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October 12, 2018

To: Members of the Inland fisheries & Wildlife Committee - 128th Maine Legislature

From: Francis Brautigam – Director of fisheries & Hatcheries
Maine department of Inland fisheries and Wildlife (MDIFW)

RE: March 26, 2018 department Letter of Commitment, Progress Report, LD 1236

The following information serves to update the Inland Fisheries and Wildlife Legislative Committee regarding the departments' progress in meeting commitments conveyed to the 128th Inland Fisheries and Wildlife Legislative Committee on March 26, 2018 (Attachment 1). More specifically, commitments were conveyed in response to concerns expressed by the committee to enhance protections to state heritage fish waters. In addition to providing this written report the department (and heritage work group members) would like to request an opportunity to meet with the committee chairs to discuss any concerns and answer any questions.

Progress Meeting Commitments:

Since last March, the department has convened 6 monthly meetings (Attachment 2 - meeting summaries) with the heritage fish work group. This group was established by the department to assist the department in addressing concerns related to the adoption, nomination, and protection of heritage waters, as well as meeting its commitments to the committee. Since March, the department has invested hundreds of hours in staff time preparing and managing work group efforts, including the investigation of meaningful opportunities to enhance the conservation and protection of Maine's wild brook trout and Arctic charr resources that include those designated as State heritage fish waters. The department explored several strategies to improve protections to tributaries of heritage waters that provide additional opportunities to expand protections more broadly to other wild brook trout populations.

The following guiding principles served as a basis for evaluating the merit of conservation strategies considered:

- 1) Advancement of additional protections to heritage waters by way of precluding the use of live fish as bait in tributaries of heritage waters would be considered at a minimum. The

purpose is to prevent unintended introductions of new baitfish or other fish that would compete with brook trout.

- 2) The initiative will focus initially on the North Zone, where 95.5 % of the heritage waters are located. A separate and different initiative would be developed for heritage waters in the South Zone.
- 3) A recognition that Maine's waterways support many healthy wild brook trout populations that are not heritage waters that could benefit from additional measures that discourage introductions of live baitfish and other fish.
- 4) The department remains committed to lawbook simplification and reform that simplifies use and understanding of Maine's fishing laws. New initiatives should not complicate the lawbook.
- 5) No meaningful loss of traditional and popular fishing opportunities using live fish as bait.
- 6) Economic hardships to the commercial baitfish industry will be considered and minimized to the extent practical.
- 7) Considerate of personal bait collection and use for recreational fishing where live fish as bait is allowed.
- 8) Prospect for angler compliance and effective enforcement by Warden Service.

Three options were identified and explored under the above guiding principles. A brief description of advantages and disadvantages associated with each strategy is highlighted in Table 1. Option #3 was identified by the department as offering the most meaningful protections to wild brook trout resources throughout the North Zone, including tributaries to heritage waters while preventing unnecessary loss of angling opportunity with live fish as bait. Under Option #3, use of live fish as bait would not be legal except where designated by a special regulation allowing the use of live fish as bait. All waters currently open to ice fishing with the use of live fish as bait would retain use of live fish as bait. Live fish as bait would also be retained during the open water season on additional select waters where traditional use of fishing with live fish as bait is prevalent. This strategy will effectively discourage opportunities for new introductions of baitfish and other fish in the vast majority of flowing waters (tributaries to heritage waters, pond outlets, streams, and rivers), sloughs, dead-waters, and small ponds. In addition to providing broader landscape protections, this option targets larger flowing waters, ponds, and dead-waters where anglers are more likely to use live fish as bait and therefore pose the greatest opportunity for new introductions. In previous testimony, the department commented that fishing with live fish as bait was not a common practice in small streams (heritage water tributaries) and therefore the activity constitutes a low level of risk regarding baitfish introductions. Furthermore, this option is sensitive to potential impacts to the commercial and recreational baitfish community and has identified strategies to minimize concerns. Option #3 provides a relatively high level of angler compliance, understanding, and enforcement while also creating efficiencies consistent with lawbook simplification.

Option #3 represents a significant and time consuming department initiative to explore and has involved participation from nearly all staff within the fisheries section of the Division, Warden Service Command Staff, as well as representatives of the commercial and recreational baitfish community. The department presented Option #3 at the June 14 heritage work group meeting and was unanimously well received. Based on this support the department has continued to further explore and develop Option #3. Following a subsequent meeting with the heritage work

