

# MAINE STATE LEGISLATURE

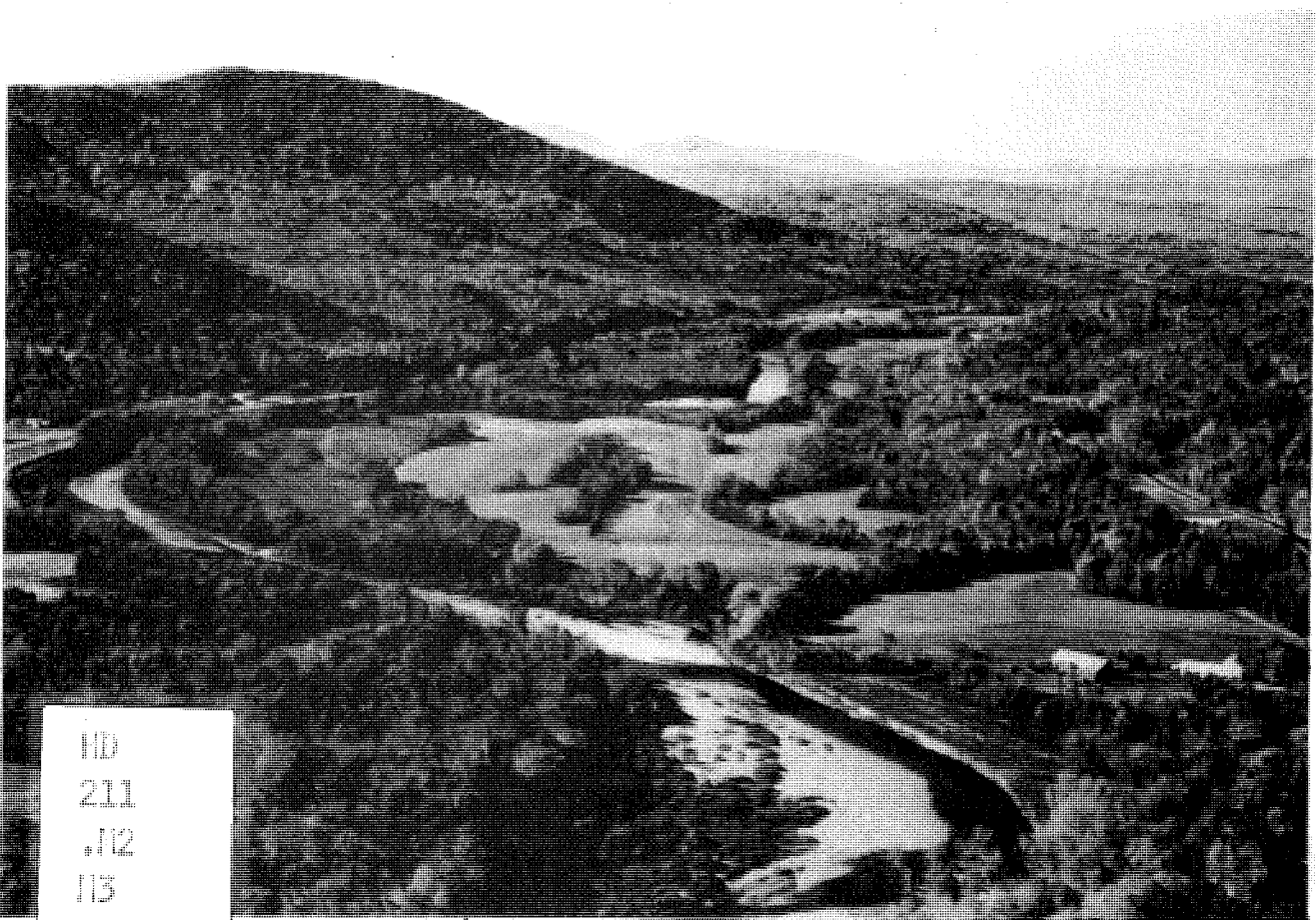
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Land and Water Resources Council  
1985 Annual Report  
1986~87 Statement of Priorities

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Maine Land and Water Resources Council

1985 Annual Report  
to Governor Joseph E. Brennan  
and  
1986-1987 Statement of Priorities

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STATE OF MAINE  
EXECUTIVE DEPARTMENT  
STATE PLANNING OFFICE

JOSEPH E. BRENNAN  
GOVERNOR

October 8, 1986

RICHARD E. BARRINGER  
DIRECTOR

The Honorable Joseph E. Brennan  
Governor, State of Maine  
Governor's Office  
State House Station 1  
Augusta, Maine 04333

Dear Governor Brennan:

I am pleased to transmit to you the 1985 Annual Report of the Maine Land and Water Resources Council. This year's Report also contains the Council's 1986-1987 Statement of Priorities.

During 1985, the Council was active in developing policy and coordinating agency activities on a number of natural resources issues of great importance to Maine people. The Council began implementation of the report and recommendations of the Ground Water Policy Committee, under the able direction of the newly created Ground Water Standing Committee and State Groundwater Coordinator, Paul Dutram. The Council coordinated development of new legislation to protect and enhance the State's coastal resources; and it stepped up its activities in hydropower policy development, coordination, and implementation. The Council plans to continue to work on these issues during 1986-87 and, in addition, to focus increased attention on the issues of growth management, health and environmental risk assessment, and waste management.

The Council has matured under your Administration into a fully functioning institution which performs a most valuable service for the State, ensuring that natural resources management responsibilities spread out among a multitude of agencies are coordinated and informed by common policy objectives. The Council is exceedingly proud of its members' accomplishments in your service, and stands ready to continue its efforts and to assist your successor in the wise stewardship of Maine's outstanding natural resources.

Sincerely,

A handwritten signature in black ink that reads "Richard Barringer".

