

**Final Report and Recommendations
of the
Land Acquisition Priorities
Advisory Committee**

Submitted
to

Governor Angus S. King, Jr.

November, 1997

Prepared by

*Maine State Planning Office
184 State Street
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November 26, 1997

Governor Angus S. King, Jr.
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Dear Governor King:

On behalf of the Land Acquisition Priorities Advisory Committee, I am pleased to present the Committee's Final Report and Recommendations. We are particularly pleased to be able to present you with a consensus report. As you are well aware, the Committee is composed of a diverse array of individuals who approach the issue of public land acquisition from many different perspectives. The Committee believes that its consensus-building efforts enhance the strength and integrity of its final recommendations.

Your 1996 Executive Order set an ambitious agenda for the Committee's work. We believe that our Final Report and Recommendations responds directly to each of the tasks set out in the Executive Order. In addition to addressing the numerous policy issues, the Committee spearheaded an effort to develop a comprehensive inventory of Maine's public and private conservation lands, an information resource that should serve the State well for years to come. The Committee was able to engage the public throughout its efforts. Over the course of our work, we heard from approximately 400 Maine citizens. This input was extremely important in setting the tone for the Committee's work and refining its draft recommendations.

The enclosed recommendations set an ambitious public and private land acquisition agenda for the 21st Century. The Committee has endorsed your call for a 10% increase in conservation lands over the coming years and has provided a blueprint on how to achieve this goal. Perhaps our most difficult challenge was that of identifying land acquisition priorities, as there are many important acquisition needs supported by the public. Nonetheless, we made some tough choices on how to best focus acquisition efforts over the next five years. With the \$35 million land acquisition bond now exhausted, funding is the primary barrier to embarking upon new land acquisition initiatives. The Committee has proposed a three-pronged funding plan including bonding, new state revenue sources, and funds leveraged from available public and private sources.

The Committee wishes to thank you for your commitment to public land acquisition and for the opportunity to participate in this important effort for the State of Maine. It has been an enriching experience. We stand ready to assist you in your efforts to move forward with these recommendations.

Sincerely,

Jerry A. Bley, Chair
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Note: All committee members, except those representing state agencies, served as individuals rather than as representatives of organizations or companies.

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The Committee wishes to acknowledge the following individuals, agencies and organizations who provided valuable insight, information and advice. This report would not have been possible without their contributions.

Informational presentations to the Committee: Francis Sheehan (New York Department of Environmental Conservation), George Smith (Sportsman's Alliance of Maine), Chris Wolfe (Appalachian Mountain Club), Janet McMahon (Maine Forest Biodiversity Project), Mark DesMeules (Land for Maine's Future Program), Jo D. Saffair (Maine Outdoor Heritage Fund), Thomas Morrison (Department of Conservation - Bureau of Parks and Lands), Fred Hurley (Department of Inland Fisheries and Wildlife), Russell Libby (Maine Organic Farmers and Gardners Association), Jym St. Pierre (RESTORE: The North Woods), David Field (University of Maine - College of Forestry), Peter Forbes (Trust for Public Land), Jerry Major (Maine Snowmobile Association and ATV Users), Marcia Noyes (National Recreation and Park Association), Walter Anderson (Federation of Maine Mineral and Gem Clubs), William Krohn (U.S. Fish and Wildlife Service - GAP Analysis), Sally Stockwell (Maine Audubon Society), Roger Milliken (Baskahegan Company), Richard Kelly (State Planning Office), Robert Voight (Maine Conservation Rights Institute), and David Gurnsey (Maine Conservation Rights Institute).

Thanks to Richard Kelly of the State Planning Office for creating the Conservation Lands Inventory. He was assisted in this effort by personnel from the following agencies and organizations: Department of Conservation, Department of Inland Fisheries and Wildlife, Department of Transportation, U.S. Department of the Interior, U.S. Department of Agriculture, Maine Audubon Society, Maine Chapter of The Nature Conservancy, Maine Coast Heritage Trust, and the Appalachian Trail Conference.

Special thanks to Mark DesMeules of the State Planning Office for his involvement with this Committee. Additional research support was provided by Todd Burrowes and administrative support was provided by Aline Lachance.

Finally, and most importantly, the Committee wishes to thank all the citizens of Maine who took the time and effort to participate in this process. Their involvement was essential to the creation of this report.

FINAL REPORT AND RECOMMENDATIONS OF THE LAND ACQUISITION PRIORITIES ADVISORY COMMITTEE

I. INTRODUCTION

In January, 1996, Governor Angus King issued an Executive Order (attached) calling for the establishment of the Land Acquisition Priorities Advisory Committee. The Governor established the advisory committee to help chart the course for future land acquisition initiatives in Maine. Funds from the \$35 million Land for Maine's Future bond issue passed by Maine voters in 1987 have been largely exhausted, creating a timely opportunity to assess past public land acquisition efforts and to identify needs to be addressed in the coming years.

Specifically, Governor King asked the Committee to:

identify the types of land or interests in land that should be prioritized for acquisition by public and private conservation agencies;

review current public land ownership and protection to assess the geographic distribution, conservation and recreation values, and carrying costs of public lands;

establish statewide and regional goals for future acquisition;

consider whether a few large acquisitions are preferable to more numerous smaller acquisitions; and

recommend one or more funding sources for land acquisition.

The Committee appointed by the Governor included a diverse group of 15 Maine citizens representing a range of interests including outdoor recreation, farming, forestry, large and small landowners, and land conservation. Also included on the Committee were three representatives of those State agencies involved in public land acquisition; the State Planning Office, Department of Conservation, and Department of Inland Fisheries and Wildlife. The State Planning Office staffed the Committee's work.

The Committee had no regulatory or legislative authority. Its role was to offer its best advice on land acquisition to Governor King and others who may choose to consider this report and recommendations. This report represents the Committee's final product. With the submission

of this report to Governor King, the Committee has fulfilled the responsibilities set forth by Executive Order and concludes its work.

II. COMMITTEE PROCESS

The Committee began its work in October, 1996 and held a total of fourteen meetings, as well as two rounds of public comment sessions. All meetings were open to the public and non-committee attendees were provided an opportunity to share their comments with the Committee.

