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Maine's Coastal Program

PROGRESS REPORT — FEBRUARY THROUGH APRIL 1991

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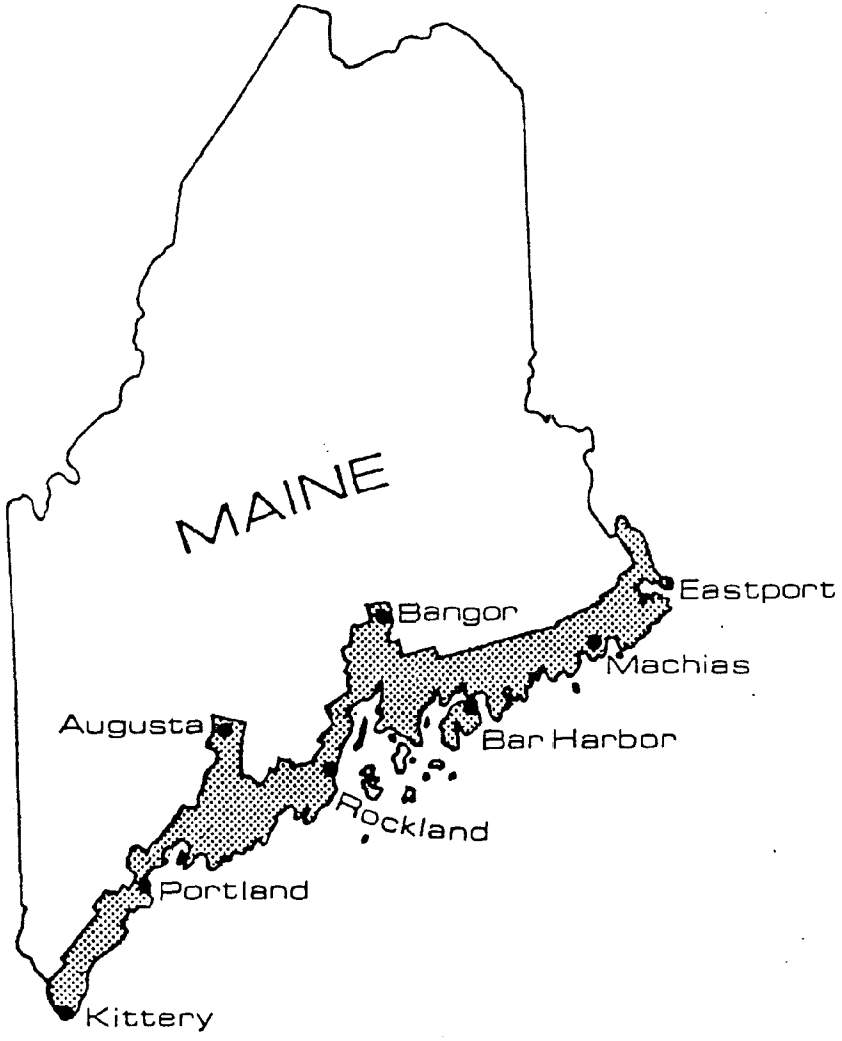

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M A I N E ' S C O A S T A L P R O G R A M

Progress Report
February through April 1991

CZ521 (1990-91)

Submitted to

The National Oceanic & Atmospheric Administration
Office of Ocean & Coastal Resource Management
Washington, D.C. 20235

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* **Significant Improvement Tasks**

STATUS OF GRANT TASKS
1990-91 (CZ521)

Task 1 -- Core Law Enforcement & Administration

*A. DEP -- Core Law Enforcement & Administration

The DEP Land Bureau's quarterly report is reproduced as Exhibit E-1. See also the clippings reproduced below.

B. DECD -- Code Enforcement Officer Training Program

See the DECD's progress report reproduced below.

C. DECD -- Shoreland Zoning Technical Assistance to Regional Councils & Towns

See the DECD's progress report reproduced below.

*D. Regional Councils -- Shoreland Zoning Technical Assistance to Towns

See the DECD's progress report reproduced below and Exhibit E-10, Quarterly Reports from the Coastal Coordinators.

Task 2 -- * Municipal Grant Program

See the DECD's progress report reproduced below. Note that OCRM's Section 306 Financial Assistance Award Approval Memorandum established an April 30, 1991, Significant Improvement Benchmark for Coastal Management Grants under this Task. This Benchmark requires submission of a preliminary report to OCRM evaluating the effectiveness of the Coastal Management Grant Program. Inasmuch as communities are taking longer than expected to complete approved comprehensive plans and apply for Coastal Management Grants, no Coastal Management Grants have been completed; a project extension and postponement of the evaluation benchark will be requested in the near future.

Task 3 -- Coastal Policy Development: Allocating Maine's Marine Waters

Work is progressing as scheduled. The report initiated under CZ100 was circulated to State agencies for review and comment and presented to the interagency Marine Program Working Group. The report summarizes the level of activity in the State's marine waters; inventories the State and federal agencies that are engaged in planning or managing the uses of marine waters; discusses issues and problems with the current approach to managing those uses; and suggests several options for improving marine waters policy and management.

Developer likes DEP exemption

● Windham has become one of four towns in Maine that can do its own environmental review.

By JASON WOLFE
Staff Writer

PPH 3/8/91

WINDHAM – The uncertain economy forced developer Bill Gaines to weigh with caution the pros and cons of his plan to build a medium-size shopping complex along Route 302.

The scale tipped in the project's favor when Gaines learned the state last week added Windham to the short list of communities able to bypass lengthy state reviews for certain development proposals.

> *"We just don't see the need of using taxpayers' dollars at both the state and local level to do the same job twice."*
>
> Debrah Richard, director of the DEP's Bureau of Land Quality

"That was a major factor for me," said Gaines, owner of Maine Design and Development Co. in Windham. State review "is a time-consuming, slow, tedious process ... The longer you delay, the more expensive and risky a project becomes."

Windham is the first community in the Portland area given authority by the state Department of Environmental Protection to issue permits for certain development projects without first seeking state approval.

By stripping away a layer of regulation, the program can spare commercial and residential developers from waiting an average of 10 months for DEP reviews after local approval is granted.

Windham joins Lewiston, Auburn and Bangor as the only Maine communities registered in the program. It was begun in 1972 and expanded in September 1989 to include more projects towns can review on their own.

Portland is in the process of submitting an application, and Falmouth's formal application is in the mail to Augusta.

By law, the DEP must review subdivisions of more than 20 acres and commercial structures of more than 60,000 square feet.

Gaines recalled past projects which he said were on a bureaucratic treadmill for more than a year, only to be approved without any changes.

"Everyone agrees we need stringent reviews, but I've never understood this need to go through the state process as long as the local communities can handle it," he said.

Eliminating the lag time also bodes well for local taxpayers by speeding up the time between application and a project's entry on the tax rolls, said Windham Town Planner Steven Westra.

Also, approval is in the hands of people who know the community best, rather than a state agency not as attuned to local concerns such as aesthetics, he said.

When a community applies for the program, the state reviews the town's zoning ordinances, comprehensive plan and planning department staffing. The local ordinances must be at least as strict as the state's regulations, Richard said.

For that reason, many communities are not equipped to handle the added responsibility.

Falmouth Town Planner George Thebarge said town officials analyzed carefully all ramifications of the program before deciding to apply. They determined the town would not need to hire additional staff or bear any other financial burdens, he said.

"We have everything in place, but clearly this is not for everyone," Thebarge said.

Windham's authority is limited to the commercial portion of the program, which allows it sole review of structures with a ground area between 60,000 and 100,000 square feet or of those with a total floor area between 100,000 and 150,000 square feet.

Towns also can apply to review subdivisions between 20 and 100 acres, Richard said. Windham officials decided not to because they feared quicker permitting would attract unwanted large subdivisions, Westra said.

Projects exceeding the program's size limits still require full DEP review. Those below the minimums require local review only.

But participation in the program does not completely detach communities from the state. The DEP must be notified of each project pending before town boards, and could decide to review any project.

Also, as a safeguard, the department has 45 days to review projects approved by a community, Richard said.

Windham officials, too, will be encouraged to seek assistance for answers to complicated questions about a project's impact on wetlands or wildlife habitat.

But for Gaines, who is planning a cluster of five buildings to house specialty shops, just the promise of a quicker review process pleases him.

"This is going to be a huge benefit to a small developer like me," he said.

Compromise reached on island luxury resort

Environmentalists hail developer's cooperation

PORTLAND (AP) — A compromise between conservation groups and a developer over a luxury resort being built on Great Diamond Island will set the pattern for future island projects in Maine, both sides said Thursday.

Three groups that had fought the McKinley Estates project — the Maine Audubon Society, the Island Institute and the Casco Bay Island Development Association — unveiled an agreement they had reached with the developer to withdraw their opposition.

"We feel this plan represents economics and environmental concern," said David Bateman, general partner in Diamond Cove Associates, the developer. "Both have an equal place and can be combined in such a way as to create a project that is both economically viable and economically sensitive."

As part of the agreement, Diamond Cove will reduce the second phase of its project to create a luxury resort of condominiums and single-family homes on the island in Casco Bay.

The developer already has invested $15 million to transform parts of historic Fort McKinley on Great Diamond into 40 townhomes, build a sewage treatment plant and make other improvements, Bateman said. It has approval to build up to 134 condominiums.

But after lengthy negotiations and court battles with the three conservation groups, it has agreed to reduce the second phase of the project from 70 lots for single-family homes to 39, the groups announced Thursday.

More important, Diamond Cove has agreed to development restrictions that the conservation groups said will preserve Great Diamond Island's beauty and protect the fort's historic artifacts.

But the project still must be approved by the Board of Environmental Protection. The board is scheduled to review the project June 12.

"The magnificent headlands at the entrance to Diamond Cove and other visually significant shoreline lots are now set aside as undeveloped open space recreation areas," said Thomas A. Urquhart, executive director of the Maine Audubon Society.

"The house sites have been pulled further away from the shore to protect the island's natural scenic character. No construction is proposed on the historic batteries or within old-growth stands of trees," he said.

The developer also has agreed to guidelines and covenants that will limit the cutting of trees and vegetation screening the resort from view. The three conservation groups also are given the right to enforce the development restrictions and have the right to enter the resort to make sure the covenants are being obeyed, Urquhart said.

> "The battle against the intensive development of Great Diamond Island represents a classic case of successful environmental protection."
>
> — Jeffrey Tholer, environmentalists' attorney

In addition, Maine Audubon will be given a non-voting seat on the homeowners' board that reviews compliance with the development restrictions.

Urquhart and representatives of the other groups hailed Diamond Cove's willingness to work out a compromise that took into account their concerns.

"The battle against the intensive development of Great Diamond Island represents a classic case of successful environmental protection," said Jeffrey Thaler, an attorney representing the three groups.

The groups feared the project, as originally proposed, "would set a precedent and trigger a run of development sweeping northeastward down the coast," he said.

"This case proves that those who are now attacking in the Legislature our environmental regulations are seeking shortcuts that would be disastrous to the long-term environmental and economic interests of Maine," Thaler said.

Diamond Cove originally filed an application for the project in 1985. A year later, the state Board of Environmental Protection approved the plan to renovate old brick buildings on the fort's parade ground into a condominium complex with 134 townhouses, a heated pool, tennis courts, restaurant and a new sewage treatment plant.

But the developer's plan to create a single-family subdivision as part of the resort drew opposition from both state environmental officials and the three groups. They feared it would damage scenic views of Great Diamond Island and harm water quality in Casco Bay.

Jean Dyer, president of the Casco Bay Island Development Association, said she believes the Great Diamond project will influence future island projects, forcing developers to take into account environmental concerns.

"We definitely feel that this case is going to protect us and maybe there won't be any more like this," she said.

Institute and Partners Reach Settlement in Landmark Great Diamond Isl. Case

PORTLAND– After six and a half years of successfully opposing the intensive development of Great Diamond Island's shoreline and the degradation of its intertidal wetlands and beaches, the Island Institute, along with partners, Maine Audubon Society and Casco Bay Island Development Association (CBIDA), have negotiated a settlement of the remaining development issues. On April 12, 1991, the developers, Diamond Cove Associates (DCA), formally agreed to binding restrictions which will protect from development forever Great Diamond Island's old growth pine/hemlock stands, its unique historical structures, and its scenic headlands.

ISLAND NEWS 5/91

> *"It's taken a long time to make some important points about island development that will affect not just Casco Bay but the entire coast of Maine"*
> *—Philip W. Conkling*

"The key to this agreement," said Jeffrey Thaler who represented the Island Institute and CBIDA, "is that Great Diamond Island's most significant features will be protected regardless of who owns the property because the restrictions will run with the land." In addition to the island's outstanding natural features, the three nonprofit groups have been concerned about the developer's financial ability to complete the phases of the complex project. The first phase of the project, now essentially completed, involves the renovation of approximately 50 abandoned brick buildings that once comprised the administrative complex of historic Fort McKinley into more than 100 condominium units in the interior of the island. The second phase of the development, involving new residential construction on the shoreline, has been the focus of a lawsuit filed by the developers after Maine's Board of Environmental Protection (BEP) agreed with Island Institute and its partners that the proposed 70 lots on Great Diamond Island's scenic headlands could not meet the standards of Maine's Site Location of Development Act.

As part of the agreement, the developers have promised to reduce their shoreline subdivision to 39 units and to place binding restrictions on the island's designated open space prohibiting any future development. In addition, DCA will drop its suit against BEP which sought to overturn the denial of DCA's proposed 70 lot subdivision (*Island News*, Winter 1991).

"It's taken a long time to make some important points about island development that will affect not just Casco Bay but the entire coast of Maine," observed Island Institute's Executive Director Philip Conkling. "First, this case galvanized local, state, and federal efforts to begin to deal with the Bay's degraded water quality and has not only led to the designation of Casco Bay as a National Estuarine Sanctuary, but has also provided the impetus for important improvements in sewage disposal in the greater Portland area." Conkling also believes that the Great Diamond Island case will have a long-lasting effect along the coast of Maine. "The fundamental principle involved here is that intensive island development is environmentally unsound, and I think the regulatory agencies and the courts concur with this point of view."

The debate over Great Diamond Island's future began in 1984 when DCA applied to the Portland Planning Board and City Council to rezone their recently acquired ownership of 198 acres of the northern end of Great Diamond to permit condominium development. After local review, Portland approved the project subject to state and federal review of the design and location of the proposed sewage treatment plant. In 1985, CBIDA, Island Institute, and Maine Audubon Society intervened at the state level and convinced BEP to conduct a public hearing on the project to examine such issues as the location of the sewage pipe outfall proposed for the waters off beaches and clam flats on Great Diamond's western shore. During the public hearings, a number of other issues were raised, such as asbestos removal from the military buildings, Casco Bay Lines transportation to Diamond Cove, delineation of the old growth pine/hemlock forest, and financial capacity of the developers to complete the project.

In December 1986, BEP approved, over the objections of the intervenors, Phase I of DCA's proposal to renovate the existing fort buildings into 134 condominium units and to locate the sewage treatment plant outfall off the island's western shoreline. The intervenors had submitted testimony that the receiving waters of the proposed sewage effluent were already degraded and were not meeting their state mandated water quality classification. Nevertheless, BEP approved the new discharge on the basis that one new discharge into Casco Bay waters would not in and of itself cause the water quality to fall below the mandated standards, since the water quality was already degraded by the Portland Water District's overloaded East End Treatment Plant. The intervenors appealed this finding to the Environmental Protection Agency (EPA) in Boston and were joined by Maine's Attorney General and the Conservation Law Foundation of New England.

In the meantime, Maine Audubon Society led a successful legislative campaign to pass a law banning new private overboard discharge sewage systems into Maine waters. Such systems were shown to have a high incidence of failure and were overwhelming DEP's monitoring and enforcement capabilities along the entire coast.

When EPA indicated it would deny DCA the federal license it needed to discharge off Great Diamond's west shore beaches and intertidal wetlands, DCA agreed to relocate the outfall pipe in deeper waters off the north end of Great Diamond which would easily mix with Hussey Sound's large tidal exchange. At that time DCA further agreed with the intervenors to guarantee an escrow account that would finance the maintenance and replacement of the sewage treatment plant's equipment over its lifetime.

The federal process also involved, at Island Institute's request, a review of the project's conformance with the standards of the National Historic Protection Act since Fort McKinley's gun batteries, fire control towers, and associated military structures were eligible for the National Register of Historic Places. The Island Institute and its expert witnesses participated in this review process but argued that the gun batteries located on Great Diamond Island's spectacular headlands were still not adequately protected from development under the agreements reached during the review.

In early 1989, DCA resubmitted to BEP its Phase II plan for a 70 lot subdivision around the periphery of the island. By this time the composition of the BEP had almost completely changed, with only one member remaining from the Board that had denied the earlier plan. Maine Audubon Society, Island Institute, and CBIDA intervened again, arguing that the developers were resubmitting an essentially identical plan that had been denied three years earlier in 1986. Specifically, Maine Audubon Society submitted expert testimony that DCA's Phase II plan would violate the scenic impact standards of Maine's Site Location of Development Act due to the intensive nature of the proposed development of the shoreline. Island Institute submitted expert testimony that the Site Law standards protecting historic features would be violated, and that allowing houses to be built in the old growth stand of trees would similarly violate the Site Law provisions protecting unusual natural areas. Additionally, CBIDA and its partners argued that 34 of the proposed 70 lots requiring overboard discharge would violate the law banning new overboard discharges.

In December 1989, the BEP denied DCA's Phase II proposal in a 4-3 vote. DCA appealed the BEP finding to Kennebec Superior Court which affirmed the BEP decision, and then appealed to the Maine Supreme Court arguing that the Site Law standards regarding scenic impact were unconstitutionally vague and that the denial of their plan represented an unconstitutional taking of private property rights. While these court proceedings were underway, the intervenors and DCA began meeting to try to resolve outstanding issues. The negotiations were complicated by the fact that DCA's lenders, Maine Savings Bank and Maine National Bank had both gone bankrupt due to their poor record in making real estate loans and it was not clear whether the $2.3 million of DCA's original loans could or would be refinanced. "The financial capacity standard of the Site Law is very vague," commented Island Institute and CBIDA lawyer Jeffrey Thaler, "and there are partly completed projects all over the state of Maine which demonstrate how ineffective this provision of the law is. The important thing is that the agreements we reached with DCA run with the land."

Richard moves up

DEP "streamliner" gets No. 2 post

A top manager at the Department of Environmental Protection (DEP) who was identified with streamlining the permit process has been chosen for the No. 2 job in the department.

Debrah Richard, director of the Land Quality Bureau for three years, says her focus as the new deputy commissioner will be on "external relations" in an effort to deal with criticism of the DEP from business as well as conservationists.

Ironically, staffers under Richard say poor internal communications was one of her major flaws.

Richard replaces Elizabeth Armstrong, who submitted her resignation earlier this year reportedly under pressure from the governor's office, which had received complaints from industry about Armstrong's aggressive approach to enforcing permit violations.

The governor's office has denied the charges, and Armstrong could not be reached for comment. A statement released by the department says Armstrong left "to pursue career opportunities outside state government."

At the land bureau, Richard, a former Lewiston planning director, introduced the permit-by-rule system designed to speed the processing of applications for minor projects. Environmental groups complained that spot inspections showed one-fifth of the projects had violations that were not enforced by DEP staff. The effect, however, was to cut the processing time for projects under the state site law in half, although more than half still take more than six months to process. The caseload carried by analysts has been reduced because of the economic slowdown, although it still remains at up to 45 cases per worker.

Morale is low at the land bureau, say staffers, in part because of the heavy workload but also because of what they perceive as interference by Richard and division directors in the application process. Several cited instances where bureau managers reversed recommendations by project analysts after personal appeals by the applicants.

A particular sore point is the delegation of authority by land bureau managers to certain municipalities — including Lewiston — to review major projects normally handled by DEP staff. In some cases, staffers feel the municipalities are not qualified to make technical evaluations of traffic impacts and water runoff, yet there is little meaningful review or enforcement of violations by land bureau staff.

"There were 900 complaints received by the land bureau last year but only two people to respond in the field," says one staffer. "That shows what the level of commitment there is to enforcement."

Ironically, Armstrong built a reputation as a tough enforcer, but not based on cases submitted by the land bureau. Fines collected by the state went from $290,000 in 1986 to $3.2 million last year, almost all from the air quality bureau.

Richard says her new job will not need to focus as much on violations because of the effective enforcement procedures put into place by Armstrong.

Others complain that Richard does not solicit staff opinion before changing rules and procedures, and some staffers have been transferred between divisions without notice.

But Richard says low morale and high turnover — an estimated 20 professional staff have left the bureau in the last three years — is tied largely to low salaries.

"We have tried to build career tracks [in the DEP], but it is still hard to compete with the salaries paid to private engineers," Richard says.

She adds that analysts have had their work streamlined by the addition of a sophisticated computer system that tracks projects and frees analysts from having to file handwritten reports.

Richard's likely successor, according to sources in the land bureau, is Bryce Sproul, director of licensing and enforcement in the Air Quality Bureau.

(RW)

MT 4/19/91

DEP's theme: less is more

KJ 2/28/91

Douglas Rooks
Kennebec Journal
Editorial Page Editor

KENNEBEC PERSPECTIVES

Dean Marriott seems awfully chipper for a guy who's just had his budget slashed.

The DEP commissioner, who came by to visit last week, is no Zen master, but he's taken to the theme of doing more with less in a way which would make a Maine Yankee proud.

The Department of Environmental Protection is one of the most visible and oft-criticized of state agencies. Its high-profile role in passing judgment on malls, highways and paper mill expansions often brings it into conflict with business and industry. Enforcing pollution regulations brings with it the delicate task of fining companies and — under Marriott — towns and cities as well.

Marriott's 1989 plan to further clean up Maine rivers became one of the biggest political footballs in years, with legislative Republicans opposing their own governor before a bill was finally enacted last spring. The DEP has been involved in the Maine Turnpike expansion, the Mall at Augusta controversy, and is now angering people in South Portland who want to build a bridge over wetlands DEP says must be protected.

The department has been given major new responsibilities. And in the next two years, DEP will be doing all these jobs with less money.

Marriott took a look at what DEP was supposed to accomplish, and requested $17.2 million. The governor budgeted $12.6 million — less than what DEP is getting now. And even that doesn't tell the whole story. DEP was granted only a minimal increase in its 1990-91 budget, years when most state departments were growing by leaps and bounds. When inflation is considered, DEP's budget is substantially lower — by perhaps 20 percent — than in 1987, when Marriott was appointed.

So what's a commissioner to do? Improvise, by the look of it.

Marriott is pushing a number of legislative initiatives. The one getting the most press attention so far is a scheme (no snickers, please) to sponsor a "Maine Environment" credit card, with the proceeds to provide grants for private and community environmental projects.

Marriott figures the state's cut of the card fees would be about $120,000 for the first year. The fund would be administered jointly by DEP and the other natural resource departments.

"We figured the card would have a lot more appeal if people knew it would pay for things the state wouldn't do otherwise. If it just goes to pay some bureaucrat's salary, they won't be interested," he said.

That seems a reasonable guess. My own is that the program might be a good way of helping the "non-game" endangered species program. It's supposed to be paid for by the "chickadee checkoff" on the state income tax form but never meets its budget. As a result, the state doesn't even know where its endangered species are until someone proposes building a dam or a power plant on a particular site. Every time mapping is proceeding at a good pace, another staff member is cut and the project sits on the shelf.

But even here Marriott doesn't have smooth sailing. Rep. Annette Hoglund (D-Portland) has a competing "State of Maine" credit card bill which would put all the money into the general fund. Hoglund's bill has already had a hearing; DEP's bill hasn't even been printed yet.

The financial stakes are higher with another Marriott initiative, a proposal to pay for DEP enforcement actions with higher licensing fees for pollution-emitting smokestacks.

A similar bill nearly became law last year, but was killed in some last-minute legislative log-rolling. This time, DEP wants to expand the plan to include water pollution licenses as well — again affecting municipalities, which operate most of Maine's sewage treatment plants.

The idea is that those who pollute more should pay more for their licenses; boilers at the old Great Northern and IP mills would pay the most. The idea is acceptable to most legislators, but doesn't have much passionate support, so its prospects are again uncertain.

Finally, Marriott is taking up a suggestion from some DEP critics that the department do more to train local officials and businesses about how to comply with state environmental laws.

MARRIOTT

"A lot of times we hear that if the landowner knew more about the law, he wouldn't have committed the violation," Marriott said. "I don't think that's always true, but sometimes it is."

So a proposed bill would designate $200,000 from DEP's annual fine collections (now running about $3 million) to set up classes through the technical college system.

These are all worthy initiatives which would help DEP do its job and benefit the state as well. Here's hoping they won't get lost in a legislative shuffle likely to be even worse than usual.

Marriott seems resigned to his budget. It was pretty depressing last November, he admits, when McKernan was breaking the news to department heads that their budget plans were history. But now people have gotten used to it.

Even if the Legislature does come up with more money, Marriott doesn't see DEP getting much of it. "The priorities are Human Services, Education, Corrections," he said. "Not DEP."

Doing more with less — Marriott seems to be attempting the impossible. But he has no choice.

John R. McKernan, Jr.
Governor

Department
of
ECONOMIC AND COMMUNITY DEVELOPMENT
OFFICE OF COMPREHENSIVE PLANNING

Peter Walcott
Commissioner

Kathryn J. Rand
Deputy Commissioner

May 15, 1991

TO: Bob Blakesley, State Planning Office

FROM: Francine Rudoff, Tamara Risser, Erik Carson, and Linda Boothby
Office of Comprehensive Planning, Coastal Program

RE: Coastal Program Progress Report, 2/91 - 4/91

1990-91 GRANT TASKS

TASK 1B -- Local Code Enforcement Officer Training

This quarter has been extremely busy for the Code Enforcement Officer (CEO) Training Program. A significant amount of time has been devoted to preparing the field guide on *recognizing* and delineating wetlands in Maine and organizing the wetlands workshops to be held this summer. Several reviews of the draft field guide (being written by Ralph Tiner of the US Fish and Wildlife Service in MA) were completed and supplemental materials, such as maps and lists of information sources, were provided to the contractor. Workshop planning has involved establishing a structure for the program, obtaining commitments from instructors, selecting consultants, and identifying fieldwork sites. Additionally, discussions were held with DEP Shoreland Zoning staff on establishing appropriate and enforceable standards for defining the upland edge of a wetland.

Other activities have included: completing the electrical codes training manual and holding workshops in five locations; planning upcoming plumbing code workshops; assisting towns with the development of sample CEO job descriptions (required for the certification process); and drafting a training syllabus for the next two years (see attached CEO Training Syllabus and Exam Schedule for 1992-93).

Other notable events include pending modifications to the CEO certification rules. As a result of the controversy discussed in the last quarterly report, the legislature is currently working on an Act that will change the rules to: remove training and certification of electrical inspectors from OCP's jurisdiction; exempt CEOs with at least 3 years of experience prior to 1990 from certification examinations (only in areas where CEO has had

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continual experience); and replace the recertification exam with a requirement for continuing education. See attached update on the CEO rules for more details.

TASK 1C -- DECD Technical Assistance

Shoreland Zoning

DECD/OCP Coastal staff continued work on Shoreland Zoning related initiatives during this quarter. Two sets of "model" Shoreland Zoning performance standards -- one on docks, piers, and wharves and the other on bluff erosion -- are now in final draft form and will be printed for distribution to municipalities during May and June. These standards are more stringent than those provided in the DEP minimum Shoreland Zoning Guidelines and may be adopted by municipalities in lieu of the DEP minimum requirements. Copies of the completed model standards will be included in the next quarterly report.

DECD/OCP staff have also been working with Maine's Floodplain Management Program to produce a model combined Shoreland Zoning - Floodplain Management Ordinance. We are responding to requests from a number of communities interested in having only one local Ordinance address these two topics. We expect the model to be completed sometime during the next quarter.

Requests for the model Shoreland Zoning permit forms have been strong. Copies were distributed to municipal Planning Boards through the Regional Councils during March and April and availability of the publication was announced in DECD/OCP's newsletter NEXUS. As a result, we are receiving additional requests for copies of the forms on a daily basis.

DECD/OCP staff, as back-up to DEP staff, have been responding to routine technical assistance requests from the Regional Councils, municipal officials and the public on Shoreland Zoning questions. DECD/OCP staff also participated in a workshop sponsored by the Greater Portland Council of Governments on Shoreland Zoning/Planning issues for towns along the Cousins River.

Shoreland Zoning and Coastal Erosion

DECD/OCP staff have begun work on a project with two major objectives: to provide incentives for coastal property owners to either move or demolish structures subject to the threat of erosion and flooding; and to develop a more direct link between actual coastal erosion rates and local and state zoning and/or permitting decisions. The impetus for this initiative is Maine's desire to become the fifth state in the nation certified to participate in the Upton-Jones Program (or the new program currently being considered by Congress to replace Upton-Jones) administered by the Federal Emergency Management Agency. Certification would allow Maine to assist coastal property owners whose structures are in danger of imminent collapse due to erosion and flooding to either

demolish or relocate the structures. Funds for demolition or relocation are made available through flood insurance policies.

To become certified under Upton-Jones, Maine would have to demonstrate that the state has: a state-wide requirement that prohibits new construction and relocation seaward of an adopted erosion setback; and an established, complete, and functional data base of mean annual erosion rates for areas of coastal shorelines subject to erosion. At this point, it appears that we will have to first develop mean annual erosion rates and then use that information to revise existing state laws and/or regulations (i.e. Shoreland Zoning and Natural Resources Protection Act) so that setbacks in particular areas of the coast are consistent with the erosion rates for those areas.

DECD/OCP staff, with assistance from the Maine Geological Survey, have begun analyzing existing maps, photographs and other data sources to identify the erosion prone areas of the coast that are vulnerable to development (i.e. not publically owned). We are also also working with DEP staff to identify whether and how appropriate state laws and regulations could be linked more closely with erosion rate data.

Growth Management Program

During this quarter, DECD/OCP Coastal staff reviewed 4 comprehensive plans from coastal communities for consistency with Maine's Coastal Policies -- Newcastle, Alna, Trenton, and Southport. Copies of the review comments are attached. This brings the total number of coastal plans reviewed to 12. The following list indicates which of these 12 plans are presently consistent with the Growth Management Act and which have been adopted by the Towns to date:

Richmond - adopted, not consistent
Warren - not adopted, not consistent
South Berwick - adopted and consistent
Edgecomb - vote scheduled for May, consistent
Dresden - adopted, not consistent
Surry - adopted, not consistent
Woolwich - adopted and consistent
Wiscasset - vote scheduled for June, not consistent
Newcastle - adopted, not consistent
Alna - vote not scheduled yet, not consistent
Trenton - vote not scheduled yet, not consistent
Southport - vote not scheduled yet, not consistent

It is important to note that most plans submitted to OCP for review for the first time are found to be "not consistent" with the Act. In most cases, the major objections are related to the future land use plan (i.e. town-wide zoning and other land use controls), a difficult topic for small towns to address. With OCP's comments and recommendations in hand, towns are then revisiting the future land use plan and modifying them so that they meet the requirements of the Act. Thus, we anticipate that many of the "inconsistent" towns listed above will eventually adopt consistent plans.

DECD/OCP Coastal staff also spent considerable time discussing work plans and public participation efforts, reviewing draft sections of local comprehensive plans, and meeting with local planning committees to discuss issues and proposed implementation strategies. Coastal communities assisted during this quarter include: Stonington, West Bath, Yarmouth, Damariscotta, Cutler, York, Brunswick, Addison, Belfast, Deer Isle, St. George, Cape Elizabeth, and Harpswell.

See discussion below on Coastal Management Grants.

Interagency Coordination

DECD/OCP Coastal staff participated in monthly coastal program coordination meetings to share information on state agency activities related to coastal issues. Staff also worked with the interagency dredging subcommittee to complete revisions to Maine's dredging policy draft document.

Subdivision Review Standards

DECD/OCP Coastal staff reviewed "new and improved" model subdivision standards for local planning boards prepared by the Southern Maine Regional Planning Commission for OCP. Particular attention was paid to developing appropriate standards for wildlife habitat protection that are meaningful for municipal planning purposes and at the same time satisfy a number of concerns raised by the Maine Department of Inland Fisheries and Wildlife.

Casco Bay National Estuary Program

During this quarter, DECD/OCP Coastal staff worked with DEP and the Casco Bay Local Government Advisory Committee on a proposal to establish a Water Quality Resource Center and technical assistance program for towns in the Casco Bay watershed. A funding proposal was developed and submitted to EPA for consideration. If approved, DECD/OCP will receive funds to work with local planning committees on the water resources sections of their comprehensive plans and the subsequent development of land use ordinances and other implementation measures (see attached proposal).

Task 1D -- Regional Councils

Quarterly reports from each region are attached, showing the progress being made in coastal communities on the adoption of revised Shoreland Zoning Ordinances. It is clear from these reports that at least 50% of the towns will not complete the revisions by this summer and will require additional assistance next fall to meet the DEP's December 31, 1991 deadline. Many of these communities are waiting because they are in the process of working on their comprehensive plans and would like to complete the

planning process before tackling any rezoning projects.

During this quarter, DECD/OCP provided the following day-long program for the regional Coastal coordinators:

March 26, 1991 - The day focused on DEP's Non-point Source Control Program and some legislative and program updates.

The next meeting is scheduled for May 28th.

Task 2 -- Municipal Grant Programs

A. Coastal Planning Grant Projects

The following summarizes the status of each harbor/waterfront planning project.

Belfast
The City of Belfast got off to a slow start on their grant, but is now making steady progress. The inventory section of their plan is nearly complete and the Harbor and Waterfront Planning Committee is beginning to discuss goals and policies for the waterfront. The Committee's efforts are being frustrated somewhat due to a couple of major issues that are currently being resolved along the waterfront. One of them is the sale by the City of the railroad that runs along the waterfront (see article in Portland Magazine). The other issue is a potential buyer for the abandoned Penobscot Poultry building.

The consultant is concerned that the Committee may need a grant extension. More time may allow the Committee to address these issues more completely as decisions on them will be made shortly.

Biddeford
The City of Biddeford's Comprehensive Harbor and Waterfront Committee has held several meetings and a number of public hearings in different neighborhoods along the Saco River. Their consultant anticipates that work on the grant will be competed on schedule.

Eastport
The City of Eastport's Coastal Planning Committee is making steady progress on their grant and should complete the work on time.

Freeport
The Town of Freeport's Coastal Planning Committee is making steady progress on their grant. The Committee anticipates the need for a slight extension (an additional month) so as to allow for adequate public hearings.

St. George
The Town of St. George's Harbor and Waterfront Committee is making steady progress. The consultant anticipates that the work should be completed on time.

Wells
The Town of Wells has almost completed the portion of their planning process that has focused on consensus building and policy setting. Work on the grant should be completed on schedule.

B. Waterfront Action Grant Projects

The projects in Eastport, Calais, and Bangor are moving ahead on schedule.

In Frankfort, a recent Town Meeting, prompted by a small group of citizens who opposed the ongoing maintenance expenses the Town would incur with the park project, voted to "unaccept" the WAG funds. This happened despite the fact that the Town approved local funds for the project and acceptance of grant funds last year and had begun the final design plans for the park. The Selectmen, however, are proposing to vote on the project once again. It is possible that this project will move forward, but if so, it will most likely require an extension.

The South Portland project is also on hold pending budget deliberations by the City Council. Given the City's fiscal crisis, there is serious concern about its ability to provide the local matching funds this year. The project remains a high priority, and every effort, including a request for private donations, is being made to come up with the needed matching funds.

C. Coastal Management Grants

To date, three communities have applied for grant funds. Richmond and South Berwick were described in the last progress report. We have entered into a contract with South Berwick for the Salmon Falls River Plan. Richmond's Plan is still not consistent with the Growth Management Act, so we have been unable to move forward with their grant for a Harbor Management Plan. The third funding request has come from the Town of Woolwich to examine options for wastewater treatment in the Days Ferry village area along the Kennbec River. We will be working with Woolwich on the development of a work plan for the project during the next quarter.

Technical Assistance Log

Tamara Risser

Meetings

February 12 - Attended meeting of the St. George Harbor and Waterfront Planning Committee to answer any questions the committee had and to review progress on the grant.

February 13 - Met with Fred Todd, LURC, Rich Baker, DEP, and Lee Sochesky of the International Waterway Commission, New Brunswick to discuss aspects of Maine's shoreland zoning controls and how they could be incorporated into regulations for the Provinces in Canada.

February 13 - Met with representatives from the United States United Kingdom Countryside Exchange Planning committee to discuss a coastal planning project that will be conducted by an international team of planners this summer. The group will look at environmentally sensitive tourism and green belt planning in the Penobscot Bay region. The team expressed a desire that there is a liaison between the team and the Office of Comprehensive Planning.

February 22 - Met in Stonington with Town Manager and members of the Comprehensive Planning Committee to assist them in pulling together components of their comprehensive plan.

February 25 - Met with other coastal program staff, the planner from Yarmouth and DEP representative to discuss model regulations for piers, docks and wharves.

February 28 - Attended meeting of the Freeport Harbor and Waterfront Planning Committee.

March 6 - Met with state flood plain coordinator to discuss development of a combined model flood plain/shoreland zoning ordinance.

March 8 - Attended the Maine Fisherman's Forum in Rockport.

March 11 - Met with consultant working on coastal plans in Biddeford, Belfast, and St. George to go over materials and assess progress on the grants.

March 26 - Attended Coastal Coordinator meeting on the DEP's nonpoint source pollution program.

March 28 - Gave a presentation to communities in the Cousins River Watershed (Freeport, Yarmouth, North Yarmouth and Pownal) on environmental features of the Cousins River watershed.

April 2 - Met with Fred Hurley, Inland Fisheries and Wildlife to go over performance standards for wildlife protection. The performance standards are part of a model subdivision ordinance for Maine's municipalities.

April 3 - Met in West Bath with co-chair of the Towns Comprehensive Planning Committee and with their consultant to go over comments on the Town's draft comprehensive plan.

April 8 - Attended meeting in Wells, the first of five meetings between the Wells Harbor Planning Committee and a consultant hired under the towns coastal planning grant to facilitate consensus building and setting policies for the harbor.

April 9 - Met in Bath with the city planner and representatives from towns along the Kennebec River to discuss the feasibility of establishing a nonprofit entity to obtain a tour boat route for boat trips up and down the Kennebec.

April 16 - Met in Wells with the Harbor Planning Committee.

April 18 - Met with planner from Yarmouth to go over preliminary land use plan for the town.

April 22 - Met in Wells with the Harbor Planning Committee.

Other

General grant administration and technical assistance has been provided to the following Towns as they draft their comprehensive plans: Stonington, Yarmouth, West Bath, Belfast, Deer Isle, St. George, Cape Elizabeth, and Harpswell.

Provided information to the City Planner in Bath regarding waterfront revitalization - grant sources, and general planning materials on waterfront development.

Provided assistance on shoreland zoning to Coastal Planner at the Eastern Mid-Coast Planning Commission.

Answered questions over the phone concerning shoreland zoning issues.

Francine Rudoff

Meetings

March 7 - Meeting with Town Planner of South Berwick concerning Coastal Management Grant for public access plan for Salmon Falls River.

March 11 - Meeting with Damariscotta Comprehensive Planning Committee regarding the inventory and analysis section of their draft Plan and proposed future land use plan.

March 27 - Meeting with Casco Bay Local Government Advisory

Committee about proposed OCP technical assistance strategy on water quality issues.

March 28 - Meeting with staff at Municipal Resource and Planning Office of Lincoln County about Shoreland Zoning technical assistance activities.

March 28 - Meeting with Edgecomb local officials about proposed revisions to their Comprehensive Plan.

April 9 - Meeting with Edgecomb local officials on further revisions to their Comprehensive Plan.

April 17 - Meeting with Brunswick Town Planner on revised work plan for Comprehensive Plan development

April 19 - Presentor at two sessions of the Maine Harbor Masters Annual Meeting and Training Program -- one on mooring regulation and planning and the second on harbor management and comprehensive planning.

April 22 - Meeting with Hancock County Regional Planning Commission on Shoreland Zoning technical assistance issues.

April 22 - Meeting with Washington County Regional Planning Commission on Shoreland Zoning technical assistance issues.

April 22 - Meeting with Cutler Comprehensive Planning Committee on their draft Plan.

April 23 - Meeting with Chair of Addison Comprehensive Planning Committee on their work plan and public participation program.

NEW SHORELAND ZONING PERMIT FORMS NEWS 3/91

The Office of Comprehensive Planning, in coordination with the Department of Environmental Protection, has developed a new set of model Shoreland Zoning permit forms. The forms are designed to help municipalities with the adminstration and enforcement of local ordinances adopted under the Mandatory Shoreland Zoning Act.

Included in the package are: a 6 page permit application form; a special permit application form for variances, conditional uses, or special exceptions; a shoreland zoning permit checklist for use by the CEO; and a permit form to be posted at the construction site.

Planning Boards and CEOs are encouraged to modify these forms to fit the specific requirements of local ordinance provisions and administrative procedures. The forms can also be modifed to serve as the general building permit application form for a municipality. Copies of the model permit forms are available from the Office of Comprehensive Planning or your Regional Council. Any questions or comments concerning the forms should be directed to Fran Rudoff or Tammy Risser at OCP

Audubon 'refuses to participate'

• Organization won't sit with Wells harbor committee until it accepts BEP's decision to not dredge. YCC S 4/3/91

By Joe Dynan
Star writer

WELLS — The first meeting of a committee formed to draw up a future plan for Wells Harbor was more notable for who wasn't there than who was.

The Maine Audubon Society, a longtime outspoken opponent of a proposed dredging of the harbor, has refused to participate as a member of the Wells Harbor Management Plan Committee.

The harbor committee held its first meeting Monday afternoon at Wells Town Hall and began discussions on a blueprint for the harbor's future.

Thomas Urquhart, executive director of the Maine Audubon, said the town's reluctance to accept a unanimous decision by the state's Board of Environmental Protection against the dredging was the reason for the Audubon's refusal.

"As soon as they say 'We accept the BEP decision,' we'll participate," Urquhart said. "We just don't see the point of essentially negotiating an issue that has already been unanimously decided."

Last November, the BEP shot down an application from the Army Corps of Engineers to dredge 200,000 cubic yards of sand from the inner harbor. The state agency agreed with testimony from the Audubon, the Department of Environmental Protection and scientists from the Maine Geological Survey against the dredging. A 45-minute presentation in favor of dredging by the town of Wells failed to win any support.

The Audubon's position contrasts sharply with the position of many Wells officials, which was outlined by Jack Lyons, chairman of the harbor plan committee and a member of the town's Harbor Advisory Committee.

"The harbor plan should not lead anyone to believe the town concedes in any way, shape or form their intent to dredge," Lyons said early in Monday's meeting.

Lyons also criticized the Audubon for "standing on the sidelines" during the planning process, and said the society was only "interested in manipulating it for their own benefit."

Monday's war of words is the latest round in the battle between the town and the Audubon, a battle that shows no sign of slowing down. Urquhart said the Audubon will be at an April 10 public hearing in Augusta to speak against a bill that would amend the state's Natural Resource Protection Act, and essentially allow Wells Harbor to be dredged.

The bill, sponsored by Sen. Stephen Estes, is one of two bills introduced in the legislature at the urging of Wells officials. The other bill is sponsored by Rep. Joseph Carleton, and specifically addresses the Wells harbor project.

Urquhart calls the bills an "end run" by the town and accused Wells officials of "changing the rules when you don't like the way they shake out."

At Monday's meeting, however, the harbor plan committee refused to let the dredging issue dominate the discussions. "It is only one component of the whole plan so we shouldn't get hung up on the dredging," town manager Jonathan Carter said.

A way to bring the town's clam flats, which are closed because of pollution, back up to state standards, keeping the harbor as a working harbor for fishermen and recreational boaters, protecting the environment, and developing a passive recreation park near the harbor were among some of the suggestions made.

The committee has scheduled its next meeting for Monday (April 8) at 3 p.m. and is hoping to have its plan complete by the end of May at the latest.

Others in attendance Monday were Norman Lessard, from the Wells Harbor Association, David Houghton from the Rachel Carson National Wildlife Refuge, Jim List of the Wells Reserve Authority, harbormaster Roland Falconer, Ken Creed, president of the Wells Chamber of Commerce, commercial fishermen Robert Bemis and John Hudson, Ron Collins of the comprehensive plan committee, restaurant owner David Kershaw, George Tousey of the Drakes Island Association, and Eric Perkins of the Southern Maine Regional Planning Commission.

Officials from the DEP and Army Corps of Engineers are expected to be at the next meeting. Also invited is a member of the Wells planning board and conservation commission.

During the meeting, Carter did say that the Maine Audubon would remain on the committee's mailing list and be kept informed of the committee's activities.

The town has matched a $5,000 state grant to fund the plan.

Audubon Society boycotts meeting

● Members of the group say they are concerned that Wells still has plans to dredge its harbor. PPH 4/2/91

By TED COHEN
Staff Writer

WELLS — The Maine Audubon Society refused Monday to attend the first meeting of the town's Harbor Planning Committee, saying that the only real plan the town has for the harbor is dredging it.

But town officials, who have failed to get state permission to dredge the harbor, denied they will use a $5,000 state grant to prepare another dredging application.

Jack Lyons, chairman of the Harbor Planning Committee, complained as the panel began a series of meetings that the Audubon Society is "interested in manipulating us" by refusing to support the town's dredging plans.

He and Town Manager Jonathan Carter said the Audubon Society was offered a seat on the committee but refused the town's request to help plan the harbor's future.

Thomas Urquhart, executive director of the Maine Audubon Society, said the group believes the town is using state money to pursue dredging the harbor, even though the state has rejected the plan because of environmental concerns.

Though state planners have told town officials not to use the planning grant to prepare another dredging application, Urquhart said, that is exactly what the town is doing.

"In fact," he said, "the harbor management plan is proceeding from the point, 'We need to dredge this harbor. How do we go about getting it accomplished?' "

He said the Audubon Society agrees with the Maine Department of Environmental Protection that dredging the harbor would cause too much ecological damage. "Dredging the harbor is not an option," he said.

Barry Lawson, a Massachusetts consultant the town has hired to help formulate the harbor plan, agreed to ask the Audubon Society again to help plan the future of the harbor.

