

Case Background Summary

Subjects: Peter Melendy
9 Tudor Drive
Kittery, Maine

Date of Incident(s): 2008 to Present

Background Narrative: In June of 2007, Steven Hathaway, who owns a shorefront residence located at 34 Newson Avenue in Kittery, received a letter from his neighbor—Peter Melendy—who owns a residence located uphill from Hathaway’s. In the letter, Melendy requested permission to prune tree limbs and remove dead trees affecting his sight lines to the waterfront.

A second letter was received from Melendy in 2008 requesting a dialog and in which reference was made to the 2007 letter. Hathaway preferred to leave the existing vegetation in place and never responded to either letter.

During the years following receipt of the two letters, Hathaway began to notice tree decline followed by mortality near the waterfront. The tree decline aligned with potential sight lines to the Melendy property. In 2012, Hathaway took pictures depicting bore holes near the root collar two dead trees. In 2017, he took a picture of dead, mature pine near the waterfront.

The unexplained tree decline continued gradually. Hathaway stated he had multiple dead trees removed in approximately 2020. He suspected the trees were being deliberately poisoned and contacted the Kittery Police Department with his concerns. The Police Department was unable to make any determinations.

During 2023, Hathaway observed a larger swath of tree decline on the upslope portion of his property in a path that would improve the sight lines for the Melendy residence. This time, Hathaway contacted Maine Forest Service District Forester Oliver Markewicz, who, after assessing the site and the condition of the vegetation, referred Hathaway to the Board of Pesticides Control. Hathaway contacted the Board in mid-September of 2023 alleging chemical trespass to his property for the purpose of enhancing sight lines to waterfront.

Two Board staff members conducted a site visit on September 22, 2023. The staff interviewed Hathaway, made site observations, took photographs and collected two soil and two vegetation samples. As in similar investigations, there was a clear pattern of dead undergrowth around the base of the affected trees. Hathaway reported the same pattern of dead vegetation around the base of dead pine trees near the shorefront. He also provided photos depicting bore holes at the base of 2 dead trees.

Both sets of samples were analyzed for glyphosate and tebuthiuron. The soil samples were also analyzed for triclopyr. The laboratory results are summarized in the following table.

BPC Sample #	Sample Media	Location	Analyte	Result
230922JEP01A	Vegetation	Upslope from Driveway	Tebuthiuron	0.72 PPM
230922JEP01C	Vegetation	Downslope From Driveway	Tebuthiuron	0.52 PPM
230922JEP01B	Soil	Upslope from Driveway	Triclopyr	0.012 PPM
230922JEP01D	Soil	Downslope From Driveway	Triclopyr	ND
230922JEP01B	Soil	Upslope from Driveway	Tebuthiuron	15 PPM
230922JEP01D	Soil	Downslope From Driveway	Tebuthiuron	3 PPM
230922JEP01A	Vegetation	Upslope from Driveway	Glyphosate	ND
230922JEP01C	Vegetation	Downslope From Driveway	Glyphosate	ND
230922JEP01B	Soil	Upslope from Driveway	Glyphosate	ND
230922JEP01D	Soil	Downslope From Driveway	Glyphosate	ND
230922JEP01A	Vegetation	Upslope from Driveway	Triclopyr	ND
230922JEP01C	Vegetation	Downslope From Driveway	Triclopyr	ND

Summary of Applicable Pesticide Law: 01-026 CMR, Chapter 20, Section 6 (D) (2):

No person may apply a pesticide to a property of another unless prior authorization for the pesticide application has been obtained from the owner, manager or legal occupant of that property. The term “legal occupant” includes tenants of rented property.

Attachments: Narrative Reports, Laboratory Reports, Photographs, Tax Maps, Aerial Photos, Letters from Subject to Complainant, Emails from Subject

Staff Recommendation: Refer the Matter to the Office of the Attorney General for Enforcement

Provide supporting details and documents.

Physical Samples Taken

Sample Number	Sample Description	Sample Type	Date of Submission	Result	Lab Location	Analysis Completion Date	
230922JEP01A	Upslope from driveway Seal #2562662	Foliage	9/25/23	Tebuthiuron .72 ppm	Montana	10/12/23	Delete
230922JEP01B	Upslope from driveway Seal #2562616	Soil	9/25/23	Tebuthiuron 15 ppm and Triclopyr .012 ppm	Montana	10/20/23	Delete
230922JEP01C	Down slope from driveway Seal #2562615	Foliage	9/25/23	Tebuthiuron .52 ppm	Montana	10/12/23	Delete
230922JEP01D	Down Slope from driveway Seal #2562617	Soil	9/25/23	Tebuthiuron 3.0 ppm	Montana	10/20/23	Delete
230922JEP01E	Beech Leaves	Foliage	10/10/23	Confirmed for Beech Leaf Disease	Orono Maine	10/19/23	Delete

Add Physical Sample

Documentary Samples

Sample Number	Sample Description	
230922JEP01F	Photos of sample area	Delete
230922JEP01G	Letters from Paul Melendy regarding view easement	Delete
230922JEP01H	Emails from Steve Hathaway containing photos of damaged vegetation over multiple years	Delete

Reportable Data

Number of Documentary Samples Collected

0

Supporting Documents

Loading...

