



MAINE REVENUE SERVICES

BIENNIAL REPORT  
ON

THE CURRENT USE VALUATION OF  
CERTAIN WORKING WATERFRONT LAND

REPORT FOR TAX YEAR 2011

A REPORT PREPARED FOR THE  
JOINT STANDING COMMITTEE ON TAXATION

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## NARRATIVE

### A. Summary:

This report sets forth information regarding the status of Maine's Working Waterfront Tax Law as required to be reported to the Legislature on a biennial basis beginning January 15, 2008.

The specific information required by the law is summarized as follows:

- Identify “the total value of each sale of working waterfront land and the value of each sale that is reasonably related to working waterfront land, that compares the sale price of the working waterfront land with the just value of the same land and that categorizes the sales data by region, type of commercial use or commercial fishing use and any other relevant categories” (M.R.S.A. §1152 ¶ 2).
- Include any other data or analysis that the State Tax Assessor finds relevant and any recommendations the assessor develops to assist municipal assessors in calculating the current use value of enrolled working waterfront land that is used for or supports commercial fishing activities
- Make recommendations to amend the program for the purpose of improving or ensuring the accuracy of current use assessment of working waterfront land.

### B. Background:

In response to public support of referendum Question 7 on Maine's November 8, 2005 ballot, An Act to Preserve Maine's Working Waterfront (S.P. 759 LD 1972) was enacted by the Legislature. Question 7 was approved by 72% of Maine's voters and authorized the Legislature to amend Maine's Constitution to allow for current use valuation for land used for commercial fishing activities. P.L. 2005 ch. 609 enacted Subchapter 11 of the Maine Revised Statutes, Title 36, Chapter 105, in order to provide the legal framework for implementation and administration of the Working Waterfront

Tax Law Program (the “program”). The program was later recodified by PL 2007, ch. 466, Pt. A, §58 to Subchapter 10-A of Chapter 105 (36 MRSA sections 1131 through 1140-B).

A 2007 study by the Island Institute determined that of Maine’s 5,300 miles of coastline, only 20 miles remain for working waterfront and support of commercial fishing activities. Of those 20 miles, 67% is privately owned and vulnerable to conversion to uses inconsistent with commercial fishing activities. As coastal land values skyrocket due to second home ownership and gentrification, more and more fisherman are succumbing to the financial pressure of increased taxation and are being forced inland. Additionally, as these traditional points of access are lost, use of remaining access areas is stretched to capacity.

Maine’s Working Waterfront Coalition is a statewide group of industry associations, nonprofits, state agencies and individuals dedicated to supporting and enhancing Maine’s working waterfront through policy, planning, investment and education. The Working Waterfront Coalition has advocated that a current use taxation policy is a vital part of the solution to these problems.

### C. Research and Outreach:

April 1, 2007 marked the beginning of the first property tax year for which property owners could classify their property as “Working Waterfront” and take advantage of current use values. In the months leading up to that date, a collaborative outreach campaign was initiated by the Maine Sea Grant Program, the membership of Maine’s Working Waterfront Coalition and Maine Revenue Services. Press releases, targeted mailings, local media, and industry networking were used to increase awareness of the new statute.

Also, in an effort to inform and educate assessors, municipal officials, landowners, potential applicants and anyone else interested in the preservation of Working Waterfront, a series of five workshops were conducted in coastal Maine communities. These workshops were held in Machias, Ellsworth, Rockport, Brunswick and Saco. Although the focus was on the new legislation allowing current use classification for land providing support or access to the conduct of commercial fishing, a toolbox approach was employed to showcase the diverse range of options available to

landowners wishing to preserve and enhance coastal properties. The workshops were well attended by assessors, planners, harbor masters, taxpayer/residents/landowners, selectmen, fishermen, boatyard owners, aquaculturists, lobster pound owners, reporters/media personnel, appraisers, town managers, legislators, Land Trust representatives, state agency staffers, and community foundation members.

