

Appendix C

State Land Acquisition & Access Programs

Maine Department of Inland Fisheries & Wildlife

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The primary mission of the Department of Inland Fisheries and Wildlife (MDIFW) is to conserve and enhance the fish and wildlife resources of Maine, and to provide reasonable public access for use and enjoyment of these resources. MDIFW's programs are primarily funded by self-generated revenues, Federal Aid to Sport Fish and Wildlife Restoration, and other sources of state and federal funds.

MDIFW has been actively involved in the acquisition of land and conservation easements for wildlife conservation, management, and public use beginning in the late 1940s and early 1950s with Federal Aid in Wildlife Restoration funds (Pittman-Robertson Act of 1937). The major thrust of early acquisitions was to improve waterfowl nesting habitat.

MDIFW currently owns and manages 68 Wildlife Management Areas which encompass approximately 106,000 acres of land. These lands represent a variety of fish and wildlife habitat and recreational values, including large wetland and upland parcels, small marshes, coastal woodlands, seabird nesting islands, shorebird staging areas, and endangered and threatened species habitats. The primary management objective for each parcel is to restore, maintain, or create the highest quality upland or wetland habitat possible.

The agency also owns and manages approximately 130 boating water access sites for recreational use of Maine's public inland and coastal waters and to enhance fish and wildlife resource management.

MDIFW's lands are utilized by the public for many recreational pursuits. The agency has a policy to allow reasonable public access and recreational activities on these parcels when they do not conflict with the primary wildlife management objectives. Public recreational activities include but are not limited to "consumptive" wildlife uses such as hunting, trapping, and fishing, and numerous "non-consumptive" uses such as wildlife watching,

wildlife photography, hiking, canoeing, and providing open space for the public. MDIFW's lands also serve as demonstration areas where the public can learn about fish and wildlife and their habitats along with habitat management techniques necessary to support their populations.

Acquisition initiatives are being funded with programs such as Land for Maine's Future, Maine Outdoor Heritage Fund, Federal Aid in Wildlife Restoration and Sportfish Restoration National Coastal Wetlands Conservation Grants, Boating Facilities Program Funds and MDIFW funds dedicated to non-game and endangered species conservation. The Department is responsible for the administration of Federal Aid in Sport Fisheries Restoration (Dingle-Johnson Act of 1950), and the more recent Wallop-Breaux amendment to the Act, which expanded the funding base and requires a minimum expenditure of 15 percent of all monies apportioned to a state be used for motor boat access. This program is critical to help provide access for the public to Maine's waters.

The overall priorities established by the Commissioner and his Advisory Board in 1986 are still followed today; it was updated in 1999 to reflect broader department responsibilities and funding opportunities. Projects are pursued in order to accomplish the following goals:

- Enhance the effectiveness of existing wildlife management areas by expanding current boundaries;
- Acquire from willing sellers, in-holdings or parcels abutting existing Department-owned wildlife management areas to enhance habitat protection and management;
- Acquire from willing sellers, parcels that contribute to identified "Focus Area" to meet the needs of species on a landscape scale, including travel corridors;
- Acquire habitats essential to the management of State and Federal endangered and threatened species;
- Acquire habitats essential to fish and wildlife species to help preclude the listing of a species on the Endangered and Threatened lists;
- Acquire from willing sellers privately owned coastal islands that are critical to populations of colonial nesting seabirds;
- Establish new wildlife management areas, "Focus Areas", where needed to protect important inland/coastal wetland and upland ecosystems;
- Acquire land to allow the public to access bodies of water and coastal waters throughout the state.

Specific acquisitions are based upon input from Department personnel, public and private groups, and suggestions from individuals. A Department Land Acquisition Committee --- consisting of regional and research biologists and supervisors --- prioritizes proactive and reactive land acquisition opportunities and make recommendations to the Director of the Bureau of Resource Management, who then makes final recommendations to the Commissioner.

**Department of Agriculture, Conservation and Forestry
Bureau of Parks & Lands**

Conservation and Recreation

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Public Access to Maine Water's Fund

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The Maine Bureau of Parks and Lands (BPL) is responsible for the management and administration of public lands for a variety of public interests. The Bureau holds approximately 86,000 acres in Parks, Historic Sites, and Boat Access sites which are properties managed primarily for public recreation or conservation (Parks, Boat Access) or acquired because of its historical or archaeological interest; and approximately 617,000 acres of Public Reserved and Non-reserved lands that are managed for multiple uses including wildlife habitat, recreation, ecological reserves, and timber management. The Bureau also holds conservation easements on over 60 properties encompassing approximately 365,000 acres, the vast majority of which provide public access rights. In addition, the Bureau is the “designated state agency” on over 100 Project Agreements with local “cooperating entities” acquiring lands or interests in lands with LMF funds.

