

September 27, 2019

Jami MacNeil
Project Manager, Environmental Specialist II
Bureau of Land Resources
Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333

RE: Spinney Permit Application for Permanent Boat Ramp and Ramp/Dock/Float with Permanent Pilings on Lower Reach of the Sheepscot River

Dear Ms. MacNeil,

Attached please find the Public Comment submitted by me and my husband, Bailey Bolen. We are applicant Jeff Spinney's abutting property owners.

If our comments and concerns raise any questions, please do not hesitate to contact us:

Bailey Bolen, cell (843) 296-6327 or bailenbolen@gmail.com or Carol Ervin, cell (843) 906-6351 or cervin@ycrlaw.com.

Thank you for your time and consideration of this matter,

Sincerely,


Carol Ervin

PUBLIC COMMENT CONCERNING TIER 3 INDIVIDUAL NATURAL RESOURCE PROTECTION ACT PERMIT APPLICATION

Submitted by: Carol Ervin and Bailey Bolen
Applicant: Jeff Spinney, 126 Golden Ridge Road, Alna, Maine
Proposed Activity: Permanent Boat Launch and Separate Dock/Ramp/Float with Permanent Support Piling
Resource: Sheepscot River

We (Carol Ervin and Bailey Bolen) own the property at 99 Angier Road, Alna, Maine 04535. Our property abuts Mr. Spinney's proposed activity and we provide the following public comments and objections below. We also request:

1. That a draft of the license decision be provided to us pursuant to Section 18 of the DEP Administrative Rules. We request that the draft be provided pursuant to email at cervin@ycrlaw.com and baileybolen@gmail.com.) If the draft response cannot be provided by email, after October 12, 2019, any U.S. mail should be sent to us in care of Carol B. Ervin at YCR Law, 25 Calhoun Street, Suite 400, Charleston, S.C. 29401.
2. That reasonable notice of the date final action is expected by the DEP on the draft license decision be provided to us. We request that the notice be provided to us via email at cervin@ycrlaw.com and baileybolen@gmail.com). If notice cannot be provided via email, after October 12, 2019, any U.S. mail should be sent to us in care of Carol B. Ervin at YCR Law, 25 Calhoun Street, Suite 400, Charleston, S.C. 29401.

INTRODUCTION

We have owned our property at 99 Angier Road in Alna, Maine since 2009. We saw this property by accident, while in the area visiting a friend and were not looking to buy anything. We fell in love with the property and did not shop around at all, which is a testament to how strongly we felt and still do. The primary pull for us was and is its location on the beautiful lower reach of the Sheepscot River.¹ This area of the Sheepscot River is pristine, natural and quiet. We paddle the river by canoe or kayak whenever we can, accessing the river from our property or at Sheepscot Village near the bridge crossing the Dyer River. Over the 10 years we have owned our property we have never seen any power boat² on the lower reach of the Sheepscot River.

We are not against power boats or power boat enthusiasts. In fact, we love power boats ourselves. We own a 17 foot Dusky and a 24 foot Northcoast. We frequently power boat on the

¹ By "lower reach" of the Sheepscot River, we mean the section from Head Tide to the reversing falls below the bridge in Sheepscot Village.

² We use the term "power boat" to refer to boats, including jet skis, that must be launched with a trailer, cannot be transported via car-top, are typically powered by large engines and can be operated at high speeds.

Sheepscot River, but have never considered doing so in the lower reach of the Sheepscot. One reason is the risk of damage to the boat at the reversing falls or from the boulders in the river above the falls. Just as important, however, is that we recognize that power boating on this section of the river would negatively impact the character of the river and the traditional and existing use of the river.

We strongly urge DEP and the Army Corps of Engineers (“Corps”) to protect the nature and character of the lower reach of the Sheepscot River and the way people have used and continue to enjoy it.

COMMENTS AND CONCERNS

The section of the Sheepscot River in question is classified under Maine law as Class AA water quality.³ Class AA is the highest classification and is applied to “waters which are outstanding resources and which should be preserved because of their ecological, social, scenic or recreational importance.” Class AA classification is reserved for habitat characterized as “free-flowing and natural”.⁴ The State’s objective behind the water classification is “to restore and maintain the chemical, physical and biological integrity of the State’s waters and to preserve certain pristine State waters.”⁵ We believe the proposed activity creates significant risk for negative impact and degradation of the lower reach of the Sheepscot River’s beauty, wildlife and fish habitat, shoreland and intertidal plants and the enjoyment of this section of the river as it has been used for centuries. Our comments and concerns are summarized below:

1. The permit application contains inaccuracies and does not contain reports prepared by a qualified wetland scientist. All information provided in the permit application about the proposed activity is prepared by the applicant, Jeff Spinney.
2. The proposed activity will allow and promote motorized boat activity for boats 17 feet and larger on the lower reach of the Sheepscot River. The described activity in the permit application also anticipates motorized boat activity for such boats on the Dyer River near the Sheepscot Village and upstream from there. Boat traffic on the lower reach of the Sheepscot River has been limited to canoes, kayaks and other car-top type boats. Motorized activity by trailer-launched boats or jet skis would have

³ 38 M.R.S.A. Section 467(17) A (3): states as follows:

Section 467 Classification of major river basins

All surface waters lying within the boundaries of the state that are in river basins having a drainage area more than 100 square miles that are not classified as lakes or ponds are classified in this section.

...

17. Sheepscot River Basin

A. Sheepscot River, main stem

...

(3) from Route 17 to tide water – Class AA.

⁴ 38 M.R.S.A. Section 465 (1).

⁵ 38 M.R.S.A. Section 464 (1)

unreasonable negative impacts on the beauty, character, and use of the Sheepscot River and potentially the Dyer River as well.

- a. The proposed activity will significantly increase the risk of exotics being introduced into the Sheepscot River with large motorized boats being launched into and out of the river at this point (such as zebra mussel and/or potentially invasive plants).
 - b. The proposed activity will significantly increase the risk of negative impact on the wildlife activity on the Sheepscot and Dyer Rivers.
 - c. The permanent concrete planking (reinforced with stone bedding with fabric and rip rap) boat launch is likely to cause siltation along the structure, negatively impacting the Sheepscot River.
 - d. The proposed activity and its form, scope and scale will negatively impact the scenic and aesthetic views of the Sheepscot River.
3. The permanent concrete boat launch referenced in the permit application and the permanent pilings for the aluminum ramp to the dock and floats is prohibited under the Town of Alna's Shoreland Zoning Ordinance.

Each of these concerns is addressed more fully below.

I. THE PERMIT APPLICATION CONTAINS STATEMENTS WE DO NOT AGREE WITH AND DOES NOT CONTAIN A REPORT PREPARED BY A QUALIFIED WETLAND SCIENTIST

The Activity Description in Attachment 1 of the permit application states the proposed activity is to "modify an existing boat launch area on the Sheepscot river". There is no permitted "existing boat launch area".

The Activity Description goes on to state that the "existing pier, ramp and float (approx. 10' South of the existing ramp) has been at this location for approximately 20 years and used seasonally." We believe Mr. Spinney is mistaken. The only permit on record from the town of Alna to Mr. Spinney for a Shoreland Zoning Ordinance activity was issued on May 6, 2003.⁶ Specifically, the Town of Alna approved a permit for a small dock/ramp/float (cost of approximately \$100), temporary ("seasonal") structure in 2003.

