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Dear Ms. MacNeil:

I am writing to suggest that the DEP request resubmission of Mr. Jeffry Spinney's application (August 20, 2019) to "modify an existing boat launch area" on the Sheepscot River in Alna. As an abutter I received notice of intent to file and am responding both to it and to the application filed in the Alna Town Office. As submitted, the application is sufficiently incomplete to prevent the DEP from reaching an informed decision. It could have saved Mr. Spinney, itself, and many others considerable time and effort by asking for a "second draft" on receipt of the first.

My property, purchased in 1950 by my parents and starting just north of the power lines and opposite Mr. Spinney's property there, runs one and a third miles north along the east bank of the river. I have known the area and the river since childhood and, after my parents' death in 2002, have lived here part-time and then, since 2011, full-time. In 2009 I placed a conservation easement on the 250-acre property with the Maine Woodland Owners, on whose board I now serve. In both 1980 and 1999 my father was named Maine's Outstanding Tree Farmer of the Year.

Mr. Spinney and I have had a number of valuable conversations about his proposal, and he has made clear to me that he has no intention to "wreck" the river and this part of it; has no desire for "marina," "country club," or riverside gatherings and parties; values as much as I do the quiet and serenity of this place; will do what he can to limit the scale and scope of his proposed installation; and is open to reasonable compromises. And his woods and fields and overall site are gorgeous. All that is a great deal, and I salute him for the care he has taken to work with you, the Army Corps of Engineers, and the DIFW in advancing his proposal. Indeed, I told him that, assuming all the right "boxes" had been considered and checked, and in view of the investment of time all parties have in the project, I would expect the permit to be granted. I also made clear to him that I would rather the project, as proposed, not take place. As I have looked further into the project and the application, many questions have arisen for a reconsidered application to address.

1. **The exact nature of the project is not made clear.** Although the application speaks to the intention to “modify an existing boat launch,” the notice of intent to file says, “Dock and boat ramp repair work in shoreland zone.” At other points, in the application itself, seemingly in agreement with the notice of intent to file, are one passage indicating the activity as “Boat ramp, planking/pier/ramp alteration,” and another, “The existing pier, ramp, and float (located approximately 10 feet south of the existing ramp) has been at this location for approximately 20 years and used seasonally.” But only bare riverbank – and a riverbank float -- exists there today, and nothing has been there as of 2014. “Repair” or “alteration” cannot apply. In all, over the last 20 years, under half have seen some form of dock installation. So, must we consider the application as for something new?

2. **Prior permits were not submitted and may not even exist.** Research after submission of the application has uncovered a brief application for a permit in 2003 for a dock estimated to cost \$100, signed by the chair of the Alna planning board. The application includes no drawings, dimensions, descriptions of any boat ramp, indications of whether it is for personal or group use, or references to DEP permitting. Mr. Spinney has no copies of any such materials. The initial installation was at some point crushed and washed away by the ice; hence the second proposal, made in 2012. No record exists of an application in 2012 or approval of it, and Mr. Spinney has no copies of either. Perhaps because the planning board believed the new proposal to be no more than a sturdier installation of the first, no record of it was made and no application was asked for. On the basis of photos of the two installations, 2007 and 2012, the second appears considerably larger, includes a cut in the riverbank for a boat launch, and rests on piers, clearly intended to be permanent, that were sunk into the riverbank below the high-water line. Why no permit was required, submitted, or approved is not clear, not only because the dimensions were greater and permanent piers were sunk, but also because destruction of a permitted site requires a new permit if, as appears to be the case, more than a year has passed. Did the planning board visit the site? Certainly we have no drawings, dimensions, other indications of intended use, or references to the DEP. If group use was anticipated and provisions for a boat ramp added, those count as two new “uses.” Nothing in DEP records includes any permits for this site, 2003 or 2012.

3. **No full history of the projects on this site – 2003 on -- is included, preventing full understanding of the current proposal.** Mr. Spinney says in the application that the installation goes back 20 years, but the first permit was issued in 2003, and an aerial photo shows nothing even in 2004. My own first photo dates to 2007, and there is another shot showing a dock in 2010. I have yet another photo of a larger installation in 2012. The dock disappears by 2014, with nothing until the present. A

float now rests on the bank. We need a year-by-year account of the installation – dock, floats, boat ramp – and its use – personal, group -- since issuance of the 2003 permit. We also need to know how and how often the installations were used, whether for hand-carry craft, motorboats, jet-skis, etc. If the 2012 dock was crushed by the ice, was the cut for a boat ramp still used in the years to come? By Mr. Spinney? By members of the “club” (see below)? How often?

