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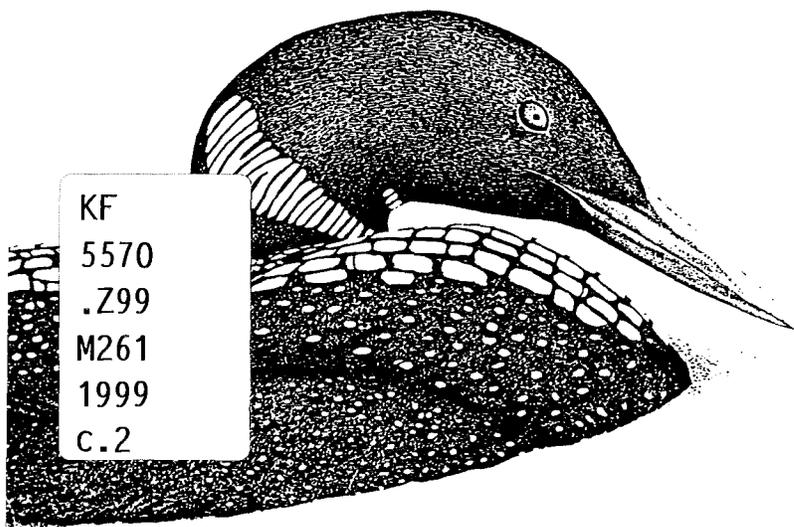
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# Great Pond Task Force

## Final Report



March 1999

Prepared by  
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## Acknowledgments

The Great Pond Task Force thanks Hank Tyler and Mark DesMeules for the staffing they provided to the Task Force. Aline Lachance provided secretarial support for the Task Force.

The Final Report was written by Hank Tyler. Principal editing was done by Mark DesMeules. Those offering additional editorial and layout assistance/input include: Jenny Ruffing Begin and Liz Brown. Kevin Boyle, Jennifer Schuetz and Jeffery S. Kahl of the University of Maine prepared the economic study, Great Ponds Play an Integral Role in Maine's Economy. Frank O'Hara of Planning Decisions prepared the Executive Summary. Larry Harwood, Office of GIS, prepared the maps.

In particular, the Great Pond Task Force appreciates the effort made by all who participated in the public comment phase of the project.

D.D.Tyler donated the artwork of a Common Loon (*Gavia immer*). Copyright Diana Dee Tyler, 1984.



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DIRECTOR

March 1999

Dear Land & Water Resources Council:

Maine citizens have spoken loud and clear to the Great Pond Task Force about the problems confronting Maine's lakes and ponds. Over 1,000 citizens and summer residents either attended our public meetings or sent correspondence documenting the issues facing Maine's Great Ponds. Citizens want an increase in State funding for water quality protection, and an increase in regulations and enforcement of watercraft laws.

The Great Ponds of the State of Maine are a very significant economic asset. The State of Maine owns the waters of Great Ponds and the submerged lands under the Great Ponds. These waters provide outstanding recreational and year round living opportunities. The economies of dozens of Maine's towns are directly connected to lakes. Year round living on the shore of a Maine lake is a way of life for many people. Owning or renting a summer camp on a Maine lake is a long standing tradition.

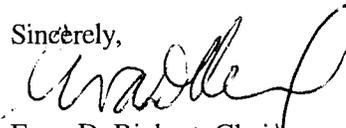
The net economic value of Maine's Great Ponds is \$6.7 billion dollars. The total direct expenditures by lake users are estimated to be \$1.8 billion annually resulting in over \$2.8 billion in total economic activity. This economic activity associated with Great Ponds leads to over \$1.2 billion in annual income for Maine residents and supports over 50,000 jobs. Nonresident activities associated with Great Ponds bring in \$300 million in new money into the State of Maine each year.

The Task Force has worked very hard to offer a fair and balanced set of recommendations to you on behalf of the citizens of Maine. Implementation of the Task Force's recommendations in this Final Report follows two paths: Senator Sharon Treat of Kennebec County introduced legislation containing most of the recommendations requiring legislative action; the Task Force recommends by resolve that the Land and Water Resources Council oversee the coordination of this Final Report.

The challenge before the State of Maine is to enhance the management of its Great Ponds by resolving existing conflicts, balancing a number of competing uses, protecting and restoring water quality, educating the public, and ensuring that our existing laws are adequately enforced.

I am pleased to present you with this forward looking Final Report to manage Maine's Great Ponds well into the next millennium.

Sincerely,



Evan D. Richert, Chairman  
Great Pond Task Force



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# Executive Summary

A “Great Pond” is, quite simply, a *lake*. The term “Great Pond” was part of Maine’s colonial law heritage, and it is still in Maine law books today. Legally speaking, a Great Pond is a natural lake of more than 10 acres or an impounded lake of more than 30 acres.

There are over 2,800 Great Ponds in Maine covering slightly less than *a million acres*. This is a little less in area than Cumberland and York Counties combined.

The largest Great Ponds are Moosehead Lake near Greenville and Sebago Lake in Cumberland County. Both offer excellent *recreational boating and fishing*. Other good lakes for recreational boating include Rangeley and Mooselookmegunticook Lakes in Franklin County, the Grand Lakes in Washington County, Cobbosseecontee and China Lakes in Kennebec County, and Damariscotta Lake in Lincoln County. Some of the best recreational canoeing can be found on the eight lakes of the Allagash Wilderness Waterway in Aroostook County and on Attean Pond near Jackman.

Maine’s lakes also have practical *economic value*. More than 600,000 individuals and about 15,000 businesses get their drinking water from 50 Maine lakes. Nearly a half million people attend a lakeside summer camp or stay at a lakeside summer home each year. Untold thousands more swim, fish, boat, and hunt on Maine lakes. Economic activity associated with lakes leads to over \$1.2 billion in annual income for Maine residents and supports over 50,000 jobs. In all, an estimated \$1.8 billion a year is spent on lake-related uses, or about 5% of Maine’s entire gross economic product. The spending of nonresidents alone adds more than 8,500 jobs to Maine’s economy — the rough equivalent of another Bath Iron Works.

But lakes have more than economic value. They are part of the *identity* of Maine itself. Henry David Thoreau, on his trip to Katahdin in 1846, had this to say: “The lakes are something which you are unprepared for: they lie up so high exposed to the light, and the forest is diminished to a fine fringe on their edges, with here and there a blue mountain, like amethyst jewels set around some jewel of the first water...” The emotion has been shared by generations since.

Yet Maine’s lakes face growing problems. Fifty lakes have severe *pollution and algal blooms*, and are sometimes called “green lakes.” Another approximately 200 lakes and ponds have *declining water quality* which affects swimming and fishing activities. These lakes are classified as “Lakes Most at Risk from New Development” by the Maine Department of Environmental Protection (DEP).

The use of motorized boats and personal watercraft is increasing every year. There are now 60,000 boats registered for use on Maine lakes, some of which create problems of *noise and safety* for humans and wildlife alike.

“No trespassing” signs have become a more common sight in recent years, and as a result the traditional open *access to Maine lakes is being diminished*.

As these problems have grown, the *capability of state government to protect lakes has declined*. To give one example, the number of wardens enforcing boating and fishing regulations has been authorized at 124 for many years while the number of work tasks for wardens has increased.

To deal with these issues, the Maine Legislature set up the Great Pond Task Force in 1995. They asked the Task Force to look at the big picture, to determine what can be done to update Maine’s lake-related efforts.

The Task Force held eight public meetings from Rangeley to Machias. One thousand citizens attended the hearings; 175 testified; 367 submitted letters; and 446 responded to a written questionnaire.

The issue of personal watercraft was raised with the greatest frequency and intensity. Four out of five questionnaire respondents wanted to limit the use of “personal watercraft” on specific lakes; three out of four favored a “Quiet Waters Initiative” to designate certain lakes to be free of any and all gas-powered motors.

*Water quality* was also a major concern. Five out of six who responded to the questionnaire supported the revitalization of the “Lakes Program” at the Maine Department of Environmental Protection to promote clean lake water. Seven in ten favored raising the boat registration fee to support the effort. Virtually everyone favored more boating education.

The Task Force listened and weighed the public’s comments, then developed 34 recommendations. The 118th Legislature enacted 15 of the recommendations into law. The following is a summary of the major laws enacted:

**1) That water quality be improved by:**

- a) increasing staffing and project funding of the **Lakes Program** within the Department of Environmental Protection to enforce existing laws, provide assistance to lake associations and volunteer monitors, recommend new standards and laws, and coordinate efforts with local governments;
- b) expanding the “no trespassing zone” around the public water supply intakes from 200 to 400 feet;

**2) That noise and safety hazards from watercraft use be reduced by:**

- a) establishing noise limits for all motorized watercraft;
- b) prohibiting the use of personal watercraft on 245 Great Ponds within the jurisdiction of LURC (Land Use Regulation Commission)
  
- c) providing municipalities a two year period to recommend regulations for the use, operation and type of watercraft on Great Ponds in organized townships or partially within the jurisdiction of LURC. Municipalities must hold a public hearing and provide a description of municipal resources to enforce the recommended regulations. Municipalities forward their recommendations to the Commissioner of IF&W who then submits two reports and draft legislation to the Legislature in 1999.

**3) That Great Pond related activities be paid for through a special fund:**

A Lakes Heritage Fund to support State related projects and activities was established at the State Planning Office under the control of the Land and Water Resources Council. To date no funds have been allocated to the Lakes Heritage Fund.

Fourteen final recommendations and one resolve remain to be implemented. The following is a summary of the major final recommendations:

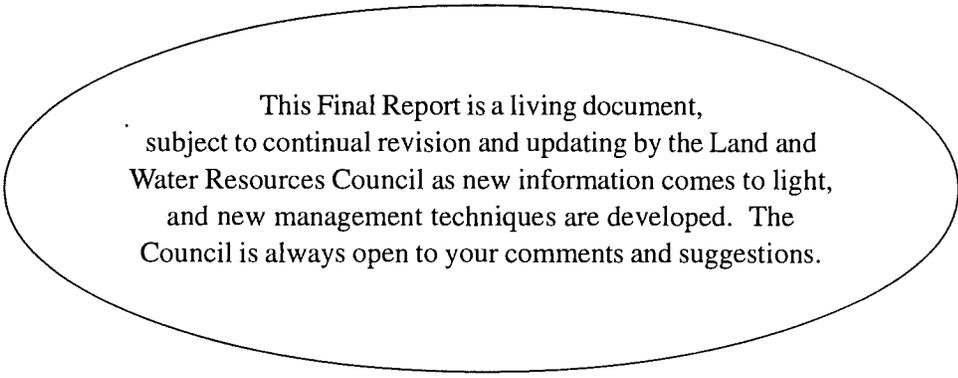
**4) That the Land and Water Resources Council coordinate the implementation of the Final Report.**

The Land and Water Resources Council is a cabinet level group whose membership includes the State Planning Office Director and the Commissioners of Conservation, Economic and Community Development, Environmental Protection, Inland Fisheries and Wildlife, Marine Resources, Agriculture, Transportation, and Human Services.

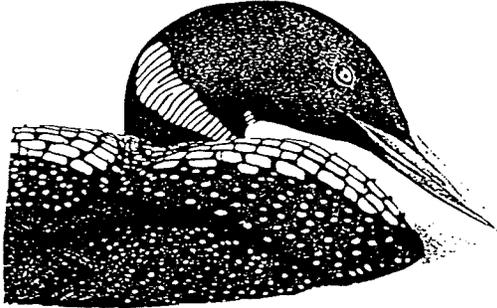
**5) That water quality be improved by better training and increasing hours of operation for local code enforcement officers in lakeside communities.**

**6) That safety hazards from watercraft be reduced by developing and promoting a code of conduct for safe and courteous boating; and**

**7) That a Watercraft Enforcement Fund be established to support watercraft enforcement efforts at the State and local level.**

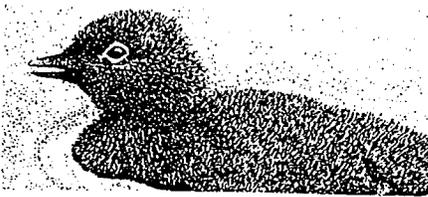


This Final Report is a living document, subject to continual revision and updating by the Land and Water Resources Council as new information comes to light, and new management techniques are developed. The Council is always open to your comments and suggestions.



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# Part I The Great Pond Task Force



## Chapter I

### Great Pond Task Force

#### **Origins and Mandate of the Great Pond Task Force**

The Great Pond Task Force came into being in response to recognition that Great Ponds hold tremendous economic value and that, due to a level of neglect on the part of the State of Maine, citizens risked losing this value. During the past decade, reports have indicated that there are serious problems with Maine's Great Ponds. Water quality is declining, and surface-use conflicts are increasing.

In 1996, the University of Maine conducted a study of the economic activities associated with Maine's Great Ponds. This study, Great Ponds Play an Integral Role in Maine's Economy by Kevin Boyle, found that Great Ponds make a very significant contribution to Maine's inland economy (Boyle et al., 1997). Boyle reported:

- ◆ The total direct expenditures by lake users are estimated to be \$1.8 billion annually.
- ◆ \$1.8 billion in direct expenditures results in over \$2.8 billion in total economic activity.
- ◆ \$300 million in new money is brought into the state economy each year by nonresidents.
- ◆ The economic activities associated with lakes leads to over \$1.2 billion in annual income for Maine residents and supports over 50,000 jobs.

- ◆ Nonresident share of sales provides nearly \$200 million in income and over 8,500 jobs.
- ◆ In terms of the total number of jobs, nonresident expenditures support an approximate equivalent to Bath Iron Works.
- ◆ The net economic value of Maine's Great Ponds is \$6.7 billion.

Maine's Great Ponds are an important economic asset for the State and the communities in which they are located. Lands around many Great Ponds continue to be developed into camp or residential lots. The value of lake front land has soared over the years and tax assessments on lake front properties provide significant revenue for many Maine communities. In some towns, the value of waterfront property accounts for more than one-half of the town's assessed property value. In the town of Rome in the Belgrade Lakes Region, properties with lake frontage comprise about 68% of the total valuation. In the town of Otis, in Hancock County, more than 85% of the town valuation consists of properties on Great Ponds.

Maine's Great Ponds provide outstanding recreational opportunities for Maine residents and visitors (Maine Department of Conservation, 1993). There is a strong tradition of canoeing, camping and fishing on Maine's Great Ponds in northern Maine (Wilson and Hayes, 1995). The Allagash Wilderness Waterway and the Moose River Bow Trip are examples of Great Ponds connected by a river which provide outstanding wilderness canoeing experiences. Over fifty traditional sporting camps are located on remote lakes in northern Maine, and about one hundred summer camps for children are located on Great Ponds in central and southern Maine. Great Ponds have long been popular destinations for camping, fishing, water skiing, swimming, hunting, nature appreciation and recreational boating activities.

Much of Maine's inland tourism industry is centered around Great Ponds. For instance, the towns of the Belgrade Lakes Region in central Maine rely on seasonal homes and camp rentals on Great Ponds for their summer tourist business. Expenditures associated with freshwater sport fisheries, hunting and wildlife associated recreation totaled \$750 million in 1996. Total economic output from these recreationalists is estimated at \$1.1 billion (Teisl and Boyle, 1998).

For the past decade, Maine State government has studied a variety of lake policy issues. The 113th Legislature created the Special Commission on Boating which met from 1988 to 1989, and submitted its report containing 18 recommendations to the 114th Legislature (Maine Special Commission on Boating, 1989). The Commission on Maine Lakes was established by the 114th Legislature in 1989 (Resolve, Chapter 100, 1989). The primary focus of the Commission was to undertake a study of the threat of phosphorus to lake water quality and public water supplies. The Commission met from 1989 to 1990, and submitted its report containing 30 findings to the 115th Legislature on January 28, 1991 (Commission on Maine Lakes, 1991). A Great Pond Management Policy and Strategic Planning Process were proposed. In addition, the Commission recommended six objectives with a total of 40 recommendations. One recommendation was to establish the Great Pond Task Force.

The Great Pond Task Force was established by the 115th Legislature in 1991 to develop and assist in the implementation of a Great Pond Management Strategy for the State

of Maine. The Task Force convened in the fall of 1994. An Interim Report of the Great Pond Task Force was submitted in 1994 to the 116th Legislature (Maine State Planning Office, 1994). The Great Pond Task Force was re-established by the 117th Legislature in 1995 (Appendix A). The specific duties assigned to the Great Pond Task Force are found in Title 38 MRSA § 1842-A (3) as follows:

- A. In developing the management strategy as directed under § 1843-A, solicit input from the public, municipal officers and interested organizations;
- B. Identify new major public policy issues associated with the use, conservation and management of the State's Great Ponds;
- C. Develop guidelines for State rules governing surface use of Great Ponds that avoid or minimize conflicts between user groups;
- D. Develop a Great Pond Classification system according to the intensity of development and use of the Great Pond, consistent with the classification system used by the Maine Land Use Regulation Commission;
- E. Develop an implementation strategy for public access and land acquisition on Great Ponds;
- F. 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;
- G. Recommend a mechanism for education of the public about water quality, surface use, and land use planning;
- H. Subject to available funding, develop a plan for phasing out substandard wastewater disposal systems around Great Ponds pursuant to this chapter;
- I. Recommend a mechanism for coordinating Great Pond issues that involve roles of multiple agencies within State government and between State and local governments; and
- J. Determine the economic benefits of Great Ponds to the State's inland economy.

Title 38 MRSA § 1843A, Great Pond Management Strategy detailed the following: The Task Force shall develop a State Great Pond Management Strategy in keeping with the goals of section 1841 by January 1, 1997.

1. Goals. The strategy must 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 habitats 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 has reasonable access to all Great Ponds.
2. Prevention efforts. In allocating State Resources for Great Ponds management, the strategy must give priority to preventing the deterioration of water quality over restoration efforts.
  3. Research. The strategy must include a research plan to determine significant existing or potential threats to water quality and other special values.

## The Great Pond Task Force Makeup and Process

Diverse interests were represented on the Great Pond Task Force through agency representatives including: State Planning Office (SPO), Department of Conservation (DOC), Department of Environmental Protection (DEP), Department of Inland Fisheries and Wildlife (IF&W), Department of Agriculture (DOA), Department of Transportation (DOT), Department of Economic and Community Development (DECD), and the Department of Human Services (DHS).

Governor King appointed 14 public members representing: Maine Marine Trade Association, Maine Forest Product Council, Small Woodland Owners Association, University of Maine, Sportsman's Alliance of Maine, Maine Youth Camping Association, Maine Sporting Camps Association, Maine Bass Federation, Trout Unlimited, Maine Congress of Lake Associations, Lakes Environmental Association, Maine Municipal Association, Portland Water District, and Penobscot Nation.

The Great Pond Task Force convened fifteen public sessions from December 1995 to January 1997 to analyze and discuss issues confronting Maine's lakes and ponds. At each public meeting, citizens were given an opportunity to provide input and express their concerns about Great Pond issues. To the degree possible, the Task Force meetings were run on a consensus basis. By July 1996, the Task Force had compiled 35 preliminary recommendations. In August and September of 1996, the Task Force held public meetings in Rangeley, Belgrade, Greenville, Windham, Portland, Orono, Presque Isle, and Machias. The purpose of these informational meetings was to present the 35 preliminary recommendations and to solicit comments from the public.

During the public comment period, 175 people testified at the public meetings, 367 letters were received and 446 questionnaires were completed and submitted. Eight editorials appeared in Maine papers, and one editorial was broadcast on radio. In addition, over 140

letters were submitted to the Task Force in 1996. Summaries of public testimony, correspondence, as well as editorials are presented in Appendix B.

In February, 1997, the Great Pond Task Force revised the recommendations addressing a range of issues from water quality to watercraft to the following 34 recommendations and one resolve.

## Recommendations and Resolves

### Water Quality

1. Re-establish the Lakes Program at DEP with a minimum staffing of seven. One focus of the Lakes Program shall be on linking private and public efforts, and hiring a State Lakes Education Coordinator. *(118th Legislature enacted this recommendation: \$451,516 annual appropriation).*
2. Ensure the maximum environmental and public health protection for Great Ponds that serve as public water supplies by all State agencies.
3. Increase the no trespass zone around the in-takes to a public water supply to 1,000 feet. A process establishing agreements regarding existing uses within 1,000 feet of all existing in-takes shall be developed by the DHS-Health Engineering. *(118th Legislature enacted this recommendation: no trespass zone expanded to 400 feet).*
4. Design new public boat launching sites, and retrofit some of the existing public boat launching sites located on Great Ponds that serve as a public water supply to afford the highest level of water quality protection.
5. Develop and implement an educational program to reduce the potential of introducing exotic aquatic plants and animals into Maine's Great Ponds.
6. Establish an administrative procedure for the revocation of a Code Enforcement Officer's certification when there are documented cases of a CEO failing to carry out his/her authority to enforce existing laws.

### Watercraft

7. Establish a maximum sound level of 78 dB @ 50 feet as measured on the A scale for motorized watercraft. 82dB shall apply to all motors purchased prior to the 78 dB date of adoption. *(118th Legislature enacted this recommendation).*
8. Prohibit tampering with or modifying the exhaust or muffler system of a watercraft that would result in an increased sound. *(118th Legislature enacted this recommendation).*
9. Require operators of watercraft to utilize factory installed safety features provided by the manufacturer.
10. Propose horsepower and watercraft type restrictions, on a pond by pond basis, for "special lakes and ponds" listed in the State Planning Office's report Maine's Finest Lakes and reports by the Department of Conservation and Department of Inland Fisheries and

Wildlife. The Land and Water Resources Council shall review the proposed list of Great Ponds and seek legislative action.

11. Expand the rulemaking authority of the Commissioner of IF&W (Title 12, Sec. 7792 Subsection 4) to consider horsepower and/or watercraft type limitations for Great Ponds or sections of Great Ponds to include the following: 1) environmental concerns including noise, 2) wildlife values, 3) speed, and 4) traditional use.

12. Create an opportunity for the Maine Indian Tribal-State Commission to arrive at its own recommendations with respect to the surface-use of Great Ponds within Indian Territory. *(118th Legislature enacted this recommendation).*

13. Manage Great Ponds at Acadia National Park in a manner consistent with the purposes for which the park was established. The following actions shall be implemented to protect the special qualities and values of Great Ponds within Acadia National Park.

A. Personal watercraft shall be prohibited on Eagle Lake and Jordan Pond.

B. Internal combustion engines shall be prohibited at Upper Hadlock Pond, Lower Hadlock Pond, Witch Hole Pond, Aunt Betty's Pond, Bubble Pond, Round Pond and Lake Wood.

C. The Department of Inland Fisheries and Wildlife, in consultation with the National Park Service, affected towns and local residents, shall resolve surface-use issues on a case-by-case basis for those Great Ponds bordering Acadia National Park.

D. The National Park Service shall cooperate with the Department of Inland Fisheries Wildlife and Department of Environmental Protection to resolve future environmental or social issues on Great Ponds at Acadia National Park. *(118th Legislature enacted a portion of this recommendation: internal combustion engines are prohibited on Witch Hole Pond, Aunt Betty's Pond, Bubble Pond, Round Pond and Lake Wood. Upper and Lower Hadlock Ponds are limited to 10 horsepower or less).*

14. Grant limited liability to incorporated lake associations or other incorporated associations for placing navigational aid markers in Great Ponds. *(118th Legislature enacted this recommendation).*

15. Establish a licensing program for vendors who rent recreational motorized watercraft including personal watercraft. Commercial sporting camps shall be exempt from this licensing program. *(118th Legislature enacted this recommendation for vendors who rent personal watercraft).*

16. Assign the task of Surface-Use Coordinator in the Department of Inland Fisheries and Wildlife to oversee surface-use programs on inland waters.

