granted to Mr. Spinney. Please find below our thoughts and comments on the draft. We are also in receipt of comments offered by Gordon Smith of Verrill Dana on behalf of Carol Ervin. We agree with those recommendations and incorporate them here.

We respectfully disagree with the determination that Mr. Spinney's right, title, and interest is dispositive of the questions as to whether the true applicant has demonstrated such standing. There is no doubt that Mr. Spinney has a deed to the land. There similarly is no doubt that the Golden Ridge Sportsman's Club does not. Everything in Mr. Spinney's materials reflects that the true "applicant" is the Club; yet the Club has no "right, title, and interest." Your draft concludes that the Club is an "assign" of Mr. Spinney. The word "assigns" is an ancient word with import only in a deed or other document conveying title. See Black's Law Dictionary. Here the Club has no such conveyance of any interest.¹ Since Mr. Spinney's application is for a common pier rather than a private pier, it is clear the application is for a pier and ramp he proposes to build is not for him, but rather for the Club, the Club is the proper applicant. But, where it has no right, title and interest, it cannot receive a permit. No right, title, and interest in the true proposed user of the ramp and pier has been shown.

¹ As we have discussed before, a terminable, revocable license is not a conveyance of title.

The department's broad and incorrect interpretation of the word "assigns" is also at direct odds with the stated terms of the Town of Alna in discontinuing the right of public access over and across Reed Road in its discontinuance, an additional copy of which is attached hereto. It terminates the public easement in the road. It reserves access for Mr. Spinney and those to whom he conveys his land ("his heirs and assigns"). It is evident from that discontinuance that the Town intended to stop the use of this road for the public. Yet, the Club claims a right of access over that very road, despite the discontinuance. The draft permit must be modified to correct and reverse this error of law. There is no doubt that the analysis the DEP has conducted has been dependent on the fact that Mr. Spinney purports to be developing a common use facility. Yet, the road discontinuance in limiting the right of access did not allow such broad use.

We urge the DEP to reconsider its draft; find that the true applicant, the Golden Ridge Sportsman's Club, has no right, title, and interest, and deny the permit in full.

Alternatively, so that the permit is not at direct odds with the limited rights of access which the town intended to preserve in its order of discontinuance, we would ask that the following clarifications, additions, and conditions be added to the permit before it is finally approved.

- A. Under Facts 6a, in the event of termination of the license, the removal and downsizing referenced should have a deadline. We recommend no more than within 30 days.
- B. Also under Facts 6a, where there is a "contingency plan" if the club is dissolved, the permit should require that all such downsizing be subject to any local permitting requirements.
- C. These issues of removal in the event of termination of the license of dissolution of the Club are also addressed in Facts, item 6c on page 12, and Other Considerations section 7d, page 13 and Conditions, section 8, on page 14 and should be consistent concerning the duty to promptly remove and assure compliance with local ordinances.
- D. Under the Conditions section, item 8 on page 14, the 6 month lapse timeframe is unreasonable particularly given the limitations on the use of the road anticipated by the discontinuance. We would recommend that be lowered to 30 days.

In addition, we would ask that the DEP consider additional conditions to bring the use more in line with an understanding of the Club being treated as guests or invitees of Mr. Spinney, as follows:

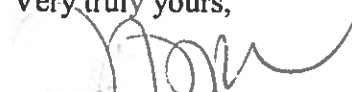
- a. The Permit Holder shall provide DEP with to any club license agreement within 15 days of execution in order for the enforcement of the permit conditions; and
- b. Annual club membership lists be provided to the DEP to assure compliance with the permit conditions by the members of the club;

Jami MacNeil
February 14, 2020
Page 3 of 3

I hope you will consider this request for revision when you revisit the application with the legal and review staff at DEP.

Again and as always, if you have any questions or comments upon our analysis, please do not hesitate to call.

Very truly yours,



Judy A. S. Metcalf

JASM/rt
enclosure

cc: Jay Clement, Sr. Project Manager, USACE
clients

vote to raise and appropriate for the

\$6,500.00

1 year was \$6,000.00

cept as written. Seconded Passed

e Treasurer's position to be appointed
sition is an elected one at this time.

itten. Seconded discussion Failed

vote to raise and appropriate for the

\$15,500.00

1 year was \$1,000.00

d as written Seconded Discussion
nd to \$7,000.00 Seconded Passed

vote to raise and appropriate for the

in recommend the following for an

2008	2007
24,750.00	[19,435.00]
16,048.00	[6,825.00]
5,990.00	[4,020.00]
2,500.00	[2,000.00]
1,500.00	[0.00]
0.00	[2,500.00]
5,000.00	[2,500.00]
\$55,788.00	[\$37,280.00]

it as written. Seconded Discussion
Department Administration amount by
008 \$62,888.00. Seconded Passed

ill vote to raise and appropriate for

\$1,500.00

accept as written Seconded Passed

Article 26: To see what sum the Town will vote to raise and appropriate for the
Fire Truck Reserve Account.

Fire Department Recommends \$15,000.00

Note: The amount raised and appropriated last year was \$12,000.00

Motion made to accept as written Seconded Passed

Article 27: To see what sum the Town will vote to raise and appropriate for
Emergency Preparedness.

Emergency Preparedness Director recommends \$1,450.00

Note: The amount raised and appropriated last year was \$0.00

Motion made to accept as written Seconded Passed

Article 28: To take up again Article 2 from the August eighth, 2007 meeting
warrant, which was voted tabled until the March, 2008 Annual Meeting, said article
reading as follows: To see if the Town will vote to approve the Municipal Officer's
Order of discontinuance of a portion of the Nelson Road, dated July 11, 2007 and
filed with the Town Clerk.

Motion made to accept as written Seconded Discussion Passed

Article 29: To see if the Town will vote to approve the Order of Discontinuance
of the Reed Road lying between the Golden Ridge Road and property of Jeffrey A.
Spinney a/k/a Jeffrey A. Spinney (Tax Map 4, Lot 21A), retaining no public easement
whatsoever except as is necessary for access by Jeffrey A. Spinney a/k/a Jeffrey A.
Spinney, his heirs and assigns, to access his property (Tax Map, 4 Lot 21A), provided
however that the road abutter(s) and new owner(s) of the land underlying the retained
discontinued roadbed shall have no obligation of any kind to maintain the retained
easement. The Order of Discontinuance has been filed by the Selectmen with the
Town Clerk and would discontinue the Reed Road lying between the Golden Ridge
Road and property of Jeffrey A. Spinney a/k/a Jeffrey A. Spinney (Tax Map 4, Lot
21A), and its present public easement, except as retained for access to the Spinney
lot.

Motion made to accept as written Seconded Passed

Article 30: To see what sum the Town will vote to raise and appropriate for the
General Highway Account.

Road Commissioner and Selectmen recommend \$40,000.00

Note: The amount raised and appropriated last year was \$35,000.00

Motion made to accept as written Seconded Passed

Article 31: To see what sum the Town will raise and appropriate for the Rabbit
Path Bailey Road Reconstruction Account.

Road Commissioner recommends \$25,000.00

Note: The amount raised and appropriated last year was \$25,000.00

Motion made to accept as written Seconded Passed

February 18, 2020

Jami MacNeil
Environmental Specialist III
Maine Department of Environmental Protection
Jami.macneil@maine.gov
Jay.L.Clement@usace.army.mil

Dear Jami and Jay:

I have read through the draft permit DEP issued Jeff Spinney and note the important conditions it lays out. Thank you for them and any additional clarifications that can be made. Still, as I reflect on the conversations over the last four and more months, I find the DEP's conclusions of this draft based on faulty assumptions, assumptions long pointed out as faulty, and faulty assumptions left unaddressed, for reasons I don't understand. At the very least, addressing these assumptions – there still is time -- would help to overcome the unfortunate impression that this draft leaves, that is, that the decision on this application had been made long ago.

The draft falsely assumes:

1. **That the Sheepscot River from the village of Sheepscot to Head Tide is uniform and can be considered a unit.** Based on this assumption, then, a photo of a boat at a dock is taken as evidence of current motorboat traffic and of the existence of other docks, even though both photo of dock and boat are from well down on the river. Similarly, on the basis of this assumption, evidence submitted of dock structures comparable to Mr. Spinney's proposed pier is accepted as accurate, even though those referenced are in and around the village of Sheepscot and its wide and deep waters and open valley, not up here. As has been pointed out many times, by many people, this stretch of the river is not that stretch; there are no structures above the powerlines; those living on and along the river, now, see and long have seen few if any motorboats here and consider the proposal an unjustified and unnecessary intrusion on a wild, quiet, and undeveloped river. Most of the draft permit's arguments collapse when this assumption is recognized as false. Moreover, anyone who knows the area sadly has to ask how the DEP conducts its research, whether the DEP knows the territory on which it is issuing judgment, whether it has any understanding or appreciation of that area, or, even more sadly, whether it even cares.

2. **That a large, deep-water pier installation and boat launch on a narrow, shallow stretch of river without any structures can “blend in” with the surroundings.** There is no way it can fit in, and those going by can only wonder who gave approval for it and on what grounds.
3. **That the impact of one person on this stretch of river is no different from that of 25 and perhaps many more.** We start with 25, significant in contrast to a family, and serious enough. But should the club grow in membership, as is more than likely, there could be yet more boats at the pier, with parking in the field, maybe at river’s edge. And then there will be “guests,” “friends,” those claiming to be guests of members or friends, and those simply showing up. Who will verify appropriate access to and at the pier and proper behavior there? What will be the consequences to the river, esthetically and ecologically? Perhaps there someday will be a public boat launch and campground there?
4. **That 7.5 miles of highway is too far to go for a boat launch, even when Wiscasset’s is on deep, wide open water, not onto a narrow, shallow speed-limited river at the bottom of a long and difficult dirt access road.** Even if the arbitrary setting of 7.5 miles from a member’s home to Wiscasset were to be granted, people here regularly drive that far and farther, to school, work, and the supermarket and think nothing of it. It’s hard to imagine advancing such an argument in the first place, much less anyone accepting it.
5. **That the applicant’s representations can be accepted at face value.**

As issued, the draft does not fully correspond to the time and labor the DEP and others have invested in this application over the last five months. As noted above, the unfortunate impression, which is hard for me to understand, is that approval of the application was ensured, from the start.

Sincerely,

William A. Weary
293 North Dyer Neck Road
Newcastle, ME 04553

P.O. Box 202
Newcastle, ME 04553
Chezcheff@aol.com

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

Feb. 16, 2020,

Re: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffrey Spinney

Dear Ms. McNeil,

Thank you for addressing some of our concerns regarding the Spinney Dock application. I am pleased that you confirmed that the entire upper estuary “is essentially a no wake zone” and that the users of the proposed club would be held accountable for following this law. I am also thankful you addressed the issue of aquatic invasive species and requiring signage at the property

I agree with all the points made in the email I signed that you received earlier in the day. I strongly disagree that the application for a pier and dock on the Sheepscot River filed by Jeffrey Spinney meets the legal requirements of the NRPA, and I again urge you to deny the application.

I will address these issues in three parts:

- A. The entire process is flawed due to inaccuracies in the applicant’ information.
- B. The majority of us were not given the opportunity to speak at a public hearing on this topic.
- C. It appears that the majority of points I made in the documents I submitted, remain unaddressed.

A. The entire process is flawed due to inaccuracies in the applicant’ information.

It appears to me that the document “DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffrey Spinney” is significantly flawed because it begins by accepting a false premise put out by Mr. Spinney and his acquaintances that there are docks and boats all along the upper estuary of the Sheepscot River, where his development is planned. Mr. Spinney has conveniently misrepresented some of the facts to attempt to persuade the DEP that the existing use of the Upper Sheepscot Estuary is what his narrative says it is. This simply isn’t true. Based on this faulty information, he (and the DEP) claim the project will not interfere with the existing scenic and

aesthetic uses of the upper Sheepscot River estuary and will not harm or interfere with any habitat or wildlife, because the activities (docks, motor boating, skiing, hunting, camp grounds) he proposes have been happening on the river for years and years right up to the present moment.

As an example, the DEP chose to accept the applicant's "evidence"; the area where the ramp will be put is commonly used by motorboats, and contains many docks and lawns similar to what he proposes. Thus his dock plan would simply maintain the status quo. The facts speak differently. There are no structures of any kind that exist on the Upper Sheepscot Estuary that are similar to or as large as his proposed ramp and dock. The applicant showed evidence (I assume pictures) of docks and boats and lawns that are two miles below his location (the two small docks in the Village).

The truth is, that on a nice summer day, there might be a couple of kayaks and/or canoes paddling up and down the river near my house just below Spinney's property (many more near Reversing Falls). On any given day during any season, motor boats are virtually absent from the river all the way from the Falls up to Head Tide. I've spent many hours canoeing the river and even more time sitting on my deck in direct view of the River. I have seen **one** motorized boat in the past four years. That boat was a 20-footer that was illegally flying up and down the river at about 15-20 mph. It caused all the birds in the area (including a family of bald eagles that hangout in the pine trees) to fly away.

In my opinion, the DEP chose to disregard or ignore the collective wisdom and experience of:

(1) The 50-100 people who all live on or near the section of the Sheepscot and whom all disagree with the applicant and the DEP's assessment of the existing use of the river;

(2) The Sheepscot Valley Conservation Association and its members;

(3) The Maine Atlantic Salmon Conservation Fund; and

(4) Multiple Maine State government documents which all agree that the Sheepscot River is an area of very special aesthetic and ecological significance and that any development of the type Mr. Spinney is proposing on the river will significantly harm the river in many ways.

https://www.maine.gov/dacf/mnap/focusarea/lower_sheepscot_river_focus_area.pdf

To reiterate, the draft document starts with the false premise that this project will not change the existing state of the River. That false premise is due to Mr. Spinney's misrepresentation of the evidence about the existing use of the River, the fact that the DEP seems to have used these half-truths to make its decision, and the fact that it continues to ignore the voices of those who live on the River and understanding the situation at hand.

B. The majority of us were not given the opportunity to speak at a public hearing on this topic.

You state in your document that no one requested a hearing within 20 days. For all practical purposes, most of us were prevented from being able to request a hearing because we were never

informed by the developer, the DEP or the town of Alna, about this proposed development. Who bears the responsibility of informing those most directly impacted?

I did not know about this plan until November 24th 2019, three months after proposal, so I certainly didn't have the opportunity to request a hearing.

C. It appears that the majority of points I made in the documents I submitted, remain unaddressed.

Because my concerns were originally unaddressed, I pose the following questions:

1. Why did the DEP choose to believe and rely on Mr. Spinney's beliefs and "evidence", rather than the evidence and observations of dozens of folks who believe in conserving Sheepscot River? Alternatively, why didn't the DEP conduct it's own investigation?
2. Why did the DEP ignore studies regarding the impact that boats and motors in small channel river, showing there is adverse affects to marine invertebrates, which are a major part of the Sheepscot ecosystem?
3. Why did the DEP ignore studies showing that boats, motors and the noise and pollution they create, will adversely affect nesting birds, Bald Eagles, Ospreys and other protected birds of prey.
4. Why did the DEP not address how motor boats might affect the at least 1-2 active bald eagle nests in the upper Sheepscot River Upper Estuary?
5. Why did the DEP ignore the fact that active motorboats will harm the peace and quiet of the River's residents, marine fauna and other wildlife?
6. Why did the DEP not address how hunting may adversely affect existing the wildlife, scenic, aesthetic and recreational uses of the upper estuary?

"Lead created by hunting them will affect the marine invertebrates, nesting birds, bald eagles, ospreys and other important and protected birds of prey. There are two active bald eagle nests within 5 miles of the proposed ramp. In the first two weeks of January, five sick eagles were rescued from locations throughout the state and admitted to Avian Haven, a wildlife rehabilitation center in Freedom. All five birds had elevated levels of lead in their blood. Within days, all of the birds died."

7. While you admit that the project is near Endangered Atlantic Salmon spawning and rearing areas, why did you fail to address how a "sportsman's camp" with 25 members, dozens of boats, and increased motor boating activity in a very narrow and shallow river, might adversely affect the Salmon population?

"The populations of Atlantic salmon endemic to Maine's rivers are unique biological entities: they

recognize no man-made boundaries and roam international waters for half their life span; they are exploited by distant fisheries as well as those in home waters; they migrate to feeding areas north of the Arctic circle yet they return to their natal streams to reproduce their kind. They exhibit a plasticity that is unique among anadromous fishes and given the opportunity, small populations like those returning to the Sheepscot River are capable of circumventing both natural and man-made catastrophes. They surmount the marine and freshwater fluctuations in survival that determines the number of salmon returning each year. They remain as a renewable resource of importance to the State of Maine, for the benefits derived are woven throughout the fabric of our economy as citizens and visitors alike pursue *Salmo salar* for food and sport.”

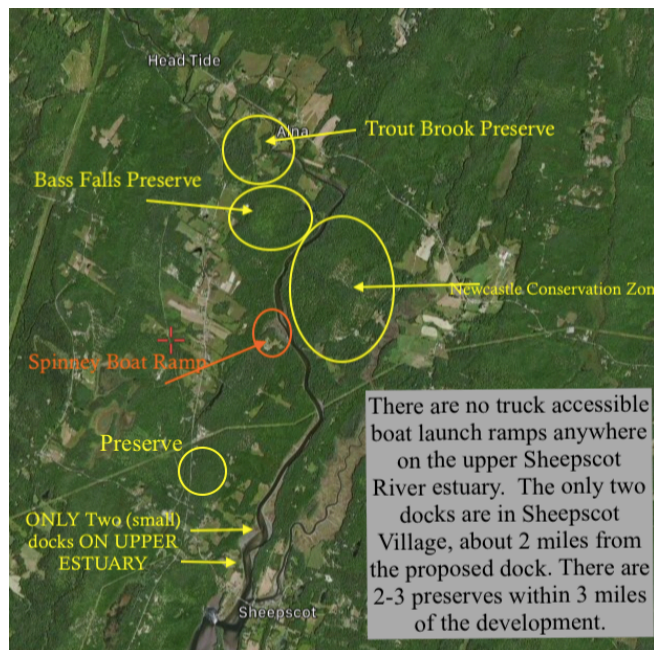
http://www.krisweb.com/biblio/sheepscot_asc_meister_1982.pdf

8. Why was there no mention of all the work that is being done to preserve the Upper Sheepscot Estuary, including Trout Brook and Bass Falls preserves, both within minutes of the proposed development? The existing state of the area will be threatened by developments like those proposed by Mr. Spinney.

A rare opportunity to protect both sides of a stream of critical importance to Atlantic salmon has come to fruition with the purchase of a 40-acre parcel by the Sheepscot Valley Conservation Association. The acquisition, the third in three years by the SVCA, ensures that the former Tornell Farm, which abuts Trout Brook on both shores, will continue to provide a protective conservation buffer. The purchase was the culmination of many years of informal discussions between the SVCA and the landowner, who sold the property at the below market value to ensure that it would retain its rural character for walking and other low impact activities. The SVCA plans to protect habitat and establish walking trails for recreational access.

<https://www.midcoastconservancy.org/preserve/sheepscot-valley/>

https://www.fws.gov/GOMCP/pdfs/MAS_2007_overview.pdf



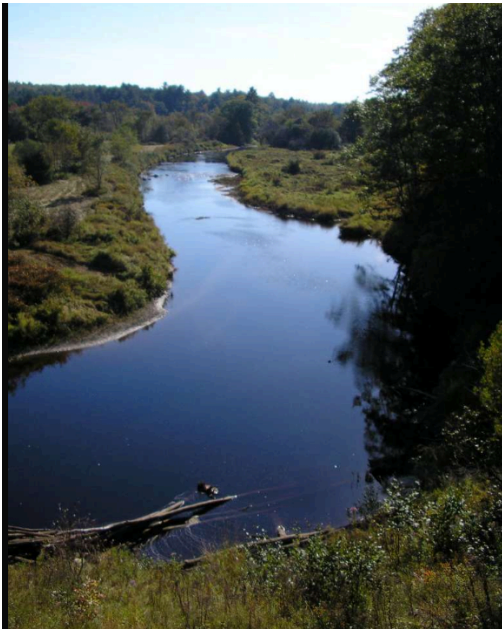
9. Why did the DEP ignore the facts the SVCA is actively working to protect the **Forever Wild Corridor**, the stretch of river from Alna Head Tide to Sheepscot Village? Only a few houses are visible from the river in this entire stretch. But since it is located in fast-developing Mid-Coast Maine, preservation of this wild experience is of tremendous importance.

<https://mainerivers.org/watershed-profiles/sheepscot-river/>

10. Why did the DEP ignore the facts that the tidal wetlands downstream of Alna Village and in neighboring Newcastle have been identified by the Maine Natural Areas Program as a Focus Area of Ecological Significance? The salt marshes, mud flats, support rare mussels and several species of rare plants, such as the salt marsh false foxglove (*Agalinis maritima*).” (Sheepscot River Management plan Jan26.07.)

