

# Merrymeeting News

Spring/Summer 2017 Vol. XXVI No. 2



The Newsletter of Friends of Merrymeeting Bay • PO Box 233 • Richmond Maine 04357 • 207-666-1118 • www.fomb.org

Friends of Merrymeeting Bay (FOMB) is a 501(c)(3) non-profit organization. Our mission is to preserve, protect, and improve the unique ecosystems of the Bay through:

## Education

## Conservation & Stewardship

## Research & Advocacy

## Member Events

Support comes from members' tax-deductible donations and gifts.

Merrymeeting News is published seasonally and is sent to FOMB members and other friends of the Bay.

For more information, contact:

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Coordinator/Organizer  
207-666-1118  
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## SPRING BAY DAY

We hosted our annual Spring Bay Day under picture perfect skies at Chop Pt. School in Woolwich on Tuesday, May 16th. Here at this dynamic site where nearly 40% of Maine's waters leaves Merrymeeting Bay via the Kennebec River, FOMB organizes a spring day of hands-on environmental education workshops for 4th grade students from around the Bay. "Kids have literally lost touch with their environment" said FOMB Chairman, Ed Friedman. "And they can't very well care for something they can't feel. Our job is to get students actively engaged in this world class resource, getting them muddy, wet and having fun while they learn."

180 students from Pittston, Woolwich, Harriet Beecher Stowe, Williams Cone and Chop Pt. schools participated in workshops ranging from beach seining and archaeology to anadromous fish printing and Native American dwellings. "In these times, most children are only outside for minutes a day and Bay Days try to address this problem" said Kathleen McGee, Executive Coordinator for FOMB. "By bringing students to a muddy, dirty, fun and sometimes wet tactile learning environment and letting kids be kids, we hope the day creates a formative experience they can carry forward in their lives with lasting positive impacts." It takes about 50 FOMB volunteers; guides and chaperones, to make this event a reality. We organize a similar event in the fall taking place in Bowdoinham. Community members interested in volunteering to assist in these events can contact Kathleen McGee at 666-3598.

Many thanks to our: **Guides:** Kent Cooper, Steve Musica, Steve Eagles, Leslie Anderson, Betsy Steen, George Sergeant, Mark Gershman, Roy Morejon, Nate Gray, Kathleen McGee,

Tina, Hannah and Nathan Goodmann, Jamie Silvestri, Megan McCuller, Ann Thayer, Grant Connors, Lynda Dougherty, Geri Vistein, Fred Koerber, Kathy Bridge, Jay Robbins, Jason Chandler and Caitlin Thurrell and;



Photo: Ed Friedman

**Chaperones:** David Whittlesey, Heather Cox, Elise Straus-Bowers, Karen Tilbor, Bob Goldman, Tom Hughes, David Hammond, Carole Sargent, Martha Spiess, Richard and Rachel Evans, Simon Beirne, Tom Walling, Phil Brzozowski, becky Bowes, Tim Rice, Tom Foote, Dana Cary and Colleen Moore.

**Special thanks to:** Wild Oats Bakery for the great grub and our wonderful hosts at Chop Pt. School!

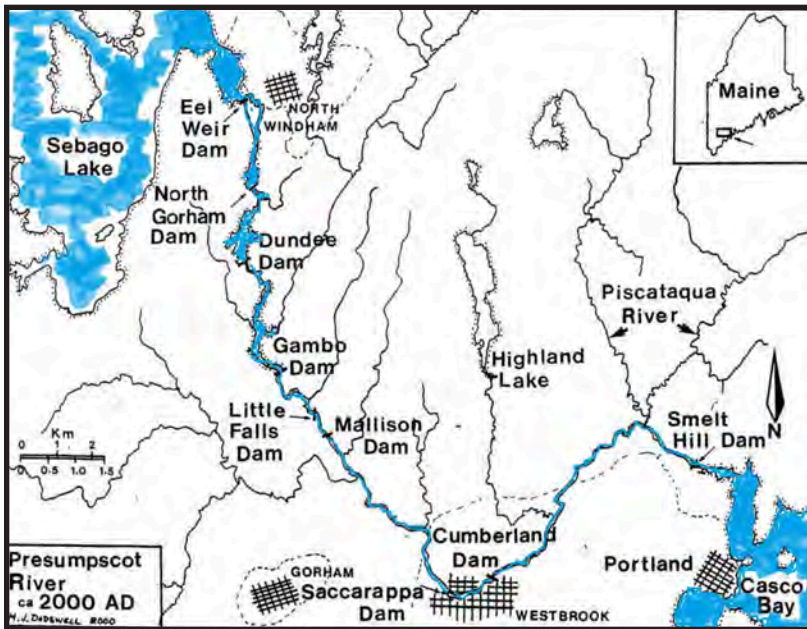
### Correction:

In our **Winter, 2017** issue, the article *Smelting in Merrymeeting Bay*, was mistakenly attributed to David Sherwood when in fact it was authored by Nathaniel Vinton. Both parties have had their work published in the New York Times and the error in attribution was mine and mine alone. My apologies to both fine writers. Stay tuned for David's excellent piece on the Bay. - Ed Friedman

## PRESUMPSCOT RIVER WATERSHED RESTORATION CUT OFF AT KNEES (By two “Conservation” Groups with help from DMR & USFWS)

1650 (in Falmouth) “At certain time, the entire surface of the river for a foot deep, was all fish.” MacDonald, 1994.

On June 1, FOMB joined our colleagues from Friends of Sebago Lake (FOSL) for oral testimony before the Board of Environmental Protection (BEP). We were appealing a one year extension to meet fish passage requirements at the Saccarappa dam on the Presumpscot River in Westbrook granted Sappi by the Department of Environmental Protection (DEP). This extension followed on the heels of two previous ones (fish passage was required by 2015) and admittedly will likely be further extended until perhaps 2021 or 2022 if a Settlement Agreement (SA) between Friends of the Presumpscot River (FOPR), Conservation Law Foundation (CLF), USFWS, Department of Marine Resources (DMR) and Sappi (formerly South African Pulp & Paper Industries and locally, SD Warren) comes to fruition.



The basis for our appeal is that what harms a major watershed in Maine harms the Gulf of Maine and hence Merrymeeting Bay. Legally, because of a key clause cutting off fish restoration to the upper Presumpscot and entire Sebago watershed, the Settlement Agreement turns our Clean Water Act (CWA) on its head. The SA essentially dictates: the CWA need only apply when convenient and it is not convenient for the Settlement parties in the Presumpscot/Sebago watershed. Our appeal then, for people who might wonder why FOMB is involved on the Presumpscot, is specifically in defense of a ruthless attack on the Clean Water Act. We appealed the one year extension because it was entirely based on the need to wrap up some engineering details in the Settlement Agreement. Because of bed-rock alterations over the years, artificial fish passage will be necessary even once the dam is removed.

The SA accompanies a Surrender Application filed by SD Warren/Sappi because aging infrastructure plus fish passage requirements no longer make economical dam operation possible. The delay of fish passage is predicated on a defective Settlement Agreement (which the BEP would not let us discuss nor would they consider). It is precisely this parsing of crucial details necessary to a holistic view that permits the descent of a slippery slope.

Here is the problematic language: Section 2.2.3 of the Settlement Agreement referenced in the DEP Order describes the removal of standing legal requirements for anadromous fish passage at the Gambo and Dundee hydroelectric projects on the Presumpscot River; requirements placed upon the projects by the BEP in April 2003. Sect. 2.2.3 states:

### “2.2.3 Gambo (P-2931) and Dundee (P-2942)

*Warren’s New Surrender Application and New MDEP Application will request that the fish passage requirements in the Gambo and Dundee licenses not apply for the term of the license and any extensions thereof, and that fish passage at those projects will not be required by the license amendment orders issued pursuant to this Settlement Agreement. Given the surrender of the Saccarappa Project license and the work at the Saccarappa site contemplated by this Settlement Agreement, the Parties agree that the record before FERC, MDEP, USFWS, and MDMR supports a finding that, under present circumstances, fish passage at Gambo and Dundee is not required or appropriate, and that the removal of the Mallison Falls and Little Falls dams would not change that finding. MDMR shall make a recommendation to MDEP to issue a Consistent MDEP Order concluding that the New Surrender Application contemplated in Section 3.2 below does not violate water quality standards. “*

One understands why our friends on Sebago would be upset. The Water Quality Certificates (licenses) for Gambo and Dundee dams if successfully modified (voiding the CWA) according to the SA, would make inaccessible over 450 square miles of migratory fish habitat including valuable Sebago and the super-important Songo/Crooked River, important salmon spawning habitat. This is in line with a long history of downstream communities blocking migratory fish from upstream communities. While uses of the River for power and waste disposal were viewed as a normal part of economic development in the past, the impacts to the River “Pes-ompsk-ut” (“river of many rough places”), particularly its fisheries, were a concern from very early in the area’s history.

