

Penobscot Bay Watch

Keeping an eye on Maine's biggest bay

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Comments re SHM Rockland, LLC's Natural Resources Protection Act permit application (#L-20386-4P-P-N)

Dear Ms. MacNeil

Penobscot Bay Watch is a citizens association dedicated to protecting and conserving Maine's biggest bay. We have reviewed and commented on numerous development proposals affecting Penobscot Bay habitat, water quality and living resources over the past 20 years.

The following are Penobscot Bay Watch comments to the Department of Environmental Protection in regard to the proposal of Safe Harbor Rockland LLC to expand their marina to accommodate up to 8 multistoried megayachts of 200 feet in length, and many more smaller craft. This will be preceded by an overview of

Together, the combination of these developments will unacceptably degrade Rockland Harbor's navigation, mooring fields, fisheries, public access, public health and scenic viewshed, all at once. We urge DEP to either reject the current plan or require significant reductions in their proposals' footprint, marina expansion, and/or their operations.

GENERAL COMMENTS

At times Maine DEP has limited the incremental degradation of Penobscot Bay's shores and waters, by paying attention to the potential cumulative impacts that particular commercial, industrial and residential development and their combined discharges and visual and health impacts can have on Penobscot Bay towns' water quality, their shores and shallow water habitats, their coastal forests, their limited and irreplaceable natural and urban public

scenic view sheds.

Other times, a “silo” philosophy reigns, and the Agency declines to consider impacts of multiple applicants proposing habitat loss and/or waste discharges into the same waterbody, erroneously claiming that each must be considered on its own, and cumulative impacts will not be considered.

We believe the present administration is willing to choose the option of paying attention to cumulative impacts in addition to direct impacts. Maine DEP can for example, continue its history of protection and conservation of Rockland Harbor's natural resources and unique scenic viewsheds: not only Mary Reed Memorial Park near the the base of the city breakwater; but now Harbor Park, adjacent to downtown Rockland.

Maine DEP successfully defended Mary Reed Memorial Park's viewshed and fisheries alongside the adjacent Rockland Breakwater **twice** under successive administrations.. Details below. See also two attached DEP decision document transcriptions .

The Safe Harbor Rockland proposal under review offers many parallels with the earlier Samorock proposals. If approved it too result in encroachment into public waters used for commercial fishing and the degradation of a unique Rockland viewshed of local and national significance. Both times these were proposed by absentee corporations, with concern for little beyond their own profit.,

We urge DEP not to allow Safe Harbors to turn a public piece of the harbor to their own ends while displacing some of the city's public harbor users, driving out one or more of the existing marinas by offering lower fees for similar activities and product, degrade the Harbor Park viewshed by allowing oversized pleasure craft , up to 200 feet long and 4 stories high, to visit the already crowded inner harbor . These combined would decrease the city's attraction as a unique place as well as increase risks to public health and safety.

Climate. DEP needs to consider the impacts being wrought by climate change in its review. Present time's warming climate has brought a new wave of development to Penobscot Bay. Yet it also appears that more frequent severe storms are visiting our bay; witness the October 27, 2021 beaching of vessels in the vicinity of the harbor reach that the applicant hopes to exploit for mega yachts.

That event alone shows that the plans that SHM inherited from Yachting Solutions and amended to increase the marinas size and capacity may have already been outstripped by the new weather patterns.

SHM's two proposed embellishments: boosting the density of pleasure craft in the inner harbor, and anchoring and docking up to eight view-blocking megayachts off the exposed beach area south of the present marina at the site overall lends to being an unscenic, unsafe harbor.

As noted in Maine Coastal Program's Strategic Outlook 2021-2025:
“Access to the shore is a traditional way of life for Maine residents who value the coast for its scenic beauty, recreational opportunities and cultural heritage. The biggest industries in Maine depend on access to the water and tourism is a primary contributor to the state’s economy.”

Contrary to the strategic outlook, this SHM proposal actually threatens Rockland Harbor's “scenic beauty, recreational opportunities and cultural heritage” (the harbor viewshed, the harbor's amenities for tourism swimming and sailing and the harbor's commercial fishing fleets, respectively.)

The proposed expansion of this marina would significantly degrade the harbor park view shed, would reduce public access to the harbor, would greatly narrow an important reach of the harbor's nearshore water trail traversed by the kayaking, paddle boarding and rowing public.

The expansion would require the dredging away of large area of the harbor's productive lobster habitats, long exploited by the harbor's small-vessel but lucrative and sustainable commercial lobster fishery.

The arsenic-rich spoils would be dumped into a closed quarry, whose fractured rocky sides and floor would loose a tainted leachate that would chronically reduce the water quality of the nearby Saint George River, harming that river's aquaculture and commercial and recreational fisheries as well as tainting wells and springs in the area surrounding the quarry dumpsite

Those biggest industries that the Coastal Program's strategic outlook calls for conserving, tourism and fishing, both would both be unacceptably impacted by the SHM proposal if approved.