Members of the Harbor Planning Committee said they plan to study what would happen to the harbor if it were dredged, and what would happen if it were not.

Deposits of sand and silt have made navigation in the harbor so poor that the commercial fishing industry is threatened there.

The 13-member committee will meet next at 3 p.m. Monday.

It will be studying the commercial and recreational future of the harbor and the beaches here, as well as the future of the clamming industry that has been shut down due to pollution.

Lawson said he hopes the panel can finish its work by May 1.

Waterfront future is topic of April 25 public hearing

The Biddeford Comprehensive Waterfront Management Study Committee will hold a public hearing at 7 p.m., Thursday, April 25 in the Biddeford City Council Chambers of City Hall.

This meeting is to discuss possible development goals for the Saco River and coastal waterfront areas. The general public will be able to review maps and proposed goals developed by the Committee in conjunction with the consulting firm of Sebago Technics of Westbrook. The Comprehensive Waterfront Management Study is a detailed study funded by the Maine Coastal Program. The City of Biddeford was awarded a $10,000 matching grant to plan future development and land uses along the Saco River and the Atlantic coastal areas.

The plan includes:

- a detailed land use inventory along the Saco River and the coastal areas of Biddeford;
- analysis of commercial and recreational water uses;
- recommendations for future open space planning and access to the waterfront;
- possible public park areas, public boat launching sites and mooring areas.

Some of the items the Committee will review as possible planning recommendations include:

- greater setbacks from the high water mark of the Saco River and the Atlantic Ocean;
- limit on the type of boating activities along the river;
- increased access to the river by means of walkways and paths along the river bank and public park areas at several locations along the river;
- maintain the rural character of the areas west of the turnpike along the Saco River;
- encourage vegetative screening and selective planting along the river;
- promote interlocal land use patterns between the cities of Biddeford and Saco;
- develop a Master Plan for Rotary Park that will increase/improve its use and maintenance;
- develop an historic/ecological theme exhibit;
- develop a function park at the eastern end of Saco/Factory Island to capitalize on its waterfront location for public access;
- develop a nature park on Cow Island;
- explore the possibility of public mooring and boat launching at the Old Town Landing near UNE;
- develop a public park and boat launching site at Biddeford Pool near the Gut.

The Management Study Committee members are Clint Marshall, chairman, of Biddeford Pool; Marshall Alexander, Biddeford Harbor Master; Robert Dodge, Biddeford Community Development Director; Mark Simoneau, Biddeford Planning Board; Ben Chretein, University of New England; Gary Palmondon, Biddeford City Councilor; Don Simard, Biddeford City Planner; Peter Morelli, Saco City Planner; and Don Abbott, Saco Harbor Master.

Sebago Technics was selected as the consulting firm to assist the Committee to develop a plan that would help chart the development along the city's several miles of waterway. Will Conway, vice president of planning for Sebago Technics is the lead consultant. He is being assisted by Robert Ware, marine and waterfront planning; Scott Brown, environmental planner; and John Cleveland, intergovernmental relations consultant.

Two previous public hearings have been held. Comments and proposals during these two sessions have been instrumental in laying the foundation for the April 25 public hearing.

The public is encouraged to attend this public hearing to provide the Committee with valuable comments and suggestions.

Some questions to be considered for waterfront

- The Rural Riverscape (the section of the river closest to Dayton):

1. Is the Route 5 crossing of the Saco an appropriate future access location?
2. What is the future desired character of this rural riverscape?
3. Political boundaries must take a back seat to the integrity of the river corridor. To what extent should this be done?
4. Will the proposed turnpike widening have an environmental impact?

- The Urban Riverscape

1. What is the impact of private moorings on river navigation?
2. What are the common interests between Biddeford and Saco for the urban waterfront?
3. What are future Water St. development plans?
4. What is the impact of a possible Route 1 Bypass?

- The Active Riverscape

1. Do commercial fishermen need expanded facilities at Camp Ellis?
2. Does U.N.E. require waterfront facilities for marine educational instruction?
3. The mouth of the Saco is active; how much more use can it take?

- Biddeford Pool — Things to consider:

1. Wood Island Light is expressive of Maine's coastal heritage.
2. Biddeford Pool is land and waterscape unique to Maine.
3. Sporadic residential development threatens coastal image and character.

- The Southern Coast

1. Can this coastal area accommodate further development?
2. Are land use zoning districts compatible with Kennebunkport?

State lists 4 objections to Dresden comprehensive plan

By ELIZABETH COXE
KJ Correspondent

KJ 3/20/91

DRESDEN — A public hearing on the town's proposed comprehensive plan will go forward Thursday despite state objections to some parts of the document.

After years of work to upgrade the growth plan, committee members say they are pleased with the draft. It is based, they said, on comments from a cross-section of citizens representing new and old residents, business owners, farmers, foresters, people who work in and out of town, and people of all income levels.

The town began to revise its growth plan four years ago, said committee Chairwoman Marion Currier. The state's Growth Management Act of 1989 provided the town with money to hire a consultant, Steve Levesque of Community Dynamics Corp.

Levesque helped planners "see beyond their noses," said Currier.

But beyond Levesque's help, Currier said, state involvement was not always in tune with what town residents wanted for Dresden.

The state review, while praising the proposed plan for the general framework it provides, makes four specific objections, four recommendations, and 11 suggestions.

The objections: insufficient affordable housing goals, insufficient cost estimates for future capital improvements, lack of specific sitings and protection plans for 10 rare plants, and insufficient land-use differentiation between rural and growth areas.

Currier said revisions were made to identify the rare plants, even though their protection is ensured since they are in resource protection zones.

Some changes were made in the land use definitions, but a philosophical difference exists between the state and the local committee.

Committee members want to retain one-acre zoning in rural and growth areas alike, and depend on performance standards of town ordinances for growth restrictions.

The state planners want more explicit controls through growth plan strategy.

Revisions were not made to the plan on affordable housing goals and detailed estimates of future expenses, since the committee thought the state's objections were unfounded.

Housing values in Dresden cannot be compared with other Lincoln County areas, said Currier. And estimating costs of future projects is not viable, she said.

If citizens find no major objections to the proposed plan, it will go before voters at a special town meeting April 10. A plan approved by citizens will ensure local rather than state control of land use in town, said Currier.

If an approved plan receives state endorsement, it becomes state-certified and entitles the town to grant money.

"I'm not concerned whether it gets certified or not," said Currier, adding that depending on grants was not in the town's original planning initiative.

Promotion of an economic climate which increases job opportunities is cited as a goal. The plan encourages tourism-related enterprises and small-scale commercial or manufacturing businesses, and promotes commercial agricultural, fishing and forestry ventures.

Public facilities policy in the plan calls for exploring the establishment of a utility district for protection of groundwater resources.

Currier terms the plan realistic, and one which has not catered to one segment or group in town. She sees some differences between state and local concerns as a matter of degree.

"We felt it was not prudent to try to make too drastic a change right away," she said, adding "it isn't human nature" to like major changes.

Thursday's hearing, to be held at 7 p.m. at the Elementary School, will be a final chance for community input on revisions for the plan, she said.

Richmond residents OK comprehensive plan

By ELIZABETH COXE
KJ Correspondent

KJ 2/28/91

RICHMOND — A three-year struggle to craft a growth plan for Richmond ended Wednesday as citizens approved a new comprehensive plan, complete with some 11th-hour amendments suggested by a citizens group.

The plan, described as an official expression of the community's vision of its future, will guide development of new land use ordinances, officials said.

Town Manager Nancy Churchill said the plan does "the sorts of things that help a town become well managed and efficient."

Some citizens who believed the plan was too restrictive had developed seven amendments and explained them in a handout.

Alice Wheeler and others in the group proposed reduced density zoning in outlying areas, a repeal of the cap on permits issued per year, and fewer restrictions on development rights and on commercial growth.

More than 150 people attended the meeting to act on the comprehensive plan article, a solid waste and recycling ordinance, and four appropriations to supplement previous votes.

Richmond's new plan was the first in Maine to receive state approval, although there is some question about how the amended document will be viewed in Augusta.

Consultant Mark Eyerman, of Market Research in Portland, advised citizens to approve a plan they were comfortable with and worry later about state endorsement.

The plan represented a balance sought between individual freedoms and the needs of the town, said Jay Robbins, chairman of the comprehensive plan advisory board.

Sometimes citizens need to be reminded, and sometimes forced through regulations, to be responsible, he said.

Some 70 meetings have been held on the plan since 1988, Robbins said. The plan was reviewed by state officials, returned with suggestions and resubmitted, and prepared for public vote at a special meeting last fall.

Robbins said commentary by George Smith appearing in the Kennebec Journal just before the fall meeting generated anger against the regulatory nature of the plan, bringing more than 300 people to the November meeting.

Smith's comments contained incorrect assumptions, Robbins said, but added he was pleased they spurred citizens to finally join the process.

Eyerman later said further amendments to the plan could be made at any time.

The interagency Marine Program Working Group, which was informally established to coordinate Maine's marine programs and to assist in the development of the project, met several times. The group's dredging subcommittee drafted a letter for Governor McKernan requesting Maine's Congressional delegation to seek Congressional authorization for a General Investigation along Maine's coast by the U.S. Army Corps of Engineers. The primary focus of the Investigation would be to determine Maine's dredging needs, dredged material disposal options, and related impacts. Prior meetings between the dredging subcommittee and the Corps produced agreement that such an investigation be requested. A Corps-State agency team will be established to guide the project if funding is provided.

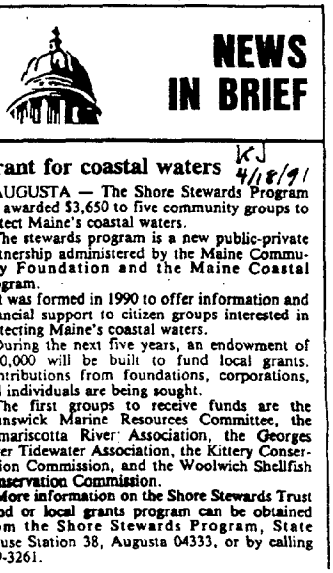
The newly re-established Cabinet-level Land and Water Resources Council (see next page) created a formal Marine Policy Committee as one of six new standing committees. The Marine Policy Committee consists of representatives from DMR, DEP, SPO, DECD, IF&W, BPL, MGS, and DOT, and supersedes the informal Marine Program Working Group. The Commissioner of Marine Resources serves as chair and the State Planning Office provides staff support. The Council requested that the Committee meet monthly and charged it with coordinating State marine policy, resolving conflicts between agencies, identifying and investigating emerging marine policy issues, and serving as a ready resource for the Council to respond rapidly to issues as needed.

Task 4 -- Program Management & Public Education

A. Public Education Initiatives

(1) Coastweek & Coastal Cleanups -- The Coastal Commmunications Coordinator began contacts with corporate donors, with regional coordinators for Coastal Cleanup, and with a designer regarding the schedule and content of this year's poster, and worked with Maine Audubon to coordinate Coastweek/Cleanup promotional efforts with Audubon's Sea Fair (an environmental fair planned for the second day of Coastweek).

(2) Shore Stewards Program -- The second issue of the Shore Stewards Program newsletter, "The Ripple Effect" (see Exhibit E-9) was mailed to over 600 individuals and groups along the coast. The Shore Stewards Advisory Committee awarded $3,650 in the first round of local grants for projects including volunteer water-quality monitoring, an estuary traveling display, a grade school poster contest, and a middle-school curriculum on pollution of coastal shellfish beds. The Shore Stewards Coordinator helped organize the first Water Quality Monitoring Fair, which attracted more than 250 people.



NEWS IN BRIEF

Grant for coastal waters KJ 4/18/91

AUGUSTA — The Shore Stewards Program has awarded $3,650 to five community groups to protect Maine's coastal waters.

The stewards program is a new public-private partnership administered by the Maine Community Foundation and the Maine Coastal Program.

It was formed in 1990 to offer information and financial support to citizen groups interested in protecting Maine's coastal waters.

During the next five years, an endowment of $500,000 will be built to fund local grants. Contributions from foundations, corporations, and individuals are being sought.

The first groups to receive funds are the Brunswick Marine Resources Committee, the Damariscotta River Association, the Georges River Tidewater Association, the Kittery Conservation Commission, and the Woolwich Shellfish Conservation Commission.

More information on the Shore Stewards Trust Fund or local grants program can be obtained from the Shore Stewards Program, State House Station 38, Augusta 04333, or by calling 289-3261.

LAND AND WATER RESOURCES COUNCIL MEMBERS
April 1991

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Dean C. Marriott, Commissioner
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Dept. of Economic & Community Development
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William J. Brennan, Commissioner
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Alternate: Lewis Flagg

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North Kennebec RPC
7 Benton Avenue
Winslow, Me. 04902
(873-0711)

Dr. Gregory N. Brown
Vice President for Research and Public Service
201 Alumni Hall
University of Maine
Orono, Me. 04469
581-1504
Alternate:
Gregory White, Director
Environmental Studies Center
11 Coburn Hall
University of Maine
Orono, Me. 04469
(581-1490)

Carol Michel, Director
Land & Water Resources Council
State Planning Office
Station #38
289-3261

STANDING COMMITTEES

Lead Staff Committee (Chair: Carol Michel, SPO)
Areas: Coordination/facilitation of committee work
Priorities of Sec. 309 Enhancement Areas (proposed)

Water Resources Comm. (Chair: Dean Marriott, DEP)
(Staff: Steve Groves, DEP)
Areas: Wellhead Protection Plan
Water Resources Management Board Report
River Resources Management Plan
Lakes Policy Development

Marine Policy Committee (Chair: William Brennan, DMR)
(Staff: John CaLena, SPO)
Areas: Section 309 Assessments & Strategies for:
Ocean Resources Planning
Marine Debris
Dredging Policy Development
Aquaculture Permitting
Submerged Lands

Growth Management Comm. (Chair: Lynn Wachtel, DECD)
(Staff: Kay Rand, DECD)
Areas: Resources, Coordination
Feedback/queries from municipal planning boards
Next round planning -- Tier II towns
Sec. 309 Assessments & Strategies for:
Natural Hazards Management (proposed)
Cumulative Impact (proposed)

Hydro-relicensing Comm. (Chair: Rich Silkman, SPO)
(Staff: Betsy Elder, SPO)
Areas: Coordination & policy for upcoming relicensing
Resource questions in light of budget cutbacks

Natural Areas & Natural Resources (Chair:)
(Staff: Walter Anderson, DOC
Jim Bernard, SPO)
Areas: Program Coordination (Critical Areas Program, Ecological Reserves, Heritage Coastal Areas, Natural Heritage Program, Threatened & Endangered Species)
GIS Initiative & Projects
Sec. 309 Assessments & Strategies for:
Wetlands (proposed)
Public Access (proposed)
Special Area Management Planning (proposed)

Marketing & Development Comm. (Chair: Bernard Shaw, Agric.)
(Staff: Carl Flora, Agric.)
Areas: Promotion of industries/products
Increasing Value-Added
Coordination of marketing efforts
Expansion of marketing programs

Land Use Regulation Comm. (Proposed) (Chair: , DEP)
(Staff:)
Areas: Regulating, permitting & enforcing
Enforcement Options Study
Sec. 309 Assessment & Strategy for:
Siting of Coastal Energy & Government Facilities (proposed)

Proposed marina divides Bass Harbor

Tourist industry, fishing industry in a culture clash

By William C. Hidlay BDN 5/4-5/91

BASS HARBOR (AP) — Developer Ed Von Papen looks at the old Underwood sardine cannery and sees an opportunity to make money — a place to build a "boatel" and marina for tourists and their yachts.

Fisherman Gene Lawson looks at the boarded-up factory — at its peeling paint and weathered wharf — and sees recent history repeated. Once again, the tourist industry is muscling out the fishing industry.

But Lawson and 65 other fishermen who work out of Bass Harbor are drawing the line. They are fighting the Von Papen project, hoping to set a precedent th... give fishing ...

Bass Harbor development rejected

"Bass Harbor is the last working waterfront on Mount Desert Island. Period."

Philip W. Conkling, ...e Island Institute

Under changes made in 1989, the Submerged Lands Law directs the Bureau of Public Lands to grant a lease for submerged land only if the project "will not unreasonably interfere with fishing or other existing marine uses of the area."

It also stipulates that the proposed project must not "unreasonably ... availability of services

● The decision sets a precedent in the first test of the state's Submerg Lands Law.

By WILLIAM C. HIDLAY
Associated Press

BASS HARBOR – Lo... men won a victory Tuesd... battle to block a propos... when a state agency re... project, setting a precede... lar developments along... coast.

Ed Von Papen, an ... from Massachusetts, ... turning an abandon... canning factory and ... mouth of Bass Harb... Desert Island into a ... boats with a 26-roon... cruising tourists.

But local lobsterme... project, fearing they ... out by wealthy tou... care for the noise ... come with fishing.

On Tuesday, th... ment of Conserva... Public Lands reje... tion of Von Pape... Desert Realty Tr... submerged, state-...

Marina decision praised

Underwater land protected by state

By WILLIAM C. HIDLAY
Associated Press Writer KJ 5/13/91

BASS HARBOR — Local fishermen won a victory Tuesday in their battle to block a proposed marina when a state agency rejected the project, setting a precedent for similar developments along the Maine coast.

Ed Von Papen, an entrepreneur from Massachusetts, envisioned turning an abandoned sardine-canning factory and wharf at the mouth of Bass Harbor on Mount Desert Island into a marina for 84 boats with a 26-room "boatel" for tourists cruising the coast.

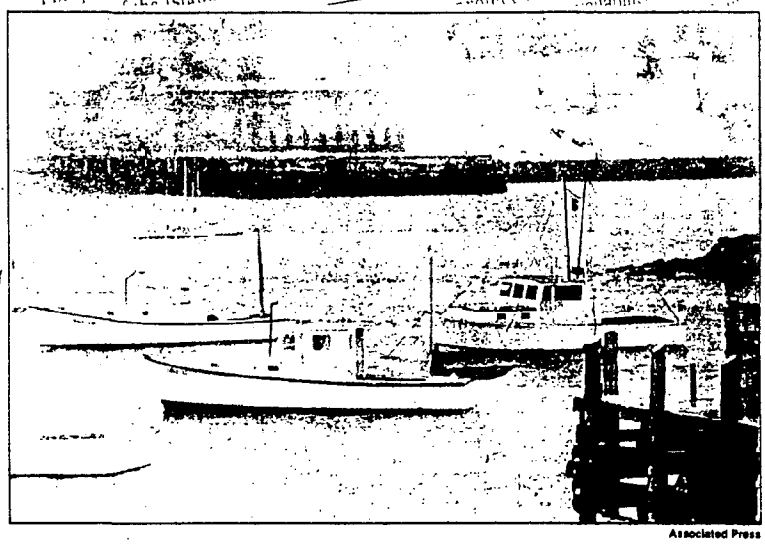
But local lobstermen opposed the project, fearing they would be driven out of the harbor by wealthy tourists who don't care for the noise and smell that comes with fishing.

Tuesday, the state Department of Conservation's Bureau of Public Lands rejected the application of Von Papen's group, Mount Desert Realty Trust, to lease the submerged, state-owned land beneath the proposed marina's floating boat slips.

The decision set a precedent because it was the first test of the land bureau's determination to enforce new provisions in the state's Submerged Lands Law aimed at protecting commercial waterfronts, officials said.

"In the big picture, I think this decision will mean to fishermen up and down the coast that the state of Maine is serious about protecting their industry even in a down cycle," said Philip W. Conkling, executive director of the Island Institute, a non-profit group that promotes the balanced use of Maine's islands and coast.

Conkling, whose group sided with the Bass Harbor fishermen against the project, said the decision would make it more difficult to build marinas in about two dozen other fishing harbors in Maine, from Swans Island to Cundys Harbor on Casco Bay.



Associated Press

Fishing boats are moored in Bass Harbor Monday during a snow storm. Fishermen there won their battle to block a proposed marina — background at left — when a state agency rejected the project.

Bass Harbor, a village of about 400 people that is part of the town of Tremont, is located at the southern tip of Mount Desert Island, the home of Acadia National Park and wealthy summer tourist colonies like Bar Harbor.

Conkling contends that fishermen have been driven out of the island's other harbors by marinas catering to summer yacht owners.

"The fishing industry is virtually gone from Bar Harbor, Seal Harbor and Northeast Harbor and it is dramatically reduced in Southwest Harbor," Conkling said. "Bass Harbor is the last working waterfront on Mount Desert Island. Period."

But consultants working for Von Papen disputed that contention and said Tuesday he plans to appeal the decision in Superior Court, raising the prospect for a drawn-out legal battle. They also said he would continue seeking the two other permits he needs for the project from the state Department of Environmental Protection and the U.S. Army Corps of Engineers.

"This was a tremendous investment of out-of-pocket money by Mr. Von Papen for which he gets no return," said Bob Ware, the owner of Design Service engineering consultants of Portland.

Ware estimated that Von Papen already had spent $300,000 on the project. If completed, he said, the project would cost between $4 million and $6 million.

"I think developers are going to look two, three and four times before they invest in property like this," Ware said Tuesday. "Now you've set a precedent and if this comes up again in a small waterfront area, the Bureau of Public Lands has to look at this decision."

Under changes made in 1989, the Submerged Lands Law directs the bureau to grant a lease for submerged land only if the project "will not unreasonably interfere with fishing or other existing marine uses of the area."

It also stipulates that the proposed project must not "unreasonably diminish the availability of services and facilities necessary for commercial marine activities," such as boat-repair yards.

"This is the first case that we have used those provisions," said Stephen Oliveri, resource administrator with the Bureau of Public Lands. "What that does, as a precedent, is it says the bureau is really going to take these provisions of the law into consideration and act accordingly."

In rejecting the lease, the bureau ruled that the proposed marina "will directly and indirectly interfere with fishing," destroy a small area of lobster habitat and create hazards on foggy days to fishermen from increased boat traffic.

It also found that the project would hurt the operations of C.H. Rich Co., a lobster- and fish-buying business adjacent to the abandoned factory, and lead two local boat-repair yards to shift their business away from serving fishermen to serving only pleasure boaters.

Despite the objections of local fishermen, town officials supported the project as a way of expanding Tremont's tax base and making use of the abandoned Underwood canning factory. The red cannery building, its paint peeling and its wharf rotting, has been vacant since 1978.

Tremont Town Manager Gretchen Strong said the decision to deny the lease was disappointing.

"There is not a lot of business in the town of Tremont," Strong said. "I think it would end up being good for the town. I think a lot of it is just resistance to change."

Submerged lands fees attacked

By CLARKE CANFIELD
Staff Writer

PPH 11/1/91

AUGUSTA – The state's new "sub-system for assessing fees on "submerged lands" is unfair and could drive many marine-related companies out of business, dozens of marina and boatyard owners told legislators Wednesday.

More than 70 people packed a legislative committee hearing room, and another two dozen waited in a hallway to support a proposed bill that would change the way the submerged-land fees are assessed.

"The submerged lands bill may be the straw that breaks the back of the boating industry in Maine," said Martha Johnson Nash of Wayfarer Marine in Camden. After more than 20 people spoke against the way the fees are assessed, others said an alternative method being proposed is not the answer. "While the (current) system may not be a perfect system, it is a vast improvement over the old flat-rate system that did not recognize regional differences or the influence of local zoning," said Thomas Morrison, director of the Bureau of Public Lands, which administers the submerged lands program in Maine. The proposed bill would reimpose a system which has already been found inadequate."

Under 17th-century ordinances, the public owns underwater lands – known as submerged lands – between the low tide mark and the 3-mile limit of the state's coastal waters, in tidal rivers and in lakes bigger than 10 acres. In 1975, the state began charging a uniform square-footage rent for submerged lands covered by structures such as piers or buildings. In theory, a marina in Portland paid the same fees as a same-size marina in other parts of the state.

Last year, however, the Legislature ended the uniform rate, and the Bureau of Public Lands began charging fees based on the value of adjacent property. The new fees are scheduled to be phased in over 10 years.

In some cases, wharf and pier owners' fees would go up from $3,000 or $4,000 a year now to more than $30,000 a year by 1999.

Wharf and marina operators this winter got Rep. Sanio S. DiPietro, D-South Portland, to sponsor a bill that would assess flat-rate fees rather than using the value of adjacent upland as a measuring stick. The proposal suggests charging 1 cent a square foot between the Canadian border and Schoodic Point, 2 cents a foot from Schoodic Point to the Cumberland/Yarmouth town line, and 3 cents a foot from there to the New Hampshire border.

Working Waterfront Protected by Bass Harbor Marina Denial

ISLAND NEWS 5/91

In a precedent setting case with implications for the entire coast, the Bureau of Public Lands (BPL) in mid-March denied a subtidal lease to a marina developer in Bass Harbor, a rural fishing village on the southwest shore of Mount Desert Island. "It's good to know the state is trying to understand what fishermen are up against when it comes to marinas," said Theresa Rich, who along with her husband Maurice own the C.H. Rich Company that wholesales lobsters, shrimp, scallops and other seafood for a large number of Bass Harbor fishermen.

In July of 1990 Mount Desert Realty Trust and one of its partners, Ed Von Papen of Massachusetts, applied to BPL for a lease of 2 acres of Maine's subtidal property in Bass Harbor to dredge a basin for an 84-slip marina and boat launching ramp. Other plans of the developer's called for the construction of 26 room boatel and parking facilities for cruising tourists at the old Underwood Canning Factory site. Although the project was opposed by the town's Harbor Committee and by over 400 registered voters who signed a petition objecting to the project's impact on fishermen and on the character of the town, the project won narrow approval of the planning board before being reviewed by state authorities at BPL and DEP.

A group of Bass Harbor's fishermen and commercial businesses on the Bass Harbor waterfront requested assistance from the Island Institute to present their concerns in Augusta. "Part of the reason the Institute agreed to get involved is that this proposal is the first case to be reviewed under the new Submerged Lands Act," said Philip Conkling, "and therefore it would set important precedents for a long time into the future." Under changes made to the Submerged Lands Law in 1989, proposed developments must not "unreasonably interfere with fishing or other existing marine uses of the area." The law also grants BPL the authority to deny leases that "unreasonably diminish the availability of services and facilities for commercial marine activities," such as boatyard repair yards.

In rejecting Von Papen's proposal, BPL found that the project "will directly and indirectly interfere with fishing" in a number of ways. First, BPL's finding described the negative impacts to the C.H. Rich Company as significant and cited the "incompatibility between a marina and a working, fishing-related business." The Bureau further found that "the project could also preclude future use of the harbor by Mariculture Products Ltd., which is contemplating a smolt conditioning and transport facility." Finally, the Bureau described the project's unreasonable negative effects on the neighboring boatyards, Little Island Marine and Bass Harbor Marine, which would be forced for economic reasons to shift their businesses away from servicing the fishing fleet to servicing recreational boats.

"I think it is additionally significant," said Conkling, "that BPL framed this decision in terms of the cumulative impacts that have already occurred in other fishing harbors within the Mount Desert region, because this establishes a broader precedent."

According to Thomas Morrison, BPL's Director, Von Papen has filed for an administrative reconsideration of the decision and a spokesman for the developer has indicated that a court challenge will follow.

Participants heard talks and tested different water-quality monitoring methods and equipment in hands-on workshops. Evaluations of the Fair were enthusiastic, and plans already are laid for follow-up workshops in 1992.

(3) Gulf of Maine Program -- The Coastal Communications Coordinator contacted a long list of organizations in Maine, New Brunswick, Nova Scotia, Massachusetts and New Hampshire to update and verify information for the forthcoming Gulf-Links; also, worked on format for the publication, and on other new Gulf of Maine publications (e.g. an executive summary of the monitoring program and the Action Plan.), and arranged for a volunteer to assist with the Gulf of Maine Program.

(4) Other -- A new Coastal Program traveling display and brochure on Nonpoint Source Pollution were prepared in cooperation with the DEP's Nonpoint Source Program. (See "You are the Solution to Coastal Pollution," reproduced below.) The general Coastal Program display was used at the weekend-long Fisherman's Forum in Rockport, ME; an Earth Day Fair in Boothbay, ME; and the Northeast Environmental Conference at Tufts University in Medford, MA. Work was begun on a new Coastal Program brochure. Finally, it was arranged for the Massachusetts Coastal Zone Management Program to publish 5,000 copies of Maine's Charting Our Course, an activity guide for grades 6-12 on water quality in the Gulf of Maine with revisions for Massachusetts.

B. OCS Oversight -- Coastal Program staff attended a three-day meeting of the Dept. of the Interior's OCS Policy Committee. The major items of discussion were the Draft Proposed Comprehensive Outer Continental Shelf Natural Gas and Oil Resource Mangement Program, 1992-1997, and the Dept. of Energy's National Energy Strategy. Coastal Program staff prepared comments on the draft proposed program for the Governor's signature (see Exhibit E-8).

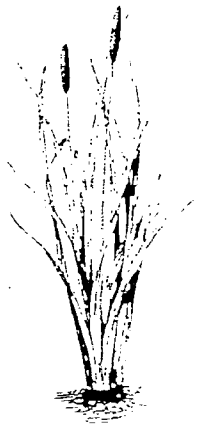
C. Other

(1) Estuary Project Follow-up -- Reports published under Maine's previous award for improved estuarine management were distributed to conservation commissions, teachers, planning boards and concerned individuals. Technical assistance was given to conservation groups interested in promoting town support for regional management of coastal watersheds.

(2) Enforcement Options Study -- Formal re-establishment of Maine's interagency Land & Water Resources Council at a meeting on April 9, 1991 (see page 14) now will give the enforcement options study the needed status, attention and participation. Among a number of Council Standing Committees agreed upon will be an environmental law enforcement committee. The immediate order of business for that committee will be to complete the enforcement options study, with staff support from SPO.

Information available from the Maine Nonpoint Source Pollution Program :

- Erosion & Sediment Control Handbook for Maine Timber Harvesting Operations: Best Management Practices. Available from the Maine Forest Service, SHS #22, Augusta, ME 289-2791)
- Erosion & Sediment Control Handbook for Development: Best Management Practices.
  Available from the Cumberland County Soil Conservation Office



Information available from the Maine Coastal Program on water quality, Nonpoint Source Pollution, and related coastal issues:

Booklets:

- The Estuary Book—A primer describing Maine estuaries, threats to coastal water quality and what can be done to protect our coastal resources.
- The Estuary Profile Series—profiles of 19 Maine estuaries, available singly or as a set.
- Watershed: An Action Guide to Improving Maine Waters
- Coast-Links: A Resource Guide to Maine's Coastal Organizations.
- Charting Our Course: An Activity Guide for Grades 6-12 on Water Quality in the Gulf of Maine.
- Sightings: A Listing of Maine's Coastal/Marine Video Resources.

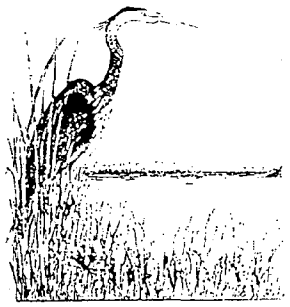
Brochures:

- The Gulf of Maine: Sustaining our Common Heritage.
- Shore Stewards: Help save our coastline, one piece at a time.

Call the Maine Coastal Program at: 289-3261 or write: SHS#38, Augusta, ME 04333

You are the Solution to Coastal Pollution

A simple guide to Non-Point Source Pollution and what it means to Maine's waterways.



An educational display prepared by

Maine Coastal Program
Maine State Planning Office
State House Station 38
Augusta, ME 04333
207/289-3261

You are the Solution to COASTAL POLLUTION

Yes, You are!!

Whether you live inland — Skowhegan or Dover-Foxcroft, Limestone, Bethel— or on the coast— Damariscotta, Castine, Stonington, Brunswick—you can help protect and improve the quality of coastal waters by thoughtful use of the land and waters around you.

Individual actions and changes in the way we do things can improve local water quality and water quality downstream. Polluted inland waters eventually reach the sea—flowing down brooks and creeks to rivers, and into estuaries (coastal tidal rivers) and bays along the coast.

Our waters are threatened by pollution from the way we use the land and waters. This pollution, carried by stormwaters, ground waters, and land run-off, to lakes, rivers, estuaries, bays and eventually the open sea, is called **Nonpoint Source (NPS) Pollution.**

Nonpoint Source Pollution is a Problem in Maine Waters

An estimated 187,000 acres of groundwater aquifers are polluted by NPS pollution and fail to meet safe drinking water standards. Leaking underground oil tanks and improper agricultural chemical applications are potential sources of contamination to drinking water wells.

Over 1,000 miles of streams in Maine are seriously contaminated due to NPS pollution, including run-off from roads, parking lots, land clearing operations and construction sites.

Thousands of acres of potential shellfish beds along the coast are closed to harvesting because of NPS bacterial pollution from land run-off, malfunctioning septic systems and other sources.

Many harbors along the Maine coast, clogged with recreational boats each summer, have experienced poor water quality from overboard discharges of sewage from boat toilets.

Where does Nonpoint Source Pollution come from?

Of course, every pollutant has a source, but non-point source pollution comes from many dispersed sources that are difficult to pinpoint. Prevention is the best method to reduce Nonpoint Source Pollution.

Land uses contribute to Nonpoint Source Pollution. Erosion from construction sites, plowed fields, logging operations and other activities which bare the earth, strips away topsoil and adds sediment to inland and coastal waters. Parking lots, driveways and roads add oil and other pollutants to storm water run-off. Malfunctioning septic systems and livestock yards may add nutrients and bacteria to waters.

Water uses also add pollutants. Engine oils and gas from boats at a marina and nutrients from fish farms add to coastal pollution.

What YOU can do... A few ideas.

1. Maintain your car. Fix oil drips and inflate tires properly to reduce wear.
2. Pick up litter. Trash on the roadside or street may wash down the rivers to the sea.
3. Maintain septic systems. Bacteria and nutrients can leach from poorly maintained septics and pollute groundwater, rivers, lakes and estuaries.
4. Garden responsibly. Apply fertilizers sparingly. Consider alternatives to pesticide and herbicide use.
5. Stop erosion. Spread straw on bare earth around landscaping or construction sites.
6. Always dispose of boat wastes properly. Use shoreside pump-out and trash collection stations instead of overboard disposal.
7. If you are involved in construction, logging, or farming activities, contact the Department of Environmental Protection NPS Program for free booklets on Best Management Practices, that reduce NPS.

(3) Section 309 Enhancement Program -- Coastal staff reviewed draft guidelines and forwarded comments to OCRM. A detailed working outline was developed for the assessment reports, following the draft guidelines, and filled in with available information gathered on each assessment area. A Notice and Coastal Priorities Survey (reproduced below) were mailed to about 400 coastal town officials, coastal newspapers, coast-related organizations and conservation groups to obtain public participation in establishing priorities between the nine assessment areas. Standing Committees of the Land & Water Resources Council (see page 14) will advise on priorities and review draft assessments and strategies.

(4) New Section 306/309 Funding Application -- Coastal staff developed a draft budget and application for August 1, 1991 to July 31, 1991 in coordination with participating agencies. OCRM comments and further guidance on the draft were being awaited as of the end of the reporting period.

(5) CZ521 Time Extension and Reprogramming -- As indicated in the DECD's Quarterly Report we are now anticipating a need for a time extension and reprogramming for Maine's CZ521 Award, in connection with the municipal grant program and other matters. A request will be submitted shortly for OCRM approval.

(6) Wells dredging, Sears Island, access improvements, aquaculture and other miscellaneous topics -- See clippings and other material reproduced below.

STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE

JOHN R. McKERNAN, JR.
GOVERNOR

RICHARD H. SILKMAN
DIRECTOR

ANNOUNCING AN OPPORTUNITY TO MAKE A DIFFERENCE ON THE MAINE COAST——

By returning the enclosed survey, you can influence public management of Maine's resources.

The **Maine Coastal Program** would like to hear your concerns and what, if any, changes you would like to see to state programs, regulations, policies, laws or other initiatives.

This information will be used to draft assessment reports on priority issues. These reports will characterize the problems identified, outline goals, and recommend further action. Please note on the survey form if you would like to receive copies of any assessment reports. The reports will be available for review by the end of the summer.

Please return the survey by **May 30** to: **Maine Coastal Program**, Maine State Planning Office, Station 38, 184 State Street, Augusta, ME 04333.

For more information, call Jenny Ruffing at 289-3261, or write the **Maine Coastal Program.**

This survey is part of an effort to enhance the management of Maine's coastal zone, pursuant to the Federal Coastal Zone Management Act as amended in 1990 (Sec. 309).

184 STATE STREET, STATE HOUSE STATION 38, AUGUSTA, MAINE 04333 TEL. (207)289-3261 FAX # 5756

Name/Organization:_____

Address:_____Phone:_____

By **MAY 30th**, please return to: J. Ruffing, Maine Coastal Program, State Planning Office
184 State Street Station 38, Augusta, ME 04333

Maine Coastal Program

Coastal Priorities Survey

Issues	Indicate your level of concern: high	med	low	Why? (Continue on reverse side if necessary)	Check to receive an assessment report
Coastal Wetlands. Threats to wetland & estuarine natural habitats & functions from filling, development, pollution, & other human activities.					
Coastal Hazards. Threats to life & property from coastal storms, erosion & sea-level rise; enforcement of land use restrictions in hazardous areas.					
Public Access. The need for improved public access to the coast for recreation, harvesting of resources, & other purposes.					
Marine Debris. Threats to water quality, fisheries & wildlife from plastics & other litter in the marine environment.					
Cumulative Adverse Impacts of Growth. The need for State & local land use controls to minimize adverse environmental impacts of coastal growth & development.					
Special Management Areas. The need to designate certain areas for special management to protect unique or especially valuable features or resources.					
Ocean Use Management. The need to plan to ensure sustained availability of ocean resources & to minimize conflicts between different users.					
Location of Energy-related and Government Facilities. The need for better policies & procedures for siting federal government facilities (e.g. military facilities, post offices, weather stations) & energy-related facilities (e.g. radio-active waste storage sites, power stations, waste to energy trash incinerators, hydro-electric facilities) which are of greater than local significance.					
Fresh and Tidal Water Pollution. The need to reduce coastal water pollution from sewage treatment plants, industry, stormwater run-off, boating, agriculture, urban development, roads, timber harvesting & other sources.					
Other Issues. (Please describe—continue on reverse side if necessary)					

US Army Corps
of Engineers
New England Division

Public Notice

Public Notice: Date: May 6, 1991

Application No: File No:

In Reply Refer To:
Operations Directorate, Navigation Division

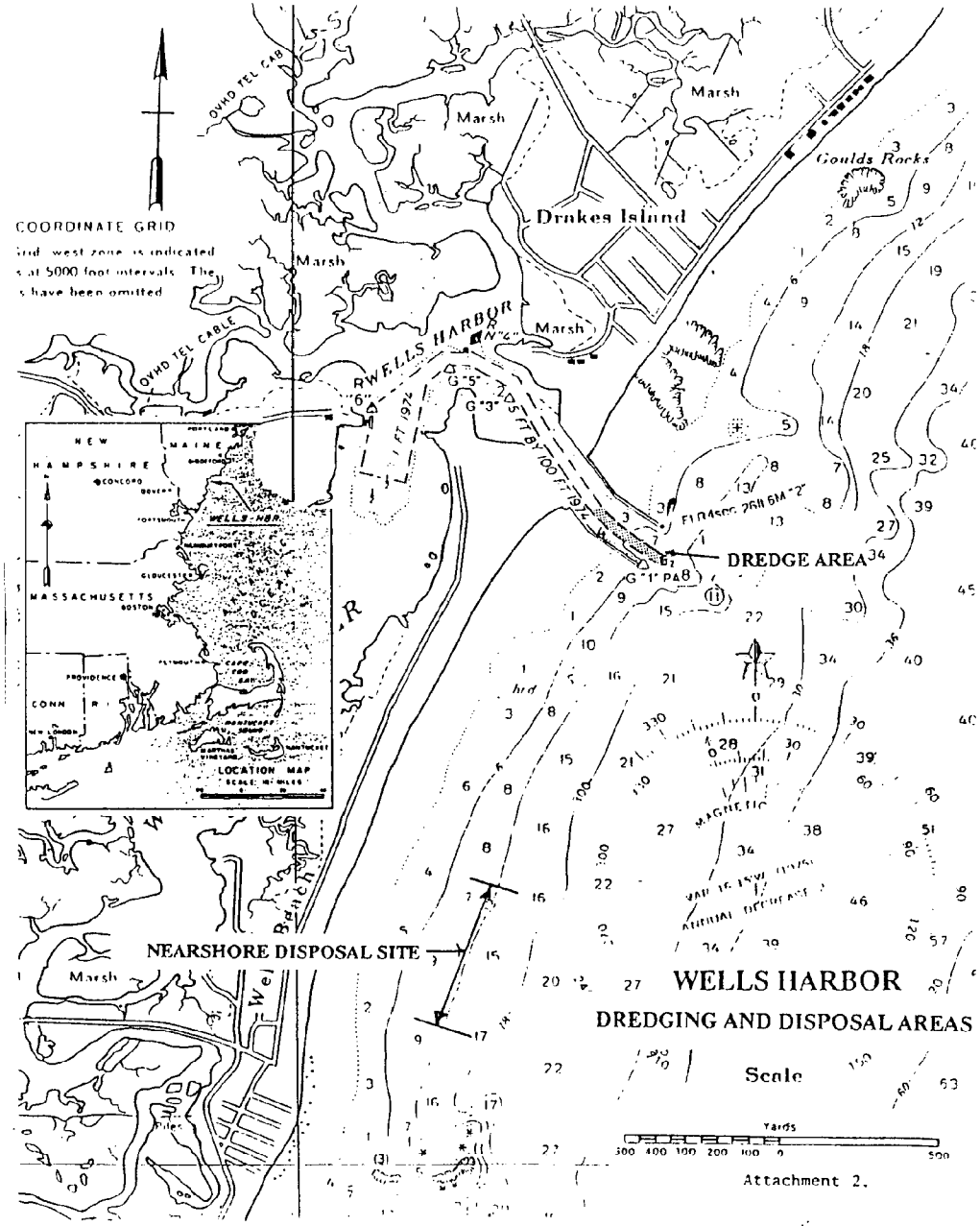
MAINTENANCE DREDGING OF THE 8 FOOT ENTRANCE CHANNEL
WELLS HARBOR FEDERAL NAVIGATION PROJECT
WELLS, MAINE

Interested parties are hereby notified that the U.S. Army Corps of Engineers, New England Division, plans to perform work in the navigable waters of this Division under the provisions of Section 404 of the Clean Water Act of 1977 (P.L. 95-217) and to authorize such work in accordance with Regulation 33 CFR 209.145. Attachment No. 1 lists pertinent laws, regulations, and directives.

Character and Purpose of Work: The proposed Federal work involves maintenance dredging of the 8 foot entrance channel at the Wells Harbor Federal navigation project. Maintenance dredging of about 15,000 cubic yards of clean sand will remove shoals from the 8-ft channel between the bend in the jetty and deep water in the Atlantic. (Attachment No. 2)

The work will be performed by the Government owned special purpose dredge CURRITUCK contingent on availability of the dredge, all required approvals, and funds. The dredge will remove the material from the bottom and dispose of it in a nearshore site off of Wells Beach. The work will be performed during a two week period in June or July. Work is similar to that performed last year.

Additional Information: Additional information may be obtained from Ed O'Donnell, Navigation Branch, 424 Trapelo Road, Waltham, MA 02254-9149; telephone number (617) 647-8375. Collect calls will be accepted workdays between 9:00 a.m. and 3:00 p.m.



Wells stands alone on harbor dredge

YCCS 5/14/91

By Joe Dynan
Star writer

WELLS — The town once again finds itself caught in the middle over the dredging of Wells harbor after a legislative committee shot down two bills last week that officials had hoped would result in approval for the dredging.

The refusal has left the town in the position of moving backwards, if at all, on getting the harbor dredged. The bills were sponsored by Rep. Joseph Carleton of Wells and Sen. Stephen Estes of Kittery, and were both rejected unanimously by the Energy and Natural Resources Committee.

Sen. Bonnie Titcomb, cochair of the committee, said this week that the rejection was a result of the committee's reluctance to set a precedent by overruling the Department of Environmental Protection, which recommended against the dredge.

"What we were being asked to do was more than this committee has the authority to do," Titcomb said. She also urged Wells officials to seek a compromise with the state on the dredge, and recommended that the application be resubmitted to the state "right away."

The problem for the town is that it's not the applicant before the DEP. While he said he's in favor of working out a solution, selectmen Ed Mackel admitted it may not be easy to get the Army Corps of Engineers, the official applicant of the project, to sit down with the DEP and work out a deal.

"We're the only advocate of the dredge, the Corps is not an advocate of the dredge, the DEP is not an advocate of the dredge. We're not in a position to force them to do anything," Mackel said.

Selectmen Robert Foley said Wednesday that the harbor would be discussed at the next selectmen's meeting on May 7. "Before we go spending any money I think we should make sure we have a good chance that a compromise could be worked out," Foley said. He added that if the town got some "positive feedback" from the Corps and the DEP on a compromise, it should press the issue.

Mackel added that he hoped the two agencies could "negotiate in good faith," but town officials have already been down the compromise road.

A year ago it appeared that the two agencies had reached an accord on the size of the dredge. That deal fell apart at the last minute over potential damage to a sandbar at the inner harbor, and the two groups have grown increasingly farther apart.

DEP commissioner Dean C. Marriott said Monday that "We'd be happy to meet with the Army Corps at any time." He hinted, however, that the DEP may not be willing to move from its current position on the dredge, and that the first move may have to come from the Corps. "The biggest barrier for the town is to get the Corps to decide whether the project makes sense."

Marriott went on to say the town was taking the wrong approach with the dredge. "My hope is that their efforts would go into something that would not rely so much on dredging," and added that the costs of dredging would only increase.

Alluding to the fact that the harbor continues to fill up with sand, Marriott said, "I think mother nature's trying to tell us something."

Army Corps project manager Ed O'Donnell said Wednesday that the Corps would be willing to sit down and talk with the DEP, but suggested the state would have to soften its stance on the dredge. "I don't know how fruitful it would be, but we're certainly willing to listen," O'Donnell said.

