

Maine Policy Review

Volume 32
Issue 2 *Our Shared Ocean*

2023

Getting to the Shore on Foot: Sustaining Harvester Access

Bill Zoellick

Town of Gouldsboro, bill@zoellick.com

Pauline V. Angione

Town of Gouldsboro, pangione@gmail.com

Emily Farr

Manomet, Inc., EFarr@manomet.org

Ada Fisher

Town of Gouldsboro, adafisherthecat@gmail.com

Jessica Gribbon Joyce

Tidal Bay Consulting, jessica@tidalbayconsulting.com

See next page for additional authors

Follow this and additional works at: <https://digitalcommons.library.umaine.edu/mpr>



Part of the [Land Use Law Commons](#), [Legislation Commons](#), [Property Law and Real Estate Commons](#), and the [State and Local Government Law Commons](#)

Recommended Citation

Zoellick, Bill, Pauline V. Angione, Emily Farr, Ada Fisher, Jessica G. Joyce, B Lauer, Marissa McMahan Ph.D., Michael Pinkham, and Vicki Rea. "Getting to the Shore on Foot: Sustaining Harvester Access." *Maine Policy Review* 32.2 (2023) : 100 -103, <https://digitalcommons.library.umaine.edu/mpr/vol32/iss2/16>.

This Commentary is brought to you for free and open access by DigitalCommons@UMaine.

Getting to the Shore on Foot: Sustaining Harvester Access

Cover Page Footnote

Corresponding author (bill@zoellick.com) This work was supported in part under award CZM NA21NOS4190082 to the Maine Coastal Program from the National Oceanic and Atmospheric Administration, U.S.Department of Commerce

Authors

Bill Zoellick, Pauline V. Angione, Emily Farr, Ada Fisher, Jessica Gribbon Joyce, B Lauer, Marissa McMahan Ph.D., Michael Pinkham, and Vicki Rea

Getting to the Shore on Foot: Sustaining Access for Clam and Worm Harvesters

by Bill Zoellick, Pauline V. Angione, Emily Farr, Ada Fisher, Jessica Gribbon Joyce, B Lauer, Marissa McMahan, Michael Pinkham, and Vicki Rea

A PATCHWORK WATERFRONT

For clam harvesters, deciding where to begin the day's work involves much more than where to find clams. For example, the western end of Gouldsboro's Jones Cove, by Taft Point, can offer good digging, but if there is a strong wind from the west and a big swell, it can be a brutally difficult and even dangerous place to work. On those days, it makes more sense to start from the eastern end of Jones Cove. The season matters, too, and not just because of seasonal closures. On a bright, cold, windy day, a digger will want to be someplace sheltered from the wind.

Weather and season are not the only considerations. When is low tide today, and how big a tide will it be? Working some mudflats is best on a big tide. Harvesting clams often involves crossing private property, and sometimes, the informal access arrangements with property owners include restrictions to certain times of day or year. Another consideration is how much digging the harvester plans to do. Clam rollers are heavy; a shorter distance back to the truck is better if the digger plans a big day. What about parking? That, too, can depend on when low tide happens.

Said simply, the working waterfronts for clam diggers, worm harvesters, and others who access the shore on foot differ from the waterfronts needed by lobster fishermen and others who access the sea

from the same place every day. The on-foot working waterfront is more diffuse and used less intensely than wharves, piers, and launch sites. When considering how to protect working waterfronts, perhaps the most distinguishing feature of an on-foot waterfront is that the people who use it do not typically have a deed, lease, or another contractual arrangement that guarantees access.

HOW HARVESTERS OBTAIN ACCESS

Publicly owned land and conserved land often provide on-foot waterfront access. Publicly owned sites are critical in southern and midcoast Maine, where much of the waterfront is densely developed. However, public and conserved lands are often too far apart, not numerous enough, or too far from parking to provide the diversity of access options required for productive and safe on-foot access. Too much distance between access points necessitates using canoes, airboats, or other watercraft to reach mudflats, and boats introduce new risks and difficulties. The tide levels best for launching most boats are the opposite of those best for digging. More importantly, clam and worm harvesting continue year-round in all kinds of weather and sea conditions that can make depending on a canoe or small boat dangerous.

Harvesters depend on informal agreements with private landowners to fill the spaces between public and conserved access points. For example, of the 19 critically important access points identified by Gouldsboro's shellfish committee last year, 16 (84 percent) are on private property. Similarly, a mapping exercise lead by Manomet and conducted with harvesters and municipal staff in five towns in Casco Bay found that 70 percent of the access points required walking across private property. In almost all cases, these private agreements are informal, not in writing, and issues such as when and where access is permitted, if defined at all, might include misunderstandings.

