

## **G. MARINE RESOURCES**

The purpose of this section is to:

1. Describe marine resources, marine water quality and fisheries in Machiasport and Washington County;
2. Describe threats to marine resources and in fisheries in Machiasport;
3. Describe coastal land use, maritime facilities and harbors in Machiasport; and
4. Identify coastal access locations and issues in Machiasport and strategies for their protection.

## **FINDINGS AND ISSUES**

This Chapter summarizes and reproduces findings from the Machiasport Maritime Plan. The importance of commercial fisheries to Machiasport cannot be overestimated. Protecting public shore and water access and maintaining a healthy balance of the industry and natural beauty is crucial especially in light of the rate of coastal development. Machiasport currently offers protection to its maritime natural resources with locally adopted shoreland zoning regulations, land use and subdivision regulations. Machiasport Maritime Plan recommends reviewing the existing marine districts to ensure that they protect the rights of marine and commercial marine related activities while accommodating some residential development. The town will seek to ensure that traditional use of lands and access to water are protected as development pressures increase over the planning period. Ordinances will be updated to be consistent with the minimum requirements of state and federal regulations as is mandated.

## **FISHERIES**

Commercial fishing in Machiasport is of tremendous significance to the local economy. In 2003 Machiasport was 1<sup>st</sup> in Washington County communities in the number of clam licenses and 5<sup>th</sup> in the number of all commercial state licenses.

Fisheries currently landed in Machiasport include softshell clam, lobster, crab, scallop, urchin quahog, mussel, and marine worm in descending order of significance. Indeed with a year round population of only 1160 residents (2000 Census), there are nearly 160 commercial fishing licenses issued to Machiasport residents. Note that the following table does not add up to the same total number of licenses because individuals can hold more than one license.

**Table G-1 COUNT OF MARINE RESOURCE LICENSES  
HELD BY MACHIASPORT RESIDENTS**

<b>Marine Resource License Type</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
30 DAY URCHIN DIVING TENDER	0	0	0	0	1	1
COMMERCIAL FISHING SINGLE OPERATOR	3	4	6	11	10	9
COMMERCIAL FISHING WITH CREW	10	13	25	25	30	17
COMMERCIAL SHRIMP WITH CREW	0	0	0	0	1	0
COMMERCIAL SHELLFISH	103	126	123	118	116	110
GREEN CRAB	0	0	3	0	0	0
LOBSTER/CRAB APPRENTICE UNDER 18	1	0	1	2	1	1
LOBSTER TRANS (OUT OF STATE)	1	1	2	0	0	0
LOBSTER TRANS SUPP	0	0	2	0	0	0
LOBSTER/CRAB APPRENT	12	13	10	10	8	3
LOBSTER/CRAB CLASS 1	31	31	28	24	25	24
LOBSTER/CRAB CLASS 11	23	22	28	36	34	35
LOBSTER/CRAB CLASS 111	5	4	5	5	5	5
LOBSTER/CRAB NON-COMMERCIAL	15	19	24	13	12	12
LOBSTER/CRAB OVER AGE 70	9	8	11	11	11	11
LOBSTER/CRAB STUDENT	9	7	12	8	13	14
LOBSTER/CRAB UNDERAGE 18	2	0	1	0	0	2
MARINE WORM DIGGING	1	0	0	0	0	1
MUSSEL-DRAGGER	0	0	0	1	0	0
PASS COMM FISH	0	1	1	1	1	1
PASS COMM SHELLFISH	0	1	0	1	1	1
PASS LOBSTER/CRAB	0	1	1	0	1	1
PASS SEA URCHIN	0	0	0	0	1	1
QUAHOG (MAHOGANY)	5	4	3	4	3	3
RETAIL SEAFOOD	0	0	0	0	1	0
SCALLOP-DIVER	1	1	1	1	1	2
SCALLOP-DRAGGER	32	29	29	22	21	22
SCALLOP-TENDER						
SCALLOP, NON-COMMERCIAL	0	0	1	1	0	2
SEA URCHIN- DIVER	1	1	1	1	1	1
SEA URCHIN-DRAGGER	15	15	20	18	17	17
SEA URCHIN/SCALLOP TENDER	3	2	0	1	0	0
SEAWEED	0	0	0	1	0	0
SEAWEED SUPPLEMENTAL	0	0	1	0	0	0
SHELLFISH TRANS OUT OF STATE	1	1	1	1	0	0
SHELLFISH TRANS SUPP	0	1	1	0	0	0
WHOLESALE NO LOBSTERS	1	1	1	1	2	2
WHOLESALE NO LOBSTERS, SUPP	1	1	1	1	2	1
WHOLESALE WITH LOBSTERS	4	4	4	4	3	5
WHOLESALE WITH LOBSTERS, SUPP	1	2	3	3	2	3

Source: Maine Department of Marine Resources, 2006

The number of dealers in Machiasport has risen recently while the number of harvesters holding marine fishing licenses has dropped in the last 4 years. The increase in dealers is likely attributable to the addition and improvement of public marine facilities within the town in recent years.

**Table G-2 COUNT OF MACHIASPORT RESIDENTS HOLDING MARINE FISHING LICENSES**

Type	2000	2001	2002	2003	2004	2005	2006
Dealers	5	5	5	5	5	7	7
Harvesters	154	172	181	170	170	161	140

Source: Maine Department of Marine Resources, 2006

The total number of trap tags provides the best summary of the significance of the lobster fishery to the community. Landings data (pounds and value) are not available from the Department of Marine Resources (DMR) by town.