Sincerely,

Steven Cheff



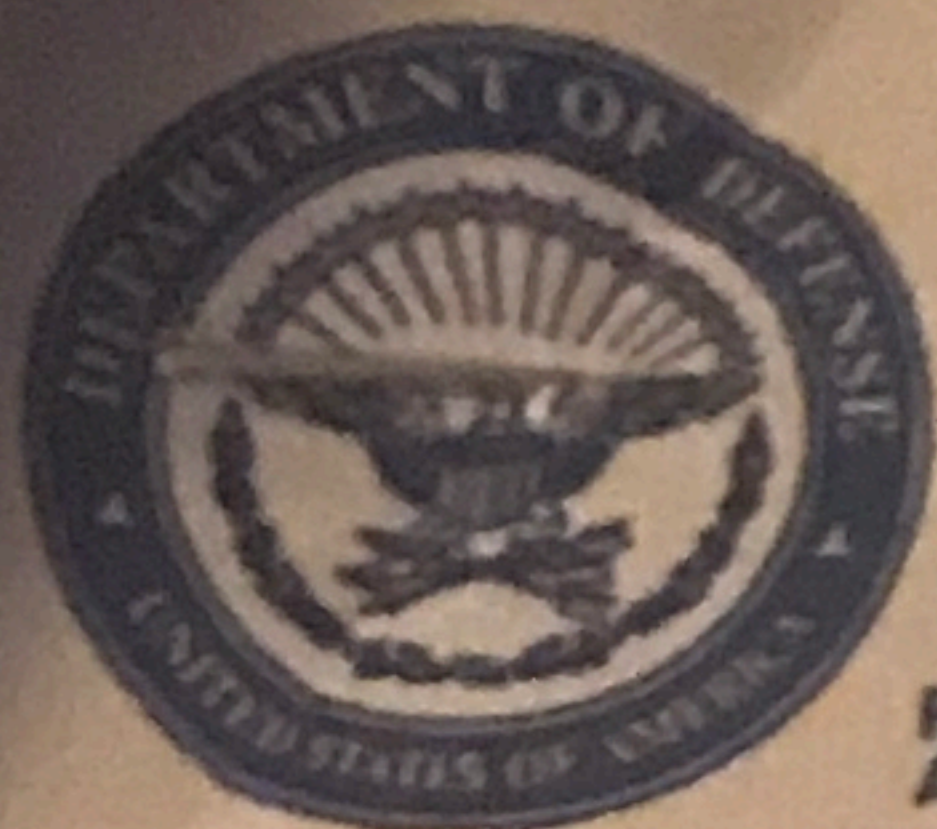
York, Marylisa

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Tuesday, February 18, 2020 2:12 PM
To: MacNeil, Jami
Subject: Us ace permit for file
Attachments: IMG_3419.JPG

Follow Up Flag: Follow up
Flag Status: Completed

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Fyi. See attached



REPLY TO ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

MAINE GENERAL PERMIT (GP)
AUTHORIZATION LETTER AND SCREENING SUMMARY

JEFF SPINNEY
126 GOLDEN RIDGE ROAD
ALNA, MAINE 04535

CORPS PERMIT # NAE-2019-01618
CORPS GP ID# 19-388
STATE ID# PBR

DESCRIPTION OF WORK:

Place granular and precast concrete or crushed stone fill below the high tide line of the Sheepscot River at Alna, Maine in order to resurface a 36' x 12' boat ramp. In addition, construct and maintain a 40' x 4' ramp leading from shore to a T-shaped set of floats consisting of 7' x 5' and a 24' x 8' sections. The ramp and floats are seasonal and will be fully removed and stored on the upland in the winter. This work is shown on the attached plans entitled "Jeff Spinney, 126 Golden Ridge Rd, Alna, ME 04535" in seven sheets revised "December 9, 2019".

LAT/LONG COORDINATES : 44.074327° N -69.601327° W USGS QUAD: DAMARISCOTTA, ME

I. CORPS DETERMINATION:

Based on our review of the information you provided, we have determined that your project will have only minimal individual and cumulative impacts on waters and wetlands of the United States. Your work is therefore authorized by the U.S. Army Corps of Engineers under the enclosed Federal Permit, the Maine General Permit (GP). Accordingly, we do not plan to take any further action on this project.

You must perform the activity authorized herein in compliance with all the terms and conditions of the GP [including any attached Additional Conditions and any conditions placed on the State 401 Water Quality Certification including any required mitigation]. Please review the enclosed GP carefully, including the GP conditions beginning on page 5, to familiarize yourself with its contents. You are responsible for complying with all of the GP requirements; therefore you should be certain that whoever does the work fully understands all of the conditions. You may wish to discuss the conditions of this authorization with your contractor to ensure the contractor can accomplish the work in a manner that conforms to all requirements.

If you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

Condition 38 of the GP (page 16) provides one year for completion of work that has commenced or is under contract to commence prior to the expiration of the GP on October 13, 2020. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 13, 2021.

This authorization presumes the work shown on your plans noted above is in waters of the U.S. Should you desire to appeal our jurisdiction, please submit a request for an approved jurisdictional determination in writing to the undersigned.

No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. This includes but is not limited to a Flood Hazard Development Permit issued by the town if necessary.

II. STATE ACTIONS: PENDING [X], ISSUED [], DENIED [] DATE _____

APPLICATION TYPE: PBR: _____, TIER 1: _____, TIER 2: _____, TIER 3: X, LURC: _____, DMR LEASE: _____, NA: _____

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: 7/11/19 LEVEL OF REVIEW: CATEGORY 1: _____ CATEGORY 2: X

AUTHORITY (Based on a review of plans and/or State/Federal applications): SEC 10 _____, 404 _____, 10/404 X, 103 _____

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA_NO _____, USF&WS_NO _____, NMFS_NO _____

If you have any questions on this matter, please contact my staff at 207-623-8367 at our Manchester, Maine Project Office. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0

Jay L. Clement
JAY L. CLEMENT
SENIOR PROJECT MANAGER
MAINE PROJECT OFFICE

FRANK J. DEL GIUDICE
FRANK J. DEL GIUDICE
CHIEF, PERMITS & ENFORCEMENT BRANCH
REGULATORY DIVISION
DATE 1-21-2020

York, Marylisa

From: Spinney, Jeffrey <Jeffrey.Spinney@LibertyMutual.com>
Sent: Tuesday, February 18, 2020 2:06 PM
To: MacNeil, Jami
Subject: Re: RE: FW: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffrey Spinney

Follow Up Flag: Follow up
Flag Status: Completed

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Wow. Thanks. Just scanned them all.

So, interesting factoid. The guy who builds the aluminum ramps (in sheepscot) and i were talking just last night and he was talking about duck hunting in motor boats up by my house this year and making fun of these people that say we dont exist, just a few weeks ago and how nice it would be to have a better ramp to put in at as they got stuck launching over in the dyer river area.

These commenters are unhinged and have no clue what actually goes on here.

On Feb 18, 2020, at 1:24 PM, MacNeil, Jami <Jami.MacNeil@maine.gov> wrote:

Hi Jeff,

Attached are the comments we've received on the draft. I haven't read them all yet. I will let you know if we need anything from you or if they result in any major changes.

Regarding your questions:

1. This is a standard condition for all NRPA permits. The permit draft specifies, in Finding 3, that some of the construction will take place from within the coastal wetland, so this is allowed for your project ("from within the footprint of the proposed boat ramp.")
2. I will bring this up with my supervisor but the Department's agreement or non-agreement with the facts or statements presented is usually reserved for the end of the Finding.
3. I would appreciate having the Army Corps permit for our files, if you would like to send it. If you want to send any local approvals for our files, I welcome those as well, although the permit, as currently drafted, will not require you to do so.

Thank you,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Spinney, Jeffrey <Jeffrey.Spinney@LibertyMutual.com>
Sent: Monday, February 17, 2020 10:14 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: FW: DRAFT - NRPA permit, # L-28397-4E-A-N, located in Alna - Jeffrey Spinney

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Hi Jami,

I was just reading this over again and had a couple of questions:

1.) Page 16, section F from standard conditions:

“No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit”

I don't think it explicitly says in the permit that we will take the excavator below the high tide line, but obviously we will have to in order to place the stone and remove the mud/dirt it is displacing. Maybe this is being too picky on my part, but i just thought i would point this out before somebody else does.

Should it maybe state that we will use a machine below the high tide line (at low tide of course) to excavate and place stone?.

2.) Page 11, section B – Minimal alteration. This is another area i noticed where the wording doesn't explicitly indicate if the dep concurs that this is minimal alteration. (i had previously mentioned the section just before this one (alternatives analysis) this, and you had agreed to propose that change in final version....not sure if you meant to include this section too or not).

3.) Do i need to send you the town and army permits for your records? I have the army one thus far can send if needed.

Thanks

-jeff

<DEPltr AlnaNewcresidents.docx>

<Ltr to MacNeil re. Spinney Permit Application, Alna, Maine (03377530xAE394).pdf>

<DEP Comment 5.docx>

<_2-16-20_Response to the DEP Draft ApprovalA Response to the Proposed Sheepscot River Development_001.pdf>

York, Marylisa

From: MacNeil, Jami
Sent: Wednesday, February 19, 2020 11:15 AM
To: 'Spinney, Jeffry'
Subject: FW: Ervin Comments on Draft Spinney Permit # L-28397-4E-A-N
Attachments: Ervin Comments on DEP Draft Order(13565924.1).pdf

FYI, one more comment letter came in about the draft (see attached)

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Gordon Smith <gsmith@verrill-law.com>
Sent: Tuesday, February 18, 2020 3:34 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Cc: 'Ervin, Carol B.' <cervin@ycrlaw.com>
Subject: Ervin Comments on Draft Spinney Permit # L-28397-4E-A-N

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Hi Jami,

Please see the attached comments on behalf of Carol Ervin. Any questions, please let me know.

Thank you,
Gordy

Gordon R. Smith COUNSEL

One Portland Square
Portland, ME 04101-4054
T (207) 253-4926

gsmith@verrill-law.com
verrilldana.com/gsmith

The logo for Verrill, consisting of the word "Verrill" in a bold, black, serif font, centered within a yellow rectangular background.

This email and any attachment was sent from the law firm Verrill Dana, LLP. It may contain information that is privileged and confidential. If you suspect that you were not intended to receive it, please delete it and notify us as soon as possible. Thank you.

GORDON R. SMITH
COUNSEL
gsmith@verrill-law.com
207-253-4926

One Portland Square
Portland, Maine 04101-4054
Main 207-774-4000

February 18, 2020

Jami MacNeil
Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

Re: Spinney NRPA Application #L-28397-4E-A-N for Pier and Boat Ramp

Dear Jami,

On behalf of Carol Ervin, I write regarding the Department's draft approval of the above-referenced application for a Natural Resources Protection Act permit. Ms. Ervin is a direct abutter to the proposed work. As outlined in my letter to you dated January 10, 2020, the applicant's proposed pier and ramp do not meet NRPA permitting requirements. Please accept the following comments on the draft license.

1. Undue Adverse Impact on Existing Uses

Many commenters submitted information regarding the existing scenic, aesthetic, recreational, and navigational use of this part of the Sheepscot River. Among conflicting information, the Department's draft license credits Mr. Spinney and other project supporters as establishing that the motorboat traffic associated with the pier/ramp will be consistent with existing patterns of use. However, Mr. Spinney's own statements directly contradict this. In his February 12 email to you, Mr. Spinney states:

"Where/how do we got [sic] the '25 people a day' may see this in the visual impact section. At the most, I think in all the years I have been here, I have seen 4-5 people in one day go by and that's only on a 'scheduled' nature trip (the rare exception not the rule) that the Sheepscot valley people used to do once or twice a summer where the [sic] paddle from head tide down to (wherever they go).

In other words, Mr. Spinney states that the most intensive use of the river occurred once or twice a year when 4-5 people paddled non-motorized boats past his property. According to Mr. Spinney, even that use no longer occurs. This statement cannot be reconciled with Mr. Spinney's assertion, and the Department's finding, that current use of the river is consistent with daily usage by multiple motorboats that will result from installation of the proposed pier/ramp. It

would be error for the Department to find that the proposed project will not have an undue adverse impact on existing uses where the applicant's own statements do not support such a finding.

2. Signage

Special Condition #4 of the draft license states, "Prior to construction of the boat ramp, the applicant shall post a permanent sign in a visible location at the boat launch identifying the river as a "no wake" zone or a "headway speed only" zone. Section 2 of the draft license states that this signage requirement is "to promote awareness and adherence to [state boating] law."

We agree with the height, location and wording of the sign proposed by Mr. Spinney in his February 12 email to you. However, to adequately promote awareness and adherence to state boating law, we request that the Department further specify that: 1) the text "NO WAKE ZONE" appear in 4-inch minimum lettering, and 2) the sign utilize contrasting high-visibility colors for lettering and background. These recommendations are based on the U.S. Department of Transportation Manual on Uniform Traffic Control Devices.

In addition, we recommend a second sign that contains the following text in reasonably sized lettering: "This section of the river is essentially a "no wake" zone. Pursuant to 38 M.R.S. § 281-285, the operation of any watercraft at a speed greater than is "reasonable and proper" is a Class E crime. Pursuant to the Guide to Maine Boating Laws, improper speed means greater than headway speed within 200 feet of any shoreline." Without this explanatory text, boaters utilizing the facility will not know where the no wake zone applies and, in all likelihood, could interpret the no wake zone to apply only in the immediate vicinity of the ramp, pier, and sign. As Maine IF&W Game Warden Lieutenant Adam Gormely stated in comments to the Department, "Unless the river is 400 feet wide the boats are required to be operated so they do not create a wake."

Section #2 of the draft license states that the Department has determined that "this restriction to headway speed is important in reducing shoreline erosion and water turbidity due to boat traffic, especially in narrow and shallow waterbodies such as the Sheepscot River." This determination, and the Department's authority to regulate boat use associated with the proposed pier and ramp, are explicitly supported by the Law Court. *Hannum v. Bd. of Env'tl. Prot.*, 2006 ME 51, ¶ 14 ("Although the NRPA does not empower the Board to regulate boating directly, the purpose of the NRPA is to prevent the degradation of protected resources (including coastal wetlands) caused by human use. The use of the structure cannot be divorced from the structure itself.") (internal citations omitted).

Accordingly, the Department should require signage of sufficient size and clarity, as recommended above, to prevent degradation of the protected resource.

3. Reporting of Public Access and Use

Special Condition #8 of the draft license states:

If the Land Use License Agreement is terminated by the Licensor or Licensee and is not replaced by another instrument of legal access for the Golden Ridge Sportsman's Club within six months of the agreement termination, or if the club is

dissolved, the applicant shall remove the boat ramp, restore the coastal wetland to its natural condition, and reduce the size of the main seasonal float to eight feet wide by 12 feet long.

According to Section #6(A) of the draft license, the purpose of this condition is to assure that NRPA approval not be issued for a ramp and pier that “would essentially be serving one private landowner.”

To promote compliance with the above-quoted condition, we request that the Department require the applicant to certify periodically that the Golden Ridge Sportsman’s Club continues to use and have legal access to the boat ramp/pier, with such certification signed by both the applicant and an officer (other than the applicant) of the Golden Ridge Sportsman’s Club. In addition, we request the Department require periodic submission by the applicant of a Maine Secretary of State certificate of good standing for the Golden Ridge Sportsman’s Club. A reasonable reporting period would be once every three years for the life of the project.

4. Formal Limits on Club Usage

As noted above, the draft license recognizes the importance of “reducing shoreline erosion and water turbidity due to boat traffic . . . especially in narrow and shallow waterbodies such as the Sheepscot River.” To further that goal, we recommend formalizing the applicant’s statements regarding number of club members, amount of boat traffic, and size of boats as express limits. Specifically, Section #2 of the draft license states:

The applicant elaborated that the recreation club consists of approximately 25 members and is not expected to grow substantially. Club members collectively own approximately 10 motorized vessels ranging in length from 12 to 17 feet. Based on limited parking at the project site, the applicant anticipates that no more than three motorized vessels will use the proposed boat ramp and pier system at any one time.

Accordingly, we request that the Department make explicit that: 1) club membership cannot exceed 25 individuals; 2) motorized boats launched from the ramp cannot exceed 17 feet in length; 3) parking at the pier and ramp will be limited to three boat trailers at one time; and 4) no more than three motorized boats can be launched from the ramp and be present on the river at any one time.

Thank you for your attention to these comments.

Sincerely,



Gordon R. Smith

York, Marylisa

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Wednesday, February 19, 2020 11:50 AM
To: MacNeil, Jami
Attachments: IMG_3426.JPG

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Signage as discussed

SLOW
NO
WAKE
ZONE

WARNING
Remove all plants
from boat, trailer, prop,
anchor & lines...It's the law!
Drain all water
from boat and live well *on land*
Don't release live bait



 For more information
800-452-1942 

York, Marylisa

From: Spinney, Jeffrey <Jeffrey.Spinney@LibertyMutual.com>
Sent: Wednesday, February 19, 2020 3:00 PM
To: MacNeil, Jami
Subject: comments taken out of context by Verrill

Follow Up Flag: Follow up
Flag Status: Completed

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Hi Jami,

I read the comments from Gordy and have to say, either this man is stupid and doesn't understand the context of the conversation, or he expects that everybody else reading is stupid and is intentionally misleading in hopes that they jump to his conclusion.

From Gordy:

"In other words, Mr. Spinney states that the most intensive use of the river occurred once or twice a year when 4-5 people paddled non-motorized boats past his property. According to Mr. Spinney, even that use no longer occurs. This statement cannot be reconciled with Mr. Spinney's assertion, and the Department's finding, that current use of the river is consistent with daily usage by multiple motorboats that will result from installation of the proposed pier/ramp. It
February 18, 2020

Page 2

would be error for the Department to find that the proposed project will not have an undue adverse impact on existing uses where the applicant's own statements do not support such a finding."

This conclusion is completely not true and frankly deceptive. As an aside, I am actually going to filing an official complaint with the state ethics board outside of this process. I would assert he is at the least violating the 'Maine rules of professional conduct' to try and bully his way through this.

When i was discussing/asking you about the 25 people a day comments and how we arrived at that, i was discussing it in the context of 'other people' not associated to the uses of me or my friends and the project. Those folks who might object to the project that we are discussing. It would be absurd of me to be stating things contrary to my own argument or otherwise including my people as part of the number, and just like he took the comments by Jay Clement out of context early on in the project, he is doing it again here. I feel the need to set the record straight even though i am well aware you know what is going on and what was being discussed.

In terms of the additional requests by Gordy and some others, they are now asking for things that frankly are either outside the scope of DEP or simply trying to make things difficult by burying us in unnecessary paperwork.

The conditions discussed are more than adequate. The signage posted is more than adequate and visible, and is consistent with other similar places. The commenters are simply now trying to make things costly and difficult and that is simply not fair.

We do not request annual membership rosters of other organizations such as midcoast, and frankly it is not within the purview of the DEP to dictate how many people can be in my club and/or use my property outside of the shoreland zone. We have restrictions on the parking/etc. which as stated by myself, and commonly in use by other organizations such as national parks service, ARMY Corps and others who permit such access points around the country, is a common way to limit the concurrent resource use. Any change in those things, I would of course have to get permits, etc. This notion of a lifetime reporting thing, is absurd. I can and will certify it one time, and obviously any change in ownership might trigger a new certification, but beyond that, it is just making unnecessary work for myself or somebody else in an effort to either trip us over time up or otherwise discourage the use.

The suggested restrictions makes no sense, again, there is a physical limit based on the site construction & access, but I can frankly bring any size vessel upriver that I so choose as long as I can make it fit (draft & height) and there is nothing against that. You can't limit the number of vessels on a navigable river as they may not all come from one place or be under the same control. You cannot limit membership in a club that happens to use one particular feature on my property.

Again, this guy seems to be just throwing things out there and hoping something sticks.

Since I'm rebutting the letters, I might as well touch them all:

-the Eaton/Peabody/Judy Metcalf letter where she is still harping on right & title. My legal folks indicated when I asked if they should engage that it wasn't even worth spending the money to argue with her (Metcalf) or the Philbricks about this. They said worst case I might consider putting up a sign at end of my driveway that says private. Let them take me to court on this, it will be a quick loss on their part.

