

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES

In Re: Nor'Easter Oyster Co,
Experimental Lease Application

**WITNESS LIST OF
INTERVENORS BETH AND JOHNNY WALKER CONSOLIDATED WITH
INTERVENOR RACHEL WALKER (NO RELATION)**

1. Chris Kincaid, expert witness.¹
2. Jason Krumholtz, expert witness.²
3. Beth Walker, fact witness.
4. Johnny Walker, fact witness.
5. Rachel Walker, fact witness.

¹ Abbreviated CV attached for expert witness

² Abbreviated CV attached for expert witness

BIOGRAPHICAL SKETCH

CHRISTOPHER R. KINCAID

Professor of Oceanography Graduate School of Oceanography (GSO) email: kincaid@uri.edu University of Rhode Island (URI) phone: (401) 874-6571 South Ferry Road, Narragansett, RI 02882 fax: (401) 874-6811

Professional Preparation

Wesleyan University, Earth Science B.A. (1983)
The Johns Hopkins University, Geophysical Fluid Dynamics, M.A. (1987)
The Johns Hopkins University(JHU), Geophysical Fluid Dynamics, Ph.D. (1990)
Carnegie Institution of Washington (CIW), Department Terrestrial Magnetism (DTM), Postdoctoral Fellowship (1990-1991)

Appointments

2004-present Professor of Oceanography, GSO/URI, Narragansett, RI
1993-2015 Visiting Scientist, CIW/DTM, Washington, DC
2002,2004,2006,2008 Visiting Scientist, R. Griffiths Geophysical Fluid Dynamics Lab., Australian National University/Research School of Earth Sciences, Canberra, Aus.
1997-2004 Associate Professor of Oceanography, GSO/URI, Narragansett, RI
1992-1997 Assistant Professor of Oceanography, GSO/URI, Narragansett, RI
1991-1992 Postdoctoral Fellow, CIW/DTM, Washington, DC
1986-1989 Graduate Research Asst., Los Alamos Nat. Lab., Los Alamos, NM
1983-1984 Groundwater Geophysicist, USGS, Hartford, CT

Five Related Journal Products

1. Kincaid, C., D. Bergondo and K. Rosenberger, The dynamics of water exchange between Narragansett Bay and Rhode Island Sound, *Science for Ecosystem-based Management*, A. Desbonnet, B. A. Costa-Pierce (eds.), Springer, 301-324, 2008
2. Kincaid, C., R. Pockalny and L. Huzzey, Spatial and temporal variability in flow and hydrography at the mouth of Narragansett Bay, *J. Geophys. Res.*,108, 3218-3235, 2003.
3. Kincaid, C., The exchange of water through multiple entrances to the Mt. Hope Bay Estuary, *Northeast Naturalist*, 13(Spec. Issue 4), 117-144, 2006
4. McManus, C., D. Ullman, S. Rutherford and C. Kincaid. Northern quahog (*Mercenaria mercenaria*) larval transport and settlement modeled for a temperate estuary. *Limnology and Oceanography* 65.2: 289-303, 2020
5. Pfeiffer-Herbert, A. S., C. Kincaid, D. Bergondo and R. Pockalny. Dynamics of wind-driven estuarine-shelf exchange in the Narragansett Bay estuary, *Continental Shelf Research*, vol 105, pp42-59, 2015.

Selected Additional Journal Products

1. Belkin, I., A. Foppert, T. Rossby, S. Fontana and C. Kincaid, A double-thermostad warm-core ring of the Gulf Stream, *Journal of Physical Oceanography*, Vol 50., DOI:10.1175/JPO-D-0275.1, 489-507, 2020
2. Katz, D.R., J. C. Sullivan, K. Rosa, C. L. Gardiner, A. R. Robuck, R. Lohman, C. Kincaid, M. G. Cantwell, 2022. Transport and fate of aqueous film forming foam in an urban estuary, *Environmental Pollution*, 300, 118963.
3. Kremer, J. N., J. M. P. Vaudrey, D. S. Ullman, D. L. Bergondo, N. LaSota, C.

- Kincaid, D. L. Codiga, and M. J. Brush. Simulating property exchange in estuarine ecosystem models at ecologically appropriate scales, *Ecological Modelling*, 221: 1080-1088, 2010
4. Sane, Aakash, B. Fox-Kemper, D. Ullman, C. Kincaid, L. Rothstein. Consistent predictability of the Ocean State Ocean Model (OSOM) using information theory and flushing timescales. *Journal of Geophysical Research: Oceans*, 126, e2020JC016875. <https://doi.org/10.1029/2020JC016875>. 2021
 5. Ullman, D. S., D. L. Codiga, A. Pfeiffer-Herbert, and C. R. Kincaid. An anomalous near-bottom cross-shelf intrusion of slope water on the southern New England continental shelf, *J. Geophys. Res.*, 119, doi:10.1002/2013JC009259., 2014.
 6. Ullman, D.S., D. L. Codiga, D. Hebert, L.B. Decker, C. Kincaid. Structure and dynamics of the midshelf front in the New York Bight, *J. Geophys. Res.*, Vol.117, doi:10.1029/2011JC007553, 2012.

Selected reports from coastal ocean consulting experience (1993-present).

1. Kincaid, C. ***A Seekonk-Narragansett Bay (SNB) ROMS model applied to coupled circulation-ecosystem processes: A 2010 seasonal study.*** Report Prepared for the Narragansett Bay Commission, 134 pages, 2018.
2. Kincaid, C., ***Calibration study of Seekonk-Narragansett Bay (SNB) ROMS model for Bullocks Reach section of the Providence River, RI,*** Report submitted to the Narragansett Bay Commission, Prov., R.I., 72 pp., 2018.
3. Kincaid, C., ***Development of the Full Bay ROMS Hydrodynamic-Dye Transport Model for the Providence River: Comparisons with data from Spring 2010 tilt current meter network.*** Final Report Prepared for the Narragansett Bay Commission (Project 08A-114-01-00). 85 pp., 2012.
4. Kincaid, C. ***Development and application of high resolution ROMS model to nitrogen transport in Frenchman's Bay, Maine: Natural vs. Salmon Farm inputs,*** Report submitted to Frenchman's Bay United/Maine DEP, 2022.
5. Kincaid, C., ***Development of a higher resolution Full Bay ROMS Hydrodynamic-Transport-Ecosystem Model for Narragansett Bay and its impacted Providence and Seekonk River subestuaries: FB-ROMS-1088,*** Final Report Prepared for the Narragansett Bay Commission (Project 08A-114-01-00). 115 pp. 2024.
6. van Dam, L., and C. Kincaid. ***An Upper Narragansett Bay statistical model study of seasonal to event-scale relationships between dissolved oxygen and environmental forcing parameters.*** Report submitted to the Narragansett Bay Commission, Prov., R.I., 20 pp., 2024

Coastal Ocean Observational Experience: Planning/execution of multidisciplinary oceanographic field programs: 1992-present: Lead scientist on ~145 short duration coastal physical oceanography field experiments (ADCP, CTD) in Narragansett Bay & Rhode Island Sound. Data from distributed, long-term current meter moorings (1998-2001; 2006-2011, 2012, 2014, 2016, 2018, 2019, 2021).

Graduate students (partial list): MS: K. Rosenberger(2001), J. Rogers(2008), M. Aleszczyk(2008), A. Harris(2009), N. LaSota(2012), S. Szwaja(2015), T. Sylvia(2017), G. Medley(2019). PhD: P. Hall(2004), D. Bergondo(2004), K. Druken(2012), A. Pfeiffer-Herbert(2013), C. Balt(2014), C. Wertman(2018), K. Rosa (2020). L. van Dam (2022), Lawrence, J. (2023). Current students: N. Flecchia, T. Cunningham, A. Fruhwirth.

Curriculum Vitae

Jason Seth Krumholz, Ph.D

1080 Shennecossett Rd Groton, CT 06340 **Mobile:** (401) 787-0944 jason.krumholz@uconn.edu

Education

May, 2012	Ph.D Oceanography	URI, Graduate School of Oceanography, Narragansett, RI
May, 2009	M.M.A. Marine Affairs	University of Rhode Island, Kingston, RI
May, 2001	B.A. Biology	Lawrence University, Appleton, WI.

Current Appointments

2/2023-Current	Assoc. Professor/Stewardship Coordinator	Connecticut NERR
<i>Work with reserve staff to protect and restore the Reserve's ecosystem services while promoting diverse and equitable access to upland, coastal, and marine habitats.</i>		
1/2010 – Current	Scientific Coordinator	The Reef Ball Foundation
<i>Review experimental design, project layout, and monitoring plans for oyster, mangrove, and reef restoration. Conduct site assessments, train staff and volunteers, write and edit reports and proposals.</i>		

Relevant Previous Appointments

7/2015 – 5/2023. **Senior Environmental Scientist** McLaughlin Research Corporation
Work alongside DoD staff to understand, document, and mitigate environmental impacts from Navy Operations.

6/2012 – 9/2015. **Liaison Ecologist- EPA Long Island Sound Study** NOAA/NMFS
Work with academic, government and non-profit scientists and managers to co-ordinate research program for communication, education, and promotion.

Selected Peer Reviewed Publications

- Hudson, D., **Krumholz, J.**, Pochtar, D., Dossot, G., Dickenson N., Baker, E., and Moll, T. 2022. Behavioral and Physiological Impact of Vessel Noise and Simulated Sonar on Commercially Viable Invertebrates. *PeerJ* (10) e12841.
- Oczkowski, A., Schmidt, C., Santos, E., Miller, K., Hanson, A., Cobb, D., **Krumholz, J.**, Pimenta, A., Heffner, L., Robinson, S. and Chaves, J., 2018. How the distribution of anthropogenic nitrogen has changed in Narragansett Bay (RI, USA) following major reductions in nutrient loads. *Estuaries and Coasts*, pp.1-17.
- J. Krumholz** and M. Brennan. 2015. Fishing for common ground: Investigations of the impact of trawling on ancient shipwreck sites uncovers a potential for management synergy. *Marine Policy*. v.61, 127-133
- J. Rose, S. Bricker, S. Deonaraine, J. Ferreira, T. Getchis, J. Grant, J. Kim, **J. Krumholz**, G. Kraemer, K. Stephenson, G. Wikfors, C. Yarish 2015. Nutrient Bioextraction. *Encyclopedia of Sustainability Science and Technology*. A. R. Meyers. New York, NY, Springer New York: 1-33.
- Cummings, K, A. Zuke, B. DeStasio, and **J. Krumholz**. 2015. Coral Growth Assessment on an Established Artificial Reef in Antigua. *Ecological Restoration*. 33 90-95.
- Krumholz, J.**, T. Barber, and C. Jadot. 2010. Avoiding band-aid solutions in ecosystem restorations. *Ecological Restoration* 28:17-19.
- Krumholz, J** and C. Jadot. 2009 Demonstration of a new Technology for Restoration of Red Mangrove (*Rhizophora mangle*) in High Energy Environments. *Marine Technology Society Journal*. 43(1) 64-72.

