

Section III

Public Access to Maine Waters Fund

Overview

History and Need

The Public Access to Maine Waters Fund was created in 1993 by the Maine State Legislature and funded for the first time in the fall of 1999. Managed by the Land for Maine's Future Board, the Fund is designed to address the following needs: to preserve, provide, or expand citizen access to public waters and to support Maine's recreation-based businesses and economy.

Appropriate Use of the Fund

In addition to public access to Maine waters, the Board also considers proposals that fall under the categories of Conservation and Recreation Land (Section II) and Farmland (Section IV). Anyone proposing a project to be funded by the Public Access to Maine Waters Fund should determine if a project truly fits under the narrow and well-defined purpose of the Public Access to Maine Waters Fund or if it is more appropriate in the Conservation and Recreation Land category. The purpose statement found in this section should be your primary guide in making this distinction and determining which proposal category you should use.

State Agency Involvement

The majority of public water access sites are acquired, developed, and managed by -- or with assistance from -- the Department of Conservation's Bureau of Parks and Lands and the Department of Inland Fisheries and Wildlife. These departments often need to act quickly to acquire water access sites for the following reasons: the scarcity of good sites; the high level of competition created by the market for the sites; and the time required to carry out appraisals and site suitability assessments. Recognizing these factors, the Board created an expedited process allowing State agencies and cooperating entities to take quick action to secure water access sites. State agencies will use established priority lists and other qualifying criteria to select sites. The Board will review funding requests and determine the amount of funds it will contribute to the project. See page 53 for a list of State agency sponsors for water access projects.

Who Can Apply

The Departments of Conservation and Inland Fisheries and Wildlife have the primary responsibility for public water access projects. However, this process is open to any party qualified to receive LMF funding. Any applicant (municipality, land trust or other cooperating entity) wishing to take advantage of this expedited process must work with one of these State agencies in advance of their application to the Board. An applicant may still take the lead, and hold title to the land, but must seek the guidance and support of the appropriate State agency.

Purpose

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The Public Access to Maine Waters Fund is designed “to get people to the water.” The Board will accomplish this by acquiring fee simple or public access rights on small parcels of land to create or enhance access points to lakes, ponds, rivers, and coastal waters. Lands for access could support a facility for trailered boats and/or small, hand-launched craft (canoes, kayaks, for example) and provide bank fishing (shoreline angling and wading), swimming, clamming, worming, or other water contact opportunities. Access is primarily intended for general public use but may be used by those requiring it for commercial purposes, provided that such commercial use does not exclude other uses by the general public.

Proposal Process

The Departments will use the lists of priority water bodies developed in the *Strategic Plan for Providing Public Access to Maine Waters for Boating and Fishing* (IF&W and DOC, 1995) and *Coastal Water Access Priority Areas for Boating and Fishing* (SPO and DMR, 2000). These lists are updated periodically as new information becomes available. These agencies are currently conducting a comprehensive update of this strategic plan which is expected to be complete in 2008. Applicants should consult with the appropriate agency to determine if the potential water access site is in one of the priority areas or otherwise meets the Agency criteria for water access needs (LMF staff can assist in this process.).

Priorities for inland and coastal water access sites are determined based on the following:

- * Location of the water in relation to population centers and other water access sites;
- * Size of the water body and the diversity of recreational opportunities it offers;
- * Level of and proximity to existing public access sites and access needs;
- * Value of fisheries opportunities based on IF&W and/or DMR's evaluation;
- * Expected demand and diversity of uses of the site, current or anticipated; and
- * Threat of conversion to other uses, especially private development.

When a good access acquisition opportunity becomes available and it conforms to the guidelines and criteria found in this document, the agency or cooperating entity will notify the Program Director. The Program Director will advise the agency of the next scheduled Board meeting, which allows for a 10-day advance public notice of the Board's intent to consider the water access purchase. This notice allows the public an opportunity to comment in writing on the proposed acquisition in advance of the meeting, or to appear in person to offer comment to the Board.