**Table G-3 COUNT OF LOBSTER TRAPS FISHED BY MACHIASPORT RESIDENTS**

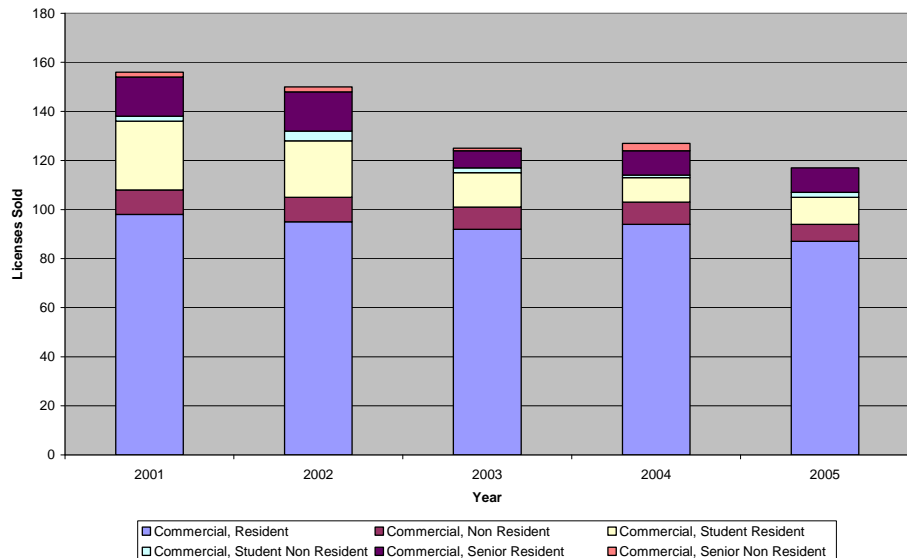
Year	2000	2001	2002	2003	2004	2005
Total Trap Tags	8250	8500	7037	6785	6190	6005

Source: Maine Department of Marine Resources, 2006

The true lobster harvest is probably larger due to the presence of non-resident fishermen in Machiasport waters. The only fishery not represented in Machiasport that is caught in this part of the state is elver. Marine worms are also of limited significance to the Machiasport fisheries.

As the chart across illustrates, the number of student, senior and non-resident licenses in Machiasport has decreased in the past five years. However there is a strong and stable resident commercial fishing community using the clam resource in Machiasport.

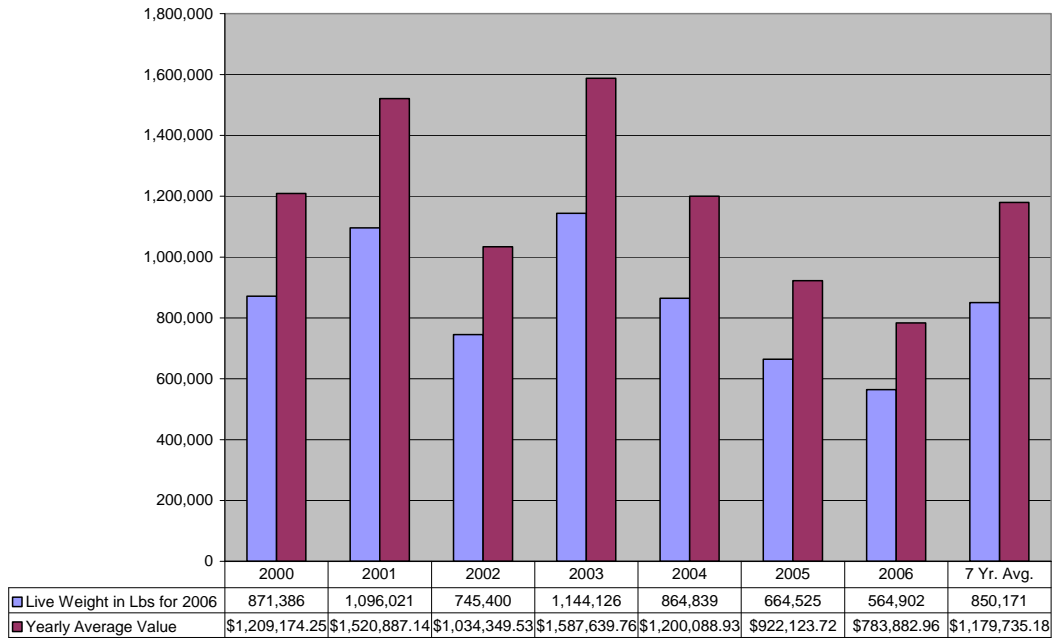
Clam Licenses - Machiasport 2001-2005



The chart below provides the total amount and value of

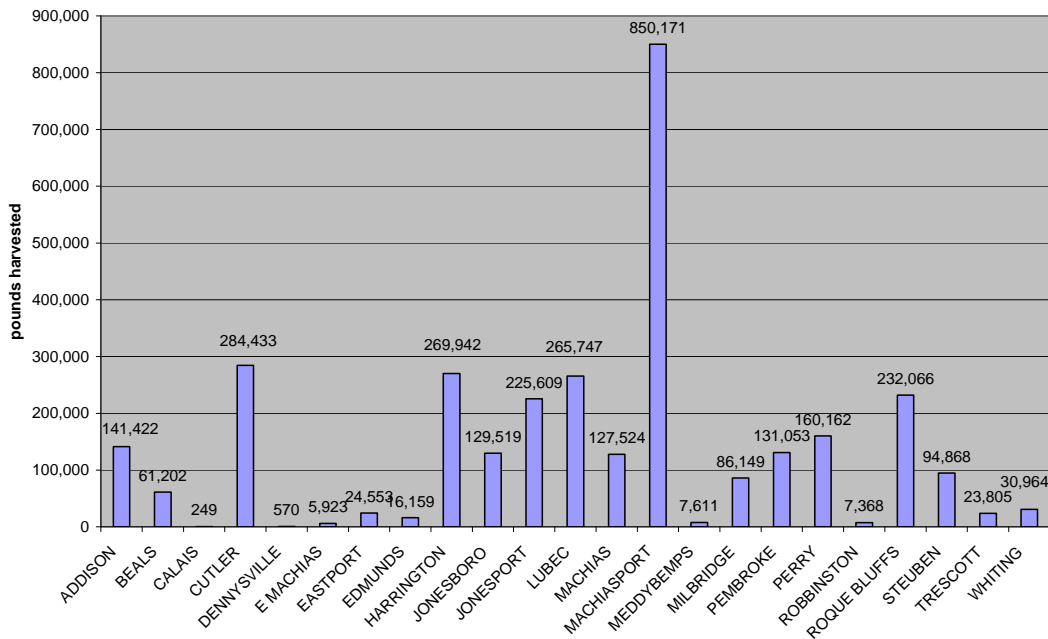
clam landings in Machiasport for the period 2000-2006. Declines from 2003 to 2006 resulted from fewer harvesters (see Table D-4 above), shellfish closure orders and a shift in harvest activity toward lobsters. While the harvest has declined since a high in 2003, the Shellfish Committee reports that 2007 was also a very strong year.