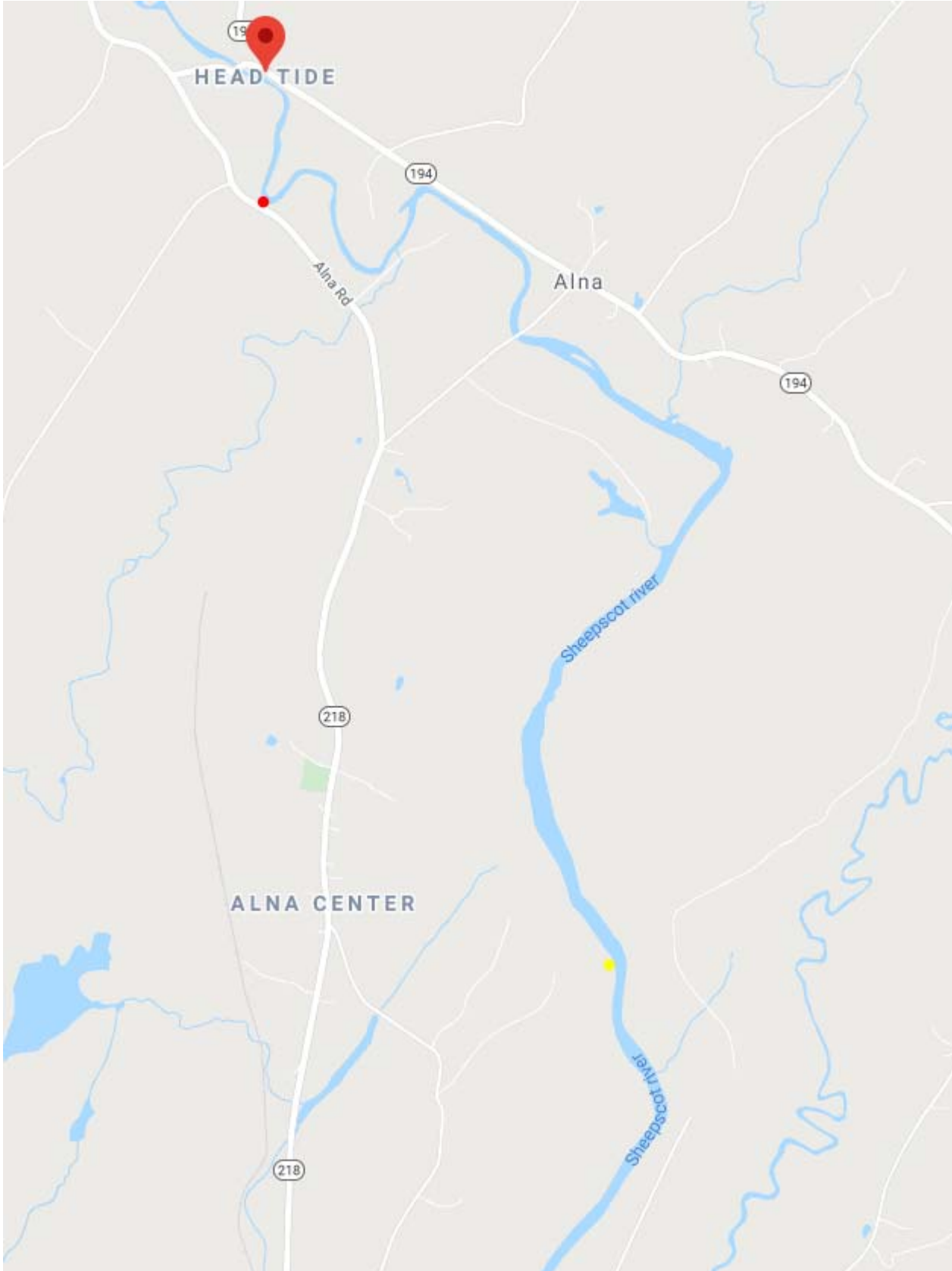
In terms of the additional demands she makes, they just seem nitpicky to add more bulk to the letter. Most don't matter in terms of putting deadlines on compliance, yadda.

Again, the request for a membership list is simply unconstitutional, even when disguised in terms of compliance. These people will incessantly harass anybody on that list and frankly, nobody wants that. We are all very tired of them and their antics. Again, this isn't about protecting the environment, as most of these people didn't even realize the use was there and has been in use, it is about not in my back yard and guided by a couple of folks (weary, Philbrick, Bolen/Erwin) they are riling up a wide variety of others who don't know around town and across in Newcastle with exaggerated stories of deep water piers, etc, etc.

The second letter from Steve Cheff, is at least marginally comprehensible this time. Somebody should tell him that lead shot was outlawed in early 90's.

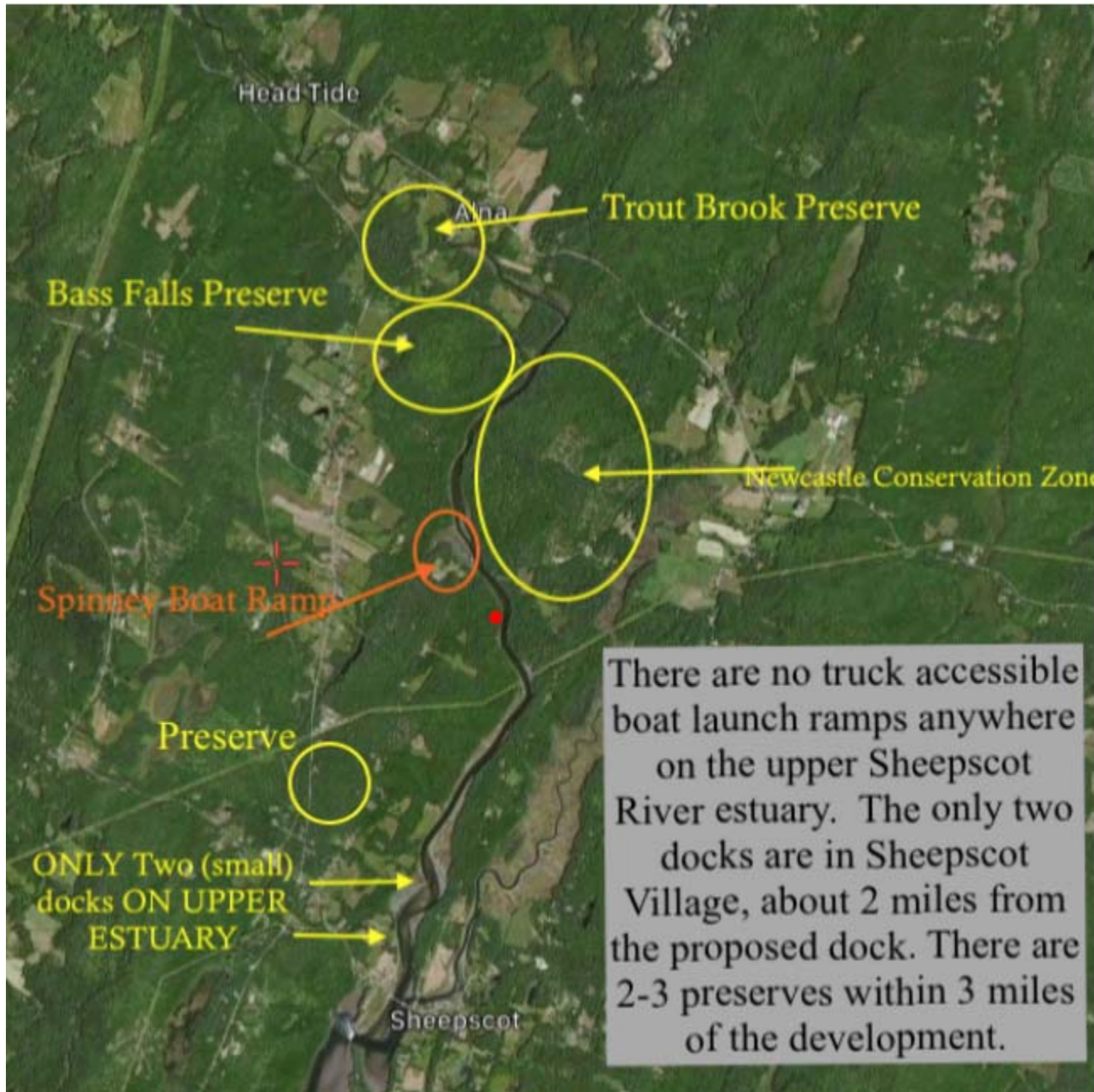
Again, I don't think he has any serious handle as to what's going on out on the river, he just got here a couple years ago and doesn't seem to notice the guys hunting geese/duck every season religiously, if I can find the pics, I'll send them along to you for the record if necessary.

Finally, the picture shown at the end of Chef's letter is taken by the railroad bed way north as it nears 218. ~4miles upriver almost to head tide (orange dot on map) from my site (yellow dot on map) See the map below.

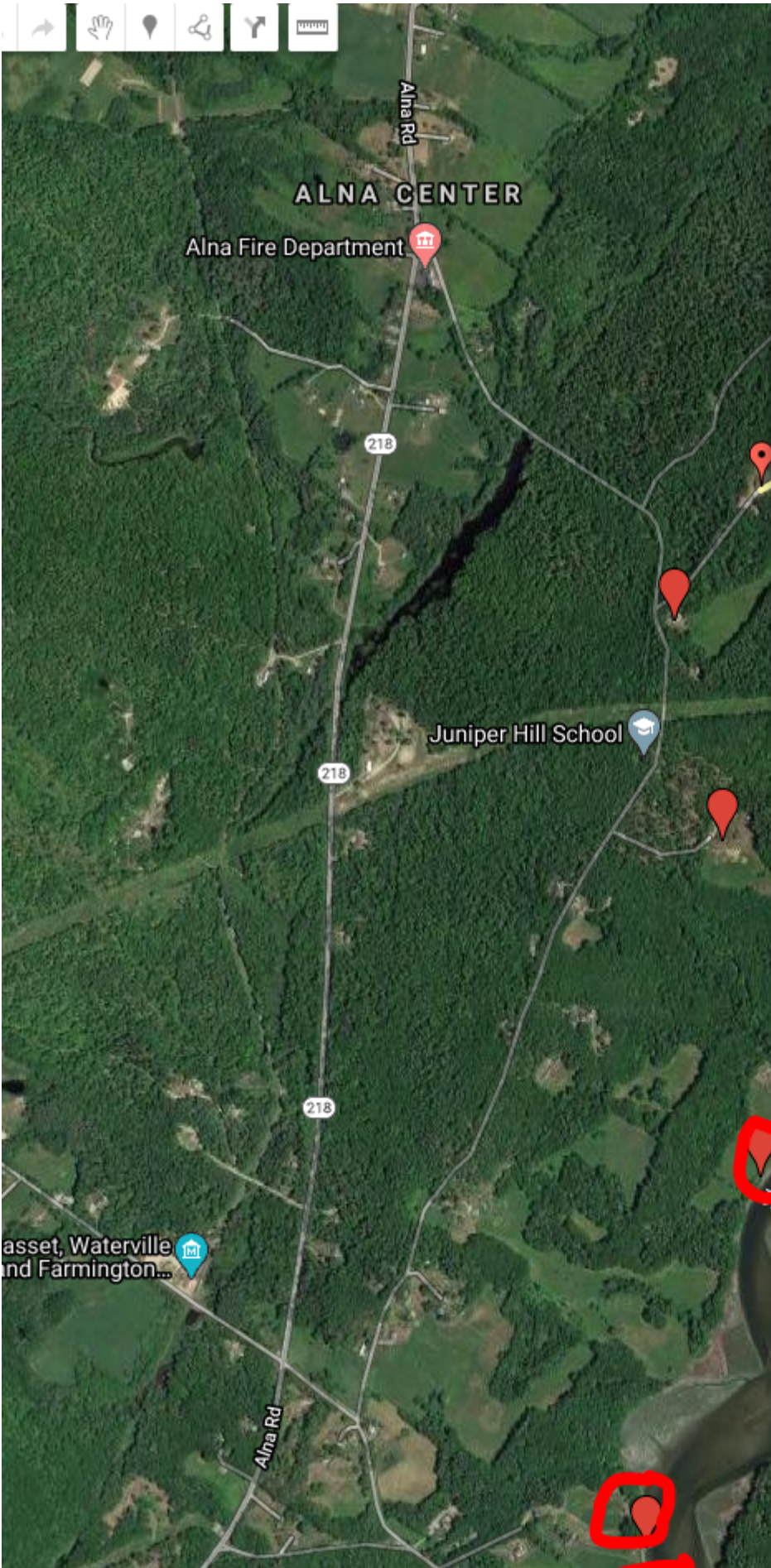


As you can see from the other graphic below that Chef included, he is factually wrong about quite a few things including the location of my house/site which speaks to his knowledge of the area/river. As you can see, he

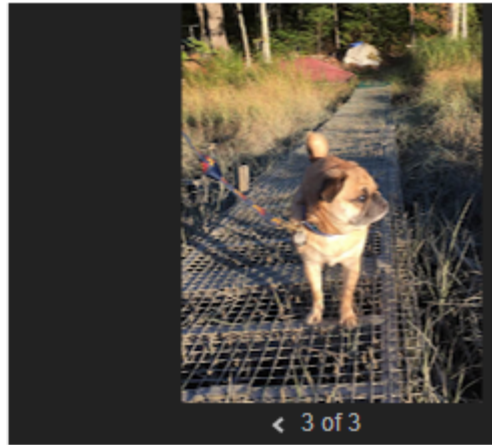
has the Bolen's home circled. I again placed an orange dot on my site. Ironically, it seems Steve hasn't even see the docks right next to him that i showed on the interactive me. Both on Newcastle and Alna side. Again, this all simply speaks to his complete lack of knowledge as well as history on the subject matter.



In contrast, had he actually surveyed what exists, like i did, in order to document this for the DEP. You would see 5 docks and a boathouse within 1 mile of his house. (circled in red on map below) excerpted from the map i gave you early on.



Steve Chef - walkway mowed/cut through saltmarsh (permanent structure laid into marsh grass as walkway & steps) - commenter, lib unpermitted



44.06909, -69.60131

That's just within one mile of Chef's home and should be painfully obvious to him (including his own little pier like structure he has created across the marsh shown in pic above with dog on it), there are several others that i haven't included which are actually within the 'upper estuary' but i don't think he actually understands this. The dividing line of upper and lower estuary is the route 1 bridge in Wiscasset per the 'Ecology of sheepscot river estuary' scientific report by US dept of interior Fish and wildlife service. <https://spo.nmfs.noaa.gov/sites/default/files/legacy-pdfs/SSRF309.pdf>

As you know from my interactive map, there are many other structures/etc within the upper estuary.

Again, the only reason i even bring this up is 1.) to show these guys are unhinged and clueless and 2.) have no sound basis for their statements, they are acting as uninformed pawns of a couple of key individuals in the group.

thanks

-jeff

York, Marylisa

From: MacNeil, Jami
Sent: Friday, February 21, 2020 10:51 AM
To: Spinney, Jeffry
Subject: draft, update

Hi Jeff,

The Department has decided that it is prudent to resend the draft out to the entire list of interested persons and not just to those who specifically requested a copy of the draft. You will see that email go out later today, with a new deadline for comments of February 28, 2020. Since an appeal is likely, it is important that we give everyone a chance to comment.

In the meantime, we are still reviewing the comments that have been submitted and will be editing the permit if appropriate. We also need more time to discuss with the Bureau Director and the Department Commissioner, so this comment extension does not really delay us. I still expect we can issue a final order in the next two to three weeks.

Thank you for your patience,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, February 20, 2020 1:46 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: ?

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jami,

Just curious as to what you see next steps / timeline for a final decision are here? I assume comment period is 'closed'? (since the draft as issued and comment period for that is over) We are all antsy to get this overwith and/or know if we need to argue further against some of the commentary/requests.

Thanks,
-j

York, Marylisa

From: DEP, DLRRAdminSupport
Sent: Friday, February 21, 2020 11:59 AM
To: Brooksie1207@gmail.com; chezcheff@aol.com; thebend@tidewater.net; Egdavis414@roadrunner.com; Carol.gardner@outlook.com; gvflanagan@gmail.com; alnaboca@gmail.com; cjohnson@tidewater.net; del@the-merritts.net; jody@midcoastconservancy.org; edpentaleri@gmail.com; philbrick@cmplaw.com; jmetcalf@eatonpeabody.com; Dickpicard52@gmail.com; truerenda@gmail.com; sage@tidewater.net; stires@nnei.net; pmtenan@gmail.com; Michaeltrask7@gmail.com; w.weary@gmail.com; jluoma@tidewater.net
Cc: MacNeil, Jami; Jeffry.Spinney@LibertyMutual.com; cervin@ycrlaw.com; baileybolen@gmail.com; gsmith@verrill-law.com; Jeff.philbrick@lchcare.org
Subject: DRAFT order for NRPA permit #L-28397-4E-A-N, located in Alna for Jeffry Spinney
Attachments: Spinney_Jeffry_L28397AN.pdf

Hello,

Please find attached to this email a draft order for **NRPA permit #L-28397-4E-A-N**, located in **Alna** for **Jeffry Spinney**. This draft was initially distributed on February 10, 2020, to all interested persons who had submitted a written request for a draft. To ensure that all interested persons have an opportunity to comment, the Department is now distributing this draft to all individuals who have submitted written comments on the application during the review process, including those who did not specifically request a copy of the draft. You may send comments on the draft to the project manager, Jami MacNeil, at jami.macneil@maine.gov. Comments are due by close of business on **February 28, 2020**.

Please note that this draft is the same version that was initially issued on February 10, 2020. If you have already submitted comments on the draft, you do not need to resend them. They will be considered during the Department's final review.

This electronic version of this **draft order** is an Adobe Acrobat .pdf file. If you don't have the Adobe Acrobat Reader on your computer, you can click on this link to download the free reader.

<http://www.adobe.com/products/acrobat/readstep2.html>

Thank you.



DEPARTMENT ORDER

IN THE MATTER OF

JEFFRY SPINNEY) NATURAL RESOURCES PROTECTION ACT
Alna, Lincoln County) COASTAL WETLAND ALTERATION
PIER SYSTEM AND BOAT RAMP) WATER QUALITY CERTIFICATION
L-28397-4E-A-N (approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of the Natural Resources Protection Act (38 M.R.S. §§ 480-A–480-JJ), Section 401 of the Federal Water Pollution Control Act (33 U.S.C. § 1341), and Chapters 310 and 315 of Department rules, the Department of Environmental Protection has considered the application of JEFFRY SPINNEY with the supportive data, agency review comments, public comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. Summary: The applicant proposes to construct a shared-use pier system and permanent boat ramp. The proposed pier system will consist of a permanent access platform and pilings in the upland, a four-foot-wide by 40-foot-long seasonal ramp, and a T-shaped seasonal float system, which will consist of a five-foot-wide by seven-foot-long landing float oriented perpendicular to the shoreline and an eight-foot-wide by 24-foot-long main float oriented parallel to the shoreline. The floats will be anchored by chains and two mooring blocks. The access platform will be anchored by four pilings connected by cross-bracing and located in the upland, approximately four feet from the highest annual tide line. The two pilings closest to the shoreline will form a gantry-style lift. The proposed boat ramp will be located several feet north of the pier system and will be constructed with a subbase layer of six- to eight-inch diameter stones laid over geotextile fabric, surfaced with a top layer of three- to eight-inch stones. The ramp will be approximately 12 feet wide by 36 feet long, extending to the line of mean low water (MLW). The applicant proposes to dredge up to eight cubic yards of material from the coastal wetland to install the ramp. The project will result in 440 square feet of direct impact to the coastal wetland due to the proposed boat ramp and mooring blocks, and 370 square feet of indirect impact to the coastal wetland due to shading from the proposed pier system. The project is being constructed for use by a recreation club known as the Golden Ridge Sportsman’s Club. The project is shown on six plan sheets entitled, “Site access – General overview,” “Top view with 2’ contours,” “Side View – float/ramp/upland support,” “Side View – Ramp side view with elevation,” “Section view lower ramp,” and “Section view upper ramp,” all dated December 9, 2019. The project site is located off Golden Ridge Road in the Town of Alna.

B. Current Use of the Site: The project site is an approximately 100-acre parcel of land that contains a residential structure in an upland location, approximately 0.3 miles from the coastal wetland, and an unimproved access road to the shoreline. The parcel is largely forested.

The project site is used seasonally as an informal launch for boats on trailers. The parcel is identified as Lot 21-A on Map R-4 of the Town of Alna's tax maps.

