

10. Beginning date of the program

May 23, 2006 - date of the first press release that advertised the availability of funds for the inaugural round of applications by working waterfront property owners.

11. Why the program was created. What it was designed to address.

Three independent studies (Coastal Enterprises Inc., 2002, 2004 and Island Institute, 2005) demonstrated that working access to the water was a significant problem affecting fishermen throughout the state. Harbormasters and leaders in 25 coastal towns identified the problem of shorefront development as one that threatened the economic vitality of their communities. Of Maine's more than 5,000 linear miles of coastline, less than 25 miles of privately and publically held land remained accessible to commercial fishermen. A trend was identified of ocean access properties long owned by fishermen being purchased by non-fishermen who developed the land for incompatible residential, commercial or recreational purposes. This trend was accelerated by the rapidly increasing property values of salt water frontage and resulting high property taxes that became unaffordable for fishermen. A two pronged approach of laws, protecting the land for commercial fisheries use and providing standardized current use tax abatement for these properties was enacted by Maine's Legislature in 2005.

12. Describe the specific activities and operations of the program in chronological order

We contracted with Coast Enterprises Inc. (CEI) for project management assistance. The program is advertised to solicit new project applicants in the following Maine monthly newspapers, Commercial Fisheries News, Working Waterfront and the Fishermen's Voice. We also issue a statewide press release announcing the availability of new funds. We then begin to field inquiries by phone and email from potential applicants. We work with applicants to ensure a solid understanding of how the program works and the ramifications of putting a working waterfront covenant on a particular property before we get too far along in developing a project. Once a project is assessed by phone, we arrange for an on-site visit to discuss the program further as well as take photos of the property. We work with applicants to help them develop a strong, well written application to assure projects are well vetted before they are reviewed for consideration of funding.

Once an application and the supporting documents are received, we review all materials to assure that we have a complete application in hand. We then forward the materials to CEI business counselors and loan officers for their review and assessment of the applicant's business plan and financial stability. The business counselors and loan officers each write a brief review to be included with the applicant's materials for consideration of funding. The package consisting of application and preliminary reviews are then forwarded to a 10-member industry review panel which is comprised of people in marine industry businesses, commercial fishing businesses, and other knowledgeable parties for review and quantitative scoring according to a set of five criteria worth a total of 100 points.

These criteria are:

- The economic significance of the property
- The presence of suitable, alternative properties in the vicinity
- The degree of community support demonstrated
- The threat of conversion to non-fisheries use
- The utility of the property for a commercial fisheries business

CEI staff and staff from the Maine Department of Marine Resources and Land for Maine's Future Program also go through a review exercise (aside from the 10-member review panel review). Once both reviews have taken place, the notes and scores from the discussions are then provided to the Commissioner of the Department of Marine Resources for consideration and to the Land for Maine's Future Board of Directors for a recommendation for funding. The Land for Maine's Future Board is provided with a presentation and overview of all projects at the time the Commissioner of the Department of Marine Resources makes a recommendation for funding. The Land for Maine's Future Board then votes to allocate funds to each

project or deny funding. CEI then notifies funded and unfunded project applicants and a press release is issued to announce the funded projects. The Land for Maine's Future staff also sends a formal letter directly to applicants to announce an allocation amount. Applicants then continue to work with CEI staff to complete any remaining project requirements (termed due diligence) until the covenant signing, its recording at the County Registry of Deeds, and the transmittal of award funds.

13. Describe a new and creative approach or method in this program

Although the concept of lands protection by private Land Trusts and by public agencies with a conservation mission is as old as the National Park Service, the idea that threatened working lands can also be conserved is relatively new. In our case the appeal of Working Waterfront protection is tied to both the heritage of hundreds of years of commercial fishing on the Maine coast and the economic argument that small coastal towns will wither away if waterfront jobs are not available to young people who want to remain and work in their communities.

Similar to the method of protecting unique, scenic, or ecologically significant lands through the purchase of a conservation easement, this program pioneered the idea that a Working Waterfront Covenant could limit future uses to those compatible with commercial fisheries access. An additional component of the covenant, termed the Right of First Refusal, also gives the state (as covenant Holder) the legal right to intervene in any future sale of the property and to limit the sale price to its Working Waterfront value making it affordable for buyers who continue to use it in that capacity. The legal rationale, the methodology, and the process of implementation were established first in Maine.

14. Program start-up costs

One of the key components to creating the program was that it would not be necessary to create a "new state program". The program was launched under an existing land conservation program (the Land for Maine's Future Program) as a way to limit expenses and salaries that would have been necessary to create a new program. Existing state employees at the Land for Maine's Future Program and the Maine Department of Marine Resources were tapped as resources to help facilitate the program. At the same time, the state of Maine hired a third party by competitive bid to take on the day-to-day administration. Coastal Enterprises, Inc. (CEI) was selected to administer the program on behalf of the state of Maine. CEI staff had the existing expertise to assist program applicants with their financing and business counseling needs as well as a long track record of working with the commercial fishing industry. With offices in Portland and Wiscasset, CEI was also well suited to deliver the program to all areas of the Maine coast. One laptop computer was purchased by the program which cost ~\$750.00 but there were no other significant start-up costs.