Surprisingly, the Activity Description states:

Access to the site is gained via an existing private road from the Golden Ridge Road and it is located on a 120 acre parcel, tax map R-4, 21.

⁶ Permit for Seasonal Dock/Ramp (Seasonal) issued to Jeff Spinney on May 6, 2003, attached as Exhibit 1.

We own parcel 21 (in the shape of a boot) on Tax Map R-4.⁷ We have not agreed to, and will not allow Mr. Spinney to build the proposed structures on our property. Further, according to tax map, Mr., Spinney's two parcels of land are a total of 105.6 acres rather than 120 acres.

We would not characterize the Sheepscot River as "protected energy/low energy" water body with "little or no current and restricted wind" in Appendix B, as it has a strong tidal current and plenty of wind blows down the river.

Particularly concerning is the fact no site condition report (attachment 9 to the Permit Application) was prepared by a qualified wetland scientist. The Eligibility Criteria for Title 3 NRPA Individual permit application states as to the site condition report:

NOTE: Unless you have expertise in delineating wetlands and conducting wetland assessments, the Department requires that you hire a consultant/wetland scientist to provide assistance in completing this attachment.

The site condition report is required to include:

- A description of existing resource characteristics including water depths, vegetation and fauna.

As to this requirement, Mr. Spinney's Attachment 9 consists of 3 1/2 lines, stating only:

The Sheepscot river, approx. 2 miles North of the Sheepscot Bridge. Approx water depth at low tide is 3-4' and at high tide is approximately 10-12" (sic). The river width is approx. 225' at this location. Shorelines is well established forest on both sides of river, forest floor at the location is flat and dry.

- Our observation is that the river width is closer to 175' at high tide and 70-80' at low tide. The width of the river should be taken into consideration when considering the impact of the proposed structures on scenic and aesthetic values. The width of the river is also relevant when considering safety risks when power boats are on the river with paddlers or rowboats.
- Insufficient information is provided about rare plants, natural communities, or wildlife habitat, as would be required of a qualified wetland scientist.
- A description of the methods used to delineate the resource boundaries and a copy of data sheets completed during the delineation. . . .
 - No such delineation was attached.
- For activities impacting a **river, stream or brook**, also submit the following:
 - A scale drawing of the project location showing 2-foot contour intervals and including the location of all protected natural resources, roads, structures, bedrock outcroppings, area of extraction (if applicable), point gravel bars (if applicable), cross-section locations and the location of the 100- year

⁷ See, Tax Map R-4, attached as Exhibit 2.

floodplain as estimated using the most recent Flood Insurance Rate Map (FIRM).

- No scale drawing with all the important components was attached.
- A description of the stability of the stream banks directly upstream, through and directly downstream of the project area, including riparian vegetation.
 - No description of the stability of the river banks is provided, other than “natural erosion due to trees naturally toppling and winter ice flows.”

Mr. Spinney is not a professional wetland scientist. He cannot be expected to address important environmental issues about the specifics and impact of the proposed activity, and his permit application does not do so.

II. POWER BOAT ACTIVITY PROMOTED BY THE PROPOSED CONCRETE BOAT LAUNCH IS ILL SUITED TO THE CHARACTER AND USE OF THE SHEEPSCOT RIVER ABOVE THE REVERSING FALLS

The lower reach of the Sheepscot River is a unique river segment. It has remained in a natural state and is used today in the same ways it was used by Native American Indians before Europeans arrived in Maine centuries ago. The proposed activity risks changing the character and use of the Sheepscot River completely and forever. The purpose of the proposed structures is to allow launching and docking of power boats on the Sheepscot River.

The Activity Description submitted by Mr. Spinney states “[t]his property 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 area, the camping area, the dock and the boat ramp.” It also states “This club is a group of approximately 25 local area folks who use the river for a variety of activities in the spring/summer/fall. Swimming, boating, duck hunting, fishing are the most common things that our members do in this section of river Sheepscot and its tributary the Dyer river.”

The application is for an Individual permit under the Natural Resources Protection Act (NRPA). We have scoured the NRPA for any reference to “common or shared” structures. As the NRPA sets out nothing about them or the criteria for such a structure, it would be unfair to us and any other interested persons to apply a more flexible standard than that which applies to an Individual permit.

We are concerned that a permanent concrete boat launch will promote power boating in the lower reach of the Sheepscot River, where it has previously occurred only rarely, if ever. As described, the boat launch will be used by a recreational club of 25 members in exchange for payment of annual dues. The permit application does not identify the club’s name, its members, where they live and whether they would have any right to file a permit application for the proposed structures. Also, no information is stated about whether the club has a formal structure.⁸ To the extent “common use” of the new structures is relevant to the review by DEP or the Corps,

⁸ Mr. Spinney told us when we met with him at the site that the recreation club is registered as a LLC.

we ask you to explore these questions, the purpose of the club and the potential for growth of the number of persons who could use the proposed launch and dock/ramp/floats. Since money is paid by the club members to access these proposed permanent structures, we also ask that you consider whether more stringent criteria applies to the proposed activity.

The club can expand in membership. In turn, the launch could provide access to untold numbers of power boats on the lower reach of the Sheepscot River (and to the Dyer River). We believe this conflicts with Maine's intent that any permitted activity not "unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses."⁹

During the 10 years we have owned our property on the Sheepscot River, boating activity from the uppermost reaches of the Sheepscot River to the reversing falls and the Dyer River has been limited to canoes and kayaks. Motorized boat activity upstream of the reversing falls rarely if ever occurs because the reversing falls and shallow water near Sheepscot Village make it impossible for power boats to cross the falls, except at high tide – and even then it involves significant risk of damage to the boat. Another reason boating activity above the reversing falls is limited to paddlers is that navigation is hazardous to power boats. There are numerous boulders and rocks in the lower reach of the Sheepscot River that are submerged at high tide and make boating risky for watercraft other than relatively slow moving and maneuverable canoes, kayaks or other car-top type boats. It should be noted that NOAA does not chart the depth of the waters of the Sheepscot River some distance below the reversing falls, which indicates that navigating the Sheepscot River above the reversing falls is hazardous to power boats.¹⁰

Additionally, the proposed aluminum ramp/dock/float will extend into the river at least 24 feet. If a large power boat was docked at the float, the proposed structure and the docked boat would block half of the river. This would not only mar the beauty at the site, but also pose navigational obstruction to paddlers, given the boulders along the shore opposite the site.

Denial of the proposed concrete boat launch will not deny access to the Sheepscot River, boating or fishing. There are a number of places where Mr. Spinney and his friends can launch canoes, kayaks, or other car-top type watercraft and from they can fish without the need for a boat launch:

1. Sheepscot Village near the Grange
2. Kings Mills
3. Coopers Mills
4. Head Tide
5. Drucker Preserve
6. Bass Falls

In short, Mr. Spinney and the general public can easily get access to the lower reach of the Sheepscot for fishing and boating - without a boat launch. For that matter, fishing can be done

⁹ 38 M.R.S.A. Section 480-D(1).