Collaborators in the planning and execution of the meetings include: Maine Sea Grant, University of Maine Cooperative Extension, Island Institute, Maine Coastal Program, Coastal Enterprises Inc, Maine Department of Marine Resources, Maine Revenue Services, State Planning Office/Land for Maine's Future, and members of Maine's Working Waterfront Coalition. Principal funding was provided through the University of Maine Cooperative Extension, Project Leadership Team program.

In addition to these workshops, Maine Revenue Services held an evening meeting in Bristol at the request of the municipal officials and met with the assessor's agent and interested landowners in Vinalhaven and Steuben.

Maine Revenue Services conducted initial mailings to all municipalities with tidal zone property to provide information and applications concerning enrollment in the program, and a several subsequent mailings to request municipal data relating to sales of Working Waterfront. Additionally, in order to maintain accurate records, field audits are performed by Maine Revenue personnel during the yearly State Valuation site visits and desk audits are performed upon receipt of the annual Municipal Valuation Return.

#### D. Program Status:

Since the Working Waterfront program began in the 2007 tax year, thirty-three municipalities in seven counties reported land being classified under the program. A total of 77 parcels consisting of almost 96 total acres have now been enrolled. The total reported just value (before classification) of enrolled land is \$20,993,851. The reported current use value under Working Waterfront is \$15,416,249. This represents a total reduction of \$5,606,672 or slightly less than 27% of value (Attachment A).

Enrollment for the program is encouraging and has met or exceeded expectations.

Surveys and inquiries made by Maine Revenue Services failed to produce evidence of any recent “arms length” sales of land within tidal areas that provide comparable sale comparisons for purposes of providing additional guidance in the determination of current use value. This is not surprising given the limited number of properties that potentially fall under the definition of working waterfront in the current use sense of the term. Maine Revenue Services will continue to survey municipalities annually in an effort to identify any relevant sales data which could be used to support any movement in assessment methodologies other than those currently in statute.

#### E. Observations and Comments

The consensus among assessors is that this new form of current use taxation is accomplishing its stated purpose by helping to preserve commercial fishing resources and providing tax benefits to targeted property owners. The number of parcels enrolled, compared to the total number of potentially eligible parcels, is significant.

Enactment of the Working Waterfront Tax Law did elicit some negative reaction, particularly with regard to the narrow scope of the legislation dictated by the specificity of the referendum question approving the change, the principals of current use taxation, and Maine’s Constitution. The complaints came largely from non-commercial fishing waterfront businesses, owners of coastal residential properties, retail or mixed use facilities, recreational boatyards, and others not eligible for classification.

Several applicants who did enter the program expressed disappointment with the level of reduction afforded them under the terms of the program. One Bristol property owner seeking a greater reduction under the program for his parcel lost upon appeal to the State Board of Property Tax Review. Another area of concern is that different local assessment methodologies and varied assessor interpretations of the statute will result in inconsistent treatment of working waterfront properties from one municipality to another. Respect for local control and recognition of the fact that equity within one municipality may not be directly comparable to another makes a certain amount of variation unavoidable.

Complaints regarding withdrawal penalty amounts can generally be dismissed as these penalties are inherent in all current use taxation policy; are necessary

in order to accomplish the purpose of any special use property tax classification; and are needed to protect the municipality and its taxpayers. Penalties are of no consequence to properties that remain classified under the terms of current use taxation.

A problematic situation that transcends the Working Waterfront Tax Law and is prevalent in all current use programs occurs upon the transfer of classified property. The current system involving a 'check box' on the declaration of value is inadequate both to serve notice that the property is classified and also to alert new owners of their obligations under current use classification. Improved disclosure procedures and better information would likely prevent a number of parcels from being forcibly removed from the Working Waterfront and other current use programs.

#### F. Recommendations

The Working Waterfront Tax Law has been very successful in its purpose. We do not wish to submit any recommendations for changes to the program at this time. Ongoing outreach and education activities will continue through local assessors, Maine Revenue Services and the Working Waterfront Coalition. The program will likely expand and evolve through routine municipal administration and any challenges to that administration. Public perception of this program, as well as the other current use programs, benefits from stability of the program.

Additionally, now that the program has established itself and future activity will likely be minimal, the biennial reporting requirement is unnecessary and could be replaced with a system where information and reports are provided upon request and as needed.