1734 (in Falmouth) Parson (Thomas) Smith in his Journal for November 8, 1734, says, “*I rode with my father to see the Colonel’s great dam (formerly Smelt Hill dam).*” (Colonel Thomas Westbrook’s and Samuel Waldo’s dam at Presumpscot Falls). Smith, 1849, p. 81.

*“It was here, and about this time (November 8, 1734), that the parson (Thomas Smith) saw the large shoal of salmon (‘an acre of fish, mostly salmon’) congregated below and stopped from going up the river by the dam then recently completed, and remarks that damming the river, and thus stopping the fish from ascending to the Pond, would be more damage to the population above the dam than they could receive profit from all the lumber they could manufacture.”* McLellan, 1903, p. 248.

1738 (Windham) “*It is noted that there was built at the lower falls on the Presumpscot River a mill dam which was the most extensive piece of constructive work which at that time had ever been attempted in Maine, and that it was required to have included in it a sufficient fish way for the passage of the migratory fish that annually came in great numbers.*” Moulton, 1926, p. 104.

1739 (Presumpscot River) Westbrook town meeting: “*Voted, that John Wait go to make answer to the presentment against the great dam across the Presumpscot River. This was for want of a fishway in the dam (at Saccarappa).*” Goold, 1886, p. 209.

1741 (Falmouth) General Court passes an act that “*all the owners or occupants of any mill-dam heretofore erected and made across such river or stream where the fish can’t conveniently pass over, shall make a sufficient way either round or through such dam for the passage of such fish.*” Goold, 1886, p. 209.

The issue of whether our Clean Water Act required the presence of native fish or only sufficient water quality for them, made it to the Supreme Court in 2006 based on a Presumpscot River case against SD Warren over fish passage. FOMB concurred with U.S. Supreme Court in *S.D. Warren v. Maine BEP*, 547 U.S. 370 (2006) in which FOPR and American Rivers (AR) declared upstream fish passage at all five of the S.D. Warren Presumpscot River dams relicensed by FERC in 2003, including the Gambo and Dundee dams, is required and appropriate under the U.S. Clean Water Act. The FOPR and AR brief states in pertinent part:

*“The precise legal issue presented is whether Congress authorized the States to require compliance with State water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. § 1341. For more than 100 years, petitioner has operated its hydroelectric facilities on the Presumpscot River with little regard for the adverse impact on water quality. Dammed from stem to stern, the river has witnessed a profound decline in water quality and the consequent extirpation of its once prodigious sea-run fishery.”*



Songo-Crooked River Mouth Photo: Pooint of View Helicopter Services

It is heart-breaking, particularly with support of the US Supreme Court, to see a couple of mainstream environmental groups and the state of Maine, reverse themselves on the restoration of what was once a magnificent river and watershed and could again be so.

## PRESUMPCOT (CONTINUED)

**Postscript:** 1781 Oct. 30, (Gorham) Selectmen of Gorham and Agents for Standish and Bridgton petition the Governor of Massachusetts and the Massachusetts Legislature for “redress of this grievance” which they cite as obstruction of the River by Dams. The reasons that they cite include the fact that “Plenty of fish (they cite shad, bass and salmon) coming even to their doors would greatly contribute to their (the early settlers’) support” and that the runs of anadromous fish benefit cod fishermen. “For it is well known that the small fish running in shore for fresh water streams draw the cod after them.” They went on to state their view that “it appears to be a grievance that ought no longer quietly to be borne, that one great source of life which Nature has provided for Public Use should be destroyed to serve the interest of a few individuals.” This petition cites repeated previous petitions on this same issue but a continuing problem. (Records of the Maine State Archives.)

