



Tom Federle
Principal
tfederle@archipelagona.com

1 Dana Street
Portland, Maine 04101
(207) 558-0102

March 20, 2026

VIA U.S. MAIL & EMAIL

Robert Duschene
Chairman of the Maine Board of Environmental Protection (the "Board")
c/o Board Clerk Ruth Ann Burke
17 State House Station
Augusta, ME 04333-0017
Ruth.a.burke@maine.gov

Re: Inadmissibility of Appellants' Proposed Supplemental Evidence; In the Matter of Appeals of Maine Lobster And Processing, LLC NRPA Approval

Dear Chairman Duschene:

Pursuant to Chapter 2, section 23(E), the Licensee, Maine Lobster and Processing, LLC ("Maine Lobster") hereby offers the following comments regarding the inadmissibility of supplemental evidence offered by Appellant Rick Corazzini ("Corazzini") and Appellant Spruce Head Fisherman's Co-op ("Co-op") (collectively, the "Appellants"). On February 5 and February 8, 2026, the Appellants attached to their appeals new evidence that they did not submit to the Maine Department of Environmental Protection ("MDEP") during the MDEP's application processing period (March 25, 2025- January 8, 2026). The evidence consists of photographs, affidavits, and videos. None of the supplemental evidence is new, nor newly discovered, evidence. The Appellants fail to meet the basic standards that are prerequisites to this Board's granting a right to the Appellants to supplement the record that was before the MDEP when the MDEP made its Findings of Fact and Order.

To the extent that any of the proposed supplemental evidence is relevant and material (and much is not), none of it is of a type that qualifies as supplemental evidence because all of it could have been, and should have been, timely presented to the MDEP. Both Appellants knew how to submit, and did submit, comments to MDEP in April of 2025. Allowing Appellants to submit new evidence to support a claim that the MDEP erred in approving the application is anathema to fair processing of an application and counter to the MDEP's mandate to review and act on applications based upon the evidence before it.

The Appellants argue that they should be given an exception to the standards specified in Chapter 2, *Processing of Applications and Other Administrative Matters*, section 23 because they requested a public hearing in April of 2025 and never received the Commissioner's denial of that request. Nothing in Chapter 2 supports the grant of such an exception to the rules. Moreover, the lack of communication of the Commissioner's denial of the public hearing request did not, in any way, prevent the Appellants from submitting in 2025 what they are now trying to insert into the record in 2026.

1. Background On Maine Lobster's NRPA Permit Application.

Maine Lobster has been a dependable fixture of Spruce Head's working waterfront since the early 1960's. During all of that time it has been providing essential services to Maine's lobster, fishing, and maritime industries. It has also, for those past 7 decades, been a reliable local employer.

In the two storm surges that occurred on the Maine coast in January of 2024, Maine Lobster suffered significant damage to its piers and wharves. The fisherman that Maine Lobster

serves depend on safe and reliable access to Maine Lobster's piers and wharves for servicing their vessels, fueling, off-loading their catch, and on-boarding bait. On the heels of the 2024 storms, Maine Lobster focused on how it could rebuild its infrastructure and increase its resiliency against future storms and sea level rise. Maine Lobster designed a rebuild with Prock Marine and applied for, and received, a State of Maine Working Waterfront Resiliency Grant and a Maine Business Recovery Resilience Fund Grant To help fund the reconstruction. It is this designed reconstruction that was the subject of Maine Lobster's NRPA permit filed with the MDEP on March 25, 2025. The NRPA application, as amended, proposed 1) to raise, extend and re-deck its wharves along the shoreline of its property, and 2) to raise, extend and re-deck its two piers. The NRPA Order issued on January 8, 2026 approved the application.

Maine Lobster's application, as initially submitted, also included a proposal for 1) a new float added to its existing float configuration extending from its southern pier (towards Corazzini's property), and 2) a new ramp and float extending from the northern side of its property (near the Co-op property). The Appellants objected to these two components of the application. They both filed their objections with the MDEP in April of 2025. As a result of these objections, and in consultation with the MDEP, Maine Lobster withdrew from its application both the proposed float extension on the southern side and the proposed float and ramp structure on the northern side of its property. This substantial compromise by Maine Lobster was a sacrifice of operational needs, surrendering needed skiff space and additional work space for its fishermen. Maine Lobster made this amendment to its application because it understood that it would address the principal concerns raised by the Appellants and because with the amendment, the MDEP, in consultation with sister agencies, concluded that the

application satisfied all NRPA standards. Maine Lobster's compromise has been met with an appeal that has the effect of delaying the project and jeopardizing the grant funding allocated by the State of Maine to rebuild this essential facility.

