

MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF CONSERVATION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

ANGUS S. KING, JR.
GOVERNOR

RONALD B. LOVAGLIO
COMMISSIONER

MEMORANDUM

July 11, 2000

To: Commission Members
From: Andrew Fisk ~~_____~~
Subject: Proposal to prohibit personal watercraft (PWCs) on South Branch Lake, Seboeis Plantation and T2 R8 NWP, Penobscot County

Attached please find a proposal submitted to us by the Assessors of Seboeis Plantation to prohibit the operation of personal watercraft (PWCs) on South Branch Lake.

Staff Recommendation:

Approve the proposal as submitted, and forward to the Commissioner of Inland Fisheries & Wildlife for consideration under the authority and direction of Public Law 2000, Chapter 701.

Background on the PWC legislation

The 119th legislature passed a bill that allowed municipalities and LURC to regulate surface water uses on great ponds throughout the state. The process stipulated that municipalities may, via town meeting, regulate surface water uses. These municipal recommendations require approval by the Commissioner of Inland Fisheries & Wildlife (IFW), and the full legislature. This process was put in place for a period of two years.

Petitions are required to address a number of criteria as basis for any proposed restriction. The criteria include such items as "traditional uses" of the waterbody, depth of the lake, wildlife and environmental values, safety, and noise. IFW is also particularly interested in how a municipality will enforce any such restriction.

The law was amended this year to extend the process for an additional two years, as well as clarify the submission criteria and type of town meeting that qualified for a municipal decision.

Background on the LURC process

The initial legislation specified some 240 great ponds in our jurisdiction where PWCs were to be banned, but was not entirely clear as to how the process would work for any other great ponds wholly within our jurisdiction. We have asked the legislature to clarify the process for our jurisdiction, but as yet have not succeeded.



Memo: PWC's on South Branch Lake, Seboeis Plt.

To date this is the third request you have received to regulate surface water uses, all of which proposed prohibiting PWCs. You split 3-3 on two prior petitions for Kennebago Lake and West Grand Lake, and so voted to forward the petitions to IFW with no recommendation. These petitions were not acted on by IFW during the last legislative session because the petition was not supported by a majority of the Commission.

The murkiness for us arises from trying to make a LURC process as representative as a decision made at town meeting. In order to do so, we initially suggested to the Legislature that any surface water use petition should be initiated by a majority of shorefront landowner in the municipality(ies) containing the lake. The Commission would then evaluate the locally drafted petition in light of its jurisdiction-wide mandate.

Process for South Branch Lake PWC prohibition

Because South Branch Lake is partially within Seboeis Plantation, a municipality that is governed by town meeting, we have crafted a hybrid process. The attached petition has been voted on at a regular and special town meeting of Seboeis Plantation and includes information on all the required criteria.

For the abutting unorganized township of T2 R8, we solicited comment from all landowners in T2 R8 NWP, instead of just the shorefront property owners. In early June, staff mailed a notice (attached) of this proposal to all property owners in the township inviting their comment.

Together, staff feels these two steps - town meeting and landowner notification - constitute a representative decision of the local landowners in the two towns.

The Proposal: Prohibit the operation of PWCs on South Branch Lake

- Votes

Seboeis Plantation

March 13, 2000, Annual meeting *Article passed*
(23 of 40 residents attended)

April 13, 2000, Special town meeting *Article passed*
(16 of 40 residents attended)

T2 R8 NWP

June - July, 2000, mailing *3 support (1 former owner)*
(36 property owners) *0 oppose*

- Enforcement

In order to make a prohibition or other surface use regulation workable, IFW has asked municipalities to propose how they will actively work to enforce any local ordinances. Given current staffing levels, the Warden Service cannot take on significant additional enforcement work.

The Plantation maintains a constable position that has been designated as the first point of contact for alleged violations. The constable position is supported by a designated Enforcement Committee. The Plantation proposes posting signage at the public boat ramp on the lake as notification. Signage will also list the constable's contact information.

- Criteria

I have summarized the material submitted by the Assessors or property owners in T2 R8 NWP, as well general information that we maintain in our files that speaks to the following criteria:

"Use to which waters are put"

- South Branch Lake is used principally by recreational boaters for fishing. There is little or no water-skiing and minor recreational use aside from existing PWC use.
- There is a public boat launch facility on the southwest shore of the lake at Home Shore.
- The lake is also a source of drinking water for shorefront property owners.
- The lake is a Management Class 7 lake that is listed as accessible and developed.

"Depth of water"

- South Branch Lake is 2100 acres in size, where approximately 900 are usable by boats due to its shallow depth and numerous islands. A map is attached.
- The average depth of the lake is 11 feet, with a maximum of 28 feet. There are extensive areas of rocky shoals.
- Because of the depth of the lake, IFW recommends a speed limit of 25 mph on the lake in order to not damage aquatic vegetation.

"Amount of water-borne traffic"

- On a normal summer day in 1999, there are generally eight to ten fishing or pontoon boats, 12 canoes or kayaks; and up to nine PWCs, with an average between three and four.

"Wildlife and environmental values"

- South Branch is classified as a Resource Class 2 lake, with "significant" ratings for both fisheries and wildlife. Resource Class 2 lakes are determined to be of regional significance.
- The "significant" wildlife rating was based on a "high" species abundance, where the lake supported a high number of nesting loon pairs, a great blue heronry, and an eagle foraging area.
- Nels Cramer, IFW Hatchery manager has described the lake's small-mouth bass fisheries as one of the best in the State. This fishery is regularly monitored by IFW.

"Noise"

- South Branch Lake Camps reported that 90 of its 225 guests in the 1999 season complained about the use and operation of PWCs.
- One former owner of property on South Branch Lake indicated that the noise from jet skis was one of their reasons for selling property (see attached statements in support of prohibition - Alexander).

