State of Maine - 116th Legislature

# AN INTERIM REPORT

of the

# GREAT POND TASK FORCE

to the

Joint Standing Committee on
Energy and Natural Resources

December 1994

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Members:

Stephen Adams, Chair, State Planning Office
Ed Meadows, Department of Conservation
Dana Connors, Department of Transportation
Debrah Garrett, Department of Environmental Protection
Bernard Shaw, Department of Agriculture
Ray Owen, Department of Inland Fisheries and Wildlife
Clough Toppan, Department of Human Services
Nick Houtman, University of Maine
Peter Lowell, Lakes Environmental Association
Jeffrey McNelly, Maine Water Utility Association
Bruce McKnight, James River Timber Co.
Gerald Barnes, Stockton Springs

December 1994

STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE

JOHN R. McKERNAN, JR.
GOVERNOR

STEPHEN J. ADAMS
DIRECTOR

December 13, 1994

Senate Chair
House Chair
Energy and Natural Resources Committee
Maine Legislature
State House
Augusta, Maine 04333

Dear Chairs:

I am pleased to submit to you the interim report of the Great Pond Task Force. I am also providing twenty copies for your committee.

Due to budgetary constraints over the last two years, the Task Force was unable to meet until this summer. In this short time period, the Task Force was unable to devote the necessary time to resolve the pressing natural resource and social issues confronting Maine's great ponds.

Based on our research, there are a number of significant public policy issues currently affecting Maine's great ponds. The Task Force recommends that it be continued so that these issues can be properly addressed.

Maine's great ponds are national gems and are a key economic resource to the State of Maine. These ponds and lakes are vital representatives of the wild and scenic beauty and the character of the North Maine Woods for which the State of Maine is so well known. The high water quality and outstanding scenic values of Maine's lakes and ponds provide the economic base for inland fisheries, tourism, seasonal and year round homes. There is strong interest among citizens who live on or use Maine's great ponds to seek a balanced use of these important natural resources. Maine needs to insure adequate environmental protection of the water quality of Maine's lakes, because healthy lake ecosystems are the foundation of sound economic and social activities associated with Maine's lakes.

The Great Pond Task Force looks forward to being reauthorized and continuing to work on these pressing public policy issues.

Sincerely yours,

Stephen J. Adams, Chair

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# Executive Summary

Maine's great ponds are a very significant economic and natural resource asset of the State of Maine. The fresh water fisheries alone are valued at least at $160 million per year based upon a 1988 University of Maine study. The uses of these waters generate significant but unmeasured economic, environmental and social benefits to local communities and the State of Maine.

Maine's numerous lakes and ponds comprise a very special feature of the State's inland landscape. This fresh water resource is the focal point for recreation, fisheries, hunting, wildlife habitat, tourism, residential development, energy generation, forestry and water supplies. Maine's great ponds support a very important component of Maine's biodiversity. Watershed and ecosystem management are needed to insure that an acceptable balance is struck between use and environmental quality for Maine's lakes and ponds which cover about 5% of Maine's landscape.

Changing times and increasing recreational activities are creating social and environmental pressures on Maine's freshwater resources that are resulting in serious problems and decline in character for many great ponds. Evidence from those working on and about Maine's lakes indicates a gradual decline in the water quality of Maine's great ponds. Traditional access to many great ponds is being lost, and public access is lacking for many great ponds. Surface-use conflicts (boating) are increasing on a number of great ponds. There are built-in conflicts between the two policy issues of surface-use (boating) and public access. A decline in the quality of Maine's inland fisheries had been reported for a number of lakes and ponds. There is no longer a State Lakes Program within State government to focus on lake issues.

Because of the steadily increasing development and recreational pressures being placed on Maine's great ponds, the welfare and traditional character of these ponds are being seriously threatened. There is an urgent need to establish a process for resolving growing surface-use (boating) and public access conflicts, and to assure that the character and quality of the State's great ponds are preserved for future generations.

There is a recognized need by the Task Force and Maine citizens to ensure that the high quality of Maine's valuable freshwater resources be protected and maintained. Maine's inland tourist economy depends upon a high quality freshwater resource. Maine's citizens depend upon access to the State's great ponds for traditional recreation such as swimming, fishing, hunting and boating. Therefore, the water quality of Maine's lakes and ponds must be considered as a critical component in providing a quality resource for future generations.

The Great Pond Task Force was created by the 115th Legislature in 1992. Due to budgetary constraints the Task Force was unable to convene until July 1994. It is the consensus of the Task Force that its charge focus on an array of public policy issues that are vital to the conservation of the State's great ponds, and that only preliminary findings can be made at this time. There is an urgent need for the State of Maine to develop a Management Strategy for Maine's great ponds.

Moreover, the resources within the SPO are now available to support the work on a renewed Task Force.

The Task Force reviewed the duties the Legislature charged it with, and provides the current status of each issue in this Interim Report.

The Task Force makes three recommendations:

1. The Great Pond Task Force needs to be reauthorized by the 117th Legislature. The Task Force should include representatives from: the State Planning Office (Chair), Department of Conservation, Department of Environmental Protection, Department of Agriculture, Food & Rural Resources, Department of Inland Fisheries and Wildlife, Department of Human Services, Department of Economic and Community Development, the Congress of Lake Associations, the Maine Municipal Association, the Maine Association of Regional Councils, Maine Forest Product Council, Maine Water Utilities Association, and the Sportsman's Alliance of Maine.

2. Public input and comments need to be solicited from the public including sportsmen's groups, forestry landowners, the University of Maine, water utilities, environmental concerns, and recreational concerns.

3. The Great Pond Task Force's charges should include the following:

- Developing a management strategy for Maine's great ponds that incorporates a watershed and eco-system management approach.
- Identifying new major public policy issues associated with the use, conservation and management of Maine's great ponds.
- Presenting recommendations for resolving surface-use conflicts (boating).
- Developing a statewide land-use classification scheme for Maine's lakes.
- Recommending a mechanism for coordinating issues that involve multi-agency roles.
- Recommending proposals for public access and land acquisition on great ponds.
- Recommending a mechanism for coordinating educational efforts focused on watersheds, shorelines and water quality.
- Determining the economic benefits of Maine's great ponds to Maine's inland economy.