Example Synergistic Appointments

2016 – Present	Science Advisor	Save the Sound
<i>Oversee volunteer water quality monitoring program and related outreach in Long Island Sound</i>		
2017 – Present	Climate Change Committee	National Military Fish and Wildlife Association
<i>Review and determine responses to policy changes, plan conference materials</i>		
2019 – Present	Marine Environments Committee	Greater Boston Research Advisory Group
<i>Review data to determine relevant climate related metrics for coastal regions of greater Boston</i>		
2018– Present	Research and Conservation Committee	Norwalk Maritime Aquarium
<i>Evaluate and advise on research and conservation programming, grants, and field collaborations</i>		

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES

In Re: Nor'Easter Oyster Co,
Experimental Lease Application

**PREFILED TESTIMONY OF
EXPERT WITNESS CHRIS KINCAID**

1. I, Chris Kincaid, offer the following sworn testimony related to the above captioned matter.
2. I am an expert in modeling ocean circulation systems.
3. My qualifications are set out in the abbreviated curriculum vitae (CV) attached to the Witness List for the Consolidated Intervenor, Beth and Johnny Walker and Rachel Walker labeled 'Biographical Sketch, Christopher R. Kincaid.'
4. I was engaged to create a coastal hydrodynamic transport model to simulate the flushing (or retention) patterns from inputs to the local waters from the proposed Nor'Easter shellfish lease.
5. I created that model and prepared the Expert Report, entitled "Report: Results from the ROMS Hydrodynamic-Transport Model for Circulation and Transport Processes in upper Johns Bay (ME)" by Chric Kincaid, Kincaid Consulting, LLC, August 5, 2025, presented as "Walker Exhibit 1."
6. I adopt that report in its entirety as my sworn testimony.
7. I prepared the video entitled "Walker Exhibit 2 - near surface water Sig13_d243_253" as a representative example of my model results for the upper water column, as described in my expert report.
8. I prepared the video entitled "Walker Exhibit 3 - near bottom water Sig2_d233_243" as a representative example of my model results for the lower water column, as described in my expert report.
9. I prepared the video entitled "Walker Exhibit 4 - near surface water Sig13_d233_243" as a second representative example of my model results for the upper water column, as described in my expert report.
10. I will show these videos and further summarize my report and be available in person for questions at the upcoming hearing in the above captioned matter.

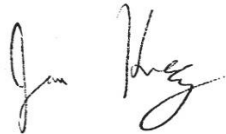
/s/ Chris Kincaid
Chris Kincaid

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES

In Re: Nor'Easter Oyster Co,
Experimental Lease Application

**PREFILED TESTIMONY OF
EXPERT WITNESS JASON KRUMHOLZ**

1. I, Jason Krumholz, offer the following sworn testimony related to the above captioned matter.
2. I am an expert in coastal ecosystem science and human impacts to coastal marine ecosystems.
3. My qualifications are set out in the curriculum vitae (CV) attached to the Witness List for the Consolidated Intervenor, Beth and Johnny Walker and Rachel Walker labeled 'Curriculum Vitae, Jason Seth Krumholz.'
4. I was engaged to survey the local waters in an around the proposed Nor'Easter shellfish lease for suitability as eelgrass habitat and to consider other ecological impacts of the proposed lease activities.
5. I, and my team, conducted that survey and prepared the Expert Report, entitled "A Review of the Ecological Suitability of the Upper Johns Bay/Johns River to Support Eelgrass (*Zostera marina*)" by Remote Ecologist, presented as "Walker Exhibit 4."
6. I adopt that report in its entirety as my sworn testimony.
7. I will further summarize my report and be available in person for questions at the upcoming hearing in the above captioned matter.



Jason Krumholz, Ph.D., M.Ma

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES

In Re: Nor'Easter Oyster Co,
Experimental Lease Application

**PREFILED JOINT TESTIMONY OF
BETH AND JOHNNY WALKER**

1. We, Elizabeth (Beth) Walker and Johnny Walker, offer the following sworn testimony related to the above captioned matter.

I. FISHING AND OTHER USES

2. Factual assertions made in the application are inaccurate, including:

- “No known commercial fishing”; no fish migration routes
- “Occasional recreational fishing”
- “A sailboat for a day or two”
- “Occasional kayaking, but not in the site”
- No mention of swimming, windsurfing or paddleboarding

3. This section of Johns River has diverse and regular use—commercial fishing and recreational use. It’s that rare kind of place where the ecology, geography, and access come together to support a broad range of community activity.

4. It’s part of our routine too. This is the exact area where we launch boats, fish, kayak, swim, windsurf and more. We rely on this access and know firsthand how active and valuable this area really is. It’s a destination for all of us.

5. The State should want to preserve public access to this unique area.

6. We kept a log of observed users of the lease area over the last year, and summarize our observations in the charts below.

7. Commercial users that we observed include:

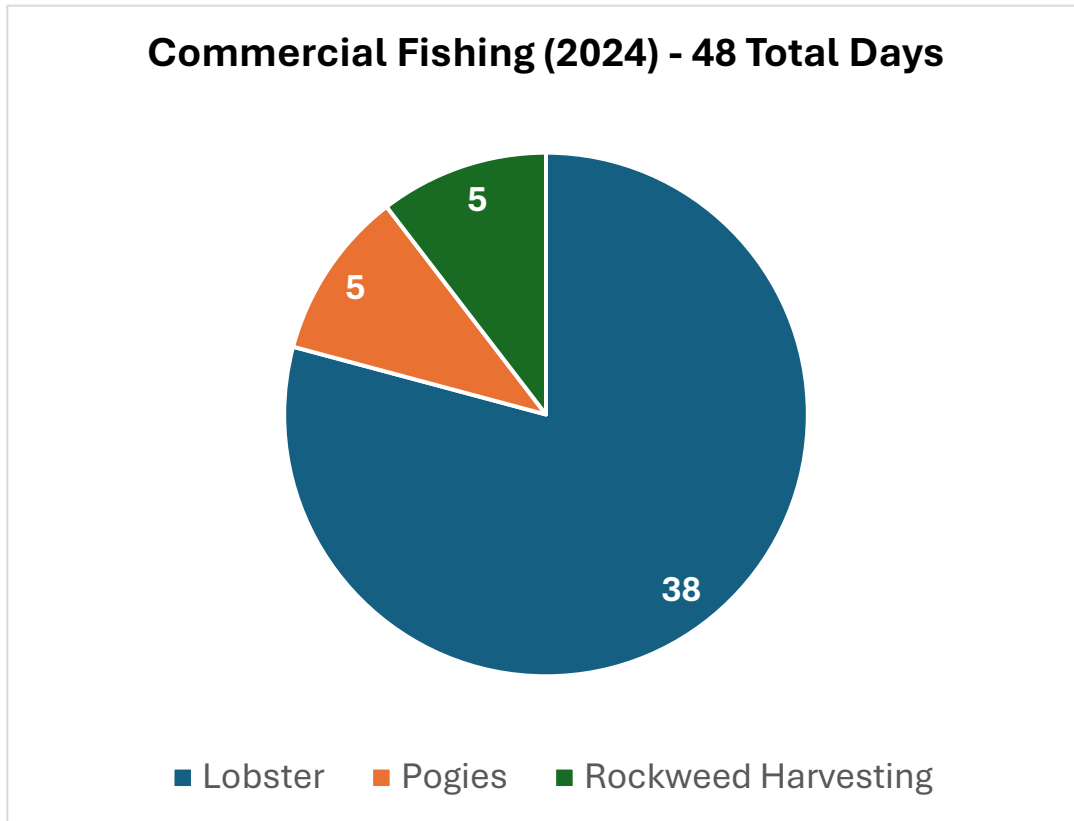


Figure 1 – Commercial Fishing

- To give you an idea of the frequency of activity, we kept a log of the number of days with commercial activity in 2024. Obviously, it only captures what we saw when we were home:
 - 38 days of lobstering, 5 days of pogies, 5 days rockweed harvesting.
 - **This only includes activity in site.** If we included the nearby area, the numbers would be much higher.
 - **A migratory route for pogies** runs right through the site, again, the applicant said there was none. Pogie crews have been on site as recently as Wednesday, August 6, 2025, the day before this filing.

7. Recreational users that we observed include:

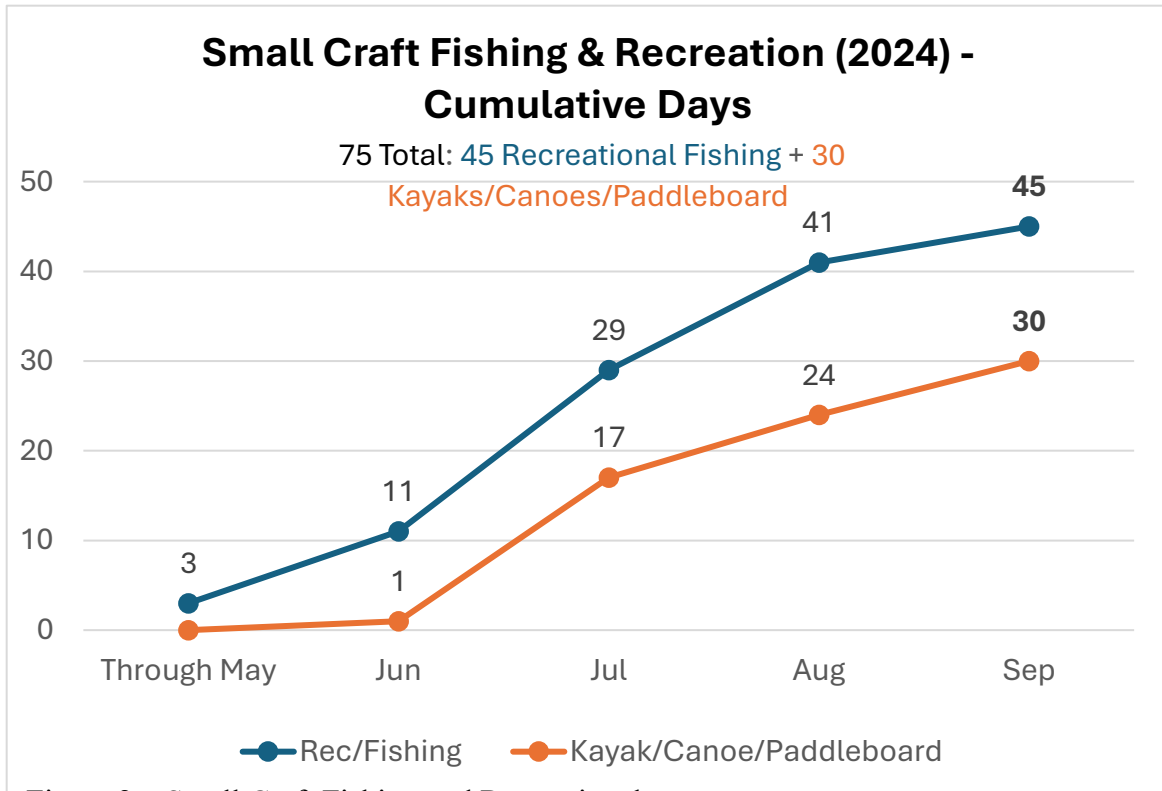


Figure 2 – Small Craft Fishing and Recreational

- **Recreational boating, including fishing** from all sizes of watercraft. This is a very well-known destination for striped fishing. We logged 45 days of rec boating and fishing **in site** in 2024. Again, the number would jump if we considered the nearby area.
- **Kayaking, canoeing and paddleboarding** – We logged 30 days of kayaking, canoeing and paddleboarding **in site**. This includes groups of five to seven, single and double kayaks at a time.