Richard E. Barringer, Chair  
Land & Water Resources Council

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enclosure

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## HIGHLIGHTS

Maine's groundwater resources, their effective protection and management, were the focus of continued scrutiny by the Land and Water Resources Council during 1985.

The Council's Ground Water Standing Committee established six subcommittees composed of State agency personnel and representatives from trade associations and other interested groups. Final reports and recommendations were presented to the Standing Committee on July 1, and implementation is now underway to assure Maine's continuing groundwater quality and availability, to protect public health, and to improve the efficiency of government groundwater-related programs.

The Council's Coastal Advisory Committee, established by Executive Order of Governor Joseph E. Brennan in October, 1984, proved its merit by fostering development of new Coastal Policy Legislation, adopted by the Second Session of the 112th Legislature. They also coordinated the funding of important coastal resource projects, including an investigation of the cumulative impacts of development on the Maine Coast.

During 1985, the Council also oversaw further implementation of the Maine Rivers Policy, preparing a Progress Report to the Governor and Legislature, and monitoring the myriad of legislative and administrative activities affecting Maine's river resources. The Council continued to assist in coordination and policy development regarding the State's involvement in federal hydropower proceedings; commented on federal legislation affecting hydropower relicensings; and, through the Water Flow Advisory Committee and the Council Director, with assistance from agency staff, worked with the U.S. Army Corps of Engineers on the basin-wide water flow assessment of the Kennebec River.

At the end of the fiscal year, the Council held a two-day workshop to discuss priorities for Council activities for the next year or two. The Council established six priorities for policy development: 1) Growth Management, 2) Groundwater Management, 3) Risk Assessment, 4) Hydropower/FERC Coordination/FERC Relicensing, 5) Waste Management, and 6) Data Management. In addition, the Council will continue its ongoing involvement in implementation of Maine's river policy, coastal policy, and flow management efforts and will respond to legislative initiatives and other developments involving natural resources policy which are of statewide impact or require substantial interagency coordination.



The following three sections describe, in greater detail, the Council's activities during 1985 in its three major fields of endeavor: policy formulation, resource management system development, and high priority problem response. The fourth section describes the creation and organization of the Council, and the final two sections provide further discussion of the Council's current priorities, listed above.

## I. POLICY FORMULATION

### Background

Management of the State's groundwater resources continued to be a major focus of the Council's policy formulation activities in 1985.

Ground water supplies the drinking water for more than half of Maine's people and is the primary and usually the only source available to the State's rural residents. The Maine Geological Survey estimates that about ten percent of Maine's ground water may already be contaminated in some degree. Leaking underground storage tanks, buried wastes, pesticides, road salt, and other contaminants threaten to degrade more of the resource. In some areas, especially along the coast, increased usage, combined with natural phenomena like saltwater intrusion, have given rise to ownership conflicts over local ground water supplies.

Since the late 1970s, Maine has made tremendous strides in identifying and responding to groundwater pollution problems, eliminating threats to public health from groundwater contamination, and gaining a better understanding of the character of the State's vital groundwater resources. The following are a few of the highlights of this effort:

- 1979, Ground Water Subcommittee of the Land and Water Resources Council presents its report; "A Management Strategy for Maine's Groundwater Resources," recommending increased data gathering, technical assistance, regulatory, and public education efforts respecting the State's groundwater resources and assigns the Land and Water Resources Council a program coordination function;
- 1980, in response to 1979 report, the Legislature creates the Groundwater Protection Commission. The Commission's recommendations result in significant legislative and regulatory action to increase protection of the resource from contamination including: 1) 1981, amendment of the Site Location of Development Law to prohibit the siting on sand and gravel aquifers of projects with a potential to pollute the aquifer; 2) establishment of the Maine Hazardous Waste Fund; 3) 1983, passage of the Underground Tanks Regulation Act;
- December 1983, Governor Brennan directs the Land and Water Resources Council to do a thorough review of the State's groundwater management activities to assess progress toward full implementation of the Groundwater Protection Commission's recommendations and to make any additional recommendations deemed necessary;
- January 1985, the Council's Ground Water Policy Review Committee issues its report and recommendations, discussed below;
- June 1985, Governor Brennan issues an Executive Order declaring: "It is the policy of the State of Maine to allocate, protect and monitor Maine's ground water resources, through measures which expand our knowledge of ground water hydrogeology, protect public and environmental health, meet future water supply needs, and encourage a sound economy." The order further directs the Land and Water Resources Council to establish a Standing Committee on Ground Water to implement the State's ground water policy.

#### The Ground Water Standing Committee

During 1985, the Council's Ground Water Standing Committee, chaired by the Commissioner of the Department of Environmental Protection, and the member agencies made substantial progress in accomplishing the tasks recommended in the January, 1985, report of the Council's Ground Water Review Policy Committee.

The Standing Committee met in June and established six subcommittees to focus on selected tasks set forth in the 1984 report: Resource Use, Resource Protection, Groundwater Classification, Health Risk Assessment, Interagency Coordination, and Groundwater Education. Representatives from various industrial and trade associations and public advocacy groups with groundwater interests were invited to serve on these subcommittees.

A State Groundwater Coordinator was hired to staff the Standing Committee, advise the subcommittees, and coordinate the overall implementation of State groundwater policy and policy development efforts. The subcommittees assembled for the first time at a Ground Water Workshop held on October 28, 1985. The workshop served several purposes: to provide all subcommittee members with a common knowledge base on groundwater contamination, resources, problems, and ongoing data-gathering and regulatory programs at all levels of government; to focus individual subcommittee tasks; and to provide a clear description of the coordinated effort being undertaken.

The subcommittees made their reports and recommendations to the Standing Committee on July 1, 1986. Implementation of many of these recommendations is already underway. Others will require legislation, to be introduced to the 113th Legislature. The Standing Committee has established a Policy Subcommittee to

set priorities and review allocation of resources. Pilot projects in groundwater data management and groundwater classification are being undertaken.