Machiasport Clam Landings 2000-2006



Machiasport consistently harvests among the largest number of pounds of clams of any town in the state (Department of Marine Resources, 2006). Even with recent annual reductions Machiasport was the largest annual average harvester of clams in Washington County with an annual average harvest (2000-2006) of 850,171 pounds of clams.

Average yearly clam landings in Washington County towns 2000-2006



**Aquaculture**

There are 6 current license sites for finfish in Machiasport off Stone Island, Ingalls Island, Cross Island and the east side (both located in Cutler, but aquaculture sites are serviced in Machiasport), Libby Island and another for oyster culture in the salt marsh at Jasper Beach.

2 finfish sites are currently in operation after 2 years of a state-mandated fallow period. Cook Aquaculture (formerly, Atlantic Salmon of Maine) recently re-opened a facility at Bucks Harbor that is used for processing and package fish. Products are shipped to New Brunswick for final processing. Cook also leases Pettegrow boat yard beach in Starboard Cove for maintenance of pens.

**MARINE RESOURCES**

Machiasport is a town defined by its maritime heritage and abundance. Shellfish landings in the town are the highest, or second highest, in the state for the last decade. Marine resources are vitally important to the culture and economy of Machiasport. Municipal policies regard marine resources are detailed in the *Machiasport Maritime Plan* and reproduced here. *Map 8: Marine Resources* depicts the location of Department of Marine Resources-identified shellfish beds including softshell clams, blue mussels, ocean quahog and sea scallop; areas closed to shellfish harvest as of 2006; aquaculture lease locations. The habitats and other fisheries of commercial significance are described below, and in greater detail in the *Machiasport Maritime Plan*.

**Marine Water Quality**

The Maine Department of Environmental Protection classifies surface waters according to their desired use and water quality necessary to support that use. All of the tidal waters in Machiasport are classified Class SB. Quality in these waters should be suitable for recreation in or on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation, and as the habitat for fish and other estuarine and marine life. Discharges of pollutants to Class SB waters are regulated by state DEP wastewater permitting process. *Map 8: Marine Resources* depicts areas in Machiasport that are closed to shellfishing due to excessive bacteria loading.

The marine water quality surrounding Machiasport is affected by land uses in the town and the surrounding towns of Machias, East Machias and Roque Bluffs. Threats to water quality come from point sources (pollution is discharged directly from a specific site such as a municipal sewage treatment plant or an industrial outflow pipe) and non-point discharges. There are 4 licensed overboard discharge permits in Machiasport, the largest of which discharges to Howard Cove from the correctional facility.

The Wastewater Treatment facility in nearby Machias consists of five miles of sewer collection system piping, two pumping stations and a treatment facility with the capacity to treat 370,000 gallons of wastewater per day. During the early 1980s the sewer system

was upgraded to separate stormwater drainage from sewage flows, and to reduce groundwater infiltration into the sewers. However, groundwater/stormwater infiltration remains an ongoing concern. Efforts have been made to reduce inflow by requiring that sump pumps and cellar drains not discharge into the sewer system. There is also a continuing effort to identify leaking sewers and replace them.

The Machias sewage treatment plant was upgraded and a pretreatment plant was constructed to reduce the Biological Oxygen Demand of the flow from a blueberry processor, before discharge into the sewer system. In 2003-2004 Machias obtained funding to address combined sewer overflow problems, to reduce infiltration, and to upgrade the sewage treatment plant aeration system. This project significantly reduced overflow contamination issues and has improved marine water quality conditions. However, these improvements have not yet resulted in significant opening of areas closed to shellfishing in Machiasport. The third phase of this effort on the part of the town of Machias is to seek additional CDBG grant funds to further address sewage plant upgrades and combined sewer overflows. The Town of Machiasport should continue to support effort by the Town of Machias to address these issues, as they affect our shared resource.

### **Shellfish Management**

The shoreline of Machiasport varies widely from rocky cliffs to small tidal inlets to areas of extensive flats with commercial shellfish value. Machiasport adopted a Shellfish Conservation Ordinance in the early 1980s that is regularly updated with specific amendments, most recently in July, 2006. It contains provisions for shellfish management and for commercial and recreational licensing. A Shellfish Conservation Committee, working with the Department of Marine Resources, strives to improve the flats.

The Annual Shellfish Management Review for 2006, provided by the Department of Marine Resources concludes that enforcement of the town shellfish management ordinance is satisfactory and indicates that enforcement could be improved by more hours patrolled. The shellfish management goals of Machiasport include providing a harvesting opportunity for the maximum number of participants, maintaining a sustainable yield through the vigorous use of production controls, providing a preference to commercial harvesting over recreational harvesting and maintaining a constant production to provide a steady by variable income. These goals are achieved through management controls that restrict times and areas of harvest. Current management activities include establishing conservation areas for flat rotation.

The town has 3341 acres of clam flats as identified by DMR. These areas are depicted on *Map 8: Marine Resources*. As of the fall of 2007, the total area of closures<sup>1</sup> is 2,221 acres, of which, 805 acres are listed as "conditional" and 1,416 acres are closed. A

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<sup>1</sup> The National Shellfish Sanitation Program classifies areas according to whether shellfish can be harvested for market as follows:

*Approved:* harvested clams can be sold directly to market

*Conditionally approved:* harvested shellfish can be sold to market except under certain conditions, eg significant rainfall

*Restricted:* harvested shellfish must be depurated or purified in order to be sold to market

*Conditionally Restricted:* harvested shellfish must be depurated or purified and can be sold to market except under certain conditions

*Prohibited:* shellfish cannot be harvested for market at all; can include areas that have little or no shellfish habitat, areas that could be approved but are inaccessible to regular testing staff; and areas that have sufficient upstream pollution sources that resource is assumed unfit for human consumption.

company from southern Maine has been purchasing clams dug on restricted flats in Bucks Harbor Creek for depuration<sup>2</sup>. This is controversial as the town has no control over flats harvested for depuration. In addition they are paying a lower price per pound than what the local market offers, and none of the local buyers have the ability to process clams from restricted flats.

Closure areas are being corrected slowly but not entirely. The minimum standards for the installation of septic disposal systems established by the State of Maine must be observed. Lots with no public water supply or public sewage disposal systems must meet the State minimum of 20,000 square feet or, approximately one-half acre in size.