4. **The identity of the applicant is not clear.** The stated applicant is Mr. Spinney, but the benefits presented are for an LLC “club.” If this is an application for a “club,” it must come from the LLC. Are there provisions in the NRPA for LLC permits? I know that Mr. Spinney intends no harm to the river (even if we may not entirely agree on what “harm” might mean), but what does the LLC expect and intend? What role does Mr. Spinney play within it? Who are its officers and how are they selected? What are membership requirements? What are the dues, and the amenities and services promised for them? What plans exist for the club in the years to come? For that matter, when was the club established, and for what purpose? Where are the legal documents of organization? To what extent must it be considered “commercial”? What has its history been, and, specifically, in river access and use? Do members intend to bring motorboats on trailers down to the river as if it were Damariscotta Lake? What control does Mr. Spinney have over the 80 or so of its members (how many of them in fact are there?), now and in the years to come? Who decides the uses to which the installation will and may be put? Given the absence of ready public access to the Sheepscot and at either of the obvious locations of the villages of Sheepscot and Head Tide, membership in the club might well be expected to swell with those wishing to make use of well-conceived dock and permanent, cement boat launch – thereby creating yet greater pressures on a river never before so used. And, should the club meet with greater and greater success, it might well invest in an ever-greater range of activities on Mr. Spinney’s property. If the application is for Mr. Spinney, the scale of the project is out of keeping with need. If it is for the club, there are no guarantees for what in the future it might do with its permit. Which is it?

5. **The application omits all references to context and the project’s impact on it.** The NRPA specifically notes “the responsibility of the applicant to demonstrate that the proposed design does not interfere with existing scenic and aesthetic uses, and thereby diminish the public enjoyment and appreciation of the qualities of a scenic resource, and that any potential impacts have been minimized.”

From just above the village of Sheepscot to the river’s headwaters, there are no structures (other than the remains of the just-now opened Head tide dam and some

bridges). The river – its course set by the geological fault beneath it and as a subsidiary to the Norumbega Fault that marks the last continental collision with northeast America -- has, miraculously, retained the wild and free qualities of centuries past, the only buildings visible some largely 18th century homes peeking out over the river from the woodlands or in a few villages along the way (Puddle Dock and Head Tide especially).

The Sheepscot Valley Conservation Association (now Midcoast Conservancy) was founded some 50 years ago for the very purpose of holding onto this treasure. Ten years ago, in 2009, in conjunction with the Small Woodland Owners of Maine (now Maine Woodland Owners), and with the Maine DIFW as “agency sponsor,” it completed a multi-year project entitled “Heart of the Watershed” to protect the stretch three miles north of my south boundary line. The project, finally supported financially by some 17 state and federal agencies and numerous foundations and individuals, raised over \$1 million, Land for Maine’s Future prominent among the funders. Formal partners in the project included the U. S. Fish and Wildlife Service, Maine Atlantic Salmon Commission, Maine Natural Areas Program, the Nature Conservancy, Maine Audubon, and the Sheepscot River Watershed Council. The sponsors’ 2006 application to Land for Maine’s Future for funding to help match the 2004 grant from the Landowner Incentive Program managed by Maine’s Beginning with the Habitat makes clear just how distinctive this stretch of the river is.

John Gibson’s remarkable 2004 *Rivers of Memory – A Journey on Maine’s Historic Midcoast Waterways*, dedicates one chapter to kayaking just this stretch of the Sheepscot:

The west bank of the Sheepscot resides in the town of Alna now. I dig in with the paddle as *Merlin* and I make for the village at Head Tide. The river narrows further, and the banks grow higher. The countryside, except for the raised marsh that borders the stream, lies in thick woods. River, tall spartina marsh, and forest surround me with seemingly infinite shades of green. The scene is reminiscent of the west of Ireland. I pass under a power line, the only sign now of human presence. Scudding clouds of brilliant white run southeastward in a deep azure sky, the strengthening wind rolling them forward.

Yet, nowhere in the application or the agency-work done since is there any evidence of considering and addressing this unique beauty -- a beauty the NRPA was written to protect -- and the project’s potential impact on it. How ironic that the DIFW itself, an “agency sponsor” of the Heart of the Watershed, is said to have “passed” on the current proposal, and that the DEP, charged in Maine with managing and enforced the NRPA, even accepted the application without such evidence.

Moreover, if this legally required category of criteria is in this instance ignored, a precedent will have been set for allowing any landowner on the river to install docks and other structures that meet technical requirements alone.

6. **There is no evidence in the application of the project's visual impact.** No “visual impact” assessment – details for the preparation of which are carefully laid out by the NRPA --was performed. “Landscape compatibility,” “scale contrast,” and “spatial dominance” are the factors to be considered, most simply summarized as “the degree to which user or viewer expectations of a scenic resource will be altered.” The application addresses none of them. Mr. Spinney was quite right in demonstrating to me on Google Earth (not part of the application) that, seen from above, his second installation did not extend dramatically across the high-tide width of the river. The difficulty lay – and for the proposed dock, lies -- in dock's location on a point in a bend in the river, so that, from upstream or downstream, it appeared and would appear far larger and more dominant, and, all the more so with the proposed installation's longer dock. At low tide, when the river's width may only be 100 feet, the combined dock and floats – 40-to-50 feet from piers at river's edge, and largely over river bank – would appear to be even more dominant, and the floats, parallel to the shore, 32' in length, greatly out of scale as well. This says nothing about the look of a permanent cement boat ramp cut into the shore of a remote river. It also is worth noting Shoreland Zoning's strictures that size be no larger “than necessary to carry on the activity and be consistent with existing conditions, use and character of the area.”