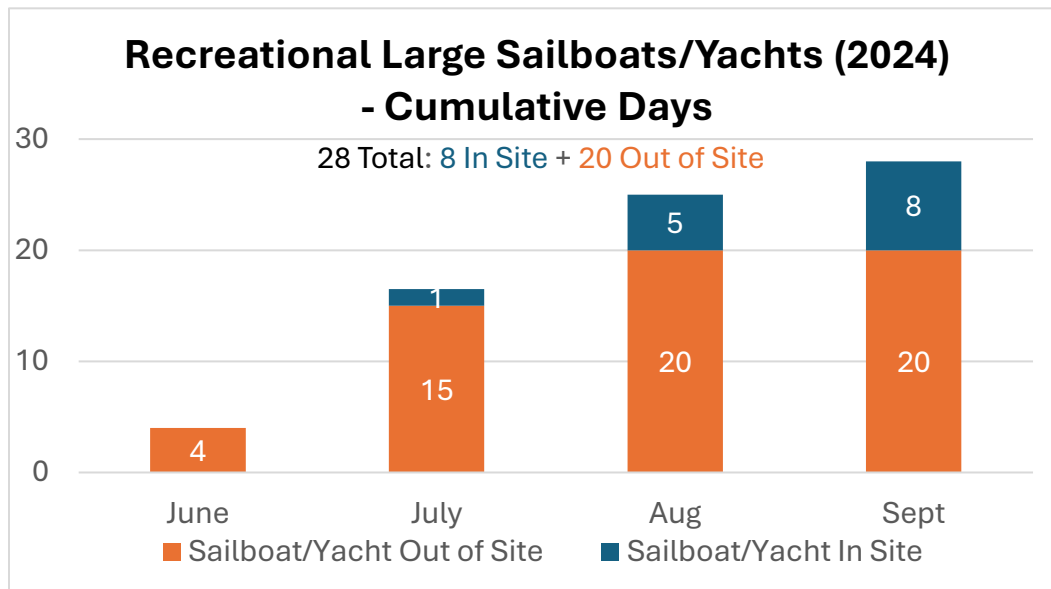


Figure 3 - Recreational Large Sailboats/Yachts

- We logged 8 days of large boats and sailboats anchoring in site, another 20 days where they anchored just south of the lease in 2024. Very frequently these boats launch kayaks, jetskis and small craft to explore, look at the seals or head to the Cove for clamming.

8. The site is a frequent place for larger boats to anchor. This can be seen in the photograph **Walker Exhibit 6**, which is but one example of the significant presence of large boats anchored in and/or just South of the lease site. On this day, 2 sailboats and a yacht tied together for BBQ and partying

- Seeing families anchor on day trips is a pretty typical scenario.
- A large sailboat anchored within 100 feet of the site as recently as Wednesday, August 6, 2025, the day before this filing.

9. **Duck hunting** is prevalent in the Fall around the islands into the Cove.

Why This Spot? -- What explains all of this activity?

10. The proposed lease area works for so many because of the **unique** convergence of features. This water is **open, scenic and accessible**.

11. The topography is distinctive, and unique with the 15-acre Middle Branch Cove just North. There is no comparable site nearby that offers the same attributes.

12. **The area's stripers, seals and bird wildlife make it a magnet destination for boaters, harvesters, families and fishermen alike.**

13. There is nothing like it in the surrounding area. To the East is developed shoreline. To the West is a 6-acre oyster farm in the North Branch of Johns River

Conclusion on Fishing and Other Uses

14. If this lease is granted, it will permanently and **unreasonably interfere with fishing and other uses of this water**. If this lease is granted, the balance between commercial and recreation uses is broken. A rare, confluence of uses will be lost.

15. From working commercial fishermen to casual boaters, this area is known and valued by those of us who rely on it. For some, it's a place to earn a living. For others, like us, it is where we fish, boat, swim, kayak, observe wildlife. This lease would unreasonably interfere with our use of the water.

16. In summary, this section highlights that the proposed lease area is actively used by a diverse range of commercial and recreational users—including lobstermen, rockweed harvesters, striped fishermen, kayakers, swimmers, windsurfers, and families on day trips.

17. The lease site is uniquely accessible, scenic, and supports overlapping uses that are integral to the community's identity and economy. Granting the lease would unreasonably interfere with existing fishing and other uses under DMR criteria, effectively displacing longstanding users and disrupting a rare multi-use public space.

18. We've shown you the many uses of this area that depend on access. This lease would mean the functional displacement of these present users due to the navigation problems it will create – which we will now discuss.

II. NAVIGATION

19. We've scrutinized the gear plan to assess potential impact on navigation. Here's what we know. The public is being misled. The Application contains inconsistent, unpermitted and mathematically impossible information, including the following

- **Anchors** placed outside of the lease
- Wind and tide will cause **gear shift** which hasn't been reflected:
 - Floating cages placed directly on the North/South boundary will move outside the lease; gear shift will encroach on the already narrow corridor
- The **spacing** shown for sunken cages is impossible. The 4-foot cages would need to be placed end to end with zero separation
- Gear dimensions are **inconsistently described** in the application. Floating gear is 13.75 inches wide on page 13 but 36 inches wide in Exhibit 1
- The Applicant has given Army Corp **different gear** and dimensions. The application to USACE vs. DMR includes bigger floating cages, 67 inches X 40.5 inches (vs. 62.5 inches X 13.75 inches), long line totaling 40,000 feet (vs. 20,000 Feet), 500 cages (vs. 448).

20. All this confusion makes it impossible for the public to assess the impact of the applicant's gear configuration on navigation.

21. The annotated photograph submitted as Walker Exhibit 7 shows the locations of our boat launch area and our mooring in relation to the proposed lease area.

22. We do know, however, that any user wanting to navigate this site is faced with **3 options**. All are risky. It's more likely prudent boaters will stay away altogether to avoid damaging equipment.

Option 1 – Navigate above the sunken cages with only 25 inches clearance at MLW (MLW of 43 inches – 18 inches submerged gear) only 2 inches at extreme low according to tide charts. That's risky, even for kayakers. Especially those like us with skegs and rudders on our kayaks extending below the hull.

Option 2 – Use the 60-foot-wide North South corridor. The Coast Guard boundary marking requirements don't distinguish between areas of a lease with and without sunken gear. So, any user would need to **know the corridor exists** and be comfortable finding an **unmarked corridor**.

In fog and all weather and tides, users would need to **maneuver around fixed objects** like anchored boats and buoys just South of the site, find and traverse an unmarked corridor, avoid other boats, the applicant's boats, his scuba divers, our mooring, and cages that have gear shifted into the corridor. **Congestion like that is just dangerous.** We know that we, our guests, or other users could not safely traverse a corridor for the reasons noted.

Option 3 – Skirt around the lease. Users would need to remember: Don't get within 150 feet of multiple seal haulouts, (**As shown on Walker Exhibit 9**) (to be compliant with NOAA guidelines), avoid the numerous unmarked ledges, shoals and intertidal water (see discussion in **Flora/Fauna**) and try not to hit anything in shallow, rocky water. We have firsthand knowledge that this is an unrealistic option.

23. Let's be clear, we are not talking about inconvenience to users. This is a permanent loss of access.

24. The applicant's gear plan is riddled with inconsistencies, errors and omissions, and unworkable dimensions, making it impossible for the public—or the DMR—to accurately evaluate its true navigational impact. Anchors and gear will extend beyond the lease boundaries, sunken cages create dangerously little clearance, and the proposed corridor is unmarked, narrow, and obstructed by surrounding activity. Boaters—ourselves included—would be forced to either take unsafe risks or avoid the area altogether.

25. Under DMR standards, this constitutes an *unreasonable interference* with navigation, not just for us, but for the many local users who rely on this stretch of water

III. INGRESS EGRESS

26. The annotated photograph submitted as Walker Exhibit 7 shows the locations of our boat launch area and our mooring in relation to the proposed lease area.

27. The photograph submitted as Walker Exhibit 8 shows the proposed lease area looking south from our boat launch area, shown on Walker Exhibit 7.

28. The annotated photograph submitted as Walker Exhibit 9 shows the proposed lease and the resulting lack of a safe avenue for our ingress and egress.

29. We've already discussed in the Navigation Section why the North South "corridor" is unsafe for navigation and an unreasonable approach for a riparian. Including needing to navigate around large sailboats and yachts commonly anchored just South of the lease. In addition, we want to focus briefly other ways this lease would unreasonably interfere with our riparian right of ingress and egress.

30. We have one usable access point to the water—a 50-foot-wide level strip that's been in continuous use by us and the prior owners for decades. The rest of our shoreline is steep rock. There is no alternative access.

31. Our mooring is located within the lease footprint. We have unobstructed access directly from navigable water to our mooring. It was carefully placed for safety—deep enough for a 25-foot boat, clear of eelgrass, numerous ledges, and visible from our home. From the mooring we've always had a straight, safe shot to our shore.

32. But this lease would completely block our access to our mooring and out to navigable water. We can't safely go through the site.

33. Skirting around the lease doesn't work either, as can be seen looking at Walker Exhibit 9.

- To the North and Northwest, the water is often knee-deep, very close to intertidal and a material barrier.
- We can't traverse safely either way around 5-Iron due to the unmarked ledges and rocks East of the lease.
- The passage between our property and Morton Island is shallow, rocky and narrow.
- West of the lease are multiple unmarked ledges and active seal haul-outs—again, no passage.

34. None of the routes listed above provides us with an alternative means of riparian ingress/egress.

35. Relocating our mooring South of the lease wouldn't help. We and our guests would still face the same unsafe approach to shore—and we'd be hundreds of feet farther away.