Table 1. Potential Conservation Strategies

Option	Pros	Cons
1. Special code or text: <i>No Live Fish as Bait in tributaries to heritage waters</i>	<ul style="list-style-type: none"> • Easy to implement • Protections extended to tributaries of heritage waters 	<ul style="list-style-type: none"> • Poor compliance: difficult for anglers to locate and Warden Service to enforce • Low use/low risk: anglers don't use live baitfish in small streams • Addition of more water specific regulations
2. General Law on brooks, rivers, and streams in the North Zone: <i>No Live Fish as Bait in all flowing waters in the North Zone, with exceptions</i>	<ul style="list-style-type: none"> • Compliance increased as a General Law • Protections extended to heritage + other brook trout waters in the North Zone, where 95% SHFW located • Higher use and risk fishing with live fish as bait in larger streams/rivers • Includes sloughs, dead-waters, and ponds < 10 acres where fishing with live fish as bait is more likely than only in tributaries • Little text added to law book 	<ul style="list-style-type: none"> • Considerable effort to map regulations for Regs-mapper • Moderate loss of potential use opportunity for using live fish as bait
3. General Law on lakes, ponds, brooks, rivers, and streams in the North Zone: <i>No Live Fish as Bait in all flowing and nonflowing waters in North Zone, with exceptions</i>	<ul style="list-style-type: none"> • Best compliance as a General Law on all North Zone waters - easy to understand • Protections extended to heritage + other brook trout waters in the North Zone, where 95% SHFW located • Higher use and risk fishing live fish as bait in sloughs, dead-waters, larger streams/rivers and ponds < 10 acres + ponds > 10 acres • Little text added to the lawbook • Greatest reduction in regulations from the law book (S-4). 	<ul style="list-style-type: none"> • Considerable effort to map regulations for Regs-mapper • Greatest loss of potential use opportunity for using live fish as bait, particularly larger flowing waters.

group on August 30 that included representatives from the baitfish community, work group members were again asked if they supported continued development of Option #3 as a strategy that would meet department legislative commitments to protect tributaries of heritage waters, and also offer much broader protections to other wild brook trout resources in the North Zone. Unanimous support from the work group was again expressed.

The department will require an additional significant investment of staff time to fully investigate this complex option, conduct public outreach, develop a regulatory proposal, advance APA rule making, and finally map out adopted regulations on the department's fishing regulation navigator (regs-mapper). A timeline and completion schedule has been developed (Figure 1) to support continued concept development and implementation.

The North Zone contains 95% of all the heritage waters and much of the wild brook trout resources in the state, particularly lake and pond populations. The North and South fishery Management Zones were established by the department in recognition of resource management differences.

There are 26 heritage waters in the South Zone, of which 16 have tributaries. An alternative strategy to that proposed for the North Zone is offered to protect tributaries to heritage ponds in the South Zone, where a prevalence of introduced species does not warrant the same conservative approach proposed for the North Zone. Where there are so few heritage waters in the South Zone, no live fish as bait special regulations will be applied to tributaries of the 16 heritage ponds that have tributaries via S-Code or special text in the law book.

Accomplishments to Date:

In addition to the development of a meaningful strategy to improve protections to heritage and other brook trout waters, the heritage work group has also successfully collaborated on the completion of several other related products including:

- Development of a state heritage fish water nomination process (Appendix 3)
- Development of a state heritage fish water nomination considerations form (Appendix 4)
- Development of a "vision and statement of purpose" for state heritage fish waters law (Appendix 5)

One important concept contained in the vision and statement of purpose document relates to the conservation of Maine's charr populations, including the possibility of restoration and conservation stocking in heritage waters. The heritage work group will continue discussions to make progress in the implementation of the vision and statement of purpose document, particularly regarding the conservation of charr. Progress to date reflects recognition regarding the value of stocking charr (a heritage fish) in some heritage waters for the purpose of conserving distinct populations of charr. There are 14 populations of Arctic charr in Maine and limited strategies to conserve genetically distinct populations. One strategy involves establishing charr in new suitable waters to create redundancy and long term conservation of distinct population genetics. There are currently 578 heritage ponds and more are being added. Charr and brook trout have coevolved and may coexist in the same waters. Current information indicates heritage waters provide the most suitable habitat for charr conservation. The heritage law currently prohibits stocking in heritage waters, regardless of purpose (i.e., restoration of indigenous populations, recreational angling, and conservation), unless the water is first removed from the heritage list. There is currently no process to allow for conservation stocking in heritage waters without removing these waters from the heritage list.

Figure 1. Option #3 Implementation Schedule

April 2018: Leadership discussion regarding possible regulatory options
May 2018: Staff meeting to discuss letter of commitment to the legislature and regulatory options
May 2018: Explore 3 rd option: Regional staff provided a list of surveyed lakes and ponds in their region (no list of flowing waters other than those with specials – rely on regional knowledge) to ID exemptions to NLFAB
Regional guidance for selecting Exempted waters: <i>genuine expectation of angler use and tradition of fishing with live baitfish</i>
Evidence anglers fish with live baitfish
Evidence of more than incidental use
Live baitfish is a component of management goals and objectives
May 2018: Preliminary assessment by leadership of lawbook / regulations database management implications
May 2018: Developed digital depiction of landscape changes
June 2018: Presented concept initiative to the heritage workgroup; group supported continued development
July 2018: Additional refinement of LFAB exemptions developed by Regional staff
August 2018: Planned meeting(s) of the heritage work group with representatives of the recreational and commercial baitfish community to understand any issues and concerns regarding the concept initiatives
October 2018: Report back to the fish and Wildlife Legislative committee regarding progress by the heritage work group
Fall 2018: Public informational meetings would be scheduled to further identify additional public considerations
Fall 2018: Consultation with tribes to assess application on tribal waters
Spring 2019: South Zone SHFW: develop special listings for NLFAB in tributaries of SHFW waters
Spring 2019: Explore development of a formal proposal through APA rule making process and advance rule making. If approved adopt changes in 2020 fishing laws. The exact timing of rule-making will be influenced by the departments ability to update proposed regulatory changes in the REGS-MAPPER before the regulations actually take effect

