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Land and Water Resources Council

2004 Annual Report

to

Governor John Elias Baldacci

and the

**Joint Standing Committee on Natural Resources
of the**

**122nd Maine Legislature
First Regular Session**

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INTRODUCTION

The Land and Water Resources Council (“Council”) submits this annual report to the Governor and the Maine Legislature's Joint Standing Committee on Natural Resources in accordance with 5 M.R.S.A. §3331, sub-§4. This report describes the Council's activities in 2004 and notes activities that the Council anticipates in 2005.

In 1993, the Maine Legislature established the Council to advise the Governor, the Legislature, and state agencies in the formulation of state policy regarding natural resources management to achieve state environmental, social, and economic objectives. The Council is established to consider natural resources issues of statewide significance and to counsel the Governor and Legislature on policy options for management and protection of natural resources. 5 M.R.S.A. §3331, sub-§2. The Council's agenda includes matters assigned to it by the Legislature or the Governor, as well as projects initiated at the request of a state agency or by the Council itself.

COUNCIL MATTERS IN 2004

Bay Management

PL 2003 c. 660, Part B (LD 1857) directs the Council to undertake a two-year study “to explore and document potential new and innovative concepts for the management of Maine’s embayments.” This study requirement was an element of legislation stemming from a prior study on aquaculture regulation. The law requires the Council to begin this study of “bay management” no later than September 1, 2004, and to submit a final report by January 15, 2007 to the joint standing committee on Marine Resources. Federal Coastal Zone Management Act funds will support the study effort. The main purposes of the study are to explore the concept of bay management as a tool for planning and management of uses of near shore embayments and the potential role of local government in such planning and management, and to identify a menu of bay management options for consideration by the Legislature.

DMR and SPO are jointly leading an interagency staff work group which, with the assistance of a neutral, third party project steering committee made up of eight public members¹ with expertise in relevant fields, is carrying out the study at the Council’s direction. DMR has created a website (<http://www.state.me.us/dmr/baystudy/baystudy.htm>) to help provide timely information on the study.

¹ The steering committee members are: Paul Anderson, *Director, Maine Sea Grant*; Kathleen Billings, *Chair, Soft Shell Clam Advisory Council, Town of Stonington*; Heather Deese, *Science Director, Northwest Atlantic Marine Alliance*; Dewitt John, *Director of Environmental Studies, Bowdoin College*; Evan Richert, *Program Director, Gulf of Maine Census on Marine Life*; Jim Salisbury, *Retired CEO, Supreme Alaska Seafoods*; David Schmanska, *Harbormaster, St. George*; Barbara Vickery, *Director of Conservation Programs, ME Chapter of the Nature Conservancy*

The Council made significant progress on this initiative in 2004. At its June 2004 meeting, the Council reviewed and approved the work plan for the study, including composition of the project steering committee, a detailed task list and study schedule prepared by DMR and SPO. A copy of the work plan is attached as Appendix A. In addition, the Council directed staff to develop a proposed public participation plan and schedule to ensure meaningful opportunities for informed comment by stakeholders and members of the general public comment at appropriate points in the process to complement the advisory role of the project steering committee.

At its September 2004 meeting, the Council reviewed and approved a detailed public participation proposal developed by the interagency staff work group in consultation with process consultant Pam Plumb and, subsequently, the project steering committee. A copy of the plan is attached as Appendix B. SPO and DMR staff implemented outreach elements of the plan in 2004 as scheduled. An initial round of public meetings, designed both to provide information about the project and gather ideas about bay management, will be held at several locations around the state in January and February 2005.

The Council also reviewed and approved a request for proposals (RFP) for pilot bay management demonstration projects, which the interagency staff team prepared in consultation with the project steering committee. The study legislation (PL 2003 c. 660) calls for one or more pilot projects as part of the study process. There were three proposals submitted in response to the RFP. Proposals submitted by the Friends of Taunton Bay and the Quebec Labrador Foundation/The Muscongus Bay Project Committee were selected for funding. Each is to be awarded a \$20,000 grant for bay management pilot projects in Taunton Bay (at the head of Frenchman Bay, including Hog and Egypt Bays) and Muscongus Bay (including the Medomak River estuary and Georges River estuary), respectively.