36. And finally, the lease would eliminate our ability to windsurf and use small sailboats. There just wouldn't be room to maneuver safely.

37. In summary, this lease would unreasonably interfere with our riparian right of ingress and egress. We have only one viable access point—a 50-foot-wide level strip used by the prior owner, and by us. From there, however, congestion in the corridor means we cannot safely reach our mooring within the proposed lease. and we've always accessed it safely via a direct, unobstructed route. With gear blocking that route and shallow, rocky, or seal-sensitive waters on all sides, we have no safe alternative. Under DMR standards, this is not a minor inconvenience—it's a total obstruction of, and an unreasonable interference with, our riparian ingress egress rights.

IV. FLORA FAUNA – GENERAL

38. This lease area has significant wildlife and marine habitat. Great biodiversity.

39. We need to consider the lease's impact on surrounding habitat. Remember, the lease **spans the entrance** to a 15-acre, biologically rich and ecologically sensitive Cove.

40. We reviewed the online Mapping tools from Maine Dept. of Inland Fisheries and Wildlife (**DIFW**), which DMR should also consider and which illustrates how integrated and interdependent the estuarine system is.

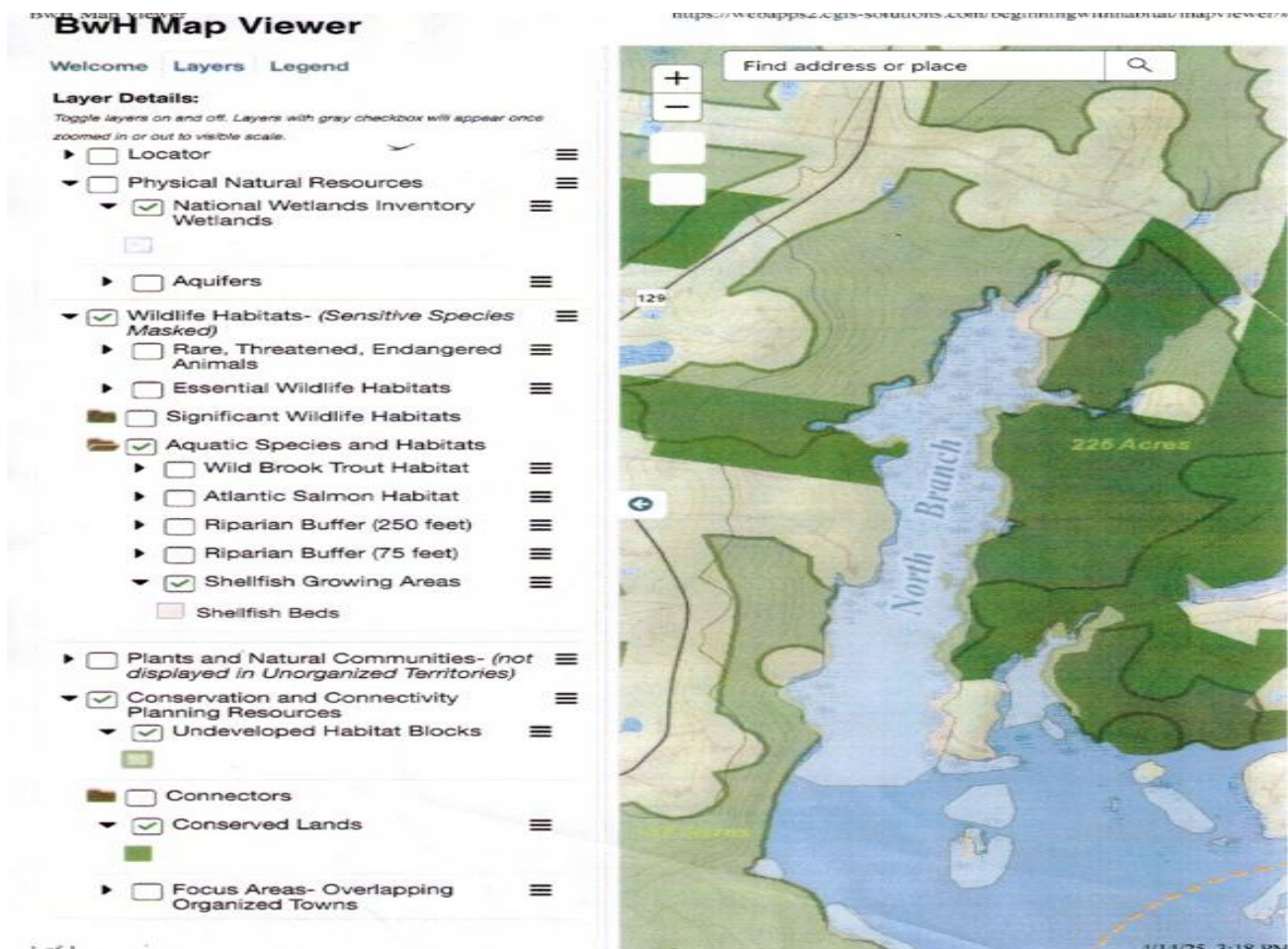
41. The DMR Site Report (Figure 6 on Page 11) uses DIFW's mapping to show that **Tidal Waterfowl and Wading Bird Habitat** surrounds the lease site on 3 sides. Maine's Natural Resources Protection Act (NRPA) defines this as Significant Wildlife Habitat, but for some reason DMR ignores other relevant information on these mapping tools.

42. These same DIFW maps (Figure 4) show the following additional information that DMR should consider:

Figure 4 – illustration of information shown on BWH Map Viewer

- **Shellfish beds (in gray)** on three sides of the lease and into the Cove. The Applicant said there were none.
- **National Wetlands** (signified by the marsh-like icon) surround the lease and into the Cove. The wetlands serve to buffer against coastal storms. Striped bass, abundant in this area, depend on these coastal wetlands.
- **Conserved Lands**, in green. Coastal Rivers has a conservation easement on our property. Additional protected acreage runs up into the Cove.
- The lease is **wedged into a dense area of productive habitats**. The Cove and areas around Peabow and 5-Iron provide much natural protection for birds and ducks.

43. The DIFW maps don't incorporate the existence of a number of significant ecological attributes, including, but not limited to:



- **European Oysters** that the Applicant said are common in the site (Applicant response to Question D3, Page 10)

- **Hermit crabs and sand shrimp** that DMR said were common in site (DMR Site Report, Page 8)
- **Pogie migration route** that runs through the site

44. The DMR site report (Page 6) misstates that the Middle Branch Cove is largely subtidal. In fact, U.S. Fish & Wildlife Service (USFWS) shows **(Figure 5) the Cove is largely intertidal:**

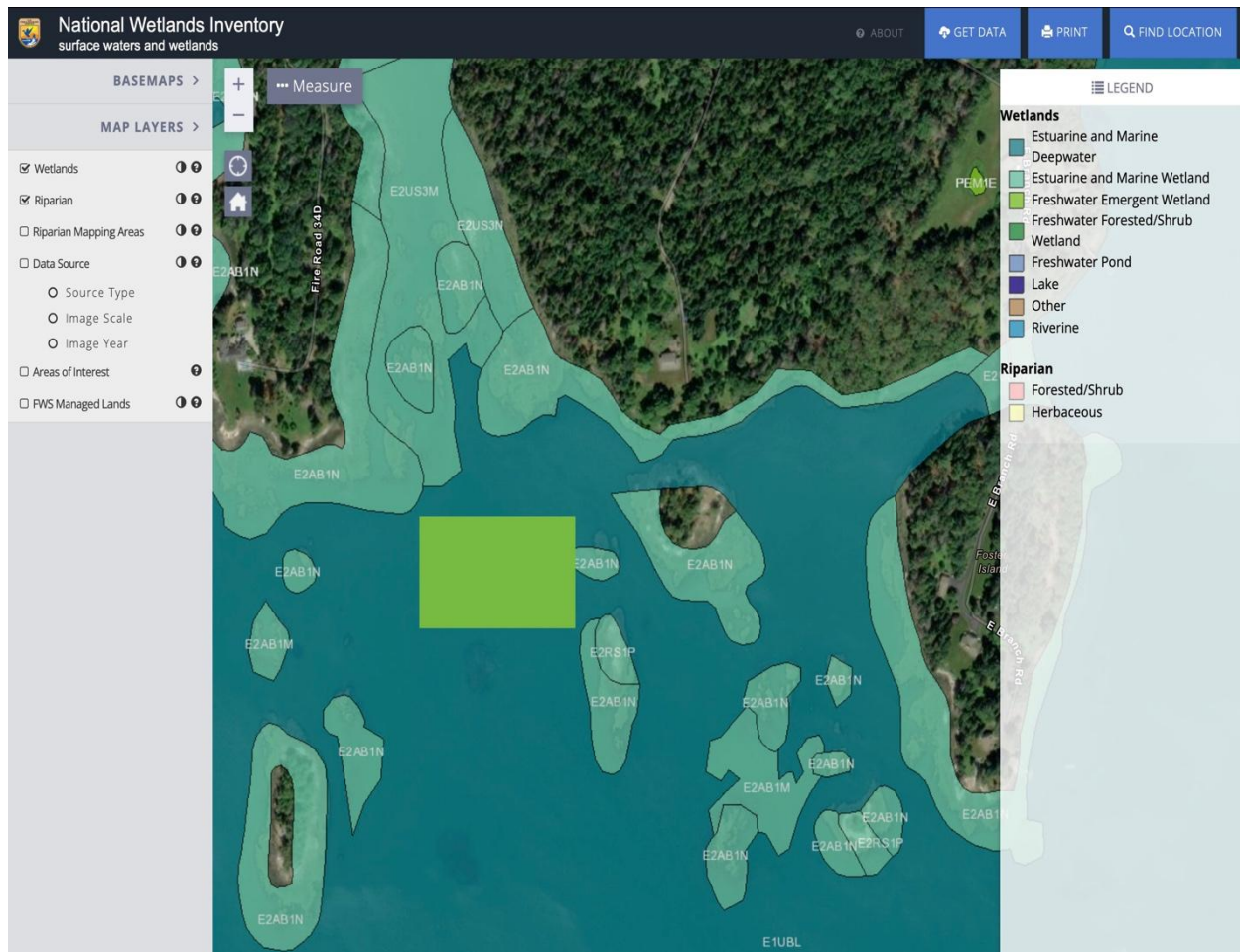


Figure 5 – US Fish and Wildlife map of entrance to Cove, is largely intertidal. E2 is intertidal water.

45. The classification key for this US Fish and Wildlife map stipulates areas shown as **E2, are intertidal**. E1 is subtidal. The intertidal area extends well South of John Walker’s ledge and the entrance of the Cove, thereby impacting navigation. Some of this area includes historical eelgrass beds.