In summary, the department has developed heritage waters listing criteria and a conservation strategy, unanimously supported by the heritage work group, to meet legislative expectations that also affords expanded protections to other wild brook trout resources in the North Zone. This strategy retains traditional use of the live fish as bait in waters where this use is currently prevalent. Retention of traditional angling with live baitfish is valued by Maine’s recreational anglers and is vital to the commercial baitfish

economy. Except for waters opened by special rule, all waters in the North Zone would be closed to use of live fish as bait as a General Law. This restriction would apply where using live fish as bait is more likely to occur, including larger flowing waters, flowages, dead-waters, and headwater ponds. This approach offers a broad level of protection and the greatest opportunity for compliance and enforcement. The 16 heritage waters in the South Zone that have tributaries will be precluded from using live fish as bait by applying special regulations consistent with heritage Ponds.

Future Efforts:

The department and the heritage work group have made meaningful progress in meeting commitments outlined in the March 2018 letter to the fisheries and Wildlife Legislative committee. Unless directed otherwise, the department will continue ongoing efforts to explore advancement of protections afforded by Option #3. Furthermore, the work group will continue to investigate a strategy that supports restoration and conservation stocking in heritage ponds to support the conservation of the last few indigenous charr populations in the lower 48. Although this investigation is not a specific commitment contained in the March 2018 letter, it is a management concern identified by the work group during the development of a vision and statement of purpose for the heritage law. Current heritage law prohibits all stocking, including the prohibition of stocking to support conservation of heritage fish, including charr.

ATTACHMENT 1

March 26, 2018 Department Letter of Commitment

MEMORANDUM

To: Senator Cyrway, Representative Duchesne, and members of the Joint Standing Committee on Inland fisheries & Wildlife

From: Francis Brautigam, Director of fisheries & Hatcheries, MDIFW

Date: March 6, 2018

RE: LD 1236, DEPARTMENT LETTER OF COMMITMENT

The department remains committed to identifying and implementing meaningful strategies to conserve Maine's heritage fish waters. Activities occurring within these waters and their tributaries certainly have potential to influence the integrity of these important fishery resources.

This letter was prepared with input from the heritage Brook Trout and Charr work group, and it is my understanding this letter is also supported by members of the work group. I am most certain if anyone has a concern they will let you know.

- The department will continue work initiated in 2017 by the heritage Brook Trout and Charr working group. This work includes exploring opportunities to improve protections to heritage waters, reconciling the removal of listed waters to support restoration of other native fish, and development of a statement of purpose for the heritage law. The work group has already begun conversations regarding threats posed by commercial and personal baitfish collection, holding, and use practices in streams and ponds. Future discussions will invite input from the commercial and recreational baitfish community.
- With input from the Heritage Brook Trout and Charr Working Group, develop a proposal to protect tributaries of heritage lakes and ponds by providing the same protections currently afforded heritage fish lakes and ponds. Identified changes would be advanced through the 2019 APA rule making process for inclusion in the 2020 fishing law book.
- Develop or revise department policies consistent with products developed by the heritage Brook Trout and Charr work group in 2017, 2018, and 2019.
- The department will prepare a written summary and report back to the fish and Wildlife Legislative Committee on progress towards meeting commitments in this letter in October of 2018.

ATTACHMENT 2

Heritage Work Group **Meeting Summaries**

heritage Brook Trout and Charr work group
April 26, 2018 Meeting Agenda
9 AM – 1100, MDIFW-Augusta

- I. 3/13/18 meeting summary
- II. Updates to the Purpose and Vision statement
- III. heritage Genetics
- IV. 2018 heritage water review update
- V. Baitfish input update – Bruce Steeves /Dennis Bolduc / (North Zone?)
- VI. Millimegaessett, Millinocket / Little Millinocket, Webster
- VII. Private Ponds
- VIII. Other?

Attendees: GC, Sally S, ML, TO, FB...Sebastian and Scott were absent

This meeting summary is intended to provide an outline of key issues and concerns discussed and is not a detailed account of matters discussed. The summary is intended to assist IFW with planning and facilitation and not to capture all the discussions.