# Attachment A

## WORKING WATERFRONT LAND

Classified Land as of April 1, 2011

MUNICIPALITY	COUNTY	# of Parcels	Total Acres	Total Valuation	Original Value	W W Value	Difference
BRUNSWICK	CU	1	1	\$20,000	\$25,000	\$20,000	\$5,000
CHEBEAGUE ISLAND	CU	1	1.4	\$186,400	\$233,000	\$186,400	\$46,600
HARPSWELL	CU	1	0.03	\$91,900	\$114,900	\$91,900	\$23,000
LONG ISLAND	CU	1	0.5	\$265,703	\$332,128	\$265,703	\$66,425
PORTLAND	CU	1	0.09	\$270,500	\$338,200	\$270,500	\$67,700
SCARBOROUGH	CU	1	0.19	\$269,600	\$296,550	\$269,600	\$26,950
BROOKSVILLE	HAN	1	0.5	\$203,100	\$250,100	\$203,100	\$47,000
GOULDSBORO	HAN	3	0.53	\$229,800	\$262,100	\$229,800	\$32,300
PENOBSCOT	HAN	2	2.47	\$101,900	\$112,090	\$101,900	\$10,190
TREMONT	HAN	1	1.1	\$293,800	\$587,600	\$293,800	\$293,800
CUSHING	KNOX	1	1.25	\$15,690	\$18,828	\$15,690	\$3,138
FRIENDSHIP	KNOX	6	2.25	\$678,133	\$846,591	\$678,133	\$168,458
OWLS HEAD	KNOX	1	0.25	\$360,000	\$400,000	\$360,000	\$40,000
SAINT GEORGE	KNOX	13	12.48	\$3,254,198	\$4,604,193	\$3,254,198	\$1,349,995
SOUTH THOMASTON	KNOX	1	0.25	\$137,000	\$171,250	\$137,000	\$34,250
VINALHAVEN	KNOX	1	1.55	\$422,500	\$528,100	\$422,500	\$85,600
BOOTHBAY	LI	1	0.79	\$195,800	\$195,800	\$195,800	\$48,800
BOOTHBAY HARBOR	LI	3	1.21	\$733,000	\$800,100	\$733,000	\$67,100
BREMEN	LI	3	20.7	\$542,392	\$867,665	\$542,392	\$325,273
BRISTOL	LI	11	5.99	\$1,608,600	\$2,402,300	\$1,608,600	\$793,700
DAMARISCOTTA	LI	1	1.29	\$161,500	\$201,900	\$161,500	\$40,400
EDGECOMB	LI	1	4	\$276,800	\$346,000	\$276,800	\$69,200
SOUTHPORT	LI	4	2.8	\$1,822,388	\$2,992,830	\$1,822,388	\$1,170,442
WALDOBORO	LI	1	7.2	\$302,000	\$368,000	\$302,000	\$66,000
WESTPORT ISLAND	LI	1	3.8	\$343,208	\$434,000	\$343,208	\$90,792



GEORGETOWN	SAG	2	4.99	\$905,900	\$1,050,000	\$905,900	\$144,100
PHIPPSBURG	SAG	2	4.32	\$1,156,200	\$1,267,600	\$1,156,200	\$111,400
EASTPORT	WASH	2	1.56	\$84,800	\$117,000	\$84,800	\$32,200
JONESPORT	WASH	3	1.52	\$165,400	\$229,700	\$165,400	\$64,300
LUBEC	WASH	2	2.11	\$118,126	\$234,801	\$118,126	\$116,945
ROQUE BLUFFS	WASH	2	4.1	\$65,411	\$87,525	\$65,411	\$22,114
STEUBEN	WASH	1	2.5	\$94,500	\$228,000	\$94,500	\$133,500
KENNEBUNKPORT	YORK	1	1.2	\$40,000	\$50,000	\$40,000	\$10,000
<b>TOTALS</b>		<b>77</b>	<b>95.92</b>	<b>\$15,416,249</b>	<b>\$20,993,851</b>	<b>\$15,416,249</b>	<b>\$5,606,672</b>