## Character of Maine's Great Ponds

There are over 5,800 lakes and ponds in Maine covering about 1,000,000 acres (29,33). While great ponds are legally defined as lakes covering a surface area ten acres or more, the terms lakes and ponds are often used interchangeably without regard for size. The State of Maine has jurisdiction over all inland waters. In addition, the State owns the submerged lands under great ponds. There are 2,787 great ponds in Maine.

Maine's former Lakes Program within the Department of Environmental Protection (DEP) considered 1,900 great ponds significant State resources because of their size and biological character (Figure 1). There are relatively few large lakes in Maine with Moosehead, the largest, covering 74,890 acres. Most of Maine's great ponds are relatively small in size (1503 great ponds range in size from 10 to 49 acres), and only 195 lakes are over 1,000 acres in size (Figure 2). 3,068 lakes are less than ten acres, and thus are not covered by this report even though the water is the property of the State of Maine.

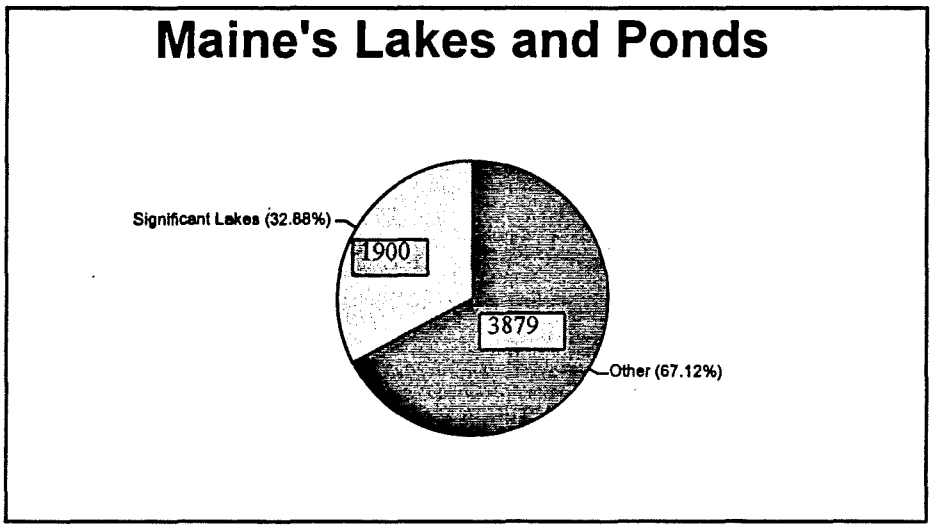


Figure 1

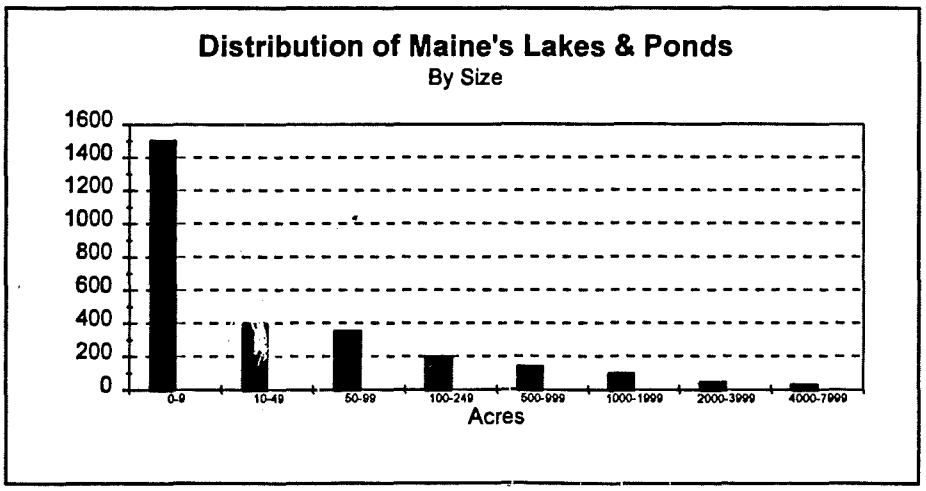


Figure 2

Economic and Recreational Values

Maine's lakes are a significant natural resource and economic asset of the State. The economic importance of Maine's lakes has long been recognized for hydropower, fishing, hunting, wildlife habitat and recreation. During the last twenty-five years, the value of lakes has increased for seasonal recreational use, year round homes, and destinations for camping and fishing. A 1988 University of Maine study estimated that the potential value of the fisheries is between $300 and $500 million per year (9). Actual expenditures for freshwater fisheries are an estimated $160 million per year (9).

No economic estimates have been made for the value to the Maine economy of tourism or of seasonal and year round home construction on Maine's great ponds during the past twenty-five years. The land boom of the 1980's saw large numbers of new lake shore developments. During the past two decades, the general public has increased time and more money for outdoor recreation resulting in increased spending for motor boats and lake shore development. Large marinas are now located on Moosehead Lake, Sebago Lake, and Great Pond in Belgrade. Despite the importance to Maine's inland economy, there have been no economic studies regarding property values or values of recreational uses in inland Maine. Currently, the University of Maine is conducting a narrow study on the relationship between water quality and shoreland property values.

The scenic beauty of Maine's lakes is well known, and has resulted in building of resort hotels and individual camps on many of Maine's lakes (16,50,77). Some of Maine's most outstanding lakes are the home of traditional sporting camps (96). Much of Maine's inland tourism business and many summer time jobs are associated with Maine's most scenic lakes.

Maine's great ponds are well recognized as important fisheries and wildlife habitats. Maine's systems of lakes and ponds support a vital component of the State's biodiversity. Maine's sportsmen benefit from the high water quality and relative naturalness of Maine's great ponds. Shallow water lakes are well known for their warm water fisheries, especially the bass fisheries. Northern cold water lakes are renowned for their brook trout and lake trout fisheries. Sebago Lake, the Rangeley Lakes and Moosehead Lake are well known for their outstanding sports fisheries (58,72,80,97). Maine lakes support one of the better land-locked salmon fisheries in the United States. Fishing regulations are a key to maintaining healthy fish populations and outstanding fishing (21,27).