Queried the work group again regarding the meeting summary prepared for the 4-26-18 meeting. No revisions requested.

Gary inquired regarding the value of developing a process or strategy that would allow the department to stock, restore, and conserve fish that are native to heritage waters, without having to remove the water from the heritage fish list. This unintended consequence was not considered at the time the heritage legislation was enacted. FB, and others were supportive of further exploring this concept by the group. FB expressed interest in a broader discussion that includes conservation of a native fish that may not be native to a heritage water.

FB incorporated some revisions to the draft vision statement / purpose. Sally forgot about her “homework” to redraft item 2 and 4 visions statements, but that will be forthcoming at our next meeting on the 24th for further discussion. FB will revise vision statement 6 to replace “wise use” with “angling and research”. It was decided that the vision and purpose statement should remain broad and not include action items, which may be more appropriate as considerations in

the department's strategic planning process. The Vision and statement of purpose should be included in strategic planning.

The group discussed preliminary findings regarding a research project undertaken by UMO and IFW to examine the genetic integrity of some wild brook trout populations in Maine, including hatchery introgression. The discussion was prompted by FB's repeated past use of the term "heritage genetics" in reference to heritage waters. The IFW has expressed a desire to maintain the genetic signatures associated with major drainages that could be influenced by stocking of hatchery trout. The purpose of considering "heritage genetics" as a component of the vision/purpose statement is simply to acknowledge genetic signatures that differ by drainage and consider the role of hatchery stocking in watersheds that may influence those genetic signatures. The IFW is working on proposals to nominate additional waters to the SHFW list and is requesting folks to wait until the proposals are developed before submitting "special requests". Bruce Steeves and Dennis Bolduc have agreed to assist the work group and provide feedback on any heritage proposals advanced by the work group that could influence wild bait collection, storage, and transport. We currently don't have any strong leads for a commercial dealer that operates in the North Zone and would be a good fit for the work group, but we'll continue to explore.

As to why Millimegaessett, Millinocket / Little Millinocket, and Webster are listed in statute as apparent heritage waters exempted from the NLFAB requirement was explained well by Gary. These waters do not belong on the SHFW list and the current statute provides assurances that use of live fish as bait must be allowed.

Re-discussed that many waters on the SFHW list are less than 10 and are "private ponds", and we may have at least one water considered this year with a residence and there may be concerns with listing. The group acknowledged the nomination form developed by the work group was structured to accommodate social considerations that may preclude listing.

heritage Brook Trout and Charr work group
May 24, 2018 Meeting Agenda
9 AM – 1100, MDIFW-Augusta

- I. 4/26/18 meeting summary
- II. Purpose and Vision statement – updates / homework
- III. 2018 heritage waters
- IV. Management of work group communications regarding new initiatives
- V. Stocking proposals in heritage watersheds?
- VI. Other?

Attendees/participants: all committee members, except Scott Stevens

This meeting summary is intended to provide an outline of key issues and concerns discussed and is not a detailed account of matters discussed. The summary is intended to assist IFW with planning and facilitation and not to capture all the discussions.

Discussed proposed draft language developed by Sally to assist with developing vision statements #2 and #4. Slightly broader language was agreed upon and will be added to the draft vision statement. Considerable discussion ensued regarding vision statement #4; conservation and restoration of other native fish in heritage waters...equal or lesser standing to heritage fish species?...restoration to an endemic water vs conservation of a specie like arctic char by expanding distribution to new waters to conserve unique genetics.....native vs indigenous.....Efforts to develop a broad visionary statement regarding conservation of other native fish in heritage waters quickly migrated to discussions of various scenarios, details, and specifics. There was a general recognition that conserving other native fish indigenous to heritage waters has value and merit. There was also recognition that conservation of a native species including heritage fish like arctic charr, in heritage waters where they were never present has merit, but is viewed differently than restoration of fish indigenous to heritage waters. There was interest in exploring a review process to support conservation of fish like arctic char and allow stocking arctic char in heritage waters without removing the water from the heritage list. Additional discussion regarding the need for clarification that angling opportunity would be secondary to conservation. The group agreed that existing Vision statement 6 addressed this concern. The group agreed to consider an abbreviated version of Sally's draft language for further discussion at the next heritage meeting. There was general agreement that some of the specifics and concerns were not appropriate for a broad vision statement and are better addressed

in another “venue”. FB was asked to clarify indigenous vs native, and restoration vs conservation.

IFW just reviewed a batch of heritage nomination forms and is planning to review another batch soon. Based on review to date, IFW anticipates advancing some heritage waters through the APA rule making process this year.