17. Require mandatory water safety education for people ages 12 to 16 to operate motorized watercraft of 10 horsepower or greater. *(118th Legislature required IF&W to report back to the 119th Legislature on an education and safety training program for motorboat operators on inland waters).*

18. Develop and promote an official Code of Conduct for safe and courteous boating in Maine.

19. Increase the fines from \$100 to \$500 for violations of watercraft safety laws and make the fines nonsuspendable.

### **Personal Watercraft**

20. Increase the minimum age to operate a personal watercraft on State waters to 16 years of age. *(118th Legislature enacted this recommendation).*

21. Prohibit wake jumping while operating a personal watercraft. *(118th Legislature enacted this recommendation).*

22. Update the legal definition of personal watercraft to read “any watercraft 14 feet in length or less, using an inboard motor powering a jet pump as its primary source of power, and designed to accommodate persons sitting, standing or kneeling on the watercraft.” *(118th Legislature enacted this recommendation).*

23. Require personal watercraft to display an educational decal approved by the Department of Inland Fisheries and Wildlife. The decal shall list relevant boating laws and courtesies.

24. Prohibit personal watercraft on Great Ponds entirely within the jurisdiction of LURC unless specifically allowed by LURC. *(118th Legislature prohibited personal watercraft on 245 water bodies).*

25. Prohibit personal watercraft on Great Ponds under 200 acres not wholly enclosed within the jurisdiction of LURC, provided that this limitation will not take effect until a two year grace period has passed during which time citizens may petition the Department of Inland Fisheries and Wildlife to modify or repeal this restriction for a specific Great Pond. A petition to modify the restriction, may without limitation address such factors as: 1) time of use, 2) designated areas, and 3) a regional basis involving two or more Great Ponds that are perceived as an interrelated recreational resource. The Department of Inland Fisheries and Wildlife with the assistance of the State Planning Office and the Land and Water Resources Council shall develop a plan to implement the petition process and a possible fee structure to address costs associated with this process.

### **Funding**

26. Establish a Lakes Heritage Fund, a dedicated fund to be administered by the Land and Water Resources Council, using the Great Pond Strategic Management Plan and the recommendations contained therein as its guide in the allocation of future funds. Authorize the fund to accept dollars through grants, contracts, gifts and other sources of funding. *(118th Legislature enacted this recommendation).*

27. Establish a Watercraft Enforcement Fund to be administered by the Department of Inland Fisheries and Wildlife to be used in support of boating enforcement including Harbor Masters, education, safety, and the administration of the expanded rulemaking authority by the Commissioner of Inland Fisheries and Wildlife.

28. Increase the boat registration fee from \$4.00 to \$15.00 (this increase to be applied only to the first boat in the case of commercial, multiple ownership). *(118th Legislature enacted the following fees: \$6.00 for 10 horsepower or less, \$10 for 11 to 50 horsepower, \$15 for 51 horsepower or greater, and \$20 for personal watercraft).*

29. Increase the real estate transfer tax from \$4.40 per \$1,000 to \$4.84 per \$1,000. The real estate transfer tax increase shall apply only to those transfers entirely within Great Pond watersheds. These funds shall be dedicated revenues to support boating enforcement, education and safety on Maine lakes and to ensure the future water quality of this significant recreational and economic resource. The funding shall be split with 70% to the Watercraft Enforcement Fund, to be administrated by the Department of Inland Fisheries and Wildlife and 30% to revitalize the Lakes Program at the Department of Environmental Protection. The Department of Inland Fisheries and Wildlife shall work with the Department of Marine Resources to determine the percentage which shall go to Marine enforcement.

30. Establish a mandatory, one time fee of \$10.00 for canoes, kayaks, sailboards, sailboats and rowing craft. The fee shall be collected at the point of sale. The fee shall be divided two ways: \$1.00 to the municipality; \$9.00 to the Lakes Heritage Fund with automatic coverage of the Lakes Program (depending on registration and real estate transfer tax revenues) but not to exceed the requested \$451,516 for this program. The use of remaining funds shall be decided by the Land and Water Resources Council.

31. Establish an annual \$10.00 water quality impact fee on residential dwelling units on parcels wholly or partially within the shoreland zone of a Great Pond. The fee shall be divided three ways: \$3.00 going to the municipality for code enforcement training and education using guidelines established by the Land and Water Resources Council; \$1.00 to the municipality collecting the fee to cover the cost of administration; \$6.00 to the Lakes Heritage Fund with automatic coverage of the Lakes Program (depending on registration and real estate transfer tax revenues) but not to exceed the requested \$451,516 for this program. The use of remaining funds shall be decided by the Land and Water Resources Council.

32. Allocate penalties levied by DEP for violations of laws related to Great Ponds to the Maine Lakes Heritage Fund.

33. Develop a matching grant program to provide funding for expansion of local planning and ordinance development, and CEO lake protection activities in municipalities for "Lakes Most at Risk from New Development."

### **Overseeing Implementation**

34. Direct the Land and Water Resources Council to oversee the implementation of the Great Pond Task Force's Strategic Management Plan and Recommendations. A Great Pond Subcommittee, having broad representation, shall be established and shall meet semiannually.

### **Resolve**

1. Establish a Priority Watershed Program at the Department of Environmental Protection which includes the elements listed in Appendix C. *(118th Legislature enacted this recommendation; June 1998 citizens voted \$500,000 in bonding).*

## Need for the Final Report

Concern has been building for several years over the lack of attention given to lake management. Intensive residential and commercial development of Great Pond watersheds and an increased use of Great Ponds for recreation contribute to pollution of lake water, loss of traditional character, decline in fisheries and wildlife habitat and a loss of the intangible sense of place associated with many Great Ponds.

Compared to coastal waters, rivers or streams, Maine's lakes and ponds are more sensitive to disturbance by nutrients and other pollutants because lakes and ponds are relatively closed systems with a very low rate of flushing. During the past several decades, conflicts and problems have developed concerning water pollution, water quality, shoreland use, public access, surface-use, personal watercraft, noise, boating enforcement, water levels, and land use issues. Citizens indicate that approaches must be found to balance these competing uses on the sensitive waters of Maine's Great Ponds.

Expanded real estate development and conversion of summer camps to year round residences threaten the water quality of many lakes. There are 243 lakes and ponds (not all of which are Great Ponds) totaling 239,910 acres that meet only partial attainment of the State's Water Quality Classification of "A" for lakes (Maine Department of Environmental Protection, 1996).

Many of these lakes are also on the Department of Environmental Protection's (DEP) "Lakes Most at Risk from New Development" list, which identifies lakes projected to have declining water quality due to development. More than 50 of the "Lakes Most at Risk from New Development" have obviously impaired water quality. The State of Maine needs to give priority to protecting the water quality of Maine's lakes in order to protect lakeshore property values. For example, a study of the effect of water quality on lake front real estate prices, found that improvements in lake water clarity directly increases property values (Michael et al., 1996).

The Task Force identified a number of pressing issues requiring attention. These issues include the need for watercraft regulations, the use of personal watercraft, loud noise from motorized watercraft, increased watercraft enforcement needs, funding for the Lakes Program at DEP and the need to designate some Great Ponds as "Quiet Waters."

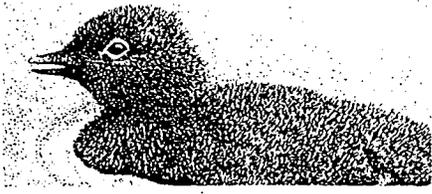
In 1996, the Department of Environmental Protection issued the final report of the Maine Environmental Priorities Project which ranked protection of surface-waters and freshwater ecosystems, including Great Ponds, as high priority (Maine Department of Environmental Protection, 1996A). This high priority ranking was based upon:

- ◆ The sprawling pattern of development
- ◆ Problems associated with nonpoint pollution
- ◆ Increasing use of Maine's inland waters for development and recreation
- ◆ Fragmentation of riparian habitat
- ◆ Chemical and biological contamination

- ◆ The value of the water resource to the State
- ◆ The fact that water bodies are interconnected through water flows
- ◆ The potential for the accumulation and redistribution of toxic contaminants in biota and sediments.

There is a need for increased public land holdings around Great Ponds to provide public access for a wide variety of recreational uses. Traditional access to many Great Ponds is being lost at a rapid rate to gated roads, developed property or the posting of “no trespassing” signs by landowners.

Since 1991, State funds allocated to Great Pond management efforts have been reduced. Over the past seven years, Maine State government has reduced staff at the Department of Environmental Protection, and the Department of Conservation. In response to cutbacks, DEP reassigned staff of the Lakes Program and reduced efforts to monitor the water quality of Maine’s Great Ponds. The Legislature has not allocated funds to the Lake Restoration Fund, which is to be used to correct and prevent pollution problems in Maine lakes, or the Lakes Environmental Protection Fund which was devoted to increasing local code enforcement capability. The number of IF&W wardens is authorized at 124 positions by the Legislature. Because the number of wardens has not increased over the years, the Warden Service has not been able to expand their coverage for more boating law enforcement. The State of Maine needs to increase funding to improve State management of its valuable lake resources. Citizens identified a number of “needs” to solve existing problems on Great Ponds (Appendix D).



## Chapter 2

### The Maine Perspective on Great Ponds

#### Historical Perspective on Maine's Great Ponds

Lakes and ponds have played a significant role in the development and economy of inland Maine. In the 1800s, lakes and ponds provided water to drive logs down small rivers and streams to major rivers. In the late 1800s to 1920s, grand hotels were built along Maine lakes to serve summer tourists coming to vacation in Maine. By the 1920s, small private homes and camps were being constructed on the shores of many lakes and ponds. Many Maine families built summer camps on the shores of Maine's lakes and ponds. During the real estate boom of the 1980s, a significant amount of lake shorefront property was subdivided and developed for year round homes and seasonal camps. Today many seasonal camps are being converted to year round residences.

Several studies have emphasized the natural resource values and the economic values of Great Ponds, and during the last fifteen years State agencies have inventoried, studied, and developed initiatives to manage the State's lakes and ponds. The list below summarizes these recent efforts:

- ◆ Maine's Finest Lakes, The Results of the Maine Lakes Study, Drew Parkin, Land & Water Associates et al. for the Maine State Planning Office, Critical Areas Program, Planning Report No. 90, Augusta, ME 1989;
- ◆ An Evaluation of Lake Scenic Quality in Maine's Organized Towns, Drew Parkin and John Lortie, Maine State Planning Office, Critical Areas Program, Planning Report No. 89, May 1989, Augusta, ME;
- ◆ Maine Wildlands Lake Assessment, Findings, June 1, 1987, Maine Department of Conservation, Land Use Regulation Commission, Augusta, ME 1987;
- ◆ Scenic Lakes Character Evaluation in Maine's Unorganized Towns, prepared for Maine Department of Conservation and Maine State Planning Office, Jody Jones and Holly Dominie, Critical Areas Program, Planning Report No. 82, December 1986, revised December 1987, Augusta, ME;
- ◆ Maine Lakes Management Strategy, Maine Department of Environmental Protection, 1986;
- ◆ A Comprehensive Strategy for Lake Management in the Unorganized Territory, Orlando E. Delogu, for Maine's Water Resources Program, December 1980;

- ◆ Phosphorus Control Methodology, Maine Department of Environmental Protection. 1992, Augusta, ME; and
- ◆ Great Ponds Play An Integral Role in Maine's Economy, Kevin Boyle, Jennifer Schuetz, and Jeffery S. Kahl. University of Maine, 1997, Orono, ME.

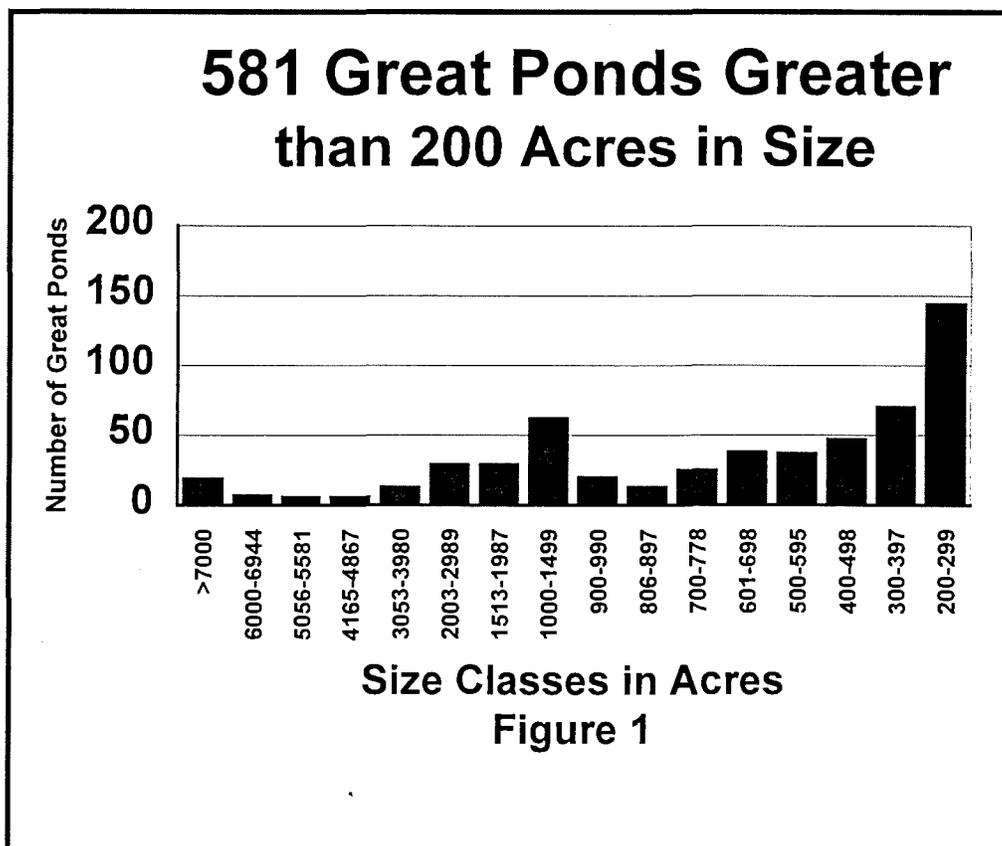
A chronology of notable actions by the Legislature and State agencies relating to Maine's Great Ponds beginning in 1980:

- 1980s - LURC conducted the "Wildlands Lake Study"
- 1980s - State Planning Office conducted statewide lake study
- 1980s - State Planning Office identified scenic lakes and inland sand beaches
- 1988 - Municipal Code Officer Training and Certification Program created
- 1988 - Comprehensive Planning and Land Use Regulation Act adopted and Community Planning Program created
- 1990 - LURC adopted lake rules
- 1991 - DEP reduced staffing of the Lakes Program
- 1991 - The Legislature zero funded the Lakes Restoration Fund
- 1991 - Comprehensive Planning and Land Use Regulation Act amended to require municipal Comprehensive Planning protection of Great Pond water quality from cumulative impacts of development
- 1992 - DEP issued phosphorus control guidelines
- 1993 - The Legislature eliminated many State responsibilities at DEP concerning dams
- 1994 - State of Maine issued Fish Consumption Health Advisories
- 1995 - DOC eliminated two positions with the Boating Facilities Program
- 1996 - The Maine Environmental Priorities Project identified freshwater ecosystems and surface-waters (lakes & ponds) as high priority
- 1996 - IF&W reorganized the Boating Educational staff
- 1996 - DEP issued a listing of 243 lakes "at risk" due to development
- 1996 - LURC voted to protect five special trout ponds north of Baxter State Park
- 1996 - The Legislature granted towns a mechanism to withdraw from Watershed Districts
- 1997 - LURC issued its Revised Comprehensive Plan

## The Distribution and Character of Great Ponds

Glacial action created the depressions that filled with water to form Maine's 5,000 lakes and ponds. The elongate shape and north/south orientation of many lakes indicate the direction of the movement of the glacial ice. An impressive diversity of lakes and ponds are found in Maine. For example, deep, cold water lakes support excellent trout and salmon fisheries in northern and western Maine. Shallow, warm lakes support outstanding bass populations in central and southern Maine. Many of Maine's lakes and ponds support nesting loons. Maine lakes are known for their high water quality, high quality fisheries, and substantially undisturbed habitats. The undeveloped and pristine lakes in Maine's North Woods are a unique resource of national significance. Maine's Finest Lakes identifies and describes the most outstanding lakes in Maine (Maine State Planning Office, 1989).

There are over 2,800 Great Ponds covering 983,883 surface acres which is 5% of the State of Maine. The twenty largest Great Ponds in the State cover 327,584 acres or one-third of the surface area of all Maine's lakes and ponds. There are 581 Great Ponds over 200 acres in size (Figure 1). They cover a total of 884,376 acres which is 90 % of the surface water. Appendix E presents a summary of Great Pond size class distribution.



Great Ponds are distributed unevenly over the Maine landscape. Clusters of lakes are found in the Sebago Lake Region, Rangeley Lakes Region, Belgrade Lakes Region, north-central Washington County and northern Piscataquis County. There are relatively few Great Ponds along the coast. On the other hand, most towns have at least one Great Pond.

The two largest lakes in Maine; Moosehead with 74,890 acres and Sebago with 28,771 acres, comprise about one-tenth of the State's lake surface water, and offer outstanding recreational opportunities. Other large lakes offering outstanding recreational boating include: Mooselookmegunticook Lake (16,300 acres) in Oxford County, East Grand Lake (16,070 acres) and West Grand Lake (14,340 acres) in Washington County, Great Pond (8,239 acres) in Kennebec County, and Schoodic Lake (7,168 acres) in Piscataquis County.

The Rangeley Lakes Region consists of a unique set of large lakes at a relatively high elevation in Maine: Mooselookmegunicook (16,300 acres), Richardson Lake (7,100 acres), Rangeley Lake (6,000 acres), Aziscohos (6,700 acres) and Umbagog Lake (7,550 acres, of which 3,318 acres are in Maine).

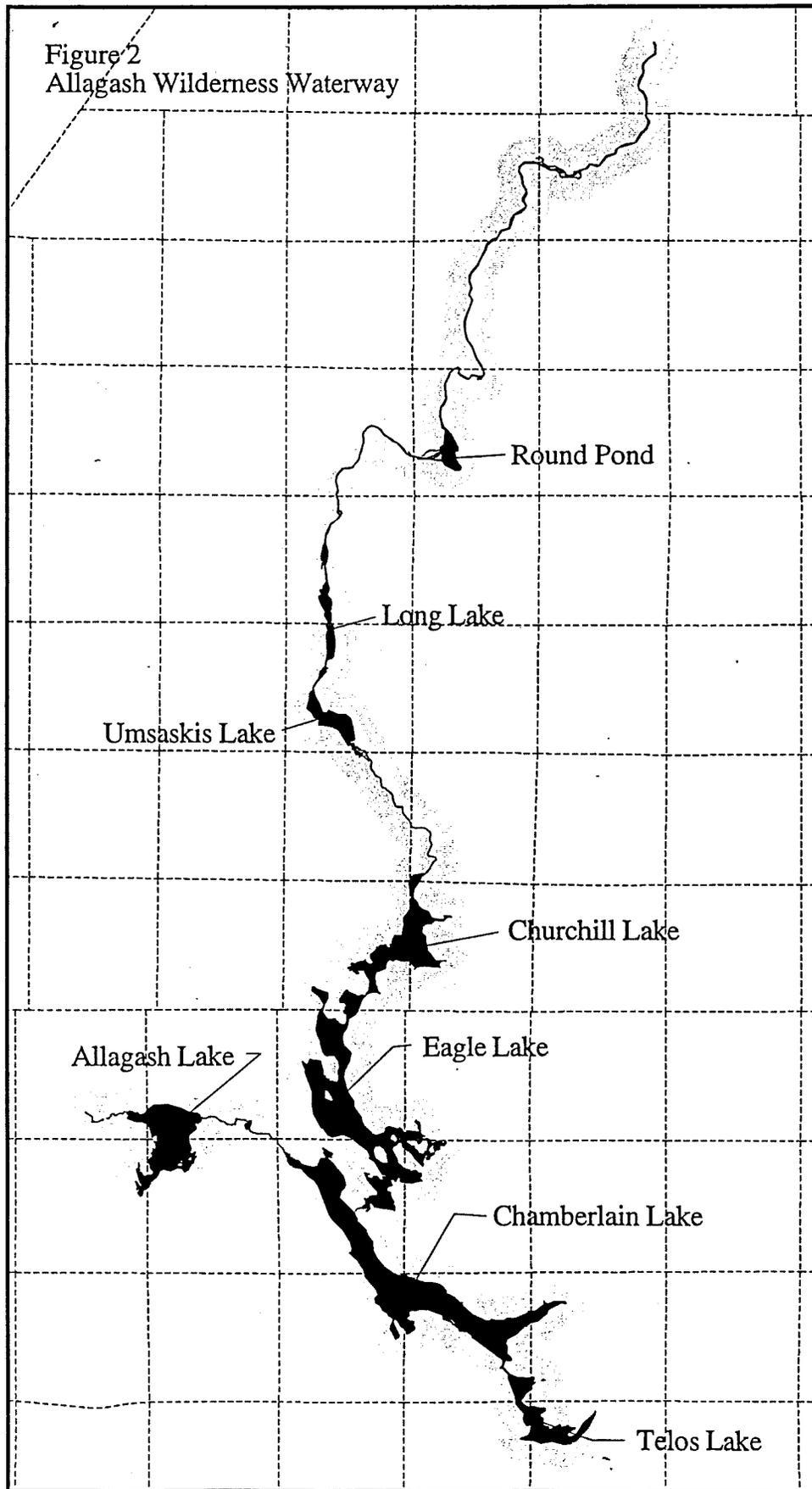
The Allagash Wilderness Waterway (Figure 2) is composed of eight interconnected lakes totaling 33,953 acres: Chamberlain (11,084 acres), Eagle Lake (9,500 acres), Allagash Lake (4,260 acres), Churchill Lake (3,720 acres), Telos Lake (2,276 acres), Umsaskis Lake (1,222 acres), Long Lake (1,203 acres) and Round Pond (697 acres). Other well known recreational lakes of intermediate size include: Attean Pond (2,745 acres), Lobster Lake (3,475 acres), and Holeb Pond (1,055 acres).

A number of the major recreational boating lakes in Maine are of large to intermediate size: Cobbosseecontee Lake in Kennebec County (5,543 acres), Long Lake in Cumberland County (4,867 acres), Damariscotta Lake in Lincoln County (4,381 acres), Androscoggin Lake in Androscoggin County (3,980 acres) and China Lake in Kennebec County (3,845 acres). Examples of two large to intermediate size lakes that have highly irregular shorelines are Little Sebago Lake in Cumberland County (1,898 acres) and Niatous Lake in Hancock County (5,165 acres).