15. Program annual operating costs

To administer the first 5 years of the program, it has averaged to be ~\$97,000.00 a year. The total incremental, administrative costs to date have been \$489,652.23.

16. How the program is funded

Three legislatively approved Bond Referendum questions were successfully passed by state-wide votes in 2005, 2007, and 2010. The total share for Working Waterfront protection was \$6.75 MM wrapped into larger land conservation funding. Maine voters approved each of these ballot questions by approximate 60/40 margins, considered a super majority. Funding for the program flows from the bonds that the state issues and pays off with interest over time.

17. Required legislation and approval

The program funding required the passage of legislation and voter approval at the polls in three separate years:

2005- LD 998, An Act To Authorize Bond Issues for Ratification by Voters at the November 2005 Election

2007- LD 450, An Act To Authorize a General Fund Bond Issue To Support Maine's Working Waterfronts

2010- LD 913, An Act To Authorize Bond Issues for Ratification by the Voters for the November 2009 and June and November 2010 Elections

In 2005, LD 1020 authorized the Maine Department of Marine Resources to oversee the new program contingent upon its funding with an approval of the bond referendum of the same year. In addition, a separate piece of legislation in 2006, LD 1930, approved the statute which defined and described the legal basis for a Working Waterfront Covenant, thereby giving legal authority to the method by which working land is preserved in perpetuity.

18. Special equipment, technology, and software needed to operate and administer the program
With a Microsoft Office software package, the program can be effectively administered. A website dedicated to the program was developed to serve as an online information resource for potential applicants to learn about the program. Minimal annual fees were required to create, post, and administer this website.
19. Program origin
See Question 13 for an explanation of the history and backing for the claim that this program originated in Maine. See also the related programs mentioned in Question 20 with comparisons.

The WWAPP concept and implementation phase was not just one person's idea or work; rather it was a collaboration of ideas from people in some key non-governmental organizations, industry trade associations and from agencies within state government. Some of these names and contacts are included below:

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20. Similar programs in other states

Florida- In 1996, the Florida Coastal Management Program conducted a study to identify the needs of communities wishing to revitalize their waterfronts. The study led to the creation of the Waterfronts Florida Partnership Program (WFPP) in 1997, which offers grants and planning assistance for communities seeking to revitalize waterfront areas and promote traditional waterfront trades. The WFPP will provide technical assistance in “planning, revitalization, environmental protection, and a host of other redevelopment issues”, training opportunities, and “limited funds over two years to assist in planning and implementing projects.” Participating communities are expected to raise the funds to implement the plans. The WFPP has operated in eighteen communities to date, on both the Atlantic and Gulf coasts.

Although Florida’s program pre-dates the Maine WWAPP, it consists of two year planning grants that are available to communities. It does not utilize the tools of land conservation to place covenant restrictions tied to the property deeds on the future uses of the property.

North Carolina- In August 2007, the North Carolina General Assembly authorized \$20 million for the acquisition and protection of waterfront diversity, known as the Waterfront Access and Marine Industry (WAMI) Fund that would be administered by the NC Division of Marine Fisheries, who established four priority funding areas: public docking facilities, public boat ramps, fishing access and other marine industry facilities. Over 170 proposals were received, from which 13 projects were ultimately selected for funding and most are underway or have already been completed. This was a one-time legislative appropriation and may not be repeated.

In comparison, North Carolina’s Working Waterfront protection effort spent \$20 M (project and administration costs) to protect 13 properties compared to Maine’s expenditure of about \$4.34 M (also combining project and administration costs) to protect 17 properties. The North Carolina Legislature has not approved monies to continue the program.

Mississippi-Alabama Sea Grant Consortium- In response to constituent concerns about the loss of water access and hurricanes, Auburn University and the Sea Grant Consortium organized workshops and stakeholders, provided technical information, facilitated discussions with the state legislative delegation, and funded an Inventory study of Working Waterfront properties in Mobile County, Alabama. These actions resulted in the formation of the Alabama Working Waterfront Coalition and a Water Access Study Committee that is crafting recommendations to the state legislature for adoption to protect and preserve working waterfront access. The legislature has not yet approved a program plan.

Alabama and Mississippi Sea Grant Programs have studied Maine’s WWAPP and Working Waterfront Current Use Tax Law as models to extract the portions which they feel may be useful to their own proposed programs.