The agency or cooperating entity will provide information to the Board by following the Application Format and Instructions beginning on page 55. This information must be submitted along with other supporting documentation at least 30 days in advance of the scheduled meeting to allow Board members an opportunity to review the information prior to their meeting discussion. At the meeting, the agency or cooperating entity will present the proposal in its entirety to the Board, and outline the entire financial package including acquisition funds, reimbursement for allowed acquisition costs, and the required match.

BASIC GUIDELINES FOR APPLICANTS UNDER THE PUBLIC ACCESS TO MAINE WATERS FUND - EXPEDITED PROCESS

- Complete appraisals well ahead of negotiations and make the appraisal available to the Appraisal Review Committee (ARC) for review, so that if issues arise, they can be addressed prior to an offer. This review can be done even before the project becomes a proposal to the Board.
- Whenever possible, use an appraiser whose work is familiar to the Board.
- Be sure the appraiser follows the Land for Maine's Future Appraisal Standards.
- If a Purchase and Sales contract must be in place before committee and board discussions take place, make sure it is conditioned on ARC and Board approval. It's also important, if you have chosen to approach the Land for Maine's Future Board for funding, that you make it clear to the seller that it is the Board's policy not to participate in projects where the purchase price exceeds fair market value as determined by an appraisal.
- When presenting a proposal to the full Board, be fully familiar with the Board's policies and guidelines, anticipate questions, and work with staff to review your proposal and your presentation. Staff can assist you in anticipating questions and designing proposal materials all of which will contribute to an expeditious Board review.

Proposal Inquiry Form

This short form can be submitted at any time (see Appendix A). It provides the Land for Maine's Future Program staff with the information they need to determine if your project meets the criteria for the Public Access to Maine Waters Fund.

Maine State Agency Contacts

Maine Department of Conservation
Bureau of Parks & Lands
22 State House Station
Augusta, Maine 04333
George Powell
tel: (207) 287-4952 www.maine.gov/doc/parks
E-mail: george.powell@maine.gov

Maine Department of Inland Fisheries & Wildlife
41 State House Station
Augusta, Maine 04333
Ken Elowe
tel: (207) 287-5260 www.maine.gov/ifw
E-mail: ken.elowe@maine.gov

Maine Department of Marine Resources
21 State House Station
Augusta, Maine 04333
David Etnier
tel: (207) 624-6550 www.maine.gov/dmr
E-mail: david.etnier@maine.gov
Note: DMR does not typically sponsor projects but
may be a source of useful information.

Maine Coastal Program/ State Planning Office
38 State House Station
Augusta, Maine 04333
Jim Connors
Tel: (207)287-8938 www.maine.gov/mcp
E-mail: jim.connors@maine.gov
Note: SPO does not typically sponsor projects but
may be a source of useful information.

Threshold Criteria Relating to Water Access Proposals

The Land for Maine's Future Board follows its regular policies and guidelines when it makes decisions on which projects to fund. A list of other Board policies and guidelines are found in Section I on page 5.

Threshold Criteria:

Threshold refers to the Board's expectation that all proposals address the following as minimum requirements. In rare cases, a proposal that does not meet these criteria will be considered.

Willing Seller: The owner(s) has agreed in writing to allow the sponsoring agency or cooperating entity to consider the purchase of his/her property.

Appraised Value: The owner is willing to accept an offer at or below fair market value based on an appraisal that conforms to Land for Maine's Future appraisal standards (see Appendices E and F).

Match : A proposal is expected to have a match greater than or equal to 1/3 of the total eligible project costs. This means that for every \$2 of LMF funds, there must be \$1 of match funds. Furthermore, of the total match, the ratios of match type must be the following:

- no more than 30% of the match can be the value of in-kind services customarily associated with land or interest in land acquisition (appraisal, survey, title work, legal work, ecological and archeological inventory)¹; and
- 70% must be in the form of land, cash or other tangible assets. When considering land in fee or easement as match, it is the responsibility of the applicant to document the value to be used as match. To qualify as LMF match, the cooperating state agency must appear in the chain of title.

