Merrymeeting News

Summer 2008 VOLUME XVIII, No. 3

The Newsletter of Friends of Merrymeeting Bay • Box 233 • Richmond Maine 04357 • www.friendsofmerrymeetingbay.org

Friends of Merrymeeting Bay

Friends of Merrymeeting Bay is a 501(c)(3) non-profit organization. Our mission is to preserve, protect and improve the unique ecosystems of the Bay through:

Education

Conservation & Stewardship

Research & Advocacy

Member Events

Support comes from members' tax-deductible donations and gifts.

Merrymeeting News is published seasonally by Friends of Merrymeeting Bay (FOMB), and is sent to FOMB members and other friends of the Bay.

For more information call:
Ed Friedman
Chair of Steering Committee
666-3372

See exciting Summer Updates starting on page 2

FOMB, Beneficiary of American Man of Science

John T. (Jack) Linehan of Newark, DE and Bailey Island, ME died September 20, 2007 after a long and robust life. He was 87 years old. Our thoughts are with his family and his partner Liz Williamson.

Because of our good work, this "American Man of Science" saw fit to make FOMB a beneficiary of his estate with a sizeable bequest. Jack was not a FOMB member and surprised us with his wonderful donation. We appreciate his generosity and confidence and hope this gift will serve as a catalyst for FOMB members to remember us in your own estate planning. Please contact Ed Friedman (edfomb@gwi.net or 666-3372) for more information.

Jack Linehan's generous bequest to FOMB will be put to good use as we continue to preserve and protect this amazing ecosystem.

Jack spent his childhood and his summers in Maine. You can see many gravestones with the Linehan name in the Lewiston cemetery as many of his family are buried there. Jack was an avid environmentalist and ornithologist and always appreciated the effort of groups like FOMB who wished to preserve natural Maine. His love of pucker bush instead of mowed lawns was well-known by his friends. He abhorred the loss of habitat for the birds and wildlife of Maine. He did not belong to FOMB but was aware of the work we are doing to preserve the land and wildlife he loved so well.

Born in Seymour, CT and raised in Waterbury, Jack graduated from the University of Connecticut and attended the University of California, Berkeley, and the Universities of Maryland and Delaware for postgraduate studies. He served in the U.S. Marine Crops in combat in the Solomon Islands and South Pacific; in commands, infantry and Panama; and retired with the rank of Major.

Jack's passion was wildlife, and he managed to combine career with adventure for his entire life, early on as a research ecologist for the U.S. Fish and Wildlife Service and then the University of Delaware, publishing professional and popular articles (largely ornithological) and becoming Founding Editor of *Delmarva Ornithologist*, while leading professional colleagues and amateur bird enthusiasts on ecology, birding and natural history field trips throughout the U.S., Canada, Central and South America and abroad.

He was selected twice for listing in American Men of Science and was a member of many professional, recreational and civic organizations including the National Audubon Society, Sierra Club, Society of Natural History of Delaware (President) and Wilmington Trail Club (President, Conservation chairman) to name a few.

Jack never met a bird or a wildflower he didn't love. His less charitable feelings for cats and lawnmowers, however, are well known to family and friends who regularly visited him each summer on Bailey Island. There he will be missed by neighbors and also by Gretchen, his adoptive seagull, who greeted him upon his arrival each June for over 20 years.

As a retiree, Jack discovered the "wildlife" of the ice rink by competing in synchronized (team) skating and national and international ice dance competitions, most recently in France in 2006. These pursuits were in addition to the great outdoors of biking, hiking, and tennis (where he won games through January of 2007), all lifelong passions as well.