The Bureau manages the Maine Forest Legacy Program, which provides funds through the U.S. Forest Service for acquisition of lands and conservation easements intended to conserve Maine forest land for multiple natural resource values including working forests. These funds provide up to 75% of the cost of acquisitions, and LMF funds are often sought as match. Forest Legacy projects are ideally suited for LMF funding as well, since in order to be selected for federal funding, a competitive process, they must contain a concentration of high value recreation, scenic and wildlife values. Other sources of funds used to match LMF funds administered by the Bureau include Land and Water Conservation Funds (LWCF), and Recreational Trails Program (RTP) funds.

The Bureau holds and sponsors proposals for others to acquire lands in the following LMF Land Categories: Recreational Lands, Water Access Lands, Lands Supporting Vital Ecological or Conservation Functions and Values, Rare, Threatened or Endangered Natural Communities, Plants or Wildlife Habitat, Areas of Scenic Interest and Prime Physical Features.

To make the most of limited funds and limited staff for planning, negotiation, and resource management, the Bureau's priorities for acquisitions or sponsorship of initiatives to acquire land or conservation easements are determined by:

- the rating of property characteristics,
- evidence of need for protection and/or public recreation opportunity;

- the envisioned management of the property and the capacity of the managing entity to implement that vision over the long term; and
- a track record or other convincing evidence demonstrating the ability of the project proponents to acquire the funds necessary for the acquisition.

In reviewing property characteristics, the Bureau will consider the following attributes as priorities:

1. The property contains natural/cultural resources and/or recreation opportunities that are of *well-documented significance* and meet LMF definitions of *state, regional* or *local* significance contained in this workbook. A project must be of state or regional level significance for BPL acquisition of interests. Greater significance is attached to properties with multiple natural/cultural resources and/or recreation opportunities
2. The property has significant resources and/or opportunities that need protection due to a documented threat of degradation or loss; or have significant recreation opportunities that should be secured to address a documented need. (Documented need from SCORP, LAPAC, *Strategic Plan for Providing Public Access to Maine Waters for Boating and Fishing* (MDIFW & DOC), *Coastal Water Access Priority Areas for Boating and Fishing* (DMR), and other recognized sources)
3. There is guaranteed public vehicular access to the property or parent property; or it can be reached via a public trailhead if access will be by trail; or can be reached via public boat launching site if access will be by water.
4. Additional Considerations for Boat Access Facilities:
 - Current need/expected demand for the facility given its location in relation to population centers and other water access sites, and the size of the water body;
 - It offers a diversity of recreational opportunities,
 - It is on a water body rated as having significant fisheries values by MDIFW or DMR
5. Additional Conditions for Trails related projects:
 - It includes a variety of landscapes,
 - It provides connections to existing trail routes or trail facilities,
 - It provides connections to other public recreation areas or community facilities, and
 - It provides connections to needed services (parking, food, water, shelter, fuel, repair services).

Department of Agriculture, Conservation and Forestry
Bureau of Agriculture, Food and Rural Resources

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The Department's Bureau of Agriculture, Food and Rural Resources assists landowners, and their communities with protecting farmland from non-agricultural development. The solutions vary throughout Maine, from farm business expansion and diversification, to increased enrollment in current-use property tax programs, to more agriculture-friendly town ordinances and municipal agricultural commissions. In recent years, more of Maine's farm families are working with land trusts to protect their farm with a conservation easement in order to facilitate its transfer to the next generation of farmers. While most of these easements are donated to the land trust, some are purchased by the land trust, with partial funding granted by the Land for Maine's Future Program (LMF). For this to occur, the Department's Bureau of Agriculture, Food and Rural Resources must sponsor the proposal to LMF, be a "third party" to the conservation easement, and the "designated state agency" in a LMF Project Agreement with the "cooperating entity" (land trust or town) that is acquiring the conservation easement with LMF funds.

To obtain the Bureau's sponsorship, the land trust and the farmland owner must invite the Bureau's staff, Stephanie Gilbert, to visit the farm to discuss the family's long term goals and assess the property's eligibility for LMF and other funding. If the family and the land trust decide to proceed, they must prepare and submit their proposal, including the project budget, to the Bureau prior to submitting it to the Land for Maine's Future Program.