## COASTAL LAND USE

The town has managed most maritime affairs with basic ordinances and common courtesies. However the times and coastal issues are changing. Recent growth in residential development (mostly second homes) Machiasport and surrounding towns is changing the relationship between a small town with a commercial fishing economy and the sea. Access to the water for instance, traditionally taken over private land for over a century, is at risk.

As in most coastal communities pressures on the maritime resource come from an increase in the amount and location of residential development, particularly seasonal housing. In recent years a growing number of recreational boaters use Machiasport harbors. This will increase competition for available mooring space and add pressure on the resource. As recommended in the *Maritime Plan*, the Town recently adopted a Maritime Handbook to help address harbor management issues and concerns.

The Town of Machiasport actively promotes continued access to the coast for commercial fisheries uses through a variety of mechanism (see **Public Access to Marine Waters**, below). A comprehensive list of the various state, federal and local regulations governing coastal land use is included in the *Machiasport Maritime Plan* and reproduced below. *The Maritime Plan* makes specific recommendation for areas that should be included in a Commercial Fisheries/Maritime Zone that would give protection to Water Dependent and Water Related Uses (depicted on *Map 11: Proposes Land Use*). The Town should continue working to implement the recommendation of the *Maritime Plan* regarding coastal land use.

## HARBOR MANAGEMENT

Harbor management has not been a major issue in Machiasport. Mooring areas (depicted on *Map 8: Marine Resources*) are cooperatively managed by the Harbormaster and users. The largest mooring area in Machiasport is located in Bucks Harbor. The Town is

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<sup>2</sup> Depuration refers to the process of purifying clams using ultra-violet lights and filters, deep salt water wells.

currently working with the Army Corp of Engineers to address dredging needs, as outlined in the *Maritime Plan*.

## **PUBLIC ACCESS TO MARINE WATERS**

Machiasport retains close ties to the sea. Public access to marine waters is vital to the local economy. Public access to marine waters also plays an important role in maintaining Machiasport's maritime heritage and providing recreational opportunities for local residents.

In recent years a growing number of recreational boaters use Machiasport's harbors and current housing development may put further pressure on the resource. Since the previous Comprehensive Plan was adopted, the Town was awarded a CDBG grant to develop a municipal pier at Bucks Harbor. This facility – along with other publicly-owned access points – is a critical link for local marine harvesters.

The harbor and associated public access points are very heavily used by an active commercial fleet (fishing skiffs, lobster boats, druggers, tenders, cargo ferries, oyster, aquaculture) and a growing number of recreational users (sightseeing/kayaking, sailing and power craft). The town landing sees constant use for fishing, launching, boat maintenance, deposit of product to dealers, staging area for traps, gear repair, and parking.

In order to alleviate growing pressure on available public access and mooring areas in Bucks Harbor and to provide for a separation of recreational and commercial users, the Town of Machiasport supports development of a small marina facility in historic Machiasport village. It is envisioned that facility will at least include finger docks, parking and a boat launch; and may include other facilities as appropriate (such as water, fuel and pump-out facilities; and a small restaurant or retail operation). Development of a marina supports the type of development envisioned for Machiasport village.

The Town does not anticipate developing and running a marina as a municipal venture, but will work with private investors and other interested parties to support this type of development as appropriate.

### **Bucks Harbor Public Pier**

The Bucks Harbor Public Pier was constructed in 1997 with town funds, a Community Development Block Grant and considerable volunteer assistance. It was built for public and recreational purposes and designed for use by commercial fishermen. The pier has a cement deck and is approximately 24 feet wide by 120 feet long. It is served by a paved access road and a parking area with space for over 20 vehicles and several trailers. The pier is equipped with a hydraulic hoist, lighting, electrical service and a walkway and float. It is actively used by dozens of commercial vessels and serves the resident and non-resident commercial fleet. The pier also serves recreational users for general use,

passenger pick up, and access to the islands. The maritime Operational issues associated with the Pier are discussed in *Machiasport Maritime Management Plan*.

The *Maritime Plan* also notes the need for several facility upgrades at the Buck Harbor Public pier including replacement/reinforcement of oak pilings due to worm damage, and improvements to the hoist. A great deal of maintenance and upkeep at the pier is provided by volunteers as well as work crews from the correctional facility. The operation of the pier comprises a substantial proportion of the maritime budget and is increasing.

### Public Access Inventory

*Map 8: Marine Resources* shows the most recent inventory of public accesses to the water in Machiasport, conducted by the Maritime Committee in 2006. All public access points that are known (through deed research and town owned land or rights of way) are depicted by numbers on *Map 8* and listed in Tables G-4, below. The focus is on access for commercial use with consideration for recreational use of public access point. There is no existing inventory of visual access; and the need for one is not anticipated at this time.

**Table G-4 PUBLIC ACCESSES IN MACHIASPORT**

Point	Name	Access	Surface	Improvements Needed
1	East Side Rd./corner of State Route 191	Walk-down	Public road	-
2	Point of Flats 2	Drive-down	Public road	-
3	Big Bay	Boat-launch	Gravel road	-
4	Feather Bed	Walk-down	Public Road	-
5	Gates House	Boat-launch	Boat Launch	Pave ramp; improve parking area (some area to expand by moving rocks and grading)
6	Fort O'Brien Park	Walk-down	Foot path	Severely eroded; path needs to be recreated with appropriate stabilization and runoff design
7	School Nature Path	Walk-down	Foot path	-
8	Sanborn Cove	Drive-down	Gravel road	Steep road that erodes with use and is difficult to use; needs paving
9	Finn Beach	Boat-launch	Beach	Add new hot top on ramp
10	Bucks Harbor Public Pier	Pier	Pier	See above
11	Pettegrow Beach	Boat-launch	Beach	Add electric service in parking area
12	Jasper Beach	Walk-down	Gravel road	Access road needs grading
13	Gray's Beach	Boat-launch	Gravel road	Ditching and grading of road to improve drainage
14	Starboard Creek	Drive-down	Gravel road	-

Source: Machiasport Maritime Management Plan

### Traditional Access Inventory

There are many other access points to Machiasport maritime waters that are used by fishermen. These are often described as traditional access points. They are on private land and are used through a variety of informal arrangements with each individual property

owner. Due to increasing coastal development and subdivision, traditional access is seen as increasingly threatened. This type of access is also culturally significant as it provide vital access for traditional marine industries and activities (notable shellfish harvesting).