¹⁰ See, NOAA Chart 13293. A digital image of the portion of the chart depicting the bridge at Sheepscot Village and waters upstream of the reversing falls in NOAA Chart 13293 is attached at Exhibit 3.

from the banks of the Sheepscot River at the site in question. One can cast from the bank across the river to the other side with a fly rod or spinner.

There are also multiple locations where power boats can be launched to boat or fish on the Sheepscot River where shallow water, tides and uncharted boulders are not a concern. Public access to the Sheepscot River for motor boats is available at the Wiscasset town landing on Middle Street (Old Ferry Landing) is free and not far away, as are points on Chewonki Neck, Eton Farm property, Cushman, Creamery Pier, and the Wiscasset Middle School.¹¹ In short, there is no need for the proposed permanent boat launch. Further, there is no need for the size of the structure at the proposed ramp/dock/floats under an Individual permit.

**A. LAUNCHING OF POWER BOATS AND POWER BOAT ACTIVITY
INCREASES THE RISK THAT EXOTIC SPECIES AND POLLUTANTS WILL
BE INTRODUCED INTO THE SHEEPSCOT RIVER**

Power boat activity above the reversion falls risk significant adverse environmental impacts including introduction of exotic species and pollutants, adverse impact on significant wildlife and wildlife and plant habitat and increased siltation at the concrete launch site and the permanent pilings for the proposed aluminum ramp. As mentioned above, the entire stretch of the Sheepscot River from Route 17 to tidewater is classified as Class AA water quality. This section of the river is pristine, natural and free flowing. It is also protected from environmental degradation by Section 480-D of the NRPA, including but not limited to, impact from soil erosion, harm to habitats and fisheries, interference with natural water flow, lower water quality and dredging.¹² To achieve this objective, the State's goals include the elimination of pollutants into the water of the State where appropriate.¹³

Please find attached a map captioned Beginning With Habitat published by Maine Natural Areas Program (MNAP).¹⁴ The northern boundary of our property is depicted on the map by a blue stream that flows into the Sheepscot River. We own the property to the south of the stream abutting the Sheepscot River. The map shows that our property in that area is noted for Rare Plant Locations and Natural Communities. We understand the map's reference to "Natural Communities" is consistent with Critically Imperiled Natural Community S(1) and Imperiled Natural Community S(2), as those terms are defined in the Wetland and Waterbodies Protection Act.

We also attach an article titled Focus Areas of Statewide Ecological Significance Lower Sheepscot, which addresses the area of the Sheepscot River impacted by the proposed activity.¹⁵ As indicated in the article, the Rare and Exemplary Natural Communities in this area of the

¹¹ See, Town of Wiscasset webpage.

¹² 38 M.R.S.A. Section 480-D(2)-(5), and (9).

¹³ 38 M.R.S.A. Section 464 (1)(A).

¹⁴ See, map captioned Beginning with Habitat, published by Maine Natural Area Program, attached as Exhibit 4.

¹⁵ Focus Areas of Statewide Ecological Significance – Lower Sheepscot River, attached as Exhibit 5.

Sheepscot River are: Brackish Tidal Marsh. The “Natural Communities” denoted on the Beginning with Habitat map as present on our property are Brackish Tidal Marsh. Brackish Tidal Marsh is a Natural Community noted to be of Special Concern in Maine.¹⁶

The article states as follows about brackish tidal marshes:

(They) contain both freshwater and brackish water species, often in bands corresponding to tidal exposure. Tall rushes and bulrushes often predominate over extensive mid-elevation flats. At the lower elevations, rosette-forming herbs, such as lilaeopsis and tidal arrowhead, may be common on the mudflats. Near the high tide line, there may be a fairly narrow zone of muddy gravel or rock shore sparsely vegetated with low herbs, including some rare species such as Long’s bitter-cress or water-pimpernel.

The article also notes that rare plants, including Parker’s pipewort (*Eriocaulon parkeri*), estuary bur marigold (*Bidens hyperborea*), pygmyweed (*Crassula aquatica*), mudwort (*Limosella australis*), spongy arrowhead (*Sagittaria calycina var. spongiosa*) and horned pondweed (*Zannichellia palustris*) are “scattered throughout the muddy riverbanks of the freshwater tidal section, from Dock Road in Alna southward for over a mile.”

The launch and removal of power boats from the Sheepscot River will significantly increase the risk of exotic organisms being introduced to the Sheepscot River, such as zebra mussels or potentially invasive plants. Additionally, power boat activity will increase the risk that pollutants will be discharged from the boats directly into the river or washed into the river as runoff from boats as they are launched or being trailered down the rough road to the launch. To protect the State’s waters, particularly rivers classified as Class AA, Maine’s goals include the elimination of pollutants into the water of the State where appropriate.¹⁷

The risk of pollutants from power boats in the Sheepscot River cannot be eliminated given the stated purpose for the concrete boat launch and dock/ramp/float for to be used by a minimum of 25 different boaters.

We are also well aware of the damage that can be caused to marsh grass exposed to power boat activity. We are concerned about the impact that the wake created by power boats risks damage to the brackish tidal marsh along our property and elsewhere along the lower reach of the Sheepscot River.

A. POWER BOAT ACTIVITY ON THE LOWER REACH OF THE SHEEPSCOT RIVER CREATES RISK OF NEGATIVE IMPACT ON SIGNIFICANT WILDLIFE ACTIVITY AND FISH HABITAT

We are also concerned that the proposed activity will have a negative effect on significant wildlife habitat and requires review under the Significant Wildlife Habitat Rules.

¹⁶ See, p. 5 of Exhibit 5, describing the status as Special Concern, noting brackish tidal marsh is rare in Maine, based on available information, although not sufficiently rare to be threatened or endangered.

¹⁷ 38 M.R.S.A. Section 464 (1)(A)

Under the Significant Wildlife Habitat Rules, alteration of the habitat and disturbance of subject wildlife must be kept to the minimum amount necessary and the application must be denied if the activity will have an unreasonable impact on protected natural resources or the subject wildlife.¹⁸

Tidal Wading Birds and Waterfowl Habitat have been identified along the relevant section of the river and around the marshes of much of the tidal portion of the Sheepscot River. These areas are protected as Significant Wildlife Habitat under the NRPA¹⁹

We often see bald eagles from our property. Last week Bailey Bolen looked out from the kitchen window at 99 Angier Road and saw a bald eagle dive into the Sheepscot River and struggled to fly off with a large striper. Bald eagles are reportedly “extremely sensitive to disturbance during their nesting season. Any activities near their nests or within their nesting territory during this period may cause nest failure or may even cause adults to abandon the nest.”²⁰

The Sheepscot River is one of eight rivers that provide essential spawning grounds for the endangered native Atlantic salmon. The dam at Head Tide has recently been restructured to promote the free flow of the river so they can more easily return upstream to spawn. We ask DEP and the Corps to consider the impact of the power boat activity the proposed concrete boat launch will promote on this stretch of the Sheepscot River, its fisheries and other plant and wildlife habitat.

B. A PERMANENT CONCRETE BOAT LAUNCH IS LIKELY TO CAUSE SILTATION AND EROSION, NEGATIVELY IMPACTING THE SHEEPSCOT RIVER, ITS FISH AND WILDLIFE HABITAT.