Once a proposal is submitted to LMF the Land for Maine's Future Board will review and score proposals and make preliminary commitments to LMF Finalists. If a farmland project is selected as an LMF Finalist, it may take an additional 12 to 24 months to secure Federal matching funds (through FRPP) and for the project requirements to be completed. These include: Obtain and review project appraisal on the sale of the development rights and conservation easement value (the value of development rights); completion of the due diligence process; review and acceptance of the land survey; title commitment; LMF Project Agreement; and property baseline document. All partners - the landowner, the land trust, LMF and the Bureau then finalize the terms of the conservation easement itself and other documents before closing on the sale of the development rights and grant of a conservation easement.

Maine Department of Marine Resources

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The Department of Marine Resources (DMR) mission is “to conserve and develop marine and estuarine resources; to conduct and sponsor scientific research; to promote and develop the Maine coastal fishing industries; and to advise and cooperate with local, state and federal officials concerning activities in coastal waters; and to enforce the laws and regulations necessary for these purposes...”

DMR has identified coastal water access as an issue of rising concern, especially in the southern part of the state. As waterfront property becomes increasingly valuable for summer homes, restaurants, marinas, and hotels, water access for commercial and recreational fishermen is harder to find. The Public Access to Maine Waters Fund funded by The Land for Maine's Future set-aside for water access sites provides one avenue for preserving and developing coastal recreational access sites.

DMR doesn't currently have a formal program for acquiring, holding, and managing coastal access sites and properties. However, DMR takes an active interest in coastal access issues and is working collaboratively with other agencies to identify areas of need and to encourage project proponents to apply for LMF funds. The Department is ready to assist and advise on any proposals that create or improve access for salt water commercial or recreational fishing. The Commissioner of Marine Resources sits on the Land for Maine's Future Board. Coastal property proposals will be referred on a case-by-case basis to the most appropriate agency or cooperator for sponsorship and proposal development work.

Since 2005, bond funds have been available for the Working Waterfront Access Protection Program. Through this Program, funds are available for the purchase of working waterfront covenants on strategically significant properties whose continued availability to commercial fisheries businesses is essential to the long term future of this economic sector. This program is run by DMR with the assistance of the LMF Program and others to identify and ready projects for funding by the LMF Board. A separate proposal workbook is available for this type of project, please contact Deirdre Gilbert (624-6576) for further information.

Also within the Department of Marine Resources is the Division of Sea Run Fisheries and Habitat. The Division currently holds properties and easements on several Downeast rivers to protect riparian and aquatic habitat for anadromous fish, and to provide recreational access to these rivers as appropriate. More information on the work of the Division is available at: <http://www.maine.gov/dmr/searunfish/index.shtml>.

Maine Historic Preservation Commission

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The Maine Historic Preservation Commission (MHPC) carries out the provisions of the National Historic Preservation Act in Maine, and various Maine statutes, involving survey, registration, construction project review, comprehensive planning and other activities involving historic, archaeological, and architectural sites and buildings. Staff archaeologists at the MHPC maintain statewide archaeological survey records and files, prepare documents summarizing historic and archaeological information, determine site significance (eligibility to the National Register), and direct some archaeological fieldwork.

The MHPC does not acquire fee interest in land or manage land owned by the State. MHPC does have an active conservation easement program designed specifically to protect archaeological sites. The documents establishing conservation protection are called Preservation Agreements and are enabled by a distinct statute, 33 M.R.S.A. §1551-1555 (and see 27 M.R.S.A. §371-378 which makes it illegal to dig on protected land without a permit).

Since the beginning of the LMF program, land acquisitions have been reviewed for the presence of significant archaeological sites for use in post-acquisition planning of public access and use of the property. In many cases this review is based on maps and archaeological records held by MHPC. The information on archaeological sites on LMF acquired property is provided to the LMF and the land owning or land managing entity for use in protecting significant sites for the future.

MHPC can sponsor an LMF project when the land contains exceptional archaeological value. In 2007 the legislature passed a bill to amend 5 MRSA §6207, LMF land acquisition criteria, to include one or more significant archaeological sites. The land that contains the site(s) must be primarily undeveloped with other landscape or conservation values.

The presence of significant archaeological sites does often overlap with the other land acquisition values of the LMF program. The vast majority (greater than 95 percent) of prehistoric archaeological sites in Maine are habitation/workshop sites where Native Americans both lived and worked. For most of Maine prehistory the state was covered by a dense forest and people tended to live and travel along waterways. They camped for a season or built their villages on areas of low slope adjacent to water shorelines, usually on the best drained area of low slope within a stretch of several hundred yards of shoreline. Thus, any canoe navigable water body shoreline is considered a potential area for a prehistoric archaeological site.