From the onset, the Committee agreed to operate on a consensus basis. Committee members believed that in order to provide Governor King and the people of Maine with clear recommendations, it needed to work through the differing viewpoints held by committee members and put forward a common vision. All decisions made by the Committee, and in particular these final recommendations, were supported by the entire committee. Achieving consensus within such a diverse group was, at times, very difficult. However, the Committee believes that its consensus-building efforts enhance the strength and integrity of its final recommendations.

From October, 1996 through March, 1997, the Committee focused its efforts on researching each of the issues raised by Governor King in his Executive Order. Some highlights of this work included:

Creating an inventory of existing public land holdings that identifies the conservation and recreation values of each ownership (see Section IV);

Inviting eighteen individuals, each with a special expertise, to make informational presentations to the Committee regarding existing use of public lands, future needs for public lands, and other related topics;

Examining the State's land acquisition programs to determine whether they are being run in an efficient and effective manner;

Inviting landowners that have sold land to the State, and private property rights advocates, to make presentations to the Committee to determine whether landowners are being treated fairly in the State's land acquisition process;

Researching the wide range of funding options used by states around the country to fund land acquisition; and

Looking at the cost of public land management and the adequacy of current land management efforts.

The Committee strove to create a process that allowed for extensive public input. It held seven public comment sessions around the state. The first three meetings were held in March, 1997, in Portland, Orono and Presque Isle, to gather initial public input on the key questions

facing the Committee. In September, 1997, the Committee held another four sessions in Farmington, Biddeford, Houlton, and Machias to receive public comment on its draft recommendations. Both the quantity and the quality of public input received by the Committee were impressive. The public comment sessions provided the Committee with a wealth of thought-provoking ideas and perspectives. In addition, many Maine citizens took the time to present their viewpoints to the Committee in writing. In total, the Committee listened to the comments of 193 people and read an additional 211 letters. This input was extremely important in setting the tone for the Committee's work and refining its draft recommendations.

III. OVERVIEW OF CONSERVATION LAND ACQUISITION IN MAINE

Types of Land Acquisition

For many people, the term "land acquisition" means the purchase of fee interest in a parcel of land. However, in looking at public and private land conservation efforts in Maine, the Committee has defined acquisition in much broader terms. In this report, the term "acquisition" includes not just fee acquisition, but also the acquisition of less-than-fee rights, such as conservation easements. A conservation easement is a voluntary legal mechanism which can permanently protect valued resources, while allowing the property to remain in its current ownership and permitting certain uses to occur. For example, a conservation easement can be used to restrict development of a property and guarantee public access for recreation, while allowing other uses, such as farming, to continue.

In some situations, the purchase of a conservation easement may be more appropriate than a full fee acquisition. Often, easements can provide protection of important resources and recreation opportunities at a lower cost to the public than full fee acquisition. Private land under conservation easement remains on the local property tax rolls, though in some cases, at a lower assessment value. Conservation Easements can allow private landowners to continue to manage lands for compatible uses such as forestry and farming. In some cases, landowners not interested in selling their property, may be interested in selling or donating a conservation easement.

Fee acquisition can be tailored to specific needs, for example access to water bodies or corridors along rivers or trails. As a general policy, the Committee recommends that the full range of acquisition options be considered by the State. Each project should be evaluated based upon the values and uses that need to be secured and then the most cost-effective means for acquiring those rights should be selected.

Public Land Ownership in Maine

Approximately one million acres of conservation and recreation land in Maine is currently owned in fee or conservation easement by the state and federal governments, with the great majority of the land being in state ownership. This represents slightly under 5% of Maine's land area. Of this acreage, about 40,000 acres is under conservation easement. The remainder is held

in fee. As yet, there is no complete inventory of conservation lands owned by Maine municipalities.

State Ownership

Dept. of Conservation	567,768 acres
Dept. of Inland Fisheries & Wildlife	87,969 acres
Baxter State Park Authority	205,908 acres
Total State Ownership	861,645 acres

Federal Ownership

National Park Service	82,144 acres
U.S. Fish & Wildlife Service	44,864 acres
U.S. Forest Service	62,665 acres
Total Federal Ownership	189,673 acres

Public Land Acquisition Programs in Maine

Public land acquisition occurs through a variety of programs in Maine. Over the past decade, the most prominent program has been the Land for Maine's Future Program (LMFP). Funded by a \$35 million bond issue in 1987, the program has completed forty projects resulting in the acquisition of over 70,000 acres of land and conservation easements including such notable parcels as Nahmakanta Lake, Mount Kineo, the Cutler coastline, and Kennebunk Plains. Of this acreage, conservation easements were acquired on almost 4000 acres and a twelve mile stretch of the Appalachian Trail. Lands purchased through LMFP are owned and managed by several state agencies, primarily the Department of Conservation and the Department of Inland Fisheries and Wildlife.

In addition to LMFP, both the Department of Conservation and Department of Inland Fisheries and Wildlife have their own acquisition programs. These programs are designed to fulfill departmental mandates. Without an assured source of funding, both programs utilize funds made available through federal and other sources. In 1996, the Maine Outdoor Heritage Fund, which distributes revenues from the sale of wildlife lottery tickets, began operations providing about 35% of its revenues for public land acquisition and management projects. In its initial two years of operation (1996-97), the Fund allocated approximately \$590,000 to land acquisition projects. The "loon license plate" also provides revenue for conservation initiatives which can include land acquisition. In 1996, the Department of Inland Fisheries and Wildlife allocated \$75,000 of these revenues to land acquisition. The Department of Conservation, which

also receives loon plate revenues, utilizes these funds to perform needed maintenance and infrastructure improvements for State Parks.

Private Conservation Ownerships in Maine

In addition to public agencies, private conservation organizations are involved in land acquisition, including a number of statewide organizations such as the Maine Coast Heritage Trust and the Maine Chapter of The Nature Conservancy, as well as over 70 local and regional

land trusts. The best available information indicates that non-profit land conservation groups own approximately 45,000 acres of property in fee, as well as conservation easements covering about 54,000 acres of land. These lands protect resources of great value to the public and many of the lands are open to use by the public for recreation. In addition, it is important to recognize that private conservation organizations often play an essential role in facilitating public land acquisition projects.