A number of Great Ponds that have very special natural resource values are of intermediate to moderate size. Deboullie Lake (262 acres), Gardner Lake (288 acres), Penobscot Lake (1,162 acres) and Bald Mountain Pond (1,152 acres) are well known for their populations of arctic charr. First Debsconeag Lake (320 acres) is known for the jack pine along its rocky shores. Katahdin Lake (717 acres), Lobster Lake (3,475 acres), Attean Pond (2,745 acres) and Enchanted Pond (330 acres) are exceptionally scenic.

Great Ponds with numerous sand beaches include Richardson Lake (7,100 acres), Aziscohos Lake (6,700 acres), Niatous Lake (5,165 acres), Attean Pond (2,745 acres), Lobster Lake (3,475 acres) and Donnell Pond (1,120 acres).

Figure 2  
Allagash Wilderness Waterway



## **Jurisdiction over Great Ponds**

The ownership of Great Ponds has its origin in the colonial ordinances of 1641-1647, and not in the common law of England. Specific references to coastal waters, rivers and Great Ponds were incorporated into colonial laws in the 1700s by the English. During the establishment of statehood, the Commonwealth of Massachusetts incorporated the concept of public ownership and access to Great Ponds into their body of law. Since Maine was originally part of the Commonwealth, Great Ponds laws also applied to the District of Maine. When Maine became a State in 1820, the public trust doctrine of Great Ponds was also incorporated into Maine law. A thorough review of the legal history of Great Ponds is found in Law of the Seashore, Tidewaters and Great Ponds in Massachusetts and Maine by John Whittlesey (1932), and Law of Seashore Waters and Water Courses-Maine and Massachusetts by Moses M. Frankel (1969).

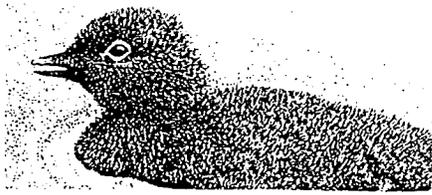
Today, Great Ponds that are wholly within Maine are under the jurisdiction of the State of Maine. As defined by State law, Great Ponds include “any inland bodies of water which in a natural state have a surface area in excess of 10 acres and any inland bodies of water artificially formed or increased which have a surface area in excess of 30 acres” [38 MRSA§480-B(5)].

Great Ponds are public holdings held in trust for the people of Maine. The State of Maine recognizes its public trust obligations in “submerged lands,” those lands below the low water mark in Great Ponds, and public rights to access those submerged lands. The public also has the right to walk over private property that is undeveloped in order to reach a Great Pond.

The Federal government has navigational jurisdiction on only a few of Maine’s Great Ponds. The U.S. Army Corps of Engineers has jurisdiction over navigational passages (lakes and rivers) between states and international boundary waters.

The Maine Indian Tribal-State Commission has the authority over fishing regulations on 30 Great Ponds within Indian Territories and has established rules for all 30 Great Ponds. Appendix F lists Great Ponds within the Penobscot Nation and Passamaquoddy Tribe ownership which are under jurisdiction of the Maine Indian Tribal-State Commission.

Under the State of Maine and through its agencies, the different jurisdictions address fisheries, wildlife, boating, submerged lands, shoreland zoning, town comprehensive planning, water quality, pollution prevention, and public water supplies. The role of each State agency is described in the next chapter. The Legislature has delegated most of the responsibility for regulating land use adjacent to Great Pond in organized towns to municipal government. In the Unorganized Territory, the Land Use Regulation Commission has been delegated this authority by the Legislature. Summaries of major State laws affecting Great Ponds are listed in Appendix G.



## Chapter 3

# The Management of Maine's Great Ponds

## The Role of State Agencies

Management responsibilities for Great Ponds are divided among five state agencies and the Baxter State Park Authority: the Department of Inland Fisheries and Wildlife, Department of Conservation, including the Land Use Regulation Commission (LURC), Department of Human Services, Department of Environmental Protection, Department of Agriculture, and Baxter State Park Authority. The State Planning Office administers a number of programs affecting Great Ponds.

IF&W administers watercraft regulations and enforcement, fishing regulations and enforcement, stocks fish in Great Ponds, manages "wildlife management areas" and develops management plans for game fish and wildlife species. The department has the primary role of regulating watercraft usage on Maine's Great Ponds.

The IF&W Commissioner can only limit the horsepower of motors used on Great Ponds in response to a petition initiated by 25 citizens of the municipality, by the county commissioners, or 25 citizens of the Unorganized Territory in which the Great Pond is located for "public safety and protection of private property." IF&W has the authority to define areas off limits to all watercraft during time periods critical for wildlife protection. The department has a program to purchase public access sites to Great Ponds and to install launching facilities for motorboats. (See page 52 for a description of the new law granting municipalities two years to recommend new watercraft regulations to the Commissioner of IF&W).

DOC administers the navigational aids program, boat access program, and the submerged lands program. In addition, DOC also manages an extensive holding of public lands and State parks that adjoin Great Ponds. The Bureau of Parks and Lands manages the Allagash Wilderness Waterway which provides premier recreational opportunities for canoeists on eight Great Ponds. The Boating Facilities Division places and maintains navigational aids in a few Great Ponds. In addition, the Boating Facilities Division establishes and maintains access for motorboat launching ramps on Great Ponds.

In the Unorganized Territories (approximately one-half of the State of Maine), LURC administers both land use planning and regulatory programs. LURC administers Shoreland Zoning which regulates land use along shorelines of all Great Ponds within the Unorganized Territories. In addition, LURC has adopted six management classes affecting shoreland use for Great Ponds with outstanding natural characteristics (Maine Department of Conservation, 1990). LURC also has some authority to manage surface-use activities on Great Ponds within its jurisdiction, but lacks enforcement capability to address surface-use regulations without assistance from IF&W. LURC issued its revised Comprehensive Land Use Plan in 1997 which addresses a number of lake management issues.

DHS, Bureau of Health, Division of Health Engineering regulates the placement of septic systems within the shoreland zone of Great Ponds, and administers laws protecting public drinking water supplies from Great Ponds. The Division of Health Engineering works closely with the fifty water utilities that use Great Ponds as public water supplies.

DEP administers the Natural Resource Protection Act which regulates special natural resources such as wetlands and significant habitats adjacent to Great Ponds. DEP also administers State water quality standards relating to discharge of pollutants, erosion control, and works with communities to reduce pollution from point and nonpoint sources. DEP has three staff positions dedicated to lake issues in the Lakes Program. DEP also oversees implementation of local Shoreland Zoning ordinances. A new program, the Priority Watershed Program, was established in 1997 to focus on water quality issues affecting lakes and ponds. Other DEP programs relating to oil and hazardous materials and air quality benefit Maine's Great Ponds.

The Department of Agriculture provides technical assistance to the agricultural community concerning water pollution prevention. The department promotes Best Management Practices to reduce nutrient run-off, particularly phosphorus, into streams, rivers and Great Ponds. The Department of Agriculture also regulates the use of pesticides.

The Baxter State Park Authority administers the 204,733 acre park in northern Maine which contains a number of special Great Ponds. Baxter State Park is governed by the Authority which has adopted its own rules and regulations for Great Ponds within the park's boundary. The Baxter State Park Management Plan guides the management of the park's lands and waters (Baxter State Park Authority, 1994). Baxter State Park limits motorized access to most Great Ponds and prohibits the use of outboard engines on Great Ponds entirely within the park.

The Maine State Planning Office, in the Executive Department, administers a diversity of programs affecting Great Ponds. The Land for Maine's Future acquires public lands. The SPO staffs the Land and Water Resources Council which is a cabinet level natural resources policy setting body of State government. About one-half of the SPO's staff provide technical assistance to municipalities for town comprehensive planning, town land use ordinance development, flood plain management, waste management and recycling, and training of municipal code enforcement officers.

### **The Role of County Government and Municipalities**

Soil and Water Conservation Districts operate at the county government level to provide technical assistance to landowners who wish to undertake voluntary water quality protection actions on their land. For example, in Kennebec County, the Soil and Water Conservation District has been very active in working with lake associations and private landowners on erosion control on camp roads.

The Legislature has granted significant powers to municipalities to manage and regulate most land use in watersheds of Great Ponds within organized towns. For instance, towns review land development projects that can have an effect on lake water quality. Local governments are responsible for enforcing State subdivision and Shoreland Zoning laws,

plumbing laws and building codes. Towns have the authority to develop their own comprehensive plans and land use ordinances, phosphorus control, and other regulations to guide development. Municipalities may develop town wide zoning and their own shoreland zoning to regulate land use activities beyond 250 feet of Great Ponds and wetlands and 75 feet of primary streams.

Local governments appoint residents to Comprehensive Plan Committees to help develop overall land use policy; to Planning Boards to administer subdivision, site plans, and other development permits; to Conservation Commissions to advise on natural resource issues. Municipal governments also appoint and/or employ Code Enforcement Officers and Plumbing Inspectors to enforce local ordinances. Furthermore, towns have the authority to appoint Harbor Masters to enforce watercraft laws on Great Ponds. Towns may also regulate night time use of icebound Great Ponds. Local governments collect the property tax assessment on lakeshore property and excise taxes on motorized watercraft. Some towns support, in cooperation with lake associations, annual budget appropriations for water quality testing of Great Ponds within their township.

Municipal governments also have the authority to work with neighboring towns that share the same Great Pond through the formation of Watershed Districts. The Cobbossee Watershed District in Kennebec County is the only watershed district currently in existence. This watershed district, which includes eight towns and 28 lakes and ponds, was formed in 1973 to address serious water quality problems in its central Maine lakes system.

### **The Role of Non-Profits**

Non-profit organizations play an ever increasing role in addressing conservation and management issues affecting Great Ponds. For example, more than 140 lake associations and land trusts are active in lake watersheds throughout Maine. These non-profit organizations are often involved with water quality monitoring, land protection, loon conservation, and other lake stewardship activities. They play a vital role by providing Maine citizens with the opportunity to become involved in lake monitoring and management activities.

The Maine Congress of Lake Associations (MECOLA), for example, represents over 130 individual lake associations and about 200 individual members for a total membership of over 10,000 members, and focuses on educational projects (Maine Congress of Lakes Association). The Lakes Environmental Association (LEA) is a 25 year old organization that performs environmental analysis, planning and education in the lakes region of Cumberland and Oxford counties. The Maine Chapter of The Nature Conservancy (TNC) owns and manages several nature preserves adjacent to Great Ponds. The Maine Audubon Society operates the Loon Watch Project of volunteers that conducts annual population counts of loons, and publishes "The Loon News."

Two recently formed non-profits focus on water quality. The Maine Volunteer Lake Monitoring Program (MVLMP) was created in 1995 in an attempt to continue some of the

volunteer lake monitoring efforts formerly coordinated by the DEP. There are now over 300 members who volunteer to monitor the water quality of Maine's lakes. The China Region Lakes Alliance (CRLA) was formed in 1995, creating a regional effort to reverse the eutrophication and pollution of China Lake, Webber Pond and Three Mile Pond in Kennebec County.

## **Public Land Programs and the Role They Play in Providing Access to Great Ponds**

Maine State government plays a key role in protecting the shorelands of a number of important Great Ponds through fee ownership. Since 1987, the State of Maine has acquired a number of significant lake front properties through the Land for Maine's Future Program (LMF). Examples of key parcels of land acquired by LMF and located on Great Ponds include Nahmakanta Lake, Moosehead Lake, Grand Lake, Spednic Lake, Spring River Lake, and Sebago Lake.

Baxter State Park provides access to 68 lakes and ponds within the park. Forty-four of these ponds are Great Ponds. Because of limited roads in Baxter State Park, 37 of the Great Ponds are accessible only by foot.

The Allagash Wilderness Waterway provides premier access to eight outstanding Great Ponds covering 33,953 acres. Road access is restricted to these eight Great Ponds. Most of the access to these Great Ponds and the 150 camping sites in the waterway is water access by canoe. In 1996, there were 49,000 visitor-days (about 13,000 individual visitors in 4,842 canoe parties) to the Waterway. In 1997, there were 37,355 visitor-days in 4,219 canoe parties. Because the Allagash Wilderness Waterway is within the North Maine Woods Recreational Management Area, users of the Waterway pay a daily access fee (\$3.50 for Maine residents and \$7.00 for nonresidents). The Bureau of Parks and Lands issued its Allagash Wilderness Waterway Management Plan with policies and management objectives for access and water use issues (Maine Department of Conservation, 1999).

The Bureau of Parks and Lands provides road access to a number of significant State properties on the following Great Ponds: Togue Pond, Debouille Pond, Black Pond, Nahmakanta Lake, Squa Pan Lake, Attean Pond, Holeb Pond, Spring River Lake and Richardson Lake. State Parks are located on Moosehead Lake, Rangeley Lake, Lake Saint George and Sebago Lake.

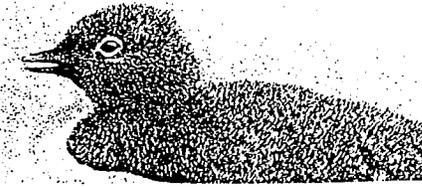
Lands for motorboat launching facilities are acquired by the Department of Conservation's Boating Facilities Division and the Department of Inland Fisheries and Wildlife. In 1995, these two departments issued the Strategic Plan for Providing Public Access to Maine Waters for Boating and Fishing that guides the State's efforts to provide motorboat ramp access to Maine waters (Department of Conservation, 1995). Over 200 parcels have been acquired and developed on Great Ponds, providing boat access to the public. In recent years, the establishment of new motorboat launching sites on Great Ponds has come under

close scrutiny with questions being raised about how much access is too much or too little. The Land Use Regulation Commission is now in the process of reviewing its policy for allowing boat ramps on Great Ponds within its jurisdiction.

The Federal government provided partial funding for the acquisition of lands that are now in the Allagash Wilderness Waterway that ensures access for Maine citizens. Acadia National Park, the only National Park in New England, provides access to 14 Great Ponds.

The largest Great Ponds wholly within Acadia National Park are Eagle Lake (436 acres) and Jordan Pond (187 acres) which are public water supplies and have public boat launching ramps. In addition, public boat launching ramps are also located on Long Pond (897 acres) and Echo Lake (237 acres) which are partially within the boundaries of the park. Eight of the Great Ponds that are wholly within the park are less than 100 acres in size and only accessible by foot. The National Park Service is preparing a Water Resources Management Plan for waters within Acadia National Park which will address access issues to Great Ponds in the park (National Park Service, 1998).





## Chapter 4

### Issues Identified by the Task Force

#### Environmental Quality

##### Declining Water Quality

Water quality is the primary value associated with Great Ponds. A number of Great Ponds in southern and central Maine have water quality problems, while lakes and ponds in northwestern and northern Maine generally have very high water quality. Citizens identified declining lake water quality as a very serious problem facing Maine. There are major issues associated with declining water quality.

Pollution from nutrients, mercury and petroleum is the primary water quality issue confronting Maine lakes and ponds. The water quality of Great Ponds is a key concern to Maine citizens because it directly affects lake fisheries, recreation, and shorefront property values. Water quality is declining in a number of lakes. Water pollution is a serious problem for 243 "Lakes Most at Risk from New Development" listed by DEP. About 50 lakes have a history of severe water pollution problems and experience seasonal algal blooms. In many of these lakes oxygen levels become low during summer months and threaten cold water fisheries.

During the last twenty years, lake water quality improvement efforts have focused on reducing pollutants from land run-off entering lake waters (Maine Department of Environmental Protection, 1996). The DEP has made a major effort to reduce the amount of phosphorus from all developments, especially subdivisions. In addition, reduction efforts focus on State highway construction and camp roads through performance standards for phosphorus allocations and the implementation of Best Management Practices.

Air-borne sources of pollution are suspected of contributing heavy metals (especially mercury) to the State's surface waters. The level of contamination is evident by the high levels of mercury found in the tissue of fish and loons from lakes throughout Maine. The high levels of mercury in fish have resulted in a general health advisory to reduce or avoid consumption of freshwater fish harvested from all lakes and ponds especially for children and women of child bearing age (Maine Department of Human Services, 1994).

An emerging issue of concern is hydrocarbon pollution caused by 2-cycle engines. Up to 25% of the gasoline in 2-cycle outboard motors is discharged into the water as part of the exhaust (Mele, 1993; Hilchey, 1994). Citizens told the Task Force that pollution from gasoline (and additives) and oil from snowmobiles and ATVs is an issue related to winter time use of Great Ponds.

The Lakes Program at DEP is one of the State's primary programs to fight lake pollution. The program's tasks and duties include educational outreach, publications, water quality assessments, and issuing grants to lake associations and local governments. The 118th Legislature created four new positions with annual funding of \$171,948 for staffing and \$279,568 for contracts and grants for a revitalized Lakes Program. The work tasks of the Lakes Program are summarized in Appendix H.

The 118th Legislature established the Priority Watershed Program, in DEP's Watershed Division, to increase the State's efforts at combating nonpoint pollution affecting lakes and other resources. In June 1998, the voters approved a \$500,000 bond for the Priority Watershed Program. The work tasks of the Priority Watershed Program are summarized in Appendix C (See recommendation 1 and resolve 1, pages 5 and 8).

### **Water levels**

The water levels of many of Maine's major Great Ponds are artificially maintained by dams. Some of these dams were built to provide additional water for driving logs or hydroelectric power generation. The maintenance of water levels is an issue to many lake associations and shoreland owners. According to the DEP, there are over 500 dams on Great Ponds that regulate water level. Unless under Federal, State or municipal orders, water levels are controlled by the private dam owners. In response to a petition from 50 landowners, DEP must hold a public hearing and issue a water level order for the Great Pond. DEP has issued Water Level Orders for only 29 Great Ponds. The Federal Energy Regulatory Commission (FERC) issues Water Level Orders for a number of Great Ponds that generate hydropower.

In 1993, the Legislature repealed a number of laws dealing with dams and water levels (38 MRSA § 815-A, 816, 829-829, 830, 835, 836 and 837). Private dam owners no longer have to register their dams with the State of Maine. DEP no longer maintains a listing of dams on Great Ponds. In general, dam owners are not required by law to maintain their dams; however, dam owners may be liable for property damage or personal injury due to dam failure.

The issues before lake associations and shoreland owners are ownership, maintenance of dams, and lake levels relating to control structures. High lake levels result in shoreline erosion leading to loss of shoreland and lake pollution. As an example of the controversy associated with lake levels, there was a heated debate in 1995 and 1996 among a number of interest groups over the level of Sebago Lake. After considerable negotiations, FERC issued a new water level order in 1997.

### **Protecting Public Water Supplies**

Protecting Great Ponds that serve as public water supplies is an ongoing issue for the managers of private and public water utilities. Fifty Great Ponds provide drinking water to about 50% of Maine's population (600,000 citizens). Public drinking water supplies must comply with the standards of the federal Safe Drinking Water Act. Water companies or

water districts place strong restrictions on these Great Ponds in order to maintain high water quality. For example, the Portland Water District spends from \$600,000 to \$1,000,000 per year on education, planning, monitoring and land use issues in Sebago Lake watershed which covers 283,248 acres (Figure 3).

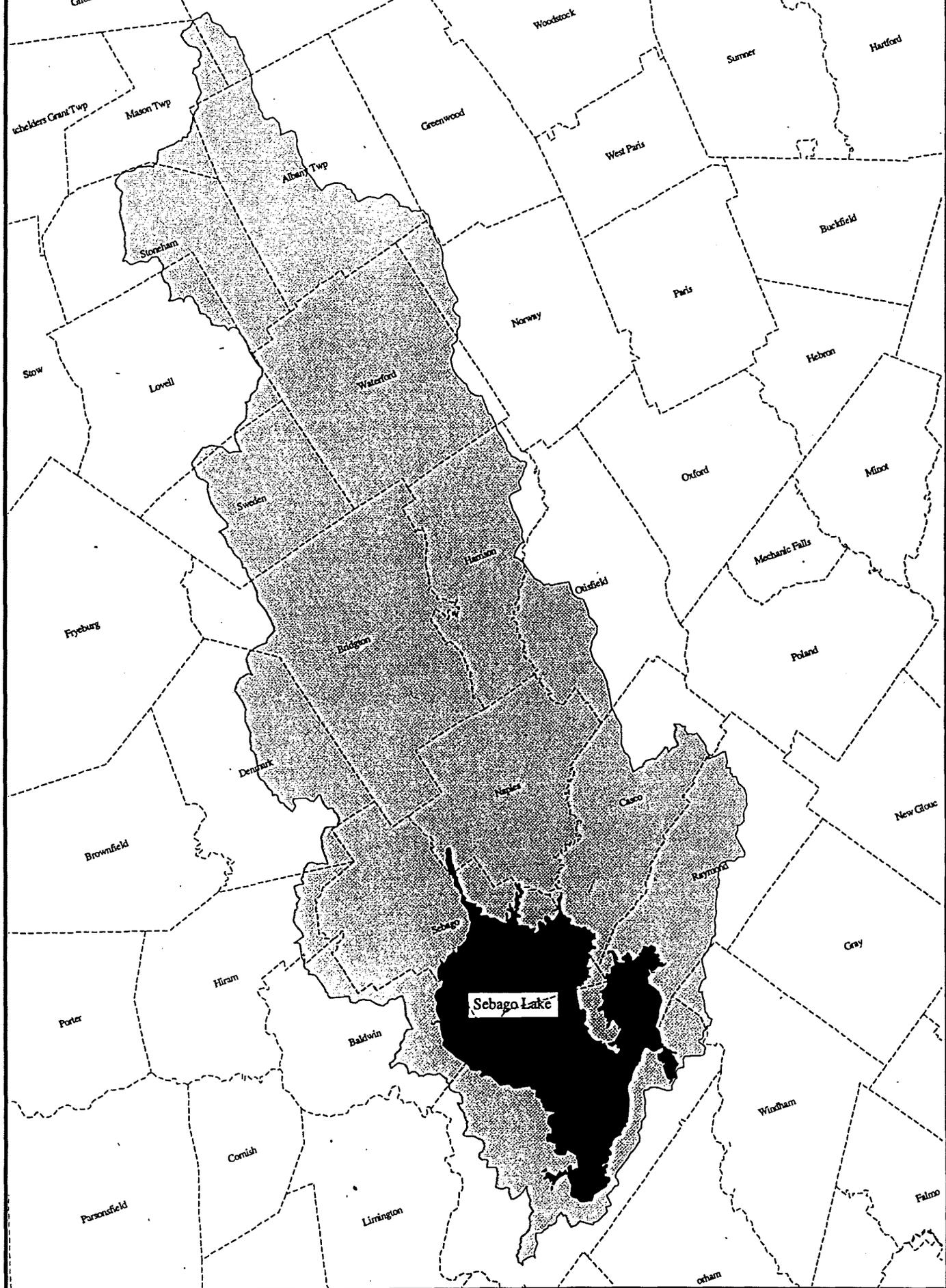
The lack of recognition of the importance of the 50 Great Ponds that provide drinking water to over 600,000 citizens is a major issue for water utilities and the Department of Health Services' Bureau of Health, Division of Health Engineering. Recognition of the value of these 50 Great Ponds as public water supplies will ensure that there are strong protection measures in place. The public needs to recognize and to respect the restrictions that have been placed on these 50 Great Ponds and surrounding lands in order to protect lake water quality. Water companies own and manage land around the Great Ponds they use as water supplies in order to protect water quality. A uniform and cooperative approach by State agencies to protect Great Ponds supplying public drinking water may avoid spending millions of dollars on filtration plants in order to comply with the federal Safe Drinking Water Act.