WHY ON-FOOT ACCESS MATTERS

Harvesting activities enabled by on-foot shore access are economically important to coastal communities. They are also socially important because the economic benefits are available to people who may not have access to income from other parts of the coastal economy. Finally, they can be culturally and intergenerationally important. A parent or other veteran harvester who includes young harvesters in using and maintaining an informal access arrangement passes on knowledge about community, stewardship, and relationship-building.

Economic Impact

Lobster fishing is, by far, Maine's most economically important fishery. According to the Maine Department of Marine Resources preliminary landings data for 2022, lobster landings made up two-thirds (\$388.6 million) of the total value (\$574 million) of commercial marine landings (Maine DMR 2023a). However, when commercially harvested

species are ordered by landings value, two on-foot access fisheries, soft-shell clams and elvers, have alternated between positions two and three over the past five years. In 2022, the combined value of the top four on-foot access fisheries (elvers, \$20.2 million; soft-shell clams, \$16.7 million; bloodworms, \$4.7 million; hard-shell clam, \$3.5 million) was \$45.1 million. To put this number in perspective, the value of oyster landings, including those from aquaculture, was \$8.4 million. The value of all groundfish landings (cod, haddock, flounder, halibut, etc.) was \$3.6 million.

Socioeconomic Impact

The cost of entry into commercial clam harvesting is relatively low compared to other fisheries. This year, the state-required Maine Commercial Harvester license costs \$133 (Maine DMR 2023b). Most towns that manage shellfish resources require a municipal license in addition to the state license. Municipal license costs vary but are typically no more than a few hundred dollars. Good hip boots cost less than \$150, a clam rake costs \$100 or less, and one can buy baskets, sleds, and other gear for less than \$100. A commercial clam harvester can get started with an investment of less than \$1,000, sometimes much less. Getting started as a worm harvester costs even less. A 2023 state license to harvest marine worms is only \$50, and municipal licenses are not required. These occupations are accessible to people who are not able to make a significant capital investment in starting a business. In addition, the work hours in clam and worm harvesting are flexible enough to fit with other kinds of part-time and seasonal work, making them essential income sources for the many people in rural Maine who depend on income from multiple sources.

THREATS TO ON-FOOT ACCESS

Recent changes in ownership and use of shore property, however, threaten the informal agreements that enable much of clam and worm harvesters' shore access.

Ownership Changes

The onset of the COVID pandemic in March 2020 changed where people work and live, and evidence suggests that the change is here to stay (Smite et al. 2023). A spring 2022 survey of 25,062 adults by McKinsey & Company found that 35 percent of the respondents can now work from home full time (Dua et al. 2022). According to the Maine State Economist, the change resulted in a "substantial increase in migration to Maine" (Office of the State Economist 2023: 9). The Maine Association of Realtors (2023) reports that 1,395 single-family homes were sold in midcoast and Downeast counties (Lincoln, Knox, Waldo, Hancock, Washington) during 2010. Sales increased to 2,899 in 2019 and jumped to 3,594 in 2020, an increase of 24 percent, and then to 3,753 in 2021. As interest rates tightened in 2022, sales volume returned to 2019 levels in all but Washington County. However, since lost agreements accumulate over time, informal access agreements associated with any of the 10,154 properties that changed hands between 2020 and 2022 are either lost or at risk of disappearing.

Changes in Use

Seasonal residence on Maine's shore was once a family affair. Property owners and their friends and relatives would become part of the community with clam and worm harvesters. Access arrangements were neighborly. Harvesters would keep an eye on the property during the winter. As ownership changes, it is possible to keep informal arrangements in

place and create new ones if new owners see themselves as part of the community. However, developing access arrangements is more complicated if the owner regards the property as an investment with returns through short-term rentals.

Maine properties offered as short-term rentals through intermediaries such as Airbnb and Vrbo have increased over the past five years.¹ The kind of short-term rental that puts on-foot access most at risk is the "whole-home" rental, where a homeowner is not present to explain that clam and worm harvesters are welcome as they cross the property and, like lobster boats, are part of visiting Maine. The Maine State Housing Authority's analysis of whole-home short-term rentals notes that they occur most frequently "in communities where there is a high level of tourism—on the coast, near ski areas, and around lakes" (Barr 2022: 9). The report also notes that impacts of short-term rentals vary across communities. Local regulation might be appropriate in some communities.

Any description of property ownership and use changes on Maine's coast should acknowledge that converting coastal property to residential housing is not new. However, as noted above, loss of shore access is cumulative. That it has been happening for a long time should increase our commitment to developing policy responses while some access remains.