O'Donnell added that the Corps would have to get some indication from the state that a new application would be accepted before it was submitted. Referring to the fate of the Corps last application, which was rejected by the Board of Environmental Protection last November, O'Donnell said, "There's no use going through that again."

With both sides waiting for the other to make the first move, the town finds itself alone in pushing for the dredge. Wells is also facing long odds that the two sides can work out a compromise, an idea that Foley, for one, doesn't like.

Citing the impact on the local economy if the town were to lose the harbor, he said, "We can't just let that harbor fill in with sand, that's foolish."

Terrible 10 Update

Nine targets have been named to date for the New England Coastal Campaign's Terrible Ten list. The Terrible Ten Project seeks to encourage compliance with environmental laws on the local, state and federal levels in the belief that full implementation of existing laws could go much farther than is currently the case in protecting the New England Coastal ecosystem. Projects are named to the Terrible Ten based on a number of factors and are meant to represent examples of egregious environmental conduct or proposals. A complete recap and new listing of the Terrible Ten for 1991 will follow in the next issue. Updates on Two Terrible Ten targets follow below.--Editor

AES Defeated by Bucksport Board

S.T.O.P. organizer elected to Town Council

"Environmentalists scored a big victory," said the *Boston Globe* last October when the Bucksport, Maine Planning Board voted to deny a shoreland zoning permit to construct a coal-fired cogeneration plan on the Penobscot River.

After five months of public hearings, voluminous testimony and scores of newspaper articles and an advertising campaign, the seven member planning board considered all the evidence and voted down the project 6-1. The New England Coastal Campaign named the Applied Energy Services (AES) proposal as its ninth target in the Terrible Ten project in June, 1990.

State Taxpayers Opposed to Pollution (S.T.O.P.) leads the battle to defeat the AES proposal because of its negative impacts on air quality, destruction of wetlands and the need to conserve energy first before turning to burning more fossil fuels.

AES has decided to continue the fight to build the plant and is currently pursuing state and federal permits before it comes back to the Planning Board with an appeal of its decision. The decision to pursue the process came despite the comments of one prominent Director of AES, Russell Train, who stated in a letter to N.E.C.C. last August "It may well be that the people of Maine will not want a power plant of any description, no matter to what environmental standards designed and operated, situated on the Maine coast. If that proves to be the case, obviously AES will abide by the decision." (Given that AES claims that the plant has all the best existing technology for pollution control the vote in Bucksport would seem to demonstrate that the people do not want the plant.)

The firm proposes to burn 1,500 tons of coal per day, shipped by barge from western Pennsylvania, to produce 180 megawatts of electricity. It seeks state permission to annually emit 2,400 tons of sulfur dioxide and 140 tons of volatile organic compounds by means of a 415 foot stack. Plans call for a cogeneration arrangement to sell steam to neighboring Champion International Inc. for its paper making process. Five of the seven planning board members are employees and stockholders of Champion, including the sole dissenter.

In related developments S.T.O.P. organizer Don White was elected to the Bucksport Town Council with the highest number of votes in the November election. In January, 1991 two large advocacy groups, the Conservation Law Foundation and the Natural Resources Council of Maine added their arguments to the over twenty other groups in opposition to the project during an EPA 'scoping session' regarding development of the environmental impact statement for the AES proposal. They urged the EPA to explore efficiency measures and power plants that create fewer pollutants as alternatives.

Wells Harbor Dredging Defeated

In late November the Maine Board of Environmental Protection issued a unanimous decision to deny the Army Corps application to dredge 200,000 cubic yards of sand and silt from the Webhannet River's estuary at Wells Harbor. The Friends of the Rachel Carson National Wildlife Refuge led the fight in opposition to the dredging in order to prevent the predicted erosion of adjacent marshland. Other FRIENDS concerns included loss of marine resources and wildlife habitat, as well as the increased impact of boating activities on the marsh/marine ecosystem following dredging.

For two years the FRIENDS requested a federally funded, independent environmental impact statement to objectively evaluate the planned project and the alternatives. Several BEP members agreed an EIS is needed.

Instead, Wells officials now seek to weaken the state's Natural Resources Protection Act so harbors previously dredged by the Army Corps can avoid existing state review. Wells officials also seek to have the Maine legislature disregard the BEP's decision by approving the dredging through a planned second bill.

The FRIENDS are concerned about this attempt by a special interest to weaken and disregard Maine's environmental laws. To express your opinion on this matter contact: Honorable Governor John McKernan, State House-Station 1, Augusta, Maine, 04333. For further information contact FRIENDS president Glenn Evans at P.O. Box 427, Ocean Park, Maine 04063.

EDITORIALS

In nature's way

YCCS 5/8/91

Let's stop this right now. The Wells Harbor project has become a political football, tossed between the Department of Environmental Protection and the Army Corps of Engineers.

A glimmer of hope was dashed a year ago when the Army Corps insisted that a DEP approved dredging, while doable, was economically unfeasible and impractical. The town once again was caught in the middle.

The Corps argument, although based on financial and practical considerations that the harbor would only have to be dredged again soon, raises the issue which the DEP then throws in the town's end zone. The question becomes twofold. Can a harbor that needs constant dredging be environmentally sound? Can the town convince the Corps that it is a sensible project while economically impractical?

At recent legislative committee hearings on changing laws which would allow the harbor dredging over the objections of environmental concerns, committee members did listen more carefully when the talk came to the economic hardship of fishermen.

But in the end the town's argument was not strong enough. The committee said no, clearly on the side of environmental concerns.

At least one person suggested the town should look elsewhere for its fishermen to moor their boats, an idea not without merit, but which would take time, but no less energy than the effort so far on the dredging.

So where to now?

Wells should convince the Army Corps to dredge to make the harbor safe for fishermen, a project which was acceptable to the DEP and at least swallowable to environmentalists.

Then it needs to rethink how it uses its shoreland. Is it possible that economic hardship could be avoided by taking a regional approach to solving the fishermen's plight? Does commercial benefit end at a town line?

Is it unreasonable to think that a town which is home to the Rachel Carson National Wildlife Refuge, Laudholm Farm and the Wells National Estuarine Research Reserve, could also preserve and nurture a process by which the ocean meets the coast in a natural evolutionary process?

Cove dredge not necessarily immediately forthcoming

By Joe Dynan YCC 5/8/91
Star writer

OGUNQUIT — Congressional pressure has forced the Army Corps of Engineers to proceed with the dredging of Perkins Cove, but a Corps staffer said this week that Congress will have to step in once again before the project can be completed.

Last week, Maine Sens. William Cohen and George Mitchell announced that the Corps was resuming work on nearly 200 federally authorized projects, including six in Maine. The Corps' action was in response to a non-binding resolution passed by the Senate March 19.

"On Perkins Cove we're ready to start plans and specs and following that we'd be ready to start construction," David Goodrich of the Corps' programs division said Friday. Goodrich said, however, that surveying work to prepare for the dredge as well as the bidding process to select a contractor will push the time frame for the project into the 1992 fiscal year, which begins Oct. 1.

"Right now, in the '92 budget, there are no funds for starting [construction]," he said. Goodrich estimated that the Corps would be just about ready to start construction by Oct. 1, 1992.

The Corps had halted work on the projects earlier this year because President George Bush's proposed budget for 1992 recommended that funding be discontinued.

Goodrich, however, said further congressional action on the dredge is expected. "If I were a betting man, odds are that there will be probably be some revisions to the '92 budget," he said. "All indications are that Congress is going to do something."

Ogunquit town manager James McMahon said Tuesday he was under the impression from Cohen and Mitchell's announcement that all funding had been restored, and was hoping that the dredging could begin next January or February.

"It doesn't really change anything," McMahon said Tuesday, but added, "I'm curious to know whether the senators are going to fund these programs next year."

Both Kathryn Gest, spokesman for Sen. Cohen and Kristen Amerling, spokesman for Sen. Mitchell said this week that the senators would continue to support the project.

The Congressional resolution also mentioned a beach nourishment program on Drakes Island Beach in Wells, but William Hubbard of the Corps said that project is contingent upon the dredging of Wells Harbor, which the state has refused to allow.

Hubbard also said Drakes Island Beach may receive sand from an environmental restoration project that the Corps has scheduled for fiscal 1992. That project, which Hubbard said is only proposed in the '92 budget, calls for the Corps to restore up to 10 acres of land at the end of Lower Landing Road to salt marsh.

The area had been filled in when the Corps originally dredged Wells Harbor in 1967. Hubbard said there was "potential that the Corps would be there next year to look at that."

Drakes Island residents have sent petitions to both the Army Corps and the state's Department of Environmental Protection for the replacement of sand lost to erosion at the northern end of Drakes Island Beach.

"We could put that sand on the beach if that's what people want," Hubbard said, but added that a final decision hadn't been made.

Editorial

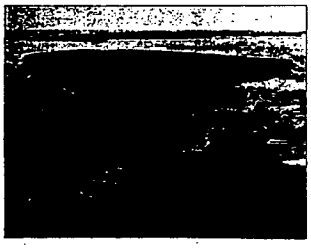
Sears Island

BDN 4/8/91

U.S. District Judge D. Brock Hornby last week removed the final legal barrier to completion of the Sears Island cargo port.

It has been almost a decade since the Sierra Club began its deliberate obstruction of this project, but public interest in the container port has not wavered. In 10 years, the project has become even more vital to the regional economy as the global marketplace has touched New England, and Maine.

Judge Hornby's opinion, confirming the appropriateness of a U.S. Coast Guard decision not to require congressional approval for construction of a causeway to Sears Island (indicated by an arrow in the accompanying photo), provides new momentum to the project, which has proceeded in herky-jerky fashion because of the national Sierra Club's persistent legal challenges.



Sears Island is a textbook example of how the procedural safeguards built into environmental regulation offer even a lone special-interest group the opportunity to frustrate, and possibly scuttle any project, even one such as Sears Island, which twice received the overwhelming support of Maine voters and, interestingly, has not been attacked by any of Maine's aggressive and outspoken environmental organizations.

Discussion of the project began in 1972. A study released in 1978 confirmed the feasibility of locating a container port at Sears Island. On Nov. 7, 1981, the voters of this state approved a bond issue of $10 million for design and initial construction work on the facility.

In spite of the Sierra Club's first legal challenge of the project in 1982, the electorate went back to the polls the next year, 1983, and decisively approved additional funding for the Sears Island development.

The 1980s have been a series of aborted starts on construction, court tests and controversy over Sears Island, but 10 years after the initial bond issue, and despite relentless pressure from a well-financed and litigious national organization, the state can point to progress:

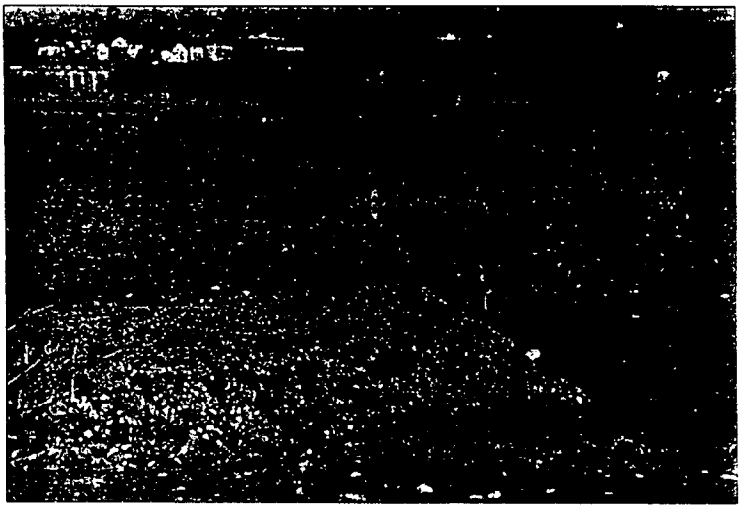
- The access causeway connecting the island to the mainland is finished.
- The road from the causeway to the shipping and warehouse area has been completed.
- The terminal site is cleared and preliminary grading of the warehousing and trucking area is finished.
- Dredging in the port area is completed and replacement clam habitat has been built.
- The short causeway connecting the primary storage area on the island to the pier is in place.

What remains to be done? Construction of the pier itself, final grading, and connecting utilities and the rail line to the terminal site. Work, however, will be delayed until the state submits yet another pile of environmental documents to federal review agencies. That's been the history of Sears Island.

The recent move to Portland by Hapag-Lloyd, a container-ship company with major facilities in Halifax specializing in shipments to Europe, is concrete evidence of the shipping potential of a modern container port midway along Maine's coast connecting this state to Canada and world markets.

To be competitive in this marketplace, Maine-made and Maine-produced goods need an inexpensive means of bulk shipment. The sea offers that potential. Sears Island, along with Portland in the south and Eastport in the north, are the doors to opportunity.

The passing of time has confirmed Sears Island's critical importance to the economic life of this region. Maine has waited 10 years for this port. It will have to wait longer. It will be worth it.



THE WETLANDS along the Fore River in Portland are the focus of debate over whether bridge builders will be allowed to fill part of the area to accommodate a replacement for the bridge (background) linking Portland and South Portland. (AP Photo)

BDN 3/11/91

Preservation vs. development

Portland bridge, wetlands latest battle ground

PORTLAND (AP) — In a state with an estimated 5 million acres of wetlands, more than those of the other five New England states combined, a classic environmental battle is brewing over the fate of 3.4 acres of salt marshes and mud flats.

At issue is whether bridge builders will be allowed to fill a stretch of coastal wetlands along the Fore River to accommodate a replacement for one of the state's most chronically congested bridges, a 75-year-old span linking Portland and South Portland.

With Maine's economy on the skids, business groups say they sense an emerging backlash against what they contend is overzealous regulation that threatens to block job-producing public works projects and private ventures.

South Portland residents and city officials determined to avoid destruction of one of the community's oldest neighborhoods are pitted against federal and state environmental officials equally steadfast in opposition to the loss of prime coastal wetlands.

Environmental groups, business and public officials are awaiting the outcome of the controversy, which has crystalized debate about whether state and federal regulators have struck a proper balance between wetlands preservation and development.

Questions about wetlands preservation have surfaced on other major projects in recent months, including the proposed widening of a 30-mile section of the Maine Turnpike and construction of the state's third-largest shopping mall in Augusta.

Wetlands considerations surrounding the Mall at Augusta already have been resolved and the turnpike project does not appear likely to rise or fall on the wetlands issue. But as it stands now, the $165 million replacement for the Portland Bridge would either cut through South Portland's Knightville neighborhood or skirt the shoreline and require that the 3.4 acres of wetlands be filled.

"It definitely becomes a more difficult issue when you have a development in such close proximity to so many people," said Lissa Widoff of the State Planning Office, author of a 1988 study on Maine's wetlands.

Advocates for business say the dispute points up the need to take account of economic as well as environmental factors when considering whether to grant a wetlands permit.

"We think it's a huge concern," said Christopher Hall, assistant general counsel for the Maine Chamber of Commerce & Industry. "When you get a situation like you have in South Portland where 3 acres of wetlands are going to take precedence over the economic well-being of an entire community, I think things are out of balance."

> "When ... 3 acres of wetlands are going to take precedence over the economic well-being of an entire community, I think things are out of balance."
>
> — Christopher Hall
> for Maine Chamber of Commerce & Industry

Hall said such imbalance becomes more critical during tough economic times when businesses can no longer afford to absorb the higher costs of meeting environmental goals.

Business groups complain that the presence of wetlands is often used to block or delay projects without regard for their economic impact.

"If the area has a few characteristics of a wetland but is not a high-value habitat area, we would bend toward using the land — with mitigation — if the project were economically significant," said Deirdre O'Callaghan, legal counsel for the Environmental and Economic Council of Maine.

Under pressure to maintain protection standards, environmental officials say the best way to meet the challenge is to educate the public about the vital role wetlands play in areas ranging from wildlife habitat protection to flood control.

A bill before the state Legislature to ease wetlands restrictions on cranberry growers may be the first of other initiatives to remove some of the protections granted by the state, said Beth Nagusky, staff attorney for the Natural Resources Council of Maine.

"At the federal level there's a good deal of activity, unfortunately, to both change the definition of wetlands and to change the protection afforded wetlands," Nagusky added.

An estimated 20 to 25 percent of Maine consists of grassy, shrub-laden or forested areas sometimes covered by shallow water, according to Widoff's study. The vast majority are inland bogs, marshes and swamps.

Although Maine has more wetlands than the rest of New England, only 157,500 acres of the estimated 5 million acres are coastal wetlands, Widoff says. And of those, there are 80,000 acres of mud flats and only 19,000 acres of salt marsh.

The three acres that would be lost if the bridge passed over it provide a habitat for shellfish and marine life.

Agencies agree on bridge route

● The compromise would save some wetlands and Knightville, but would take two more businesses.

> *"This is the best we're going to do. (The compromise) accomplishes the public policy goals of getting traffic separated from the downtown area."*
>
> Jerre R. Bryant, South Portland city manager

By JOHN HEALY
and JOHN RICHARDSON
Staff Writers DPH 2/23/91

State transportation and environmental officials say they have reached an agreement that has a good chance of overcoming obstacles stalling construction of a new bridge between Portland and South Portland.

The plan minimizes the destruction of coastal wetlands and diverts traffic away from South Portland's downtown neighborhood, satisfying the competing concerns of city, state and federal officials.

However, officials said the compromise route will require the state to take by eminent domain two more Waterman Drive business properties, bringing the total to three.

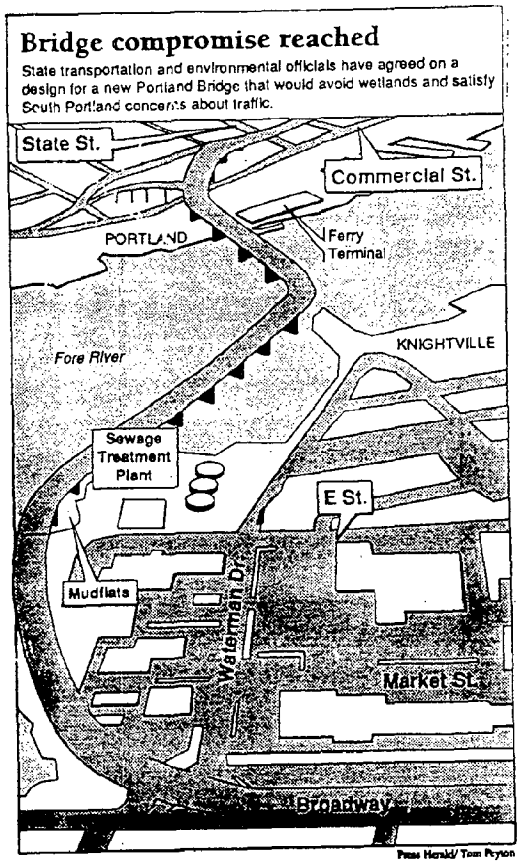
The compromise alignment, which still must be approved by federal environmental regulators, is a variation of the wetlands route that faced certain rejection.

The compromise design would carry the new span over mud flats on piers, curve inland to avoid a saltwater marsh and link up with Broadway, staying away from the Knightville and Mill Creek business areas. The plan would permit Waterman Drive, which now carries southbound traffic off the existing bridge, to become a two-way street for local traffic only.

The new bridge will replace the existing drawbridge completed in 1916, commonly known as the Million Dollar Bridge, that serves the main commuter route between South Portland and Cape Elizabeth and Portland. Because the new bridge will be higher, officials say traffic will be disrupted less often by openings for ship traffic.

Several property owners who would be affected by the change met with city and Maine Department of Transportation officials Friday, but there was little initial response and owners declined to comment after the meeting.

Despite disappointment that businesses will be affected, South Portland City Manager Jerre R. Bryant said the city would accept the compromise.



DEP still opposes bridge plan

By JOHN RICHARDSON KJ
Guy Gannett Service 2/25/91

PORTLAND — State and federal environmental officials last week reaffirmed their opposition to a Portland Bridge replacement plan that would destroy coastal wetlands, and said the decision by the South Portland City Council to stick with the proposal will only delay it.

"They're looking at a long time before there's a resolution to this because we're going to fight it and the feds are going to fight it," said Maine Department of Environmental Protection Commissioner Dean Marriott.

Marriott said he is mystified and frustrated that the City Council, in a decision heartily supported by residents, on Wednesday rejected a DEP-favored route that avoids 3.4 acres of mud flats and salt marshes by linking the bridge into the city's downtown in the Knightville-Mill Creek area.

The city-backed plan would put the new bridge on the western edge of the Knightville peninsula, away from downtown and along the shoreline, requiring filling of wetlands where a variety of marine creatures live.

Marriott said the DEP alternative would have gained speedy approval.

The replacement bridge, connecting Portland and South Portland over the Fore River, has been planned for a decades and is to be built by the Maine Department of Transportation.

Commuters face narrow and curvy lanes on the existing bridge, which requires frequent repair. Freight and oil companies also say business is restricted by the narrow draw of the 75-year-old bridge.

Already, the wetlands controversy has pushed the earliest possible completion of a new span from 1995 to 1996.

"Clearly there needs to be a new bridge," Marriott said. "I think everyone would want it done sooner rather than later, and I think we suggested a way that could happen. They (the city councilors) have chosen to go a different route" that would unnecessarily destroy a valuable natural resource.

Efforts to protect wetlands have become more aggressive in recent years because of an increased understanding of their value and a massive historical loss of the resource nationwide, environmental officials say.

Wetlands provide habitats for marine wildlife and migratory birds and serve as natural flood buffers and pollution filters for marine estuaries.

A federal official also expressed disappointment with the City Council's decision.

"We warned the (Maine Department of Transportation) and the city that the (bridge plan) they're still seeking was not likely to get a permit," said Matthew Schweisberg, senior wetland ecologist in the New England regional office of the U.S. Environmental Protection Agency. "We have said it many times in many ways."

The EPA has the authority to veto a federal approval by the U.S. Army Corps of Engineers.

The $165 million bridge will be paid for by state and federal dollars, but MDOT had asked the City Council to decide whether to pursue its favored plan at the risk of a, they say, regulatory rejection. Where the bridge will land in Portland, at State and York streets, has not been disputed.

Marriott stopped short of guaranteeing a rejection at the state level, noting that the final decision will be made by the Board of Environmental Protection, the policy-making arm of the agency that decides on appeals and precedent-setting issues.

Marriott said the DEP staff will put together a formal recommendation for the board within a few weeks. He said the process could take longer if MDOT wants to add anything to its application.

A three-week period for public comment will follow issuance of the staff's recommendation. The BEP then will hold a meeting and allow limited public input.

The board can immediately decide whether to grant the permit, table the issue to obtain more information or set up a public hearing to get input from members of the community.

If approved by the BEP, however, the city and MDOT still must get approval from the Army Corps of Engineers. The Corps also has expressed opposition to the city-backed plan.

City officials were aware the plan may face rejection by the agencies, and that a regulatory block now could set the planning back years.

But councilors said Wednesday they could not abandon a plan developed through 10 years of studies and favored overwhelmingly by the community in order to accept a more environment-friendly alternative that has only been discussed for a few weeks.

City officials and residents and business owners in the Knightville-Mill Creek neighborhood are united behind the city-backed proposal because it would take commuter traffic out of downtown and, they say, create a revitalized residential and commercial district.

"They (the DEP) are strictly looking at the physical part of the environment and are not weighing into the equation the human environment," said South Portland Mayor James Soule, who added he still hopes to reach a compromise. "I hope the DEP does not have their feet dug into the mud flats so deep that they can't dig themselves out of a political stand they made."

THE BASIN ON VINALHAVEN—Aerial view looking through the Basin's narrow entrance toward the property donated to Maine Coast Heritage Trust on the far shore. Chris Ayres photo.

Vinalhaven's Basin Will Be Protected by Gift to Maine Coast Heritage Trust ISLAND NEWS 5/91

VINALHAVEN—More than two miles of shorefront on the pristine tidal cove on Vinalhaven known as the Basin, have been donated to Maine Coast Heritage Trust by Mr. and Mrs. Ralph Williams. The gift was announced in late February.

The 220-acre parcel, one of the largest undeveloped parcels on the cove, was donated to the conservation group to protect "the land's rare beauty and ecological value," said Jay Espy, trust president.

The Basin is an almost completely landlocked cove with a narrow entrance forming a set of tidal reversing falls. Bald eagles, osprey, and herons fish the tidal run and the area's many sheltered inlets.

The parcel given by the Williams to Maine Coast Heritage Trust is directly across the cove from the Basin's entrance. The property also contains mature spruce forests, a small pond, and exposed granite bluffs that offer views of the entire Basin and Hurricane Sound beyond. The gift also includes three small islands and many ledges that are "haul-out sites for harbor seals.

Espy noted that the Williamses' gift is significant in a time when towns can spare little money for open-space protection and state programs are financially threatened.

—Condensed from the Bangor Daily News, *February 22, 1991*

"The essence of the Northeast Coast lies in Vinalhaven's Basin. Mammal, bird, and marine life meet there. The miracle of the tides affects all life with its rhythm. It is a place of the sea, and yet it is surrounded by forest—and all of it embedded in the old rock that gives the entire coast its character."

from *The Northeast Coast*
by Maitland A. Edey
Time Life Books

Jim's Head Secured by MCHT

Maine Coast Heritage Trust has secured permanent protection of a fourth wild coastal headland in eastern Washington County with the purchase of Jim's Head in Lubec. The dramatic point of land adjoins the Trust's Boot Head property, and adds significantly to a stretch of preserved coastline that now extends more than three miles from Bailey's Mistake harbor to Boot Cove.

The acquisition culminates an arduous negotiation process that began in 1988, when Maine Coast Heritage Trust (MCHT) purchased Western Head and Great Head in Cutler from the same developer who owned Jim's Head. On December 26, 1990, the Machias Savings Bank finally accepted MCHT's offer of $140,000 for Jim's Head, a six-acre property with ½ mile of shore frontage. The bank had held the property since March of 1990 in connection with a mortgage default. Development plans for the headland had called for the construction of up to three residences.

Now, the peninsula is forever protected from the threat of development and will remain in its natural state. An existing footpath linking Jim's Head with Boot Head will be improved to further traditional public use for hiking.

According to MCHT's Stewardship Director, Caroline Norden, the beauty of this short trail lies in its ability to access a variety of shoreline. "You have the cobble beaches, fishing weirs and relative calm of Bailey's Mistake; and then a few minutes later you can be standing on 120-foot cliffs, with wave cut ravines and crashing surf below you," says Norden. "The combination is spectacular."

The purchase of Jim's Head continues MCHT's commitment to preserving rapidly vanishing public access rights along Maine's most outstanding natural coastline. ■

PHOTO BY CHRIS AYRES

The bold cliffs of Jim's Head in Lubec, recently added to a three-mile stretch of forever wild coastline owned by MCHT.

MCHT NEWSLETTER SPRING '91

MCHT NEWSLETTER
SPRING '91

Land Conservation Totals — 1990

Acres Protected	4,661
Through gift of conservation easement	3,025
Through purchase of conservation easement	1,200
Through gift of land	240
Through purchase of land	206
Shorefront Miles Protected	36
Coastal	24
Lake	12
Entire Islands Protected	10
Completed Projects	26

This past year's accomplishments bring the total acreage permanently protected through the work of Maine Coast Heritage Trust to 44,247, including 146 islands in their entirety. The majority of conservation easements, outright gifts, and purchases MCHT has facilitated are now held by other conservation organizations and public agencies.

State votes to buy pond, 550 acres near Augusta

Associated Press PPH P. 1B 5/20/91

AUGUSTA – A state board that acquires land for public preservation has voted to contribute $300,000 toward the $450,000 purchase of 550 acres surrounding a small, largely undeveloped pond just south of Maine's capital.

Jamies Pond would become the 22nd property that the Land for Maine's Future Board has purchased with the proceeds from a $35 million bond issue that voters approved in 1987. Less than $5 million remains.

The property, currently owned by the Hallowell Water District, lies in parts of Hallowell, Farmingdale and Manchester. It will be managed by the state Inland Fisheries and Wildlife Department.

An additional $125,000 toward the purchase is anticipated from the city of Hallowell, and $25,000 has been promised by an anonymous donor.

"Location is one of the most attractive things about this piece of property," said James Bernard, the State Planning Office official who serves as coordinator for the land board, which endorsed the purchase Monday.

"You wouldn't expect to find a nice small pond watershed in such close proximity to a large population center like Augusta. Most ponds of that size in this part of the state have some development on them."

The 550 acres includes all the land surrounding the pond, except three small lots, Bernard said.

The pond, which is used for fishing, canoeing and cross-country skiing, is the current source of Hallowell's drinking water.

The water district put the property up for sale because the pond cannot meet federal water-quality standards without construction of a treatment plant. The district is making arrangements to draw its water in the future from wells in Chelsea.

BRIEFLY

PPH 5/15/91

Easement protects 163-acre farmstead on Topsham river

The permanent protection of 163 acres of Bradley Pond Farm in Topsham was announced Tuesday by the Brunswick-Topsham Land Trust and Maine Coast Heritage Trust.

The farm contains all of 40-acre Bradley Pond and frontage on the Cathance River. The donors are Frederick and Florence Call, who have lived on the property for 35 years, and who signed the easement Monday with land trust President Brooks Stoddard.

The easement will protect the farm's wetlands, meadows, and forests. The Calls will keep the property and continue to live there.

Conservation trust to help Cumberland buy island

From staff reports PPH Rec. 4/5/91

CUMBERLAND – The Oceanside Conservation Trust, a land trust dedicated to preserving islands in Casco Bay, has pledged $15,000 to help Cumberland officials purchase Stockman Island.

"We felt it was essential that Stockman be taken out of the hands of a private developer who wants to build," said Roger Berle of Cliff Island, president of the trust.

Robert D. Betts of Connecticut bought the tiny, treeless island two miles off Chebeague Island for $70,000 in 1989 with hopes of building a secluded family retreat.

But town officials, who had used a defective map in issuing a building permit, later discovered that Stockman, a valuable seabird nesting ground, lies in a natural resource protection zone, and ordered Betts to stop building.

Betts filed a lawsuit, which he agreed to drop if the town would buy the island.

Last month, after state and conservation organizations declined to purchase the island from Betts, the Cumberland Mainland and Islands Trust decided to purchase Stockman with the help of the town and private donations.

The Oceanside gift is the first commitment, although the town has indicated a willingness to contribute $15,000.

Berle says Oceanside will donate $5,000 immediately and contribute another $10,000 to match a similar private donation.

The trust needs to raise $85,000 to reimburse Betts for the island and his construction costs.

Proposed LURC Bills Spark Inter-Island Dialogue

ISLAND NEWS 5/91

by Annette S. Naegel
Director, Ecological Services

During this past winter, legislators and citizens have gained a new awareness of the islands regulated by the Land Use Regulation Commission (LURC). Three bills presented by Senator Linda Brawn (R-Camden) to the Committee on Energy and Natural Resources in early February attempted to change the zoning responsibilities on populated islands under LURC regulation. The bills were a result of some development furor on Metinic Island, in western Penobscot Bay. Although these bills did not survive committee review, they did raise important issues and have sparked an ongoing dialogue between LURC officials and island residents.

Local Control at Issue

Though the 321 islands and ledges regulated by LURC represent only a fraction of LURC jurisdiction as well as only one percent of the total number of islands, they do represent an important constituency, as the recent legislative process made clear. LURC jurisdiction includes islands populated year-round and seasonally by communities such as Matinicus, Monhegan, Eagle, Louds, and Criehaven.

In addition to its task of regulation Maine's timber regions, LURC was mandated in 1974 to zone the sparsely populated islands. Based on uses and activities current at that time, three zoning districts were appointed: General Management, General Development, and Resource Protection. Seventeen years later, as use patterns have changed on the islands, LURC has been working with individual islands to address specific zoning issues—such as Monhegan's Maritime district completed last year. As LURC updates its own Land Use Comprehensive Plan in accordance with the Growth Management Act of 1988, LURC director David Boulter has offered to meet with island residents, to gain their input on how current standards can be revised to recognize some of the unique aspects of the islands.

This past February, however, in response to frustrations expressed by landowners on Metinic Island seeking building permits from LURC, Senator Brawn introduced LD#217, LD#226, and LD#227. These bills were designed to shift some of the regulatory responsibilities from the state to the local citizens.

The largest bill (LD #217) would have required the populated unorganized islands owned by at least three persons to form "citizen councils" to take on the zoning responsibilities currently managed by LURC. These councils, elected by an island majority, would be required to establish land use districts and site development review standards, to enforce violations and inspections of these provisions, and to conduct public hearings as required by law.

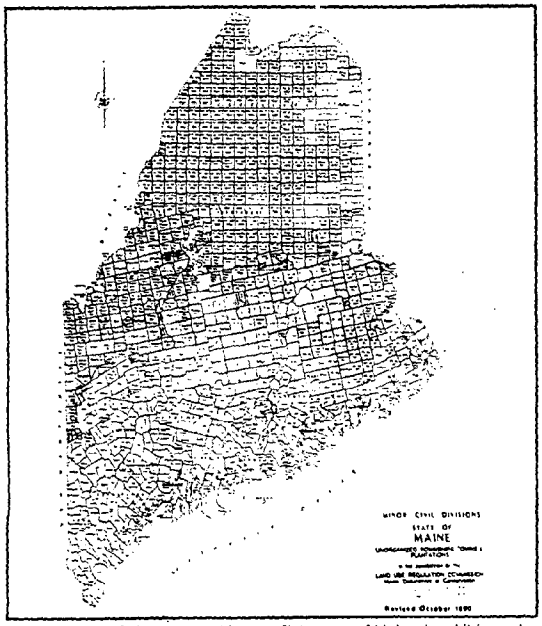
The outcome of this bill would have been to divide the governing responsibilities for these islands between the state and the island residents. Zoning would be the islands' responsibility while all other responsibilities associated with governance, such as taxation, would remain with LURC. LD #217 did not even begin to describe how the citizen councils would address zoning issues and whether there would be adequate checks and balances in place to monitor land use decisions and avert the enormous potential for conflict of interest situations.

The second bill (LD #226) would have prohibited LURC from changing zoning without the consent of the landowners. This unique privilege (it is not even granted to the organized municipalities in Maine) could conceivably result in unchecked development.

The third bill (LD # 227) would have made it legal for development to take place in a sensitive wildlife area, providing the residences were occupied only part of the year.

Islanders Raise Concerns

At a public hearing in Augusta on February 27 and in written comments to the committee, residents from Monhegan, Matinicus, Dix, Marsh, Criehaven, Louds, and Eagle islands, alerted by widespread media coverage of the proposed legislation, testified that the bills were inappropriate and ought not to pass. As Eagle islander Bob Quinn commented on LD #217, "This bill makes about as much sense as asking a flock of gulls to watch over your bait barrel." The islanders' concern focused on the difficulty of taking on the administrative responsibilities for zoning as proposed in LD #217. Islanders reiterated that they do not have the time, expertise, or even, in many cases, the interest in protecting the islands from unrestricted development.



LURC regulates 321 islands and ledges off the coast of Maine. In addition to its responsibility for a large portion of the state's inland territories. In all, LURC regulates two thirds of the state of Maine.

Even more salient was their point that LURC, as an outside agency, does not introduce a local conflict of interest. Matinicus First Assessor Clayton Philbrook commented, "As someone who has had many occasions to observe LURC in action, both as an impartial bystander and as an involved participant, I have been impressed with the level of professionalism exhibited by the staff as well as their willingness to work within their mandate to protect the 'unorganized' territories but still allow for controlled development."

At the same time, complaints from Metinic residents about the difficulty of securing building permits were strongly registered. By the end of the hearing, it was clear to committee members that the unorganized islands have very different circumstances from the unorganized mainland communities, and although these bills could not be recommended as written (the committee later voted "ought not to pass" on LD #217 and LD # 226), changes were nonetheless needed in the way islands are managed by LURC.

Participatory Status

During the two work sessions that followed the hearing, the Energy and Natural Resources Committee discussed ways in which islands could have greater participation in the LURC regulatory process. At a meeting sponsored by the Island Institute on February 28, LURC island residents discussed this same question among themselves and came up with several ideas to create opportunities for citizen input, gain LURC recognition as a constituency, and gather inter-island support.

To create opportunities for citizen input, they suggested creating their own local review boards, which could then be added to LURC's official circulation list for "Request for Review and Comment on Pending Application." This would give the citizens review status on applications affecting their island. Matinicus and Monhegan already have this status, and have found it very helpful. They have caught technical errors on applications and have had opportunity to raise concerns with an assigned LURC project analyst.

Islanders further suggested that LURC staff prepare a summary of the existing rules, highlighting key areas, to be distributed to island residents for review. Local comments could then be incorporated in the revision of LURC's Land Use Comprehensive Plan. David Boulter has said he will assign staff to prepare this summary.

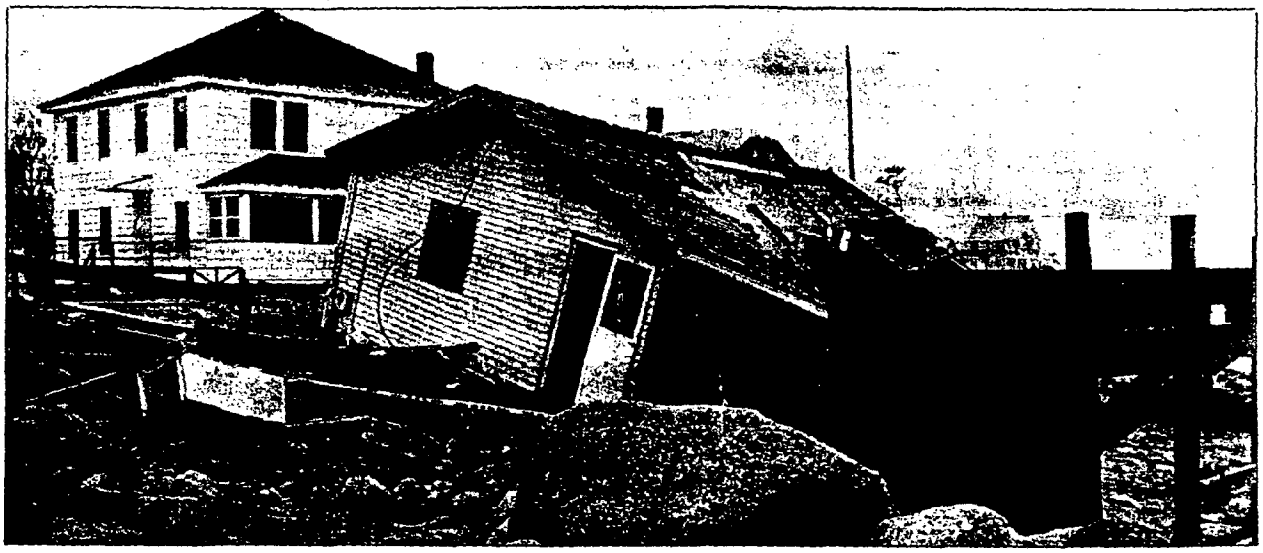
To increase LURC's recognition of islands as a constituency, islanders suggested dedicating a portion of an existing staff person's time exclusively to islands. This would give the islanders consistent contact with someone on the staff who has input on policy and zoning questions. Rather than representing a single interest group, the staff person would be knowledgeable in and would bring a comprehensive perspective to island issues. David Boulter has approved this idea and will bring it before the commission at one of its monthly meetings.

To increase inter-island support, islanders suggested forming their own LURC Islands Advisory Council, composed of members of the individual review boards from each island. As an organized group from all interested island communities, they would convene as needed when issues of concern arose. They would be able to interact collectively with LURC staff and commission members. They would represent diverse island interests and would bring important issues and concerns to the forefront.

There remains some unfinished business in all of this. The issues on Metinic Island have yet to be resolved. As development pressures move out to the islands, a balance must be struck between the need to preserve state-identified natural resources and the need to uphold private property rights. But because of the events this past winter, LURC staff and commission members will be working more closely with island residents, and island residents will be working more closely with each other.

Islands

Who should regulate development?



Wind-driven surf heavily damaged this building in Camp Ellis in Saco.

Tod Cohen photo

PPH 4/23/91

Rainstorm causes havoc in Maine

Tod Cohen photo

Bob Morrison shovels sand from a storm drain in front of his Beach Avenue home in Kennebunk Monday.

● The storm dumps 4.8 inches of water at Portland International Jetport.

From staff reports

As many as 1,000 homes in southern Maine remained without power today after the heaviest rainstorm in a year swept over the state, causing floods that killed a 2-year-old girl in northern Maine.

Samantha Churchill was washed downstream in Mars Hill at about 12:30 a.m. Monday after her family abandoned its car in waist-high water on a washed-out part of Smith Road, state police said.

Her father, Harold Churchill, placed the girl and her brother on high ground, but when he turned to help his wife, Samantha fell into the swift water.

State Trooper David McPherson found the girl downstream and performed CPR, but she was pronounced dead at Aroostook County Medical Center in Presque Isle.

The storm dropped 4.4 inches of rain at the Portland International Jetport between early Sunday and Monday afternoon, the heaviest single rainstorm since a 4.6-inch drenching in May 1989, according to the National Weather Service.

High winds felled trees, snapped power lines and toppled at least a dozen utility poles, leaving about 30,000 to 35,000 of Central Maine Power Co.'s 480,000 customers without electricity at the peak of the storm Sunday night, said CMP spokesman Mark Ishkanian.

About 3,200 customers, most of them in southern Maine, remained without power Monday and power wasn't expected to be restored until today for approximately 1,000 customers. The outages were scattered, making it difficult for crews to fix them, CMP officials said.

At the storm's peak, gusts of up to 49 mph were recorded in Portland with winds as strong as 61 mph hitting Portsmouth, N.H., the weather service said.

Storm-flooded roads made traveling difficult, but some of the most serious inconveniences were self-inflicted, said Portland Public Works Director George Flaherty.

"We put the barricades up where it floods and people get out, move the barricades, drive until they stall out and they float," Flaherty said. "I'll never understand it."

The storm overloaded the Portland Water District sewer system, sending overflows into Casco Bay from three dozen outlets across Portland. The discharge was diluted and unavoidable, said district General Manager Joseph Taylor.

"Without (overflows) we'd get 100 million or 150 million gallons a day and the treatment facility would wash out," he said. "We would never be designed to handle (a storm like Sunday's), we'd always have overflow."

The storm forced Senate Majority Leader George Mitchell to cancel speeches on Monday at the Lincoln School in Vinalhaven, the North Haven Community School and the Islesboro Central School.

In Kittery Point, Richard Arey was dreaming of a summer sail on Casco Bay on Sunday when his plans ran aground. His 30-foot sailboat, stored on land beside his Haley Road home, was blown off its wooden platform.

"There was no major structural damage, just some scratches. But it's kind of frustrating because my car is trapped in the mast of the boat," Arey said.

Every coastal community in York County reported street flooding, downed trees or snapped utility lines.

At Camp Ellis in Saco, an Eastern Avenue home that was heavily damaged in a March storm was further pummeled by Sunday's wind-driven surf, and dinner patrons at Wormwood's Restaurant on Bay Avenue were evacuated when police asked the owners to close because the streets were flooded.

Saco Mayor Mark Johnston, who viewed the damage late Sunday, said he worries that the area won't stand up to future storms.

"If we don't correct this situation this year, we may have one more year before that area of Camp Ellis is lost," Johnston said.

Johnston said city officials will try to convince state and federal officials to launch a project to reconfigure the jetties and restore the dunes to protect the area from the ocean.

CMP's Michael Beland said workers in the Birch Hill Road area of York were amazed at the damage to trees and utility poles.

"One of our guys ... said it looked like a Scud missile had landed there," Beland said.

When a 75-foot-tall fir tree crashed down on Hal Feldberg's front porch in Ogunquit, he gathered some belongings and prepared to spend the night in a hotel.

"I figured, well, I'll just sneak in a quick shower before I go," said Feldberg, who forgot that his water pump runs on electricity. His shower was short-lived.

"I showed up at the hotel with all this soap in my hair," said Feldberg, who is still assessing the damage to his three-bedroom home.

Classes were canceled in Wells and Ogunquit because school officials worried about children walking to school where power lines were down. Berwick Academy also was closed.

In Berwick, police said a tree fell on a house on Blackberry Hill Road. Damage estimates were not immediately available.

"It looks like a hurricane came through in a lot of places," Beland said.

Staff writers Martha Englert, John Healy, Jill Higgins and Brent Macey contributed to this report.

RAIN RECORDS

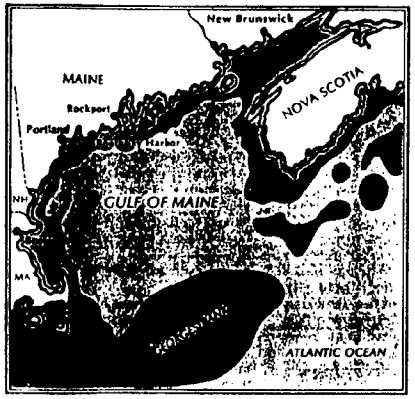
The most rainfall measured during a 24-hour period in Portland by the National Weather Service, compared with Sunday's total:

1) Oct. 6-7, 1962: 7.71 inches
2) Sept. 11, 1954: 7.49 inches
3) April 1-2, 1975: 5.26 inches
4) May 16-17, 1916: 4.86 inches
5) May 11-12, 1989: 4.66 inches

April 21, 1991: 4.21 inches

Pollution-Prevention Tactics in the Gulf of Maine

by Melissa Waterman



We've all heard a relative or friend admonish in a cautionary tone: "Remember, an ounce of prevention is worth a pound of cure." While trite, this proverb may well hold true both for personal behavior and for the management of marine water bodies. Around the nation we see strong environmental protection programs emerging only after evidence of degradation of land, air, and water becomes inescapable. Millions of dollars are poured into the laudable task of "cleaning up" the Chesapeake or the Great Lakes. However, in New England the old proverb is being used as the philosophical foundation upon which to build a different kind of marine protection program.

The Gulf of Maine is one of the world's most productive water bodies. Its plentiful resources supported Native American populations and drew bevies of European settlers to its shores. The bottom contours of the gulf make it a semi-enclosed sea, almost entirely separated from the Atlantic by underwater banks, of which Georges Bank is the best known. The major avenue through which cold ocean waters enter the gulf is the 761-foot deep Northeast Channel.