Summer Updates: How We're Making a Difference

FOMB Proposes Upgrade of Lower Androscoggin Water Quality Classification

Periodically the DEP solicits proposals to upgrade water quality classifications on Maine's waters. Maine's Water Classification law is designed to protect and maintain water quality. The law directs the implementation of water management actions for a water body or segment of a water body based on Maine's tiered classifications (Riverine Class AA, A, B and C and Marine Class SA, SB and SC). By state law, all of Maine's lakes are assigned to Class GPA so there are no classification options. All water quality classifications for Maine waterbodies are designed to attain the Interim Goals of the U.S. Clean Water Act or higher. Anti-degradation standards in statue prevents backsliding once a higher classification is attained. Classifications are based primarily on dissolved oxygen [DO] and bacteria [primarily fecal coliform].

FOMB has long had an active water monitoring program thanks to the efforts of many dedicated volunteers from as far north as Solon on the Kennebec to Gulf Island Pond on the Androscoggin and everywhere in between. In 2005, FOMB Kennebec data successfully supported our proposal to upgrade the Kennebec from Augusta to the Chops from Class C to Class B.

It is exciting that we have now acquired enough supporting data to warrant a similar proposal [from C to B] for the Androscoggin from Worumbo Dam in Lisbon Falls to the river mouth between North Bath and Pleasant Point in Topsham. DEP requests proposals, makes recommendations for or against and then submits proposals and recommendations to the Board of Environmental Protection [BEP]. The BEP will make decisions on proposals and forward them on to the legislature where if passed, they will be incorporated into law.

Unfortunately, the DEP has not seen fit to endorse our proposal to the BEP. Their official reason: if the licensed dischargers were all discharging at their full permitted load, the river would probably not meet conditions of the B designation. Of course they don't know this for sure since they haven't modeled real discharge conditions. What this does is create an artificial ceiling preventing river quality improvement. If all facilities are meeting Class B standards for five years then that is where they should be classified according to statute.

From our Proposal to the BEP:
We began our monitoring program in 1999 and continue to this day with over twenty sampling sites on the Androscoggin, Kennebec and around Merrymeeting Bay. FOMB is not EPA certified however, we train cooperatively with Friends of Casco Bay [who is] and on a yearly basis our volunteers are recertified for measuring DO, pH, turbidity, temperatures and coliform bacteria.

Because the actual water quality of the Androscoggin sections described here exceed that of their current classification, our request for a reclassification from C to B is supported by the State antidegradation policy as quoted from 38 M.R.S.A. § 464 (F) (4):

> *" When the actual quality of any classified water exceeds the minimum standards of the next highest classification, that higher water quality must be maintained and protected. The board shall recommend to the Legislature that water be reclassified in the next higher classification."*

In the past, MDEP has sometimes said they can't upgrade a river classification because under worse case [permitted] scenarios, proposed Class B [in this case] standards might be violated. At the same time, the Department has also said because receiving waters meet the *current* classification levels, Maine cannot upgrade classifications to meet actual conditions

This condition, while often supported by industry, quite clearly violates the intent of the Clean Water Act and NPDES creating an artificial ceiling on water quality improvement. In fact, reclassification and permitting **must** be used together to improve water quality. The Supreme Judicial Court of Maine states in Bangor Hydro Electric v. BD. OF ENV. PROT., 1991 ME, 595 A.2d 438 that the BEP must consider state water reclassification when engaged in the permitting process and that **"classification is goal oriented as required by the federal Clean Water Act".**

And from the DEP Submission Guidelines:

Maine's Water Quality Classification System is goal-based.
"When proposing an upgrade in classification, recommend waters that either presently attain or with reasonable application of improved treatment or Best Management Practices (BMPs), could reasonably be expected to attain, the standards and criteria of a higher proposed class."

What you can do: Plan to attend the BEP hearing at 1:30 on 9/18 in Augusta's Holiday Inn Ground Round Restaurant function room (on the right as you enter the Civic Center driveway) [watch for our email alert]. Send in written comments to the Board [Chair Ernest Hilton, MBEP, 17 State House Station, Augusta, 04333] supporting our upgrade proposal and letting the Board know it is important to ratchet up water quality efforts in the Androscoggin and that the upgrade helps do this. You can also email Hilton c/o Terry Hanson, the Board's Administrative Assistant, at terry.hanson@maine.gov. The full FOMB proposal and supporting data appear in the Water Quality/Toxins section of the Cybrary link at: www.friendsofmerrymeetingbay.net.