From another perspective, an expensive, large, carefully thought out dock and floats sitting on a few feet at most of low-tide water – with permanent cement ramp – only can be considered visually bizarre. For that matter, the river has silted up considerably since my own childhood in the 1950s, and it can be expected to do so yet more in the years to come. Moreover, water currents around a dock build up silt even more. A dock on dirt, some years hence, would be yet more laughable.

A far smaller installation, with a short dock and/or a float allowing launch of a canoe or kayak at high tide, would be more suited to the use of Mr. Spinney – and to the river.

7. **The application makes no reference to noise generated by the project.** This is of concern both to Mr. Spinney and to me and certainly figures within the scenic and esthetic qualities of the Sheepscot River. Mr. Spinney and I joke that we can hear each other mowing our lawns, and I even can hear voices of people in the clearing

down by the river at the proposed site. A narrow river valley with steep slopes captures and amplifies sound many times over. Heavy use of the river by the intended traffic of motorboats – or even of gatherings on the floats and the trucks launching the boats -- would prove an intrusion to both of us and others along it and constitute a substantial change in the river’s current remote and wild beauty. Mr. Spinney says that we can expect nothing more than what has existed over the last 20 years, but, as has been noted, the first dock only came after the permit was issued in 2003 (and exactly when did it go in?) and lasted only a few years, to be replaced by a newer version in 2012 that survived for two more. Over the last 20 years, a dock has been in place for well under half, and there was no permanent cement boat launch at any point to make river access easily manageable and, so, potentially increase traffic.

8. **The application does not speak to the impact of motorboat use.** Because of the river’s remote, quiet and scenic beauty, it has become increasingly attractive to groups of canoers and kayakers, sometimes many of whom come down the river in the course of a single day. Motorboats do not fit in, and the river is too narrow to let those intent on the river’s quiet beauty enjoy it. Should the club find the installation particularly appealing, in the near and distant future, and should its membership grow, the river would be subject to ever greater change of use and degradation. In the 70 years I’ve known this stretch of the river, only a handful of small motorboats ever have used it.

9. **The application fails to address the dock’s potential impact on riparian life,** including plants, fish, birds, animals, rare and endangered species. The 2006 application to Land for Maine’s Future notes, among other points:
 - a. That the Sheepscot is “one of only eight rivers remaining in the United States that supports a remnant population of wild Atlantic salmon.”
 - b. That it is a “top-quarter-ranked habitat as identified by USFWS Gulf of Maine Habitat Analysis.”
 - c. That this three-mile stretch of river falls within the Maine’s Beginning with Habitat Program, “is a highly desirable focus area.”
 - d. That the properties to be protected (my own one of them) are “the two most desirable conservation targets in this focus area.”
 - e. That the properties to be protected are “centrally located within a 2,450-acre roadless area as identified by Maine Natural Areas Program. They are two of

the largest properties in the watershed and are the two with the longest river frontage on the Sheepscot River.

The application is silent on these questions, including how the wakes created by motorboats affect riverbanks and their life, as well as any impact of dock on the hydraulics of a river moving rapidly around the narrow bend at which the dock is proposed.

10. **The application omits some possible alternative sites.** It rejects, for some sound reasons, alternate site number 2, on the old brickyards just south of the proposed installation. Indeed, a new road down the hill from the open field, while more direct in access, could cost \$20,000 and more, and would require a cut in the riverbank. But there can be no surprise that those brickyard owners decided to place it around the bend from the proposed site, since the water there is deeper, and the river soon opens out into the stretch leading to the village of Sheepscot. But if the club is to be the applicant (and allowed to be an applicant) and if members are contributing to the project's costs, these expenses might well be considered legitimate. Certainly, available dock use would be extended dramatically: Low-tide water depth at the proposed site does not even well support canoe or kayak travel. Mr. Spinney himself finds the brickyard a better place, ideally, for a dock. And, visually, a dock would be far less "visible" in the wider and more open topography south of the bend. None of this, of course, says anything about a recreational group's motorboat impact – scenery, noise, plant and animal life – but might make sense for canoes and kayaks.

Perhaps more importantly, nowhere in the application are yet other and yet better alternatives for easy river access for hand-carried and hand-powered craft considered, such as the villages of Sheepscot (at the Grange) or Head Tide (at the new dam installation). Perhaps the towns of Newcastle and/or Alna and/or the Midcoast Conservancy could make this possible?

11. **There is no stated indication of the role that the town of Alna and its planning board may play in the approval of the project.** Faced with an application incomplete -- from the perspectives of law, tradition, and common sense -- reaching a decision on a project with significant potential to damage one of the town's and region's greatest assets only can be considered problematic.

A new and more focused application can address and resolve these issues and provide the DEP with a sound basis on which to decide. There are better alternatives to consider.

Sincerely,

William A. Weary
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