IV. INVENTORY OF PUBLIC LANDS

Governor King's Executive Order called upon the Committee to review current public land ownership in order to assess the geographic distribution of public lands, as well as their conservation and recreation values. When the Committee began to pursue this task, it soon discovered that there was no comprehensive inventory of public land ownership in Maine. In order to effectively plan for future land acquisition initiatives, the State must know what it owns and how those lands are addressing public needs. With this goal in mind, the Committee asked the State Planning Office to develop an inventory of public land ownership (including easements) and, to the extent possible, private conservation ownership.

Development of the inventory required a major data collection effort extending over the Committee's one-year life span. The resulting inventory catalogs public and private conservation lands and easements by geographic region, and identifies the principal uses and values of each parcel. Twenty different categories of uses (e.g., hiking) and values (e.g., ecological values) were used to characterize each parcel.

The Committee was able to use the inventory to develop a number of its recommendations. For example, the Committee's recommendation to place a high priority on southern Maine conservation lands is underscored by the inventory, which clearly demonstrates that public lands are underrepresented in the southern portion of the State where the majority of Maine's people live. The value of the inventory, however, will extend well beyond the work of the Committee. It provides a sound foundation, which if updated and improved on an ongoing basis, can provide the State's natural resource agencies with an important planning tool for the future. One important addition would be the inclusion of significant municipal open space lands.

V. THE NEED FOR FUTURE LAND ACQUISITION IN MAINE

Efforts to Assess the Need for Additional Conservation Lands

Quantifying and articulating the need for future land acquisition in Maine is not a simple task. The most often quoted rationale for expanded public land acquisition is that less than 5% of Maine is currently in public ownership, ranking Maine near the bottom of all states in terms of percentage of land in public ownership. While this is an important statistic, the Committee felt compelled to dig deeper and to look at this issue from a variety of perspectives.

The Committee is not the first group to address this question. In its 1997 report, Measures of Growth, the Maine Economic Growth Council proposed that Maine increase conservation land acreage by 10% by the year 2000. This 19 member Council was composed of a diverse group of individuals representing stakeholder interests in Maine's economy and was charged with establishing performance measures and benchmarks for promoting economic growth in Maine. The Council determined that conservation lands are important to economic growth due to jobs created in tourism and other related businesses, as well as providing a quality of life that attracts businesses to Maine. The Economic Growth Council's goal, which was endorsed by Governor King, served as a point of departure for the Committee to assess the question of need for future land acquisition.

During the first months of the Committee's work, a variety of individuals, with diverse expertise, were invited to make presentations about future needs for public land acquisition. This included individuals with extensive knowledge of hunting and fishing, motorized recreation, farming, forestry, remote recreation, ecology, wildlife habitat, wilderness, municipal parks and other topics. Each presenter made a compelling case, often backed up by solid statistics, for additional public land acquisitions to meet their particular interest.

The same message was reinforced by Maine citizens from around the State who presented oral or written testimony to the Committee. The general perspective of need can be summed up by noting that over 70% of the 223 comments received during the Committee's final public comment sessions indicated support for significantly increasing conservation lands. Public comments ranged from general support for protecting lands for future generations, to very specific acquisition proposals.

The inventory of conservation ownerships described in Section IV reinforced many of the perspectives presented by Maine people. The inventory highlights the fact that the amount of public land ownership in southern and coastal Maine, where the majority of Maine people live, is disproportionately low compared to the rest of the State. This area is also most vulnerable to development pressures that can preclude future conservation land acquisition opportunities.

Finally, the Committee looked at the issue of need by examining recent studies and trends that reflect the current use and future need for public land. Some selected highlights include:

Use of the Appalachian Trail in theMahoosucs has increased over 300% since the early 1970's. Camping in theBigelow Range rose 230% in just 5 years. Over the past year, day use at Gulf Hagus jumped by 130%.

Visitor use in Acadia National Park has increased 260% since 1960.

Only 13% of Maine's public land acreage is located in the southern third of the state where most of the state's population resides.

Summer traffic entering York on the Maine Turnpike has increased 6.5% since 1990 meaning that more and more tourists are coming to Maine.

Maine has lost half of its farms since 1960. Approximately half of Maine's farmers are at least 60 years old, suggesting there will be a major turnover in the ownership of farm land in the coming years.

Between 1985 and 1991, 42 new land trusts were established in Maine in response to public support for the preservation of open space.

The U.S. Fish & Wildlife Service's "GAP Analysis" shows that the diversity of Maine's biological resources is greatest in southern Maine where development poses a significant threat.

The Department of Inland Fisheries and Wildlife and organizations representing Maine's outdoor recreation interests have reported that increased posting of private lands in southern and central Maine is limiting recreation opportunities for Maine's outdoor enthusiasts in these areas.

A 1995 study of fishing and boating access found that demand for public access to Maine's waters is increasing while traditional private access points are being closed off. Opportunities to acquire affordable shorefront lands suitable for public access are diminishing. The Department of Inland Fisheries and Wildlife and Department of Conservation jointly recommended that at least 90 new boat access sites be acquired by 2005.

In summary, the Committee looked at the question of need for additional public lands from a variety of different angles. The Committee found a consistent and compelling case for an ambitious acquisition program that would significantly expand conservation land ownership in Maine.

Maine's Open Land Tradition

One of the unique traditions of Maine's outdoor heritage is the availability of private lands for public recreational use. The majority of Maine land, particularly large forestownerships, is open to the public at no cost or with user fees. In many states around the country, private lands are generally off limits to the public for hunting, fishing, hiking, camping and other recreation

uses. In Maine, private lands provide a significant portion of the state's outdoor recreation opportunities. While some limited access rights are assured through Maine laws such as the Great Ponds Act (which allows access over unimproved land to great ponds), the availability of private land is primarily the result of the good will of landowners.

If Maine people were assured that private lands would continue to remain open long into the future, it could have an impact on how the State evaluated future acquisition needs. Currently, in the southern and central part of the State, where smaller landownerships predominate, there has been a steady trend toward posting of land and limiting public use. In the northern forest, the vast majority of land remains available to the public. Over the past twenty years, some forest landowners have established recreational access for a number of large areas involving controlled access points and user fees (e.g., North Maine Woods).