PRESERVING ON-FOOT ACCESS

Policies and actions at both the community and state level can help protect access. As Merritt T. Carey wrote in her analysis of Maine's working waterfront and shore access crisis, "the role of municipalities is critical, though insufficient, and currently is the primary factor in whether a coastal community retains a working waterfront" (Carey 2021:11).

Local Policy and Action

Local initiatives to preserve or expand shore access are growing across coastal Maine. These initiatives take several forms, but are often led by shellfish harvesters and municipal marine resource committees and involve partnerships with land trusts or other community-based organizations. These partnerships combine diverse skill sets to address tasks, including inventoring, convening, landowner relations, legal document preparation, municipal ordinance revisions, and land acquisition or conservation easement development.

Many towns reach out directly to coastal landowners to share information about the importance of coastal access. Harpswell has held a landowner appreciation day for the last several years, inviting shorefront property owners to an informal summer clam cookout where they can ask questions and build relationships with local harvesters. These events have resulted in several new informal access agreements. Brunswick recently sent letters to all 300+ of its coastal property owners sharing information about the importance of the fishery to the town and thanking landowners who already provide footpath access. Several landowners responded to express interest in offering shore access, including a new homeowner moving to Maine from out of state. In Gouldsboro's annual Meet Your Local Clams event, residents sample various clam recipes and learn how the town can help with access agreements. These kinds of local outreach and relationship-building events can go a long way toward preserving informal access arrangements.

Land trusts are also beginning to play a critical role in protecting and enhancing harvester access, bringing expertise in land use, conservation, and landowner relationships. Maine Coast Heritage Trust is developing a template for a license agreement between a landowner and a

town or shellfish committee, modeled after existing private property trail agreements, that would specify the terms of access and could be renewed annually. Several land trusts hold conservation easements on private properties, creating permanent walk-in access arrangements for commercial harvesters. As previously noted, conserved lands, including those owned by land trusts, often provide on-foot access to the water, and several land trusts have worked directly with harvesters to build paths, stairs, and other infrastructure to facilitate easy access for commercial digging.

Some municipalities are using town ordinances to address shore access issues. Lamoine, for example, uses its existing building and land use ordinance to require public access in some new coastal developments. The Lamoine planning and selectman boards used this ordinance to work with a recent developer and successfully secured a walking path and eight parking spots for public use.

State Policy and Action Recommendations

While municipal actions are critical, statewide action is also needed. Many statewide working waterfront and coastal access programs, policies, and funding opportunities do not address the need to preserve walk-in intertidal access. This is partly due to these properties' lack of physical infrastructure, their limited visibility (often just a dirt path through the woods), and the absence of a dedicated industry association to advocate for harvesters' access needs.

Recently, the state has started to recognize that protecting on-foot access requires new tools and thinking. The loss of mudflat access emerged as a priority in a series of regional Department of Marine Resources listening sessions. In response, the state Shellfish Advisory Council made

shore access a standing agenda item at its quarterly meetings.

More state-level action is needed. Policy changes such as amendments to the Working Waterfront Tax Law (Title 36, MRSA, §1131) could offer tax incentives for private landowners who provide walk-in access across their property. A program similar to the Outdoor Partners Landowner Relations Program, managed by the Maine Department of Inland Fish and Wildlife, could offer support to coastal landowners who provide harvester access to mudflats. Additionally, work to protect and expand walk-in access is often not eligible for funding that might apply to other working waterfronts or commercial fisheries. Simple changes in the language of state and federal funding notices could open opportunities to continue and grow this crucial work.

In addition to policy and program changes, statewide communication initiatives could address misunderstandings about on-foot access and improve understanding of why it matters. Templates for municipalities to use in reaching out to new coastal property owners would help newcomers understand that providing on-foot access is a long-standing community norm. A statewide outreach program to realtors, in collaboration with regional or statewide real estate associations, could help make existing access agreements more visible and clear up misconceptions. Real estate agents have sometimes discouraged new shoreland property buyers from continuing previous informal access agreements, describing access as a significant liability risk. In fact, Maine provides broad protection for those who offer access across their property for recreation or harvesting (Title 14, MRSA, §159A). Investment in statewide outreach about liability could help put this already in-place policy to use.

CONCLUDING THOUGHTS

On-foot waterfront access is economically and socially important to Maine's coastal communities. However, policies and programs developed to support wharves, piers, and other infrastructure-based working waterfronts do not address many of the issues driving the loss of on-foot access. Policy development and other actions to protect on-foot access must start with the understanding that most on-foot waterfront access depends on voluntary agreements between property owners and harvesters. Such arrangements cannot be mandated and must attend to local context: What works in one community might need to be modified before it works in another.