Critical to the accomplishment of various recommendations has been hiring of four new professional staff, in addition to the State Groundwater Coordinator: a senior geologist at the Department of Environmental Protection, a hydrologist at the Department of Human Services, and two geologists at the Maine Geological Survey. These personnel will enable the State to better accomplish its groundwater protection goals, although additional resources will be needed to accomplish all of the tasks recommended in the 1985 Policy Committee report and in the 1986 Standing Committee report.

## II. RESOURCE MANAGEMENT SYSTEM DEVELOPMENT

### Coastal Advisory Committee

By Executive Order of June 12, 1984, Governor Joseph E. Brennan established a Coastal Advisory Committee as a Standing Committee of the Land and Water Resources Council. The Committee, staffed by the Maine Coastal Program Manager, is to provide interagency and intergovernmental coordination for the Maine Coastal Program, and, acting through the Council, to advise the Governor, the Legislature and State agencies on sound coastal management actions. In 1985, the Committee reviewed funding of

projects for Maine's local coastal program and awarded grants consistent with the Coastal Priorities Statement. A major area of investigation funded was cumulative impacts of the rapid development on the Maine Coast. The Coastal Advisory Committee also endorsed development of new coastal policy legislation, which was passed by the Second Session of the 112th Legislature.

#### Water Flow Advisory Committee

In November 1983, the Council's special Water Flow Management Committee reported a series of findings and recommendations to improve the State's existing flood prediction, response, and prevention programs and policies.

As a result of the Water Flow Management Committee's recommendations, the U.S. and Maine Geological Surveys have formed a permanent Water Flow Advisory Committee. This Committee, consisting of representatives from State and federal agencies and major dam operators throughout Maine, meets semi-annually to exchange information on precipitation, snow pack, and seasonal storage levels; to discuss flooding potentials; to issue a seasonal flood advisory; and to plan for measures to abate excess flows.

The Committee also recommended an in-depth analysis of the Kennebec River watershed as a prototype for similar studies of other rivers.

The first phase of this program began in the Fall of 1984. In conjunction with other federal and State agencies and with critical data supplied by dam operators, the Army Corps of Engineers prepared a hydrologic analysis of major flood events on the Kennebec. The Water Flow Management Committee reviewed and commented on this report and is providing guidance to the Corps on the second phase of the report to be completed in the Fall of 1987.

#### Data Management Committee

The Data Management Committee was established by the Council to address what all member agencies agree is a critical problem in natural resources policy implementation and coordination: the gathering, organizing, and dissemination of data necessary to guide policy and decisionmaking. The Committee applied for and was awarded funding from the Coastal Program to develop a natural resources data management system. After determining that a comprehensive system was not within the allotted funds, the Committee worked with the Interagency Coordination Subcommittee of the Ground Water Standing Committee to develop an RFP for a pilot project on groundwater data management. A contractor was selected and work on Phase I of the project -- an inventory of existing systems and assessment of user needs -- should be completed by the end of 1986. Partial funding has been secured for Phase II of the project -- developing a proposal for a new statewide system.

### III. HIGH PRIORITY PROBLEM RESPONSE

#### Maine Rivers Policy Implementation

Passage of the landmark Maine Rivers Act in June 1983, accompanied by other related legislation, budget allocations, and administrative measures, completed development of the Maine Rivers Policy pursued by the Council since 1981. In July 1983, Governor Brennan directed that the Council, through the Director, closely monitor the progress of State agencies to assure the timely implementation of their various individual responsibilities. This remained a high priority in Council activities during the past year as the proposal to build a major new hydroelectric facility at Big Ambejackmockamus Falls on the West Branch of the Penobscot River focused public attention on the Rivers Act, particularly its hydro licensing provisions.

In December 1985, the Council issued a Progress Report to the Governor and Legislature reviewing the accomplishments and issues in implementation to date. The following is a summary of the Findings and Recommendations of that report.

The Council finds that:

- Traditionally, Maine's environmental laws have been designed to protect the public health, safety, and welfare from the potentially harmful effects of private activity on private property. The Maine Legislature went beyond this traditional conception when it created the Maine Rivers Policy, the purpose of which is to provide not only



environmental protection, but also a wise and careful means of allocating to private use and profit a scarce public asset -- Maine's valuable rivers resources.

- Overall, the Maine Rivers Policy is accomplishing its objectives, and doing so efficiently and effectively.
- The Policy has resulted in many substantial accomplishments, including:
  - o the establishment of special protective zoning along some 1300 miles of Maine rivers in cities, towns, and the Unorganized Territory;
  - o the granting of State permits under the Maine Rivers Act for 21 hydropower projects that will produce 75.8 MW of new generating capacity;
  - o the registration with the Department of Environmental Protection of 716 dams throughout the State; and
  - o the award of more than \$11.5 million to Maine cities and towns for waterfront improvement and community development projects along Maine rivers.
- As with any innovative public policy, especially one involving the coordinated efforts of many agencies with diverse interests and responsibilities, there are areas where improvements are called for in its implementation.
- As public attention has focused largely on the unique Big "A" hydropower proposal, the issues raised by this project deserve the most careful review and response, particularly that involving the legitimacy of considering "alternatives" to a proposed project under during permitting proceedings. The Council recommends that:
- The laws that constitute the Maine Rivers Policy not be amended at this time.
- The Board of Environmental Protection and Land Use Regulation Commission adopt regulations pursuant to the Administrative Procedures Act to govern administration of the hydro permitting procedures of the Maine Rivers Act.
- Alternatives to a proposed hydropower project be considered under certain, carefully defined circumstances where significant public economic costs or environmental harms are involved; and the regulations should so specify, in order to resolve the confusion surrounding this issue.
- The terms "existing dam" and "redevelopment," as used in the 1983 Maine Rivers Act, be defined in regulations.