The gulf is surrounded by the states of Massachusetts, New Hampshire, and Maine and the provinces of New Brunswick and Nova Scotia. Recently, the states and provinces came together to create a program to protect the Gulf of Maine and its abundant natural resources before harm occurs.

The gulf's reputation as a rich fishing ground stems from a seasonal abundance of phytoplankton. To grow, these microscopic, free-floating plants depend upon available nutrients and sunlight. In the Gulf of Maine, phytoplankton are abundant because the surface and bottom waters mix vigorously. This vertical mixing is driven by the strong tides and currents that flow through the gulf. The gulf's counterclockwise current, in turn, is powered by 250 billion gallons of fresh water that enter the gulf each year from the region's rivers.

The vertical mixing brings critical nutrients into warmer, sunlit waters, where phytoplankton are able to grow, or "bloom." Phytoplankton are critical to the ecology of the gulf because they serve as the base of its diverse marine food chain. Over 100 species of birds, 73 species of fish, and 26 different species of whales, porpoises, and seals reside in the gulf.

In New England, an old proverb is being used as the philosophical foundation upon which to build a different kind of marine protection program.

Although the Gulf of Maine remains a fertile body of water, there are signs of changes occurring in its system. The effects of the states' and provinces' increasing populations are apparent not only on crowded highways and in coastal parks, but within the gulf itself.

In the years between 1950 and 1980, huge swaths of agricultural and forested lands disappeared from the gulf coast. In Rockport, Maine, for example, developed land within the town borders increased by 300 percent. As more land is developed, less land is available to act as a natural filter for runoff. As a result, more potentially harmful substances are swept into the gulf.

Large tracts of land developed for housing create a problem of sewage treatment. Much of the gulf coast is either rocky, and hence unsuitable for a standard tank and field septic system, or composed of sandy glacial outwash soils, which can only marginally filter the effluent of individual septic systems. In addition, as cities such as Portland and St. John grow, their antiquated sewage treatment systems provide only minimal treatment of urban sewage. Combined sewer overflows in many cities allow nearly untreated sewage to enter the bays and harbors of the gulf. The result has been ever-increasing closures of productive shellfish flats due to contamination by fecal coliform bacteria.

The effects of population growth are most acute during the summer months. During recent decades, the gulf region has grown in status as a summer tourist destination. Acadia National Park in Maine and Canada's Fundy National Park in New Brunswick draw huge numbers of people each summer; in 1988 Acadia alone had over 4.5 million visitors. Many visitors travel along the scenic coastal routes, such as U.S. Route 1, contributing to nonpoint-source runoff from the roads to the Gulf of Maine and degrading the region's air quality.

A National Marine Fisheries Service study in 1982 in Boothbay Harbor, Maine, revealed lead levels in crabs as high as those found in animals from New York City and Philadelphia harbors. Research into the history of Boothbay Harbor unearthed no industrial activities that might account for the lead. Nor were the products of the municipal sewage treatment plant found to be the culprit. The study concluded that exhaust and oil drippings from the 5,000 cars that pass through Boothbay Harbor daily during the summer months could account for the lead levels. Studies such as this indicate that the steady increase in seasonal tourists, while beneficial for the immediate economy, may have a long-term effect on the gulf.

Over the centuries, both the provinces and states have converted many acres of coastal wetlands and mudflats by diking and filling. Estimates indicate that in the four Canadian maritime provinces, approximately 65 percent of tidal marshes and flats have been altered or lost entirely. An indeterminate number of acres of coastal wetlands have been filled along the coast of the three states.

The study concluded that exhaust and oil drippings from the 5,000 cars that pass through Boothbay Harbor daily during the summer months could account for the lead levels.

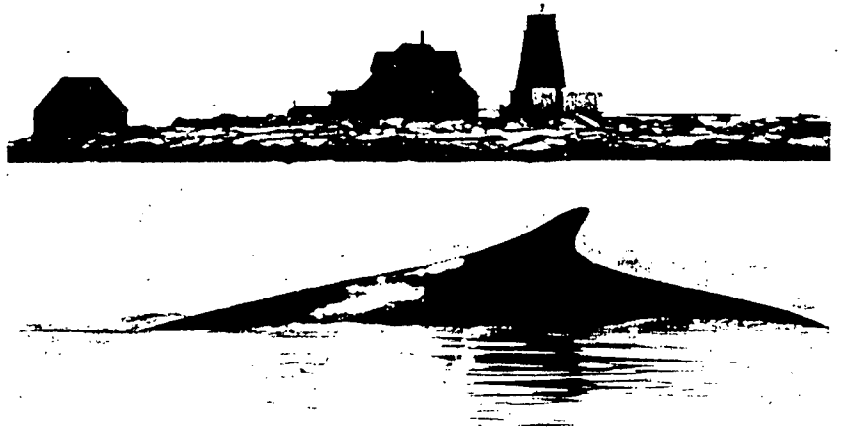
Some say the loss has affected gulf fisheries, since estuaries and associated wetlands serve as nurseries for a variety of commercially valuable species. The plummeting populations of black duck and other migratory bird species are further clues that critical coastal habitats along the entire eastern seaboard are disappearing.

Then there are the multiple toxic elements entering the Gulf of Maine system. Everyone is familiar with the highly degraded environment of Boston or Salem harbors. With varying degrees of severity, all the major ports along the gulf suffer from the effects of years of pollution. However, a less visible problem is posed by the numerous rivers that enter the gulf. Although the U.S. and Canadian federal governments regulate a limited number of identified toxic elements, a multitude of other substances for which standards have not yet been devised are discharged by industries into rivers that enter the gulf. Elevated levels of specific heavy metals have been found in the sediments that lie in the gulf's deep offshore basins, indicating that toxic contamination does not remain isolated to near-shore waters.

To date, instances of pollution have been relatively specific. Yet a growing sense of concern for the overall future of the gulf prompted environmental officials from the states and provinces to meet to discuss common issues. Although both the United States and Canada recognized intense harvesting of fish stocks as a profound problem, water quality and habitat protection were considered the paramount issues.

In late 1989, a working group from the states and provinces published a report, *The Gulf of Maine: Sustaining our Common Heritage*. The report detailed the environmental characteristics of the gulf, the human values drawn from it, and the growing stresses placed upon it. The group then hosted a Gulf of Maine conference in Portland, Maine, which was attended by over 250 scientists, fishermen, bureaucrats, academicians, and citizens. At the close of the conference, the Agreement on the Conservation of the Marine Environment of the Gulf of Maine was signed by the Governors and Premiers of the five states and provinces.

The agreement makes clear the intent of the states and provinces concerning future use of the gulf: "The Parties to this agreement recognize a shared duty to protect and conserve the renewable and non-renewable resources of the gulf for the use, benefit and enjoyment of all



Bob Bowman photo. Allied Whale.

(Waterman is a Program Planner for the Gulf of Maine at the Maine State Planning Agency.)

A finback whale surfaces off the Maine Coast. In the background is the Mt. Desert Rock Marine Research Station of the College of the Atlantic.

Bob Bowman photo. Allied Whale

With a little help from the National Audubon Society, Atlantic puffins are returning to former nesting islands in Maine. The Gulf of Maine is still relatively healthy as an ecosystem. Adjoining states and provinces are working together to keep it that way.

their citizens, including generations yet to come . . . ." With this language, the Governors and Premiers echoed the principles stated in the United Nations' report Our Common Future (1987), which called for sustainable development of the world's resources. The findings of the agreement acknowledged that the gulf in its present state is, for the most part, healthy. The fear was that without prompt protection efforts by the states and provinces, the long-term health of the gulf would be jeopardized.

The 1989 agreement established a Council on the Marine Environment as a new international organization. Composed of appointed members from the five jurisdictions, the council's responsibilities include developing a program for monitoring the quality of the region's marine environment and writing a 10-year Gulf of Maine Action Plan.

An initial draft of the action plan was released by the council in December 1990. Its thrust is prevention; its theme is cooperation. By fostering communication among the states and provinces, by improving availability of information throughout the region, by augmenting existing monitoring programs—by these and a multitude of other cooperative ventures, the plan paves the way for future compatible environmental protection activities by members of the council. Highlights from the action plan include:

- Reviewing state and provincial oil-spill contingency plans to identify methods for improved cooperation in the event of a major spill
- Developing a regional database of current and historic environmental data in a format accessible throughout the region
- Identifying additional sites within the gulf region that will provide habitat for migratory birds and devising a regional plan to support protection of the sites
- Evaluating the need for a common critical habitat mapping system
- Supporting a regional study and evaluation of restoration and mitigation techniques used in gulf coastal wetlands and other coastal habitats of regional concern
- Developing a Gulf of Maine Marine Mammals Protection Plan in order to set priorities for protection of critical habitats
- Initiating an agency personnel exchange program that will promote the exchange of ideas and information
- Establishing a Gulf of Maine Environmental Award program to give recognition to the pollution prevention activities of industry, organizations, and individuals.

It is anticipated that the council will adopt the draft action plan in June 1991. However, the plan will always be considered a blueprint and will be reviewed and revised within five years of adoption. With commitment and support over the next decade from the public, the state and provincial governments, and the two federal governments, the blueprint will grow into a sound and long-lived environmental protection program.

The Council on the Marine Environment, although still young, may turn out to be the best avenue for ongoing cooperation among the states and provinces on a spectrum of marine issues. Development of the action plan and initiation of a regional Monitoring Program are just two examples of the council's initiatives within the Gulf Program. Efforts to develop a regional environmental consciousness around the gulf find expression in a variety of public education materials, collaborative data-management projects, and professional workshops.

Historically, the Gulf of Maine has served as the physical and economic link between the three states and two provinces. In practice, this geo-political link has proved to be strong and productive, as the Gulf Working Group has shown. Clearly, the strength of the Gulf Program comes from its genesis as an indigenous effort of the states and provinces. Although it is too early to predict the outcome of the program, the congenial relations among the Working Group, the Gulf Council, and the governors and premiers hold great promise for improved stewardship of this fertile, but fragile water body. In this case, an ounce of prevention might eliminate the need for a cure. □

BDN 6-7-91

'Baykeeper' would keep eye on Casco

● The Friends of Casco Bay want to hire an advocate for the bay.

By CLARKE CANFIELD
Staff Writer

The Friends of Casco Bay environmental group is searching for a "baykeeper" to be a steward and watchdog of Casco Bay.

The group has started raising money, is looking for a donated boat and this weekend will start advertising for the position.

Donald W. Perkins Jr., president of the group, said a baykeeper won't be hired until the right person is found.

"It could be a fisherman, it could be a scientist, it could be an environmentalist. We don't know," Perkins said. "Ultimately, you'd like to see a mixture of skills and wisdom found in a fisherman, a scientist and a good people person."

Since the beginning of the year, members of Friends of Casco Bay and the Marine Law Institute at the University of Southern Maine have discussed creating a baykeeper position for the bay, a huge estuary that stretches from Cape Elizabeth to Cape Small in Phippsburg.

The position is modeled after the Hudson River "riverkeeper," which was established in 1983 to monitor environmental quality and help educate the public about the river.

The baykeeper will be a paid, full-time position to act as a steward to keep a close eye on the environmental health of the bay and to act as a catalyst to stimulate public interest in it.

Pollution problems in the bay have been spotlighted in recent years, and the bay last year was named a federal "national estuary," making $2 million available over five years to monitor and clean the bay.

The baykeeper concept has generated much interest in the past couple of months, and money is being raised through private donations from individuals, corporations and foundations, Perkins said. Friends of Casco Bay has also advertised for boat donations, and has accepted a small 8-foot inflatable to help with the baykeeper program.

There are now river- and baykeepers working San Francisco Bay, Puget Sound, Long Island Sound, the Delaware River and New York-New Jersey Harbor.

Citizen groups are also organizing similar programs for Galveston Bay in Texas and the Chattahoochee River in Georgia, and the concept has spurred interest in creating a "desertkeeper" in Arizona.

Casco Bay towns face soaring sewage fees

BDN 2-21-91

SOUTH PORTLAND (AP) — People living in the Portland area will have to pay higher sewage treatment fees to help clean up Casco Bay by upgrading municipal treatment plants.

The state and federal governments are pressuring the towns and cities on Casco Bay to improve their aging sewage treatment plants because they are a major contributor to water pollution.

South Portland, which was sued last year by the U.S. Environmental Protection Agency for discharging raw and partially treated sewage into the bay, is among the first to develop a plan to improve its sewage plant.

The proposal, estimated to cost from $7 million to $9 million, will more than double the capacity of the city's 17-year-old treatment plant and add a system to take chlorine out of the treated water. It also could more than double the sewage fees paid by homeowners and businesses in South Portland.

"This would be without question the single largest undertaking that the city has put out in" its annual capital improvements plan, said Mayor James A. Soule. "The enormity of the effect ... on the community will be unbelievable."

The Portland Water District, which includes Portland, Westbrook and Cape Elizabeth, is undertaking a similar project at a cost of $7.2 million.

Communities such as Freeport and Brunswick also are facing costly sewage treatment projects mandated by the state Department of Environmental Protection and the EPA.

Sewage treatment fees in those Casco Bay communities also likely will be increased to pay for improvements to their plants.

Last year, the EPA told 60 Maine communities they must upgrade sewer systems at an estimated cost of $1 billion. The upgrades are prompted by a strengthened federal Clean Water Act, said Louis Fontaine, environmental service specialist with the DEP's Bureau of Water Quality.

In South Portland, the improvements will boost sewage treatment fees from $1.94 to at least $3 per 100 cubic feet of waste water within two years, according to City Manager Jerre R. Bryant. The fees went up about 25 percent last year.

The cost for a typical household will increase from about $190 a year to $300 within two years and to between $333 and $391 a year by 1997, when the work is scheduled to be completed, according to the plan prepared by T.Y. Lin International of Falmouth.

Turning the Tide

Vol. 3, No. 2 Gulf of Maine Council on the Marine Environment April/May 1991

Industry and Science Join Forces in Gulf Research

Bath Iron Works, a major U.S. shipbuilder, and the Bigelow Laboratory for Ocean Sciences have launched a long-term research program to determine the environmental impact of the Kennebec and Androscoggin river system on the Gulf of Maine.

BIW, situated on the banks of Maine's Kennebec River, kicked off the $1,000,000 endowment goal with a $100,000 pledge toward a perpetual research effort.

William E. Haggett, BIW chairman and chief executive officer, acknowledged that research might discover BIW is a pollution source.

"We want to continue as a strong economic factor in Maine," he said, "while avoiding any practices which could have an unacceptable environmental impact." Haggett also pledged to seek financial support for the endowment from other industries and organizations along the river.

The Kennebec-Androscoggin is second only to the St. John as the largest river system in the Gulf of Maine. Its watershed encompasses 10,700 square miles of Maine and New Hampshire with an approximate water flow of 37.5 billion gallons a year.

The river's plume, flowing southwest along the coast, carries suspended sediments, wastes and associated pollutants that scientists suspect have a pronounced impact on environmental quality of the Gulf.

Despite its size, little research has been conducted near the mouth of this river system. Initial funding coupled with long-term commitment to the program — The Kennebec Area Research Endowment (K.A.R.E.)—will provide the first scientific attempt to study the river system's influence over an extended time.

Scientists at Bigelow Laboratory, an independent oceanographic institution in Boothbay Harbor, view K.A.R.E. as a self-sustaining program of environmental stewardship supported by a coalition of industry, the private sector and the public.

Dennis Taylor, Bigelow director, says the program represents a departure from traditional environmental research efforts in that it provides support for long-term, rather than short-term projects.

Dr. Peter Larsen, senior scientist at Bigelow and principal investigator for K.A.R.E., first suggested that the Kennebec and Androscoggin Rivers might be a source of Casco Bay pollution after studying scientific reports of high concentrations of toxic substances in the bay.

Dennis Taylor, director of the Bigelow Laboratory, indicates Kennebec-Androscoggin River impact on Gulf of Maine. Photo by Jim Rollins.

In the program's first year, Bigelow scientists will stress the need to inform business, government and private citizens about K.A.R.E. and how it can serve as a focal point for environmental research and education in mid-coast Maine.

Initial emphasis will center on the estuarine and coastal waters between Monhegan Island and Cape Elizabeth, including Casco Bay, and the quality of freshwater flowing into the area.

Project areas include resource mapping and evaluation, hydrography, contaminant distribution and transport, biological effects studies and the natural history of important ecosystem components.

A 12-member Advisory Board of scientists, environmental and business representatives oversees the program. ■

Action Plan Draws Reviewers' Comments

After nearly a year of review and revision, the draft Gulf of Maine Action Plan has begun to identify priorities for action in the Gulf region. Comments from over 75 private organizations, individuals, and state, provincial and federal agencies have helped identify flaws within the draft Plan as well as some of the most pressing issues facing the states and provinces.

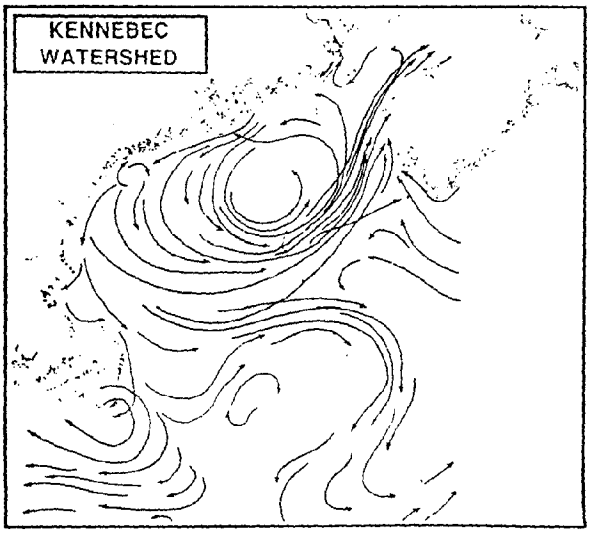
Many of the comments received focus on the need for the Plan to determine funding sources, accountability and responsibilities among agencies.

As one commentor noted, "Without specifics in the Plan, it will be easy for governments to agree without realizing the implications of the actions proposed." The scope of the Plan was also an issue to many reviewers, prompting the question of how much a Plan "of this size and scope will realistically accomplish."

Residents of nine New Brunswick communities worked with Janice Harvey, coordinator of the Bay of Fundy Project, to provide specific comments on the draft Plan.

Their 54-page summary contains 37 recommendations compiled from citizen comments made at community meetings held in January and February. This summary was presented at the Working Group meeting held in March.

Revision of the draft Action Plan based on the comments received is underway. A final draft of the Plan will be presented to the Council on the Marine Environment at their summer meeting in Bar Harbor. ■



Water circulation in the Gulf of Maine in relation to the Kennebec-Androscoggin river system

Gulf of Maine
Council on the Marine Environment
State House Station #38, Augusta, Maine 04333

Gulf of Maine Program Highlights
February 1991

1. Funding the Gulf of Maine Program is released

In September, 1990, the Gulf Secretariat and the Edmund Muskie Institute of Public Affairs in Portland, Maine, began exploring non-governmental sources of funding that might be used to support elements of the Gulf Program. In February Funding the Gulf of Maine Program was released. The report focuses on three items - private foundations likely to support the Program, charitable donations and tax-related issues, and examples of funding initiatives from comparable waterbody management efforts. The report provides a series of recommendations for the Finance Network to begin work on.

The Secretariat has entered into a subsequent contract to identify in greater detail individuals and corporations in the Gulf region that have or are likely to provide support for conservation-related initiatives in the Gulf. In addition, a funding case statement for the Program will be prepared.

2. Gulf Financial Network begins work

The Finance Network received a copy of Funding the Gulf of Maine Program and other materials during the month. The Network consists of nearly 20 professionals in the region with extensive expertise in financing. In June, the Network will submit recommendations to the Council on four issues:

* how can the Council supplement and compliment existing fundraising efforts among private organizations in the Gulf?
* how should a Gulf-wide non-profit entitity be structured to solicit and distribute private support for the Program?
* how can the Program identify the most appropriate private funding sources likely to support the Program?
* what are the essential elements to a public/private partnership that can support the Gulf Program?

MAINE
State Planning Office
Department of Environmental Protection

MASSACHUSETTS
Office of Environmental Affairs

NEW BRUNSWICK
Department of the Environment
Department of Fisheries and Aquaculture

NEW HAMPSHIRE
Office of State Planning
Department of Environmental Services

NOVA SCOTIA
Department of the Environment
Department of Fisheries

3. Monitoring Plan is completed

The Council's Marine Environmental Quality Monitoring Committee has completed the Gulf Monitoring Plan and expects to distribute it in March. In February, the Committee began work on an implementation strategy which they will present to the Council for action in June.

The Committee met recently with a group of marine scientists that attended the January, 1991, Woods Hole Science Workshop. Discussion focused on appropriate methods for implementing elements of the monitoring program and on how the monitoring data collected can be used.

4. Environment Canada continues strong support for Gulf Program
Environment Canada recently contributed $10,000 to the Gulf Program to support activities from the Council Annual Work Plan. Environment Canada, like the US EPA and National Oceanic and Atmospheric Administration, is a member of the Gulf Working Group, and has been exemplary in its commitment of time and personnel during the past three years. They are commended for this additional contribution.

5. Draft Gulf Action Plan review period closes
The comment period for the draft ten-year Gulf Action Plan closed on February 15. Comments on the content and structure of the Plan were received from the provinces and the states, and from a multitude of environmental organizations. Revisions based on these comments will be made during the next month and reviewed by the Gulf Working Group.

6. Canadian Green Plan released
The Canadian government released the long-awaited Green Plan early this year. The Green Plan lays forth an ambitious agenda for action by the federal and provincial governments, industry, and the general public to support a sustainable environment in the future. Special attention is focused on the marine environment.

Examples of sections that are particularly relevant to the Gulf region and to Council activities include:

- government support for efforts to restore Atlantic "hot spots" over the next five years, through remedial action plans.
- development of a 5-year Ocean Dumping Action Plan, aimed at reducing the discharge of plastics and other persistent debris into the marine environment
- implement the Compliance Policy for the habitat protection provisions of the Canadian Fisheries Act

People interested in learning more about the Green Plan are encouraged to call Environment Canada at (902) 426-1930.

Penobscot ranked fourth on 'most endan

Basin Mills puts Penobscot on most-endangered rivers list

BDN 4/17/91

By John S. Day
Washington Bureau

WASHINGTON — An environmental group here ranked the Penobscot as one of America's "ten most-endangered" scenic rivers Tuesday as a result of Bangor Hydro-Electric Co.'s proposed 38-megawatt dam at Basin Mills.

"More than $100 million has been spent to clean up the Penobscot so that it can support Atlantic salmon again. Basin Mills would reduce the chances of restoring the salmon from 79 percent to 39 percent," said Matthew Huntington, conservation associate for American Rivers, which has opposed construction of any new dams across Maine's largest river.

Huntington said his assessment of chances for restoration of the Penobscot salmon run was based on a study by the U.S. Fish and Wildlife Service.

Since 1973, American Rivers has helped win protection for more than 9,300 miles of river under the federal Wild and Scenic Rivers System. However, American Rivers President Kevin Coyle said 600,000 miles of the nation's 3.5 million river miles "already lie motionless behind dams ... (and) countless more are drained nearly dry or choked with pollution."

American Rivers opposed Great Northern Paper Co.'s Big-A dam project during the last decade and has filed as an intervener against Bangor-Hydro's application before the Federal Energy Regulatory Commission for Basin Mills.

A spokesperson for Bangor Hydro indicated that the company would respond to the American Rivers press conference, but did not do so Tuesday.

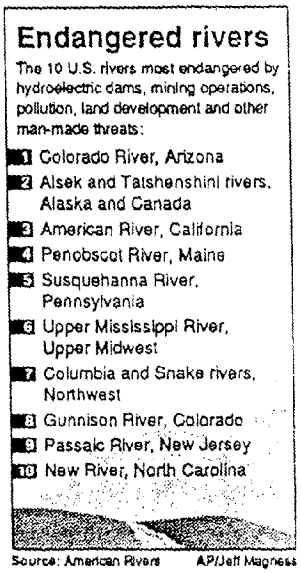
According to Huntington, the 18-foot-tall Basin Mills dam would create a 325-acre reservoir of still water extending 3.6 miles that would impede the movement of salmon up river to their spawning grounds.

The Maine Public Utilities Commission dealt the project a major setback last July when three commissioners voted to reject the dam application, declaring there was no immediate need for electric power produced by the project. The PUC decision does not prevent Bangor Hydro from continuing to pursue a federal permit.

Among the other rivers cited as being the "most endangered" by American Rivers were the Colorado, upper Mississippi, Columbia and Snake rivers.

"The problems affecting these rivers are symbolic of problems facing other rivers that are being treated as sewers, industrial backyards and generally abused around the country," Coyle said.

The Colorado River in Arizona headed the non-profit group's sixth annual list of rivers most threatened by hydroelectric dams, mining operations, pollution and land development. The rivers are considered for the list based on the significance of the river, the degree of threat to its waters and the imminence of the threat, Coyle said.



Other rivers on the group's 1991 list, in order, are: the Alsek and Tatshenshini rivers in Alaska; the American in California; the Susquehanna in Pennsylvania; the upper Mississippi in the Upper Midwest; the Columbia and the Snake in the Pacific Northwest; the Gunnison in Colorado, the Passaic in New Jersey and the New River in North Carolina.

The Colorado River, which helped carve the Grand Canyon, is threatened by the Glen Canyon Dam 16 miles upstream from the Grand Canyon National Park, Coyle said.

U.S. wildlife service opposes Basin Mills

The U.S. Fish and Wildlife Service has announced its intention to intervene in opposition to the proposal to build a new dam at Basin Mills in Orono when the project is reviewed by the Federal Energy Regulatory Commission.

Last week the Environmental Protection Agency said it had serious questions about the project and also wanted intervenor status in the FERC proceedings. The town of Bradley has intervened in support of the $115 million project.

An attorney for the Department of the Interior, of which the U.S. Fish and Wildlife Service is a part, wrote to FERC officials on Friday to request intervenor status.

Review of the Basin Mills project by FERC is expected to be a long process, perhaps running a year or more. The project also requires a permit from the Maine Department of Environmental Protection and the Maine Public Utilities Commission.

Growing pains in Maine salmon aquaculture

NCRI is funding a project intended to treat the growing pains of Maine's salmon aquaculture industry, and to identify means to adapt the state's regulatory framework to encourage small-scale, local salmon farming enterprises.

The project by the Marine Law Institute of the University of Maine School of Law deals with "Legal Methods for Promoting Local Salmon Farming Operations in Down East Maine." Under the NCRI grant, Maine's regulatory framework is being examined to identify ways to address public policy concerns while at the same time encourage growth of the aquaculture industry, especially by small-scale operators. The regulations are being compared with those of New Brunswick, Canada, to determine how local benefits might be encouraged.

The findings will include recommendations for public policy makers for reducing barriers to entry by small-scale operators, reducing opposition, and increasing local benefits. A handbook will also be prepared to assist small-scale operators in dealing with the complex state and federal regulatory program. The handbook will offer assistance in preparing an aquaculture lease application, complying with environmental requirements, securing capital, and in developing a business structure.

The size of the aquaculture industry in Maine and the state's ideal environment suggests considerable growth potential. In fact, the Maine State Planning Office estimated that by 1992, the economic value of farmed salmon would nearly double that of the state's lobster industry and almost equal that of the potato industry. Maine's economy needs aquaculture, and the state's clean waters, suitable water temperatures, and strong tides encouraged a miniboom in lease applications in the late 1980s. (See diagram on facing page.)

Despite the growth of the aquaculture industry in Maine, *it is still comparatively small.* Only 19 finfish aquaculture leases, occupying 500 acres, are currently active in the state, producing 890 metric tons of cultured salmon. In contrast, Canadian production in the Bay of Fundy, just northeast of Maine, is estimated to exceed 4,200 metric tons. Estimates from Washington State indicate that 4,400 metric tons of farmed salmon were produced in 1989, and Western Europe produces over 80,000 metric tons.

Growth of the industry, however, may be constrained. The proliferation of applications has raised environmental concerns and led to conflicts with competing marine uses, creating resistance and opposition to salmon aquaculture initiatives. These concerns threaten to impede future development of salmon farming in Maine, especially if they lead to costly pre-lease surveys and expensive monitoring requirements. In extreme cases—in Alaska the legislature banned finfish aquaculture in July, 1990—such concerns can spell disaster for an emerging aquaculture industry.

In 1988, for example, several lease applications in Maine were withdrawn due to local opposition. Concern about the potential adverse impact of aquaculture resulted in a legislative bill (LD 2352). As proposed, the bill would have increased various environmental controls through:

- Restrictive siting and monitoring requirements;
- Restrictions on the use of pesticides, feeds, and antibiotics;
- Import limitation on smolts;
- Operator bonding requirements.

The legislation met with strong resistance from the aquaculture industry, and the bill was referred to a subcommittee for modification and further study on:

- The likely environmental impacts of finfish aquaculture and the adequacy of state and federal laws;
- The economic impacts of existing state policy on the emerging aquaculture industry;
- Recommendations for additional policies to address concerns both by the industry and about the environment.

The subcommittee's study was recently completed and sent to the state legislature with significant recommendations. The Marine Law Institute participated in the subcommittee's study, evaluated its findings,

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and based upon NCRI-sponsored research has made some of the following preliminary observations.

Maine's program to regulate finfish aquaculture is administered chiefly by the Department of Marine Resources (DMR) under the state's Aquaculture Leasing Act, although a number of other state agencies are also involved.

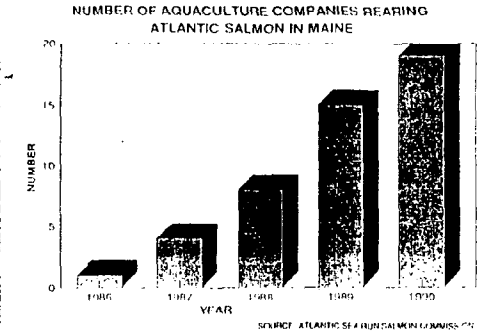
Currently, Maine's Aquaculture Leasing Act does not require an aquaculture lease; leases are issued at the applicant's option. This loophole created a good deal of controversy when one aquaculture operation by-passed the leasing process and created a number of impacts and conflicts that could have been resolved through the leasing process.

...By 1992, the economic value of farmed salmon (will) nearly double that of the state's lobster industry and almost equal that of the potato industry

The Department of Marine Resources (DMR) did not conduct a public hearing, and the project was sited in proximity to a number of homes whose owners complained of excessive noise and of difficulty with navigational access to their properties.

By avoiding DMR siting standards, less conscientious aquaculture operations have damaged the image of the industry. Mandatory leases for all operators would assure the public and the industry that all aquaculture operations meet minimum siting and monitoring requirements designed to avoid environmental impacts and use conflicts.

Maine would benefit significantly from the adoption of a tiered regulatory approach, similar to that used in Washington State, based upon annual *fish production levels. All* sea farm operations in Maine are currently treated alike regardless of their size. This subjects small-scale operations to the same rigorous monitoring and testing requirements as large operations, despite significantly lower environmental impacts. Allowing smaller operations to obtain leases "by rule," so long as they meet minimum siting requirements, would relieve them of requirements regarded as costly, onerous, and unnecessary.



AQUACULTURE COMPANIES rearing Atlantic salmon in Maine have increased markedly in number over the past five years. Continued growth of the state's aquaculture industry appears stalemated. Modification of state regulations and mounting public sentiment appear as key factors.

Opportunities exist to eliminate potentially duplicative and redundant federal monitoring requirements that the Army Corps of Engineers (ACOE) is currently applying to aquaculture operations in Maine. This problem may be compounded when the Environmental Protection Agency (EPA) carries out its plan to require water discharge licenses. Members of the ACOE and EPA have indicated that guidelines for coordinating state and federal permitting requirements through general permits are feasible. Federal requirements for general permits will require closer *cooperation among state and federal* agencies than currently exists.

State agencies in Maine urgently need additional personnel to conduct timely permit processing, site assessment and environmental monitoring. Deteriorating economic conditions in the Northeast, however, make this task especially difficult.

Staffing shortages have caused aquaculture permit processing delays of 18-24 months in Maine, and current funding limitations prevent the state from conducting needed aquaculture research. Although staff increases have been recommended, decreased state revenues may force deep cuts in state government. At this time, then, adding personnel to assist the growth and regulation of the aquaculture industry seems unlikely.

In spite of the bright economic prospects of the aquaculture industry in Maine, exceptionally creative alternatives *are needed if the state's* full potential is to be realized.

Tim Eichenberg • Alison Rieser
Marine Law Institute
University of Maine School of Law

Maine budget shortfall to take DMR toll

Deep cuts include enforcement, science

AUGUSTA, ME - The Maine Department of Marine Resources (DMR) could be mired in the state's deep financial trouble, and forced to make cuts that would slash away at the agency's very foundation. Proposed DMR budget cuts call for the elimination of two whole divisions, several programs, and 16% of the department's personnel — all starting July 1. Twenty five people, including 12 marine patrol officers, could be laid off.

The DMR's bleak future is tied directly to Maine's battle to accommodate a projected $1 billion budget shortfall in the next biennium, fiscal years (FY) 1992 and 1993. The DMR accounts for only 3/10 of 1% of the total state budget, which is about what it costs to fund less than two days of school for grades K-12. But it, along with every other agency in state government, is being asked to bear a proportional burden of whatever cost-cutting measures are required to balance the budget.

In their grueling struggle to find new ways to save money, some legislators have gone so far as to propose eliminating the DMR as a cabinet level agency — instead maybe combining it with other natural resources agencies like the Department of Inland Fish and Wildlife and the Department of Environmental Conservation. Another proposal has called for combining the DMR's Bureau of Marine Patrol with the State Police.

In February and March, the commercial fishing industry was just beginning to learn the extent of what this budget haggling could mean for the DMR.

While fishermen often complain about the department — bicker with it, criticize it, even fight against it — the thought of not having a DMR at all, or of having a crippled DMR, has been a new and sobering idea for many of them.

David Dow, executive director of The Lobster Institute in Orono, put it this way.

"Whether many people like to believe it or not, the DMR and the industry are like brothers. Brothers often fight, but blood is thicker than water. I think that maintaining the integrity of the DMR with a cabinet level commissionership is important."

Without question, the industry has been unanimous in its support for the DMR's Bureau of Marine Patrol. The DMR has already received hundreds of signatures on two petitions — one from Knox County and one from Deer Isle — that "strongly oppose any action by the Maine Department of Marine Resources or Governor John McKernan Jr. to force the layoffs or reduce the equipment of any Marine Patrol Officers."

In a letter to the House and Senate chairs of the Appropriations Committee, Ed Blackmore, executive director of the Maine Lobstermen's Association (MLA), said, "Maintaining a level of enforcement at least equal to the 1990 level is a must. In these hard economic times, the temptation to break the law to sustain income will be even greater, especially if law enforcement is at a reduced level."

Blackmore said, "Law enforcement is the one thread that holds all present and future fishery managers together. Fishery science will be wasted effort and public health will be endangered, pollution will be increased, and dealing in illegal product will be commonplace. Funding for law enforcement should receive high priority."

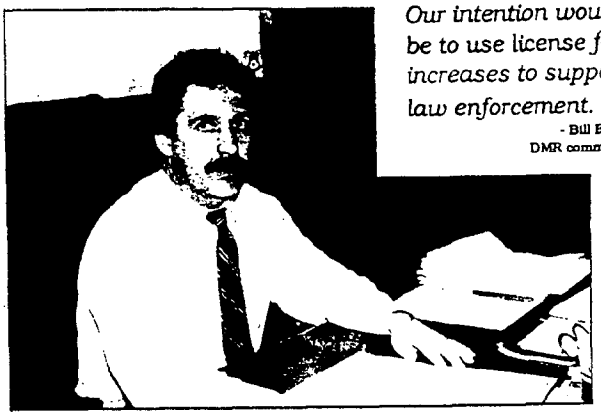
Science cuts

Within DMR, Marine Science and Marine Development bureaus are slated to be hit at least as hard as Marine Patrol. The department's entire Pathology and Physiology divisions are scheduled to be eliminated. The Fisheries Technology Service, with the exception of its director Phil Averill, will also be erased if the DMR's budget is not reinstituted. In addition to the proposed 25 layoffs, 14 vacancies will not be filled, and both the operating and capital expense budgets will be slashed.

Burton Blanch, former president of the Maine Aquaculture Association, was shocked to learn of the extent of the DMR's proposed budget cuts.

"Aquaculture is bringing millions of dollars into the state that were never here before," he said. "It has done more for economic development in our area (Cobscook Bay, Eastport, Lubec) than anything else. We (aquaculturists) need the DMR. The DMR has always been a bare bones operation anyway. This is one area that shouldn't be cut."

In addition to what is currently known about the DMR's budget proposal, fear of the unknown is also great. There is a procedure called "bumping" within state government which allows personnel with the most seniority to have the greatest job security. Though the positions of scientists working on groundfish, herring, and other species appear safe, the people currently staffing those positions could be bumped out of their slots by laid-off people with higher seniority. There is sure to be chaos within the Bureau of Marine Science once the procedure begins.



Our intention would be to use license fee increases to support law enforcement.

- Bill Brennan
DMR commissione

Regarding the general whittling away of the department, Jeff Kaelin, executive director of the Maine Sardine Council and president of Associated Fisheries of Maine, said, "It's in the best long-term interest of the fishing industry to support the concept of a strong marine agency in Augusta, one that can work as an advocacy group for the industry."

Kaelin added, "Besides the enforcement issue, I think maintaining some core of scientific focus is also important. Maine has to coordinate with other states in data collection and management, and without a fairly strong marine agency, we won't be able to live up to our commitment with other states."

After reflecting a bit, Jack Merrill of the MLA claimed that lobstermen "at the dock level" have often had a difficult time reaping benefits from the scientific arm of DMR, "so it's hard for us to support the scientific community within the department," he said.

"But the MLA board of directors took a unanimous vote this winter to preserve the warden service, which is underfunded and underpaid to begin with. To make a cut like that is ridiculous considering the scope of their job."

David Cousens, one of MLA's two vice presidents, put it a different way.

"I think it's important we keep the DMR together as a cabinet level department because in the future, if they are funded to the level they should be funded, they could be very helpful to the fishing industry. The potential is there," he said, "but if you dismantle it, the potential won't be there anymore."

License fee increase

In mid-March, the budget negotiating process promised to be nothing short of miserable. On March 18, still bleary-eyed from stalling a $170 million budget shortfall for the current fiscal year, legislators on the Appropriations Committee began taking a hard look at McKernan's proposed $3.2 billion budget for the next biennium.

DMR Commissioner Bill Brennan, operating under strict guidelines from the governor's office, was responsible for submitting the DMR's portion of that overall budget.

After calculating "full service costs" — taking into account inflation and increased expenses such as fuel — the DMR figured it needed $7.85 million of general fund money to operate at its present capacity during FY '92, which begins July 1, 1991, and $8.3 million for FY '93.

But for the first fiscal year of the biennium, Brennan was required to draft a budget that included a mandatory 8.4% reduction from his admittedly inadequate FY '91 budget. An additional 3% cut over FY '91 was mandated for the FY '93 budget. The results? A DMR budget package that totals $6.07 million for FY '92 and $6.45 million for FY '93 — not enough to even fund the existing staff of 156 people. That's where the 25 layoffs come in. And that's why 14 vacancies can't be filled.

"We originally went into this with the operating premise that we would not do anything with marine patrol," said Brennan.

"But when we tried to eliminate $1.78 million from our budget without cutting marine patrol, it eliminated other programs completely. There was no way around it. The direct public health and resource assessment functions had to be maintained as our primary responsibilities."

Brennan said the governor will soon introduce a bill on behalf of the DMR to double all license fees — something the DMR had also hoped to avoid. But according to Brennan, all the department's licenses combined only generate $800,000 — less than 15% of the cost of running the department. In comparison, the Inland Fish and Wildlife Department generates more than $14 million in license fees.

"Our intention would be to use those monies (generated by increased license fees) to support law enforcement," said Brennan.

Anyone wishing to comment on the DMR's budget should contact legislators on both the appropriations and marine resources committees of the Maine Legislature.

Janice M. Plante

ME forum pulls industry together

ROCKPORT, ME - These are trying times for commercial fishermen. Groundfish stocks in New England are said to be in a state of "crisis," anti-gillnet activists are gaining ground, marine mammal advocates are making their presence felt.

Now more than ever, fishermen are becoming aware of the big money behind special interest groups. They're having to deal with a new, unsettling feeling that the system, and their future, are being driven by something more powerful than many were aware of before.

Nowhere has this sense of realization been more apparent than at the 1991 Maine Fishermen's Forum, held in Rockport March 7-10. This need to rebuild groundfish stocks, to find a new direction to lobster management, to make the aquaculture permitting process a realistic one, sobered but also roused the hundreds of people who attended the forum.

In the hallways, in the bar, seminar after seminar, participants came to the same conclusion: fishermen everywhere have to pull together on this one — to preserve commercial gear types, rebuild groundfish stocks, reduce the take of marine mammals. Setting the record straight will take the cooperation and energy of all those in commercial fishing.

The intensity of these issues was illuminated by the forum's broad leadership representation: Dr. William Fox, head of the National Marine Fisheries Service (NMFS); NMFS Regional Director Dick Roe; a third of the New England Fishery Management Council; and industry leaders from a host of associations.

Fishermen questioned these leaders, and from Fox's luncheon speech, searched for clues about NMFS's expectation for the future. While nothing was settled by the end of the three-day event, the forum served to pull together an industry that is wrestling with its future.

In recognition of one who has worked undauntedly to preserve the rights and interests of fishermen, the forum board of directors and industry associations paused on Saturday evening to pay tribute to Lucy Sloan. Sloan, a long-time industry representative, is leaving for Japan this summer. Her presence and participation in the system will be sorely missed.

Janice M. Plante

Groundfish management

Developing the science behind the plan

COMMERCIAL FISHERIES NEWS 4/91

DMR NEWS
a monthly newsletter of the
MAINE DEPARTMENT OF MARINE RESOURCES

The Department of Marine Resources (DMR) has initiated a research program that investigates various aspects of groundfish ecology along the coast of Maine. The program, funded by the Sportsfish Restoration Act and matching funds from the state, includes a series of jobs ranging from party boat sampling to beach seining for juvenile fishes and investigating the ecology of selected fishing grounds. The project began in July of 1989 and will continue through 1994.

The overall objective is to build a database on the state's finfish resources that will allow DMR to make informed decisions regarding resource management. The management intention is to rebuild Maine's fish stocks for commercial and recreational harvesting.

In the first 1-1/2 years of the study the DMR contacted party boat owners and operators in the state and conducted sea sampling on a number of vessels. This last summer was the first full season (May through October) and sea sampling was conducted on 12 of the state's 17 party boats which target groundfish. The party boat fleet (boats licensed to carry more than six passengers) is concentrated in the southern half of the state although charters are available from York to Eastport. On the 12 days of sampling, 1,067 fish were landed by 231 recreational fishermen with cod being the targeted species in most instances and accounting for 75% of the catch. The total length of all cod landed, both legal and sublegal, averaged 20.4", or just over the legal minimum size of 19". The largest cod landed, on the days we were sea sampling, was just under 3' in length. Fishing locations depended on the port of departure, captain's intuition, and weather.

In an attempt to identify finfish spawning areas and nursery areas along the coast, DMR reviewed the scientific literature as well as old laws and existing regulations relating to the more common groundfish species. Surprisingly, very little information is formally documented, most of the information being anecdotal.

During this last year these data were incorporated into a series of fact sheets known as "Fish Facts" and were made available to the public at various sportsman shows, the Maine Fisherman's Forum, and even L.L. Bean. Over 5,000 sets of Fish Facts were distributed to the public.

To further the exchange of information and views between all groups of fishermen and to help focus DMR's research efforts, a groundfish advisory group will be established in 1991. The DMR has established similar groups for both herring and shrimp and the meetings have been successful in information exchange.

Fieldwork has taken on two approaches: small-scale sampling for juvenile fishes and larger-scale surveys of specific fishing grounds. Sampling small and juvenile fishes in the Sheepscot/Boothbay region has been done using beach seines, push nets, fyke nets, a beam trawl, and fish traps.

This sampling has started the process of documenting the seasonal abundance and distribution of small fishes in the Sheepscot Bay, a reputed spawning ground and nursery area for cod. This past year over 2,000 fish representing 30 species were caught, including some reportedly rare species for the Gulf of Maine, such as young-of-the-year bluefish and mackerel scad. This sampling will continue and will be expanded to include the Saco River estuary in the spring of 1991.

In September of 1989 a bathymetric and side-scan sonar survey of the Inner Kettle ground, a fishing ground outside the Sheepscot Bay, was conducted. This is the first part of a more extensive study of selected fishing grounds along the Maine coast aimed at documenting the ecological relationship between the fish and the grounds themselves.

The Inner Kettle survey results are being interpreted with the assistance of the Maine Geological Survey and will be published as part of the survey's efforts to map the Maine coast. At least two other areas will be studied as part of this work to allow for quantitative comparisons between Maine's fishing grounds.

Regional Updates:

Northeast

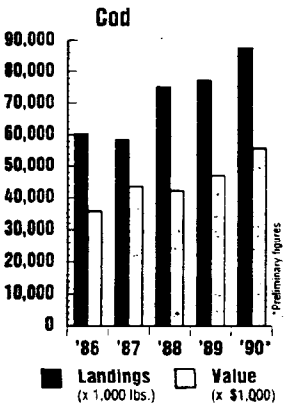
Although nothing to write home about, 1990 turned in some surprising results

By Nancy Griffin
Field Editor

New England fishermen have been hit by the double whammy of economic recession and decimated fish stocks. If that weren't enough, groundfishermen were bludgeoned by a report that called for a 50% cut in landings region-wide in order to rebuild stocks.

Compared with historic levels, 1990 landings from the Northeast's major commercial fisheries were way down. However, some strong year classes of traditionally important species gave fishermen a bit of a boost over 1989.

Nevertheless, there is real concern about the prospects for 1991. Accordingly, the 602 guidelines that define overfishing and mandate rebuilding measures have forced the New England Fishery Management Council to consider limited entry, closures and other unpopular remedies.



"We saw more cod, plenty of pollock, very little haddock, and scrod has been way off," says Gerry Fratollilo, president of the New England Fish Exchange, better known as the Boston Auction. "The buyers say the prices are high; the fishermen say they're low. I think they're probably fair, but the fish aren't there."