For example, if a proposed property has an estimated total project cost of \$150,000 (including land and all other eligible expenses), it would be eligible for up to \$100,000 in LMF funds, and there would have to be a match of at least \$50,000. Of this \$50,000 match, up to 30% of \$15,000 could be in-kind services needed for the land acquisition, and at least 70% of \$35,000 would have to be in donated land value, cash, or other tangible asset.

If a project proposal includes a contribution to a dedicated stewardship/management endowment of the state agency that will hold title (or easement) on the property, this may be considered a tangible asset. Contribution to a qualifying stewardship account is statutorily

¹ Services conducted by applicant staff and members, whether paid or volunteer, is not eligible to be included within match calculations.

capped at 20% of land's appraised value. [Endowment funds are not included in the total project costs calculation.] Access improvements may be considered as tangible assets with a cap at 5% of appraised land value. Engineering, permitting, and wetland delineation can also be considered as match under the 5% access improvement allowance.

The value of lands or interest in lands acquired within 2 years of the date of project application maybe used as tangible match when the property interests have a direct relationship to the project.

Ownership & Sponsorship

An applicant is required to have sponsorship of a State agency (Department Inland Fisheries & Wildlife or Department of Conservation) and to have reached agreement with the sponsor regarding ownership and management. If the project is to be held by a party other than the state, this agreement will subsequently provide the basis for a Project Agreement between the applicant and the sponsoring agency (see Appendix H). Applicants must contact the appropriate sponsoring agency well in advance of submitting an application.

Project Readiness

Project readiness is a criterion that reflects the degree of due diligence applied and the certainty of a successful LMF project. It is intended to be a guide to project selection decisions. The readiness level is determined by the cumulative progression of items completed. A graduated scale indicating the level of commitment and likelihood a project will be completed in a predictable timeline.

- Level 1 – 4 items completed
- Level 2 – 3 items completed
- Level 3 – 2 items completed
- Level 4 – 1 item completed
- Level 5 – 0 items completed

Readiness items include:

- Completed appraisal
- Final easement or fee acquisition conditions completed
- Cost Share commitment established
- Signed option or purchase and sales agreement
- Preacquired and held by a third party at the request of the State

The Board will also consider the project's fund-raising plan and status of fund-raising efforts for matching funds.

Application Format and Instructions

Please use the following application structure and numbering sequence to provide information. If not applicable, please indicate by placing a N/A.

Eight copies of your proposal should be sent to:

*Land for Maine's Future Program
State Planning Office
38 State House Station
Augusta, Maine 04333-0038
Telephone #: (207) 287-1485*

In addition, one copy of the application must be sent to the sponsoring agency.

1) Applicant

Name, address, and phone number of the applicant and the primary contact person.

2) Agency Sponsor

Indicate which of the following the project sponsor is and include a sponsoring letter from the agency:

Department of Inland Fisheries & Wildlife
Department of Conservation

3) Date of Application

Indicate the date you submitted your application.

4) Project Title/Name - Body of Water

This is the name by which your proposal will be catalogued by Program staff.

5) Location of Project

Provide us with the name of the township and county.

6) Type of Project

Indicate if your project is an outright acquisition in fee, an easement or a combination.

7) Size

Indicate how many acres your project encompasses and identify fee versus easement acres if appropriate.

8) Owner(s)

Include address, phone number, fax, and e-mail (if available) of the current landowner(s). A letter from the landowner(s) indicating their willingness to be considered in the project must be included in the application.

9) Partners

Other entities participating in this project. Include address, phone, fax, e-mail

10) Names of Individuals Knowledgeable about the site/proposal

List the names of individuals who can speak directly to the access benefits that the proposal will provide.