On this issue, the Committee is unable to predict what the future holds, but believes that certain strategies are warranted. First, the State should do whatever it can to work with landowners to help ensure the future availability of private lands for public recreation. Second, land acquisition efforts should recognize that public access to private lands is not guaranteed and should seek to secure the most threatened (e.g., southern Maine) and important (e.g., water access) access rights.

VI. LAND ACQUISITION GOALS

The Committee proposes that the following three goals guide future state land acquisition initiatives.

Goal #1: Increase public and private conservation ownership in Maine 10% by the year 2000 and double conservation lands by the year 2020.

Maine should embark upon a long-term initiative to create an expanded system of public and private conservation lands to assure the protection of valued resources, meet the future needs of Maine citizens, and expand tourism opportunities. As a first step towards this long-term goal, the Committee endorses the target proposed by the Economic Growth Council and Governor King to increase public and private conservation land ownership by 10% (100,000 acres) by the year 2000, while recognizing that a slightly longer time frame (five years) may be necessary since expanded funding will not be available until 1998 at the earliest.

The proposed doubling of conservation lands by the year 2020 reflects the Committee's strong belief that a sustained acquisition effort will be required to meet Maine's future conservation and recreation needs. The Committee envisions that a significant percentage of this expanded acquisition acreage would be conservation easements that

protect Maine's landscape and guarantee traditional public recreational access to the state's forests and waters. To achieve this long term goal, partnerships with private conservation organizations and federal funding assistance will need to play an increasingly important role in land acquisition.

While the Committee believes that acreage goals for land acquisition provide a useful means to ensure progress, it fully recognizes that the quality of future acquisitions is as important as the amount of land acquired. Future efforts must effectively target those acquisition opportunities that meet a clearly identified public need.

Goal #2: Ensure stable, long-term State land acquisition programs by establishing a reliable source of land acquisition funding.

In the past, funding for Maine's land acquisition programs has been sporadic. It is time to create stability for State land acquisition programs by providing reliable ongoing sources of funding and the personnel necessary to effectively achieve the State's land acquisition objectives. Providing greater continuity for acquisition programs will enable State agencies to develop and implement long-term acquisition strategies and take full advantage of important acquisition opportunities.

Goal #3: Operate State land acquisition programs in a manner that reflects the interests of Maine people.

These programs should:

- a) Fully respect the rights of private landowners and ensure that all acquisitions occur on a willing seller-willing buyer basis;
- b) Weigh the potential impacts and benefits of land acquisition to local communities;
- c) Respect Maine's sporting traditions by providing for hunting, fishing, and trapping opportunities;
- d) Seek to secure legal access to all properties acquired by the State;
- e) Have clear long-term acquisition priorities and criteria, but be flexible enough to respond to immediate threats and opportunities;
- f) Utilize a diversity of land acquisition strategies and select those strategies that are most cost-effective;

- g) Maximize partnerships with public and private agencies and leverage acquisition funding from all available sources;
- h) Invite public input on land acquisitions and provide for a periodic assessment evaluating whether the state's land acquisition programs are meeting their objectives; and
- i) Account for future land management costs when making land acquisition decisions.

VII. RECOMMENDATIONS

A. PROPOSED LAND ACQUISITION PRIORITIES

Recommendation #1: Establish a set of priorities to guide land acquisitions by the State over the next five years and beyond.

The Committee's toughest challenge, by far, was to set priorities for Maine's future land acquisition efforts. The Committee accomplished this task in a two step process. In its draft report, the Committee presented fourteen Land Acquisition Priorities for which it believed there was a demonstrated need. Most Maine citizens commenting on the draft report agreed and offered their support for all of the proposed priorities, though some categories received more extensive support than others.

As the Committee considered its short-term goal of increasing public land ownership by 10% over the next five years, it concluded that it may not be possible to achieve significant results in all of the priority categories due to limited resources. Therefore, the Committee felt compelled to identify a limited number of Land Acquisition Priorities that would receive special focus over the next five years. Given adequate funding, the Committee believes that significant accomplishments can be made in each of the five "Focus Areas" in this period. For this to occur, the Land For Maine's Future Board will need to begin its acquisition planning efforts (see Recommendation #3) on the Focus Areas. Additionally, each of the State's land acquisition programs should incorporate the Focus Areas into their project selection procedures wherever possible. Finally, Focus Areas should receive a substantial allocation of available State acquisition funds.

The five areas for immediate focus were selected from the list of fourteen priorities using the following criteria:

Broad-based public support;

Demonstrated gap in current public land ownership as identified by available information;

The resource is limited and potentially at risk; important opportunities will be lost if action is not taken soon; and

A concerted State effort can have a significant conservation impact over the next five years.

The Committee fully recognizes the limitations of selecting a small number of Focus Areas from a list of very deserving priorities. It is not in the State's long-term interest to miss one-time acquisition opportunities that arise over the next five years. For example, acquisition of an abandoned railroad corridor is a one-time opportunity. Once the corridor has been split up, it cannot be put back together again. Similarly, northern and western Maine contain the largest blocks of undeveloped forest land in the East. These lands provide a sense of wildness and remoteness unavailable elsewhere. As long as present land use patterns continue, these important values are not immediately threatened. But should significant blocks of these lands come onto the development market, it would become critically important for Maine to seize opportunities to secure high priority lands and conservation easements.

Moreover, the Committee recognizes that some of the Land Acquisition Priorities are best pursued through federal programs and other non-state funding sources as long as such acquisitions proceed in a manner that reflects the interests of Maine people (see Goal #3). For example, the federal Forest Legacy program is designed to acquire conservation easements on large tracts of working forest lands and has already completed two important acquisition efforts on valued lakes in the Maine woods. The Committee fully supports aggressive efforts by the State to attract non-state dollars for any of the priorities, and in fact believes that this is essential in order to meet the Committee's long-term goals.

Because all of the Land Acquisition Priorities are important, the Committee recommends that the treatment of the Focus Areas not be overly rigid. The Land for Maine's Future Board and others making decisions regarding future acquisitions will need to create a balanced approach of achieving significant results in each of the Focus Areas while taking advantage of important opportunities that arise among the other Land Acquisition Priorities. The following Focus Areas and Land Acquisition Priorities often overlap and, in fact, one objective of future acquisitions should be to purchase properties that meet multiple priorities whenever possible.