Maine's inland fisheries has been in decline in recent years due to heavy fishing pressure. In response, IF&W, through its Fisheries Initiative Committee, is now in the process of proposing new fishing regulations for some of Maine's finest lakes to ensure quality fisheries for the future (27). The Maine Sportsmen's Alliance has advocated for increased spending on fisheries to improve the fresh water fisheries. This fall Maine voters had an opportunity to upgrade Maine's hatchery system through a bond initiative (103), and voted it down. In order to ensure a high quality fisheries, Maine's most important fishing waters need to be monitored on a regular basis, and fishing regulations need to be revised. In addition, Maine's lakes need to be managed on an ecosystem basis. Loons are common on many of Maine's ponds and lakes, and are indicators of a

relatively healthy freshwater ecosystem. Recent surveys indicate that Maine has a relatively stable loon population (92).

Public Access

Citizens have the right to use Maine's great ponds, however gaining access to Maine's great ponds has become a major issue throughout the State (11,12,22,95). Traditional permissive access sites over private lands are disappearing, and there is a lack of public access sites to many great ponds. Many shorefront property owners believe that the adjoining water is "their property" and thus actively discourage attempts to establish opportunities for the public to gain access to these waters. The State maintains public access sites on only 304 lakes (87).

The Bureau of Parks and Recreation (BPR) and the Department of Inland Fisheries and Wildlife (IF&W) each operate a separate program to maintain and establish access sites to great ponds with federal funds. The IF&W and DOC recently prepared and are now circulating a draft Strategic Plan for Providing Public Access to Maine Waters for Boating and Fishing (87). The IF&W maintains a working list of over 200 lakes in need of state owned public access sites. The agency has a new Strategic Plan for Angler Access to Maine's Lakes and Streams (86). Loss of public access sites has resulted in termination of fish stocking by the IF&W in a number of great ponds. Maine's sportsmen view public access to great ponds as a major issue (95). This trend is expected to continue unless the loss of public access to great ponds can be reversed.

Acquisition of lake shore property by the State and non-profit conservation organizations has been quite active during the past five years, however only a very small amount of Maine's lake shore has been acquired. The State, through the Land for Maine's Future Board (LMFB), has acquired some lake frontage and surrounding watershed land at Jamies Pond in Hallowell, Spring River Lake and Tunk Lake in Hancock County, Nahmakanta Lake in Rainbow TWP in Piscataquis County and T1 R11, and Spednic Lake in Washington County (44 ). Non-profit organizations have focused on land conservation projects in Attean Pond in Somerset County and Richardson Lake in Oxford County (10,73). Currently, there are a number of land trusts that are focusing on lake projects throughout the State. These land acquisition projects increase public access to Maine's lakes, but are not a coordinated effort to support statewide diverse access opportunities.

Water Quality

During the past thirty years significant progress has been made cleaning up major point sources of pollution of the State's fresh waters. Most of Maine's great ponds have high water quality (39). Untreated waste water being dumped directly into lakes has not been a widespread problem and nearly all of these sources have been eliminated. Lake restoration efforts have focused on major problem lakes with algae blooms such as China Lake, Chickawaukie Lake, Sebasticook Lake, Webber Pond, Lovejoy Pond, Sabattus and Cochnewagon Lake (17,25,82). The Cobbossee Watershed District, the only watershed district in Maine, is actively working with 28 lakes to prevent nutrient run-off into the lakes and also on the restoration of degraded lakes (25).

Water quality issues have prompted several associations to become more involved in working on improving lake water quality. In 1994, the Cobbossee Watershed District held a lake conference for Cobbossee Lake which experienced severe algae bloom in 1992 and 1993 (23,24). The Congress of Lake Associations and DEP have collaborated on developing A Citizen's Guide to Lake Watershed Surveys: How to Conduct a Nonpoint Source Phosphorus Survey (1).

However, during the same time there has been significant land development and conversion to year round housing in the watersheds of Maine's lakes that have directly led to water quality decline, and placed a number of lakes at risk. During the past decade there has been constant concern about water quality decline (19,32,34,65,67,68,97). There have been a number of efforts to protect lake water quality (5,18,55,68,69). Non-point sources of pollution are due to development in the lakes watershed and are where prevention control is needed for future water quality protection.

Lakes require monitoring in order to ensure their ecological status and physical water characteristics. The DEP and lake associations have made a major effort to monitor 695 of Maine's 2,314 significant lakes over the past twenty-five years (28,60,82,99,100,101,102, and Figure 3). Initially, there was significant State and federal funding to support Maine's lake baseline monitoring. As federal and State funding has been cut from lake monitoring efforts, the DEP has largely terminated staff monitoring of its baseline lakes. State government now depends mainly on volunteer efforts to monitor lakes. As of 1995, the State will not contribute any funding to the lake monitoring effort.

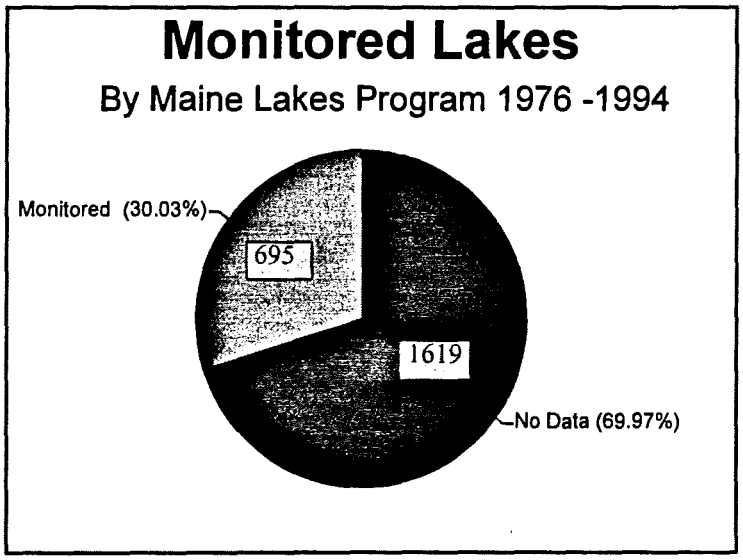


Figure 3

Economic activities directly around lake shores and within their watersheds result in the gradual degradation of lake water quality in a number of Maine's great ponds. The cumulative impact of residential, seasonal, agricultural, and forestry activities has created an adverse effect on great pond water quality. For example, during the past forty years, there has been a significant

decline in the water quality of Cobbossee Lake in Kennebec County. The Department of Environmental Protection has completed a recent report to Congress (1994 Water Quality Assessment - 305B) on the status of lake water quality which lists more than 50 lakes as having significantly degraded water quality due to algae blooms and a much larger number with poor dissolved oxygen status (82,101). Non-point source pollution still remains an unresolved problem for Maine's lakes waters (76).