Public boat launching ramps near public water supply in-takes are an issue of concern to water utilities because of the threats of pollution by bacteria and sedimentation. Areas with water in-take pipes require high levels of protection. Gasoline and oil pollution at boat launching ramps is a threat to public water supplies. It is not prudent to have boat ramps on all Great Ponds serving as public water supplies because in some cases the ramps pose more of a health threat than a public benefit. Action is needed to retrofit older existing public boat ramps located on Great Ponds that serve as public water supplies because they pose a source of bacterial contamination and soil erosion. Public water supplies can also be protected by taking precautionary measures by installing sanitary facilities. Funds to retrofit older ramps will come from the existing Boating Facilities Fund at DOC (See recommendations 2, 3 and 4, page 5; and final recommendations 1, 2, and 3, page 57). The 118th Legislature expanded the radius of the no trespass zone around water in-takes for public water supplies from Great Ponds from 200 feet to 400 feet.

### **Preventing Pollution from Watersheds**

The issue of pollution originating from within a watershed is an ongoing and increasing threat. Erosion from lake shorelines and nearby lands is one source of nutrient loading, primarily phosphorus, which is a serious source of pollution. Other sources of nutrients contribute to pollution of lake waters such as soil erosion from construction sites, forestry activities, lawns, bare soils, road maintenance projects, camp roads, and streams carrying phosphorus and other pollutants to lakes. For example, the greening of China Lake in Kennebec County is due to a wide variety of land use practices in the China Lake watershed. Efforts of DEP's Lakes Program and the Priority Watershed Program are needed to reverse the related problems of erosion and pollution within watersheds.

Figure 3: Sebago Lake Watershed



One mechanism to control these land based contaminants is through the use of Best Management Practices (BMPs). These are voluntary practices established by DEP that individual shoreland owners can use to reduce soil and shoreland erosion along lake shorelines and stream banks. BMP's also address ways to minimize phosphorus in stormwater run-off. In addition, BMP's recommend the use of hay mulch and the planting of native shrubs to stabilize disturbed soils. Drainage channels can be reshaped to direct stormwater into buffer areas. Other BMP's recommend how camp roads and driveways can be re-engineered or contoured to reduce erosion and run-off and to prevent washouts during major rain events. The Department of Agriculture distributes BMPs to farmers within lake watersheds. The department's goal is to promote the best type of agricultural land management in order to reduce nutrients and, in particular, phosphorus run-off from agricultural areas.

Recent studies have documented the economic consequences of improperly managed runoff within watersheds. According to a University of Maine study, the loss of water clarity in a lake has a direct correlation to the loss of shoreland property value (Michael et al., 1996).

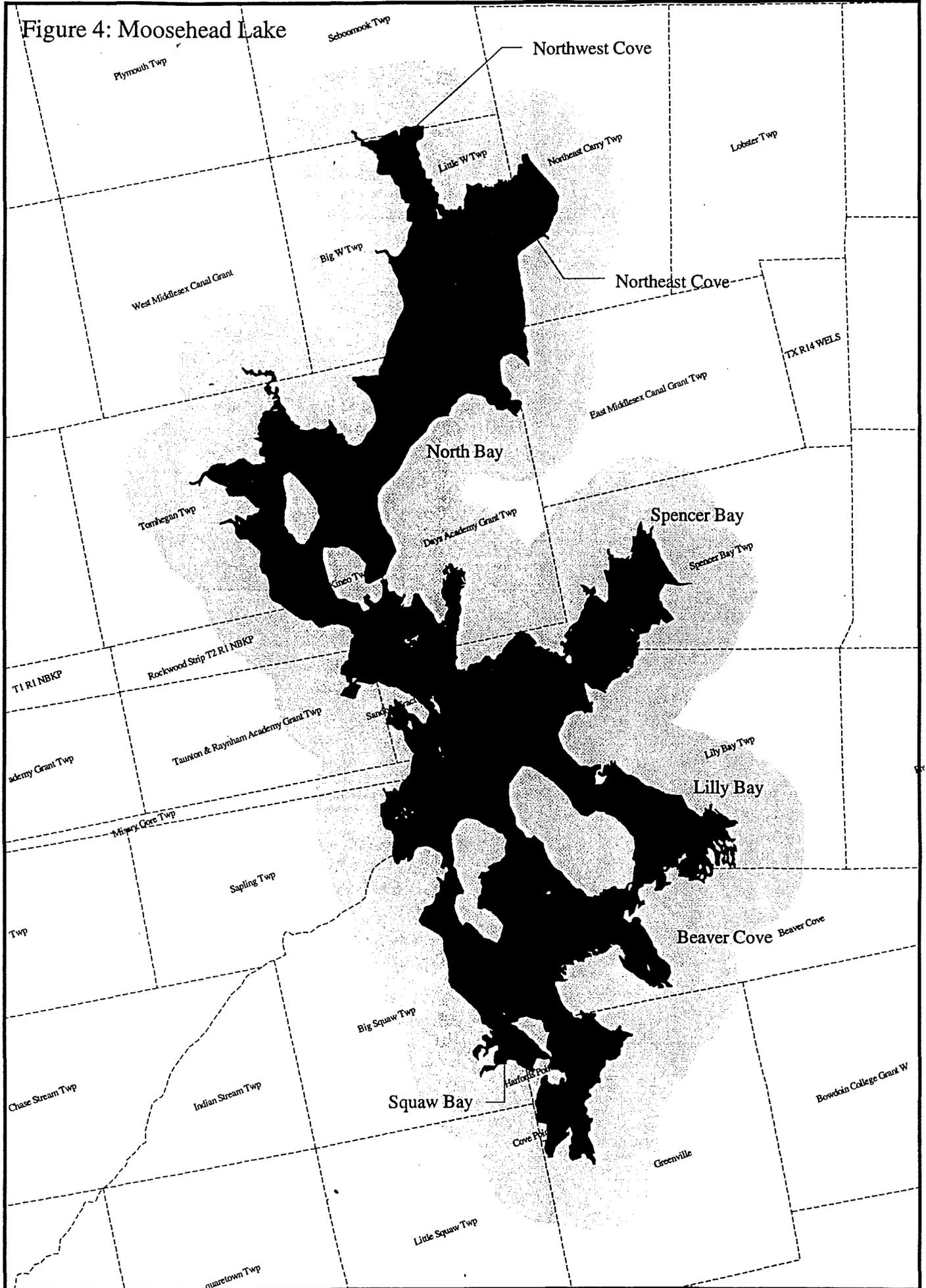
### **Maintaining Inland Sport Fisheries**

Maintaining high quality inland fisheries is an interest of many Maine citizens. We know that declining water quality leads to declining fisheries. For example, the eutrophication of Cobbossee Lake and China Lake in Kennebec County resulted in the loss of excellent cold water fisheries which was converted to a warm water fisheries. The quality of the inland fisheries in a number of Great Ponds has declined noticeably over the past two decades reflecting more recreational fishing pressure and declining water quality.

Total economic output associated with inland sport fisheries in Maine during 1996 is estimated at \$292 million (Teisl and Boyle, 1998). Moosehead Lake (74,890 acres) offers some of Maine's best inland fisheries (Figure 4). Over 200,000 people a year participate in Maine's freshwater fisheries. IF&W has a significant budget to manage the quality of Maine's fisheries with restocking programs and fishing regulations. High water quality is essential for high quality fish habitat. Fisheries management efforts need to be linked to efforts to improve and to maintain high water quality. IF&W's Quality Fishing Initiative is focused on improving fishing at many of Maine's best fishing lakes and ponds by limiting the size and number of fish that can be taken.

The high level of mercury found in warm water fish species is another issue directly affecting inland fisheries. A new concern is the general fish consumption health advisory issued by the Department of Human Services because of mercury concentrations found in freshwater fish tissues (Maine Department of Human Services, 1994). Therefore, if we intend to maintain a high quality fisheries in Maine, a strong effort must be made to protect lake water quality.

Figure 4: Moosehead Lake



## **Disturbance of Wildlife**

The harassment of loons is an example of a wildlife issue voiced by many citizens. IF&W has an ongoing program which identifies special wildlife habitats, including those associated with wetlands and Great Ponds. Important wildlife habitats associated with Great Ponds include loon, waterfowl and wading bird habitats, wetlands and bald eagle nesting sites. IF&W has the authority, (12 MRSA § 7792, subsection 7), to establish rules to “define areas off limits to all watercraft during time periods critical for wildlife protection.” The Maine Audubon Society and IF&W are currently working on a plan to identify and voluntarily protect significant wildlife areas associated with Great Ponds. Maine Audubon Society’s Loon Watch Project counts and monitors Maine’s loon population. Despite public education efforts, harassment of loons on Great Ponds by operators of watercraft continues to be a persistent problem.

## **Nuisance Exotic Aquatic Species**

Exotic aquatic plant and animal species that have been introduced into lakes and ponds is a growing threat around the United States. Exotic species displace native species and result in a lowering of water quality. At the present time, Maine is fortunate not to have major problems with exotic plants and animals in the State’s lakes and ponds.

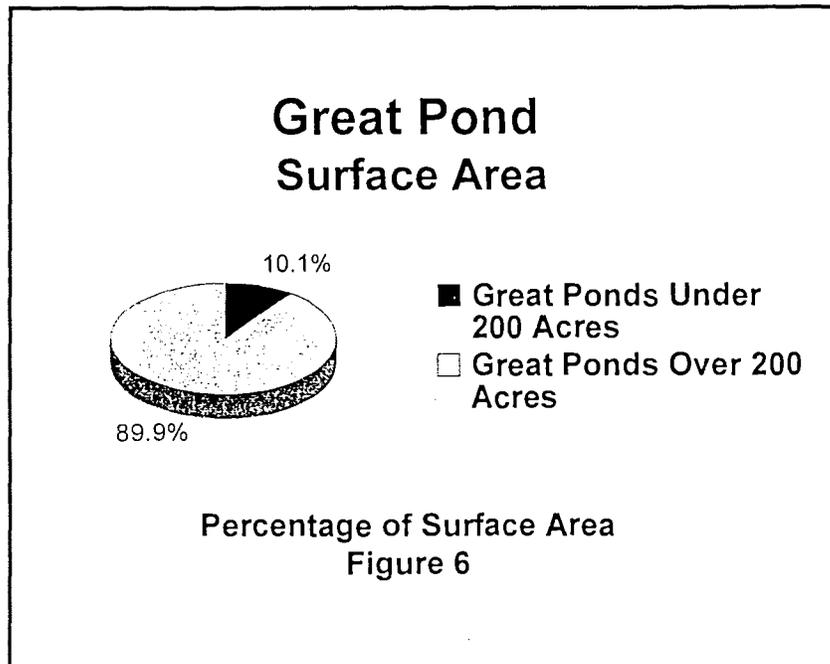
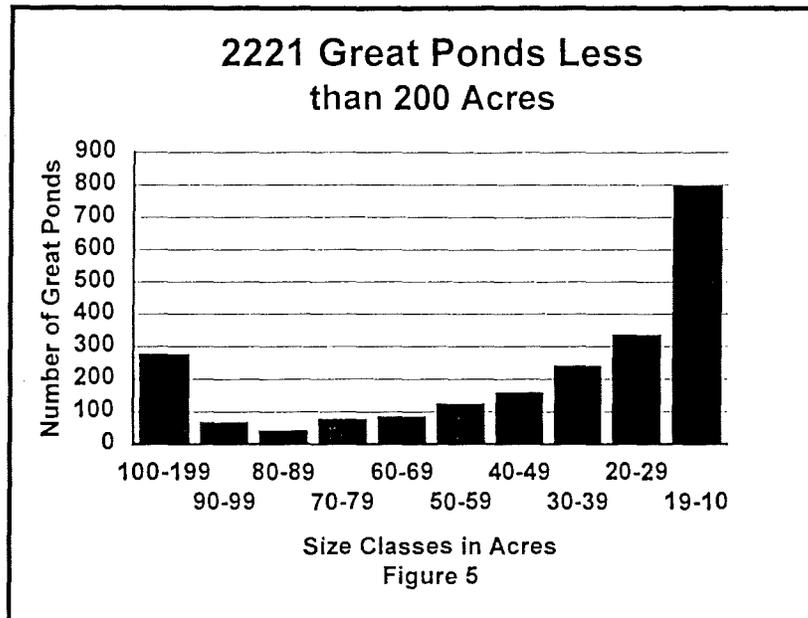
However, the issue of nuisance exotic plants and animals invading Maine is a potential threat that the State needs to address. The potential exists for nuisance exotic aquatic plants and animals to invade some of Maine’s Great Ponds resulting in lower water quality. For example, water milfoil has invaded lakes and ponds in Vermont and New Hampshire. The zebra mussel has invaded Lake Champlain in New York and Vermont from the Great Lakes States. Maine needs to take preventative measures to protect Maine’s Great Ponds from invasive exotic aquatic plants and animals. Nuisance exotic plants result in reduced recreational uses of affected lakes and ponds. The DEP and the Volunteer Lake Monitoring Program have received a Maine Outdoor Heritage Fund grant to initiate a limited program aimed at reducing this threat (See recommendation 5, page 5; and final recommendation 4, page 57).

## **Personal Watercraft**

### **Personal Watercraft Impact on Small Ponds**

The impact of personal watercraft on small lakes and ponds is a concern of many Maine citizens. Voluminous testimony and correspondence throughout the Task Force deliberations documented the problems associated with personal watercraft. The use of personal watercraft is an issue throughout New England (Conuel, 1996). Most personal watercraft owners are responsible operators and indicate they have serious investments in their watercraft. They testified at the public meetings that with education and enforcement of existing laws, personal watercraft should be able to coexist on all waters. The State of Maine has not yet addressed the public policy issue of which Great Ponds, a public trust resource, are

appropriate for recreational use of personal watercraft. There are 2,221 Great Ponds less than 200 acres in size, and they cover 10% of the surface water of Great Ponds (Figures 5 and 6).



Many small lakes and ponds may not contain enough surface area for the safe and unobtrusive use of high speed operation of personal watercraft. The 200 foot Water Safety Zone further limits the amount of space available for high speed operation. For example, a 200 acre circle, with a 200 foot Water Safety Zone, has only 155 acres for high speed boating. A 100 acre circle, with a 200 foot Water Safety Zone, has only 69 acres for high speed boating. There are additional physical limitations from irregular shorelines, shallow areas, small islands, and exposed rocks. Many small ponds are in depressions so that the noise of personal watercraft operations is heard by everyone on the shore of the small pond. Loons and waterfowl nesting in small ponds are very susceptible to the types of disturbances posed specifically by personal watercraft.

Personal watercraft are a different kind of watercraft in the way they are used. Personal watercraft are high performance, often loud, and highly maneuverable watercraft designed and frequently used for excitement and joy riding. Much testimony was received that the noise is worsened by the customary practice of moving from point 'A' to point 'B' and back again repeatedly and within a brief time frame. The public acknowledged the common connection made between the size of available water area and the degree of disruption to other users of the pond. Some citizens noted that closing down small ponds to personal watercraft might force owners of personal watercraft to concentrate on using the larger more heavily used lakes. Others argued that the shape of a pond may be more important than its size. There was considerable discussion on defining the size of a small pond as between 100 acres to 300 acres. Vermont, for example, selected 300 acres as the lower size limit for the use of personal watercraft. The Kennebec Journal, in an editorial on November 9, 1996 (Appendix B) pointed to the need to protect small fragile ponds from abuses by personal watercraft operation. Ultimately, the Task Force determined that there should be a rebuttable presumption that Great Ponds 200 acres or less are generally not suitable for use by personal watercraft. It recommended prohibiting personal watercraft on such ponds, but with a grace period to allow petitions to modify or eliminate the prohibitions on specific ponds (See recommendation 25, page 7).

### **Preserving A North Woods Tradition**

Many isolated and undeveloped lakes and ponds are found in northern and western Maine (Department of Conservation, 1987; State Planning Office, 1989). As early as Henry David Thoreau's first trip to Maine in 1846, the special values of Maine's lakes and ponds have been recognized. Traditional sporting camps operate on pristine and quiet lakes and ponds in the North Woods. Sporting camp clients frequent these lakes and ponds to experience peace and quiet, and the cry of loons. Maine citizens visit these lakes and ponds which are known for their tranquility for recreational experiences to get away from the noise and commotion of urban and suburban living.

Many of Maine's special lakes and ponds are located within or bordering LURC's jurisdiction. Examples of these special Great Ponds are Deboullie Pond and Gardner Pond in T.15. R.9.; the chain of Debsconeag lakes in Piscataquis County; Lobster Lake to the north-east of Moosehead Lake in Piscataquis County; and Pierce Pond, Enchanted Pond, Holeb

Pond, and Bald Mountain Pond in Somerset County. The Rangeley Lakes consisting of Richardson Lake, Rangeley Lake, Mooselookmeguntic Lake, Cupsuptic Lake and Aziscohos Lake comprise a unique set of large, high elevation lakes (Figure 7). The State of Maine owns important recreational lands around a number of the special northern lakes. Examples are Richardson Lake, Flagstaff Lake, and the eight lakes of the Allagash Wilderness Waterway.

It has been suggested that preserving this North Woods tradition should be a State goal. This tradition has become something of a national treasure and next to timber is the basis of a significant portion of our northern economy. Certain uses, such as personal watercraft, were brought to our attention as incompatible with the North Woods tradition. There is a need to maintain the intrinsic natural resource values of these lakes and ponds, and preserve the traditional character of the North Woods. Many citizens and sporting camp owners want to maintain the traditional uses of the Great Ponds in LURC's jurisdiction through prohibition of personal watercraft. Many agree that personal watercraft are inappropriate on the waters within the jurisdiction of LURC (See recommendation 24, page 7). The 118th Legislature prohibited the use of personal watercraft on lakes and ponds in Management Classes 1, 2 and 6. Also included in this prohibition are lakes with more than two-thirds of their surface water within the jurisdiction of LURC and are identified as being of statewide significance in the Maine Wildlands Lake Assessment. These lakes have two or more outstanding values, and more than one half of their shoreline is in public or private conservation ownership. LURC held public hearings in August and September 1998 as part of the rulemaking process for these new regulations.

### **Age to Operate Personal Watercraft**

The need to increase the age to operate personal watercraft is an important safety issue raised by many citizens. Young and inexperienced operators of personal watercraft often violate existing watercraft laws and operate personal watercraft in a reckless manner. Public safety will be enhanced and boating conflicts reduced by increasing the age at which minors can legally operate personal watercraft from 12 to 16. The personal watercraft industry supports increasing the age to 16. Seven states have established a minimum age of 16 to operate a personal watercraft (See recommendation 20, page 7). The 118th Legislature established 16 years of age as the minimum age to operate a personal watercraft.

### **Wake Jumping**

Wake jumping by personal watercraft is a dangerous practice. Collisions and personal injuries have resulted from wake jumping. Wake jumping often distracts the concentration of the personal watercraft operator. In addition, noise from wake jumping is a major source of complaints. This noise spoils the traditional tranquillity sought by many people spending a summer weekend on a Maine lake. At the public meeting in Greenville, the operator of a float plane business reported that personal watercraft operators often chase his float plane's wake while taking off, creating a dangerous situation. Vermont has successfully addressed the problem of wake jumping with an enforceable regulation prohibiting wake jumping (See recommendation 21, page 7).

The 118th Maine Legislature enacted “Imprudent operation of watercraft” (12 MRSA § 7801, subsection 11-A) which prohibits watercraft from “prolonged circling, informal racing, wake jumping, or other types of continued and repeated activities that harass another person.”

### **Revision of the Personal Watercraft Definition**

The definition of personal watercraft needs to be updated periodically to accurately reflect the size and type of craft creating unique management issues. There is a need for an accurate, precise and up-to-date definition of personal watercraft which will become the legal definition referenced in several of the regulatory proposals addressing personal watercraft. It was concluded that personal watercraft are a unique craft due to the manner in which they are used. Clearly defining personal watercraft and maintaining a current definition will strengthen the proposed watercraft regulations by making clear the type of craft which is being regulated. An up-to-date definition leaves little room for misinterpretation (See recommendation 22, page 7). The 118th Legislature revised the legal definition of personal watercraft.

### **Requiring an Education Decal for Personal Watercraft**

Maine’s personal watercraft industry has produced a “Ride Smart” educational decal that summarizes Maine’s laws for personal watercraft operation (Maine Marine Trade Association, 1996). Industry has offered to pay for the printing and distribution of this educational decal for personal watercraft registered in Maine. The decal will familiarize the operators of personal watercraft with Maine’s laws that apply to personal watercraft. Furthermore, the decal will also provide wardens with a reference when talking with personal watercraft operators about Maine’s personal watercraft laws and boating courtesy. The Maine personal watercraft industry supports requiring the “Ride Smart” decal on each personal watercraft registered in Maine (See recommendation 23, page 7; and final recommendation 10, page 57).

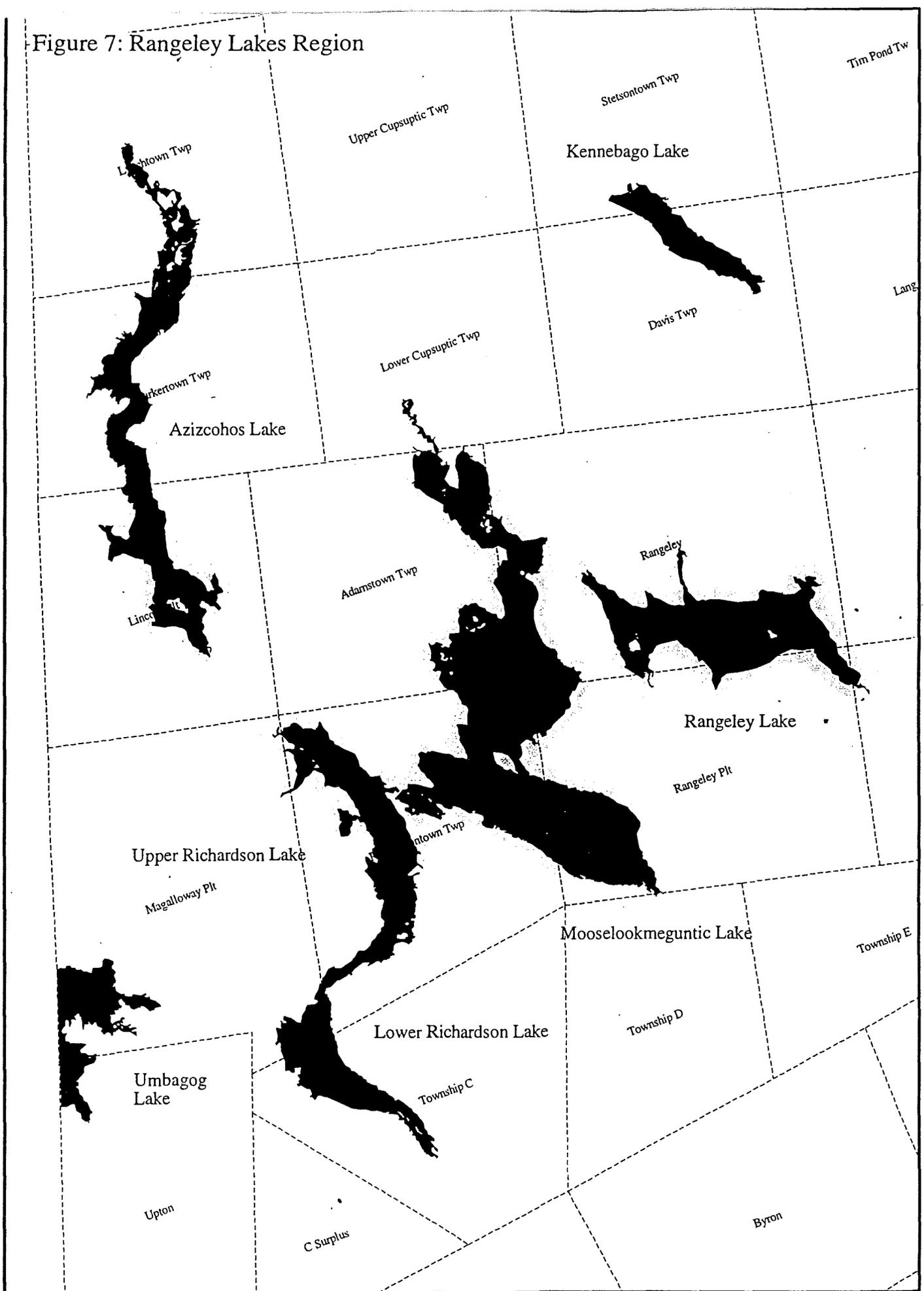
## **Surface-Use**

### **Expanding Watercraft Regulations**

The need for bringing Maine’s watercraft regulations more in line with current national standards was cited as an issue by Maine citizens. Recreational boating is a relatively unregulated activity in Maine. There are no requirements for training or education for operating motorized watercraft on State regulated waters. Licenses are not required. Currently, anyone over the age of 12 can operate a motorized watercraft of any horsepower. Watercraft speed is only restricted within 200-feet of shore in the Water Safety Zone. Horsepower restrictions have been placed on only a few Great Ponds.