(9)

Brief Summary of Inspection

Visited Steve Hathaway at his home, 34 Newson Ave. in Kittery on 9/22/2023, with Manager of Compliance Alex Peacock, in response to a complaint Mr. Hathaway made alleging herbicidal trespassing on to his property. Mr. Hathaway contacted the BPC on 9/14/2023 with concerns that his neighbor may have applied pesticides to his property to improve water views.

Mr. Hathaway explained that he has been noticing on going vegetation death on the portion of his property behind his neighbor's house for multiple years. Peter Melendy, owner of the neighboring property, found at 9 Tudor Drive, had sent two letters in 2007 and 2008 requesting delimiting and trimming of trees on Mr. Hathaway's property. Mr. Hathaway did not respond to these letters and did not give any permissions to Mr. Melendy. Mr. Hathaway believes that the Melendy (or an agent of his) applied herbicide to this vegetation. Mr. Hathaway recalled having multiple pine trees cut down about 3 years ago after they died, after more trees began to decline, he suspected unnatural causes. He had previously been in contact with the Kittery police requesting that they investigate the possible use of herbicides on his property by Mr. Melendy, but they were unable to find evidence of herbicide use or trespassing.

This year when Mr. Hathaway saw a larger loss of vegetation, he contacted the District Forester, Oliver Markewicz, who after assessing the vegetation referred Mr. Hathaway to the Maine Board of Pesticides. There was visible death of vegetation behind Mr. Melendys property and across the driveway to the shoreline of the property.

Kittery code enforcement has been made aware of the allegations and damaged shoreline. They have also been sent the results of the sample testing.

Composite vegetation and soil samples were taken from the area adjacent to Mr. Melendys property, uphill from the driveway, and adjacent to the shoreline, downhill from the driveway. A vegetation sample was also taken from damaged beech trees outside of the area of concern and tested for Beech Leaf Disease at the University of Maine Plant Diagnostics Lab. The area of concern had visible damage to a multitude of vegetation species that would not be affected by Beach Leaf Disease.

The intent of this visit was to obtain physical samples for analysis to confirm that herbicides had been applied and impacted plant life at 34 Newson Ave. Kittery. In total, five physical samples were taken, two vegetation samples, two soil samples and a vegetation sample of American Beech vegetation to be sent to the plant diagnostics lab. Sample location can be seen in the attachment, EC-38858_Sample map.

The following samples were collected:

230922JEP01A, Vegetation from upslope from driveway

230922JEP01B, Soil from upslope from driveway

230922JEP01C, Vegetation from down slope from driveway

230922JEP01D, Soil from down slope from driveway

230922JEP01E, American Beach vegetation to be tested for Beech Leaf Disease

All samples were shipped via FedEx Standard Overnight on 9/25/2023 to Montana State University Analytical Laboratory. Results for the vegetation samples and soil samples were received on 10/12/2023, 10/16/2023, 10/23/2023 and 11/1/2022.

All samples were positive for tebuthiuron and one soil sample detected triclopyr.