The presence of toxic chemicals in Maine's great ponds is a serious environmental issue. Recent lake inventories and chemical testing by the DEP, IF&W, the University of Maine, and the U.S. Department of Environmental Protection have discovered significantly high levels of toxic chemical compounds in fish and wildlife species. The presence of sufficient levels of methyl-mercury to justify consumption advisories have recently been recorded in Maine fish (37,59,61). The magnitude of the problem of toxins in Maine's fresh water ecosystem will become more apparent over the next year as the results of chemical analysis are released to the public. The source of this pollution is atmospheric, and Maine is down wind from major industrial pollution sources in North America.

Land-Use

Land-use and watershed planning is occurring in Maine and having a positive effect on lakes aesthetics and water quality protection. Town comprehensive plans address the need to protect the water quality of lakes and ponds within a town's boundary. The Cobbossee Watershed District deals with 28 lakes in Kennebec and Androscoggin Counties (25). LURC has undertaken special lake management planning in the unorganized townships (15). In 1988, a regional comprehensive plan was proposed for Moosehead Lake (2). In 1992, the DEP worked with the town of Dedham to develop a lake watershed evaluation and tracking system (42). In 1993, a Lake Concept Plan was approved by LURC for Attean Township and Dennistown Plantation (4). Acadia National Park is in the process of drafting a water resource management plan that covers nine great ponds (14).

State government institutional arrangements concerning great ponds are fragmented among the state's natural resource agencies. Lakes are affected by multi-jurisdictional issues at the State and local level. Land-use laws are implemented by LURC in the unorganized towns, and generally at the local level in organized towns. In addition, the Department of Human Services, Department of Economic and Community Development, Department of Inland Fisheries and Wildlife, Department of Environmental Protection, Bureau of Public Lands and Bureau of Parks and Recreation all administer programs and laws affecting lakes.

The slowdown of the Maine economy in the past four years and resulting budget problems of State government have resulted in reductions or a complete loss of programs affecting Maine's great ponds. In addition, the reorganization of the DEP has also modified and reduced programs affecting lakes. The DEP has adopted a watershed management approach which de-emphasizes the specific focus on lakes. Maine's Lake Program has been disbanded. The Lake Environmental Protection Fund has been eliminated thus removing an incentive for towns to enforce their water quality protection efforts. Monies for the "Lake Restoration " and "Lake Protection" have been

exhausted. Lake monitoring has been shifted from a staffed function at the DEP to a citizen volunteer effort without adequate State coordination or support. Staffing for the State administration of Shoreland Zoning in the organized towns has been reduced by 50%. Town Comprehensive Planning, which is administered by the Department of Economic and Community Development (DECD), has been shifted from mandatory to voluntary, and State funding to local towns has been greatly reduced.

Most of the land-use planning and decisions in the State are made at the local level. Town comprehensive plans help guide development and protection activities around Maine's great ponds. Shoreland Zoning ordinances have been adopted by 383 towns and the minimum state Shoreland Zoning ordinances have been imposed on only 67 towns by the Board of Environmental Protection (54,81). Training of code enforcement officers has increased compliance with local shoreland zoning ordinances mandated by State law. While development of local comprehensive plans and land-use ordinances have proven to be helpful in focusing attention on local water quality issues affecting great ponds, many great ponds and their watersheds stretch beyond the jurisdictions of a single municipality. A coordinated inter-jurisdictional approach to improve water quality is currently lacking in Maine's land-use planning process. Several "how to guides" are available to assist citizens and towns in land-use and watershed planning (1,26,79).

Multi-jurisdictions

Because of the multi-jurisdictional issues affecting great ponds, there is a constant need for public policy coordination concerning the protection and sustainable use of the State's important freshwater resources among state agencies, local government, non-profit conservation organizations, businesses and lake associations. Maine's great ponds are public waters to which the State of Maine has jurisdiction.

## Setting Policy for Maine's Great Ponds

During the past two decades there have been several major State initiatives to study Maine's significant lake resources. In 1980, the Land Use Regulation Commission (LURC) issued a comprehensive strategy for lake management (3), and in the mid-1980's LURC undertook its Wildlands Lake Study that assessed the natural resource values of each lake (13,57). LURC used this study to implement new zoning for lakes under its jurisdiction (15).

Also, during the late 1980's the State Planning Office undertook an inventory of lake resources found in the organized towns. The State Planning Office's Critical Areas Program combined and synthesized lake data from organized and unorganized towns to identify lakes with the most significant natural resources and issued the report, Maine's Finest Lakes (48,94). The DEP has been studying the biological and physical properties of selected lakes during the past twenty-five years (5,28,93). Furthermore, the DEP issued a lake management plan in 1986 (49), and has played the major role in State government in protecting and monitoring lake water quality (82).

From 1989 to 1990, the Commission on Maine Lakes discussed and studied a number of serious environmental and social issues confronting Maine's lakes. In January 1991, the Commission issued its report to the 115th Legislature (29). In 1992, the Legislature created the Great Pond Task Force (M.R.S.A, Chapter 20, Section 1841 to 1843) and charged it with developing a great pond management strategy along with nine duties (Appendix I).

# A Great Pond Management Strategy for Maine's Great Ponds

The Great Pond Task Force was created in 1992, however budgetary constraints prevented the Task Force from convening until July 1994. While the Task Force has been unable to undertake its work until recently much has occurred regarding the policy issues identified in the 1992 Legislation. This section discusses the Legislative charge (Appendix I) to the Task Force and presents the current status of the public policy efforts to date. The management strategy is divided into three parts: protection, multi-jurisdictional, and economic issues.

**Management Strategy**

The Maine Great Pond Management Strategy needs to recognize three principles: 1) preservation of lake water quality needs to take priority over restoration as charged by the Great Pond Task Force Legislation (MRSA, Chapter 20, Section 1843; Appendix I), 2) the multi-jurisdictional nature of Maine State government requires oversight, and 3) the economic importance of Maine's great ponds to Maine's overall economy.

