

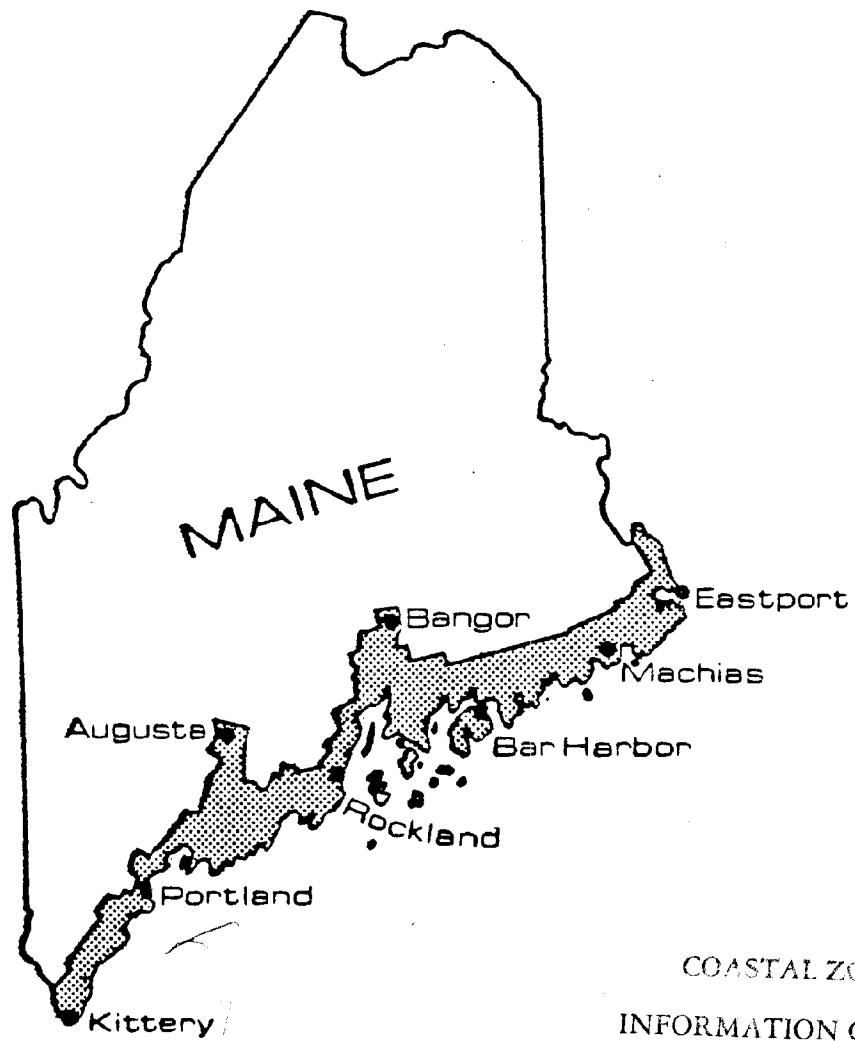
VG

Maine's Coastal Program

PROGRESS REPORT

November 1987 through January 1988

Maine's Coastal Zone Management Program



HT
393
.M2
M35
NOV 1987-
JAN 1988

Department

Maine State Planning Office

MAINE'S COASTAL PROGRAM

Progress Report

November 1987 through January 1988
CZ063 (1987-88)

US Department of Commerce
NOAA Coastal Services Center Library
2234 South Hobson Avenue
Charleston, SC 29405-2413

Submitted to

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

Maine State Planning Office
State House Station No. 38

Augusta, Maine 04333
Tel. (207) 289-3261

TABLE OF CONTENTS

	<u>Page</u>
<u>Coastal Issues & Accomplishments</u>	
o Adoption of New Coastal Sand Dune Rules	5
o Preservation of Great Heath Peat Bog	5
o Growth Management: An Escalating Issue	5
o DEP Land Use Fund	10
* * * * *	
<u>STATUS OF GRANT TASKS, CZ063 Award (1987-88)</u>	
Task 1 -- Improving Program Core Law Enforcement & Technical Assistance	19
A. DEP - Core Law Administration & Enforcement	
B. TNC - Improving State Regulation of Areas of State Significance	
C. DOC - Improving Technical Reviews of Core Law Applications	
D. MMA - Code Enforcement Officers' Training	
E. RPC - Technical Assistance on Core Laws & Local Land Use Studies	
Task 2 -- Local Program	
A. Coastal Planning Grants	19
B. Waterfront Action Grants	22
Task 3 -- Interagency Coordination	
A. Federal Consistency	22
B. Coastal Advisory Committee	22
Task 4 -- Local & State Program Administration	
A. Technical Assistance & Local Grant Administration	22
B. State Program Administration	30
1. Administration	
2. Public education initiatives	

Task 5 -- Technical Assistance to Agencies & the Public	33
A. DOC - Expanding Access Opportunities	
B. SPO - Achieving Municipal Compliance with State Coastal Policies	
C. IF&W - Management & Regulation of Wildlife	
Amendment #1 -- Heritage Coastal Areas	33

OTHER FEDERALLY REQUIRED REPORTS

1. Monitoring & Enforcement Activities	34
2. Wetland/Estuary Report	34
3. Fisheries Management Activities	34
4. Hazard Management Activities	34
5. Urban Waterfront & Commercial Harbor Projects	34
6. Coastal Access Activities	53
7. Permit Procedure Simplification	53
8. Activities to Protect or Restore Historic, Cultural or Aesthetic Resources, or Redevelop Deteriorating Waterfronts & Ports	53
9. New Memoranda of Understanding	53
10. Report on the Federal Consistency Review Process & Coordination Activities	54
11. Public Awareness Activities	54
12. New Publications Report	54
13. Changes to Coastal Zone Boundaries & Management Authority	54
14. Changes in Strengthening the Management of Coastal Resources	54
15. Major Coastal Issues & State Role (see 1st part of this report)	54
16. Sub-awards to Minority or Female-owned Businesses	54
17. SPO Organization Chart	55

EXHIBITS

E-1 DEP Quarterly Report, Nov. 1, 1987 to Jan. 31, 1988	56
E-2 Shoreland Zoning News, November/December 1987 & Jan./Feb. 1988	63
E-3 Improving Technical Reviews of Core Law Applications, Progress Report, Sept.-Dec. 1987, Maine Geological Survey, Jan. 15, 1987.	68
E-4 Wells National Estuarine Research Reserve, Advisory Bulletin No. 10, Jan. 1988	75

COASTAL ISSUES & ACCOMPLISHMENTS

- o **Adoption of New Coastal Sand Dune Rules**

Climaxing months of effort, including development of computerized sand dune maps with funding assistance from the Coastal Program, the Board of Environmental Protection approved new Coastal Sand Dune Rules on December 15, 1987. Not without controversy, as attested by the accompanying clippings, the tightened new Rules became effective January 4, 1988.

- o **Preservation of Great Heath Peat Bog**

Preservation and management of the Great Heath in Washington County as a preserve was assured through a year-end agreement between the Town of Columbia and The Nature Conservancy. The Great Heath is a singular natural feature of Maine's coastal area, listed as a Critical Area on the State Critical Areas Register. The accompanying clipping gives some of the details.

- o **Growth Management: An Escalating Issue**

Most of Maine's growth is occurring within the coastal area, and growth management has evolved into a major issue in the current session of the 113th Legislature as a result of the SPO's

KJ 12/21/87 Building rules draw praise, ire

OLD ORCHARD BEACH (AP)
Environmentalists praise stiff new state regulations governing building on sand beaches as an important step in controlling growth in southern Maine, but municipal officials hope the rules will be amended to allow more permissive development.

After two years of debate, the Department of Environmental Protection's board last week voted to forbid buildings higher than 2½ stories and 2,500 square feet on a sand dune system. Exceptions can be made if the builder demonstrates the structure is likely to survive a three-foot rise in sea levels.

The board also agreed to prohibit the reconstruction of buildings severely damaged by coastal storms and voted to prohibit construction

on dunes that front the ocean, or in the so called "V" zones of beaches where high-velocity waves are likely to do the greatest damage.

By the board's definition, a sand dune system is much more than just the sand along the water. In portions of southern Maine, "dunes" extend inland a mile or more, according to the board.

All of downtown Old Orchard Beach and much of that town's residential areas qualify as sand dune under the rules.

But the greatest effect will be on the first several hundred feet from the water. DEP Planner Donald Wetherill, chief architect of the new rules, said developers will find it relatively easy to demonstrate that even three-foot higher ocean waters

will not damage buildings located on sand bluffs away from the water. Along the shore, however, it will be almost impossible to demonstrate that kind of giant structures have been erected in recent years that meet the new restrictions, officials said.

Old Orchard Beach Town Manager Jerry Plante said he is disappointed with the new regulations, and charged that the board ignored economics when it adopted the rules.

"I am most pro-environment. I want to clean up the mess we have in Old Orchard Beach and that can only be done if new buildings are allowed," Plante said. But he added, "We need incentives to encourage the replacement of the shoddy and inferior."

Barry Timson, a coastal geologist who has worked for most of the major sand dune developers in southern Maine, said the most immediate impact of the new rules will be to encourage the rehabilitation of dilapidated structures located on the frontal dunes, where new construction is now prohibited.

But he predicted that developers will continue to seek permission for seven-story developments.

"The economics favor such construction," he said, but noted that developers will need "a very strong case" to convince the department that kind of building is safe."

The new regulations, adopted in response to requests to build a 138-unit condominium, drew praise from environmental groups. Beth Nagusky, staff attorney for the Natural Resources Council of Maine, said the rules "recognize that construction on frontal dunes and in areas prone to flooding pose unreasonable flood hazards and interfere with the natural transport of sand."

Nagusky had urged even stricter regulations that would have forbidden the rebuilding of structures that have burned or otherwise damaged.

Karin Tilberg, of the Maine Audubon Society legal staff, also praised the new rules, but said it will be difficult to enforce the board's ban on protecting structures threatened by a rising ocean.

"We will face enormous political pressure to engineer, fortify and protect these structures that represent investments of many millions of dollars," she said.

Tilberg also predicted continuing efforts to repeal the rules or to make them less restrictive.

THURSDAY, DECEMBER 17, 1987

AUGUSTA, MAINE KENNEBEC

Environmental board toughens dune rules

By BOB CUMMINGS
Guy Gannett Service

AUGUSTA — The board of the Department of Environmental Protection this week approved stiff new regulations that would make it even more difficult to construct buildings on sand dunes in the future.

The new rules, which were adopted unanimously Tuesday, would prevent the construction of buildings that cannot be easily moved from being built near the edge of the ocean.

The provision is expected to prohibit most new large condominium developments on sand beaches.

Reconstruction of buildings severely damaged by storms also would be prohibited by the new rules.

Buildings that burn or are damaged by "Acts of God" other than storms, however, could be rebuilt, providing they are moved as far away from the edge of the water as possible.

The board also:

- ✓ Rejected a request from the Atlantic Condominiums that it be allowed to construct a 30-unit condominium building in Old Orchard Beach without going through standard department review.

Atlantic Attorney Stephen Mur-

ray said the area had been thoroughly reviewed during nearly two years it took the board and department to reject an earlier 96-unit condominium proposal on the same site.

"Fairness requires that we not be made to wait another five months," Murray said.

But a majority of the board ruled that the new proposal was sufficiently different than the earlier to warrant a full review. The decision means that the proposal will be evaluated under a stronger sand dune protection policy that went into effect last winter.

Cleared the way for development of a 39-unit condominium on a 1.9-acre former salt marsh on the Kennebec River in Bath.

The area had been filled before the rules forbidding most salt marsh construction had been passed.

The board rejected a request from Maine Audubon Society that a concrete cover over a tidal creek on the site be prohibited.

Karin Tilberg, an attorney for the society, called the proposal the "entombment" of a marsh.

Robert Birk of the department staff said it was more properly "a bridge" over the marsh. But he conceded that the project would end the useful life of the area, since all light would be shut off.

Birk called the Audubon request "unreasonable."

Giant beach condos may be obsolete

MST/2/22/87
New rules limit shore building

By Bob Cummings
Staff Writer

The giant condominium buildings once were envisioned as just the first blocks in a wall of such buildings along the beach. But there was evidence last week that like Stonehenge, the buildings are artifacts of an earlier era.

After two years of debate, the board of the State Department of Environmental Protection last week adopted stiff new regulations that would do for similar buildings on sand beaches.

Key provisions include:

- A maximum building height of 35 feet (2½ stories) and a maximum area of 2,500 square feet (about the size of a large single-family home) anywhere on a sand dune system, unless the sand dune system, unless the

builder can demonstrate the structures is likely to survive a three-foot rise in sea levels.

• Prohibition against reconstructing buildings severely damaged by coastal storms.

A requirement that lawns, driveways, parking lots and buildings be contained within a lot area of a foot and no building may exceed 20 percent of a lot.

No construction on dunes that front the ocean or in the so-called "Y" zone of beaches where high velocity waves are likely to do the greatest damage.

By the board's definition, a sand dune system is much more than just the sand along the water. In

Along the shore, however, it will be almost impossible to demonstrate that the kind of giant structures that have been erected in recent years can meet the new restrictions.

New buildings wanted

Old Orchard Beach Town Manager Jerry Plante is disappointed in the new regulations.

"I am most pro-environment," he said. "I want to clean up the mess we have in Old Orchard Beach and that can only be done if new buildings are allowed."

Plante charges that the board imposed economic when it adopted the rules. "We need incentives to encourage the replacement of the shoddy and the inferior."

He worries that the owners of dilapidated buildings will now patch them up, rather than building

"Somewhere in this long debate, people lost sight of the fact that 100 feet of land in Old Orchard is 100 percent developed. Without the incentive for new construction, we can't do anything to make the improvements we need."

Barry Timson, a coastal geologist who has worked for most of the major sand dune developers in Southern Maine, thinks the most immediate impact of the new rules will be to encourage the rehabilitation of dilapidated structures located on the frontal dunes, where new construction is now prohibited.

But he predicts that developers will continue to seek permission for seven-story developments. "The economics favor such construction," he said. However,

he said, developers will need "a very strong structure" to convince the department to grant permission.

Condominiums gain state and local permits, Timson said, that overall benefit the environment. "We will face environmental pressure to engineer, fairly and protect these structures that represent investments of many millions of dollars."

Tilberg also predicts continuing efforts to repeal the rules, or to make them less restrictive.

Rising sea level

Key to the rule is the prediction of rising sea level.

A three-foot rise was chosen for the latest restrictions because that is the rise the U.S. Environmental Protection Agency says is most likely to occur in the next 50 years as a result of carbon dioxide pollution trapping the heat of the sun.

The law giving the department control over sand dune construction probably buildings likely to be damaged by storms in that time.

The new regulations drew praise from environmental groups. Both Nagoshi and Tilberg said the impact will be minimal on the community. We have to maintain the beach, but these regulations take away the tax base that we need to pay for it."

These are tremendous protective and tremendous [potentially] areas to develop," she said. "They are like bowls of candy. People will try again and again to get a piece even if they know it is not allowed."

Hoping rules will change

Plante hopes the rules eventually will be amended to reflect the contributions of groups such as Old Orchard.

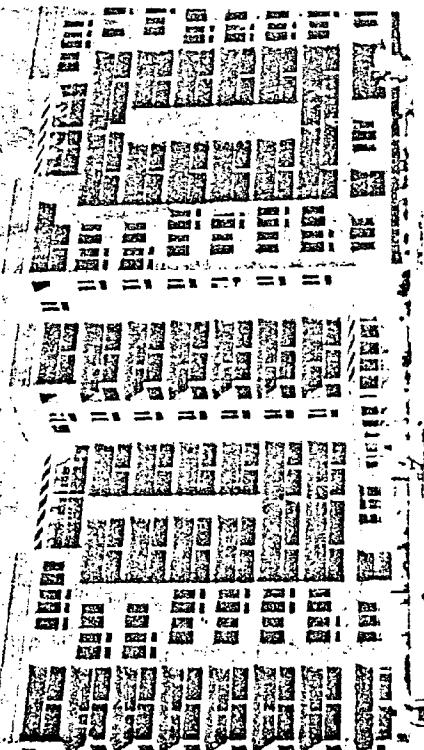
The land has to realize that there is a difference between developed dunes and a developing community. We have to maintain the beach, but these regulations take away the tax base that we need to pay for it."

William Silker, a spokesman for the Saco Bay Federation, an organization formed by seven citizen groups in the area, including Saco and Scarborough. Eventually Silker, whose group includes condominium owners, said the federation has become "so concerned that sharply increased development is inevitable."

"We face the choice either

retiring as the ocean rises or

protecting the shore and living on the beaches," Silker said. "The federation prefers reti-



Development of giant condominium buildings, like this one in Old Orchard Beach, may be a thing of the past under new Department of Environmental Protection regulations.

Though his business has concentrated on helping multi-story

developers

Timson said.

But Tilberg thinks it will be difficult to enforce the board's ban on protecting structures threat-

Land accord preserves Great Heath peat bog

By Abby Zinett
Staff Writer

COLUMBIA — The Great Heath, New England's largest peatland, will probably remain intact and undeveloped, thanks to an agreement between the Maine Chapter of The Nature Conservancy and this small Washington County town.

Under the agreement, the Nature Conservancy will acquire for a nominal fee the right of first refusal to the 1,000-acre portion of the heath owned by the town. The rest of the 3,300-acre heath is owned by the state.

The agreement will also give the environmental group a 15-year management lease to manage the bog as a preserve. The deal is expected to protect the heath, home to a number of rare plants, into the foreseeable future.

"I don't think it will ever be developed," says Columbia First Selectman Bartlett Smith. "Now, it's where it should be."

The Great Heath, divided by the Salmonotrich Phasam River, is the largest expanse of open bog in Maine. A registered critical area, it boasts several endangered plants, including the rare "dragon's mouth orchid," a small, pink orchid, and the "salal-apple berry," a member of the raspberry family.

The northern 3,300 acres of the heath fall in

unorganized territory and are owned by the State

Bureau of Public Lands. The town of Columbia owns

its southern quarter and last unprotected portion,

which it acquired several years ago on back taxes

owed by a peat-mining developer.

Under the terms of the new deal, the Nature Conservancy bought — for 50 cents an acre — a right of first refusal guaranteeing them the right to match any future offer made for the land. The renewal management lease also allows them to manage the bog as a nature preserve to conduct ecological studies, and to maintain public access.

Because the state already owns three-quarters of the heath, the Nature Conservancy arranged for the right of first refusal to be assignable to the state. In the unlikely event that a developer should ever try to buy the heath,

According to Smith, the town did try to sell its portion of the bog several times in the past to real estate developers, but no sale ever resulted because no one could get clear title to it.

Now, says, people feel it's just as well. While perhaps in the past the old people just took it for granted, he says residents now appreciate the value of the heath and want to see it protected — which is why the deal with the Nature Conservancy was unanimously approved by the selectmen.

"Nobody in town wants to see that land exploited," he says. "It's unique and it's non-renewable. Think, and I've gone for thousands of years, and all you've got is a big hole in the ground. All for a few bucks."

He cites the bog's pleasures: purple flowers in the summer, its "blood-red" color in the fall; the way it mists up "like the ocean" on fall mornings.

"You get to appreciate things like that," he says.

"With all the other heaths around here being mined, we hope to keep ours."

The 4,300-acre Great Heath, Maine's largest expanse of open bog, will now be managed as a preserve.

Nature Conservancy photo



cumulative impact of development project and creation of the legislative Commission on Land Conservation Economic Development during the last session. The Commission is charged with reporting to the Legislature by this February 15th, as reported in the Progress Report for the Period Ending October 31, 1987. The clippings reproduced below illustrate the scope of the concerns and approaches proposed by various groups.

o DEP Land Use Fund

DEP starts land use fund

AUGUSTA — The state Department of Environmental Protection has announced a \$150,000 fund to help towns with legal costs of enforcing land use law.

The money was set aside by the Legislature as a reimbursement fund for communities doing battle in court to protect lakes. No municipality may receive more than \$25,000 per year, according to the DEP in a prepared release.

Towns must apply to the Board of Environmental Protection within 90 days of the end of litigation. Eligible expenses include court costs, lawyer and witness fees, officials said.

Reimbursement is available regardless of whether a town wins or loses a court case.

New growth management proposals being heard by legislative committee

By Jill Cournoyer

Over forty Maine communities, most within the past two years, have enacted some type of moratorium on development. These attempts to control growth are, says Everett Carson of the Natural Resources Council of Maine, "the best evidence of the land use crisis" occurring in Maine.

"This unprecedented development boom," Carson continues, "is impacting the environment, economy, life in a fashion never before seen in this century." Changes from growth, concurs Richard Slikman of the State Planning Office, have affected "everyday activities—the way we interact with our Main Streets."

The challenge is, according to Slikman, "how to evolve from a state which used land use ordinances to protect natural resources to a state which uses land use ordinances to direct and manage growth."

That challenge has been charged to Governor McKernan's Commission on Land Conservation and Economic Growth,

an appointed panel of six representatives and three state senators. For the past few months, that commission has conducted public hearings in Sanford, Ellsworth, Augusta, and Houlton to allow citizens to express themselves.

In addition, groups representing diverse interests have submitted written proposals to the commission. Proposals have come from the Maine Real Estate Developers Association (MEREDA), Natural Resources Council of Maine (NRC), Maine Municipal Association (MMA), and State Planning Office (SPO). (See chart of their proposals on opposite page.)

These four groups also discussed the issues at a "State Initiatives in Growth" panel sponsored by the University of Southern Maine's Growth Management Project in mid-November.

The commission will now discuss the information it has heard and read at two workshop sessions and then prepare its

own recommendations for how to plan land use in Maine. The recommendation, probably in the form of a statute, will be considered by the Maine legislature in February.

What emerged from the public hearings, according to Susan Sinclair, staff director of the Growth Management Project, "is the amount of consensus among people testifying: concern for what uncontrolled growth is doing, a lot about affordable housing and farmland loss and conversion, and pressure on natural resources." The extent of these concerns was evident by the crowded hearings—over 100 people at both Ellsworth and Sanford, for example.

While the same problems were commonly cited, the same remedies have also been recurring among those proposing solutions. The three major themes have been (1) comprehensive planning at the state, regional, or local level; (2) more funding and technical assistance to local communities; and (3) better protection of natural resources.

Other suggestions have included increased enforcement, impact fees on developers, commitment to affordable housing, and land speculation taxes. Following is a summary of the major issues addressed at the hearings, in the written proposals, and at the USM-sponsored panel.

State versus local control

Most groups agree on the key land use weakness in Maine. That is a land use permit system that makes decisions on a case-by-case basis without an overall planning scheme behind it. Thus, there is general agreement that comprehensive planning is needed. The question is, should such planning be done statewide or locally or both?

The positions of the main groups submitting written proposals illustrate the philosophical range of answers to this question.

The MEREDA proposal calls for the state to develop a comprehensive land use plan, with mandatory local plans adhering to the state's guidelines. Local plans must speak to specific areas such as economic development, affordable housing, natural resources, and traffic. While local plans will be reviewed by the SPO, they can only be overturned upon appeal to a newly created board.

The NRC, whose final proposal is still being drafted, is also proposing a state land use program. This program will mandate local planning and call for providing financial and technical assistance to local and regional planners.

While its recommendations are yet to be finalized, the SPO is currently stressing funding for technical assistance to communities, some type of comprehensive planning requirements (particularly in high growth areas), and perhaps allowing some state permitting to be local.

At the other end of the spectrum from MEREDA is the Maine Municipal Association. The association is strongly resisting any state comprehensive planning in favor of local communities maintaining maximum control over their destinies.

The association's position was one heard often around the state. "Towns don't want the state to step in," Sinclair says, explaining, "Maine is a home rule state; towns can make laws in any areas the

state has not already." This thought was echoed by Rep. John Cashman, commission member and a real estate businessman from the Augusta area. "Maine has historically left planning to the locals," Cashman says.

He cautions, though, "that's fine for Portland and Bangor, but for a town of 1,200 people to generate a comprehensive plan without help from the state is asking too much...[People] don't want the state to be overly restrictive, but to provide assistance on request and general guidelines, and if they [locals] want it to be a very restrictive community, they can."

As Cashman's statements indicate, while a comprehensive state plan may be controversial, the need for state technical assistance is not. Sinclair finds that there is "a lot of consensus...on an increased commitment to training and technical assistance—the community needs more resources to be able to plan."

Representative and commission member Annette Hoglund of Portland agrees that "No one's looking for the state to mandate, but more or less help with technology and financing."

"The MMA surprised me," she adds, "by opposing the idea of a comprehensive plan. I believe towns and cities need a plan, some sort of a structure, to see what towns will be like 10 to 15 years from now." (Slikman suggests that towns have landscape architects construct 3D models of what zoning changes will bring.)

Also pointing out the need for "some help-guidelines" from the state was Sen. Margaret Ludwig of Houlton and commission member. She notes that many of the small communities in her Aroostook County district are without zoning boards and have part-time selectmen who farm and do other jobs for a living. At the same time, she says, "I think local control will figure highly."

But according to Gordon Hamilton, president of MEREDA and a participant in USM's panel, his association feels planning "has to come from the state down [because] it doesn't seem to be working the other way. Lots of communities don't have the expertise."

An emphasis like MEREDA's on "state oversight...worries us a lot," says Kay Rand of the Maine Municipal Association, also a panel member. "We see it as taking away decisions from the local level where they belong...The only area we recognize a legitimate role for the state is protection of critical natural resources...[not] unoccupied areas like affordable housing."

Imposing state guidelines on local communities will "halt momentum underway in some communities" already doing planning, she adds.

Controls on development

Besides the debate over whether the state or local government should exercise the most control over land use is the issue of how much control over development should be exercised?

The answer may vary by region, as Sen. Hoglund points out, with northern Maine having "a whole different outlook." "They [the North] are in need of some sort of growth. Their economic problems are different," Margaret Ludwig echoes, "We [Aroostook County] are trying to find ways to bring business in."

Growth plan draws fire from all sides

By TOM BRADLEY
Guy Gannett Service KJ 2/10/88

AUGUSTA — State officials have proposed that Gov. John R. McKernan's growth management strategy is a "middle-of-the-road" plan — it has drawn fire from all sides since the governor unveiled it just month ago.

Criticism of the plan has come from environmentalists, municipalities and developers, State Planning Director Richard Slikman said Tuesday.

Slikman said environmentalists have criticized the plan's lack of an automatic state review of towns' comprehensive plans and the absence of a land speculation tax.

Municipalities have questioned whether the proposal is too aggressive and underfunded, he said.

And developers want clearer criteria on development moratoriums and on impact fees, he said.

"It's a very middle-of-the-road proposal," said Slikman.

Slikman, Environmental Protection Commissioner Dean Mariott, and Nathaniel Bowditch, director of the Department of Economic and Community Development, defended the elements of McKernan's proposal in a meeting with editorial writers for Guy Gannett Publishing Co.'s Portland newspapers.

The chief competition to McKernan's package is a strategy developed by a legislatively created commission that requires each municipality to develop a comprehen-

sive plan and mandates state review of each town's plan. The commission's proposal is also called for more funding and a slower timetable than McKernan's proposal.

McKernan's package does not require that towns develop a comprehensive plan.

But Slikman said the plan would deny entire categories of state grants and would prohibit new subdivisions or other development requiring state approval for any town that does not have a comprehensive plan by state-set deadlines.

The deadlines currently proposed by McKernan's strategy include a deadline of the end of next year for municipalities of more than 500 residents with a 15 percent or more population growth since 1980.

Slikman said 35 to 40 towns, most of them in York and Cumberland counties, would fall into this category.

The deadline for towns of more than 300 people with a population growth of 5 percent or more would be the end of 1990. About 70 towns, many of them along the Interstate 95 corridor, would be in this category, he said.

Other towns would have a deadline of the end of 1992.

The timetable is two years shorter than the proposal by the legislatively created commission. Slikman characterized the timetable as "a very ambitious schedule" but said most of the data that towns will need already has been collected.

Four Growth Management Proposals

The following summarizes the positions of the four main groups regarding key growth planning issues. General agreement exists that there should be more state funding and technical assistance to local communities, and more regional planning. It should be noted that except for the MEREDA proposal, the groups' proposals have not been finalized yet.

Maine Real Estate Development Association	Natural Resources Council of Maine	State Planning Office	Maine Municipal Association
New state comprehensive land use board and plan.	A state comprehensive planning program.	A state comprehensive plan.	No new state agency or process.
Mandatory local plans, adhering to state guidelines. Appeals of town plan to newly created board.	Local planning required.	Partnership with state/locals. Perhaps locals take on more permitting.	Locals retain control of planning.
(1) State plan promotes "responsible development" and multiple uses of natural resources. (2) Some environmental permitting oversight returned to local level if town plan meets state approval.	(1) Close loopholes in existing environmental laws. (2) Expand state environmental oversight to more areas. (3) Develop strategy for using \$35 land acquisition bond. (4) Develop mechanism for towns to buy land.	Prevent flaunting of environmental laws by improving enforcement with stricter penalties and more local code enforcement officers.	State review continues and enforcement improved in critical areas.
Impact fees: construction of onsite improvements or fees for offsite improvements related to development.	Land speculation taxes on quick resales of land.	Impact fees under discussion. Financing of planning from general fund taxes.	
Establish standards for moratoria (prove public facilities shortage or compelling need).			

"We're all for controls," Ludwig adds, "but don't want to see rules so stringent this prevents us from any development."

From a developer's standpoint, Hamlin claims that, "All we as developers want is tell us what you want. If you don't want high rises in Friendship, Maine, you should tell us...Developers want a clear understanding of what the community really wants." MEREDA, he stresses, "is made up of Maine people, we live here and work here. If we have unbridled growth, we are going to foul our own nest, so to speak."

One of MEREDA's most controversial proposals is its suggestion that the state

set standards that communities must follow before enacting a moratorium. These include the local government justifying the moratorium by proving a shortage of key public facilities, such as sewers, or an otherwise "compelling need."

Rep. Joseph Mayo of the commission, for one, "is very skeptical of limiting municipalities' [right] to consider a moratorium." Cashman, however, feels that moratoria are not a logical solution anyway because obviously developers are responding to a need, for example, for more housing, and a moratorium is not going to make that need go away."

Affordable housing
One of the keys to not losing traditional values is controlling the impact of development so the average Maine family can afford a home. The problem is a serious one. As Rep. Hoglund observes, "In York County you can't find a house for under \$100,000." Many young people came to the Sanford public hearing, she

noted, who "had bought something (home) to enjoy the quality of life in Maine, but now find it unaffordable."

As part of its state comprehensive plan, MEREDA thus suggests establishing "active strategies" to increase housing options in the state. Rand of MMA, however, feels that issues like affordable housing are "too unfocused, vague" for state control. She feels that the issue depends more on "market phenomena" beyond the government's control.

Natural resources protection

Next to more state assistance to towns, the proposal on which there seems to be most agreement is better protection of natural resources.

Rep. Mayo comments that one concern shared by many "is the need for creation of green space, open space." Hoglund notes that in northern Maine "spaghetti lots" are feared and people are "pleading for farmland." And Sen. Cashman blames "helter skelter" growth for "destroying good farm property and open space on the coast."

In regards to land, Silkman notes the "state has a stewardship role" as owner of numerous lakes, parks, and other areas. One of the State Planning Office's proposals is to inventory land and develop an "acquisition strategy" for using the \$35 million approved by voters for buying Maine land, according to SPO's Denise Lord.

NRCM suggests developing a mechanism by which towns could buy up public lands. The organization is also proposing expansion of state oversight to environmental areas currently not covered by state review, including critical wildlife habitats and buffer zones along wetlands. It further recommends closing loopholes in existing environmental laws, such as condominiums being excluded from site reviews.

MEREDA's proposal suggests that as part of an overall state comprehensive

plan, "critical environmental areas" be inventoried and appropriate uses on them be designated. It also recommends the plan "include provisions for recreation, park and other open space." More controversial is its proposal to return some of the land use and environmental permitting processes to local control once a town has a state-approved comprehensive plan.

Enforcement

Recognizing that calls for better protection of natural resources, for example, does not ensure the laws will be followed, many people have emphasized the need for stronger enforcement of laws.