11) Total Financial Summary

Use the form in Appendix G. Note: the Board will not consider an application with an incomplete budget.

12) Project Description

Include a narrative description of the entire project that provides a complete image of the project itself as well as the context surrounding it. Photographs of the property can be very effective. If these are incorporated in the text electronically, please provide the images on a CD or floppy disk in JPEG or TIFF format.

13) Location Information

Provide a selection of easy-to-read locator maps including:

- a) Maine Atlas Base Map - showing project location and regional perspective;

- b) USGS Topographic Base Map - showing entire boundary of proposed project, legal access and proximity to other public and private conservation lands (if possible please include this information in electronic form (a GIS-compatible “shape” file);
- c) Other Maps as Appropriate

14) Demonstration of Need

Indicate whether the project has been designated as a priority water access site (contact LMF staff or the sponsoring agency for further information); or, if it is not, provide documented, credible evidence that supports the need for public access to the associated lake, river or coastal area as determined by the priorities described under the Proposal Process in this section (page 51).

15) Suitability for Intended Use

Demonstrate that the property has no legal constraints preventing its development and use for the intended proposed access and that the physical characteristics of the site are suitable for the intended access.

16) Impact on Natural Resources

Describe what if any impact the proposed access will have on the natural and cultural resources of the water body and the surrounding land. This assessment is to be performed by the appropriate natural resource agency (DOC, IF&W, DMR), and in consultation with the Maine Natural Areas Program and the State Historic Preservation Office.

17) Existing Public Access on Proposed Water Body

List and describe all other public access sites that exist on the lake or pond along which your parcel is located. If the site is along coastal or riverine waters, list the closest public water access site and the type of site (e.g., boat launch site, place for shoreline angling).

18) Value of Fisheries Opportunities

List and document any high value or outstanding fisheries that are currently or will be enjoyed by future users of this access site.

19) Expected Demand and Diversity of Uses

Describe the type of use -- either current if it is an existing privately owned site, or anticipated -- at the proposed site and the number of different user groups that will benefit from the proposed site.

20) Threat of Conversion to Other Uses Especially Private Development or Non-Water-Dependent Uses

Indicate the degree of threat to development, or the conversion to other non-water dependent uses, of the proposed site.

21) Estimate of monitoring and management costs

A person submitting a proposal to acquire property or an interest in property with funding from the Public Access to Maine Waters Fund shall provide:

- A description of the management envisioned for the property for the first 10 years following acquisition. When the application proposes acquiring an interest in property, the application must provide a description of the anticipated management responsibilities retained by the landowner and those to be assumed by the State or a cooperating entity;
- Preliminary estimates of the costs to the State or a cooperating entity of managing the land for the uses proposed in the application; and
- Preliminary estimates of the costs associated with monitoring compliance with an easement when an interest in land is acquired.

22) Project Readiness

Project readiness is a criterion that reflects the degree of due diligence applied and the certainty of a successful LMF project. It is intended to be a guide to project selection decisions. The readiness level is determined by the cumulative progression of items completed.

A graduated scale indicating the level of commitment and likelihood a project will be completed in a predictable timeline.

- Level 1 – 4 items completed
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Readiness items include:

- Completed appraisal
- Final easement or fee acquisition conditions completed
- Cost Share commitment established
- Signed option or purchase and sales agreement
- Preacquired and held by a third party at the request of the State

Also include a description of the plan for and status of fund-raising efforts for matching funds.

23) Organizational capacity

For applicants other than the Department of Conservation or the Department of Inland Fisheries & Wildlife, please describe the applicant's capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. The Board will consider all relevant factors including without limitation level of debt, fund raising ability, past land conservation activity and transactions, organizational history, scope of conservation vision, and evidence of success in building and sustaining land protection campaigns. Be sure to describe the proposed title or easement holder's ability, experience, and resources to manage the property appropriately.