*Protection:* A functioning lake management strategy is the central process established by the State of Maine to guide citizens, State and local government, businesses and non-profit organizations on the sustainable use, development and conservation of Maine's great pond resources. The management and protection of Maine's great ponds is a State responsibility. In 1991, the Commission on Maine Lakes' report proposed a Great Pond Management Policy (29). In 1986, the DEP prepared and issued a Lake Management Strategy (49). A current management strategy for the State of Maine is needed, and the management strategy needs to be ecosystem based.

The process of developing a great pond management strategy is more important than the document itself. The planning process leading to the development of the management strategy is the "glue that will hold this public policy effort together." Work priorities should be up-dated annually or biennially as part of the process. An annual status report on individual issues facing Maine's great ponds should be part of the lake management process.

Land-use planning is a prime conservation tool for the preservation of great pond shoreland and water quality. The Shoreland Zoning Act is the primary tool for planning and zoning around lakes (54). LURC has undertaken planning and zoning in the unorganized towns. The Office of Community Development coordinates town comprehensive plans in Maine's 494 organized towns. The majority of these towns have great ponds, and usually special considerations are taken towards planning and zoning for great ponds. Many great ponds fall into two or more local jurisdictions, and usually planning and zoning with respect to great ponds are not coordinated. Regional planning is needed when the watershed of a great pond includes several municipalities. There is a need to take into consideration land-use activities within the watershed and its affect upon a great pond. In most instances, land-use activities outside the 250 foot shoreland zone can have a much more serious effect upon lake water quality, than land-use within the 250 foot shoreland zone.

The effects of development throughout the watershed are creating serious problems for Maine's great ponds. Planning and development activities within a watershed are often uncoordinated. Frequently, a great pond, and usually its watershed are located in several townships where planning activities are often uncoordinated. Aesthetics of the lake experience are affected by shoreland zoning's effectiveness and ultimately by the town comprehensive planning process.

A watershed planning approach is being implemented by DEP's water and land staff. While this affects DEP programs and technical assistance, incentives are needed to encourage towns to adopt a watershed approach when dealing with water quality issues.

*Multi-jurisdictional:* Within Maine State government, there are seven natural resources agencies that are involved with lakes. A number of lakes are situated in two or more planning and land-use jurisdictions thus complicating planning and enforcement efforts. About 8% (169 lakes) are located both in unorganized towns (LURC's jurisdiction) and within organized towns (29). The watershed of two- fifths of the great ponds are shared by two or more major jurisdictions. With these lakes special coordination is needed for land-use planning and enforcement.
In addition, there is a need to coordinate State agencies activities that are focused on Maine's lakes. Listed below are the State agencies with one or more programs affecting Maine's lakes:

- Department of Conservation: Land Use Regulation Commission and Bureau of Parks and Recreation
- Department of Inland Fisheries and Wildlife
- Department of Environmental Protection
- Department of Economic and Community Development: Office of Tourism and Office of Community Development
- Department of Agriculture, Food & Rural Resources
- Department of Human Services, Division of Health Engineering
- Department of Transportation

*Economic Issues:* Tourism is a $1.6 billion dollar business in Maine (56). The State's lakes draw a significant number of people to inland Maine for fishing, hunting, boating, camping and second homes. The direct value of the state's inland fisheries is valued at $160 million annually, while the potential value is estimated to be $300 to $500 million annually (9). The Department of Inland Fisheries and Wildlife is currently undertaking a "Fisheries Initiative" to enhance Maine's inland fisheries and the economy of inland Maine.

Because tourism is one of Maine's leading businesses, pumping millions of dollars into the Maine economy, there is a need to delineate the segment of the Maine tourism economy associated with inland Maine, and specifically the State's fresh water resources. For example, 1994 was a banner year for tourism in the Moosehead Lake Region (64,89). Also, in the Moosehead region, the annual sea-plane fly-in is a major economic event for the region (40). Maine residents spend money in their State when enjoying the lakes. People decide to reside on lake shore because of the "quality of life" associated with the fresh water resource. In addition, some people retire to Maine lakes specifically because of the high water quality and rural character of Maine's lake country. Second home development in inland Maine is often focused around lakes. Property values of

homes located adjacent to lakes is typically higher than non-lake shore properties, resulting in greater local revenues for towns.

Maine's lakes contribute directly to Maine's inland economy. The benefits accrue to the State's economy because of the high water quality of Maine's great ponds. If water quality declines, the special economic nature of Maine's lakes to tourism and "quality of life" will also decline. The higher property values of lake shore property are directly linked to high water quality of Maine's great ponds. Lake shore values of China Lake which has experienced significant water problems in recent years are less that neighboring lake properties.

Maine's lakes are a significant economic asset of the State of Maine, however the current level of State and federal funding for lakes is insufficient to adequately address the educational, research, monitoring and environmental protection needs of the state. The staff of 100 Maine Wardens is often called upon by the general public to investigate infractions of Maine's environmental laws when the Warden Service is funded by dedicated sportsmen's dollars to enforce fish and game regulations and laws. Staffing levels for lake programs have been reduced at DEP and LURC.

In researching the issue of a **Management Strategy**, the Task Force examined the following elements:

Surface-Use Conflicts

A major social issue facing Maine's great ponds is conflicts arising from the variety of watercraft that are being used on great ponds and the behavior of the operators (23,24,35,47,51). These watercraft include a variety of motor boats, personal water craft, pontoon-boats, high-powered cigarette boats, canoes, kayaks, sail boats, and electric-powered fishing boats. Head-way speeds are not always obeyed by the boating public. High powered boats often create loud noises that are a disturbance to many shoreland owners. Shoreland owners seeking peace and tranquillity, and those seeking remote boating experiences are expressing concern (35,38,41). Fishermen seeking "quiet fishing water" frequently cannot. In recent years there have been a number of citizen complaints concerning noise on lakes (35,47). There have been more citizen complaints and expression of concern about the issue of surface-use conflict than any other issue affecting great ponds.

According to public hearings held by the Commission on Maine Lakes and recent input from agency staff and citizens, the lack of regulations concerning boat speed and noise is a major unresolved public policy issue. There is a need for a special entity in State government to deal with the social issues of surface use. The State of Maine owns and controls the waters in Maine's great ponds, but during the past two decades, municipalities have assumed more responsibility for great pond management primarily in the area of shoreland zoning. The twin issues of home rule and jurisdictions need to be addressed with respect to boating regulations.