Any permanent installation of concrete planking on the river will likely cause significant siltation in the tidal waters of the Sheepscot. There is significant tidal action in this area of the Sheepscot River. The southern edge of our property is only a few feet from the location of the proposed permanent power-boat launch, and a few yards from the proposed ramp/float structure.

We understand the environmental impacts of sedimentation and erosion in tidal waters includes: loss of important or sensitive aquatic habitat, decrease in fishery resources, changes in fish migration, loss of wetlands, nutrient balance, etc. We are concerned siltation and erosion caused by the proposed structures could negatively impact the brackish tidal marshes upstream on our property. We are also concerned that the spawning habitat of the endangered native Atlantic salmon could be affected by siltation or erosion at the structures proposed in the permit. In other words, that sedimentation from the silt or erosive effects could be carried by the tidal currents and end up smothering salmon the eggs or other river organisms.

The sediment load in the river can be increased by construction on river banks. We are concerned that even if some steps are taken to minimize siltation and erosion, the tidal current against the permanent boat launch will cause excessive siltation and sediment load due to erosion and runoff. We understand that construction on the banks of a river often exposes or loosens top

¹⁸ See, 3(B) Minimal Alteration of Chapter 335: Significant Wildlife Habitat Rules (emphasis added).

¹⁹ See, p. 3 of Focus Areas of Statewide Ecological Significance Lower Sheepscot, attached as Exhibit 5.

²⁰ See, p. 4 of Focus Areas of Statewide Ecological Significance Lower Sheepscot, attached as Exhibit 5.

soil which is then easily carried into the river by rainfall and runoff. In addition, sediment transport can introduce and spread pollutants downstream or upstream with the tide.

III. THE DOMINANCE AND SCALE OF THE PROPOSED ALUMINUM RAMP/DOCK/FLOATS WILL NEGATIVELY IMPACT THE SCENIC AND AESTHETIC VIEWS OF THE SHEEPSCOT RIVER.

There are no structures on the Sheepscot River within sight of the proposed activity. Standing on the southern edge of our property, a few feet from the proposed activity, looking in either direction we see an uninterrupted view of a beautiful tidal river.

The proposed aluminum ramp is 4' x 35'. The aluminum ramp which will be anchored to the shore by an onshore "pier". Although it is not clear in the Activity Description, Mr. Spinney confirmed that the two 12-16 foot pilings on the edge of the river supporting the waterside of the onshore pier will be permanently installed with concrete and rip rap at the HAT line. These 12-16' pilings will be cross braced and also braced onto two pilings anchoring the landward side of the onshore pier.

The waterside end of the aluminum ramp will be supported by a 5' x 16' float, to which another 8' x 32' float would be attached. The 5' x 16' ramp support float and the attached 8' x 32' float will extend at least 24' into the river at high tide. Assuming the river is 175' wide at high tide, the structure will extend across more than one seventh of the width of the river. Assuming the width of the river is 80' at low tide, the aluminum ramp's supporting float and the 8 x 32 float will extend across more than a third of the Sheepscot River. The dominance and scale of the proposed activity is too great a detriment to the scenic and aesthetic value of this lovely stretch of the Sheepscot River.

Mr. Spinney assured us it is his intention to pull the proposed ramp and floats out at the end of each summer season. If the permit does not state that the permit is seasonal, (i.e. that the aluminum ramp and floats must be removed at the end of the summer season), however, he could change his mind. Also, any subsequent owner of the property would have the option to simply suspend the ramp with the gantry and leave it sticking out over the river, marring unreasonably the beauty of the site and that stretch of the river.

IV. THE PROPOSED PERMANENT CONCRETE BOAT LAUNCH AND THE PERMANENT PILINGS RAISE ISSUES OF COMPLIANCE WITH THE TOWN OF ALNA'S SHORELAND ZONING ORDINANCE

We believe that Mr. Spinney's permit application for permanent structures in the Sheepscot River raises issues as to compliance with the Town of Alna's Shoreland Zoning Ordinance.

For all the reasons stated above, we believe that the permanent concrete boat launch is inconsistent with the existing condition, use and character of this section of the Sheepscot River and prohibited by the Ordinance. The large size of the proposed ramp/dock/float structure and the permanent piling to support it is also inconsistent with the condition, character and use of this area of the river.

CONCLUSION

Under Maine state law, the Sheepscot River area impacted by the proposed activity is designated as Class AA certified. We urge the denial of the permit application for a permanent power-boat launch on the Sheepscot River for the foregoing reasons. We also urge: the denial of the application for permanent pilings to support the aluminum ramp and that any ramp/dock/float permitted be seasonal and limited to the size Individual use on a river segment of this character.

In closing, we feel each individual comment and concern raised herein provides substantial ground to deny the application. If Mr. Spinney wished to amend his application, we would have no objection to a seasonal/temporary Individual recreational dock/float of reasonable size, with no permanent supporting pilings and no permanent boat launch, assuming the structure is also approved by the Corps, DEP and the Town of Alna.

BAILEY BOLEN

CAROL ERVIN

Bailey Bolen
9-27-2019

Carol Ervin 9/27/2019

EXHIBIT 1 2003 PERMIT

Town of Alna Application for Permit

P-4-21A

Landowner Jeff Spinney
 Sewage Disposal Permit No. _____
 Location of Property 126 Golden Ridge Rd. (Road)
 Town Tax Map Page R4 Lot 21A
 Shoreland Yes No
 Tree Growth, Farm/Open Spaces Yes No
 Electric Service on Site Yes No
 Size of Lot 109 acres
 Deed Recorded: Book _____ Page _____
 List other buildings on this lot: Honey house

I Site Plan must accompany this application and include:

- a. Dimensions of property
- b. Exact location of proposed and existing buildings and distance from lot lines
- c. Location of well/spring and septic system
- d. Location of driveway & access roads
- e. Names of abutters, roads, streets, water bodies and their location Sheepscot River

Proposed project:
 single family dwelling mobile or modular home
 accessory building _____
 business _____
 renovation porch/deck addition
 other (be specific) Backyard Plant (Seasonal)
 Estimated Cost: \$100+

II Building Plans must accompany this application and include:

- a. Scale plans of foundation
- b. Scale plans of floors
- c. Scale plans of elevations of all sides
- d. Plans must show location of plumbing fixtures, electrical outlets/fixtures
- e. Type of siding
- f. Roofing material
- g. Type of heating system
- h. Septic system design

Fee schedule: \$2.00 first \$1,000/\$1.00 each additional \$1,000/\$10.00 minimum fee. Make check to TOWN OF ALNA.

Permit No: _____
 Date Issued: _____
 Check No: _____ \$10.00 Cash \$100

III Covenants or Deed Restrictions
 Yes No

Permit Valid for 1 year, work must be substantially completed within 2 years of issue or new permit needed.