The Shoreland Zoning Act, for one, "is diverged from a disturbing amount of times," comments Silkman. The SPO recommendation, in particular, emphasizes this issue. Currently, the SPO is proposing a penalty system for violators, including "sufficient disincentives to breaking the law," says Lord. Additionally it suggests "beefing up local code enforcement offices since most permitting is at the local level."

Fees and taxes

One of the aspects of planning expected to prove most controversial is the imposition of fees and taxes to help pay for the planning. "Financing is clearly the toughest question," notes Carson.

According to Silkman, the state is expecting money to come from the state's general fund, with no additional taxes.

The NRCM, however, is proposing a land speculation tax, which would be assessed on buyers who resell land within a few years of purchase. The tax would

decrease in amount each year and disappear entirely after a certain number of years. It is a response to companies like the Patten Corporation, says Carson, that are "buying, not investing, and reselling at a tremendous profit" right after purchase. The tax would be funneled back into the community. Hamlin notes MEREDA "certainly wouldn't be in favor of that."

MEREDA is, however, "endorsing the concept of impact fees for the infrastructure," Hamlin adds. This might include, he suggests, onsite capital improvements, such as sidewalks, or fees for offsite improvements necessitated by development, such as roads. In order to levy these fees on developers, communities will have to develop a "rational scheme to allocate to developers what they have to pay per square foot, for example."

As Sen. Hoglund states, "Developers don't mind impact fees if they know up front and understand all the costs. Everyone pays a little...no one seems to be opposing that."

However it is eventually financed, "planning is not cheap," Carson notes. For instance, it cost \$50 million to institute a statewide plan in Oregon, but they "found planning works," Silkman adds. "Planning minimizes long-term costs. The past three years most of the infrastructure budget has been spent chasing development."

As to whether appropriate funding will be found to blueprint the state's growth, Carson is "optimistic, because it is so absolutely necessary for Maine's future."

Ed. Note. The USM panel discussion will be aired on public cable sometime in December. For times, call the Growth Management Project at 780-4480.

COMPARISON OF MAJOR GROWTH MANAGEMENT PROPOSALS

NACM 2/88

by Jerry Bley

The Council has submitted proposed growth management legislation to the Commission on Land Conservation and Economic Development, as have other interested parties. These proposals are detailed in the most recent issue of Maine Growth Management News.

The major proposals concur that the key to managing Maine's rapid growth is to strengthen significantly local comprehensive planning and to implement local plans with clear and effective programs. Most proposals support major funding assistance from the state, but there is little agreement about how to achieve this goal.

Should towns be required to develop comprehensive plans or should the state encourage towns to plan through various incentives? Should the state establish goals to guide local planning and if so, should the state review local plans to ensure that resources of statewide importance are protected?

"These are extremely important questions," said Brownie Carson, the Council's executive director. "We've looked at many systems across the country and we haven't found one in which a strictly voluntary program has been effective. In the successful programs, primary decision-making responsibility stays at the local level, with strong leadership, support, and oversight by the state."

Carson added that local decisions can profoundly affect resources of statewide importance, such as working waterfronts, affordable housing, and critical environmental areas.

Other issues before the commission which are sure to be controversial include the Council's proposed land speculation tax, elimination of loopholes in state land use laws, and new protection strategies for important environmental resources such as critical wildlife habitat.

The following table shows how each of the major proposals has approached key issues.

	Natural Resources Council of Maine	Maine Real Estate Developers Association	Maine Municipal Association	McKernan Administration
Type of planning initiative	Require towns to develop comprehensive plans and implementation programs that address seven state land use goals; plans to be reviewed by state.	Require towns to develop comprehensive plans that address ten state goals; plans must be approved by state.	No new requirements for local planning. No state review of local plans.	Establish incentives (not defined) for towns to plan. State to adopt broad policy objectives. State review of certain elements of plan to determine eligibility for incentives.
Agency to coordinate local efforts	Create a new Department of Land Use Planning.	State Planning Office	Department of Economic and Community Development	Not specified
State funding for local and regional planning	State to provide 75% of local planning costs; funding for regional planning councils to expand technical assistance and to conduct regional inventories.	Not specified.	\$800,000 to regional councils for technical assistance to towns; funds for planning grants to towns.	\$500,000 (plus \$1,500,000 in second year) to regional planning agencies to provide technical assistance to towns.
Changes to local permitting responsibilities	Towns which have an approved plan can assume some responsibilities now held by state.	Towns which have an approved plan automatically assume most state permitting responsibilities.	Towns lose permitting authority in identified critical environmental areas if local protection plans are not adopted.	Towns can assume some state permitting responsibilities
Closing loopholes in existing laws	Eliminate all major loopholes in Site Law, Subdivision Law, and LLURC law.	Oppose closing of loopholes.	Eliminate 40-acre lot exemption in Municipal Subdivision Law.	Close selected loopholes (unspecified).
Changes to state laws	Expand and strengthen Subdivision, Shoreland Zoning, Freshwater Wetland, and Site laws. Consolidate resource protection laws into one statute and add coastal erosion areas, critical wildlife habitat, fragile high mountain areas, and coastal heritage areas.	Establish new laws that would limit a town's ability to enact a moratorium and that would strictly define the use of impact fees on development.	Strengthen Municipal Subdivision Law.	Unspecified revisions to Site Law, Shoreland Zoning Act, and Subdivision Law. Consolidation of resource protection laws.
Enforcement	Establish training and licensing program for local code enforcement officers. State funds to assist local enforcement and expand DEP enforcement resources.	Not specified	50% state funding for full-time code enforcement officers.	Unspecified funding to improve state and local enforcement.
Tax Incentives	Establish a land speculation tax to discourage speculation and provide funds for growth management initiatives. Enable towns to impose real estate transfer tax to fund land banks and planning.	Opposed to speculation and real estate transfer taxes.	Allow towns to impose real estate transfer tax to fund land banks.	Not specified.

Workshop set on coastal growth

1/14/88

By James M. McCarthy
Times Record Staff Reporter

BRUNSWICK — Clams and other valuable marine resources can be harmed by inland residential or commercial developments, with one local example being the closure of the Harraseeket River estuary in Freeport to shellfish harvesting due to pollution.

A prime suspect for at least part of the pollution is raw sewage from a pipe emptying into a stream that flows into the north end of the estuary. Other streams flowing into the estuary, some extending into the village district, might also be causing the pollution — as well as illegal waste water discharges from pleasure

boats.

Brunswick Town Planner Mathew Eddy said in stories from further south officials and all-day conference Maine Coast and eat it to Bowdoin College.

Eddy said tended to all developers, citizens to the growth can environment be a way of marine resources. More than

been lined up for the conference, which is scheduled to run from 8:30 a.m. to 4 p.m.

Participants also will learn how to conduct inventories of the uses of

Eddy said more than 100 people have registered for the conference.

Growth session set Wednesday
WICASSET — In the 17 days since the town of southern Maine began its planning board annual meeting local ordinances are assembling to ban sprawl, designate land for future growth, establish a moratorium on rapid development, expand services, and allow for those services with the same base.

Maine ponders runaway development

Not all areas of state favor efforts to impose limits on growth

(First of four articles)

By Nancy Remsen
Of the NEWS Staff

Some say that the very essence of Maine is at stake in the discussions under way this winter about how to control development in the state.

According to Gov. John R. McKernan, devising ways to manage growth will be crucial in 1988 because of the impact that out-of-control development has on the quality of life in Maine.

The growth-management issue has drawn almost undivided attention from interest groups and brought lawmakers to Augusta throughout the fall to study proposals for the current legislative session.

The irony is that many people in Maine have prayed for years that growth would stampede north, carrying with it jobs and prosperity.

Yet, while people in many communities in eastern and northern Maine still anxiously await a development surge, there are people in communities along the coast, in the southern part of the state and in the western mountains who feel like they've been trampled.

"Rapid, unplanned growth of a most destructive nature is what's happening. Just look around," testified Shawn O'Brien of Franklin to members of the Legislature's Land Conservation and Economic Development Commission, a group asked to respond to a public outcry about growth.

Unbridled growth has been blamed for the disappearance of affordable housing, the destruction of critical wildlife habitat, the elimination of recreational access, the degradation of lakes, the loss of the best farmland and timberland, the stifling of working waterfronts, increased traffic congestion and rising taxes.

Citizens in as many as 80 Maine communities, responding to growth that they didn't anticipate and aren't sure they want, have enacted moratoriums or other restrictions on development within the last three years, according to tallies kept by the Natural Resources Council of Maine and the Maine Municipal Association.

Moratoriums are "indicative of a very serious problem," according to Ron Kriesman, an attorney with NRCM.

Lack of planning has set communities adrift amidst pressures for development, agreed representatives of the Maine Municipal Association and the Maine Real Estate Development Association.

"Right now, in many cases, a developer makes the first set of decisions on land," said Carol Ford, executive director of the Maine Real Estate Developers Association. "At that point, a community can only react."

But, while growth management has become a

See INCREASING on Page 3



NEWS Graphic by Eric Zelt

Both sides feel pressures

REAL ESTATE UPDATE 12/87

■ Developers find business harder, turn to state for help

by Cathy Coffman

It has been one year since the University of Southern Maine held its second growth management conference at the Sheraton Inn in South Portland. Experts on state control from Vermont, Oregon, and Florida were trotted out, and the evening was capped by departing State Planning Director Richard Barringer and his plan for controlling growth.

Developers in attendance clapped politely, but after the conference in private or the next day publicly in the media many expressed reservations about the state tak-

ing such a big brother role.

That was then. This is now.

"It pains me to suggest it," says developer William Slattery, president of Pejepscot Associates in Topsham, his voice rich with that sentiment, "but it appears that state regulation may be the answer."

"The state must get involved," states Steve Kasprzak of Kasprzak Inc. of North Waterboro more decisively.

The same "solution" is echoed by the Maine Real Estate Development Association (MREDA), which in late October presented the Committee on Land Conservation and Economic Development with a proposed legislative package.

In language that left some of their usual adversaries flabbergasted, the proposal calls for more state involvement and even for the state to impose impact fees. It is as if the public begged for taxes.

■ Planning boards grapple with growth, citizen fears

by Kelly Nelson

"The state of Maine may be beyond saving," says Gary Archibald, ex-chairman of the Kennebunk Planning Board, discouragingly. Archibald feels that due to "greed and instant profit taking, Maine has given away the farm already."

Perhaps because they are still serving on planning boards, current members don't tend to speak with Archibald's candor. Nevertheless, in their conversations they again and again show a preoccupation with problems essentially arising from increased growth. The list of preoccupations

can come swiftly in just minutes of conversations.

•Strained public services. Archibald says that the 40 percent growth experienced by Kennebunk in the last five years is taking its toll. In three to four years, according to Archibald, the new water treatment plant will be full and building a new one will add a serious debt on top of the \$11 million in principal that the town already owes. He foresees that within two years development will be within the sewer districts due to "too many developers with too much influence with the sewer officials."

•Threatened environment. Larry Balboni, a property owner in Naples for 25 years, joined the Naples planning board there when he noticed "the appearance of uncontrolled development." Balboni, the chairman for five years now, says that

Thursday, February 4, 1988

Coastal Development Conference Attracts Nearly 300 Participants

By Arthur B. Layton Jr.

Participants in a Jan. 23 conference in Brunswick about how to successfully meet coastal development pressures displayed so much interest in the subject that another conference is being considered for the autumn, according to Jessie Quintrell, a senior planner in growth management and land use at the State Office of Community Development in Augusta.

Entitled "The Maine Coast: Can We Have Our Cake and Eat It Too?" the all-day conference on the Bowdoin College campus drew nearly 300 people.

The conference was organized by the University of Maine Cooperative Extension Service for Androscoggin and Sagadahoc counties. Despite its location, the conference was attended by planners and citizens from coastal communities in Washington and Hancock counties.

Sponsors of the session were: the Town of Brunswick; Brunswick-Topsmead Land Trust; Environmental Studies Program at Bowdoin College; Merry-meeting Developers, Inc. (Topsham); Maine Audubon Society; State Office of Community Development; Department of Marine Resources; University of Maine Sea Grant Marine Advisory Program; Natural Resources Council of Maine; and, Maine Citizens for Historic Preservation.

Quintrell, who helped organize and run the conference, said late last week that one of the principal subjects to emerge from the discussions by participants is that State and community planning laws are weak. "One of the biggest weaknesses is that the laws are not linked to comprehensive plans. Planning boards just look at things on a case by case basis. There is a need to link planning more closely with regulations," Quintrell said.

She said there appears to be a great hunger in the State, particularly in Ellsworth, Mount Desert Island, Down East areas, for the knowledge and the tools to deal with development.

In welcoming the conference participants, Brunswick Town Planner Matt Eddy told the group that it has become popular to think of only the coast being subjected to development pressure. The pressure to develop areas by inland lakes, ponds, and rivers is just as intense, he said.

Eddy, who said he was reared near the Connecticut coast, described the demise of clam flats and fishing villages in that State as the corridor between New York and Boston became crowded with people who increased both local living costs and pollution.

Sandra McFarlane, a shellfish biologist from Orleans, Mass., on Cape Cod, described the death of clam flats on Cape Cod from human and animal sewage as more and more humans and their pets moved onto the Cape over a 20-year period. The increasing presence of humans and their pets forced wild animals into the wetlands, which they had not

occupied before, McFarlane said.

As the human population increased, the populations of scavengers such as sea gulls increased, and well-intended federal laws allowed the Canada goose population to explode, according to McFarlane. She said the combined waste of all these warm-blooded creatures has wreaked havoc on the clamflats and polluted swimming areas.

Robert Suminsby of the Knowles Co., a Northeast Harbor real estate firm, stressed the desirability of establishing land banks and trusts to control development.

After a brief coffee break the conference participants separated into groups to discuss a variety of subjects which included: harbor management, saltwater and freshwater pollution; saving commercial fisheries; guaranteeing public access to them; and ways of assuring that truly "water-dependent uses" will be given priority in harbor management plans.

Managing growth *Bon 1/16-77/5*

"The most effective method of addressing cumulative growth pressures is through land-use planning and the best place to do that planning is at the local level ... Frankly, many Maine municipalities have not had either the technical capacity or the resources to develop adequate comprehensive plans to meet the growth pressures that they face... I also deeply believe that this state and our towns need to do more to plan ahead if we are to preserve our environment and our quality of life..."

Gov. John R. McKernan
Jan. 12, 1988

Maine is in a quandary. Its people are proud of their state's beauty and diversity. They are content with its lifestyle. But over the years they looked west and south and envied the prosperity of their New England neighbors. They dreamed of development. The dream is arriving, but it is not what people imagined. Not at all. They envisioned high-tech factories and a housing boom with better homes for Maine residents who would earn decent wages in clean industries. The dream hasn't changed. It is being realized, here and there in pockets of prosperity. But for most Maine towns, the reality of today's development explosion is very different from the dream.

Gov. John R. McKernan put it on the line this week in his state of the state address. Maine is not planning properly to manage the incredible pressure of unprecedented growth that gradually is eating its way northward and inland, consuming land and the resources of communities, while nibbling away at their traditions and their quality of life.

Huge chunks of land are leaving the hands of Maine owners. Developers are grinding up these tracts into small parcels, selling them to out-of-state owners, placing the land off limits to the people of this state who have hiked and hunted it for generations.

In many cases, communities confronted with the phenomenon are bucking away from it. Already, as reported in a series this week by the NEWS'S Nancy Renssen, more than 10 percent of the state's municipalities have reacted to the wave of development by declaring moratoriums or erecting other barriers to growth. From Hartford to Cherryfield, the message is clear: Too many municipalities are concerning they can't respond properly to development pressure. They don't have the expertise,

they don't have the money to retain qualified help.

Most important of all, they don't have a plan. In far too many cases, there is no local document to offer perspective, guidance and security.

The governor's legislative proposal promises help by addressing "such statewide concerns as affordable housing, public access and natural resource protection" through the creation and funding of a Maine Town Planning Program. He says he will push for money to enhance enforcement of existing environmental laws.

All of these things are necessary. State government must respond to this crisis, and it is a crisis, with programs and the money to back them up.

But the crux of the issue is adequate planning, and in this respect the governor did not go far enough. The net result: Growth management is a statewide concern. In communities where the dream of development has turned into a nightmare, the response often has been to hide under the bed. Consequently, developers are challenging inexperienced, underfunded communities in court. The net result: Developers and judges will write these towns' comprehensive plans.

The governor and the Legislature must recognize the totally inadequate approach of merely creating incentives for towns to do their own planning. As the governor says, these concerns are "statewide"; then let's do the right thing, the tough thing immediately and make it mandatory that all communities have comprehensive plans.

The governor made an especially revealing comment in his speech the other night. "I do not believe," he said, "that Augusta should be telling local communities how they ought to look." It definitely should not. But it is not contradictory for the state to require local comprehensive planning while still believing in the principle of local control. In fact, many communities are admitting to having no control right now over development and over their own destinies. It is the responsibility at this moment demands that the Governor and the Legislature require communities to look at themselves, inventory their assets and their aspirations, and craft their own plan for how they want to look.

There is still time for these communities to dream, but the time has come for them to plan and to act. The state should make them do it, and put up the money and professional guidance to ensure that it is done right.

OPINIONS

MT
1/22/88

Managing growth: it's a relief to be talking about it at last.

Everyone, it seems, is climbing aboard the growth-management train. Jock McKernan endorsed a mild form of growth control (he even mentioned "cumulative impact") in his state-of-the-state speech last week. The Natural Resources Council of Maine has a plan; so do the state's real estate brokers and the Maine Municipal Association. Fifty Maine towns have gone so far as to put off the developers with moratoriums; the attorney general has said he'll go to court to help towns fend off lawsuits from angry subdividers.

What's going on here? Isn't this Maine, where we govern ourselves at town meetings? Where "local control" has near-religious meaning? Are we undergoing a fundamental change in our values?

Probably not. At least one poll suggests that a majority "would like to see more growth, especially those who live in the northern half of the state." Granted, the public may have gotten more concerned than it was when the Becker Poll was taken 10 months ago, but Maine's urban-rural, rich-poor, and north-south distinctions are still very real. They'll have to be taken into account as we draft a growth management plan.

Maine's growth problems are just as real as the state's regional differences, of course. There is the creeping, lot-by-lot suburbanization that's depriving us of our rural landscapes and making it difficult for people engaged in traditional occupations to earn a living. Subdivisions and manure-spreading dairy operations don't mix well; neither do noisy working waterfronts and harbor-view condominiums. The farms and working waterfronts were there first, and their needs should be considered first.

Maine Times
41 Main Street
Topsham, Maine 04086
Telephone (207) 729-0126
or (207) 865-6947

A good growth management plan should address the problem of affordable housing — by subsidizing it outright, by discouraging the sort of speculation that drives out moderate-income people, or by some other means. It's irresponsible to let Maine people be priced out of their homes, towns, or neighborhoods.

The plan shouldn't ignore tourism, which often fuels growth in resource-poor places like islands that are ill-equipped to deal with it. Tourists contribute to the Maine economy, but if we're not careful, they'll start costing more than they're worth.

Maine's growth management plan must protect prime natural areas like the western mountains, the wild Washington County coast, and pristine lakes. These places define Maine, and they must not be lost. The plan must include provisions to protect wildlife habitat and the special character of small towns. It must not ignore traffic congestion or the loss of public access. It should come to grips with the stress that rapid development has put on schools, roads, sewers, and other municipal services. Growth frequently means higher taxes; a growth management plan must confront that problem.

Growth can be self-defeating. A big project or a rash of little ones can clog the regulatory process, making it difficult or impossible for worthwhile projects to proceed. A growth management plan must deal with this sort of regulatory gridlock as well.

Incremental growth is a very complex challenge, not only because of the number of problems we face, but also because of Maine's political realities. A plan that addresses all the problems but ignores the things that make us distinct from one another won't work. Still, it's reassuring to know that the phrase "growth management" has finally entered the public-policy lexicon. It's a start.

(DDP)

Patten's presence not unnoticed in Maine

By BRUCE ELLISON

Staff Writer

VIENNA — In early 1981, a Farmington real estate broker named Gil Durrell sold 121 acres on Kimball Pond Road to an obscure Vermont outfit called Patten Realty for less than \$10,000.

Patten quickly subdivided the remote and beautiful tract into 11 lots and sold them to folks who thought Kimball Pond would be a nice place to spend summer weekends. Most of the buyers were from out-of-state. They had always wanted a few acres somewhere away from the city — a place to enjoy peace and quiet and relaxation in pleasant surroundings. They liked what Patten offered them.

So have thousands of others since 1981. Now Patten Corp., with a batch of subsidiaries in 11 states, is listed on the New York Stock Exchange. It has become one of the biggest sellers of raw land in Maine, with estimated 1987 sales here of more than \$9 million.

Actions like the company last year, Patten sold an estimated \$19 million in acreational lands — subdivisions intended for part-time use, not year-round living or so, as total sales leaped from \$19 million to \$35 million to \$52 million.

From 1984 to 1986 Patten land transactions in Franklin County alone total more than 300, with deals made in Carrabassett, Salem Township, Jay, New Vienna, New Sharon, Sandy River Plantation, Farmington, Wilton, and Industry, according to records in the Franklin County Registry of Deeds.

As Patten grew, the company and its contractors and initiators in it has spawned have become controversial across Maine. Critics say such development is changing the way of life that Maine people enjoy, and that such residential subdivisions are being created without proper planning at the state and local level.

The future costs of that will be enormous both in dollar terms and in terms of the impact on traditional values, a way of life, and the environment, they say.

The criticism has become more and more vocal in recent months, as Patten's activities have continued to expand. But Michael Fennons, who heads Patten's operations, says much of the criticism is leveled unfairly.

Fennons said, "It places we have dealt with."

"They read all this stuff about us and get angry."

Conversations with town officials suggest Fennons is largely correct.

Despite the criticism, virtually all of the activities carried on by Patten, and now by its newer competitor, appear to have been done in accordance with Maine law.

For instance, although the Maine Real Estate

PATTEN CORRECTIONAL CENTER

PO. 1/25/87

PATTEN WATCH

Evide and Conquer

The only thing Patten Corporation apparently likes less than a local subdivision in a week, while voters in tiny Hartford north of Auburn considered whether to repeal a town ordinance in Patten in Franklin near Ellsworth learned, the planning hands of the state go to keep its project out of the Protection (DEP).

Patten had proposed a 19.9-acre, six lot subdivision on the shores of Taunton Bay that it contended was exempt from state review because it was less than 20 acres. But within state review because it Franklin case ruled that tidal flats would be considered part of a project's acreage, Patten revised its plans for a four-lot subdivision, he with a plan for a four-lot subdivision, uno for under the five-lot minimum for state review.

The catch, according to the Planning Board, is that Patten doesn't intend for the project to have only four lots. As soon as the project to have Northeast's largest corporate subdivision, the four-acre lots for sale and resale, division, potentially creating eight or even 16 lots — but again exempt from DEP scrutiny.

In the meantime, Patten has begun constructing

the onset of winter. Had the project come earlier, until Patten had a DEP permit, But Franklin Town ordinances do not prevent a landowner from building a building a building without a permit, according to the application again on December 17.

Not a few Franklin residents are interested in the fate of Patten's 1,560-acre tract on the shores of nearby Donnell Pond, a lake once considered for inclusion in Acadia National Park. Several towns contend that Governor John McKernan has urged immediate development, while others say Patten Corporation may evade state review altogether by dividing the land into 70-acre "corporate retreats."

Lands, could not be reached for comment on

over a possible land swap.

Meanwhile in Lanesville near Houlton, Gerald Holmes has made good his promise to sue Patten over an alleged breach of contract that resulted in damages to a road Holmes owns and is being used

by Patten for access to a 1,700-acre subdivision on Drews Lake.

■ ■ ■ Patten is smart enough and slick enough to know the limits of the law. They will press the limits, but they do not cross over them. ... We believe that what is wrong with these developments is that they are occurring in an unplanned fashion. **■ ■ ■**

Jerry Blay,
NRC of Maine

positive impact on Maine, they believes, "it is that their activities have made more and more some communities look hard at their planning and zoning ordinances and head as."

What has become of that first Patten subdivision on Kimball Pond in Vienna? Has there been any significant impact on the Kimball County town?

Not much, it turns out. In the seven years since Patten created its first Maine subdivision, only three houses have been built on the 11 lots.

First Selectman Ed Collins lives in one — doing without electricity, which has not yet been extended to his part of the road.

Another resident is the town's tax collector, Shelia Nurse. She and her husband were among Patten's original buyers.

"We came up from Massachusetts, just to get away from the hustle and bustle of city life," Nurse said. "We found work right off — my husband's a printer with Letter Systems in Augusta. We've been happy here," she said.

Creston Gaither, a member of Vienna Planning Board, says it has been little impact from Patten subdivision on this town 450 residents.

"I guess if someone built a house on all those lots, things might be different," Gaither said. "I think that last's happened right that the pressure on. ...

... 22 or 23 people, never quite a difference since we and about 70 people there ordinary much has happened at all."

MT 12/4/87

PATTEN WATCH

Evide and Conquer

The only thing Patten Corporation apparently likes less than a local subdivision in a week, while voters in tiny Hartford north of Auburn considered whether to repeal a town ordinance in Patten in Franklin near Ellsworth learned, the planning hands of the state go to keep its project out of the Protection (DEP).

Patten had proposed a 19.9-acre, six lot subdivision on the shores of Taunton Bay that it contended was exempt from state review because it was less than 20 acres. But within state review because it Franklin case ruled that tidal flats would be considered part of a project's acreage, Patten revised its plans for a four-lot subdivision, he with a plan for a four-lot subdivision, uno for under the five-lot minimum for state review.

The catch, according to the Planning Board, is that Patten doesn't intend for the project to have only four lots. As soon as the project to have Northeast's largest corporate subdivision, the four-acre lots for sale and resale, division, potentially creating eight or even 16 lots — but again exempt from DEP scrutiny.

In the meantime, Patten has begun constructing

the onset of winter. Had the project come earlier, until Patten had a DEP permit, But Franklin Town ordinances do not prevent a landowner from building a building without a permit, according to the application again on December 17.

Not a few Franklin residents are interested in the fate of Patten's 1,560-acre tract on the shores of nearby Donnell Pond, a lake once considered for inclusion in Acadia National Park. Several towns contend that Governor John McKernan has urged immediate development, while others say Patten Corporation may evade state review altogether by dividing the land into 70-acre "corporate retreats."

Lands, could not be reached for comment on

over a possible land swap.

Meanwhile in Lanesville near Houlton, Gerald Holmes has made good his promise to sue Patten over an alleged breach of contract that resulted in damages to a road Holmes owns and is being used

by Patten for access to a 1,700-acre subdivision on Drews Lake.

STATUS OF GRANT TASKS, CZ063 Award (1987-88)

Task 1 -- Improving Program Core Law Enforcement & Technical Assistance

A. DEP - Core Law Administration & Enforcement

The DEP's Quarterly Report for November through January, 1988 is reproduced as Exhibit E-1.

B. TNC - Improving State Regulation of Areas of State Significance

Phase I of this project as described in the previous Progress Report was completed. Negotiations with The Nature Conservancy for Phase II were initiated.

C. DOC - Improving Technical Reviews of Core Law Applications

See Exhibit E-2 for a detailed report from the Maine Geological Survey of the Dept. of Conservation.

D. MMA - Code Enforcement Officers' Training

The Maine Municipal Association's legal staff are updating the Handbook for Local Code Enforcement Officers which was last revised in 1982. In addition, planning is underway for the series of basic Code Enforcement Officers' Training Workshops which will be held during May and June.

E. RPC's - Technical Assistance on Core Laws & Local Land Use Studies

Each coastal regional council held at least one workshop on shoreland zoning and one on the subdivision law. The five coastal coordinators and staff from the two riverine regional councils (Penobscot Valley and Southern Kennebec) are assessing local implementation of these laws as well as providing immediate and ongoing technical assistance to towns in need of help. The program as a whole is being conducted in partnership with the DEP and other State agencies.

Task 2 -- Local Program

A. Coastal Planning Grants

Municipal Coastal Planning Grant contracts for 1987-88 were negotiated and mailed out to most towns, the remainder to be mailed in February. Towns receiving grants are listed on the next page. Friendship decided not to accept grant funds for comprehensive waterfront planning; Jonesboro, Machias, Machiasport and Robbinston declined to proceed with their

1987-88 COASTAL PLANNING GRANT AWARDS

Municipality	Project Title/Manager	Grant	Local Match	Jonesport	Coastal Access Sites
Cape Elizabeth	Harbor Planning Michael McGovern, Town Manager PO Box 6260 Cape Elizabeth, ME 04107 Tel: 799-5251	\$10,000	\$10,000	Monhegan Preliminary Planning for Monhegan Wharf and Passenger Freight Building Renovation Willard J. Boynton First Assessor Monhegan Island, ME 04852 Tel: 594-2932	\$12,500 \$ 3,500
Cumberland	Engineering Feasibility Study for Stone Wharf on Chebeague Island Robert Benson, Town Manager PO Box 128 Cumberland, ME 04201 Tel: 829-5539	\$14,000	\$ 7,000	Mount Desert Comprehensive Harbor and Waterfront Strategy and Action Plan William Cox, Town Manager Town Office Northeast Harbor, ME 04662 Tel: 276-5531	\$10,500 \$ 5,250
* Friendship	Preliminary Planning for Public All Tide Access in Friendship Harbor Ahti Autio, Waterfront Committee 417 Bradford Point Rd. Friendship, ME 04547 Tel: 832-5237	\$10,800	\$ 5,400	Saco Saco Bay - Saco River Public Access Study Peter Morelli, Planner 300 Main Street Saco, ME 04076 Tel: 282-3487	\$ 8,000 \$ 4,000
Gouldsboro	Public Access Strategy and Action Plan Dorothy Osborne, Planning Board West Gouldsboro, ME 04607 Tel: 963-2931	\$ 2,600	\$ 1,300	Stockton Springs Sandy Point Beach Action Plan Earl Brooks, Selectman PO Box 242 Stockton Springs, ME 04981 Tel: 567-3403	\$ 4,600 \$ 2,300
Hallowell & Chelsea	Regional Code Enforcement Michael Burnett, Director SKP&DC 125 State Street Augusta, ME 04330 Tel: 622-7146	\$10,500	\$ 5,500	Stonington Waterfront Comprehensive Plan Ingrid Bengis, Planning Board PO Box 8 Stonington, ME 04681 Tel: 367-2416	\$ 4,000 \$ 2,000
* Jonesboro, Machias Machiasport, & Robbinston	Regional Code Enforcement Richard Varney, Planning Board Jonesboro, ME 04648 Tel: 434-2241	\$ 9,800	\$ 4,900	York Town Ownership and Public Access Rights, York Harbor Anthony Dater, Planner Town Hall PO Box 9 York, ME 03909 Tel: 363-5497	\$14,200 \$ 7,100

Pilot program will help small towns share officials

By BRUCE ELLISON
Staff Writer

KJ 12/9/87

Two Kennebec River communities — Hallowell and Chelsea — hope to hire a shared codes enforcement officer by early next year, part of an experiment to see whether smaller towns could co-operate on such technical things as building inspections.

The pilot program is sponsored by the Southern Kennebec Planning and Development Council, which has a \$10,500 grant from the state for the project.

Mike Burnett of the planning council said he has been working with area towns for more than a year to set up such a shared official.

"Enforcement is a big problem in smaller communities. It's sometimes a hangup in the planning process," Burnett said.

That's because most smaller communities in the Kennebec Valley don't have enough plumbing inspections or codes violations business to make hiring a fully qualified full-time professional worthwhile.

"As a result, you find a selectman or a local plumber who does the inspections on a volunteer basis, part-time basis," Burnett said. But that also can mean that when the person's full-time job demands all his attention, codes enforcement can take second place.

The experiment with Hallowell and Chelsea would work better if yet a third community joined it, according to Cornell Knight, Hallowell city manager.

"We don't need a full time person here," Knight said Monday. "Neither does Chelsea. But I don't think even both of us together have enough work for a real

professional."

Knight called codes enforcement work "rather technical" and pointed to the hefty BOCA codes rules as one example of the complexity involved.

"You do need a person with some skills and some technical know-how," Knight said.

Tyler Trott, Chelsea town manager, was out of town Monday and could not be reached for comment.

Burnett, at the planning council, said he hopes to advertise soon for that person, and hire him or her early in 1988.