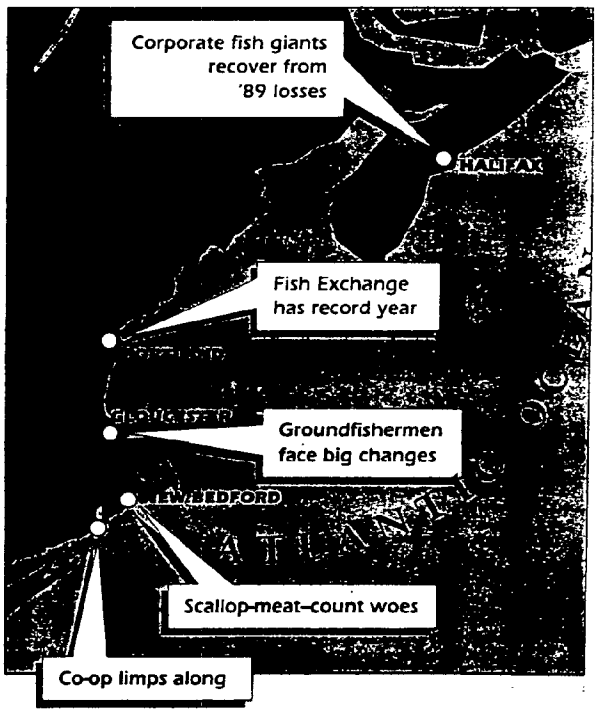
Gloucester fishermen found themselves with a slightly longer season and increased cod landings from their traditional Stellwagen Bank and Jeffreys Ledge grounds during spring. But that may have gotten them in trouble.

"The bad thing that resulted [from the higher landings] was Amendment 4 from the council," says Angela Sanfillipo, head of the Gloucester Fishermen's Wives Association. Along with other provisions, Amendment 4 calls for sea sampling from Feb. 1 through July 31, 1991.

If sampling shows more than 20% of juvenile cod after a 500-lb., 1-hour tow, draggermen may be ordered to switch from their present 5 1/2" mesh to a special 6" mesh — part diamond, part square. And if that fails to keep the juvenile catch down, closures may be ordered.

"They say we've overfished those areas," says Sanfillipo. "We say a lot of people have made a good living landing legal species, legal size. We heard the complaints, so we went to the July meeting. They tabled the issue. Then they passed this amendment at the September meeting, when we weren't there, when not too many people were paying attention."

Closures could be as long as 1 1/2 months, and Sanfillipo terms that possibility "a disaster" for the otherwise stable Gloucester fleet.



The Portland (Maine) Fish Exchange, launched in 1986, limped through financial crises that threatened to scuttle it during its infancy. But 1990 proved to be a boom year at the country's first display auction.

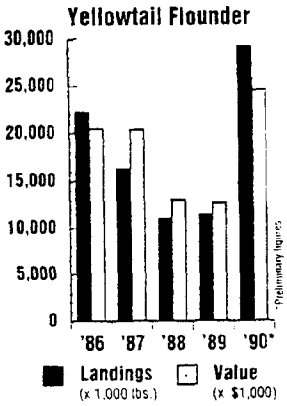
Sales jumped to 20,470,000 lbs. over 1989's 16,881,000. "We were going gangbusters," says General Manager Dennis Frappier. "We had a substantial increase in small boat activity with extremely high-quality fish. Unfortunately some of the influx of day boats displaced some of our regular big boats, which didn't get the price for their product. They went to Gloucester for a few months, but they came back in December."

The problem plaguing many Americans — cash flow — affected the Point Judith Fishermen's Co-op during 1990. The co-op opened its state-of-the-art fish-handling facility in 1989 only to see the groundfish resource drop at the same time.

"The mortgage doesn't go down because landings do," says one long-time observer.

"But the co-op is meeting its obligations. The serious career fishermen are buckling down and working harder. If any port survives, it'll be Point Judith."

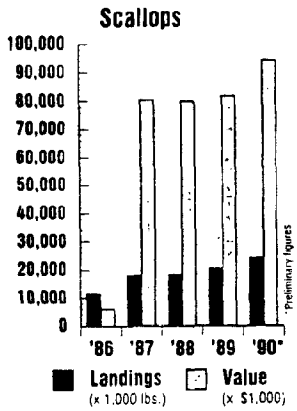
One of Point Judith's most vocal fishermen, Fred Mattera, suffered a setback, too. In 1989, he took a chance on swordfishing with entanglement driftnets and enjoyed spectacular success. But in 1990, the same year he was chosen a *National Fisherman* highliner, the new management plan included a ban on driftnets. He fought the ban and offered his boat as a sea-sampling



vessel to prove the gear is selective and does not kill marine mammals. He called these times in fisheries and this issue "a crossroads" but vowed to keep fighting.

In Rockland, Maine, F.J. O'Hara & Sons, a 50-year-old fish processing plant, shut down in April and laid off its 28 workers. A few months later, owner Frank O'Hara entered a guilty plea to antitrust charges of rigging bids in order to win contracts to supply fish to the U.S. Army. O'Hara and his firm also entered a guilty plea to charges of mislabeling seafood from Canada as originating in the United States. The case also involved at least four Massachusetts processors.

National Sea Product's fish processing plant in Rockland shut down within weeks of the O'Hara facility, victim to the sprawl-



ing Canadian company's multimillion-dollar shortfall, blamed on a greatly diminished Canadian cod stock.

Although the NatSea plant left 202 shoreside workers unemployed, it had no impact on fishermen since the plant processed no locally caught fish, only imported cod blocks. F.J. O'Hara & Sons, however, did buy some Maine-caught product, including some from the company's three mid-sized trawlers and a factory ship, which continued to fish after the shutdown, offloading in Gloucester. Meanwhile, O'Hara's trawler processor, the Constellation, moved to Alaska to target Pacific cod and other species for the foreign, headed-and-gutted market.

Scallops and Crew Strife

Crew problems, including a mutiny aboard a 73' scalloper, plus scallop-meat-count miseries, beset the highline New Bedford fleet. The yea was perhaps best described by industry long-timer Marty Manley: "On paper it looked good, but it wasn't."

Scallopers fought against the much-maligned 36-meats/lb. measure, wrapping up the year at a heated December session with New England council members. At the meeting, fishermen argued against limited entry, closures, license moratoriums, enforced layovers, gear restrictions and other suggested regulations that would replace the meat count as a conservation measure.

Compliance with the count has proven so difficult that many scallopers will no longer sell at the auction, and many dealers will no longer buy directly from the boats, fearing liability. An October crackdown that saw National Marine Fisheries Service enforcement agents seize 14 trips and fine 27 other fishermen and dealers for undersized scallops led many scallopers to dump their catch.

Rapid expansion of the scallop fleet from 46 to 140 vessels over a 14-year period has led to a fundamental change in crew-hiring methods. Once, a skipper could hire fishermen he knew personally or whose reputations he could quickly discern by talking to other skippers. Now captains say they must often hire inexperienced people they don't know, and sometimes the green crew members turn out to be drug addicts who go into withdrawal during trips and demand to be returned to port.

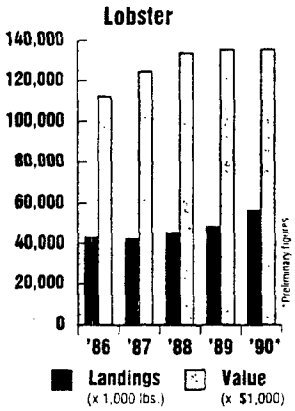
The event that made crew problems most visible occurred last summer, when the crew of the Barnacle Bill demanded to be taken home during an offshore trip. The captain refused, so the crew allegedly trashed the vessel and threatened him with knives and hammers. After barricading himself in the wheelhouse, the skipper called the Coast Guard, which boarded the vessel in Nantucket and arrested the crew.

Further, theft on board has increased in New Bedford, the country's biggest money-making port, and skippers frequently blame the widespread drug use as the reason that boat galleys are stripped of food and TVs and VCRs disappear from their vessels.

Skyrocketing fuel costs, which affected every port following the Iraqi invasion of Kuwait, also hammered the New Bedford fleet. The cost of an average 12-day trip for a scallop boat increased by about $3,000, cutting down on the crew's share, thereby contributing to lower morale, higher turnover and greater general unrest.

Lobster Price Worries

High landings and price woes topped the list in 1990 for New England lobstermen. When the final numbers are in, last year could be the best on record in terms of pounds landed. Prices, however, were frightfully low. The glut of product on the market in late summer prompted the usual tie-ups with the usual results — little or no relief.



The oversupply did, however, have a potentially positive side — heightened awareness of the importance of marketing. Fishermen, dealers and pound-keepers in Maine are developing a lobster promotion council that will hopefully expand their market base, and harvesters region-wide are realizing the importance of working together and developing common strategies.

Still, 1990 left a bad taste in the mouths of New England lobstermen. They claim that because of increases in the minimum size of harvestable lobster over the past three years, lobstermen are at a distinct disadvantage to Canadian, who are able to land smaller lobsters. And at year's end, New Englanders were lobbying their legislatures and the council to prevent implementation of the third minimum-size increase. Further, the council is looking at the possibility of trip limits and limited entry to protect the lobster stocks and put an end to constant increases in fishing effort.

Alternatives to traditional fisheries are growing. Salmon aquaculture is increasing in northeastern Maine and Atlantic Canada. Farming sites and yield continued to increase in both areas.

Additionally, Maine's sea urchin fishery stabilized. In fact, one urchin expert says, "It's not just a hit-and-run thing. It seems it will become a regular part of the fisheries picture in Maine," with a harvest of around 8 million lbs. to 10 million lbs. a year. The price went up in 1990, averaging about 40¢/lb.

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE HOUSE STATION 17 AUGUSTA, MAINE 04333

MEMORANDUM

TO: Robert Blakesley, State Planning Office

FROM: Pat Fish, Administrative Assistant, Bureau of Land Quality Control

DATE: May 15, 1991

SUBJ: Coastal Zone Management Quarterly Report
February 1, 1991 through April 31, 1991

** *** ** *** ** *** ** *** ** *** ** *** ** *** ** *** ** *** ** *** ** *** **

Attached please find the quarterly report for February 1, 1991 through April 31, 1991. The report consists of the following "work products" as required under Section B of the Memorandum of Understanding between the SPO and DEP:

I. Quarterly list showing the status of consent agreements;

II. Quarterly narrative of major applications, enforcement activities, problems, issues and accomplishments;

III. Quarterly report on federal consistency review and coordination activities;

IV. Quarterly report on changes in statutes, rules and regulations; and

V. Quarterly report on the Shoreland Zoning Law.

I. Status of Consent Agreements and 80K Actions.

A. Consent Agreements Resolved

DOWNEAST

1. Jon Dawson, Southwest Harbor

Mr. Dawson constructed a pile supported deck and repaired a house which extends over the coastal wetland without obtaining a permit.

The consent agreement requires an after-the-fact permit application, removal of the additions to the structure and payment of a $550.00 monetary penalty.

CENTRAL

1. Edward Gall, Augusta

Edward Gall failed to obtain a transfer order for ownership of a retail lumber yard and reconstructed the lumberyard into a commercial office building, without Department approval. An after-the-fact (ATF) permit amendment and a civil penalty of $3,100.00 was required in a consent agreement.

2. George McAuley, Belfast

George McAuley placed unstabilized fill within a freshwater wetland. The case is several years old and was dropped based on a reassessment of impact and prioritization of pending caseload.

3. Ocean's East Aquarium, Boothbay Harbor

Ocean's East Aquarium constructed a ramp and a permanent floating wharf without Department approval. The case was dropped because Ocean's East was foreclosed upon and is now out of business.

4. Paul Whitehead and Alden Jordan, Boothbay Harbor

Paul Whitehead and Alden Jordan placed sand below the normal high water mark of West Harbor Pond without Department approval. The case is several years old and was dropped based on a reassessment of impact and prioritization of pending caseload.

5. Jack Mays, Augusta

Jack Mays placed debris in Togus Pond without Department approval. The case is several years old and was dropped based on a reassessment of impact and prioritization of pending caseload.

EXHIBIT E-1

SOUTHERN

1. Edward Benjamin, Cape Elizabeth, NRPA, (river, stream or brook), $500.00 penalty; comply with ATF permit, if approved; and restore area, if denied.

2. Nero Construction, Inc., Wells, NRPA, (dunes), $1,000.00 penalty.

3. Francis Grubb, Falmouth, NRPA and Section 413 (river, stream or brook), $2,500.00 penalty; and area has been restored.

4. Arthur McDermott, Falmouth, NRPA (great pond) and Section 413; $1,000.00 penalty; and remove fill by June 30, 1991.

B. Pending Consent Agreements

DOWNEAST

1. Steele Construction & M.E. Astbury, Ellsworth, NRPA, Stream Alteration
2. Acadia Village Resort, Ellsworth, NRPA, Stream Alteration
3. Charles Foster, Ellsworth, NRPA, Stream Alteration
4. Lawrence Stanley, Swans Island, NRPA, Coastal Wetland
5. William & Nancy Kales, Bar Harbor, NRPA, Stream Alteration
6. Steve LaFreniere, Ellsworth, NRPA, Great Pond
7. 128 Recreational Associates, Sullivan, SITE, NRPA, Great Pond
8. Sheldon Heartstone, Bangor, NRPA, Stream Alteration
9. Donald Pelletier, Hampden, NRPA, Stream Alteration
10. Edmund Gillespie, Southwest Harbor, SITE LOCATION
11. Harold MacQuinn, Inc., Bar Harbor, SITE LOCATION
12. Cape Aquarius, Ellsworth, SITE LOCATION
13. John Mahar, Pembroke, NRPA, Coastal Wetland
14. Brown Brothers Trucking, Pembroke, NRPA, Coastal Wetland
15. John McIntyre, Eddington, NRPA, Freshwater Wetland
16. Edith Trapp, Deer Isle, NRPA, Stream Alteration
17. Look Construction, Jonesboro, NRPA, Stream Alteration
18. Royce Geel, Jonesboro, NRPA, Stream Alteration
19. Steve LaFreniere, Sullivan, SITE LOCATION
20. Emery Shute, Stockton Springs, NRPA, Stream Alteration
21. Guy Bouchard, Orrington, NRPA, Stream Alteration
22. Webber Oil, Blue Hill, NRPA, Stream Alteration
23. Richard Hopkins, Bucksport, NRPA, Great Pond
24. Roy Stone, Winterport, NRPA, Stream Alteration
25. Weldon Tripp, Winterport, NRPA, Stream Alteration
26. Bruce Hesse, Stockton Springs, NRPA, Stream Alteration
27. Richard Neville, Frankfort, NRPA, Great Pond
28. George and John Gaddis, East Machias, NRPA, Stream Alteration
29. Look Construction, East Machias, NRPA, Stream Alteration
30. Dysart's, Hampden, SITE LOCATION

CENTRAL

1. Donald Drake, Lincolnville, NRPA, Great Pond
2. Anthony Correa, Edgecomb, NRPA Coastal Wetland
3. Misty Bay Development Corp., Newcastle, SITE LOCATION
4. James Rutland, Lincolnville, NRPA, Great Pond
5. James Rutland, Lincolnville, NRPA, Great Pond, 2nd case
6. Carter Realty Trust, Northport, NRPA (river, stream, or brook)
7. Mill Cove Associates, Boothbay Harbor, SITE and NRPA, Coastal Wetland
8. David Oman, Lincolnville, NRPA (river, stream, or brook)

SOUTHERN

1. Harbor Corp., York, SITE LOCATION
2. John Callaghan, Wells, NRPA, Sand Dune
3. John P. Martin, Saco, NRPA, Coastal Wetland
4. Emmett Murphy and Amity Construction, Wells, NRPA, Coastal Wetland
5. Land Bank, Inc., Scarborough, SITE LOCATION AND SECTION 413
6. Maietta Construction, Inc., Scarborough, SITE LOCATION AND SECTION 413
7. City of Biddeford, Biddeford, NRPA, Sand Dune
8. Robert and Gary Bourassa and Robert Blair, Wells, NRPA (river, stream, or brook)
9. Gino Romano, Ogunquit, NRPA, Section 413, Coastal Wetland
10. Louis Grubb, Falmouth, NRPA, Section 413, (river, stream, or brook)
11. Julie and Everett Gerrish, Kennebunkport, NRPA, Sand Dune
12. Roger Pratt, York, NRPA, (river, stream, or brook)
13. Frank Begley, Kittery, NRPA, Coastal Wetland
14. Dolcor Amusement Corp., Saco, NRPA (river, stream, or brook) and SITE LOCATION
15. Cascade Water and Amusement Park, Saco, SITE LOCATION
16. Covey Johnson, Portland, NRPA, Freshwater Wetland
17. Fore River Terminal, Inc., South Portland, NRPA, Coastal Wetland (Upland)
18. Paul Lovejoy, Biddeford, NRPA, Freshwater Wetland
19. Peter E. Hogland, Peter E. Hogland, Jr., Portland, NRPA, Freshwater Wetland and Section 413
20. James, George and Harold Kouloheras, Saco, NRPA, Sand Dune
21. C.R. Douville Excavating, Inc., Saco, NRPA, Sand Dune
22. Shaw Enterprises, Portland, NRPA, Freshwater Wetland
23. Delta Realty, Portland, NRPA, Freshwater Wetland
24. M. Jerome Chase, Jr., Eliot, NRPA, Freshwater Wetland, (Upland)

C. 80K Actions Resolved

DOWNEAST

None

CENTRAL

None

SOUTHERN

None

D. 80K Pending

DOWNEAST

1. Calvin Nichols, Perry, NRPA, Stream Alteration
2. Reginald Thompson, Deer Isle, NRPA, Coastal Wetland

CENTRAL

1. Robert Hahn, Waldoboro, NRPA, Freshwater Wetland
2. Stuart Smith, Rockport, NRPA, Floodplain Wetland
3. Edward Dardis, Newcastle, NRPA (river, stream, or brook)

SOUTHERN

1. Burton Seymour, Freeport, NRPA, Freshwater Wetland

II. Narrative of Significant Applications, Enforcement Activities, Problems, Issues and Accomplishments.

Significant Issues

The Land Bureau Enforcement staff have been referring all logging operations which cause a siltation problem to the Water Bureau. In the Downeast Region this is a significant number of complaints, and a significant impact on the environment. The Water Bureau does not have the resources to deal with these problems. We have seen many small streams destroyed by the carelessness of a skidder operator. We recommend these complaints be handled by the Land Bureau enforcement staff who have the training and the expertise to adequately resolve the violations.

Major Enforcement Actions

1. James Rutland, Lincolnville (new)

   In 1989, James Rutland performed unauthorized grading and improperly installed riprap along Megunticook Lake. In 1990, with resolution of the initial violation pending with the Department, James Rutland placed stone and gravel in and along Megunticook Lake without Department approval. The Department is pursuing respective consent agreements with Mr. Rutland to resolve each of these issues.

2. George C. Hall and Sons, Inc., Thomaston and Rockport (previously pending; update)

   George C. Hall and Sons, Inc., expanded a commercial storage yard, altered a stream, caused an unlicensed discharge to a stream, and placed fill in a freshwater wetland without Department approval. Negotiations have begun for settlement by consent agreement. The Maine Attorney General's office has reviewed the cases and has agreed to accept referral of the cases if settlement by consent agreement cannot be reached.

3. Spruce Point Inn Partners, Boothbay Harbor (previously pending; update)

   Spruce Point Inn Partners caused unauthorized soil discharge to a coastal wetland; performed unauthorized structural repair in a coastal wetland; and built multi-unit housing in a shoreland zone without Department approval. A consent agreement was to be drafted but the partnership has since dissolved and the property foreclosed upon. The current owner is pursuing necessary permits. No further enforcement action is expected.

4. Robert Hahn, Waldoboro (previously pending; update)

   Robert Hahn placed fill in a freshwater wetland for the purpose of expanding an access road, without Department approval and despite prior notice of permit requirements by the Department. Consent agreement negotiations began but have been unsuccessful. State representative Marge Kilkelly ((D) Wiscasset) has proposed legislation on behalf of Robert Hahn to exempt such wetland filling activities from Department permit requirements. The Department is pursuing resolution of the violation in district court.

5. Forest Peaslee, Jr., and Steven McGee, Gardiner (previously pending MDIFW/DEP action; update)

   Forest Peaslee, Jr., and Steven McGee, while conducting a logging operation, placed soil in and adjacent to four streams without Department approval and destroyed a beaver dam in violation of Maine Department of Inland Fisheries and Wildlife (MDIFW) regulations. The DEP and MDIFW worked cooperatively and pursued the case in district court, where in March, 1991, a consent decree was approved by the court and signed by involved parties. The decree required extensive site repairs and a civil penalty of $2,000.00.

6. Frank and Dianne Begley, Kittery Point

   The applicant removed an existing 12.5 foot by 16 foot platform attached to his existing permanent dock on Spruce Creek, and replaced it with a new 14 foot by 31 foot deck. Expansion of this structure requires a permit under the Natural Resource Protection Act.

   The expanded deck has impacted, and will likely destroy, all existing salt marsh vegetation (Spartina patens and Spartina alterniflora) under the structure due to excessive shading of the vegetation. In addition to the destruction of coastal wetland habitat, loss of the vegetation undermines the stability of salt marsh sediments, leaving the shoreline exposed to erosional processes.

   The project will probably be denied due to the lack of justification for loss of habitat and stabilizing vegetation.

7. Harbor Associates, Southwest Harbor

The applicant proposes to construct a 164-slip marina at the site of an old cannery wharf and dock located in Southwest Harbor, Hancock County, Maine. The purpose is to provide dockage and service for an increasing number of private and commercial watercraft in the town. The applicant also proposes to grade and cover with gravel an approximately 6,600 square foot upland area within 25 feet of the spring high tide mark, for a parking area; and construct a 3 foot high stone or concrete retaining wall around this parking area.

The proposed marina will occupy 320 feet of shoreline and extend approximately 600 feet into the coastal wetland below the normal high water mark. These dimensions include both the existing wharf; a 50 foot by 12 foot dock to replace an existing 190 foot long one; an 8 by 12 by 12 foot operations shed on the wharf near the head of the replacement dock; and an array of permanent floating slips, secured by approximately 140 pilings spaced about 40 feet apart, connected by a ramp to the replacement dock. The float array will have a width of approximately 490 feet and a length of 380 feet. The pilings will be made of CCA-treated oak, the ramp of aluminum, and the floats of lightweight precast concrete covered by 18 inches of CCA-treated wood.

8. Central Maine Power Company

The applicant proposes to relocate existing 115 kilovolt (kv) and 34.5 kv electrical transmission lines which run from Portland to South Portland under the Fore River. The project also involves the relocation of an existing natural gas pipeline which is attached to the Fore River Bridge. The submarine cables and natural gas pipeline are being relocated to accommodate the construction of a new Fore River Bridge. A trench for the utility lines will be dredged using a deck barge equipped with a 100 ton crane. Dredged spoils will be transported offshore and dumped at the Portland Disposal Site. The project area lies in the 1,690 acre Fore River estuary, a five mile long river which drains into Casco Bay and separates Portland from South Portland.

9. Stephen F. Dunlap

The applicant proposes to construct a pile supported dock with a permanent float on his property at Broad Cove in Cumberland. The dock will include four 4 foot wide, 45 foot long wooden trusses supported by 10-12 inch pressure treated or oak braced piles. A 15 foot long ramp will access the walkway from the upland. The 12 foot by 16 foot float will be secured by four large piles driven deep into the mud. The northern reaches of Broad Cove form a very productive shallow marine ecosystem with a broad bank of cordgrass (Spartina alterniflora) grading into mudflat. Ribbed mussels (Modiolus demissus) are growing among the cordgrass rhizomes. Eelgrass (Zostera marina) is abundant in the offshore waters. The warm shallow waters in Broad Cove are also home to a large population of horseshoe crabs (Limulus polyphemus), a species with a very restricted range in Maine.

10. West Cove Boat Yard, Sorrento

This project involves replacement of approximately 100 feet of bulkhead/retaining wall in an intertidal portion of Frenchman's Bay in Sorrento. Fifty feet of the bulkhead will be replaced in its current position. The other Fifty feet will extend into the water 3-4 feet more than the existing bulkhead. Gravel fill behind the existing bulkhead is currently washing into the intertidal zone.

11. New England Salmon Co., N. Lubec

This project involves construction of an 8 foot by 120 foot pile supported pier in Lubec. The purpose of the structure is to provide access to existing salmon pens. An existing fill and timber abutment, landward of the proposed pier will be reconstructed. The abutment will not be enlarged.

12. Northeast Petroleum Corp., South Portland

The applicant requests approval to dredge approximately 16,000 cubic yards of soft bottom out of the Portland-South Portland inner harbor. The project is maintenance dredge; the last dredging in the project area took place in 1985. The project is intended to improve berthing space at the applicant's fuel terminal for larger, deeper drafted tankers. Dredging will extend to 40 feet below the mean low water mark, with one foot allowable overdredge. The dredge area abuts the fuel loading dock and is entirely subtidal. Disposal of dredge spoils is intended for the Army Corps' Cape Elizabeth ocean dump site, approximately three miles off shore.

Project Impacts: Concerns exist about the quality of material to be dredged. However, since the project area was last dredged in 1985, the most polluted of sediments in the area have already been removed. Water quality issues about the reintroduction of contaminated sediments into the water column will be addressed during the review process.

Probable DEP Action: Approval with conditions for public notification of the dredge spoils disposal route, and timing the dredge so as not to interfere with fisheries.

13. Alice Pacious, Wells

The applicant is requesting permission to repair and maintain an existing seawall on Wells Beach in Wells. The seawall is a vertical concrete bulkhead type, rising approximately eight feet above the beach. Damage to the wall is the result of long term decay of concrete. No fill behind the seawall was washed out by scouring wave action, and no fill is proposed for the project.

Project Impact: The project will have minimal additional impact above that of the existing seawall provided the replacement and repair work does not enlarge the dimensions of the wall.

Probable DEP Action: Approval with conditions that the applicant not expand the size or move the location of the seawall.

14. Walmart, Rockland

The only major coastal zone site project processed in this quarter was the receipt of the Rockland Wal-Mart application. Received for processing on April 19, 1991. This project involves the renovation of a retail marketing center. An existing 78,000 square foot strip mall will be demolished and replaced with the proposed 93,000 square foot Wal-Mart store. Also proposed for the 12.46 acre parcel is the filling of 0.34 acres of Class II wetlands to facilitate the development. To mitigate this wetland loss the applicant proposes restoring 0.15 acres of previously filled wetland and enhancing 0.53 acres of existing wetland. This mitigation proposal attempts to compensate the wetland losses at a 2:1 (compensation:altered) acreage ratio.

The total cost of the proposed project is $5.3 million dollars. Other issues involve traffic flow and adequate infrastructure development.

15. Applied Energy Services, Inc., Bucksport

The applicant proposes to construct a coal fired electrical generating facility that will generate approximately 180 megawatts of electricity that will be sold to Central Maine Power Co. and other New England utilities. This project will also provide up to 100,000 pounds of steam to be piped to the Champion Paper Mill in Bucksport. This facility is expected to cost approximately 300 million dollars.

The proposed site is located on Rt. 5 in the Town of Bucksport and occupies 14 acres of land on the east side of the Penobscot River. This site is presently an active oil terminal owned by the Sprague Co.

The project will include a 400 ft. high stack, numerous large buildings to contain boilers, generators, and fuel storage. These buildings will occupy 2.5 acres of land. The outside storage areas, parking and roads will occupy 2.6 acres of land. A 4 acre utility corridor for the steam line will be developed from this project to the Champion Mill. This corridor contains a small wetland area.

This project will also require new docking facilities in the Penobscot River as well as an intake pipe and a discharge pipe to be used for cooling water.

Coal that will be used to fuel the project will be brought up the Penobscot River by barge. The facility will produce approximately 450 tons per day of fly ash and bed ash. The waste ash will be transported in enclosed containers to an out of state disposal site.

This project is also being reviewed by the Bureau of Air Quality Control and the Bureau of Water Quality Control.

16. So. Maine Technical College, South Portland

This is an after-the-fact request to permit all post 1981 construction and new request to permit the renovation of four of the existing older brick buildings on the campus. The campus abuts Casco Bay. Extensive site work has been completed in the past both before and after implementation of the site location of development law and the entire site is generally stabilized.

17. Diamond Cove Associates, Great Diamond Island
Diamond Cove Phase II, Portland, Maine

The applicant proposes to create 39 residential house lots on the grounds of Fort McKinley on Great Diamond Island. The applicant's previous application to create 70 residential house lots on the same parcel of land was denied by the Board of Environmental Protection in February of 1990. The Board Order denying the previous application cited multiple environmental concerns including the impact to the water quality of Casco Bay resulting from the use of an existing overboard discharge wastewater disposal system, the impact on the scenic character of the area, impacts to historic sites on the parcel and impacts to an old growth tree stand on the parcel. The applicant has attempted to address all of these concerns by reducing the number of proposed lots to 39. All of the proposed lots will be serviced by subsurface wastewater disposal systems, eliminating any reliance on the existing overboard discharge system.

18. Bath Iron Works, Office Building, Bath

The applicant proposes to develop a 64,000 square foot office building, a 1,280 square foot gate house and a 8,560 square foot maintenance building in their Bath ship building facility in areas already developed. Approximately 2.5 acres of parking is also proposed on previously developed sites around the facility. The applicant is also seeking after the fact approval for several projects previously exempt under the Site law.

19. Cottle's Shop N' Save, Inc., Scarborough

The applicant proposes to develop a 52,000 square foot supermarket and 17,000 square feet of retail buildings with 230,000 square feet of pavement including parking and loading areas, all on a 24.5 acre site. The applicant will also construct a connector road covering 2.1 acres. Four existing structures on the site will be modified as part of this project. They propose 3,684 square feet of fill; 904 square feet of dredging in a N.R.P.A. wetland; filling of 2.49 acres; discharge of stormwater to a wetland; and filling in a smaller wetland. The applicant maintains that this wetland is not protected under the N.R.P.A.

20. Wal-Mart Stores, Inc., Scarborough

The applicant proposes to develop a 114,324 square foot store with 376,075 square feet of pavement including entrance and 733 parking spaces, all on a 22.48 acre site. 7.4 acres of wetlands are on site; 2.93 acres are to be filled; and creation of 3 acres is proposed as mitigation. None of the wetlands to be impacted are protected by the N.R.P.A. Mitigation is being done as part of the Army Corps of Engineers review.

21. Barletta Co., Inc., Rocky Hill Quarry, Eliot

This project consists of a 125 acre quarry on a 301 acre site with removal of 25 million cubic yards of material by drilling and blasting over 50 years. Stone will be crushed, screened and washed on site. Five acres of pavement is proposed. There is a great blue heron rookery on site. Two public water supply wells are on adjacent properties. This project has been accepted for processing and sent out to review.

III. Quarterly Report on Federal Consistency Review and Coordination Activities.

The following is a list of federal activities in the coastal zone, including a summary of significant projects and consistency reviews.

1. U.S. Navy - Access Road Wetland Fill (Application Phase), Winter Harbor

The Navy proposed to fill over 0.17 acres of wetland for an access road to an existing housing development. The Navy submitted its application of January 9, 1991. On January 18, 1991, the DEP sent the Navy a letter requesting additional information on specific aspects of the project. The Navy indicated its expected timetable for submitting the additional information was by February 19. No such information was submitted on this application by this time, however, numerous phone calls between Navy and DEP representatives attempted to coordinate the submittal of the required information. On March 29, 1991, the application was returned as unaceptable for processing.

2. U.S. Navy - Satellite Operation Center Modifications, Prospect Harbor

On March 7, 1991, the Navy proposed modification to the existing facility. The modifications involve installation of a replacement wastewater disposal system, installation of a new dome antenna, and construction of a new 40 by 60 foot metal building. The Navy indicated that the entire site is within the 100 year floodplain, but did not identify the floodplain or wetland extent on plans submitted. Other information was also not included in the submittal. DEP reviewed the submittal and on March 12, 1991, forwarded a letter to the State Planning Office indicating that the submittal did not contain sufficient information to enable the Department to concur that the project met the standards of the core laws of the Coastal Zone Management Act. In the March 12 letter, DEP indicated what information would be needed to concur with the Navy consistency determination.

IV. Changes in Statutes, Rules and Regulations.

On March 23, 1991, revisions to Chapter 305 Permit-by-Rule Standards became effective. These regulations, first adopted in February of 1988, allow certain activities subject to the Natural Resources Protection Act (NRPA), to proceed by simply filing a Notification Form with the Department and abiding by standards pertinent to the particular activity.

This amendment allows more activities to proceed under this process while at the same time strengthening or adding new standards, particularly those relating to erosion and sediment control. Also, a 14 day waiting period from the time of notification receipt and submission of "before" and "after" photographs are now required for most activities to document compliance with the regulations. Examples of new activities now eligible under the regulations are:

- construction of sewer line crossings
- replacement of wastewater disposal systems
- maintenance clearing of debris from intake and outfall pipes
- restoration of natural areas ("undoing" human alteration)
- replacement of retaining walls (subject to certain restrictions)
- installation of utility lines across coastal and freshwater wetlands, provided they're along an existing traveled way

In calendar year 1990 the Bureau received approximately 2500 Notification Forms. It is our hope that by expanding the scope of these regulations, more people will legitimately undertake activities subject to the NRPA and be exposed to the types of precautions necessary to prevent resource degradation. It is also hoped that by reducing staff time processing full applications we will be able to spend more time in the field and increase our presence in the community.

V. Report on Shoreland Zoning Activities

During this reporting period staff efforts were directed toward municipal adoption and staff review of local shoreland zoning ordinances which are at least as restrictive as the current State of Maine Guidelines for Municipal Shoreland Zoning Ordinances. With the December 31 deadline approaching, the spring and summer town meeting periods will be significant factors in the towns' success or failure to meet the deadline.

The text for the next issue of the Shoreland Zoning Newsletter was drafted and was readied for printing. Articles include topics on shoreland zoning mapping; annual reporting by code enforcement officers; a supplement on non-conforming uses written by the Department of Economic and Community Development; and a question and answer section designed to help towns with their ordinance revisions. The newsletter will be mailed in mid-May. Articles for another newsletter to be mailed by the end of June are currently being written.

The amount of technical assistance in the form of workshops was reduced significantly during this reporting period for two reasons. First, the spring town meetings began in March and numerous towns adopted updated ordinances. Those ordinances must be forwarded to the Department for review and approval. The department must review, and approve or disapprove ordinances within 45 days of receipt of those ordinances or they are automatically approved. Thus, staff must plan to spend most of the next year in the office to handle this administrative workload. If all of the state's cities and towns meet the December 31 deadline each of the two staff members will have reviewed approximately 250 local ordinances and accompanying zoning maps.

The second reason for the reduced outside training and on-site field activities is the State's current budgetary problems. For a six week period only one shoreland zoning staff member remained in the shoreland zoning unit as the administration prepared to eliminate active state oversight of the shoreland zoning law. The Legislature, however, decided to keep state oversight of the program, and restored the unit to two persons at least until the end of the current fiscal year.

Thus far, the unit has reviewed updated ordinances for 32 municipalities, including 10 coastal communities. The ten coastal towns whose ordinances were reviewed by staff during this reporting period are: Swan's Island, Islesboro, Searsport, Richmond, Mount Desert, Columbia Falls, Winterport, Baileyville, Wells, and Prospect. Generally, the ordinances are substantially in compliance with the guidelines. The most significant problem encountered regularly is that some of the local zoning maps are not as complete as they should be.

In other matters, the unit met twice with representatives of the Department of Economic and Community Development to discuss wetlands training for local code enforcement officers. Under that department's code enforcement officer certification program, training will be provided this summer. Thus, some coordination between DEP and DECD is very necessary.

Also, staff has appeared at legislative hearings and work sessions to discuss legislation relating to shoreland zoning issues. In particular, after hearings, it appears that forested wetlands will be exempted from shoreland zoning requirements; that code enforcement officers' reporting requirements will be reduced to once every two years; that variance applications will no longer be required to be forwarded to the Department for comment; and that the Commissioner will now be able to disapprove, or approve with conditions, a local ordinance without the need for a public hearing. These provisions are contained in legislative document #992.

Although the unit's workshop schedule has been curtailed, staff participated in workshops or other technical assistance forums for the Cumberland County code enforcement officers, the towns in the Cousins River watershed, the North Kennebec Regional Planning Commission, the town of Westport, the City of Auburn and the State Department of Agriculture's private landowner's class relating to timber harvesting regulations.

The next quarter will again be primarily devoted to reviewing ordinance amendments and publishing another issue of the shoreland zoning newsletter.

to the front edge of those attachments, resulting in a significant expansion toward the water. To comply with the intent of the law and guidelines, expansions of the main portion of the structure toward the front edge of minor attachments such as stairs, landings, and basement bulkhead doors, may not be permitted if such expansion occurs within the required setback area for structures.

Similarly, new stairways for the sole purpose of gaining access to, or egress from, a structure need not be considered when determining a structure's setback, provided that the stairway, and landing, if any, is no wider than five feet and extends no closer to the water than is necessary to accomplish their purpose. If the elevation at the top of the stairway or landing is greater than four feet above ground level, the stairway should be constructed such that it parallels the wall of the structure rather than extending toward the shoreline.

If the above provisions are followed, any floor area involved in the stairway and landing need not be counted toward the 30% floor area limitation.

Question #6

If a municipality adopts a Resource Protection district, must it always be 250 feet in width?

Answer:

Not always. For example, if an area has a steep slope adjacent to a waterbody but the area of slope extends back only 100 feet horizontally from the normal high-water line, a municipality may elect to zone only that first 100 feet for resource protection, placing the last 150 feet in a residential district. Also, the DEP requires only the 100-year flood plain to be zoned for resource protection. Beyond the limits of the flood plain a resource protection zone is not required.

Regarding wetlands zoning, the DEP will expect a 250 foot resource protection zone adjacent to moderate and high value wetlands unless the Department of Inland Fisheries and Wildlife agrees that a lesser depth is acceptable for a particular wetland.

Question #7

One of the criteria for areas to be placed in the Resource Protection district is "Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during normal spring high water". Does this mean that municipalities must zone wetlands two (2) or more acres in size everywhere such wetlands exist?

Answer:

No. Only wetlands two (2) or more acres in size within the 250 foot shoreland zone as defined in 38 M.R.S.A. section 435 must receive resource protection zoning. Wetlands outside the shoreland zone need not receive shoreland zoning protection. Of course, if a wetland is 10 or more acres in size it must receive shoreland zoning protection according to statutory requirement as a "freshwater wetland".

Question #8

What is a "forested wetland"?

Answer:

The Mandatory Shoreland Zoning Act, 38 M.R.S.A., section 436-A(5-A) defines a forested wetland as "a freshwater wetland dominated by woody vegetation that is 6 meters tall or taller".

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BUREAU OF LAND QUALITY CONTROL
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Volume 5 Number 1 Spring 1991

SHORELAND ZONING NEWS

Shoreland Zoning Unit, 289-2111

DON'T FORGET THE MAP

By now, many towns are well along in the process of preparing revised shoreland zoning ordinances to meet the December 31, 1991 deadline set by the Board of Environmental Protection. Many of the townspeople working on these revisions are discovering that once the text of the ordinance is updated to include the new shoreland areas and standards, there is still a lot of work to be done in preparing the zoning map that goes with the ordinance. In fact, there are a number of towns which have incorporated the Guidelines into their ordinance, and adopted them at town meeting, but have not completed a revised zoning map. Those communities have not completely met the requirements of the Shoreland Zoning Law until those maps are prepared, and approved by the DEP.

To assist in the shoreland mapping effort, we would like to offer a reminder as to what information is available to identify and locate the new areas to be zoned.

Freshwater Wetland Maps

Early last year the DEP sent to each municipality several copies of the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances, and a freshwater wetlands map for that community. These maps identify the non-forested freshwater wetlands which are 10 acres or more in size, and include the wildlife habitat rating of those wetlands. The DEP will expect each municipality, at a minimum, to identify and establish zoning around the wetlands identified on those maps. Communities that wish to extend shoreland zoning to areas around forested wetlands, or smaller wetlands as well, may do so. However, if your town zones only under the provisions of the shoreland zoning law, these areas can not exceed 250 feet in width.

The wildlife habitat ratings on these maps is important because the DEP Guidelines specify that undeveloped areas adjacent to moderate and high value wetlands are to be designated as a Resource Protection District. Areas adjacent to low value or unrated wetlands can be zoned to reflect the current uses in the area, or as a residential or similar district. Any questions you may have concerning the ratings should be directed to the Department of Inland Fisheries and Wildlife regional office in your area.

Coastal Wetlands and Streams

The Shoreland Zoning Act also requires municipalities to adopt shoreland zoning within 250 feet of the upland edge of coastal wetlands, and within 75 feet of certain streams, as defined in the law. These areas can be identified using U.S.G.S. 7.5 minute series topographic maps, which are available at many sporting goods stores, from the Maine Geological Survey in Augusta, or by ordering them directly from the U.S. Geological Survey in Reston, Virginia.

In identifying the streams which need to be zoned, it is important to remember that an outlet stream from a great pond, or the confluence of two perennial streams may be located in a neighboring town, so you need to look beyond your town's boundaries to identify all of the streams.

Map Scale

The DEP Guidelines require all town shoreland zoning maps be at a scale of at least 1 inch to 2000 feet, in order to accurately show all of the shoreland areas, and zoning districts. This minimum scale is the same as the 7.5 minute series topographic maps, and many towns which do not currently have a suitable town map, are using the topographic maps as a base for their new shoreland zoning map.

Using the topographic maps as a base map also makes

Continued on Next Page

REMINDER:

CONTRARY TO WHAT YOU MAY HAVE HEARD OR READ, THE DECEMBER 31, 1991 DEADLINE FOR UPDATING LOCAL SHORELAND ZONING ORDINANCES REMAINS IN EFFECT. MUNICIPALITIES SHOULD NOT HALT OR DELAY ACTIVITIES TOWARD MEETING THAT DECEMBER DEADLINE.

EXHIBIT E-2

it easier to locate the streams and wetlands which need to be zoned because all of the streams, and most, if not all, of the wetlands are identified. This also makes transferring the wetlands, as shown on the Freshwater Wetland Maps to the scale of the base map much easier.

Finally, if you need assistance in identifying the streams, or wetlands in your town, or in preparing a zoning map, your regional planning council may be able to help.

DECD PROVIDES SUPPLEMENTAL GUIDANCE

Included in this newsletter is a supplemental package drafted by staff of the Department of Economic and Community Development (DECD) for municipalities which wish to adopt more stringent provisions for non-conforming structures than are contained in the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances. We wish to stress that the information provided in DECD's supplemental package is optional and should not be looked upon as minimum standards.

INLAND GUIDELINES AVAILABLE

Over the past several months the DEP staff has received comments from a number of non-coastal towns that using the DEP Guidelines is difficult because of all the references to coastal issues, and standards along coastal waters and wetlands. In response to those comments the DEP has prepared an inland version of the Guidelines which has all of these references edited out. Copies of these Guidelines are available at the DEP in Augusta, or from your Regional Planning Council. The inland version of the guidelines is also available on computer disk.

CEO ANNUAL REPORTS DUE

In January the Department mailed to each municipal code enforcement officer a copy of the annual reporting form for shoreland zoning activities for the year 1990. Those reports were due by March 1, 1991. If you are a municipal code enforcement officer and haven't completed the form and returned it to the DEP's shoreland zoning unit, please do so promptly.

Questions and Answers

Much of the content of this newsletter consists of a question and answer format. We are attempting to provide answers to some of the more commonly asked questions as municipalities undertake the task of updating their local shoreland zoning ordinances and administering those ordinances. If you need further discussion of any of these issues please contact the DEP's shoreland zoning unit at 289-2111.

Question #1:

Must the newly updated minimum lot size, frontage, and setback requirements be incorporated into local ordinances regardless of the current pattern of development?

Answer:

The newly revised State of Maine Guidelines for Municipal Shoreland Zoning Ordinances contain increased lot size, frontage, and setback requirements. While these new standards are appropriate in relatively undeveloped shoreland areas, in "significantly developed" areas municipalities may choose to adopt lesser standards. Significantly developed residential areas are areas which contain on average, at least one residential structure per one hundred feet of shore frontage over a distance of at least one thousand feet of shoreline. Setback, frontage, and lot size requirements for residential areas which currently meet the above criteria for a "significantly developed" area may be established in accordance with the existing pattern of development, or in accordance with the standards contained in the municipal shoreland zoning ordinance in effect as of March 24, 1990, when the new state guidelines were adopted.

The exception to the above is for significantly developed areas adjacent to great ponds. Adjacent to great ponds, the minimum setback, frontage, and lot size requirements for significantly developed areas shall be no less than 100 feet, 100 feet, and 20,000 square feet respectively, even if the existing pattern of development is more dense than these standards.

In order to achieve the goals of the shoreland zoning law, municipalities which adopt lesser lot size, frontage and setback standards for "significantly developed" areas should consider offsetting that greater density by further limiting expansions on existing development.

Question #2:

The State's guideline ordinance requires undeveloped areas meeting the criteria for Resource Protection zoning be so designated in a municipal ordinance. What density of existing development is necessary for the area to be considered developed, and therefore not require Resource Protection or similar zoning?

Answer:

When reviewing locally adopted ordinances, it will be the shoreland zoning unit's position that shoreland areas meeting the criteria for resource protection zoning which have fewer than one principal structure per 500 feet of shoreland or wetland frontage, when these areas extend for more than one thousand feet be designated as a Resource Protection or similar district. With regard to areas meeting the criteria for Resource Protection zoning due to the presence of slopes greater than 20%, 100 year flood plains, or wetland areas in excess of 2 acres, the DEP will require Resource Protection zoning except in situations where these conditions are limited to the area within 100 feet of a great pond classified GPA or a river flowing to a great pond classified GPA, or within 75 feet of the normal high-water line of another water body or upland edge of a wetland, and are otherwise protected by buffer strip provisions in the municipal ordinance.