- The Governor designate LURC as the certifying agency under §401 of the federal Clean Water Act for hydropower development projects in the Unorganized Territory.
- Procedures needed to integrate compliance with §401 of the Clean Water Act into issuance of permits under the Maine Waterway Development and Conservation Act be fully clarified in the regulations.
- Procedural issues regarding such matters as attendance at hearings by decision-makers, opportunities for intervention and public participation in permitting proceedings, etc., be resolved through general administrative regulations applicable to all permitting procedures for the respective boards, and not by amendment to, or regulation under, the Maine Rivers Act.

Pursuant to these recommendations, the Governor issued an Executive Order, effective January 15, 1986, designating LURC the certifying agency for all hydropower development projects for which it has permitting authority; the Council monitored and testified on, or otherwise participated in the legislative process regarding six bills proposing to amend the Maine Rivers Act; and LURC and the BEP proceeded with the joint development of hydropower recommendations.

#### FERC Coordination Procedure

In March 1982, Governor Joseph E. Brennan, by Executive Order, directed the Council to establish a process for coordinating State agency comments to the Federal Energy Regulatory Commission (FERC), on its notices of preliminary permits and licenses for hydropower projects. The Council established a Standing Committee to administer this procedure and to assure effective communication among the affected agencies.

Enactment of the Maine Waterway Development and Conservation Act in June 1983 resulted in the consolidation of State hydropower permitting authority under the DEP and LURC. Because of the potential for conflict between the State hydropower permitting decision and the FERC licensing action, the importance of the Council's coordination procedure expanded to assure a consistent assertion of a single State position before FERC.

The FERC Coordinating Committee has recently been charged by the Council with coordinating and developing State policy on the pending federal relicensings of many of the State's major hydropower facilities. This promises to be a major undertaking over the next few years. The Committee met in June, 1986, and prepared nine recommendations for endorsement by the Council at its next meeting. Follow-up activities are underway.

#### Federal Hydropower Policy

In October 1982, Governor Joseph E. Brennan directed the Office of Energy Resources (OER) to submit the State of Maine Comprehensive Hydropower Plan to the Federal Energy Regulatory Commission (FERC). Section 10(a) of the Federal Power Act requires FERC to make its decisions in accordance with accepted comprehensive river resource plans. Maine hoped to receive FERC acceptance of its plan as a guide for federal hydropower licensing decisions.

FERC has stated that it does not adhere to any single plan and that Maine's plan will be but one piece of evidence it will use in making its licensing decisions. Federal court decisions have held that FERC may override a State's decisions and issue preemptive federal licenses for projects that have not received the necessary State permits. This situation raises grave concerns about the efficacy of the Maine Rivers Policy, and of similar policies of other States, in federal proceedings. Governor Brennan, therefore, asked the Council, through the Director, to work with the Maine Congressional delegation, other members of Congress, and interested parties nationwide to devise legislation to address this concern.

During the past year, the Council Director monitored the development of federal legislation amending the Federal Power Act. When the House and Senate passed differing versions of the Electric Consumers Protection Act of 1985, she reviewed the legislation, and, in consultation with the FERC Coordinating Committee, developed comments. These were developed into a letter sent by Governor Brennan to all members of the Conference Committee, with copies provided to the Maine Congressional delegation.

#### IV. PURPOSE, ORGANIZATION, AND MEMBERSHIP OF THE COUNCIL

The Land and Water Resources Council was created by Executive Order of Governor James B. Longley in March, 1976. The

Council was assigned a number of planning, policy development, coordination, and oversight functions in the area of natural resources management for the State.

In May, 1979, Governor Joseph E. Brennan issued a new Executive Order re-establishing the Council under his Administration. The new Executive Order maintained the same basic direction for the Council. The Executive Order provides:

The fundamental task of the Council shall be to advise the Governor, Legislature and State agencies in the formulation of policies to direct the planning for management of Maine's land and water resources to achieve State environmental, economic, and social goals.

More specific tasks are further spelled out in the Executive Order (attached).

The membership of the Council has changed somewhat over time. In 1979 the Commissioner of the Department of Transportation and the Director of the Office of Energy Resources were added. In 1981, the Commissioner of the Department of Human Services was added, and representatives from the Maine House and Senate were deleted. The current Council membership is twelve: Director of the State Planning Office, Commissioner of the Department of Conservation, Commissioner of the Department of Environmental Protection, Commissioner of the Department of Marine Resources, Commissioner of the Department of Inland Fisheries & Wildlife, Commissioner of the Department of Agriculture, Food & Rural Resources, Commissioner of the

Department of Human Services, Commissioner of the Department of Transportation, Director of the State Development Office, Director of the Office of Energy Resources, Maine Association of Regional Councils, and the Vice President for Research and Public Service, University of Maine.

The Governor appoints the Chair of the Council. The Council is staffed by a Director, who works directly for the Chairman, and by the staffs of member agencies, as appropriate. The Chairman is Richard Barringer, Director of the State Planning Office; the Director is Karen Massey.

The Order also provides that "any State, Federal, regional, or local agency, or private organization, is invited to interact and cooperate with the Council in fulfilling [its] mission. Representatives from the United States Geological Survey, the Legislative Office of Policy and Legal Analysis, and the Natural Resources Council of Maine participated regularly during the past year.

The Council accomplishes much of its substantive work through committees. Committees may be established by the Governor by Executive Order or by a simple consensus of Council members. Some committees are established to accomplish a specific task and then disband. Others have on-going functions. The currently active committees are:

- Ground Water Standing Committee (E.O. 14, FY84/85)  
    Ground Water Policy Committee
- Coastal Advisory Committee (E.O. 12, FY83/84)
- FERC Coordinating Committee (E.O. 17, FY84/85)
- Data Management Committee
- Flow Management Advisory Committee

V. STATEMENT OF PRIORITIES, 1986-1987

Policy Development

The Executive Order provides that "the Council shall prepare a work program for each year establishing priorities among its efforts." In June, 1986, the Council met to exchange information on major agency policy initiatives in the area of natural resources management and to establish priority issues for agency action. The Council established the following six priorities for the coming year, in order of priority:

1. Cumulative Impacts/Growth Management
2. Groundwater
3. Risk Assessment
4. Hydropower/FERC Coordination/FERC relicensing
5. Waste Management
6. Data Management

The 7th, 8th, and 9th priorities were: non-point source pollution, public use of private land, and coastal and marine resources. These three issues are all a part of cumulative impacts and growth management and should be among the issues addressed by the Council under that first priority topic.