"The biggest problems we want to learn how to handle are about how such a person would divide his time between the towns, where he might have an office so people who need him can get hold of him, and how the towns would share in paying for his services," Burnett said.

For now, Chelsea and Hallowell will pay for the codes officer, Burnett said, while the grant, through the state's Coastal Commission, will give the planning commission the details it needs to see how the administrative details would work.

Southern Kennebec Planning and Development Council already runs a regional purchasing program that helps 14 or 15 communities to jointly buy road salt, Burnett said.

The tax-sharing development plan on Whitten Road between Hallowell and Augusta is another example of community co-operation, he said.

"Maybe now we can get a regional approach to codes enforcement that will let the towns do it more professionally and at lower cost," Burnett said. "I hope so anyway."

regional code enforcement program. DECD staff is working with these towns and the Washington County RPC in an effort to revive the CEO program.

DECD also prepared a schedule and list of eligible activities for the 1988-89 grant year, which was sent to the OCRM for review and approval. Technical assistance workshops for both Coastal Planning Grants and Waterfront Action Grants were scheduled for February and March, five of which will be held in conjunction with Coastal Regional Councils. Municipalities were notified of the new grant program and the workshop schedule by means of the memorandum reproduced below.

B. Waterfront Action Grants

Eight Waterfront Action Grant projects were recommended to receive funding totaling \$247,743. These projects, listed on the following page, were submitted to the OCRM for review in November and received approval on February 1, 1988.

Task 3 -- Interagency Coordination

A. Federal Consistency

Federal consistency coordination during the reporting period involved numerous meetings and phone calls on a wide variety of matters as shown on the Federal Consistency Log reproduced on the next page, none warranting particular comment.

B. Coastal Advisory Committee

In November staff from the OCRM visited Maine for two days to obtain information on the State's implementation of the Coastal Program and the work tasks in its federal award. During this visit Richard Silkman, SPO Director, informed OCRM staff that Governor McKernan was reconstituting the Land & Water Resources Council of which the Coastal Advisory Committee is a Standing Committee. The OCRM staff advised the SPO that the Committee was no longer necessary and recommended it be eliminated. The State subsequently accepted this recommendation.

(Special note: The January, 1984 Federal evaluation of Maine's Coastal Program determined the SPO needed to exercise greater authority in coordinating the Program. The Coastal Advisory Committee was formed by the State to enhance coordination in response to this finding.)

Task 4 -- Local & State Program Administration

A. Technical Assistance & Local Grant Administration

The table on the following page is indicative of the DECD's activities under this task during the reporting period and provides information to meet the Significant Improvement



John R. McKernan, Jr.
Governor

Department
of
ECONOMIC AND COMMUNITY DEVELOPMENT

TO: Key Local Officials and Planning Board Chairs
Maine Coastal Cities and Towns
FROM: Jay Hardy, Deputy Commissioner
RE: 1988-89 Local Assistance Grants, Maine Coastal Program
DATE: February 1, 1988

I am pleased to inform you that the Department of Economic and Community Development is now accepting Letters of Interest to apply for 1988-89 Coastal Planning Grants and Waterfront Action Grants. These grants are available to coastal cities and towns on a competitive basis through the Maine Coastal Program. Letters of Interest must include a concise project description and anticipated amount of the grant request, and be postmarked no later than March 18, 1988.

Coastal Planning Grants are available to support multi-town code enforcement officer programs and comprehensive shoreland and harbor planning projects. Grants may not exceed \$25,000.

Waterfront Action Grants are available for acquisition and improvement of coastal shoreland for public access purposes, including low-cost shoreland construction projects, acquisition or rehabilitation of public piers, and shoreland acquisition for public use. Grants require federal approval and may not exceed \$50,000.

The grant period for both Planning and Waterfront Action projects is expected to begin late this summer, contingent on availability of federal funds. A local cash match of 50% of the grant amount is required for each project. All work must be completed no later than July 31, 1989.

To provide more detailed information on the grant programs and eligible projects, a series of special workshops will be held during February and early March in conjunction with coastal Regional Councils. A list of workshop dates and locations is attached.

Nathaniel H. Bowdin
Commissioner

Application booklets will be sent to each city or town upon receipt of a Letter of Interest. Applications will also be distributed at the workshops. Completed applications must be postmarked no later than May 1, 1988.

If you have any questions about either of these grant programs, please contact Francine Rudoff or Lee Doggett of this Department at 289-3154.

Thank you.

* * * * *

cc: State Legislators
Harbor Masters
Code Enforcement Officers
Regional Councils
Cooperative Extension Agents
Pleasant Pt Indian Reservation
Maine Municipal Association
RC & D's

**Maine Coastal Program
Coastal Planning Grants and Waterfront Action Grants**

Workshop Schedule

<u>Date</u>	<u>Location</u>
February 17, 1988	University of Maine at Machias Science Building, Room 201 7-9 p.m.
February 18, 1988	Ellsworth City Hall 7-9 p.m.
February 23, 1988	University of Southern Maine Saco-Biddeford Center, Room 2 Saco Island 12-2 p.m. (brown bag lunch)
March 2, 1988	Belfast Free Library 46 High Street, Belfast 7-9 p.m.
March 9, 1988	Wiscasset High School Rt 27, Wiscasset 7-9 p.m.

For additional information, please contact your regional Council or Francine Rudoff at the Department of Economic and Community Development at 289-3154.

1987-1988
WATERFRONT ACTION GRANTS

TOWN	PROJECT TITLE	COASTAL FUNDING
1. York	Rehabilitation and Expansion of the Town Wharf	\$46,000
2. Scarborough	Town Landing Acquisition Project	50,000
3. Augusta	Riverfront Greenway Footpath	24,931
4. Rockport	Floating and Ramps at Rockport Marine Park	7,000
5. Vinalhaven	Vinalhaven State Beach Acquisition	50,000
6. Southwest Harbor	Manset Dock Boat Pollution Abatement Facility	5,812
7. Bar Harbor	Harbor Park Development	40,000
8. Machias	Machias Riverfront Park South Side Shorepath	24,000
	TOTAL	<u>\$247,743</u>

FEDERAL CONSISTENCY IUG

<u>Date</u>	<u>Activity</u>	<u>Persons Involved</u>
1987		
June 24	COE meeting in Boston	nobody went
September 1	Meeting with DEP on consistency to plan for October 13 meeting	J. DelVecchio, Katrina Van Dusen, Phil Garwood, Bill Lafflamme
September	Several conversations with Anne Blackburn, COE about Nov. 4 "NED Futures" meeting, discussing mostly state representation at meeting.	Anne Blackburn & Katrina Van Dusen
October 13	Meeting at SPO with all state agencies to discuss conditional concurrences - early coordination	SPO, DECD, DEP, DMR, DOC, & LF&W
October 23	Meeting at SPO to talk about ongoing problems with deadlines, etc. (Peaks Island, Ft. Fairfield)	J. DelVecchio, Phil Garwood, Bill LaFlamme, and Paul Pronovost, COE
November 4	"NED Futures" meeting in Waltham	J. DelVecchio, Jim Bernard, and other Maine State agency representatives
November 9	Phone conversation with Karin Tilberg, Maine Audubon about Diamond Cove Associates. (Gt. Diamond Is.) NDEES permit. Follow-up with Charlie Colgan, SPO, Phil Garwood, DEP and Jeff Pidot, AG	Karin Tilberg
	Can SPO make a consistency concurrence/non-concurrence on this EPA NPPES permit? No, because DEP water quality certificate already granted; when granted, consistency is assumed. Karin's Point Old Water quality standards used by State.	
	Also, can "coastal management policy guidelines" be part of consistency review? No, they are not officially part of MCP	
November 9	Someone from Marine Law Institute called on same issue.	Todd Berrowes, MLI
November 9	Cape Arundel ocean disposal site. COE working on site designation document EPA is writing EIS. COE will send data in 3 or 4 weeks for technical feedback.	Bill Hubbard, COE
November 9	Letter from Zidell, Inc., authority from ICC for barging	Jim Bajec, Project Manager, Regulatory Division
November 24	Mike Keegan, COE called about designation of Bass Harbor dredge disposal site	
November 24	Follow-up on above (Called Mike back and told him to send map and any other pertinent info.)	Bill Lafflamme, DEP and John DelVecchio, DEP

- January 14 Meeting with Paul Provonost, Mark Rabel, John Smith of COE and many State agency representatives to discuss pending dredging projects
- Drafted responses to coastal/consistency related matters
- Talked to CPGOG and Portland Chamber of Commerce about Portland Harbor/Fore River study. They are interested in seeing it
- January 15 Sent notes to Jan. 14 attendees.
- Larry Oliver, COE Walham, called to discuss COE dredging project in Bucks Harbor. Doing Reconnaissance Report and is looking for early notification of any areas of concern. He will send preliminary reconnaissance report. Needs quick turn around.
- January 21 After 3 tries, found someone at COE to send additional copies of Portland Harbor and Fore River Study
- Peter Webber, NAVY in Philadelphia, called about federal consistency determination for marina expansion of Portsmouth Navy Shipyard. I said I'd get back to him on Monday (1/25)
- January 22 Rob Elder (DOT) called. He was wondering whether any Coastal Program grant money would be available for the Town of Beals to use for their cost share of the COE planning report for dredging in their harbor. Maurice Alley of Beals called him about this. I said I would talk to the people at DECD and have one of them get back to him about the eligibility of this kind of project for a Planning Grant.
- January 22 con't Dick Martin, USCG Southwest Harbor, called looking for monitoring requirements for a domestic sewage system. I told him to call DEP Water Bureau
- Sandy Goulden, Portland Chamber of Commerce called about Portland/Fore River Study
- Bill Laflamme called about meeting on Scarborough dredging on Feb. 5 at DEP
- January 25 Received additional Fore River/Portland studies.
- Received Reconnaissance Study - Buck's Harbor.
- Talked to Sandy Goulden Chamber of Commerce.
- 772-2811 at 147 Free Street 04101
- January 26 Sent Portland/Fore River Study to Sandy Goulden and GPCOG.
- Asked for comments by Feb. 10
- January 27 Joyce asked about Federal Consistency review of locally managed harbor channels - USCG is reviewing Camden.
- Talked to John D. about Portsmouth Navy Marina project,
- asked him to call Rob Elder, and asked who to talk to about Wells - Carl Boettiller

December 3	Met to discuss federal consistency and rewrite of handbook, and pending projects	Katrina Van Dusen and John DelVecchio
December 7	Phone call regarding Newbury Neck, Surry	Arthur Washburn, HCRPC and John DelVecchio
December 8	Letter from COE about Plans for Newbury Neck; informed Washburn	
December 14	Created COE/Federal consistency files	
December 15	Created COE/Federal consistency files	
December 17	Read pending files, wrote progress report	
December 18	Talked to John Smith, COE Waltham, about setting up a meeting to review the next year's pending navigation projects	
December 22	Talked to John Smith again to confirm substance and appropriate State Participants in meeting. Talked to John D. about who to invite to meeting	
December 28	Read communication from ICC about deregulation	
December 29	Prepared consistency log for OCIM progress report Phone calls to set up meeting with John Smith, COE	
December 30	John Smith, COE called to check on progress setting up meeting	
December 31	Sent consistency regs to Alec Giffen	
1988		
January 4	Mary phone calls to set up John Smith meeting. Rec'd Mid-Atlantic Summer Flounder FMP.	
	Met with John D. about pending consistency-related activities	
January 5	Finalized meeting Plans with John Smith: Jan. 14 at 1:00 p.m. Notified all State agency people of meeting by Phone. Wrote follow up memo/sent it	
January 7	Sent FMP to Penn Estabrook, requested comments by Jan. 25 to Rob Elder DOT for comment. Rec'd comments from Marine Law Institute on BIW dredging Rob Elder called. Said they had no problem with ICC deregulation. Said Fore River study is ok. Maine's comments should indicate satisfaction at present, but note that amount of cargo is increasing and Million Dollar Bridge will be replaced in the future; expansion of the channel may be appropriate.	
January 11	Rec'd background info from John Smith, COE, for Jan. 14th meeting. Sent info to meeting invitees.	
January 13 & 14	Phone calls related to Jan. 14 COE meeting	

**DECD
TECHNICAL ASSISTANCE TO COASTAL TOWNS**

August 1, 1987 through January 31, 1988

<u>Month</u>	<u>Town</u>	<u>Activity</u>	
August	Westport	Met with the Comprehensive Planning Committee in Wiscasset to develop a community opinion survey as part of their comprehensive planning process.	Bremen Met with the local committee to review preliminary draft of comp. plan update & develop a strategy for its completion. (Revised plan was recently approved at Town Meeting.)
September		Arrowsic Georgetown & Woolwich Met to assist planning board with subdivision ordinance revisions.	Dresden Met to assist planning board with update of comp. plan & local land use ordinances. (The board has conducted a townwide opinion survey & is making steady progress in revising the plan.)
October		Woolwich Met to review proposed changes to land uses ordinances & to discuss updating their comp. plan.	Stockton Springs Met with town officials to discuss public access. (Town has prioritized its access needs & chosen sites to acquire/develop as a result.)
York		Rachael Carson Preserve boundaries in the town. Met with town council, conservation commission, & members of the public to discuss wetland protection. (Resulted in town revision of their shoreland zoning ordinance & its submittal to a Nov. Town Meeting; ordinance was defeated but will be resubmitted.)	Blue Hill Assisted the planning board & town attorney in interpreting the subdivision law with respect to proposed illegal subdivisions on Blue Hill Mountain. (Town has since initiated court action against the developer.)
Southport		Met with Planning Board regarding revising their comprehensive plan. The Town has since established a separate Plan Committee which has begun plan revisions.	Wiscasset Met to provide guidance on hiring a town planner & to discuss the comp. planning process. (The town has since established a large plan committee & is developing an opinion survey.)
Newcastle		Met to assist Planning Board with subdivision ordinance revisions to go along with proposed comp. plan revisions. (Comp. plan was recently approved at Town meeting.)	

Westport		Met to review results of a community survey & finalize an outline & strategy for completing the comp. plan.	provisions into its townwide comp. planning process now underway.)
November	Monhegan	Met with representative of zoning committee to discuss LURC zoning districts & growth management techniques appropriate to the island.	Mt. Desert Met with town manager to provide TA on harbor & shorefront planning project. The town agreed to incorporate provisions for improving public participation in their planning process & to revise the harbor ordinance to incorporate access & water dependency provisions.
Cape Elizabeth		Met with town manager to provide assistance with harbor & shorefront planning. (As a result, the town is using its coastal planning grant for ordinance revisions to assure public & visual shoreline access.)	Gouldsboro Met with comp. planning committee to provide public access planning assistance. The Committee agreed to expand membership to more broadly represent community needs; it also developed a priority list & map of access needs & initiated negotiations with the National Park Service to develop an access site on Acadia Park property in the Town.
Deer Isle		Met with local land trust, planning board & concerned citizens to discuss comp. planning & tools for managing growth. As a result the committee is contemplating doing a natural resources inventory.	Newcastle Met with Planning board to review proposed changes in subdivision ordinance.
Lamoine		Met with ground water committee to discuss options to implement their ground water study. As a result the committee prepared a protection strategy for town adoption.	Growth Management Workshop Conducted a growth management workshop in Wiscasset with fifty-five local officials from towns in the region. Emphasis on subdivision & site plan review.
Camden		Met with town council to discuss impact fees in relation to the proliferation of single family homes.	Woolwich Met with local officials to discuss subdivision & cluster development, as a result of which the town included cluster language in its ordinance.
December	Hallowell Chelsea	Met with town managers to provide TA for establishing a regional code enforcement officer program.	Rockport Met with local comp. plan committee to discuss comp. planning & growth management. The committee is now revising their plan & land use ordinances.
	Stonington	Met with comp. planning committee to discuss waterfront planning project. (As a result the Town is integrating Coastal Program funded waterfront, harbor & access policies & ordinance.	

Benchmark for the task. That Benchmark requires writeup of "direct TA provided to at least 15 towns by Dec. 31, 1987."

B. State Program Administration

1. Administration

Coastal staff continued to monitor OCS activities. The Dept. of the Interior is proceeding with plans for Sale 96, scheduled for February 1989. The draft EIS will be published this February followed by public hearings at the end of March. Efforts are being made to resolve longstanding disagreements which resulted in Congressionally mandated moratoria on the leasing of certain areas on Georges Bank. Staff met with Interior and the other North Atlantic states to discuss Interior's ideas at OCS Policy Committee meetings in Corpus Christi in November and Boston in January.

Interior's present plan is for a two-stage process: (1) the National Research Council will be commissioned to convene a panel of technical experts to study all existing information with respect to oil and gas activities on Georges Bank (oil and gas resource information, effects on biota and other uses, relative risks, etc.) and to draw conclusions about the adequacy of existing information for making leasing decisions; and (2) using the NRC study as a basis for discussions, an effort will be made to reach a compromise between all affected parties. The format of these discussions is still being discussed, but the states and Interior have agreed that a third party facilitator will be used.

Coastal staff also monitored grant tasks, benchmarks and award conditions, and state agency and special project contracts, and published Maine's Coastal Program: An Interim Handbook on Coastal Policies, Laws & Activities, February 1988.

2. Public education initiatives .

The SPO hired a coordinator for coastal communications and public outreach in late November. During the initial month she interviewed about 25 people in marine-related fields within the state to determine how the new position could assist with existing public education efforts. The 12-month work plan that grew out of these discussions involves networking, media outreach, and cooperative programming of public education activities among marine-related organizations.

The Coastal Communications Coordinator edited and is currently preparing for print a 32-page public education handbook on coastal issues. She also has begun a Resource Guide to Marine-Related Organizations in Maine. Plans are underway for assembling two Maine Coastal Program traveling displays: one for loan to libraries throughout the state, and one to be taken to appropriate conferences and workshops. A month-long display

About the conference

In the four years since the first Maine Land Trust Conference in 1983, the number of local land trusts in Maine has jumped from 24 to 42, with six more groups ready to file incorporation papers before the end of 1987. This dramatic increase in the number of trusts, the changing tax laws and the continuing refinement of preservation tools has made timely communication and maintenance of close ties among land trusts extremely important.

The 1987 conference examines both theory and application and draws upon the talents of experts from across the land trust community.

Dr. Joel Eastman's keynote address will "paint-in" the historical background that sets the stage for our current efforts. The Adirondack Land Trust has had good success in their preservation efforts and has published a handbook for trusts on land conservation strategy. Tom Duffus will take us through the technical aspects of strategy development including data gathering, analysis, ranking, verification and selection. He will also review various techniques for effective strategy implementation.

Steve Miller of the Isleboro Islands Trust will explain how their trust was able to work with the town, first to create a comprehensive plan for the town, and then prepare a visual assessment inventory that serves the purposes of both the town and trust. Because the conservation easement is such a powerful and flexible tool in land protection, Main Coast Heritage Trust Land Protection Specialist, Karen Marchetti Warden will present some technical perspectives on how to prepare the background and baseline work necessary to create a solid easement. She will explain how to craft an easement that addresses the intentions of the parties, the Maine Uniform Conservation Easement Statutes and IRS guidelines.

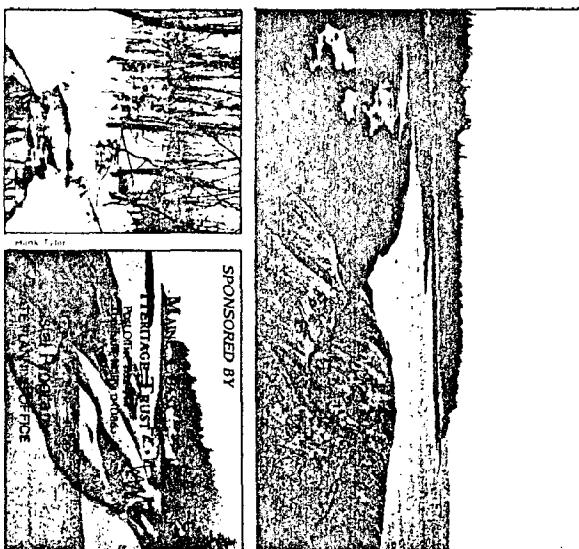
Sally Jacobs, president of the Orono Land Trust, will discuss how they overcame local skepticism and fears to acquire a critical 44 acre in-town parcel. When faced with a rapidly approaching deadline set by the owner of the property, the Trust forged a unique blend of funding sources that included a bargain sale, contributions,

for a highly valuable event for participants. We hope that you will join us on November 14th at The Chewonki Foundation

For more information write or call

Thomas C. Wood at the Maine Coast Heritage Trust office, P.O. Box 416, Topsfield, Maine 04086. Telephone (207) 729 7366

Partial support for this conference is provided by the Maine Community Lands Pilot Program funded by the Jessie B. Cox Charitable Trust.



Maine Conference of Land Trusts

November 14, 1987
The Chewonki Foundation
Wiscasset, Maine



U.S. Postage
PAID
NE Harbor, ME
04662
Permit No. 7
Non Profit Org

**MAINE COAST
HERITAGE TRUST**
Post Office Box 416
Topsham, Maine 04086

Film Ann Hill photo

Maine Conference of Land Trusts

November 14, 1987 • Chewonki Foundation

Program

General information



Joel W. Eastman

Professor of History, University of Southern Maine
A native of Maine, Dr. Eastman has extensively studied, lectured and published on the history of Maine, including *A History of Sears Island, The Gun of Casco and A Harraseeket History*.

Thomas R. Duffus

Associate Director, The Adirondack Land Trust
A graduate of the Yale School of Forestry, Tom Duffus holds a Master of Forest Science Degree specializing in Rural Land Use Planning. He has worked as a consultant to town conservation commissions in Connecticut and as a Land Protection Planner for The Nature Conservancy in Montana and Wyoming.

Steve Miller
A founding trustee of the Islesboro Islands Trust, Mr. Miller currently serves as its director.

Dr. Sally Jacobs

Professor of Biochemistry, University of Maine, Orono
Mrs. Jacobs is the President of the Orono Land Trust.

8:30 - 9:00
Registration/Coffee
9:00 - 9:30
Opening Remarks

9:30 - 10:15

The Common Ground:
Attitudes and Approaches to the Maine Coast - 1600-1987
Dr. Joel W. Eastman

10:15 - 11:00
"Developing a Land Conservation Strategy"
Thomas R. Duffus

11:00 - 11:30
The Scenic Inventory as a Local Planning Tool:
Town and Land Trust Cooperation
Steve Miller

11:30 - 12:10
Spotlight on Orono Land Trust
Sally Jacobs

12:10 - 12:30
THE LAND HERITAGE AWARD

12:30 - 2:00
Lunch
2:00 - 2:45
"Perspectives on Easements Preparation: What to Bring to Your Lawyer"
Karin Marchetti Warden, Esq.

2:45 - 3:45

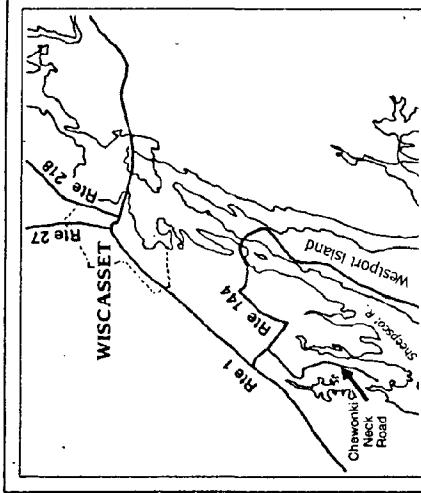
Regional Workshops: York County, Greater Portland/Cumberland,
Mid-coast, Down East, Inland/Western Mountains

3:45 - 4:00
Closing Remarks
Bruce Jacobson

4:00
END

Reservations
P.O. Box 416
Topsham, Maine 04086
Please make your check payable to
Maine Coast Heritage Trust, and mail
with this form to:
Maine Coast Heritage Trust
P.O. Box 416
Topsham, Maine 04086
Telephone _____

Are you a member of a land trust? _____ Yes _____ No _____
Name of Trust _____
Photocopies of this form are acceptable
for additional participants



DATE: November 14, 1987

LOCATION: Chewonki Foundation. To get to Chewonki Foundation, first find Bath and Wiscasset on the road map. Halfway between Bath and Wiscasset turn east (right if heading north) then heading south on K1 14 which is well marked. Go about 1/3 of a mile and turn right, just after the railroad tracks, on Chewonki Road. Pass by the town airport and Chewonki Campground (no relation to Chewonki Foundation) and continue to the end of the road where you will find a visitor's parking lot.

FEE: Registration Before October 30 \$22.50
Registration After October 30 \$25.00
Members of Land Trusts With Maine Group Membership \$20.00 Anytime
INFORMATION: Write or call Tom Wood at MAINE COAST HERITAGE TRUST, P.O. Box 416, Topsham, Maine 04086 (207) 729-7366.

Registration form

Name _____

Title _____

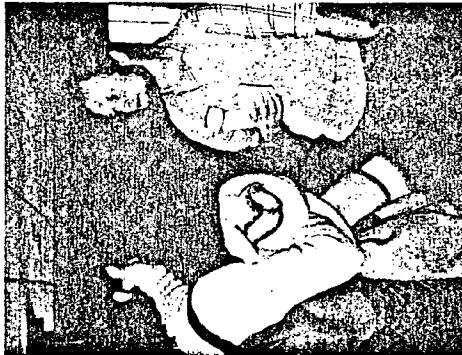
Organization _____

Address _____

Phone _____

Are you a member of a land trust? _____ Yes _____ No _____

Name of Trust _____



on marine plastics pollution at the L.L. Bean retail store in Freeport has been arranged for this June, and preliminary plans undertaken for Maine's celebration of Coastweek '88.

Task 5 -- Technical Assistance to Agencies & the Public

A. DOC - Expanding Access Opportunities

This task being conducted by the Dept. of Conservation is administered by the DECD, which reports that the State Rivers Coordinator during the reporting period worked with the Land for Maine's Future Board to assure that access needs identified in the DOC survey of coastal towns will be adequately considered among that Board's priorities for funding.

B. DECD - Achieving Municipal Compliance with State Coastal Policies

Proposals for developing a handbook for local officials for implementing Coastal Management Policies were received by DECD, which is managing this project. They are being scored by a review committee, which will meet the first week in March to make an award.

C. IF&W- Management & Regulation of Wildlife

This project provides for terrestrial wildlife habitat mapping from Phippsburg to South Thomaston, marine wildlife habitat mapping of the southern coast, and technical assistance to help coastal communities, state and regional officials make effective use of the wildlife data and management plans. Mapping has been underway since the previous reporting period; the technical assistance phase began this winter.

Amendment #1 -- Heritage Coastal Areas

Eleven areas in Region I (Kittery to Scarborough) proposed for Heritage Coastal Area designation were identified, documented, mapped and described. Meetings to explain the Program were scheduled with twelve of the thirteen towns in Region I. The eleven areas are to be evaluated by the Maine Critical Areas Advisory Board on March 5, 1988.

Management plans for Heritage Coastal Areas were initiated by contacting state agencies and non-profit agencies to obtain their input, thus meeting Special Award Condition #23 and the Interim Benchmark for the task.

OTHER FEDERALLY REQUIRED REPORTS

1. Monitoring & Enforcement Activities

See Tasks 1.A and 1.D above.

2. Wetland/Estuary Report

See Item #4 below as well as the accompanying clippings.

3. Fisheries Management Activities

Coastal Program staff is working with the Dept. of Marine Resources and the Dept. of Economic & Community Development to identify constraints on development of aquaculture and to recommend ways to promote the industry.

An overview of state aquaculture issues, an update on the Portland Fish Auction, a cooperative multi-town clam hatchery in Washington County, and the announcement that Nova Scotia's Premier joined Governors McKernan and Dukakis of Maine and Massachusetts in opposing oil and gas drilling on Georges Bank are described in the clippings below.

4. Hazard Management Activities

In addition to the adoption of new Coastal Sand Dune Rules by the Board of Environmental Protection (see Issues & Accomplishments section of this report), this reporting period saw completion of the State of Maine Hazard Mitigation Plan, December 1987, and its submittal to FEMA. The Plan was developed and written jointly by the Dept. of Economic & Community Development, Maine Emergency Management Agency, and the State Planning Office. Material in the report on coastal hazard mitigation was prepared by the MGS with Coastal Program funding assistance. Copies of the full report are available on request.

5. Urban Waterfront & Commercial Harbor Projects

The accompanying clippings provide updates on Maine's Sears Island Cargo Port project, now opposed by the federal Environmental Protection Agency, and on what has happened thus far as a result of the 5-year moratorium on non-marine waterfront development passed by Portland voters last May.

The SPO is coordinating creation of the Maine Marine Alliance -- an industry-based coalition that seeks to promote marine issues. The Alliance held its first planning meeting in February and has received private funding support to assist in its organization.

Wells wins land use decision Ordinance stands despite changed situation, court rules

By CHRISTINE KUKKA
York County Bureau

WELLS — The town of Wells, which hasn't fared well in the judicial arena lately, finally won a round in the Maine Supreme Court Wednesday when the court upheld the town's right to prohibit development on a newly created piece of beach.

The disputed ordinance prohibits construction east of a sea wall that was once the barrier between the ocean and homes along the north end of Wells Beach.

But dredging and Mother Nature changed all that. Now 15 acres of sand dune separate the homes from the ocean, and the sea wall, which once towered eight feet above the ground, is barely visible above the golden sand of Wells Beach.

In the 1960s, the Army Corps of Engineers dredged Wells Harbor and dumped the material along the north end of Atlantic Avenue in front of the sea wall. The corps also constructed a jetty nearby to shelter Wells Harbor.

The jetty has changed the currents and the dune structure of Wells Beach. Sand has eroded from the southern section and has piled up near the jetty on the northern shore. Shorefront residents who once had the ocean lapping at their doorsteps now walk more than 300 feet to go swimming.

The town's zoning maps do not show the disputed parcel of land, and the Wells Zoning Board had relied on an ordinance, which re-

quires construction to occur 20 feet away from the sea wall, to prohibit construction east of the sea wall.

Our Way Enterprises Inc., a corporation owned by Massachusetts resident Donald Green, purchased the newly created shorefront land in 1983 and constructed a duplex there, which at the time was permitted by Wells land use ordinances.

In 1985, Our Way applied for another building permit to construct a single-family dwelling on the remaining portion of the land. New zoning ordinances were then in effect and the application was denied.

Our Way appealed the town's decision, claiming that a new sea wall — namely the jetty — had been created by the dredging and new tidal action. Our Way argued that the old sea wall was now defunct, voided by the changing seascape.

"We reject this argument," a unanimous Supreme Court ruled in a five-page decision. "Undefined terms should be given their common and generally accepted meaning" unless the context indicates otherwise.

"The ordinance clearly requires a setback of 20 feet from the seawall," the court found. "The plain meaning of the language indicates that the sea wall, not the jetty, is the setback line."

Our Way had also argued that the 20-foot setback had no relation to protecting the health, safety or general welfare of the town and

therefore was unconstitutional. The court rejected that argument, saying "a properly promulgated zoning ordinance is accorded a strong presumption of constitutional validity."

Our Way failed to present "clear and irrefutable" evidence that the ordinance "infringed on paramount law," the court found. "To the contrary, the record supports the conclusion that the setback requirement of the zoning ordinance bears a definite and reasonable relationship to the town's public health, safety, morals or general welfare."

While the decision is not a blockbuster endorsement of municipal land use controls, it does supply additional support of a town's right to regulate land use and protect oceanfront property, said Wells town attorney Durward Parkinson.

The ruling also protects about 15 acres of sand dune from development, he added.

Our Way is not appealing the Supreme Court's decision.

The decision is also an encouragement to state environmental officials who are proposing sand dune regulations that prohibit reconstruction of oceanfront homes if they are destroyed by storms, Parkinson said.

Wells Town Manager Fred T. Breslin welcomed the decision. His town has not fared well in the judicial system lately. Last year, the town lost a precedent-setting fight in York County Superior Court to allow the public to use Moody Beach.

Tough new wetland rules start soon

By Ken Hotapp

Sent to the Star

KENNEBUNKPORT — Eighteen towns in southern York County will be subject to the toughest wetland rules in the U.S., starting February 1. Alterations of any wetland that is isolated or above stream headwaters will require federal permission, regardless of size.