"Traditional uses"

- The principal long-standing use of the lake is defined by the South Branch Lake Camps, a commercial sporting camp that has operated since the 1920s.

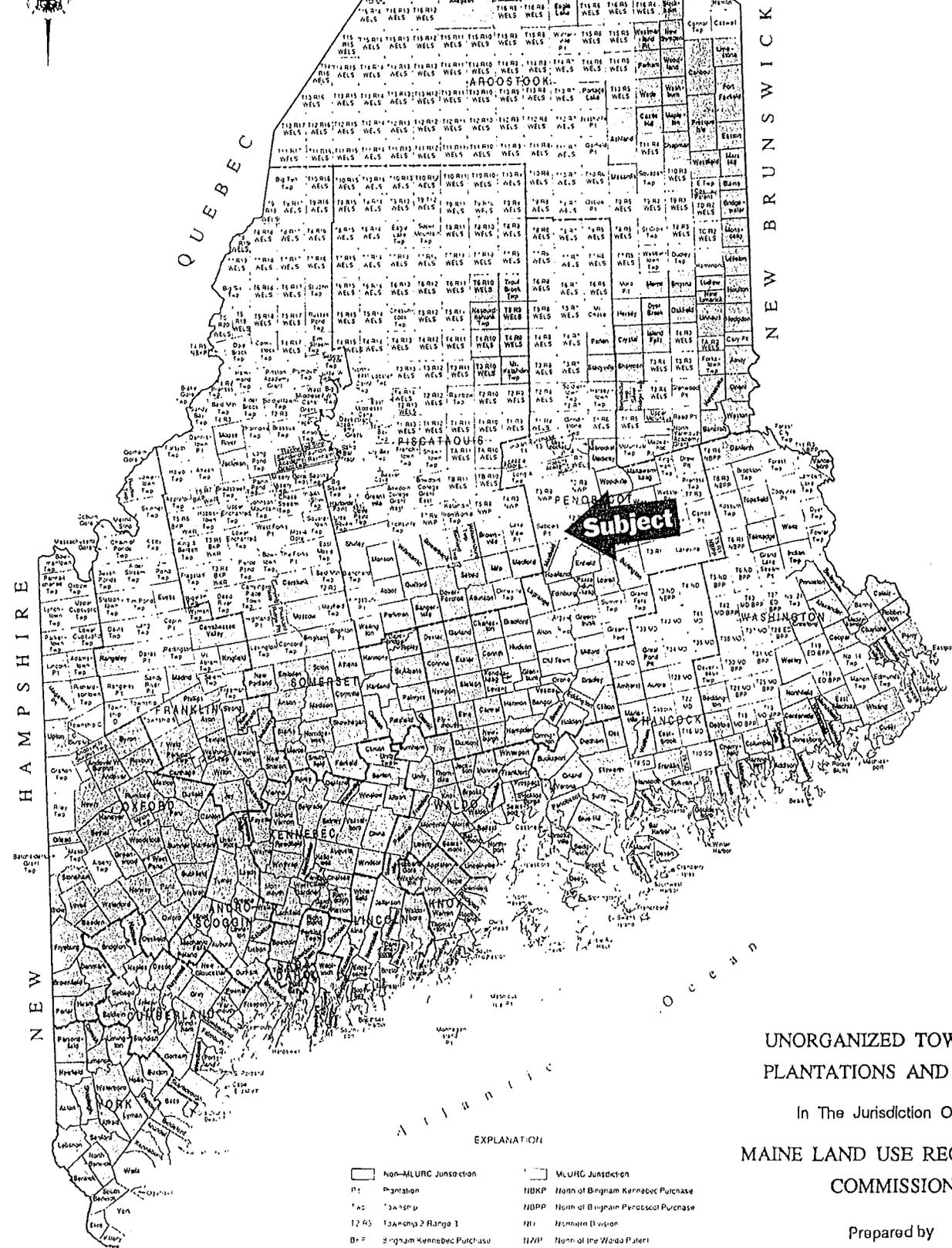
"Safety of persons & property"

- Much of the lake is impassable by motor due to the shoals. These shoals include the "Boneyard" which is approximately ¼ mile in extent; an additional area of shoals extends from Texas Point to Birch Island to Cummings Island to Black Cat approximately 1 mile across; Railroad Cove, approximately 1/3 mile across is largely impassable by boat. These shoals are listed on the enclosed map.
- Resident's one-month survey in summer of 1999, revealed 27 violations of operating rules by PWCs, where 2/3 of those occurred at the north end of the lake.
- The residents of Seboeis Plantation considered information on PWC operation and safety as reported in the Bangor Daily News, July 10, 1999, A11.

AF/th

Enclosures

xc: File



UNORGANIZED TOWNSHIPS
PLANTATIONS AND TOWNS

In The Jurisdiction Of The

MAINE LAND USE REGULATION
COMMISSION

Prepared by
ELLEN L. FARESE
April 1992

EXPLANATION

- | | |
|----------------------------------|--|
| □ Non-MLURC Jurisdiction | □ MLURC Jurisdiction |
| P: Plantation | HBKP North of Bingham Kennebec Purchase |
| Tac: Township | NBPP North of Bingham Penobscot Purchase |
| T2 R3: Township 2 Range 3 | ND: Northern Division |
| B-K-P: Bingham Kennebec Purchase | NWP: North of the Wado Patent |
| B-P: Bingham Penobscot Purchase | LS: Southern Division |
| ED: Eastern Division | WES: West of the East Line of the State |
| MD: Middle Division | WPH: West of the Kennebec River |

SOUTH BRANCH LAKE

Seboeis Plantation & T2 R8 NWP, Penobscot County