There was a consensus within the work group regarding public messaging of new initiatives.....Incomplete and untimely messaging to the general public regarding any new heritage protection initiatives proposed by the department and presented to the work group may severely undermine efforts for advancement. Initiatives must be fully vetted and developed to withstand public scrutiny before dissemination to the public. Release of misinformation and incomplete information, particularly early, could generate strong initial public opposition that will persist with time. Cultivation of public support is absolutely essential for successful advancement of any proposed heritage protections. If committee members and those outside the committee genuinely care about advancement of meaningful heritage protections, information regarding the initiative must not be divulged until the proposal has fully matured or risk failure, and the messaging should be managed by the department.

heritage Brook Trout and Charr work group
June 14, 2018 Meeting Agenda
9 AM – 1100, MDIFW-Augusta

- I. 5/24/18 meeting summary
- II. Updates – charr / brook trout
- III. 2018 Rule making
- IV. Purpose and Vision statement – further refinement?
- V. Management of work group communications regarding any new initiatives; again.
- VI. IFW initiative
- VII. Other?

Attendees: All committee members, except Sabastian.

This meeting summary is intended to provide an outline of key issues and concerns discussed and is not a detailed account of matters discussed. The summary is intended to assist IFW with planning and facilitation and not to capture all the discussions.

Some discussion of terminology...."native" vs "indigenous""restoration" vs "conservation", particularly as it relates to the draft vision statement. As time allows, future discussion regarding lake whitefish stocking in St Froid Lake and the department's decision to transition from "restoration" related to "recreation" focused may be discussed further.

Anticipating final drafts of the brook trout genetics project and a summary of Bald Mountain Pond charr management should be available to the work group in the next few weeks.

The department plans to advance some new heritage waters and may remove a few others to support conservation of indigenous lake whitefish, as part of a contingency to conserve Bald Mountain Pond Charr, and to remove waters not worthy of being listed. A few "emergency" management regulation proposals unrelated to heritage waters will also be advanced under APA.

The need to limit discussion regarding any initiatives supported by the work group until such time that sufficient vetting and discussion has occurred to support appropriate messaging and the ability to fully respond to effectively to public concerns was again reiterated. Premature

messaging, and an inability to fully respond to inquiries due to insufficient vetting and concept development could undermine work group efforts.

Discussed some options being explored by the department to meet its commitment to the fish and Wildlife Legislative Committee. A focus of current initiatives is on waters in the North Zone. A second phase could work through waters in the South Zone. The group should develop a clear description of why the initiative is needed and include supporting justification. There is value in drafting an outline of the “process” used to develop the concept to build a consensus based proposal and this should be discussed at the next meeting.

heritage Brook Trout and Charr work group
July 27, 2018 Meeting Agenda
9 AM – 1100, MDIFW-Augusta

- I. 6/14/18 meeting summary (group)
- II. Purpose and Vision statement – final thoughts? (group)
- III. Management of work group communications regarding any new initiatives; again (FB).
- IV. IFW initiative (group discussion)
 - a. information needs to develop for the next meeting (baitfish)
 - b. focus on the North Zone, south zone another time
 - c. tribal waters
 - d. develop clear description of why the initiative is needed – supporting justification
 - e. outline process to develop concept
- V. 2018 rule-making – packets (FB)
- VI. Status of Bald Mountain Pond Report & brook trout genetics report (FB)
- VII. Removal of waters from the SHFW list to support conservation of other native fish (e.g., Crescent Lake stocking proposal) (GC)
- VIII. Other? (group)

Attendees: All committee members present.

This meeting summary is intended to provide an outline of key issues and concerns discussed and is not a detailed account of matters discussed. The summary is intended to assist IFW with planning and facilitation and not to capture all the discussions.

No additional discussion regarding 6/14/18 meeting summary.

FB discussed the need to create a future vision for waters on the heritage list, beyond the concerns that prompted the heritage law. Are there additional threats to these waters and other wild populations not addressed by the heritage law? Why should folks be vested in this list once we have a final list of heritage waters? What does the list really mean to folks/the

department? If these waters represent some of Maine's most important resources....."best of the best"; a filtered subset of our wild trout resources, then the vision statement had better reflect the importance of the list because it currently does not. In so doing listed waters may take on a new role and serve as an instrument to instruct additional change regarding other potential threats. Sally will work on some semantics to capture this essential missing piece to the creation of vision for Maine's heritage waters. In addition, #4 requires additional attention to recognize the value of conserving both heritage fish, particularly charr, which could include translocation into other heritage waters. The vision statement should be broad and not specific, and speak more to a vision that allows for the conservation of heritage fish like charr in other waters where it may not currently exist. Sally will work on language for this item as well. The need to limit discussion and dissemination of information regarding any initiatives supported by the work group until such time that sufficient vetting and discussion has occurred to support appropriate messaging and the ability to fully respond to effectively to public concerns was again reiterated. Premature messaging, and an inability to fully respond to inquiries due to insufficient vetting and concept development could undermine work group efforts.

Discussed information needs for the next heritage meeting to discuss baitfish issues as they pertain to MDIFW's concept initiative. Also, discussed a draft outline of the process to develop the concept. Some additional edits will be incorporated, including report back to the legislature, tentative dates, and informational session for the F&W legislative committee. 2018 fishing rule packet was briefly discussed. Packet was released the day prior to the work group meeting.

