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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

January 31, 2007

Senator John L. Martin, Senate Chair
Representative Theodore S. Koffman, House Chair
Joint Standing Committee on Natural Resources
100 State House Station
Augusta, ME 04333-0100

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

Dear Senator Martin, 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 Resources Protection Act (NRPA).

As we reported to you in 2005, IFW staff had defined the biological species-habitat ties that subsequently justified the biological importance of these habitats to continued species existence in Maine. The process at that time was that if IFW staff determined that one of the potential significant wildlife habitats was 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 was to develop the criteria that defined the habitat and to adopt those criteria through a rulemaking process. Once defined by IFW rules, these habitats would become protected under NRPA if they fell within another protected resource, such as a wetland. If they did not fall within a wetland, then the statutory directive was for IFW to map the habitats and submit them to DEP for adoption under DEP rules.

IFW had defined high and moderate value 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 at that time they were the only habitat type that IFW mapped and DEP adopted by rule.

In 2005, the 122nd Maine Legislature passed Public Law 116, which changed the definition of significant wildlife habitat in Section 480-B of the NRPA to eliminate the mapping requirement for regulation, directed the DEP to amend Chapter 335, Significant Wildlife Habitat Rules, and set criteria for regulating significant vernal pools, high to moderate value waterfowl and wading bird habitats, and shorebird nesting, feeding, and staging areas. The amended Chapter 335 was

AUGUSTA to define and describe criteria for attaining significant wildlife habitat status for these three			
17 STATE HOUSE STATION	BANGOR	PORTLAND	PRESQUE ISLE
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wetland-based habitats, explain State regulatory concerns, and describe avoidance, minimization, and compensation measures that would eliminate or reduce adverse impacts to these significant wildlife habitats.

The proposed amendments to Chapter 335 were provisionally adopted by the Board of Environmental Protection (Board) on September 22, 2005 and submitted to the Second Regular Session of the 122nd Legislature in February, 2006. Subject to a number of amendments to the proposed rules, the Legislature approved LD 1981 authorizing the rule to be acted upon for final adoption by the Board. The Board approved the amendment Significant Wildlife Habitat Rules, Chapter 335, on April 20, 2006. As authorized by the Legislature, the regulation of waterfowl and wading bird and shorebird nesting, feeding and staging areas was to become effective on June 8, 2006 and the regulation of significant vernal pools was to become effective on September 1, 2007. The delay in the effective date for significant vernal pools was to allow for adequate outreach and education of the regulated community.

Staff from both departments have initiated education and outreach efforts for municipal officials and the regulated community for the waterfowl and wading bird habitats and have developed an outreach strategy for significant vernal pools to begin early in 2007. Staff from the DEP has begun the licensing review process for a limited number of applications for activities in shorebird nesting, feeding and staging areas and inland waterfowl and wading bird habitats.

In recent months, the DEP and IF&W have been made aware of concerns from coastal property owners on the effect of the shorebird nesting, feeding and staging areas portion of the rules on property values. DEP staff have held a number of meetings with the affected property owners and representatives from the Maine Association of Realtors and the Maine Audubon Society in order to clarify their concerns and to seek suggestions to address those concerns. The Natural Resources Committee held a meeting on November 21, 2006 to discuss these same concerns and to prepare recommendations for the 123rd Legislature to consider. Staff from both agencies are fully prepared to assist in any effort to address these concerns.

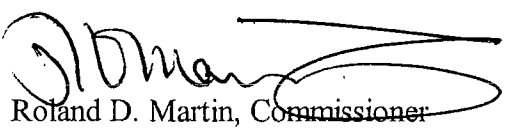
With the submission of this report, we respectfully conclude that the mandated requirements of Public Law 1997 Chapter 230 have been met and ask that the Legislature eliminate future reporting requirements on this matter.

Our staff look forward to answering any questions you may have about the report.

Sincerely,



David P. Littell, Commissioner
Department of Environmental Protection



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