Notably, much of the Co-op's argument in their appeal relates to the float and ramp structure on the northern side which Maine Lobster removed from the application and was not part of the MDEP approval. Similarly, all of Corazzini's objections in his appeal relate to the float configuration in the vicinity of his property. The float configuration is not a part of the MDEP NRPA Order and arguments relating to floats are irrelevant to the Board's review of MDEP's approval.

When the Appellants submitted their objections to the MDEP, they requested a public hearing. The Co-ops attorney submitted a request for a public hearing on April 3, 2025. The Commissioner declined the request for a public hearing and set forth the basis for that denial in a letter dated June 2, 2025. The Appellants did not receive the Commissioner's letter. The Appellants neither followed up requesting the status of the public hearing request nor did they share with MDEP the evidence that they are now trying to put into the record. The Appellants made no inquiries and submitted no additional evidence in May, June, July, August, September, October, November, or December of 2025. It was not until they received notice of the MDEP approval in January, and filed their appeal in February of 2026, that the Appellants, for the first time, proposed supplemental evidence be added to the record.

2. Standard For Admissibility of Supplemental Evidence.

Pursuant to Chapter 2, section 23(E)(1), for admittance to the record, any person offering proposed supplemental evidence in an appeal must demonstrate each of the following:

- a) That the proposed supplemental evidence is relevant and material to the appeal;
- b) That the evidence could not have been presented to the Commissioner during the application processing period;
- c) That the person offering supplemental evidence exercised due diligence in bringing the evidence to the Department's attention at the earliest possible time, or that the evidence is newly discovered and could not, by the exercise of diligence, have been discovered in time to be presented during the application processing period.

3. The Co-ops Proposed Supplemental Evidence Does not meet the section 23(E)(1) Standard for Admissibility.

The Co-op has proposed new evidence that was not before the MDEP when it reviewed and approved Maine Lobster's NRPA application. The proposed new evidence is in the form of: 1) an affidavit from David Cousens ("Cousens") dated February 4, 2026 with an attached Google Earth image; 2) and affidavit of Michael Sabatini ("Sabatini") dated February 5, 2026; and 3) six undated videos of boat dockings at the Co-op landing.

A. Affidavit of Cousens.

The affidavit of Cousens fails to qualify as admissible supplemental evidence because the Co-op could have presented the Cousens' affidavit to the MDEP at any time during the

MDEP's processing of the application. The Co-op, through its attorney submitted comments in April of 2025 and knew how to do so. The Co-op could have offered the affidavit of Cousens right up until the decision date of January 8, 2026. As such, the affidavit fails the test set forth in Chapter 2, Section 23(E)(1)(b): *"that the evidence could not have been presented to the Commissioner during the application processing period."*

Additionally, the Cousens' affidavit contains no newly discovered evidence or any evidence that could not have been discovered through the exercise of diligence. Rather than bringing the evidence to the Department's attention at the earliest possible time, the Co-op waited for 10 months and are only offering it now *after* the MDEP processing period is over. This fails to satisfy the test in Chapter 2, Section 23(E)(1)(c): *"that the person offering supplemental evidence exercised due diligence in bringing the evidence to the Department's attention at the earliest possible time, or that the evidence is newly discovered and could not, by the exercise of diligence, have been discovered in time to be presented during the application processing period."* The Co-op is resting on the argument that by filing a request for a public hearing and not receiving a decision on that request it could do nothing for 10 months and still be satisfying the *diligence* standard of Section 23(E)(1)(c). Such an argument shifts all responsibility away from the Appellant counter to the requirement that an interested party exercise diligence. There is no good reason why the Co-op could not have submitted the Cousen's affidavit during the application processing period. Accordingly, the Co-op has not met the required standard for introducing the Cousens affidavit into the administrative record after the application processing period has ended and the MDEP has entered its Order.