Work will continue on this study in 2005.

Exploring River Restoration Approaches

In 2002, the Council initiated an effort to review the State's policies and practices related to dam removal and directed SPO to lead this effort by convening a wide spectrum of stakeholders to form a Dam Removal Policy Advisory Committee ("Advisory Committee"). On January 3, 2003, the Council reported to Governor Angus King and the Legislature's Natural Resources Committee on the Advisory Committee's preliminary recommendations. The Advisory Group recommended continuation of its efforts and suggested a list of issues to be addressed in any subsequently adopted state policy regarding dam removal.

Governor Baldacci, in a memo dated June 25, 2003, requested the Council to look at potential "gaps in the state's current approach to restoration" and "provide recommendations on the how the state, in partnership with businesses, river

communities and other stakeholders, can accelerate our collective efforts to restore Maine rivers” by January 1, 2004. The Council determined to address issues related to dam removal policy in the context of the survey called for by the Governor’s memo and directed SPO to coordinate this effort. In consultation with the Council, SPO established several working groups to assess issue areas identified in the Governor’s charge to the Council. A number of members of the Advisory Committee have participated on the working group focused on dam removal procedures.

At the Council’s December 11, 2003 meeting, SPO staff provided a progress report on this assessment, known as *Exploring River Restoration Approaches in Maine* (“river restoration report”). In light of progress to date, the Council asked and was granted by the Governor an extension to accommodate completion of the working groups’ efforts and the Council’s consideration of any resulting recommendations.

At its September 2004 meeting, the Council approved the river restoration report for submission to the Governor. The report indicates the relative priority among its recommendations in each issue area examined and endeavors to identify actions that would require new or redirected resources.

Interagency Task Force on Invasive Plants and Nuisance Species

38 MRSA §1871 establishes the Interagency Task Force on Invasive Plants and Nuisance Species (task force) to advise the Council on matters pertaining to research, control and eradication of invasive aquatic plants and nuisance species and authorizes the task force to present recommendations to the Council. In 2002, the task force developed and recommended an action plan to protect the State's inland waters from invasive aquatic plants and nuisance species in accordance with 38 MRSA §1872. The Council subsequently approved the plan, which Governor King in turn submitted to the Federal Aquatic Nuisance Species Task Force as the State of Maine’s invasive species management plan. Subsequently, the plan received federal approval making the State eligible for federal funding support. Funds received from the United States Fish and Wildlife Service in 2003 and 2004 helped both DEP and DIFW build capability to respond rapidly to aquatic invasive species issues.

The task force continued to meet in 2004 to facilitate implementation of the action plan but did not have occasion to present further recommendations to the Council.

Lakes Heritage Trust Fund

5 MRSA §3331, sub-§5 authorizes the Council to manage the Lakes Heritage Trust Fund and requires the Council to include in its annual report “an accounting of all donations to and expenditures from” the Fund. In 2004, the Fund received no donated or other funds and the Council made no expenditures from the Fund.

Interagency Coordination

In 2003, the Council adjusted its meeting schedule (moving from monthly to quarterly meetings) and approach to agenda setting in an effort to clarify and coordinate its role in relation to the Energy Resources Council and other forums for discussion among the State's natural resources agency commissioners. In particular, the Council resolved to use the commissioners' cabinet-level discussions to identify issues that are ripe for consideration by the Council and to help guide Council actions on matters assigned to the Council by the Legislature or Governor.

This approach has proven an effective and efficient means for ensuring timely communication among agency decision makers on natural resources policy issues. In addition, sub-cabinet level discussions among state natural resources agencies have been a useful forum for identifying issues that involve multiple state agencies with potentially conflicting missions or mandates that are of interest to stakeholders outside of state government and thus may necessitate and benefit from further commissioner-level consideration via the Council. In keeping with this approach, SPO staff, in cooperation with other natural resources agency staff, provided professional assistance to help support inter-agency policy initiatives regarding water resources management, regionalization, local regulation of state activities, state comments on the report of the U.S. Commission on Ocean Policy and other natural resources policy matters in lieu of formal coordination through the Council.

