

MAINE STATE LEGISLATURE

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August 12, 1974

Richard E. Barringer, Director

Public Lands

Lee M. Schepps, Assistant

Attorney General

Jurisdiction over subtidal lands

This is in response to your memo of August 7, 1974.

Title 12 M.R.S.A. § 504 provides that all lands owned by the State, the management and control of which are not otherwise provided for, are to be under the supervision and control of the Commissioner of Conservation. The Commissioner is authorized to delegate, and has delegated, this responsibility to you as Director of the Bureau of Public Lands. The foregoing provision is in the nature of a "catchall" provision to insure that a responsible official has administrative responsibility for all State lands. It derives historically from the function of the land agent, then to the Forest Commissioner and now, through the Commissioner of the Department of Conservation, to you. The "catchall" provision includes offshore lands of the State.

While you have administrative responsibility over the submerged lands of the State, however, that responsibility is not exclusively yours. The Commissioner of Marine Resources, for example, may lease offshore lands for aquacultural purposes pursuant to Title 12 M.R.S.A. § 3721, et seq. Moreover, the Mining Bureau has the power to lease offshore lands for mining purposes pursuant to Title 10 M.R.S.A. § 2101, et seq. In other words, you have general responsibility and custody, but other public officials have concurrent or, in many cases, exclusive jurisdiction for specific public purposes.

I would point out that the foregoing discussion relates to administrative supervision of public lands, including offshore lands, by the State in its capacity as a proprietor. The State also regulates private and public lands, including offshore lands, in its capacity as sovereign. Your responsibility in this latter area is extremely limited while other agencies involved with various aspect of police power regulation (such as fishing, water pollution, oil and gas conservation, dredging, etc.) have rather broad responsibilities.

Let me know if I can be of further assistance.

LEE M. SCHEPPS
Assistant Attorney General

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