B. Affidavit of Sabatini.

The affidavit of Sabatini fails for the same reasons that the affidavit of Cousens fails. It does not qualify as admissible supplemental evidence because the Co-op could have presented the Sabatini affidavit to the MDEP at any time during the MDEP's processing of the application. The Co-op could have offered the affidavit of Sabatini right up until the decision date of January 8, 2026. As such, the affidavit fails the test set forth in Chapter 2, Section 23(E)(1)(b): *"that the evidence could not have been presented to the Commissioner during the application processing period."*

Additionally, the Sabatini's affidavit contains no newly discovered evidence or any evidence that could not have been discovered through the exercise of diligence. Rather than bringing the evidence to the Department's attention at the earliest possible time, the Co-op waited for 10 months and are only offering it now *after* the MDEP processing period is over. This fails to satisfy the test in Chapter 2, Section 23(E)(1)(c): *"that the person offering supplemental evidence exercised due diligence in bringing the evidence to the Department's attention at the earliest possible time, or that the evidence is newly discovered and could not, by the exercise of diligence, have been discovered in time to be presented during the application processing period."* The Co-op, again, is resting on the argument that by filing a request for a public hearing and not receiving a decision on that request it could do nothing for 10 months and still be satisfying the *diligence* standard of Section 23(E)(1)(c). Such an argument shifts all responsibility away from the Appellant counter to the requirement that an interested party exercise diligence. There is no good reason why the Co-op could not have submitted the

Sabatini affidavit during the application processing period. Accordingly, the Co-op has not met the required standard for introducing the Sabatini affidavit into the administrative record after the application processing period has ended and the MDEP has entered its Order.

Additionally, Sabatini's plan, attached to his affidavit, depicts not the amended plan approved by the MDEP but the original application plan that included a ramp and float in the vicinity of the Co-op. Submitting the original application plan rather than the amended, approved plan, after the MDEP Order is misleading, irrelevant and immaterial to the appeal of the MDEP Order. Moreover, the Sabatini affidavit and plan appear to be offered in support of the arguments in the Co-ops appeal relating to claims of private property right violations. Such claims are civil in nature and are not properly before the MDEP in a NRPA application and are therefore irrelevant and immaterial to the appeal.

Finally, I note that the plan attached to the Sabbatini affidavit was, in fact, previously submitted by the Co-op to the MDEP in April of 2025 while the MDEP was processing the application. The MDEP appears to have considered it and given it the weight that it deserved.

C. Videos

The Co-op submitted 6 undated, unverified, unnarrated videos of boats appearing to maneuver in and out of the Co-op's dock and bulkhead. For the same reasons the affidavits of Sabatini and Cousens are inadmissible, so are the proposed videos. The videos fail to qualify as admissible supplemental evidence because the Co-op could have presented them to the MDEP at any time during the MDEP's processing of the application. The Co-op could have offered the videos right up until the decision date of January 8, 2026. As such, the videos fail the test set

forth in Chapter 2, Section 23(E)(1)(b): *“that the evidence could not have been presented to the Commissioner during the application processing period.”*

Additionally, the videos contain no newly discovered evidence or any evidence that could not have been discovered through the exercise of diligence. Rather than bringing the evidence to the Department’s attention at the earliest possible time, the Co-op waited for 10 months and are only offering the videos now *after* the MDEP processing period is over. This fails to satisfy the test in Chapter 2, Section 23(E)(1)(c): *“that the person offering supplemental evidence exercised due diligence in bringing the evidence to the Department’s attention at the earliest possible time, or that the evidence is newly discovered and could not, by the exercise of diligence, have been discovered in time to be presented during the application processing period.”* The Co-op, again, is resting on the argument that by filing a request for a public hearing and not receiving a decision on that request it could do nothing for 10 months and still be satisfying the *diligence* standard of Section 23(E)(1)(c). Such an argument shifts all responsibility away from the Appellant counter to the requirement that an interested party exercise diligence. There is no good reason why the Co-op could not have submitted the videos during the application processing period. Accordingly, the Co-op has not met the required standard for introducing the videos into the administrative record after the application processing period concluded and the MDEP entered its Order.