Several State agencies have jurisdiction over surface-use. The IF&W has the authority for public safety on great ponds. IF&W regulates motor size on great ponds (62), enforces the "head

way speed" (46), and has recently been granted the authority to establish areas off limits to watercraft for wildlife conservation (63). The latter authority has not been implemented due to the inability of the department to come up with a reasonable approach to identify significant wildlife habitat in lakes. The Commissioner of IF&W has received numerous petitions to restrict horsepower on individual great ponds (75). The Department of Conservation (Bureau of Parks and Recreation) marks navigational hazards in great ponds. Indirectly, the Land Use Regulation Commission places constraints on the surface-use of selected lakes in northern Maine through its "remote pond" designation. Municipalities have the authority to enforce watercraft regulations through local harbor masters. However, very few municipalities have shown an interest in enforcing the head way speed (76). Excessive speed is a major social problem on large lakes while high speeds in small ponds or shallow coves can cause biological problems (78).

Despite the public concern over speed and noise of watercraft on many waters, there currently are limited legal provisions for regulating the use of watercraft on Maine's great ponds (with the exception of the Allagash Waterway Wilderness). There are a few great ponds that serve as public water supply which have restrictions on boating and water contact recreation. IF&W has the authority to regulate horsepower size on great ponds only for reasons of safety. Currently, horsepower restrictions have been placed on 58 great ponds (no motors are allowed on 27 great ponds, motors with more than 6 horsepower are prohibited on 11 ponds, and motors with more than 10 horsepower are prohibited on 20 great ponds) (46). There are limited areas where boating activities can pose biological or water quality issues, especially on small lakes and sensitive areas of large lakes. There is a void in Maine law dealing with the current social issues watercraft are presenting to Maine's great ponds and their users.

Great Pond Classification System

A statewide classification system for Maine's great ponds based upon land-use will provide a frame work for a balanced regional approach to planning , sustainable development and land-use efforts. A classification system will be useful for evaluating and helping to resolve surface-use and lake carrying capacity issues. New management options based on the classification systems also need to be developed.

In 1991 LURC classified the great ponds in the unorganized towns into seven land-use classes (15):

1) High Value, Least Accessible, Undeveloped
2) Especially High Value, Accessible, Undeveloped
3) Potentially Suitable for Development
4) High Value, Developed Lakes
5) Heavily Developed Lakes
6) Remote Ponds
7) Other

No such classification system has been developed for great ponds in Maine's organized towns.

Public Access to Great Ponds

In addressing the issue of siting procedures for public access sites, the Task Force identified that public access to Maine's great ponds is a very serious problem (74). A recently completed federal report on northern forest lands found that access is of concern to the public (30), and a recent survey by The Maine Sportsman identified access as a major issue (95). During the past three decades, the State has established 304 publicly owned rights-of-way to great ponds (87). During the same time period, a number of "traditional access areas" over private lands have disappeared. This has resulted in the boating and fishing public being "cut-off" from a number of great ponds. The IF&W is ending its fish stocking program in a number of great ponds where public access has been "cut-off."

Maine has one of the lowest percentages of publicly owned lands in the United States. The Bureau of Public Lands consolidated its holdings around a number of special lakes such as T15 R9 in Aroostook County (71,88). The LMFB program purchased significant portions of shoreland in Moosehead, Tunk Lake, Spring River Lake, Nahmakanta Lake, Upper Richardson Lake, and Jamies Pond. There is very little public ownership of lake shore in Maine. The public acquisition of great pond shoreland provides an opportunity for the conservation of special lands (7,20,45).

Two State agencies, DOC and IF&W, have on-going public access programs to great ponds. The DEP and LURC review proposed State funded access site plans for environmental considerations. The DEP's "Best Management Practices" are used by State agencies during construction to control erosion and stabilize shorelines. IF&W and DOC are currently circulating a draft Strategic Plan for Providing Public Access to Maine Waters for Boating and Fishing for public comment (87). This plan addresses the needs of the State of Maine for recreational motor boat access sites. Dedicated funding comes from gasoline taxes and federal funding for sportsmen's access to water. Major issues include older access sites that require upgrading to bring them into compliance with federal disabilities law, and many older degraded sites require redevelopment.

The draft report, Strategic Plan for Providing Public Access to Maine Waters for Boating and Fishing, addresses only part of the public access issue to Maine's great ponds. The issue concerning siting of permanent or temporary public toilets is handled on a case-by-case basis by DOC or IF&W. The States Organization for Boating Access developed the report Handbook for the Location, Design, Construction, Operation and Maintenance of Boat Launching Facilities is used by the State of Maine for engineering guidelines when siting and developing boat access areas (36). There is considerable citizen concern about the lack of appropriate public access for fishing and boating to Maine's great ponds (95).

Public access planning for Maine's great ponds also needs to address the need to accommodate non-boating activities such as swimming, canoeing, wind-surfing, and day use. These varying types of activities (canoeing, swimming, walk in day use, fishing) require different types of public access facilities. For example, a great pond which is not appropriate for large boats should not have a high degree of boat landing facilities, otherwise the potential for surface-use conflict could be created. There is a need to recognize that providing a high level of public access

to certain lakes will inadvertently lead to surface-use conflicts. Low scale (eg. "carry-in-site") launch facilities may be more appropriate on smaller size great ponds and perhaps some larger lakes.

Enforcement of Land-Use and Water Quality Laws and Rules

In the organized towns, State jurisdiction generally includes a review of developments greater than 20 acres for water quality, discharge into water bodies, oversight of municipal shoreland zoning, and wildlife protection. Municipal jurisdictions cover building permits, plumbing codes, harbor masters, shoreland zoning, and local zoning. The Natural Resources Protection Act (NRPA) is administered by the DEP in organized towns. It is estimated that municipalities, through their code enforcement officers, issue permits for about 80% of the development around lakes. Enforcement of these laws and regulations in the unorganized towns is a State responsibility and administered by LURC.

During the past three years, there has been a significant amount of training of Code Enforcement Officers (CEO) by the Office of Community Development (OCD) in DECD. The upgrading of skills will lead to better enforcement of land-use and environmental codes at the local level. Because of changing regulations and changing code enforcement officers, there is a constant need for training. The OCD in DECD provides training and certifies code enforcement officers by examination of those who have participated in training classes. Currently, 500 individuals have participated in municipal code enforcement training, and 385 have been certified in at least one of these responsibilities.