In summary the applicant would reduce public harbor access, a significant scenic view shed, harbor lobster fisheries and reduce use of the the city's tiny

public beach public beach.

As noted, DEP has acknowledged concerns raised about the broader effects, both indirect and cumulative, of major developments that fall under their purview and acted appropriately by rejecting them.

We hope that this is one of those times.

SPECIFIC ISSUES Listed by the names of their related attachments

Attachment 1. Regulatory history. The applicant's list of developments shows how, down the years, the owners of this site have kept as close to its original footprint as it was when built for the MBNA corporation's yachts. The list also denotes how often proposals for significant expansion since then have been rejected.

The present applicant proposes to expand into a public mooring field and into waters near shore used as a water trail by paddlers and skiffs to reduce interaction with larger vessels. This proposal would bring the very vessels the paddlers are avoiding, right into that space, making them vulnerable there too to larger craft. This is unacceptable.

Attachment. 2 Alternatives analysis

The applicant ignores genuine alternatives. For example, instead of crowding Rockland's inner harbor with oversized view-blocking graywater-discharging megayachts, all visiting mega yachts have the alternative of safely mooring in the outer harbor, with easy access to Rockland by watertaxis, launches and other private vessels.

That alternative is what that Maine DEP preferred to Samorock's proposal to set up a private marina alongside the Rockland Breakwater for the ease of its boating visitors. This is also the practice of most cruise ships visiting Rockland. There is no reason that the applicant cannot follow the same practice.

While the megayachts may be smaller than some cruise ships, the applicant proposes to bring them well into the inner harbor. Not briefly, like the boutique small cruise ships that rarely if ever spend more than 24 hours in Rockland. The applicant proposes to allow megayachts to stay as long as they are willing to pay for.

The applicant would also act as service center for megayachts, which could cause megayachts to stay an extended periods of time be left in the inner harbor for for as long as repairs or additions to the big vessels takes.

The proposed expansion of the marina will make it likely that it will become a site for used mega yacht sales. These would be allowed to stay indefinitely within Safe Harbors' leased submerged lands reach fouling the view and the waters as they must be continue to have systems running aboard, and hence require crew aboard. Their graywater wastes would also wash into Sandy Beach waters, risking public health

It is far better to require megayachts to anchor in the outer harbor like the larger cruiseships do, and and bring crews and passengers ashore and back in launches and other small craft. Ditto for food and other material items needed aboard

We believe the information above demonstrates that the applicant has failed to failed to consider this reasonable alternative to the massive structures the applicant proposes for mega yacht use.

Maine DEP has required this alternative in past permit reviews Rockland Harbor. DEP needs to adhere to that standard. .

Attachment 3. Maps Applicants' site maps are insufficient to denote impacts the project would have on harbor users . The applicant makes every effort to crop its site maps down to the smallest area of the harbor possible. This makes it difficult for reviewers to understand the projects likely offsite impacts and encourage the aforementioned "silo" thinking, that would review the project on its own without any consideration of the numerous offsite impacts the project would have. The applicants maps are insufficient without a look at the larger harbor picture, The one d harborwide map it offers is insufficient

Attachment 4 No comments

Attachment 5. Existing conditions. This suffers from the use of the same very close-in maps that prevent consideration of the existing conditions the surrounding harbor areas for context.

Attachment 6 Additional Plans: Blank see attachment 5

Attachment 7 Construction Plan. No issues. We prefer the project be rejected

Attachment 8 No comments

Attachment 9 Site conditions/Environmental assessment

This tiny review by Eco-Analysts is far too limited. Its review of animals using the site does not taking into the account the well-documented seasonally numerous wildlife users of the site

Attachment 10 No comments

Attachment 11 Historic Preservation No comments

Attachment 12 Functional Assessment This is very inaccurate. Consider the section of this assessment:

Groundwater recharge/ Discharge Thanks to inevitable leachate from the former gravel pit – its adjacent bedrock greatly shattered by the mining process - the quality of the groundwater used by used by by people, the local springs used by wildlife and the waters where the leachate from the waste dump will enter the Saint George River will all be badly polluted with heavy metals in the waste for at least a century

Fish and Shellfish Habitat The evaluations cryptically states “Activities will take place outside of migratory fish seasons.” The **operations** of the proposed expanded areas must be part of the review, not only construction activities The operations will take place when many migratory fish are visiting Rockland Harbor including but not limited to sturgeon, mackerel, bluefish and striped bass. These, as well as the the year-round fishes and shellfish will be impacted by vessel graywater and the runoff from daily mega yacht deck washdowns draining into the harbor - along with whatever cleansers are used

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Sediment/Toxicant Retention The applicants states “Tidal Action reduces the opportunity to perform this function”. However, a key part of the proposal is the installation of wave attenuators specifically designed to slow waters entering their site. If the project is built the attenuators will **increase** sediment retention.