4. Corazzini’s Proposed Supplemental Evidence Does Not Meet The Section 23(E)(1) Standard for Admissibility.

Corazzini submitted with his appeal 14 pages of photographs and satellite imagery. This proposed evidence fails to qualify as admissible for the same reason the Co-op’s affidavits and

videos fail. The photographs fail to qualify as admissible supplemental evidence because Corazzini could have presented the photographs to the MDEP at any time during the MDEP's processing of the application. Corazzini submitted comments in April of 2025 and knew how to do so. He could have offered the photographs then and right up until the decision date of January 8, 2026. As such, the photographs fail the test set forth in Chapter 2, Section 23(E)(1)(b): *"that the evidence could not have been presented to the Commissioner during the application processing period."*

Additionally, the photographs contain no newly discovered evidence or any evidence that could not have been discovered through the exercise of diligence. The photographs all predate the date that Maine Lobster filed its NRPA application. Rather than bringing the evidence to the Department's attention at the earliest possible time, Corazzini waited for 10 months and is only offering it now *after* the MDEP processing period is over. This fails to satisfy the test in Chapter 2, Section 23(E)(1)(c): *"that the person offering supplemental evidence exercised due diligence in bringing the evidence to the Department's attention at the earliest possible time, or that the evidence is newly discovered and could not, by the exercise of diligence, have been discovered in time to be presented during the application processing period."* Corazinni is resting on the argument that by filing a request for a public hearing and not receiving a decision on that request he could do nothing for 10 months and still be satisfying the *diligence* standard of Section 23(E)(1)(c). Such an argument shifts all responsibility away from the Appellant counter to the requirement that an interested party exercise diligence. There is no good reason why Corazinni could not have submitted his photographs during the application processing period. Accordingly, Corazinni has not met the

required standard for introducing the photographs into the administrative record after the application processing period concluded and the MDEP entered its Order.

5. The Licensee's Proposed Supplemental Evidence.

A. United States Coast Guard Low Risk Determination Letter.

In January of 2026, after the MDEP entered its Order in this matter, the United States Army Corps of Engineers ("USACE") requested that the United States Coast Guard ("USCG") assess the concerns of the Co-op and Corazinni relating to navigation in and around Maine Lobster's proposed project. The USACE did this in the context of its own review of the project, and after receiving comments from the Co-op and Corazinni similar to those the Co-op and Corazinni registered with the MDEP. The USCG was asked to assess whether the project was likely to impede navigation in, and around, the project area. The USCG visited the site by water and conducted a Basic Navigational Safety Risk Assessment. On February 10, 2026, the USCG issued a Low Risk Determination. The assessment of low risk from the USCG is consistent with the determination of every agency that has objectively considered the impacts on navigation from this project. Because this document was created on February 10, 2026, it does satisfy the standards discussed above for supplemental evidence. It is new evidence that could not have been produced during the application processing period. Moreover, it is relevant and material because it addresses the core complaint of the Appellants and confirms that the Appellant's claims regarding navigability are, at best, hyperbole. The USCG Low Risk Determination letter is included herewith, and incorporated herein.

B. Video of Fishing Vessel Safely Navigating To Co-op Landing (March, 2026)

As further relevant evidence debunking the claim of the Co-op, the Licensee has included herewith, and incorporated herein, a video of a 43 foot fishing vessel safely and efficiently navigating to the Co-op landing in a manner that would be completely unaffected by any component of Maine Lobster's approved NRPA application. This video is being offered in response to the arguments raised on appeal and the videos offered by the Co-op falsely suggesting that the project would prevent fishing boats from accessing the Co-op's landing.

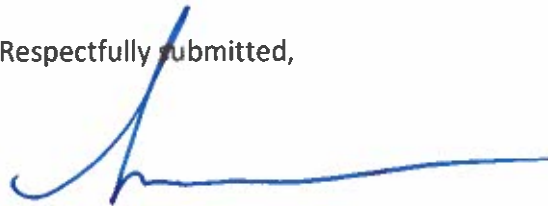
6. CONCLUSION

Chapter 2, section 23 (E)(1) specifies an objective test that must be applied to any party that, after a MDEP Order has issued, is attempting to introduce new evidence into the record. The evidence offered by the Appellants fails to satisfy the objective test. Any lack of communication from the MDEP relating to a request for a public hearing does not change the test nor does it change the fact that the Appellants had ample time and ability to have offered this evidence along with their original comments in April of 2025 or any later date up until the MDEP's decision in January of 2026.

The Licensee has offered as supplemental evidence a Low Risk Determination Letter from the USCG that could not have been offered during the application processing period because it was just created in February of 2026. It is relevant as it contradicts the appeal arguments of the Co-op relating to the project's likely impact on the Co-op's operation. This evidence meets the 23(E)(1) standards and should be admitted into the record.

The Licensee has also offered a March 2026 video of a 43 foot fishing vessel navigating to the Co-ops landing, in reaction to the Co-ops arguments in their appeal. The video further debunks the Co-ops claims, and proposed videos, suggesting that the approved project will impact the ability of a fishing vessel to access the Co-ops landing. Supplemental evidence responding to issues raised in the appeal is authorized by section 23(E). Accordingly, the Licensees video should be admitted into the record on appeal.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'T. Federle', written over a horizontal line.