Recommendations

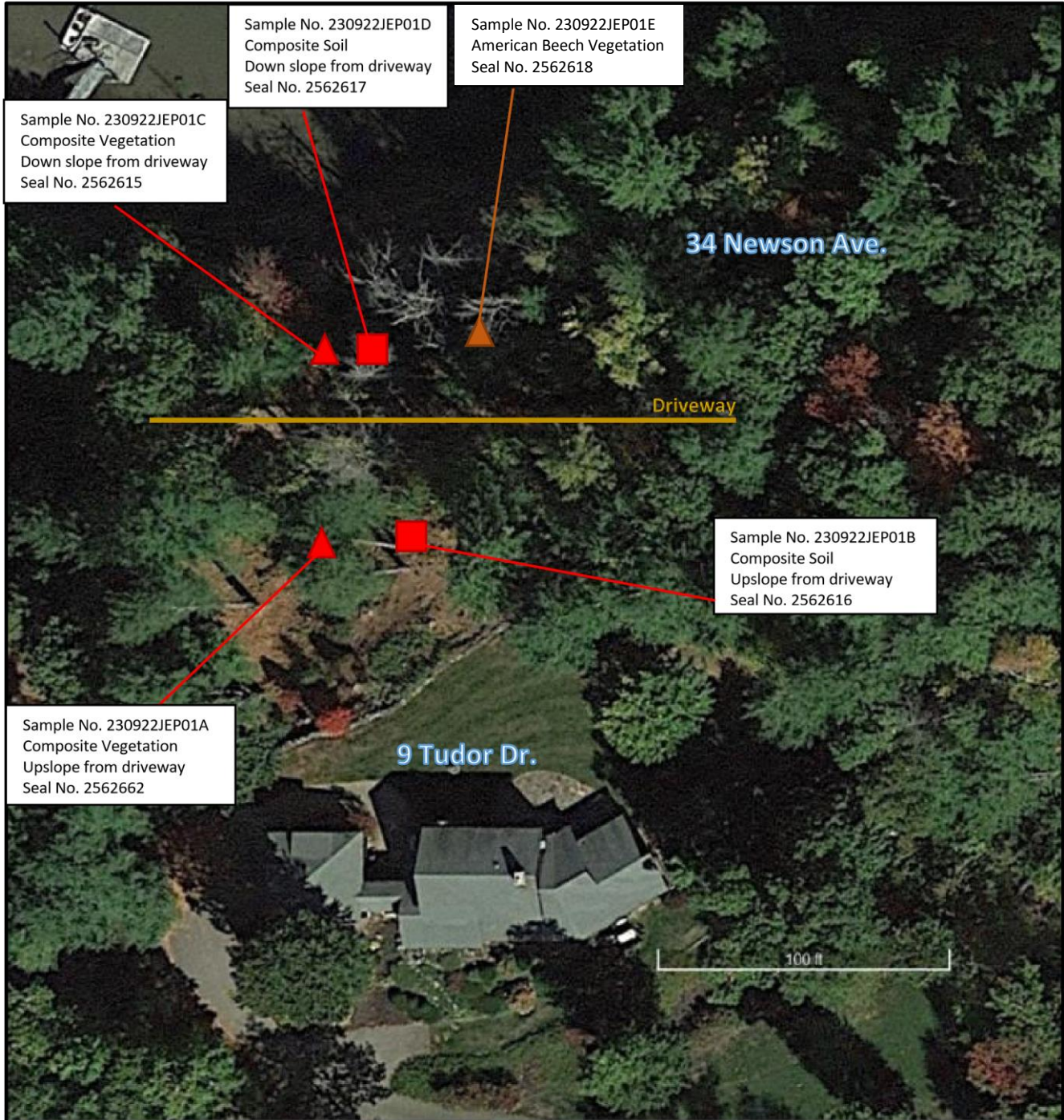
Acknowledgement

Acknowledgement:

The physical and/or documentary samples listed above were collected by a Maine Board of Pesticides Control Representative in connection with administration of FIFRA and/or State of Maine Pesticide Statutes and Regulations.

[Accept](#) [Clear](#)

EC-60858 – Sample Map
Hathaway, Steve: Complainant
34 Newson Avenue, Kittery, ME



June 1, 2007

Stephen Hathaway
7 Wintergreen Circle
Andover, MA 01810

First, let me introduce myself. I am Peter Melendy. I grew up in northern New Hampshire and have lived my whole life in New Hampshire until last summer. I bought lot 6 at the Briers development in May 2005 and I built my home there last year. The design and placement of my house was my attempt to respect the natural environment and to keep from disturbing you. I have always tried to be a good neighbor wherever I have lived.

Earlier this spring, Ms Coffey gave me a copy of an agreement between Paul Hollis and you, Ms Satterthwaite and Coffey in which he promised to provide a privacy barrier along the property line of lot 6. I was unaware of this agreement when I bought this lot and only became aware of it when Ms. Coffey gave me that copy.

As you may be aware, Mr. Hollis has had significant and serious financial problems and many of his property holdings have been foreclosed. The Briers has a number of unfinished needs and our association is grappling with how to handle them but it certain that we will suffer due to his financial problems. In short, I doubt that Mr. Hollis is able to fulfill his obligation to the Briers or other agreements that he has entered over recent years.

All of us seem to have a mutual problem and at the moment, I have no solution for anyone with respect to Mr. Hollis's promises and agreements. I do feel that some kind of buffer could benefit all of our residences but I am certainly unable to offer what Mr. Hollis proposed but I would like to discuss options with you and see if we could find a solution that would give each of us some kind of benefit.

I am in the process of doing landscaping around my house. There are only a few changes that will be made in the woodlands along my property line as I want to maintain that natural setting as a woodland walk. With the approval of Heather Ross, Kittery's CEO, I have created some sight lines by trimming some trees but these were done in ways to keep everyone's privacy. However, there are several trees beyond my property line and on your properties that I would like to limb and trim out the deadwood to create a more direct sight line. Again, the work would be done in ways that would not alter your privacy and would be consistent with the existing shoreline area cut restrictions. I am happy to show you what I would like to do and get your agreement and approval.

If you would allow me to take that action, at my expense I would try to provide an increased privacy buffer between our homes through the planting of different scrubs and trees – consistent with the existing woodland varieties for the area. Honestly, I cannot

offer anything remotely approaching the 10 ft. specimens outlined in your agreement with Paul nor could I afford to extend it along with entire property line. But, in time these would grow and in 4-5 years they would achieve an improved buffer in and around each house area. I would also be prepared to talk with the current owner of lot 7 about being a partner in this effort although that house was built for resale and from my experience, the current owner has little interest to invest more in a house up for sale.

My suggestion provides you with some improved buffer and will provide me some improved sight lines of the wonderful Spruce Creek without impacting upon anyone's privacy.

I am reachable by phone - 603-770-9806 or email: pmelendy@hotmail.com or US post: 3 Merrill Drive, Hampton, NH 03842 and would greatly appreciate getting your inputs and learning about your interest. Because my business responsibilities require me to travel frequently, it is best to email me.

Thank you for your kind consideration on my suggestions and request. I have sent a letter to Ms. Satterthwaite and Coffey as I feel that this is a joint proposal which impacts all three lots uniformly and needs a common agreement.