C. Title, Right, or Interest: An application must demonstrate that the applicant has title, right, or interest in the property proposed to be developed or used for the project sufficient for the nature and duration of the proposed development or use. The applicant submitted a quit claim deed, dated July 19, 2006, that conveyed Lots 21-A & 22 on Map R-4 of the Town of Alna's tax maps from Jeffrey Spinney and Emma Spinney to Jeffrey Spinney (the applicant). During the review, the Department received public comments that included the contention that the driveway to the subject property is restricted to residential use, citing a deed dated April 18, 1986, and recorded in book 1299, page 302 in the Lincoln County Registry of Deeds. In response to this comment, the applicant stated that the right-of-way described in the deed cited by the commenters is not the applicant's driveway, and that the applicant's driveway is known as Reed Road and was specifically conveyed to Jeffrey A. Spinney and Emma M. Page in a warranty deed dated August 26, 2002. The applicant submitted a map and a portion of the Town of Alna's annual report for 2008-2009 documenting the discontinuance of Reed Road as a town way, retaining no public easement except as is necessary for access by the applicant, his heirs and assigns. The applicant also submitted a draft copy of a Land Use License Agreement which will grant members of the Golden Ridge Sportsman's Club access to the proposed boat ramp and pier system. Some of the interested persons contended that the Golden Ridge Sportsman's Club does not constitute an "assign" based on the proposed Land Use License Agreement and would therefore not have legal access to the project site. The Department reviewed the submitted comments and documents, together with the supportive data and related information on file and determined that the submitted deed and additional documents demonstrate to the Department's satisfaction that the applicant has sufficient title, right or interest in all of the property that is proposed for development or use.

D. Public Comments: While the application was being reviewed, the Department received comments from approximately 21 interested persons or entities opposed to the project, some of whom own property abutting the project site. The Department also received several letters of support for the project. The Department reviewed all comments from the interested persons. The Department did not receive any requests for a public hearing during the 20-day period specified in the Department's Chapter 2 Rules governing the processing of applications.

The interested persons expressed a range of concerns, including the impact of increased motorized boat traffic and potential jet ski use on existing recreational uses such as kayaking, canoeing, and quiet enjoyment of the resource; adverse impacts to scenic and aesthetic qualities of the area, water quality, shoreline stability, wildlife and fish habitat, and sensitive plant communities; the potential introduction of non-native species through increased boat access; typographical errors and inconsistencies in the application; and a lack of information about the recreational club that will use the proposed pier system and boat ramp.

Commenters also argued that the project will result in a violation of Maine boating laws, and that the proposed boat ramp is unnecessary because there are alternative boating access points on the river.

Some commenters pointed out that the applicant did not submit a Site Conditions Report (Attachment 9 in the Natural Resources Protection Act (NRPA) application packet) prepared by a professional wetland scientist, however the Department determined that the applicant's Appendix B of the NRPA application packet, the MDEP Coastal Wetland Characterization Field Survey Checklist, adequately addresses the requirements listed under Attachment 9, and that activities directly impacting less than 500 square feet of coastal wetland do not require the assessment to be completed by a professional wetland scientist.

Multiple commenters raised concerns that the project is not allowed under the Town's Shoreland Zoning Ordinance, does not meet local setback requirements, or otherwise does not meet local ordinances. These arguments are based largely on the definition of various terms such as "existing structure," "permanent structure," "commercial activities," and "maintenance and repair" pursuant to local ordinances. The outcome of these arguments may also depend in part on previous Town decisions regarding the project site, and on the documentation, or lack thereof, of those decisions. The Department considered the interested persons' comments and the applicant's rebuttals to these comments, but ultimately concluded that, although these arguments merit thorough and serious consideration, it is the Town of Alna and not the Department that must determine how to apply local ordinances to the proposed project.

Some commenters contended that the applicant previously installed a pier at the project site without first obtaining a permit from the Department. The applicant responded that this structure was removed from the coastal wetland seasonally and therefore did not require a permit under the NRPA. Since the structure was subsequently removed from the coastal wetland, the Department determined that this complaint is resolved. Commenters also raised concerns about the removal of marsh vegetation from within the coastal wetland as a result of the applicant's past boat launching activities. Marsh vegetation is discussed further in Finding 6C.

The Department compiled a list of concerns raised by commenters that are relevant to the NRPA licensing criteria and asked the applicant to respond to them. The applicant's responses are discussed in the Findings below. The applicant addressed minor typographical errors and inconsistencies in the application to the Department's satisfaction. Boating laws are discussed in Finding 2. Wildlife, plant, and habitat considerations are discussed further in Finding 4. After a review of all public comments submitted to the Department, the Department determined that the applicant has addressed the interested persons' concerns to the extent that they relate to the scope of the Department's review.

2. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

The NRPA, in 38 M.R.S. § 480-D(1), requires the applicant to demonstrate that the proposed project will not unreasonably interfere with existing scenic, aesthetic, recreational and navigational uses.

In accordance with Chapter 315, *Assessing and Mitigating Impacts to Scenic and Aesthetic Uses*, the applicant submitted a copy of the Department's Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed project. The applicant also submitted several photographs of the proposed project site and the surrounding area. Department staff visited the project site on September 6, 2019.

The proposed project is located in the Sheepscot River, which is a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. The project site is located approximately midway along a 6.7-mile stretch of river between Head Tide Dam to the north and the reversing falls in Sheepscot Village to the south. The surrounding area contains occasional residential structures, lawns, and docks that are visible from the resource. A transmission line corridor crosses the river approximately 2,000 feet south of the project site.

To reduce the visibility of the proposed project from the resource, the applicant designed the pier system with materials similar to those of other ramp and float systems in the area. The permanent component of the proposed pier does not extend over the resource. In response to public comments on scenic concerns, the applicant conducted a photo-survey and submitted an electronic map with embedded photographs showing existing structures visible from the resource within approximately two miles of the project site. The applicant also submitted photo-simulations of the proposed pier system on the river. Based on the photo-survey and bends in the river, the applicant stated that the visibility of the proposed pier system will be relatively limited, extending approximately 900 feet to the north and approximately 1,150 feet to the south of the project site, with the visibility of the proposed boat ramp extending approximately 370 feet to the north and approximately 270 feet to the south of the project site. During the review, the applicant took measures to reduce the visual impact of the project including reducing the size of the proposed float system by 109 square feet, moving the permanent component of the pier system outside of the coastal wetland, and eliminating the riprap associated with the proposed pier pilings. The applicant does not propose to remove any trees from the shoreline to construct the project. The applicant stated that he designed the pier system and boat ramp to the minimum dimensions practicable and designed it with materials that will blend with the natural shoreline.

The Department staff utilized the Department's Visual Impact Assessment Matrix in its evaluation of the proposed project. The Matrix is used to assess the visual impact severity of a proposed project based on the distance and visibility of the project from a natural landmark or other outstanding natural or cultural feature, State, National, or locally-designated park or trail, and on the approximate number of people likely to view

the project from the resource or a public way per day. The severity rating is also based on the visual elements of landscape compatibility, scale contrast, and spatial dominance as defined in Chapter 315, § 9. The Department determined that the proposed project is directly visible from several vantage points on the water, may be viewed by more than 25 people per day, and is not visible from any natural landmark or other natural or outstanding cultural feature or from any State, National, or locally-designated park or trail. The Matrix showed an acceptable potential visual impact rating for the proposed project. Based on the information submitted in the application and during the review, the visual impact rating and the site inspection by Department staff, the Department finds that the location and scale of the proposed activity is compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area.

In response to public comments about impacts to existing uses, the applicant stated that the motorized boats which will be using the proposed project are not incompatible with kayaks and canoes in this location. The applicant stated that motorized boats currently use the Sheepscot River near the project site, which is located upstream of the reversing falls in Sheepscot Village and downstream of Head Tide Dam. The applicant submitted several letters of support from local residents to support this statement, as well as recent satellite imagery and photographs showing at least one motorized boat docked on this segment of river. The applicant submitted aerial photographs and measurements to demonstrate that the proposed pier will not block navigation of the river channel. The applicant elaborated that the recreation club consists of approximately 25 members and is not expected to grow substantially. Club members collectively own approximately 10 motorized vessels ranging in length from 12 to 17 feet. Based on limited parking at the project site, the applicant anticipates that no more than three motorized vessels will use the proposed boat ramp and pier system at any one time. The applicant has registered the club, known as the Golden Ridge Sportsman's Club, with the Maine Department of the Secretary of State as a nonprofit corporation. During the review, the applicant submitted a draft copy of bylaws for the club, as well as a draft Land Use License Agreement which will grant club members access to the proposed pier system and boat ramp. After reviewing the applicant's responses, the Department determined that the applicant has supplied adequate information about the anticipated uses of the proposed structures.

Several interested persons raised concerns that users of the proposed boat launch will violate Maine boating laws, specifically 12 M.R.S. § 13068-A(13)(A), which states that a person may not operate a watercraft at a speed greater than headway speed (i.e., the minimum speed necessary to maintain steerage and control) while within 200 feet of any shoreline. The commenters contended that, given the narrow width of the river at the project site, this law effectively prohibits the use of motorized vessels on the river, which would make the purpose of the proposed boat ramp (i.e., recreational access to the river for motorized boats) illegal. In response to these comments, the applicant pointed out examples of other waterbodies which are less than 400 feet wide and which experience routine traffic by motorized vessels, including the Sasanoa River between Bath and Boothbay Harbor, the entrance to Oven's Mouth on the Back River in Boothbay, and The

Gut in South Bristol. In consultation with both the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the Maine Department of Marine Resources (DMR), the Department determined that the restriction to headway speed pursuant to 12 M.R.S. § 13068-A(13)(A) does apply to the project site, extending at least as far north as Head Tide Dam and extending at least 1.5 miles south from the project site, depending on the tide cycle. This section of the river is essentially a “no wake” zone. The Department further determined that this restriction to headway speed is important in reducing shoreline erosion and water turbidity due to boat traffic, especially in narrow and shallow waterbodies such as the Sheepscot River. However, the Department also determined that the law only restricts the speed and does not fully prohibit the operation of motorized vessels within 200 feet of the shoreline. Further, the law includes an exception for a person who is operating a watercraft while actively fishing. The applicant has stated that access for fishing is a primary purpose of the proposed project. In light of these considerations, the Department determined that the restriction to headway speed does not undermine the purpose of the proposed boat launch provided that the applicant and his club members observe the restriction to headway speed at all times, except while actively fishing, or if they navigate to an area at least 200 feet from any shoreline. The restriction on watercraft speed is enforceable by both MDIFW and DMR. More broadly, pursuant to 38 M.R.S. § 281-285, the operation of any watercraft at a speed greater than is “reasonable and proper” is a Class E crime and this law is enforceable by every law enforcement officer in the State of Maine. To promote awareness and adherence to this law, the applicant must post a sign in a visible location at the proposed boat launch identifying the river as a “no wake” zone or a “headway speed only” zone.

DMR reviewed the project and commented that the project is located in an area with no significant shellfish or marine worm resources, and therefore no harvesting activities of these organisms. DMR stated that the proposed project should not cause any significant adverse impact to marine resources, traditional commercial harvest activities, or access based on the nature of the project and its location.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of the coastal wetland provided that prior to construction of the proposed boat launch, a speed restriction sign is posted at the boat launch as described above.

3. SOIL EROSION:

The NRPA, in 38 M.R.S. § 480-D(2), requires the applicant to demonstrate that the proposed project will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

The proposed boat ramp will be constructed from the upland and from within the coastal wetland. Equipment will access the site over the existing access road across the property. Prior to construction, the applicant will install a turbidity curtain around the work area. The work will take place during periods of low water; no equipment will remain in the

intertidal area between work sessions. Equipment will operate from the upland or from within the footprint of the proposed boat ramp. The boat ramp site will be graded to a 15% slope and prepared with a subbase of six- to eight-inch-diameter stones laid over geotextile fabric. The ramp will be surfaced with a layer of three- to four-inch-diameter stones. The applicant selected the ramp materials based on a technical guide (Report No. SRH-2015-25) on bank stabilization, issued by the U.S. Department of the Interior's Bureau of Reclamation, which predicts shear and velocity resistance values for various stabilizing materials. Prior to placement, all of the stone material will be washed of loose sediment in an upland area located greater than 75 feet from the resource. The ramp will be installed approximately flush with the existing grade. To ensure that the ramp does not result in unreasonable erosion due to ice or other processes, the applicant agreed to submit photographs of the ramp in a pre-winter and post-winter condition each November and April for three years to the Department for review. If the Department determines that the ramp materials are eroding, the applicant will install pre-cast concrete planks on the ramp surface. Prior to installing the concrete planks, the applicant would be required to submit new plans and any other pertinent information on the proposed activities to the Department for review and approval. In lieu of installing concrete planks, the applicant could remove the ramp and restore the coastal wetland to its natural condition.

The proposed pier system will be constructed from the upland. Pilings will be driven to refusal and cross-braced, with decking installed between them. The seasonal ramp and floats will be constructed on land and launched at the project site for installation. Material stockpiles will be stored greater than 25 feet from the resource and surrounded by temporary sediment barriers as needed. Upon project completion, any remaining disturbed areas will be loamed, seeded, and mulched. Any shrubs or trees removed incidentally will be replanted in accordance with the local Shoreland Zoning Ordinance.

The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment provided that the applicant submits to the Department photographs of the permanent boat ramp in a pre- and post-winter condition for three winters following construction and, if necessary, installs pre-cast concrete planks as described above.

4. HABITAT AND FISHERIES CONSIDERATIONS:

The NRPA, in 38 M.R.S. § 480-D(3), requires the applicant to demonstrate that the proposed project will not unreasonably harm significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

The project site is located on the western shore of the Sheepscot River, which is tidal in this location and therefore considered a coastal wetland. The site of the proposed boat ramp is a gradual slope to the intertidal zone. The intertidal substrate is mud. The site of the proposed pier system is a three-foot-tall embankment that drops steeply to the coastal wetland.

The coastal wetland to either side of the project site contains salt marsh vegetation. The adjacent upland contains an existing primitive camping area with an access road and room for limited, informal vehicle parking, and is otherwise forested.

According to the Department's Geographic Information System (GIS) database there are no mapped Essential or Significant Wildlife Habitats located at the site. MDIFW reviewed the proposed project and stated that the project will result in minimal impacts to wildlife.

In its review, DMR stated that the project as proposed would not cause any significant adverse impact to marine resources. DMR commented that portions of the Sheepscot River just upstream from the project site are listed as sea run fish spawning and rearing habitat and recommended that the boat ramp be constructed during a work window of November 8 to April 8 to minimize impacts to this habitat and to fish passing the site during construction activities.

The Maine Natural Areas Program (MNAP) of the Department of Agriculture, Conservation and Forestry reviewed the proposed project and commented that the project site is located in the vicinity of a rare plant (*Zanichellia palustris*) and a rare wetland plant community (mixed graminoid-forb saltmarsh). MNAP commented that the project as proposed will not directly impact either of these features but recommended that appropriate measures to prevent downstream siltation during construction of the proposed project should be employed. As discussed in Finding 3, the applicant proposes to use erosion and sedimentation control measures during construction to minimize siltation. MNAP commented that these measures, if installed and maintained appropriately, should adequately prevent siltation and avoid adverse impacts to the saltmarsh vegetation and associated species.

In response to public comments about the potential introduction of non-native organisms to the river system, the applicant obtained a standard sign from the Bureau of Water Quality's Invasive Aquatic Species Program to place at the proposed boat ramp to warn boaters to remove all plants and drain all water from boats and to instruct boaters not to release live bait. The applicant stated that the sign will be placed in clear view at the launch site. The Department determined that the placement of the sign is an adequate measure to prevent, to the extent practicable, the introduction of non-native organisms to the river.

The Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life, provided that construction of the boat ramp takes place during a work window of November 8 to April 8.

5. WATER QUALITY CONSIDERATIONS:

The applicant proposes to use treated lumber to construct the pier system. To protect water quality, all treated lumber must be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction.

In response to public comments about water quality, the applicant stated that no fueling will take place at the proposed project site, but as a precaution he will keep an emergency spill kit on site. The applicant further submitted Appendix C of the NRPA application, Supplemental Information for Dredging Activities, to address dredging concerns related to regrading within the intertidal area to construct the proposed boat ramp. The applicant proposes to remove approximately eight cubic yards of mixed mud, clay, and gravel from within the coastal wetland to regrade the intertidal area for the proposed boat ramp. The applicant proposes to use the dredge spoils for soil enhancement in upland gardens on site. The project was reviewed by the Bureau of Remediation and Waste Management's Division of Materials Management (DMM). DMM commented that based on the volume of dredge material and the proposed manner of disposal, the project meets the definition of "beneficial use" and therefore complies with Maine's Solid Waste Management Rules.

Provided that treated lumber is cured as described above, the Department finds that the proposed project will not violate any state water quality law, including those governing the classification of the State's waters.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicant proposes to directly alter 440 square feet of coastal wetland to construct the proposed boat ramp and install two mooring blocks. The applicant proposes to indirectly alter 370 square feet of coastal wetland due to shading from the proposed pier system. Coastal wetlands are wetlands of special significance.

The *Wetlands and Waterbodies Protection Rules*, 06-096 C.M.R. ch. 310 (last amended November 11, 2018), interpret and elaborate on the NRPA criteria for obtaining a permit. The rules guide the Department in its determination of whether a project's impacts would be unreasonable. A proposed project may be found to be unreasonable if it would cause a loss in wetland area, functions and values and there is a practicable alternative to the project that would be less damaging to the environment. Each application for an NRPA permit that involves a coastal wetland alteration must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

A. Avoidance. An applicant must submit an analysis of whether there is a practicable alternative to the project that would be less damaging to the environment and this analysis is considered by the Department in its assessment of the reasonableness of any impacts. Additionally, for activities proposed in, on, or over wetlands of special significance the activity must be among the types listed in Chapter 310, § 5(A) or a practicable alternative less damaging to the environment is considered to exist and the impact is considered to be unreasonable. Piers and boat ramps are both water dependent

uses as defined by Chapter 310, and the consideration of their proposed construction is allowed as set forth in Chapter 310, § 5(A)(1)(c). The applicant submitted an alternatives analysis for the proposed project dated August 23, 2019. The purpose of the proposed pier system is to improve access to the resource for a recreational club that uses the site for swimming, hunting, fishing, and boating. The purpose of the proposed boat ramp is to provide safer and more reliable access for the club members' motorized boats being launched from trailers. As discussed in Finding 1(C), the applicant submitted a draft Land Use License Agreement with the Golden Ridge Sportsman's Club which will provide club members legal access to the project site over the applicant's land. Some of the interested persons expressed concern that by its terms the proposed Land Use License Agreement could be revoked at will by the applicant, resulting in a private boat ramp. The applicant responded that the agreement will only be revoked if the club violates the terms of the agreement. The Department reviewed the proposed agreement and public comments and determined that if the Land Use License Agreement is terminated and is not replaced by another instrument of legal access for the club, the boat ramp must be removed and the float system reduced in size, as it would essentially be serving one private landowner. The applicant agreed and submitted a plan for a reduced float layout in which the boat ramp would be removed, and the main float reduced from 24 to 12 feet in length if the club were to lose access to the site. The plan is entitled, "Top view with 2' contours (contingency plan)" and is dated February 6, 2020.

In their collective comments, the interested persons identified a total of seven existing access points as possible alternatives to the proposed boat ramp. The applicant addressed the feasibility of each alternative and determined that these sites were either too far (at least seven miles) from the applicant's property, did not contain a road or suitable launch site for trailered boats at the shoreline, were private property, were isolated from the applicant's property by a physical barrier such as Head Tide Dam or the reversing falls, or a combination of these factors. The applicant concluded that there is no practicable access point for motorized boats to reach the river within the vicinity of the applicant's property except at the proposed project site. The Department concurs with the applicant's statement that other possible locations are either too far away to be practicable or are otherwise unsafe or inaccessible for the purpose of launching motorized vessels for use above the reversing falls in Sheepscot Village.

The applicant considered taking no action and continuing to launch boats from the project site over natural substrate. Although repeated launching by a single individual at this site may not result in unreasonable erosion, the applicant determined that repeated launching of vessels by multiple club members over time would result in erosion and degradation of the shoreline, and that a permanent stabilized ramp would prevent this erosion, improve safety for users, and prevent vehicles from being mired in the mud, necessitating further disturbance to remove them. The applicant considered alternate materials for the construction of the boat ramp including logging mats, removable concrete, and a roll-out aluminum mat that can be removed seasonally. Through discussions with the Department and the U.S. Army Corps of Engineers, the applicant determined that the repeated installation and removal of a temporary ramp would result in greater erosion and siltation in the resource over time than a permanent ramp.

The applicant also considered two other sites on the shoreline of his property for the construction of a boat ramp but determined that these sites would require tree removal, result in impacts to salt marsh vegetation, and/or require the construction of a new access road. In light of these considerations, the applicant stated that there is no practicable alternative to the proposed project that can meet the applicant's needs and avoids impacts to the resource.

B. Minimal Alteration. In support of an application and to address the analysis of the reasonableness of any impacts of a proposed project, an applicant must demonstrate that the amount of coastal wetland to be altered will be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicant stated that he designed the proposed pier system to the minimum dimensions necessary to provide adequate access for the recreation club's purposes. All parts of the pier system will be removed seasonally except for the minimal access platform and pilings located adjacent to the coastal wetland. During the review, the applicant reduced the size of the proposed float system by 109 square feet, moved the proposed pilings out of the coastal wetland, and eliminated six linear feet of riprap associated with the proposed pier pilings. The changes reduced the proposed direct impact to the coastal wetland by 43 square feet. The applicant stated that he designed the proposed boat ramp to the minimum dimensions needed to provide a safe and stable travel way for boat trailers. The applicant stated that the proposed project minimizes impacts to the coastal wetland to the greatest extent practicable.

