

# MAINE STATE LEGISLATURE

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January 5, 2005

Senator Cowger, Senate Chair  
Representative Koffman, House Chair  
Joint Standing Committee on Natural Resources  
State House, Room 437  
Augusta, ME 04333-003

RE: Report to the Legislature on the progress of Significant Wildlife Habitat protection under the Natural Resources Protection Act

Dear Senator Cowger, Representative Koffman and Members of the Natural Resources Committee:

In accordance with Public Law 1997, Chapter 230 the Commissioners of the Department of Environmental Protection (DEP) and the Department of Inland Fisheries and Wildlife (IFW) are required to report every odd numbered year to the Joint Standing committee on Natural Resources on the progress of the mapping of Significant Wildlife Habitats under the Natural Resource Protection Act (NRPA).

The last time we reported to you, that the Committee had some significant concerns on the progress the Departments were making in implementing the protections for significant wildlife habitat in the NRPA. We believe we have identified a process that will make significant progress and look forward to talking with you directly.

First we would like to reiterate that we have proceeded carefully in the implementation of NRPA over the last ten years because we recognize both the importance of these resources and private property interests.

IFW biologists have been working on developing the information that defines the biological species-habitat ties that subsequently justify the biological importance of these habitats to continued species existence in Maine. If IFW determines that one of the potential significant wildlife habitats is critical to the health and continued existence of certain wildlife species to the level of our publicly set management goals, and that there is no better alternative to protect the function of the habitat areas, such as through cooperative management agreements, then IFW will develop the criteria that will define the habitat and adopt these criteria through a rulemaking process. Once defined by IFW rules, these habitats become protected under NRPA if they fall within another protected resource, such as a wetland. If they do not fall within a wetland, then the present statutory directive is for IFW to map the habitats and submit to them to DEP for adoption under DEP rules.

As you likely recall, IFW has defined high and moderate deer wintering areas, inland high and moderate value waterfowl and wading bird habitats, and seabird nesting areas through IFW rules. Seabird nesting areas do not occur in wetland areas, so they are the only habitat type that IFW has also mapped and DEP has adopted in rule.

Since we last reported to you, we have developed a draft definition for c high and moderate value coastal waterfowl and wading bird habitats. In addition, we have sponsored and lead research attempting to define the critical components of vernal pools that contribute to the survival of many species of amphibians and reptiles. We also now have a draft habitat definition for significant vernal pools.

IFW has noted to this committee in the past that resource constraints have been part of the reason that mapping of significant wildlife habitat has not occurred in a more timely manner. Those constraints are real, but we would like to propose a different manner of protecting these resources – beginning first with vernal pools.

Because the technical community now has ten years of experience with vernal pools in the field in Maine we are confident that we can regulate them like any other wetland, which is by delineation at a project site. We will be proposing in legislation that all activities subject to NRPA, excepting forest management activities, come under this provision. We do not need to map vernal pools to fairly and equitably protect them.

As we discuss this new approach, we would encourage the Committee to consider applying it also toto significant waterfowl and wading bird and significant shorebird habitats.

In addition, we are very pleased to note that IFW and the Natural Areas Program at the Department of Conservation have recently completed a GIS-based system that shows the location of all wildlife habitats of management concern in all organized towns south of Island Falls. This system also contains, in conjunction with the Natural Areas Program, all rare natural communities, and is the basis for a program called “*Beginning with Habitat*”. *Beginning with Habitat* is a collaborative program designed to be a planning tool for agencies and towns designing open space and natural resource protection areas into their comprehensive plans. Considerable ongoing cooperation is also given by the University of Maine and the Cooperative Wildlife Research Unit, State Planning Office, Maine Audubon, and the U.S. Fish and Wildlife Service. It is truly a collaborative effort. IF&W is currently working with about 100 towns to help them design resource protection into their comprehensive plans. We hope that, together with town zoning, acquisition, cooperative agreements and property tax incentives that we can help them design a landscape that allows wildlife to flourish 100 years from now.

Our staff look forward to answering any questions you may have about the report. We believe we have identified a workable solution to the delay in meeting our objectives under the Natural Resource Protection Act.

Sincerely,

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Dawn R. Gallagher, Commissioner  
Department of Environmental Protection

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Roland D. Martin, Commissioner  
Department of Inland Fisheries & Wildlife