LURC has an enforcement staff of four, and four field staff officers in Rangeley, Old Town, Greenville and Presque Isle.

DEP has a staff of two to implement Shoreland Zoning planning and enforcement. About 383 municipalities have adopted Shoreland Zoning into their town ordinances. DEP has had to impose the State Shoreland Zoning standards on 67 towns. Towns are required to report every two years to DEP concerning permits granted within the shoreland zone. However, less than half of the towns bother to provide their biannual reports to DEP, and many of those towns that provide reports, often provide inaccurate data. Furthermore, DEP is short staffed, leaving little time to tabulate the reports it receives. Thus, there is very poor monitoring of the enforcement of Shoreland Zoning around many great ponds. For the most part, DEP's monitoring is based upon receipt of citizen complaints. Increased staffing would provide better DEP oversite, better technical assistance and education to municipal officials.

The Maine Warden Service of IF&W is frequently called upon by citizens to investigate reported infractions of Maine's environmental laws. Maine's sportsmen feel that if the Warden Service is to carry out this role for Maine State government, the Warden Service should be expanded with monies from the General Fund.

Education

The Task Force recognizes that education is a critical tool for the sustainable use and conservation of Maine's great ponds and surrounding lands. It is very important for the users of Maine's inland fresh water resources to understand the hydrology, chemistry and ecology of this ecosystem. Education is the most effective tool available to the State of Maine to promote the proper use of Maine's lakes to maintain high water quality and shoreline character.

A number of federal agencies, State agencies and non-profit organizations produce and distribute educational materials. The Congress of Lake Associations has produced a number of effective educational books including Starting and Building an Effective Lake Association and The Lake Book (43,79). The DEP has produced a number of educational videos, booklets and brochures on land-use controls to safe guard lake water quality (31,69,70). The DEP is currently distributing existing educational brochures, but has no funding to develop new educational materials, up-grade existing materials, or reprint current educational materials. In most cases, State government is the local provider of educational materials although Regional Councils and the University of Maine Cooperative Extension are occasionally key players. Prime users of these educational materials are citizens who serve on voluntary boards such as Selectmen, Planning Board, Zoning Board of Appeal, Conservation Commissions, and Trustees of Water Districts.

DEP's Phosphorus Allocation

The DEP developed phosphorus allocations for lakes based upon modeling for lake watersheds (66). These allocations provide voluntary guidelines for municipalities planning for a 50 year build-out in the watershed. About 50 watershed plans using the phosphorus allocation methods are in existence.

In 1992, DEP updated and revised the phosphorus allocation method (DEP, 1992). Revision of the methods is a low priority. Some attention will be needed in the future to ensure adequate technical support to towns as the issue of the methodology becomes more widespread.

Substandard Wastewater Disposal Systems

Sub-standard wastewater disposal systems around great ponds contribute to the phosphorus loading of the water and lead to deteriorating water quality. However, the degree of phosphorus loading depends upon the frequency of use, proximity to the lake, and other parameters. About 5% of the phosphorus loading comes from the immediate shoreline dwellings, while 95% comes from the watershed as a whole.

Currently, no funds are available for phasing out substandard wastewater disposal systems because current bonding monies are not targeted for phasing out substandard wastewater systems. In the future, the Legislature could expand the "types of grants" made by DEP to include removal of substandard wastewater systems. The Revolving Loan Funds could be used to up-grade older substandard systems. Adequate field assessment tools are needed to develop estimates of septic field impacts on a lake specific basis. These tools should be developed for use by local officials

with State technical support. Phosphorus loading of lakes is a serious threat that must be addressed.

Maine Plumbing Code

On-site wastewater disposal systems along lake shores are regulated by the Subsurface Wastewater Disposal Rule (aka. the Maine Plumbing Code) (83). Since 1974, the Maine Subsurface Wastewater Disposal Rule has been a State mandated design standard for acceptable methods of wastewater disposal. The acid nature of the soils and the natural iron and aluminum content of the soil possibly fixes the phosphorus in wastewater in the soil at the bottom of the stone lined absorption area. An undetermined amount of phosphorus passes through to the groundwater and is eventually discharged to streams and lakes.

The Department of Human Services (DHS) has incorporated erosion controls in the subsurface wastewater disposal design standards to prevent entrapped phosphorus from being carried into waterways that can impact great ponds. DHS has worked with the Department of Environmental Protection to require that municipal shoreland zoning ordinances require controls of seasonal residences using tentage, recreational vehicles, buses, etc, with regard for wastewater disposal.

DHS is in the process of revising the Maine Plumbing Code (MPC). A number of modifications in the code will lead to enhanced water quality protection for Maine's lakes (84). DHS held a public hearings on the proposed changes to the MPC on October 24, 1994. DHS expects to have the new MPC adopted by May 1, 1995.

Exotic Plants and Animals

The introduction of alien plant and animal species into New England's lakes represents a serious threat to Maine's great ponds (85,91). The Zebra Mussel has spread from the Great Lakes into major river systems and Lake Champlain. Three species of plants (Eurasian Water Millfoil, Cabomba, and Hydrilla) pose significant threats to Maine lake water quality. Purple Loosestrife poses threats to wetlands associated with lakes.

## Recommendations

1. The Great Pond Task Force should be reauthorized by the 117th Legislature. Staffing shall be provided by the State Planning Office.

2. The Task Force should include representatives from: the State Planning Office (Chair), Department of Conservation, Department of Environmental Protection, Department of Agriculture, Food & Rural Resources, Department of Inland Fisheries and Wildlife, Department of Human Services, Department of Economic and Community Development, Department of Transportation, the Maine Municipal Association, the Maine Association of Regional Councils, the Sportsmen's Alliance of Maine, the Maine Forest Products Council, Maine Water Utilities Association, and the Congress of Lakes Association.

Public input and comments need to be solicited from sportsmen groups, sporting camp owners, marina operators, forestry landowners, the University of Maine, water utilities, environmental interests, and recreational interests.

3. The Great Pond Task Force's charges should include the following:

A. Developing **A Management Strategy** for Maine's great ponds that incorporates a watershed and eco-system management approach.