The issues of Growth Management, Risk Assessment, and Waste Management received further discussion at a Council workshop in July.

#### 1. Growth Management

New England as a whole, Maine included, has been blessed with a resurgent economy in the 1980's. Economic growth is necessarily accompanied by land development -- residential, commercial, and industrial. There is developing a general consensus that the pace of growth has outstripped the capacity of our State and local laws and institutions to effectively manage this development to assure the health, safety, and welfare of the public. The cumulative impacts of incremental development are not addressed by our State laws and local resources and existing regulations are proving inadequate. The problem is most acute in York and Cumberland Counties and along the coast; but Northern Maine, though its economy is not robust, must face related problems from recreational development and use. In total, this rapid growth is impacting the State's valuable natural resources.



It is changing the character of the State and, in some cases, negatively affecting the very quality of life that draws people and businesses to the State.

Last year, the Council's Coastal Advisory Committee identified Growth Management as its highest priority and allocated substantial Coastal Zone Management funds to a State Planning Office study on the cumulative impacts of growth. The Council as a whole has expressed a strong interest in this project and identified growth management as its first priority for the coming year.

## 2. Groundwater

Issues of land use controls for groundwater protection are interlocked with the larger growth management issue. Because the programs and activities of so many Council agencies involve groundwater -- either through impacts, such as the activities of DOT and DAFRR, or through regulations such as at DEP and DHS -- it is a natural issue for Council attention and has been a focus of the Council's committee and coordination efforts for the past six years. It is clearly a high priority issue for the people of the State, many of whom rely on groundwater for drinking water supplies.

In 1985 a State Groundwater Coordinator was hired to staff the Council's Ground Water Standing Committee, which is charged with implementing the State Groundwater Policy set forth in the

Governor's Executive Order of 1985. It has been a year of intense activity in groundwater policy development and implementation, and the coming year promises to be just as active, with emphasis shifting to implementation of the recommendations of the six subcommittees established by the Standing Committee in 1985: Resource Protection, Resource Use, Classification, Risk Assessment, Education, and Interagency Coordination.

### 3. Risk Assessment

Risk assessment, risk management, and risk communication have become important issues in public policy and administration in recent years. The term "risk assessment" is used generally here to encompass all three issues.

Our post-industrial, technological society produces and relies on some 5,000,000 chemicals. Indeed, the pesticide DDT and Rachel Carson's classic book Silent Spring are often credited with launching the modern environmental movement, which has heightened the public consciousness about the health risks inherent in modern life.

As our attention and regulatory efforts move from the obvious pollutants in our air and water to more subtle and, in some cases, more intractable contaminants, private industry, government regulators, and the public all will rely increasingly on risk assessments as part of the exercise of public health and

environmental protection responsibilities. Pesticides, food safety, air pollution from solid waste incinerators, and nuclear waste are issues facing the State where risk assessments have recently been and will be involved.

At its workshop, the Council charged the Director with organizing an interagency risk assessment working group to look at some of the issues of procedures, resources, standards, public communication, etc. that face the State in its use of risk assessment.

#### 4. Hydropower/FERC Coordination/FERC Relicensing

Hydropower policy development and interagency coordination in FERC proceedings have been an important focus of Council activities since its establishment. In December of last year, the Council issued its Progress Report to the Governor and Legislature on the Maine Rivers Policy, addressing a number of policy issues surrounding hydropower development in Maine.

An issue that will be of dominant importance in the coming year is State policy for FERC relicensings. Between now and 1993, nearly one-third of the relicensings to be considered by the Federal Energy Regulatory Commission will be for projects located in Maine. As the terms of the new licenses will run for 30 to 50 years, it is clear that the State must now give serious

consideration to the use of the State's rivers for hydropower generation and the responsibilities of the licensees to the people of Maine.

## 5. Waste Management

The responsibility and liability of municipalities for solid waste management, the issues of imported wastes, landfill siting, incinerator siting, infectious wastes, nuclear wastes, and groundwater contamination from uncontrolled hazardous waste sites -- all fall under the general category of waste management. The issue came to the fore for the Legislature last term because of plans to site commercial waste disposal facilities in York County that would very likely handle large quantities of out-of-state wastes. A moratorium on the establishment of new landfills was proposed. Instead, the Legislature's Energy and Natural Resources Committee has formed a subcommittee to study the solid waste management issue.

The Council's Ground Water Standing Committee, having addressed the issue from the perspective of groundwater protection, has made several recommendations, including that the State develop a comprehensive plan for solid waste management.

## 6. Data Management

Like hydropower, natural resources data management has been a Council concern since its formation. The Executive Orders

establishing the Council charge it to "define information needs, standards, and relative priorities for data collection, and investigate the increased use of data processing systems to expedite information storage and retrieval."

Since the original Executive Order was issued, the Council has sponsored several data management studies and computerization and data gathering have grown at a rapid pace among the natural resources agencies. In the midst of the information age, the State's natural resources data management remains woefully inadequate.

The Council's Data Management Committee will soon be signing a contract with consultants to develop pilot data management systems for groundwater and natural areas. It is hoped that these studies will be successful in improving our performance in this vital area of natural resources management.