Citizens cited numerous impacts to the traditional character and use of Great Ponds due to noise, high speed, and inappropriate operation especially due to personal watercraft.

Figure 7: Rangeley Lakes Region



Compared with several decades ago, a variety of crafts are now present on Maine's Great Ponds, including pontoon-boats, cigarette boats, motorboats with large horsepower engines, personal watercraft, jet boats, canoes, kayaks, sailboats, sailboards, and electric powered fishing boats. On weekends and evenings in July and August in southern and central Maine, many Great Ponds are crowded with recreational boaters. As a result of increased recreational watercraft usage, conflicts between watercraft operators and other users of Great Pond resources have become contentious. Irresponsible watercraft operators are a major problem on some of Maine's Great Ponds. In addition, imprudent operation of watercraft and harassment of wildlife are also cited as existing problems. Citizens told the Task Force that new watercraft regulations are needed to address these problems.

### **Inadequate Enforcement of Existing Watercraft Regulations**

Inadequate enforcement of Maine's existing watercraft laws is an issue confronting Maine citizens and boaters. The Maine Warden Service does not have enough staff to police Maine's 2,802 Great Ponds. The current staff of 110 wardens (124 wardens are authorized) is spread too thin to adequately perform watercraft law enforcement along with their other duties. During the summer the wardens have a very heavy work load focusing on fishing, animal damage, nuisance animals, and search and rescue in addition to watercraft enforcement. Often times IF&W divisions do not have a full complement of wardens because of vacancies created by transfers and retirements.

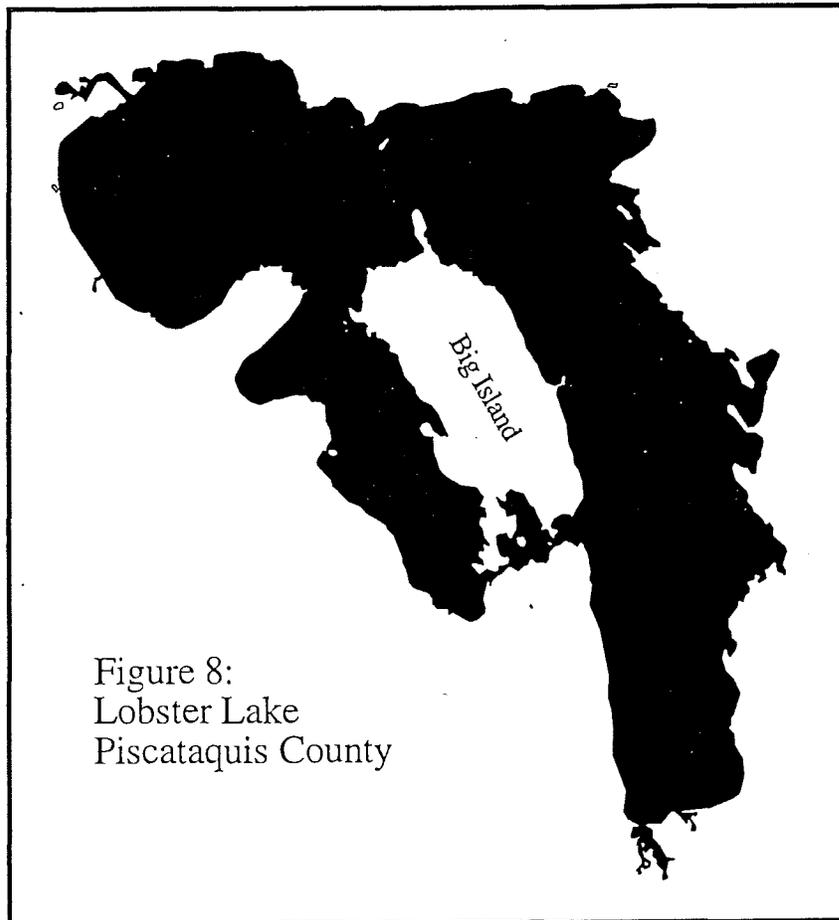
Frequent comments heard throughout the Task Force deliberations cited the issue of violations occurring in the absence of sufficient enforcement. In particular, violations of the Water Safety Zone and harassment of loons are frequently cited. Citizens also reported that because of the lack of wardens patrolling lakes, violators of boating laws are often not caught by law enforcement officers.

Because the Warden Service is stretched thin especially during the summer season, several lake associations hire County Sheriff's deputies for weekend enforcement. The Little Sebago Lake Association contracts with the Cumberland County Sheriff's Department for weekend patrols. Kezar Lake Association also hires a law enforcement officer to patrol Kezar Lake.

Under State law, municipalities have authority to enforce Maine's watercraft laws. Many coastal towns have harbor ordinances and appointed Harbor Masters. However, only a few inland towns have appointed Harbor Masters for Great Ponds. The town of Naples operates the most extensive Harbor Master program on inland waters. This is funded by the town from excise taxes collected locally on watercraft. These funds are used for uniforms, a boat, and program operating expenses. In Naples, the inland Harbor Master and his deputies are volunteers (Town of Naples 1995 and 1996). The Task Force found that there is a need for 20 seasonal deputy wardens to focus exclusively on lakes and ponds. Citizens voiced strong support for increasing funding to provide the Warden Service with 20 seasonal deputy wardens and for strengthening local authority to enforce boating laws by inland Harbor Masters (See funding recommendations 27, 28, 29 and 30, pages 7 and 8).

## Designating Quiet Waters

The need to establish a “Quiet Water Initiative” is an interest raised by many citizens. Maine lacks a mechanism to identify and to document which lakes and ponds merit “Quiet Waters” status and are more suitable for low horsepower motors or no internal combustion motors. The Department of Inland Fisheries and Wildlife has the authority to establish horsepower restrictions for internal combustion motors. However, if this authority were to be used for a “Quiet Waters” application, a broader authority would be required. Lobster Lake is an example of an outstanding lake which merits “Quiet Water” status based upon all the letters and testimony submitted to the Task Force (Figure 8).



The State of Maine has not addressed the issue of “Quiet Waters” on special lakes that are generally located in the jurisdiction of the Land Use Regulation Commission. There are a number of special lakes and ponds which have outstanding natural resource values and which offer very special camping and canoeing opportunities that merit horsepower restrictions or “Quiet Waters” status. Wilderness canoe outfitters depend upon lakes and ponds that offer “Quiet Waters” and solitude. A sporting camp’s clients expect peace and quiet. Identification of special Great Ponds and implementation of watercraft restrictions on these special Great Ponds will help meet the public’s interest in setting aside “Quiet Waters” and preserving the North Woods solitude for which Maine is nationally known (Table 1).

Table 1

**Examples of Special Great Ponds  
that May Merit “Quiet Waters” Status**

<u>County</u>	<u>Great Pond</u>	<u>Size(acres)</u>
Aroostook	Deboullie Pond	262
Aroostook	Gardner Pond	288
Piscataquis	First Debsconeag	320
Piscataquis	Second Debsconeag	189
Piscataquis	Third Debsconeag	1,011
Piscataquis	Fourth Debsconeag	227
Piscataquis	Lobster Lake	3,475
Piscataquis	Nahmakanta	1,024
Piscataquis	Nesourdnehunk lake	1,394
Penobscot	Penobscot Lake	717
Somerset	Pierce Pond	1,650
Somerset	Enchanted Pond	330
Somerset	Holeb Pond	1,055
somerset	Attean Pond	2,745
Somerset	Penobscot Lake	1,162

The Land and Water Resources Council will work with the SPO, DOC and IF&W to prepare a list of “special Great Ponds” that merit consideration for “Quiet Waters” status (See recommendation 10, page 5).

The 118th Legislature directed that the Department of Inland Fisheries and Wildlife, the Bureau of Public Lands, and the Land Use Regulation Commission report to the Joint Standing Committee of Inland Fisheries and Wildlife of the 119th Legislature no later than January 1, 1999 for regulations for specific water bodies or classes of water bodies within their jurisdiction.

### **Noise and Modifying Mufflers to Increase Sound Output**

Noise from watercraft, and in particular personal watercraft, is an issue raised by Maine citizens. The advent of high horsepower watercraft and personal watercraft has created noise problems on many Great Ponds. The presence or absence of man-made noise helps determine the character of a lake or pond (Wagner, 1994). The intensity of sound does diminish with distance, but the lack of barriers on water means that sounds can travel for miles. Maine citizens are concerned about excessive noise on Great Ponds from recreational watercraft. Canoeists and camp owners who use isolated lakes and ponds within the jurisdiction of LURC want to maintain the peace and quiet of these waters.

Maine currently has no maximum sound levels established in law for motorized watercraft. Other states have established sound levels for watercraft as one approach to setting limits on unacceptable sound levels. For example, Vermont and New Hampshire laws establish maximum sound levels for motorized watercraft as 82 dB as measured on the A scale which is approximately equal to a pneumatic drill at 50 feet. Maine proposes to establish legal maximum sound levels at 82 dB as measured on the A scale for watercraft built before 1998, and at 78 dB for watercraft built after 1998 (See recommendation 7, page 5). The 118th Legislature enacted these sound standards.

Maine’s existing boating laws do not address the issue of altering or tampering with mufflers to increase noise levels. Prohibiting any alteration of a factory installed muffler system that results in an increased sound will eliminate extremely loud and objectionable motorboats on Maine’s lakes and ponds. Addressing this issue will help ensure that Maine lakes and ponds remain relatively quiet (See recommendation 8, page 5). The 118th Legislature prohibited tampering with muffler systems resulting in an increased sound.

### **Extending Limited Liability to Incorporated Lake Associations for the Placement of Navigational Aid Markers**

The State of Maine is immune from most liability issues associated with marking navigational hazards and boating passages. However, individuals or lake associations are not immune. Lake associations and communities are allowed to mark hazards on Great Ponds

providing they obtain a permit from the Department of Conservation and follow guidelines established for marking inland waters. Lake associations are reluctant to volunteer to place navigational aid markers because of their liability exposure.

The lack of adequate navigational aid markers on some lakes and ponds is an issue voiced by a number of citizens and lake associations. The State of Maine marks only 17 Great Ponds with navigational aid markers to warn of hazards, identify boating lanes, and to mark entrances to harbors and locations of boat launching ramps. DOC's Boating Facilities Division, which maintains inland navigational aid markers, is funded by a small percentage of the State sales tax on gasoline. About \$1.5 million in sales tax revenue is annually transferred to the Boating Facilities Fund for the division's use. In 1995, the Navigational Aids Program was reduced from five to two staff. Until new fiscal resources are identified, no new navigational aid markers will be placed in Great Ponds by the Navigational Aids Program. The 1995 Strategic Plan for Providing Public Access to Maine Waters for Boating and Fishing directed the program's funds to be used for boating access, not navigational aid markers (Department of Conservation, 1995).

The State of Maine participates in a national uniform marking system to ensure that markers used in freshwater under State jurisdiction will have the same meaning in all states. All markers placed in Great Ponds must be configured, colored and lettered in accordance with the Maine Uniform Waterway Marking System's rules and regulations. The positions of navigational aids in lakes are marked by Global Position System units (GPS), depth finders, computer maps and charts.

The State could expand the placement of navigational markers by taking one simple step; grant incorporated lake associations limited liability. This would extend to members who volunteer to mark lakes. The State would extend liability coverage for harm caused by placement or maintenance of markers as long as they are placed in accordance with the DOC permit's terms and conditions. If a lake association or its members are negligent or malicious in the placing of markers, they would be subject to liability.

Related to this issue is the placement of unauthorized navigational aid markers such as Clorox bottles. It is a class E crime to mark waterways with objects other than buoys which conform to Maine Uniform Waterway Marking System. Promoting closer cooperation between the Navigational Aids Program and lake associations will promote the use of authorized buoys, and make our waters safer (See recommendation 14, page 6). The 118th Legislature granted limited liability waiver to incorporated lake associations under permit from the Department of Conservation.

### **The Lack of Watercraft Education**

Many citizens indicated that the operators of motorboats should be required to take a basic boating educational course. Free boating safety courses are offered by the Coast Guard Auxiliary, the U.S. Power Squadron and the Department of Inland Fisheries and Wildlife. Unfortunately attendance in these classes has been decreasing during the past few years. Increased education will lead to a better understanding of Maine watercraft laws that will result in safer and more courtesy boating. Four approaches to implementing watercraft education in Maine are discussed in this report:

### **Establishing Mandatory Watercraft Education**

Currently, the State of Maine does not require watercraft education. IF&W offers a free boating safety course during the winter which is poorly attended. Most of the watercraft education courses in Maine are focused on coastal boating, and are offered free by the U.S. Coast Guard Auxiliary and the U.S. Power Squadron. These courses meet national standards established by the National Association of State Boating Law Administrators (NASBLA). Throughout the United States, many states are now considering a wide array of watercraft educational requirements. Maine citizens will benefit from taking a NASBLA approved watercraft safety course and obtaining a certificate which is recognized and honored by most states.

The State of Maine will monitor the status of educational requirements of the other New England states so that Maine can update its educational requirements to be consistent with the other New England states (See recommendation 17, page 6). The 118th Legislature ordered the Commissioner of Inland Fisheries and Wildlife to make recommendations to the Joint Standing Committee on Inland Fisheries and Wildlife of the 119th Legislature no later than January 1, 1999 on an education and safety training program for motorboat operators on inland waters.

### **Establishing a Surface-Use Coordinator**

The establishment of a Surface-Use Coordinator at IF&W would ensure that enforcement, education and outreach efforts are focused on lakes and ponds with watercraft problems. Furthermore, the Surface-Use Coordinator will develop and implement training and certification for inland Harbor Masters to assist the Maine Warden Service in the enforcement of boating laws on lakes and ponds within organized municipalities.

Local education and enforcement efforts through inland Harbor Masters would improve watercraft safety on Great Ponds by the establishment of local education and enforcement capabilities. Local enforcement efforts would take some of the pressure off the overworked Maine Warden Service. There is currently no formal linkage between the Maine Warden Service and inland municipal Harbor Masters. Public boating safety would be improved by establishing this linkage that would promote enforcement on Great Ponds with watercraft problems (See recommendation 16, page 6).

### **Establishing a Boating Code of Conduct**

An official Code of Conduct for boating will promote courtesy and safe boating in existing educational programs and dissemination by the boating industry. This voluntary educational approach will reduce disrespectful and unfriendly boating behavior. IF&W and the Department of Marine Resources (DMR) will develop a boating Code of Conduct in cooperation with the boating industry. Public input could be solicited by the departments as

they develop the Code of Conduct. When completed, the official Code of Conduct would be promoted and distributed by IF&W, DMR and the boating industry (See recommendation 18, page 6; and final recommendation 8, page 57).

### **Establishing Vendor Licensing**

Establishing a licensing program for vendors who rent recreational motorized watercraft would promote boating education by the vendors. A licensing program for rental boat vendors would establish a direct link between IF&W's Warden Service and vendors. Information about watercraft safety and boating courtesy could flow more directly from IF&W to these businesses and their clients. Vendors should be responsible for providing educational materials and brief instructions to their clients.

Renters are often first time users of watercraft, and they are often unfamiliar with boating operations, laws and courtesy. Watercraft users who rent are more likely to be involved in watercraft accidents because of their lack of familiarity with operating watercraft. This is particularly true of renters of personal watercraft. Citizens told the Task Force that renters of personal watercraft are frequently the source of problems on Great Ponds (See recommendation 15, page 6). The 118th Legislature required vendors who rent personal watercraft to obtain a rental agent certificate from the Commissioner of Inland Fisheries and Wildlife.

### **Increasing Watercraft Fines**

The relatively light fines for violating watercraft laws are an issue confronting law enforcement efforts. In addition, the Task Force was told that judges often suspend fines for watercraft violations. Stiffer fines for violations of the most serious watercraft safety laws will act as an incentive for increased compliance. State government needs to strengthen fines and make the fines of the most serious violations of watercraft laws nonsuspendable (See recommendation 19, page 6; and final recommendation 9, page 57).

### **Expanding Criteria for Horsepower Restrictions By Rulemaking**

Existing law limits the Commissioner of IF&W to consider only safety when evaluating petitions for horsepower limitations. The criteria used by the Commissioner in the rule-making process to regulate the size of horsepower on Maine's Great Ponds needs to be expanded to address a wider variety of social and boating problems. There are a number of Great Ponds where citizens desire only the use of low horsepower motors because large horsepower and high speed watercraft are unsuitable for smaller lakes and ponds. Under current State law, horsepower limits for Maine's Great Ponds may only be established by the Commissioner in response to a petition from either 25 residents, municipal officers or county commissioners. In addressing a petition, the Commissioner is limited by the following criteria:

1) area of the internal waters, 2) use to which the internal waters are put, 3) depth of the water, 4) and amount of water-borne traffic to “insure the safety of persons and property.”

Expanded criteria for the Commissioner’s rulemaking authority will allow for a more comprehensive approach in determining horsepower size and type of watercraft appropriate for use on the State’s Great Ponds. State government will be able to better address social boating problems such as noise, personal watercraft, and the use of small ponds. In addition, the Commissioner will be able to address natural resource and environmental issues affecting Great Ponds. The owners of sporting camps would like to see horsepower restrictions on Great Ponds in the North Woods to maintain traditional use. Expanded criteria for rulemaking will allow the Commissioner to address a number of social and environmental concerns voiced strongly by the public. These include: 1) environmental concerns such as noise, 2) wildlife values, 3) speed, 4) traditional uses, and 5) watercraft type. These new criteria will provide greater flexibility to IF&W in establishing rules tailored to the diversity of Great Pond sizes, natural resource values, and appropriate uses (See recommendation 11, page 6).

### **Regulating Great Ponds Wholly Within Indian Territory**

The Penobscot Indian Nation and the Passamaquoddy Tribe have 30 Great Ponds wholly within their territories. An opportunity needs to be created for the Penobscot Indian Nation and Passamaquoddy Tribe to collaborate through the Maine Indian Tribal-State Commission to determine the appropriate type of watercraft regulations for Great Ponds in their jurisdiction which are listed in Appendix F (See recommendation 12, page 6). The 118th Legislature granted the Maine Indian Tribal-State Commission the authority to adopt rules to regulate the horsepower and use of motors on waters less than 200 acres and entirely within Indian territory. In addition, the 118th Legislature also required the Maine Indian Tribal-State Commission to make recommendations no later than January 1, 1999 to the Joint Standing Committee on Inland Fisheries and Wildlife of the 119th Legislature on the use of personal watercraft on lakes and ponds within Indian Territory within the jurisdiction of LURC.

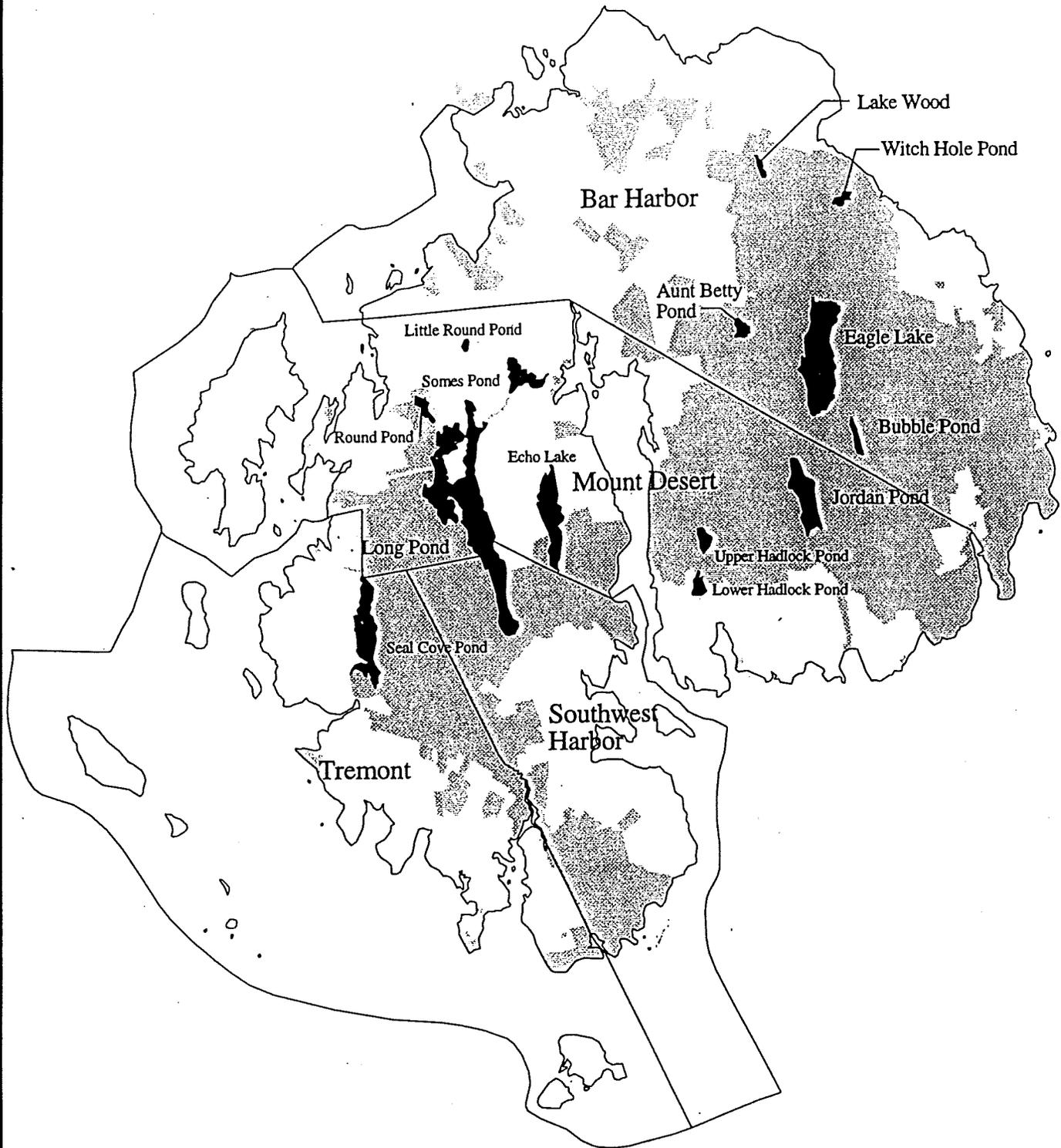
### **Using Factory Installed Safety Features**

Requiring the use of factory installed safety features is one means to increase safe boating. Currently operators of motorized watercraft are not required to utilize safety features on watercraft. This equipment includes, for example, an automatic cut-off on motors if the operator falls overboard (See recommendation 9, page 5; and final recommendation 6, page 57).