To the best of my knowledge, all information on this application is true and correct. All proposed uses will be in conformance with State and Local Land Use Laws and Regulations. I agree that the Code Enforcement Officer may enter on the premises to inspect all phases of construction:

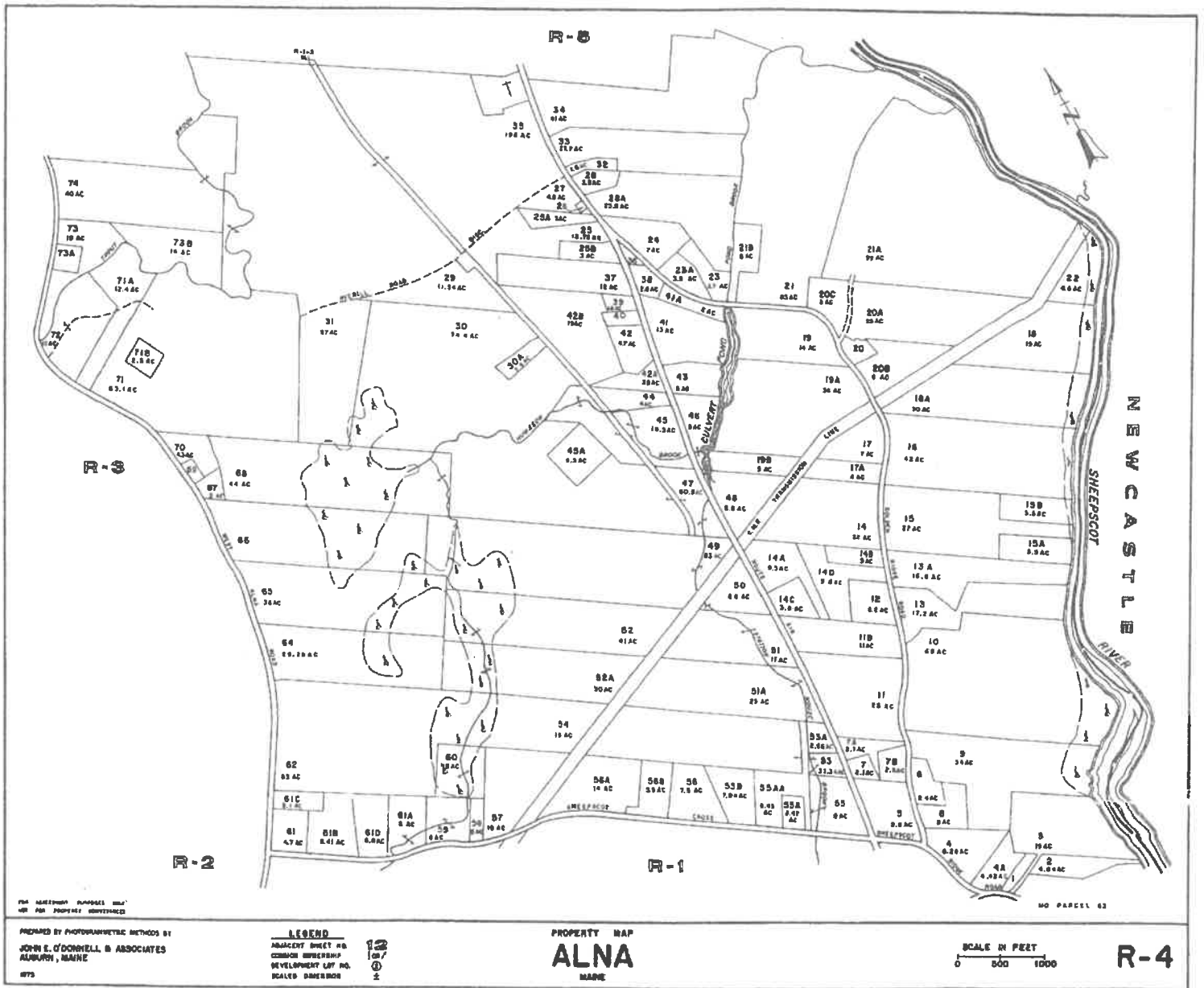
Signature of Applicant or Agent [Signature] Date 2/6/03
 Address 126 Golden Ridge Rd. Phone 586-5367
Alna, Me 04835

Date received by C.E.O.: _____
 Application Approved 5/5/03 Denied _____ Forwarded to Planning Bd. _____
 Reason(s) for denial _____

- 1 - Orig.
- 2 - C.E.O.
- 3 - Planning Bd.
- 4 - Appl.

[Signature]
 Code Enforcement Officer Chairman
 Planning Board

EXHIBIT 2 TAX MAP R-4



PREPARED BY PHOTOGRAMMETRIC METHODS BY
 JOHN E. O'DONNELL & ASSOCIATES
 ALBURN, MAINE
 1975

LEGEND
 ADJACENT SHEET NO.
 COMMON BOUNDARY
 DEVELOPMENT LOT NO.
 SCALED DIMENSION

12
 100'
 100'
 2

PROPERTY MAP
ALNA
 MAINE

SCALE IN FEET
 0 500 1000

R-4

EXHIBIT 3 UPPER PORTION OF NOAA CHART 13293

... ..

REMARKS

... ..

LOGARITHMIC SPEED SCALE

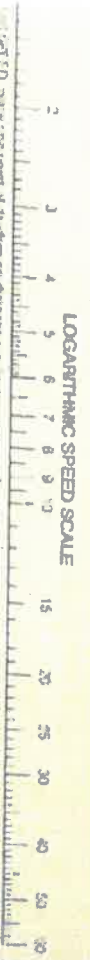
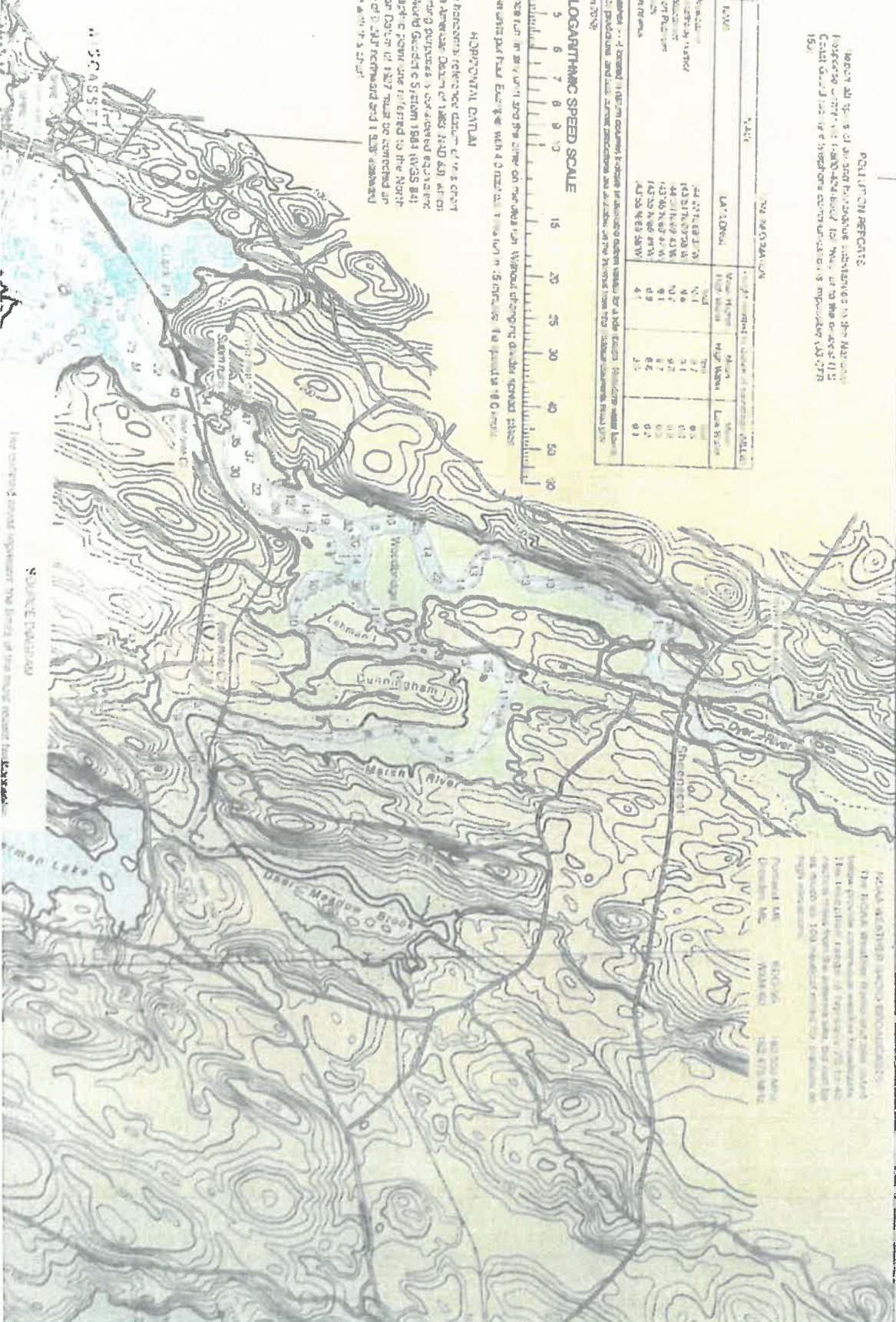