Filling, dredging, and construction on a wetland of between one and 10 acres will require the completion of the Army Corps of Engineers' "Individual Permit." Projects affecting a wetland of less than one acre will require contacting the Army Corps of Engineers' office in Augusta for approval (although an Individual Permit may not be necessary).

Towns affected by the increased regulation are Alfred, Arundel, Berwick, Biddeford, Eliot, Kennebunk, Kennebunkport, Kittery, Lebanon, Lyman, North Berwick, Ogunquit, Old Orchard Beach,

Saco, Sanford, South Berwick, Wells, and York.

Corps Project Manager Jay Clement was vague about how small a wetland would be too small to qualify for protection. "Theoretically," any size wetland fulfilling the Corps' definition would be regulated, he said.

A wetland is defined by the Corps to be any land which has hydric soil, standing water or saturated soil for at least part of the year, and where wetland plants dominate canopy, understory, and ground cover vegetation layers. (Hydric soil is earth that has, among other characteristics, mottling, streaks of organic material, and a specific range of colors.)

Landowners planning a project on any part of a wetland, or on land that might be wetland, should contact the Corps at its office in Augusta.

Previously, projects affecting a less than a one-acre wetland either were not regulated, or merely re-

quired contact with the Army Corps but not the entire permit process.

The rule changes were necessary in southern York County because "there are a lot of small fills taking place that are not being regulated," and the Army Corps is concerned with their "cumulative impact," said Environmental Protection Agency aquatic biologist Pamela Shields.

The burden of determining if a wetland exists will be placed on the landowner or developer, who may need to hire a consultant to determine if a wetland is present, said Clement. In the long run this will discourage those wishing to alter wetlands, resulting in fewer applications going to the Corps, and reducing the workload for the two Corps personnel who cover the state, he predicted.

"The project is designed so that, ultimately, developers will avoid filling wetlands," Clement said.

YORK CO. COAST STAR 1/20/88

would reduce the chance of projects being halted once they began. She felt that since more projects would have to be cleared by the Corps, that those projects would not be slowed later by public criticism.

Andrew French, refuge manager at Rachel Carson National Wildlife Refuge, felt the rule change was "a very environmentally responsive step," on the part of federal agencies. "There's plenty of places (left) to develop," and developing wetlands is not a biologically sound policy, he said.

The EPA's Shields said that federal agencies have been informing county landowners that "non-water dependent activities," are not likely to be approved if they include filling wetlands in this area.

"I'm generally for it, my only objection is that it tends to linearize development along roads," resulting in more crowding there and on uplands, said developer John Ingwerson of the new regulations. Ingwerson, known locally as a "quality" developer, would like to see more sophistication in the rules regarding wetland protection since he said it is possible to save open space and actually enhance wetlands in certain types of developments.

Kennebunkport Conservation Commission member Jackie Kellett hoped that the new regulations

There have been no changes in regulations governing wetlands of greater than 10 acres, which still require an Individual Permit.

Wetlands are federally protected because they act as reservoirs to reduce flood damage and maintain groundwater supplies; they contain plants that supply wildlife with food and cover, and they offer wild areas for recreation. The Corps, with the EPA acting as an adviser, is the agency charged with protecting wetlands.

Maine's 1987 fishing catch valued at \$129 million

By Ted Sizer
Midcoast Bureau

ROCKLAND — It was a year of ups and downs in the Maine fishing industry for 1987. To nobody's surprise — especially the consumer — retail prices of fish increased dramatically in 1987. This meant increased profits for fishermen, but less income to others because of declining stocks.

White total landings in Maine for 1987 reminded consumers that more than \$21 million. The total value of the Maine catch in 1987 was \$129.1 million. This compared with a landed value of \$168 million in 1986. The stated value of the catch is the money paid fishermen for catches landed at Maine ports.

The estimated year-end landings and value figures were supplied by Robert Morrill, manager of the National Marine Fisheries Services office at Portland. Morrill is recognized as one of the most knowledgeable persons in Maine concerning trends in the fishing industry.

Morrill said that as prices for fish products increased so did the efforts of fishermen. He estimated that the capacity of vessels fishing for groundfish and flounder increased by 10 percent in 1987. This meant greater effort to land fish from declining stocks.

"If fishing continues from a decreased stock size and the price goes down we are going to be in big trouble," Morrill predicted. "How much more money can you get?" he asked in pointing out the high prices consumers are being charged for fish.

"In general, the industry is kept alive because of the increased price. Over all, it doesn't look as if we will get a lot of fish for the next several years," Morrill said. He said that there are some good fishery management plans in place, but that it will take several years before those plans show dividends. In the meantime as long as the prices stay up, no will the effort to catch them.

The Maine fishing vessel fleet in 1987 numbered 301

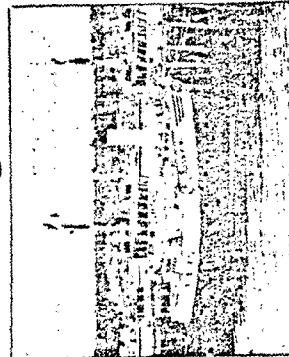
as an example, declined by more than 3 million pounds, \$1.40 per pound for catches. The average price has been about \$1.10, Morrill said.

For the finfish categories, to nobody's surprise, haddock was almost non-existent in Maine fisheries' nets in 1987. With the loss of the rich Georges Banks fishing grounds to Canadians, Maine landings were well below a million pounds. The estimate was 100,000 pounds landed for a value of \$1 million in 1986. Fishermen brought in 1.1 million pounds worth \$1.3 million for the year. Fishermen received an average of \$1.51 per pound for haddock, an increase of 25 cents per pound.

In almost all categories the landings remained about the same as 1986, but the prices increased substantially. A check of some popular species included grey sole, dabs, cod, and white hake. Cod landings were 200,000 pounds, up from 180,000 in 1986, an increase of about 200,000 pounds, but the value of the catch went from \$1.6 million in 1986, to \$6.3 million last year.

White hake landings totaled 7.6 million pounds last year, almost the same as 1986, but the value went from \$4.2 million in 1986 to \$4.7 million in 1987. Cod dropped from 55,000 to 45,000 pounds last year. In the case of clams, the harvest was off by 1.5 million pounds in 1987, and the income to diggers was down by nearly \$3 million. The scarcity of clams because of the closure of flats because of red-tide infections, and because of the first year of the state's new 24-inch clam law, kept yields in 1987 at 2.2 million pounds. Statistics are broken down mainly by using the formula that a 65-pound basket of clams would yield 15 pounds of meat. Harvesters did get more money for their efforts, however. The average price per pound in 1987 was \$3.75, compared with \$2.50 in 1986.

The 1988 shrimp catch was expected to be off as much as 30 percent. Morrill predicted, based on September 1987 catches and landing reports for January. The Maine shrimp season runs from Dec. 1 to April 30. Stocks have declined, but because of high prices fishermen who ordinarily would not bother were fishing for shrimp. The Portland auction had paid as high as \$100 per pound for shrimp last year.



NEWS Photo by Susan Morrissey

Rockland fishing boats, dockside

vessels that were registered as larger than five net tons, and 860 vessels of smaller than five net tons. The overall state of the Maine industry in 1987 was termed by Morrill as "very peculiar. Prices kept going up, and stuck, kept going down."

The biggest story in the Maine fishing industry for 1987 was the Portland Fish Auction, Morrill said. Figures showed Portland to be almost alone in showing an increase in landings for the year. Such major ports as Gloucester and Boston showed declines in landings, as more boats were landing catches at Portland. For the year, Portland showed a 20 percent increase in landings, and a 49 percent increase in value. In 1986, 34.5 million pounds of fish were landed worth \$12.4 million to fishermen. In 1987, there were 42 million pounds landed, worth \$35 million.

The Portland figures reflected only fish landed, and not the large volume of fish transported by truck to the auction from other areas. Rockland landings for 1987,

Georges Bank Drilling

Nova Scotia's Premier Joins In Defense of Fishing Grounds

By Arthur B. Layton Jr.
Nova Scotia Premier John
Buchanan last week joined Maine
Gov. Michael McKernan and Massa-
chusetts Gov. Michael Dukakis in
opposing drilling for oil and gas on
Georges Bank if such action jeopardizes
the rich fishing resources of

on the Northeast Peak of Georges
Bank, a prime scallop area.

Led by John Davis of Sheburne,
N.S., who operates a fish brokerage
in Yarmouth, N.S., NORIG has
joined forces in the U.S. with the
Conservation Law Foundation in
Boston.

In a telephone interview this week,
Davis read the following portion of
Premier Buchanan's statement:

"Petroleum exploration on the
fishing ground of Georges Bank is an
issue of serious concern. Georges
Bank is the most productive fishing
ground in the entire North Atlantic."

"For example, studies of scallop
stocks demonstrate that the growth
of scallops on Georges Bank on a
yearly basis is far greater than that
found on the other banks off the
coasts of the North Atlantic."

"It was because of the economic

value of the fisheries and your
concern that I said in the House of

Assembly more than a year and a
half ago that if it came to a position
of selling oil and gas against fish, we
go with the fish."

"In addition, the Canada-Nova
Scotia Offshore Oil and Gas Accord

was conducted in Portland to
elicit comments on issues that should

be addressed in the E.I.S. The
hearing was attended by fishing
industry representatives, environ-
mental groups and representatives of
State government.

Cov. McKernan stated last March

that Maine will support offshore

drilling only if it does not threaten the

State's fishing industry. Gov.

Dukakis issued a similar statement

this summer.

In Nova Scotia, an organization
calling itself NORIG (no rig or no
drilling rig) has been lobbying
against proposed oil and gas drilling

of 1985 provides for a joint venture of the Board's decision relating to exploration licenses. Should the Board, following public hearings, decide to grant such exploration licenses, the Province of Nova Scotia will veto any such decision by the Board and will similarly request the federal minister to do likewise.

"Georges Bank is vital to the economy of Nova Scotia and contributes more than \$300 million in value to the fishing industry and accounts for more than 6,000 jobs." "The jobs provided by the Georges Bank fisheries and its related industries make it the largest economic generator in southwestern Nova Scotia.

"Therefore, any activity which in anyway threatens the fishing must be prohibited."

Davis described the premier's statement on offshore drilling as the strongest yet on either side of the border. He said that, unlike U.S. governors, Canadian premiers actually have some legal muscle that they can exert when dealing with the federal government.

Davis described NORIG as repre-

senting almost the entire fishing
industry of Staten Island, Queens,
Sheepshead, and Yarmouth counties in
southwestern Nova Scotia.

In a letter to Secretary of the
Interior Donald P. Hodel last March,
Guy McKernan stated in part:

"My support for offshore oil and
gas exploration in the North Atlantic
is tempered with a strong concern for
the valuable fishing resources of the
Georges Bank region. As a part of my
effort to encourage economic growth
in Maine, I am working to develop
new opportunities in the commercial
fishing industry and I would like to
be assured that this resource will not
be harmed by exploratory drilling
activities."

"I am pleased that the acreage
nominated by industry in response to
the original Call is confined to

"The acreage provided by the Georges
Bank fisheries and its related
industries make it the largest
economic generator in southwestern
Nova Scotia.

"Therefore, any activity which in
anyway threatens the fishing must be
prohibited."

Davis described the premier's
statement on offshore drilling as the
strongest yet on either side of the
border. He said that, unlike U.S.
governors, Canadian premiers
actually have some legal muscle that
they can exert when dealing with the
federal government.

Davis described NORIG as repre-

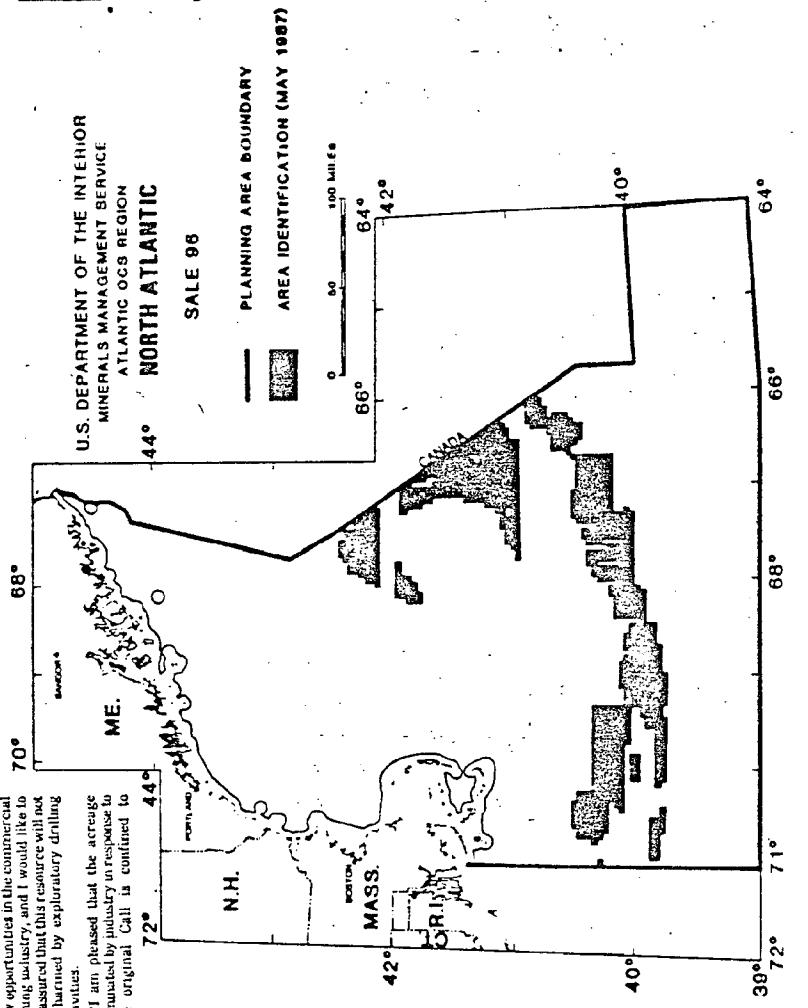
atively discrete areas. If industry
interest remains limited to these
areas after the supplemental Call, I
am optimistic that Maine's concerns
can be addressed.

"However, I have reservations
about leasing the acreage included
in the supplemental Call. The crest of
Georges Bank is characterized by
strong clockwise currents which trap
the eggs and larvae of commercially
important fish species in the top of
the bank for as long as two to three
months. These currents are strongest
in the areas described by the
discharged during drilling operations
in this area could be entrained and
mangled with vulnerable fish eggs
and larvae As you know Maine is

The Northeast Fisheries Center
(NMFS) in Woods Hole is in the
process of tabulating fishery
resource data by species and by port
for certain parts of the Gulf areas.
This information will provide an up-
to-date analysis of those areas
important to scallops, lobsters and
other fisheries. I hope to be able to
share this information with you in the
near future.

"I would also like to take this
opportunity to reiterate Maine's
recommendation that seismic vessel
operations be restricted to under the
Fisheries Training Program. This
educational effort can minimize
conflicts with fishermen and should
be implemented in anticipation of
seismic operations in the Gulf areas."

E/L/S W/MON 7/11
APRIL 26, 1987



This representation of the Gulf of Maine and the New England coast was released by the State Planning Office in August. It shows the approximate locations of about 9 million acres in leases in U.S. waters that are being considered for oil and gas exploration. Canadian lease areas are not shown.

This representation of the Gulf of Maine and the New England coast was released by the State Planning Office in August. It shows the approximate locations of about 9 million acres

All-Fisheries Coalition Urged To Address Coastal Access Issue

EA
11-11-87

By Arthur E. Dayton Jr.

Participants in the annual membership meeting of the Maine Aquaculture Association (MAA) on Friday in Ellsworth urged that an alliance between the MAA and traditional commercial fishermen be forged to assure that marine interests are no longer given "short shrift" in Augusta.

The urging came during a panel discussion that had been preceded by a keynote address by Nathaniel H. Bowditch, commissioner of the newly formed Maine Department of Economic and Community Development and a steering committee member of the Economic Development Strategy Task Force which on Oct. 30 released its report, *Establishing The Maine Advantage: An Economic Development Strategy for the State of Maine*.

At the conclusion of Bowditch's address and during the subsequent panel discussion, there was criticism from the audience that aquaculture had not been sufficiently stressed in the task force report. Copies of the report had been made available to MAA members before the 1:00 p.m. meeting began.

"We need to form a coalition over shared problems. One we do have is access to the water," William Mook, MAA president, said about joining forces with traditional commercial fishermen towards the end of a nearly three-hour panel discussion in the Acadia Lounge of the Holiday Inn on High Street in Ellsworth.

The discussion panel was comprised of Robin Alden, publisher and editor of *Commercial Fisheries News* in Stonington; James Wilson, economics professor at the University of Maine and a founder of the Portland Fish Auction; Penn Estabrook, Department of Marine Resources (DMR) deputy commissioner and director of the DMR's Bureau of Marine Development; and Mary J. Herman of Cohen-Herman Associates, public policy consultants in Augusta.

The moderator was Richard Cline, operator of Dodge Cove Marine Farm which rears oysters in the Damariscotta River in Newcastle.

"This group could be a leader and bring in other groups on the water access issue," Estabrook rejoined to

Mook's suggestion. And, Wilson added that next spring's Maine Fishermen's Forum in Rockport would be a good place to begin forging a coalition. He suggested Mook put together a coastal access workshop for that purpose.

Just before the discussion group adjourned, Jeff Kaelin, a former congressional aide and commercial fisherman and a vice president of Associated Fisheries or Maine and director of the Maine Sardine Council, said:

"We believe it is time to begin to work with aquaculturists in Augusta." Kaelin suggested that legislators, officials, and the general population are not sufficiently aware of the economic importance of the State's marine resources.

"Marine bond issues go down each year. There is short shrift for marine issues in Augusta," Kaelin said.

What had begun as an expression of dissatisfaction by audience members over what they perceived to be a State reluctance to give aquaculture due recognition turned into a discussion of how to form a coalition when Brian Tarbox, an

MAA director, said during a question and answer period following Bowditch's address:

"A lot of traditional fishermen are now entering aquaculture and bringing with them a lot of skills that we haven't seen before." He cited the mussel industry, and more recently salmon farming, as examples.

George Harris of Eastport, a traditional commercial fisherman who has turned to aquaculture, then asked Bowditch, why the State could not establish a small program for the State's salmon rearers. He said local salmon farm operators are faced with competition from well-financed Norwegian operations that are moving into the State.

Another audience member asked Bowditch how the task force had addressed the tourist industry, "as it relates to coastal development?"

"I think it was done more by subcommittee," Bowditch answered.

"The tourism subgroup was more of an advocacy group," Alden, who was sitting at the panel table near where Bowditch was standing, added.

"The task force is not able to come to grips with complex political issues, which is what we have on the coast," Alden continued.

Bowditch added, "The task force said that public access (to the water) is a real problem. It is its recommendation to set up a task force to study access."

The discussion panelists were then

formally introduced and Wilson led off by telling the group that:

"The U.S. consumption of seafood in the past decade has increased by 25 percent and that most of the increase has been at the 'high-quality end of the market.'

"That Maine is strategic because of its proximity to major metropolitan markets on the East Coast.

"That the State has already put together a fairly efficient marketing system to reach those markets through its Catch-The-Taste program. And, that the DMR sponsored program is a foundation market that can be expanded.

"That the demand for quality seafood must be met by consistency of supply that can be most easily met by aquaculture.

"That Maine's indented coastline lends itself to having perhaps the greatest potential for aquacultural development in the nation. And, that aquaculture is already an established industry in the State."

Wilson said that stumbling blocks to the realization of aquaculture's potential would be if:

"State support of marketing efforts falter.

"Efforts to improve on what the task force had in mind" falter.

"Efforts to improve the legal environments for fisheries falter. And, access to the water. If the industry is forced to compete against the second home market then it faces a problem of being forced out," Wilson said.

He said there would be no way of developing what he described as potentially the largest aquaculture resource in the United States, if there is no way to get to it.

And, Wilson said, "There needs to be continuing support of technological development."

Alden told the audience that the 42-working-member task force of which she was a member, concentrated all the political forces of the State in one room. She told the aquaculturists they should be aware of their political vulnerability.

"You need to see the ocean as a resource that up until now has been free. You have potential opponents from everybody that has used the water," Alden, included in that potential just people who drive by the ocean for the view.

"We're seeing a blending of traditional commercial fishermen and aquaculturists. The market situation is becoming extremely blurred. I think it's most important that you build a working coalition between yourselves," Alden concluded.

"Aquaculture now has a rising visibility in the State. Because of the growth and scale of aquaculture, all of sudden people are noticing it. The good thing about that is the potential for research. The bad thing is that people are beginning to ask questions about big companies, versus individual operators. About foreign companies and questions about pollution. It seems to me a group like this can shape its own image."

"Many of the turf battles stem from the discomfort of traditional fishermen over the future of their product. There is the feeling that the Norwegians will be able to exert huge power in the markets."

"But in many cases, mussels are an example, aquaculture is opening up markets which are benefitting everybody. You people are introducing change and change often generates fear. The fear of where will I wind up—on the top of the new structure or on the bottom. Traditional fishermen are expressing

that fear.

"What is really needed in the task force is leadership. Someone needs to come with solutions to such questions as permitting versus leasing and the need to solve the access problem."

"I'm disappointed that Bill Brennan (DMR Commissioner) is not here, because I feel he should be an advocate."

Estabrook apologized for Brennan's absence saying, "He had a previously established commitment that he couldn't avoid."

Estabrook added, "It is very much the case that Bill Brennan is an advocate of marine resources. Both the Commissioner and I are very strong advocates of marine resources. But, the fishing industry is complex and the DMR has to address all marine issues. And, we have to make them all fit."

"Aquaculture, I feel, is going to become increasingly important. I see it augmenting traditional stocks. Not replacing or displacing stocks. Aquaculture stands to be an important part of marine resources development. It's implicit in this document," Estabrook said in reference to the task force report. "This document provides substantial guidance to state agencies. I think it will be a very important document for you from its plans for educational improvement right through to entrepreneurial development."

Estabrook told the audience that the suggestion for a coalition was a good one. He added that the legal environment of the fisheries is never clear, because the statutes concerning it are arrived at by evolution.

Herman told the group it needs to educate the public and policy makers by making them aware of what aquaculture is and how it benefits the State. She urged MAA members to

attend strategic State policy planning meetings and to send news releases to the news media.

"Offer to speak about aquaculture to the Rotary, Kiwanis, and Lions clubs. The myths about aquaculture need to be dispelled," she said.

At one point Chip Davidson, president of Great Eastern Mussel Co. in Tenants Harbor, said to Alden, "I agree a coalition is the answer. But, we've tried to approach traditional fishermen. It's like coming to a wall."

"I don't have an answer for you," Alden replied. "We're talking about market and resource competition. Aquaculture is not just the new wave versus the old stick-in-the-mud. There are some real issues. It's a dynamic tension of different political interests."

"The lobsterman is opposed to aquaculturists pretty much for the same reason the lobsterman is opposed to dragnets," Alden said as an example.

It was then that Mook suggested using the coastal access issue as a common ground for forming a coalition.

Quoddy Tides
2/12/88

Aquaculture and real estate developers clashing in Cutler

by Fred Hastings

Who says there's not enough economic development activity going on in Washington County?

From the clash now brewing in Cutler between developers of an aquaculture industry, Robert N. and Robert A. Cates and the Maine Coast Nordic Co., and the developers of Western Head, Norman Langdon and the Last Peninsula Co., it appears there may be more than enough at the moment.

The two parties are now locking horns over who should get to use 6.5 acres of waterway rights at the entrance to Cutler Harbor.

Langdon files lawsuit

As a result of a lawsuit filed recently by the real estate developer against the aquaculture developers, who were awarded lease rights by the state last November, a legal battle is getting underway that is raising important economic and environmental issues in the process.

On the economic side, it appears not to be a question of whether development should take place in the harbor, but rather which kind should take place and which kind should take precedence in disputes over water rights claimed by and common to the interests of both parties.

The developers of aquaculture want to place salmon pens along the shore of Western Head, while the shoreowner developer wants to maintain ocean access and build a dock facility in the same area as part of his planned residential community.

On the environmental side, it's not so much whether the environment will be altered — it appears it will to some degree in either case — but what is the more important, preserving the natural state of the shorelands (as advocated by those developing aquaculture), or preserving the purity of the coastal waters (as emphasized by the real estate developer).

Varying interests at stake

Those developing an aquaculture industry in Cutler have been among those actively opposed to the development of Western Head as proposed by Langdon. They cite the land's environmental characteristics, its unsuitability for wastewater systems, and its significance as some of the last undeveloped land on the Maine coast as the reasons for their opposition.

And on the other hand, the real estate developers have actively opposed the placement of salmon pens in the area of the harbor adjacent to Western Head. They cite the physical barrier to ocean access the pens present to current and future Western Head shore owners, and the detrimental effect which they claim such fish farming techniques have on water quality, and the subsequent hazards it poses to other forms of marine life in the area.

DMR also named in suit

In addition to the Cateses and Maine Coast Nordic, the lawsuit is directed as well at the Maine Dept. of Marine Resources, which granted the aquaculture lease rights last November following a public hearing held earlier in the summer.

Claiming that testimony given by the petitioners was flawed, in that it was contradictory and failed to properly indicate the negative environmental impact on water quality in the harbor, the suit also alleges that the DMR's decision was "arbitrary and capricious in that it does not properly and legally protect . . . the riparian land owner plaintiff, the Last Peninsula Co."

As part of his development proposals, Langdon had previously made plans for a dock facility in the area of the salmon pens, and he claims that the DMR was lax in following the regulations governing the granting of leases of offshore areas, which require that there be no interference with the right of the riparian or shorefront property owner to safely get to and from his property.

In his suit Langdon asks the court to reverse the DMR's decision granting the salmon pen leasing rights adjacent to Western Head. The suit also asks the court to order the defendants to pay its court costs and attorney's fees.

Study of coastal pollution urged

By BOB CUMMINGS
Staff Writer

More money for research into coastal pollution and its impact on fish and other marine life would be provided by a bill being proposed by Sen. George J. Mitchell.

Mitchell told a press conference here Monday that he is filing a bill this week that would create 10 marine research regions and provide \$150 million for them over the next five years.

Each of regions would get up to \$3 million annually over that period.

The bill would double the federal research funds available for marine research in the Gulf of Maine.

The measure is co-sponsored by Sen. William S. Cohen and senators from most of the coastal states.

Mitchell said the bill grew out of recent disclosures that sediments off the Maine coast contain alarmingly high levels of hydrocarbons and toxic chemicals.

A hearing held in Maine last fall, Mitchell said, showed that the Gulf of Maine "is still very clean," but "somewhat surprisingly . . . Casco Bay had a level of aromatic hydrocarbons in sediments that was the fourth highest

nationally."

He called the "presence of this known carcinogen (cancer-causing agent) . . . an early warning indicator of potential long range risks."

Mitchell said research into the source of the pollution and its impact on marine life is needed quickly.

He predicted research would save money eventually. It is cheaper to prevent damage than to restore the marine environment once it is damaged, he said, citing the "hundreds of millions dollars it will take to clean up Chesapeake Bay and Boston Harbor."

Under Mitchell's bill, the 10 regions would coordinate and finance research into the marine environment.

Maine Maritime Academy president Kenneth M. Curtis, a former governor who is also chairman of the Association for Research on the Gulf of Maine (ARGOM), praised the proposal.

"It should be obvious that the coastal waters of the United States are rapidly reaching the point whereby they can no longer stand the strains being placed on them," Curtis said.

"With our rich maritime heritage, Maine has a vital stake in the preservation and sustained quality of our coastal waters."

Mitchell said the bill envisions much of the new research being carried out by current marine research organizations, including the University of Maine, the Bigelow Laboratory at Boothbay Harbor, the Department of Marine Resources and Maine Maritime Academy.

Marine Resources Commissioner William Brennan said new research is needed "because we have only an elemental understanding of the factors influencing the environment and the stocks of fish upon our fishermen depend."

Also offering support was Dale Lick, president of the University of Maine. The Gulf of Maine "supports a large segment of the economy of the northeast," Lick said, "yet we know very little of the mechanisms and relationships which make it work."

Anne C. Johnson, a former Bigelow Laboratory researcher who helped document the presence of hydrocarbons in the sediments of Casco and Penobscot bays, said the research is needed to "institute a comprehensive protection program."

Johnson, who now directs marine activities for Maine Audubon Society, said the bill would help preserve "our legacy of a clean and healthy marine environment."

COMMERCIAL FISHERIES NEWS FEBRUARY 1988

Compatible economic benefits

Making a case for aquaculture in Maine

Bill Mook, president of the Maine Aquaculture Association, operates a shellfish hatchery, Mook Sea Farm Inc., on the Damariscotta River in South Bristol, ME. Prior to having his own hatchery, Mook was plant manager at Bristol Shellfish Farms. He has a BA degree in earth and environmental science and has done graduate work in oceanography.

-Editor

(high tides, a heavy nutrient load, and protected embayments) are nearly ideal for culturing seafood, and, with the exception of Alaska, the most

GUEST COLUMN

extensive resource of this kind in the United States." The strategy notes that a clean environment contributes to the high quality of life in Maine.

Like many other development options, aquaculture does not degrade water quality. In fact, clean water is absolutely essential for the cultivation of seafood.

The economic development strategy also notes the significant contributions that natural resource-based industries have made to Maine in the past. Following this tradition, aquaculture is a natural resource industry that offers great potential for our state's economy.

For example, through the aquaculture leasing program administered by the Department of Marine Resources (DMR), about 400 acres of coastal waters have either been leased or have leases pending for salmon farming. These 400 acres represent about 0.03% of the 2,080 square miles of coastal waters under state jurisdiction. Based on currently achieved production rates, the annual harvest from these 400 acres could exceed \$180 million, based on information provided by salmon industry sources. The current landed value of all of Maine's fisheries is

approximately \$143 million each year, according to DMR statistics.

Farm-raised mussels presently account for only 15%-20% of Maine's mussel landings. However, because of the aggressive marketing efforts of several mussel farming companies, mussels, a minor fisheries product less than 20 years ago, are now among Maine's top species in both landed value and weight. Over 6 million pounds (meat weight) with a landed value of about \$2 million were harvested in 1985, according to DMR figures. Some in the industry believe that future harvests could be valued at over \$100 million per year.

European (or Belon) oysters have been cultivated in Maine for the past 15 or more years. So far there has been no large-scale marketing effort for Belon oysters, and domestic markets have remained small. Only recently, because of the dollar's decline against foreign currencies, a vigorous market has sprung up for Maine's Belon oysters in Belgium and Holland.

If demand continues to grow, it is doubtful that the natural oyster beds in Casco Bay or elsewhere, and the existing sources of cultured oysters would be enough to satisfy the market. For every 1,000 acres of bottom planted with oysters (which represents less than 0.1% of Maine's coastal waters) about \$35 million of oysters could be harvested each year.

Besides oysters, mussels, and salmon, there is a long list of aquatic species with culture potential including American oysters, sea scallops, surf (or hen) clams, soft-shell clams, quahogs, codfish, trout, and halibut. As competition increases

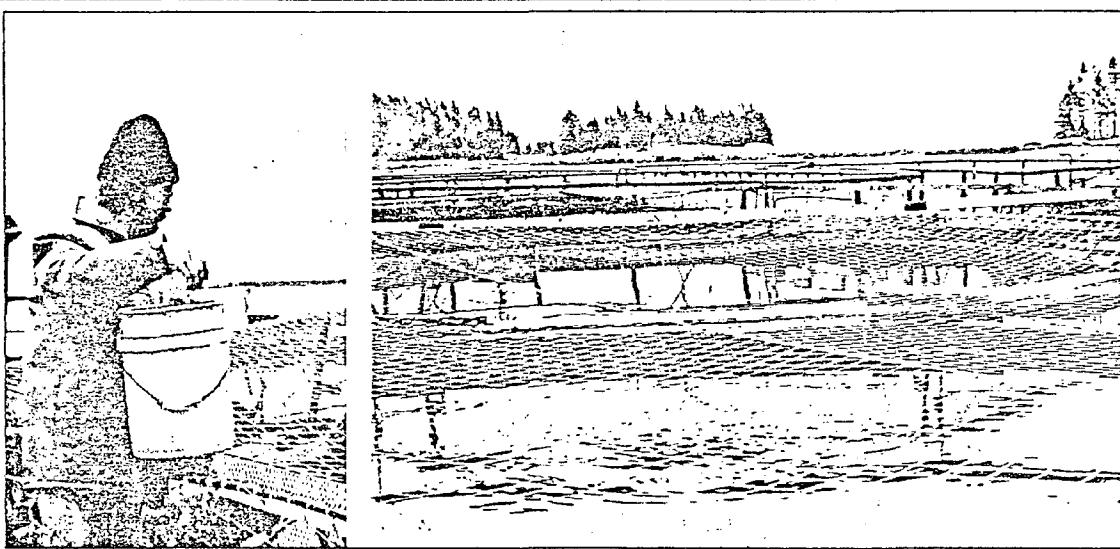
for Maine's finite supplies of wild fisheries products, aquaculture represents a bright opportunity for Maine's fishermen who already possess some of the most crucial skills, knowledge, and equipment for working on the water.