Chops Hydro Project: Rehearing Granted!

On June 24th, the Federal Energy Regulatory Commission [FERC] issued a Preliminary Permit to Maine Tidal Energy Company for their proposed Chops Hydro project. Within our 30 day limit, FOMB filed an appeal with FERC for a rehearing following very narrow guidelines for submissions. A few key sections follow. The complete *Request for Rehearing* can be found on our web site in the Chops section. Our request for a hearing has just been granted.

FERC erred in issuing the preliminary permit because (1) FERC did not, as required by the Federal Power Act, give equal consideration to environmental factors such as fish passage; (2) the language of the preliminary permit is confusing and ambiguous; and (3) the project as thus far permitted conflicts with a variety of federal and state statutes in addition to the Federal Power Act.

1. The Federal Power Act: (16 U.S.C. Chapter 12), Section 797 (e) states: "In deciding whether to issue any license under this subchapter for any project, the Commission, in addition to the power and development purposes for which licenses are issued, *shall give equal consideration to the purposes of energy*

Designated Uses and Criteria for Maine River and Stream Classifications

	Designated Uses	Dissolved Oxygen Numeric Criteria	Bacteria (*E. coli*) Numeric Criteria	Habitat Narrative Criteria	Aquatic Life (Biological) Narrative Criteria**
Class AA	Aquatic Life; Drinking Water; Fishing; Recreation	as naturally occurs	as naturally occurs	Free flowing and natural	No direct discharge of pollutants; as naturally occurs **
Class A	Aquatic Life; Drinking Water; Fishing; Recreation; Navigation, Hydropower; Industrial Discharge	7 ppm; 75% saturation	as naturally occurs	Natural	as naturally occurs **
Class B	Aquatic Life; Drinking Water; Fishing; Recreation; Navigation, Hydropower; Industrial Discharge	7 ppm; 75% saturation	64/100 ml (g.m.*) or 236/100 ml (inst.*)	Unimpaired	Discharges shall not cause adverse impact to aquatic life in that the receiving waters shall be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes to the resident biological community. **
Class C	Aquatic Life; Drinking Water; Fishing; Recreation; Navigation, Hydropower; Industrial Discharge	5 ppm; 60% saturation 6.5 ppm (monthly average) at 22° and 24°F	126/100 ml (g.m.*) or 236/100 ml (inst.*)	Habitat for fish and other aquatic life	Discharges may cause some changes to aquatic life, provided that the receiving waters shall be of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community. **

conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality.

The courts have made clear that a preliminary permit is an integral part of the licensing process. And, that once a preliminary permit is issued, certain environmental considerations may become much more difficult to consider:

> *"First, the grant of a preliminary permit increases the chances that a license will be granted to that applicant by eliminating the incentive for others to file competing license applications since the permittee is given a statutory priority and the right to amend."*
>
> *"Moreover, once major expenditures have been made towards developing license applications for particular sites, which occurs upon the granting of preliminary permits, it will be much more difficult to create a plan that puts that site off-limits.* ***See Environmental Defense Fund, Inc. v. Andrus, 596 F.2d 848, 853 (9th Cir. 1979)****."*

The position of Friends of Merrymeeting Bay is that Maine Tidal Energy proposes to utilize between 50 and 100% of the water column in the most sensitive and vital area of the entire Kennebec system with new and untested generating technology. The project consisting of a field of "underwater windmills" *may* be appropriate in a broader reach of river but simply does not pass the straight-face test here, if fisheries are to be given any weight, let alone "equal consideration" as required by law.

