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### Maine BEP Upholds Permits for Controversial Dredging Project

07/21/2011 Reported By: [Susan Sharon](#)

The Maine Board of Environmental Protection today voted six to one to uphold the issuance of state permits for a controversial dredging project on the Kennebec River. The Navy, Bath Iron Works and the U.S. Army Corps of Engineers maintain that dredging is necessary for the shipyard to deliver the USS Destroyer Spruance to the Navy by a deadline of September 1st. The BEP rejected an appeal by the town of Phippsburg, lobstermen, clambers, environmental groups and others who say that emergency dredging in August will violate water quality standards and put their livelihoods at risk.

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They say timing is everything and never has that been more evident than in the arguments for and against a three-to-five week, round-the-clock emergency dredging project on the Kennebec River, which hasn't been cleared of sandy material by the U.S. Army Corps since 2003 because of lack of funding.

Everyone agrees that August is the worst time of the year to do dredging. It's the height of the tourist season. Lobsters and clams are plentiful and local fishermen are busy trying to make a living. But the Spruance has to leave BIW.

Because of a slow-moving federal bureaucracy, dredging hasn't been able to be scheduled until just a few weeks before deadline. And John Portela, a sandblaster with Local 6 at the shipyard, says it's a deadline that can't be missed. The union represents 3,000 employees at BIW.

"Faced with uncertain shipbuilding dollars and competition in Mississippi that does not have these issues, the ability to deliver a product to our customer has an enormous impact on our jobs," Portela said. "Stated simply: If we can't deliver ships, we can't work."

But Steve Hinchman, an attorney for the appellants, says his group doesn't want to interfere with the delivery of the Spruance, affect national security or jeopardize the shipyard's future work. He just rejects the idea that 70,000 cubic tons of dredging material needs to be removed from the Kennebec and deposited in the same river system.

Not only is it the largest dredging project in 22 years, but Hinchman says emergency dredging has never been allowed by any agency in August--and, he says, for good reason, even by the Department of Environmental Protection's own guidance.

"The department's long-standing guidance is that dredging is severely damaging to water quality, to aquatic ecosystems, to anadromous fish, to lobster shedding and migration, and that it should not occur in the summer," Hinchman said.

Instead, Hinchman says dredging usually takes place in the fall. In this case, because of the timetables involved, Hinchman says it is possible to meet everyone's interests: get the ship out, protect lobstermen and prevent potential smothering of clam flats, just by scaling back the dredging project to less than half what's planned.

Matt Manahan, an attorney for BIW, says doing a smaller dredge will only mean coming back again in the future to finish the job. He says that will cost more money and create more disruption to the environment. And he says Hinchman and his clients haven't produced any evidence to show that dredging will be harmful.

"Yes, there will be sedimentation, there will be some siltation, but it's a very small amount," Manahan said. "It won't have unreasonable impacts on the lobster industry. It won't have unreasonable impacts on clam flats, won't cause closure of clam flats. It won't have unreasonable impacts on other fish species, including Atlantic sturgeon and short-nose sturgeon. That's the evidence in the record."

But it's a record that critics, including several members of the Board of Environmental Protection, say could use some updating. Several of the studies used to create the record date back more than a decade.

Opponents of the state-issued dredging permits are also worried that the state hasn't done enough to consider Atlantic sturgeon. Short-nosed sturgeon is protected under the Endangered Species Act and the federal government has set a limit of 27 fish that can be harmed or killed as a result of this dredging project.

But Atlantic sturgeon, a separate species, are a candidate for federal listing. And conservationist Doug Watts of Augusta says the permit has not taken them into consideration.

"The state has a responsibility here for the fish under its charge, and Atlantic sturgeon are under the state's charge," Watts said. "They're one of the most amazing animals in the Kennebec River, and it's important that consideration be given to them to make sure that this project doesn't harm them."

Matt Manahan says independent monitors will be in place to observe the effects of dredging on both species of fish. In the end, BEP members, with some reluctance, voted six to one to support the state dredging permits.

Attorney Steve Hinchman says he hasn't given up hope. He also has an appeal pending in federal court. Arguments in that separate case will be heard on Monday.

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