Louisiana- In response to hurricanes Katrina and Rita in 2005, the Fisheries Infrastructure program at the Louisiana Recovery Authority (LRA) and the State of Louisiana’s Office of Community Development (OCD), Disaster Recovery Unit arranged for a review, discussion and scoring session on a series of critical infrastructure proposals for consideration of Community Development Block Grant funding. \$19 M was available and 15 projects made it through the process.

21. Full implementation of the program

Although the program is still evolving and maturing in terms of the administration of projects with a maximum of efficiency, upon entering the third round, five years after inception, it should be considered fully implemented. There is one exception. Continued funding is dependent upon the willingness of the Maine Legislature and Maine voters to authorize and approve the issuance of state bonds for this purpose. The program will need a diversification of income sources to become predictably stable. This is the most pressing concern for proponents who are working on the federal level for a Congressional appropriation for commercial waterfront preservation projects nationwide.

22. Evaluation of the program's effectiveness

Since 2006, seventeen important working waterfront properties with a fair market value of \$15.3 M were protected by restrictive covenant with an expenditure of \$3.77 M to purchase the covenants. These properties which are distributed from the vicinities of the Canadian border to the New Hampshire border comprise a total of 33 shorefront acres and nearly a mile of linear shoreline. Among the award winners were 8 fishing cooperatives, 3 privately owned seafood buying stations, 1 multi-generational fishing family property, 3 non-profit owned access lands, and 2 municipally owned properties. The benefits of protected use extend to 427 commercial fishing boats and 827 fishermen who crew them. Including wharf employees, working income supporting over 900 coastal families was preserved. Over 13 million pounds of seafood cross these properties annually amounting to about \$38 M in dockside value.

23. Growth and changes in the program since the inception

Maine is not a wealthy state with a sizable tax base that can support program growth from a general revenue fund. The origin of the funds are borrowed monies from state issued Bonds approved by the legislature and the voters by referendum. WWAPP funding levels have remained more or less flat in terms of overall dollars. When the budget for the Land for Maine's Future Program first added a budget category for Working Waterfront protection, the ratio of the Working Waterfront share to the rest of the land conservation budget of the program was 16.6 %. In the most recent budget from the Bond referendum question in 2010, the Working Waterfront protection share had risen to 18.9 %. The slightly enhanced "slice of the pie" demonstrates public satisfaction with the way the program has been operated within state government.

Over the five years in which the program has matured, various changes have been implemented to reflect the evolution of knowledge about improving the legal framework, providing a more uniform and simplified process for application and completion of projects, and enhancing administrative efficiencies to streamline services and contain costs.

Some of the most notable of these changes are listed below:

Flexible standards to determine a project award amount- The applicant may now choose between two different appraisal methods to determine a project award amount. This choice provides incentive to apply to the WWAPP because earlier inflexible standards deemed some awards insufficient to compensate the owners for the sale of their future development rights. The appraisal choices now compensate for the effects of different property configurations and values of constructed improvements that had resulted in some low award amount determinations.

Increased tolerance for a variety of mixed property uses- With the realization that multiple, diverse income streams to a Working Waterfront business were significant contributors to the stability of the property ownership, the program staff and state officials found ways to give businesses more earnings flexibility by allowing compatible uses that do not displace the fisheries use.

Refinement of the language of the Working Waterfront Covenant- In 2006 the Working Waterfront Covenant was a "new" document, untested by the nuances of project diversity. Alternate language to accommodate differences in ownership, in reporting, in utilization, in future sale transactions, and in the rights and responsibilities of the Grantor and the Holder has been incorporated incrementally. It's likely that the covenant language will continue to adapt, but at a slower pace than in the first five years.

Quicker completion times for projects- From the date of project approval to the signing date for the covenant at project closing, the duration of a project has diminished because of more effective staff

measures to communicate with clients and project service providers. Knowledge of the causes of project delays has resulted in the adoption of administrative strategies that anticipate and avoid these delays.

Increasing interest from previously skeptical Working Waterfront property owners- Nothing advertises success like a satisfied customer. The program enjoys the “good word of mouth” promotion from past award winners, and capitalizes on that home grown publicity by the use of statewide multi-media coverage of project awards and announcements of successful completions. The WWAPP now enjoys overwhelming support from its stakeholders: the commercial fishing industry, the Land Trust conservation community, and the public at large.

24. Obstacles to the transfer of the program to other states

- Identify the stakeholders and bring them into the political process.
- Other Working Waterfront sectors (e.g. boat building and services, recreational industry, public access) may have to be included.
- Identify the options for funding the program and assess the potential of each one.
- Develop a state plan in advance that identifies the problem of threats to Working Waterfront access, the rationale to address it, and the ways to mitigate it.
- Provide potential applicants with accessibility to and responsiveness from program administrators.
- Make the process competitive and transparent with Advisory Panels and experts.



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