UPCOMING ISSUES IN 2005

Topics which the Council anticipates it will address in the coming year include the following:

- Oversight of bay management project

This study project, assigned to the Council by PL 2003 c. 660, Part B, is expected to be a primary focus for the Council in 2005.

- Recommendations of the Natural Resources Industries Conference

The Council anticipates that implementation of recommendations from the Natural Resources Industries Conference sponsored by Governor Baldacci may identify additional issues for its consideration in 2005.

- Invasive species management

The Interagency Task Force on Invasive Plants and Nuisance Species may have additional recommendations for the Council to consider in 2005.

- Interagency coordination

The Council intends to continue to coordinate its role and activities in relation to the Energy Resources Council and other forums for discussion among the State's natural resources agency commissioners as in 2004. To that end, the Council intends to continue to meet quarterly in 2005 and has scheduled meetings in January, March, June, September and December 2005 to facilitate oversight of the bay management project as well as work on other matters as needed.

CONCLUSION

The Council continues to provide an opportunity and effective forum for development and communication of consistent state positions on issues and policies that have statewide natural resources implications and that require coordination among multiple agencies.

As in past years, the Council's work was enabled, benefited from, and continued to promote close collaboration among the state natural resources agencies. The Council thanks members of the public and federal and state government personnel for their hard work and participation in council meetings, and the stakeholder meetings, study commissions, and other public policy development initiatives whose recommendations often inform and enlighten the Council's discussions and decisions.

APPENDICES

Appendix A

LD 1857: Bay Management Study **Workplan Adopted by the Land and Water Resources Council (June 16, 2004)** *(Updated by Staff 8/17/04 for posting on website)*

Interagency Staff: The Council will be staffed by the State Planning Office and the Department of Marine Resources. Staff will include:

Kathleen Leyden, Director, Maine Coastal Program (SPO)
Todd Burrowes, Policy development specialist (SPO)
David Etnier, Deputy Commissioner (DMR)
Deirdre Gilbert, Special Assistant to the Commissioner (DMR)
Samantha Horn-Olsen, Aquaculture Policy Coordinator (DMR)
John Sowles, Ecology Division Director (DMR)
Seth Barker, GIS Specialist (DMR)
Vanessa Levesque, NOAA Coastal Services Center Fellow (August 2004-August 2006)
Joshua Wernig, UMaine Law School summer intern (June 2004-August 2004)

Funding: The Maine Coastal Program has allocated \$75,000 of Federal Coastal Zone Management Funds for the first year of this two-year project. The majority of this funding will be used to support bay management pilot projects in two locations. Funds will also be used for process facilitation, data acquisition, travel and expenses, miscellaneous consultant contracts, and to support a seminar series.

Project Initiation: The project has a statutory start date of no later than September 1, 2004. Due to the need to get the pilot projects initiated by January 2005, staff has tentatively planned an initial meeting of the steering committee via conference call in July 2004 to move the process forward. Staff and interns will also undertake background research over the summer months.

Steering Committee: Input on the project will be provided by a steering committee made up of members of the public with expertise in relevant fields of interest. The proposed steering committee composition is:

Paul Anderson, Director, Maine Sea Grant
Kathleen Billings, Chair, Soft Shell Clam Advisory Council; Town of Stonington
Heather Deese, Science Director, Northwest Atlantic Marine Alliance
Dewitt John, Director of Environmental Studies, Bowdoin College
Evan Richert, Program Director, Gulf of Maine Census on Marine Life
Jim Salisbury, Retired CEO, Supreme Alaska Seafoods
David Schmanska, Harbormaster, St. George
Barbara Vickery, Director of Conservation Programs, ME Chapter of the Nature Conservancy

Tasks Identified in LD 1857: LD 1857 identifies seven issues to be considered in the Council's evaluation of bay management. Some of these issues will be explored through the work of the pilot projects, others will need to be analyzed following the completion of the pilot projects. Project components have been divided below:

Pre-pilot project initiation

Drawing on national and international examples, define a range of approaches for bay management that is feasible for use in Maine;
Establish principles for undertaking the bay management study

Through pilot projects

Identify data and information needs, mapping needs and information transfer needs for bay management;
Identify authorities that govern near-shore waters and identify changes needed to regulatory structures, including but not limited to statutes, regulations and grant programs;
Identify opportunities to create limited local authority for bay management;

Post-pilot project analysis and recommendation development

Establish definitions, principles, goals and objectives for bay management in the State;
Establish clear criteria and standards for bay management, including guidelines to inform voluntary planning efforts by citizen groups;
Identify state, local and volunteer resources and capacity needed for bay management.