For each of the Land Use Priorities listed below, additional planning efforts need to be undertaken to identify the most important acquisition opportunities (see Recommendation #3). With some priorities, there may be particular acquisition strategies that are best suited for achieving the stated objective. For example, conservation easements are an excellent tool for protecting productive forest and agriculture lands. The Committee recognizes that accomplishing significant results for some Land Acquisition Priorities will require a more extensive acquisition effort than others.

The following Land Acquisition Priorities are presented in no particular order within their respective lists.

Focus Areas

* **Access to Water:** Maine is blessed with abundant rivers and lakes, as well as a spectacular coastline, that provide outstanding fishing, boating, and shoreline recreation opportunities. However, traditional water access sites are increasingly being closed off by private landowners and opportunities to acquire affordable shorefront properties suitable for public access are dwindling. A recent study by state agencies found that the growth in public fishing and boating access sites will probably not keep pace with demand unless additional funding becomes available. The study includes a ten-year plan for acquisition of priority water access sites, as well as shorelands. Acquisition and development of public access to waters should seek to provide a diversity of high quality recreational opportunities such as boat ramps, carry-in boat access sites, and walk-in access to remote ponds.

* **Southern Maine Conservation Lands:** The southern portion of the state (south of Bangor) is richest in biological diversity. It is also the part of the state where development threats to plant and wildlife resources are the greatest and where existing public land holdings are most limited, particularly larger holdings. There are still opportunities to acquire significant public lands protecting critical natural resources while also providing Maine's largest population centers with greater access to expanded recreation opportunities closer to home.

* **Ecological Reserves:** Maine is a state of enormous natural variety. A State Planning Office study and follow-up efforts by the Maine Forest Biodiversity Project (a collaborative effort involving State agencies, landowners, scientists, and environmentalists), have documented that Maine's existing conservation ownerships do not protect the full range of Maine's native plants, animals, and natural communities. In order to establish an ecological reserve system that protects all of the natural communities and species found in the State, additional lands will need to be acquired to complement existing sites. Special attention should be given to those areas that include rare species, as well as unique or exemplary natural communities. Ecological reserves can serve as benchmarks which will provide important information about changes to our environment. These sites can be used for scientific research, long-term environmental monitoring, education, and in most cases can also provide important outdoor recreation opportunities.

* **River Systems:** Maine possesses some of the finest river systems in the Eastern United States, many of which remain largely undeveloped. These rivers are important fisheries, possess critical riparian habitat, and provide unparalleled outdoor recreation opportunities. Future acquisition efforts should protect extended corridors on the state's most valued river systems.

* **Undeveloped Coastline:** Maine is famous for its coastline. However, only a small percentage of the coast is in public ownership. In particular, there are significant undeveloped stretches of shore, including coastal wetlands and estuaries, that provide critical habitat to many

species of wildlife and offer opportunities for expanded coastal recreation. It is important to take advantage of remaining opportunities before large ownerships become fragmented.

Other Important Land Acquisition Priorities

Northern Forest Conservation Lands: The expanse of undeveloped forest, rivers, lakes, mountains and wetlands that comprise the north woods of Maine is truly unique, providing a sense of wildness and remoteness that is becoming increasingly rare in today's world. It is the part of the State where the majority of public ownership currently exists, and yet many of the region's finest natural treasures and recreational lands have been maintained in private ownership. Some of these areas, most notably the shorelines of lakes and ponds, are coming under increasing development pressures.

The future of the north woods is the subject of great public interest that will likely increase in the years to come. Several large-scale acquisition proposals put forward by conservation groups have precipitated a debate over the appropriate role for public land acquisition in the northern forest. The State has both the opportunity, and the responsibility, to work cooperatively with forest landowners and other interests to develop workable acquisition models that protect the economic, ecological and recreational values of this region. Conservation easements should play an important role in this effort.

In the near term, acquisition efforts in the northern forest should focus on those lands that possess a high concentration of wildlife, recreation, and scenic values and are most threatened with fragmentation and development. Planning efforts coordinated by LMFB should seek to identify these priorities and to develop successful acquisition strategies that could then be utilized in these areas and elsewhere. If large northern forest tracts come on to the market, LMFB should evaluate both the threat and opportunity presented by the land sale, and respond accordingly. The conservation goal for Northern Forest Conservation Lands should be to maintain their natural character, preserve public recreation opportunities, protect important habitat, and manage timber resources in a sustainable manner. To acquire, even conservation easements, over large tracts of northern forest land will likely require federal funding assistance. The Forest Legacy program is well suited to Maine's working forest landscape and allows for state control over acquisition projects. This program, and other appropriate federal funding opportunities, should be actively pursued to achieve the state's northern forest goals.

* **Municipal/Urban Open Space:** As Maine communities continue to grow, local open space lands are increasingly being developed or closed off to public use. To maintain the quality of life in our towns and cities, it will be important to expand efforts to protect local open space resources including greenways, neighborhood parks, town commons, beaches, town forests, wetlands, and wildlife habitat. Productive agricultural lands in proximity to growing residential areas are particularly at risk. Growing concern over development sprawl has prompted state and local governments to search for effective means to encourage growth in appropriate locations while better protecting valued resources. Land acquisition is an important tool in community efforts to address sprawl and preserve the character of a community. Several southern Maine municipalities have recently initiated land acquisition programs. It is likely that many more

towns and cities would follow suit if matching funds were available from the State (see Recommendation #4).

* **Trail Systems:** A number of trail development efforts in Maine--including the State snowmobile trail network, the Appalachian Trail, and the recently established island trail network--have proven very successful. However, there are additional recreational trail needs and opportunities that require attention including the development of extended loop hiking trails (2-5 days), as well as the creation of extended interconnected multi-use trail systems for uses such as hiking, biking, skiing, and snowmobiling and ATV riding. In particular, acquisition efforts should focus on opportunities to link existing public land holdings by trail corridors and to acquire ready-made trail corridors such as abandoned railroad beds. Additionally, expanded inland and coastal water trail systems are needed to accommodate small boat use.