**Ed. Note:** The Penobscot River is only 25 miles to Sebago Lake and optimal spawning in the Crooked River. With adequate fish passage, Atlantic Salmon could reach this habitat from the ocean in less than a day. Historical references for this article come largely from: Cumulative Impacts to Environmental Conditions on the Presumpscot River & its Shoreline, 2002 Draft. Prepared by the Presumpscot River Plan Steering Committee with technical assistance provided by Land & Water Associates, Hallowell, ME and funding from The Casco Bay Estuary Project.

## “MIRAMICHI POACHERS”

A Bit of Maine History-Courtesy of Roger Wheeler, Friends of Sebago Lake  
(Boston Daily Globe, August 21, 1889, page13)

Fredericton, N.B. Aug. 21 — Several pitched battles have already occurred in the New Brunswick forests between poachers and wardens this summer, but the most serious affray, the news of which has just reached the civilized community, disturbed the Sunday stillness of the deep forest. On Sunday morning Robert Orr, one of the leading wardens, having understood that the Miramichi poachers had gone up to the Southwest to Burnt Hill, after the sportsmen had all left, and a wood guardian of the preserve, having gotten out of provisions, had gone down to the settlement for more, ascended the river to a point two miles above the settlement and near Salmon brook. Here he and his men, Moore and Manzer, saw two canoes coming down. He noticed that there were fish in both canoes, and called upon the parties to stop until he had examined the contents of their frail craft.



*The Confessions of a Poacher, Illus. J. West*

They would not stop, so Mr. Orr’s party pulled up to them and he caught hold of one of the canoes and took the fish out, and stepped into it. The men said that this canoe was the property of a visitor, Mr. Lynch, that they had not been fishing and that they were Mr. Lynch’s men, and he had bought two salmon and they were taking them down to him. In the canoe was Donald McCoy, one of the poachers, and a boy who had been helping him.

Moore poled his canoe ashore and threw out a net which Mr. Orr seized. He then shoved his canoe out into the water and went to the other side of the river and prepared for battle. He had two axes with him, one of which he handed to the boy and the other he took in his own hand. The boy declined to use the weapon. With axe held up over his head Moore defied the fishery officers and said that he defied the law.

At this time Manzer had hold of Moore’s canoe. Moore rushed at him with the uplifted axe and made a cut at him, the blow falling on the canoe. Thus Moore succeeded in driving off the fishery officer and took the net from him. Moore now puts all the officer of the law at defiance.

The poachers had taken about 50 salmon and one to them would weigh about 40 pounds. It was four feet long and about two feet across the body when split, the tail being 11 inches wide.

## MAINE DOT ROADSIDE INVASIVE PLANTS AND POLLINATOR STUDY

The Maine Department of Transportation has begun a two-year study of roadside habitats along state highways in cooperation with the Maine Natural Areas Program of the Department of Agriculture, Conservation, and Forestry. The study will define various habitats occurring in roadside areas and how they are used by pollinators. This information will provide a baseline of typical roadside habitats and plant species to improve vegetation management decisions that will benefit these insects. The importance of pollinators has gained attention in the United State and the world in recent years as honeybees have begun to decline and are continually threatened. Efforts are underway across the country to better understand how to manage and improve habitats for pollinators and restore their population numbers.



In 2016, approximately 40 to 50 locations were surveyed across the state. The research will review transects, about 2 miles in length, at each location and result in a detailed description of the habitat, native and non-native plants, and invasive plants. The results will then be reviewed and smaller plots will be selected for the pollinator study in 2017.

In 2017, the selected plots will be chosen based on their potential for use by pollinator species. The study will focus on a list of native bees, honeybees, and butterflies that are all considered pollinators in the state. Entomologists will be deployed to these locations to conduct these surveys which will include identifying the insects and the host plants that are attracting the pollinators.

The results of this work will help develop vegetation management strategies to preserve and improve existing habitat and to learn how to create beneficial habitats in our state right-of-ways using native plants that support pollinators.