46. According to USFWS, the Cove and areas around the lease contain aquatic beds, emergent wetlands, mudflats, unconsolidated shore, and non-tidal wetlands which support species diversity.

47. Of note, according to the USFWS mapping, part of the Eastern lease boundary is in **Intertidal water**.

48. The lease would force us and others into shallow, intertidal waters—causing not just environmental impact, but also unreasonably interfering with riparian ingress, egress, and safe navigation.

49. Our property is subject to a **Conservation Easement**¹ (the “Easement”) that was granted by the State of Maine in 1991.

50. The Easement states:

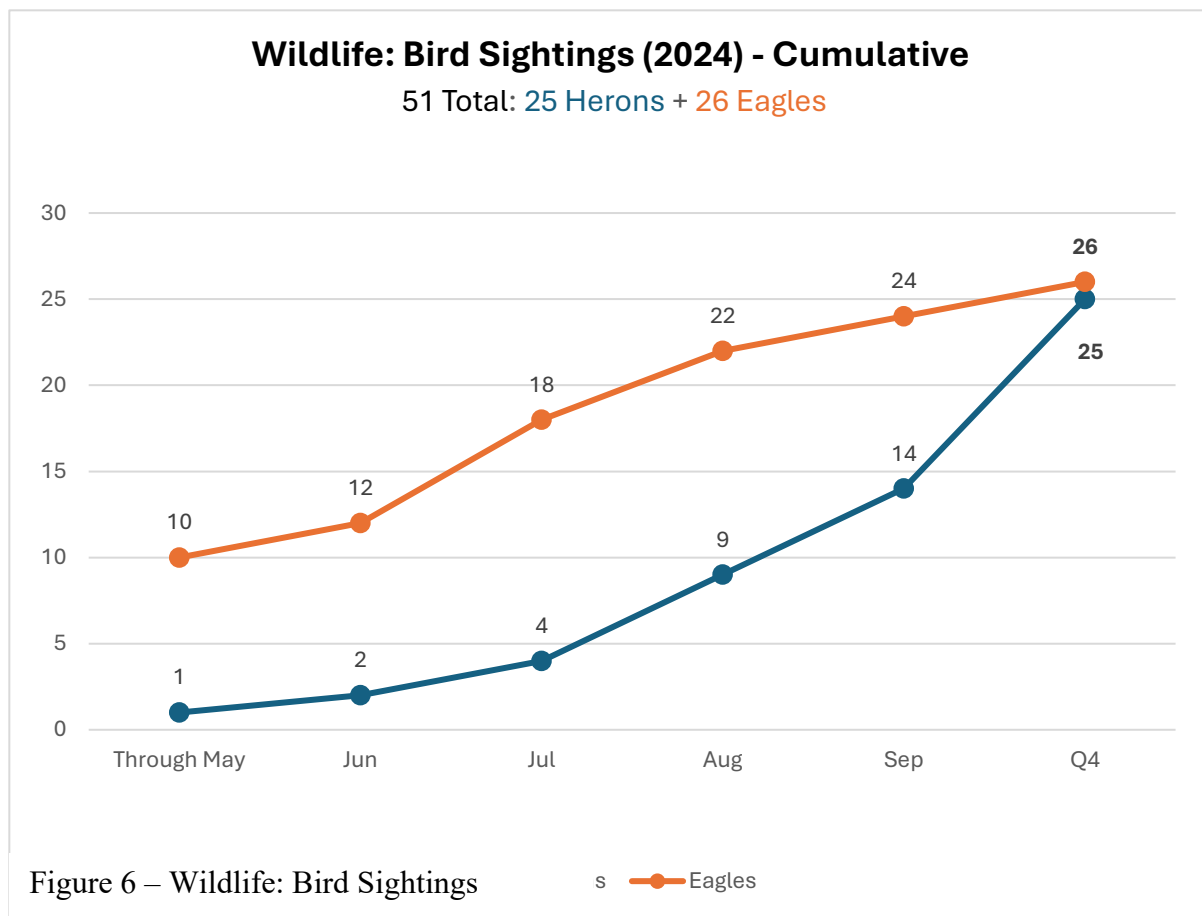
- the State of Maine recognizes this estuarine diversity and the existence of “tidal flats supporting highly productive commercial soft shell clam beds, and which are further important to waterfowl”²
- The Easement envisions the Cove as a destination. It specifically states the primary objective is to preserve the “visual access to and scenic enjoyment of the Protected Property by the general public from Johns River”³

¹ The Conservation Easement document is 25 pages long. The document was not included as an Exhibit as it exceeds the arbitrary 10-page limit imposed by the Procedural Order. The Easement covers the Walker’s property plus 45 additional acres on the peninsula, including land up into the Cove immediately North of the proposed site. The original holder of the Easement, Pemaquid Watershed Association, was later absorbed into Coastal Rivers Conservation Trust. We make an offer of proof to have the single page of the easement admitted. The easement should be admitted pursuant to 5 M.R.S. § 9057(2) because “it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs,” and it is relevant and not unduly repetitious.

² Conservation Easement, at page 2, paragraph 4.

³ Conservation Easement, at page 3, paragraph 1.

52. The degree of change to the area contemplated by this lease runs completely counter to the reasonable interpretation of what the easement attempts to do - to preserve a natural, scenic experience for the public from the water.



53. We kept a log (summarized in Figure 6) of Bald Eagles and Herons in 2024.

54. Sightings of Bald Eagles on 26 days, usually 2 pairs, and Herons, 25 days.

55. Great blue herons, a species of special concern under Maine law, are everywhere.

56. We regularly see innumerable Ospreys, common Terns, common Eiders and Cormorants. In Winter, this exact area supports Loons, Buffleheads, Barrow's Goldeneyes, a **threatened species in Maine** and many other species of migratory bird and ducks. Thus, duck hunters in the Fall.

57. In summary, consider the following:

- The proposed site sits at the entrance to a biologically rich, ecologically sensitive 15-acre Cove—an area recognized by state and federal agencies for its habitat value.
- According to mapping from the Maine Department of Inland Fisheries and Wildlife (DIFW), the lease is bordered on three sides by **Tidal Waterfowl and Wading Bird Habitat**, which is defined under the Natural Resources Protection Act (NRPA) as **Significant Wildlife Habitat**.
- An assessment of this area should consider not just DIFW and USFWS maps and the DMR site report, but also current, local knowledge—including our direct observations—to fully understand the range of ecological marine life this area supports, including:
 - **Shellfish beds**, and national wetlands on three sides of the lease
 - **The existence of eelgrass and suitable eelgrass substrate (see Section Flushing)**
 - **Striped bass**, which rely on surrounding coastal wetlands and are abundant in this prime fishing destination
 - **Great bird biodiversity**, with 2024 logs showing frequent sightings of **bald eagles, great blue herons (a species of special concern), ospreys, common eiders, loons, and Barrow’s goldeneyes**, a Maine-threatened specie
 - **European oysters, hermit crabs and shrimp in abundance**
 - **Pogie migration route through the site**
 - A State of Maine Conservation Easement recognizes the estuarine diversity and seeks to preserve the public’s **scenic and visual access** to this natural landscape from Johns River. This lease would effectively block access.

58. In sum, the evidence from state and federal sources, combined with our local knowledge demonstrates that this lease would unreasonably interfere with the **significant marine and wildlife habitat** and is inconsistent with both DMR’s statutory obligations and Maine’s broader conservation goals.

V. FLORA FAUNA – SEALS

59. We have observed a Resident Seal Colony in and around the lease area, which often sun on the ledges and islands surrounding that area.

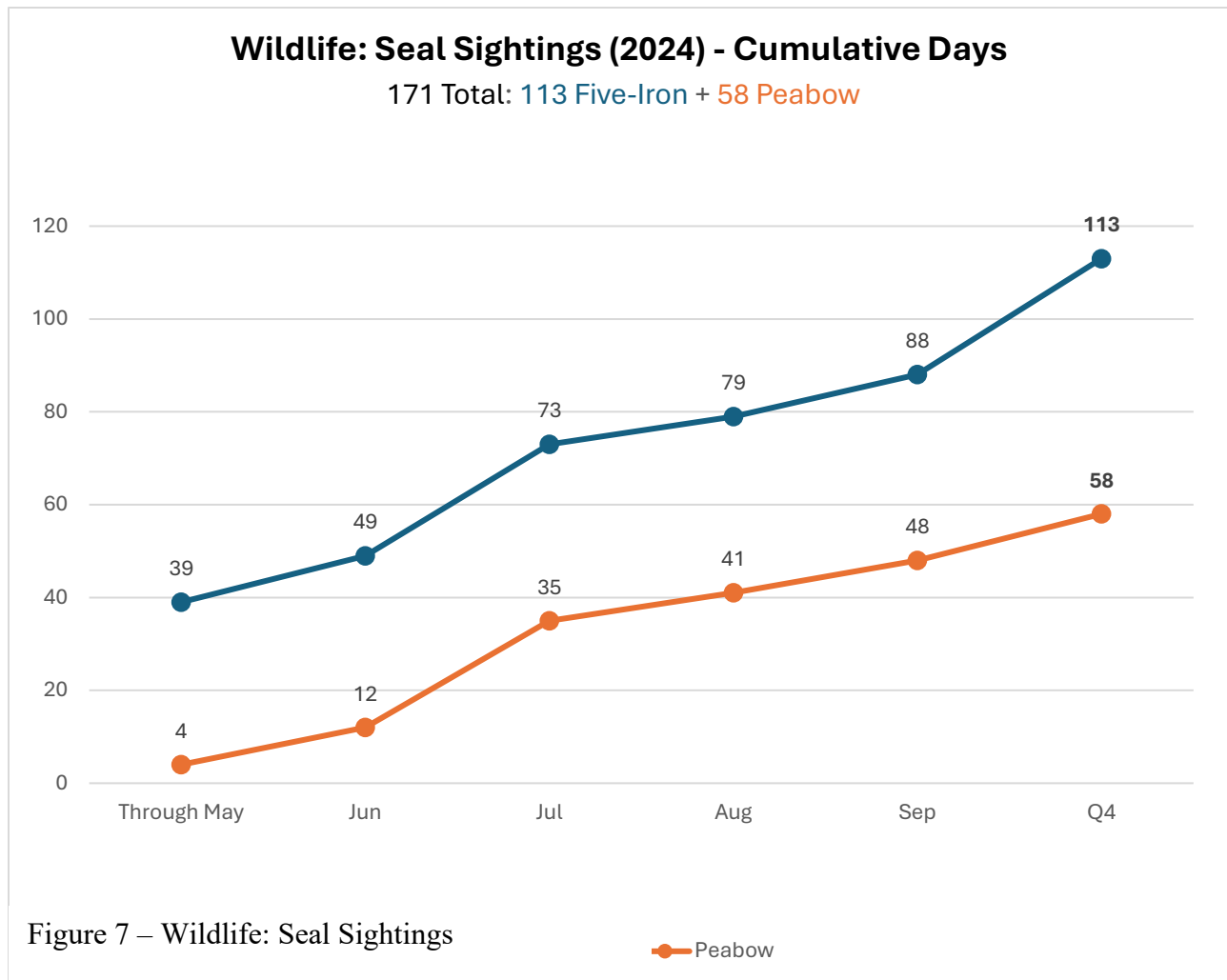
60. It’s unrealistic to conclude—without strong evidence—that a busy 3-acre lease operation with boats, harvesting, and power washing could avoid harassing seals or disrupting their life cycle and habitat.