Table with columns: Name, Lat. (DMS), True Height, Mean Height, High Water, Low Water, Mean Low Water.

ADDITIONAL DATA

The horizontal reference datum of 1983 is based on the North American Datum of 1983 (NAD 83) as used for engineering purposes...



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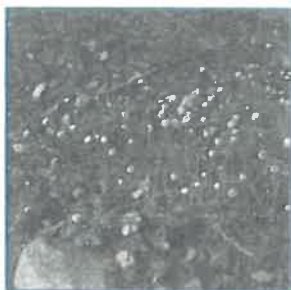
REMARKS

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EXHIBIT 4 MNAP “BEGINNING WITH HABITAT” MAP

**EXHIBIT 5 ARTICLE RE “Focus Areas of Statewide
Ecological Significance – Lower Sheepscot River**

Lower Sheepscot River



WHY IS THIS AREA SIGNIFICANT?

The Sheepscot River in Alna and Newcastle has long been recognized as an area of ecological significance. This largely intact corridor of fresh, brackish, and salt marshes, though well represented nearby in the Kennebec Estuary, is uncommon elsewhere in Maine. Moreover, the Sheepscot River wetland complex supports nesting bald eagles, several rare plant species, a rare freshwater mussel species, and uncommon salt marsh sparrows.

OPPORTUNITIES FOR CONSERVATION

- » Educate recreational users about the ecological and economic benefits provided by the focus area.
- » Encourage best management practices for forestry, vegetation clearing, and soil disturbance activities near significant features.
- » Encourage town planners to improve approaches to development that may impact focus area functions.
- » Restore aquatic habitat connectivity by repairing improperly installed culverts and stream crossing structures.
- » Maintain intact forested buffers along water bodies and wetlands to protect water quality and provide valuable riparian habitat for wildlife.
- » Monitor and remove invasive plant populations.

For more conservation opportunities, visit the Beginning with Habitat Online Toolbox: www.beginningwithhabitat.org/toolbox/about_toolbox.html.

Public Access Opportunities

- Sherman Lake Wildlife Management Area, MDIFW
- Sherman Lake Picnic Area, MDOT
- Marsh River Preserve, SVCA

Photo credits, top to bottom: ME Natural Areas Program, ME Natural Areas Program, Ethan Nedeau, Paul Cyr, Tom Arter



Rare Animals

- Brook Floater
- Brown Snake
- Least Bittern

- Atlantic Salmon
- Wood Turtle
- Saltmarsh Sharp-tailed Sparrow

Rare Plants

- Estuary Bur-marigold
- Horned Pondweed
- Mudwort
- Parker's Pipewort

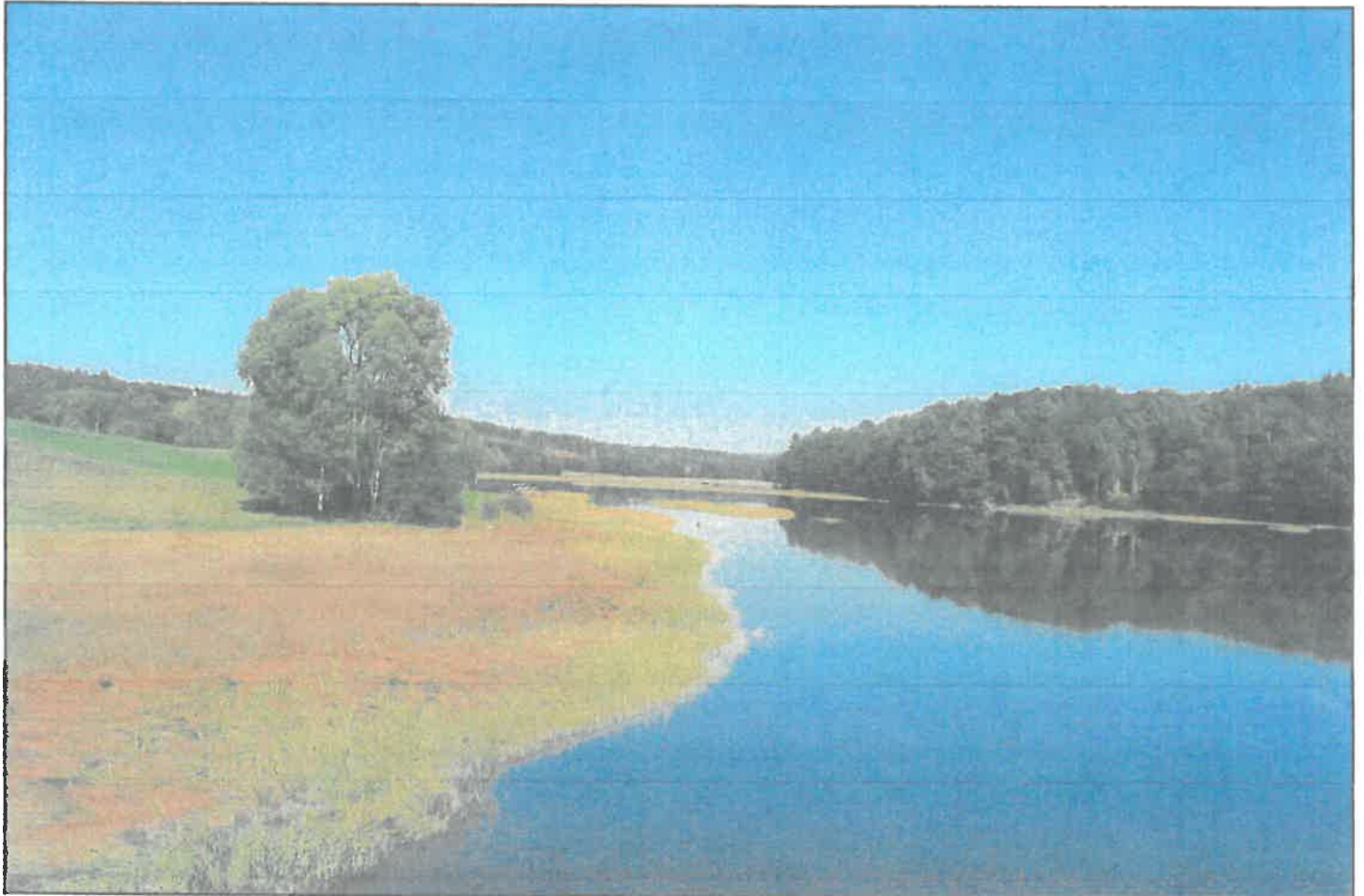
- Pygmyweed
- Saltmarsh False-foxglove
- Spongy Arrow-head