In issuing the preliminary permit for the proposed project, there is no apparent consideration by the Commission of cumulative impacts from the addition of this project to existing dams on the river [already rife with turbine mortality and problematic fish passage issues], there is no apparent discussion of how the project fits in with the existing meager comprehensive plan for hydro power and fisheries on the river and there are no uniform standards or expectations set forth for baseline studies to be conducted. Issuance of a preliminary permit for this proposed project indeed begs the question: Can there ever be a proposed project so incompatible with resource values [particularly considering equal consideration is required] that FERC would deny a preliminary permit from the outset?

2. *The preliminary permit is confusing and ambiguous.*
There is also a good deal of confusion regarding the permit and scope of proposed work. FOMB, Maine DOC and USFWS are among the interveners who believed that field work including construction could be conducted within the time period and scope of the preliminary permit as described on the applicant's schedule of activities. NOAA Fisheries reserved their right to intervene thinking the permit would only authorize desk-top studies. While the permit as issued specifies no construction, it does not define this term. There is also ambiguity in the language around pilot hydro-kinetic devices and test units. Are they the same and do they include floating units or those suspended from a vessel which are typical methods for testing underwater technologies and that still have adverse impacts?

3. *Other laws conflict with the proposed project including:*

- The Federal Water Pollution Control Act, a.k.a. The Clean Water Act. 33 U.S.A §§ 125-1387
- Maine Water Quality Certification, Department of Environmental Protection [DEP] Rules
- Maine Surface Water Classification, Title 38
- 1996 Amendments [PL 104-267] to the Magnuson-Stevens Fishery Conservation and Management Act [MSA] [16 U.S.C. §1801 et seq. [1998], defining Essential Fish Habitat
- Marine Mammal Protection Act
- Endangered Species Act

Sewall Aerial Photography and GIS Study

In 1956, 1961, 1966, and 1981, Maine's Department of Inland Fisheries and Wildlife shot aerial photographs of Merrymeeting Bay

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Moth Seeks the Light by Bryce Muir

Moth was waiting. She had been dancing the ritual dance all evening, perfuming the air with her intoxicating fragrance, but there had been no response. The summer woods stood still and silent as darkness stole out from under the trees.

It had been a long road for Moth, and much of her journey was obscure to her now. Last Winter she had been just a glutinous egg, one of many her mother had deposited in the fizzured bark of a great oak. Moth vaguely remembered hatching out in the Spring and ravenously feeding on the fresh greengrowth. Months of the crawling life, up the trees at night to gorge, down again in the morning to hide, seemed like a story from another age. Moth had outgrown her childhood garments three times, swelling up until she split her clothes, and had to hide her nakedness until new ones grew to cover her.

Moth did remember the terror of hearing shrews snuffling for her in the forest litter, or the approaching buzz of a killer wasp. Her whole caterpillarhood seemed to have been about gluttony and terror. Even now the sound of bat wings made her think about burying herself in some hidey hole. But Moth had endured enough hiding. She had been wrapped in claustrophobic silk in a big rolled oak leaf for the last month or more, and that was hiding enough for a lifetime.

Not that being a pupa wasn't informative. Like all young Polyphemus, Moth had been expected to use her time in the cocoon for introspection and vision quest. It is the tradition among moths that a pupa undergoing metamorphosis must formulate one question, and meditate on it until a visionary being comes to answer it.

Moth had tried hard to focus, but she wasn't even sure what she wanted to ask. And it had been excruciatingly boring at first. Nothing to eat or drink. Her fat swollen belly aching and grumbling. The sounds of the World muted. Nothing but pale intimations of light. There were moments when Moth would have ripped her way out of her silken solitude, and given up the whole metamorphosis thing, if she could. But, to her dismay, when she tried to move she discovered her familiar caterpillar parts had all turned to mush. She was helplessly trapped in transformation.

Eventually Moth grew calm, and relaxed, dozing to the gentle swaying of the leaf she was wrapped in. Only then did her vision quest begin.