* **Farm Land:** Over the past 35 years, the amount of farm land in Maine has shrunk by over 50%. In some parts of the state, the number of farms is barely sufficient to support the infrastructure necessary to make farming viable. With at least half of Maine's farmers approaching retirement, a major turnover of farm ownership is anticipated in the coming years. Other states facing similar losses of farm land have initiated ambitious programs to acquire development rights to help ensure that land stays in agriculture. Such a program would not address all of the pressures facing Maine farmers, but can provide farmers with an alternative to selling the farm and preserve strategic agricultural and open space lands.

* **Regional Parks:** Residents of many of the state's population centers have limited public recreation lands within a reasonable traveling distance to where they live (one hour drive). In particular, there is a need for parks offering day use recreation opportunities such as hiking and picnicking. The popularity of the State's recent acquisition of Dodge Point in Damariscotta highlights this need.

* **Additions and Access to Existing Public Lands:** Many public lands in Maine would greatly benefit from targeted expansions. Additions to existing ownerships can be a highly cost effective way of increasing recreation opportunities, securing public access rights and preserving ecological values. In certain instances, additions to existing public ownerships are necessary to protect resources from encroaching development or other threats.

* **Mineral Collecting Sites:** Maine has some of the finest gem and mineral collecting opportunities in the country. Traditionally, the public has had ample access to private lands to collect gemstones and minerals, an activity that continues to increase in popularity. However, in recent years many of the state's best collecting sites have been closed off to the public. Securing access rights to a small number of quality collection sites will guarantee that the public can continue to have the opportunity to hunt for Maine gems and minerals in the future.

* **Islands:** Maine's coastal and inland islands are one of the state's most unique and threatened resources. Islands, particularly coastal islands, have become increasingly sought after for development, threatening bird nesting habitat and other sensitive ecological values. The State, private conservation organizations, and the federal government have successfully protected many

valuable islands in recent years. However, additional acquisition efforts are needed to protect those islands identified as having important resource values that remain vulnerable to development and habitat loss.

* **Significant Mountains:** While many of the state's highest peaks are currently in the public domain, there are still a number of significant mountains in private hands that are worthy of public acquisition. Acquisition efforts should focus on those mountain areas with outstanding vistas, established recreational uses, or significant ecological values, as well as those that are in close proximity to population centers.

B. LAND ACQUISITION PROGRAMS AND PROCEDURES

Recommendation #2: Maintain the current structure of State land acquisition programs, with the Land for Maine's Future Program facilitating communications among the various State land acquisition efforts.

Currently, public land acquisition is accomplished through several State agencies and programs including the Land for Maine's Future Program, Department of Conservation, Department of Inland Fisheries and Wildlife, Department of Transportation, and Maine Outdoor Heritage Fund. The multiple programs are a result of different funding sources and agency mandates. The Committee examined whether the fragmented structure for land acquisition in the State had created inefficiencies or other problems and found this not to be the case. In fact, the record of the State's land acquisition programs is exceptional, and consequently the Committee recommends no major changes in the existing structure. However, as the State's land acquisition efforts expand, it is recommended that the Land for Maine's Future Program assume a more active role in ensuring effective communication among all of the State's acquisition efforts. The Committee recommends against the creation of any new land acquisition programs that would further fragment land acquisition decision-making.

Recommendation #3: Create a more proactive program to identify priority acquisition projects.

Past land acquisition efforts in Maine have been largely reactive, responding to particular threats and opportunities. The Committee recommends that the State take a more active role in identifying priority acquisitions through a planning process utilizing the best available information. This shift in approach is necessary for a variety of reasons. First and foremost, it will help to ensure that limited acquisition funds are utilized in the most effective manner. In addition, significant progress in a number of the proposed Land Acquisition Priorities can only be accomplished through a concerted State effort since they will likely involve acquisitions that include multiple owners that need to be approached in a coordinated manner. Prospectively

identifying acquisition projects will also enable the State to seek additional funding opportunities to leverage State acquisition dollars.

The priority categories listed under *Recommendation #1* provide the framework for planning efforts. Under the oversight of the Land for Maine Future Program, planning efforts should be undertaken for each of the Land Acquisition Priorities, beginning with the Focus Areas. These efforts should include setting measurable objectives for each category. Some examples include acquiring a certain number of water access sites or ecological reserves. The Land for Maine's Future Board may choose to enlist the efforts of other State agencies, organizations, and individuals with particular expertise to help with specific planning projects. For some categories, such as Water Access, extensive planning efforts have already been undertaken and for others, like Ecological Reserves, such efforts are in process. Planning efforts should involve a diversity of perspectives including the scientific community, user groups, landowners, conservation organizations, local communities, and State agencies.

Creating a more prospective approach to land acquisition requires that landowner interests and concerns be given paramount attention. Planning efforts must be designed in a manner that fully involves and informs landowners. Strict adherence to the "willing seller" policy is necessary to assure landowners that planning efforts will not result in pressure to sell property.

There should be periodic opportunities for the public to hear about and provide input on the Land for Maine's Future Board's planning initiatives and the State's land acquisition efforts. Every five years, LMFB, with the assistance of other State agencies, should present an assessment to Maine citizens evaluating the progress that has been made towards achieving land acquisition objectives. Public input should be solicited at this time and when new acquisition goals are being developed.

Recommendation #4: As part of the Land for Maine's Future Program, provide matching grants to municipalities for local open space acquisition.

Currently, the Land for Maine's Future Program can only expend funds on the acquisition of land that is of "state significance." Consequently, there is no state funding available for conservation acquisitions that may be of great local or regional importance, but are not of state significance. The Committee views this as a serious deficiency that can be remedied by providing matching grants to localities through LMFP to acquire lands of local or regional importance. A number of the Committee's Land Acquisition Priorities, for example Farm Land, are best addressed through local acquisition efforts. Establishment of this program would require a change to the Land for Maine's Future statute.

While municipalities would be the preferred recipient of these matching grants, the program should allow for other qualified recipients, specifically local land trusts, in those cases where there are compelling reasons that the municipality not be directly involved. Grant

recipients would need to provide matching funds or donations in order to be eligible for a State grant. Interest in land would be held by the grant recipient, with the State's interest to be protected through deed covenants assuring that the land is used for its intended purpose. It is anticipated that local land trusts would often work in partnership with municipalities to develop acquisition projects, raise matching funds, and manage properties. Management of lands acquired under this program would be a local, not a state, responsibility.