***Ed. note:** The development of fifth generation wireless (5G) will likely have a devastating effect on pollinators, already reacting adversely to existing wireless. 5G utilizes mostly higher frequency sections of the electromagnetic spectrum known as millimeter waves. These waves carry lots of data and pack a big punch but can't travel very far without boosting and don't penetrate very deeply. Because all of the wave energy is concentrated in a very small (mm) wave, small objects like insects and small birds (in other words many of our pollinators) absorb the full energy amount (in humans, the impact is through our skin and eyes). Because the waves don't travel far, a massive network of transceiver antennas is called for to permit widespread access to 5G signals. The DOT study may unintentionally ultimately provide a "pre-5G" baseline.*

Honey Bee Swarm Photo: Ed Friedman

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FMI: [www.WhatIs5G.info](http://www.WhatIs5G.info)

<http://scientists4wiredtech.com>

<https://ehtrust.org/key-issues/cell-phoneswireless/5g-internet-everything/>



Choice View Farm, Route 128, Dresden Acquired with LMF funds. Home to a healthy population of purple loosestrife. Photo: Ed Friedman

## LMF 30TH ANNIVERSARY

### **Land for Maine's Future Marks 30th Year**

Established by Maine voters in 1987, the Land for Maine's Future program celebrates its 30th anniversary this year. In three decades, LMF has conserved more than 150 special places, totaling over 600,000 acres. It has made Maine a more desirable place to live and raise a family, while strengthening some of our state's most important industries, including tourism, forest products, agriculture, and fishing.

### **Expanding Public Access**

Securing guaranteed public access to the outdoors has been central to LMF's mission from the beginning. Through the addition of new public lands, the program has greatly expanded the availability of world-class outdoor recreational opportunities for citizens and visitors alike. Thanks to LMF dollars, thousands of acres around Merrymeeting Bay and the lower Kennebec have been protected in perpetuity.



*Gallant Parcel, Abbagadasset River Photo: Ed Friedman*

### **Supporting Community Partnerships**

In 1999, the legislature broadened LMF's mission to include investments in land trust and municipal properties. This change served as a catalyst in communities across Maine, spurring partnerships among landowners, municipalities, small businesses, and other local organizations.

### **Bolstering Local Economies**

LMF has a long track record of protecting land vital to the state's forest products, agriculture, tourism, and commercial fishing industries. The program has conserved 40 farms, 24 commercial waterfronts, and more than 250,000 acres of working forest-land. At the same time, LMF's efforts to expand public access for outdoor activities including, hiking, hunting, birdwatching, snowmobiling, and fishing have greatly benefited the state's tourism economy.

### **Broad Public Support**

The program was established under a Republican administration and received renewed funding proposals from the Independent and Democratic governors who followed. In the legislature, LMF bond questions have always enjoyed broad bi-partisan support. Maine people have also strongly endorsed the program at the ballot box – comfortably passing bond measures to fund the program in 1987, 1999, 2005, 2007, 2010, and 2012.

### **Future of Land for Maine's Future**

Over the past few years the program has faced unnecessary delays for political reasons and the sad truth is despite unparalleled public support, neither the legislature or Governor have approved well-funded LMF bonds. Yet, just like in 1987, there are still special places in every corner of the state, where LMF investments would enhance local economic prosperity and improve the quality of life for Maine people. Despite recent political challenges, LMF is well-positioned to begin a new chapter of land conservation in the years ahead.

In the meantime, there has never been a better time to get out and enjoy the incredible work that LMF has already accomplished. Take a moment this year, with friends and family, to experience these special places for yourself. To learn more about the more than 150 other properties protected by LMF over the past thirty years, visit: <http://www.landformainesfuture.org>

# WE NEED YOU! PLEASE SUPPORT OUR IMPORTANT WORK

## FOMB Leadership

Our accomplishments are due to the hard work of dedicated volunteers, especially those who serve on our committees. If you want to get involved and serve, please contact the committee chair or Kathleen McGee. We always welcome member input and we'd love for you to join us!

