

How rockweed harvesting got tied up in a lawsuit over public beach access

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Robin Hadlock Seeley grew up in coastal Maine. She was fascinated by the large, old sea and the many habitats it contained.

While working on her doctoral dissertation about the evolution of a species of periwinkle snails in Cobscook Bay in Washington County, she became very familiar with their habitat: rockweed, a type of brown algae that grows on Maine's rocky shores.



Rockweed along the shores of South Portland in 2011.
John Patriquin/Staff Photographer

Rockweed can be found in Maine's intertidal zones, the land between the high- and low-tide marks. It supports shorebirds who feed on the water and more than 30 different kinds of fish, she said.

George Seaver grew up on the New England coast and moved to Maine in the '70s. His first job here was with North American Kelp, which harvests and dries rockweed to be used in fertilizers.

Now he is vice president of Ocean Organics, which creates bio-stimulants for plants from wild rockweed harvested off the coast of Maine. Seaver says his products have yielded stronger crops and cut the use of pesticides and chemical fertilizers across the country.

Both have formed their livelihoods on the dark and slimy habitats.

And now they're in a legal battle over who should have access to them.

A sprawling lawsuit to expand public access to intertidal land in Maine was [filed in Cumberland County Superior Court in 2021](#) against more than a dozen private property owners, some of whom had called Maine Marine Patrol on alleged trespassers picking rockweed from their shores.

Most of the “rockweed defendants” were dismissed from the case in 2022 after a judge agreed they were protected under Maine’s Anti-SLAPP statute, which prevents “Strategic Lawsuits Against Public Participation.” They have since filed a countersuit to cover the cost of attorneys fees.

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The plaintiffs appealed that decision to the Maine Supreme Judicial Court, challenging the dismissal of everyone but Seeley.

Seeley being named was “particularly telling,” her lawyer Gordon Smith has argued in court records, because she never was accused of calling the police. She only advocated for people to report unauthorized rockweed theft.

Seeley said she’s used to being targeted, and that harvesters have even called her employer at Cornell to complain about her advocacy.

“They’ve been trying to silence me for ages,” she said. “And this was just the latest thing.”

COMBINED CAUSES

The plaintiffs are asking the justices to declare that all intertidal land in Maine should be considered public, undoing a 1989 decision in which the court held the land could be privately owned.

The lawsuit has garnered most publicity for the questions it raises on recreational access to sandy beaches. But the effort also seeks to undo a Maine Supreme Judicial Court ruling from 2019, in which the court unanimously ruled that the public does not have a right to harvest rockweed on privately owned, intertidal land.

Seaver and the other harvesters in the latest case argue that the 2019 ruling upended a system that was fair and worked. Up until that ruling, rockweed was considered a marine organism owned by the state, which they were allowed to obtain licenses to harvest.

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But Seeley and others on the Maine Rockweed Coalition were encouraging the state to adapt a conservation plan and to limit harvesting in order to protect habitats. She drove hours from Cornell in Ithaca, New York, to Maine every month to participate in meetings and submit public testimony – to no avail, she said, because the land use plan was never adopted.

“It was really clear to a whole lot of us that trying to get a conversation with the state and actually get some protection for this habitat, working the way we had been, was not effective,” said Seeley. “Combine that with a feeling that a lot of people had, that based on intertidal ownership, they actually owned the rockweed.”

That’s when Seeley’s friend Kenneth Ross noticed a harvester from the Canadian company Acadian Seaplants on his property, and saw an opportunity. Ross and his brother sued Acadian Seaplants in 2015, asking the court to rule that he exclusively owned the rockweed on his intertidal property and could barrockweed harvesting there.

When they won, the court set a new precedent that harvesting on private land is not guaranteed.

Seeley worked as a consultant and said the Ross decision wasn’t just a property rights victory – it was one of the only successes she and other conservationists have had in trying to get the state to protect rockweed habitats.

“I would say the vast majority of people who are happy that it is their private property are happy about it because they, at their heart, are conservationists ... and really understand the importance of this seaweed and don’t wish to see it turned into fertilizer,” she said. “They agree with us that that is not the highest and best use for rockweed in Maine.”

Seaver said Acadian Seaplants lost that fight by arguing rockweed was more akin to a fish and fair game for public use.

“It sidestepped the whole question of who owns the intertidal zone,” said Seaver. “We got engaged in the ownership question because that’s at the core of it. ... Because if you don’t own the intertidal zone, you don’t own the seaweed.”

SUSTAINABLE

There is a fundamental disagreement between the two sides about whether harvesting is sustainable.

Seaver, a member of the Maine Seaweed Council, says that “mother nature” takes 20 times as much as what harvesters collect and it all grows back.



Rockweed skirts a jetty topped with driftwood from winter storms. The jetty, photographed in May on the western side of Sears Island, is a decades-old relic of an abandoned industrial project. *Ben McCanna/Staff Photographer*

“You get tons of food for pounds of seaweed, and it’s all environmentally benign and friendly,” he said. “We’re the good guys, and yet we’re getting not treated like the good guys.”

But Seeley says it’s not just about the rockweed, it’s about the habitat. Even if rockweed grows back, Seeley said the organisms that are taken as “by-catch” don’t return. She said the rockweed also doesn’t grow back the same way.

“Ever since we first started this, they keep going on and on about how sustainable it is,” Seeley said. “But that’s just the tip of it. The real question is, what is it doing to the habitat? That’s why we say it’s not ecologically sustainable, because it changes the habitat.”

There’s also the question about livelihood.

Companies like Seaver’s “relied upon (the pre-2019 law) to establish and grow their businesses and livelihoods,” court records state. The number of licensed seaweed harvesters has remained fairly level since 2016, according to the Department of Marine Resources, which reported roughly 140 licensees this year

But the current restrictions could deter investors from supporting businesses like his, Seaver said.

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