In addition to new approaches to policy development, coordination and communication are essential. Countless harvesters, coastal communities, volunteers, nonprofits, research institutes, scientists, and researchers are working to protect access. This work needs support from paid staff, whether in government or NGOs, to coordinate and share what is being done and learned. The state can play a unique, essential role in facilitating programs, policies, and incentives to coordinate efforts across the state and channel capacity and funding toward ongoing local and regional efforts.

NOTES

- 1 <https://news.airbnb.com/rural-airbnb-hosts-in-the-u-s-earned-316-million-in-2018/>; <https://news.airbnb.com/airbnb-hosts-in-rural-america-earn-over-3-5-billion-in-2021/>

REFERENCES

- Barr, Clyde. 2022. "Short-Term Rental Overview Prepared for the Commission to Increase Housing Opportunities in Maine." Maine State Housing Authority. <https://legislature.maine.gov/doc/9119>.
- Carey, Merritt T. 2021. *The Critical Nature of Maine's Working Waterfronts and Access to the Shore*. Island Institute. <https://www>

[islandinstitute.org/wp-content/uploads/2021/11/WWF-Report_web.pdf](https://www.islandinstitute.org/wp-content/uploads/2021/11/WWF-Report_web.pdf).

- Dua, André, Kweilin Ellingrud, Phil Kirschner, Adrian Kwokj, Ryan Luby, Rob Palter, and Sarah Pemberton. 2022. *Americans Are Embracing Flexible Work—and They Want More of It*. McKinsey & Company. <https://www.mckinsey.com/industries/real-estate/our-insights/americans-are-embracing-flexible-work-and-they-want-more-of-it#/>.
- Maine Association of Realtors. 2023. "Annual Homes Sales Statistics by County (2010–2022)." <https://www.mainerealtors.com/news/home-sales-statistics-press-releases/>.
- Maine DMR (Department of Marine Resources). 2023a. "Maine 2018–2022 Landings (live pounds and value) by Species—table." https://www.maine.gov/dmr/sites/maine.gov.dmr/files/inline-files/LandingsBySpecies.Table_.pdf.
- . 2023b. "2023 Clam, Worm, Green Crab, Aquaculture License Application." July 28, 2023. <https://www.maine.gov/dmr/sites/maine.gov.dmr/files/inline-files/2023%20Clam-Worm-Green%20Crab-Aquaculture%20License%20Application.pdf>.
- Office of the State Economist. 2023. *Maine Population Outlook 2020 to 2030*. Augusta: Maine Department of Administrative and Financial Services. https://www.maine.gov/dafs/economist/sites/maine.gov.dafs.economist/files/inline-files/Maine%20Population%20Outlook%20to%202030_5.pdf.
- Smite, Darja, Nils Brede Moe, Jarle Hildrum, Javier Gonzalez-Huerta, and Daniel Mendez. 2023. "Work-from-Home Is Here to Stay: Call for Flexibility in Post-Pandemic Work Policies." *Journal of Systems and Software* 195(January): 111552. <https://doi.org/10.1016/j.jss.2022.111552>.

Bill Zoellick is retired from the Schoodic Institute at Acadia National Park and now chairs Gouldsboro's Coastal Resilience Committee and works with the Shellfish Committee on shore access and mudflat restoration.

Pauline V. Angione is a volunteer with the Gouldsboro Shore Initiative and works with the shellfish resilience program. She coordinates communications and events,

helps maintain the clam lab, and researches economic pressures on the local harvesting community.

Emily Farr is a senior fisheries program manager at Manomet, where she focuses on building resilience in fishing communities and ecosystems. She works closely with the wild shellfish fishery to advance comanagement. .

Ada Fisher is a senior at Sumner Memorial High School in Sullivan, Maine. In 2023, she interned for the Gouldsboro Shore Initiative where she worked on shore access, coastal erosion, and shellfish resilience projects.

Jessica Gribbon Joyce is principal of Tidal Bay Consulting, a woman-owned small business that supports fisheries policy, social and economic resilience, and coastal planning and adaptation. Her experience spans management boundaries of federal, state, and local fisheries and communities.

B Lauer received her master's degree in communication from the University of Maine. For the past two years her work with the Maine Shellfish Learning Network has focused on understanding how access is changing in wild shellfish fisheries in Maine.

Marissa McMahan is senior director of fisheries at Manomet. She has spent over a decade researching fisheries in the Gulf of Maine. Her research focuses on restoring ecosystem productivity and strengthening and diversifying fisheries resources.

Michael A. Pinkham is retired from the Department of Marine Resources with over 30 years as Maine marine patrol officer. He is now the shellfish warden and harbor master for the Town of Gouldsboro.

Vicki Rea is a community volunteer for the Gouldsboro Shore Initiative. She is a long-time resident of Downeast Maine.