Rare and Exemplary Natural Communities

- Brackish Tidal Marsh

Significant Wildlife Habitats

- Inland Wading Bird and Waterfowl
- Tidal Wading Bird and Waterfowl
- Deer Wintering Areas



Northward view of the Sheepscot River from the Sheepscot Village Bridge, Sheepscot Valley Conservation Association

FOCUS AREA OVERVIEW

From north to south, the river's habitats grade from freshwater riverine in Alna Village, to freshwater tidal near Dock Road, to brackish and salt marshes further downriver. In the upper section of the river, dominant freshwater marsh plants include pickerelweed (*Pontederia cordata*), arrow-head (*Sagittaria latifolia*) and bulrushes (*Schoenoplectus pungens* and *S. tabernaemontanii*). Further to the south, dominant salt-marsh species include salt-marsh bulrush (*Bolboschoenus maritimus*), cordgrass (*Spartina alterniflora*), and salt hay (*Spartina patens*). The sharpest area of transition is through 1/4 mile of shallow stream riffles, where the river grade drops a few feet.

The freshwater portion of the River, within and upstream of Alna village, supports the globally uncommon **brook floater mussel** (*Alasmidonta varicosa*). Brook floaters were found in two locations and may occur where suitable gravel/cobble habitat exists in the river. Currently listed as a Special Concern species in Maine, the brook floater is very uncommon and rarely found in abundance at any site. It is also declining throughout its range, and Maine may hold some of the last best populations of this species. The freshwater portion of the focus area also provides spawning and rearing habitat for the Federally Endangered **Atlantic salmon** (*Salmo salar*).

Rare plants, including Parker's pipewort (*Eriocaulon parkeri*), estuary bur marigold (*Bidens hyperborea*), pygmyweed (*Crassula aquatica*), mudwort (*Limosella australis*), spongy arrowhead (*Sagittaria calycina* var. *spongiosa*) and horned pondweed (*Zannichellia palustris*), are scattered throughout the muddy riverbanks of the freshwater tidal section, from Dock Road in Alna southward for over a mile.

In the southern portions of the focus area, the 150-acre Deer Meadow brackish tidal marsh, located off the Marsh River in Newcastle, supports nearly 1,000 rare salt marsh false foxglove (*Agalinis maritima*) plants in several small sub-populations. Other typical salt and brackish marsh plant species here include black rush (*Juncus gerardii*), the sedge *Carex paleacea*, common arrow-grass (*Triglochin maritimum*), saltmarsh bulrush (*Bolboschoenus maritima*), common three-square (*Schoenoplectus pungens*), silverweed (*Argentina anserina*), and saltmeadow cordgrass. Smooth cordgrass lines the banks of the marsh and gives the appearance of monotypic stands.

In addition to the area's significance as rare plant, mussel and salmon habitat, it also supports rare bird species. **Bald eagle** (*Haliaeetus leucocephalus*) nests have been active between

the Sheepscot Reversing Falls and railroad bridge. Moreover, two brackish tidal marshes here (Dyer River marsh and Deer Meadow marsh) were found by MDIFW biologists to support both the **salt marsh sharp-tailed sparrow** (*Ammodramus caudacutus*) and Nelson's sharp-tailed sparrow (*Ammodramus nelsoni*). Both bird species are uncommon in Maine, the former listed as Special Concern, and both are restricted to salt and brackish marshes. MDIFW biologists also detected nearly 20 other species in these salt marshes.

Tidal Wading Bird and Waterfowl Habitat has been mapped along the river and around the marshes of much of the tidal portion of the focus area. These areas provide undisturbed nesting habitat and undisturbed, uncontaminated feeding areas and are essential for maintaining viable waterfowl and wading bird populations. Smaller areas of **Inland Wading Bird and Waterfowl Habitat** and **Deer Wintering Area** have been mapped as well. These areas are protected as Significant Wildlife Habitat under the Natural Resources Protection Act.

RARE AND EXEMPLARY NATURAL COMMUNITIES

Brackish tidal marshes contain both freshwater and brackish water species, often in bands corresponding to tidal exposure. Tall rushes and bulrushes often predominate over extensive mid-elevation flats. At the lower elevations, rosette-forming herbs, such as lilaepsis and tidal arrowhead, may be common on the mudflats. Near the high tide line, there may be a fairly narrow zone of muddy gravel or rock shore sparsely vegetated with low herbs, including some rare species such as Long's bitter-cress or water-pimpernel. Sweetgale and poison ivy are often present at the upper fringes of the marsh, at or above the tidal reach.

Brackish marshes are important nesting habitat for several sparrows: Nelson's sharp-tailed sparrow and two uncommon species, the saltmarsh sharp-tailed sparrow and the seaside sparrow. These wetlands also provide foraging habitat for a large number of wading birds including rare species such as the great egret and glossy ibis. The New England siltsnail inhabits coastal marshes and small tidal rivers where the water ranges from fresh to upper brackish. The spartina borer moth, whose historic range was along the immediate coast throughout New England, likely inhabited tidal marshes with sizeable populations of freshwater cordgrass, its larval host plant.

CHARACTERISTIC SPECIES

The **brook floater** (*Alasmidonta varicosa*) is a freshwater mussel of Special Concern in Maine that is found among rocks, gravel, and sand in creeks and small rivers. In Maine, this species is generally found among rooted aquatic vegetation in nutrient-poor streams. The brook floater has experienced significant declines throughout its range, and many populations have been extirpated. Even where it is found, populations often consist of just a small number of aging individuals. Maine may hold some of the best remaining populations of this species anywhere in its range.

Ecological Services of the Focus Area

- Nursery for juvenile fish and shellfish.
- Supports regional biodiversity by providing habitat for rare plants, animals, and natural communities.
- Major feeding area for myriad bird species.

Economic Contributions of the Focus Area

- Supports commercial forestry opportunities.
- Attracts tourism for wildlife observation, paddling, hunting, and angling.
- Contributes to recreational value of the area, including nearby coastal areas, by protecting water quality, fisheries, and wildlife habitat.

Bald eagles (*Haliaeetus leucocephalus*) were nearly extirpated because of widespread use of environmental contaminants that caused eggshell thinning and impaired reproductive success. With bans on the use of these contaminants and habitat protection measures, bald eagles have made a tremendous recovery. In 2009 they were removed from the state Endangered Species list. They remain listed as Special Concern in Maine. Bald eagles continue to be protected by the USFWS under the Bald and Golden Eagle Protection Act.