B. Identifying new major public policy issues associated with the use, conservation and management of Maine's great ponds.

C. Presenting recommendations for resolving surface use conflicts.

D. Developing a statewide classification scheme for Maine's lakes.

E. Recommending a mechanism for coordinating great pond issues that involve multi-agency roles.

F. Recommending proposals for public access and land acquisition on great ponds.

G. Recommending a mechanism for coordinating educational efforts focused on watersheds, shoreline areas, and water quality.

H. Determining the economic benefits of Maine's great ponds to Maine's inland economy.

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# CHAPTER 20

# PROTECTION OF MAINE LAKES



26

## Historical and Statutory Notes

**Codification**

Chapter 20, Protection of Maine Lakes, was enacted by Laws 1991, c. 838, § 26.

## §. 1841. Declaration of policy

Maine's great ponds are an important element of the State's economy and traditional way of life. Their abundance and relatively high water quality are precious resources in light of the growing inadequacy of water supplies and the deterioration of natural settings and habitat in many other states. The use of great ponds as a source for drinking water, recreation and power production is vital to the State.

To protect the public trust, the State's great ponds must be protected from degradation. They must be managed according to watershed boundaries, while a diversity of lake setting types within each region of the State is maintained. Potable water from the State's great ponds should require minimal treatment.

A primary goal of the protection of the State's great ponds is to ensure that consistent land use management policies and regulations are applied throughout the direct watershed of each great pond.

The State's goals in managing the surface uses of great ponds are to avoid or minimize conflicts among recreational users, energy producers, shoreland owners and other users; maintain traditional water-dependent businesses; and ensure that the intensity of use allowed on a great pond is in keeping with its capacity to accommodate that use.

1991, c. 838, § 26.





## § 1842. Great Pond Task Force

There is established, pursuant to Title 5, section 12004-I, subsection 24-C, the Great Pond Task Force, referred to in this chapter as the "task force," to coordinate the State's great pond protection efforts.

1. Composition. The task force is composed of the State Planning Director or the director's designee, who serves as chair; the Commissioner of Conservation, the Commissioner of Environmental Protection, the Commission of Transportation, the Commissioner of Agriculture, Food and Rural Resources and the Commissioner of Inland Fisheries and Wildlife or the commissioners' designees; the Director of the Division of Health Engineering within the Department of Human Services or the director's designee; the Director of the Natural Resources Center at the University of Maine or the director's designee; and 4 public members appointed by the Governor representing environmental concerns, recreational concerns, the concerns of landowners and the interests of water utilities.

2. Terms. Public members are appointed for 3-year terms, except initial terms are as follows: one public member is appointed for a one-year term; one public member is appointed for a 2-year term; and 2 public members are appointed for 3-year terms. A member may not serve more than 2 consecutive 3-year terms.

3. Duties. The task force shall:

A. In developing the management strategy as directed under section 1843, solicit input from the public, municipal officers and interested organizations;

B. Develop guidelines for state rules governing surface uses of great ponds that avoid or minimize conflicts between user groups;

C. Develop guidelines to establish a great pond classification system according to the intensity of development and use of the great pond. This system should be as consistent with the classification system used by the Maine Land Use Regulation Commission as possible;

D. Develop guidelines, recommended siting procedures and recommended standards for state construction of public access sites and recommend policies for siting permanent or temporary public toilets at boat launching facilities funded by the State;

E. Develop a plan for strengthening enforcement for violations occurring on and around great ponds through training, equipping and funding municipal enforcement. This plan must include a review of appropriate funding mechanisms, including dedicated funds, and recommendations for streamlining the enforcement process for violations occurring on and around great ponds;

F. In updating the great ponds management strategy, reevaluate the department's phosphorus allocation method and how it can be applied in the State;

G. Educate the public about activities detrimental to water quality in great ponds, including the use of lawn fertilizers and pesticides;

H. Subject to available funding, develop a plan for phasing out substandard wastewater disposal systems around great ponds pursuant to this chapter; and

I. Work with the Department of Human Services to study how to improve the removal of phosphorus in wastewater disposal systems and mechanisms to accomplish this process.

4. Repeal. This section is repealed on October 1, 1994.

1991, c. 838, § 26; R.R.1991, c. 2, § 149; 1993, c. 226, § C-2.

### Repeal

*This section is repealed on October 1, 1994, pursuant to subsection 4.*

### Historical and Statutory Notes

**Codification**

Revisor's Report 1991, c. 2, § 149, in the first (opening) par., substituted reference to § 12004-I, subsec. 24-C, of title 5 for reference to § 12004-I, subsec. 24-B of title 5.

Amendments

1993 Amendment. Laws 1993, c. 226, § C-2, added subsec. 4.

Report

Laws 1991, c. 838, § 28 provided:

"The Great Pond Task Force shall report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters on or before February 15, 1994 on its findings and recommendations under the Maine Revised Statutes, Title 38, chapter 20. The task force shall include any recommendations for legislation to further its goals.".

## § 1843. Great ponds management strategy

The task force shall develop a state great ponds management strategy in keeping with the goals of section 1841 by July 1, 1993. The strategy must be reviewed and updated at least every 5 years. The strategy must:

1. Goals. Include a statement of goals for great ponds that includes but is not limited to:

A. Maintaining water quality in the State's great ponds or, where water quality is already degraded, restoring it so that algal blooms do not occur;

B. Ensuring that water quality is protected from long-term and cumulative increases in pollution;

C. Maintaining the ecological functions, biological diversity and important habitat of the natural ecosystem;

D. Avoiding the increase of natural hazards such as flooding;

E. Protecting the quality of drinking water;

F. Maintaining the traditional use and character of great ponds and their environs; and

G. Ensuring that the public can gain reasonable access to all great ponds.

2. Prevention efforts. In allocating state resources for great ponds management, give priority to preventing the deterioration of water quality over restoration efforts; and

3. Research. Include a research plan to determine significant existing or potential threats to water quality and other special values.

4. Repeal. This section is repealed on October 1, 1994.

1991, c. 838, § 28; 1993, c. 226, § C-3.

Repeal

*This section is repealed on October 1, 1994, pursuant to subsection 4.*

Historical and Statutory Notes

Amendments

1993 Amendment. Laws 1993, c. 226, § C-3, added subsec. 4.