Aquaculture requires innovation. The task force is correct when it states that, "Economic growth in Maine depends upon having those businesses that are willing to take risks, develop new products, utilize new technologies, and penetrate new markets." These characteristics describe a successful sea farming venture. Recognizing this, governors from other states such as New York, Maryland, and Washington have shown strong public support for aquaculture.

During the implementation of the strategy, it is vitally important for the Maine state government to play a leadership role in educating the public and resolving real and perceived conflicts surrounding aquaculture. As an emerging industry, aquaculture needs a fair, unambiguous regulatory environment to keep the industry healthy and protect the public interest. Generalized programs and reforms aimed at improving the "business climate" in Maine may be needed, but they are not enough.

The Maine Aquaculture Association looks forward to working with Governor McKernan, his administration, and the Legislature as they implement the recommendations of the task force. We are prepared to define more clearly with them the specific role our industry can play in Maine's economic future.

William H. Mook



NEWS Photo by Diana Graettinger

Jeffrey Stevens of Lubec feeds young salmon and rainbow trout in the aquaculture pens that he 'farms'

Acquaculture has future Down East

By Diana Graettinger
Down East Bureau

LUBEC — Passamaquoddy Bay, a body of water that has provided many generations of "Downeasters" with their livelihood, has become the site of yet another ocean industry: aquaculture.

According to Jeffrey Stevens, the holder of leases for two 10-acre tracts near Rodgers Island in Lubec, Passamaquoddy Bay is an ideal area to raise atlantic salmon and rainbow trout because of its relatively warm summer water temperatures.

"A major principle of successful fish farming is to take advantage of warm-water temperatures and get accelerated growth. The warmer the water temperature the faster the fish grow. That's what makes Passamaquoddy Bay ideal for the business," Stevens said.

Stevens said that there are also other features that made the bay a good choice for the budding aquaculture industry. "The tremendous tides produce a flushing action, which clean the pens. The strong currents give the fish exercise and make them healthier and the water, which is some of the most nutrient-rich water in the world, provides part of the nourishment the fish need."

The aquaculture farmer said salmon and rainbow trout, the species most often raised in the bay, are members of the same family, the salmonidae. He said

they live in salt water but breed in fresh water. In spring, when water temperature rises, physiological changes occur that allow the fish to go from fresh water to salt water. The change is called "smoltification."

In late May or early June, the smolts are introduced into pens in the bay where they are sheltered and fed until they reach market size, about 18 months later, Stevens said.

Although the waters of the Passamaquoddy Bay can be quite rough in winter, Stevens said that he rarely fails to get to his pens to feed the fish, and has never skipped their feeding two days in a row.

"There are automatic feeders and I suppose I could arrange things so that I wouldn't have to come out here every day, but I prefer the old fashioned way of doing things. I like to observe the fish so that I can detect if there is anything wrong with them. It is almost like weeding a garden. You have to be out there so you can see what's going on," he said.

Stevens said that the amount of food the fish are fed varies with the season. "In the summer I had to feed them three times a day. In the fall it dropped to two times, and now that the water is quite cold and their metabolic rate has dropped, they only have to be fed once a day."

The basic pen net is a small meshed net that was designed to keep the fish confined. A heavier "predator

net" surrounds the pen and keeps out seals, otters and cormorants who might be in the mood for a meal. A lightweight large mesh net completes the protection on top of the pens, keeping out seagulls and osprey.

Stevens said seals are the most frequent predators and are hard to deal with. He said that shooting a seal can bring a fine of up to \$20,000. "Because they are so protected you can't even swear at a seal. But the best deterrent against seals is human presence. They won't come around if you are there," he said.

According to Stevens, fish farming like any other kind of farming is a full-time business. In addition to feeding the fish he has to maintain the pens.

"Fish pens are like icebergs. 90 percent of the pen is under water. I have to check the nets constantly and make repairs. I have to check the moorings."

Even though it is hard work, Stevens said that he believed that fish farming in the Down East area will continue to grow.

"We have not tapped even 10 percent of the market, he said, "and I believe that there is so much demand for the product that we will not saturate the market in the foreseeable future. Aquaculture and the collateral businesses which serve it will be a real economic shot in the arm for this area," he predicted.

BDN
2/27-8/82

After 20 months of operation

Portland auction: Works for sellers, buyers

PORLAND, ME - It has become routine. Almost any day except Saturday, fish and shrimp are offloaded from boats and trucks, weighed, culled, and displayed for buyers at the Portland Fish Exchange. The auctioneer's voice rings throughout the cooler/auction building, selling off lot after lot of each species to the highest bidder.

The first display auction was held on May 18, 1986. Since then, the daily scenes and procedures associated with selling and buying on the exchange have become familiar. But despite 20 months of experience with fresh fish display auctions, the nuts and bolts of auction operation continue to evolve as the Portland exchange makes changes in response to customers' needs.

Twenty-six million pounds of fish and shrimp have been bought on the Portland auction since start-up, put on the floor by 378 different sellers. As critics are quick to point out, those sellers aren't all using the

facility at any one time, and some have only used the auction occasionally.

However, in early January, the Portland Fish Exchange was working with a stable base of sellers and buyers, according to exchange personnel: Payables Clerk Mickey Furrow says the exchange regularly cuts checks for about 120 different sellers, and approximately 30 buyers regularly participate in auctions, adds Senior Operations Manager Dennis Frappier.

Some fishing industry members, especially those in competition with the exchange, still say that the exchange is a subsidized operation that wrongly put its foot in private business.

But management at the exchange disputes that conclusion. While the exchange's General Manager Leo Hurtubise admits that money from several sources went into the initial construction of the facility, the exchange as a business is not

subsidized, he says. Construction costs for the cooler/auction building, including three finger piers, two of which are covered with sorting sheds, totaled approximately \$1.5 million, said Howard Wholtjen, the city's waterfront engineer who oversaw the design and construction of the fish pier complex.

According to Wholtjen, the bulk of that construction money came from federal sources, primarily from the Economic Development Administration, though state money was also involved.

"But no equity capital ever went into this business," said Sam Davidson, past president of the exchange's board of directors. "We had to beg and borrow for 100% financing, and we had to pay market rates on loans."

During the exchange's first year of operation, March 1986-February 1987, it paid \$50,000 in rent to the city of Portland for the

cooler/auction facility. Rent payments are structured to escalate \$10,000 per year for the first five years of operation, and then \$20,000 per year for the following five years, according to Hurtubise. That means during its 10th year of operation, the exchange will be paying a \$200,000 annual rental fee to the city.

The exchange also has additional rental costs such as office space, parking, equipment, and security. The rental fees, loan payments, and operating costs are not subsidized, Hurtubise says, and must be paid from the income generated by the exchange.

Exchange adjusts

One of the most notable changes for the exchange has been the hiring of new General Manager Leo Hurtubise to replace Jim Salisbury, who was chosen to become the US Fisheries Attaché to Tokyo, Japan. Salisbury was instrumental in the successful start-up of the operation.

Hurtubise, who has a business background, took over in November to guide the exchange through a new phase of growth and development.

There's another new face in the exchange's management: Operations Manager Stephen Hale. Hale, who was hired in December, is responsible for supervising daily floor operations, helping to establish employee training sessions, and planning for future capital improvements. Hale reports to Frappier, who is responsible overall for the auction building and its operations.

Prior to working for the exchange, Hale was with Port Clyde Foods, and before that, Stinson Canning Company in Rockland, ME.

Because of the increasing number of boats and trucks using the facility, the Portland Fish Exchange has expanded its original hours of operation. The cooler/auction building is now open seven days a week with crews ready to take out fish at 4:30 am Sun.-Thurs. and at 7 am on Saturdays.

"There's no planned production on Fridays, but we accommodate whatever the boat's schedule is," Frappier says.

Since many auction buyers sell fish to markets in Baltimore, New York, and Philadelphia, boxing and steaking operations are available through the exchange.

Although the exchange had been selling one-way wooden boxes to buyers who needed to re-box product, they were replaced in December with heavy-duty, wax-coated, corrugated cardboard cartons.

A fee to the buyer of \$6.50 covers the cost of the 100-pound box and the service of re-packing and re-icing the fish from its tote to the box. The cost for this service using wooden boxes was also \$6.50, though in January the fee comes up for review.

For two cents per pound, a buyer can have his fish steaked, which includes cutting off the head, spray washing the fish, and re-weighing the final product. Currently, three buyers are using this service. The exchange recently purchased an old Baader steaking machine to facilitate the operation. Buyers are also charged an additional one-cent-per-pound fee for disposal of the heads.

Berthing

Boats coming from out of town to take out fish at the exchange can get two free nights of berthing at the cooler/auction building finger piers: the night before unloading and the night after. If by chance a vessel needs to extend her stay in town, a \$15-per-day fee is charged for additional berthing time.

Vessels can obtain price information from the exchange at any time.

"If a boat owner has been out to sea 10 days, he can still find out what's been going on," Hurtubise says. "All he has to do is check with the clerk. We have available all the price information."

In order to further facilitate the transmission of information, the exchange purchased a fax machine that has its own telephone line to receive messages 24 hours per day. The number is (207) 871-8013.

Totes

The topic of totes never seems to be settled and it's in the limelight once again.

For buyers who use the exchange and return clean totes on time, there's no fee at all. The exchange has a new system to help buyers know where they stand on their tote returns. Buyers will receive a copy of their tote balance at the end of every seven-day period. Bills for outstanding totes will be sent out every 14 days, which is a warning to the buyer that he has another 14 days to return his outstanding totes or pay the cost of them. Period. No more accumulating totes for a year at a time.

The cost for returned totes used to be \$7.00. That price is expected to rise to \$9.00 soon because the exchange's cost is increasing to a minimum of \$7.80, according to Hurtubise.

Other additions

For those who have noticed that the blood on fish on the auction floor

looks redder, it's supposed to. New fluorescent light bulbs have been installed that show the red portion of the light spectrum. Not only are the lights 8% brighter, but shrimp look pinker and fish blood now takes on its true color (rather than its past brownish hue) in the cooler/auction building. Additional lighting fixtures have been installed in previously unlit portions of the facility, too.

Buyers and seller who wish to step off the auction floor into the crew breakroom or the entrance foyer to warm up can now still hear the auction in progress. A public address system has been installed, with speakers in each of those locations. Windows are being installed in the breakroom and foyer doors as well so interested parties can keep an eye on the action.

Late this spring, the exchange's first custom designed automated fish cutting machine should be in full swing. The machine, which costs approximately \$70,000 from Scan American Corp. in Vermont, is designed to cut 10,000 pounds of flatfish or 20,000 pounds of roundfish per hour with 100% accuracy. A second cutting machine will be ordered after the first one is up and running.

Janice M. Plante

Maine clam diggers put hatchery to test

6 towns join forces to boost supply

By Denise Goodman
Special to the Globe

BEALS ISLAND, Maine — In a weathered green-shingled clam shucking shed overlooking a typical Down East fishing harbor, three biologists in pens, flannel shirts and rubber boots oversee a pioneering hatchery they hope will prop up Washington County's flagging clam industry.

Clamming is the county's largest marine industry, valued at \$5 million a year and producing 45 percent of the entire state clam harvest. In some towns such as Jonesboro, where one every five residents has a commercial digging license, and in Roque Bluff, where 50 of the town's 300 residents have licenses, clamming is a big factor in most families' incomes.

But overfishing has depleted many of the mudflat flats. "You dig longer for a few less," veteran Roger Bluff's shanner, Alveray Presson said last week. He estimated it now takes him up to three hours to dig a bushel of clams that he could harvest in 30 minutes a decade ago.

The resulting desperation

among lifelong clammers brought traditionally independent diggers and their six hometowns together

"Everyone and their mother wanted to be a clam digger." The only snag of diggers equipped with poor natural seedling left many flats all but bare.

So six towns — Jonesboro, Roque Bluff, Machiasport, Jonesport, Addison and Sears Island — each chipped in \$500, local shellfish dealers and banks contributed another \$1,600 and Beals secured \$34,000 grant from the National Coastal Resources Institute to launch the hatchery in January.

Clam-seeding season

Last week, when most land farmers were storing the last of their harvests, the biologists and volunteer diggers were out on the flats seeding the turtle that once well above their ankles, with millions of tiny clams ranging in size from ½ to ¾ inch.

The process started in May when Beal, hatchery manager Craig Lithgow and Duane Shaw, all biology graduates from the Maine campus, gathered a couple of bushels of ready-to-spawn clams.

The hatching process is complete, but gradually involves laying the clams end to end in a tank, feeding them with algae and then separating them as the females begin to lay grainy eggs while the males excrete a creamy specimen.

It takes only 15 minutes, Beal said, for a pair of eggs to be fertilized by a handful of sperm. It took the rest of the summer and early fall to mature the clams from microscopic larvae to seed size, feeding them nutrient-booster algae grown in 25-gallon tanks in the shed's small greenhouse.

But Michael Syslo, manager of the Massachusetts Division of Marine Fisheries, has undertaken a project to hatch lobsters on Martha's Vineyard since 1949, which in good years, produces a half-million inch-long lobsters to be scattered in Bay State waters. A similar program launched a year ago in Cutler, Maine, produced about 100,000 baby lobsters last summer.

Beal said there's no way to permanently tag lobsters and measure the hatchery's impact on the lobster fishery.

Both Syslo and Beal are looking to develop a kind of natural tagging or strain of unusually colored lobsters. But even on Martha's

Farming is tricky Sowing the mudflats began last week with diggers scattering the tiny clams much as they would grass seeds and then covering some of the carefully meshed plots with a dense plastic mesh to protect the clams from predators. Farming is tricky, Lithgow said, because the clams will grow fastest near the low water mark and planting must be done during the few best daylight low-tide periods this month.

It will take two to three years before the clams are of harvestable size and researchers can determine whether the project is successful.

But at least they will have concrete results to measure, Beal said. Unlike New England lobster hatcheries, where "it's really a wish and a prayer whether you are succeeding."

Lobster hatchery

The Massachusetts Division of Marine Fisheries has undertaken a similar project to hatch lobsters on Martha's Vineyard since 1949, which in good years, produces a half-million inch-long lobsters to be scattered in Bay State waters. A similar program launched a year ago in Cutler, Maine, produced about 100,000 baby lobsters last summer.

But Michael Syslo, manager of the hatchery's facility, and Beal said there's no way to permanently tag lobsters and measure the hatchery's impact on the lobster fishery.

Both Syslo and Beal are looking to develop a kind of natural tagging or strain of unusually colored lobsters. But even on Martha's Vineyard it takes a long time to

develop breeding stock. Syslo said, because a distinctive red, yellow or cobalt blue color is found in only one in 20 million barn naturally.

Beal estimated that if only half the seed clam survivors, they will bring \$105,000 in additional digger income to the six participating communities.

But Beal is skeptical about the long-term direct economic impact of hatcheries, preferring to view them as a source of knowledge that can be applied to improve the overall clam resource management.

For example, he said, carefully monitoring the seeded clams flats should show how fragile the flats and their habitat are, and how well clams grow in various flats. Knowledge that can help town conservation officials make better decisions on when and where to close and open flats to commercial digging.

Present, one of a half-dozen Roger Bluff's diggers who volunteered last week to help with the seedling chores of his pocketbook and how many flats he must bend his back to make a living. "I can remember," he said, "when you could go anywhere and dig six bushels of clams on a tide. Now I'm lucky to get a bushel and a half or two."

Downeast clamflats reseeded

ME hatchery spawns 8.2 million seed clams

BEALS ISLAND, ME. - For the clam diggers, shellfish dealers, and Downeast townspeople who believed that a small shellfish hatchery here could actually rear and reseed softshell clams, their faith paid off. More than 8.2 million seed clams were spawned during the hatchery's first year of operation, and 4.2 million of those have been seeded in mudflats of six communities.

Brian Beal, instigator of the hatchery project, announced the results at a Jan. 29 seminar at the Maine Department of Marine Resources (DMR) laboratory in West Boothbay Harbor. The seminar was sponsored by DMR and Bigelow Laboratory for Ocean Sciences. Beal is an environmental resource coordinator at the University of Maine in Machias.

The hatchery project began in the fall of 1986, when Beal started looking for funding. Six Washington County towns, Beals Island, Audisdon, Jonesport, Jonesboro, Machiasport, and Roque Bluff, contributed \$500 each to the hatchery, and 16 local shellfish dealers each chipped in \$100. This local support, along with a \$34,000 grant from the National Coastal Resources Research and Development Institute, launched the Beals Island Regional Shellfish Hatchery.

By January 1987, renovations at the site were underway. And by June 1, the hatchery successfully spawned its first large batch of clams. The last spawning took place July 31.

"It 60-70 females spawn, that gives us between 40-60 million eggs in a spawning event," explained Beal. A 2" female clam produces 800,000-1.5 million eggs, and 8-10 spawnings took place in June and July at the hatchery, Beal said.

The hatchery relied on the expertise of Sam Chapman from the University of Maine's Ira C. Darling Center for advice in spawning techniques. Chapman worked on this technology in the 1970s with the help of Sea Grant funding.

"Sam did a lot of the grunt work in setting up the hatchery," said Beal. "He was really the designer of the physical plant as well as the spawning coach."

With Chapman's guidance, achieving spawning didn't turn out to be the limiting factor in clam rearing. What hampered the hatchery from producing additional baby clams was that it couldn't produce enough algae, the food needed to nourish newborns.

But despite the hatchery's limited greenhouse space for growing algae and the expected first-year growing pains, by the end of the spawning season, the hatchery was achieving a 50% survival rate of baby clams through the planktonic stage. During the first two spawnings, the hatchery had experienced only a 20% survival rate, said Beal.

Once the clams reached 1.5 mm-2 mm in length (.06"- .08"), they were either placed in a hatchery-based upweller or transferred to floating trays in Beals Island's Mud Hole Cove to feed off natural food and grow through the summer and fall. By mid-September, Mud Hole Cove supported 200 floating trays.

According to Beal, hatchery personnel wanted to wait until November before seeding flats with 1/2" seed because that's when water temperatures become cold enough to greatly reduce predation by green crabs.

During November, 700,000 seed clams were planted in each of the six communities that participated in the project. Each town decided where it wanted the seed planted. The remaining 4 million clams, most of which only reached 1/4" in size, are currently being held at the Darling Center facility in Walpole.

The Beals Island hatchery recently received a \$32,000 grant from the Maine Science and Technology Board to help increase the size of the facility. And according to Beal, the hatchery will be asking more towns to participate next season, this time at a cost of \$1,000 each.

"It's one of those things where you have to prove yourself constantly," admitted Beal. But he also said that aside from any potential economic benefits the project brings to clam diggers, important information on growth rates and survival of clams in the Downeast region is being generated, and that's something that hasn't yet been documented.

Janice M. Plante

Maine Softshell Clams

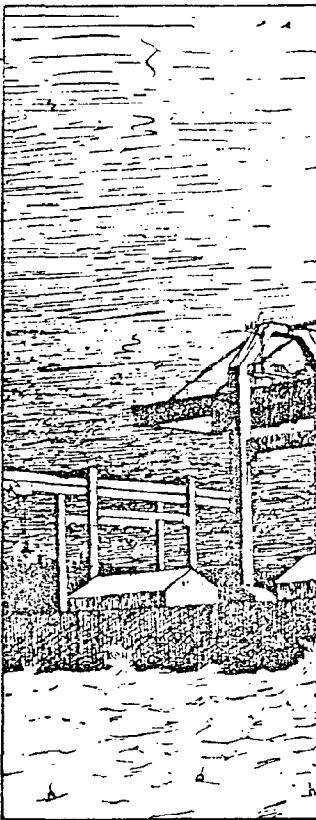
Dollar-wise, the softshell clam industry has proven to be a valuable one to Maine's economy. In the last several years, clams have finished second only to lobsters in landed value by species. In 1987, shrimp landings of over \$8 million may surpass clams for the number two spot. As of 1986, there were 3,791 licensed clam harvesters in the state, 1,550 of which come from Washington County.

Year	Statewide Volume of Landings (thousands of metric tons*)	Statewide Value (in millions of dollars)	Volume Washington County (pounds of meat**)	Value Washington County (in millions of dollars)	Ave. Price Per Bushel
1984	5.21	\$11.61	2,39	\$5.26	\$33.43
1985	4.75	\$12.13	2,06	\$5.21	\$38.27
1986	3.78	\$11.05	1,58	\$4.47	\$43.88
1987**	2.73	\$ 8.31	1,25	\$3.49	\$45.60

Landings and value information was provided by the National Marine Fisheries Service statistics office in Portland, ME.

* 15 pounds of meat = 80 pounds of whole clams = 1 bushel

** Preliminary data



SHOWDOWN TIME FOR SEARS

Can George Mitchell et al run over the EPA's man in Boston?

MT 2/5/88

by DONALD M. KREIS
Illustration by Jon Luoma

THEORY: Michael Deland is a bureaucrat gone haywire. Brandishing his agency's veto power under the Clean Water Act, the regional administrator of the U.S. Environmental Protection Agency (EPA) is going to stop the Sears Island cargo port if it's the last thing he does. No matter that the voters of Maine have twice endorsed bond issues for the \$40 million project. No matter that it enjoys the support of Maine's bipartisan congressional delegation, the McKenna administration, and officials of the port's host county of Waldo — the state's poorest. It's a region that could sorely benefit from the double boost of construction followed by the bustle of port activity.

The folks in Searsport gaze out their windows at Penobscot Bay and imagine the container vessels and the bulk-cargo ships steaming into port.

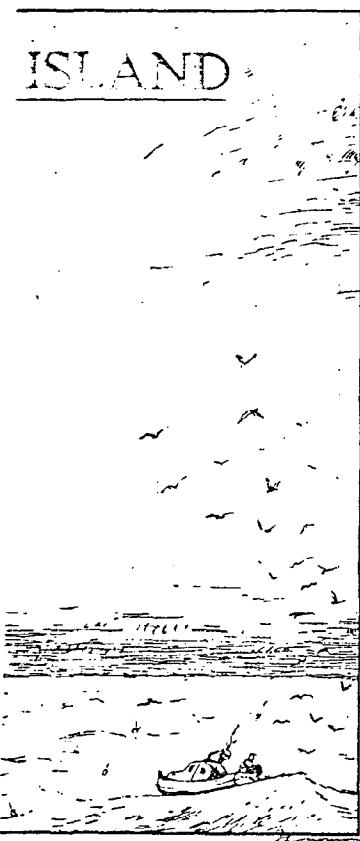
Michael Deland looks out his window and sees Boston — and, according to this theory, his mind wanders towards his pals down on the waterfront. "One scenario, as good as any other, is that the Port of Boston, which doesn't want the competition of Sears Island, is calling in political favors to scuttle the project," speculated a recent *Bangor Daily News* editorial.

If one scenario really is as good as any other, consider this alternative theory: sacrificing undeveloped Sears Island to heavy industry doesn't make sense when an existing port, Mack Point, is literally a stone's throw away. Deland isn't proving he's corrupt or crazy when he suggests expanding Mack Point instead of developing Sears Island. The EPA regional administrator is doing what the Clean Water Act requires him to do: steer waterfront development toward the alternative that gets the job done with the least damage to the environment. Fans of this scenario might even consider Deland's behavior courageous, since the Maine congressional delegation has written to Deland's boss to say the lawmakers are "troubled" by his actions. One of the signers of that letter, U.S. Senator George Mitchell,

just happens to chair the Senate subcommittee that supervises the EPA.

Under either scenario, Sears Island has turned into an epic environmental battle. Deland even goes so far as to invoke the words "Attleboro Mall" — meaning the Massachusetts swamp that Deland vetoed for development as a shopping center in 1985. A celebrated test case of just how far the EPA can go under the Clean Water Act, the proposed mall's fate is still tied up in legal challenges. Both the Attleboro Mall and Sears Island cases pit the EPA against the Army Corps of Engineers, which shares jurisdiction for federal wetlands permits under the Clean Water Act. Under the Reagan Administration, the Army Corps has proclaimed it will seek ways to encourage successful applications for such permission to develop precious wetlands.

Two key points distinguish Sears Island from Attleboro Mall, however. Unlike the Massachusetts debate, here the EPA is doing battle with a governmental agency — the Maine Department of Transportation (DOT). Over the years there have been grand private schemes to develop Sears Island for everything from a nuclear power plant to a coal



gasification facility, but none of those plans ever went anywhere. So the Maine DOT is proposing to spend \$36 million in public funds to develop the port. Which brings us to the second key point: EPA's examination of the project has raised serious doubts over whether the project would be the economic success its proponents insist it will be.

To the surprise of no one, on January 25 the Army Corps formally notified everyone involved that it intends to issue the wetlands permit in question. Now the focus shifts to Deland, who has 20 days to decide formally whether he'll recommend his agency veto that permit. The Maine DOT has hired former EPA deputy administrator John Quarles, now a Washington attorney, to plot its strategy for blocking that veto. Quarles' written advice to the state transportation department seems to assume that Deland's superiors in the nation's capital wouldn't dare stop the cargo port. "Even though it is likely that EPA will veto the Sears Island permit, the [Clean Water Act's provisions] give the regional administrator [Deland] multiple opportunities to weigh in and cause substantial additional delay in issuance of the permit short of an actual veto,"

agrees with those who say the demand for the cargo port isn't there now, but he described the proposed construction as a "possibility-creating investment." He likened the doubts about the business Sears Island would generate to a "chicken-and-egg problem," arguing that the demand would materialize only after the facility exists. Irland, who served as state economist for the Brennan administration (which launched the Sears Island proposal), wrote to *Maine Times* to say he is developing a small lumber export business himself and is therefore "disconcerted" to find that "there is no regular practical way to meet my shipping needs through Maine ports at present." Does this mean Irland would commit his small company to using Sears Island for its export traffic if the port is built?

Quarles wrote, "It should, therefore, be our objective to keep [Deland] from initiating the veto process, as well as keeping EPA from using up its allotment of time under the applicable regulations if that does indeed occur."

John Quarles knows the EPA procedural inner workings as well as anyone," replied Deland. "What he does not know is how policy within the current EPA is made. I think he is leaping to all sorts of unfounded conclusions. I can state with certainty that I and all of EPA will look at [Sears Island] with an open mind." In particular, Deland insists that his top boss, EPA administrator Lee Thomas, is not given to bowing to the kind of political pressure being brought to bear on the agency by the Maine congressional delegation. Deland cites the Atteboro Mall case as an example. "Numerous people predicted that Lee Thomas will overturn me and he didn't," Deland said. So far, Thomas has been equally steadfast when it comes to Sears Island. Last month when Senator Mitchell and the rest of the delegation demanded an audience ("requested a meeting," corrects Mitchell spokeswoman Diane Dewhurst) with Thomas, he told them in no uncertain terms to talk to Deland instead.

In the face of the EPA veto threat, the project's proponents have organized an energetic letter-writing campaign that has targeted the state's newspapers and lawmakers. On the other side, a thundering silence emanates from the state's environmental organizations. "We, in general, support the EPA position that Mack Point is a better alternative," said Anne Johnson of the Maine Audubon Society, but her organization plans to take an active role in the weeks ahead as the project's future is decided. Similarly, Jerry Bley of the Natural Resources Council of Maine, said his organization's scarce resources have prevented it from becoming involved in the Sears Island dispute. But Bley noted that the council's executive committee this week will consider the question of whether it should take a stand concerning political pressure being brought to bear on the Clean Water Act's permitting process.

Even the Sierra Club has not yet made any noise to counter the pro-Sears Island lobbying effort. "We're still sort of working on thinking of what we'll be doing," reported Joan Saxe of the club's Maine chapter. The Sierra Club has historically led the charge against the Sears Island cargo port; the facility would already be built by now if the group had not taken its case to federal appeals court. An appeals panel halted construction on the facility in 1984 after the Sierra Club pointed out the Maine DOT's failure to file the required environmental impact statement. Creation of that two-volume document took three years and provided the EPA and the federal Fish and Wildlife Service with the opportunity to crystallize their opposition to the development.

Quarles apparently figures the Sierra Club is lying in ambush pending action by the federal agencies. "The environmentalists are likely to wait out any administrative actions that might cause [the Maine DOT] to abandon the project without their involvement," the Washington lawyer told his Augusta client. As a result, Quarles advised the Maine DOT to consider additional environmental concessions but cautioned against the "strategic disadvantages" of making such an offer "too early in the process."

No, Irland replied. He conceded the problem would be attracting the necessary vessels to the cargo port, a process that could take up to a decade. "These things don't happen overnight," said the economist-entrepreneur. This matched comments made to *Maine Times* in 1986 by paper companies, which applauded the Sears Island cargo port concept but refused to commit themselves to using it. It also matches the conclusions of Temple, Barket & Sloan, the Boston-area consulting firm hired last year by the EPA to look into the cargo port's economic viability. "There is a low probability that the potential demand for general cargo port services will exceed the capabilities of a rehabilitated or new terminal located at Mack Point," the consultants concluded.

Some time later this month, that consultants'

One assessment of the environmental implications of the Sears Island cargo port proved embarrassing to the McKernan administration, which inherited the project from its Democratic predecessor. In its original form, the Corps of Engineers' environmental impact statement was widely popular and enthusiastic. Late last year the Inland Fisheries and Wildlife Department released its Penobscot Bay conservation plan, in which department biologists recommended (without any consultation with the EPA) against developing Sears Island and said existing nearby developed areas like Mack Point would be more suitable. Inland Fisheries and Wildlife Commissioner William Vail initially supported the plan's conclusions, but later wrote the Army Corps to say the conservation plan "is intended to be a guide to assist communities in their planning process and not to suggest a new level of zoning." Continued Vail, "it was not our intent to suggest where the cargo facility should be located. That is clearly a socio-economic issue which has been resolved by the voters of the state, both at referendum and public hearings."

HAS THIS "socio-economic issue" really been resolved? Port supporters boast repeatedly that Maine voters have twice endorsed their \$36 million plan by approving two statewide bond issues that would help fund it. But engineer David Ober, the Maine DOT official in charge of shepherding the project through the permitting process, concedes that the bond issues already approved, combined with federal highway funds already in hand, will finance only about \$28 million of that. Ober said he has no idea how his department will fund the entire facility, conceded that it might be necessary to seek approval from the Legislature and the public for a third bond issue, but also added, "if we get anything built and we get operations in there, there may be private investors in those facilities."

Ober says the question of funding is irrelevant to the federal permitting process, but EPA officials disagree. Steve Ells, director of government relations and environmental review at the EPA's Boston regional headquarters, said his office has been burned once before in that department, allowing wetlands in Providence, R.I., to be filled in for a project that never came to fruition. "We don't like speculative permits," Ells said. One of the key arguments the Maine DOT makes in asserting that expansion at Mack Point won't do is that only Sears Island offers enough space to build the eventual, booming six-berth port it envisions. EPA counters that the six-berth plan is, in the words of one EPA official, "pie-in-the-sky" and wonders whether the state officials deliberately applied for a permit for a two-berth facility even though they don't have the money to build it because they feared a one-berth application would make the Mack Point alternative seem more viable. Wrong, responded Rob Elder, director of port facilities at the Maine DOT. "We've always said it was going to be one berth," he insisted, explaining that his agency mentioned two berths in its reports because the actual length of the proposed pier amounts to about a berth and a half. "Every week it's something new," said Elder, clearly exasperated with EPA's ongoing objections.