The Sheepscot River is one of eight rivers remaining in the US to support a wild population of the Endangered **Atlantic salmon** (*Salmo salar*). Atlantic salmon are an anadromous species, spending most of their adult life at sea, returning to their natal freshwater rivers to spawn. They require free flowing, cool, clear rivers to migrate to suitable spawning and nursery habitats found in upper river reaches. Populations of Atlantic salmon dramatically declined as culverts and dams blocked fish passage and water quality declines in streams and rivers limited habitat quality.

CONSERVATION CONSIDERATIONS

- » Although most of the rivershore below the Dock Road Bridge is narrow and without much marsh expanse, it is undeveloped and devoid of invasive species.
- » In general, threats to aquatic plants and invertebrates include hydrologic alteration (from changes in water flow or impoundment of waterways), point source pollution, development of adjacent uplands and associated water quality impacts, invasive species such as purple loosestrife, and poor timber harvesting practices.

- » Potential impacts from residential, commercial, and industrial development of the shoreline are all greatest where road access and town zoning are favorable to such development.
- » With regard to timber harvesting, strict adherence to Shoreland Zoning guidelines and Maine Forest Service Best Management Practices should help to minimize impacts to adjacent wetlands. In some areas of steep slopes or susceptible soils, it may be wise to avoid harvesting entirely within the shoreland zone.
- » Improperly sized culverts and other stream crossing structures can impede movement of fish and aquatic invertebrates effectively fragmenting local aquatic ecosystems and ultimately leading to local extirpation of some species. Dams and poorly functioning culverts were a leading cause of the decline in Atlantic salmon populations. Future management should maintain or restore the sites natural hydrology.
- » Freshwater mussels are very sensitive to contaminants and changes in habitat. Maintenance and/or improvement of water quality and habitat integrity via protection of riparian buffers is essential.
- » Any activities that may potentially degrade water quality or alter habitat type (including substrate, flow rate, water levels) should be avoided. Likewise, because larval freshwater mussels require a specific fish host, activities that may result in changes to the fish community or prevent access by fish should be avoided. Another potential threat is introduction of exotic species, such as the zebra mussel, which can out-compete and decimate native mussel populations. The local public should be informed on how to prevent accidental introduction of this invasive species into the Sheepscot River watershed. Finally, an outreach program for freshwater mussel conservation in the Sheepscot River watershed would be extremely beneficial to the conservation of freshwater mussels.
- » Eagles are extremely sensitive to disturbance during their nesting season. Any activities near their nests or within their nesting territory during this period may cause nest failure or may even cause adults to abandon the nest. In general it is recommended that a 330-foot radius be left undisturbed buffer around an eagle nest during any kind of land-clearing or timber harvest activity. Habitat protection within ¼ mile radius of a nesting site is another significant measure that can help support nesting eagles. Consult with a MDIFW biologist prior to planning

any activity that may disturb the forest around an eagle nest. Bald eagle nests are protected by the USFWS under the Bald and Golden Eagle Protection Act. Certain adjacent activities may require a permit.

- » This area includes Significant Wildlife Habitat for waterfowl and wading birds and wintering deer. Both land managers and private landowners should follow best management practices with respect to forestry activities in and around wetlands, shoreland areas, and Significant Wildlife Habitat. Maintaining wide forested buffers along all lakes, rivers, streams, and wetlands will provide valuable riparian habitat for many wildlife species. Consult with a MDIFW biologist prior to planning any activity that may disturb the forest around an Inland or Tidal Wading Bird and Waterfowl Habitat or Deer Wintering Area.
- » Current projections suggest sea level will rise at least 2 feet in the next century due to changing climate and warming temperatures. As sea levels rise, coastal habitats will begin to migrate inland. In areas where this inland migration is blocked by development these habitats will be lost. Conservation of low-lying, undeveloped uplands where coastal marshes, beaches, and other intertidal natural communities can migrate inland with sea level rise should be promoted.
- » Appropriate conservation strategies include tree growth and open space tax treatments, conservation easements, and fee ownership.



Marsh River, Sheepscot Valley Conservation Association

For more information about Focus Areas of Statewide Ecological Significance, including a list of Focus Areas and an explanation of selection criteria, visit www.beginningwithhabitat.org

RARE SPECIES AND EXEMPLARY NATURAL COMMUNITIES OF THE FOCUS AREA

	Common Name	Scientific Name	State Status*	State Rarity Rank	Global Rarity Rank
Animals	Brook Floater	<i>Alasmidonta varicosa</i>	T	S3	G3
	Brown Snake	<i>Storeria dekayi</i>	SC	S3	G3
	Least Bittern	<i>Ixobrychus exilis</i>	E	S2B	G3
	Wood Turtle	<i>Clemmys insulpta</i>	SC	S1	G4
	Saltmarsh Sharp-tailed Sparrow	<i>Ammodramus caudacutus</i>	SC	S3B	G4
	Atlantic Salmon	<i>Salmo salar</i>	E		
Plants	Estuary Bur-marigold	<i>Bidens hyperborea</i>	SC	S3	G4
	Horned Pondweed	<i>Zannichellia palustris</i>	SC	S2	G3
	Mudwort	<i>Limosella australis</i>	SC	S3	G4G5
	Parker's Pipewort	<i>Eriocaulon parkeri</i>	SC	S3	G3
	Pygmyweed	<i>Crassula aquatica</i>	SC	S2S3	G3
	Saltmarsh False-foxglove	<i>Agalinis maritima</i>	SC	S3	G4
	Spongy Arrow-head	<i>Sagittaria calycina var. spongiosa</i>	SC	S3	G3G4
Natural Communities	Brackish Tidal Marsh	Brackish tidal marsh		S3	GNR

State Status*

- E** Endangered: Rare and in danger of being lost from the state in the foreseeable future, or federally listed as Endangered.
- T** Threatened: Rare and, with further decline, could become endangered; or federally listed as Threatened.
- SC** Special Concern: Rare in Maine, based on available information, but not sufficiently rare to be Threatened or Endangered.

*State status rankings are not assigned to natural communities.

State Rarity Rank

- S1** Critically imperiled in Maine because of extreme rarity (5 or fewer occurrences or very few remaining individuals or acres).
- S2** Imperiled in Maine because of rarity (6–20 occurrences or few remaining individuals or acres) or because of other factors making it vulnerable to further decline.
- S3** Rare in Maine (on the order of 20–100 occurrences).
- S4** Apparently secure in Maine.
- S5** Demonstrably secure in Maine.

Global Rarity Rank

- G1** Critically imperiled globally because of extreme rarity (5 or fewer occurrences or very few remaining individuals or acres) or because some aspect of its biology makes it especially vulnerable to extirpation.
- G2** Globally imperiled because of rarity (6–20 occurrences or few remaining individuals or acres) or because of other factors making it vulnerable to further decline.
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	Parker's Pipewort	<i>Eriocaulon parkeri</i>	SC	S3	G3
	Pygmyweed	<i>Crassula aquatica</i>	SC	S2S3	G3
	Saltmarsh False-foxglove	<i>Agalinis maritima</i>	SC	S3	G3
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