The Committee believes that establishment of this new program will fill an important need and leverage a substantial amount of municipal and private funding. This program should be coordinated with initiatives by state and local governments to address the problem of development sprawl and should seek to build upon the comprehensive planning and open space protection efforts begun by many Maine communities. The Committee recommends that up to 10% of available acquisition dollars be designated for the local match program. If the Committee's funding recommendations are implemented, this could result in a local match program with up to \$4 million available to communities over the next few years.

Recommendation #5: Address land management costs in the acquisition process.

Along with the acquisition of new public lands comes the cost of managing these lands. In the past, not enough attention has been paid to these costs when making land acquisition decisions. The Committee recommends that future land acquisition decisions place a much stronger emphasis on the costs of land management. For each proposed acquisition, an estimate of development and land management costs should be developed along with a determination of how those costs will be paid. Whenever possible, acquisition projects should include provisions, such as a stewardship endowment or an agreement with a private organization, to provide for future management.

The Committee endorses the use of user fees, where practical, to help support the maintenance and operation of public lands provided that fees are not so high as to be a barrier to use of these lands by Maine citizens. Similarly, the ability of a parcel to generate revenues (e.g., timber harvesting) should be taken into account when assessing the management costs for a potential acquisition, though it is recognized that not all future acquisitions will be suitable for revenue generating activities.

Recommendation #6: Maintain a program that is responsive to landowner and municipal concerns.

The Committee's evaluation of past State land acquisition efforts found that there has been an excellent record of cooperation with communities including a willingness to address local concerns when they do arise. Understandably, there is ongoing concern about the potential

impact of public land acquisition on local property taxes. The costs and benefits to a municipality of conservation land versus developed land is a complex issue that is the subject of ongoing research and debate. A number of recent studies indicate that conservation lands are rarely the primary cause of increased property taxes and that the cost of providing municipal services (including education) for new development often exceeds the increase in tax revenues.

Under current law, LMFP's acquisitions that account for at least one percent of the municipality's total tax assessment must be approved by the municipality. In certain situations, where a significant property tax impact is anticipated, provisions have been made to ensure that the municipality is not adversely impacted. This occurred recently when the State acquired (by donation) a large tract of land in the Town of Cutler. In this instance, a fund was established to provide payments to the town in lieu of property taxes.

The Committee also found that State acquisition programs have demonstrated a high level of respect for landowners' rights and heard of no situations where these rights had been infringed upon. The State's "willing seller, willing buyer" policy has been fully honored. The Committee was made aware of instances where landowners felt that the acquisition process was unnecessarily protracted and that communications with State agencies were not always clear. Additional staffing should help ameliorate this problem.

Recommendation #7: Establish staffing levels to accomplish acquisition objectives.

The Committee has proposed ambitious land acquisition goals for the coming years and recognizes that adequate staffing will be necessary to attain these goals. The Committee recommends that staffing levels for state acquisition programs be sufficient to maintain a proactive and results oriented program. Specifically, the Committee recommends that when additional funds are made available for land acquisition, staffing for the Land for Maine's Future Program return to that which existed during the program's peak activity during the late 1980's (two full-time staff and a half-time legal person). The Committee recommends that funding for land acquisition staff be provided through a General Fund Appropriation. It is anticipated that additional staff support will allow the State to more effectively pursue outside sources of funding to leverage state dollars and thereby pay for itself.

In the past, non-profit land conservation organizations have provided extensive staff support for land acquisition projects at little cost to the State and the Committee recommends that these important partnerships continue in the future. In addition, the Committee recommends that use of volunteers in the acquisition process be actively pursued.

C. FUNDING

The greatest challenge to achieving the Committee's land acquisition goals and recommendations will be to secure the necessary financial resources. The Committee proposes a

three-pronged plan including bonding, new state revenue sources, and funds leveraged from available public and private sources. All three funding sources must be effectively tapped in order to realize the goal of increasing conservation lands by 10% in the coming years (100,000 acres). The \$35 million land acquisition bond of 1987 enabled the purchase of over 70,000 acres of fee lands and conservation easements. Based upon the LMFP experience, and factoring in the escalating costs of land, the Committee estimates the cost of the 10% increase at approximately \$75 million, with a considerable portion of this cost coming from non-State dollars.

Recommendation #8: Present Maine voters with a \$45 million land acquisition bond issue in 1998 to fund the Land for Maine's Future Program.

The Committee believes that bonding should remain the cornerstone for funding state land acquisition, just as it provides for Maine's other important infrastructure needs. With the Land for Maine's Future bond funding now exhausted, it is time to present Maine voters with a new land acquisition bond that is as farsighted as the original Land for Maine's Future bond (\$35 million). The Committee projects that a \$45 million bond issue, combined with other proposed funding sources, would allow the 10% goal to be achieved.

Recommendation #9: Establish an ongoing revenue source to provide a reliable long-term funding source for land acquisition.

While bonding should remain the primary source of funding the acquisition of state land, it should not be relied upon to carry the entire cost. Maine must develop one or more significant new revenue sources that can supplement bonding and provide secure annual support for land acquisition. Efforts toward this goal have begun through the Maine Outdoor Heritage Fund (wildlife lottery), loon license plate, and the Land for Maine's Future credit card, however these sources provide only a very modest level of support for land acquisition.

The Committee sought to identify potential funding sources that had a rational connection to the issue of land acquisition and had the potential of generating significant and consistent annual revenues. It looked at how other states around the country funded their acquisition programs and listened to the views of Maine citizens. Based upon these efforts, the Committee has proposed two potential new funding sources to be dedicated to land acquisition:

* **Real Estate Transfer Tax:** Utilizing the real estate transfer tax as a funding source for land acquisition has the logic of tapping a percentage of the funds generated by development and land sales. Recognizing this, at least nine states around the country have turned to the real estate transfer tax as a source for land acquisition dollars. Maryland's Program Open Space, initiated in 1965, is the oldest state acquisition program financed with real estate transfer tax revenues. Since its inception, the tax has raised \$529 million to fund the acquisition of 139,000 acres of land.

