

March 29, 2011

**Comments via E-mail**

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Cc: William M. Kavanaugh, Jr  
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**RE:** US Army Corps of Engineers permit application for Dredging the Kennebec River, with disposal specifically at Jack Knife Ledge, Phippsburg, ME.

Dear Mr. Green:

I am writing to comment on the dredging and disposal activities proposed by the US Army Corps of Engineers for the Kennebec River in August, 2011.

I live in Phippsburg, on the Sprague River, just off of Seawall Beach. The proposed disposal of dredged materials at Jack Knife Ledge is likely to affect water quality in the vicinity and impose aesthetic and recreational impacts on both Seawall and Popham beaches. I am concerned with regard to increased fecal coliform levels and chemical impacts of such disposal. In August, literally thousands of beach-goers are swimming every day in waters that, in historical memory, have not caused any known illness or contamination. As an avid swimmer and surf kayaker, I am in the water nearly every day in August; should disposal occur, I will document any abnormalities.

But my concerns about discharges into waters at a location approximately 1.5 nautical miles from Seawall Beach are more than personal. I am also the Director of the Bates-Morse Mountain Conservation Area (BMMCA). Some 16,000 visitors to BMMCA recreate on Seawall Beach each summer. The trail head at the beach is directly inshore of Jack Knife Ledge, and most visitors congregate and swim in that area of the beach. As Director, I have responsibility for the public's health and welfare while visiting BMMCA. Shall I tell thousands of visitors to stay out of historically clean waters for the month of August? And what about the health and welfare of visitors to Popham Beach State park—the most popular park in the entire state?

I also actively support local economy. For Phippsburg, that means shellfish, lobster and tourism. These industries will be adversely affected by the proposed activities. It is common knowledge that all of the boats leaving Small Point Harbor fish off Jack Knife Ledge in the summer, and particularly in August, at the peak of the season. I have heard from lobstermen that dredged sediments will “bury lobsters.”

There is widespread concern in Phippsburg that disposal at Jack Knife Ledge will also impact an exceptionally productive clam flat at the mouth of the Morse River. August is the worst time for such impacts, both in terms of the summer market for clams but also with respect to the long term

viability of the Morse River clam flat. It is believed that juvenile clams and spat will be compromised by sediments.

Even a cursory review of the relevant statutes reveals that a discharge into the lower Kennebec and coastal waters at Jack Knife Ledge is illegal under these circumstances. Under Section 301(a) of the Clean Water Act, the Maine DEP must certify that the Army Corps of Engineers has complied with Section 404 before granting Water Quality Certification. Has the DEP Administrator determined that the discharge of dredged materials will not have an adverse effect on shellfish beds and fishery areas, or on wildlife or recreational areas? If so, has the Administrator “set forth in writing” and made “public his findings and reasons for making any determination...” (FWPCA Section 404 (c).) If such findings are based on the (flawed) 1997 Normandeau study, the Administrator should know that the public is not satisfied with such “findings.” Has there been monitoring of impacts to biota, sediment transfer and water quality for weeks—or even months—before and after dredging and discharge? Under FWPCA Section 403 (c)(2), “...no permit shall be issued” where “insufficient information exists on any proposed discharge...” If, on the other hand, findings are more substantive than those produced by the Normandeau study, as the Director of a publicly used swimming area, I would much appreciate documentation prior to any discharges during the summer season.

Furthermore, the waters we are discussing are classified as SA, requiring, under both federal and state law, a strict policy of anti-degradation with respect to marine life and all existing uses. Can this be shown? Even in the event of an SB classification, designated uses shall be maintained, including shellfish harvesting, fishing and recreation. Again, can this be demonstrated with written findings made available to the public?

**In sum, I cannot fathom an essentially illegal decision to compromise natural resources, local industries, recreational and aesthetic values, and potentially the public health and welfare—and at a cost of over \$1 million dollars to taxpayers—in order to remove potential sand crests from the Kennebec River, particularly given that the Spruance has previously navigated in and out of the Kennebec on several occasions.**

I trust that the Administrator will take the public outcry into consideration and will fairly identify alternatives.

Thank you for the opportunity to comment.

Sincerely,

Laura Sewall, PhD  
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