Wildlife Habitat the consultant's wildlife survey ridiculously concludes that *,"Herring and Ring Billed Gulls Observed, no other species observed."*

Eco-Analysts survey's apparent single brief observation does not remotely offer sufficient portrayal of the wildlife of Rockland Harbor that would be impacted for the purposes of DEP's review. Even a cursory look at the work of IFW and other bird experts reveals the harbor is a regular and seasonal site for ospreys, sea ducks including buffleheads, eiders, harlequin ducks and black scoters, double crested cormorants, great blue herons and many more. To

claim that two gull types "were observed" does not a bird inventory make. Wintertime sea ducks (multiple species) flock to the Rockland Harbor from Canada and will be impacted by the project. In addition seals are common in Rockland Harbor .

We consider the ecological analysis provided by the applicant to be hopelessly deficient and misleading. It falsely depicts a nearly lifeless harbor ecosystem rather than the reality as noted above, and should be rejected as insufficient

Recreation The applicant blithely states "This is the Function and Value of a marina", as if marina use is the sole recreational activity of the harbor. It is not. Instead recreational sightseers will be thwarted, of their views, kayakers and paddle boarders will have a significantly smaller and considerable less safe nearshore harbor trail once the the applicant extends a floating pier with 14 slips into it Beachgoers at Sandy Beach will repeatedly find the waters closed to swimming and wading thanks to the graywater and wash down waters that these adjacent megayachts would inevitably discharge.

Visual Quality The applicant is entirely off the mark. Its statement "Marina is in an urban area with numerous other marinas docks and wharfs." entirely ignores the very high quality scenic views from Harbor Park that would be blocked by the proposed project, This includes views from Harbor Park of the Rockland Lighthouse, Owls Head State Park, of at least a hundred square miles of West Penobscot Bay, and of the shores of of the Fox Islands, 12 miles distant.

Moreover the Scenic Assessment Handbook (attached) issued by the Coastal Program urges the use of the last scenic evaluation of coastal Penobscot Bay, which is "Scenic Inventory Mainland Sites of Penobscot Bay" (DeWan and Naetzker, 1990). (Attached)

This document includes these "Viewshed Management Recommendations" for Rockland: (attached): "Develop performance standards for the eventual development/redevelopment of waterfront parcels, **focussing on maintenance of visual access to waterfront areas** and bulk and space requirements." (our emphasis)

The proposed marina expansion would completely ignore these recommendations. We hope that DEP will, instead, assign great value to these simple clear recommendations.

Attachment 13 COMPENSATION Document falsely claims that the only part of their project requiring compensatory action is their pilings! The degraded viewshed, the

lost fishing grounds, the forcible removal of the public and their moorings from part of the nearshore harbor to make room for megayachts, the adding of slips for motorized vessels into the harbor trail area used by kayakers paddleboarders and skiff users...all these would require compensation as well. It is unlikely that the applicant would agree to mitigating those degradations of the harbor, However DEP must be strong on site protection and insist real compensation must be agreed to if the applicants wants approval from DEP

All these adverse impacts must not be allowed, merely to benefit an international marina holding company, the tiny mega yacht sector, and a cabal of local politicians. Safe Harbors would take over, bite by bite, as much of Rockland's public inner harbor as they can on behalf of their absentee corporate owner, if this application was approved.

Certainly from their investors' perspective, Rockland Harbor is little different from any of the hundreds of other harbors they've bought into and settled in as Big Frog of the small harbor. The fact that Safe Harbors was significant funded by the Koch Brothers in its growth phase does not augur SHM being interested in the slightest in providing environmental protections for host communities, including Rockland.

In closing we urge DEP to respect the Coastal Programs growth recommendations for Rockland and to review the application in light of the issues we have . raised above. Maine DEP has saved Rockland at least twice from misguided harbor development plans. Please carry on the noble tradition of your Department being truly committed to Environmental Protection, and turn back this application.

Sincerely

Ron Huber

Ron Huber
Penobscot Bay Watch

See next page for list of attachments

Attachments

* 2000 rejection of Samorock proposal (transcription) *(

* 2007 denial of Samorock proposal (transcription) *

(I received those two documents from DEP in an old fashioned fax machine that used scrolled heat sensitive paper, so I transcribed them. DEP will certainly have the original documents.)*

Maine Coastal Program Scenic Assessment Handbook

*MCP Strategic Outlook 2021_2025

Coastal Program Scenic Inventory Program

“Scenic Inventory Mainland Sites of Penobscot Bay Aug 1990

“Owls head to Camden Hills State park” excerpt from Scenic Inventory Aug 1990

News story

“Strong nor'easter rips Rockland Harbor” PenBay Pilot news 10/27/21