C. Compensation. In accordance with Chapter 310, § 5(C)(6)(b), compensation may be required to achieve the goal of no net loss of coastal wetland functions and values. Compensation is generally required for projects that either cover, remove, or destroy marsh vegetation or result in over 500 square feet of fill in the resource. Although this project will not result in over 500 square feet of fill in the resource, the Department finds that the proposed permanent boat ramp will prevent the regeneration of marsh vegetation that would otherwise occur in the area that has been altered through past, unpermitted vehicle traffic. The Department finds that although a portion of the existing impact to marsh vegetation may have been caused by foot traffic or may have begun prior to the effective date of the NRPA, the impact area was expanded and perpetuated through the applicant's use of vehicles in the intertidal area, and this impact area is therefore subject to the current review, and that compensation is required. Based on the agency review comments, the site inspection, and other materials on file, the Department determined that the primary functions of the wetland at the project site include sediment/shoreline stabilization and recreation.

To compensate for lost functions and values of the coastal wetland, the applicant has agreed to make a contribution to the In-Lieu Fee (ILF) program of the Maine Natural Resource Compensation Program (MNRCP) in the amount of \$3,440.80, payable to, "Treasurer, State of Maine," and directly to the attention of the ILF Program Administration at 17 State House Station, Augusta, Maine 04333. The ILF payment must be received by the Department prior to the start of construction.

The Department finds that the proposed compensatory plan meets the requirements for the restoration, enhancement and preservation of freshwater wetland impacts outlined in Chapter 310. The Department further finds that by minimizing the size of the pier system, floats, and the boat ramp the applicant has avoided and minimized coastal wetland impacts to the greatest extent practicable. The Department finds that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project provided that prior to project construction, the applicant submits the ILF payment as described above, the applicant executes the Land Use License Agreement with the Golden Ridge Sportsman's Club as described above and submits a copy of the executed document to the Department, the applicant submits any changes to the Land Use License Agreement to the Department for review and approval prior to its execution, and, in the event that the Land Use License Agreement is terminated and is not replaced by another instrument of legal access for the club, or if the club is dissolved, the applicant removes the boat ramp, restores the coastal wetland to natural conditions, and reduces the size of the float system as described above.

7. OTHER CONSIDERATIONS:

The Department finds, based on the design, proposed construction methods, and location, the proposed project will not inhibit the natural transfer of soil from the terrestrial to the marine environment, will not interfere with the natural flow of any surface or subsurface waters, and will not cause or increase flooding. The proposed project is not located in a coastal sand dune system, is not a crossing of an outstanding river segment, and does not involve dredge spoils disposal beyond the boundaries of the subject parcel or the transport of dredge spoils by water.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S. §§ 480-A-480-JJ and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. § 1341):

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses provided that prior to construction of the proposed boat launch, a speed restriction sign is posted at the boat launch as described in Finding 2.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment provided that the applicant submits to the Department photographs of the permanent boat ramp in a pre- and post-winter condition for three winters following construction and, if necessary, installs pre-cast concrete planks as described in Finding 3.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life, provided that:

- the boat ramp is constructed during a work window of November 8 to April 8;
 - the applicant submits a payment to the ILF program as described in Finding 6;
 - prior to construction, the applicant executes the Land Use License Agreement with the Golden Ridge Sportsman's Club;
 - prior to execution of the Land Use License Agreement, the applicant submits any changes to agreement to the Department for review and approval;
 - the applicant submits a copy of the executed document to the Department, and,
 - in the event that the Land Use License Agreement is terminated, or if the club is dissolved, the applicant removes the boat ramp, restores the coastal wetland to natural conditions and reduces the float system as described in Finding 6.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters provided that treated lumber is cured as described in Finding 5.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S. § 480-P.

THEREFORE, the Department APPROVES the above noted application of JEFFRY SPINNEY to construct a pier system and permanent boat ramp as described in Finding 1, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. Prior to construction of the boat ramp, the applicant shall post a permanent sign in a visible location at the boat launch identifying the river as a "no wake" zone or "headway speed only" zone.

5. Construction of the boat ramp shall take place during a work window of November 8 to April 8.
6. All treated lumber shall be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction.
7. Prior to the start of construction of the boat ramp, the applicant shall execute the Land Use License Agreement granting the Golden Ridge Sportsman's Club the right to access and use the proposed pier system and boat ramp and shall submit a copy of the executed document to the Department. If the Land Use License Agreement is revised prior to its execution, the applicant shall submit a revised draft copy to the Department for review and approval.
8. If the Land Use License Agreement is terminated by the Licensor or Licensee and is not replaced by another instrument of legal access for the Golden Ridge Sportsman's Club within six months of the agreement termination, or if the club is dissolved, the applicant shall remove the boat ramp, restore the coastal wetland to its natural condition, and reduce the size of the main seasonal float to eight feet wide by 12 feet long.
9. For three years following construction of the permanent boat ramp the applicant shall submit photographs of the ramp in a pre-winter condition on or around November 1 and in a post-winter condition on or around April 30 to the Department for review. If the Department determines that the ramp materials are eroding, the applicant shall either remove the ramp and restore the coastal wetland to a natural condition or install pre-cast concrete planks on the ramp surface. Prior to installing the concrete planks, the applicant shall submit a minor revision application, plans, and any other pertinent information on the proposed activities to the Department for review and approval.
10. Prior to the start of construction, the applicant shall submit a payment in the amount of \$3,440.80, payable to "Treasurer, State of Maine," to the attention of the ILF Program Administrator at 17 State House Station, Augusta, Maine 04333.
11. Prior to the start of construction, the applicant must obtain approval pursuant to the Town of Alna's Shoreland Zoning Ordinance and submit a copy of the local permit to the Department for review.
12. Prior to the start of construction, the applicant must obtain all other applicable local permits and approvals.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DONE AND DATED IN AUGUSTA, MAINE, THIS ____ DAY OF _____, 2020.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
For: Gerald D. Reid, Commissioner

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

JM/L28397AN/ATS#84971

DRAFT



Natural Resources Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCES PROTECTION ACT, 38 M.R.S. §§ 480-A ET SEQ., UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. Time frame for approvals. If construction or operation of the activity is not begun within four years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- F. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- G. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: November 2018

Contact: (207) 287-2452

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S. §§ 341-D(4) & 346; the *Maine Administrative Procedure Act*, 5 M.R.S. § 11001; and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed more than 30 calendar days after the date on which the Commissioner's decision was filed with the Board will be dismissed unless notice of the Commissioner's license decision was required to be given to the person filing an appeal (appellant) and the notice was not given as required.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. An appeal may be submitted by fax or e-mail if it contains a scanned original signature. It is recommended that a faxed or e-mailed appeal be followed by the submittal of mailed original paper documents. The complete appeal, including any attachments, must be received at DEP's offices in Augusta on or before 5:00 PM on the due date; materials received after 5:00 pm are not considered received until the following day. The risk of material not being received in a timely manner is on the sender, regardless of the method used. The appellant must also send a copy of the appeal documents to the Commissioner of the DEP; the applicant (if the appellant is not the applicant in the license proceeding at issue); and if a hearing was held on the application, any intervenor in that hearing process. All of the information listed in the next section of this information sheet must be submitted at the time the appeal is filed.

INFORMATION APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time the appeal is submitted:

1. *Aggrieved Status.* The appeal must explain how the appellant has standing to maintain an appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions regarding compliance with the law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing requirements that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for public hearing must be filed as part of the notice of appeal, and must include an offer of proof in accordance with Chapter 2. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed evidence must be submitted with the appeal. The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered in an appeal only under very limited circumstances. The proposed evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Specific requirements for supplemental evidence are found in Chapter 2 § 24.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made easily accessible by the DEP. Upon request, the DEP will make application materials available during normal working hours, provide space to review the file, and provide an opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a license holder may proceed with a project pending the outcome of an appeal, but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, and will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, any materials submitted in response to the appeal, and relevant excerpts from the DEP's application review file will be sent to Board members with a recommended decision from DEP staff. The appellant, the license holder if different from the appellant, and any interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. The appellant and the license holder will have an opportunity to address the Board at the Board meeting. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see 38 M.R.S. § 346(1); 06-096 C.M.R. ch. 2; 5 M.R.S. § 11001; and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452, or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Friday, February 21, 2020 12:11 PM
To: MacNeil, Jami
Subject: Re: draft, update

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Ok. I guess i dont have any choice. Thanks for letting me know

> On Feb 21, 2020, at 10:52 AM, MacNeil, Jami <Jami.MacNeil@maine.gov> wrote:
>

Hi Jeff,

The Department has decided that it is prudent to resend the draft out to the entire list of interested persons and not just to those who specifically requested a copy of the draft. You will see that email go out later today, with a new deadline for comments of February 28, 2020. Since an appeal is likely, it is important that we give everyone a chance to comment.

In the meantime, we are still reviewing the comments that have been submitted and will be editing the permit if appropriate. We also need more time to discuss with the Bureau Director and the Department Commissioner, so this comment extension does not really delay us. I still expect we can issue a final order in the next two to three weeks.

Thank you for your patience,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Thursday, February 20, 2020 1:46 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: ?

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Hi Jami,

Just curious as to what you see next steps / timeline for a final decision are here? I assume comment period is 'closed'? (since the draft as issued and comment period for that is over) We are all antsy to get this overwith and/or know if we need to argue further against some of the commentary/requests.

Thanks,
-j

York, Marylisa

From: MacNeil, Jami
Sent: Monday, February 24, 2020 10:55 AM
To: Spinney, Jeffry
Subject: appeal procedures

Hi Jeff,

Per our phone call today, I gave Kevin Martin a heads up that you may have questions about appeal procedures. He'll be in today, tomorrow, and Wednesday, but then he'll be out for three weeks. After that you can direct questions to me and I will either answer them or find you a different contact.

Kevin did inform me that once you are issued your permit, you are free to construct your project, even if an appeal gets underway. However, you do so at your own risk, since you would need to remove the structures if the decision is overturned. Our website has an information sheet on the appeals procedure:

<https://www.maine.gov/dep/publications/is-appeal.html>

For more details, you can reach out to Kevin at kevin.martin@maine.gov or at 287-4305. Again, he'll be out after Wednesday.

Thank you,

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

York, Marylisa

From: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Sent: Tuesday, February 25, 2020 3:54 PM
To: MacNeil, Jami
Subject: fw: spinney letter
Attachments: Spinney letter.pdf

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Jami,

Fyi – for your records, not sure if relevant to DEP or not. I received this letter from the town CEO today as I had asked him a while ago to prepare a statement after his site visit. It will become a part of the submission to the town eventually.

Have we received any new comments? Assume you will send along as we get them.

Thanks

-jeff

Town of Alna
1574 Alna Rd.
Alna, Maine 04535



<http://alna.maine.gov>
(207) 586-5313

21 February 2020

Mr. Spinney,

Regarding the existing gravel boat ramp on your property and its proximity to the abutting owner's property line, I find that this ramp was built prior to any ordinance and therefore exists as a non-conforming use and the setback of 20 feet does not apply here.

If you have any questions, you can contact me at the Alna Town office.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom McKenzie". The signature is fluid and cursive, with a large initial "T" and "M".

Tom McKenzie

CEO Alna

York, Marylisa

From: MacNeil, Jami
Sent: Wednesday, February 26, 2020 7:49 AM
To: Spinney, Jeffry
Subject: RE: spinney letter
Attachments: 2020.02.24 Barth Comments, DEP NRPA permit # L-2897-4E-A.N.pdf

Thank you. We received one more comment letter, see attached.

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Tuesday, February 25, 2020 3:54 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: fw: spinney letter

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Jami,

Fyi – for your records, not sure if relevant to DEP or not. I received this letter from the town CEO today as I had asked him a while ago to prepare a statement after his site visit. It will become a part of the submission to the town eventually.

Have we received any new comments? Assume you will send along as we get them.

Thanks

-jeff

340 Lynch Road
Newcastle, ME 04553-3944
barthnicholas242@gmail.com

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

February 24, 2020

RE: DRAFT- NRPA permit, # L-28397-4E-A-N, located in Upper Sheepscot River Estuary, Town of Alna – Jeffrey Spinney

Dear Ms. McNeil,

I have deep concerns about this draft NRPA license. My concerns are based upon 65 or so years of historical knowledge of natural resources conservation and use in the Sheepscot River Watershed, including the Upper Sheepscot River Estuary where the proposed project is located. I also have an extensive and broad education (BA, conservation of renewable natural resources and MS, natural resources policy, planning and administration, University of Michigan) and professional working experience in the conservation of natural resources, including pioneering work in environmental impact analysis and integrated natural resources policy, planning, and administration. I developed initial guidelines for the New York State Wild, Scenic and Recreational Rivers program that included acceptable river and related shoreland uses for each of these three river classifications. This program was one of the early state programs following soon after a comparable federal program began.

I conceived the idea for the Sheepscot Valley Conservation Association (SVCA) and have been professionally involved with the SVCA (now incorporated into the Midcoast Conservancy) from its beginning. Many years ago the SVCA recognized the special significance of the Sheepscot River Upper Estuary. Subsequently, a permanent forever-wild corridor for the upper estuary was begun to protect and preserve this very rare and unique river and shoreland ecosystem. Financial contributions to protect this ecosystem have been received from many individuals and conservation organizations, including the Nature Conservancy. I have been honored to make a professional contribution to help begin this forever wild river corridor protection and preservation effort. The proposed project poses a significant threat to the wild, scenic, aesthetic, and quiet non-motorized historical recreation uses appropriate for this section of the Sheepscot River.

The project description is incomplete and inaccurate. It fails to recognize the real scope and scale of environmental impacts to be reasonably expected over time. It would lead one to believe this river section is developed with "structures, lawns and docks".

There is no ecological characterization of the Upper Sheepscot River Estuary ecosystem where the project is located. In the past this section of the Sheepscot has been recognized as internationally rare and unique (marine scientist, Dr. Peter Larsen, retired, Bigelow Laboratory for Ocean Sciences).

The full intent of recreational uses and the likely environmental consequences on the Sheepscot River and related land resources from the operation of the Golden Ridge Sportsman's Club has not been fully described or considered. The applicant/ Sportsman's Club also have not shown the financial capacity to meet license conditions.

The Golden Ridge Sportsman's Club would be the first significant recreational development in the Upper Sheepscot River Estuary ecosystem. There has been no consideration of the precedent this would set or the likely cumulative impacts from other similar development here.

I have an experimental/demonstration woodlot with some river frontage within the Sheepscot River Upper Estuary, a relatively short distance upstream from the project location.

Based upon the existing and special natural environmental character of the Sheepscot River Upper Estuary ecosystem, which includes the project area, I am convinced this project would not survive full legal discovery and a thoughtful legal presentation.

I appreciate the opportunity to comment on this NRPA draft license and strongly urge it be rejected by the DEP Bureau of Land Resources.

Most sincerely,

Nicholas Barth

Cc: Commissioner Gerald D. Reid

York, Marylisa

From: Spinney, Jeffrey <Jeffrey.Spinney@LibertyMutual.com>
Sent: Wednesday, February 26, 2020 10:29 AM
To: MacNeil, Jami
Subject: RE: spinney letter

Follow Up Flag: Follow up
Flag Status: Completed

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Again, i find it ironic these experts don't seem to have facts right or are just trying to twist them to their agenda:

The upper estuary is well recognized and studied and published as being the section from Head tide dam to Wiscasset, just a couple of examples:

<https://mainerivers.org/watershed-profiles/sheepscot-river/> -- "From the head of tide in Alna down to Wiscasset is a five-mile long upper estuary with extensive mud flats and salt marshes."

http://www.krisweb.com/biblio/sheepscot_asc_meister_1982.pdf -- "Above the Wiscasset-Edgecomb bridge the upper estuary extends for approximately five miles to Head Tide, Alna" Atlantic Salmon River Management Report 1982

Let's have a look at Barth's 'experimental woodlot' he claims 'a project which may not survive'. From the '19-20 Newcastle tax commitments, the only lot he owns here is 008-14. It appears the only 'experiment' going on here is the fact that he only pays \$374 in annual taxes on 57 acres of land including the waterfront.

<https://newcastlemaine.us/wp-content/uploads/2015/07/Map08-1.pdf> -- from this map, snippet highlighted & attached.

I pulled the deed for this lot (Lincoln County, 2524 / 232), and it appears to have only a 100' frontage on the Sheepscot river. I truly have to wonder (no, i know by common sense that it wont be impacted) how impacted this **landlocked woodlot** approx. 1.5 miles upstream (above bass falls)from my site (see map) would be by people respectfully fishing, hunting, and using the river mostly as they have for a very long time.

We have involved all the folks as you know like DMR, IF&W, maine natural areas program, EPA, US Fish & Wildlife, NMFS (not sure what this was but was listed on army review) etc and have considered all of the 'special' things and threaded the needle so to speak. There is a very limited set of people who simply believe that they are the 'real' experts and simply know better. Again, this isn't about environmentalism, it is about Not in My backyard'ism by a very selfish group of pompous people.

The final component where he doubts the 'financial capacity' is just plain stupid and uninformed. This is simply elitism. He probably doesn't realize, but I likely pay more in property taxes **on an annual basis** than this group likely does in aggregate and have for many years. This is what is so frustrating to the people in the towns whose access to

the river is being restricted further and further. Once i see the final permit, i will personally drive a check to your department as you and i discussed, get a receipt and be done. There is no financial capacity issue.

Sorry to sound frustrated, but this is just absurd and we have had it at this point.

-j

Map 8

Property Map
 Town of Newcastle
 Lincoln County, Maine
 June 1, 2016

Legend

- Parcel Line
- Right of Way
- RR Right of Way
- Boundary Stream
- Townline
- - - Discontinued Road
- Other
- Private Right of Way
- Streams
- █ Lakes, Ponds and Rivers
- █ Non-forested Wetlands
- █ Adjacent Maps
- 5** Adjacent Map Number

Land Use Zoning Districts

- C Commercial
- LI Light Industrial
- R1 Route 1
- R Rural
- DA District A
- DB District B
- DD District D
- VB Village Business
- VC Village Center
- VR Village Residential



CAUTION: This map is intended for property tax assessment uses only. The information contained on this map is based on recorded deeds, plans, and other public sources. These are not primary sources. Due to conflicts, errors, and omissions on this map, the tax map should be considered to be the primary source. Due to conflicts, errors, and omissions on this map, the tax map should be considered to be the primary source. Due to conflicts, errors, and omissions on this map, the tax map should be considered to be the primary source.

TOWN OF NEWCASTLE ASSUMES NO LIABILITY RELATED TO THE USE OF THIS MAP. THIS MAP IS NOT A SURVEY.



From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Wednesday, February 26, 2020 7:49 AM
To: Spinney, Jeffrey <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: spinney letter

Thank you. We received one more comment letter, see attached.

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

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To: MacNeil, Jami <Jami.MacNeil@maine.gov>
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Jami,

Fyi – for your records, not sure if relevant to DEP or not. I received this letter from the town CEO today as I had asked him a while ago to prepare a statement after his site visit. It will become a part of the submission to the town eventually.

Have we received any new comments? Assume you will send along as we get them.

Thanks

-jeff

York, Marylisa

From: Spinney, Jeffrey <Jeffrey.Spinney@LibertyMutual.com>
Sent: Thursday, February 27, 2020 12:28 PM
To: MacNeil, Jami
Subject: RE: Midcoast Conservancy comments on NRPA permit, # L-28397-4E-A-N, located in Alna
Attachments: IMG-3507.JPG; wilderness snippet.JPG; IMG_3472.JPG; IMG_3482.JPG; IMG_3488.JPG

Follow Up Flag: Follow up
Flag Status: Completed

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Thanks. I took a pass through, it's the same argument rehashed. Read for yourself of course, but there is no further substantive info here.

Again, they talk about the dam at head tide, and a lot of general things, but nothing that my project will likely impact based on its size/scale/location and as determined by the various associated environmental reviewers in NRPA (dmr, if&w, etc.) . We have run this through all of the reviews and maps and actual professional experts, and there have been no objections only a suggested work window and notes to use proper erosion control measures as planned/discussed at length ever since the premeeting.

Only a small and very vocal private group, which frankly has no more right than my private group and yet seems to try to hide behind environmentalism. It is important to note, as a private person who has been involved in town matters for many years, that Midcoast (and before it SVCA) does not speak for the town in any capacity.

In the "river worth protecting" section, they discuss our members being able to hunt in the dyer river. Just as they suggested we could put boats in as far north as Somerville in earlier comments. An unpracticable suggested solution. We need the boats to access these areas in order to effectively hunt or fish. This occurs on a yearly basis every year. Clearly, they don't have an understanding of how this actually works.