Sincerely



Peter S. Melendy

ADHESIVE TECHNOLOGIES



Adhesive Technologies, Inc. / 3 Merrill Industrial Drive; Hampton, NH 03842-1995 / USA
Tel: 603 926 1616 x 127 / Fax: 603 926 1780 / email: pmelendy@adhesivetech.com

February 21, 2008

Stephen Hathaway
7 Wintergreen Circle
Andover, MA 01810

Re: Kittery Land

Dear Mr. Hathaway

My lot at The Briers abuts your property as well as Mary and Sue's. Last year I learned through Mary and Sue that Paul Hollis had offered to provide some buffer between the Briers and your homes but he never followed through on that action and his financial condition makes it unlikely that he has further interest or intent to fulfill his agreement. His situation with The Briers development is even more problematic as we have had to assume over \$100,000 of direct expenses of his to allow the development to evolve.

I have talked with Mary and Sue about several options and how we can cooperate to improve the buffers between my home and theirs – although honestly their biggest problem rests with the adjacent home whose land does not actually abut theirs as its site line is across my land. We are discussing options that seem to be interesting and worth pursuing this spring

I had sent you a letter last year offering to do the same with you but I did not hear back from you. Certainly, I would like to extend a similar offer to discuss options to provide a better buffer for your house. This might be more significant since there is now a new home being constructed on lot 5 and could impact upon that privacy as well.

I hope that you will contact me and have some dialogue about options. My email address is pmelendy@adhesivetech.com and my office number is 603-929-5327.

Sincerely


Peter Melendy

From: [Peter Melendy](#)
To: [Peacock, Alexander R](#)
Subject: RE: Tree Investigation
Date: Wednesday, December 6, 2023 11:23:34 AM

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Alex

When I read your email I was quite surprised because you seem to be anxious about a comprehensive pesticide problem. I am not seeing that and will provide a series of photos of the entire property line and area around it in subsequent email to you.

To be clear, the property between Steve and me is a rising ledge which extends from Spruce Creek up and onto my property and was blasted away years ago to provide a trolley track passage way. Before I bought my property on 9 Tudor Drive Steve had built a fence along his property for unclear reasons since there is a dangerous 20 ft drop off to the rest of his land. After buying my land and building my house I suggested to Steve that we cooperate along the property line clearing dead trees and trimming other trees to keep the dead fall under control but he said he liked the rustic look and wanted a natural look – so I have left him alone and have only been to his property to retrieve balls from my grandchildren’s play over the intervening decades. There has been no communication with him of any sort.

My house and the area around sits on top of that ledge with exposed rock and thin soil across much of it. When I built my house the ledge had to be blasted away for the foundation.– the lawn needs constant irrigation in the summer. I have worked to keep the pine trees upright and alive – even cabling them together but they have still died or been blown over. As recently as last February I had a neighbor’s pine tree fall on my property and I have tried to encourage a low bush blueberry patch to expand across that ledge area on my property but it seems that the poison ivy is too happy to expand into that area and many other areas around my property and I am very allergic to it and have had it sprayed annually in the summer so I can be outside but it still returns.

In late October as I was mowing my lawn – I saw Steve for the first time in 15 years – Steve waved me over to the property and accused me of ‘killing his bushes’ – I had no explanation – the leaves were changing color and fall. He was insistent that I did but I did not! I assume that he approached you under that premise.

My assessment is different. There were dead trees and dead fall on his property since I bought my property and it is no different than what existed. Some of those trees were dead when I bought the property and I have pictures of bald eagle in them more than 10 years ago.

You can review the email that will follow. What should be clear is that this ledge area offers limited soil or vegetation.

I think these photo will speak for themselves

Regards

Peter

From: Peacock, Alexander R <Alexander.R.Peacock@maine.gov>

Sent: Tuesday, December 5, 2023 4:30 PM

To: Peter Melendy <peter@adhesivetech.com>

Subject: RE: Tree Investigation

Hi Peter,

Thank you for getting back to me.

Do you have any knowledge of the cause of the vegetation destruction that has occurred and continues to occur between your property and Spruce Creek?

Any information you may have will help us to mitigate the situation and prevent further harm to the vegetation and aquatic organisms that have been impacted.

Best,

Alex

Alexander R. Peacock

Manager of Compliance

Board of Pesticides Control

Maine Dept. of Agriculture, Conservation & Forestry

207-441-4193

From: Peter Melendy <peter@adhesivetech.com>

Sent: Friday, December 1, 2023 6:42 AM

To: Peacock, Alexander R <Alexander.R.Peacock@maine.gov>

Subject: Re: Tree Investigation

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Alexander

As usual I am traveling returning this weekend

This is my active email

What do you need?

Regards
Peter

Sent from my iPhone
Peter Melendy

On Nov 30, 2023, at 3:16 PM, Peacock, Alexander R
<Alexander.R.Peacock@maine.gov> wrote:

Good afternoon Peter,
Our agency is investigating the decline of trees and vegetation along Newson Avenue in Kittery, between your home at 9 Tudor Drive and Spruce Creek.
If you could please contact me at your earliest convenience, it would be much appreciated.
Thank you,
Alex

Alexander R. Peacock
Manager of Compliance
Board of Pesticides Control
Maine Dept. of Agriculture, Conservation & Forestry
207-441-4193



