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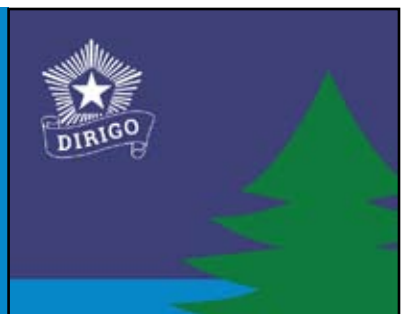
Machias, Maine • March 11, 2020

\$1.50



Happy Birthday, Maine!

1820 - 2020



Bill grapples with drug law reform

by Ruth Leubecker

Medical experts and public health advocates convened last week to address upcoming legislation that would relax sentencing guidelines for those possessing drugs.

LD 1492, An Act to Reform Drug Sentencing Laws, seeks to require prosecutors to prove someone is trafficking or intends to traffick drugs before they can be convicted of it; and it would end some felony charges by raising the threshold for misdemeanor possession charges.

"The work session held last week went well," said Whitney Parrish, speaking for the Maine Health Equity Alliance, in assessing the first conference of stakeholders. "The Maine Medical Association and the Maine Sheriffs' Association each were represented in a

show of support. Dr. Mary Dowd of Milestone Recovery expounded on the ramifications of contact with the criminal legal system and how it impacts people who are trying to get on their feet."

This harmful, often blanket end result of drug cases in Maine provided the impetus of LD 1492. Because state laws don't define drug use, people are wrongly labeled as felony users or traffickers and are punished in ways that derail their chances for future success and security.

"Criminal records follow people for the rest of their lives, and punish them indefinitely," says Parrish. "A felony conviction can keep you out of housing, even deny you employment or access to student loans."

(Law reform cont. pg. 19)

One year after SJC ruling, enforcement issues plague rockweed industry

by Sarah Craighead Dedmon

Questions about enforcement of the *Ross v. Acadian Seaplants'* decision surround Maine's rockweed industry, one year after the Maine Supreme Judicial Court ruled rockweed is the exclusive property of Maine's intertidal landowners.

Ross v. Acadian Seaplants', filed in Machias in 2015, was the first case in more than 100 years to address ownership of *Ascophyllum nodosum*, a bubbly species of seaweed that grows attached to the rocks in Maine's intertidal zone. In the case, plaintiffs Kenneth Ross, Carl Ross, and the Roque Island Gardner Foundation said rockweed is the private property of intertidal landowners. Defendant Acadian Seaplants Ltd. of Nova Scotia, Canada, said Maine's rockweed is the

state's marine resource, held in the public trust.

The case drew intense industry and media attention for four years. In March 2019, the supreme court ruled in the plaintiffs' favor, saying "rockweed attached and growing in the intertidal zone is the private property of the adjacent upland landowner."

Then, in September 2019 the Ross brothers found many tons of rockweed were cut from their properties on Cobscook Bay, without their permission. Both Ross properties have been protected in a conservation easement since 2003, which should have prevented rockweed harvesting, even before the lawsuit.

"I was not surprised that some people would take the

(Rockweed cont. pg. 18)

A walk through Machias before statehood

by Valdine Atwood

Editor's note: Follow along on this walk through historic Machias using the maps found on p. 21.

In 1929 the Hon. Clement Donworth drew a map depicting the Village of West Falls (Machias) as it appeared in 1811. The map was a faithful portrayal of the physical conditions then existing as detailed to him by the late William Longfellow, as told to him by his mother Mrs. Nathan (Susan B. Haskell) Longfellow,

who came to Machias as a bride in 1811. Two copies of the map were made, with one donated to the Porter Memorial Library and the second to the Burnham Tavern Museum, which is maintained by the Hannah Weston Chapter, Daughters of the American Revolution.

The two maps are the only known original copies in existence, and they give a good view of what the small hamlet of Machias looked like in the early 1800s. The map is as close as we can come to what

Machias was on Wednesday, March 15, 1820 — the day Maine became a state.