Final edits being incorporated in the Bald Mountain Pond & brook trout genetics papers. Should be posted on the web soon.

The department process for posting a new stocking proposal that is also contingent upon APA rule-making was briefly discussed with the heritage work. The department strives to post stocking proposals and APA rule making proposals such that the comment period on both is concurrent, and the need for a rule change is disclosed in posting the stocking proposal to ensure transparency.

heritage Brook Trout and Charr work group
August 30, 2018 Meeting Agenda
9 AM – 1100, MDIFW-Augusta

- I. Introductions – commercial and recreational baitfish representatives
 - a. Today’s expectations: ID issues for consideration regarding concept development; not looking for support or consensus
 - II. Concept Initiative – recreational use of baitfish for fishing in North Zone (FB)
 - a. History & background (FB)
 - b. Effect on traditional use of live fish as bait and bait sales (FB)
 - i. Ice fishing review process
 - ii. Open water review process – flowing / nonflowing
 - iii. Anticipated effect on traditional use of bait / bait sales?
 - c. Effect on commercial baitfish harvest opportunities (FB)
 - i. Currently: all waters open except those on the restricted list
 - ii. Under concept: continued reliance on a restricted list
 - iii. Anticipated effect on harvest opportunities?
 - d. Effect on baitfish harvest for personal use opportunities (FB)
 - i. Currently: all water open except those in law book “closed to the taking of live baitfish”
 - ii. Under concept: retain same exempted waters
 - iii. Anticipated effect on harvest for personal use?
 - e. Effect on storage of commercial and recreationally caught baitfish (FB)
 - i. Currently: bait holding in public waters - ongoing practice – authority?
 - ii. Currently: holding allowed on all waters except where “use or possession of live baitfish prohibited” in law book...FFO, ALO, S4.
 - iii. Under Concept: holding allowed in waters where LFAB is allowed + ?
 - f. Questions/comments?
 - III. Management of work group communications regarding any new initiatives; again (FB).
 - IV. Break - Convene regular workgroup meeting
 - V. As Time Allows:
 - a. Needs prior to October update to the F&W legislative Committee
 - b. Draft 7/26/18 meeting summary (group)
 - c. Purpose and Vision statement continued (group)
 - d. Other (group)
-

Attendees: All committee members except Sally were present.

This meeting summary is intended to provide an outline of key issues and concerns discussed and is not a detailed account of matters discussed. The summary is intended to assist IFW with planning and facilitation and not to capture all the discussions.

Members of the commercial and recreational bait community (Bruce Steeves, Eric Holbrook, and Dennis Bolduc) were invited to provide insights and considerations regarding the concept initiative. This insight was requested to comply with guiding principles supporting the development of the concept initiative, including no meaningful loss of traditional fishing opportunities using live fish as bait, minimizing economic hardships to the commercial baitfish community, and considerate of personal bait collection and use. Most of the discussion focused on Baitfish holding and storage, although many other baitfish-related topics were brought up by guests unrelated to the concept initiative, but certainly worthy of additional consideration and resolution by the department in a different venue. Many of the comments reflected issues previously identified and discussed by the Baitfish working group, including interest in higher commercial license fees, extending drop netting opportunities from March 31 to ice out, closing tributaries to smelt dipping until midnight to encourage smelt spawning, and clarification of as to when in the harvest process are commercial dealers considered in “possession”.

The activity of storing baitfish creates an elevated biological risk because fish harvested from other waters can be stored in waters where they were not captured, increasing the risk of introducing new fish and pathogens not present in the storage water or its watershed. There appears to be a logistical need for commercial dealers to hold bait on waters that may be closed to storing bait, but open to harvesting baitfish, particularly in more remote situations. Discussion regarding the holding of baitfish caught in the same water it was harvested suggested an approach that reduced concerns associated storage of baitfish in waters not open to storing baitfish. Subsequent discussion included temporary and more long term storage needs of commercial dealers and associated biological concerns. There appeared to be a recognition that storage of baitfish from waters other than where it was collected should be restricted to certain waters, including those open to use of live fish as bait for both the commercial and recreational harvesters.

Reiterated interest by the department to conduct public outreach regarding the initiative before considering formal proposal development.

Discussed the level of progress in developing the concept initiative and whether the committee supported continued development and whether the committee members would acknowledge support for continuation to the F&W legislative committee. Concurrence was expressed by all present.