### Continued Policy Implementation

#### 1. Maine Rivers Policy

The Council must continue to respond to issues that arise in the implementation of the Maine Rivers Policy. In the past year this has involved monitoring legislative efforts both to amend the hydropower licensing provisions of the Maine Rivers Act and to add rivers valued for fisheries to the list of those on which hydropower development is prohibited absent legislative

authorization. The Director also prepared comments on a development proposal that called for an interpretation of the special shoreland zoning and subdivision provisions of the Rivers Act and organized a tour of the Crooked River, which personifies some of the conflicts between hydropower and fisheries interests in the State.

The pace of activity and continued high level of involvement of the Council in the Rivers Policy serves to underscore the obvious -- policy development and legislation are only the first steps, policy implementation is an equally important aspect of Council responsibilities.

## 2. Coastal Policy

The Second Session of the 112th Legislature enacted important coastal legislation, a key part of Governor Joseph E. Brennan's legislative package. The legislation was a recommendation of the Council's Coastal Advisory Committee and reflected substantial input from and coordination of its members. The Council must now work on ensuring that these policies are implemented. This effort is being coordinated with and is obviously intertwined with the larger growth management efforts.

## 3. Flow Management

The Flow Management Committee provides an on-going service as a forum for communication among State and federal agencies and

river basin managers and a source of public information on spring flood potential. The Committee is also currently overseeing preparation of an Army Corps of Engineers' study of flood mitigation opportunities on the Kennebec River. The first phase of this report was completed in the Fall of 1985 and the second phase will be completed in the Fall of 1987.

#### 4. Miscellaneous

Every year, during the legislative session, or at other times, as the result of federal legislation or action, or because of some unexpected event, issues arise involving natural resources, which are of statewide impact or involve interagency coordination. In these cases the Council becomes involved when its participation is appropriate and valuable. Any priority list or workplan of the Council assumes the flexibility to respond in these situations, though they have not been specifically identified in advance.

APPENDIX







OFFICE OF  
THE GOVERNOR

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MAR 26 1981

State Planning Office

NO. 9FY 80/81  
DATE March 24, 1981

PROVIDING FOR THE ESTABLISHMENT OF A MAINE  
LAND AND WATER RESOURCES COUNCIL

WHEREAS, there are many State and regional agencies with planning and management authorities and responsibilities for Maine's land and water resources, and

WHEREAS, there is great need for coordination and integration of these agency programs in order to implement effective State policies for the management of Maine's land and water resources, and

WHEREAS, cooperation among these agencies is strongly encouraged under provisions of the State Planning Act, as well as Federal law, and

WHEREAS, regional and local levels of government and the private sector need access to, and guidance from, a natural resources policymaking body, and

WHEREAS, coordination among the several State land and water resource programs will help assure efficiency in the use of public funds,

THEREFORE, I, Joseph E. Brennan, Governor of the State of Maine, do hereby order that a Maine Land and Water Resources Council be created as follows:

Membership

The Chairman of the Council shall be appointed by the Governor and serve at the pleasure of the Governor.

The membership of the Council shall include the following:

1. The Commissioner of the Department of Agriculture
2. The Commissioner of the Department of Conservation
3. The Commissioner of the Department of Environmental Protection
4. The Commissioner of the Department of Human Services
5. The Commissioner of the Department of Inland Fisheries and Wildlife
6. The Commissioner of the Department of Marine Resources
7. The Commissioner of the Department of Transportation
8. The Director of the State Development Office
9. The Director of the State Planning Office
10. The Vice President for Research and Public Services  
University of Maine at Orono
11. The Chairman of the Regional Planning Commission's Director's Association
12. The Director of the Office of Energy Resources

Purposes

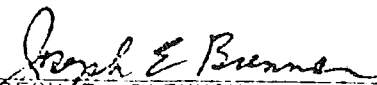
The fundamental task of the Council shall be to advise the Governor, the Legislature, and State agencies in the formulation of policies for management of Maine's land and water resources to achieve State environmental, economic, and social goals. Any State, Federal, regional, or local agency, or private organization, is invited to interact and cooperate with the Council in fulfilling this mission.

Specifically, the Council shall:

1. Recommend coordinated State policy regarding major programs or proposals which both affect the natural environment of the State and involve the concerns of more than one State agency.
2. Initiate the development of an integrated program to provide a substantially improved land and water resources information base for planning purposes. The Council shall define information needs, standards, and relative priorities for data collection, and investigate the increased use of data processing systems to expedite information storage and retrieval.
3. Establish a standing subcommittee, known as the Mapping Advisory Committee. The subcommittee will be composed of members from Council agencies and other interested groups, as appropriate. It will be charged with responsibility for reviewing and recommending to the Council actions to be taken regarding coordination of agency mapping programs, and with establishing priorities for the U. S. Geological Survey mapping program in Maine.
4. Provide direction to the State's land and water use planning and management programs and encourage coordination of these efforts through review and comment on agency program plans, specific projects, and legislative proposals that involve interagency concerns.
5. Periodically evaluate, in consultation with affected interests, Maine's environmental regulatory system, including legislation, regulations and procedures, and recommend appropriate action, if any is needed to improve service to applicants.
6. Study specific land and water resource management issues and problems of State level significance in order to develop sound, coordinated policies.
7. Seek cooperation from Federal agencies with responsibilities for land and water resources management to ensure that their programs and projects serve the best interests of the State of Maine.

Procedures

The Council shall meet at least quarterly. In addition, the Council shall prepare a work program for each year establishing priorities among its efforts. The Council shall prepare and submit to the Governor an Annual Report describing its activities during the previous calendar year. The State Planning Office or Council member agencies shall provide funding for activities of the council, including support for the Executive Secretary, who shall serve as the Council's principal staff. Additional staff support may be provided by member agencies and other affected organizations as appropriate.