Thomas B. Federle, Esq.

TF/egy

CC: Service List

Name/Number for Project: Maine Lobster and Processing Wharf Extension

Date Assessed: 10-Feb-26

Lead permitting agency: USACOE, Maine DMR

Location: Spruce Head Island, ME

Criteria	Low Risk	High Risk	Notes (discuss reason for risk determination)
Location	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Determine risk based on the proposed permit location in terms of risk to which a collision or allision exposes the area.</p> <p>The proposed lease site is outside of a navigation channel. All Construction will be conducted from land side.</p>
Traffic	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Determine risk based on the amount/type/activities of vessel traffic adjacent to the proposed permit location. Factors to consider include, but are not limited to amount and frequency of traffic, speed of traffic and current, maneuvering constraints/limitations, and locations of facilities that traffic is transiting to/from.</p> <p>Location has vessel activity as shown on 2024 AIS traffic density (51-75 transit counts). However this is not applicable due to all construction material needed will be on land and the adjacent moorings will not be affected.</p>
Response	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Determine risk based on the ability of the local maritime response community (including federal, state, and local governments) to provide timely, adequate assistance to proposed permit location.</p> <p>The proposed area is within acceptable response times.</p>
Anticipated environmental factors	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Determine risk based on a project's susceptibility to environmental factors such as fog, floods, storms, ice, etc.</p> <p>No increases in environmental factors are expected.</p>
Severe and sudden environmental factors	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Determine risk based on the location's frequency of risk due to sudden and severe environmental factors such as hurricanes, flash floods, or tsunamis.</p> <p>Due to lines submerged in water, storm conditions unlikely to break lines.</p>
Hydrological effects to waterway	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Determine risk based on probability of hydrological issues having negative effects to proposed permit location and waterway. Consider whether the project will cause problems in this area at certain water stages, and whether the project will impact shoaling, siltting, etc.</p> <p>Hydrological effects to waterway assessed as minimal. Site is a Wharf and will be maintained by turbidity curtain to maintain sediment.</p>

The Coast Guard Low Risk determination in no way implies that the project site is without risk or deemed completely safe, nor does it imply that the Coast Guard has "approved" the project site. As the owner/operator of this site, you are still responsible for the overall safety and obtaining any appropriate approval or permits from the Federal, State, or local authorities.

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From: [Elias Young](#)
To: [Burke, Ruth A](#)
Cc: [Hinkel, Bill](#); [Bower, Mark](#); [Wood, Robert](#); [Damon, Jessica](#); [Green, Robert L](#); [Dunning, Cory R](#); [travis.thompson@atwoodlobster.com](#); [Tom Federle](#); [Patrick Mellor](#); [rcoraz12@gmail.com](#); [catstack@aol.com](#); [ortaherb@aol.com](#); [whereismac12@aol.com](#); [shardt11@gmail.com](#)
Subject: Maine Lobster and Processing, LLC's Response to Appellants' Proposed Supplemental Evidence
Date: Friday, March 20, 2026 10:44:37 AM
Attachments: [image001.png](#)
[image002.png](#)
[2026.03.20 Maine Lobster Response to Appellants' Proposed Supplemental Evidence.pdf](#)
[USCG Low Risk Determination Letter\[78\].pdf](#)

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Dear Board Clerk Burke,

In the matter of the appeal of Maine Lobster and Processing, LLC's Natural Resources Protection Act Permit, please find attached Maine Lobster and Processing, LLC's comments regarding the inadmissibility of supplemental evidence offered by Appellants.

In addition, attached please find the referenced Low Risk Determination Letter issued by the United States Coast Guard. The referenced March 2026 video can be accessed via Dropbox and is linked below. If you have any difficulties accessing the Dropbox folder containing the video, please feel free to contact me.

Regards,
Elias

https://www.dropbox.com/scl/fo/d8xdk5w8a73bolrlwngsc/ANgSAZkt_Vo6UV4y_Hsb-Qs?rlkey=22v35ply4o8trs5lypn4k2la8&st=zw1y2uba&dl=0

Elias G. Young Paralegal
Archipelago
1 Dana Street, 4th Floor
Portland, ME 04101
(207) 558-0102
eyoung@archipelagona.com