The *Machiasport Maritime Management Plan* developed policies for their continued use (see Policies and Implementation Strategies at the end of this chapter) where possible and agreeable to the landowners. Recognizing the funding is limited, the Machiasport Maritime Management Plan also prioritized traditional access for permanent protection. These priorities are reproduced below.

**Table G-5 TRADITIONAL (private) ACCESSES IN MACHIASPORT**

	Name	Access	Surface	Priority for Protection <sup>3</sup>
A	Point of Flats 3	Drive-down	Gravel road	3
B	Point of Flats 1	Drive-down	Field	3
C	Cottage Cove	Drive-down	Gravel Road	1
D	Little Bay	Walk-down	Foot path	3
E	Wyman's Cove	Drive-down	Gravel road	1
F	John Wood's	Drive-down	Gravel Road	1
G	Evergreen Point	Walk-down	Foot path	2
H	Clark's Point 1	Walk-down	Foot path from private road	1
I	Clark's Point 2	Walk-down	Foot path from private road	2
J	Larrabee Church	Walk-down	Foot path	1
K	David Wood's Camp	Walk-down	Foot path from private road	3
L	Gerald Wood's	Walk-down	Foot path from private road	3
M	The Bar (Smalls Point)	Walk-down	Foot path from public road	1
N	Atlantic Salmon (Cookes)	Pier	Pier	1
O	Dana Urquhart's Beach	Drive-down	Beach	1
P	BBS	Pier & road	Pier	1
Q	Yoho Cove	Walk-down	Foot path from public road	3
R	Starboard Cove ROW	Walk-down	Public road	1
S	Mill Point	Walk-down	Public road	1
T	Ingalls Bar	Drive-down	Gravel road	1

Source: Machiasport Maritime Committee, 2006

The town recognizes that development pressures are increasing and will pursue funding to secure access in areas with the highest priority for protection. A new program – Maine's Working Waterfront Access Pilot Program – through the Land for Maine's Future bond has set aside \$2 million for projects that protect strategically significant working waterfront properties.

<sup>3</sup> Protection Priorities are established as follows:

1 = critical access; used a lot; high priority for permanent protection

2 = important access; used frequently; medium priority for permanent protection

3 = access point is used but not frequently; low priority for permanent protection

### **Current Use Taxation**

Current Use Valuation of Certain Working Waterfront Land (Title, Section 1131, et seq.) provides for the valuation of land on the basis of its use as working waterfront. This tax law, which is similar to current use taxation available for farmland, tree growth and open space, requires that all enrolled properties must abut tidal water or be located within the intertidal zone. While there is no minimum lot size requirement for this program, current use taxation under this program applies only to land. It does not apply to structures such as wharves, piers, or lobster pounds. For the purposes of current use taxation on working waterfront property, “working waterfront” is defined as land providing access to or in support of the conduct of commercial fishing activities. Several properties in Machiasport qualify. Machiasport does not yet have any properties enrolled in this program.

## **MARITIME NATURAL RESOURCE PROTECTION**

Municipal, state and federal authorities often overlap in the same geographic coastal space. The regulation of certain activities may require the involvement of multiple agencies at multiple levels of government. The following summary of local, state and federal authority over harbor, nearshore and off-shore waters is taken from Appendix G of the January 2007 Final Report of the Bay Management Study, *Managing Maine’s Nearshore Coastal Resources* Maine State Planning Office and Maine Department of Marine Resources. A graphical presentation of these overlapping authorities and jurisdictions, also from the Bay Management Study, is provided in the *Machiasport Maritime Plan*.

### **Municipal Programs and Authorities**

Under home rule authority, a town may assume certain regulatory powers. However, local ordinances and regulations cannot conflict with applicable federal or state statutes or regulations. In some cases, the state or federal government has expressly delegated authority to local governments to enact more stringent standards (such as a number of environmental laws). In the near shore environment, primary municipal programs and authorities include:

- **Land use ordinances/zoning** – Municipalities have broad authority under home rule provisions to regulate land use, through local zoning and subdivision ordinances, etc. The Mandatory Shoreland Zoning Act requires all municipalities to establish zoning ordinances for land within 250 feet of great ponds, rivers, tidal areas, and freshwater and coastal wetlands. Local ordinances may be more restrictive, but not less restrictive than the state model ordinance. Shoreland zoning ordinances may also regulate aspects of structures which extend into and over the water (e.g. size, height, consistency with existing use and character), including boat ramps, piers, docks, and floats.
- **Harbor management** – Municipal harbormasters have authority for the issuance and siting of moorings, the designation of open, convenient channels for the passage of vessels, and the establishment of anchorages.
- **Soft shell clam ordinances** - Towns may establish local ordinances regulating the harvest of soft shell clams. ME DMR regulations detail the standards that local shellfish ordinances must meet in order to be approved.
- **Intertidal leases** – A municipality that has established a shellfish conservation program may issue a municipal shellfish aquaculture permit to a person for the exclusive use of shellfish in a designated area in the intertidal zone to the extreme low water mark, for the purpose of shellfish aquaculture.

Machiasport has adopted minimum shoreland standards, as required by the State Mandatory Shoreland Zoning Act. Surface waters in Machiasport are also protected through the Plumbing Code and local Subdivision Regulations. As noted in *Chapter E. Natural Resources*, Machiasport updated its Floodplain Management Ordinance in 2000 to protect the marine waterfront by restricting building to reduce flood damage and other problems. Machiasport just revised its shoreland zoning ordinance to comply with new State guideline.

### **Maine State Agency Regulatory Programs and Authorities**

In Maine, the inner boundary of state ownership is the mean low water mark, unless the State owns the adjacent shorelands. Maine common law, derived from the Massachusetts Colonial Ordinance of 1641-7 allows private individuals to own submersible lands that lie between the mean high and mean low tide lines. The public, however, has certain rights of use in this intertidal area, including rights of fishing and navigation. The Submerged Lands Act sets the outer boundary of State waters at 3 nautical miles from the coastline.