In areas adjacent to moderate or high value wetlands, as identified by the Department of Inland Fisheries and Wildlife (DIF&W), the DEP will require Resource Protection zoning unless the municipality has developed a district designation in consultation with DIF&W which adequately provides for the long-term protection of the resource. Such a district might include provisions for a low density of development (such as described above) with increased lot size, buffer strip, and clearing standards. If a modified Resource Protection district is developed, the municipality shall provide the Department with documentation that the established district and standards will provide adequate protection to the resource, as agreed upon by the Department of Inland Fisheries and Wildlife.

Question #3:

The wetlands maps provided by the DEP to our town are small in scale. In fact, the line delineating the boundary of the wetland represents nearly 250 feet of distance on the ground. Can wetlands delineations be made using the maps provided by DEP or our locally adopted maps drafted from those DEP provided maps?

Answer:

Municipalities adopting shoreland zoning maps which are based on wetlands maps provided by the Department should include language which clearly indicates that the actual boundaries of the wetlands may differ from those shown on the maps, since the maps provided by the Department were generated based on aerial photography interpretation. The actual boundaries must be determined based on site inspections. Below is an example of language that municipalities may wish to add to their official shoreland zoning map.

"The depiction of the boundaries of the shoreland zone on this official shoreland zoning map for the Town of _____ is merely illustrative of their general location. The exact boundaries of the zone shall be determined by on-site inspection and measurement from the normal high-water line or upland edge of a wetland."

Question #4:

The Mandatory Shoreland Zoning Act limits the expansion of non-conforming structures within the setback area to less than 30% of the volume or floor area of that portion of the existing structure within the setback area. How are the volume and floor area to be determined for calculating the allowable expansion?

Answer:

While the Department's guidelines define volume and floor area, and provide one method for addressing the addition of new foundations, the DEP will accept any reasonable method of calculating volume or floor area, provided that the method used is applied to both the existing structure and proposed expansion. For example, a community may decide to exclude certain areas from the floor area or volume calculation such as non-living space, enclosed areas less than a certain height, or basements. Such exclusions would be acceptable to the Department provided that they do not conflict with the purposes of the statute, and provided that the same exclusions are applied to the proposed expansion. The DEP would not accept exclusions from the volume or floor area calculation which clearly circumvent the purposes of the law, such as not counting open decks, screened porches, or other similar structures, or which allow the construction of additional floors that do not expand the footprint of the structure.

Question #5

How should stairways and landings be treated with respect to setback requirements?

Answer:

Some municipalities, contrary to the intent of the Mandatory Shoreland Zoning Act and the Board's guidelines, consider the front edge of minor attachments such as stairways on the water side of a building to establish the water setback distance of the structure. Consequently, those municipalities often allow the main portion of a building to be expanded

MAINE
DECD

Office of Comprehensive Planning

This is the first of a series of technical bulletins that the Department of Economic and Community Development (DECD) has developed to accompany the Department of Environmental Protection's Guidelines for Municipal Shoreland Zoning Ordinances (hereinafter DEP Guidelines).

The bulletins address a variety of technical, administrative and planning issues as they relate to shoreland zoning. The goal of these bulletins is to provide municipalities with additional language to use in making local ordinances more effective and easier to administer and enforce.

Municipalities should have copies of the DEP Guidelines, effective March 24, 1990. Additional copies are available from Regional Councils and the Shoreland Zoning Unit at DEP.

CONSIDERING THE TREATMENT OF NONCONFORMING STRUCTURES IN THE SHORELAND ZONE

NONCONFORMING STRUCTURES

A non-conforming structure is defined in the DEP Guidelines as a structure that does not meet the dimensional requirements for setback, height, or lot coverage. Structures that were in compliance with dimensional requirements at the time of construction may become non-conforming when new regulations are adopted.

The treatment of structures that fail to meet the dimensional requirements contained in DEP Guidelines should be based on local conditions. The degree to which such structures should be controlled will vary from municipality to municipality depending on the nature of the shoreline, the number of non-conforming structures, and the extent to which the structures are nonconforming. Municipalities will treat non-conforming structures differently depending on how shoreland areas have developed in the past and, how municipalities want their shoreland areas to develop in the future.

Addressing issues associated with non-conforming structures may take some time. However, municipalities that adopt specific ordinance language for non-conforming structures will have ordinances that will be easier for the Code Enforcement Officer (CEO) and Planning Board to administer, will aid the Planning Board and CEO in making consistent decisions, and will avoid misunderstandings on the part of applicants. By clarifying how non-conforming structures can expand along shores, municipalities can provide better protection of water quality and scenic resources.

The following discussion focuses on structures that are nonconforming with respect to the required shoreline setback. These are structures that are: 1) less than 100 ft. from great ponds classified GPA and rivers flowing to those ponds; 2) less than 75 ft. from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, or 3) less than 25 feet from shoreland areas zoned General Development. Since there is no setback requirement for the Commercial Fisheries/Maritime Activities District (CFMA), structures in this district cannot be non-conforming with respect to setback requirements (unless the municipality has established additional setback standards).

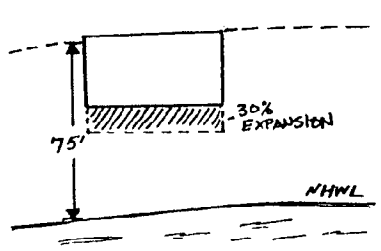
EXPANDING NONCONFORMING STRUCTURES TOWARDS THE WATER

Note: Reference to specific sections of the DEP Guidelines are included in parenthesis. DEP requirements for nonconforming structures do not take effect until they have been incorporated into local ordinances.

The DEP Guidelines prohibit structures, located less than the required setback from the normal high-water line of a water body, from expanding towards the water body, tributary stream, or wetland (Section 12 (1)(c)). There is, however, no clear description of what is meant by the phrase "expanding towards the water body..." This has led to confusion on the part of Planning Boards, CEOs and applicants. Below are some questions and answers that illustrate different ways to address this issue.

Q: If our town adopts the DEP Guidelines, what types of expansions could occur within the setback?

A: According to DEP, expansions of the type illustrated in B, C and D would be permitted while those of type A would be prohibited.



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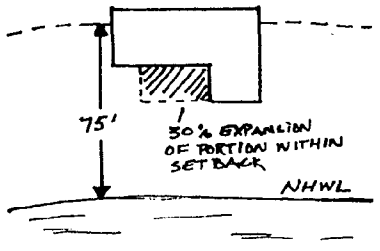

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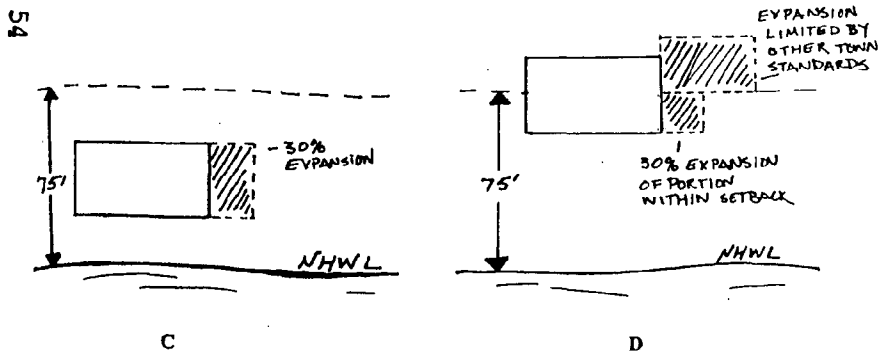
EXHIBIT E-3



Note: the portion of the structure lying within the required setback cannot expand by more than 30% of the floor area or volume of the portion of the structure lying within the setback, during the lifetime of the structure.

Q. If our municipality believes DEP's Guidelines adequately limit expansions within the setback, how can we amend DEP Guidelines to make this clear?

A: Municipalities choosing to regulate expansions occurring within the setback in this manner, should add the following language *to the end of paragraph 12(C)(1)(c) of the* DEP Guidelines.

An expansion towards a water body, tributary stream, or wetland is an expansion that decreases the shortest existing nonconforming setback distance from the shore. This distance shall not take into account the reduction in setback resulting from stairways as defined.

It should be noted that DEP officials consider expansions towards the water in this manner. Municipalities choosing to use alternative approaches should keep their CEOs informed.

Q: Can municipalities limit expansions of the type illustrated in B, C and D?

A: Yes. Municipalities can do this by further specifying how expansions can take place within the required setback. Below are a couple of options.

1) Municipalities could prohibit expansions from occurring within the required setback, while still allowing portions of the structure lying outside of the required setback to expand (provided such expansions meet other requirements such as height limitation, front and side setbacks, lot coverage, etc). Backing up this approach is the rationale that any expansion taking place within the required setback area increases the structure's encroachment upon the setback. As measured from the setback line, such an expansion is viewed as an expansion towards the water.

By taking this approach, administration of the ordinance is greatly simplified due to the fact that the local CEO does not have to be involved in determining whether expansions meet the 30% criteria outlined in DEP Guidelines. Also, municipalities do not need to set up a process whereby such expansions can be monitored over the lifetime of a structure. All expansions illustrated above would be prohibited.

In order to do this, the following changes should be made to Section 12(C)(1): delete paragraph (a); rename paragraph (b) as paragraph (a); rename paragraph (c) as paragraph (b) and change it to read:

There shall be no expansion within the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

2) Municipalities could allow the portion of the structure lying within the required setback to expand by 30% (as outlined in DEP Guidelines), but prohibit the expansion from increasing the structure's footprint within the setback. This would only allow for vertical expansions to take place within the setback. (Again, the part of the structure lying outside of the setback could expand as long as the expansion met other controls e.g. height limitations, front and side setbacks, and percent nonvegetated surface.) Applicants may be allowed to expand within the setback by adding shed dormers to cape houses etc. Again, administration would involve calculating and tracking expansions.

In order to implement this option, Section 12(C)(1)(c) should be changed to read:

Expansions made within the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall not increase the existing footprint within the setback.

Q: Our town does not allow non-conforming structures to expand unless the expansion meets dimensional requirements. Can we prohibit non-conforming structures from expanding within the required shoreland zoning setback even if this means that some structures will not be able to expand at all?

A: Yes. Municipalities can enact ordinances that are stricter than the DEP Guidelines.

Municipalities interested in doing this should prohibit expansions that fail to meet dimensional standards from taking place unless the applicant is able to obtain a variance from the Zoning Board of Appeals (ZBA). In order to grant a variance, the ZBA must determine that strict compliance with the regulation would cause unusual hardship or extraordinary difficulties because of exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site (refer to Title 30-A section 4353 for further information).

It is very difficult to imagine a circumstance where a ZBA would be justified in granting a variance for an expansion. Backing up this approach is the view that an expansion that fails to meet dimensional standards further increases a nonconformity and therefore should be prohibited. This approach is in keeping with the general planning philosophy that nonconformities should be phased out over time.

It should be pointed out that non-conforming structures may be able to be relocated so as to become conforming at which point they are allowed to expand according to dimensional standards.

Freeport's Zoning Ordinance includes language allowing for a limited one-time nonconforming expansion to take place provided an applicant is able to obtain a variance from the ZBA. Municipalities interested in pursuing this approach should delete (12)(C)(1)(c) and replace the language in 12(C)(1)(a) with language similar to that found in Freeport's Ordinance:

A building or structure which is non-conforming with respect to the dimensional standards of this Ordinance may not be expanded, enlarged or increased unless such expanded or enlarged portion complies with the dimensional standards of this Ordinance. However, the Zoning Board of Appeals may grant a variance for a one-time expansion limited to 15% of the gross floor area (and total volume) of an existing nonconforming building or structure and a one-time expansion of 25% for residential structures located in the Resource Protection Zone.

The above language only allows expansions that fail to meet dimensional standards to occur under very rare circumstances when the ZBA can justify granting a variance. The provision also limits the size of the expansion allowed by variance. What the provision does not do is address issues concerning expansions that go towards the water and expansions of structures that are only partially located within the setback area. To do this, the following language must also be added:

A nonconforming structure that lies entirely within the required setback of the shoreland zone shall not be permitted to expand in a manner that would reduce the shortest existing nonconforming setback from the shore. Non-conforming structures located only partially within the setback from the shore, shall not be permitted to expand within the setback.

The last sentence above assures that the 30% criteria for expansions will not be exceeded.

Prohibiting any expansion of a nonconforming structure, regardless of whether the expansion is conforming or nonconforming, has been supported by the Maine Supreme Court (see Shakford & Gooch, Inc. v. the Town of Kennebunk, 1984). Municipalities are encouraged to discuss such zoning provisions with their attorney or the Maine Municipal Association's legal department.

Q: How should municipalities decide what approach to use?

A: The approach that a municipality chooses to take will be more or less of an issue depending on existing conditions. Before making a decision, municipalities should assess existing shoreland development. If there are several structures that fail to meet the setback requirement, then the issue of controlling expansions within the setback should be given careful attention.

The 30% expansion criteria should be considered from the administrative standpoint as well as from the standpoint of how it will affect future development along the shore.

In terms of administration, municipalities must determine whether they have the capability to track expansions over the lifetime of a structure. This is complicated by the fact that administration is left, in almost all cases, in the hands of the CEO who grants the building permit. Building permits will need to be designed to clearly track expansions by volume and floor area (contact DECD for copies of model permits and applications). And, CEOs will need to be able to calculate the floor area *and volume of existing and proposed expansions. Just* what to count, and how to calculate the volume and floor area, can be an overwhelming task when applicants propose to add dormers, cathedral ceilings, or unfinished basements that they claim will not be used as living space. Structures having walls that meet at odd angles present difficulties in terms of making volume calculations.

Municipalities that choose to prohibit expansions from occurring within the setback, will avoid these administrative difficulties. Where towns specify that a structure can only expand once in its lifetime, administration is simplified since records only need to track whether structures have undergone their one-time expansion.

In terms of future development, planners and planning boards should consider the number of nonconforming structures as well as the degree of non-conformance. For example,

if a large majority of structures are 25 feet from the shore, and are located entirely within the setback, allowing 30% expansions to occur within the setback could have a serious impact on water quality and scenic character.

Municipalities having townwide/citywide zoning will already have a section in their ordinance dealing with non-conformities. Municipalities can have stricter regulations for nonconforming structures that are located within the shoreland zone as opposed to other less sensitive areas of town. Due to administrative issues, however, municipalities are not encouraged to extend the 30% criteria to other zoning districts.

THE RECONSTRUCTION OF NON-CONFORMING STRUCTURES

The DEP's Guidelines allow non-conforming structures located less than the required setback from the shore that are removed, damaged or destroyed (see referenced section for description of destroyed or damaged) to be reconstructed or replaced. The DEP Guidelines further state that the reconstruction or replacement can only take place if: 1) a permit is obtained within one year of the damage, destruction, or removal, and; 2) if the reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance.

The extent to which this section can be properly administered will depend on three factors: 1) the amount of damage that has occurred to the structure; 2) municipal records of building permits and property tax assessments (to determine the actual size and value of the structure before the damage has occurred) and 3) the municipality's general approach towards expansions of nonconforming structures.

The DEP has expressed concern over the fact that a liberal interpretation of the terms "reconstruction" and "replacement" could result in a replacement structure being built in a manner that ignores the 30% expansion limit within the shoreland setback. In other words, a person whose structure is damaged or destroyed could conceivably be allowed to reconstruct their building, making the portion lying within the setback larger than would have otherwise been allowed if the structure were sound and the owner sought to expand by the allowable 30%.

Q: If a municipality chooses to allow non-conforming structures to expand by 30% within the shoreland setback, how should DEP Guidelines be amended so that replacement structures will not exceed the 30% expansion limit?

A: The first paragraph in section 12 (C)(3) should be changed to read:

Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent, by more than 50% of the market value of the structure before such damage or destruction, may be reconstructed or replaced provided that:

1) a permit is obtained within one year of the date of said damage or destruction and,

2) such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board (or CEO) in accordance with the purposes of this Ordinance.

In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

The above changes do not address the size of the expansion, but other issues. The first sentence in boldface closes a loop hole whereby an owner of a non-conforming structure may decide it would be advantageous to intentionally destroy it so as to be able to rebuild to a greater degree than might other wise be allowed. The second sentence in boldface clarifies that once the damage has occurred, the remaining structure can be destroyed for purposes of rebuilding. To address the size issue, an additional paragraph should follow the above revised paragraph stating:

If the Board (or CEO) determines that the replacement structure cannot meet setback requirements, the applicant must demonstrate to the Board (or CEO) that the portion of the replacement structure lying within the setback will not exceed the total floor area or volume the that would have been permitted within the setback under section 12(c)(1) prior to damage or destruction.

Further language should follow this paragraph stating:

a) Approved replacement structures shall not be allowed to undergo further expansions within the setback, or,

b) If the volume or floor area of the portion of the replacement structure located within the setback is less than that which would have been permitted within the setback, the Board (or CEO) may grant subsequent permits to allow the structure to expand within the setback to its maximum allowable extent.

From an administrative standpoint, the Planning Board or CEO must have information on the floor area and volume of the portion of the structure lying within the setback prior to damage. This information is used to calculate the 30% expansion. If (a) above were enforced, the Board or CEO would confirm that the replacement structure did not result in a greater amount of floor area or volume within the setback. The municipality would need to assure that future expansions could not take place within the setback. If a municipality chooses option (b) above, it must have the capability to track expansion requests over the lifetime of a structure and limit them according to records.

Finally, the following paragraph should precede the remaining two paragraphs found in this section of DEP Guidelines:

If a non-conforming building or structure is demolished or removed by or for its owner, it shall not be rebuilt or replaced except in conformity with the space requirements of this Ordinance.

Municipalities should contact their regional councils for assistance in rewriting ordinances. All ordinance changes should be reviewed by the municipal attorney.

ANDROSCOGGIN VALLEY COG
Contact: John Maloney
125 Manley Road
Auburn ME 04210 783-9186

EASTERN MID-COAST PLANNING COMMISSION Contact: Carol Shaw
9 Water Street
Rockland ME 04841 594-2299

GREATER PORTLAND COG
Contact: Richard Seeley
233 Oxford Street
Portland, ME 04101 774-9891

HANCOCK COUNTY PLANNING COMMISSION
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MUN. RESOURCE & PLANNING LINCOLN CNTY
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NORTH KENNEBEC RPC
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7 Benton Avenue
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NORTHERN MAINE RPC
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Caribou, ME 04736 498-8736

PENOBSCOT VALLEY COG
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Bangor, ME 04401 942-6389

CAPITOL COASTAL COG
Contact: Sherry Hanson
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Augusta, ME 04330 622-7146

SOUTHERN MAINE RPC
Contact: Dan Fleishman
P.O. Box Q, 255 Main St.
Sanford, ME 04073 324-2952

WASHINGTON COUNTY RPC
Contact: Glen Avery
63 Main St., P.O. Box 273
Machias, ME 04654 255-8686

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Where can I get additional information?
For more information, contact a Land Bureau staff member at the DEP office nearest you:

- Portland -- 312 Canco Drive, Portland, ME 04103
  (207) 879-6300
- Augusta -- State House Station 17, Augusta, ME 04333
  (207) 289-2111
- Bangor -- 106 Hogan Road, Bangor, ME 04401
  (207) 941-4570
- Presque Isle -- 1235 Central Drive, Presque Isle, ME 04769
  (207) 764-2044

DEP ISSUE PROFILE
Permit by Rule (NRPA)

revised: March 1991 contact: (207) 289-2111

Background
Permit-by-Rule regulations first became effective on February 15, 1989, for certain activities covered under the Natural Resources Protection Act (NRPA). The regulations identify activities taking place in or adjacent to wetlands and waterbodies that should not significantly affect the environment if carried out according to standards contained in the regulations. A person proposing to do work that qualifies for Permit by Rule is required only to file notice with the Department of Environmental Protection.

The regulations were recently amended, effective March 23, 1991, to expand the types of activities eligible under Permit by Rule *and* to include additional requirements further ensuring that these activities will not significantly affect the environment. In addition, the regulations were reformatted so that each activity section contains all the definitions and standards needed by applicants.

What is the intent of Permit by Rule?
Permit by Rule is intended to save applicants the time and expense of filing a permit application with DEP, while at the same time providing direction in the form of standards as to how a work activity must be carried out.

What are the major provisions of the amended regulations?
A 14-day waiting period and submission of "before" and "after" photographs are now required for most activities to document compliance with the regulations.

New activities now eligible under the regulations include:

- construction of sewer line crossings
- replacement of wastewater disposal systems
- maintenance clearing of debris from intake and outfall pipes
- restoration of natural areas ("undoing" human alteration)
- replacement of retaining walls (subject to certain restrictions)
- installation of utility lines across coastal and freshwater wetlands, provided they're along an existing traveled way

New requirements associated with *existing* activities eligible under Permit by Rule include the following:

- a straight 25-foot buffer is now required for disturbance activities (instead of scaled buffers, dependent on slope)
- soil disturbance is restricted to when the soil is saturated (instead of being based on calendar dates)
- culvert sizing requirements under stream crossings have been downsized and bridges or other spanning structures are required less often

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EXHIBIT E-4

What is the range of activities now eligible for Permit by Rule?
The following activities may be eligible:

- disturbance of soil material adjacent to a wetland or waterbody
- placement of intake pipes and water-monitoring devices
- maintenance, repair, and replacement of structures and wastewater disposal systems
- placement of moorings
- movement of rocks or vegetation by hand
- placement of outfall pipes (including ditches and drain tile)
- placement of riprap
- construction of crossings (utility lines -- including sewer lines, pipes, and cables)
- construction of stream crossings (bridges, culverts, fords)
- general permits for maintenance, repair and reconstruction, or replacement of state transportation facilities
- restoration of natural areas (i.e., "undoing" human alteration)

If I propose one of the eligible activities, how do I know if I qualify for Permit by Rule?
First, you should obtain from DEP copies of the NRPA and the Permit-by-Rule Standards (DEP Rule Chapter 305) and turn to the section for your proposed activity in the Permit-by-Rule Standards.

Second, read the applicability section at the top of the page, which describes in further detail *what* activities are included and *where* they are included. For example, the movement of rocks or vegetation by hand (Section 6) applies only to work using nonmotorized equipment and does not apply to work in coastal or freshwater wetlands.

Third, read all the standards contained in the section pertaining to your activity. If you can meet *all* of the standards, you are eligible for Permit by Rule.

If I am eligible, what's the next step?
You must file notice of your proposed activity on a form provided by DEP. The three-part form enables you to submit two copies to DEP (one will be sent to the appropriate municipality) and to keep one copy for your records.

Is any additional information required by DEP?
Yes. A location map of the project site is required. And for all activities except moorings (Section 5), general permits for state transportation facilities (Section 11), and stream crossings (Section 10), one or more photographs documenting the condition of the existing activity area ("before") must be submitted.

Once an activity is completed, additional photographs documenting its compliance with the regulations ("after") must also be submitted to DEP.

Is there a fee for Permit by Rule?
At present, no. But DEP *will* begin charging a nominal fee in the near future.

When can I begin work?
Upon DEP's receipt of a complete and accurate form, you may begin work after waiting 14 days. You may wish to send the notice certified mail/return receipt requested or hand deliver it and have it date-stamped. Activities under Section 10, Stream Crossings, are exempt from the 14-day waiting period.

If the notice is found to be deficient, DEP will contact you within 14 days of receiving the notice.

DEP will *not* contact you unless the notice is deficient or it appears that your project does not qualify for Permit by Rule. However, a staff member from DEP, the Department of Inland Fisheries & Wildlife, or the Department of Marine Resources may inspect the site to determine if the work was carried out in compliance with the rule.

How long is the permit valid?
The permit is valid for 2 years, provided you comply with all the standards. If your activity is not complete at that time, you may file another notice provided the regulations have not been revised to exclude your activity.

If I qualify for Permit by Rule, do I need other permits?
Perhaps. Permit by Rule does *not* take the place of any other local, state, or federal approvals you may need. In specific instances, activities may require a shoreland zoning permit from your town, a lease from the Bureau of Public Lands (207-289-3061) if your work extends onto state-owned submerged lands, or a permit from the U.S. Army Corps of Engineers (207-623-8367).

What if I don't qualify for Permit by Rule?
If your activity does not qualify, you must file a complete application form under the NRPA. These forms are available from DEP's Bureau of Land Quality Control.

Incorporating Coastal Policies into Comprehensive Plans

Office of Comprehensive Planning -- Coastal Program
January 1991

The Comprehensive Planning and Land Use Regulation Act (the Act) requires that local growth management programs for coastal municipalities be consistent with Maine's nine Coastal Management Policies. The Policies were enacted by the Legislature as part of the 1986 Maine Coastal Act, 38 M.R.S.A. 1801. Although the concerns addressed by the Coastal Policies are similar to many of the state goals established by the Act, the Policies provide more specific direction for coastal municipalities. Coastal communities should use the Policies as a guide in identifying local issues and problems related to ports, harbors, and coastlines and in developing community goals, policies, and implementation strategies.

The Department of Economic and Community has published a guidebook designed to help municipalities identify creative solutions to coastal management problems and issues (Coastal Management Techniques: A Handbook for Local Officials, October 1988). Local planning committees may find this document valuable in the development of coastal sections of comprehensive plans. Free copies of the handbook are available from the Office of Comprehensive Planning (State House Station 130, Augusta, ME 04333, 289-6800).

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The following sections should be used as a "checklist" by coastal municipalities in determining whether a local comprehensive plan adequately addresses the nine Coastal Policies.

PORTS AND HARBORS

Coastal Policy #1: Promote the maintenance, development and revitalization of the state's ports and harbors for fishing, transportation and recreation.

If a coastal municipality has one or more "harbor" areas, the Plan should:

- contain a basic description of harbors and associated facilities, including water dependent uses (see discussion on water dependent uses under "Shoreline Management" below);
- identify existing issues related to harbors (e.g. overcrowding of dock facilities, lack of parking, unsafe mooring alignments, facility improvement needs, etc.); and
- based on growth projections, identify anticipated future needs (e.g. more parking areas, additional moorings, additional boat access facilities, etc.).

If harbor issues are identified, the Plan should include appropriate policies and implementation strategies to address them.

MARINE RESOURCE MANAGEMENT

Coastal Policy #2: Manage the marine environment and its related resources to preserve and improve the ecological integrity and diversity of marine communities and habitats, to expand our understanding of the communities and habitats, to expand our understanding of the productivity of the Gulf of Maine and coastal waters and to enhance the economic value of the state's renewable resources.

For a coastal municipality, the Plan should identify whether or not there are significant marine resources (shellfishing and worming areas, fisheries, other marine habitat). If there are marine resources, the Plan should:

- describe any trends associated with closings/openings of shellfish areas, and, if known, identify the reasons why shellfish areas are closed (e.g. sources of contamination, such as sewage treatment plant, overboard discharges, industrial discharges, etc.);
- as part of the local or regional economy section, discuss the importance of marine resources;
- assess the adequacy of existing local ordinances to protect and manage marine resources (e.g. resource protection zoning, local shellfish management programs or ordinances, etc.); and
- identify the likely impacts of future growth and development on marine resources (e.g. contamination, loss of public access, need to protect water dependent uses, etc.)

If significant marine resources exist within municipal boundaries, the Plan should contain policies and implementation strategies aimed at protecting and/or managing these resources.

NOTE: Some communities are having difficulty with this topic area due to the lack of data provided by the Department of Marine Resources (DMR). While DMR has not been routinely providing information to towns, they will supply data to individual towns if they receive a specific request. Thus, coastal towns should be encouraged to contact DMR to obtain information on shellfish and worming areas (and which areas are closed), fisheries, fish landings data, and the number of commercial fishing licenses (by species) issued by DMR to individuals within a particular town(s). Contact person at DMR is Mike Moser at 289-2291, State House Station 21, Augusta, ME 04333.

EXHIBIT E-5

SHORELINE MANAGEMENT AND ACCESS

Coastal Policy #3: Support shoreline management that gives preference to water-dependent uses over other uses, that promotes public access to the shoreline and that considers the cumulative effects of development on coastal resources.

As described in the Coastal Policies handbook, we are concerned about three topic areas here:

* providing for water dependent uses;

* promoting public access to coastal waters; and

* considering the cumulative aspects of coastal development.

In most plans, these topics tend to be part of discussions on land use, recreation (access), marine and/or natural resources, and harbor/waterfront management. It doesn't matter where in the plan shoreline management issues are addressed, as long as they are covered.

Water Dependent Uses

For obvious reasons, this topic is of greater significance in those coastal towns with a significant commercial fishing/recreational boating industry than it is for towns with little or no direct economic reliance on coastal resources (e.g. towns along tidal stretches of rivers). Thus, the emphasis placed on this issue by each town will vary.

- At a minimum, all coastal towns should include an inventory of significant existing water dependent uses (WDUs). It is helpful if the inventory indicates the location of WDUs (either a map or written description). As part of this discussion, it is important to note any trends (increases or decreases) in WDUs. Also, if significant, the contribution of WDUs to the local economy should be noted.

- Plans should also indicate which areas of the shoreline may be suitable for future WDUs. Minimally, towns should reference (and discuss the accuracy/relevance of) the WDU maps prepared by the State Planning Office. As part of this discussion, Plans should generally describe the types of WDUs (e.g. commercial fishing, recreational marina, boat building/repairs, etc.) that will be encouraged.

- Plans should include specific policy statements regarding WDUs. Policies should indicate whether the Town wants to encourage or discourage various types of WDUs and potential locations for such uses.

- Plans should assess the adequacy of existing ordinances or other mechanisms to protect water dependent uses.

- Plans should include clear implementation measures to carry out the policies, such as establishing WDU zoning districts, purchasing land, providing infrastructure, etc.

Public Access

To some degree, public access to coastal waters is an area of concern for all coastal municipalities. Thus, each local Plan should:

- contain a basic description of public access sites and facilities and important private facilities. Regional access facilities used by local residents should also be included in the inventory. If there are no public access facilities in a community, the Plan should note this fact;

- identify existing public access needs (i.e. the types of sites and facilities needed, such as boat ramps, parking areas, picnic/swimming areas, walking trails, etc.); and

- based on growth projections, identify anticipated future public access needs.

If public access issues are identified, the Plan should include appropriate policies and implementation strategies to address them.

Cumulative Impacts

Concern about the cumulative impacts of development was a major reason for enactment of the Growth Management Act. From a coastal perspective, the Comprehensive Plan should address the protection of those resources that have been or will be impacted by the cumulative effects of development. Some suggestions are as follows:

- Identify coastal resources that are vulnerable to the cumulative effects of coastal development (e.g. scenic areas, productive shellfish areas, water supplies (saltwater intrusion), etc.)

- Evaluate whether existing Shoreland Zoning Districts are appropriate. Are sensitive ecological areas zoned for resource protection or limited development? Are zoning districts along both sides of a river consistent (this will probably involve interlocal cooperation)?

- Similarly, are existing shoreland performance standards or other land use controls adequate? Are more protective buffer areas and setbacks required? Are scenic views protected? Do subdivision ordinances encourage the development of "community" docks rather than individual docks?

Plans should include appropriate policies and implementation strategies that address the impacts of cumulative development. In particular, the future land use plan for each community should

encourage a pattern of development that will minimize the impacts of cumulative development (e.g. direct growth away from sensitive ecological areas, discourage strip development, etc.)

HAZARD AREA DEVELOPMENT

Coastal Policy #4: Discourage growth and new development in coastal areas where, because of coastal storms, flooding, landslides or sea-level rise, it is hazardous to human health and safety.

Typically, hazard areas are addressed as part of the natural resources section of a Plan. If a coastal community has "hazard areas" (includes floodplains, areas vulnerable to coastal storms and/or sea level rise, high erosion areas, etc.), the Plan should:

- describe and indicate the location of (preferably on a map) all coastal hazard areas; and
- assess the adequacy of existing ordinances or other land use controls to reduce or eliminate the potential danger to human life and property associated with floods, storms, and other natural events (i.e. has the community adopted a floodplain management ordinance?).

Plans should contain policies and implementation strategies aimed at restricting or eliminating development in hazard areas.

STATE AND LOCAL COOPERATIVE MANAGEMENT

Coastal Policy #5: Encourage and support cooperative state and municipal management of coastal resources.

Each Plan should identify those resources and facilities requiring regional coordination and planning and include them in a REGIONAL COORDINATION PROGRAM. Coastal issues that seem to be important on the regional level include: watersheds, transportation corridors, public access, managing marine resources, and shoreline development (especially along rivers).

SCENIC AND NATURAL AREAS PROTECTION

Coastal Policy #6: Protect and manage critical habitat and natural areas of state and national significance and maintain the scenic beauty and character of the coast even in areas where development occurs.

For a coastal municipality, the Plan should:

- identify the location and importance of scenic areas and critical natural areas (maps showing the location of these areas is very helpful);
- identify existing threats to these resources;

- assess the adequacy of existing local ordinances to protect these resources; and
- identify the likely impacts of growth and development on scenic and critical natural areas.

The Plan should contain policies and implementation strategies aimed at protecting these resources.

RECREATION AND TOURISM

Coastal Policy #7: Expand the opportunities for outdoor recreation and encourage appropriate coastal tourist activities and development.

If issues related to outdoor recreation (other than public access to the water) or tourism are identified by a coastal community, the Plan should:

- contain a basic description of existing sites and facilities, including an assessment of their adequacy to meet existing needs;
- identify potential recreation or tourism facility opportunities/attractions; and
- based on growth projections (for recreation) or market projections (for tourism), identify anticipated future site/facility needs.

The Plan should also contain clear policies and implementation strategies to address identified issues and needs.

WATER QUALITY

Coastal Policy #8: Restore and maintain the quality of our fresh, marine and estuarine waters to allow for the broadest possible diversity of public and private uses.

With respect to marine waters (including the tidal portion of rivers), the Plan should:

- include a basic description of marine waters (e.g. location, watershed boundaries, DEP water classification);
- describe major sources of pollution (point and non-point) impacting coastal waters; and
- assess the adequacy of existing measures to protect the quality of coastal waters.

The Plan should contain policies and implementation strategies aimed at protecting and managing coastal water resources.

AIR QUALITY

Coastal Policy #9: Restore and maintain coastal air quality to protect the health of citizens and visitors and to protect enjoyment of the natural beauty and maritime characteristics of the Maine coast.

For most coastal municipalities, air quality will not be a major issue. If appropriate, however, local Plans should identify major sources of air pollution and contain policies and implementation strategies to address the problem. Towns are not expected to address problems that are beyond their fiscal/management capacity or legal authority.

PERFORMANCE STANDARDS
FOR
PIERS DOCKS, WHARVES,
AND OTHER MARINE STRUCTURES

To enhance local reviews and decisions over the development of new piers, docks, wharves and other marine structures, the Office of Comprehensive Planning has developed model performance standards that can be incorporated into local Shoreland Zoning Ordinances. Municipalities interested in using some or all of these standards will need to replace the existing standards in Section 15(c) of the Department of Environmental Protection (DEP) Guidelines for Municipal Shoreland Zoning Ordinances (effective date: March 24, 1990) with the attached standards. Any assistance in reviewing these performance standards and modifying them to meet local needs can be obtained from your Regional Council or OCP staff.

The Office of Comprehensive Planning wishes to acknowledge the assistance provided by David Klenk, Yarmouth Town Planner, Bill LaFlamme and Mark Cotter of the DEP, and Tom Ford who produced the initial draft of these standards. Much of the language included in the following standards are taken from Yarmouth's zoning requirements and the proposed DEP performance standards.

These standards are intended to encourage the following: the design and construction of public and community docks in lieu of private docks; the construction of temporary or seasonal docks in lieu of permanent docks; and minimize both the ecological and visual impacts along the shoreline.

The following discussion summarizes the three major sections of the model standards for piers, docks, and wharves - Performance Standards, Application Procedures, and Definitions.

Performance Standards - The intent of these standards is to protect natural and visual resources in the siting, design, and construction of marine structures.

Subsection "a" serves as a guide to the placement of a marine structure in appropriate soils, to avoid either further damage to the shoreline, or later subsidence of the structure due to improper anchoring to the soil.

Subsections "b" - "d" are designed to help minimize the impact the structure will have on the surrounding environment, from both a landward and seaward perspective.

Subsection "e" provides the Planning Board with an opportunity to work with an applicant to improve the design and minimize impacts of a marine structure on the existing environment. The intent of this subsection is to limit the length, and hence the impact, to what is absolutely necessary for the use.

Subsection "f" is the heart of these standards, requiring that new structures be consistent with surrounding structures through limitations on length, width, and square footage. Standards for both private (i.e., recreational) and commercial facilities are provided. These measurements are consistent with DEP's standards for these structures under the Natural Resources Protection Act.

Subsection "g" encourages subdivision developers to provide community docks instead of a series of individual docks.

Subsections "h" and "i" provide restrictions concerning placement of the structure in sensitive areas as a functional necessity.

Subsection "j" concerns height restrictions.

Application Procedure - This section lays out the information about a proposed marine structure that must be included with the Shoreland Zoning application. The information listed below is necessary for the Planning Board's review of the potential impacts of the project.

Subsection "a" calls for maps which show the location of the project. The Coastal Marine Geologic Environment Maps, Significant Fish and Wildlife Habitat Resource Maps, and Coastal Sand Dune Maps are suggested so that the Planning Board can receive a more complete picture of the structure's impact on the site.

Subsection "b" calls for the inclusion of scale drawings of the project, particularly including seasonal ramps and floats, with which the Planning Board can better assess the potential visual impacts of the project. Seasonal facilities are included since they are effectively part of the entire, more permanent part of the project. The site plan should indicate whether any shoreline stabilization methods will be needed, such as the use of rip-rap or terracing.

Subsection "c" calls for a complete list of materials, to ensure that no additional harm is done to the environment through the use of inappropriate materials or finishes. For instance, the DEP prohibits the use of pressure treated materials containing pentachlorophenol or creosote.

Subsection "d" requires that letters containing no objections to the proposed development be submitted for any project closer than twenty-five (25) feet to the property lines. This serves to alert both neighbors and townspeople to the addition of a marine structure. This language comes from the Army Corps of Engineers' "Guidelines for the Placement of Fixed and Floating Structures in the Navigable Waters of the United States."

Definitions - These serve to make sure that all those involved in this process are speaking the same language.

SECTION 15: LAND USE STANDARDS

C.) PIERS, DOCKS, WHARVES, AND OTHER MARINE STRUCTURES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OF A WATER BODY, OR WITHIN A WETLAND:

[NOTE: These standards apply to both temporary and permanent structures.]

1.) PERFORMANCE STANDARDS: All applications for piers, docks, wharves and other marine structures shall be reviewed by the Planning Board for conformance with the following standards listed in (a) - (j) below.

If the Board is unable to reach a decision using the criteria below due to either inconclusive or conflicting information, the Board will require the applicant to submit an environmental impact analysis assessing the proposal's impact on natural areas, including impacts of the proposed structure in conjunction with other adjacent or abutting structures.

The Planning Board may also require that the proposal be modified to ensure conformance with the standards set forth below. Mitigation measures may include, but are not limited to, changes in the design and construction of the marine structure, or changes in the magnitude, duration, and location of activities carried out at the marine structure.

The Board shall approve an application if there is a finding that:

a.) Access from the shore shall be developed on soils appropriate for such use, as determined through consultation with either the Soil and Water Conservation Service, or the Cooperative Extension. Whenever possible, access from the shore to the marine structure shall be placed on bedrock. Measures shall be taken to minimize soil erosion both during and after construction.

b.) The proposed location of the marine structure shall not unreasonably interfere with access to existing marine structures or points of public access, nor shall it unreasonably interfere with existing developed or natural beach areas.

c.) The marine structure shall be designed, sited, and constructed to mitigate unreasonable adverse impacts on significant wildlife habitats or unique natural areas including, but not limited

to: fin fish and shellfish fisheries, salt marshes, eel grass beds, shorebird feeding and nesting habitats, critical fish spawning and nursery areas, etc.

d.) Unreasonable interference with the natural flow of any surface or subsurface waters, or impedance of the flow of the current of any river or channel shall be minimized during the construction and subsequent use of the marine structure.

e.) The marine structure shall be designed, sited, and constructed so as not to encroach upon Federally designated navigation channels or mooring areas or otherwise obstruct by any means whatsoever the free use of piers, docks, and other common landing places.

[NOTE: The Planning Board may request comments from the Harbor Master or the Harbor and Waterfront Committee.]

f.) The marine structure shall be no larger than necessary to accomplish the purposes for which it is designed, notwithstanding the dimensional limits listed below. Its size and construction shall not change the intensity of the adjoining land use, and by no means shall exceed a total distance of more than 1/3 the width of the water body, when proposed for coastal or inland waterways. The applicant may request a variance from the dimensional requirements due to the additional requirement of handicap access or unusual wind or wave conditions.

	Max. Width	Max. Length
PRIVATE PIERS	Six (6) ft.	100 ft.*
COMMERCIAL PIERS	Twelve (12) ft.	100 ft.*
RAMPS	Four (4) ft.	As appropriate
DOCKS, FLOATS	Two hundred (200) sq. ft.	

*landward of the mean low water line

g.) When proposed by the applicant, new subdivisions shall provide a community dock in lieu of the development of docks on individual lots. The applicant may request a variance for additional community docks provided a demonstrated need can be shown for the additional facilities.

h.) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.

i.) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

j.) Except in the General Development District and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structures extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

[NOTE: Permanent structures projecting into or over water bodies are required to obtain a permit from the Department of Environmental Protection (N.R.P.A., Title 38 M.R.S.A., Section 480-C).]

2.) APPLICATION SUBMISSION REQUIREMENTS: All applications shall contain the following components:

a.) A photocopy of relevant state maps indicating the location of the project, including for example:
(i) USGS topographic maps (1:24,000);
(ii) "Coastal Marine Geologic Environment Maps" (1:24,000), or "Coastal Sand Dune Maps," (1:4800), available from the Maine Geological Survey;
(iii) "Significant Fish and Wildlife Habitat Resource Maps," available from the Department of Inland Fisheries and Wildlife (map scales vary).

b.) Site plan, plan and section drawings (to scale) of the proposed structure, including an indication on separate scale drawings of any shoreline stabilization or other modification required by the project;

c.) A complete list of materials to be used, including a list of all intended coatings (paint, etc.), for all proposed marine structures;

d.) If structure is proposed to be closer than twenty-five (25) feet to the property line, the application must contain a letter of no objection from the adjoining property abutter(s).

i.) Upon a finding of objection by an abutter, the Planning Board shall hold a public hearing within 30 days of such notice;

ii.) After such hearing, the Planning Board shall make a determination concerning the objections (to be entered into public record), finding either:
1.) no objection to the proposed project;
2.) objection, with revisions;
3.) or, rejection of the proposed project.

3.) **DEFINITIONS**

Community Dock: A water accessed marine structure owned, maintained, and used by a common group of people, such as a subdivision or condominium association.

Dock: Any structure, whether permanent or temporary, which acts as a landing place for watercraft. This includes any combination of piers, docks, and floats.

Marine Structure: Any non-habitable structure, whether permanent or temporary, built on or over a water body, including but not limited to piers, docks, wharves, breakwaters, culverts, jetties, groins, bridges, soil erosion retaining walls, bait sheds, processing facilities, etc.

Permanent Structure: A structure which is placed on or in the water or shore for a period seven (7) months or longer in any twelve (12) consecutive month period, and is fixed permanently in position, either by method of construction or anchorage.

Private Dock: A water accessed marine structure owned, maintained, and exclusively used by a private entity such as an individual, trust, association, or corporation.

Significant Wildlife Habitat: Habitats for animal species appearing on official State or Federal lists of endangered or threatened species. High and moderate value deer wintering and travel corridors, waterfowl and wading bird habitats (including nesting and feeding areas), shorebird habitats (including nesting, feeding and staging

EXHIBIT E-7

Comprehensive Planning

A progress report on Maine's Growth Management Program

By Charles Colgan
and
Dennis E. Gale

In May 1988 the Legislature enacted Maine's first statewide program to encourage town comprehensive land use planning. The law came at a time when rapid growth and development were occurring in many sections of the state and concern was rising that too many municipalities were unprepared for the complex decisions that were necessary. While few communities wanted to give up their independence in land use matters, many realized that existing tools were not sufficient to balance the twin issues of growth and preservation.

The Growth Management law requires every community to prepare and adopt a comprehensive land use plan and zoning ordinance in conformance with the adopted plan. A community facilities program must also be created and made consistent with the plan. An extensive inventory of existing conditions in the town must be completed. Ten state-mandated goals must be incorporated into the plan and explicit growth and rural districts must be designated on the planning map. Also necessary are policies articulating how the goals are to be met and how land use decisions in the growth and rural districts are to be made.

Administered by the Office of Comprehensive Planning (OCP) of the Department of Economic and Community Development, the Growth Management Program divided Maine's communities into three groups or "tiers". Tier One towns — the fastest growing over the period 1980-87 — were given until January or June of this year to submit their plans to OCP for review. Tier Two towns have until 1993 and Tier Three towns, until 1996, to submit their plans. While OCP has the chief oversight responsibility, several other agencies are involved in reviewing portions of town plans dealing, for example, with groundwater quality, agricultural and forest lands, historic preservation and affordable housing. Towns can apply to OCP to receive financial assistance in the preparation of plans and implementing ordinances.

Since passage of the Growth Management law Maine's economy has cooled and with it, the pressures for growth. With rising unemployment, increasing local taxes and staggering State budget shortfalls, Maine citizens are struggling with other priorities. Yet, no longer faced with a flood of development applications, towns are in a better position to prepare themselves for a future that will certainly continue to bring people and businesses to Maine in pursuit of our highly regarded quality of life. Seeking insights on how the Growth Management Program has performed to date, the Edmund S. Muskie Institute of Public Affairs at the University of Southern Maine undertook a study last fall. Supported by grants from the Maine Research Fund, the Department of Economic and Community Development, the University of Southern Maine and the Muskie Institute's own resources, the study will offer recommendations on strengthening and improving the Growth Management Program.

During the first phase of the study, completed this past fall, six "focus group" meetings were conducted with people in Maine holding a variety of interests in growth management. Nearly 60 professional planners, conservationists, development interests, regional planning commission members and directors, and members of local comprehensive plan committees from towns in central and southern Maine participated in these meetings. Hoping to gain views from citizens most experienced with the functioning of the Growth Management Program to date, we concentrated on those familiar with the Tier One towns. The results of our research have been communicated to the Office of Comprehensive Planning and to key legislators. We have been fortunate that so many public-spirited citizens of Maine were willing to share their valuable time with us in the six meetings and we have dedicated our final report to them.