### **The Lack of Watercraft Restrictions for Great Ponds in Acadia National Park**

The establishment of watercraft restrictions on Great Ponds within Acadia National Park is an issue being proposed by the National Park Service and supporters of Acadia National Park. The 14 Great Ponds in the park comprise an important part of its scenery and natural character (Figure 9). In addition, Eagle Lake, Jordan Pond and Upper Hadlock Pond

Figure 9; Mount Desert Island



serve as public water supplies. The National Park Service seeks prohibiting the use of personal watercraft on Great Ponds in Acadia, and prohibiting internal combustion engines on seven small Great Ponds totally within the park that range in size from 16 to 38 acres. The National Park Service is preparing a Water Resources Management Plan addressing the use and management of State jurisdictional waters within Acadia.

Visitors to Acadia will benefit from these proposed watercraft regulations because the high pitched man-made noises from personal watercraft will not be introduced into the natural environment of Acadia National Park's lakes and ponds. Eliminating internal combustion engines from Upper Hadlock Pond, Lower Hadlock Pond, Witch Hole Pond, Aunt Betty's Pond, Bubble Pond, Round Pond and Lake Wood will ensure tranquillity and "Quiet Waters" status for these very small ponds which is the goal of the National Park Service (See recommendation 13, page 6; and final recommendation 7, page 55).

The 118th Legislature prohibited internal combustion engines on Witch Hole Pond, Aunt Betty's Pond, Bubble Pond, Round Pond and Lake Wood, and limited horsepower to 10 or less on Lower Hadlock Pond and Upper Hadlock Pond.

### **Establishing Public Access to Great Ponds**

The lack of public access to Great Ponds is a major issue to a wide variety of citizens. Maine sportsmen, in particular, are very concerned about decreased public access to Maine's lakes and ponds. Access to Great Ponds over unimproved lands is guaranteed by Maine law. As shorelands have become subdivided and developed around Great Ponds, traditional accessways have been closed to public use. Many communities lack access to Great Ponds within their town for launching boats, swimming and recreation.

Over the years, the State has purchased access sites for motorboat launching ramps on many of the larger Great Ponds. During the past thirty years, the State of Maine has established public access sites with ramps to over 200 Great Ponds. A portion of the Boating Facilities Fund is allocated to develop motor boat launching sites on Great Ponds, rivers and coastal waters. This fund receives about \$1.5 million annually from a portion of the State gasoline tax. Federal funds for boating access sites come from federal taxes on fishing and boating equipment, and a portion of the federal tax on gasoline used by motorboats.

In 1995, the Department of Conservation and Department of Inland Fisheries and Wildlife issued their Strategic Plan for Providing Public Access to Maine Waters for Boating and Fishing (Maine Department of Conservation, 1995). This plan addresses only the needs for recreational motor boating. The plan documents the current availability of public access, and the need for more public boat ramps for motor boating and fishing. The plan does not address the public need for recreation, swimming and general need for access to Great Ponds. The plan concludes that older access sites require upgrading to bring them into compliance with the federal disabilities law and environmental standards.

The number of access sites to Great Ponds can be increased by a variety of ongoing acquisition efforts. The 118th Legislature appropriated \$3,000,000 to the Land For Maine's

Future Program. Municipalities and land trusts will be eligible to apply for the use of these new State funds. Local land trusts are continuing their efforts to acquire key parcels of land with lake frontage. For example, the Kennebec Land Trust recently completed the acquisition of several islands in lakes in Kennebec County. The Department of Conservation and the Department of Inland Fisheries and Wildlife will continue to annually establish new motorboat launching ramps on Great Ponds.

## **Land Use Planning, Regulation and Enforcement**

### **Town Comprehensive Planning, Watershed Planning, Lake Planning Efforts**

Land use planning and regulation can guide development and protect sensitive shoreland areas and the water quality of adjacent lakes and ponds. Land use planning and regulation efforts by towns, and by LURC in the Unorganized Territory, are a major opportunity to preserve the environmental and experiential quality associated with Maine's Great Ponds. A regional plan for Moosehead Lake has been undertaken (Maine Tomorrow, 1988). In the late 1980s, LURC undertook major studies of Great Ponds that culminated in the 1990 amendment to its Standards creating seven lakes management classes (Maine Department of Conservation, 1990). In 1997, LURC adopted its revised Comprehensive Land Use Plan which has sections addressing Great Pond issues (Maine Department of Conservation, 1997). Sensitivity of lakes to development pressures has been evaluated by DEP, and watershed planning tools have been developed for water quality protection.

The Comprehensive Planning and Land Use Regulation Act of 1989, and subsequent legislative studies, including this one, point to the critical role that municipal planning and land use regulation play in any strategy to protect Maine's water resources and Great Ponds. Specifically, the Comprehensive Planning and Land Use Regulation Act:

- ◆ identifies protection of Great Ponds as one of the State's ten goals spelled out in the Act;
- ◆ requires the inventory and analysis portion of local plans include identification of significant water resources like Great Ponds;
- ◆ requires the implementation strategy portion of local plans to protect, to maintain, and where warranted, to improve the water quality of each water body through shoreland zoning and controlling cumulative increases in phosphorus from development in Great Pond watersheds; and
- ◆ calls for regional resources like Great Ponds that are shared by several towns be cooperatively managed.

Since 1989, hundreds of Maine communities have undertaken a town wide comprehensive planning process. As of March 1998, 268 of the 492 organized towns have prepared Comprehensive Plans.

As Comprehensive Plans are written or revised, watershed planning or individual lake planning can be incorporated into the revised plan to take into account sensitive lakes such as the 243 identified by DEP as "Lakes Most at Risk from New Development." On October 24, 1998, the town of Belgrade approved its Comprehensive Plan which addresses growth and land use issues associated with the all the Great Ponds in Belgrade. Problems with multijurisdictional issues can be resolved best if towns cooperate on watershed planning and management goals for shared water bodies.

The State Planning Office provides technical assistance to municipal governments when they revise their town Comprehensive Plan. The State Planning Office recently studied and evaluated the effects of growth and development on Maine's landscape including watersheds containing Great Ponds (Maine State Planning Office, 1997).

State government facilitates watershed planning through comprehensive planning grants, and technical assistance from DEP's Watershed Division. A significant amount of the federal EPA's nonpoint grant is aimed at protecting water quality in watersheds. Because two or more towns are usually included in a watershed, there is a need for regional planning by watershed. The newly established Priority Watershed Program at DEP will provide more resources for watershed planning.

There is a need to promote watershed management both for water quality and habitat protection. In addition to comprehensive planning and technical assistance for implementing land use plans, emphasis is needed on locally driven projects to protect lakes. This should take the form of technical assistance in watershed evaluations and innovative financing for these projects, especially where they involve multiple jurisdictions or regional efforts. Experience with projects in Maine suggest that these can be cost effective, multiplying public funds substantially.

Code Enforcement Officers play an important role educating the public and enforcing local land use ordinances. There is a need to increase training for Code Enforcement Officers, and to focus more of their time on lake and watershed protection.

### **Revocation of Code Enforcement Officer's Certification**

The issue of a fair and prompt revocation procedure for Code Enforcement Officers needs to be addressed by municipalities. Under current law a Code Enforcement Officer's Certificate may be removed only by a judicial procedure which is a slow and cumbersome process. Adopting an administrative procedure to consider revocation of a Code Enforcement Officer's Certificate when the Code Enforcement Officer has failed to carry out his/her duty to enforce existing environmental laws should be part of a prompt and fair process (See recommendation 6, page 5; and final recommendation 5, page 57).

## **Funding**

### **Increasing Funding for State Lake Efforts**

There is an urgent need to increase State funding for water quality protection efforts at the Department of Environmental Protection and watercraft enforcement at the Department of Inland Fisheries and Wildlife. The public stated that they are willing to pay for new and increased fees for increasing the number of deputy wardens assigned to watercraft enforcement, and for water quality protection including the DEP's Lake Program.

Fourteen funding needs are identified (dollars are as of 1997):

- ◆ Revitalization of the Lakes Program at DEP - \$451,516 per year;
- ◆ Increased enforcement and education through IF&W, DMR - \$840,000 per year ;
- ◆ Increased enforcement and education through Harbor Masters - \$ (included in #2) ;
- ◆ Petition process under expanded criteria -\$ (included in #2);
- ◆ Inland & Fisheries and Wildlife Surface-Use Coordinator (position) - \$50,000 per year;
- ◆ Establishment of decibel limit for motorized watercraft - \$12,000;
- ◆ Establishment of a vendor licensing program - \$ (self funded through vendor fees);
- ◆ Mandatory water safety education - \$105,000 per year;
- ◆ Code of Conduct for Safe and Courteous Boating - \$25,000;
- ◆ Priority Watershed Project - \$250,000 - \$500,000 per year;
- ◆ Expansion of CEO lake protection - \$50,000 per year ;
- ◆ Water Craft Educational Materials (to include the Guide to Safe Boating in Maine) \$25,000;
- ◆ Placement of navigational aids - \$2,000; and
- ◆ Retrofit public boat launching sites on Great Ponds serving as public water supplies - \$ (existing sources).

### **Establishing a Lakes Heritage Fund**

Providing a stable source of funding to lake programs is a very important issue to Maine citizens. New funds raised to address Great Pond issues will go directly into the Lakes Heritage Fund and be used solely for lake projects addressing water quality and watercraft issues.

The Lakes Heritage Fund is a trust fund from which the Land and Water Resources Council, the administrative entity, can direct financial resources to address the most pressing needs relating to Great Ponds. By placing this fund under the control of the Council, this

ensures that funding decisions will have interagency discussion to recognize those funding needs that are of the highest statewide priority.

During the 1990s, funding for lake water quality programs was dramatically reduced at DEP. At the same time, threats to water quality of Maine's lakes and ponds continue to grow. The decline in water quality of Maine's lakes and ponds is a serious problem for 243 lakes and ponds listed by DEP as "Lakes Most at Risk from New Development."

Funding for watercraft enforcement has not increased. The Warden Service is under funded and understaffed. Furthermore, the wardens do not have adequate equipment for watercraft enforcement. Eleven potential funding sources are identified for the Lakes Heritage Fund.

**Existing funding sources that could be redirected:**

- ◆ Boat excise tax
- ◆ Loon license plate revenues
- ◆ Wetland compensatory mitigation funds

**Other potential funding sources include:**

- ◆ A one-time non-motorized watercraft fee
- ◆ Environmental fines related to Great Ponds (specifically, N.R.P.A., waste discharge, erosion control)
- ◆ State of Maine income tax check-off
- ◆ Bond issue for capital improvements
- ◆ \$1,000 fine for motorized vehicles that break through the ice of Great Ponds
- ◆ A surcharge on rental watercraft units
- ◆ An annual fee for each shoreland property owner
- ◆ General Fund

There is no specific fund dedicated to all Great Pond activities, and available to all State natural resource agencies working on Great Pond issues. The Lake Environmental Protection Fund currently exists under DEP (Title 38, Chapter 2 Subsection 3). However, it is designed to provide funding for activities aimed at maintaining and improving lake water quality. While the Fund still exists in law, it has no money. Decisions regarding the use of the Lakes Environmental Protection Fund are made by DEP for DEP's lake related efforts. It was never intended to be a source of funding for the wide range of needs for which the Lakes Heritage Fund is designed (See recommendation 26, page 7).

The 118th Legislature established the Lakes Heritage Fund under the administration of the Land and Water Resources Council. Currently, no monies have been allocated to the Fund.

### **Establishing a Watercraft Enforcement Fund**

Citizens said they would support increased fees for watercraft enforcement provided that the fees are allocated to an account dedicated solely for enforcing Maine's watercraft laws. The Watercraft Enforcement Fund will be used to support boating law enforcement by the Warden Service and inland Harbor Masters, watercraft education, and the administration of the Commissioner's expanded rulemaking authority (See recommendation 27, page 7; and final recommendation 11, page 58).

### **Increasing the Boat Registration Fee**

An increase in the boat registration fee is one way to fund the Watercraft Enforcement Fund and to contribute to efforts to protect water quality. An increase is needed to pay for 20 seasonal deputy wardens to patrol lakes with watercraft problems. Compared with other New England states, Maine's boat registration fee is low. Registration fees in the New England states are listed in Appendix J. An \$11 increase in the boat registration fee would generate an estimated \$1,265,000 (See recommendation 28, page 8).

The 118th Legislature increased the registration fee for motorized watercraft in the spring of 1997 in order to fill an existing budget deficit at the Department of Inland Fisheries and Wildlife. Fees were increased to \$6.00 for 10 HP or less; \$10 for 11 HP to 50 HP; and \$15 above 51 HP. The fee for a personal watercraft was increased to \$20.00.

### **Increasing the Real Estate Transfer Tax**

Many owners of dwellings in lake watersheds benefit from their proximity to Great Ponds. At the same time, these dwellings, through run-off and other sources, often contribute to water pollution. It is fair for owners of these dwellings to pay a modest sum from time to time in order to help maintain lake water quality and to increase watercraft enforcement. One mechanism to generate new funding for Great Ponds is a surcharge on the real estate transfer tax for homes sold in Great Pond watersheds.

It is difficult to determine how much money on an annual basis would be generated. Real estate sales are not reported by lake watershed. An initial estimate is that this funding mechanism would generate only a modest amount of money because it is limited to inland Maine. Most of Maine's real estate is located in non-lake watersheds - the coast and cities on rivers. County governments will collect the real estate transfer tax and pay it directly to the State Treasurer which will then credit the funds to the Lakes Heritage Fund. The funding will be split with 70% going to the Watercraft Enforcement Fund and 30% to the Lakes Program at DEP (See recommendation 29, page 8).

### **Establishing a Motorless Watercraft Fee**

A onetime motorless watercraft fee is a reasonable means to fund lake related State programs that benefit citizens who use and enjoy Maine's lakes and ponds. Citizens using canoes, kayaks, sailboards, sailboats and row boats benefit from clean lake water. Users of canoes indicated a willingness to pay a modest one time fee to help protect Maine's lakes.

The exact number of motorless watercraft in Maine is unknown. It is estimated that initially this one time fee could raise between \$2,000,000 and \$3,000,000 with 90% going to the Lakes Heritage Fund and 10% going to municipalities. On an annual basis, the fee might raise between \$100,000 to \$200,000 (See recommendation 30, page 8).

### **Establishing a Water Quality Impact Fee**

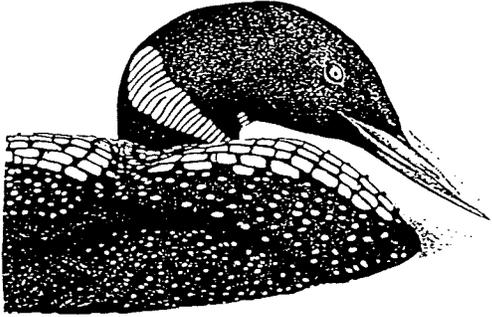
Because shoreland property owners gain the most from efforts to protect water quality, many indicated a willingness to pay a small annual fee dedicated to water quality protection. It is estimated that there are about 60,000 dwellings within the Shoreland Zone of Great Ponds. A Water Quality Impact Fee of \$10 per year would generate an estimated \$240,000 annually for municipalities and \$360,000 annually to the Lakes Heritage Fund which would be allocated to the Lakes Program (See recommendation 31, page 8).

### **Allocating Environmental Fines**

Allocating environmental fines is a potential funding source for State lake protection efforts. Environmental fines are now paid into the General Fund. Environmental fines related to Great Ponds (N.R.P.A., waste water discharges, and erosion control) should be allocated to the Lakes Heritage Fund. The amount of environmental fines is quite modest and varies from year to year (See recommendation 32, page 8; and final recommendation 13, page 58).

### **Funding for Code Enforcement Officers**

Expanding funding sources for Code Enforcement Officers will benefit municipal efforts to enforce Shoreland Zoning ordinances and building codes within lake watersheds. Code Enforcement Officers play a key role at the municipal level in protecting shorelands and water quality. Water quality protection efforts need to be enhanced for the 243 "Lakes Most at Risk from New Development" by providing increased funding to towns with these lakes within their town borders. The Lakes Heritage Fund is one source of funding that could provide special grants to town governments to increase the number of hours Code Enforcement Officers devote to lake related work tasks (See recommendation 33, page 8; and final recommendation 14, page 58).



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## Part II Legislative Action

Five pieces of legislation were introduced into the 118th Legislature to address Great Pond issues:

- ◆ LD 80 An Act to Protect Internal Waters of the State;
- ◆ LD 208 An Act to Limit Personal Watercraft;
- ◆ LD 416 An Act to Amend the Definition of Personal Watercraft, to Prohibit the Imprudent Operation of Watercraft on Inland Waters of the State and to Assess the Effectiveness of Industry-Sponsored Watercraft Safety Training and Education Programs;
- ◆ LD 1217 An Act to Protect the State's Lakes, Rivers and Coastal Wetlands through a Comprehensive Watershed Protection Program; and
- ◆ LD 1730 An Act to Implement the Recommendations of the Great Pond Task Force.

The First Regular Session of the 118th Maine Legislature enacted the following laws affecting Great Ponds:

- ◆ The Lakes Heritage Fund was created and placed under the authority of the Land and Water Resources Council (PL 1997, Chapter 519);
- ◆ The Priority Watershed Program was created within the Department of Environmental Protection (PL 1997, Chapter 519);
- ◆ The legal definition of personal watercraft was revised (PL 1997, Chapter 540);
- ◆ The miscellaneous nuisance law was expanded to include imprudent operation of watercraft as defined by engaging "in prolonged circling, informal racing, wake jumping or other types of continued and repeated activities that harass another person" (PL 1997, Chapter 540); and
- ◆ Watercraft registration fees were increased (PL 1997, Chapter 24).

The Second Regular Session of the 118th Maine Legislature enacted the following law affecting Great Ponds:

- ◆ Four additional staff were added to the Lakes Program at DEP. Funding of \$279,568 was appropriated for grants and projects. Funding for the Lakes Program was included in the budget bill, which Governor King signed on April 1, 1998, and became effective on July 1, 1998 (PL 1997, Chapter 643).

The Second Special Session of the 118th Maine Legislature enacted the following laws affecting Great Ponds. Governor King signed the Great Ponds Bill on April 14, 1998, and became effective on July 9, 1998.

- ◆ Operators of personal watercraft are required to be 16 years of age or older (PL 1997, Chapter 739);
- ◆ Personal watercraft are prohibited on 242 lakes and ponds wholly or partially within the jurisdiction of LURC that are listed in Management Classes 1, 2, and 6 (PL 1997, Chapter 739);
- ◆ Personal watercraft are prohibited on Great Ponds with more than two-thirds of their surface water within the jurisdiction of LURC that are identified as being of statewide significance in the Maine Wildlands Lake Assessment, and with two or more outstanding resource values, and more than one-half of the shoreline in public or private conservation ownership. Three Great Ponds are included in this category: Mooselookmeguntic Lake, Tunk Lake and Donnell Pond (PL 1997, Chapter 739);
- ◆ Municipalities are granted a two year period to recommend watercraft regulations.

A municipality, with the approval of its legislative body, may submit recommendations to the Commissioner of IF&W for regulating the use, operation and type of watercraft on Great Ponds in organized townships or partially within the jurisdiction of the LURC. A municipality shall take into consideration the following criteria: 1) the use to which those waters are put, 2) the depth of the waters, 3) the amount of water-borne traffic, 4) wildlife, 5) environmental values, 6) noise, and 7) traditional use.

For Great Ponds that border more than one municipality, recommendations may be submitted only after approval by the legislative bodies of all municipalities in which the Great Pond is located. For Great Ponds that border lands within the jurisdiction of LURC, the approval of LURC is required. Watercraft recommendations may only be submitted to the Commissioner after a public hearing has been held by the town or towns. A description of the resources the municipality will use to enforce those regulations, if enacted, must be included with these recommendations.

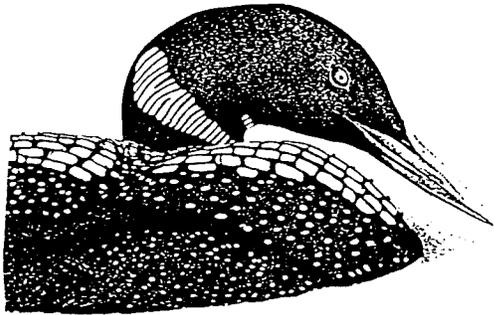
The Commissioner of IF&W shall submit a report to the First Regular Session of the 119th Legislature by January 15, 1999 on the recommendations received prior to November 1, 1998. The Commissioner of IF&W shall submit a report to the Second Regular Session of the 119th Legislature on recommendations received from municipalities between November 1, 1998 and October 30, 1999. IF&W's reports must be accompanied by legislation implementing the municipal recommendations supported by the department. The legislative proposals may also include recommendations of the department,

developed using the new criteria, for Great Ponds not addressed in the municipal proposals (PL 1997, Chapter 739);

- ◆ Internal combustion motors are prohibited on Witch Hole Pond, Aunt Betty's Pond, Bubble Pond, Round Pond, and Lake Wood in Acadia National Park (PL 1997, Chapter 739);
- ◆ Upper Hadlock Pond and Lower Hadlock Pond in Acadia National Park are limited to internal combustion engines of 10 horsepower or less (PL 1997, Chapter 739);
- ◆ Maximum sound levels of 82 dB are established for motorized watercraft built before January 1, 1998, and 78dB for motorized watercraft built after January 1, 1998 (PL 1997, Chapter 739);
- ◆ Tampering with a muffler system on a motorboat that results in an increase in the decibels of sound is prohibited (PL 1997, Chapter 739);
- ◆ Vendors who rent personal watercraft to the public are required to obtain a rental agent certificate from the Commissioner of IF&W (PL 1997, Chapter 739);
- ◆ Limited liability is granted to incorporated lake associations under permit from the Department of Conservation for placing navigational aid markers in Great Ponds (PL 1997, Chapter 739);
- ◆ The radius of the no trespass zone around water in-takes for public water supplies from Great Ponds is expanded from 200 feet to 400 feet (PL 1997, Chapter 739);
- ◆ The Maine Indian Tribal-State Commission is granted the authority to adopt rules to regulate the horsepower and use of motors on waters less than 200 acres in surface area and entirely within Indian territory (PL 1997, Chapter 739);
- ◆ The Maine Indian Tribal-State Commission shall make recommendations on the use of personal watercraft on waters within the ownership of the Penobscot Indian Nation and Passamaquoddy Tribe to the Joint Standing Committee of IF&W of the 119th Legislature no later than January 1, 1999 (PL 1997, Chapter 739);
- ◆ LURC, IF&W and the Bureau of Parks and Lands are required to report jointly to the Joint Standing Committee of IF&W of the 119th Legislature no later than January 1, 1999 on the regulation of specific water bodies or classes of water bodies within their jurisdiction (PL 1997, Chapter 739);
- ◆ The Commissioner of IF&W is required to make recommendations to the Joint Standing Committee on IF&W of the 119th Legislature no later than January 1, 1999 on an education and safety training program for motorboat operators on inland waters (PL 1997, Chapter 739).