61. This area supports gray seals, harbor seals, and occasional harp seals. DMR received at least 7 comment letters specifically expressing concern about seals. Several writers offered first-hand knowledge that seals have been in this exact spot for decades. These seals are indigenous to these waters. They are here year-round, in significant numbers. Their entire life cycle movements are here. **They feed, breed, nurse, rest, and molt here. Their food is here: stripers, crabs, shrimp, oysters.** Rockweed for habitat.

62. Walker Exhibit 10, is an annotated aerial photograph that shows the seal haulouts that we have routinely observed.

63. All nearby **haul-outs** shown in Walker Exhibit 10 are active. Peabow and 5-Iron are key nurseries. Importantly, the Peabow nursery is a completely separate ledge northeast of the island, much closer to the lease than DMR's Site Report (Page 3) measurement to "Peabow Island Shoreline". Haul-outs North of the lease, near the Cove lie just 85 feet away; haulouts East of the lease area are only 50 feet from the lease boundary.

64. Our Direct Observations of seal activities are summarized in the following chart



65. In 2024, we logged seal sightings at the primary nursery areas. There were seals at 5-Iron on 113 days, and near Peabow 58 days. Seal activity at these haul-outs is frequent and consistent. Note the disparity in sightings is likely attributable to being able to see 5-Iron from inside the house. We can only see the Peabow haulout if we are outside in the backyard.

66. The email comments submitted by DIFW do not address the impacts to seals because DIFW was not made aware of their presence.

67. DIFW’s comment that the lease poses “**minimal wildlife impact**” does not apply to seals. John Perry, DIFW Environmental Review Coordinator, confirmed to me that this comment only applies to wildlife under DIFW’s jurisdiction. Seals are federally protected under the Marine Mammal Protection Act (MMPA), and fall under NOAA’s jurisdiction—not DIFW’s. The lease application fails to mention seals in the area.

68. DMR should consider the following five Seal-Related Points:

1. MMPA Precludes Harassment

“Harassment” is defined as any disruption of natural behaviors—such as nursing, breeding, feeding, molting. Whether any activity has the **potential to disturb** marine mammals by altering behavior or habitat use.

2. NOAA’s 150-Foot Buffer

According to NOAA, harbor seals have hi-fidelity to their haulouts. They haul out to rest, molt, give birth, and nurse. NOAA recommends staying 150 feet away, likely more when pups are present - and limiting viewing to 30 minutes. That’s for passive viewing, not daily boat traffic or lease operations. Even if DMR moved lease boundaries to establish a 150-foot buffer from seal haulouts, other users of the water would be forced directly **into that buffer zone**.

3. Harbor Seal Sensitivity

Harbor seals (which are more prevalent vs. gray seals in months when oyster farms are more active) are especially skittish. They’re very disrupted by quiet approaches like kayaks. They flush when we are in our kayaks more than 400 feet away.

4. Critical Life Stages

Pupping and **molting** periods span roughly three months of heightened vulnerability. Pup births are staggered. So is molting: pups first then adults. **Mating** season falls between pupping and molting seasons. These life stages require access to food and undisturbed rest, both of which this lease would jeopardize.

5. Habitat Loss

NOAA warns that “harbor seals are susceptible to habitat loss and degradation”, and harassment can degrade key seal habitat, including nurseries and haul-outs. This lease is wedged among many active haul-outs. Seals regularly cross the site, so a lease here risks ongoing disturbance.

69. So, why are we even considering this? Because Habituation Is Not Harmless

70. The question isn’t only whether seals lose their habitat. Even if some remain, NOAA cautions that even repeated low-level disturbance can degrade haul-outs and disrupt essential behavior. NOAA notes that vessel traffic can cause stress and altered behavior, increased energetic expenditures.

71. Their survival and reproduction can be affected. In this case, that risk is real. In short, habituation does not mean no harm.

Precedent and Scale

72. We urge DMR to see that seals are “significant” here, in any sense of the term. Trimming the lease boundary doesn’t fix the core problem: the site cuts directly through where seals live, move, and raise their young.

Conclusions related to seals

73. In summary, this proposed lease site cuts directly through and sits among an active seal habitat—used year-round for feeding, nursing, breeding, and molting by harbor and gray seals—with haul-outs as close as 50 feet from the lease boundary. These federally protected marine mammals are particularly sensitive to disturbance, and NOAA advises keeping a 150-foot distance even for passive viewing, far less than the daily industrial activity this lease would bring.

74. The seal colony is not only ecologically significant—it’s also part of our community’s connection to this place. Residents have documented the seals’ presence for decades, and the idea that this habitat could be degraded or lost deeply concerns those who live here. DMR should not approve a lease that introduces **unnecessary and unreasonable human-wildlife conflict**.

75. Approving a lease in the middle of such vital habitat would **unreasonably interfere with significant wildlife and the marine habitat** it needs for support, in direct violation of the DMR’s flora and fauna standard.

76. This is the wrong place for a lease. It should be denied.

VI. FLORA FAUNA -- FLUSHING, WATER QUALITY AND EELGRASS

Flushing Drives Water Quality and Eelgrass Health

77. This site is surrounded on three sides by wetlands, productive clam flats, shallow intertidal zones, and Tidal Wading Bird and Waterfowl Habitat. It’s a shallow, clean-water area that supports rich bird and wildlife activity up into the intertidal Cove.

78. But a lease in an area of poor water flushing threatens all of it.

79. This site already has a high concentration of birds such as cormorants, gulls and terns. The lease will attract more. Floating cages in shallow, poorly flushed water increases biofouling. That impacts water quality.

80. This concern is not speculative. Maine has experienced shellfish closures recently due to various outbreaks including *Campylobacter*. One of the best ways to control risk is to choose sites with good flushing. The risk is compounded, however, for poorly flushed sites with floating cages in shallow water and dense bird activity. This industry risk has been highlighted at meetings we’ve attended of the Aquaculture Advisory and Shellfish Advisory Councils.

81. Understanding the flushing attributes of this specific site is essential when evaluating the lease’s impact. Water quality matters to us all.

82. We make two related points:

- **Site-specific study is essential to oyster farm siting**
 - Successful and responsible aquaculture depends on understanding the unique physical, biological, and social characteristics of a site. Even small variations in

depth, current, sediment, and surrounding habitat can significantly affect ecological impact and water quality. Without this level of detailed, site-specific analysis, DMR could inadvertently underestimate harm to flora, fauna and water quality.

- **Flushing and hydrodynamics are central to that assessment**

- Hydrodynamic conditions—like current velocity, tidal exchange, wave action, and stratification—directly influence biofouling, the dispersion of biofouling and the resultant impact on flora fauna. Well-flushed sites reduce risk. Poorly flushed ones concentrate impacts.

83. That’s why we hired experts to do site-specific analysis here—to generate the rigorous, science-based understanding needed for sound decisions.

84. We therefore ask you to consider the written and oral testimony of our expert witnesses, Dr. Kincaid and Dr. Krumholz together with the exhibits they prepared.

85. Lastly, we’ve referred before to DIFW’s “minimal impact on wildlife” comment. It was explicitly conditioned on the absence of eelgrass or suitable eelgrass substrate. You will hear both were found.

86. The broader community shares a stake in protecting this area—people fish, swim, observe wildlife. The clean water here supports both livelihoods and recreation.

87. In light of these facts and the written and oral expert testimony, DMR should find that the lease will unreasonably interfere with significant wildlife and marine habitat. This is a poor and unsuitable location for an aquaculture lease.

/s/ Beth Walker
Elizabeth Walker

/s/ Johnny Walker
Johnny Walker

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
AQUACULTURE DIVISION**

**IN RE: Nor'Easter Co.
Experimental Lease Application**

Johns River, South Bristol Maine

)
)
) **PRE-FILED TESTIMONY**
) **OF RACHEL V. WALKER, Intervenor**
)

Pursuant to the procedural orders of the Maine Department of Marine Resources' ("DMR"), issued in the above-captioned aquaculture leasing matter, the undersigned hereby submits this filing of witness pre-filed testimony and filing of issues that will be addressed as an Intervenor to the Nor'Easter Oyster Co. Experimental Aquaculture lease scheduled for public hearing on August 12, 2025.

I. Introduction

My Name is Rachel Walker. I reside at 131 East Branch Road, Walpole, Maine, on the shoreline of the John's River near Peabow Islands. I am a part-time resident of this property for nearly 40 years and have had direct ongoing, use of the shoreline and the adjacent waters. I have deep generational ties to this land and these waters and this property is not merely a part time home- but a generational sanctuary for my family. I have spent significant time during every season, boating, sailing, kayaking, canoeing, open water swimming to Peabow island, wildlife observation and peaceful recreation in this pristine sanctuary of a cove. It is in the very waters of this proposed site, that I learned to swim, paddle through the narrows and catch pogies and mackerel as a child alongside my family and 5 brothers and sisters. These traditions continue today with my 6 nieces and nephews who spend months at a time on a yearly basis enjoying this sanctuary. The proposed lease site by Nor'Easter Oyster Co. lies directly offshore from our property, within 1000 feet and at low tide is

remarkably is even closer. Notably, Nor'Easter Oyster Co. is in partnership with the adjacent and active lease held by Johns River Oysters. These companies purportedly share equipment, operational support, and their proximity to each other effectively concentrates aquaculture intensity in this section of the river. While the proposed lease is described as “experimental”, it’s size, scope, and integration with an existing commercial operator make it functionally equivalent to a full scale expansion in an already narrow body of water. The proposed lease site will directly interfere with my longstanding, regular and personal use of the area. Furthermore, given my strong familiarity of these waters and decades of observation, I can attest to the unique and characteristics of this area which have long been preserved and enjoyed by the people of Maine. I have been granted full intervenor status, and I am here to provide direct and substantial testimony regarding the impacts of the proposed lease site on my familial property and the personal use of the area, which has served as a unique and undeniable benefit for so many others. I submit this pre-filed written testimony in strong opposition to the Nor'Easter Oyster Co. application for a 3.30-acre experimental lease. This testimony addresses each of the criteria under 12 M.R.S.A. §6072-A(13) and Chapter 2.64(11)(A) of the DMR regulations.