In terms of 'precedent setting decision' ...I didn't just submit 'at least one motorized boat picture'. I submitted an entire map worth of factual data showing docks, houses, boats, cuttings, powerlines, etc. Keep in mind this survey was not in midsummer, it was in fall so many were pulled for winter at the time and ashore as noted. I have provided more factual data than is typically required for a project of this scope/magnitude, i think we all recognize that. To say we need more 'independent' data is absurd.

To the point of precedent setting, I have been considering this seriously and I recently took a look at every single deed, on ever single lot on both Newcastle and Alna side from the Dock Road all the way to Sheepscot that borders the river (e.g. could have a direct impact in terms of precedent if you subscribe to that theory) . I found that in addition to what is either owned in fee simple or by easement by Midcoast, there are numerous other private/deed restrictions on the vast majority of property bordering the river which will effectively also limit any other proposed access, division, development, and/or environmental impact which seems to be the articulated concern.

A lot of info of as you might imagine, so I will try to break it down/present at a high level for you here..

(starting at Dock Rd and going South by river)

Newcastle Map 8:

All three properties are in conservation or other restriction on use/division

Alna Map R5:

Only two lots out of fifteen lots are without restriction. One of those, Barth, already has a permanent launch structure per interactive map. leaving only 1 for possible or likely 'development'

Alna R4:

3 out of 13 lots are without restriction and do not currently have docks

Newcastle Map 6:

4 out of 12 lots are without restriction and do not have docks (lots 8-8f are a subdivision, restrictions on these deeds prohibits docks/structures in shoreland (e.g. : chef, mook from interactive map) and actually allows them on a common lot on south end of subdivision where there is not one.

Alna R1:

1 out of 5 does not currently have a dock and is without deed restriction

So, as you can probably see....the notion that this could open up 'flood gates' so to speak is somewhat unfounded by fact. In order to move forward somebody would need to acquire a lot either a.) not in conservation or b.) not under private easement or other restriction and then c.) pass muster on all of the same NRPA & town related things that i have had to do as well as the litany of commenters. (just as i have done). This is assuming that they want to or even need to if they don't already have something. I think you said it best, an applicant really needs to 'thread the needle' in this area, the NRPA process is extensive and thorough as you are aware.

Many of the lots that are owned by commenters that are not currently protected, could be so at any time they wish by the creation of a deed restriction. Let us see how many of them put their money where their mouth is and establish any restriction on their private property they so wish. My private use and that of my friends of my private property is not stopping them from protecting theirs in any way.

Again, i and my friends are simply trying to protect and preserve our access that has been used for a very long time and is being pressured and slowly eroded by a very persistent and elitist group of people hiding behind environmentalism. They buy property, restrict it and then claim a tax break and the rest of us effectively bear the financial burden of it without the traditional use.

Finally, in regard to the untouched wilderness notion. I have attached another picture of the house and powerline as visible from my alternate site. As well, a snippet of my map with prominent nearby features circled. These two items (house & powerline) are clearly viewable in the from over 1850' to the north (much more visible than anything in my project) up river in the middle of the 'remote untouched wilderness' Midcoast talks about in this letter. Across the river Weary has a guy (yesterday and for many days before) actively cutting trees near the shoreland zone area between his house and my site, i was watching him yesterday from my site. I'm sure it is legit forestry operations and i have no issue in principal with it as it is his property, but it flies in the face of his claims of not wanting to impact the remote untouched wilderness and especially flies in the face of his claims of not wanting to be aware of my site and/or of any incidental noise from it that might otherwise disturb the peace & quiet. In addition to that, his lawn/field comes down to within 50feet or so of the water just 800 feet from my site. It is clearly visible to those going by on water and was in my map. Obviously the noise from his weekly (possibly more) mowing or other tractor work he and his handyman are often doing out there on a regular basis is what it is, im not complaining about that but it certainly flies in the face of untouched wilderness concept.

Additionally, just upstream from my site and actually (approx. 1500 feet or so just around bend) in the coveted protected area identified by one of the environmental groups. Bailey and Carol have actually further cleared and in some places stumped trees & undergrowth all the way to the water's edge to better their view

from their seasonal home. Of course, this also increases the visibility of their home from the protected area and further erodes the argument of untouched wilderness by some commenters.

This recent work was done without any type of permit from our town or CEO. This is clearly illegal, some of it is even on steeper slopes to the water, and nobody in town seems to understand or know why midcoast or weary or phlbrick or johnson isn't jumping all over this, even at a fraction of the way they are jumping on my project. The suspected reason is that they (Bolen/Ervin) are now part of the elite class of seemingly wealthy people from out of town this group is catering to. Or, perhaps, it is one more example of their actual objection, which is allowing local people to actually have continued, traditional access to this resource as we have for so many years and for which we are fighting so hard right now.

Overall, this is illustrative of the inequitable/NIMBY approach being take to this supposed "conservation" effort and only further underscores the need for this improved access for the sportsmen in our community to balance things out.

-jeff

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Thursday, February 27, 2020 9:39 AM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Cc: Jay.L.Clement@usace.army.mil
Subject: {EXTERNAL} FW: Midcoast Conservancy comments on NRPA permit, # L-28397-4E-A-N, located in Alna

Hi Jeff – Here are the latest comments from Midcoast. I haven't read them yet, but here they are.

-Jami MacNeil

Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

From: Jody Jones <jody@midcoastconservancy.org>
Sent: Thursday, February 27, 2020 8:24 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>; jay.l.clement@usace.army.mil
Cc: Reid, Jerry <Jerry.Reid@maine.gov>; alnaclerk@gmail.com
Subject: Midcoast Conservancy comments on NRPA permit, # L-28397-4E-A-N, located in Alna

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Jami & Jay,

Thank you for the opportunity to review and comment. Attached are our comments and additional relevant ecological information that support our position to deny this permit.

Respectfully submitted,

Jody Jones

--

Jody Jones
Executive Director
(207) 389-5155
PO BOX 439
290 U.S. Route One
Edgecomb, ME 04556







N Dyer Neck Rd

N Dyer Neck Rd

Sheepscot River

Sheepscot River

Rd







York, Marylisa

From: MacNeil, Jami
Sent: Monday, March 2, 2020 2:14 PM
To: Spinney, Jeffry
Subject: additional comments
Attachments: Comment for Spinney Pier draft decision; Re: Application of Jeffrey Spinney of Golden Ridge Road in Alna to construct permanent dock and boat access ramp on the Sheepscot River; 2020.02.24 Barth Comments, DEP NRPA permit # L-2897-4E-A.N.pdf; 2020.02.28 Jon Luoma DEP letter.docx; The Sheepscot River; letter; In reference to project; NRPA permit #L-28397-4E-A-N located in Alna, Maine

Hi Jeff,

Attached are the additional comments we received. You do not need to respond to these, I will let you know if we need anything else from you or if there will be any major changes. I am hopeful that we will issue a final decision this week.

I hope your wife is okay. You have my best wishes for her recovery.

Take care,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Monday, March 02, 2020 10:13 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject:

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jami,

I just wanted to quickly check in and see if we received any further comments and understand what you think the timeline is for next steps from the DEP. My wife was checked into Maine Med Thursday for emergency heart surgery, so I have been sitting down here since then at the hospital but do have my computer and phone so can try and get anything else as needed. Just let me know

Thanks,
-j

340 Lynch Road
Newcastle, ME 04553-3944
barthnicholas242@gmail.com

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

February 24, 2020

RE: DRAFT- NRPA permit, # L-28397-4E-A-N, located in Upper Sheepscot River Estuary, Town of Alna – Jeffrey Spinney

Dear Ms. McNeil,

I have deep concerns about this draft NRPA license. My concerns are based upon 65 or so years of historical knowledge of natural resources conservation and use in the Sheepscot River Watershed, including the Upper Sheepscot River Estuary where the proposed project is located. I also have an extensive and broad education (BA, conservation of renewable natural resources and MS, natural resources policy, planning and administration, University of Michigan) and professional working experience in the conservation of natural resources, including pioneering work in environmental impact analysis and integrated natural resources policy, planning, and administration. I developed initial guidelines for the New York State Wild, Scenic and Recreational Rivers program that included acceptable river and related shoreland uses for each of these three river classifications. This program was one of the early state programs following soon after a comparable federal program began.

I conceived the idea for the Sheepscot Valley Conservation Association (SVCA) and have been professionally involved with the SVCA (now incorporated into the Midcoast Conservancy) from its beginning. Many years ago the SVCA recognized the special significance of the Sheepscot River Upper Estuary. Subsequently, a permanent forever-wild corridor for the upper estuary was begun to protect and preserve this very rare and unique river and shoreland ecosystem. Financial contributions to protect this ecosystem have been received from many individuals and conservation organizations, including the Nature Conservancy. I have been honored to make a professional contribution to help begin this forever wild river corridor protection and preservation effort. The proposed project poses a significant threat to the wild, scenic, aesthetic, and quiet non-motorized historical recreation uses appropriate for this section of the Sheepscot River.

The project description is incomplete and inaccurate. It fails to recognize the real scope and scale of environmental impacts to be reasonably expected over time. It would lead one to believe this river section is developed with "structures, lawns and docks".

There is no ecological characterization of the Upper Sheepscot River Estuary ecosystem where the project is located. In the past this section of the Sheepscot has been recognized as internationally rare and unique (marine scientist, Dr. Peter Larsen, retired, Bigelow Laboratory for Ocean Sciences).

The full intent of recreational uses and the likely environmental consequences on the Sheepscot River and related land resources from the operation of the Golden Ridge Sportsman's Club has not been fully described or considered. The applicant/ Sportsman's Club also have not shown the financial capacity to meet license conditions.

The Golden Ridge Sportsman's Club would be the first significant recreational development in the Upper Sheepscot River Estuary ecosystem. There has been no consideration of the precedent this would set or the likely cumulative impacts from other similar development here.

I have an experimental/demonstration woodlot with some river frontage within the Sheepscot River Upper Estuary, a relatively short distance upstream from the project location.

Based upon the existing and special natural environmental character of the Sheepscot River Upper Estuary ecosystem, which includes the project area, I am convinced this project would not survive full legal discovery and a thoughtful legal presentation.

I appreciate the opportunity to comment on this NRPA draft license and strongly urge it be rejected by the DEP Bureau of Land Resources.

Most sincerely,

Nicholas Barth

Cc: Commissioner Gerald D. Reid

Jon Luoma
P.O. Box 551, 34 Golden Ridge Road,
Alna, ME 04535

Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
28 Tyson Drive
Augusta, ME 04330
Email: Jami.Macneil@Maine.gov

Jay Clement
Senior Project Leader
U.S. Army Corps of Engineers
442 Civic Center Drive, Suite 350
Augusta, ME 04330
Email: jay.l.clement@usace.army.mil

February 28, 2020

RE: Draft DEP decision for Jeffrey Spinney's proposed boat ramp and pier at 126 Golden Ridge Road, Alna, Maine 04535

Dear Ms. MacNeil and Mr. Clement:

I am writing to oppose granting of this application for a new ramp and pier on this very special section of the Sheepscot River in Alna and Newcastle. I will not address here the many reasonable objections made by many other respondents based on technical dock and ramp matters or specific ecological and biological values, so very real here.

As an Alna resident who walks, skis, and paddles (by muscle power) along and on this river section, I believe strongly that you are not adequately addressing and taking into account the "existing scenic, aesthetic, recreational or navigational uses" on this river stretch, as you are mandated to do. Protection of Maine's unique and extensive riverine and shoreland areas, throughout the state, are dependent on DEP's taking protection of these values extremely seriously. The ramp and pier proposed in this application *will* certainly "unreasonably interfere with" these fragile "scenic, aesthetic, recreational, and navigational uses."

It is incorrect to say, as the draft decision does, that the Sheepscot River shorelines above Sheepscot Village and below Head Tide, or more accurately below the Dock Road bridge at Puddledock, are in any way "developed, with structures, lawns, and docks" -- of which the ramp and pier proposed in this application would be just one more. Paddling north from Sheepscot Village, once one has passed through the immediate settled area extending perhaps a quarter mile north of the bridge, the river and its shores all the way to the Dock Road bridge feel, and to a large extent are, "wild."

There are no permanent structures on or near the river banks. A power line crosses the river, and a few houses are visible, in part, upslope on the steep ridges above the river, but otherwise the shores are entirely woods or marsh. There are no "lawns" once Sheepscot Village is left behind.

This river section is completely quiet and natural. I have been able to watch eagles, deer, fisher, and mink there. As you know, the Nature Conservancy, Midcoast Conservancy, Atlantic Salmon Federation, and other organizations have devoted large amounts of time and money towards conservation and protection in this specific river area, through land and easement purchase, habitat analysis, dam restoration, and water quality monitoring. This is a *Maine, Beginning With Habitat* Area of Statewide Significance, providing habitat for Endangered, Threatened, and Rare animal and plant species. There are public hiking trails along the river shore, on protected land, frequently used by townspeople and others desiring a quiet experience in nature, away from traffic, motors, and noise. Encouraging motorized craft on this river stretch will permanently alter this experience, so important to "quality of life" for those of us who live nearby and visitors as well.

Regarding the Golden Ridge Sportsman's Club: my understanding is that a permanent ramp and pier would not be permitted here were the application made by the private landowner alone. Why, then, an application for a permanent ramp and pier for a perhaps 25-member Sportsman's Club, with increased shoreland and motorized craft use, is acceptable is not clear to me. But in any case, I believe that the Golden Ridge Sportsman's Club only came into existence after Jeffrey Spinney determined that a permanent ramp and pier would not be permitted for his personal use. It would seem justifiable to wonder about the true status of this new club, especially as I have heard Mr. Spinney state, at an Alna Planning Board meeting (of which he is the chair), that he would bear all ramp and pier costs himself alone. If this is a true, legitimate club, why wouldn't dues or other funds from the membership be available to meet the sizable construction and installation costs?

The draft decision also exaggerates the current motorized boat usage above Sheepscot Village. I believe there is almost none, virtually all boat use in recent decades has been muscle-powered. The amount of development here is exaggerated also.

In short, there are any number of 'red flags' raised by this application, and many inaccuracies in the draft decision. This ramp and pier should not be approved on "scenic, aesthetic, and recreational" grounds alone. But there are so many additional outstanding questions and inaccuracies that rejection is mandated also.

Please reconsider your draft decision and reject this application.

Thank you for your attention.

Sincerely,

Jon Luoma

York, Marylisa

From: Spinney, Jeffrey <Jeffrey.Spinney@LibertyMutual.com>
Sent: Wednesday, March 4, 2020 9:52 AM
To: MacNeil, Jami
Subject: RE: Comment for Spinney Pier draft decision

Follow Up Flag: Follow up
Flag Status: Completed

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Jami,

I took a read through Davis Archer's note here that he sent in after the (second) comment period ended, and this guy has no clue either in . I first had to go figure out even who he was as i generally know everybody in town, and had no idea on this guy. From deeds, it appears that he bought this property in 2015 as a foreclosure. Again, this letter is a great example of exactly the problem we are having. People from away purchasing property, then asserting things based upon incorrect facts in the name of conservation or at the direction of a small group which is where he likely got the talking points here..

Regardless, his house is just over 2 MILES south of my project site and not even on river. Approx. 900' and 1100' from the two closest docks. And around 1500 to a third just below bridge and even close rto others below falls) Ironically and contrary to his statements of never having seen motorboats, these are the locations of two of the observed motorboats (above falls) in my survey. A 16' center console and a 17' open fishing boat...

His assertion that it is 'low tide' more often than not i think is a fundamental misunderstanding of something he was either told or read and didn't comprehend. Stickney (Ecology of the Sheepscot River) did a study back in 1959 i believe, a snippet from it is below. As noted, the ebb vs flow is slightly offset but the tidal range (above falls) is still semidiurnal with a mean range of approx. 6' (vs 9.5 just below falls) as noted in my plans. See this snippet from Stickney study below.

Finally, I added Davis Archer's home to my interactive map, and attached a snippet here with the home circled as well for reference.

Stickney reference:

Tides and currents

Below the falls at Sheepscot Village the mean tidal range is 9.5 feet, decreasing to 8.9 feet at the extreme seaward end of the estuary (U.S. Coast and Geodetic Survey data). Above the falls the mean tidal range is about 6 feet, there being about a 3-foot drop in water level over the falls at low tide. The tide continues to ebb in the estuary above the falls for a little over two hours after it has begun to flood below. Thus the duration of the flooding tide above the falls is only about four hours, while the ebb lasts about eight.

Map snippet: Subject property (commenter) circled)



While i know DEP isnt asking for responses on this, some of this is simply too ignorant to silently ignore and let silently go on record.

-j

From: Davis Archer <davism.archer@gmail.com>
Sent: Saturday, February 29, 2020 8:13 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: Comment for Spinney Pier draft decision

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jami MacNeil
Bureau of Land Resources
ME DEP

Dear Ms. MacNeil,

I am writing to oppose the Pier System and the Boat Ramp project L-28397-4E-A-N that is in the approval process for Jeff Spinney of Alna. I am not a part of any coalition or working group that you have heard from thus far, although I am glad to see that their efforts are organized and, that I can see, tactful. I recognize that my letter is arriving in your hands a day later than required by your memo, but I only received all of the information about this process late in the day yesterday. Prior to that, I had found it difficult to know how to become aware of and involved in the workings of this process. It is hard to stay abreast of proceedings like this when one is employed full-time, which is clearly and fortunately not a hindrance to many others in the opposition. I am likely one of the youngest respondents to your call for comments, and generally have not been involved in matters like this.

I will proceed fairly informally, knowing my letter is late, and because I have no particular credentials besides a science degree in natural resource management. I am thus familiar with some of the decision criteria - and respect the job you do - I am familiar with the ecological concepts involved, and quite frankly, am perturbed and rather alienated by the human dimension of the process as it unfolds in the neighborhood. This is a divisive issue.

I live in the Sheepscot River watershed, downstream of the project by about a mile. My property line is some 200 or 300 yards distant from the salt marsh that is continuous from there to the Spinney property, and beyond. Between the Sheepscot Rd bridge and the project location, there are indeed 2 small floats, with their respective piers poked into the marsh, and presumably moorings, and presumably permits. These floats are not actually installed every year; some years they are, some not. I have never seen the currently permitted Spinney float in the water, indeed never seen a motorized boat go anywhere north (upriver) of the two floats that I have mentioned, and these are essentially in my backyard.

Unlike few others (that I ever notice), I spend my time on the bank of the river in this exact area, often walking north toward the woods and unbuilt landscape near the project area and beyond. My home is within earshot of the river and I can verify the rarity of motorized boat traffic. I think this shows that the current permit holders do not value this resource as a good option for motorized boating.

The obvious reason for its disuse is that this waterway, north of the reversing falls, is very shallow, with a lot of

curvature, a vague navigational channel (to call it that), and sandbars and shifting patterns of marsh vegetation and mud. There are actually more hours of the day in which this part of the estuary is at a low tide - drained out and inconvenient to boat travel - than it is flooded and available. This is thanks to the impoundment caused by the ledge at the reversing falls. Sandbars notwithstanding, I know that paddlers cherish this part of the river because arriving by small boat is the only way that the public can reach it. In general, most of them prefer to paddle anywhere that motor boats are not allowed or cannot reach. To encourage motorized traffic on the river does infringe on the recreational opportunities of non-motorized boaters, especially where the waterway is limited in width. Additionally, if motorized traffic is encouraged by this pier installation, I foresee a common occurrence of these boaters fouling their hulls and propellers on the bottom of the river, which will cause really undue disruption of the benthic systems, physical and biological.

I am mistrustful of some of the specifications proposed by the applicant, beginning with the amount of dredging that will occur for a boat ramp. I am very surprised to hear that the Spinney property is ever yet used as a boat launch, being ill-suited for that purpose, and never having seen any boat apparently going or coming. I suspect this is a mostly false statement made for the purposes of the application. I doubt that the removal of 8 yards of material will be ultimately satisfactory, given the dimensions of the marsh there. To claim that only 370 square feet of that marsh will be indirectly affected is also ludicrous, given what we know about ecosystem dynamics, and the fact that it will go from being a continuous marsh ecosystem, to one cut into fragments. Flow hydrodynamics only account for one facet of the project's indirect impact. The biological system will feel this intrusion in all directions nearby. This project, of course, has literally twice the usual downstream effects because of incoming and outgoing directional flow. Beyond the initial dredging, the increased human use of this waterfront will undoubtedly destroy additional surrounding marsh, and these effects will compound themselves both onsite and nearby. We know that salt marshes are fragile, highly degradable by physical overuse, and a common good for all habitants of the watershed. We are not expecting these sportsmen to take good care of their salt marsh.