Maine currently taxes real estate transfers at the rate of \$4.40 per \$1000 generating approximately \$12.5 million annually. Currently, 75% of the revenues go to the General Fund and 25% go to the Maine State Housing Authority for housing programs.

The Committee recommends dedicating a percentage of the existing tax (from the General Fund allocation) to the Land for Maine's Future Program just as a percentage is currently dedicated to housing programs. Providing a portion of the tax equal to that dedicated to housing programs (25%) would generate approximately \$3.1 million annually for land acquisition.

* **Land Speculation/Timber Liquidation Tax:** The land speculation/timber liquidation tax is specifically aimed at taxing the profits resulting from the rapid subdivision and turnover of undeveloped land and the liquidation of timber resources. The tax is structured so that the highest tax occurs when there is a short holding period and a high profit. The tax rate drops with the length of the holding period and is eliminated after a property is held for a period of time, for example five years. In the case of timber liquidation, the tax is applied when a forested parcel is purchased, harvested and then resold in a short period of time. It would not apply to long-term forest landowners.

Maine currently does not have such a tax, though it was considered by the Legislature during the land boom of the 1980's. More recently, the tax has been discussed as part of the forestry debate as an effective way of addressing the problem of timber liquidation in Maine's forests. The tax has the dual effect of discouraging land use activities that are generally considered to be undesirable and raising a new source of revenue. Constructed properly, the Committee believes that a land speculation/timber liquidation tax could provide an appropriate source of revenue for land acquisition efforts in Maine. The amount of revenue produced by the tax would depend upon its provisions.

Recommendation #10: Supplement and leverage state land acquisition dollars utilizing available public and private sources.

It is not financially feasible for the State to provide the full level of funding that will be required to achieve the Committee's short-term and long-term acquisition goals. Recognizing this, the Committee recommends that future land acquisition efforts seek to aggressively leverage private and other public funds. By exploiting the following opportunities, the Committee believes that non-state dollars will become a major component of land acquisition funding in the future:

Creating a Maine Land Endowment Fund as a permanent trust dedicated to land acquisition. The Endowment could receive funds from a variety of voluntary sources including individual and business contributions, bequests, foundation grants and land donations. In addition, the Endowment could be a recipient of funds resulting from mitigation efforts, court awards, and other activities. Recently, Bath Iron Works proposed a \$2.5 million contribution to river restoration efforts as part of its expansion plans. In the

future, the Maine Land Endowment Fund could be the recipient of similar offers. The success of the Fund will be dependent upon its being structured properly, and effectively marketed by land acquisition advocates including the Governor. The Committee recommends that a portion of the current state surplus be utilized as seed money for the Maine Land Endowment Fund.

- **Attracting municipal and local private funding through the matching grant program for local land acquisition** (see *Recommendation #4*);
- **Aggressively advocating in Congress for Maine to receive an increased share of Land and Water Conservation Fund allocations and other federal acquisition dollars.** In the past, Maine and other eastern states have not received a fair share of the Land and Water Conservation Fund, the largest federal land acquisition funding program. Most of the funds have gone towards large federal acquisitions in the west. Recently, there has been a move in Congress to increase LWCF funding and to allocate a larger share of LWCF to the states for their own acquisition programs, an effort which deserves the active support of Maine's Congressional delegation. These changes could provide Maine with a significant source of land acquisition funding.
- **Searching out existing federal and private foundation funding sources.** In the past few years, the State has been able to greatly increase its receipt of federal funds for human services by making a concerted effort to identify and pursue all available federal funding opportunities. With additional staffing (as proposed in Recommendation #7), the Land for Maine's Future Program could undertake a similar effort to pursue land acquisition funding opportunities that Maine currently is not aware of or does not have the time to pursue.
- **Working with non-profit land conservation groups that are able to provide acquisition funding for projects.** In spending the last of the \$35 million bond issue, the Land for Maine's Future Program made a concerted effort to leverage its limited dollars. The results were impressive. Private conservation organizations, along with federal matching grant programs, rose to the challenge and provided over \$1.5 million in matching funds for the final \$600,000 of LMF funds. Rather than wait until the money runs out, the Committee recommends that State acquisition efforts routinely seek matching contributions for acquisition projects and incorporate the availability of matching funds into project evaluation procedures.
- **Creating a Tax Credit for Conservation Land Donations.** A number of states around the country are considering proposals to provide increased tax incentives to landowners who donate important conservation properties to the state or local government, or to private conservation organizations such as the Nature Conservancy. California has passed legislation establishing such a program. Currently, donations of conservation lands are treated as a charitable deduction by the IRS and states, like Maine, that have their own income tax. What California has enacted, and other states are considering, is a tax credit that provides an additional tax benefit to donors. While there is a fiscal cost related to reduced state income tax revenues, there is also a financial benefit to the state resulting from reduced acquisition

costs. The tax credit can be limited to lands that meet specific state criteria to ensure that the program attracts desired conservation gifts. The Committee recommends that Maine look at the efforts begun in other states and craft a tax credit program that meets the State's land acquisition goals.

XIII. CONCLUSION

After spending the past year looking at the issue of public land acquisition, and listening to people from around the State, the Committee is pleased to present this report to Governor King and Maine citizens. As with all issues of importance, there is a diversity of public viewpoints. However, the fact that the Committee was able to reach consensus on this report strongly suggests that there is broad public support for building upon the successes of the Land for Maine's Future Program. We hope that the Committee's efforts will spur public dialog on this important topic and lead to decisive action to embark upon new land acquisition initiatives that will benefit Maine people and the State's natural resources.

List of Appendices

Note: Because of the volume of the Appendix, it has not been included with the report. Five copies are on file at the State Planning Office for anyone to view. For more information call 287-1485.

- ✓ 1st set of Public Meetings testimony (both oral and written testimony from public sessions held in **March 1997**)
- ✓ 2nd set of Public Meetings testimony (both oral and written testimony from public sessions held in **September 1998**) (*includes statistical summary of public comments on draft LAPAC recommendations*)
- ✓ Minutes of all meetings
- ✓ Maine Conservation Lands Inventory