Former state economist Lloyd Irland, author of a recent *Maine Times*-funded study suggesting alternatives to expanding the Maine Turnpike,

report, the two-volume environmental impact statement, and all the arguments made by the gaggle of government agencies, newspapers, and environmental organizations that have considered the future of Sears Island will land in the Washington office of EPA administrator Lee Thomas. So, no doubt, will the Maine congressional delegation, including George Mitchell, chairman of the Senate subcommittee on environmental protection. Then, everyone agrees, the story gets really interesting. "This is a pretty big thing for Lee Thomas to stand up to the committee chairman who handles his budget," according to Priscilla Chapman, who heads the Boston office of the Sierra Club. But Thomas hasn't done it yet, and whether he will side with his staff against what seems like every politician in Maine remains an open question.

17TH AMERICAN, ELLSWORTH, MAINE 04605

1/21/88

EPA says deny cargo port permit

AUGUSTA (AP) — Federal environmental officials are recommending denial of a key permit needed for construction of the Sears Island cargo port, but Maine's transportation chief said Wednesday he is confident the project will go on.

... be any

Boston-Based EPA Blamed for Port Delay

Maine products that could be shipped from the stalled Sears Island cargo port development project in Penobscot Bay continue to be trucked to the established ports of Boston and St. John, N.B., for export.

According to Robert Elder, Maine Department of Transportation (MDOT) Division of Ports and

Marine Transportation director, the increasing volume of cargo, particularly Maine-made paper, could be handled at Searsport.

This month MDOT Commissioner Dana Connors accused the Boston-based regional office of the Federal Environmental Protection Agency of being the obstacle to the development

of the State's nearly 15-year-old plan to establish a cargo port on Sears Island.

Funds for the project were approved by a substantial margin in two statewide referendums in 1981 and 1983. The 1981 referendum was in general support of port development in Maine and was spurred by the Brennan Administration's announced top priority of revitalizing Maine's economy by restoring her historic links to the world's sea lanes.

The 1983 referendum was for specific appropriations for port development at Portland, Searsport and Eastport. The initial MDOT concept envisioned Sears Island as the centerpiece in a statewide waterfront revitalization plan.

Law suits by the Sierra Club, a national environmental organization, slowed the project over the past several years. Last month the EPA, one of several federal agencies which must approve the project, recommended against its location on Sears Island.

The EPA, citing environmental reasons, has recommended that the State locate its cargo port at nearby Mack Point, where a cargo port exists. Mack Point, on the Searsport mainland, directly across from Sears Island, is where the State wanted to expand train, not to, according to Connors and Elder.

According to Elder, the costs of cargo handling at Mack Point would be double those of the proposed operational costs at Sears Island.

The creation of a major shipping facility on Sears Island, which would tap much of the central Maine hinterland for its cargo, would deny that same cargo to the ports of Boston and St. John, according to Elder.

Connors made his remarks about the EPA and Sears Island in an exclusive interview with the Bangor Daily News, which reported Connors' statements in a recent weekend edition.

Earlier the Lewiston Sun had carried a story about Sears Island in which it was said that a spokesman for the Massachusetts Port Authority denied that the Boston Harbor overseer has been attempting to stymie Sears Island by influencing persons within EPA.

According to Elder, letters of support for the Sears Island project have been coming into the MDOT's Augusta office from Great Northern Paper Co.; Champion Paper; Bangor and Aroostook Railroad; Eastern Maine Development Corp.; the City of Bangor; the City of Belfast, Gov. John McKernan and all four members of the Maine Congressional Delegation have sent letters of support to federal agencies, according to Elder.

Portland, Maine, Press Herald, Thursday, December 3, 1987

EPA against cargo port permit

AUGUSTA (AP) — Federal environmental officials are recommending denial of a key permit needed for construction of the Sears Island cargo port, but Maine's transportation chief said Wednesday he is confident the project will go on as planned.

"By no means should there be any implication that (the recommendation) stops the project," said Transportation Commissioner Dana Connors.

The Environmental Protection Agency, commenting on an extensive study on the environmental impacts of the proposed \$30-million project, recommended that the U.S. Army Corps of Engineers deny a crucial permit certifying that the project would cause no unreasonable harm.

The agency also recommended that \$4.3 million in federal grants for the project be

denied, but said it would not object if those grants were used to develop a project at Mack Point, which is on the mainland.

The EPA contends that the construction at Mack Point, where some working piers are already located, would present less of a threat to wetlands and would not take away as much wildlife habitat.

The EPA's comments are not binding, but they could carry considerable weight in persuading the corps to deny the permit, said EPA spokeswoman Elizabeth Higgins.

However, Connors said Wednesday, "I remain optimistic that the corps will issue the permit."

While the corps has made a preliminary decision to approve the permit, it has given the EPA and other federal agencies an opportunity to air their objections before it makes a final decision, said William Lawless of the corps'

New England division.

If the permit is approved, the EPA could, in effect, appeal to the corps' headquarters in Washington, he said.

The EPA took issue with the environmental impact statement's finding that developing the Mack Point site would be more expensive and less efficient, requiring the use of more tug-boats to move ships.

Connors, stressing that alternative sites were clearly studied in the environmental impact statement which state and federal transportation officials wrote, described the Mack Point proposal as "doomed to failure" because it does not have enough room for anticipated expansion.

The EPA contends that expectations that more port space will be needed are speculative.

Sears Island: Delays irk port project proponents

By Nancy Renssen
Of the News Staff

To be or not to be, that is the relevant question concerning the proposed cargo port on Sears Island. The future of the proposed \$38 million project, the child of the Maine Department of Transportation, depends now upon a decision in the U.S. Department of Environmental Protection. And indications are that EPA doesn't want the port facility built on the 960-acre island. Officials there have suggested Mack Point on the mainland — site of present port facilities — as an alternative.

The project would include a terminal to handle bulk commodities and cargos in containers, berths for two ships, and a rail line and roadway connecting the docking facility with the mainland over a causeway. State officials, who from the governor on down support the project, and local officials are lured by EPA's south-of-Maine's chance to bolster the state's economy by providing a cost-saving transportation link to Maine-based industries.

"We are mad as hell and we aren't going to take it any more," said Donald Grant, town manager of Searsport and chairman of the Maineport Council.

The Maineport Council, MDOT officials and the Congressional delegation all have tried to persuade EPA officials of the economic potential for the port, of its financial feasibility at the island site, and of the widespread support that exists for the project.

They point to the twofold issues approved by Maine voters in 1981 and 1983 which will provide most of the funding for construction of the facility.

The project was initiated by Gov. Joseph Brennan but has the full backing now of Gov. John K. McKeon. "At the nearby Bangor & Aroostook Railroad pier, managed by International Terminal Operators (ITO), of New England, the expectations are not so lofty," Sprague said. "We're just hanging by a thread here," Frazier said. "It nothing happens with Sears Island, the future here will be short." This one pier is so antiquated that it can't handle modern ships. Also, there's no storage space."

Frazier acknowledged that

But EPA officials have indicated that while they don't oppose a port project in Maine, they prefer another site in Penobscot Bay, Mack Point.

That alternative is not an alternative, according to proponents on Sears Island. Either the project goes on Sears Island, or it won't be built, they say. "Every sliver of evidence says that Sears Island is the place," said Dana Connors, Commissioner of Transportation. "Neither the state, the town of Searsport, nor private investors wish to expend funds to construct a facility on Mack Point," said Grant. That location would cost more to develop, result in greater environmental damages and crimp future expansion, he said.

The proposal to put a cargo port on Sears Island has had a stormy history. The project, conceived in the early 1980's, seemed the brink of construction in 1985 when the Sierra Club filed suit to halt the process because there had been no environmental impact statement filed with the EPA. One year and \$30,000 later, the environmental impact statement developed for the project was found lacking by the EPA because it failed to examine alternative locations in Sears Island.

It took another year to complete the environmental impact statement to EPA's satisfaction. State officials, however, were optimistic last fall when they forwarded the completed document to EPA. "It's been a long process and we are very excited that we have finally reached this stage," said Robert Elder, director of the Division of Ports and Marine Transportation at MDOT. In December, however, it was learned that EPA officials reviewing the project preferred Mack Point to Sears Island for the cargo port. EPA felt so strongly about that preference that officials there said they

Holiday aerial photo

Sears Island (top), with Mack Point pier, tank farm in foreground

Maineport Council William Richardson of the highway agency called the project "viable" and "strong." "I'm sure it will be a success let's get on with it," EPA's final recommendation on the project will be used by the U.S. Army Corps of Engineers and the Coast Guard in making decisions on issuing permits for the construction of a causeway, for dredging and other work required to bring a road and a rail spur out to two shipping berths to be constructed on the island.

Meanwhile, at Mack Point, things are getting antiquated

Cost, officials expect they would be given an opportunity to take part in the management of Sears Island. He said such a move would be a boon to ITO's business.

Manager William Frazier said his firm is hoping along with everyone else that Sears Island is approved. Frazier said the ITO pier is deteriorating and has consumed all its dry storage area. He said that because ITO is the only dry cargo stevedore company on the F.N.

"some year's we don't break even," and that business has been so poor recently "I thought we might close last year."

Frazier said ITO loads tapicoa flour for shipment by rail to Roanoke, and baled wood pulp for use at Maine paper mills. Some of the goods exported in recent years include newsprint for the Far East, lumber from northern Maine stud mills and unfinished logs from the

north woods. Approximately 240,000 tons passed through the pier last year, said Frazier.

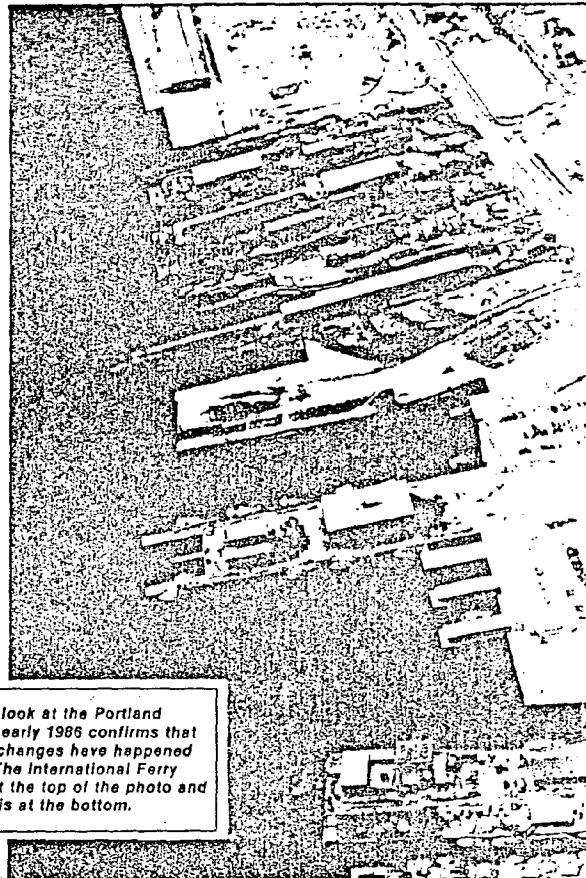
Sprouges Holowell said the company imports No. 6 fuel oil for shipment by truck and rail to paper mills, major utilities and industries; coal from West Virginia for paper mills and industries; rock salt for winter ice removal; solarite for the Caribbean and barite for are a chemical plants.



**Portland
Focus**

Portland's working waterfront:

*Planning,
growing,
struggling with
berthing shortage*



This aerial look at the Portland waterfront in early 1986 confirms that a number of changes have happened since then. The International Ferry Terminal is at the top of the photo and Union Wharf is at the bottom.

PORTLAND, ME - Last May, this city's voters passed a five-year moratorium on non-marine waterfront development. By a two-to-one margin, voters endorsed a citizen-initiated referendum extending the city's marine use only, W-2 zone throughout the waterfront.

While the language on the ballot didn't make it a pro or con vote on condominiums, that was the issue on which many citizens were making a statement. And it was a resounding "no," no more condos until we figure out what's going on with development and the waterfront.

Caught up in the referendum issue were waterfront property owners who, while not necessarily favoring more residential development, were concerned that the moratorium would stymie waterfront growth. Their arguments came on the heels of unsuccessful efforts to ease the restrictions of the W-2 zone by allowing non-marine tenants in the upper floors of marine-use buildings.

For Portland, the zoning debate had been divisive, pitting working waterfront advocates against each other. Eight months have passed since the referendum vote. What has happened to the waterfront since then? Have the issues changed? And most importantly, where do the people stand now?

Physically, the waterfront is being transformed. Scanning the outline of piers and wharves, there is construction in progress, new buildings, and new boats. Projects by the fishing industry include:

- General Marine Construction put in a floating drydock at Deak's Wharf;
- Gowen, Inc. has a new building at the end of Berlin Mills Wharf;
- Hobson's Wharf was revitalized by fishing industry families, a project that included a new building and created fishing vessel berthing space;
- ABBA North America built a fresh fish distribution facility on the Portland Fish Pier, joining Vessel Services, Inc., the Marine Trade Center, and the fresh fish display auction, all already operating on the city pier;
- Union Wharf has a new building that houses Brown Ship Chandlery and other businesses, and

part of the wharf is being upgraded with new pilings;

- The Harris Co. sold its property at the end of Central Wharf (Chandler's Wharf) and moved much of its operation to Outer Congress Street; and

Portland Focus This month, Commercial Fisheries News takes our usual wintertime look at the fishing industry in Maine, with a special focus on Portland. Articles that are part of this focus are marked with the "Portland Focus" triangle pictured at left.

Special Portland features include an update on the waterfront moratorium, which starts on this page. A local vessel provisioner and a seafood export company are also highlighted!

Additionally, lobster-and fishing-related groups are featured, as well as Maine's growing sea urchin fishery. — Editor

- Holden Seafood has moved its entire operation to Maine Wharf and is undergoing expansion.

Besides that, the International Ferry Terminal is undergoing repairs, and a 260' concrete multipurpose pier is being constructed onto its eastern end. A \$6 million Casco Bay Islands Ferry Terminal is being built on the Maine State Pier. And, there are condo projects and office buildings pending on the waterfront, permitted prior to the moratorium.

City commitment

The physical changes are obvious. But answering the questions about issues and people's positions and attitudes is complicated. The waterfront appears thriving, business turnover appears no greater than before the moratorium. There is still no solution to the shortage of fishing vessel berthing space.

When the moratorium passed, no one was in favor of simply letting the waterfront sit idle, with no planning or policy-making, for the next five years. The city, though on record as opposed to

the moratorium, is showing leadership in starting the process that will make decisions about the waterfront's future.

"The moratorium divided people, no doubt," said Thomas F. Valleeau, the city's director of Transportation and Waterfront Facilities. "One side said 'it will strengthen the port,' the other side said 'it will hurt the port.' But it's no good to rehash old arguments. The fact is that it's here. The city sees its role as making a success of this harbor under the moratorium."

Valleeau, who used to devote much of his workday to managing the city's airport facilities, is now spending 95% of his time on waterfront matters from his new office space in the Marine Trade Center on the fish pier. Many waterfront observers look to the city's decision to locate a senior staff member on the pier as an indication of the city's commitment.

Valleeau's primary role is to be a sounding board, the place where waterfront ideas come together. He is also responsible for marketing the remaining five parcels that are for lease on the fish pier. Valleeau reports directly to the city manager.

The Portland City Council has created a subcommittee to study the waterfront and formulate recommendations for council action. The subcommittee, which has toured the waterfront by boat and by van since the moratorium, held a public hearing on Nov. 18 to get suggestions from the community on what should be done with the waterfront.

Berthing crunch

There is almost unanimous agreement along the waterfront that the shortage of vessel berthing will put a pinch on fishing industry growth. The port already has to juggle and jockey to accommodate the current fleet when a good storm blows everyone home.

Charles Redman, president of the Portland Fish Exchange's board of directors, told city councillors of the exchange's need for additional berthing at the waterfront hearing. Redman had two specific

continued on next page

Community must take first step to protect working waterfront

ROCKPORT, ME - The message was clear at a "Protecting Working Waterfronts" workshop here on Dec. 1: coastal communities should take the initiative to protect the commercial fishing uses of their waterfronts and not wait for state or regional agencies to come to their rescue.

The workshop drew 80 participants from Scarborough to Jonesport to

discuss strategies for protecting working waterfronts. They represented local, regional, and state planning agencies, harbor management committees, conservation groups, and fishing, boat building, and aquaculture interests. The Rockland-based Island Institute, a non-profit, conservation and resource management organization, sponsored the day-long workshop at the Samoset Inn.

The purpose of the workshop was to bring together "people who have a piece or pieces of the answer (for protecting working waterfronts)," said Director Philip Conkling.

"The wheel turns extremely slowly," said state Rep. Sally Rice of

Stonington, a workshop panelist. "If you want to make change, don't wait for the state of Maine or the federal level to start it for you."

Local planning committees were urged to contact the State Planning Office or regional planning councils for policy guidance and information on programs for financial assistance in planning, acquisition and construction.

But the community must confirm its goals for a working waterfront and make them happen, according to Pat Jennings of Eastern Mid-Coast Regional Planning. "The hard reality is that someone will have to sit down with a magic marker and a map, and draw a line," designating marine-use-

only zones, she said.

The Department of Marine Resources (DMR) came under fire from workshop participants for not being more involved in the effort to protect working waterfronts. DMR Commissioner William Brennan responded by saying the DMR is not a land use agency but that "I think it would clearly be appropriate for the DMR to be involved at least in identifying resources and making clear what those resources are."

Workshop discussion included:

- a handbook of legal tools and techniques for preserving marine-related activities on the waterfront, currently being prepared by the Marine Law Institute;
- the revamping of the state's model shoreland zoning ordinance; and
- a possible legal defense fund set up by the state for towns in litigation with developers.

Participants will be sent a written copy of the workshop proceedings. The Island Institute's next step is to create a broad-based group to lobby for working waterfront protection strategies and funding in Augusta. A follow-up conference will be held in the spring to present specific tools for protecting the working waterfront. ■

COMMERCIAL FISHERIES NEWS JANUARY 1988

berthing recommendations: build a new finger pier off the fish pier complex or gain access to the Naval Reserve Center pier.

Marine attorney Ed Bradley said at the hearing that access to the Navy pier was possible. "We could get it as a community," he said. "I believe that could be done. Unless we have more berthing, we're going to cap the development of this industry."

The Waterfront Task Force of the Portland Community Chamber of Commerce was reactivated last summer to work on a berthing plan for the harbor. The 13-member standing committee is chaired by John Ferland and includes the following familiar waterfront advocates: Linda Balzano, Charlie Poole, Vicki Hopkins, Sam Davidson, Avis Leavitt, and Arthur Odlin.

"Right now we're in a project formulation stage," explained Ferland. "We're trying to get our berthing plan down on paper, determine the direction of the project."

At the waterfront hearing, Ferland told city council subcommittee members, "We want to do (the

project) in cooperation with the city." Specifically, Ferland said that the task force wants help in data gathering, and in bringing out into the open pertinent public policy questions and solutions.

Keep the Port in Portland, a citizen's group that campaigned hard to get the moratorium passed, has proposed short- and long-term strategies for waterfront development under the marine-only stipulation. One idea is for a "berthing clearing house," which would coordinate the rental of tie-up space between boats without berths and vessels that are out fishing.

"When people say we need more berthing, they mean we need more low-cost berthing," said Valleeau. "The cost of berthing in the port of Portland has gone up considerably in the last few years, but not enough to (economically) support new construction. Berthing is a question of dollars and cents."

But berthing is just the beginning. Some are calling for the development of a Port Authority, others are pushing for better marketing of the waterfront. Property owners are asking for tax relief or incentives for marine-only buildings and piers. Everyone has his own vision of Portland's working waterfront. What's encouraging is that parts of these individual visions are starting to mesh.

Tom Valleeau's vision is clear. "Mine is of a busy, prosperous, thriving harbor," he said, "with more vessel traffic at the International Ferry Terminal and with fish landings rising. I see the port of Portland being a pace-setter in the commercial fishing industry, and we've got to stay innovative."

Karen Sanford, head of Keep the Port in Portland, said everyone has done enough talking. "Now there is only one thing left to do...roll up our sleeves and start digging."

How quickly and determinedly people start that digging will decide the progress of waterfront changes and policy-making. But the people involved are moving ahead; and so is the city itself.

Ed Bradley, who opposed the moratorium because of its potential negative economic effect, admitted, "I've thought a lot about the waterfront since May." He emphasized the crucial role the city plays on the waterfront.

"Number one, you regulate it," he told council members at the waterfront hearing. "And number two, you're the biggest landowner down there. You have created something. You are the stewards of it. It's very important that appropriate marine projects be encouraged."

Janice M. Plante

Portlanders: City wants waterfront budget comments

PORTLAND, ME - It is budget-setting time in Portland, and one top official would like to see the city allocate almost \$1 million for the waterfront, primarily in pier work.

The requests are being made by Thomas Valleeau, Portland's Director of Transportation and Waterfront Facilities. Valleeau is making separate requests to the city's capital and operating budgets.

From the capital budget, Valleeau is requesting \$700,000 to construct a 400' finger pier at the Portland Fish Pier, something which he calls a "utilitarian pier, nothing fancy." The pier is intended to provide additional commercial fish boat berthing.

The proposal for the city's operating budget includes:

- \$100,000 to assist private pier owners with repair work and pier upgrading;
- \$100,000 to conduct dredging work around the Portland Fish Pier and International Ferry Terminal sites;
- \$20,000 to involve the city in trade shows, some of which would be fish shows;
- \$20,000 for general port advertising; and
- \$20,000 to prepare a Port Book, primarily targeted toward ocean cargo vessels.

COMMERCIAL FISHERIES NEWS FEBRUARY 1988

Workshop Participants Told

Maine's Coastal Towns Fill South American Must Confront Developers To Preserve Way of Life

By Arthur B. Layton Jr.
Participants at a "Protecting Working Waterfronts" workshop in Rockport on Tuesday were told that municipalities that stay away from litigation with developers are playing a losing game.

"You can't back away from legal fight and you can't look for the State to pick up the tab all of the time," said Jose Quintrell, of the State's Department of Economic and Community Development, had told the group that the possibility of establishing a common legal defense fund for municipalities was being considered by the State.

Additional meetings are anticipated this winter and next spring in an effort to bring about a ground swell of citizen resistance to development that threatens to destroy traditional maritime occupations in the

point during the all-day conference, Debgou said that State agencies, from the administration of Gov. Kenneth M. Curtis onward, have had an inability to say "no" to almost any proposal for development.

"When the last baithouse, lobster dealer, or boatyard in a town like Frenchboro sells out for a pot of gold offered by a developer, the character of that town begins to change immediately."

—William Brennan, Maine Department of Marine Resources commissioner

Debgou made his remarks toward the end of Tuesday's session, after quoted his fisherman grandfather about, "Talk's cheap. Run costs money."

Blackmore was on a panel with Debgou, Tom Morison of the Bureau of Public Lands, and William F. Brennan, State Resources commissioner.

Warming to his initial remark, Debgou continued, "You can't afford not to face down the Paton Corps and the Liberty Groups who don't care a damn about how they affect the quality of your life. You have to raise the money. You have to put money where your mouth is. Ultimately you have to say that it this town's worth saving, then it's worth buying."

"We're a poor state, but we're not," Debgou continued. His remarks were prompted in part by an earlier audience comment that Paton Corporation is building a small town in southwestern Maine for \$1 billion in an attempt to force it to rescind a town planning decision.

Henry (Hank) Taft III moderated a panel discussion in which Douglass Wheeler of the Conservation Foundation in Washington read off a list of federal agencies, including the National Endowment for the Arts, from which communities may obtain money to defend their way of life. Taft suggested collecting user fees, particularly from tourists entering the State, that could be used to acquire waterfront property and/or community legal entities. Taft said that fishing and fishermen are not just an industry concern, but the concern of the entire State. He said the State's fishermen have created a

quality of life that is the essence of Maine's attractiveness.

Sherry Hanson of the State's Office of Community Development; Ron Phillips of the nonprofit venture capital firm of Coastal Enterprises Inc., and Lay Espey of the nonprofit Maine Coast Heritage Trust, all discussed fundraising techniques and opportunity approaches to protecting working waterfronts were

discussed in a panel comprised of Rep. Sally Rice (R-Saco); Katrina Van Dusen, State Planning Office planner; Pat Jennings, Eastern Mid-Coast Regional Planning director; and Rich Baker of the State Department of Environmental Protection.

During the first panel discussion of the afternoon (the morning session was devoted to general speeches), Edward A. Blackmore of Stonington,

"Ten years ago coastal development was working its way up the New England coast, but Maine seemed a long way from those interests that were driving those," Brennan continued. "I believe we were unprepared to recognize that inevitably coastal development pressures would come to bear upon our State as well."

such as Jonesport, Stonington and several others from Eastport to Kittery. However, when that last baithouse, lobster dealer, or waterfront in a town like Frenchboro sells out for a pot of gold offered by a developer, the character of that town begins to change immediately."

"Without a place to buy fuel or bait, without a place to land his catch, keeps shift or dock his boat, a fisherman is left with essentially two options—either locate in another community that still has its necessary infrastructure or go out of business. Neither option is very palatable to someone who has grown up in a community as part of a long-standing fishing family."

"It's ironic that the very features of our State that are drawing so many people to our coast—the charisma and character of our working waterfronts—are the same features that will inevitably lead us to do not begin to take steps to ensure that a place is reserved for traditional uses of the coast," Brennan said.

Brennan said that the residents of coastal and island communities must remain alert to incursions into their livelihoods unless they want to wind up "tuck in the pocket in New York and Philadelphia would like to have you."

Debgou and others reiterated that mixed uses, condominiums, and restaurants, don't work in favor of maintaining working waterfronts. Island Institute described itself as "a nonprofit corporation dedicated to studying and encouraging the balanced use of Maine's islands' cultural and natural resources."

"Our fishing industry represents a key component of this State's economy and, as you well know, is the lifeblood of coastal communities of watermen and women in this State is the loss of access to our valuable marine resources.

Then Brennan said, "The town I grew up in had no bars or restaurants. It did have a grocery store, a hardware store, two gas stations, a dime store, two real estate offices, a hardware store, and a drug store. All this plus a golf course, Maine Maritime Academy.

"Today, Castine has no fighting fleet, but it does have six real estate offices, seven bars and restaurants, three lins, a mini-mart, a couple of gift shops, the gas stations, a grocery store, the hardware store, and a drug store. All this plus 2,000 yards long, 500 yards wide by 2,000 yards long,

"Expansion of the Academy's physical plant is no longer an issue. The growth issue today is the same as that being grappled with in communities all along Maine's coast. I believe that it is extremely timely that we meet today to discuss strategies and approaches to protecting our working waterfronts. And I applaud the Island Institute for bringing us together to address this issue."

6. Coastal Access Activities

This past year, SPO coastal program staff assisted access-related programs within Maine government and carried its own agenda of special projects including a study of public access planning, regulatory approaches and liability considerations, and an assessment of coastal water-dependent commercial uses. A new public access agenda to help expand and enhance public access opportunities along the Maine coast also was prepared, as outlined below.

Coastal Program staff will be actively involved with programs which affect public access, including the Land for Maine's Future Fund, the administration's current Growth Management Initiative, the proposed Maine Advisory Commission on Outdoor Recreation, and access-related activities carried out under the federal Land and Water Conservation Fund, the Maine Public Facilities for Boating Program, and Wallop-Breaux Fish and Wildlife Funds.

The staff will prepare a coastal access needs assessment this spring to provide a basis for upcoming access acquisition strategies. The needs assessment will be built upon existing studies, plans and reports and refined through public participation activities this summer. It will identify: 1) demand for access sites within geographical sections of the entire coastal area; 2) areas along the coast where these demands are or are not met; and 3) areas or points on the coast where public access opportunities can be meaningfully expanded.

In cooperation with DECD, BPR and others, Coastal Program staff will continue its current project to complete a set of public access handbooks. These handbooks will condense current studies and reports into useful acquisition, protection and development guidelines for land use planners and managers. They will identify tools currently used to improve and acquire public access opportunities and discuss how these tools can be used to maximize opportunities gained through limited acquisition resources.

7. Permit Procedure Simplification

Nothing further to report this period.

8. Activities to Protect or Restore Historic, Cultural or Aesthetic Resources, or Redevelop Deteriorating Waterfronts & Ports

See Task 2.

9. New Memoranda of Understanding

Refer to individual work task reports.

10. Report on the Federal Consistency Review Process & Coordination Activities
See Task 3.A.
11. Public Awareness Activities
See Task 4.B.2.
12. New Publications Report
See individual work task reports.
13. Changes to Coastal Zone Boundaries & Management Authority
As of the end of the reporting period OCRM's comments were being awaited on a draft routine program implementation (RPI) package and supplemental analysis submitted last July and September, respectively.
14. Changes in Strengthening the Management of Coastal Resources
None to report this period, though numerous issues with coastal management implications are under discussion in the current legislative session.
15. Major Coastal Issues & State Role
See first part of this report on "Coastal Issues & Accomplishments."
16. Sub-awards to Minority or Female-owned Businesses
Information not available.

STATE PLANNING OFFICE ORGANIZATION CHART

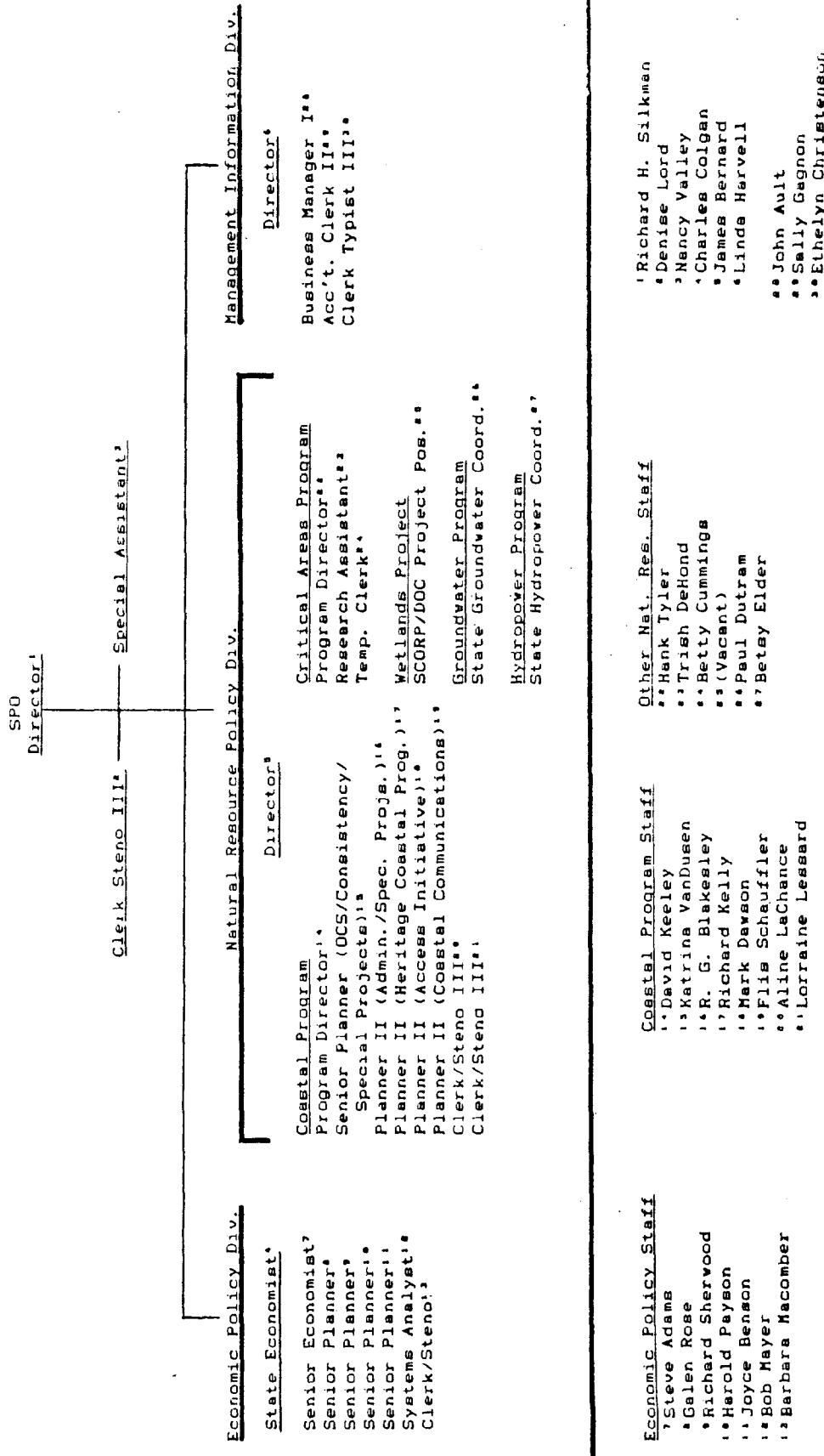


EXHIBIT E-1

STATE OF MAINE
Department of Environmental Protection

MAIN OFFICE: 455 BUREAU, CAPITAL STREET, AUGUSTA
 MAIL ADDRESS: State House, Room 1, Augusta, ME 04333
 207-289-7686

JOHN A. MCERNAN, JR.
 GOVERNOR

DEAN C. MARIOTTI
 COMMISSIONER

MEMORANDUM

TO: Robert Blakesley, State Planning Office

FROM: Paula Clark, Director, Bureau of Land Quality Control Department of
 Environmental Protection

DATE: March 28, 1988

SUBJ: Coastal Zone Management Quarterly Report November 1, 1987 - January 31,
 1988

Attached is the second quarterly report submitted under the 1987-88
 memorandum of understanding, and consists of the following:

- I Quarterly tabulation of complaints, compliance inspections, enforcement
 actions, and permit applications in the coastal area;
- II Quarterly list showing the status of consent agreements;
- III Quarterly narrative of major applications, enforcement activities,
 problems, issues, and accomplishments;
- IV Quarterly report on federal consistency review and coordination
 activities;
- V Quarterly report on changes in statutes, rules and regulations;
- VI Quarterly report on the Shoreland Zoning Law;
- VII Quarterly report on efforts to improve administration of core laws and
 to secure state funding;

The accounting of expenditures and state match for October 1, 1986 through
 September 30, 1987 has previously been submitted to your office.