Discussed reporting and communications needs to the legislature in October. A written report to the legislature would be shared with the committee members prior to submission to the legislative committee. Deferred meaningful discussions regarding the draft vision statement and last meetings’ summary until all work group members could be present for the discussion.

heritage Brook Trout and Charr work group
September 27, 2018 Meeting Agenda
9 AM – 1100, MDIFW-Augusta

- a. Discuss draft written progress report / submission to the F&W legislative committee.
 - b. Other work group commitments/expectations?
 - c. Additional discussion regarding meeting summaries for July and August?
 - d. Draft Vision Statement
-

Attendees: committee members, except Sebastian, Tim, and Scott

This meeting summary is intended to provide an outline of key issues and concerns discussed and is not a detailed account of matters discussed. The summary is intended to assist IFW with planning and facilitation and not to capture all the discussions.

The work group discussed the draft written progress report prepared for the fish and Wildlife Legislative Committee, due October 12th. Several revisions were identified and incorporated, work group accomplishments will be reported and appended, and draft discussion regarding progress on the vision and statement of purpose document will be revised to reflect progress realized at today's work group meeting. Additional work group discussion focused on the presentation of work group progress to the fish and Wildlife Legislative Committee, including strong interest by the group to have an opportunity to meet face to face with committee members to convey their support and optimism for the proposed conservation initiative. FB will reach out to the committee chairs to explore a meeting following submission of the written report.

A consensus was reached in the development of a vision and statement of purpose for the heritage law and the heritage fish found in these waters. work group participants acknowledge that the final draft document embodies concepts and a vision embraced by the heritage work group without any implications regarding the specific strategies that might be advanced to achieve the vision. An important objective in the development of this draft document is the creation of a future vision for Maine's heritage waters that transcends the current focus of the heritage Law. The final draft vision and statement of purpose was subsequently shared with work group members not present at the meeting to verify there was consensus by the entire work group.

There was additional consensus upon conclusion of today's meeting that the department had met its' commitments to the legislature as outlined in the department's March 6, 2018 letter to the fisheries and Wildlife Legislative Committee. Subsequent work group meetings will be convened as needed to support advancement of the implementation schedule and

development of a process to facilitate conservation stocking in heritage waters. Furthermore, the heritage work group will remain intact to support resolution of future heritage related initiatives.

ATTACHMENT 3

SHFW Nomination Process

SHFW Nomination Process

The department's procedure for nominating State heritage fish waters applies to waters that meet the following *eligibility criteria**:

- The water is a lake or pond**.
- The water supports a self-sustaining population of brook trout or charr.
- waters not stocked with any species of fish in at least 25 years.

**The Nomination Consideration Data Collection Form provides information to assess eligibility criteria and overall merit for nomination by the department.*

*** Includes newly surveyed waters and surveyed waters where population status has changed since last survey.*

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- 1.) department fishery biologists conduct surveys and resurveys using data collection forms developed specifically for newly surveyed remote waters and waters eligible for SHFW; Regional staff develop initial nomination recommendations using Nomination Consideration Data Collection Forms.
 - 2.) Nomination Consideration Data Collection Forms are reviewed by fisheries Leadership to develop agency nomination recommendations***. This review strives for statewide consistency in nomination advancement. waters considered and reviewed are tracked in the department's SHFW database, which includes justifications for waters not advanced.
 - 3.) fisheries leadership, in consultation with the Commissioner's office, propose SHFW for advancement through the APA rule making process. water names and watcodes will be listed in the regulation packet. At a minimum, waters proposed for listing will be managed as a discrete and separate packet.
 - 4.) The department is required to prepare an annual report to the MDIFW legislative committee. This report will include the number of waters reviewed for SHFW consideration and a listing of those advanced through rule making.

****Reviewed waters are available for the public upon request.*

ATTACHMENT 4

Heritage Nomination **Considerations Form**

This form is designed to generate information to be considered collectively in the review and nomination of potential waters to the State heritage fish water list. Comprehensive field data is reported in a Remote Pond Survey Field Data Form on waters that have not been previously surveyed (or resurveyed) by the department. Collected information is used to complete the heritage water Considerations Data Sheet.

The following eligibility criteria will be reviewed using considerations developed for identifying waters worthy of nomination to the SFHW list:

- water is a lake or pond.
- water supports a self-sustaining population* of brook trout or charr.
- water not stocked with any species of fish in at least 25 years.

** A self-sustaining population exists where life history requirements are met wholly within the pond and its tributaries, and the population is sufficiently high in abundance to be readily captured by angling and scientific collection methods during biological surveys. Presence in the lake or pond may be seasonal, however, the water's tributaries provide habitat for all life stages during all life history periods. A self-sustaining population is not dependent upon recruitment from downstream sources, although spawning in the immediate outlet does not disqualify for consideration.*

Basic Information:

- Region (management jurisdiction):
- water Name (location):
- Town/Twp (location):
- WATCODE (location):
- Date of sampling:

water Quality:

1. Does the pond/lake thermally stratify during mid/late summer? (Y / N) – *Suitable summer refugia/pond habitat*
2. During the mid-late summer, is there at least 5.0 ppm of dissolved oxygen within the hypolimnion? (Y / N) - *Suitable summer refugia/pond habitat*
3. Any other known cold water refugia within the pond/lake? (Y / N). If yes describe (spring/trib) – *Presence of suitable refugia, particularly if conditions “1” and “2” are not met.*

Biological:

1. Are all life stages of brook trout present? (Y / N) – Presence of all life stages and multiple age classes in the lake/pond and/or direct tributaries increases likelihood of a self-sustaining, non-transient population. It is recognized there could be spawning in the immediate outlet.