Project Timeline:

Pre-Pilot Projects:

June-August 2004: National/international examples of bay management analysis
September 2004: Soundings Institute ^{*} meeting (*The Soundings Institute meeting has since been moved to April 2005*)

Pilot Projects:

May/June 2004: Staff meet with interested groups for input into developing criteria for pilot project selection, discussion of goals of pilot projects
June 2004: Staff develop draft Request for Proposals (RFP) for steering committee review, including draft criteria for selection of pilot projects
July 2004: Steering committee reviews draft RFP
September 2004: Steering committee makes final comments on RFP
October 2004: RFP distributed
Mid-October 2004: Informational meeting regarding RFP for potential applicants if needed
Mid-November 2004: Proposals submitted
December 2004: Steering committee and staff review proposals, score and make recommendations
Mid-December 2004: Second meeting with LWRC – pilot projects selected
January 2005 – January 2006: Pilot projects conducted

^{*} The Soundings Institute: Advancing Community-Based Practices in Marine Conservation and Management will convene on 12-16 September 2004 in Tatamagouche, Nova Scotia, Canada. The Soundings Institute will bring experienced practitioners from North America's Atlantic Region (Newfoundland to Massachusetts) together to present and discuss their work in the community-based marine conservation and management realm.

January 2005 – January 2006: Compilation of regional marine GIS; GIS Analysis applied to 2 pilot projects; charettes with pilot project stakeholders

Bay Management Seminar Series: Concurrent with the pilot projects, staff plan to hold 6-8 seminars to provide for a broader discussion of bay management issues, particularly to ensure participation for those regions not selected as a pilot project. The seminar series will include opportunities for group discussion and will be facilitated. Possible topics include updates on the pilot projects, GIS presentations, invited experts, roundtable discussions, etc.

Post Pilot Project Analysis:

January-June 2006: Informational sessions about pilot projects; public input

June-December 2006: Needs assessment – volunteer/local/state capacity; science, research, monitoring; statutory authority

June-December 2006: Conduct feasibility analysis for development of more complete statewide marine GIS for longer-term consideration

June-December 2006: Development of report, recommendations to Legislature

Public Participation: Staff are working on developing a public participation plan which will be brought before the Council in December for its approval. A website will be developed to provide information to the public about the project's progress and to provide notification of meetings, including those of the Council. LD 1857 also calls for the staff work group to meet to the extent necessary in different regions of the state expressly for the purpose of receiving public comment and testimony on its work.

Action items at LWRC meetings:

June 2004: Introduction to project (background on Governor's Task Force on the Planning and Development of Marine Aquaculture in Maine, LD 1857), approval of work plan and steering committee composition

December 2004: Selection of pilot projects, approval of public participation plan

May 2005: Update on pilot projects, overview of most promising governance approaches (from Summer 04 and subsequent work)

September 2005: Demonstration of marine GIS, possible applications for other agencies

December 2005: Results of Pilot Projects -- Lessons Learned; Review and Approve Interim report for Legislature

May 2006: Review options for inclusion in final report. Provide direction to staff on recommendations.

September 2006: Initial review of final report. Provide direction to staff on recommendations; Review and approve long-term plan for Marine GIS.

December 2006: Finalization of final report and recommendations to the Legislature.

Reports/Presentations:

January 2005: Year 1 progress report to NOAA

March 2005: Presentation at Fishermen's Forum June 2005: Year 1 final report to NOAA

December 2005: Interim report to the LWRC

January 2006: Year 2 progress report to NOAA

March 2006: Presentation at Fishermen's Forum

June 2006: Year 2 final report to NOAA

December 2006: Final recommendations from the LWRC to the Legislature

Appendix B

Public Participation Plan for Bay Management Study *

Purpose of this Public Participation Effort:

- To provide good background information that supports informed decision making;
- To engage a broad spectrum of Maine people with varied expertise, experience and points of view on bay management; and
- To collect thoughtful, public suggestions on bay management in order that the Steering Committee and LWRC can make recommendations to the Legislature.