  
JOSEPH E. BRENNAN



OFFICE OF  
THE GOVERNOR

NO. 12FY 83/84  
DATE June 12, 1984

PROVIDING FOR THE ESTABLISHMENT  
OF THE COASTAL ADVISORY COMMITTEE

WHEREAS the Maine Coastal area, including the offshore environment, contains natural resources and cultural assets of great economic, social, and environmental value to the people of Maine; and

WHEREAS the Maine Coastal Program has existed since 1978, and has addressed a wide variety of local, regional, and State coastal management issues; and

WHEREAS the objectives of the Maine Coastal Program include the resolution of coastal issues of broad concern and the balancing of resource development and conservation; and

WHEREAS there are opportunities to improve coastal resource management decisions through effective coordination of the activities of State, federal and regional agencies;

NOW, THEREFORE, I, JOSEPH E. BRENNAN, Governor of the State of Maine, do hereby establish, as a standing Committee of the Maine Land and Water Resources Council, a Coastal Advisory Committee.

Membership

The Committee shall include the:

- Director of the State Planning Office, Chairperson
- Commissioner of the Department of Conservation
- Commissioner of the Department of Environmental Protection
- Commissioner of the Department of Inland Fisheries & Wildlife
- Commissioner of the Department of Marine Resources
- Commissioner of the Department of Transportation
- A Representative of the Regional Planning Commissions
- A Representative of the University of Maine

Purpose

The primary responsibilities of the Committee shall be to advise the Governor, the Legislature, and State agencies, through the Council, on sound coastal management actions, and to coordinate State activities accordingly. The Committee shall seek to involve affected and interested parties in the development and evaluation of programs and policies, as appropriate.

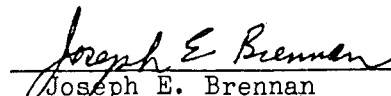
Specifically, the Committee shall:

1. periodically evaluate the Maine Coastal Program and recommend needed improvements, and report its findings to the Council;
2. determine annual work priorities, tasks, and budget allocations for State-level activities within the Maine Coastal Program;
3. assure effective coordination of coastal management activities among State agencies;
4. facilitate coordination of State coastal management activities with those of federal agencies, local governments, private citizens, and public interest groups; and
5. review activities pertaining to the Outer Continental Shelf Lands Act, and recommend appropriate State actions to the Governor.

Procedures

The Committee shall meet at least quarterly. It shall prepare an annual work program, establishing priorities among its efforts. It shall also prepare and submit to the Governor, as a part of the Land & Water Resources Council's Annual Report, a report describing its activities during the previous calendar year.

The Maine Coastal Program Manager shall serve as the Committee's principal staff, and additional staff support may be provided by member agencies and other affected organizations, as appropriate.

  
Joseph E. Brennan  
GOVERNOR



OFFICE OF  
THE GOVERNOR

NO. 14FY 84/85  
DATE June 10, 1985

MAINE GROUND WATER POLICY

WHEREAS, ground water supplies the drinking water for more than half of Maine's people, and is virtually the only source available to our rural residents; and

WHEREAS, serious incidents of ground water contamination have endangered public health in Maine communities as diverse as Gray, Saco, Winthrop, and Houlton; and

WHEREAS, population growth in some areas of the State, coupled with increasing demand upon ground water for uses other than domestic drinking water supply, may result in conflict over the allocation of the resource; and

WHEREAS, the future health and security of Maine's people and the continued vitality of our economy depend greatly upon abundant, clean ground water supplies; and

WHEREAS, the ground waters of Maine are a public resource, and their protection and management are proper subjects for the exercise of stewardship by the State; and

WHEREAS, implementation of the recommendations of the 1981 Ground Water Protection Commission, as well as other subsequent State and Federal ground water initiatives, has entrusted specific and sometimes overlapping protection and management responsibilities to all levels of government; and

WHEREAS, the public interest is best served by a clear and comprehensive policy that will direct and coordinate all State ground water protection and management efforts to assure that program staff, resources, and regulatory activities are targeted toward Maine's highest priority needs;

NOW, THEREFORE, I, JOSEPH E. BRENNAN, Governor of the State of Maine, establish the following statement of Maine Ground Water Policy:

It is the policy of the State of Maine to allocate, protect, and monitor Maine's ground water resources, through measures which expand our knowledge of ground water hydrogeology, protect public and environmental health, meet future water supply needs, and encourage a sound economy. Accordingly, the State shall:

1. Ensure that State ground water priorities are responsive to changing conditions and related health risks, and assure that State ground water programs are organized, coordinated, managed, and funded accordingly;

2. Ensure that waste disposal and other land use decisions are made only after full consideration of their likely impacts on ground water;

3. When considering impacts, place greatest emphasis on protecting ground water resources from contamination, thereby maintaining their fullest use;

4. Give highest priority for protection to significant aquifers - both sand and gravel and bedrock - which are found to be especially vulnerable, of regional significance, indispensable for drinking water supply or essential to the protection of sensitive ecological systems;

5. Assist municipalities and water suppliers in protecting locally important ground water supplies;

6. Foster greater public awareness of the importance of ground water, and provide information and technical assistance toward this end; and

7. Ensure consistent and equitable decisions related to the allocation of ground water resources.

IT IS FURTHER ORDERED, that actions of Executive Departments and Agencies shall be consistent with the policy stated in this Order; and

IT IS FURTHER ORDERED, that independent regulatory, quasi-judicial, and judicial agencies shall receive a copy of this Order, and are urged to take action consistent with it; and

IT IS FURTHER ORDERED, that the Maine Land and Water Resources Council establish a Standing Ground Water Committee to oversee implementation of this policy.

### Membership

The Committee shall include the following or their designated representatives:

- Commissioner of the Department of Agriculture, Food and Rural Resources
- Commissioner of the Department of Conservation

- Commissioner of the Department of Environmental Protection
- Commissioner of the Department of Human Services
- Commissioner of the Department of Transportation
- Director of the State Planning Office
- Vice President for Research & Public Service, UMO
- President, Maine Association of Regional Councils

The Committee will elect its own chairperson.