In her cocooned dream Moth was crawling up the King Oak as a shining green caterpillar. She climbed higher and higher up the massive tree, until it broke free of the canopy, rising into a brilliant blue Sky. It was daytime in Moth's vision, and she could see the whole landscape surrounding the tree laid out beneath her. Moth looked out over the leafy green canopy, cut here and there by fields, and roads, and the serpentine river. Moth spiraled higher up the King Oak and saw the roofs of houses and town buildings and the shining onion dome on the top of Town Hall.

Multicolored birds circled the great tree, singing enchanting songs, and Moth was unafraid. Somehow she knew that in her vision no birds could harm her. Ever higher she climbed, and as she did her color changed from lime green to lemon to orange to red to an electric purple. Her bright yellow caterpillar hairs quivered in waves to the music of the birds.

Up and up Moth crawled, until she could see the open sky above her, through the very top of the tree. But now the sky was turning an ominous shade of blue-black, and a chilling wind stirred the leaves around her. Moth began to tremble in anxiety. There was an eerie red brightness glowing in the top of the tree above Moth. The ruddy light grew stronger, and Moth wanted to crawl back down to safety, to escape this radiant thing, but some power held her there. Impelled her to creep higher, as though hypnotized.

When Moth crawled out onto the utmost limb of the King Oak of the wood, she saw, at the very top, a huge fiery caterpillar curled into a circle of flame. The caterpillar had one incandescent eye, and this was fixed on Moth. Moth felt drawn to the fire.

"You have come," the caterpillar hissed.

Moth was mute with awe.

"I am Polyphemus," the flaming worm declared softly. "And you are named for me."

Part of Moth was shaking under the burning gaze of the caterpillar, but part of her felt a rising excitement, a craving to leap into the flaming circle.

"Because you have come so far to find me, I will answer your question," Polyphemus said.

Moth didn't even know she *had* a question, but what blurted out of her mouth *was* what she desired most to know.

"Why is your fire so desirable?" Moth asked.

Polyphemus stared right into Moth, then slowly closed his eye. In the instant, the spell was broken, and Moth felt nothing but fright at being so high and so close to this blazing being. But before Moth could turn to escape, the caterpillar opened his eye again – and Moth was transfixed.

Moth Seeks the Light *(continued from previous page)*

"I am the fire within you," Polyphemus spoke slowly, and his voice sounded like flames licking at dry kindling.

"Some are afraid to face me." His gaze reached even deeper into Moth. "And others hurl themselves into me and are no more. Those who take the Middle Way find themselves," Polyphemus whispered.

Then the circle of flames uncoiled itself, the worm winked, and a tongue of fire leaped out toward Moth. In her dream Moth burst into flames, and she passed out.

When Moth came to, she was still wrapped in her shroud of silk. At first she didn't know where or what she was. She felt completely different. But she was alive. There were long legs attached to her chest, surrounded by scaly fur. She had big eyes and strange antennae on her head. And there were curious protuberances on her back. All these new appliances were soft and mushy, but they were full of promise. Moth was delighted.

A few days later, on a hot summer afternoon, Moth found she was able to move. Slowly and carefully she untangled herself from the cocoon, and stepped out into the daylight. Even in the summer heat the slightest breeze felt chilling to Moth, and she shivered. But her heart pumped strongly, invigorating all of her, and filling the things on her back until they opened out into four glistening wings. Her new wings began to dry and harden in the air. Moth twiddled her antennae.

It was a New World. Moth was no longer a crawling worm – a creature of compelling hungers and overwhelming fears. She was a glorious and beautiful creature of the air. A gigantic Polyphemus moth. She wanted to sing for joy. But when she went to open her mouth – she didn't have one. Instead, all she could do to proclaim her delight was to perfume the air. Moth twiddled her antennae.