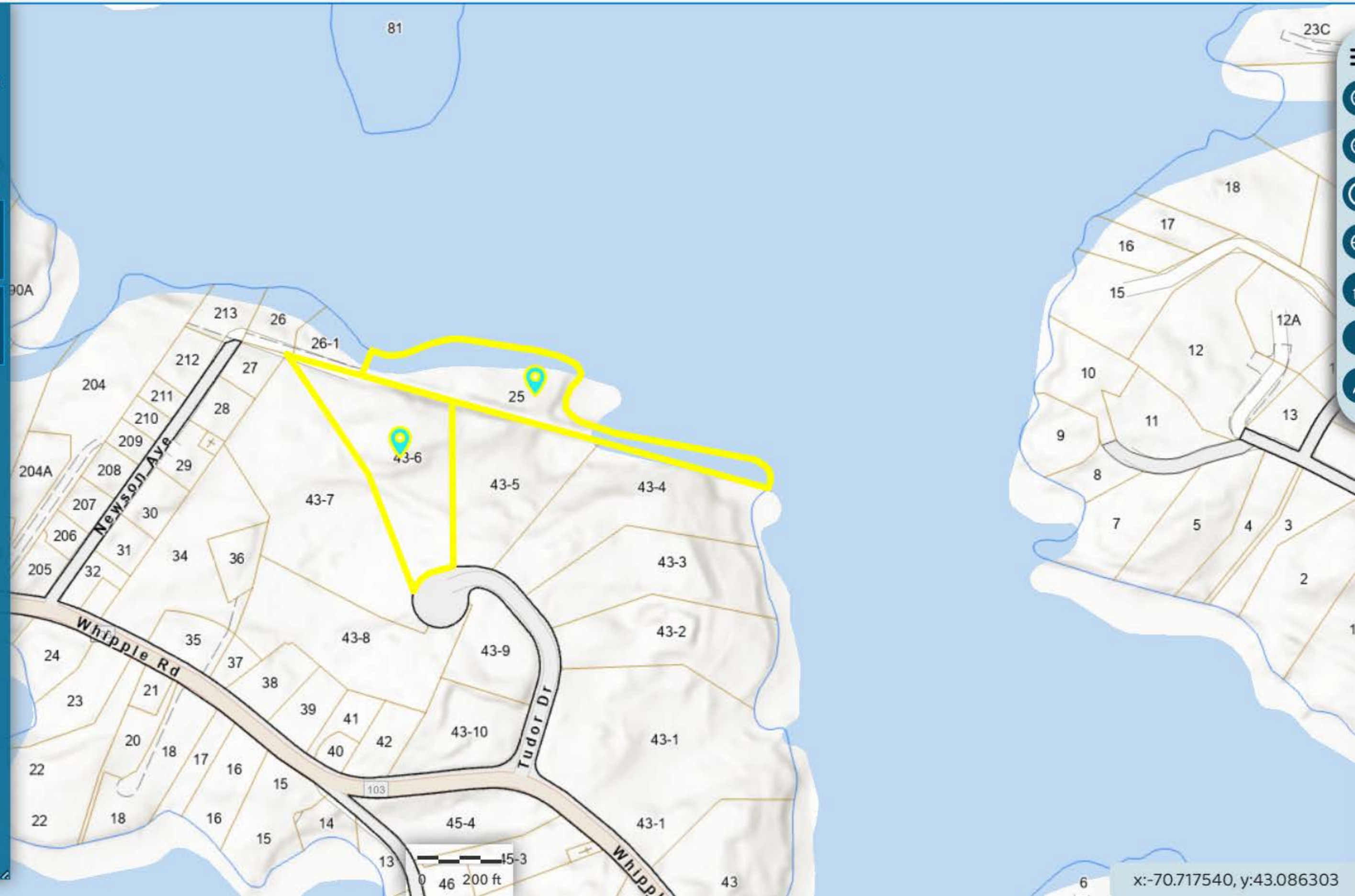
Kittery, ME

9 TUDOR DRIVE



2 owners

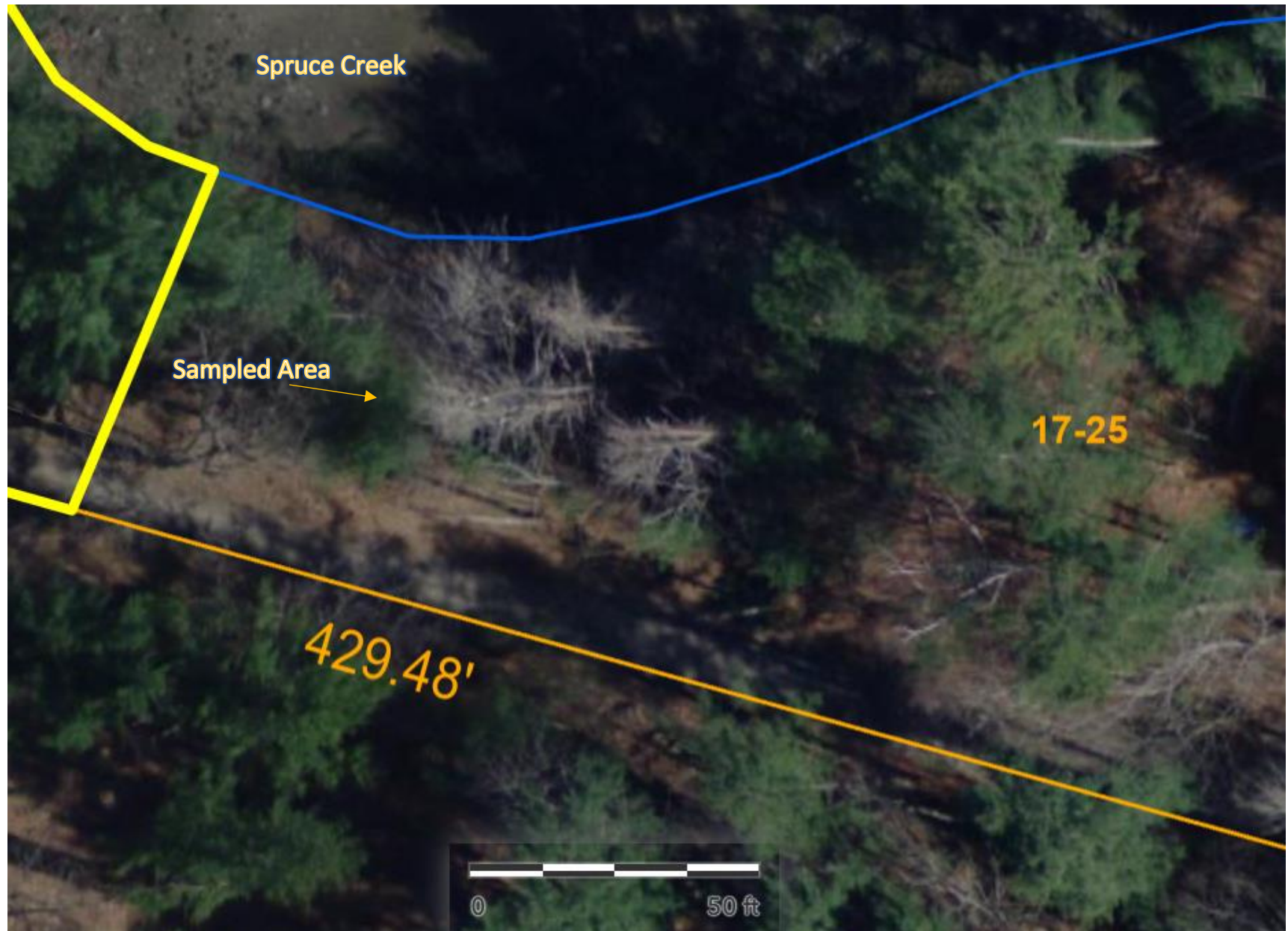
- 17-25
HATHAWAY, STEPHEN D & HATHAWAY, JANE...
34 NEWSON AVENUE
- 17-43-6
MELENDY, PETER S
9 TUDOR DRIVE