#### *Department of Marine Resources (DMR)*

- **Fisheries management** – DMR has primary authority for the management of state water marine fisheries. Several species have advisory/management councils that provide recommendations to the Commissioner – the most well known are the seven lobster zone councils. For those species for which the fishery extends into federal waters and/or into adjacent states, DMR works with NOAA Fisheries (NMFS), the New England Fisheries Management Council (NEFMC), the Mid-Atlantic Fisheries Management Council (MAFMC), and the Atlantic States Marine Fisheries Commission (ASMFC) to coordinate federal, state, and interstate management of such species.
- **Aquaculture leasing and monitoring** – DMR has responsibility for evaluating finfish and shellfish lease applications, and monitoring environmental impacts of aquaculture operations in State waters.
- **Shellfish toxin monitoring** – DMR’s division of public health oversees the application of the National Shellfish Sanitation Program within Maine. This program keeps molluscan shellfish safe for human consumption by ensuring that a common set of standards are used to classify shellfish growing areas and to handle shellfish when they go to market. The Marine Biotoxin Monitoring Program uses the standards outlined in the NSSP to monitor levels of PSP (“red tide”) and other marine biotoxins. When toxin is found at unacceptable levels, closures to the harvest of shellfish are implemented
- **Anadromous fish restoration** - Major restoration activities include the operation of fishways and traps to collect fish on their upstream spawning migration and transport them to upriver spawning areas. DMR also works closely with hydroelectric dam owners to provide for installation of fish passages to carry fish upstream to spawning areas and safely pass seaward migrating adults and juveniles downstream around hydropower turbines.
- **Coastal permit review** - DMR is responsible for environmental impact reviews on projects seeking leases on publicly owned submerged and/or intertidal lands, and permits issued by DEP and LURC. DMR consults with federal resource and regulatory agencies on these issues, as well as reviewing and commenting on municipal comprehensive plans which may affect marine, estuarine and riverine resources.

#### *Department of Environmental Protection (DEP)*

DEP’s role in the nearshore marine environment centers around water quality protection through the regulation of discharges – both from vessels and shore based facilities.

**Discharges from vessels –**

- **Marine Sanitation Devices** - Under the Clean Water Act (Section 312), vessels with installed toilet facilities and operating on the navigable waters of the U.S. must contain operable marine sanitation devices (MSDs) certified as meeting standards and regulations promulgated under section 312.
- **Pump-out Program** - For vessels without MSDs, DEP manages the pump-out program in Maine. DEP administers the grant program for the installation and maintenance of holding tank pump-out stations in coastal areas.
- **Commercial Passenger Ships** - Maine recently enacted Chapter 650, which specifies a number of requirements applicable to commercial passenger vessels (cruise ships). It provides for future rulemaking and issuance of a general permit for the discharge of graywater, and mixtures of graywater and blackwater, from large commercial passenger vessels.
- **No Discharge Zones** - Section 312 also allows establishment of zones where discharge of sewage from vessels is completely prohibited. The process requires DEP to make an application to the EPA for a specific area. An application for Casco Bay is currently in development.

**Other discharges -**

- **Combined sewer overflows (CSOs)** occur during storm events when a mixture of wastewater and stormwater runoff overflows the combined sewer collection system before receiving treatment at a licensed wastewater treatment facility. These discharges of diluted untreated wastewater violate both State and Federal water pollution laws. Municipalities or Sewer Districts that have CSOs are required to license them with DEP. License requirements direct these communities to evaluate their CSO problems and determine cost effective solutions to abate them.
- **Overboard discharge** is the discharges of sanitary waste from residential or commercial sources to streams, rivers, bays, and the ocean. All overboard discharges must be approved by the DEP.
- **National Pollution Discharge Elimination System (NPDES)** - Following Maine's authorization by the EPA in 2001, the State became the primary NPDES authority and point of contact for most wastewater discharge sources in Maine. State issued permits under the NPDES program are known as MEPDES or Maine Pollutant Discharge Elimination System permits.
- **Stormwater Management** - The Maine Stormwater Program includes the regulation of stormwater under two core laws: The Site Location of Development law (Site Law) and Stormwater Management Law.
- **Erosion and Sedimentation Control** - Under the Erosion and Sediment Control Law, activities that involve filling, displacing, or exposing soil must be conducted to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource.
- **Site Law** - Large developments considered to be of state or regional significance or of a type that may substantially affect the environment are required to obtain a Site Location of Development Permit.
- **Issuance of permits under the Natural Resources Protection Act** - Permits are required for certain activities (1) in, on, or over a protected natural resource and (2) on land adjacent to any great pond, river, stream or brook, coastal wetland and freshwater wetlands that may cause material or soil to be washed into those resources. DEP is responsible for issuing permits for specific activities up to 75' inland from the high water line, and up to 3 miles seaward.
- **Classification of Maine waters** - DEP establishes water quality goals for the State. Class SA is the highest classification of estuarine and marine waters. This classification is applied to waters that are outstanding natural resources and that should be preserved because of their ecological, social, scenic, economic or recreational importance. By law, Class SA waters shall be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, and navigation and as habitat for fish and other estuarine and marine life.
- Watershed Management is an approach to protecting water quality and quantity that focuses on a whole watershed. This is a departure from the traditional approach of managing individual wastewater discharges, and is necessary due to the nature of polluted runoff, which in most watersheds is the biggest contributor to water pollution.
- Nonpoint Source Water Pollution Control Grants – DEP provides grants to prevent or reduce nonpoint source pollutant loadings entering water resources so that beneficial uses of the water resources are maintained or restored
- Provide technical assistance to municipalities for the adoption, administration and enforcement of shoreland zoning ordinances.

*Department of Conservation (DOC) Bureau of Parks and Lands (BPL) and Land Use Regulation Commission (LURC)*

- Submerged lands leasing – BPL has authority to lease state-owned submerged lands for erection of permanent or seasonal structures and other activities, such as construction of wharves and marinas, dredging and filling (the exception is aquaculture leases, which are handled by DMR). Structures located on submerged land require a lease or easement when the existing use is being changed, or the size of an existing structure is being changed. A lease or easement is also required for new structures that will be permanent, or for new seasonal structures larger than 2,000 square feet and used for commercial fishing related purposes or larger than 500 square feet for any other purpose. Lease or easements are also required for pipelines, utility cables, outfall/intake pipes, and dredging. To qualify for a lease or easement, the proposed use cannot have adverse impacts on access to or over the waters of the State, the public trust rights (fishing, fowling and navigation), and/or services and facilities for commercial marine activities.
- LURC regulates activities in “Unorganized Territories” which include many coastal islands.