We asked our focus groups for their thoughts on the overall performance of the Growth Management Program to date and their recommendations for "mid-course corrections" and improvements. Their comments centered around four themes: The law and state agency review and assistance, the local planning process, citizen involvement and leadership and the role of the regional planning councils.

The Law and State Agency Review and Assistance

The most common concern we heard about the Growth Management law and its administration was that it was (or might become) too inflexible. For example, the tiering process was thought to force some towns to plan before they are ready, and to prevent others who are ready from initiating the planning process. Concern over the ability of very small towns with limited governmental capacity to meaningfully participate in the Program was widespread. Some observers said that deadlines for implementation of plans are too short, given the enormous energy that must be expended in preparing the plan.

At the time of our meetings, OCP had just begun to review town plans. We found a general anxiety about how OCP and other agencies would carry out these responsibilities. Would the staff scrutinize town submittals "to the letter of the law?" Or would they recognize the varying needs, capacities, levels of planning experience and resources of individual towns and show latitude and understanding? On the other hand, not all participants worried about State rigidity. Especially among planners, conservationists and some comprehensive plan committee members, we heard concerns that State review might be too lax or inconsistent from town to town. They were anxious to have standards applied evenhandedly and fairly but with enough rigor to ensure that the effectiveness of planning will not be compromised.

State financial assistance was generally held to be adequate at a "bare minimum" level, although some participants felt that additional funding would be desirable. Some towns have found however, that the State's required paperwork for reimbursement of planning expenses is too complicated. Others felt that a State policy requiring towns to complete the inventory phase of their plan before receiving planning funds was unduly restrictive. There was particular concern that assistance to towns to implement the plans would be inadequate and that this would destroy the entire effectiveness of the Growth Management law. Some towns will have to expand their existing planning office to handle the new responsibilities, while towns with no planner will "start from scratch". Support for the hiring of town planners, setting up of planning offices, purchase

About The Authors

Charles Colgan and Dennis Gale are faculty members at the University of Southern Maine in the Edmund S. Muskie Institute of Public Affairs.

In some cases, unsuccessful leadership by town planning committee chairpersons was a factor in the attrition problem. Where chairs do not enjoy widespread citizen confidence or where they are lackluster in their duties, the quality of the planning process suffers. Where chairs allow a few people on the committee to dominate decision-making, others grow discouraged. In some towns, the committees have not received the attention and support they need from selectmen or councilors, thereby increasing the perception that the planning activity is not well regarded. Although almost everyone at our meetings expressed deep appreciation for the planning committees and their chairs, many felt that there was room for improving leadership, representativeness and participation.

A final issue raised in our focus groups was the reception the draft plans would receive at town meeting and public hearings. We were cautioned that a combination of citizen ignorance about the Growth Management law, hostility to planning and apathy heightened by a slow economy could erode support for adoption of the plans in some communities. Because town meetings bring large-scale citizen involvement only at the end of the planning process, rather than "along the way", they could become the vehicle for toppling thousands of hours and thousands of dollars worth of work by dedicated town residents. Several observers were unclear about how the State would react if a plan is defeated at town meeting. How much time will a town have to revise its plan and hold subsequent town meetings, they inquired? Similarly, the law requires towns to hold a public hearing on the draft plan. But if changes to the plan result from this meeting, it is not clear whether additional hearings would be necessary.

Regional Roles

The Growth Management law specifies important roles for Maine's regional planning councils to play in the preparation of local plans. It provides that towns can contract with the RPC, or with private consultants, for technical assistance in preparing their plans. In addition, it requires that each town in an RPC's region submit its plan to RPC staff for review and comment. The purpose of the latter requirement is not to add another layer of bureaucracy but instead, to ensure that towns in the area are not planning at cross purposes with one another. Legislators had well-founded fears that the actions of some upriver towns, for example, might endanger water quality for those downriver. Inconsistent zoning designations on either side of town boundaries are another example of the need for interlocal cooperation.

Our participants made it clear that RPCs have had to devote most of their time and resources to assisting their member towns in the preparation of their plans. As a result, regional review of local plans has not been as detailed as many would like. Moreover, many nearby towns are not preparing plans jointly — in some cases because the tiering process puts different towns on different planning schedules. Thus, issues of mutual concern are not often addressed through interlocal partnerships. Furthermore, special purpose districts with important effects on regional growth such as school and water-sewer authorities are not participating in the planning process because the Growth Management law does not provide for their involvement.

RPC participants in our meetings lamented that these problems were related in part to the well-documented dilemma of the ambiguous role of regionalism in Maine. But even more immediate were their concerns that the Growth Management Program has not funded the RPCs adequately, given other responsibilities, to fulfill their twin duties under the law. Providing technical assistance to these towns, along with the RPC's other activities, has strained their resources to the limit, some told us. And without state authority given to the RPCs, they can do little more than encourage towns

of maps, equipment and the maintenance of records will be necessary.

OCP technical assistance was generally found to be adequate, although a few participants complained that some state agencies had not been responsive to their needs for information. Others, they said, had supplied unusable data, maps and information. A state official who participated in our study noted that his agency had not received adequate funding to staff the added review procedures necessary under the Growth Management law. Also of concern to many participants were the recent amendments to the Mobile Home and Shoreland Zoning laws. These additional State-imposed burdens on localities already struggling to complete their plans were seen as detrimental and disruptive to the success of the Growth Management Program.

We asked our participants how effective they felt the law's sanctions for noncompliance were. The sanctions include loss of local zoning authority and denial of eligibility for state programs for community development and open space acquisition. They also include ineligibility for town assistance from the State legal defense fund in land use litigation cases and ineligibility to impose impact fees on land development projects. We found that relatively few communities fully understand the sanctions or their potential impact. Even where residents are aware of the sanctions, some do not view them as a serious disincentive. In fact, there are people for whom losing authority for zoning would not be a liability, but rather, an asset. There were concerns that some citizens may campaign to defeat any plans and implementing actions, thinking that by noncompliance, a community can simply do away with planning and zoning. It is apparent, then, that town officials and citizens, not merely town planning committee members, should receive better information and guidance on the liabilities of noncompliance with the law.

The Local Planning Process

At the heart of the Growth Management Program is the preparation of local town plans. We inquired of our participants how the various "ingredients" of the planning process were viewed in their towns. They felt that the requirement to designate growth and rural areas was helpful in providing a structure to the planning process but some questioned whether this provision would be fully accepted by the town at large. Fears about loss of land value or property tax revenues in the rural districts were expressed. Some participants pointed out that there are towns with a clearly defined center (i.e. growth district), but others with two or more village centers in different parts of the town. In these latter places, designating a growth district can be complicated. In some adjacent towns, one community has a commercial area which serves as the "growth" center in both communities. Yet, under the Growth Management law, each town must designate a growth district.

The law also requires that plans contain an inventory of local land use and environmental conditions. Complaining of the extensive time required to do the inventory and the widely varying availability of appropriate data, some felt that this requirement should be deemphasized. Towns with a planning office, previous plans and data bases, and an effective consultant appear to be less troubled by this requirement than others.

Another provision in plans is that they adopt verbatim the ten goals specified by the legislation. These address issues such as job development, access to recreational lands, protection of natural and historic resources and preservation of marine-related activities along coastal areas. One goal, however, asks that towns try to ensure that ten percent of the average growth in housing be affordable units. While no one quibbled with the intentions of this provision, some questioned the definition of "affordable" and others, the reception some town residents would show for multi-family or low-income housing. Few complaints were expressed about the other goals.

Public Participation and Leadership

Almost everyone expressed concerns about the level of public involvement in their town's planning committee and the representativeness of participants. Participation is often limited to a small number of people who bring a high degree of energy, but are frustrated by the amount of work involved. The challenge of preparing plans to address all aspects of a town's social, economic, and natural environments as well as the needs and desires of town residents who rarely participate (even when surveys are conducted) was frustrating. Some of our participants cited regrets in their town that the town planning committees were not as representative of the town's population as they would like. (Here again, tensions between long-term and short-term residents, farmers and suburbanites, and other groups were mentioned).

Even where the makeup of the committee was not an issue, with time, it was found, attrition eroded attendance at meetings. Those most likely to persist in the planning process, they said, were the habitual town activists, often people "from away". Long-term residents are more likely to lose interest or grow frustrated with the planning process and stop attending meetings. The perceived problems with the representativeness of planning committees in some towns, it was felt, may be a problem when the plans are presented to town meeting for approval.

to cooperate across town boundaries.

Recommendations

Based on our findings the project team has developed a number of recommendations for improvements in the Growth Management Program. Among the more critical are the following:

Education and Training. Leadership training programs should be made available to town planning committees to enhance their ability to move agendas forward and maintain citizen enthusiasm and involvement. Furthermore, assistance to the committees is needed in educating the general public about the Growth Management law, the planning process, the importance of participation and the benefits of planning. Workshops on these matters for plan committee members, booklets, a video cassette instruction program and the use of the

Don't Tell Me What To Do...

By James Damicis
Local Government
Resource Center Manager

"Who are you to tell me what I can do with my land!"

The above statement represents a feeling held by many Mainers towards comprehensive planning. Many citizens feel comprehensive plans, and the zoning and land use ordinances which follow, amount to nothing more than state and local government telling private property owners how to use and not to use their own lands. They view this as an unfair taking of private property and a violation of their rights. This statement is being heard over and over again as comprehensive planning committees present their plans to the public. It is a statement which the committees must anticipate and prepare for or risk having their long hard work brought to a quick end by citizen disapproval of plans.

Knowing that this type of statement will be brought up by the public, there are several actions town comprehensive planning committees can take in order to make the process work.

1) Expect public opposition to comprehensive planning. Prepare a list of reasons why comprehensive planning is important for the town and its citizens. Reasons include controlling growth, protecting resources, creating economic development, preventing sprawl, creating a town center, planning for the future financing of capital expenditures, increasing public access to recreation areas, preserving historic buildings, and creating affordable housing opportunities. These are just a few generic reasons. Make your list specific to your town needs.

Explain that tough decisions and trade-offs will have to be made. This includes trade-offs between private property rights and the protection of public resources such as air, water, shorelands, parks, wildlife, soil and scenic areas.

Explain the consequences if the town chooses not to complete a comprehensive plan. One consequence for not complying with the State's Growth Management Law is the loss of local land use authority. According to the law, existing land use ordinances and future changes must be consistent with comprehensive plans. Without a comprehensive plan, towns risk having land use ordinances deemed invalid by the courts. For example, if a developer protests a local ordinance requiring a portion of a development to be set aside for open space and the town does not have a comprehensive plan upon which that ordinance is based, then the court could determine the ordinance invalid and the developer not be required to set aside open space. Another consequence of not having a comprehensive plan includes the loss of eligibility to collect state aid related to economic growth and development and natural resource protection. This includes comprehensive planning grants; money for the acquisition of lands for conservation, recreation, and resource protection; and money for public infrastructure. It excludes state aid for education and municipal revenue sharing. A final consequence is that municipalities without comprehensive plans will be prohibited from imposing impact fees for development.

Both the consequences of not completing a comprehensive plan and the benefits of a comprehensive plan must be made clear to the citizens of your town. The State Office of Comprehensive Planning and the Regional Planning Councils can help your community with this task.

2) Use the citizen survey results as a tool for supporting goals, objectives and policies. You will most likely see evidence that people are willing to compromise some rights for the protection of valuable community resources. When possible include specific survey findings within the plan. The March 1990 issue of the *MAINE TOWNSMAN* contained an article entitled "Citizen Surveys: Making them Productive." Copies are available by contacting MMA.

3) Identify those citizens who you would expect to oppose the concept of comprehensive planning and actively seek their involvement in the process. Contact them by phone, letter or in person if necessary. If they become involved, they may learn more about the process and participate positively towards reaching compromise and consensus.

4) Have one public workshop specifically devoted to the conflict between comprehensive planning and private property rights. Ask citizens for feedback on what private rights they are willing or unwilling to compromise. Woolwich's comprehensive planning committee had a workshop entitled "Who are you to tell me what I can do with my land". The focus was specifically on the conflict between comprehensive planning and private property rights. Attendance at this meeting exceeded 80 persons. Members of the committee felt that one of the reasons for the meeting's success was that it focused on a controversial issue which grabbed the public's attention. Thus, for Woolwich it paid to face the controversy surrounding comprehensive planning with open discussion and debate rather than seeking to avoid it.

5) Prepare and present case scenarios which explain how unregulated use of private property would result in situations where one person's use of private property would create a nuisance upon another person's. An example would be a case in which one property owner used his property for the storage of junk vehicles. This use created a nuisance to abutting property owners who viewed the storage of junk vehicles as an eyesore. The comprehensive planning process can help citizens make tough choices and determine which uses best serve their community. Often times individual rights will have to compromised so that the community as a whole may benefit.

6) Finally, don't assume that citizens are fully aware of the comprehensive planning process in your town. Publicize meetings and distribute newsletters. At each meeting summarize what has been accomplished thus far and where the committee is going next. By keeping the process open, your committee may avoid unwanted surprises when the plan is brought up for town approval.

The State Office of Comprehensive Planning will soon have available a manual on how to complete a comprehensive plan.

University System's interactive television network should be examined as vehicles for public education.

Increased Flexibility. Consideration should be given to exempting very small towns from current planning requirements, or of allowing them greater flexibility in meeting these standards. Flexibility might be granted to small towns that band together and prepare a joint plan with neighboring communities. In scheduling deadlines, allow Tier Three towns to switch to Tier Two, if they choose. Allow Tier Two towns with very small populations to switch to Tier Three. These actions would permit towns that want to accelerate planning to do so and those that do not feel ready to plan to have more time to prepare themselves. Finally, allow an extra six months to one year for towns to adopt zoning and other plan implementation tools. This would bring the total time allotment for implementing the plan to from two to two-and-one-half years after it is submitted to OCP.

Clarification. A number of points concerning the Law are unclear or confusing and should be clarified by the State. These include the precise consequences of a failure by a town to accept a plan, a clear definition of "affordable housing" and approaches smaller towns can take to satisfy the housing goal.

Implementation. Adequate State resources for implementation of plans are the key to the long term effectiveness of the Growth Management Program. In the face of severe State budget constraints however, we recommend that some of the funds allocated for Tier Two planning be shifted to Tier One towns for implementation. To do this, a re-scheduling of some Tier Two plans to Tier Three would be necessary.

Administrative Procedures. OCP should simplify its request for payment forms, and should place less emphasis on completion of the inventory phase as a prerequisite to funding assistance. Both measures would speed funding assistance to communities. Also, as experience in reviewing plans is gained, OCP should provide as much guidance on plan review standards as possible. This effort will help to allay uncertainties among town planning committees.

Regional Cooperation. Towns should be encouraged to work together to address regional and "town line" issues. This can be done by shifting "tier" deadlines for adjacent towns so that they can work together and by providing additional guidance to towns on how they might cooperate. In addition, abutting towns should be allowed to make "growth/rural" designation across town borders.

Public Participation. Standards for participation in planning committees should be made available so that towns can replace those who do not attend meetings. Innovations in encouraging participation should be encouraged, perhaps by a competition.

Compliance. Either greater incentives to encourage compliance or tougher sanctions to discourage noncompliance — or both — are needed. In addition, OCP should communicate through selectmen and town councils the full impact the sanctions could have on communities that fail to fulfill the terms of the law.

The Future

During the first half of 1991 Muskie Institute will continue its study of the Growth Management program. A survey of town planning committee members will be carried out to probe more deeply issues and concerns arising from the first phase of the research. A final report will be completed in June.

At this point however, it is clear that there are opportunities for fine-tuning the Growth Management law. We believe that the original purposes of the law remain sound and that its intended effects continue to be important to the future quality of life in Maine. The State should not lose sight of these facts as it struggles to adapt to the nation's new fiscal realities.

Editorial (Journal Tribune, March 12, 1991)

It's Time For A Meeting To Discuss This Evil Law

Add Lyman to the list of communities that has succumbed to paranoia of state control and rejected a locally-developed comprehensive plan in a 243-122 referendum vote last Friday.

The opponents don't like the state telling them what to do, even though the state's mandate that communities address certain land use and conservation issues was an act of the Legislature, elected to represent the interests of towns like Lyman. For some, it appears to be a threat-to-manhood issue, as in 'Don't you try to tell me what to do, Mister Man.' For others, it seems to be the old 'zoning-as-socialism' fear, that if we let the state make any zoning and planning demands, the next thing they'll do is march the militia in and take over the town hall. For some, voting against state mandated comprehensive planning is a way of acting on the growing distrust of a state government that is very demanding of towns, cities and individuals but can't get out of its own way when required to do things as basic as balancing a budget or meeting people's survival needs or providing meaningful property tax relief. And for many, it's just that they don't really understand what comprehensive planning is all about or what state law requires and what it doesn't, but they'll vote against it because it must be bad if other people are so upset about it.

Clearly it's time for a meeting. It's time for the state planning bureaucrats and the regional planning commission types to come out of their offices for a meeting in Lyman. They should leave the militia at home, but they should bring a willingness to explain, to answer questions, to listen and to reason even with the unreasonable.

They should bring a copy of the law. They should be ready to discuss it section by section. It's our impression that at least some of the objection to comprehensive planning rests on distortions by vocal opponents. That should be subject to the test of open discussion and debate.

Members of the Legislature's Energy and Natural Resources Committee, which worked to develop the comprehensive planning law in the first place, should also attend. The senate chair of that committee, Sen. Bonnie Titcomb, happens to be Lyman's own senator, and Rep. Willis Lord of neighboring Waterboro also serves as a member. The legislative presence should give opponents of comprehensive planning clear opportunity to speak their piece and should listen carefully. Not all communities are rejecting comprehensive plans, but there are enough so the backlash shouldn't be ignored.

If the law is as evil as opponents believe, if it constitutes a true threat to a reasonable balance of local and central control, it should be rewritten or repealed.

But if the fears of comprehensive planning are shadow fears, fears generated by the overactive imaginations of people who have an unreasonable distrust of the normal distribution of individual, community and state power, the majority of people need to know the unembellished truth so communities can get on with the business of planning for the future.

EDITOR'S NOTE: As we were preparing this issue of the *Townsman*, we spotted this editorial in the March 12, 1991 issue of the Biddeford *Journal Tribune* and thought it warranted reprinting for our readers' contemplation.

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE
04333

JOHN R. MCKERNAN, JR
GOVERNOR

April 26, 1991

The Honorable Manuel Lujan, Jr., Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Lujan:

I am writing in response to your request for comments on the department's Draft Proposed Comprehensive Outer Continental Shelf Natural Gas and Oil Resource Management Program for 1992-1997.

I am pleased to see that President Bush's statement on June 26, 1990 is incorporated in full in the draft proposed program, that no leasing is planned in the North Atlantic Planning Area, and that further studies will be undertaken to assist in future decision making. While no lease sales are proposed in the North Atlantic, I am concerned about the level of study effort that will be applied in this area. Leasing is prohibited by the President in the North Atlantic Planning Area until at least the year 2000, and will be allowed after that date only if sufficient resource potential is demonstrated and if leasing can occur in an environmentally safe manner. Therefore, it is imperative that MMS institute an aggressive environmental and geologic studies program. In reading the draft proposed program documents, it is not clear to me what emphasis MMS will be placing on studies in the North Atlantic planning area. I urge the Department to clarify the types and priority of studies that are contemplated in this region.

I remain concerned about the prospects for hydrocarbon development in the Georges Bank region in the future -- beyond the 1992-1997 five-year plan. I continue to believe that the Gulf of Maine should be permanently removed from consideration for future leasing because of its high ecological and fisheries value and its low oil and gas resource potential. In addition, there is no guarantee that future administrations will honor the existing agreement that consideration of leasing in the North Atlantic will not take place until after the year 2000. As such, I urge the Department to push for legislative codification of the President's statement of June 26, 1990.

I am encouraged by the Department's new approach to the consideration of areas for leasing. This new approach should limit areas to be leased and encourage more consultation among affected parties. Such efforts will go a long way towards incorporating the concerns of all interested parties prior to leasing and development. I have always felt that an approach focusing on the

most promising acreage is far preferable to area-wide leasing. However, I have a continuing concern that there is little certainty in the proposed method for narrowing down the blocks to be offered for lease. What criteria will be used to determine which blocks to eliminate from further consideration for leasing during the Area Evaluation and Decision Process? I urge the Department to propose these criteria in consultation with affected parties. These criteria should address a broad range of factors including biological productivity and diversity, value to other uses, and hydrocarbon potential. I am not suggesting that a "cook book" approach is necessary; however, guidance in the decision-making process will provide industry, coastal states, and the public with a degree of certainty that is currently lacking in the draft proposed program.

Lack of certainty also concerns me with respect to the manner in which the Department will make decisions throughout the Area Evaluation and Decision Process. I appreciate your intent to keep the pre-sale process flexible enough so that it can be tailored to the needs of each region. However, I believe that it is important that the Department better define the framework for decision making to be used for all lease sales so that interested parties know when and how MMS will be making decisions. The draft proposed program documents indicate that there are numerous "decision points" throughout the new process. Specifically, at these decision points, how will the Department determine whether or not to continue with a lease sale, delay for additional studies, or terminate the process? What criteria will be used at each stage of the decision process? Again, it is not clear how this process will work.

I agree with the proposal to issue a "Request for Interest and Comments" prior to the "Call for Information and Nominations" so that both industry and affected party comments are included. Potential conflicts can be avoided by providing all parties a meaningful chance to participate in the decision making process. However, I am concerned about how MMS will determine if there is sufficient industry interest to warrant pursuing a lease sale. In our experience with lease sale 96, we found that MMS continued to go forward with the lease sale despite indications of minimal industry interest and scant evidence of hydrocarbon resources in this region.

On the subject of the timing of the issuance of the proposed Notice of Sale and the draft environmental impact statement, I do not believe that these documents should be issued concurrently. The decision on a proposed notice of sale would not have the benefit of the environmental analysis contained in a draft EIS. Therefore the DEIS should precede the proposed notice of sale.

On the issue of consistency, it is imperative that coastal states be given sufficient time and, more importantly, sufficient information on which to base the review of a consistency determination. The EIS process plays an important role in developing a leasing proposal and assuring that sufficient information is available for review of the consistency determination. In order to take full advantage of the information contained in the EIS, the consistency determination and the proposed notice of sale should not be issued until after the final EIS is released.

I continue to believe that a cooperative arrangement between Canada and the United States must be initiated to address joint study, planning, and

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management of Georges Bank. With jurisdiction over Georges Bank divided between the two countries, and with two different approaches for regulating offshore oil and gas activities, the management of this unique and valuable ecosystem is a great challenge. The Canadian federal government has taken action to prohibit exploration and drilling for oil and gas on Georges Bank on their side of the maritime boundary until January 1, 2000. The Canadian federal law calling for this prohibition also requires a public review panel to assess the environmental and socio-economic impacts of exploration and drilling on Georges Bank and to issue a report prior to the expiration of the moratorium. I recommend that the Department work jointly with the Canadians to exchange information and develop joint studies.

In December, 1989 I joined with my colleagues in the surrounding states and provinces in signing the "Gulf of Maine Agreement." This agreement established the Gulf of Maine Council on the Marine Environment to foster cooperation among the states and provinces in jointly protecting and managing the Gulf of Maine. The Council is charged with preparing a Gulf of Maine Natural Resources Action Plan and Environmental Quality Monitoring Plan. These efforts have led to increased cooperation among the states, provinces, and the respective federal governments. I suggest that the Department begin to move towards the development of a joint management regime regarding OCS issues for the Gulf region. The Gulf council could assist the Department in such an effort. The Council could also be an appropriate avenue for future discussions on conflict resolution and consultation on OCS issues in the Gulf of Maine/Georges Bank region.

In developing studies for the North Atlantic region I urge you to cooperate with the research board for the Gulf of Maine region that will be established pursuant to P.L. 101-593, signed into law last year. As you may know, this new law requires the development of regional marine research plans for 10 marine regions around the country to support efforts to safeguard the environmental quality of each region. My colleagues from Massachusetts and New Hampshire and I have appointed a task group to develop recommendations on how the three states could proceed with NOAA and EPA in establishing a Gulf of Maine Marine Research Board. Again, I urge you to consult with this new group as it develops research priorities in the Gulf region.

I appreciate the opportunity to comment on the Department's draft proposed program and look forward to working with you to develop an OCS oil and gas program that benefits the people of the state of Maine and the nation. If you have any questions please contact John Catena at the State Planning Office, (207) 289-3261.

Sincerely,

John R. McKernan, Jr.
Governor

cc: Maine Congressional Delegation
Richard Silkman, State Planning Office
Bruce Weetman, MMS Regional Director

UPCOMING EVENTS

Saturday April 27:
Environmental Education Exchange at College of the Atlantic in Bar Harbor from 8 a.m. to 3:30 p.m. The Exchange, sponsored by the Maine Environmental Education Association, offers workshops for educators. Fee: $15. To register, call Julie Eastman, 549-7628, or write Mainely Education, PO Box 1264, Camden, ME 04843.

Friday May 10:
Pollution Solutions Conference: Reducing Household Hazardous Waste at the Sonesta Hotel in Portland from 9 a.m. to 4 p.m. In the morning, a panel of speakers will discuss "Dealing with Hazardous Waste." Afternoon workshops will discuss consumer strategies; waste oil collection programs, and business marketing strategies. Fee: $15 (before 4/26; $18 thereafter). For more information, contact Nancy Toombs, 581-2281, or write to Chemicals in the Environment Information Center, 107 Jenness Hall, University of Maine, Orono, ME 04469.

If your group is sponsoring public events related to coastal water quality during July, August, or September, let us know; we can announce these events in the next issue.

MATERIALS

The Estuary Book: A Guide to Promoting Understanding and Regional Management of Maine's Estuaries and Embayments. The 48-page guide provides information on what communities and concerned individuals can do to successfully manage and protect local estuarine resources. Chapters discuss the natural history of estuaries; water pollution; the impact of development; and estuarine planning and management. Free copies are available (in limited numbers) from Jenny Ruffing at the Maine Coastal Program, Station 38, Augusta, Maine 04333. (ph: 289-3261).

Estuary Profiles: A companion publication to the **Estuary Book**, the Profiles offer detailed information (on physical characteristics, water quality, wildlife, and marine resources) on 19 major estuaries along the coast: York, Webhannet, Mousam, Kennebunk, Saco, Scarborough, Royal/Cousins, Presumpscot, Sheepscot, Damariscotta, Medomak, St. George, Passagassawakeag, Union, Narraguagus, Pleasant, Chandler, Machias/E. Machias, and the Dennys Rivers. Profiles are available for individual estuaries or as a set. Available from the Maine Coastal Program.

Water Quality Training Manual. This manual, intended for citizen volunteers who are monitoring estuarine waters, includes sections on organizing a monitoring group; field sampling and shoreline surveys; definitions of sampling variables; step-by-step procedures for analyzing temperature, salinity, dissolved oxygen, pH, and fecal coliform bacteria; information on data sheets and data management; and details on equipment and quality control. The manual should be available by early June. For more information, contact the Knox-Lincoln Office of Cooperative Extension at 375 Main Street, Rockland, ME 04841 (ph: 594-2104).

Clean Water: We All Need It. A 30-minute video documentary explores how three volunteer groups are addressing local water-quality problems through citizen monitoring, community education, and pollution abatement strategies. This video, due out in late April, can be viewed free of charge or purchased for $10 (plus $3 shipping fee). For more information, contact the Knox-Lincoln office of Cooperative Extension (at the address/phone listed above) or call your county Cooperative Extension Office.

SHORE STEWARDS
Help save our coastline, one piece at a time.

Shore Stewards Program
Station 38
Augusta, ME 04333

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THE Ripple Effect

APRIL–JUNE 1991 THE SHORE STEWARDS PROGRAM–SUPPORTING LOCAL EFFORTS TO PROTECT MAINE'S WATERS VOLUME 1, NUMBER 2

Shellfish Bed Closures and Local Efforts to Reopen Beds

"Closed Due to Pollution." Signs bearing this message are being posted by a large number of coastal shellfish beds. Why are these beds being closed, and how can people help get them reopened?

Shellfish beds are closed by staff from the Maine Department of Marine Resources (DMR), which is charged with ensuring that shellfish harvested in Maine are safe for public consumption.

Bivalve shellfish (i.e., clams, mussels, and oysters) are filter feeders that get their food and oxygen by siphoning large amounts of water (up to 3 quarts in an hour). In this process, the shellfish concentrate toxics or particulate matter found in the water: the level of harmful bacteria in a bivalve can be three to 20 times that found in the surrounding water. When bivalves feed in water contaminated with sewage, they can — if consumed by humans — cause illnesses such as gastroenteritis, hepatitis, typhoid, and cholera.

So that people aren't exposed to contaminated shellfish, DMR samples shellfish beds and closes those that register high levels of bacteria. The standards they use for closing beds are determined by the Interstate Shellfish Sanitation Conference (ISSC),which sets standards for sanitary harvesting, processing, and distribution of shellfish. By adhering to these strict guidelines (established in conjunction with the federal Food and Drug Administration), Maine is able to ship its shellfish across state lines.

In sampling beds, DMR assesses water quality and does sanitary shoreline surveys (in which they look for actual and potential sources of pollution in a watershed). DMR staff take at least five water samples each year in each of 2,100 sampling sites. Where necessary, the samples are taken under "adverse" conditions (i.e., after a storm or when seasonal residents are using waterfront cottages). Due to limited staff, DMR is not able to evaluate and classify all the viable shellfish beds along Maine's 3,500-mile coastline: they sample and survey those that are most often used for commercial shellfish harvesting. Smaller beds that have not been evaluated under the ISSC guidelines have to be closed.

Water samples are sent to one of two DMR labs (in West Boothbay and Lamoine) for analysis. The samples are tested for fecal coliform, a bacteria commonly found in the digestive tract of warm-blooded animals. The fecal coliform group of bacteria indicates the presence of sewage and pathogenic organisms.

The process of reopening beds is, unfortunately, a lengthy one. The ISSC guidelines specify that a shellfish bed may be reopened only after a minimum of 15 "clean" samples has been collected over three years. Local groups can hasten the process of reopening, though, by monitoring coastal waters and shorelines and reporting their findings to local and state officials.

Under the ISSC requirements for shellfish certification, only DMR staff can analyze water samples for fecal coliform. But agency staff have trained several local groups that now gather water samples and send them in to DMR for analysis.

Volunteer monitors can gather and analyze their own data to help identify local sources of pollution (e.g., an illegal straight pipe or malfunctioning septic systems). The Georges River Tidewater Association, for example, located three such sources during their water monitoring program last year, and -- working with their local code enforcement officer -- corrected all three problems.

Data gathered by a volunteer citizen's monitoring group can also be used to educate the community about nonpoint sources of pollution. Some of the pollution forcing shellfish bed closures is not from point sources such as straignt pipes or sewage treatment plants. Pollution often comes from diffuse sources such as agricultural fields, livestock, or malfunctioning septic systems. If data indicate these diffuse sources may be contributing to high fecal coliform counts, citizen monitors can educate homeowners in the watershed about proper septic system maintenance and encourage farmers to follow what are known as "best management practices" for manure disposal.

Even if groups do not want to engage in water-quality sampling and analysis, they can conduct shoreline surveys (which involve walking the shoreline of the estuary and upland streams, looking for evidence of pollution). Groups can pass along their survey findings to local code enforcement officers or plumbing inspectors. Under the State Plumbing Code, these officials have the authority to correct problems (and can often address problems more quickly than state officials). If groups cannot persuade local officials to take action, they can contact the Licensing and Enforcement Division of the Water Bureau at the Department of Environmental Protection (DEP).

FOR FURTHER INFORMATION:

Department of Marine Resources
McKown Point
W. Boothbay Harbor, ME 04575
contact: Kerry Lyons, 633-5572

Dept. of Environmental Protection
Water Bureau
Station 17
Augusta, ME 04333
contact: Phil Garwood, 289-3901

EXHIBIT E-9

Local Grants Awarded

Five citizen groups along the coast were awarded a total of $3,650 in the first round of grants administered by the new Shore Stewards Trust Fund. The Trust Fund, at the Maine Community Foundation in Ellsworth, is a public-private partnership supporting local efforts to improve coastal water quality. Over the next five years, an endowment of $500,000 will be built to fund the local grants program in perpetuity. Contributions from foundations, corporations, and individuals are being sought for the endowment. The first round of grants, awarded in early April, was supported by the Davis Conservation Foundation in Falmouth.

The grants program supports local projects that promote citizen participation in coastal stewardship. Projects must include a strong component of community education on water-quality issues such as stormwater runoff, shellfish protection, overboard discharge, and marine debris.

The five groups to receive grants include two river associations and three town committees. The Brunswick Marine Resources Committee will receive $1,000 to begin a volunteer water-quality monitoring program along upland streams that feed into Brunswick's bays. The Damariscotta River Association (DRA) will use its $600 grant to produce a traveling display on the Damariscotta estuary watershed for use at community events. The DRA will also organize a poster contest in local grade schools. The Georges River Tidewater Association will receive $750 to develop a slideshow that describes the river and the monitoring efforts underway to restore its water quality. The Kittery Conservation Commission will spend its $1,000 grant on training citizen volunteers to monitor Spruce Creek, a coastal estuary near a highly developed portion of Kittery. Finally, the Woolwich Shellfish Conservation Commission will receive $300 to prepare an activity guide for grades 7-8 on shellfish harvesting and coastal pollution.

The next round of grants will be made in September 1991. Groups interested in applying for grants are encouraged to contact Flis Schauffler, the Shore Stewards Coordinator, at 289-3261.

Local Profiles

Marine Resources Committee
Town of Brunswick

Brunswick has been actively managing its shellfish beds for nearly three decades. Their first shellfish ordinance took effect in 1964, when the Maine Legislature first gave towns authority to enforce local shellfish ordinances. For years, the town's Marine Resources Committee concentrated on management of shellfish populations, exploring harvesting and seeding techniques. Over the last three years, though, a growing local interest in water quality has spawned two new marine committees.

In September 1988, excess nutrients from sewage and fertilizers prompted the growth of algal blooms in Brunswick's Maquoit Bay. The town formed an *Ad hoc* Bays Committee to explore ways to prevent further water pollution. The new committee comprised members of the town council, the comprehensive planning committee, and Bowdoin College, as well as interested citizens. Working with a consultant, the committee gathered data on the geology, geography, and water flow of Brunswick's bays.

Using these data, the Marine Resources Comprehensive Planning Committee is now amending setback restrictions, acreage requirements, and ordinances governing the use of pesticides and other toxics in the shoreland zone. The Planning Committee comprises representatives of the local land trust and conservation commission, the Marine Resources Committee, and the local planning board.

Brunswick's local marine warden, Al Houston, serves as the staff person for all three committees, linking the different projects undertaken. Houston says strong citizen interest has allowed Brunswick to take progressive steps to protect its coastal resources. Brunswick was among the first towns to ban overboard discharge systems (before the Legislature did), and is the first to conduct a comprehensive inventory of its shellfish resources. Brunswick has also used its local shoreland zoning ordinance to protect marine waters by specifying strict setbacks and regulating use of building materials in the shoreland zone. For example, pressure-treated lumber (which contains arsenic) is not permitted in construction projects within 250 feet of the water.

Resource People

Alan Houston
Marine Warden, Brunswick

Al Houston is one of 41 municipal marine wardens working to manage marine resources and protect water-quality. Most towns have part-time wardens, but Brunswick has kept Houston busy full-time for 15 years. He spends his days enforcing the town's shellfish ordinance; analyzing water quality; and galvanizing the local community to protect its marine resources.

Houston serves as staff for three local committees that manage Brunswick's Marine Resources (see *Local Profiles* article). Working with these committees and a shellfish consultant, he recently completed a full inventory of Brunswick's marine resources, the first such inventory done in Maine. While 40 percent of Brunswick's shellfish beds are currently closed, Houston wants to know what shellfish live along all 67 miles of Brunswick's shoreline. That way, the town can prioritize which beds are most valuable, and decide where to direct funds for improving water quality and reopening flats.

With a large percentage of beds closed, the remaining beds are often overharvested. Restocking of beds with transplanted or hatchery seed is an important part of Houston's work. He also works with a Regional Shellfish Advisory Committee, comprising representatives from Brunswick, West Bath, and Harpswell. Their mission is to advise the Marine Resources Committee of each town about issues concerning shellfish harvesting and conservation.

Houston conducts shoreline surveys, sampling coastal water under guidelines set by the Interstate Shellfish Sanitation Conference. In an effort to keep local shellfish beds open, Houston is starting to trace pollution back to its source in the watershed. Working with the Cumberland and Sagadahoc county offices of Cooperative Extension, Houston is setting up a citizen monitoring program in which volunteers will take water samples twice-monthly from streams that feed into Brunswick's bays. Houston will analyze the samples and go after problems such as malfunctioning septic systems and pesticide use.

Much of Houston's work involves enforcement — to ensure that that the shellfish being harvested are of legal size and safe for consumption. In the Bath/Brunswick area, there are 110 full-time shellfish harvesters. With 40 percent of the local flats closed, harvesters are under pressure to take shellfish illegally from restricted areas. One night last year, in the middle of the night, Houston received a call about harvesters working in a closed mudflat. When he arrived, Houston found the harvesters digging in front of sewer pipes. He couldn't see them initially, but could locate them because of the stench of sewage.

In addition to enforcement, Houston stresses public education. He frequently gives talks on water-quality protection and marine resources to civic groups and schools. There is a growing interest in water quality, he says, and Brunswick has made a strong commitment to protecting and improving its waters. To support the $1 million shellfish industry in its region, the town spends $50,000 a year on marine resources.

News From Maine

FIRST WATER QUALITY MONITORING FAIR DRAWS 250

Maine's first Water Quality Monitoring Fair, held March 9 at the University of Maine - Augusta, was a great success. More than 250 interested citizens came to hear about what volunteers are doing, and can do, to protect and restore Maine's waters. During the morning session, speakers discussed the need for groups to establish clear monitoring goals, get local monitoring groups organized, and ensure credible data. Participants also learned about which agencies are involved in monitoring and what State resources are available to local groups (more on this topic will be covered in future issues of *The Ripple Effect*).

The afternoon was spent in hands-on workshops that allowed participants to see and test different methods and equipment.

Evaluations from the Fair were filled with ideas for future workshops and conferences. Some of the topics suggested include the interaction of government and citizen monitors (i.e., how they can better help one another); more on *hands-on sampling procedures, mapping,* and watershed surveys; and the coordination and use of data (*e.g., presentation of* data to the public and local officials).

The *Conference Planning Committee,* which comprises representatives of Cooperative Extension, the Department of Environmental Protection, the Department of Marine Resources, and the Shore Stewards Program, will meet in April to decide the topic and timing of the next workshop. Keep an eye out for updates in future issues of *The Ripple Effect.*

Videotapes of the conference (including the afternoon sessions on marine monitoring and watershed surveys) will be available soon; contact the Knox-Lincoln Office of Cooperative Extension for details (ph: 594-2104).

News From Elsewhere

GULF OF MAINE MARINE ENVIRONMENTAL QUALITY MONITORING PROGRAM

For three years, Maine has been working cooperatively with neighboring states and provinces to ensure the long-term protection of the Gulf of Maine. The Gulf is a semi-enclosed sea that extends from Cape Cod to the Bay of Fundy, and includes the waters off Massachusetts, New Hampshire, Maine, New Brunswick, and Nova Scotia. The Gulf is not severely degraded, but warning signs indicate that it could begin to suffer unless action is taken to protect it.

Part of that action involves monitoring its waters to determine what pollutants are entering the Gulf and how that pollution may affect the Gulf's biological resources (and, in turn, threaten human health). Given the vast size of the Gulf, monitoring is a daunting task. The states and provinces have decided to begin with a small-scale pilot project, in which blue mussels will be studied to determine whether bottom-dwelling species are being affected by pollution. Data from these and other samples will be used to build a Gulf-wide database. This project is being funded by the National Oceanic and Atmospheric Administration, with staff time being contributed by state, provincial, and federal agencies.

For more information on the Gulf of Maine monitoring program, contact John Sowles at the Department of Environmental Protection, Station 17, Augusta, ME 04333 (ph: 289-3901).

CLEAN WATER ACT UP FOR REAUTHORIZATION

Since it was first enacted in 1972, the Clean Water Act has been instrumental in protecting and restoring our nation's waters. The Act funded improved wastewater treatment, ending the era in which cities and towns along Maine's coast dumped all their untreated sewage directly into bays and estuaries.

Work is underway to strengthen the Act when Congress reauthorizes it later this year. National and regional environmental groups are recommending that the following measures be incorporated into the newly amended Act:

- eliminate the discharge of toxics through pollution prevention;
- protect significant aquatic habitats, such as wetlands;
- improve and expand water quality standards;
- prevent weakening of discharge limits;
- improve pre-treatment requirements for dischargers to sewage treatment plants;
- fund clean water programs; and
- promote water conservation.

If you would like more information on the Act, you can contact the Izaac Walton League of America (which runs a national Save Our Streams program) at 1401 Wilson Blvd., Level B, Arlington, VA 22209 (ph: 703/528-1818) or your Congressional representatives.

STAY INFORMED

If you would like to keep receiving *The Ripple Effect* (and have not sent us a postcard), PLEASE return the enclosed postcard. We are trying to reduce mailing and printing costs. On the postcard, you can list topics you'd like to see covered and names of individuals who might like to receive the newsletter. Thank you!

QUARTERLY REPORTS FROM COASTAL COORDINATORS

THIRD QUARTER REPORT -- COASTAL SECTION
Southern Maine Regional Planning Commission

This report covers work performed from 2/1/91 through 4/31/91.

A. SHORELAND ZONING

Town Summaries

The towns scheduled for assistance this quarter in SMRPC's work program were Arundel, Eliot, Old Orchard Beach and South Berwick.

SMRPC drafted proposed revisions to **Arundel's** shoreland zoning provisions last quarter, and assistance this quarter has focused on discussing these changes with the Town Planner and the Planning Board. Several meetings with the Town Planner and one with the Planning Board occurred this quarter and another Planning Board workshop is scheduled for the second week in May (we only got through the first half of the proposed changes at the first workshop). After this second workshop is completed, all agreed upon modifications will be incorporated into a second, more final draft. This version is expected to be voted on later this year at a late summer or fall Town Meeting.

Assistance to the other three towns was scheduled for the third quarter because they all insisted on waiting for the completion of their comprehensive plans before starting zoning revisions. They anticipated being finished with their plans around the first of the year (1991) and hence thought they would work on shoreland zoning this quarter.

South Berwick, in fact, did complete its plan by the first of the year, but has only now gotten started on shoreland zoning. Consequently, SMRPC provided little assistance to South Berwick this quarter. The Town Planner has indicated the town will probably need significant assistance during the fourth quarter as he says the guidelines are currently very poorly understood by both the Planning Board and himself. As noted in previous reports, South Berwick's Council form of government affords the town considerable flexibility in scheduling the adoption of ordinance changes.

Eliot just finished its comprehensive plan at the end of this quarter, and therefore has postponed shoreland zoning work to the fourth quarter. SMRPC's assistance has been rescheduled accordingly. Eliot is planning to hold at least one Town Meeting later in the year.

Old Orchard Beach is a tier two town that is still working on its comprehensive plan. SMRPC is not clear at this point as to exactly what schedule OOB is on with respect to Shoreland Zoning. We plan to contact the town shortly to reiterate that as their comprehensive plan may still be a ways from completion, they should get started on shoreland zoning now, and cease waiting for the plan. Any assistance to OOB will therefore be postponed until at least the fourth quarter, and will likely continue in the first quarter of next year's contract year. OOB is another town with a council form of government.

The status of most other municipalities is relatively unchanged from last quarter. Notes on a few towns that have made some progress are included below:

Wells, with SMRPC's assistance, has now completed its sixth and hopefully final draft of its shoreland revisions: The Planning Board has every intention of submitting this draft (or one close to it) for Town Meeting approval at one of the four or five special Town Meetings expected to occur between now and December 31, 1991.

Ogunquit has scheduled a final public hearing on its proposed shoreland revisions and appears to be on schedule for the June Town Meeting.

Saco has scheduled a series of Planning Board workshops to finalize shoreland zoning changes and expects to get these changes to City Council for adoption by late summer/early fall.

Development of Demonstration Shoreland Zoning Standards

This aspect of the work program has suffered somewhat due to its relegation to the back burner. Assistance from OCP ecologists with the development of standards for natural areas has not been available to date, as these people are backlogged with work and have not yet been able to get to it. However, they say that they are now in a position to make this a priority. The arrangement to date has been that OCP would come up with management recommendations and SMRPC would put these into language suitable for incorporation into a communities shoreland zoning ordinance. It looks like this should be possible to accomplish during the fourth quarter. SMRPC has been able to work on standards for water crossings: a draft version of these will be submitted to OCP shortly.

B. TECHNICAL ASSISTANCE ON COASTAL POLICY IMPLEMENTATION

Comprehensive Plan Assistance

The only town specifically scheduled for assistance this quarter was Kennebunkport. Assistance was provided to K'port this quarter, though not in the form of a review of their work. As the committee is still working or beginning to work on policy development, and the inventory data is still not in report form (to our knowledge), their has been little to comment on. However, SMRPC has maintained contact with the committee and is currently providing assistance/ideas for an upcoming local workshop focusing on marine resources policies.

The other town that assistance was scheduled for (due to being postponed from the second quarter) was Arundel. Arundel has still not gotten to the marine resources section of its policies, and hence there has been nothing to comment on. It is likely that Arundel will be ready for this assistance sometime during the fourth quarter.

Other assistance provided this quarter that fits roughly under this category includes the continued discussions with the Kittery Conservation Commission on a potential 205j project that SMRPC will probably submit a proposal for this summer. This project would implement many water quality recommendations in Kittery's comprehensive plan.

Public Access Project

SMRPC also began a public access project this quarter for the Town of York. SMRPC, at York's request, has begun researching several possible public access sites at Cape Nedick Harbor and along the Cape Nedick River. A report on this project is scheduled for completion during the fourth quarter. While this project, or projects of this magnitude, were not scheduled in our work program, we felt that as this is an area that SMRPC has some expertise in and as public access is an important aspect of Maine's Coastal Program, we would try to squeeze this project in. Thus far the research has not been too promising in terms of finding public ownership or easements, but some interesting information has been uncovered, and it is hoped that the careful documentation of this research will resolve at least some of the questions that town officials have been raising for a number of years.