Laws passed by the 118th Legislature affecting Great Ponds are listed in Appendix I.





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## Part III

# Goals and Recommendations

Over one thousand citizens provided comments over a one year period. At the public meetings held in August and September 1996 to solicit public comment on the 35 preliminary recommendations, 175 people spoke, and over 350 letters were received. In addition, 446 citizens completed and returned a questionnaire on lake issues.

Citizens spoke in clear language that they want solutions in three broad areas: 1) funds to revitalize the Lakes Program at DEP and increase watercraft enforcement at IF&W, 2) regulations to address the use of personal watercraft, and 3) increases in educational, age and other requirements for operating watercraft.

In response to the questionnaire: 77% supported a "Quiet Waters" initiative, 87% supported revitalizing the Lakes Program, 78% supported expanding the criteria used by IF&W to address petitions seeking to limit horsepower, 63% supported increased acquisition of public lands on Great Ponds, 83% supported establishing a Great Ponds Advisory Committee, and 83% supported an increase in the boat registration fee for enforcement. In a December 1997 Maine Omnibus Survey, 79% of the respondents opted for tighter regulations of personal watercraft (Market Decisions, 1997).

After reviewing and discussing the needs and problems confronting Maine's Great Ponds, three goals, 14 final recommendations, and one resolve are presented to Maine citizens. These represent the core of the Final Report for the State of Maine to implement during the next five years.

## Goals

Three goals guide the State of Maine's Great Pond initiatives.

### Goal 1. Maintain and restore water quality of Maine's Great Ponds.

Protecting the high water quality of Maine's lakes and ponds is of paramount importance to the State of Maine. Citizens and summer visitors depend on clean lakes for quality living, recreating and fishing. The economies of a number of inland communities depend upon healthy lakes. Over 600,000 citizens obtain their drinking water from Great Ponds. There is an urgent need to prevent pollution from spoiling 243 lakes and ponds that are listed as "Lakes Most at Risk from New Development."

### Goal 2. Balance competing uses in a manner that does not unreasonably compromise the quality of boating experiences on Maine's Great Ponds.

Maine needs to resolve conflicts over boating issues on Maine's Great Ponds. It is in everyone's interest to find a balance among different recreational demands on Maine's lakes and ponds. Maine's 2,800 Great Ponds should provide ample opportunity for separating some of the competing uses. Some lakes can be designated for watercraft uses that match the lake's natural resources, traditional use, and user demands. Many of the recommendations in this plan are aimed at achieving this goal.

### Goal 3. Increase State government's capacity to manage Maine's Great Ponds.

During the past decade, funding and staffing of State programs focused on lakes and ponds have decreased. Maine needs to reverse this trend, and build back the capacity of the Lakes Program, Warden Service and Navigational Aids Program. Without proper funding, the State will not be able to adequately enforce existing boating and water quality protection laws. Also, without State funds local initiatives that would focus local funding and volunteer time on lake issues will be stymied.

## Final Recommendations

In February 1997, 34 final recommendations and one resolve were approved (see pages 5 - 8). The 118th Legislature enacted 15 of the recommendations totally into law. The recommendation addressing personal watercraft within the jurisdiction of the Land Use Regulation Commission was partially enacted. On June 2, 1998, the Task Force approved the following 14 final recommendations and one resolve for legislative and administrative actions:

### **Water Quality**

1. Ensure the maximum environmental and public health protection for Great Ponds that serve as public water supplies by all State agencies.
2. Recognize as public policy the importance of the 50 Great Ponds which serve as public water supplies, and increase the protection zone around the in-takes to 1,000 feet.
3. Design new public boat launching sites, and retrofit some of the existing public boat launching sites located on Great Ponds that serve as a public water supply to afford the highest level of water quality protection.
4. Develop and implement an educational program to reduce the potential of introducing exotic aquatic plants and animals into Maine's Great Ponds.
5. Establish an administrative procedure for the revocation of a Code Enforcement Officer's certification when there are documented cases of a Code Enforcement Officer failing to carry out his/her authority to enforce existing laws.

### **Watercraft**

6. Require operators of watercraft to utilize factory installed safety features provided by the manufacturer.
7. The National Park Service, the Department of Inland Fisheries Wildlife and Department of Environmental Protection shall cooperate to resolve future environmental or social issues on Great Ponds at Acadia National Park.
8. Develop and promote an official Code of Conduct for safe and courteous boating in Maine.
9. Increase the fines from \$100 to \$500 for violations of watercraft safety laws and make the fines nonsuspendable.

### **Personal Watercraft**

10. Require personal watercraft to display an educational decal approved by the Department of Inland Fisheries and Wildlife. The decal shall list relevant boating laws and courtesies.

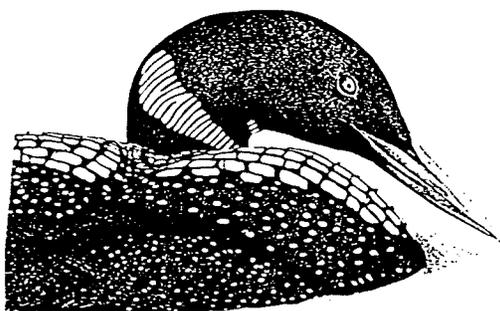
## **Funding**

11. Establish a Watercraft Enforcement Fund to be administered by the Department of Inland Fisheries and Wildlife to be used in support of boating enforcement including inland Harbor Masters, education, safety, and the administration of the expanded rulemaking authority by the Commissioner of Inland Fisheries and Wildlife.
12. The Land and Water Resources Council shall monitor water quality and watercraft needs of the Departments of Environmental Protection and Inland Fisheries and Wildlife. If these departments demonstrate a funding need, the Land and Water Resources Council may explore funding options for these needs.
13. Allocate penalties levied by DEP for violations of laws related to Great Ponds to the Maine Lakes Heritage Fund.
14. Develop a matching grant program to provide funding for expansion of local planning and ordinance development, and Code Enforcement Officer lake protection activities in municipalities with "Lakes Most at Risk from New Development."

## **Resolve**

The Land and Water Resources Council shall coordinate the implementation of the Great Pond Task Force's Final Report. It shall be further resolved that the Council establish a Great Pond Committee with broad public representation.

Implementation of the 14 final recommendations will be carried out primarily at the State agency level. Legislative support for funding a number of the recommendations is critical to their success. The Land and Water Resources Council, and its Great Pond Committee, will monitor progress on implementing the actions, and provide a forum to resolve conflicts and barriers to carrying out the actions. The Council will address emerging policy issues as they arise. In tight fiscal times, non-profit organizations such as land trusts, volunteer water-monitoring groups, loon rangers, local lake associations, and statewide conservation groups will need to assume more stewardship responsibilities for Maine's Great Ponds.



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## Part IV

# Conclusions

Serious issues confront Maine's lakes and ponds. They include funding for lake programs, enforcing watercraft laws and land use ordinances, and protecting water quality. A decade of declining State involvement and neglect needs to be reversed. This Final Report presents practical solutions to existing problems. A number of the recommendations require legislative action.

Maine's Great Ponds are among the State's most outstanding and economically significant natural resources. We cannot allow water quality to decline or boating conflicts to increase. The current net economic value of \$6.7 billion attributed to lakes is at risk. Maine cannot afford to have the events of China Lake spread across the State's lake regions. It costs far more to restore a polluted lake than it does to protect a clean lake. Maintaining lake water quality is the best investment for future jobs in Maine's lake recreation economy. We urge the people of Maine to work together over the next five years to solve these problems by implementing the new laws passed by the 118th Legislature and 14 recommendations in this Final Report.



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# Part VII Appendices

Appendix A. Great Pond Task Force Act

Appendix I. Public Laws Passed by the 118th Legislature

PL 1997, Chapter 24

PL 1997, Chapter 519

PL 1997, Chapter 540

PL 1997, Chapter 643

PL 1997, Chapter 739

Copies of the following appendices may be requested from the State Planning Office, Station # 38, Augusta, Maine 04333. Tel: 207-287-1489; Fax: 207-287-8059; e-mail: [hank.tyler@state.me.us](mailto:hank.tyler@state.me.us)

Appendix B. A Summary of Public Testimony and Comments  
(1996 & 1997)

Appendix C. Elements of a Priority Watershed Program

Appendix D. A Summary of Issues and Needs

Appendix E. A Summary of Great Pond Size Class Distribution

Appendix F. Great Ponds under Tribal Ownership

Appendix G. Summary of Major Great Pond Statutes, Regulations  
and Case Law

Appendix H. Work Elements and Tasks of the Maine Lakes  
Program

Appendix J. Boat Registration Fees in New England States



38 MRSA §1842-A

APPROVED

JUN 27 '95

BY GOVERNOR

CHAPTER

345

PUBLIC LAW

§1842-A. Great Pond Task Force

There is established, pursuant to Title 5, section 12004-I, subsection 22-C, the Great Pond Task Force, referred to in this chapter as the "task force," to develop a strategy to coordinate the State's great pond protection efforts in a manner that incorporates a watershed and ecosystem management approach and to assist in implementation of the strategy.

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 Commissioner of Transportation, the Commissioner of Agriculture, Food and Rural Resources, the Commissioner of Inland Fisheries and Wildlife, and the Commissioner of Economic and Community Development, 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; a nominee of the Maine Municipal Association appointed by the Governor; a nominee of the Sportsman's Alliance of Maine appointed by the Governor; a nominee of the Maine Forest Products Council appointed by the Governor; and not less than 4 nor more than 10 public members appointed by the Governor representing environmental concerns, recreational concerns, the concerns of landowners, the interests of water utilities and the concerns of other interested parties.

2. Terms. Members are appointed for the duration of the task force authorization.

3. Duties. The task force shall:

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

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

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

D. Develop a great pond classification system according to the intensity of development and use of the great pond.

consistent with the classification system used by the Maine Land Use Regulation Commission;

E. Develop an implementation strategy for public access and land acquisition on great ponds;

F. 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;

G. Recommend a mechanism for educating the public about water quality, surface use and land use planning;

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

I. Recommend a mechanism for coordinating great pond issues that involve roles of multiple agencies within state government and between state and local governments; and

J. Determine the economic benefits of great ponds to the State's inland economy.

4. Staff; expenses. The State Planning Office shall provide funding and staff assistance to the task force. Members of the task force are entitled to reimbursement for expenses, as provided in Title 5, section 12004-I.

5. Repeal. This section is repealed December 31, 1998.

Sec. 6. 38 MRSA §1843-A is enacted to read:

§1843-A. Great ponds management strategy

The task force shall develop a state great ponds management strategy in keeping with the goals of section 1841 by January 1, 1997.

1. Goals. The strategy must 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 has reasonable access to all great ponds.

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

3. Research. The strategy must include a research plan to determine significant existing or potential threats to water quality and other special values.

4. Report. The task force shall submit the strategy to the Governor and the Legislature by January 1, 1997.

5. Repeal. This section is repealed December 31, 1998.



Appendix I.

## **Public Laws Passed by the 118th Legislature**

PL 1997, Chapter 24  
PL 1997, Chapter 519  
PL 1997, Chapter 540  
PL 1997, Chapter 643  
PL 1997, Chapter 739



**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**  
**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**  
**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

establish a subsidiary to engage in a closely related activity and a financial institution holding company controlling a Maine financial institution may engage in a closely related activity in Maine or acquire or establish a subsidiary in Maine to engage in a closely related activity without the prior approval of the superintendent subject to all of the following conditions:

A. Before and immediately after the proposed transaction, the acquiring financial institution and the financial institution holding company are well-capitalized, as determined by the superintendent;

B. At the time of the transaction, the acquiring financial institution and the financial institution holding company are well-managed, which means:

(1) The institution received a CAMEL composite rating of 1 or 2 in connection with its most recent examination; and

(2) The institution received at least a satisfactory rating for management;

C. The proposed activities are permissible under section 1014;

D. The book value of the total assets to be acquired does not exceed 15% of the consolidated total risk-weighted assets of the acquiring institution;

E. The consideration to be paid for the securities or assets to be acquired does not exceed 15% of the consolidated Tier 1 capital of the acquiring institution;

F. During the 12-month period before the proposed transaction, the acquiring financial institution and the financial institution holding company have not been under an enforcement action and there is no enforcement action pending; and

G. The acquiring institution must provide written notification to the superintendent not later than 10 business days after consummating the transaction.

See title page for effective date.

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**CHAPTER 23**

**S.P. 249 - L.D. 818**

**An Act to Amend the Small Claims Court Laws**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 14 MRSA §7482, first ¶,** as amended by PL 1993, c. 401, §3, is further amended to read:

A "small claim" means a right of action cognizable by a court if the debt or damage does not exceed \$3,000 \$4,500 exclusive of interest and costs. It does not include an action involving the title to real estate.

See title page for effective date.

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**CHAPTER 24**

**H.P. 832 - L.D. 1137**

**An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999**

**Be it enacted by the People of the State of Maine as follows:**

**PART A**

**Sec. A-1. Appropriations and allocations.**

In order to provide for necessary expenditures of State Government and other purposes for the fiscal years ending June 30, 1998 and June 30, 1999, the following sums as designated in the following tabulations are appropriated or allocated out of any money not otherwise appropriated or allocated.

**Sec. A-2. Allotments required.** Upon receipt of allotments duly approved by the Governor based upon work programs submitted to the State Budget Officer, the State Controller shall authorize expenditures of these funds, together with expenditures for other purposes necessary to the conduct of State Government on the basis of these allotments and not otherwise. Allotments for Personal Services, Capital Expenditures and amounts for All Other departmental expenses may not exceed the amounts shown in the budget document or as they may be revised by the joint standing committee of the Legislature having jurisdiction over these appropriations and allocations, unless recommended by the State Budget Officer and approved by the Governor in accordance with established law.

**Sec. A-3. Personal Services funding.** The amounts provided for Personal Services in

A. Those restrictions set forth in section 7102-A, subsection 6, paragraph C, subparagraphs (1), (2) and (4); and

B. Hunting may occur only in areas designated by the commissioner as open to hunting during the extended archery hunting season.

7. Rules. Rules adopted by the commissioner pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

**Sec. I-3. 12 MRSA §7463-A, sub-§6, as amended by PL 1995, c. 443, §2, is further amended to read:**

**6. Application procedure.** Eligible persons wishing to apply for a permit shall must file a written application for a permit on a form furnished by the commissioner. ~~The application must be accompanied by an application fee of \$5 for residents and \$20 for nonresidents and aliens.~~ The application fee may not be refunded. A person may not file more than one application. Any person who submits more than one application is disqualified from the selection of permittees. The application must be accompanied by an application fee of:

A. For residents:

(1) Five dollars for a one-chance application;

(2) Ten dollars for a 3-chance application. A resident must possess a valid big game hunting license to be eligible to purchase a 3-chance application; and

(3) Twenty dollars for a 6-chance application. A resident must possess a valid big game hunting license to be eligible to purchase a 6-chance application; or

B. For nonresidents:

(1) Ten dollars for a one-chance application;

(2) Twenty dollars for a 3-chance application; and

(3) Thirty dollars for a 6-chance application.

**Sec. I-4. 12 MRSA §7793-A, 2nd ¶, as amended by PL 1991, c. 586, §1, is further amended to read:**

All taxes collected pursuant to this section must be transmitted forthwith to the Treasurer of State and credited to the General Fund as undedicated revenue. ~~The Legislature shall appropriate to the department in~~

each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this section. Those administrative costs must be verified by the Department of Administrative and Financial Services.

**Sec. I-5. 12 MRSA §7794, sub-§4, ¶A, as amended by PL 1985, c. 579, §§4 and 7, is further amended to read:**

A. All watercraft requiring or requesting certificate of number ..... \$4 and equipped with a motor having a manufacturer's horsepower rating of:

(1) Ten horsepower or less .....\$6;

(2) Greater than 10, but not more than 50 horsepower .....\$10; and

(3) Greater than 50 horsepower .....\$15.

**Sec. I-6. 12 MRSA §7794, sub-§4, ¶A-1 is enacted to read:**

A-1. All personal watercraft requiring or requesting a certificate of number .....\$20.

**Sec. I-7. 12 MRSA §7800, sub-§3, as repealed and replaced by PL 1989, c. 918, Pt. D, §8, is amended to read:**

**3. Disbursement of revenues.** All revenues collected under this subchapter, including fines, fees and other available money must be distributed as undedicated revenue to the General Fund and the Department of Marine Resources according to an allocation rate that directly relates to the administrative costs of the Division of Licensing and Registration and ~~the historical revenue distribution pattern including.~~ The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this subsection. Those costs must be verified by the Department of Marine Resources and the Department of Administrative and Financial Services. The allocation rate must also allow for any necessary year-end reconciliation and accounting distribution. The allocation rate must be jointly agreed to by the department and the Department of Marine Resources and approved by the Department of Finance Administrative and Financial Services, Bureau of the Budget.

**Sec. I-8. 12 MRSA §7824, sub-§2, ¶A, as enacted by PL 1995, c. 467, §3; is amended to read:**

A. For residents, \$20 \$25. The registration for a snowmobile owned by a resident is valid for one year, commencing on July 1st of each year; and



APPROVED | CHAPTER  
JUN 12 '97 | 519  
BY GOVERNOR | PUBLIC LAW

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-SEVEN

—  
H.P. 900 - L.D. 1217

**An Act to Protect the State's Lakes, Rivers and Coastal  
Wetlands through a Comprehensive Watershed Protection  
Program**

Be it enacted by the People of the State of Maine as follows:

**PART A**

Sec. A-1. 5 MRSA §3331, sub-§2, ¶E and F, as enacted by PL 1993, c. 721, Pt. C, §1 and affected by Pt. H, §1, are amended to read:

E. Study specific land and water resources management issues and problems of state-level significance in order to develop sound, coordinated policies; and

F. 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; and

Sec. A-2. 5 MRSA §3331, sub-§2, ¶G is enacted to read:

G. Administer the Lakes Heritage Trust Fund established in subsection 6.

Sec. A-3. 5 MRSA §3331, sub-§§6 and 7 are enacted to read:

6. Lakes Heritage Trust Fund. The Lakes Heritage Trust Fund is established in the Executive Department for the purpose of protecting, preserving and enhancing the quality and value of the State's lakes and great ponds. By majority vote of all members, the council may accept monetary contributions to the fund from

any public or private source and may spend or disburse those funds in a manner consistent with law for the purposes stated in this subsection. The council shall include an accounting of all donations to and expenditures from the Lakes Heritage Trust Fund in its annual report to the Legislature under subsection 4.

7. Watershed protection. The council may create, implement and administer a comprehensive watershed protection program in order to ensure the development and implementation of locally supported watershed management plans. In implementing the program, the council shall coordinate the activities of the agencies involved in watershed management to:

A. Develop and implement strategies designed to protect the State's surface waters from nonpoint source pollution;

B. Conduct scientific research and water quality surveys to establish baseline information about the condition of the State's surface waters and the relative risk to surface waters from nonpoint sources of pollution;

C. Implement regulatory and nonregulatory approaches to watershed protection, including public education and technical assistance;

D. Coordinate activities with local governments, other state agencies, federal agencies and other organizations that are involved in activities aimed at controlling nonpoint source pollution; and

E. Establish priorities for the purpose of directing resources to the management of water bodies based on an assessment of their value, the degree of threat or impairment to water quality and aquatic habitat due to nonpoint source pollution, the likelihood of meeting watershed management objectives and the degree of public support in the watershed for watershed management.

**Sec. A-4. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

**1997-98**

**1998-99**

**EXECUTIVE DEPARTMENT**

**State Planning Office**

All Other

\$500

\$500

Allocates funds to authorize

expenditures from the Lakes  
Heritage Trust Fund.

## PART B

Sec. B-1. 38 MRS §2013 is enacted to read:

### §2013. Priority watershed protection grants program

A priority watershed protection grants program is established, to be administered by the department, for the purpose of providing financial assistance to entities to conduct projects that implement best management practices or other management measures in order to reduce or eliminate nonpoint source pollution in surface waters of the State. Funding may not be used to pay salaries of state agency staff.

1. Project elements. Each project proposal must either create a watershed management plan or implement an existing plan. A plan must include the following elements:

A. An assessment of water quality and uses of water bodies within the watershed;

B. An inventory of the types of land uses and the types and severity of nonpoint source pollution in the watershed;

C. An evaluation of the types and severity of other factors that may be affecting water quality;

D. A determination of nonpoint source pollution controls and measures necessary to improve or protect water quality;

E. An implementation strategy to address nonpoint sources of pollution in the watershed that includes costs and schedules for implementing best management practices or other management measures and agreements outlining responsibilities for meeting this strategy;

F. Actions to inform eligible landowners of the importance of utilizing best management practices on a voluntary or cost-shared basis;

G. An objective evaluation of the plan following implementation; and

H. Actions to achieve self-sustaining financial support of the plan.

2. Project approval. The board shall approve funding for projects based on the following preferences, considering public comments on project proposals that have been submitted to the board:

A. Projects that have been given a high-priority status by the Land and Water Resources Council, established in Title 5, section 3331, subsection 1, in accordance with the comprehensive watershed protection program under Title 5, section 3331, subsection 7;

B. Projects that demonstrate extensive local support in either funding or services;

C. Projects that seek to solve current pollution problems and plan for future protection of resources; and

D. Projects that create techniques, products or information that can be of use in more than one setting or in other projects in the State.

**Sec. B-2. Evaluation of program.** By December 31, 1999, the department shall submit to the joint standing committee of the Legislature having jurisdiction over natural resource matters an evaluation of the priority watershed protection grants program, established in the Maine Revised Statutes, Title 38, section 2013, as a means of controlling nonpoint sources of pollution and improving water quality. The report must include recommendations for improving the program, including funding options.

**Sec. B-3. Contingent upon ratification of bond issue.** This Part takes effect only if a \$13,000,000 General Fund bond issue, including \$500,000 for mitigation of storm water pollution through the establishment of a comprehensive watershed protection program, is approved by the voters of the State.

APPROVED

CHARTER

JUN 12 '97

540

BY GOVERNOR

EMERIG EAM

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-SEVEN

S.P. 137 - L.D. 416

An Act to Amend the Definition of Personal Watercraft, to  
Prohibit the Imprudent Operation of Watercraft on Inland  
Waters of the State and to Assess the Effectiveness of  
Industry-sponsored Watercraft Safety Training and Education  
Programs

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §7791, sub-§11-A, as enacted by PL 1989, c. 469, §1, is amended to read:

11-A. **Personal watercraft.** "Personal watercraft" means any motorized watercraft that is ~~less than 13~~ 14 feet or less in hull length as manufactured, ~~is capable of exceeding a speed of 20 miles per hour and has the capacity to carry not more than the operator and one other person while in operation~~ has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting, standing or kneeling position. The term "Personal watercraft" includes, but is not limited to, a jet ski, wet bike, surf jet, and miniature speedboat and hovercraft. "Personal watercraft" also includes motorized watercraft whose operation is controlled by a water skier.