*Department of Inland Fish & Wildlife (IF&W)*

- **Manage populations, habitats and consult on impacts of development** for coastal seabirds (including Endangered & Threatened seabirds and Bald Eagles under the Maine Endangered Species Act)
- **Fund and develop** recreational public access
- **Partner** with other state and federal agencies in oil-spill response programs
- **Manage** sea-run brook, brown and rainbow trout fisheries Atlantic Salmon Commission (ASM)
- **Atlantic salmon** - protect, conserve, restore, manage and enhance Atlantic salmon habitat, populations and sport fisheries within historical habitat in all (inland and tidal) waters of the State of Maine.

*Maine State Planning Office, Maine Coastal Program (MCP)*

- **Coastal Zone Management** – Maine has a federally approved Coastal Zone Management Plan (CZMP), and may therefore review any federal activities (either projects proposed by a federal agency or licensed or permitted by a federal agency) for consistency with the enforceable policies of the CZMP (the core laws). The core laws involve regulated activities such as wetland alteration, pollution discharge and dredging/dredge material disposal, both in organized and unorganized territories.

*Maine Department of Transportation (DOT)*

- **Shipping (cargo ports)/Ferries**
- **Surface Water Quality Protection Program (SWQPP)** - The purpose of this program is (1) to identify surface water bodies (lakes, rivers, streams, estuaries, etc.) where water quality is being adversely impacted by runoff from highways, (2) to select and prioritize candidate pollution elimination projects to fund, and (3) to manage the design, development and construction of projects selected for funding.
- **Wetland mitigation** - The Mitigation Unit directs and coordinates compensatory mitigation for impacts to wetland resources caused by transportation projects throughout the State.
- **NEPA Compliance** - DOT develops Environmental Impact Statements (EIS's) and Environmental Assessments (EA's) and Categorical Exclusions (CE's) for most major projects, as required by the National Environmental Policy Act (NEPA).

**Federal Agency Regulatory Programs and Authorities**

The United States Exclusive Economic Zone (EEZ) extends from the outer boundary of state waters (3 miles) out to 200 miles from shore. However, the federal government's legal authority in navigation, commerce and security extends shoreward into state waters. The federal agencies highlighted below are those that have a role in regulation or review of activities in state waters.

*National Marine Fisheries Service (NMFS)*

- **Fisheries Management** - Under the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), the U.S. claimed sovereign rights and exclusive fishery management authority over all fish, and all Continental Shelf fishery resources, within the EEZ. Fisheries regulations for federal water species are often developed through the Regional Fisheries Management Councils. However, for some species, the interstate Marine Fisheries Commissions (e.g. ASMFC) may recommend to the Secretary of Commerce that the Secretary adopt federal regulations that reflect state management approaches or incorporate specific state measures.
- **Protected Resource Management** - NMFS administers the Marine Mammal Protection Act, and shares statutory responsibility with the USFWS for the Endangered Species Act.
- **Act as a review agency on coastal projects** which affect living marine resources, including Essential Fish Habitat (EFH) as identified in cooperation with regional Fishery Management Councils.

*US Fish and Wildlife Service (USFWS)*

- **Act as a review agency on coastal projects** with impacts on resources under their jurisdiction. USFWS has responsibility for National Wildlife Refuges, Endangered and Threatened species, migratory birds, and other natural resources.

*Environmental Protection Agency (EPA)*

- **Water quality protection and monitoring** - The primary mechanism in the Clean Water Act (CWA) regulating the discharge of pollutants is the NPDES. Under the NPDES, a permit is required from EPA or an authorized state for the discharge of any pollutant from a point source into the waters of the US. Permits may be issued by states following approval of their permit program by EPA (ME's program was approved in 2001); for discharges beyond the territorial sea, EPA is the permit-issuing authority. In ME, as in all delegated states, EPA's role is to assure that state actions meet the requirements of the CWA. This includes review of draft permits prepared by the state, general oversight of program requirements and performance, and review of proposed changes to state laws and rules related to the NPDES program.
- **Disposal Site selection** in cooperation with other state and federal agencies.

*US Army Corps of Engineers (USACOE)*

- **Jurisdiction over projects located on intertidal or submerged land** through issuance of permits authorizing activities in or affecting navigable waters of the U.S., and adjacent wetlands, including the discharge of dredged or fill material, and the transportation of dredged material for the purpose of dumping it into ocean waters. This requires consultation with other federal agencies, including NMFS and USFWS, and frequently involves consultation with state agencies.
- **Navigation Project Development and Maintenance**, including maintenance dredging of channels and anchorages, construction and maintenance of breakwaters.
- **Disposal Site Selection and Monitoring**

*US Coast Guard (USCG)*

- **Navigational issues** – placement and maintenance of navigational aids, permitting of bridges and consultation with the ACOE on other activities that have the potential to impact navigation.
- **Boating safety/Search and rescue**
- Federal Energy Regulatory Commission (FERC)
- **Regulation of the interstate transmission of natural gas, oil, and electricity.** FERC also regulates natural gas and hydropower projects.

**MARINE RESOURCES POLICIES FROM THE 1996 COMPREHENSIVE PLAN**

Relative to marine resources, the Comprehensive Plan adopted by the Town of Machiasport in 1996 found that “much of the economic activity in town is tied closely to the water; one hundred and sixty-seven watercraft are registered. The Town has publicly owned water access sites (boat launch) at Finn Beach, behind the Gates House, and adjacent to the ‘Foster Bridge’ culvert over Tidewater Stream. Jasper Beach (Howard Cove) is protected by the Federal Coastal Barrier Program, where the Town owns eleven acres. Private access is available at Starboard Island and Pettegrow’s Boat Yard.” In 1996, survey respondents “wanted to do more to preserve the coastline” and “saw an overcrowding of existing shoreland facilities as a problem to be addressed in the next ten years.” The 1996 Comp Plan also reported that, “Bucks Harbor was dredged in 1972. At that time the Army Corps of Engineers indicated that this would be sufficient for fifty years. Fishermen have reported shallower depths and deep-draft vessels are now obligated to anchor near the mouth of the harbor to insure that they will not go aground at low tide. The harbor would have to be enlarged first (the Town never had the funds to do this in 1972); then the Army Corps of Engineers could contract this work as a total project.”