Interlocal Project Update

The Kennebunk River interlocal agreement has attracted renewed interest and enthusiasm this quarter. SMRPC participated in two meetings with the River Committee this quarter. At these meetings the committee discussed the legal concerns municipal attorneys raised last year and developed a new draft agreement that takes into consideration these concerns and still accomplishes the main tasks the committee is interested in: Establishing the committee as an appeals board for harbor master decisions and granting the river committee more formal recognition as the board that proposes management plans and regulations for the river. This new draft is a somewhat shorter and simpler document which most officials feel should meet with approval from all three Board's of Selectmen. It will be presented to the three boards shortly. If this version is successfully adopted, the committee will work to expand the scope of the agreement in the future.

Greater Portland Council of Governments
233 Oxford Street · Portland, Maine 04101 · (207)774-9891

April 29, 1991

TO: Marvin Rosenblum, OCP

FROM: Valerie Kazarian

SUBJECT: Third Quarter Report for FY 91: Coastal Contract

This report is a summary of the Greater Portland Council of Governments' third quarter activities as specified in Rider A of the Coastal Program contract.

1. Coastal Coordinators

Coastal Coordinator: Rick Seeley
Growth Management Coordinator: Valerie Kazarian

2. Coastal Program

TASK A - Shoreland Zoning

Shoreland Zoning Ordinance Reviews

For each community, we have reviewed the existing or first draft ordinances for minimum changes needed to comply with the Guidelines for Municipal Shoreland Zoning Ordinances.

We have supplied each community with a package including:

- a cover memo discussing the significance of the Guidelines, statutory options for deviating from them, and the purpose and limitations of COG's ordinance review;
- a matrix summarizing the needed changes cross-referenced to local ordinance(s);
- a computer-generated copy of the Guidelines, also cross-referenced to local ordinances, with needed sections underlined;
- a copy of the Coastal Management Policies, or a Casco Bay Estuary Project fact sheet;
- a pre-publication copy of the DEP Shoreland Zoning News, due to be published in April, including Rich Baker's section on commonly asked questions and answers to them;
- a memo detailing provisions that override local updates of shoreland zoning ordinances; and
- OCP's first Shoreland Zoning Technical Assistance Bulletin concerning treatment of non-conforming uses.

GPCOG has now completed its reviews of local shoreland zoning ordinances for Brunswick, Freeport, Yarmouth, Cumberland, Falmouth, Portland, South Portland, Cape Elizabeth, and Scarborough. In addition, we have completed similar shoreland zoning ordinance reviews for towns which drain directly into Casco Bay: Windham, Gorham, Gray, North Yarmouth, and New Gloucester. A sample of the work accomplished for the above communities is attached.

The Town of Pownal, which is also in the direct watershed of Casco Bay, has no existing shoreland zoning ordinance to review. It is one of only four towns not previously affected by older versions of the Shoreland Zoning statute. Technical assistance specifically tailored to Pownal's needs was provided at a March 28 workshop described in more detail below. The Town has since asked for further assistance in the development of an appropriate ordinance. COG has outlined a program for them and is awaiting confirmation from the Town. We are awaiting a copy of a draft shoreland zoning ordinance from Westbrook and will review it as soon as it is received.

Shoreland Zoning Maps

GPCOG has now completed maps of the new shoreland zone for Freeport, Yarmouth, Cumberland, Portland, South Portland, Cape Elizabeth, Scarborough, North Yarmouth, New Gloucester, and Westbrook. Remaining maps will be accomplished in the first portion of the next quarter, according to the order in which they are needed.

Technical Assistance Workshops

On March 28, 1991, in Pownal, GPCOG sponsored a workshop covering three topics: basic shoreland zoning requirements, presented by Rich Baker, DEP Shoreland Zoning Coordinator; the Cousins River watershed and estuary, presented by Tamara Risser, of OCP, who conducted the Cousins River Study produced by GPCOG under the previous year's CZM grant; and shoreland zoning mapping requirements, presented by Kris Sommer, GPCOG's cartographer. Publicized through mailings regionwide, representatives of five towns attended, including several Pownal Planning Board members. The latter group was a prime target audience for basic shoreland zoning requirements as well as part of the larger group of Cousins River watershed towns, of which all but one was represented. A copy of the workshop announcement is attached.

On April 25, 1991, GPCOG sponsored a workshop, requested by the town planners in GPCOG's coastal communities. Barbara Vestal of the Marine Law Institute was the invited guest and addressed the topic of options for integrating community-wide zoning and shoreland zoning. As most of our coastal communities are working with integrated shoreland and community-wide zoning, and all have now received our list of minimum changes and our initial map, this was a very timely session. The entire membership of the Cumberland County Planners Association was invited to attend. A copy of the workshop announcement is attached.

Bridgton · Cape Elizabeth · Casco · Cumberland · Cumberland County · Falmouth · Freeport · Gorham · Gray · Harrison · Naples
New Gloucester · North Yarmouth · Portland · Pownal · Raymond · Scarborough · Sebago · Standish · Westbrook · Windham · Yarmouth

On May 16, 1991, GPCOG will hold another workshop on the same topic in the evening so that local board members may attend. Also scheduled to speak is Paul Lawrence, Chairperson of the Windham Water Resources Commission, a Town Council-appointed water resource planning and education group, who will address, among other topics, shoreland zoning as part of watershed management, and plans for a citizens' water quality monitoring program in tributaries to the Presumpscot River and its importance to Casco Bay. A copy of the workshop announcement is attached.

The Town Planners have clearly indicated that the offering of DEP "office hours" at the COG offices would be premature at this time. They may be interested in this service in the next fiscal year.

TASK B - Coastal Policies

Waterfront Survey

COG has nearly completed its survey of waterfront businesses in non-urban communities. Based on a similar survey of Portland's waterfront businesses conducted last year, the survey will assess a range of regional waterfront businesses' needs. All data received has been entered into the computer model. Arrangements have been made for data entry of CCCOG surveys. Draft summary of results received so far have been developed. All data will be received and analyzed by the end of April. The final summary report will be available shortly thereafter. During May, as soon as it is complete, we will distribute it to our region's communities for use in their waterfront policy and shoreland zoning ordinance development.

TASK C - General Assistance

We have continued to distribute materials and information received at Coastal Coordinators' meetings to our region's communities through mailings and at technical assistance workshops.

To date, materials distributed/announced have included:

- MLI's Comprehensive Planning and Shoreland Zoning: How to Meet the Requirements of Both
- OCP Lessons Learned memo on meeting coastal policies in comprehensive plans
- SPO Public Access Maps for each town
- Public Access Series volumes on Coastal ROW Rediscovery, and Liability
- Coastal Management Handbook
- The Estuary Book and Estuary Profiles
- Conservation of Inland Fisheries and Wildlife Habitats
- Model Shoreland Zoning Permit Forms
- Others

We will continue to distribute other materials in the next quarter.

CAPITAL COASTAL COUNCIL OF GOVERNMENTS

COASTAL CONTRACT

THIRD QUARTERLY REPORT

May 1, 1991

TASK A. Local Adoption of Shoreland Zoning Ordinances

The focus during this quarter was on individualized assistance to the towns as they continue work on their shoreland zoning ordinances. Predictably, it is taking towns longer to prepare revised ordinances and maps than originally planned.

The attached Technical Assistance Log provides a town by town update. Following is a summary of the shoreland zoning activity:

SHORELAND ZONING ORDINANCE STATUS SUMMARY

3 municipalities have passed ordinances.

5 municipalities plan to present ordinances at town meeting/council by fall '91.

11 municipalities will not be presenting ordinances until after fall '91. Reasons for delays:

- 1 town's ordinance was rejected at town meeting.
- 4 towns are deliberately waiting to incorporate shoreland zoning into new implementation ordinances.
- 3 towns are actively completing comprehensive plans.
- 3 towns have not articulated a specific reason for not proceeding more quickly.

TASK B. Coastal Policies Implementation

CCCOG staff continue to work with the region's towns that are involved in comprehensive planning. Coastal policies have been discussed with each of the planning committees at the appropriate point. The status of the coastal towns has not changed since the last quarterly report.

Phippsburg & West Bath: Both towns have completed their plans and submitted their plans to OCP for review.

CCCOG TECHNICAL ASSISTANCE LOG

MAY 1, 1991

ARROWSIC
The planning board is drafting a zoning map to present to the IF&W biologists which will propose buffers of less than 250 feet around some of the coastal wetland areas which have rated as "high" or "moderate". In some areas, property owners will loose all use of their property if the full 250 feet of Resource Protection is imposed. These owners have been very vocally opposed to this designation feeling that it is unwarranted. CCCOG will meet with Arrowsic officials and IF&W representatives when the draft map is completed. Arrowsic is hoping to present its revised shoreland zoning ordinance for approval at a June town meeting.

AUGUSTA
Augusta's planning staff has drafted a new land use ordinance which includes the shoreland zoning requirements. The ordinance will go before the City Council for approval sometime this summer.

BATH
Hat Eddy is currently drafting revisions to the City's land use code to incorporate the necessary shoreland zoning provisions.

BOWDOINHAM
The town is just getting started with a consultant on their comprehensive plan and remains uncertain when they will complete the shoreland ordinance update.

BRUNSWICK
Brunswick's planning staff is still working on a revised draft of the proposed draft reviewed by CCCOG in December.

CHELSEA
CCCOG met with the planning board to review a set of topographic maps which were prepared to show the wetlands and streams which must be added to the current shoreland zoning areas. The board will be preparing a draft ordinance during the next couple of months.

DRESDEN
The Town is working with its consultant to incorporate the necessary shoreland requirements into their new town-wide ordinance which is being drafted to implement their new comprehensive plan.

FARMINGDALE
The planning board will not be addressing shoreland zoning during this contract year.

GARDINER
The city has completed its shoreland revisions and DEP has responded with objections.

GEORGETOWN
The planning board has decided to take a cautious approach to the shoreland zoning update because of the public outcry over the amount of wetland area that is supposed to be protected by resource protection. CCCOG has offered to set up a meeting between town officials, and DEP and IF&W staff to review alternative zoning for some of these areas. At this point, the planning board is reviewing property tax maps to determine the exact impact of the new requirements. As soon as we are contacted, we will set up the joint meeting.

HALLOWELL
CCCOG has reviewed the current land use ordinance and provided the city with recommendations for bringing the ordinance into compliance with the shoreland requirements.

HARPSWELL
The new shoreland zoning ordinance was rejected at town meeting.

PHIPPSBURG
Phippsburg has a subcommittee working on the shoreland ordinance but the town is now considering postponing development of an amended ordinance because they will soon be starting on the implementation ordinances for their new comprehensive plan.

PITTSTON
CCCOG prepared the revised shoreland zoning ordinance and a new shoreland zoning map both of which were passed at town meeting in March.

RANDOLPH
The code enforcement officer is still working on a draft ordinance but is hoping to have it completed for a special town meeting in June.

RICHMOND
The town has adopted a new ordinance which includes the necessary shoreland provisions.

TOPSHAM
There is a shoreland zoning subcommittee working on the ordinance utilizing the land use, wetlands, and natural resources maps that the town has generated in its comprehensive planning process.

WEST BATH
The planning board has not responded to offers of assistance primarily because of their involvement with the recently completed comprehensive plan.

WOOLWICH
The town has just completed its comprehensive plan. The implementation ordinance committees have been formed and will be developing ordinance drafts this summer.

HANCOCK COUNTY PLANNING COMMISSION COASTAL CONTRACT

QUARTERLY REPORT: FEBRUARY - APRIL 1991

The tasks outlined below correspond to the tasks outlined in Rider A of the Hancock County Planning Commission's (HCPC) Coastal Contract.

TASK A: SHORELAND ZONING

A.1 Completed

A.2 INTERLOCAL COOPERATIVE WORKSHOPS

The HCPC staff attended a workshop/meeting of the Friends Of Taunton Bay (FTB) on March 25th. The session was focused on the presentation of a resource guide/assessment by the FTB. The three towns in this group; Hancock, Franklin, and Sullivan are studying joint approaches to resource preservation. Further meetings are planned.

On April 17th staff members also attended a meeting of the US/UK Countryside Institute Stewardship Exchange Steering Committee of the Penobscot Bay Land Trust Alliance.

A.3 TECHNICAL ASSISTANCE

The HCPC staff made personal and/or telephone contact with the planning boards or code enforcement officers of all 29 coastal communities. The purpose of this contact was to:

1. Check the progress of the towns that are actively revising their shoreland ordinances; Orland, Sedgwick, Brooksville, Verona, Bucksport, Surry, Hancock, Lamoine, Winter Harbor, Swans Island, Penobscot, Brooklin, Franklin, Trenton, and Cranberry Isle.
2. See if the towns that are just getting started or having trouble with their revisions need more help; Blue Hill, Ellsworth, Gouldsboro, Sorrento, and Sullivan.
3. Renew our offer of technical assistance to the towns that have declined help in the past or have been working on their own; Bar Harbor, Castine, Deer Isle, Frenchboro, Isle au Haut, Mount Desert, Southwest Harbor, Stonington, and Tremont.

Special zoning issues have surfaced in the town of Sorrento. The town is very small in land area and population and occupies a narrow peninsula. It was estimated at a recent workshop that Sorrento has about ten miles of town road and twenty miles of coastline (no lakes, ponds, or streams). The impact of land use restrictions under the Mandatory Shoreland Zoning Act and the Growth Management Act is causing more than the usual amount of concern here. None of the existing models seem to fit the situation in Sorrento. Extra care will need to be exercised to help this community to develop standards that will allow a blend of development opportunities and yet keep to the spirit and intent of protective aspects of the legislative acts. A special report will be developed and included as an attachment to the next quarterly report.

The town of Orland has completed their revisions and are scheduled for a public hearing on May 29th or 30th. Depending on the outcome of the hearing, Orland would like to schedule a special town meeting in June to attempt adoption of the revised ordinance.

The town of Sedgwick has also completed revising their shoreland ordinance and will hold a public hearing on April 30th. A special town meeting to vote on the revisions is scheduled for May 29th.

Attachment #1 includes:

- copies of shoreland ordinance reviews for 4 towns
- program summary sheets

A.4 OCP MONTHLY TRAINING SESSIONS

The Coastal Coordinator attended the regular meeting of the Coastal Coordinators in Augusta.

TASK B: COASTAL POLICIES

The Coastal Coordinator has continued to review comprehensive plans for consistency with Maine's coastal policies. A workshop session on integrating coastal policies into comprehensive plans was prepared as a part of HCPC's annual planning day. Although this activity was not part of the original work program, we felt that the material would be a useful tool for round 3 and 4 towns.

Attachment #2 includes:

- Copy of "Coastal Policies and the Comprehensive Plan".
- HCPC review of Gouldsboro's inventory and analysis draft.

TASK C: GENERAL ASSISTANCE

HCPC staff met with Fran Rudoff in Ellsworth to discuss the future of the coastal program and the impact it is having on the coastal communities in Hancock County.

The staff has continued to assist towns in a variety of ways. The majority of requests have continued to center around code enforcement issues and shoreland ordinance revisions and interpretations of ordinance language.

We have used every opportunity we've had to preach the need for planning for certain increases in the cost of code enforcement and the merits of the interlocal code enforcement concept. A presentation on interlocal code enforcement was made at the HCPC's Annual Planning Day on April 27th. Copies of the booklet prepared by OCP were handed out.

Attachment #3 includes:

- Copies of technical assistance sheets.
- Copy of the HCPC Planning Day agenda.

Penobscot Valley Council of Governments
One Cumberland Place Suite 300
P O Box 2579 Bangor, Maine 04401-8520 (207) 942 6389

COASTAL ZONE MANAGEMENT QUARTERLY REPORT 3

February - March - April 1991

Task A: SHORELAND ZONING

1. Shoreland Zoning technical assistance log enclosed as part of complete technical assistance log. The correspondence is also enclosed.

2. The updated status of the Coastal Communities shoreland zoning ordinances is enclosed.

3. Eddington's Shoreland Zoning Ordinance is enclosed. The other ordinances will be sent in the quarterly report of the quarter that they are received.

4. No regional clinics were given during the third quarter, as most town meetings were occurring in March. However, meetings with individual communities and assistance continued as requested on an on-going basis.

5. Summary of assistance and changes that occurred over year as a result of the assistance, town-by-town, will accompany the final report.

Task B: COASTAL POLICIES

1. The Coastal Coordinator is currently working with Frankfort and Prospect on their marine resources and water resources sections of their comprehensive plans, regional coordination for watersheds and groundwater protection, and on addressing the coastal policies into their comprehensive plans. Other towns are assisted as requested. Frankfort is the only Tier 1 community of the 11 coastal towns. Prospect is a Tier 2 and is beginning their comprehensive plan process.

2. The products from the Frankfort comprehensive plan drafted by the Coastal Coordinator will be included in the final report. Also, whatever products are completed of the Frankfort/Prospect shared groundwater protection plan regional project (a 604(b) contract directed by the Coastal Coordinator) will be included in the final report.

Task C: GENERAL ASSISTANCE

The log is enclosed.

CZM LOG
Feb/Mar/Apr 1991

P = Phone
C = Mail/Correspondence
M = Meeting/Visit

DATE	FORM	TOWN	CONTACT	TOPIC
2/1/91	C	Frankfort	Jeff Silverstein	WQ-Watershed
2/1	M	Winterport	Joe Brooks-PB Chair	SLZ Map
2/7	P	Winterport	Joe Brooks	Review Ord. Info
2/11	P	Winterport	Joe Brooks	SLZ Map
2/11	M	Frankfort	Evelyn Adams-PB Cahir	Work on SLZ Map
2/28	P/C	Winterport	Joe Brooks	Wetland Protection SLZ Addendum
3/4	C	Winterport	Joe Brooks	NRPA-Wetland Protection Rule
3/7	P	Winterport	Joe Brooks	Amendment to SLZ Ord.
3/7	P	Frankfort	Evelyn Adams	Wildlife Habitats Map
3/8	C	Frankfort	Jim Sanders	Wildlife Habitats Map
3/8	P	Prospect	Diane Teney	Well Survey on Rt 1 over Aquifer
3/11	C	Winterport	Charles Brantner/ Joe Brooks	Water Dependent Use Info
3/12	P	Frankfort	Jim Sanders-PB	Re: Required RP Zone on Wetland
3/18	P	Winterport	Joe Brooks	SLZ Ord. Passed. Need to have map authorized
3/28	P/C	Eddington	Audrey Fox-TM	Request SLZ model Permit Forms
4/2	P	Eddington	Arthur Washburn	TA for NRPA application Cribwork removal
4/2	P	DEP/Land Bur.	Mary Morgan	Re: Application
4/2	P	Eddington	Arthur Washburn	Provided answers to questions
4/2	P	Hampden	David Gould	SLZ permit forms Language for RP zone
4/9	P	Winterport	Ed Russell-PB (Oversight Committee)	Re: piers, wharves, etc for Amendments SLZ Ordinance books Planning & Land Use Law Books
4/23	M	Brewer	Tom Kurth and PB Member	Cluster & PUD's Info
4/24	P	Bangor	Steven Neilson Planning Staff	SLZ

Penobscot Valley Council of Governments
One Cumberland Place Suite 300
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COASTAL COMMUNITIES: Status of Shoreland Zoning Revisions

1. BANGOR: To be passed by Council as part of their Land Development Code, probably during the Fall of 1991.

2. BREWER: The ordinance is drafted, maps are finished, planning board has approved it. The ordinance should go to Council in May, 1991 for vote.

3. EDDINGTON: Shoreland Zoning Ordinance revision - Passed March 19, 1991 at Town Meeting.

4. FRANKFORT: Planning Board currently working on it. They will have a public hearing soon and hope to have a Special Town Meeting in May or June 1991.

5. HAMPDEN: The revision will be going to Council, probably Fall 1991.

6. ORRINGTON: The Planning Board is working on the revision and will have a special Town Meeting in late Fall, 1991.

7. PROSPECT: The revision was passed at Town Meeting on March 25 & 26, 1991.
   * The ordinance was accepted by DEP on April 22, 1991.

8. SEARSPORT: The revision was passed at Town Meeting on March 16, 1991.

9. STOCKTON SPRINGS: The revision will be voted on at a Special Town Meeting within the next couple of months (May or June, 1991).

10. VEAZIE: Currently working on the revision. There will be a public hearing in June or July and will be to Council for vote as soon afterwards as possible.

11. WINTERPORT: The revision was passed as part of a Land Use Management Ordinance at Town Meeting on March 15, 1991.
    * The ordinance was accepted by DEP on April 9, 1991.

WASHINGTON COUNTY
REGIONAL PLANNING COMMISSION
63 MAIN STREET MACHIAS, MAINE 04654 TEL. (207) 255-8686 255-4649

COASTAL PROGRAM — 3rd Quarter Report
Glenn Avery & Deborah Dowling
Coastal Coodinators — May 1, 1991

February 1, 1991 to May 1, 1991 Activities ----------

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WATER ACTION GRANTS continuation ---

Meeting with Eastport Community Development Director to discuss bids for work on the Eastport WAG's float and ramp project. There were 27 bidders in all. Contacted by one bidder for assistance in dealing with Eastport "City Hall" with follow-up. //// Follow-up to news that WAGs/PAGs cut for this year by report to the WCRPC Executive Committee about Coastal Management Grants and their implied uses. Specified this CMG availability at the Coastal Policies Workshop, April 25th. (SEE Attached) Discussed in detail other sources for acquisition of haul-out area in Beals with 1st Selectman

SHORELAND ZONING -

Interesting but consuming meeting with a landowner owning shore frontage in Lubec, Machiasport, and Perry. With him was a planning board member from Dennysville who is a soils scientist. The session turned into a developer/planner/town official exploration of the applications of the Shoreland Zoning Ordinance and helped in providing additional examples for other presentations in CZM workshops. Provided Roque Bluffs planning board with material identifying coastal barriers for upgrading ordinance. New board chairman happy to work on protective measures for Englishman River which drains the heath in Whitneyville. Future discussions planned with Whitneville about such measures. Solid waste an issue with East Machias and Whiting when T/A was given regarding the potential increase of activity at the Down East Landfill in Marion (SEE Attached article). Potential

water quality damage due to the fact that the leachate would plume into Spirit Stream which feeds Harmon Stream which drains into Gardner Lake (GPA). Various discussions at various forums (especially the recent meetings organizing the Washington County Refuse Disposal Disctrict) regarding this water quality concern. Ample opportunity to discuss the Coastal Policies at these forums with nine towns in Washington County. Met with Machias Town Mgr. and Selectmen to discuss the Commission's role in assisting with ordinances impacting the Machias River and just how the Coastal Policies would be addressed in the Comprehensive Plan with emphasis on shared resources such as the recently mapped aquifer. Met with two members of the Pembroke Conservation Committee concerned with updating their state mandated shoreland zoning ordinance and how the town might "pull together" Have met with every coastal town on the state - imposed shoreland zoning list during this contract year at least once except for Centreville.

COASTAL POLICIES WORKSHOP -

Nine towns were represented by 20 people who attended the workshop on April 25, 1991, at the University of Maine at Machias. (See attached announcements, news articles, attendance list, etc.) The workshop participants were carefully led through explanations on the application of each coastal policy in upcoming or ongoing comprehensive plan processess. Cutler representatives utilized their process to demostrate the unusual application of the policies in regards to marine resources and access. Cutler was given extensive T/A as follow-up to their access mapping (SEE attached letters from Cutler). The handouts were utilized as they applied in the discussions and were very helpful in bringing attention to how the Coastal Policies were integrated with the goals stated for the comprehensive plans. Numerous publications were referred to during the workshop as being helpful to towns in the planning process. A special work session was agreed to with Pembroke based upon the workshop. Materials previously provided to Addison (See the Norton letter attached) were discussed with member representatives during break.

Addressed the Washington County Commissioners April 22, 1991, concerning the Commission's impact on the county in land-use T/A on techniques for towns to protect shoreland and on how the county funds are utilized to attract dollars to assist towns. (SEE attached letter) Attended an all day Historic Preservation workshop in Augusta April 5th. Attended a CZM OCP scheduled meeting in March.

COASTAL TA REPORT: 3rd QUARTER

February 1, 1991 - April 30, 1991

TASK A: SHORELAND ZONING

Technical Assistance

EMCRPC continues to provide TA to all of our towns as they work on their shoreland zoning ordinances and maps. The status of the non-coastal towns was reported in the 3rd Quarter General Fund TA Report (April 1, 1991). In general, the coastal towns are making progress in revising SZOs; however, some towns have indicated that they do not expect to vote on SZOs until late summer or in the fall. EMCRPC staff continues to urge communities to move forward with revisions, regardless of the status of each town's comprehensive plan, and regardless of what may happen with the DEP Shoreland Zoning Office. We are aware of the potential stackup of ordinances to be reviewed/approved by DEP if the communities wait until the last minute to submit them. EMCRPC has been tracking the proposed revisions in each town, and has consistently been in touch with DEP Shoreland Zoning Office in order to work out any problems early in the revision process, before the a town votes on or submits its SZO to DEP. See the attached chart, "SZO Schedule by Town" for an updated summary of coastal towns' SZO revisions and adoptions.

In addition to SZO revisions, the Coastal Planner has provided other shoreland zoning-related TA. Below is a town-by-town summary of the shoreland assistance provided by the Coastal Planner and other EMCRPC staff during the 3rd Quarter of 1991.

Belfast

The Comp. Plan Committee and the Waterfront Project Committee are both addressing shoreland and harbor area issues. The shoreland revisions are being addressed concurrently with these other programs (see status of Coastal Planning Grant Projects).

Cushing

Continued to work with the CEO and Planning Board on SZO revisions. Although the ordinance is progressing, it is unlikely that it will be brought to Town vote until the fall. EMCRPC staff discussed the procedures for mapping shoreland zones, since Cushing will need to revise its out-dated SZ map. Cushing has described the shoreland districts in the ordinance by tax map and lot number.

Friendship

The SZO was adopted at the Spring Town meeting, and the shoreland zoning map is being adjusted accordingly. The Planning Board still wants to delineate, possibly by tax map lot numbers, the extent of the CFMA and Resource Protection Districts. The Coastal Planner will be meeting with the Planning Board in May to discuss this with them.

Islesboro

Spoke to the Planning Board Chair about the status of the SZO, which they expect to have ready for a public hearing this spring. EMCRPC has prepared a wetlands map and a shoreland zoning map via the Island Institute satellite imagery program.

Lincolnville

The Coastal Planner reviewed the Planning Board's revisions to the SZO. The Town attorney is reviewing the ordinance, and a draft was also sent to the MMA Legal Services Division for their review. A hearing was held in late April, and apparently there are no major objections from the residents. The CEO, Planning Board and EMCRPC have been in contact with Rich Baker about some of the proposed standards for Resource Protection Districts around two high/moderate-rated wetlands. The CEO, Rick Rogers, has been instrumental in the revision process, but more importantly, in getting input and support from the Planning Board, property owners and other residents. The Town anticipates that it will vote on the ordinance at Town Meeting on June 24th.

North Haven

The Coastal Planner met with the Planning Board Chair to discuss the revisions for the Island's shoreland zoning, which would be incorporated into a town-wide land use ordinance. We also discussed the importance of having a series of maps, similar to the sets EMCRPC has and continues to produce for other towns (e.g., St. George, Vinalhaven, Liberty, Washington, Appleton, etc.). The Coastal Planner is reviewing their current ordinance and will make recommendations to meet the minimum regulations. Members of the North Haven Planning Board attended the Groundwater workshop we held in March, and are interested in special water resource protection standards, such as Vinalhaven is considering. We anticipate that some of Vinalhaven's proposed setbacks (e.g., wells from salt water bodies) could be applied on North Haven as well.

The Coastal Planner also provided information to the CEO about mobile home setbacks in the Island's Rural District.

Northport

The Planning Board has held several working meetings to revise the SZO. One of the PB members is using his home computer for the ordinance. Shoreland Zoning map is in the works, but they are presently trying to verify non-forested and forested wetlands based on local knowledge of the areas in question. EMCRPC will review a draft within the next month.

Owl's Head

EMCRPC is currently working with the Planning Board on SZO revisions, and we are producing the maps needed to do a shoreland zoning map. Owl's Head's SZO will be essentially the same as the State model; however, the areas to be shoreland zoned may exceed the minimum requirements. The DEP requires only Maine-mapped wetlands to be shoreland zoned. Owl's Head has a small area of such a wetland, but NWI identifed many wetland areas throughtout the Town. EMCRPC is encouraging Owl's Head (and other towns) to zone all mapped wetlands, both Maine and National, and to distinguish between the two with a disclaimer on the maps that encourages site visits when an area is in question..

EMCRPC staff followed up on the State Planning Office review bulletin announcement about the expansion project at Knox County Regional Airport in Owls Head. The project involves acquisition of land and navigation easements necessary to install an instrument landing system. There are several wetlands in the area to be acquired. The engineering consultant has sent a map and project description for our review.

Rockland

EMCRPC staff attended a Comprehensive Plan meeting, and have met with the City Manager to discuss the details of the Plan process.

In July, a group from the 1991 US/UK Countryside Exchange Program will tour the Penobscot Bay region, sponsored by area land trusts, U. Maine Cooperative Extension, and other

organizations, including EMCRPC. The group will be visiting the Rockland Harbor and waterfront area looking at the potential for improving public access. EMCRPC will be a participant in the program.

Rockport

The Coastal Planner met with a Planning Board/Comp. Plan member about SZ revisions. Rockport SZ regulations are incorporated into various sections of the general Land Use Ordinance, making the revisions more complicated. A special SZ subcommittee, made up of members of the Planning Board and Comp Plan Committee, will probably be appointed to work on the ordinance in the coming weeks. The Coastal Planner will continue to provide assistance as needed. At our meeting, we also discussed water resources maps as part of the shoreland zoning process. *We anticipate meeting with Rockport committees and/or boards in the near future* about using these maps to identify wetlands and streams to be shoreland zoned.

The Coastal Planner provided information on phosphorus loading to the Rockport CEO/Planner for the Chickawaukie Lake study. The Coastal Planner will probably assist the Comp Plan Committee as they develop water resource protection policies and strategies for Chickawaukie and other local lakes.

South Thomaston

Members of the South Thomaston Long-Range Planning Committee, assisted by EMCRPC staff, had worked on the SZO revisions for about six months. The ordinance was brought to public hearings in December 1990 and February '91. The attendence at these meetings *was minimal, but no objections were raised over the proposed ordinance. However, the Town* rejected the ordinance at the March Town Meeting. There has been a turnover in the Boards (Planning and Selectmen), and the new Planning Board intends to rework the shoreland ordinance.

St. George

The Town initially planned to have a shoreland ordinance ready for Town vote at the March Town Meeting. However, the shoreland mapping took longer than anticipated, due to the process of identifying additional wetlands to be shoreland-zoned, and areas that must be zoned as Resource Protection. At this point, the Planning Board anticipates having one more public hearing on the ordinance, and voting on it at a special Town Meeting in the summer. The Coastal Planner has been helping the Planning Board revise and coordinate the definition sections of the Shoreland *and Subdivision Ordinances (the latter is also being revised).*

The Coastal Planner assisted the CEO with other shoreland-related questions regarding the application for a "mobile hotdog stand" to be parked in a CFMA zone. The existing SZO does not address it, but the Town can refer to the Site Plan Ordinance. The greatest concern is about the impact on traffic circulation and parking in an already congested area.

The Scraggle Point Subdivision case (see 1990 3rd & 4th Quarter Coastal TA Reports, and 1991 3rd Quarter General Fund TA Report) was upheld in Superior Court in March, but the developer intends to appeal the case to the Maine Supreme Court. The Superior Court judge ruled that the St. George Planning Board had sufficient evidence when it determined that the 11-acre subdivision along Mill Cove was in the Resource Protection District, and is subject to the 250-foot setback. The developer claims that it isn't in RPD, and the setback is only 75 feet.

Thomaston

The Coastal Planner met several times with the Comp. Plan Committee, Planning Board and CEO about SZ revisions and coastal policies. The maps that EMCRPC produced for the Comp. Plan provided information necessary to identify additional areas to be included in the

revised shoreland zone. The Comp. Plan Committee also recommened areas along the St. George and Oyster Rivers to be zoned Resource Protection. The Planning Board will appoint additional members to a subcommittee to continue working on the revisions. The Town's primary concerns are: 1) designating all undeveloped shorelands along the St. George and Oyster River (which is most of the river frontage in Town) as Resource Protection, and the area around the Oyster R. Bog; 2) refining the allowed/prohibited uses in the Shoreland Commercial District; and 3) improving the definitions section. The Town is also interested in incorporating requirements for agricultural and timber harvesting BMPs into the shoreland regulations. There is good communication between the Planning Board and Comp Plan Committee, and Coastal Policies are being considered as we work on the shoreland regulations.

Vinalhaven

The Coastal Planner continued to work with the Vinalhaven Planning Commission (VPC) on the Land Use Table for their Ordinance. Other issues were discussed: conversions of single-family to multi-family dwellings, and the effect of affordable housing for year-round, low-income residents; building height limits close to the water; increasing all setbacks from the water or wetland edge to 100 feet; and, Planning Board procedural guidelines.

Members of the VPC and the Town Manager attended the Groundwater Workshop held in Rockland in March. The information presented at this workshop was useful to the VPC for Ordinance revisions, since it focuses on water resource protection.

Warren

EMCRPC staff continues to provide assistance to the Town Boards and Committees as they try to meet the Comp. Plan deadline on July 1st (see Attachment #2 Memo to Warren). In addition to the Comp Plan, the Town and EMCRPC staff have been busy exploring options for local mining regulations. The Coastal Planner contacted the DEP Water Bureau, MMA, and the Town of Jay for information that might be useful to Warren, and met with the Warren Planning Board to discuss it. Their greatest concern is protection of water quality of Crawford Pond, as well as other, far-reaching impacts on the groundwater systems. The Planning Board would like to see the Comp. Plan specifically address impacts from heavy industry, such as metal mining, on water resources. Metal mining was skimmed over on the proposed Plan, which was voted on in March, because (according to the Comp Plan Chairs) the issue was so controversial. The Town now realizes that this issue must be addressed in the Plan, and is necessary if they decide to adopt a metal mining Ordinance. EMCRPC staff will continue to assist the Town with the Plan and the ordinance(s).

TASK A : 3rd Quarter Workshop

Groundwater Resource Workshop:

The second and third of three Groundwater Workshops were held in February (Liberty-Washington-Appleton) and in March (Islesboro-North Haven-Vinalhaven). Each workshop addressed the problems and issues specific to the participating towns. Both meetings were well-attended by the key people from each community (see Attachment #3). The islands' workshop was quite successful. Participants commented that the information and materials presented were very useful to Comp Plan and SZO development. Participants welcomed the opportunity to discuss common island water issues with each other and with groundwater experts.

Next Workshop - Wetlands Identification and Mapping: Shoreland Zoning and Comprehensive Planning

Scheduled for Wednesday, June 5th (tentatively in Lincolnville). There is a need to educate the local boards and committees who are charged with developing and enforcing state and local wetlands policies and regulations on wetlands values, identification, etc. EMCRPC has received copies of DEP's letters of approval of several SZOs (Appleton, Swanville, Union). It appears that although the ordinances are genrally in line with the state Shoreland Zoning Guidelines, the towns are overlooking areas that must be shoreland zoned. Our experience as we assist towns with shoreland zoning and comprehensive planning indicates that a set of natural resource maps are extremely important, if not necessary, in order to determine the shoreland zones (particularly wetlands and streams), and the areas which meet the requirements for Resource Protection and must be zoned as such.

The Wetland Workshop will address: 1) How Maine and National wetlands are identified and mapped; 2) The state Shoreland Zoning Guidelines' criteria for shoreland zoned wetlands; 3) The criteria for zoning areas as RPDs; and 4) The roles of the Planning Board and Comp. Plan Committees in identifying, mapping, and revising shoreland ordinances. The workshop will also cover the laws that apply to wetland regulations, enforcement and permitting authorities, etc.

TASK B: COASTAL POLICIES

Tier I:

Northport -

The Town is sending a draft of the Plan to EMCRPC for our review.

Thomaston

The Coastal Planner reviewed a rough draft of the Inventory & Analysis of the Land Use and Natural Resources sections for Coastal Policies and shoreland zoning, and met with the Comp Plan Committee (see Task A). The Georges River Tidewater also made some useful suggestions to the Committee as they work on the Goals & Policies section. The Comp Plan Committee is taking a close look at the shoreland Commercial District, relative to uses and dimensional requirements; and, is recommending additional snoreland areas to be zoned as Resource Protection. The Coastal Planner is working with the Comp Plan Committee on improving the water resource policies and implementation strategies (e.g, considering BMPs).

Warren

The Town rejected the proposed Comp Plan at the March Town Meeting. The Committee recently regrouped, with the same Co-Chairs, and has sought support from both the Planning Board and the Board of Selectmen. The major objections from the residents concern the Land Use

section. EMCRPC staff has met with the Boards and Comp Plan Committee several times in recent weeks, to discuss situation. The Coastal Planner also met with the Planning Board about a Mining Ordinance - the other big issue at present. Warren's mining moratorium expires in June. The Town is waiting for DEP to adopt the State Mining Rules, but continues to investigate Warren's options for adopting local mining regulations. It is likely that the Town will try to extend the mining moratorium, and possibly implement a development moratorium until the Comp Plan is adopted. See Attachment #3, memo to the Warren Planning Board Chair, about the mining ordinance and Comp Plan situation.

TASK C: GENERAL TECHNICAL ASSISTANCE

The Coastal Planner continues to provide general assistance to all coastal communities regarding shoreland and related coastal issues. In addition:

EMCRPC staff developed packets for new local officials (Planning Bd. and Selectmen) containing handbooks, newsletters, and other informational resources useful to newly-appointed board members. We are assembling these Board Packets for each town, and will distribute them over the next several weeks (see Attachment #5).

A result of our extensive contact with both coastal and non-coastal towns on shoreland zoning, EMCRPC developed an Illustrated Guide to the Shoreland Zone and Resource Protection Districts ("Shoreland Illustrated"!). A draft will be sent under separate cover, and will also be sent to the DEP Shoreland Zoning Office for Rich Baker's final comments and approval. This should be a useful handout, since it is based on some of the most frequently-asked questions and on issues we encountered as we continue to work with local SZOs.

Status of 1990 Coastal Planning Grant Projects:

St. George

The Harbor Project Committee has met several times with the consultant, Sebago Technics. There were two informational public hearings in April, where the consultants discussed the purpose and direction of the project. The results of the survey on waterfront and harbor issues were discussed, as were the preliminary recommendations for harbor and waterfront land use policies. Unfortuneatly, the survey returns were disappointing, although the two hearings drew about 20-30 people each night. The CPG Project Committee requested that the Selectmen appoint additional members to the Comp Plan Committee to involve the chairs of various subcommittees (e.g., Recreation Committee) and other Town Boards, in order to improve communication between the Comp Plan and Harbor Project. According to the Town Manager, the project is "on schedule".

Belfast

According to a member of the Waterfront Project Committee (who is also the Comp Plan Chair), Belfast's CPG project is progressing slowly. The Consultant is conducting an inventory of waterfront land uses, and will do an economic feasibility study for the waterfront area (e.g., vacant industrial buildings). The Committee hopes to print a citizen survey in the local papers to get more public input. Due to the very late start of the project and slow progress, there is some concern about meeting the project deadline.

Municipal Resource and Planning Office
of Lincoln County
(207) 882-6358

THIRD QUARTER REPORT

ROBERT PRATT

January 1991

I am continuing to review each towns' shoreland zoning ordinance. I spent 4.6 hrs on Boothbay Harbor, 4.0 hrs on Wiscasset, 2.5 hrs on Edgecomb, 1.5 hrs on Jefferson, during the abbreviated first week of the year.

I made visits to selectmen meetings including, Jefferson and Bristol. I worked with Bristol on their revisions. They need to get focused on what they want to regulate and then how. I can provide the how, but not the what. We agreed to bring in Rich Baker for the next meeting in February.

I went on an extended vacation starting Jan. 11.

February 1991

Newcastle -- I was present at a meeting of the State and Newcastle over Newcastle's Comprehensive Plan. We addressed the concerns DECD had over wording in the plan. Confusion was reduced when the two parties got together.

I was on the planning committee for a major Statewide conference on Non-Point Source Pollution. The day long program consisted of workshops and discussion groups on the topic of source pollution. Many residents from Lincoln Country were among the 300+ attenders.

The state is considering changing the funding formula that they use to allocate funds to the RPCs. They are considering using the county boundaries as a possible funding district. I have spent time with MARC directors and Frank O'Hara (consultant) discussing the options. At this time I can't project the outcome nor the effect on our office.

Bremen -- Bremen was not funded on either proposal that we assisted them with. They expect the Marina to purchase the 12 acres of land, we were hoping to acquire as public lands. I have called the Dept. of Conservation to express our interest of some public access at the site. They agree and will consider making that a part of the lease of public lands. Bob met with the selectmen. They expressed an interest in the clam ordinance project, joint purchases and salt sheds. Bob has contacted the State concerning salt sheds. It appears that coastal towns may be able to build no salt shed if they store their salt close to the ocean. I have followed this up as it may provide more public access. It appears now that it is feasible. Newcastle has build their salt storage area for less than 10,000.

Westport-- Westport is well on its way in the planning process. Ben and Bob met twice. Ben tells me that they are now developing policies. I gave him a copy of the regional policies for their consideration. They as most of our coastal towns have addressed the coastal issues. It must be remembered that they have very little contact with the sea even though they are an island.

So. Bristol-- Lucy Craib was elected to the chair of the South Bristol Comprehensive Planning Committee. She has asked for assistance at future meetings. She is doing the rewriting now and will have it done by the end of March. She requested information about erosion control used in other parts of the State. We will be helping review the plan for the coastal goals as well as the other comprehensive state goals.

Waldoboro-- The code enforcement officer believes that the town will rewrite the SLO but will not try to get it approved until Dec.1991. He says that the people want the present ordinance to function as the law as long as possible. Bob met with the selectmen to discuss the office activities. They are interested in joint purchases and clam management.

Southport-- Bob met with the selectmen. They discussed the office responsibilities during and after the comprehensive plan is completed. They were also interested in joint purchases, septage, and getting representation on our board, and assistance with their ordinance rewrites. Their present ordinance is very close to the state minimum. Little work is needed to finish. The work may be done by Maine Tomorrow.

Dresden-- Bob met with the selectmen and Chair of the planning board of Dresden. He discussed the role of the office and answered questions. They would like MRPOLC to get into group purchases. This should save each town thousands of dollars. Dresden saves over $1000 on salt alone. Bob has made additional contacts with the Planning Board Chair. She was sick at the end of March but will call when she feels better.

Wiscasset-- Bob met with the selectmen to discuss the activities of the office now that their plan is completed. They were interested in joint purchases. Bob has spoken with Dan Thompson who feels that the office can be helpful on a review of SLO, Greenbelt and other ordinances.

March 1991

Boothbay Harbor. I spoke with Rollins Hale concerning an easement to property now bounded by a new large subdivision. We discussed a variety of options and he agreed to talk with the land owners. Bob reviewed the latest draft of the SLO. He wrote a letter to Dabney. 6 hrs.

Edgecomb Kimball-Chase called to discuss watersheds. I suggested that as a part of their study that they show on a map what land is in each watershed. I suggested that they could get watershed information from the Soil and Water Conservation Service.

Damariscotta. Joan and I met with Francine Rudoff and the comprehensive planning committee to discuss their plan. It was felt that the plan is good, but lacks a development district (residential). The state is happy with their coastal issues. We are following this plan and helping on SLO.

Alna. I spent over 8 hours reviewing the Alna plan. It contains lots of policies and implementation strategies. More so than are likely to be approved. They are not a coastal town so issues of a coastal nature are not addressed to a great extent, but water and river issues are.

Bristol. I met with Marty Moses to go over his maps. They now know the zones but do not know what to put in them. I agreed to collect up some data and go to their meeting on March 26. At that meeting I took them through the possible options with which they could develop districts. They defined the districts and started placing them on a map.

April 1991

Had the sixth meeting with Bristol. They have developed the criteria for districts and have started to place them on a map.

Boothbay - Bob spoke with Fred Farnham. The town is attempting to get their land use ordinances done for the May 6 meeting. After that they will start the review of their shoreland. Fred is interested in our help.

Newcastle- Bob spoke with the new Chair of the planning board, Dan Schick. He is interested in our help but at this point needs to get new members and deal with some leftovers from the comp plan. They will be working on SLO this spring.

I spoke with a representative of the Damariscotta Lake Association. They want to continue to have regional planning on their waterbody. I suggested that they gather town policies from tier one towns and make them available to the tier two towns. She agreed. Joan attended a meeting held in Jefferson. 4 hrs

Bob has met with Pat Jennings to discuss similar regional policies. They have agreed to compare two groups, transportation and water issues. Their boards have met together to finalize the process.

Bob spent a Friday night talking with citizens of Bremen. They are very concerned with the new Marina that has been approved. It happens that they have just passed a harbor ordinance which may become the focal point of litigation on this issue. Although we did not write the ordinance, it appears that we may get involved in the interpretation. Bob has reviewed the State comments, contacted the corp and reviewed the harbor ordinance. He also gave the new members of the harbor committee the handbook. 8 hrs.

Bob attended a 2-day workshop on GIS. This should give him a good background for future coastal planning.

EXHIBIT E-11

LIST OF PRODUCTS, CZ521 AWARD (1990-91)

Task 1 -- Core Law Enforcement & Administration

** Model Shoreland Zoning Permit Forms, DECD, Office of Comprehensive Planning, January 1991.

Task 2 -- Municipal Grant Program

** Guidelines & Application for the Implementation Grant & Coastal Management Grant Programs, DECD/OCP, October 1990

Task 3 -- Coastal Policy Development: Allocating Maine's Marine Waters

Task 4 -- Program Management & Public Education

** Report on Coastweek/Cleanup 1990, Griffin & VanDusen, SPO, February 1991.

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* Transmitted with this progress report.
** Transmitted with a previous progress report.

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