Based on a non-aggressive precautionary ecological approach, this project could be justifiably blocked. I believe that it is the DEP's role to assess the entirety of the known ecological effects of such a project, and also to take into account the unquantified, but undeniable, impacts on the surrounding environment. The DEP should also consider whether it is wise to treat this section of river upon the same use-value criteria as any other navigable waterway, when I have illustrated its distinction as an unsafe location for motorboating, and a foolish location for a pier. These are pragmatic perspectives that come from the repeated use of the resource. As I've said, it is clear that few people other than I, currently have this perspective in mind.

Thank you, and good luck,
Davis Archer

York, Marylisa

From: MacNeil, Jami
Sent: Tuesday, March 10, 2020 2:15 PM
To: Spinney, Jeffry
Subject: RE: checking in

Hi Jeff,

The higher-ups are still reviewing. I'm sorry I still can't give you an exact timeline. Do hold off on purchasing a sign, we may change the language. I will bring up your suggested wording.

Thank you,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Tuesday, March 10, 2020 11:52 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: checking in

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi jami, just checking in, wondering if there is any update or eta on final permit signing, was going to order a sign with the new wording but wanted to hold off since it has to be custom made.

Looking at Gordy's comments, this seems like an awful lot of text:

This section of the river is essentially a "no wake" zone. Pursuant to 38 M.R.S. § 281-285, the operation of any watercraft at a speed greater than is "reasonable and proper" is a Class E crime. Pursuant to the Guide to Maine Boating Laws, improper speed means greater than headway speed within 200 feet of any shoreline."

Why would it not be more Generic and state:

" Notice: The operation of any watercraft above headway speed within 200 feet of shoreline is a Class E crime."

This seems a lot more standard and simple and likely to fit on a reasonable sign.

Thoughts?

Thanks,
-j

York, Marylisa

From: MacNeil, Jami
Sent: Wednesday, March 11, 2020 11:16 AM
To: Spinney, Jeffry
Subject: RE: checking in

I have edited the condition on signage to be read "prior to operation" rather than "prior to construction."

Best,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Tuesday, March 10, 2020 3:21 PM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: RE: checking in

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Ok, no problem. My only concern about holding off is that the existing draft wording says i have to have the sign BEFORE construction.....given the tight deadline on construction work window, can we adjust that to say before USE? I just need to be able to squeak the little bit of work in (below HAT) before the work window ends Apr 8.

I would assume if i order a custom sign with whatever wording The DEP chooses , i can do construction work while I'm waiting on it, don't you think? I totally understand not opening the ramp for use before that, but i don't see that really as a problem, its mostly the work window I'm trying to make sure I've got time to meet..

-j

-----Original Message-----

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Tuesday, March 10, 2020 2:15 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: checking in

Hi Jeff,

The higher-ups are still reviewing. I'm sorry I still can't give you an exact timeline. Do hold off on purchasing a sign, we may change the language. I will bring up your suggested wording.

Thank you,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffrey <Jeffrey.Spinney@LibertyMutual.com>
Sent: Tuesday, March 10, 2020 11:52 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: checking in

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi jami, just checking in, wondering if there is any update or eta on final permit signing, was going to order a sign with the new wording but wanted to hold off since it has to be custom made.

Looking at Gordy's comments, this seems like an awful lot of text:

This section of the river is essentially a "no wake" zone. Pursuant to 38 M.R.S. § 281-285, the operation of any watercraft at a speed greater than is "reasonable and proper" is a Class E crime. Pursuant to the Guide to Maine Boating Laws, improper speed means greater than headway speed within 200 feet of any shoreline."

Why would it not be more Generic and state:

" Notice: The operation of any watercraft above headway speed within 200 feet of shoreline is a Class E crime."

This seems a lot more standard and simple and likely to fit on a reasonable sign.

Thoughts?

Thanks,
-j

York, Marylisa

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Friday, March 13, 2020 1:15 PM
To: MacNeil, Jami
Subject: RE: Ilf

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No worries, i was just curious. I have it and one more thing checked off the list.

-----Original Message-----

From: MacNeil, Jami <Jami.MacNeil@maine.gov>
Sent: Friday, March 13, 2020 1:13 PM
To: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Subject: {EXTERNAL} RE: Ilf

Hi Jeff - No, I do not need the receipt. Sorry I wasn't here when you came. Still waiting for the final approval on the Order.

Thank you,

-Jami MacNeil
Environmental Specialist III
Bureau of Land Resources
Maine Department of Environmental Protection
(207) 446-4894 | jami.macneil@maine.gov

-----Original Message-----

From: Spinney, Jeffry <Jeffry.Spinney@LibertyMutual.com>
Sent: Friday, March 13, 2020 11:30 AM
To: MacNeil, Jami <Jami.MacNeil@maine.gov>
Subject: Ilf

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Fyi. im at front desk paying my ilf. Do you need/want receipt?

York, Marylisa

From: DEP, DLRRAdminSupport
Sent: Friday, March 13, 2020 4:13 PM
To: jeff.spinney@gmail.com
Cc: MacNeil, Jami; alna@tidewater.net; Brooksie1207@gmail.com; chezcheff@aol.com; thebend@tidewater.net; Egdavis414@roadrunner.com; cervin@ycrlaw.com; baileybolen@gmail.com; gsmith@verrill-law.com; Carol.gardner@outlook.com; gvflanagan@gmail.com; alnaboca@gmail.com; cjohnson@tidewater.net; del@the-merritts.net; jody@midcoastconservancy.org; edpentaleri@gmail.com; philbrick@cmplaw.com; Jeff.philbrick@lchcare.org; jmetcalf@eatonpeabody.com; Dickpicard52@gmail.com; truerenda@gmail.com; sage@tidewater.net; stires@nnei.net; pmtenan@gmail.com; Michaeltrask7@gmail.com; w.weary@gmail.com; jluoma@tidewater.net; lwsprague@aol.com; Barthnicholas242@gmail.com; oldnarrowgaugefarm@gmail.com; tocatherineburke@gmail.com; Davism.archer@gmail.com
Subject: NRPA permit, # L-28397-4E-A-N located in Alna - Jeffry Spinney
Attachments: Spinney_Jeffry_L28397AN.pdf

Hello,

Attached to this email you will find a signed copy of your **NRPA** permit, # **L-28397-4E-A-N** located in **Alna** from the Bureau of Land Resources, Maine Department of Environmental Protection. Please take a few minutes to review your permit carefully. You will note that the permit includes a description of your project, findings of fact that relate to the approval criteria the Department used in evaluating your project, and conditions that are based on those findings and the particulars of your project. Please read your permit carefully, paying particular attention to the conditions of the approval. The Department reviews every application thoroughly and strives to formulate reasonable conditions of approval within the context of the Department's environmental laws. At the end of the document, you'll find an information sheet describing the Department's appeal procedures.

This electronic version of your permit is an Adobe Acrobat .pdf file. If you don't have the Adobe Acrobat Reader on your computer, you can click on this link to download the free reader.

<http://www.adobe.com/products/acrobat/readstep2.html>

If you have any questions about the permit or thoughts on how the Department processed this application please get in touch with your project manager **Jami MacNeil** directly. She can be reached at **(207) 446 4894** or at Jami.MacNeil@maine.gov.

Thank you!



DEPARTMENT ORDER

IN THE MATTER OF

JEFFRY SPINNEY) NATURAL RESOURCES PROTECTION ACT
Alna, Lincoln County) COASTAL WETLAND ALTERATION
PIER SYSTEM AND BOAT RAMP) WATER QUALITY CERTIFICATION
L-28397-4E-A-N (approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of the Natural Resources Protection Act (38 M.R.S. §§ 480-A–480-JJ), Section 401 of the Federal Water Pollution Control Act (33 U.S.C. § 1341), and Chapters 310 and 315 of Department rules, the Department of Environmental Protection has considered the application of JEFFRY SPINNEY with the supportive data, agency review comments, public comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. Summary: The applicant proposes to construct a shared-use pier system and permanent boat ramp. The proposed pier system will consist of a permanent access platform and pilings in the upland, a four-foot-wide by 40-foot-long seasonal ramp, and a T-shaped seasonal float system, which will consist of a five-foot-wide by seven-foot-long landing float oriented perpendicular to the shoreline and an eight-foot-wide by 24-foot-long main float oriented parallel to the shoreline. The floats will be anchored by chains and two mooring blocks. The access platform will be anchored by four pilings connected by cross-bracing and located in the upland, approximately four feet from the highest annual tide line. The two pilings closest to the shoreline will form a gantry-style lift. The proposed boat ramp will be located several feet north of the pier system and will be constructed with a subbase layer of six- to eight-inch diameter stones laid over geotextile fabric, surfaced with a top layer of three- to eight-inch stones. The ramp will be approximately 12 feet wide by 36 feet long, extending to the line of mean low water (MLW). The applicant proposes to dredge up to eight cubic yards of material from the coastal wetland to install the ramp. The project will result in 440 square feet of direct impact to the coastal wetland due to the proposed boat ramp and mooring blocks, and 370 square feet of indirect impact to the coastal wetland due to shading from the proposed pier system. The project is being constructed for use by a recreation club known as the Golden Ridge Sportsman’s Club. The project is shown on six plan sheets entitled, “Site access – General overview,” “Top view with 2’ contours,” “Side View – float/ramp/upland support,” “Side View – Ramp side view with elevation,” “Section view lower ramp,” and “Section view upper ramp,” all dated December 9, 2019. The project site is located off Golden Ridge Road in the Town of Alna.

B. Current Use of the Site: The project site is an approximately 100-acre parcel of land that contains a residential structure in an upland location, approximately 0.3 miles from the coastal wetland, and an unimproved access road to the shoreline. The parcel is largely forested.

The project site is used seasonally as an informal launch for boats on trailers. The parcel is identified as Lot 21-A on Map R-4 of the Town of Alna's tax maps.

C. Title, Right, or Interest: An application must demonstrate that the applicant has title, right, or interest in the property proposed to be developed or used for the project sufficient for the nature and duration of the proposed development or use. The applicant submitted a quit claim deed, dated July 19, 2006, that conveyed Lots 21-A & 22 on Map R-4 of the Town of Alna's tax maps from Jeffrey Spinney and Emma Spinney to Jeffrey Spinney (the applicant). During the review, the Department received public comments that included the contention that the driveway to the subject property is restricted to residential use, citing a deed dated April 18, 1986, and recorded in book 1299, page 302 in the Lincoln County Registry of Deeds. In response to this comment, the applicant stated that the right-of-way described in the deed cited by the commenters is not the applicant's driveway, and that the applicant's driveway is known as Reed Road and was specifically conveyed to Jeffrey A. Spinney and Emma M. Page in a warranty deed dated August 26, 2002. The applicant submitted a map and a portion of the Town of Alna's annual report for 2008-2009 documenting the discontinuance of Reed Road as a town way, retaining no public easement except as is necessary for access by the applicant, his heirs and assigns. The applicant also submitted a draft copy of a Land Use License Agreement which will grant members of the Golden Ridge Sportsman's Club access to the proposed boat ramp and pier system. Some of the interested persons contended that the Golden Ridge Sportsman's Club does not constitute an "assign" based on the proposed Land Use License Agreement and would therefore not have legal access to the project site. The Department reviewed the submitted comments and documents, together with the supportive data and related information on file and determined that the submitted deed and additional documents demonstrate to the Department's satisfaction that the applicant has sufficient title, right or interest in all of the property that is proposed for development or use.

D. Public Comments: While the application was being reviewed, the Department received comments from approximately 26 interested persons or entities opposed to the project, some of whom own property abutting the project site. The Department also received several letters of support for the project. The Department reviewed all comments from the interested persons. The Department did not receive any requests for a public hearing during the 20-day period specified in the Department's Chapter 2 Rules governing the processing of applications.

The interested persons expressed a range of concerns, including the impact of increased motorized boat traffic and potential jet ski use on existing recreational uses such as kayaking, canoeing, and quiet enjoyment of the resource; adverse impacts to scenic and aesthetic qualities of the area, water quality, shoreline stability, wildlife and fish habitat, and sensitive plant communities; the potential introduction of non-native species through increased boat access; typographical errors and inconsistencies in the application; and a lack of information about the recreational club that will use the proposed pier system and boat ramp.

Commenters also argued that the project will result in a violation of Maine boating laws, and that the proposed boat ramp is unnecessary because there are alternative boating access points on the river.

Some commenters pointed out that the applicant did not submit a Site Conditions Report (Attachment 9 in the Natural Resources Protection Act (NRPA) application packet) prepared by a professional wetland scientist, however, the Department determined that the applicant's Appendix B of the NRPA application packet, the MDEP Coastal Wetland Characterization Field Survey Checklist, adequately addresses the requirements listed under Attachment 9, and that activities directly impacting less than 500 square feet of coastal wetland do not require the assessment to be completed by a professional wetland scientist.

Multiple commenters raised concerns that the project is not allowed under the Town's Shoreland Zoning Ordinance, does not meet local setback requirements, or otherwise does not meet local ordinances. These arguments are based largely on the definition of various terms such as "existing structure," "permanent structure," "commercial activities," and "maintenance and repair" pursuant to local ordinances. The outcome of these arguments may also depend in part on previous Town decisions regarding the project site, and on the documentation, or lack thereof, of those decisions. The Department considered the interested persons' comments and the applicant's rebuttals to these comments, but ultimately concluded that, although these arguments merit thorough and serious consideration, it is the Town of Alna and not the Department that must determine how to apply local ordinances to the proposed project.

Some commenters contended that the applicant previously installed a pier at the project site without first obtaining a permit from the Department. The applicant responded that this structure was removed from the coastal wetland seasonally and therefore did not require a permit under the NRPA. Since the structure was subsequently removed from the coastal wetland, the Department determined that this complaint is resolved. Commenters also raised concerns about the removal of marsh vegetation from within the coastal wetland as a result of the applicant's past boat launching activities. Marsh vegetation is discussed further in Finding 6C.

Some commenters expressed concern that the proposed project, if approved, will set a precedent that encourages future development on the river. The Department determined that this concern is beyond the scope of the Department's review.

The Department compiled a list of concerns raised by commenters that are relevant to the NRPA licensing criteria and asked the applicant to respond to them. The applicant's responses are discussed in the Findings below. The applicant addressed minor typographical errors and inconsistencies in the application to the Department's satisfaction. Boating laws are discussed in Finding 2. Wildlife, plant, and habitat considerations are discussed further in Finding 4.

After a review of all public comments submitted to the Department, the Department determined that the applicant has addressed the interested persons' concerns to the extent that they relate to the scope of the Department's review.

2. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

The NRPA, in 38 M.R.S. § 480-D(1), requires the applicant to demonstrate that the proposed project will not unreasonably interfere with existing scenic, aesthetic, recreational and navigational uses.

In accordance with Chapter 315, *Assessing and Mitigating Impacts to Scenic and Aesthetic Uses*, the applicant submitted a copy of the Department's Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed project. The applicant also submitted several photographs of the proposed project site and the surrounding area. Department staff visited the project site on September 6, 2019.

The proposed project is located in the Sheepscot River, which is a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. The project site is located approximately midway along a 6.7-mile stretch of river between Head Tide Dam to the north and the reversing falls in Sheepscot Village to the south. The surrounding area (within 1.5 miles of the project site) contains occasional residential structures, lawns, and docks that are partially or wholly visible from the resource during at least one season of the year. A transmission line corridor crosses the river approximately 2,000 feet south of the project site.

To reduce the visibility of the proposed project from the resource, the applicant designed the pier system with materials similar to those of other ramp and float systems in the area. The permanent component of the proposed pier does not extend over the resource. In response to public comments on scenic concerns, the applicant conducted a photo-survey and submitted an electronic map with embedded photographs showing existing structures visible from the resource within approximately two miles of the project site. The applicant also submitted photo-simulations of the proposed pier system on the river. Based on the photo-survey and bends in the river, the applicant stated that the visibility of the proposed pier system will be relatively limited, extending approximately 900 feet to the north and approximately 1,150 feet to the south of the project site, with the visibility of the proposed boat ramp extending approximately 370 feet to the north and approximately 270 feet to the south of the project site. During the review, the applicant took measures to reduce the visual impact of the project including reducing the size of the proposed float system by 109 square feet, moving the permanent component of the pier system outside of the coastal wetland, and eliminating the riprap associated with the proposed pier pilings. The applicant does not propose to remove any trees from the shoreline to construct the project. The applicant stated that he designed the pier system and boat ramp to the minimum dimensions practicable and designed it with materials that will blend with the natural shoreline.

The Department staff utilized the Department's Visual Impact Assessment Matrix in its evaluation of the proposed project. The Matrix is used to assess the visual impact severity of a proposed project based on the distance and visibility of the project from a natural landmark or other outstanding natural or cultural feature, State, National, or locally-designated park or trail, and on the approximate number of people likely to view the project from the resource or a public way per day. The severity rating is also based on the visual elements of landscape compatibility, scale contrast, and spatial dominance as defined in Chapter 315, § 9. The Department determined that the proposed project is directly visible from several vantage points on the water, may be viewed by more than 25 people per day, and is not visible from any natural landmark or other natural or outstanding cultural feature or from any State, National, or locally-designated park or trail. The Matrix showed an acceptable potential visual impact rating for the proposed project. Based on the information submitted in the application and during the review, the visual impact rating and the site inspection by Department staff, the Department finds that the location and scale of the proposed activity is compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area.

In response to public comments about impacts to existing uses, the applicant stated that the motorized boats which will be using the proposed project are not incompatible with kayaks and canoes in this location. The applicant stated that motorized boats currently use the Sheepscot River near the project site, which is located upstream of the reversing falls in Sheepscot Village and downstream of Head Tide Dam. The applicant submitted several letters of support from local residents to support this statement, as well as photographs of the shoreline within two miles of the project site showing existing dock systems on the river, and satellite imagery from 2018 showing a motorized boat docked on this segment of river, approximately 1.8 miles from the project site. The applicant submitted aerial photographs and measurements to demonstrate that the proposed pier will not block navigation of the river channel. The applicant elaborated that the recreation club consists of approximately 25 members and is not expected to grow substantially. Club members collectively own approximately 10 motorized vessels ranging in length from 12 to 17 feet. Based on limited parking at the project site, the applicant anticipates that no more than three motorized vessels will use the proposed boat ramp and pier system at any one time. The applicant has registered the club, known as the Golden Ridge Sportsman's Club, with the Maine Department of the Secretary of State as a nonprofit corporation. During the review, the applicant submitted a draft copy of bylaws for the club, as well as a draft Land Use License Agreement which will grant club members access to the proposed pier system and boat ramp. After reviewing the applicant's responses, the Department determined that the applicant has supplied adequate information about the anticipated uses of the proposed structures.

Several interested persons raised concerns that users of the proposed boat launch will violate Maine boating laws, specifically 12 M.R.S. § 13068-A(13)(A), which states that a person may not operate a watercraft at a speed greater than headway speed (i.e., the minimum speed necessary to maintain steerage and control) while within 200 feet of any shoreline.

The commenters contended that, given the narrow width of the river at the project site, this law effectively prohibits the use of motorized vessels on the river, which would make the purpose of the proposed boat ramp (i.e., recreational access to the river for motorized boats) illegal. In response to these comments, the applicant pointed out examples of other waterbodies which are less than 400 feet wide and which experience routine traffic by motorized vessels, including the Sasanoa River between Bath and Boothbay Harbor, the entrance to Oven's Mouth on the Back River in Boothbay, and The Gut in South Bristol. In consultation with both the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the Maine Department of Marine Resources (DMR), the Department determined that the restriction to headway speed pursuant to 12 M.R.S. § 13068-A(13)(A) does apply to the project site, extending at least as far north as Head Tide Dam and extending at least 1.5 miles south from the project site, depending on the tide cycle. This section of the river is essentially a "no wake" zone. The Department further determined that this restriction to headway speed is important in reducing shoreline erosion and water turbidity due to boat traffic, especially in narrow and shallow waterbodies such as the Sheepscot River. However, the Department also determined that the law only restricts the speed and does not fully prohibit the operation of motorized vessels within 200 feet of the shoreline. Further, the law includes an exception for a person who is operating a watercraft while actively fishing. The applicant has stated that access for fishing is a primary purpose of the proposed project. In light of these considerations, the Department determined that the restriction to headway speed does not undermine the purpose of the proposed boat launch provided that the applicant and his club members observe the restriction to headway speed at all times, except while actively fishing, or if they navigate to an area at least 200 feet from any shoreline. The restriction on watercraft speed is enforceable by both MDIFW and DMR. More broadly, pursuant to 38 M.R.S. §§ 281-285, the operation of any watercraft at a speed greater than is "reasonable and proper" is a Class E crime and this law is enforceable by every law enforcement officer in the State of Maine. To promote awareness and adherence to this law, the applicant must post a sign in a visible location at the proposed boat launch identifying the river as a "no wake" zone or a "headway speed only" zone. This sign or an additional sign posted in a visible location nearby must contain the following text, in reasonably sized lettering: "NOTICE: The operation of any watercraft above headway speed within 200 feet of any shoreline is a Class E crime (38 M.R.S. §§ 281-285)."