At first glance, there are several differences in Machias of 1811 and Machias of 2020. Our Main Street and Colonial Way were then called Front Street, while Court Street was called Back Street. Back Street / Court extends out to Munsons Rips along the Machias River. Center Street was called Captain's Hill. Captain's Hill also has the notation that the

(Machias cont. pg. 4)

Will fish farm propel \$12M power line upgrade for Jonesport?

by Nancy Beal

In an unusual reversal in the practice of awarding grants, the town of Jonesport has been invited to apply for a \$1,000,000 infrastructure grant. That was the word that Bill MacDonald, the new executive director of the Washington County Council of Governments (WCCOG) brought to Jonesport selectmen recently — first via email on the last day of January, then in person on Feb. 5.

The email contained an attachment: a proposed Letter

of Intent (LOI) to apply for money from the Community Development Block Grant (CDBG) Program administered by the Maine Department of Economic and Community Development (DECD). The LOI contained a mini-description of the project to be funded: "to upgrade Emera's electric substation and electric lines to increase megawatt power and capacity for the Town of Jonesport to facilitate pending economic development projects. The total project cost has been

estimated at \$12 million." The CDBG request was indicated as \$1 million.

The LOI had been prepared by WCCOG staff since, wrote MacDonald, "As you are aware DECD approached us to ask you to consider submitting [it]." When visiting the selectmen February 5, he said the project would involve an upgrade of power lines and a new substation. He said that federal money would probably be involved and that the town would not be required

(Fish farm cont. pg. 18)

Coronavirus: schools, hospital prepare to respond

by Jayna Smith

Concerns about the new coronavirus outbreak have risen in the U.S., even more so since 21 U.S. deaths have been reported. Stocks have plummeted as the virus has disrupted logistics networks, driven down tourism and air traffic, and canceled major events across the globe. Prices of commodities like oil and industrial metals have also taken a major plunge. Because China is a major supplier of ingredients for medicines, if the epidemic persists, prescription drugs could face shortages, according to the World Health

Organization.

With no vaccine currently available to protect against or medications approved to treat COVID-19, an outbreak in the

(Coronavirus cont. pg. 19)

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Index

Arts & Entertainment.....	14
Calendar of Events.....	18-19
Church Directory.....	20
Classifieds	27
Community News.....	12-13
Games.....	19
Help Wanted.....	25-26
Legals/Notices.....	22-24
Sports.....	15
Obituaries.....	21
Op-Ed.....	6-7
Outdoors.....	28



Fish farm Continued from page 1

to produce any matching funds. He said the CDBG grant if awarded, would not affect other grant applications that the town might make.

MacDonald said that, because Jonesport was a due-paying member of the WCCOG, his staff would provide technical assistance in preparing the complete application, and would enter into a contract with the town to upgrade its 10-year-old comprehensive plan, a requirement of the grant. (An article in the warrant for this week's town meeting asked to tap the surplus fund for up to \$25,000—a figure MacDonald said would be the maximum—to update the comp plan.)

The selectmen signed the LOI Feb. 5. The following week, they

received a letter from Deborah Johnson, director of the Office of Community Development, a sub-department of the DECD, stating that the town had met the requirements (income levels) and was eligible to submit a Public Infrastructure application. She added that eligibility did not guarantee “final project approval or funding.”

What prompted Jonesport's invitation?

As Jonesport Selectman Harry Fish observed while listening to MacDonald describe his town's good fortune, grant applications ordinarily begin with the grantee asking for the money, not with the grantor inviting the grantee to ask. His fellow selectman, Billy Milliken, offered a suggestion

about how this happened in Jonesport.