Sec. 2. 12 MRSA §7801, sub-§11-A is enacted to read:

11-A. Imprudent operation of watercraft. A person is guilty of imprudent operation of a watercraft if that person, while operating a watercraft on the inland or coastal waters of the State, engages in prolonged circling, informal racing, wake jumping or other types of continued and repeated activities that harass another person. This subsection may be enforced by any law enforcement officer or a person may bring a private nuisance

action for a violation of this subsection pursuant to Title 17, section 2802.

**Sec. 3. 12 MRSA §7901, sub-§11**, as enacted by PL 1985, c. 762, §24, is amended to read:

**11. Violation.** A violation of section 7801, subsection 11-A, section 7857, subsection 13, 13-A, 13-B, 14, 15, 16, 17, 20 or 21 or of section 7858 is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, of which not more than \$50 may be suspended.

**Sec. 4. 17 MRSA §2802**, as amended by PL 1995, c. 65, Pt. A, §53 and affected by Pt. A, §153 and Pt. C, §15, is further amended to read:

### **§2802. Miscellaneous nuisances**

The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals, or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; imprudent operation of a watercraft as defined in Title 12, section 7801, subsection 11-A; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn out or junked motor vehicles as defined in Title 29-A, section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.

**Sec. 5. Assessment of industry safety and training efforts.** The Department of Inland Fisheries and Wildlife shall coordinate with personal watercraft distributors, dealers, rental agents and users in the State to assess the awareness of boating

laws among users of personal watercraft and the extent and effectiveness of industry-sponsored personal watercraft safety training and education programs. This assessment must include, but is not limited to, estimates of the level of awareness among personal watercraft operators of general boating laws, safe boating practices, the safe operation of personal watercraft and the rate of participation by those operators in industry-sponsored safety training and education programs. The Bureau of Warden Service shall develop those estimates by tracking personal watercraft-related complaints, warrants and summonses and by assessments of observations of and contacts with those operators by wardens. The bureau shall provide the Commissioner of Inland Fisheries and Wildlife with a written summary of its conclusions about the general level of awareness among personal watercraft operators of those issues and the effectiveness of the industry-sponsored safety training programs and materials.

The Department of Inland Fisheries and Wildlife shall encourage personal watercraft distributors, dealers and rental agents to offer safety training programs and materials and shall undertake an evaluation of the current safety training and education programs offered by distributors, dealers and rental agents. That evaluation may include examples of the types of educational materials being distributed, descriptions of the training and education programs being offered, the number of distributors, dealers and rental agents offering those programs or materials and the number of people who participate in those programs or received those materials.

The Commissioner of Inland Fisheries and Wildlife shall report to the Joint Standing Committee on Inland Fisheries and Wildlife on these assessment efforts by February 1, 1998.

**Sec. 6. Report.** The Commissioner of Inland Fisheries and Wildlife shall report to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters by January 1, 1999 on the number of enforcement actions taken by law enforcement officers for violations of Title 12, section 7801, subsection 11-A and the result of those enforcement actions and the number of private nuisance actions taken for those violations under Title 17, section 2802 and the result of those actions.



APPROVED

CHAPTER

APR 1 '98

643

BY GOVERNOR

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-EIGHT

H.P. 1397 - L.D. 1950

An Act to Make Supplemental Appropriations and Allocations  
for the Expenditures of State Government and Changes to  
Certain Provisions of the Law Necessary to the Proper  
Operations of State Government for the Fiscal Years Ending  
June 30, 1998 and June 30, 1999

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. Supplemental appropriations from the General Fund. There are appropriated from the General Fund for the fiscal years ending June 30, 1998 and June 30, 1999, to the departments listed, the following sums.

	1997-98	1998-99
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Office of the Commissioner - Administrative and Financial Services		
Personal Services	\$768	
Provides for the appropriation of funds to		

1-3316(65)

correct the omission of a longevity payment from Public Law 1997, chapter 24, Part A. This increase will be offset by the deappropriation of salary savings from within the Bureau of Revenue Services.

Administration - Human Resources

Positions - Legislative Count	(-1.000)	(-1.000)
Personal Services	(21,300)	(79,220)

Provides for the deappropriation of funds through the transfer of the Director of Human Resources Administration position from the Bureau of Human Resources to the Bureau of Accounts and Control where the position will be reorganized to supplement the management of bureau projects.

Accounts and Control -  
Bureau of

Positions - Legislative Count	(1.000)	
Personal Services		56,500
All Other		6,000
Capital Expenditures		3,500

TOTAL 66,000

Provides for the appropriation of funds for one Financial Management Coordinator position and support costs. This position will provide expertise in GAAP reporting.

Accounts and Control -  
Bureau of

Positions - Legislative Count	(1.000)	(1.000)
Personal Services	21,300	79,220

2-3316(65)

2. Plan contents. Each plan must be designed to meet local needs and must include, but is not limited to, the following components:

A. An overview of local service area needs:

B. A review of the factors that lead to homelessness, the barriers to permanent housing and the clinical needs of individuals using homeless shelters based upon discussions with those persons; and

C. Procedures for referrals, treatment planning, information sharing, clinical services, training for shelter and mental health services providers and determining consumer satisfaction with shelter services and mental health services.

Sec. XX-5. Study and report on the problems of homeless youth. The Interagency Task Force on Homelessness and Housing Opportunities shall prepare a report examining the causes of homelessness among youth and young adults, existing efforts to address those causes, the strengths and weaknesses of the current homeless shelter system, anticipated needs of youth and young adults and conditions in the shelters and any recommended legislation. The interagency task force shall submit its report to the joint standing committee of the Legislature having jurisdiction over health and human services matters in the First Regular Session of the 119th Legislature.

Sec. XX-6. Training. The Department of Mental Health, Mental Retardation and Substance Abuse Services, in conjunction with the Maine State Housing Authority, shall provide training for homeless shelter staff to help them understand and recognize people who may have mental illness or substance abuse problems. The Maine State Housing Authority, in conjunction with the Department of Mental Health, Mental Retardation and Substance Abuse Services, shall provide training for providers of mental health and substance abuse services to help them understand the problems of those who are homeless.

Sec. XX-7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1998-99

MAINE STATE HOUSING AUTHORITY

Housing Opportunities for Maine Fund

165-3316(65)

All Other

\$500,000

Provides funds to expand the shelter operating subsidy program from \$500,000 to \$1,000,000 annually. Fifteen percent of these funds must be designated for shelter services to homeless youth and young adults.

PART YY

Sec. YY-1. 38 MRSA c.3, art. 1-G is enacted to read:

Article 1-G

LAKES ASSESSMENT AND PROTECTION PROGRAM

§410-L. Lakes Assessment and Protection Program established

The Lakes Assessment and Protection Program is established within the department to monitor and protect the health and integrity of the State's lakes.

§410-M. Lakes assessment and protection

In implementing the Lakes Assessment and Protection Program, the commissioner shall conduct activities within the following areas:

1. Education and technical assistance. Education and technical assistance relating to lake functions and values, watershed planning and management, implementation of best management practices, effects of cumulative impacts and applicable laws and rules;

2. Resource monitoring and research. Monitoring and research relating to the ecology and quality of lake resources, the vulnerability and the status of lakes, the relationship between the quality of lake resources and development, the design and effectiveness of best management practices and the effectiveness of efforts to protect lakes; and

3. Compliance monitoring and enforcement. Promoting and monitoring compliance with and enforcement of the natural resources protection laws, the mandatory shoreland zoning laws, the storm water management laws, the erosion and sedimentation control laws and other state and local laws providing standards for the protection of lakes.

166-3316(65)

In establishing priorities for activities within the Lakes Assessment and Protection Program, the commissioner shall consider the recommendations of the Great Pond Task Force developed pursuant to section 1842-A and the watershed priorities established by the Land and Water Resources Council pursuant to Title 5, section 3331.

Sec. YY-2. Lakes Assessment and Protection Program. The State's lakes have great scenic beauty and irreplaceable recreational, cultural, historical, economic and environmental value to the citizens of the State. Uses of the lakes and their watersheds are causing the degradation of lake water quality and habitat, producing significant adverse economic and environmental impacts and threatening the health, safety and general welfare of the citizens of the State.

The uses of concern that affect lakes are both regulated and nonregulated, cause individual and cumulative impacts and must be addressed in both the immediate and the long term. The Maine Revised Statutes, Title 38, chapter 3, article 1-G establishes the Lakes Assessment and Protection Program within the Department of Environmental Protection to monitor and protect the health and integrity of Maine's lakes, thus maintaining the value of the lakes to the citizens of the State.

Sec. YY-3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1998-99

ENVIRONMENTAL PROTECTION,  
DEPARTMENT OF

Land and Water Quality

Positions - Legislative Count	(4,000)
Personal Services	\$171,948
All Other	279,568

Provides funds for one Biologist II position, one Biologist I position, one Environmental Specialist III position and one Environmental Specialist II position for support costs and to carry out lake assessment and protection projects.

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

TOTAL	<u>\$451,516</u>
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167-3316(65)

PART ZZ

Sec. ZZ-1. Compensation authorized. Notwithstanding any other provisions of law, the Governor is authorized and directed, upon receipt of appropriate releases, to pay \$125,000 from the Risk Management Fund to compensate Dan Corey and Nu Seed Corporation of Monticello for damages suffered as a result of decertification of their 1996 seed potato crop by the Department of Agriculture, Food and Rural Resources. This payment is in full settlement and satisfaction of any and all claims by Dan Corey and Nu Seed Corporation against the State, the Department of Agriculture, Food and Rural Resources and present or former employees of the State for those damages.

PART AAA

Sec. AAA-1. 5 MRSA §1516-A is enacted to read:

§1516-A. Capital Construction and Improvements Reserve Fund

1. Capital Construction and Improvements Reserve Fund. There is created the Capital Construction and Improvements Reserve Fund, referred to in this section as the "fund," that may be used solely for capital projects that construct, renovate or improve state facilities. Money in the fund may not be expended on facility maintenance issues.

2. Nonlapsing fund. Any unexpended money appropriated or allocated to the fund may not lapse, but must be carried forward.

3. Investment of funds. The money in the fund may be invested as provided by law with the earnings credited to the fund.

4. Report. The Commissioner of Administrative and Financial Services shall provide a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs annually by January 15th that includes the following:

A. The status of any capital projects undertaken or completed during the most recently completed fiscal year and the current fiscal year;

B. Money expended during the most recently completed and the current fiscal year, by project; and

168-3316(65)



## STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-EIGHT  
—

S.P. 573 - L.D. 1730

An Act to Implement the Recommendations of the Great Pond  
Task Force

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §685-C, sub-§10 is enacted to read:

10. Operating a personal watercraft. Operating a personal watercraft is prohibited on the following categories of great ponds:

A. Great ponds located entirely or partly within the jurisdiction of the commission that are identified in an official comprehensive land use plan adopted by the commission pursuant to subsection 1 as being not accessible within 1/4 mile by 2-wheel drive vehicles, with less than one development unit per mile, and at least one outstanding resource value;

B. Great ponds located entirely or partly within the jurisdiction of the commission that are identified in an official comprehensive land use plan adopted by the commission as being accessible within 1/4 mile by 2-wheel drive vehicles, with less than one development unit per mile, with 2 or more outstanding resource values in fisheries, wildlife, scenic or shore character;

C. Great ponds and smaller ponds located entirely or partly within the jurisdiction of the commission that are identified in an official comprehensive land use plan adopted by the commission as being not accessible within 1/2

mile by 2-wheel drive vehicles, with no more than one noncommercial remote camp and with a cold water game fishery; and

D. Great ponds with less than all but more than 2/3 of their surface area in or partly in the jurisdiction of the commission that are identified as being of statewide significance in the "Maine Wildlands Lake Assessment" dated June 1, 1987 prepared by the commission, with 2 or more outstanding resource values in fisheries, wildlife, scenic or shore character and with more than 1/2 of their shoreline in public and private conservation ownership with guaranteed public access for low-impact public recreation.

The commission shall implement this subsection by rule adopted in accordance with section 685-A. Rules adopted to implement this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

This section does not apply to any waters subject to regulation by the Maine Indian Tribal-State Commission under Title 30, section 6207, subsection 3-A.

Sec. 2. 12 MRSA §7801, sub-§13, as enacted by PL 1979, c. 420, §1, is amended to read:

13. Operating a motorboat other than a personal watercraft while under age. A person is guilty of operating a motorboat other than a personal watercraft while under age if he that person:

A. Is under 12 years of age;

B. Operates any motorboat propelled by machinery of more than 10 horsepower; and

C. Is not under the immediate supervision of a person located in the motorboat who is at least 16 years of age.

This subsection does not apply to operating a personal watercraft.

Sec. 3. 12 MRSA §7801, sub-§13-A is enacted to read:

13-A. Operating a personal watercraft while under age. A person is guilty of operating a personal watercraft while under age if that person operates a personal watercraft while under 16 years of age.

Sec. 4. 12 MRSA §7801, sub-§20, ¶¶J and K, as enacted by PL 1979, c. 420, §1, are amended to read:

J. Operates a motorboat powered by an internal combustion engine on Nokomis Pond, situated in the Towns of Newport and Palmyra, Penobscot County; ~~or~~

K. Operates a motorboat in Merrymeeting Bay at a speed in excess of 10 miles per hour, except within the confines of the buoyed channels;

Sec. 5. 12 MRSA §7801, sub-§20, ¶¶L, M and N are enacted to read:

L. Operates a motorboat equipped with an internal combustion engine on the following waters on Mount Desert Island in Hancock County: Witch Hole Pond; Aunt Betty's Pond; Bubble Pond; Round Pond; and Lake Wood;

M. Operates a motorboat equipped with a motor greater than 10 horsepower on Upper Hadlock Pond or Lower Hadlock Pond on Mount Desert Island in Hancock County; or

N. Operates a personal watercraft in violation of section 685-C, subsection 10 or any rule adopted by the commission to implement that subsection.

Sec. 6. 12 MRSA §7801, sub-§§33 and 34 are enacted to read:

33. Operating airmobile or motorboat that exceeds noise limits. A person is guilty of operating a watercraft that exceeds the noise limit if that person operates an airmobile or motorboat powered by an engine constructed:

A. On or after January 1, 1998 that emits more than 78 decibels of sound pressure at a distance of 50 feet using a method prescribed by the commissioner; or

B. Before January 1, 1998 that emits more than 82 decibels of sound pressure at a distance of 50 feet using a method prescribed by the commissioner.

34. Tampering with a motorboat muffler system. A person is guilty of tampering with a motorboat muffler system if that person modifies a motorboat muffler system in any way that results in an increase in the decibels of sound emitted by that motorboat. A person who violates this subsection is subject to a civil penalty not to exceed \$100 payable to the Treasurer of State and recoverable in a civil action.

Sec. 7. 12 MRSA §7825-B is enacted to read:

§7825-B. Personal watercraft rental agent certificate

1. Registration and issuance. Except as provided in this section, a person or business may not rent or lease a personal watercraft after January 1, 1999 unless that person or business:

A. Registers with the department as a personal watercraft rental agent and is issued a personal watercraft rental and leasing agent certificate from the commissioner;

B. Registers each personal watercraft being offered for rent or lease in the name of the person or business holding that certificate; and

C. Provides each person who rents or leases a personal watercraft with written instructions on how to operate the personal watercraft.

2. Fee. The fee for a personal watercraft rental and leasing agent certificate is \$25. The certificate is valid from July 1st to June 30th.

3. Revocation of certificate. The commissioner may revoke a personal watercraft rental and leasing agent certificate if the commissioner determines that the certificate holder:

A. Rented or leased a personal watercraft that was unsafe; or

B. Failed to instruct a person intending to rent or lease a personal watercraft on personal watercraft safety. The department shall provide each certificate holder with written materials and instructional guidelines on personal watercraft safety that the certificate holder shall review with each personal watercraft renter or lessor before that person operates that personal watercraft.

4. Exception. This section does not apply to:

A. Campgrounds licensed by the Department of Human Services that offer the personal watercrafts owned by that campground exclusively for use by campground clientele;

B. Commercial sporting camps. For the purposes of this section, "commercial sporting camp" means a business consisting of primitive lodging facilities that offers the public the opportunity to pursue primitive hunting, fishing, boating or snowmobiling activities;

C. A person lawfully engaged in guiding activities under section 7311 who accompanies others on guided trips that include the use of personal watercrafts; or

D. A property owner who offers a person renting or leasing that property the use of a personal watercraft registered to the property owner.

Sec. 8. 12 MRSA §7827, sub-§26 is enacted to read:

26. Unlawfully renting or leasing a personal watercraft. A person is guilty of unlawfully renting or leasing a personal watercraft if that person rents or leases a personal watercraft in violation of section 7825-B.

Sec. 9. 12 MRSA §7901, sub-§17 is enacted to read:

17. Unlawfully renting or leasing a personal watercraft. A violation of section 7827, subsection 26 is a civil violation for which a forfeiture of not less than \$200 must be adjudged. The \$200 minimum fine may not be waived by the court.

Sec. 10. 14 MRSA §159-C is enacted to read:

§159-C. Liability related to placement of navigational aids in great ponds

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Great pond" has the meaning given in Title 38, section 480-B, subsection 5.

B. "Lake association" means a nonprofit organization incorporated under state law whose corporate purpose includes maintenance or improvement of water quality or public safety on a great pond, management of water levels or other social, educational, stewardship or advocacy efforts to benefit users of or the natural environment of a great pond.

C. "Navigational aid markers" means navigational aids that conform to rules governing the State's marking of waterways.

2. Limited liability. A lake association that has obtained a permit from the Department of Conservation to place navigational aid markers in great ponds is not liable for personal injury, property damage or death caused by placement or

maintenance of those navigational aid markers provided that the lake association has placed or maintained the markers in conformance with the terms and conditions of the permit.

3. No remuneration. In order to qualify for the immunity granted in subsection 2, a lake association may not receive any remuneration from the State or otherwise for placing navigational aid markers in great ponds.

4. Limitations. This section does not limit any liability that may otherwise exist for willful or malicious actions or failures to guard or warn against a known dangerous condition related to the navigational aid markers.

5. No duty created. Nothing in this section creates a duty of care or ground for liability.

6. Costs and fees. The court may award any direct legal costs, including reasonable attorney's fees, to a lake association against which a tort or related action is brought when the lake association is found not liable pursuant to this section.

Sec. 11. 22 MRSA §2648, first ¶, as amended by PL 1995, c. 502, Pt. E, §30, is further amended to read:

Any water utility or municipality is authorized, after consultation with the Commissioner of Inland Fisheries and Wildlife, the department and the Department of Conservation and after conducting a public hearing in the affected town, to designate by buoys in water or markers on the ice in an area on a lake or pond from which water is taken, with a radius commencing at its point of intake. Such The radius may not exceed 200 400 feet and within that area a person may not anchor or moor a boat or carry on ice fishing or carry on any other activity designated by the water utility or municipality when such restriction is necessary to comply with primary or secondary drinking water regulations applicable to public water systems. Any such buoys placed in the water must be plainly marked as required by the Director of the Bureau of Parks and Lands under Title 38, section 323. Any person violating this section must, on conviction, be penalized in accordance with Title 30-A, section 4452.

Sec. 12. 30 MRSA §6207, sub-§3-A is enacted to read:

3-A. Horsepower and use of motors. Subject to the limitations of subsection 6, the commission has exclusive authority to adopt rules to regulate the horsepower and use of motors on waters less than 200 acres in surface area and entirely within Indian territory.

**Sec. 13. Effective date; Passamaquoddy Tribe.** The section of this Act pertaining to the regulation of horsepower and use of motors on waters entirely within Indian territory does not take effect as to the Passamaquoddy Tribe, unless within 90 days after adjournment of the Legislature, the Secretary of State receives written notification from the Joint Tribal Council of the Passamaquoddy Tribe that that tribe has agreed to the provisions of this Act. Copies of that notification must be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives. In no event may this Act become effective until 90 days after adjournment of the Legislature.

**Sec. 14. Effective date; Penobscot Nation.** The section of this Act pertaining to the regulation of horsepower and use of motors on waters entirely within Indian territory does not take effect as to the Penobscot Nation, unless within 90 days after adjournment of the Legislature, the Secretary of State receives written notification from the Tribal Chief and Council of the Penobscot Nation that the nation has agreed to the provisions of this Act. Copies of that notification must be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives. In no event may this Act become effective until 90 days after adjournment of the Legislature.

**Sec. 15. Report; Maine Indian Tribal-State Commission.** The Maine Indian Tribal-State Commission, established in the Maine Revised Statutes, Title 30, section 6212, shall make recommendations no later than January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters on the use of personal watercraft on waters within the jurisdiction of the Maine Land Use Regulation Commission.

**Sec. 16. Joint agency report.** The Maine Land Use Regulation Commission, the Department of Inland Fisheries and Wildlife and the Bureau of Parks and Lands within the Department of Conservation shall jointly report no later than January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters on the regulation of surface water uses on waters within the jurisdiction of the Maine Land Use Regulation Commission. In preparing the report and recommendations, the agencies shall consult among themselves and with any other state or federal agency having administrative authority for lands wholly or partly within the commission's jurisdiction that contain a great pond. The report must describe the authority of each agency to regulate surface water uses and may include recommendations for surface water use regulations on specific water bodies or classes of water bodies within that agency's jurisdiction.

**Sec. 17. Recommendations for regulating the use, operation and type of watercraft for great ponds within the organized areas of the State.** A municipality, with the approval of its legislative body, may submit recommendations to the Commissioner of Inland Fisheries and Wildlife for regulating the use, operation and type of watercraft on great ponds within the jurisdiction of that municipality. For great ponds that border more than one municipality, recommendations may be submitted only after approval by the legislative bodies of all municipalities in which those waters are located. For great ponds that border lands within the jurisdiction of the Maine Land Use Regulation Commission, the approval of the commission is also required. If a municipality chooses to prepare recommendations for such waters, it shall take into consideration the use to which those waters are put, the depth of the water, the amount of water-borne traffic on the waters, wildlife and environmental values, noise, traditional uses of the water body and the safety of persons and property. These recommendations may be submitted only after a public hearing and must include a description of the resources the municipality or municipalities will use to enforce those regulations if enacted.

The commissioner shall submit a report to the First Regular Session of the 119th Legislature by January 15, 1999 on the recommendations received from municipalities prior to November 1, 1998 and shall submit a report to the Second Regular Session of the 119th Legislature on the recommendations received from municipalities between November 1, 1998 and October 30, 1999. Each report must be accompanied by legislation implementing the municipal recommendations supported by the Department of Inland Fisheries and Wildlife. That legislation may also include recommendations of the department, developed using the criteria in this section, for waters not addressed in the municipal proposals.

**Sec. 18. Report on education and safety training; inland fisheries and wildlife.** The Commissioner of Inland Fisheries and Wildlife shall make recommendations no later than January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters on an education and safety training program for motorboat operators on inland waters. In preparing those recommendations, the commissioner shall consult with federal and state agencies and private businesses with an interest in recreational watercraft use. Those recommendations must include methods for evaluating the effectiveness of the program and must address the issue of mandatory versus voluntary participation in the program.