### Purpose

The primary responsibilities of the Committee shall be to advise the Council - and through it the Governor, the Legislature, and State agencies - on sound ground water protection and management policies and programs; and to assure continuing, high-level discussion of critical ground water policy issues. The Committee shall seek to involve affected and interested parties in the development and evaluation of policies and programs, as appropriate.

Specifically, the Committee shall:

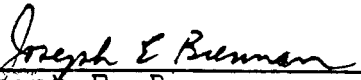
1. improve communication and coordination among the various State agencies with ground water-related responsibilities and programs;
2. annually review progress toward State ground water policy objectives and recommendations, and assess priorities established within and among State agencies to assure the cost-effective allocation of funding and staffing resources;
3. provide a focus for communication and education efforts with local governments, regional planning agencies, and the public on ground water issues, and a consistent State voice in federal decision-making procedures; and
4. assure that long-range water supply planning needs are reflected in State and local ground water management activities.

### Procedures

The Committee shall meet at least quarterly. It shall prepare an annual work program, establishing priorities among its efforts. As part of its Annual Report to the Governor, the Land & Water Resources Council shall give a full account of the Committee's activities during the previous calendar year.



The State Planning Office shall provide the Committee's principal staff, and additional staff support shall be provided by member agencies and other affected organizations, as needed.

  
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Joseph E. Brennan  
GOVERNOR



OFFICE OF  
THE GOVERNOR

NO. 17FY 84/85  
DATE June 27, 1985

PROVIDING FOR THE COORDINATION OF A CONSISTENT  
STATE POSITION IN FEDERAL HYDROPOWER LICENSING PROCEEDINGS

WHEREAS, interest in developing the hydropower potential of Maine's rivers has increased significantly in recent years; and

WHEREAS, the Legislature, through the 1983 Maine Waterway Development and Conservation Act (38 MRSA §630-636), has declared that "hydropower justifies singular treatment"; and that "it is the policy of the State to support and encourage the development of hydropower projects by simplifying and clarifying requirements for permits, while assuring reasonable protection of natural resources and the public interest in use of the waters of the State"; and

WHEREAS, the Maine Waterway Development and Conservation Act consolidated State regulatory authority for hydropower development into a single permit to be issued by either the Board of Environmental Protection or the Land Use Regulation Commission and action by the Board on water quality certification pursuant to Section 401 of the Federal Clean Water Act; and

WHEREAS, most applicants for hydropower projects to be located in the State must apply to the Federal Energy Regulatory Commission (FERC) for a federal license or exemption; and

WHEREAS, various federal laws and regulations require applicants for FERC preliminary permits, exemptions, and licenses to consult with several State agencies with management responsibilities for natural resources, historic preservation, public safety, and energy policy; and require FERC to request comments on hydropower development applications from these same agencies; and

WHEREAS, the potential exists for conflict between federal licensing decisions and the permitting decisions of the Board of Environmental Protection and the Land Use Regulation Commission; and

WHEREAS, effective State participation in FERC proceedings demands that comments from State agencies be communicated in a clear, consistent and timely fashion, and that the State secure status as an official intervenor in these proceedings; and

WHEREAS, the Land and Water Resources Council, in accordance with Executive Order #11, FY81/82, has established a Standing Committee for coordinating the actions of State agencies and developing a consistent State policy among them;

NOW, THEREFORE, I, Joseph E. Brennan, Governor of the State of Maine, do hereby direct that:

1. A final decision by the Board of Environmental Protection or the Land Use Regulation Commission issued in accordance with the Maine Waterway Development and Conservation Act, combined with action by the Board of Environmental Protection on water quality certification of the project pursuant to Section 401 of the Federal Clean Water Act, shall represent the official position of the State of Maine regarding the subject application;
2. The State's sole, official recommendations for any terms and conditions upon the federal license shall be those contained in the Board of Environmental Protection and the Land Use Regulation Commission decisions, superseding all preliminary recommendations by individual State agencies;
3. All State agency comments submitted subsequent to State action on the subject project shall include a copy of the decisions rendered by the State permitting agencies;
4. All State agency comments submitted prior to action on a State permit shall advise FERC that the official position of the State is that established through the decisions of the Board of Environmental Protection and the Land Use Regulation Commission; and
5. The Department of Environmental Protection and the Land Use Regulation Commission shall have responsibility to intervene, in a timely fashion, on the State's behalf, in all FERC licensing proceedings for projects in Maine, and, as appropriate, in selected FERC preliminary permit and license exemption proceedings; and
6. Pursuant to this policy, the Land and Water Resources Council's Standing Committee on FERC Coordination shall monitor all State agency comments in FERC proceedings, and provide for mediation by the Executive Secretary of any disagreements among State agencies regarding comments submitted to FERC or the applicant.

(This Executive Order supersedes Executive Order #11, FY81/82.)

  
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Joseph E. Brennan  
GOVERNOR

Membership of Standing Committees  
established by Land & Water Resources Council  
without Executive Order

1. Data Management Committee

Director, Land & Water Resources Council, Chair  
Department of Conservation, Maine Geological Survey  
Department of Environmental Protection  
Department of Human Services  
Department of Inland Fisheries & Wildlife  
Department of Transportation  
Maine State Library  
Central Computer Services  
State Planning Office  
Southern Kennebec Planning & Development Council  
U.S. Geological Survey  
The Nature Conservancy

2. Flow Management Advisory Committee

U.S. Geological Survey, Subdistrict Chief, Chair  
Director, Land & Water Resources Council  
State Planning Office  
Department of Conservation, Maine Geological Survey  
Department of Environmental Protection  
U.S. National Oceanic & Atmospheric Administration  
National Weather Service  
River Basin Managers from:  
    Bangor Hydro Electric Company  
    Central Maine Power Company  
    Georgia-Pacific Corporation  
    Great Northern Paper Company  
    Maine Public Service Company  
    Kennebec Water Power Company  
    S.D. Warren Company  
    Union Water Power Company