I. Complaints, Inspections, and Enforcement Actions in the Coastal Area.

A. D.E.P. Complaints in the coastal area:

November 87-January 88.

Status	Downeast			Central			Southern			<u>Total</u>		
	Resolved	Pending	Deadline	Total	10	12	4	7	15	8	5	22
<u>Total</u>				<u>Total</u>	26			30		87		143

B. DEP Compliance inspections and enforcement actions in the coastal area:

November 87-January 88.

Region/Statute	Compliance Inspections			Consent Agreements Attempted			Agreement Resolved			<u>Pending</u>	<u>Referral to A.G.</u>	
	Downeast:	Site	Wetlands	Solid Waste	2	1	0	0	1	2	0	0
Central:	Site	0	0	0	0	0	0	0	1	0	0	0
	Wetlands	10	2	1	0	0	0	0	4	0	0	0
	Solid Waste	2	1	0	0	0	0	0	3	0	0	0
Southern	Site	2	4	0	0	0	0	0	3	0	0	0
	Wetlands	0	2	2	0	0	2	1	4	0	0	0
	Solid Waste	2	2	0	0	0	0	1	5	0	0	0
Total Coastal	Site	4	6	0	0	0	0	0	6	0	0	0
	Wetlands	10	5	3	0	0	0	3	10	0	0	0
	Solid Waste	7	3	0	0	0	0	1	10	0	0	0
Total		21	14	0	0	0	0	4	26	0	0	0

C. D.E.P. permit applications in the coastal area:

November 87-January 88

Law/Type	Downeast			Central			Southern			<u>Total</u>
	Coastal Wetlands	Sand Dunes	Great Ponds	Stream Alteration	Fresh Water Wetland	Site	Mining	Industrial Commercial	Residential	
	10	0	0	4	0	14	1	3	9	36
										22
										22
										1
										12
										12
										-
										-
										-
Total	31	24	75	130	0	0	1	3	17	17

II. Status of Consent Agreements and A.G. Referrals

A. D.E.P. consent agreements resolved:

November 8-January 88

1. Ocean Products, Inc - East Machias
Protection and Improvement of Waters, Section 413
2. Dunstan Williams - Wells
Coastal Wetlands Law
3. Bruce Publicover - Wells
Coastal Wetlands Law
4. Michael Coggeshall - Wells
Solid Waste Laws
5. Louis Farrah - York
Freshwater Wetlands Law
6. David B. Bean and David G. Gleeson - Topsham
Stream Alteration Law

B. D.E.P. Consent Agreements Pending
November 8-January 88

1. Town of Perry - Perry
Solid Waste Law
2. City of Calais - Calais
Solid Waste Law
3. Lawrence Stanley - Swan's Island
Coastal Wetlands Law
4. Unlimited Property Service - Bangor
Site Location Law
5. H.E. Sargent - Bangor
Site Location Law
6. Chandler and Sue Duffy - Blue Hill
Coastal Wetlands Law
7. Mill Cove Associates - Boothbay Harbor
Coastal Wetlands Law
8. Town of Boothbay - Boothbay
Solid Waste Law
9. City of Belfast - Belfast
Solid Waste Law
10. J. Grant Burke Trust - Bristol
Site Law; Subdivision
11. John McConchie - St. George
Coastal Wetlands Law
12. Boynton Associates - St. George
Coastal Wetlands Law
13. Town of St. George - St. George
Solid Waste Law
14. Richard Stearns - Lincolnville
Stream Alteration Law
15. Robert Rosenthal and Bo-Ed Inc.- Brunswick
Site Location Law
16. Rebecca Frost, John Furbush, Morritt Shapleigh, Jr.
Eliot
Site Law
17. Khury Vernishank, Inc. - Cape Elizabeth
Site Law
18. John P. Martin - Saco
Coastal Wetlands Law
19. Richard Cativ - Scarborough
Coastal Wetlands Law
20. Town of Scarborough - Scarborough
Coastal Wetlands Law
21. Town of Scarborough - Scarborough
Solid Waste Laws
22. Lucten Thibault - Harpswell
Coastal Wetlands Law
23. Frame Thomas - Wells
Stream Alteration Law
24. Consolidated Excavators - Old Orchard
Stream Alteration Law
25. Robert Levesque - South Berwick
Solid Waste Law
26. Maine Energy Recovery Co.
And General Electric - Biddeford
Solid Waste and Site Laws

27. Stanley Douglas
Solid Waste Laws
28. Peter Complin and Co. - York
Site Law
29. Harbor Corporation - York
Site Law
30. Harbor Corporation - York
Site Law
31. Michael Frenette - Old Orchard
Solid Waste Law
32. Joan McEwen - Palmouth
Solid Waste Law
33. Reginald Cain - Arundel
Solid Waste Law
34. G. Stephan Minaudo - Eliot
Coastal Wetlands Law
35. David Ginter - Phippsburg
Coastal Wetlands Law
36. Roundwood Associates - Scarborough
White Brothers, Inc.
Site Location Law
- C. D.E.P. referrals to the Attorney General:
November 87- January 88
- None

- III. Narrative of major applications, enforcement activities, problems, issues, and accomplishments.
- A. Significant permit applications in the coastal zone November 87- January 88.
1. Sandy Ridge Subdivision, Brunswick,

Sandy Ridge Partnership is proposing an 96.3 acre commercial and residential subdivision on Thomas Point Road, Brunswick. The project includes 12 existing residential lots, 23 additional residential lots, and 5 commercial lots. Water supply will be met by on site wells and public water. Wastewater disposal will be accomplished by individual systems as well as an offsite municipal treatment plant.

Because the project is partially located over a mapped sand and gravel aquifer, concerns have been raised about impacts to groundwater. A hydrogeological study has been prepared and is currently under review. Concerns have also been raised about impacts to local traffic and possible archaeological resources. Studies are currently being done on these issues.

A decision on the project is expected in September.
 2. Fores Run Transportation Park
 3. Long Wharf/Fisherman's Wharf, Portland
 4. City of Rockland Transfer Station, Rockland
- Proposal is for a mixed use (residential, office retail, parking, renovated marina) development on 2 wharves of the Portland waterfront, and on land adjacent to these wharves in the Old Port section of Portland. Most significant unresolved issue is this development's visual compatibility with the area, and its consistency with and respect for the limited, valued waterfront views which exist in this port of Portland.
- The City proposes to develop and operate a Transfer Station for the transfer of 6000 tons of municipal solid waste annually. The Station will include an operation building, two stationary compactors, and three transfer trailers. By establishing the transfer station the City will be closing out the town landfill which is located in an old quarry. Other waste to be handled by the transfer station will be tires while goods and construction and demolition debris. The solid waste to be incinerated will be trucked to Orrington to the Penobscot Energy Recovery Company facility.

5. Atlantic Condominium Development Corporation, Thirty Unit Condominium, Old Orchard

The applicant proposed to construct an 8-story, 93' by 64', 30 unit condominium structure with outdoor patio, swimming pool, parking/drive and walkway areas, ocean side of East Grande Avenue, in Old Orchard Beach. A 120' by 60' by 3' high dune would also be constructed seaward of the project.

The building would be set on driven steel piling and first floor elevation is proposed at 19.0 feet. Or 10 feet above the base parking level grade. The mean high water mark of the Atlantic Ocean would be located approximately 390' from the swimming pool and 460' from the building.

Environmental Concerns: The proposed structure would be located in what presently is a no flood, C-zone as mapped by P.E.M.A., whereas the proposed dune and elevated walkway would be located in what is presently a B-zone. Audubon.

Comments: The Board determined, on December 15, 1987, that the present version of the Atlantic Condominium project was significantly different from a previous submission (project #L-014102-04-A-N) and should be reviewed as a new application. Review is currently underway by the Maine Geological Survey, the Department of Inland Fish and Wildlife, Marine Resources, Town of Old Orchard, the State Planning Office, and Maine Audubon.

6. General Properties Inc., Harborside Condo's and Marine

The project consists of 58 residential units and a 250 slip marina with associated chandlery facilities and parking on 7 acres on Front St. in South Portland major issues include common scheme of development with a neighboring project, permanent slips in a Federal Anchorage, hazardous waste from previous property owner, and traffic.

The project is still under review. Major changes in the developers plans are anticipated.

Coastal Zone Projects

7. Sizzco and Chi Sizzler Restaurant, South Portland
Permit issued 12/31/87

3.8 acres site developed into a 150 bedroom motel and a 200 seat restaurant.

Significant issues = Traffic poor level of service directly in front of the site.

Conditions of permit identify needed improvements and require said improvements to be in place prior to use of the restaurant.

Coastal Zone Projects

8. Shawen Associates, Rockland Harbor

Applicant proposed to fill in 1.7 acres of intertidal area for boat storage and for the operation of a 40 ton travel lift in conjunction with a proposed marina. At this time the project is out to review. The most significant issue in this case is whether the intertidal area should be sacrificed for a proposed use that is not strictly marine related, and is speculative in nature; furthermore, alternatives may exist that the applicant has not addressed.

9. Wharf Areas, Damariscotta

Proposed wharf over the Damariscotta River (timber, pile supported). Structure would be used for construction of residential and business space (non-water dependent uses). A timber ramp and float will be attached.

Reduction in intertidal productivity due to shading by the wharf. Interference with navigation/recreation in the river channel. Drafted denial, waiting for applicants response.

- B. Major Enforcement action (narrative description)
November 87 - January 88

1. City of Calais - Calais
Negotiations between the City of Calais and the Department are continuing. The consent agreement is a joint effort between the Water and Land Bureaus and was drafted to resolve violation at the city's landfill and wastewater treatment facility.

2. Chandler and Sue Duffy - Blue Hill
Chandler and Sue Duffy caused fill to be placed in Blue Hill Harbor adjacent to Mill Stream in order to construct an apartment house from an existing plumbing shop. (The plumbing shop had been located on Cribwork.) No Coastal Wetlands application was filed prior to construction. The Duffy's "after-the-fact" Coastal Wetlands application was denied. A consent agreement has been drafted; it requires, in part, that the fill placed beyond the original cribwork boundary be removed.

3. Donald Hall - Phillipsburn
As ordered by Superior Court Judge, Carl O. Bradford, in September 1987, the Halls removed their cottage from the sand dunes on December 15. The cottage had been constructed in 1982 without proper permits under the Coastal Wetlands Law. The removal ended years of Court battles reaching the Maine Supreme Court twice.

IV. FEDERAL CONSISTENCY REVIEW AND COOPERATION ACTIVITIES:

11/4/87 All-day meeting ('N.E.D. Futures') with the U.S. Army Corps of Engineers at their Headquarters in Waltham, MA to discuss the means to better communication and coordination on Federal Assistance Projects, especially in the Coastal Zone. The Maine Department of Environmental Protection was represented by: David Domine (Director of the Division of Licensing and Review, Bureau of Land Quality Control), William LaFlamme (Federal Consistency Coordinator) and Philip Garwood (Federal Consistency Reviewer).

11/5/87 Discussion between Thomas Walker, US Navy representative, and Philip Garwood, D.E.P., concerning the expected Federal Consistency Determination by the navy on the Portsmouth Naval Shipyard marina on Seavey Island in Kittery Maine.

1/14/88 Federal Consistency meeting at the Maine State Planning Office to discuss a number of upcoming U.S. Army Corps of Engineers projects within Maine's Coastal Zone. D.E.P. was represented by William LaFlamme and Philip Garwood.

1/15/88-
1/26/88 Approximately 20 telephone conversations between Philip Garwood of DEP and Fisherman, State of Maine officials and U.S. Army Corps of Engineers staff to explore a potential impact to a marine resource and whether it could be avoided. The project involved was the Jonesport Breakwater and the resulting disposal of dredged material.

1/19/88 Meeting with Jim Lysen (Town of Scarborough) and Barry Timon (Consulting Geologist) to discuss a potential U.S. Army Corps of Engineers dredging project in Scarborough, Maine.

V. CHANGES IN STATUTES, RULES, AND REGULATIONS
November 87-January 88

The only changes in the core laws and related rules and regulations were in the Coastal Sand Dune Rules, Chapter 355, pursuant to 38 M.R.S.A., Sections 471-478. The Coastal Sand Dune Rules were revised for the following reasons: 1) to increase restrictions on the location, size and density of development activities in order to prevent future flood hazards and interferences with sand supply and movement due to sea level rise and shoreline retreat; 2) to ease restrictions on development activities which have no significant environmental effect; and 3) to increase the clarity of the rules.

Specific changes included:

- A. The format of the rules was modified to improve their clarity. These changes included adding a table of contents and moving the definition of terms to Section 1. The organization of the Standards section was also modified. The sub-section on structures was divided into paragraphs on 'All Structures', 'New Structures' and 'Reconstruction or Replacement Structures'. In addition, certain notes were deleted which had been more confusing than helpful in understanding the purpose of the rules. These changes were in response to comments that the meaning of the rules is often unclear, particularly in regard to the standards for structures.
- B. Definitions were added for B-zone, Back Dunes, Development, Frontal Dune, Lot, Seawall and Structure.
- C. New exemptions were added in Section 2 under authority of 38 M.R.S.A., Section 478 for activities which will not significantly affect the environment, including second floor additions and construction of small open decks. These additions were made in response to several comments that the rules are too restrictive in regard to low impact projects.
- D. A Preamble has been added to the Standards section which expresses the Board's intent to limit the density, location and size of structures due to its concern for rising sea level.
- E. Section 3 (A)(1), requiring a project to have "minimal impact" on a site, has been expanded to include density limits. The intent of these limits is to ensure that substantial portions of the sand dune system remain in a natural condition in order to allow for the supply and movement of sand in the future.
- F. Section 3(B)(1) applies to "All Structures" which includes new and reconstructed structures. The intent is to specify conditions which will be attached to permits. So that future property owners may be aware of these conditions, the DEP will file a copy of the permit with the Registry of Deeds.
- G. Section 3 (B)(2)(b) has been modified to allow storage sheds and garages to be built on grade within flood zones, but expands the area where residential structures must be elevated to include B-zones (500-year flood zones).
- H. Section 3 (B)(2)(C) prohibits the construction of large buildings except where evidence demonstrates a site to be stable after a 3-foot rise in sea level.

I. Section 3(B)(3) allows for reconstruction or replacement of buildings only when all standards for new buildings are met, except for standards 3(B)(2)(c) and 3(B)(2)(e) where the new building is no longer, and extends no further seaward than the previously existing building. This section reflects a change from the version presented at the August 20, 1987 public hearing which would have allowed the reconstruction or replacement of a building severely damaged by an ocean storm in a V-zone or frontal dune.

J. Section 3(F) on seawalls has been modified to allow the footing of cement walls to be enlarged only when contiguous walls on both ends have larger footings. Under these circumstances, the enlarged footings may not be larger than those of the contiguous walls. In addition, a limit on the amount of new material added to a rock seawall has been included in place of a note which contained similar language.

K. Section 4(I)(1)(a) on variances has been modified since frontal dunes may include areas altered by development. Areas which have been altered through construction of seawalls and backfill have no ridge or landward slope and have been excluded from the variance provision. Section 4(I)(1)(c) has been added for reconstruction or replacement of buildings which are destroyed involuntarily. This variance provision was added in fairness to property owners who suffer loss for reasons beyond their control other than ocean storms.

A full copy of the revised Coastal Sand Dune Rules is attached.

The other change in rules relates to the shoreland zoning program. Under the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances the clearing standard was strengthened to limit the size of openings created in the vegetative buffer adjacent to ponds, rivers, and saltwater bodies.

V1. Report on shoreland zoning activities:
November 87-January 88

The shoreland zoning unit has been especially busy over the three month period of this report. In November the last of 15 public meetings was held in Portland to obtain public input toward revisions to the shoreland zoning ordinance. Following those meetings the information gathered was compiled in summary form for reference during the revision process (see attached). Upon completion of the summary information, an advisory steering committee was established to direct the shoreland zoning unit as the revisions are drafted. In addition six working committees were established to draft sections of the revised ordinance for review by the advisory committee. The advisory committee met in early January. That committee suggested that the working committee get right to the task at hand and begin meeting regularly starting in February. A list of the committees and their members is attached. It is our hope that by July we will have a draft revised ordinance ready for public hearing.

The shoreland zoning unit has published its November/December issue of the Shoreland Zoning News (copy attached). One copy of newsletter is presently sent to each municipal code enforcement officer. We would like to send copies to all selectmen, councilors and planning board members but can not do so for lack of funds.

During the reporting period we undertook a special effort to review backlog of ordinances received from municipalities over the last year. Comprehensive reviews, followed by written comments to municipalities based on those reviews were completed for the coastal municipalities of:

1. Bristol
2. Brunswick
3. Bucksport
4. Cherryfield
5. Eliot
6. Hampden
7. Mount Desert
8. Old Orchard Beach
9. Phippsburg
10. Randolph
11. St George
12. St. George
13. Wiscasset

We have been pleased with the working relationship between the DEP the Department of Economic and Community Development and the Regional Planning Commissions. The training coordinators continue to meet on a monthly basis making it possible to ensure continued dialogue between these agencies. In December a "hands on" training session specific to shoreland zoning and flood plain management was held for the regional councils. The funding of a "Coastal Coordinator" in the coastal regional council offices has resulted in the hiring of individuals whose tasks will include working with towns on matters related to shoreland zoning. This project should prove invaluable. We look forward to working with the coastal coordinators over the coming year.

In December a public hearing was held on the George Kerr rezoning request at the mouth of the Goosefare Brook in Saco. This hearing was important to the program as the area is one of the last open spaces on the ocean in Saco and is adjacent to a valuable waterfowl area. A decision on the request is expected in April.

The staff of the shoreland zoning unit has also been busy with day to day technical assistance to municipalities. We have assisted the towns of Bath, Belfast, Bucksport, Eastport, Gouldboro, Kittery, Lincolnville, Millbridge, Tremont, Mount Desert, Owls Head, Rockport, Sorrento, Southwest Harbor, and Vinalhaven.

We have also participated in several seminars/presentations relating to coastal zone management activities including:

1. A presentation to the Atlantic Sea run Salmon Commission focused on the shoreland zoning revisions and its relationship to that fishery.
2. A presentation at a growth management seminar specific to the Maine coast held at Bowdoin College.
3. Participation in a seminar relating to preservation of Maine's working waterfronts.
4. Participation on a model ordinance development committee for erosion control in cooperation with the Soil Conservation Service.

VII. Quarterly report on efforts to improve administration of core laws and to secure state funding.
The D.E.P.'s Bureau of Land Quality Control, in an effort to improve its efficiency in administering the various core laws under its jurisdiction established a task force of key employees to review the current administrative procedures and to make recommendations to management regarding needed changes. Some changes have already been incorporated into the administrative process although the full report the Task Force has not yet been completed. The report is expected shortly and will be forwarded at that time.

In regard to state funding the Department has prepared and submitted a supplemental budget request to the legislature which if adopted will provide additional funds for shoreland zoning and other Land Bureau administration core laws.

BLAKESLEY/rjc



Department of Environmental Protection

SHORELAND ZONING NEWS

Volume 1 Number 2

Andrea M. Lapointe, Editor 289-2111

November/December 1987

Statutory Items that Override Local Ordinances

by Richard P. Baker, Shoreland Zoning Coordinator

Local officials should be aware of changes in state law which override provisions contained in shoreland zoning ordinances unless stated otherwise in the law, statutory provisions supersede regulatory requirements including those in local ordinances.

The state legislature which adjourned in June of 1987 enacted several laws affecting shoreland zoning administration. The following laws either directly or indirectly affect shoreland areas and are now in effect:

1. LD 1868, Public Law 1987, Chapter 49, prohibits timber harvesting in districts zoned for resource protection adjacent to ponds.
2. LD 1761, Public Law, 1987 Chapter 381, requires inspection and certification of septic systems prior to transfer of property within the shoreland zone. Although originally scheduled to take effect on September 29, 1987, implementation of the bill has been delayed until June 1, 1988. In the meantime the Department of Human Services will adopt rules for implementation of this law.
3. LD 1336, Public Law 1987, Chapter 182 requires municipal subdivision and zoning (including shoreland zoning) variances to be recorded at the Registry of Deeds.
4. LD 1764, Public Law 1987, Chapter 514, amends the local subdivision law to permit local review of certain lots over 40 acres in size if such lots are located wholly or partly within any shoreland zone, provided that the average lot depth to shore frontage ratio is greater than 5 to 1. Where 3 or more lots of 40 or more acres are developed, a plan must be filed with the Registry of Deeds and the municipal authority responsible for reviewing subdivisions.
5. LD 138, Public Law 1987, Chapter 94 ratifies local ordinances which regulate

structures on, over, or abutting piers, docks and wharves, provided that such ordinance was in effect and in operation on April 18, 1986.

In addition to legislative actions noted above, other laws have been enacted within the just few years which override local ordinance provisions. These changes are underlined in the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances which was mailed with the first issue of the Shoreland Zoning News. We will elaborate on a few of these changes in the following paragraphs.

First, municipalities should note that due to the transfer of oversight responsibilities from the State Planning Office (SPO) to the Department of Environmental Protection (DEP), copies of ordinance amendments and variances granted must now be sent to the DEP rather than SPO; furthermore, there is no longer a requirement that copies of shoreland zoning ordinances be filed with the County Registry of Deeds. Instead the ordinance must be filed with the municipal clerk and copies are to be made available to any member of the public at a reasonable cost.

There have also been a few changes which are reflected in the Land Use Standards contained in Section 11 of the model ordinance. Whereas responsibility for administration of the Stream Alteration Act has been transferred to the DEP from the Department of Inland Fisheries and Wildlife (DIFW), permits for beach construction Continue on back

Model Ordinance to be Revamped

Workshops around the State were held in October to gather information from local and state officials on problems associated with the enforcement and administration of local shoreland zoning ordinances. The information will be used to develop a revised model ordinance that addresses current issues such as cumulative growth, and cluster development. In the revised model ordinance many of the land use standards will be revised to provide better guidance for local officials.

THE NUTS & BOLTS OF SHORELAND ZONING

WHY

Shoreland zoning was adopted:

- to help maintain safe and healthy conditions
- to prevent and control water pollution
- to protect habitat for fish, wildlife, birds and aquatic life
- to control the placement of structures and the type of land uses
- to conserve shore vegetation and natural beauty and
- to retain visual as well as physical points of access to inland and coastal waters.

Research has found that the shoreland is the most productive component in a landscape in terms of species diversity. It serves numerous functions including soil stability, wildlife habitat and aesthetic quality.

HOW

In order for shoreland zoning to work all landowners in the zone must follow all of the ordinance provisions.

WHERE

Shoreland zoning applies only to those uses and structures within the specified shoreland zone. The shoreland zone is usually limited to land within 250 feet of:

- all tidal areas
- lakes over 10 acres
- the point at which it receives runoff from 25 square miles of land.

64

Amendments to Model Ordinance are not Always Advisory

by Jeff Pidot, Assistant Attorney General

Since its adoption in 1974, the State Model Ordinance has been revised several times. This has led town officials to wonder whether they are revisions are advisory only, or whether they are required to amend their own local ordinances to reflect the minimum condition established by the latest revision of the model ordinance.

First of all, the foremost concern of the Department of Environmental Protection, which is the State's oversight agency for the Mandatory Shoreland Zoning Program, is to avoid confrontations with municipalities over the administration and enforcement of local shoreland zoning ordinances. The Department's primary role is to provide technical assistance.

However, the Legislature contemplated the possibility that a municipality might be reluctant to act in accordance with the programs objectives. These objectives are served by creating at the local level, shoreland zoning ordinances which are consistent with the State's guidelines, ordinance, and effectively administering and enforcing at the local level these ordinances. When municipalities fail to accomplish these purposes, the law contemplates that the State will step in. In these instances, the State may take limited action in one of two areas:

- Under Title 38, M.R.S.A., Section 442, the State may determine that a particular municipal shoreland zoning ordinance, because of its "laxity and permissiveness" (to use the statutory term), does not provide the

type of protection which the Legislature had in mind. That determination is to be made by the Board of Environmental Protection and Land Use Regulation Commission. Once that determination is made, the Board and Commission, may impose upon a municipality the administration and enforcement of such then, become the "municipality's" responsibility. While it is a matter for the judgement of the Board and Commission, any departure which has not been approved by the State from the State's most recently updated version of the guidelines ordinance runs the risk of being found "lax and permissive."

- Title 38 M.R.S.A., Section 443, provides that, where a municipality fails to administer and enforce its shoreland zoning ordinance, regardless of whether the ordinance was adopted locally or imposed by the State, the State may bring a lawsuit against the municipality seeking a court order that the municipality comply with its duties. Before initiating such a lawsuit, we would, of course, attempt to gain voluntary compliance by the municipality through informal means.

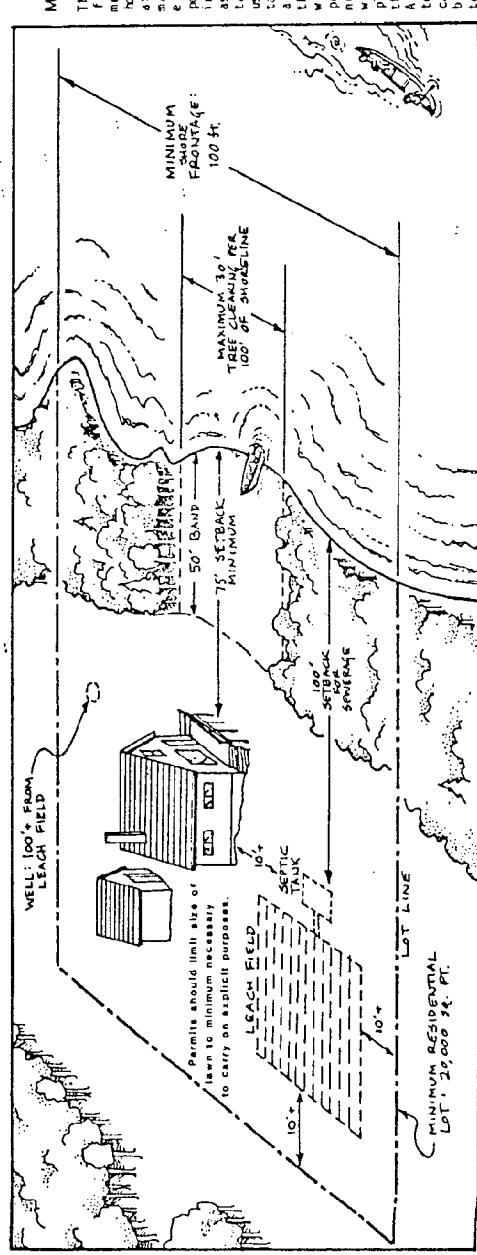
Again, it is important to see the shoreland zoning system as one involving cooperation between municipalities and the State oversight agencies with the latter primarily involved in providing the technical assistance to the municipality. It is only where the municipality refuses to develop, administer and enforce ordinances at the local level which are reasonably consistent with the State's guidelines, that more forceful provisions of the law are called in order to gain compliance.

State Statute Limits Tree Cutting

On June 24, 1981, State legislation became effective to prohibit timber harvesting around these sections of a pond zoned Resource protection or its equivalent. Timber harvesting is defined as the cutting and removal of trees from their growing site, or the attendant operation of cutting and slicing machinery, but not the construction or creation of roads. A road is defined as a route or trail; consisting of a bed of exposed mineral soil, gravel, asphalt, or other surface material constructed for or created by the repeated passage of motorized vehicles.

The timber harvesting definition also excludes the clearing of land for approved construction; however, few construction projects are approved within a resource protection district. This district prohibits all residential and commercial structures.

The prohibition does not apply to ponds under 10 acres, rivers and tidal areas. Nor does it apply to those sections of a pond, over 10 acres, zoned limited residential, general development, or their equivalents.



2

3

Statutory Items

Continued from front
on great ponds, river streams, brooks and coastal wetlands must now be obtained from D.E.P. Before this transfer of responsibility had taken place, permits for beach construction on rivers, streams, and brooks were obtained from ITSA while permits for beach construction on great ponds and coastal wetlands were obtained from the DEP.

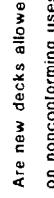
Elsewhere in the "Land Use" standard, the State Planning Code has been retitled State of Maine Subsurface Waste Disposal Rules.

It must also be clearly understood that all new principal and accessory structures which are permitted in the Resource Protection and Limited Residential-Recreational District shall be set-back 75 feet from the normal high water mark. Some local ordinances presently do not require accessory structures to meet 75 foot setbacks even though the statute requires 50.

The last points I wish to bring up is the penalty provisions for violations of land use laws. These provisions have been statutorily changed as set forth in 30 M.R.S. Section 496B. Minimum penalties are now \$100.00 per violation while the maximum penalty is \$2,500.00 per violation.

There have been other minor changes as underlined in the model ordinance. Municipalities should review the model ordinance closely to ensure that statutory amendments take precedence over conflicting sections in the ordinance. We encourage towns to amend local ordinances to be consistent with these statutory requirements.

QUESTIONS & ANSWERS



Are new decks allowed on nonconforming uses?

State officials consider new attached decks as an extension of the principal structure. Since most local ordinances allow the extension or expansion of a "grandfathered" structure with a permit from the Planning Board, new, attached decks are also allowed for nonconforming structures. However, the proposed extension or deck must meet the review criteria of the Planning Board, generally known as the "a through i" criteria, which are listed in the ordinance. Otherwise, a proposed deck that does not meet these criteria will be denied.

New decks on structures which are less than the required set back from the water cannot reduce further that structure's setback. Consequently, decks may be constructed on any side of the house except the side facing the water.

What is the relationship between the timber harvesting and clearing standards?

The timber harvesting standard generally applies to the cutting of trees 6 inches in diameter for both commercial and noncommercial uses. It does not address vegetation under 6 inches in diameter. The tree cutting cannot remove more than 40 percent of the volume of trees in a 10 year period, cannot create clearcuts greater than 7,500 square feet, and cannot result in a poorly distributed stand of trees.

The clearing standard further restricts the timber harvesting standard. In that, clearcuts cannot exceed 20 feet per 100 feet of shoreline for areas within 50 feet of the shore. Therefore, the size of the clearcut is limited to an area 30 feet by 30 feet or 1,500 square feet. The original intent behind the clearing standard was to prevent homeowners from creating a 180 degree view from their home.

Botti standards limit vegetation cutting to conserve a buffer strip. Buffers preserve scenic quality, benefit wildlife and reduce phosphorus containing runoff into surface waters.