Several interested persons stated that the proposed project will undermine the conservation efforts of non-governmental organizations and municipalities that have invested money and resources into protecting the river from development. The Department considered these conservation efforts as they relate to existing uses of the river and determined that the project as proposed will not unreasonably interfere with these conservation efforts.

DMR reviewed the project and commented that the project is located in an area with no significant shellfish or marine worm resources, and therefore no harvesting activities of these organisms.

DMR stated that the proposed project should not cause any significant adverse impact to marine resources, traditional commercial harvest activities, or access based on the nature of the project and its location.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of the coastal wetland provided that prior to operation of the proposed boat launch, speed restriction signage is posted at the boat launch as described above.

3. SOIL EROSION:

The NRPA, in 38 M.R.S. § 480-D(2), requires the applicant to demonstrate that the proposed project will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

The proposed boat ramp will be constructed from the upland and from within the coastal wetland. Equipment will access the site over the existing access road across the property. Prior to construction, the applicant will install a turbidity curtain around the work area. The work will take place during periods of low water; no equipment will remain in the intertidal area between work sessions. Equipment will operate from the upland or from within the footprint of the proposed boat ramp. The boat ramp site will be graded to a 15% slope and prepared with a subbase of six- to eight-inch-diameter stones laid over geotextile fabric. The ramp will be surfaced with a layer of three- to four-inch-diameter stones. The applicant selected the ramp materials based on a technical guide (Report No. SRH-2015-25) on bank stabilization, issued by the U.S. Department of the Interior's Bureau of Reclamation, which predicts shear and velocity resistance values for various stabilizing materials. Prior to placement, all of the stone material will be washed of loose sediment in an upland area located greater than 75 feet from the resource. The ramp will be installed approximately flush with the existing grade. To ensure that the ramp does not result in unreasonable erosion due to ice or other processes, the applicant agreed to submit photographs of the ramp in a pre-winter and post-winter condition each November and April for three years to the Department for review. If the Department determines that the ramp materials are eroding, the applicant will install pre-cast concrete planks on the ramp surface. Prior to installing the concrete planks, the applicant would be required to submit new plans and any other pertinent information on the proposed activities to the Department for review and approval. In lieu of installing concrete planks, the applicant could remove the ramp and restore the coastal wetland to its natural condition.

The proposed pier system will be constructed from the upland. Pilings will be driven to refusal and cross-braced, with decking installed between them. The seasonal ramp and floats will be constructed on land and launched at the project site for installation. Material stockpiles will be stored greater than 25 feet from the resource and surrounded by temporary sediment barriers as needed. Upon project completion, any remaining disturbed areas will be loamed, seeded, and mulched. Any shrubs or trees removed incidentally will be replanted in accordance with the local Shoreland Zoning Ordinance.

The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment provided that the applicant submits to the Department photographs of the permanent boat ramp in a pre- and post-winter condition for three winters following construction and, if necessary, installs pre-cast concrete planks as described above.

4. HABITAT AND FISHERIES CONSIDERATIONS:

The NRPA, in 38 M.R.S. § 480-D(3), requires the applicant to demonstrate that the proposed project will not unreasonably harm significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

The project site is located on the western shore of the Sheepscot River, which is tidal in this location and therefore considered a coastal wetland. The site of the proposed boat ramp is a gradual slope to the intertidal zone. The intertidal substrate is mud. The site of the proposed pier system is a three-foot-tall embankment that drops steeply to the coastal wetland.

The coastal wetland to either side of the project site contains salt marsh vegetation. The adjacent upland contains an existing primitive camping area with an access road and room for limited, informal vehicle parking, and is otherwise forested.

According to the Department's Geographic Information System (GIS) database there are no mapped Essential or Significant Wildlife Habitats located at the site. MDIFW reviewed the proposed project and stated that the project will result in minimal impacts to wildlife.

In its review, DMR stated that the project as proposed would not cause any significant adverse impact to marine resources. DMR commented that portions of the Sheepscot River just upstream from the project site are listed as sea run fish spawning and rearing habitat and recommended that the boat ramp be constructed during a work window of November 8 to April 8 to minimize impacts to this habitat and to fish passing the site during construction activities.

During the review, several interested persons expressed concern that the project site falls within the Lower Sheepscot River, which is designated as an ecological Focus Area by the Maine Natural Areas Program (MNAP) of the Department of Agriculture, Conservation and Forestry.

Focus Areas, although identified by MNAP as being worthy of conservation attention, are non-regulatory and intended to be used as a planning tool for landowners, conservation entities, and towns. MNAP reviewed the proposed project and commented that the project site is located in the vicinity of a rare plant (*Zanichellia palustris*) and a rare wetland plant community (mixed graminoid-forb saltmarsh). MNAP commented that the

project as proposed will not directly impact either of these features but recommended that appropriate measures to prevent downstream siltation during construction of the proposed project should be employed. As discussed in Finding 3, the applicant proposes to use erosion and sedimentation control measures during construction to minimize siltation. MNAP commented that these measures, if installed and maintained appropriately, should adequately prevent siltation and avoid adverse impacts to the saltmarsh vegetation and associated species.

In response to public comments about the potential introduction of non-native organisms to the river system, the applicant obtained a standard sign from the Bureau of Water Quality's Invasive Aquatic Species Program to place at the proposed boat ramp to warn boaters to remove all plants and drain all water from boats and to instruct boaters not to release live bait. The applicant stated that the sign will be placed in clear view at the launch site. The Department determined that the placement of the sign is an adequate measure to prevent, to the extent practicable, the introduction of non-native organisms to the river.

The Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life, provided that construction of the boat ramp takes place during a work window of November 8 to April 8.

5. WATER QUALITY CONSIDERATIONS:

The applicant proposes to use treated lumber to construct the pier system. To protect water quality, all treated lumber must be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction.

In response to public comments about water quality, the applicant stated that no fueling will take place at the proposed project site, but as a precaution he will keep an emergency spill kit on site. The applicant further submitted Appendix C of the NRPA application, Supplemental Information for Dredging Activities, to address dredging concerns related to regrading within the intertidal area to construct the proposed boat ramp. The applicant proposes to remove approximately eight cubic yards of mixed mud, clay, and gravel from within the coastal wetland to regrade the intertidal area for the proposed boat ramp. The applicant proposes to use the dredge spoils for soil enhancement in upland gardens on site. The project was reviewed by the Bureau of Remediation and Waste Management's Division of Materials Management (DMM). DMM commented that based on the volume of dredge material and the proposed manner of disposal, the project meets the definition of "beneficial use" and therefore complies with Maine's Solid Waste Management Rules. Provided that treated lumber is cured as described above, the Department finds that the proposed project will not violate any state water quality law, including those governing the classification of the State's waters.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicant proposes to directly alter 440 square feet of coastal wetland to construct the proposed boat ramp and install two mooring blocks. The applicant proposes to indirectly alter 370 square feet of coastal wetland due to shading from the proposed pier system. Coastal wetlands are wetlands of special significance.

The *Wetlands and Waterbodies Protection Rules*, 06-096 C.M.R. ch. 310 (last amended November 11, 2018), interpret and elaborate on the NRPA criteria for obtaining a permit. The rules guide the Department in its determination of whether a project's impacts would be unreasonable. A proposed project may be found to be unreasonable if it would cause a loss in wetland area, functions and values and there is a practicable alternative to the project that would be less damaging to the environment. Each application for an NRPA permit that involves a coastal wetland alteration must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

A. Avoidance. An applicant must submit an analysis of whether there is a practicable alternative to the project that would be less damaging to the environment and this analysis is considered by the Department in its assessment of the reasonableness of any impacts. Additionally, for activities proposed in, on, or over wetlands of special significance the activity must be among the types listed in Chapter 310, § 5(A) or a practicable alternative less damaging to the environment is considered to exist and the impact is considered to be unreasonable. Piers and boat ramps are both water dependent uses as defined by Chapter 310, and the consideration of their proposed construction is allowed as set forth in Chapter 310, § 5(A)(1)(c). The applicant submitted an alternatives analysis for the proposed project dated August 23, 2019. The purpose of the proposed pier system is to improve access to the resource for a recreational club that uses the site for swimming, hunting, fishing, and boating. The purpose of the proposed boat ramp is to provide safer and more reliable access for the club members' motorized boats being launched from trailers. As discussed in Finding 1(C), the applicant submitted a draft Land Use License Agreement with the Golden Ridge Sportsman's Club which will provide club members legal access to the project site over the applicant's land. Some of the interested persons expressed concern that by its terms the proposed Land Use License Agreement could be revoked at will by the applicant, resulting in a private boat ramp. The applicant responded that the agreement will only be revoked if the club violates the terms of the agreement. The Department reviewed the proposed agreement and public comments and determined that if the Land Use License Agreement is terminated and is not replaced by another instrument of legal access for the club, the boat ramp must be removed and the float system reduced in size, as it would essentially be serving one private landowner.

Further, upon the Department's request at any point during the life of the project, the applicant must submit information to the Department demonstrating that the Golden Ridge Sportsman's Club is active and in good standing with the Maine Department of the Secretary of State. The applicant agreed and submitted a plan for a reduced float layout in which the boat ramp would be removed, and the main float reduced from 24 to 12 feet

in length if the club were to lose access to the site. The plan is entitled, "Top view with 2' contours (contingency plan)" and is dated February 6, 2020.

In their collective comments, the interested persons identified a total of seven existing access points as possible alternatives to the proposed boat ramp. The applicant addressed the feasibility of each alternative and determined that these sites were either too far (at least seven miles) from the applicant's property, did not contain a road or suitable launch site for trailered boats at the shoreline, were private property, were isolated from the applicant's property by a physical barrier such as Head Tide Dam or the reversing falls, or a combination of these factors. The applicant concluded that there is no practicable access point for motorized boats to reach the river within the vicinity of the applicant's property except at the proposed project site. The Department concurs with the applicant's statement that other possible locations are either inaccessible or otherwise not practicable for the purpose of launching motorized vessels for use above the reversing falls in Sheepscot Village.

The applicant considered taking no action and continuing to launch boats from the project site over natural substrate. Although repeated launching by a single individual at this site may not result in unreasonable erosion, the applicant determined that repeated launching of vessels by multiple club members over time would result in erosion and degradation of the shoreline, and that a permanent stabilized ramp would prevent this erosion, improve safety for users, and prevent vehicles from being mired in the mud, necessitating further disturbance to remove them. The applicant considered alternate materials for the construction of the boat ramp including logging mats, removable concrete, and a roll-out aluminum mat that can be removed seasonally. Through discussions with the Department and the U.S. Army Corps of Engineers, the applicant determined that the repeated installation and removal of a temporary ramp would result in greater erosion and siltation in the resource over time than a permanent ramp.

The applicant also considered two other sites on the shoreline of his property for the construction of a boat ramp but determined that these sites would require tree removal, result in impacts to salt marsh vegetation, and/or require the construction of a new access road. The Department agreed that constructing the project at one of these alternative sites would result in a greater overall impact to the resource than constructing the project at the proposed site, which was previously altered and is already accessible. In light of these considerations, the applicant stated that there is no practicable alternative to the proposed project that can meet the applicant's needs and avoids impacts to the resource.

B. Minimal Alteration. In support of an application and to address the analysis of the reasonableness of any impacts of a proposed project, an applicant must demonstrate that the amount of coastal wetland to be altered will be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicant stated that he designed the proposed pier system to the minimum dimensions necessary to provide adequate access for the recreation club's purposes. All parts of the pier system will be removed seasonally except for the minimal access platform and pilings located adjacent to the coastal wetland. During the review, the applicant reduced the size of the proposed

float system by 109 square feet, moved the proposed pilings out of the coastal wetland, and eliminated six linear feet of riprap associated with the proposed pier pilings. The changes reduced the proposed direct impact to the coastal wetland by 43 square feet. The applicant stated that he designed the proposed boat ramp to the minimum dimensions needed to provide a safe and stable travel way for boat trailers. The applicant stated that the proposed project minimizes impacts to the coastal wetland to the greatest extent practicable.

C. Compensation. In accordance with Chapter 310, § 5(C)(6)(b), compensation may be required to achieve the goal of no net loss of coastal wetland functions and values. Compensation is generally required for projects that either cover, remove, or destroy marsh vegetation or result in over 500 square feet of fill in the resource. Although this project will not result in over 500 square feet of fill in the resource, it will cover marsh vegetation. Therefore, the Department finds that compensation is required. Based on the agency review comments, the site inspection, and other materials on file, the Department determined that the primary functions of the wetland at the project site include sediment/shoreline stabilization and recreation.

To compensate for lost functions and values of the coastal wetland, the applicant has agreed to make a contribution to the In-Lieu Fee (ILF) program of the Maine Natural Resource Compensation Program (MNRCP) in the amount of \$3,440.80, payable to, "Treasurer, State of Maine," and directly to the attention of the ILF Program Administration at 17 State House Station, Augusta, Maine 04333. The ILF payment must be received by the Department prior to the start of construction.

The Department finds that the proposed compensatory plan meets the requirements for the restoration, enhancement and preservation of freshwater wetland impacts outlined in Chapter 310. The Department further finds that by minimizing the size of the pier system, floats, and the boat ramp the applicant has avoided and minimized coastal wetland impacts to the greatest extent practicable. The Department finds that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project provided that prior to project construction, the applicant submits the ILF payment as described above, the applicant executes the Land Use License Agreement with the Golden Ridge Sportsman's Club as described above and submits a copy of the executed document to the Department, the applicant submits any changes to the Land Use License Agreement to the Department for review and approval prior to its execution, the applicant submits information upon request to the Department to certify the club's status and, in the event that the Land Use License Agreement is terminated and is not replaced by another instrument of legal access for the club, or if the club is dissolved, the applicant removes the boat ramp, restores the coastal wetland to natural conditions, and reduces the size of the float system, all as described above.

7. OTHER CONSIDERATIONS:

The Department finds, based on the design, proposed construction methods, and location, the proposed project will not inhibit the natural transfer of soil from the terrestrial to the

marine environment, will not interfere with the natural flow of any surface or subsurface waters, and will not cause or increase flooding. The proposed project is not located in a coastal sand dune system, is not a crossing of an outstanding river segment, and does not involve dredge spoils disposal beyond the boundaries of the subject parcel or the transport of dredge spoils by water.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S. §§ 480-A–480-JJ and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. § 1341):

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses provided that prior to operation of the proposed boat launch, speed restriction signage is posted at the boat launch as described in Finding 2.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment provided that the applicant submits to the Department photographs of the permanent boat ramp in a pre- and post-winter condition for three winters following construction and, if necessary, installs pre-cast concrete planks as described in Finding 3.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life, provided that:
 - the boat ramp is constructed during a work window of November 8 to April 8;
 - the applicant submits a payment to the ILF program as described in Finding 6;
 - prior to construction, the applicant executes the Land Use License Agreement with the Golden Ridge Sportsman's Club;
 - prior to execution of the Land Use License Agreement, the applicant submits any changes to agreement to the Department for review and approval;
 - the applicant submits a copy of the executed document to the Department,
 - in the event that the Land Use License Agreement is terminated, or if the club is dissolved, the applicant removes the boat ramp, restores the coastal wetland to natural conditions and reduces the float system; and,
 - the applicant submits information upon request to the Department to certify the status of the Golden Ridge Sportsman's Club, all as described in Finding 6.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters provided that treated lumber is cured as described in Finding 5.

- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S. § 480-P.

THEREFORE, the Department APPROVES the above noted application of JEFFRY SPINNEY to construct a pier system and permanent boat ramp as described in Finding 1, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. Prior to operation of the boat ramp, the applicant shall post a permanent sign in a visible location at the boat launch identifying the river as a “no wake” zone or “headway speed only” zone. The applicant shall post on the same sign or on an additional sign posted nearby in a visible location, in reasonably-sized lettering, the following text: “NOTICE: The operation of any watercraft above headway speed within 200 feet of any shoreline is a Class E crime (38 M.R.S. §§ 281-285).”
5. Construction of the boat ramp shall take place during a work window of November 8 to April 8.
6. All treated lumber shall be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction.
7. Prior to the start of construction of the boat ramp, the applicant shall execute the Land Use License Agreement granting the Golden Ridge Sportsman’s Club the right to access and use the proposed pier system and boat ramp and shall submit a copy of the executed document to the Department.
8. If the Land Use License Agreement is revised prior to its execution, the applicant shall submit a revised draft copy to the Department for review and approval.
9. If the Land Use License Agreement is terminated by the Licensor or Licensee and is not replaced by another instrument of legal access for the Golden Ridge Sportsman’s Club

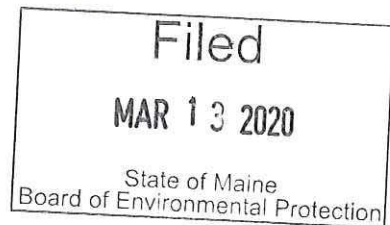
within six months of the agreement termination, or if the club is dissolved, the applicant shall remove the boat ramp, restore the coastal wetland to its natural condition, and reduce the size of the main seasonal float to eight feet wide by 12 feet long.

- 10. Upon request by the Department, at any time during the life of the project, the applicant shall submit information to the Department demonstrating that the Golden Ridge Sportsman’s Club is active and in good standing with the Maine Department of the Secretary of State.
- 11. For three years following construction of the permanent boat ramp the applicant shall submit photographs of the ramp in a pre-winter condition on or around November 1 and in a post-winter condition on or around April 30 to the Department for review. If the Department determines that the ramp materials are eroding, the applicant shall either remove the ramp and restore the coastal wetland to a natural condition or install pre-cast concrete planks on the ramp surface. Prior to installing the concrete planks, the applicant shall submit a minor revision application, plans, and any other pertinent information on the proposed activities to the Department for review and approval.
- 12. Prior to the start of construction, the applicant shall submit a payment in the amount of \$3,440.80, payable to “Treasurer, State of Maine,” to the attention of the ILF Program Administrator at 17 State House Station, Augusta, Maine 04333.
- 13. Prior to the start of construction, the applicant must obtain approval pursuant to the Town of Alna’s Shoreland Zoning Ordinance and submit a copy of the local permit to the Department.
- 14. Prior to the start of construction, the applicant must obtain all other applicable local permits and approvals.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DONE AND DATED IN AUGUSTA, MAINE, THIS 13th DAY OF March, 2020.

DEPARTMENT OF ENVIRONMENTAL PROTECTION



BY: *G. D. Reid*
For: Gerald D. Reid, Commissioner

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.



Natural Resources Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCES PROTECTION ACT, 38 M.R.S. §§ 480-A ET SEQ., UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. Time frame for approvals. If construction or operation of the activity is not begun within four years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- F. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- G. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: November 2018

Contact: (207) 287-2452

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S. §§ 341-D(4) & 346; the *Maine Administrative Procedure Act*, 5 M.R.S. § 11001; and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed more than 30 calendar days after the date on which the Commissioner's decision was filed with the Board will be dismissed unless notice of the Commissioner's license decision was required to be given to the person filing an appeal (appellant) and the notice was not given as required.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. An appeal may be submitted by fax or e-mail if it contains a scanned original signature. It is recommended that a faxed or e-mailed appeal be followed by the submittal of mailed original paper documents. The complete appeal, including any attachments, must be received at DEP's offices in Augusta on or before 5:00 PM on the due date; materials received after 5:00 pm are not considered received until the following day. The risk of material not being received in a timely manner is on the sender, regardless of the method used. The appellant must also send a copy of the appeal documents to the Commissioner of the DEP; the applicant (if the appellant is not the applicant in the license proceeding at issue); and if a hearing was held on the application, any intervenor in that hearing process. All of the information listed in the next section of this information sheet must be submitted at the time the appeal is filed.

INFORMATION APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time the appeal is submitted:

1. *Aggrieved Status.* The appeal must explain how the appellant has standing to maintain an appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions regarding compliance with the law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing requirements that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for public hearing must be filed as part of the notice of appeal, and must include an offer of proof in accordance with Chapter 2. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed evidence must be submitted with the appeal. The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered in an appeal only under very limited circumstances. The proposed evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Specific requirements for supplemental evidence are found in Chapter 2 § 24.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made easily accessible by the DEP. Upon request, the DEP will make application materials available during normal working hours, provide space to review the file, and provide an opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a license holder may proceed with a project pending the outcome of an appeal, but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, and will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, any materials submitted in response to the appeal, and relevant excerpts from the DEP's application review file will be sent to Board members with a recommended decision from DEP staff. The appellant, the license holder if different from the appellant, and any interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. The appellant and the license holder will have an opportunity to address the Board at the Board meeting. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see 38 M.R.S. § 346(1); 06-096 C.M.R. ch. 2; 5 M.R.S. § 11001; and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452, or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.