Desired Outcomes of this Effort:

- An archive of information is compiled. It is organized and usable, and includes various opinions, needs, suggestions and information on specific embayments along the Maine coast;
- Positive and creative suggestions for bay management are generated;
- Ideas of technical merit able to be implemented politically and fiscally are identified; and,
- Identifiable impacts on the project's outcome result from the public's involvement

Process Steps for Creating the Public Participation Program:

- Staff works with consultant (Pam Plumb) on rough outline of plan.
- Stakeholder groups and individuals are surveyed for suggestions on the public process (web based survey)
- Staff, using information from the stakeholders and the consultant, develops a suggested plan and presents it to the project Steering Committee.
- Changes are incorporated and the public participation plan is finalized by the Land and Water Resources Council.

What We Learned from Web-Based Survey

- High number of people/organizations that want to be "highly involved". Ongoing e-mail communication is important.
- Organizations want to submit information (research, white papers, etc.) to be considered during the study
- Respondents favor small group meetings

*

This plan was approved by the LWRC at its 9/29 meeting with the understanding that the plan is open to modification as the study progresses and public participation needs are further identified and refined.

Recommended Approach to Public Participation

1. Consult Directly With Key Stakeholder Groups*

Purpose: to engage those most likely to be heavily involved in this process to obtain early feedback and ideas.

- Reach out to key stakeholder groups (self-identified in survey or determined by prior high level of interest) early on to:
 - Inform them and invite them to participate in the public process
 - Ask what's important to them about bay management
 - Ask what data and background they want as part of the process – invite them to submit papers, research, examples, etc.
 - Inform them about opportunity later in the project to develop a management model for the "trial balloon" process

*In some cases, where there are multiple people in a region with a high level of interest, plan components 1 & 2 may be combined.

Time frame: Fall 2004

2. Hold a Series of Preliminary meetings:

Purpose: to get information out to people about the Bay Management Study, to identify what other information is needed, what people feel is working now or what needs change, and to identify governance issues.

- Held in 4-6 locations
- Invite all stakeholder groups and known interested parties directly
- Promote to general public through the media (see media plan)
- Agenda
 - Explain the origin, purpose and any parameters of the Bay Management Study
 - Present simple, easy to understand explanation of the current governance system with handouts which are graphic and easy to follow
 - Ask the group:
 - What are the governance issues?
 - What additional information do you need to make informed suggestions?
 - What is working now? What needs to change?
 - What would a fair, effective and practical bay management system look like?
 - Explain the next steps in the process and outline how public input will inform the process and results

Meeting technique: presentation for origin, purpose and parameters of the project and for definition of the current system; then, use small groups to generate information from those in attendance.

Time frame: January and February 2005

3. Conduct Pilot Projects: The pilot projects will be required as a condition of grant funding to develop and incorporate a public process of their own. See draft RFP for details about purpose and intended outcome of pilot projects.

Time frame: January through December 2005

4. Participate in Omnibus Survey of Maine Households

Purpose: to collect a sampling of general public opinion on coastal issues

- Look especially for the "inland" opinion and state wide interests which are less likely to be expressed in the meetings

Time frame: TBD

5. Talks or Panel Presentations on Bay Management Topics

Purpose: Provide an opportunity for interested parties, the public and the steering committee to learn about new ideas, techniques or technical topics associated with bay management.

Encourage creativity and learning.

- On occasion, devote part of quarterly steering committee to presentation, panel discussion, etc. on different topics. Publicize the opportunity.
- Avoid point/counterpoint panel discussions, but rather encourage factual, non-biased information.
- Allow members of the public to ask questions of experts.
- Post summaries of talks on the website.

Time frame: TBD at quarterly steering committee meetings

6. Mid-Course Workshops:

Purpose: Through a two-part workshop, engage participants in learning and information sharing, and development of management models/ideas. Each workshop would be a day-long event.