EC-60858 – Satellite Images 2006-2018

34 Newson Avenue, Kittery, ME

2018



EC-60858 – Satellite Images 2006-2018

34 Newson Avenue, Kittery, ME

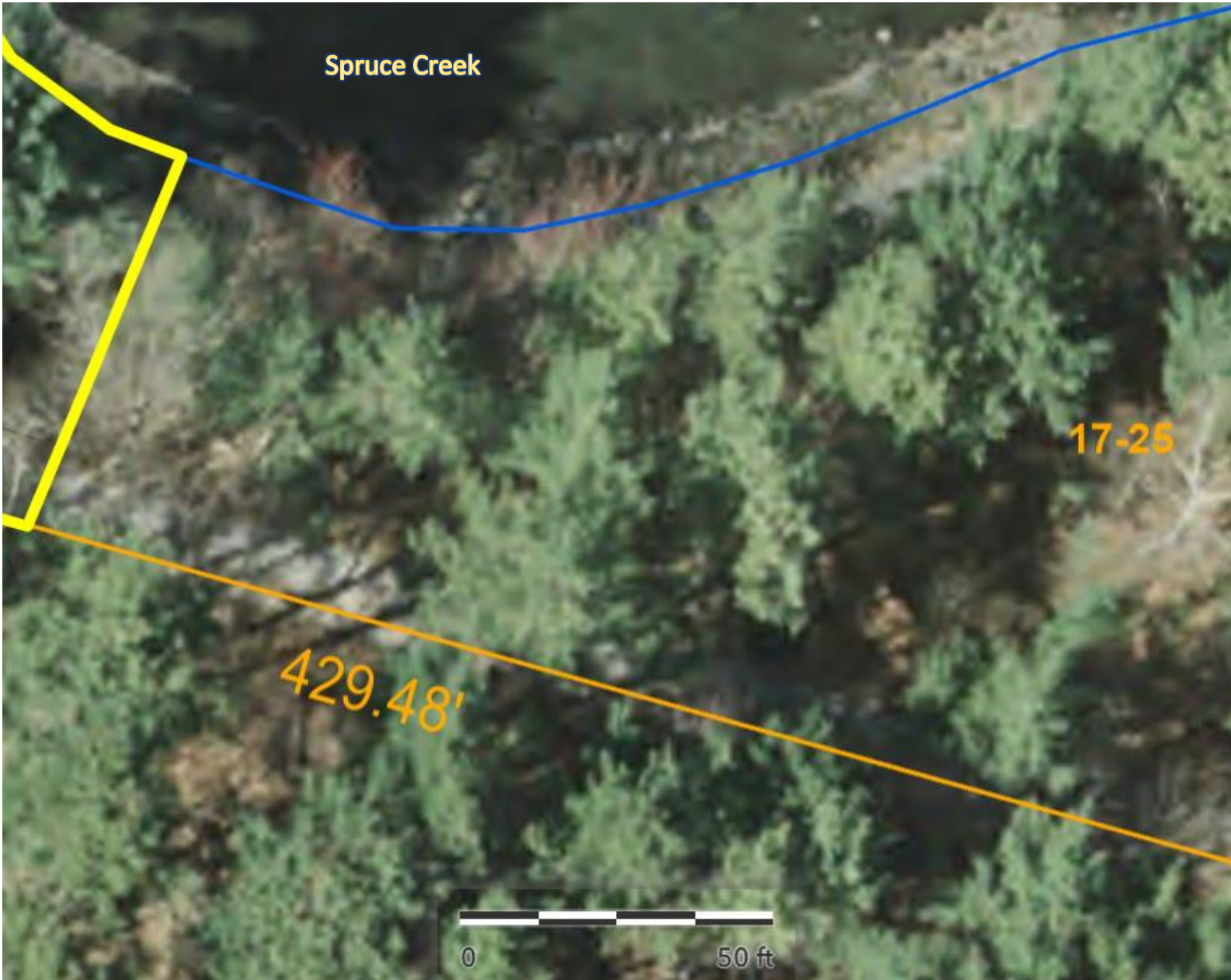
2012



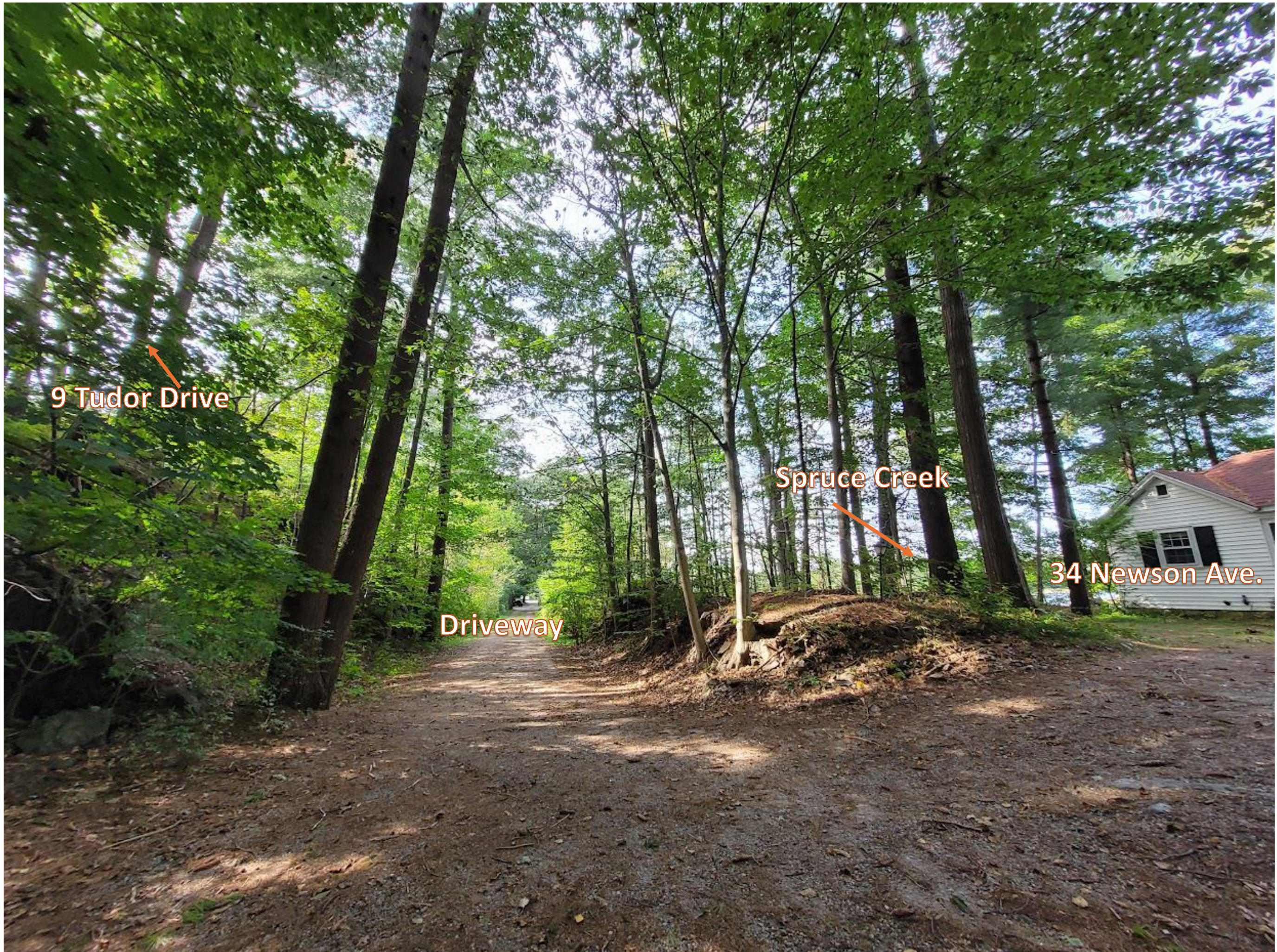
EC-60858 – Satellite Images 2006-2018

34 Newson Avenue, Kittery, ME

2006



Photos taken at 34 Newson Ave. in Kittery on 9/22/2023



9 Tudor Drive

Spruce Creek

34 Newson Ave.

Driveway

Top of Slope, on border of Hathaway property



34 Newson Ave.

9 Tudor Drive

Top of slope, looking toward Melendy property



