

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date June 5, 1974

To Barry S. Timson, Coastal Geologist
Bureau of Geology

Dept. Conservation

From Lee M. Schepps, Assistant

Dept. Attorney General

Subject Acceptance of Federal Funds - Acquisition of Lands

This is in response to your letter of February 14, 1974. We regret the delay in the response and hope that it has caused you no special inconvenience.

In your letter, you ask which agencies of the State are presently empowered to receive federal funds for the purpose of purchasing land to be used for a sanctuary, for light recreational purposes and "for scientific research purposes." A number of state agencies are authorized to accept federal funds and acquire lands for a variety of purposes which could be considered to be "scientific research purposes" but for the purposes of this memorandum, I am assuming that you mean scientific research which is related to forestry, marine fisheries, inland fisheries, game management and other natural resource and conservation purposes. A number of agencies have the power to receive federal funds and to acquire and operate real property for such purposes subject to varying terms and conditions contained in the various enabling statutes. In general, the following agencies possess the requisite authority:

1. The Bureau of Parks and Recreation has the power under Title 12 M.R.S.A. § 602, sub-§ 9 to accept federal funds and has the power under Title 12 M.R.S.A. § 602, sub-§ 1 to acquire land for parks. The expression "parks" is defined in Title 12 M.R.S.A. § 601, sub-§ 2, paragraph E to include areas of land "in a natural condition and containing natural features of scenic, ecological or scientific interest or importance." In addition, of course, the expression "park" includes almost all real property suitable for public recreational purposes.

2. The Department of Inland Fisheries and Game has the authority under Title 12 M.R.S.A. § 2151 to accept federal funds and under the same section as well as under § 2155, has the authority to use those funds to acquire and operate "wildlife management areas." The Department of Inland Fisheries and Game also possesses specific statutory powers to accept funds and cooperate in certain wildlife restoration projects, fishway construction projects and the like.

3. The Bureau of Forestry has the power to accept federal funds under Title 12 M.R.S.A. § 513 and to acquire up to 4% of the land in any single municipality. Under Title 12 M.R.S.A. § 512, the Bureau of Forestry has the power to manage and operate such lands as state forests under a variety of conditions.

AN INFORMAL OPINION

4. The Soil and Water Conservation Commission has the authority to accept federal funds under Title 12 M.R.S.A., § 6, sub-§§ 1 and 7 and to acquire lands for soil conservation, flood prevention, erosion control and similar conservation measures.

5. The Department of Marine Resources is authorized by Title 12 M.R.S.A. § 3502 to accept federal funds and to acquire real property for any one of its broad range of powers and responsibilities. The Department of Marine Resources has the power to engage in "all aspects of marine research" (Title 12 M.R.S.A. § 3502-A) and to conduct programs for "research and development of commercial fishery resources and other marine resources of the State" (Title 12 M.R.S.A. § 3705).

I hope this information is responsive to your request. Please let us know if we can be of further assistance.



LEE M. SCHEPPS
Assistant Attorney General

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