Workshop #1 "Learn and Discuss"

Purpose: Keep participants engaged, encourage exchange of information, and provide staff with feedback. Require pre-registration and offer travel scholarships to encourage participation.

Allow some flexibility for walk-in registrations.

- First half of meeting – Presentations, panel discussions, case studies. Pre-screen potential speakers to ensure lively, engaging talks. Topics might include aquaculture siting, roles of various governmental and non-governmental groups in coastal decision-making, pilot project results, etc. Provide an opportunity for participants to provide comments, suggest other sources of information, point to local data sources, etc. Post summaries of talks, white papers, etc. on the website for access by those not able to attend the workshop.
- In second half of meeting, divide participants into small groups of about 10 people. Provide an outline of discussion topics/questions related to the information shared and to the bay management study in general. Have at least one staff member present to take notes, answer questions (or make note of unanswered questions) and keep discussions on track.

Time frame: May, July, or September 2005

Workshop #2 “Developing Management Options”

Purpose: Provide an opportunity for staff and other involved stakeholders to launch “trial balloons” on potential bay management schemes. Require pre-registration and offer travel scholarships to encourage participation.

- First half of meeting --Staff would offer one or more "trial balloons" on possible bay management systems. Other groups or individuals could offer other "trial balloons" for management systems; we would provide a format in advance for them as guidance; those submitting ideas would not need to present or defend them personally.
- The small group discussion process would capture people's reaction on what works or doesn't work in each "balloon"; which suggestion comes the closest to meeting their point of view; which aspects of different proposals do they particularly like (or dislike)

Time frame: TBD -- October or November 2005

7. Hold Final Public Meetings:

Purpose: to build suggested management models which reflect the necessary compromises and include the different interests. The audience would be stakeholders and member of the public who have been involved throughout the process, as some knowledge of the information and ideas generated will be needed to make informed suggestions. Require pre-registration and offer travel scholarships to encourage attendance.

- Use a “charette” style meeting similar to land use planning meetings.
- Provide common data for everyone to work from based on the public information collected, the pilot program results and research, i.e. binders containing technical information, a summary of trial balloons and feedback from trial balloon session.
- Have people work at tables of 5-10 people selected to represent different points of view
- Stakeholder organizations would have a variety of members present working as individuals not empowered to make commitments on behalf of their organizations
- Agenda
 - Explain common information and the meeting process.
 - Have people work at their separate tables on the task of creating a recommended governance model for bay management that meets the needs of the participants as effectively as possible.
 - Have each table explain its model briefly.
 - Collect information on people's reactions to the various models.
 - Consensus on one model is NOT needed.

Time frame: January and February 2006

8. Invite Additional Comment on Staff Proposal

Purpose: Allow participants and public to provide feedback on draft proposals.

- Staff brings together public input and research in to a single document (proposal) for the Steering Committee and the LWRC.
 - Staff generates the proposal and distributes it to stakeholders and participants in the

- process, inviting written comments
- o Staff presents proposal and reactions to it to the Steering Committee and the LWRC

Time frame: July and August 2006

9. Ongoing

Information dissemination and communication:

- Monthly email updates to interested parties list (self-identified through process; may be more inclusive than above stakeholder group)
 - o Summarize recent events, ideas, meeting outcomes, etc.
 - o Advertise upcoming meetings and participation opportunities
- Whenever possible, provide information in advance of meetings as well as at meetings that supports meeting topic. Have fact sheets/poster and other easy to read and understand documents.
- Provide meeting participants timely feedback on the summary as well as results of their participation.

Media plan: to inform the general public about the study, invite their participation at each activity, report on the meetings, highlight the pilots, report on recommendations

- Build individual connections with likely media reporters about the project
- Generate opening press releases about the overall project
- Solicit an opening feature article to call attention to the issue and the process
- Solicit coverage prior to each public event to encourage participation
- Encourage the media to report on the meetings

Web site: to provide ongoing information, reports on activities and notices of meetings

- Establish a web site for the Bay Management Study
- Put up information on the Study process and how to be involved
- Put up all information generated as background
- Announce all meetings and invite participation
- Collect email addresses for people who want to be notified of meetings and then send them notices of meetings
- Post all meeting minutes