### Steering Committee

Ed Friedman, Chair (Bowdoinham)  
 Nate Gray, Treasurer (Freeport)  
 Tom Walling, Secretary (Bowdoinham)  
 Simon Beirne (Bowdoinham)  
 Becky Bowes (Brunswick)  
 Phil Brzozowski (Pittston)  
 Steve Musica (Richmond)

### Education Committee

Betsy Steen, Co-Chair, 666-3468  
 Tom Walling, Co-Chair, 666-5837

### Conservation and Stewardship Committee

Chair Vacancy

### Membership and Fundraising Committee

Nate Gray, Chair, 446-8870

### Research and Advocacy Committee

Ed Friedman, Chair, 666-3372

### Coordinator/Organizer

Kathleen McGee, 666-1118

Friends of Merrymeeting Bay • PO Box 233 • Richmond, Maine 04357

### Membership Levels

- |   |   |                                     |
|---|---|-------------------------------------|
| <input type="checkbox"/> \$1,000+ Sturgeon  | <input type="checkbox"/> \$250 Striped Bass | <input type="checkbox"/> \$20 Smelt |
| <input type="checkbox"/> \$750 American Eel | <input type="checkbox"/> \$100 Shad         | <input type="checkbox"/> Other      |
| <input type="checkbox"/> \$500 Wild Salmon  | <input type="checkbox"/> \$50 Alewife       |                                     |

Name \_\_\_\_\_

Address \_\_\_\_\_

Town/State/Zip \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

- |                                     |   |
|-------------------------------------|---|
| <input type="checkbox"/> Renewal    | <input type="checkbox"/> Send information about volunteer opportunities |
| <input type="checkbox"/> New Member | <input type="checkbox"/> I would like a sticker                         |

\$7 Enclosed (optional) for a copy of *Conservation Options: A Guide for Maine Land Owners* [\$5 for book, \$2 for postage].



Thanks to Will Zell and <http://zellous.org> for newsletter layout.

## FOMB 2016 YEAR-END FINANCIALS

2016 was dominated financially by the interim Administrative Coordinator (ADCO) payroll. With no paid Executive Director in 2016, Kathleen McGee continues to provide interim services to keep the internal clock of FOMB ticking. Staffing continues to be our major expense with about ¼ of staff time devoted to membership and fundraising and the other half to program activities. Most program work is carried out by our extraordinary volunteers

Complementing bank cash, FOMB had an additional \$78K of liquid assets, 68K in Calvert Social Investment vehicles and \$10K in money market funds. FOMB remains a 'passive' investor (i.e., all equity positions resulted from immediate sales of stock donations). Combined with cash in the bank, FOMB's total pool of liquid funds at year-end was \$258,080.07 of which \$41,750.14 is restricted for land stewardship issues. It is important to note that close to 90% of our expenses go into program work, either directly or indirectly. Your support of FOMB continues to yield a big bang for the buck! *And, FOMB has received a Gold Rating from Guidestar, the top name in charitable organization oversight.*

**Income \$53,531** (Membership 30%, Annual Appeal 36%, Grants 19%, Other 15%).

**Expenses \$48,495** (Programs 85%, Membership & Fundraising 12%, Administration 3%)



Friends of Merry Meeting Bay  
P.O. Box 233  
Richmond, ME 04357

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## *Outside 2017!*

ALL PROGRAMS ARE FREE\* & OPEN TO THE PUBLIC

**July 17-28** Thwings Pt. Archaeology Field School-Lee Cranmer, Woolwich, Weekday am & pm slots,  
Tom Walling at 666-5837 \*(\$ Donation Appreciated)

**July 26** Little Swan Island Evening Paddle with Warren Whitney Richmond, 5:30 - 7:30 pm,  
Warren Whitney at 666-3376

**Aug 12** Tree Walk with Leslie Anderson, Bowdoinham, 9:30 – 11:00 am, Ed Friedman at 666-3372

**Aug 28** Geology Walk with Peter Goodwin, Bowdoinham, 4:30 - 6 pm, Ed Friedman at 666-3372

**Sep 8** Swan Island Outing with Jay Robbins\*(\$8 Island Fee) Richmond, 9:15 am - 1 pm, Jay Robbins at 737-2239

**Sep 17** Swan Island Circumnavigation by Boat with Jay Robbins \*(\$ Island Donation Appreciated)  
Richmond, 3:30 - 5:30 pm, Jay Robbins at 737-2239

PRE-REGISTRATION REQUIRED. To register for a program or for questions, please call the contact number for each individual trip.  
PADDLERS PLEASE NOTE: Participants must bring own boat and possess at least intermediate paddling skills. PFDs required.  
Participants attend at their own risk.