NEXT ISSUE • • •

Highlights of meetings to identify shoreland zoning problems

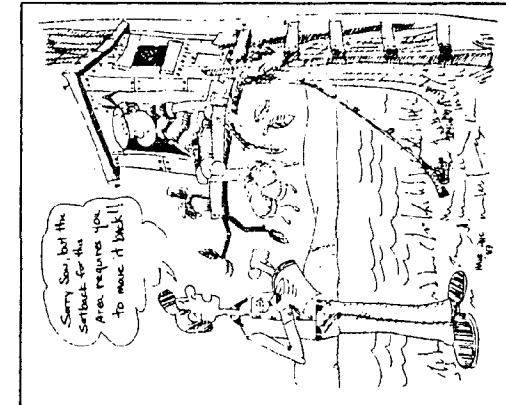


EXHIBIT E-3

PROCESS REPORT
September - December, 1987

Improving Technical Reviews of Core Law Applications

Introduction

The activities and accomplishments of the period from September through December 1987 are best summarized under five categories. The most significant achievement of the first quarter under this grant from the Maine Coastal Program was the passage of new coastal sand dune rules by the Board of Environmental Protection on December 15. These new rules, in addition to being an improvement over the 1983 rules, recognize the sand dune maps as best available geologic evidence for evaluating sand dune permits.

Additional work efforts were directed toward coastal hazard mitigation for the State's first Hazard Mitigation Plan. The coastal chapter and plan are now in final draft form and submitted to the Federal Emergency Management Agency (FEMA).

Continuing efforts to draft a legislative proposal to create a marine geologist position and coastal mapping/studies program were met with mixed success this quarter. While a bill was drafted and accepted by the Department of Conservation (DOC), it was not included in the Governor's package for submission to the legislature in January.

The fifth major activity of this quarter was to provide technical assistance to the Department of Environmental Protection (DEP) in the form of independent reviews of many sand dune permit applications.

Additional headings below discuss this program's budget and highlight an important technical coastal zone issue that has arisen during the quarter.

DEPARTMENT OF CONSERVATION

New Sand Dune Rules

During the quarter progress continued on the sand dune rules. This work consisted of analyzing options that would change the rules and evaluating their impact on various types of dune projects. Additionally, as changes were made, internal consistency within the rules was checked to prevent double standards and loopholes. The DEP and staff of the Attorney General's Office guided the changes through the rulemaking procedure.

Significant changes included:

- (a) a new definition of frontal dune that eliminated a loophole in the earlier version and conforms to the frontal dune of the sand dune maps;
- (b) limiting new projects in natural backdunes to 40% total area development, half of which or less is buildings;
- (c) requiring applicants of large (greater than 35 feet above grade or 25,000 square feet in height) or multi-unit buildings to demonstrate that the dunes will be stable for the next century assuming that the sea will rise 3 feet;
- (d) require multi-unit buildings to be elevated 4 feet above the 100-year 1:00 elevation instead of the 1 foot height required of single family homes;

- (e) require that any structure which becomes part of the coastal wetland for a period of six months or more due to shoreline erosion be removed;
- (f) require flood-proofing of structures located in B-Zone flood hazard areas;
- (g) allow garages and small (250 square feet or less) storage sheds to be built without flood-proofing as previously required;
- (h) require new construction, including additions, to be wind-proofed to standards in FEMA's Coastal Construction Manuals;
- (i) a line-of-site standard criteria in order to protect existing seaward views; and
- (j) and require storm-damaged buildings to be rebuilt at their former site only if they conform to the new rules with the exception of items (c) and (i) above.
- Funding for this technical work has been provided by a grant from DEE.
- Copies of the new sand dune rules are available from the Bureau of Land Quality Control in the DEP in Augusta.

Sand Dune Maps

69

Work on revisions to the sand dune maps continued in the fall and will include more landmarks than the draft maps. The maps will be available in the next quarter. Funding for this technical work has been provided by a grant from DEE.

In the period from September to December 104 sand dune maps were sold bringing the total sales to 192 since they became available in July 1987.

Coastal Hazard Mitigation Plan

During this quarter the State of Maine Hazard Mitigation Plan was written. Activities supported by this program included writing a draft chapter on coastal hazard mitigation, meeting with state and local officials on the plan, and writing the final draft chapter. Meetings were held on 11/5, 11/24, 12/2 and 12/17. The final report was sent to FEMA on December 30, 1987 by the Department of Economic and Community Development (DED).

The coastal chapter of the plan has five major recommendations:

- the formation of an Interagency Hazard Mitigation Team (IHMT);
- the evaluation of risks of coastal hazards in the state by the IHMT and the initiation of the analysis to coastal communities;
- determination and monitoring of shoreline change in erosion hazard areas;

(d) future legislation to address the findings of (b) above; and

- (e) the development of the SLOSH (Sea Lake and Overland Surges from Hurricanes) model by the National Weather Service for the Maine coast.
- (f) Of the five elements, this technical assistance program is involved in two: membership on the IHMT and the evaluation of risks from natural and technological hazards on the coast. The monitoring of shoreline change and the technical aspects of interpreting the SLOSH model when the results become available are programs that will require personnel and program funds in the future and beyond the time frame of this technical assistance grant.

Funding for these activities is to be derived from existing state budgets with the exception of an additional \$2000 to be provided to the State Planning Office (SPO) and Department of Economic and Community Development for item (b) above. In the draft chapter, state funding was sought to support shoreline erosion monitoring (item (c)). However, that request was changed by DECD to seek federal funding instead of state funding in the final draft. Appendix I contains the final draft of the coastal hazard mitigation chapter.

Legislative Initiative

This fall legislation was drafted to propose the creation of a permanent position in state government to fulfill the activities of this technical assistance program. The legislation called for a marine geologist and a systematic coastal studies, mapping, monitoring, project reviews, and public assistance.

In September a draft legislative proposal was written which, after modification and approval by the Department of Conservation, became a draft bill. The bill is entitled "AN ACT to Provide a Marine Geologist and a Systematic Coastal Geology and Natural Hazards Mapping Program." The document was listed as number 12 out of 20 in the Index to Department of Conservation Legislative Proposals for the 2nd Session of the 113th Legislature (Appendix II contains a portion of this document and an extended Statement of Fact).

A biennium budget request for FY87-88 and FY88-89 of \$162,000 was submitted by DOC to the Governor. As of this writing the bill was not included in the Governor's supplemental budget submitted in January 1988 to the Legislature.

Core Law Technical Assistance

Technical reviews of projects, federal consistency determinations, and preliminary evaluations of projects with respect to coastal core laws continue in this quarter. A log of activities has been kept and shows the following breakdown of activities where technical assistance was provided:

- project reviews

41 about 50% said time

- (b) state agency requests 23 core law applications
- (c) public and private sector assistance 26 requests for advice
- (d) federal agency actions 8 consistency and policy
- (e) field investigations 5 site visits
- (f) conferences 6 including presentations
- (g) workshops 3 policy and technical
- (h) lecture 1 on coastal erosion

In addition to the activities above several other writings most significant of which was a "position paper" endorsed by the Maine Geological Survey (MGS) addressing coastal zone management. The paper clarifies the MGS position primarily for the Department of Environmental Protection with respect to coastal development in high hazard areas. It was developed to provide consistency in MGS responses to technical reviews of core laws and in the presentation of geological hazard issues to the State Board of Environmental Protection.

Further writing included a short article for the Geological Society of Maine's newsletter which highlights the issues in coastal development in the sand dunes. A written brief was sent to *Gotimes*, a geology magazine with international circulation, on this project's approach to geological assessments of coastal hazards and mapping. Finally, significant events have been cullined in the Department of Conservation's *Weekly Highlights* sent to the Governor.

Program Budget

Expenses for this quarter were primarily related to salary, travel, and office expenses for the above tasks. The expenses for the quarter were \$10,693, leaving final balance of \$2,307. An additional \$10,000 is to be transferred to the program on January 15, 1988 from the State Planning Office's Coastal Program funds.

Erosion rates are of primary interest in hazard mitigation planning. The identification of erosional areas is important in assessing the magnitude of risk to coastal properties and in the design of a mitigation strategy. Not only is ongoing erosion threatening portions of the coast with property damage, but the threat of a hurricane or 100-year storm may strike the same susceptible areas with disastrous consequences. At present there is no index of vulnerability to be used in pre-disaster mitigation efforts.

The existing beach erosion database is inadequate to answer questions about threats to coastal property definitively. This deficiency may be overcome with the addition of a program to study the coastal erosion areas. Such a program was suggested in both the legislative proposal and coastal hazard mitigation chapter.

Future Work

Future work will involve continued reviews of core law applications, technical advice to the federal, state, local, and private sectors. During January and February sand dune applications for review under the now "old" sand dune rules will be processed. As of January 4, 1988 the "new" rules have been in effect. Also related to the reviews, the sand dune maps will be completed and printed for distribution to DEP offices and made available for public sale through MGS.

A new task for the next quarter will be to build a database of sand dune projects on a computer using R:base 4000 software. Through the data base projects will be followed in the review process as it relates to the MGS actions. The applications that are processed by MGS will also be located on 7.5' topographic maps in order to better visualize the trends in sand dune development. It is hoped that this process with a computer and maps will allow a meaningful evaluation of the first six months of technical reviews performed under the new sand dune rules.

Additional work will involve the editorial review of Nelson and Fink's draft atlas of sand beaches and shoreline change. SPO and DECD are to send the original manuscript and illustrations to MGS in the next quarter for editing. Changes will be recommended to SPO that will allow the manuscript to be published for public use.

Finally in March MGS marine geologists will convene a special symposium entitled "Coastal Zone Management Strategies in the Northeast: Regional Response to Changing Sea Level and Shorelines" in Portland, Maine. A presentation will be made at this symposium that highlights the new sand dune rules as they relate to the possibility of accelerated rates of sea level rise and the state's strategy of evaluating permits using coastal hazard maps. A list of symposium participants and presentations may be found in Appendix III.

Technical Issues
The most significant technical issue presently in need of attention is that of assessing and monitoring coastal erosion along the populated beaches in southern and midcoast Maine. It has become apparent that this is a priority issue both from the permit review process and the hazard mitigation planning process. Several major coastal development projects have recently been reviewed with respect to the coastal sand dune law. One of the recurring questions in these project reviews is: has the shoreline receded or prograded in recent years?

Appendix I

Coastal Hazard Mitigation Chapter

STATE OF MAINE
HAZARD MITIGATION PLAN
DECEMBER 1987

Submitted in accordance with the requirements
of section 406 of the Federal Disaster Relief Act
(Public Law 93-288) of 1974 as amended

TEXT
ON

AVAILABLE
REQUEST

DEVELOPED AND WRITTEN JOINTLY
BY THE
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT
MAINE EMERGENCY MANAGEMENT AGENCY
AND THE
MAINE STATE PLANNING OFFICE

BUREAU	DOC. NO.	LD. NO.	TITLE	CATEGORY	FIS 87-88	FIS 88-89	DRAFT LP	SUBMITTED	DRAFT LD
Adm'n.	08		WORKER'S COMPENSATION	Budget	26,901	28,064	09/14/87		
			POSITION - Part of	Adjusment					
			GOVERNOR'S Budget	BILL					

HFS	09		AN ACT MARKIN APPROVE	OPERATIONS/	338,000	--	09/14/87		
			TRANSACTIONS FROM THE	BUDGET					
			GENERAL FUND FOR	ADJUSTMENT	IMPACT DUE TO				
			EXPENDITURES OF STATE	REVENUE					
			GOVERNMENT - PART OF						
			GOVERNOR'S BUDGET BILL						

HFS	10		AN ACT TO PROVIDE A	BUDGET	80,000	82,000	09/14/87		
			HEALTH CARE & A	ADJUSTMENT					
			GOVERNOR'S BUDGET BILL						
			POSITION - PART OF	ADJUSTMENT	10,278	10,586	09/14/87		
			BUDGET	(PLUS					
				ADJUSTMENT	130,000				
				LOAN)					

HFS	11		AN ACT TO PROVIDE A	BUDGET	80,000	82,000	09/14/87		
			HEALTH CARE & A	ADJUSTMENT					
			GOVERNOR'S BUDGET BILL						
			POSITION - PART OF	ADJUSTMENT	10,278	10,586	09/14/87		
			BUDGET	(PLUS					
				ADJUSTMENT	130,000				
				LOAN)					

HFS	12		AN ACT TO PROVIDE A	BUDGET	80,000	82,000	09/14/87		
			HEALTH CARE & A	ADJUSTMENT					
			GOVERNOR'S BUDGET BILL						
			POSITION - PART OF	ADJUSTMENT	10,278	10,586	09/14/87		
			BUDGET	(PLUS					
				ADJUSTMENT	130,000				
				LOAN)					

HFS	13		AN ACT TO FUND THE	DEPARTMENTS	--	90,000	09/14/87		
			OF SAND AND GRAVEL						
			GROUND WATER RESOURCES						
			SYSTEMATIC HAPPING OF						
			WATER RESOURCES						
			OF PART OF GOVERNOR'S						
			BUDGET BILL)						

AN ACT to provide a marine geologist and a systematic coastal geology and natural hazards mapping program.

Cost: \$50,000

STATEMENT OF FACT

Recently Governor McKernan recognized the conflict between natural coastals hazards and shoreline development and stated: "It is not too late to ensure that, as growth comes to Maine, it is properly managed and our natural resources protected." (8/6/87 Press Conf.) In fact, the seriousness of coastal development in hazardous locations has become a dilemma of nationwide proportions. (Time Magazine August 10, 1987.) Both future development and existing structures are threatened by sea-level rise and coastal erosion in Maine. Not only are lives and property at risk in these locations but considerable amounts of both public and private funds may be jeopardized by natural processes. This bill proposes to provide both immediate technical assistance for growth-related issues and to commence a systematic program of coastal mapping to serve the state-wide and diverse needs of coastal Maine communities.

Coastal geology and natural shoreline movement affect a large number of Maine residents. Frequently they ask critical questions such as: How fast are the beaches losing sand due to erosion? How can the beach be improved or maintained in light of ongoing erosion and increasing coastal development? Where are the safe geological sites on the coast on which to build? Where are beach nourishment sands found nearest to the eroding beach? Where is the best location for the placement of harbor and channel dredge spoils? What economic geology resources exist within the state's waters? How will offshore oil and gas leasing activities affect the coast? Through a program of research and mapping, these issues and others can be answered and the technical information can be made available to encourage sound economic growth in coastal regions.

There are several goals in this program. Most important is a systematic effort (as shown in the accompanying illustration) to map the coastal geology in detail. This mapping will be over an eight year period from FY 89 to FY 96. In addition to the geology, identification and analysis of natural and technological hazards will be made during this period. This work includes beach erosion and dune management studies and assistance in port and harbor development. Dredging and navigation improvement projects will also receive technical review and guidance. A program will be started which, in time, will yield insight into the effects of sea-level rise on coastal communities. Public land acquisition in important coastal areas is another program that will benefit from this act. In the realm of public safety, the hazard assessments will advance pre- and post-disaster mitigation efforts. Finally, as is much needed with the growing coastal population, public assistance and education on coastal issues will facilitate shoreline development in a sound and efficient manner.

The cost of this program is to fund a marine geologist and programs of research on both systematic mapping and pressing coastal issues. As experience has shown, proceeding on projects without the advice of geologists on matters such as engineering, harbor and river dredging, and homebuilding in shoreline areas, can result in the loss of hundreds of thousands of dollars of taxpayer's money. In fact a single erroneous public works project could result in the loss of funds that would be sufficient to maintain this program for three to five years. Since such advice would be available on a continuous basis with this program, not only are new map products, research results, and assistance available, but coastal projects will be more thoroughly evaluated before public funds are expended.

Appendix III

GEOLOGICAL SOCIETY OF AMERICA Northeastern Section Annual Meeting

Portland, Maine
March 10-12, 1985

POSTER SESSION: COASTAL ZONE MANAGEMENT STRATEGIES IN THE NORTHEAST: REGIONAL RESPONSE TO CHANGING SEA LEVEL AND SHORELINES

Location: Sonesta Hotel, Portland, Maine (Additional meeting events
will be held nearby at the Holiday Inn by the Bay)

Date and Time: Thursday Morning March 10, 1985 (As of 11/9/87)

- Jacques J. Thibault*: COASTAL ZONE STUDIES IN NEW BRUNSWICK [2863]..... Booth 1
- Stephen M. Dickson*, Joseph T. Kelley, and Donald T. Wetherill: THE THREAT OF SEA-LEVEL RISE AND NEW CODES FOR COASTAL SAND DUNE DEVELOPMENT IN MAINE [2984]..... Booth 2
- Stephanie A. DiGostino*: MANAGEMENT APPROACHES: OFFICE OF STATE PLANNING/COASTAL PROGRAM [2859]..... Booth 3
- Jeffrey R. Benoit*: DEVELOPING PUBLIC POLICIES FOR AREAS OF COASTAL HAZARDS IN MASSACHUSETTS [2858]..... Booth 4
- Graham S. Gleas* and David G. Aubrey: PASSIVE RETREAT OF MASSACHUSETTS' COASTAL UPLAND IN RESPONSE TO RELATIVE SEA-LEVEL RISE [2862]..... Booth 5
- Jon C. Boethroyd*: GEOLOGICAL ASPECTS OF COASTAL ZONE MANAGEMENT IN RHODE ISLAND [2865]..... Booth 6
- Peter J. R. Buttner*: MANAGING A NATIONAL RESOURCE AS THE WATER RISES: RESPONSE OF THE LONG ISLAND BARRIER SYSTEM TO RISE IN SEA LEVEL [2867]..... Booth 7
- Susan D. Halley* and Leita J. Holmes: COASTAL ZONE MANAGEMENT STRATEGIES FOR BEACH/DUNE REHABILITATION AND HAZARD MITIGATION ALONG A DEVELOPED COAST: NEW JERSEY EXAMPLES [2864]..... Booth 8
- Karl F. Nordstrom*, Paul A. Gares, and Michelle A. Perno: DUNE FORMATION AND MIGRATION ON THE NEW JERSEY SHORELINE [2861]..... Booth 9
- Evelyn Maurey* and Wendy L. Carey: NON-STRUCTURAL SHORELINE EROSION CONTROL: CHESEPEAKE BAY, MARYLAND [2859]..... Booth 10

*Denotes presenter

For more information on this session contact Steve Dickson, Maine Geological Survey, State House Station 22, Augusta, ME 04333, (207) 289-2801.

For information concerning registration, accommodations, and activities contact Stephen C. Pollack, Dept. Geosciences, Univ. of Southern Maine, Gorham, ME 04038, (207) 780-5350.

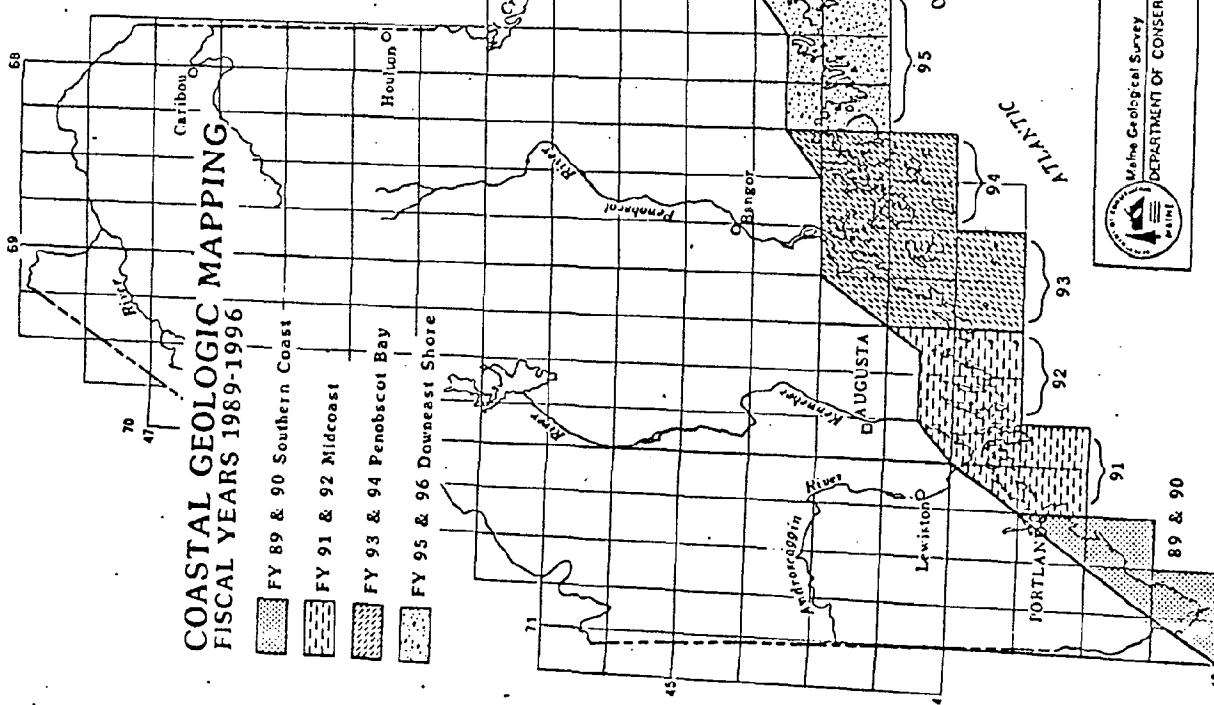
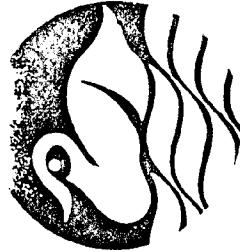


EXHIBIT E-4

Thank you by Art Garland



Wells National

Estuarine Research Reserve

ADVISORY LETTER

10

The Wells National Estuarine Research Reserve is a combined effort by Federal, State, and Local Groups to protect and make accessible to the public one of the last undeveloped stretches of coastal land in Southern Maine. The primary goal of the Reserve is to promote research and education in order to better understand estuaries. Information learned through studies in the Reserve will foster wiser management of coastal resources.

This Advisory Bulletin is to inform you of events occurring at the Wells National Estuarine Research Reserve. For further information, please contact Bob Humphrey, Manager, WENERR Post Office Box 1550-Tallahassee, Florida 32301.

<u>CONTENTS</u>	<u>PAGE</u>
Thank you by Art Garland . . . . .	.1
Making a Bird List by Art Garland	.1
Interim Manager Begins . . . . .	.2
Manager Selection Committee . . . . .	.2
Visitors' Center . . . . .	.2
Reserve Opening Delayed . . . . .	.2
New Overlook Signs . . . . .	.2
Stone School Agreement . . . . .	.3
Reserve Advisory Committee . . . . .	.3
Management Plan Revision Committee . . . . .	.3
Study Defines Health of Salt Marshes . . . . .	.3
Studies Approved for 1988 . . . . .	.4
Productivity of Wells Salt Marshes . . . . .	.4

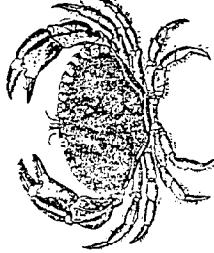
At the end of September a group of girls and boys from the Emery School in Biddeford took a tour of the Reserve. Afterwards (no doubt under the preceding of their teacher) each of them wrote a "thank you" note to the docent who led the tour. Here are some excerpts from their letters:

"My favorite part was the snakes and the deer tracks." "Oh, I think your place is big and especially the walk." "My legs are tired." "My favorite thing which you showed us was the tree with the squirrel off back from the deer." "I liked the traps the most and the red-tailed hawk." "The think I liked the most about the trip is when we got to see the coral rock. I liked it because it looked like a beehive." "Thank you for letting us come to see the Lored house and their favorite color yellow." "The trail was OK, it was a good trip." "My favorite part was the bushes where the deer had been and the nibbled off ends." "I liked the tree stumps and the fish you caught." "The Canada Geese that tried to eat a V were interesting." "Well I hope you had a good time too!" "Any and all of our docents have the answer to that last question - very definite "Yes". It's rewarding to take my group on a tour of the Reserve, but there is a little extra sense of satisfaction when your tour group is composed of young girls and boys.

Making a Bird List by Ann Garey

Over the past spring, summer and fall the docents kept a list of the birds they saw during the tours they led through the Reserve. The following 77 species were observed during this period: Double-crested Cormorant, Great Blue Heron, Great (American) Heron, Snowy Egret, Canada Goose, Black Duck, Turkey Vulture, Cooper's Hawk, Northern Harrier, American Kestrel, Semi-palmated Plover, Black-bellied Plover, Whimbrel, Willet, Greater Yellow-legs, Lesser Yellowlegs, White-rumped Sandpiper, Dunlin, Short-billed Dowitcher, Semipalmated Sandpiper, Great Black-backed Gull, Herring Gull, Ring-billed Gull, Bonaparte's Gull, Common Tern, Roseate Tern, Rock Dove, Belted Kingfisher, Northern Flicker, Hairy Woodpecker, Eastern Kingbird, Eastern Phoebe, Eastern Wood-Pewee, Horned Lark, Tree Swallow, Barn Swallow, Blue Jay, American Crow, Black-capped Chickadee, House Wren, Brown Creeper, Wood Thrush, Veery, American Robin, Gray Catbird, Northern Mockingbird, Brown Thrasher, Cedar Waxwing, European Starling, Solitary Vireo, Nashville Warbler, Black & White Warbler, Blackburnian Warbler, Chestnut-sided Warbler, Yellow-rumped Warbler, Palm Warbler, Yellow Warbler, Ovenbird, Common Yellowthroat, Rufous-sided Towhee, Savanna Sparrow, Song Sparrow, White-throated Sparrow, Bobolink, Eastern Meadowlark, Red-winged Blackbird, Brown-headed Cowbird, Common Grackle, House Sparrow, American Goldfinch,

This is a start at developing a bird check-list for the Reserve, obviously several more years of observation are needed before such a list can be prepared. Equally obvious is that a tour, where a wide variety of things need to be pointed out (not to mention the need to keep an eye on the ground for animal signs), is not the best way to observe birds. With the exception of the warblers and a few other species on the list, this conclusion is underscored by the predominance of large and/or easily recognizable species. What seems to be called for is an organized schedule of bird walks led by docents or volunteers who are experienced birders. These walks should be publicized so that vacationers to our area who are birders would be attracted to them, and thus



Interim Manager Begins



Bob Humphrey began as Interim Manager October 5, 1987. Bob's major responsibilities have been to keep the ship afloat and see that things continue to run smoothly while the Manager Selection Committee works on a permanent replacement for Steve Meyer; all this while trying to write his M.S. thesis and teach a class at UMass, Amherst. That explains why he may have been hard to reach at times.

Stone School Agreement



The Stone School and the Reserve have formalized an agreement whereby the Stone School will conduct outdoor education programs on the Reserve next year.

Manager Selection Committee

Meanwhile the M.S.C. has moved forward in trying to hire a new Manager. The Research and Education Committee reviewed all applicant's resumes and submitted their final recommendation to the M.S.C. The Selection Committee then narrowed the field down to 6 finalists who will be interviewed in early January. Good Luck!



Visitors Center

The target date for completion of the Visitors Center Construction Contract was delayed by questions of handicapped access, & fire escape and insulation. It should be ready to take out to bid by the end of this month. Hopefully work will begin in the new year.

Reserve Opening Delayed

It was hoped we would be able to open the Reserve to limited public use this fall. For a number of reasons, including: breaking in a new Manager, delay in the construction of the entrance sign, the current state of buildings on the property, the official opening will be delayed until at least next Spring.

Reserve Advisory Committee

The Reserve Advisory Committee met on November 17th. The FY'88 budget was approved with minor changes. Also discussed were the status of Visitor Center Construction, Management Plan Revision, Manager Selection and Personnel Review. A conflict over placement of a new gate was also resolved.

Management Plan Revision Committee

The Management Plan Revision Committee (MPRC) "finally" met on December 16th. Dr. Franz Anderson, Jackson Estuarine Lab; Lily Kendall, Laudholm Trust; Ed Moses, U.S. Fish & Wildlife Service; and Bob Humphrey. Reserve Manager attended. Mort Mather was added to the Committee and also attended. Other committee members include: David Keeley, State Planning Office; Tom Cieslinski, Maine Bureau of Parks & Recreation; and Lorraine Stubbs, Maine Bureau of Development.

The MPRC agreed that it was necessary to wait until the new manager comes on board and becomes familiar with the program before we proceed. The manager should be "key" in determining what revisions need to be made and what is the best way to do it. Meanwhile all committee members will have their homework to do. Each was (will be) given a copy of the former plan and asked to study and be prepared to comment at the next meeting.

Study Defines Health of Salt Marshes

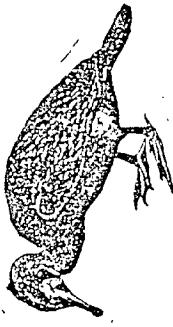
A study of Production, Nutrition and Ecological Health of the Wells Salt Marshes was conducted by Dr. Fred Short of the Jackson Estuarine Lab, U.M.H. He found that although the Little River marsh was not impacted by human activity it is not a typical New England high salt marsh. Wracks of dead vegetation, which produce shallow panes and ponds, transport of sand across the barrier island, and scouring by ice are all induced by the marsh's proximity to the ocean.

The Drakes Island marsh has been altered by a tidal dam restriction. The marsh is productive but is evolving into an upland community as it is being invaded by terrestrial plant species. Based on his definition, Dr. Short feels neither marsh is a healthy salt marsh as they do not tend to preserve themselves as marshes.

New Overlook Signs

The Reserve recently received 3 new interpretive signs for the overlooks. The signs contain photos, diagrams and a narrative that describe Estuaries, Barrier Beach and the Tide Gate. The signs were fabricated by Proto Productions of Chicago, the new employer of Steve Meyer. Steve is doing well, by the way, and sends his regards.

Two studies were recommended for funding by NOAA for 1988. Dr. F. Short will conduct a study entitled: Declines in Eelgrass Research Reserves along the East Coast, U.S.A.: Problems of Pollution and Disease.—Year 2. Drs. L. Deegan and J. Finn will conduct a study entitled: Are Critical Habitats Determined by Life-history Strategies or habitat availability?

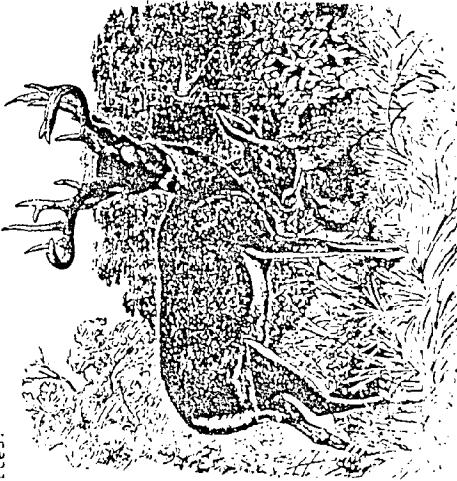


Productivity of Wells Salt Marshes

Dr. Robert L. Vadas recently completed a study on Salt Marsh productivity on the Wells Reserve. What follows is a synopsis of his findings. The Little River marsh is in nearly pristine state and productivity estimates were nearly 6 to 10 times greater than the Webbanet River marsh which was impacted by wave splash and petroleum spills from boat traffic.

These estuaries contribute significant amounts of energy and biomass to nursery areas and to fisheries in nearshore waters. Commercial and recreational, fin and shell fishermen depend heavily on the energy derived from estuarine plants. The Wells Estuary is particularly important as it has the highest estimates of productivity for *S. alterniflora* (salt marsh cord grass) yet reported for the Gulf of Maine and New England.

The difference in productivity between the Webbanet marsh and the Little River marsh points out the potential impact of human disturbance or encroachment. Estuaries provide the energy base for most inshore and nearshore fisheries and nursery areas for some offshore fisheries. Because of the location and fragile nature, of estuaries, humans can seriously impact their health and productivity and thus the quality of local fisheries. When we impact an estuary we are doing more than disturbing a vital link in the food chain, and upsetting the natural balance of the ecosystem (both of which should be our primary concerns). We are also impacting our own commercial and recreational resources.



Bulk Rate
U.S. Postage
PAID
Wells, ME
Permit No. 12

The Wells Reserve

The Wells National Estuarine Research Reserve
Post Office Box 559 - Wells, Maine 04009

Richard H. Silkman
Executive Department
Planning Office
State House Station 38
Augusta, ME 04333

ADDRESS CORRECTION REQUESTED

NOAA COASTAL SERVICES CENTER LIBRARY



3 6668 14102 6601