Milliken is a realtor handling a 95-acre tract of land under contract to Kingfish Zeeland, a Dutch aquaculture firm that is planning to establish a \$110 million land-based fish farm on the parcel. The parcel, known as “Dungarvin,” is on Chandler Bay on the east side of the Jonesport peninsula. The nearest electric substation is in West Jonesport, several miles away. Milliken surmised Feb. 12 that Kingfish Zeeland engaged Emera Maine in discussions about the need for a power upgrade to run its proposed business and that Emera, which would gain a significant customer in the aquaculture company, went looking for ways to pay for the

required upgrade, resulting in the DECD's invitation to the town to apply for a CDBG.

Repeated attempts to engage personnel in the DECD on this issue were unsuccessful. On February 26, following the advice of the town's attorney, Milliken recused himself from discussing or voting on the fish farm project and promised, when the subject was under consideration, to sit in the audience and comment only as a private citizen.

Kingfishers back in Jonesport

Kingfish Zeeland announced last month that it was changing its corporate name to the Kingfish Company. The Jonesport plant will be known as Kingfish Maine. The monthly “Coffee

with Kingfish” session, as the company's public relations person styles the kaffee klatch held once a month at a local convenience store, will take place from 11 a.m. to noon, Thursday, March 19 at Moosabec Video. On hand to chat and answer questions will be project managers Megan and Tom Sorby.

The following week, starting at 6 p.m., Wednesday, March 25 at Peabody Memorial Library, the Sorbys will present a slide show of their recent trip to Kingfish Zeeland in the Netherlands. The pictures will provide a behind-the-scenes look at the recirculating aquaculture system (RAS) for Dutch yellowtail. All those interested are welcome.

Rockweed Continued from page 1

rockweed without permission,” said Kenneth Ross. “I was surprised at the apparent extent of it without permission, and I was certainly surprised that they came back to the very site that set off the case four-and-a-half years ago.”

The theft was reported to the Maine Marine Patrol, which today lists the complaint as unresolved.

Since the Ross decision, the state has directly received a total of 12 illegal harvesting complaints, and lists 11 of those as resolved with no summons issued, according to Maine Department of Marine Resources (DMR) spokesman Jeff Nichols.

Sergeant Russell Wright

follow the same trajectory as land-based property lines. Sometimes they veer hard left, or hard right, or even stop at high water. How, then, can marine patrol determine if there has really been a theft, and from whom?

“We need to track the deeds down, that's the issue that we've been dealing with. We have to rely on the landowners to get us the deed,” said Wright. “It's new to us, so we're working through the bugs.”

DMR Commissioner Patrick Keliher in a January radio interview said that his department sided with Acadian Seaplants in the case, but today recognizes Ross as “the law of the land” and will

and if we can show that we're going to move forward with a case.”

Gordon Smith, attorney for the plaintiffs, does not agree that proving intertidal ownership is a necessary first step to enforcing the law.

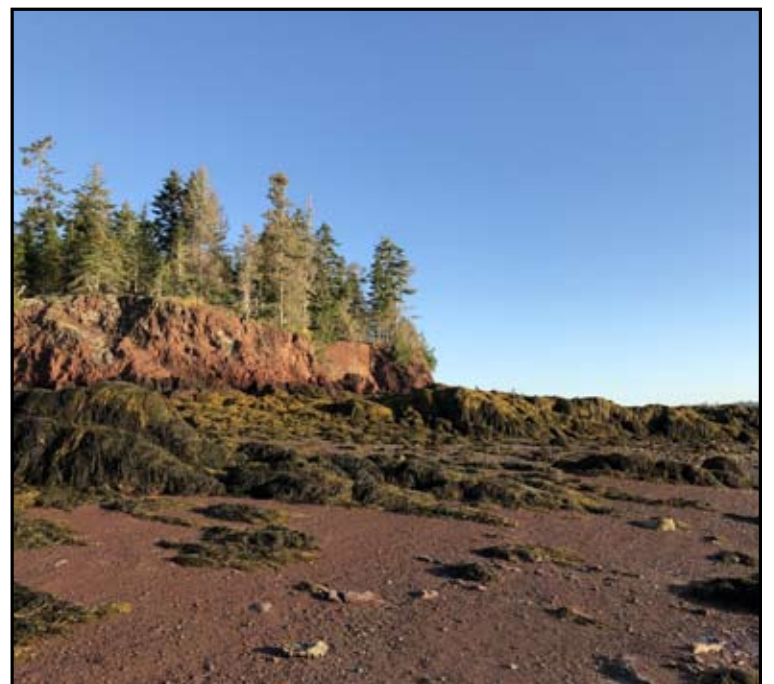
“If someone mows the hay growing on your field, then hauls the hay off in their truck, an investigating police officer is not going to analyze your deed to make sure it's your hay,” said Smith. “Unless the person who took the hay can show they own the land or they have your permission, it's theft.”