Dead vegetation looking down from top of slope toward Spruce Creek



Top of slope, on border of Hathaway Property



Dead trees from top of slope



Halfway up slope between Hathaway Driveway and Melendy property



Looking upslope toward Melendy property from Hathaway driveway



Dead trees, down slope from Hathaway driveway, upslope from Spruce Creek



Dead vegetation trees from top of slope, border of Hathaway property



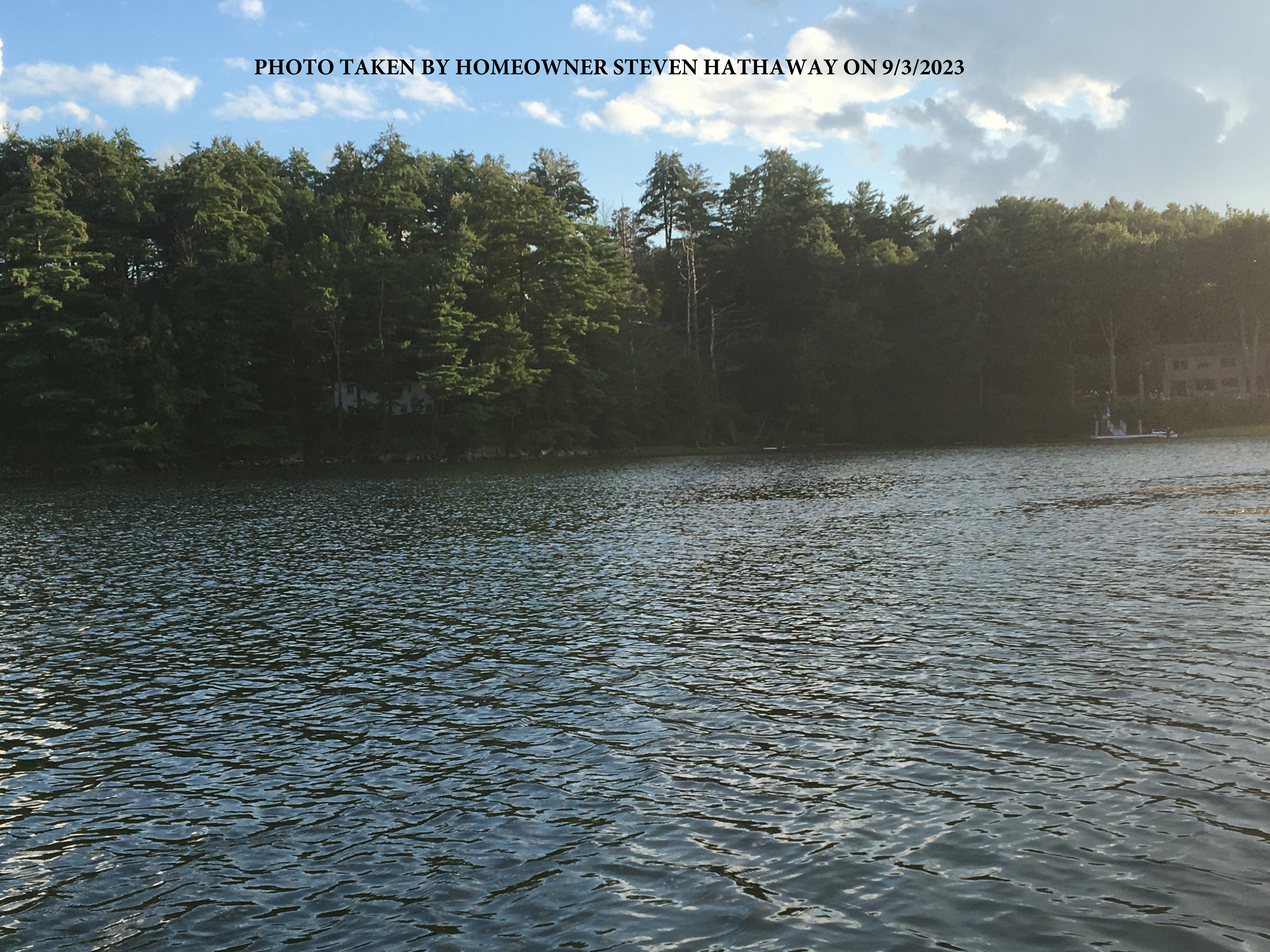
View from Spruce Creek shoreline toward Hathway driveway and Melendy property



Dead vegetation to healthy vegetation from Spruce Creek shoreline toward Hathaway house



PHOTO TAKEN BY HOMEOWNER STEVEN HATHAWAY ON 9/3/2023



A close-up photograph of a tree trunk with a hollowed-out section. The bark is dark brown and textured. The hollowed-out area is filled with a lighter, fibrous material. The tree is surrounded by a forest floor covered in pine needles, moss, and small green plants. A yellow flower is visible on the right side of the trunk.

**PHOTO TAKEN BY HOMEOWNER STEVE
HATHAWAY ON 11/10/2012**

Photo Taken by homeowner Steve Hathaway on 11/10/2012