II. Basis of Opposition: Direct Impacts and Legal Criteria

1. Unreasonable Interference with Riparian Owners Ingress and Egress (Ch. 2.37(1))

Our property includes direct shoreline access and we use the area in the front of our land to launch our kayaks, paddleboards and a small row boat—particularly from a tidal flat that lies just 60 yards from the proposed leases’ northwest boundary. This tidal flat from which we directly launch our smaller boats has a softer sand and is sheltered by our sea wall in a beach

like form, thus providing protection for our youngest adventurers who can wade into the waters. The cove is narrow and shallow, with a limited navigational corridor, particularly at low tide. During spring tides, we frequently find ourselves navigating a narrow, gear-free passage between ledges and the proposed lease boundary. The lease applicant proposes bottom and suspended gear, including lines and cages that create physical barriers across this ingress route. The Commissioner must consider the "type of structure" and "type of vessel" as stated in 2.37(1), and in our case, the structures will obstruct low-draft vessels and swimming routes that are essential to our daily use. In addition to this area being mere feet from the proposed site, as an avid swimmer, I regularly train in open water swim to Peabow Island. The proposed gear and sites location would directly prevent this consistent open water swim as it directly blocks the way of navigation to the Island and back to my property. It causes grave concern of safety that the proposed site would encumber an already extremely narrow body of water between our land and the Island as when the tide is low, my open water swim to Peabow becomes more of an open water walk to the Island given how shallow the water becomes. Proposing 20,000 feet of long line, 448 floating cages and 1200 feet of anchor lines and in total over 400 square feet of unspecified gear/structure as stated in the application, would efficiently stifle the ability to continue open water swim and to maneuver our small boats from our land. Additionally, located closest to the NW corner of the proposed lease site we have a structure which I aspire to modify into a separate house for my own family and the location would of the site would undoubtedly interfere with the ideal location for a dock in this space.

2. Unreasonable Interference with Navigation (Ch. 2.37(2))

The lease area abuts a natural constriction in the river between Peabow and Foster Islands. At

low tide, water depth is already marginal. Introducing structures such as floating cages, long lines, and buoys in this location will force paddlers, swimmers, and small recreational boats into shallower and rockier channels. Moreover, navigation with our sailboat which does not have a power motor, would be impossible as only channels of the area are deep enough to go through without the centerboard becoming stuck in low and even mid tide. For example, last August, a neighbor's dinghy became stuck on a mudflat less than 30 yards from the proposed boundary—gear in this zone would make such situations more dangerous. This has been a common occurrence in the channel as seen numerous times over the years whether a boater is familiar with the waters or not as portions of the narrow between the land and Peabow and in the sites location have sudden abutments and shallower provisions. Per Chapter 2.37(2), the Commissioner is to assess whether such activity “interferes with commercial or recreational navigation around the lease area.” This lease does. As someone who swims across this corridor nearly daily in summer months, I am deeply concerned about line-of-sight and safety hazards due to submerged gear.

3. Unreasonable Interference with Fishing and Other Water Related Uses (Ch. 2.37(3)

This cove is historically used for recreational fishing, including by myself, my family, and many community members. Light tackle striped bass fishing and seasonal clamming are among these activities. DMR must examine whether the lease "unreasonably interferes" with such use, and take into account the "amount and type of gear utilized" and "the number of recreational days." In our case, this section of river is used almost daily in spring through fall, with guests and family kayaking, bird-watching, and fishing. Families often boat from Christmas Cove to fish in this location, and tie up to enjoy swimming in this cove. The presence of heavy gear and equipment would displace this use, especially for shoreline fishers

and swimmers who would be effectively fenced out of the area. Notably, since the inception of the adjacent commercial site, recreational boaters and families who come to enjoy tubing down the stretch of Johns River have been forced to move towards the proposed leased site, which if established would eliminate entirely the communities ability to enjoy tubing and watersports which I have enjoyed with my friends families on their boats over the years and is a frequent activity seen weekly during the summer months from our point which now occurs in the stretch of the corner side of the proposed lease. Boaters consistently come to this area from Christmas Cove and Pemaquid in order to freely be able to participate in water sports as it is scenic, and easily accessible by water way. In fact, when I personally go to visit with friends who reside in South Bristol and Poorhouse Cove, we rarely travel by car as it is far more enjoyable, faster and scenic to travel by boat given the pristine landscape.

4. Other Aquaculture Uses (Ch 2.37(4)

While there are no LPAs within 1000 feet of the proposal, there is a substantial commercial aquaculture farm activity to the South at the Johns River Oysters Lease (JOHN NB3).

Nor'Easter Oyster Co. and Johns River Oysters share logistical resources, vessels, and labor.

During summer 2024, I observed vessels with Nor'easter's registration tending gear at the Johns River Oysters site. As further indicated by the applicant in their own demonstrative website and through various marketing they currently advertise as having had a farm on Johns River since 2021, which causes serious concern as to how this claim could be posed or advertised or relied upon given the status of this current pending lease application. This consolidation of operations must be weighed under Ch. 2.37(4), which requires consideration of the "number, size, location, and type" of aquaculture uses. The intensity and exclusivity of the proposed lease will increase cumulative impacts to navigation, aesthetics, and habitat in a

narrow and ecologically sensitive zone.

5. Unreasonable Interference With Existing System Support (Ch. 2.37)(5)

The proposed site lies in a uniquely sensitive ecological sanctuary. The proposed site lies adjacent to ledges used by harbor seals, within 77 feet of a mapped Tidal Waterfowl and Wading Bird Habitat (TWWH), and in an area with high biodiversity. MDMR observed seal pups hauled out on nearby ledges. While no eelgrass was recorded in 2023, historic maps from 2010 show eelgrass within 50 feet of the proposal. One blade was observed within the site during the DMR site visit—evidence that the area remains viable habitat. The Commissioner must examine the degree to which the lease would interfere with wildlife habitat or the “ability of the lease site to support ecologically significant flora and fauna.” Given the narrow corridor and the presence of nesting eagles, migratory birds, and seals, the site should be considered ecologically sensitive and incompatible with aquaculture structures. For context, the ledges which surround the site are abundant with seals and seal pups. On a daily basis, I will count no less than 14 adult seals on the ledge mere feet from the site. At the highest of tide, this unique seal colony, stays within the cove and you can view them swimming between Peabow and our shoreline until the rocks reappear and they continue to bask. This summer has continued to bring numerous new seal pups (16 counted) who live and thrive within these waters. Given the tranquility of this cove, many visitors boat to these ledges purely to see the seals as it is known amongst our community as a guaranteed sighting and undisturbed location to observe nature without disruption. To provide context as to how close these ledges are where these seals rest daily, when they play or wrestle, they are audible at all hours of the day and night from my property. Further, this sanctuary space is known for birdwatching as the American Bald Eagle rests on the far tree on our land and closest to the

NW corner of the proposed lease before returning to the two nests which are located a close walking distance away. Scenic bird watching is furthermore enjoyed as I have documented the Great Blue Heron wading countless times in the shallows of the lease site and the Osprey who also nests within close proximity. It is undeniable that this proposed lease site, with numerous proposed vessels, gear and potential for noise and commotion would not disrupt the natural ecosystem and tranquility of this area that so many enjoy.

6. Unreasonable Interference with Noise (Ch. 2.80(9))

The applicant intends to use machinery including an electric hauler, nevertheless, the applicant fails to specify whether they actually will be implementing power washers, tumblers, and generators and with specificity—motorized equipment subject to mitigation under DMR regulations. The rules require that all fixed noise sources “shall be directed away from any residences or areas of routine use on adjacent land.” Our home and several others are directly adjacent to the lease. Further, the applicant has not demonstrated that “all reasonable measures” will be taken to mitigate this noise. The site is residential and rural, not industrial. The introduction of this type of mechanical noise is incompatible with long-standing character of the neighborhood and violates the spirit of Ch. 2.80(9).

7. Visual Impact (Ch. 2.80(10))

The rules apply to “all equipment, buildings, and watercraft not moored within the lease but routinely used or owned by the leaseholder.” This includes tending vessels and gear that will be visible to multiple residences and to the public via boat and kayak. Gear will be deployed year-round, with floats sunk or stored during winter. Currently, from our deck, we see open water, seabirds, and uninterrupted ledge. If this lease is granted, our view would include surface floats, cage buoys, and working vessels. The visual profile—including floats, buoys,

and storage—is inconsistent with the tranquil, undeveloped viewshed that exists today. The height, size, and placement of gear will be visible from my home’s main windows, shoreline, and deck. For the past 30 years my father has invited students and young painters every year to come to our property where they have experienced the immeasurable value of this area, the tides, wildlife and serenity that has for many been profound life experience in immersing themselves in the way life should be in Maine and through painting the landscape. Many have submitted letters of their support in opposition to this lease for your review.

III. Relief Requested

I respectfully request that the Department **deny this lease application** due to clear, substantial, and direct interference with riparian access, safe navigation, recreational uses, visual character, and ecological integrity. Alternatively, if the lease is not denied outright, I urge the Department to impose additional conditions not limited to the following:

Relocate the lease away from this densely used and environmentally sensitive corridor.

Require full ecological baseline assessments and independent monitoring.

Prohibit power-washing and restrict tumbling equipment noise.

Require the applicant to submit a genuine research methodology with periodic public disclosure.

Respectfully Submitted,

Rachel V. Walker

131 East Branch Road

Walpole, Maine 04568

Email: rachelvictoriawalker@gmail.com

Phone: (617) 838-1081

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
AQUACULTURE DIVISION**

**IN RE: Nor'Easter Co.
Experimental Lease Application**

Johns River, South Bristol Maine

)
)
) **PRE-FILED TESTIMONY**
) **OF RACHEL V. WALKER, Intervenor**
)

Pursuant to the procedural orders of the Maine Department of Marine Resources' ("DMR"), issued in the above-captioned aquaculture leasing matter, the undersigned hereby submits this filing of witness pre-filed testimony and filing of issues that will be addressed as an Intervenor to the Nor'Easter Oyster Co. Experimental Aquaculture lease scheduled for public hearing on August 12, 2025.