Seeking permission

Acadian Seaplants, which manufactures seaweed-based products for food, animals, and agriculture, has extensive operations in Washington County, including four full-time employees. Acadian Vice President of Resource Management Chris Morrissey said Acadian is currently going door-to-door, seeking written permission to prepare for the summer rockweed harvest season.

“It doesn't matter what's in the deeds from our perspective, we are still seeking permission,” said Morrissey. “The biggest challenge is absentee landowners or people not at home, it's taking us quite a bit of time.”

Another challenge is locating intertidal property lines from a boat during high tide, when rockweed is typically harvested. How can a harvester know they're cutting from the right locations? Morrissey said Acadian is seeking permission from swathes of adjacent



Rockweed on the ledges of Kenneth Ross' Pembroke property was illegally cut without permission in Sept. 2019. Rockweed harvesting on the same ledges spurred a 2015 lawsuit that went all the way to the Maine Supreme Judicial Court, which declared rockweed the private property of landowners. Photo courtesy Kenneth Ross

landowners, to simplify matters.

“We tend to clump them together in a single geography, which makes it easier for the harvester and the landowners to know that many of them have given us permission to harvest,” said Morrissey. Of the residents Acadian has been able to contact, he said, more than 90 percent have given their permission.

Call Marine Patrol

In his January interview, Commissioner Keliher said some illegal harvesting complaints were made to other agencies, and not the marine patrol. That won't work, he said. “If somebody is harvesting and someone believes they're harvesting on their land, they need to call the Maine Marine Patrol,” said Keliher.

That's Smith's advice too. “If landowners don't contact

Marine Patrol when there is harvesting without permission, DMR will not know that there is a problem that needs to be addressed,” he said.

Kenneth Ross said he has given the state his deed, which demonstrates ownership of the intertidal zone, along with photographic evidence of the cutting, and hopes to have the alleged theft addressed soon.

“I won't say nothing has been done, because I don't know what they've been doing internally, but apparently no action has been taken yet,” said Ross, who believes rockweed plays a key role in the health of Maine's coastal fisheries.

“We don't want to see [rockweed] treated the same way a lot of the other resources have been,” said Ross. “We Maine folks have a habit of just going at it until they're all gone.”

The Colonial Ordinance of 1641-47

In Canada and in most of the United States, private land ownership ends at the high water mark, but Maine is one of five states that does not fully own its intertidal zone. The Massachusetts Bay Colony's Colonial Ordinance of 1641-47, brought into Maine's common law in 1820, says that private property extends to the mean low tide, incorporating all of the intertidal zone.

However, the ordinance preserved a “trilogy” of public rights to the intertidal zone: the rights to “fishing, fowl, and navigation,” which is why clamming, hunting, and boating, among other things, have intertidal rights. In their *Ross v. Acadian Seaplants* decision, the supreme court stated that rockweed does not fall into any of those categories.

of the Maine Marine Patrol has responded to some of those complaints and said enforcement of Ross presents new challenges, because determining who owns the intertidal zone requires deed research. In Maine, intertidal property lines don't always

enforce it. Keliher also raised the challenges of determining intertidal land ownership.

“We need to know that they have an ownership case, because [the charge] is not trespass, it's theft,” said Keliher. “We need good proof of who owns the land, whether a theft took place,