Based on these findings, the Comprehensive Plan establish as a municipal goals to: “Protect the residents’ access to the means of their livelihood through the maintenance of current facilities and solving the problem created by the coexistence of residences and commercial activities. Future access needs could be addressed through the continuation of a Harbor District and a Maritime Activity District designation;” and to “contact the Army Corps of Engineers and re-involve them in a project designed to enlarge and dredge Bucks Harbor.” These goals have largely been addressed. Based on work accomplished, the municipal goal regarding marine resource should be amended to read: “Machiasport will preserve for future generations the marine resources that are vital to Town ecology, support local fisheries, and contribute significantly to the Town’s heritage and quality of life.”

In order to achieve the goals set forth in 1996 Comprehensive Plan, Machiasport established municipal policies and strategies as summarized in the table below along with notes on the status of the policy recommendations.<sup>4</sup>

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<sup>4</sup> A complete list of the policy recommendation from the previous Comprehensive Plan is included in *Appendix B: Executive Summary of the Town of Machiasport Comprehensive Plan, 1996*. A full copy of the previous plan is on file in the Town Office.

**Table G-7 POLICIES & IMPLEMENTATION STRATEGIES  
RELATED TO MARINE RESOURCES FROM THE 1996 COMP PLAN**

<b>Policies</b>	<b>Notes</b>
The Town of Machiasport will protect the shoreland access of its residents and will investigate improved access and the construction of appropriate facilities.	<i>The town has improved access at several locations since 1996. Further improvements should be made in line with the Maritime Management Plan.</i>
The Town will designate a representative to contact the Army Corps of Engineers and pursue an enlarging/dredging plan.	<i>The Town is actively working the Corps of Engineers to address dredging issues.</i>
<b>Implementation Strategies</b>	<b>Notes</b>
The Town will maintain the Harbor District and the Maritime Activities District designations to protect the access and the economic activity of many residents in the face of developmental pressures.	<i>This strategy has been implemented.</i>
The Town will continue to support the present shoreland zoning regulations and will review the regulations every five years.	<i>This strategy has been implemented.</i>
The Town will revisit the 1989 Action Plan for the plan to rebuild the public access site behind the Gates House and incorporate the costs of the improvements into the capital improvement plan.	<i>This strategy has been implemented and is addressed by the Machiasport Maritime Management Plan.</i>
The Town will also revisit the 1989 Action Plan for copies of the 1986 Army Corps of Engineers breakwater studies and dredging plans. Funds have not materialized as of now.	<i>This strategy has been implemented. Coordination with the Corps of Engineers is on-going.</i>
The Town will initiate a study to determine the need for improved public access at Tidewater Stream including improved parking facilities.	<i>This strategy is adequately addressed by the Maritime Management Plan.</i>
The Town will revisit the 1989 Action Plan for copies of the development of the Sanborn Cove area.	<i>This strategy is adequately addressed by the Maritime Management Plan.</i>

Source: Machiasport Comprehensive Plan, 1996

Policies and implementation strategies relative to marine resources in Machiasport are presented on the following pages. They included revisions as noted above, along with additional policies and strategies that reflect changes in conditions on the ground, local priorities and State and Federal policy since the previous Comprehensive Plan was adopted.

**POLICIES AND IMPLEMENTATION**

<b>Goal: Machiasport will preserve for future generations the marine resources that are vital to Town ecology, support local fisheries, and contribute significantly to the Town's heritage and quality of life.</b>			
<b>Policy</b>	<b>Implementation Strategy</b>	<b>Responsibility</b>	<b>Timeframe</b>
To protect, maintain and, where warranted, improve marine habitat and water quality.	Work with land owners, the DEP and neighboring communities to identify and eliminate OBD and non-point source pollution.	Selectmen	Immediate (1-2 years)
	Enforce shoreland zoning provisions and provide adequate training to the code enforcement officer.	CEO; Selectmen	On-going
	Develop proposal for installation of permanent sanitary facilities and a pump out station at municipal pier	Selectmen; Maritime Committee; Harbor Master	Short-Term (2-5 years)
	Encourage owners of marine businesses to participate in clean marina/boatyard programs.	Selectmen; Harbormaster	On-going
To maintain and, where warranted, improve harbor management and facilities.	Implement harbor management strategies as outlined in the Machiasport Maritime Plan.	Harbormaster	On-going
Promote harmony and understanding among newcomers and existing residents over traditional uses of land and water.	Develop educational materials describing traditional uses and practices including issues such as shore access, hunting, working waterfront and commercial fishing, and community institutions.	Selectmen or their designee; Maritime Committee and maritime users; WCCOG	Immediate (1-2 years)
	Distribute these materials at town offices, schools and local businesses including real estate firms.	Selectmen or their designee	Immediate (1-2 years)
Ensure that traditional use of lands and access to water are protected as development pressures increase.	Use the inventory of traditional accesses in this chapter to seek protection of these features when reviewing proposals for subdivision or development.	Selectmen; Planning Board	Immediate (1-2 years)
	Provide information about the current use taxation programs to owners of waterfront land used to provide access to or support the conduct of commercial fisheries.	Selectmen; Assessor	Immediate (1-2 years)

	<p>Respect private property rights but seek to maintain traditional uses of any private roads or rights of way to the water. Negotiations with private land owners to secure these accesses will include:</p> <ul style="list-style-type: none"> <li>• Acknowledgement/celebration of landowners who continue the centuries old practice of allowing public use of their lands;</li> <li>• Informal agreements allowing public use of lands;</li> <li>• More formal agreements allowing public use of lands until and unless problems arise from disrespectful use of private land (eg. Leaving gates open, littering, vandalism);</li> <li>• Providing property tax incentives to property owners who grant written, revocable rights of access across their property;</li> <li>• Purchasing rights of first refusal for access points or property of critical importance to the fishery;</li> <li>• Purchasing permanent easements or fee title to access points or property of critical importance to the fishery.</li> </ul>	<p>Selectmen; Planning Board</p>	<p>Immediate (1-2 years)</p>
	<p>Request of land conservation groups that public access to significant resources – and in particular public access to the shore – be including in easement language and written into management plans to the greatest extent practical.</p>	<p>Selectmen</p>	<p>Immediate (within 2 years)</p>