I. Introduction

My Name is Rachel Walker. I reside at 131 East Branch Road, Walpole, Maine, on the shoreline of the John's River near Peabow Islands. I am a part-time resident of this property for nearly 40 years and have had direct ongoing, use of the shoreline and the adjacent waters. I have deep generational ties to this land and these waters and this property is not merely a part time home- but a generational sanctuary for my family. I have spent significant time during every season, boating, sailing, kayaking, canoeing, open water swimming to Peabow island, wildlife observation and peaceful recreation in this pristine sanctuary of a cove. It is in the very waters of this proposed site, that I learned to swim, paddle through the narrows and catch pogies and mackerel as a child alongside my family and 5 brothers and sisters. These traditions continue today with my 6 nieces and nephews who spend months at a time on a yearly basis enjoying this sanctuary. The proposed lease site by Nor'Easter Oyster Co. lies directly offshore from our property, within 1000 feet and at low tide is

remarkably is even closer. Notably, Nor'Easter Oyster Co. is in partnership with the adjacent and active lease held by Johns River Oysters. These companies purportedly share equipment, operational support, and their proximity to each other effectively concentrates aquaculture intensity in this section of the river. While the proposed lease is described as “experimental”, it’s size, scope, and integration with an existing commercial operator make it functionally equivalent to a full scale expansion in an already narrow body of water. The proposed lease site will directly interfere with my longstanding, regular and personal use of the area. Furthermore, given my strong familiarity of these waters and decades of observation, I can attest to the unique characteristics of this area which have long been preserved and enjoyed by the people of Maine. I have been granted full intervenor status, and I am here to provide direct and substantial testimony regarding the impacts of the proposed lease site on my familial property and the personal use of the area, which has served as a unique and undeniable benefit for so many others. I submit this pre-filed written testimony in strong opposition to the Nor'Easter Oyster Co. application for a 3.30-acre experimental lease. This testimony addresses each of the criteria under 12 M.R.S.A. §6072-A(13) and Chapter 2.64(11)(A) of the DMR regulations.

II. Basis of Opposition: Direct Impacts and Legal Criteria

1. Unreasonable Interference with Riparian Owners Ingress and Egress (Ch. 2.37(1))

Our property includes direct shoreline access and we use the area in the front of our land to launch our kayaks, paddleboards and a small row boat—particularly from a tidal flat that lies just 60 yards from the proposed leases’ northwest boundary. This tidal flat from which we directly launch our smaller boats has a softer sand and is sheltered by our sea wall in a beach

like form, thus providing protection for our youngest adventurers who can wade into the waters. The cove is narrow and shallow, with a limited navigational corridor, particularly at low tide. During spring tides, we frequently find ourselves navigating a narrow, gear-free passage between ledges and the proposed lease boundary. The lease applicant proposes bottom and suspended gear, including lines and cages that create physical barriers across this ingress route. The Commissioner must consider the "type of structure" and "type of vessel" as stated in 2.37(1), and in our case, the structures will obstruct low-draft vessels and swimming routes that are essential to our daily use. In addition to this area being mere feet from the proposed site, as an avid swimmer, I regularly train in open water swim to Peabow Island. The proposed gear and sites location would directly prevent this consistent open water swim as it directly blocks the way of navigation to the Island and back to my property. It causes grave concern of safety that the proposed site would encumber an already extremely narrow body of water between our land and the Island as when the tide is low, my open water swim to Peabow becomes more of an open water walk to the Island given how shallow the water becomes. Proposing 20,000 feet of long line, 448 floating cages and 1200 feet of anchor lines and in total over 400 square feet of unspecified gear/structure as stated in the application, would efficiently stifle the ability to continue open water swim and to maneuver our small boats from our land. Additionally, located closest to the NW corner of the proposed lease site we have a structure which I aspire to modify into a separate house for my own family and the location would of the site would undoubtedly interfere with the ideal location for a dock in this space.

2. Unreasonable Interference with Navigation (Ch. 2.37(2)

The lease area abuts a natural constriction in the river between Peabow and Foster Islands. At

low tide, water depth is already marginal. Introducing structures such as floating cages, long lines, and buoys in this location will force paddlers, swimmers, and small recreational boats into shallower and rockier channels. Moreover, navigation with our sailboat which does not have a power motor, would be impossible as only channels of the area are deep enough to go through without the centerboard becoming stuck in low and even mid tide. For example, last August, a neighbor's dinghy became stuck on a mudflat less than 30 yards from the proposed boundary—gear in this zone would make such situations more dangerous. This has been a common occurrence in the channel as seen numerous times over the years whether a boater is familiar with the waters or not as portions of the narrow between the land and Peabow and in the sites location have sudden abutments and shallower provisions. Per Chapter 2.37(2), the Commissioner is to assess whether such activity “interferes with commercial or recreational navigation around the lease area.” This lease does. As someone who swims across this corridor nearly daily in summer months, I am deeply concerned about line-of-sight and safety hazards due to submerged gear.

3. Unreasonable Interference with Fishing and Other Water Related Uses (Ch. 2.37(3)

This cove is historically used for recreational fishing, including by myself, my family, and many community members. Light tackle striped bass fishing and seasonal clamming are among these activities. DMR must examine whether the lease "unreasonably interferes" with such use, and take into account the "amount and type of gear utilized" and "the number of recreational days." In our case, this section of river is used almost daily in spring through fall, with guests and family kayaking, bird-watching, and fishing. Families often boat from Christmas Cove to fish in this location, and tie up to enjoy swimming in this cove. The presence of heavy gear and equipment would displace this use, especially for shoreline fishers

and swimmers who would be effectively fenced out of the area. Notably, since the inception of the adjacent commercial site, recreational boaters and families who come to enjoy tubing down the stretch of Johns River have been forced to move towards the proposed leased site, which if established would eliminate entirely the communities ability to enjoy tubing and watersports which I have enjoyed with my friends families on their boats over the years and is a frequent activity seen weekly during the summer months from our point which now occurs in the stretch of the corner side of the proposed lease. Boaters consistently come to this area from Christmas Cove and Pemaquid in order to freely be able to participate in water sports as it is scenic, and easily accessible by water way. In fact, when I personally go to visit with friends who reside in South Bristol and Poorhouse Cove, we rarely travel by car as it is far more enjoyable, faster and scenic to travel by boat given the pristine landscape.

4. Other Aquaculture Uses (Ch 2.37(4)

While there are no LPAs within 1000 feet of the proposal, there is a substantial commercial aquaculture farm activity to the South at the Johns River Oysters Lease (JOHN NB3).

Nor'Easter Oyster Co. and Johns River Oysters share logistical resources, vessels, and labor.

During summer 2024, I observed vessels with Nor'easter's registration tending gear at the Johns River Oysters site. As further indicated by the applicant in their own demonstrative website and through various marketing they currently advertise as having had a farm on Johns River since 2021, which causes serious concern as to how this claim could be posed or advertised or relied upon given the status of this current pending lease application. This consolidation of operations must be weighed under Ch. 2.37(4), which requires consideration of the "number, size, location, and type" of aquaculture uses. The intensity and exclusivity of the proposed lease will increase cumulative impacts to navigation, aesthetics, and habitat in a

narrow and ecologically sensitive zone.

5. Unreasonable Interference With Existing System Support (Ch. 2.37)(5)

The proposed site lies in a uniquely sensitive ecological sanctuary. The proposed site lies adjacent to ledges used by harbor seals, within 77 feet of a mapped Tidal Waterfowl and Wading Bird Habitat (TWWH), and in an area with high biodiversity. MDMR observed seal pups hauled out on nearby ledges. While no eelgrass was recorded in 2023, historic maps from 2010 show eelgrass within 50 feet of the proposal. One blade was observed within the site during the DMR site visit—evidence that the area remains viable habitat. The Commissioner must examine the degree to which the lease would interfere with wildlife habitat or the “ability of the lease site to support ecologically significant flora and fauna.” Given the narrow corridor and the presence of nesting eagles, migratory birds, and seals, the site should be considered ecologically sensitive and incompatible with aquaculture structures. For context, the ledges which surround the site are abundant with seals and seal pups. On a daily basis, I will count no less than 14 adult seals on the ledge mere feet from the site. At the highest of tide, this unique seal colony, stays within the cove and you can view them swimming between Peabow and our shoreline until the rocks reappear and they continue to bask. This summer has continued to bring numerous new seal pups (16 counted) who live and thrive within these waters. Given the tranquility of this cove, many visitors boat to these ledges purely to see the seals as it is known amongst our community as a guaranteed sighting and undisturbed location to observe nature without disruption. To provide context as to how close these ledges are where these seals rest daily, when they play or wrestle, they are audible at all hours of the day and night from my property. Further, this sanctuary space is known for birdwatching as the American Bald Eagle rests on the far tree on our land and closest to the

NW corner of the proposed lease before returning to the two nests which are located a close walking distance away. Scenic bird watching is furthermore enjoyed as I have documented the Great Blue Heron wading countless times in the shallows of the lease site and the Osprey who also nests within close proximity. It is undeniable that this proposed lease site, with numerous proposed vessels, gear and potential for noise and commotion would not disrupt the natural ecosystem and tranquility of this area that so many enjoy.

6. Unreasonable Interference with Noise (Ch. 2.80(9))

The applicant intends to use machinery including an electric hauler, nevertheless, the applicant fails to specify whether they actually will be implementing power washers, tumblers, and generators and with specificity—motorized equipment subject to mitigation under DMR regulations. The rules require that all fixed noise sources “shall be directed away from any residences or areas of routine use on adjacent land.” Our home and several others are directly adjacent to the lease. Further, the applicant has not demonstrated that “all reasonable measures” will be taken to mitigate this noise. The site is residential and rural, not industrial. The introduction of this type of mechanical noise is incompatible with long-standing character of the neighborhood and violates the spirit of Ch. 2.80(9).

7. Visual Impact (Ch. 2.80(10))

The rules apply to “all equipment, buildings, and watercraft not moored within the lease but routinely used or owned by the leaseholder.” This includes tending vessels and gear that will be visible to multiple residences and to the public via boat and kayak. Gear will be deployed year-round, with floats sunk or stored during winter. Currently, from our deck, we see open water, seabirds, and uninterrupted ledge. If this lease is granted, our view would include surface floats, cage buoys, and working vessels. The visual profile—including floats, buoys,

and storage—is inconsistent with the tranquil, undeveloped viewshed that exists today. The height, size, and placement of gear will be visible from my home’s main windows, shoreline, and deck. For the past 30 years my father has invited students and young painters every year to come to our property where they have experienced the immeasurable value of this area, the tides, wildlife and serenity that has for many been profound life experience in immersing themselves in the way life should be in Maine and through painting the landscape. Many have submitted letters of their support in opposition to this lease for your review.

III. Relief Requested

I respectfully request that the Department **deny this lease application** due to clear, substantial, and direct interference with riparian access, safe navigation, recreational uses, visual character, and ecological integrity. Alternatively, if the lease is not denied outright, I urge the Department to impose additional conditions not limited to the following:

Relocate the lease away from this densely used and environmentally sensitive corridor.

Require full ecological baseline assessments and independent monitoring.

Prohibit power-washing and restrict tumbling equipment noise.

Require the applicant to submit a genuine research methodology with periodic public disclosure.

Respectfully Submitted,

Rachel V. Walker

131 East Branch Road

Walpole, Maine 04568

Email: rachelvictoriawalker@gmail.com

Phone: (617) 838-1081