2. **Relative abundance of brook trout (High, Moderate, Low...Include gill net CPUE)**
– *Higher abundance is a stronger indicator of a self-sustaining, non-transient population. CPUE = _____*
3. **Brook trout readily captured by angling (Y / N)? Respond only if fished with rod and reel** – *A higher catch rate using less efficient R&R gear is a stronger indicator of abundance.*
4. **Stocking history: date and species of fish last stocked in candidate water or in direct tributaries _____** *Influence of stocking on wild genetics that may reflect attributes unique to the pond or drainage + eligibility for nomination.*
5. **List other species present + their relative abundance + Principal fishery status: (Spp/High, Moderate, Low/PF)** – *Inter-specific competition; presence of other species in high abundance reduces the likelihood of a self-sustaining, non-transient population.*

Physical:

1. **Is the body of water created by an artificial structure (e.g., man-made dam, water control structure, failed culvert, etc.), a beaver dam, or a natural geologic condition? _____** *Determine if the waterbody is a river/stream, ephemeral flowage, or a persistent pond. Determine if trout originate from the waterbody (and can complete their life history requirements within the immediate upstream drainage) or whether the population originates from downstream sources; resident vs transient population.*
 - a. **Describe the outlet control/dam feature(s) _____**
 - b. **Would the outlet control maintain the “pond” in the absence of beaver activity? (Y / N)**
 - c. **Is the outlet structure/control permanent/durable? (Y/N)**

2. **Does the outlet serve as a persistent physical barrier to fish migrating into the water body? (Y/N)**
3. **Surface area (acres) - potential for suitable year round habitat. _____**
4. **What is the maximum depth? (FT) – potential for suitable year round habitat.**

5. **Include a Google Earth image of an appropriate scale to reveal shoreline and outlet features. _____**

Other:

1. **Describe evidence of angler use? (i.e., trails, fishing gear, bait containers, canoes, etc.)** – *Presence increases likelihood of a trout population.*

Eligibility Criteria Summary:

- **Not stocked with any species of fish in at least 25 years, or ever at all? (Y / N)**
- **Is a lake or pond? (Y / N)**
- **water supports a self-sustaining population of brook trout or charr? (Y / N)**
(A self-sustaining population exists where life history requirements are met wholly within the pond and its tributaries, and the population is sufficiently high in abundance to be readily captured by angling and scientific collection methods during biological surveys. Presence in the lake or pond may be seasonal, however, the water's tributaries provide habitat for all life stages during all life history periods. A self-sustaining population is not dependent upon recruitment from downstream sources, although spawning in the immediate outlet does not disqualify for consideration.)

Social Considerations - other considerations not captured in this form to be considered in nominating this water:

Staff Recommendation for nomination:

- **Sufficient data to base heritage nomination recommendation; (Y/N); if No resurvey in the future? (Y / N)**
- **Regional staff recommendation for heritage nomination consideration (Y / N)**

Comments

ATTACHMENT 5

Heritage Law Vision and Statement of Purpose

The heritage fish workgroup offers the following Shared Vision for the heritage Law

Statement of Purpose:

Whereas: Maine's native and wild brook trout populations represent a unique and abundant resource not available elsewhere in the United States. Maine is the last true stronghold for wild brook trout and the only state with extensive intact populations of self-reproducing brook trout in lakes and ponds.

Whereas: Maine supports the only populations of native, wild Arctic charr remaining in the contiguous United States; and,

Whereas: The State of Maine, through legislative action, has designated Brook Trout and Arctic charr as Maine heritage fish;

Whereas: heritage waters are some of the most important, high value waters that sustain some of the most resilient brook trout and charr populations that remain in the State.

Therefore: The heritage fish workgroup embraces the following vision to proactively protect and conserve Maine's heritage fish waters as a valuable and unique public resource for current and future generations.

Vision:

- 1) Minimize threats from inter and intraspecific competition associated with new introductions of fish, including illegal introductions, MDIFW stocking, private stocking, and collection, storage and use of live bait fish;
- 2) Minimize other threats associated with environmental and land based activities that pose direct and indirect threats to heritage fish, their habitat and food source;
- 3) Conserve the genetic integrity of heritage fish that reflect attributes unique to watersheds and river drainages;
- 4) Support conservation of other indigenous or heritage fish in heritage waters where compatible with the ecology of existing heritage fish.
- 5) Sustain healthy, resilient populations; and
- 6) Provide angling and research opportunities consistent with conservation and stewardship interests.