And she could fly! The Sun was going down as Moth's wings dried. As soon as she could use them she leaped into the sultry evening air and began the ritual dance every Polyphemus knows in their soul. Moth danced the Sun down, and cast her aroma on the air as the night closed in. She waited for a response, but none came. Moth twiddled her antennae.

It was the dark of the moon, and the sky overcast. The woods were hot and humid, rank with the scents of Summer, and now the night noises began. Moth could hear the whistling of bats and the hoots of Little Old Man Owl – great night hunters who might sweep in and eat her. Still she danced in fearless joy. Moth twiddled her antennae.

Moth was in the clutches of a ritual self-enchantment. She had danced herself into a state of euphoria. Now she longed for a partner to join her in the dance. But no dancer came out of the gloom. Only the sound of Mother Coyote calling to her children, and the distant rumble of the interstate. Moth twiddled her antennae.

Moth set off into the woods. If a mate wouldn't come to her, perhaps she might find him. And it was all so strange and wonderful. Flying through the air, in and out of the trees. Moth felt no craving to eat, and no fear of predators. Tonight she was on a mission to find her fate, or her mate – or herself. Moth twiddled her antennae.

It was then Moth saw the glimmer of a light through the trees, and she remembered her dream. The fiery caterpillar arose in her mind's eye, beckoning. Moth flew toward the light. But it was a long way through the woods, and some of Moth's euphoria had faded by the time she came into the clearing where the light shone. It was coming from a house set by itself in an opening in the woods. Moth flutter-danced across the dooryard, drawn by the brilliance in the night. Moth twiddled her antennae.

Two people were sitting in the dark on the porch beside the house. Moth could hear them talking and laughing, but the tales of men held no interest for her. There were fireflies signaling one another across the dooryard, but their pale phosphorescence had no allure for Moth. She could hear bats hunting the fireflies, but she ignored the danger. It was a lighted window that fascinated her. Moth flew straight up to the window and hovered there, beating her great wings. Moth twiddled her antennae.

And there was the image of herself, staring back out of the window. wiggling its antennae, matching her wingbeat for wingbeat. Moth did the ritual dance and her partner in the glass did it too, to perfection. Moth's excitement returned. She beat at the window with her wings in wild abandon. Moth twiddled her antennae.

But she got no closer to the light, and her partner in the dance refused to meet her advances. The hubbub of the summer night diminished. The highway noise quieted. The couple on the porch went inside, slamming the screen door. Even the bats seemed to lose interest in the lightening bugs. Moth danced on. Moth twiddled her antennae.

Moth continued the pas de deux with her partner in the lighted glass, but more slowly now. Moth's hope was fading. Then the light went out. Moth was shocked. She was dizzy with exhaustion, and now both the light and her partner were gone. She clutched the window frame and stopped beating her wings. Very slowly Moth twiddled her antennae.

That was where the male Polyphemus found her in the wee hours. He had crossed Moth's scent trail in the deep woods and followed it to her. He wasn't sure she was alive when he first saw her. She was absolutely still, hanging onto the window frame. But when her antennae sensed the beating of his wings, she awoke, and turned to him in amazement. Moth twiddled her antennae.

And he twiddled his back. Moth fluttered into the air, half in a dream. Slowly, majestically, they danced the ritual duet across the late night dooryard, and into the sheltering trees. He knew all the steps, and where the moth in the glass had simply mirrored her, this partner made new moves she was inspired to follow. Deeper and deeper into the dark woods they flew. And they twiddled their antennae together.

Which is why moths are drawn to the light. And why we sometimes find ourselves reflected in others.

Story and sculpture reprinted with permission from **Local Myths** *with permission of the author.*

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Program Updates

at low tide primarily for purposes of studying waterfowl feed. In 1998 FOMB launched a first of its kind study comparing long term changes in aquatic vegetation and land use using the 1956 and 1981 photos and flying a new round of photos in 1998. The James Sewall Company of Old Town used photo interpretation techniques to analyze vegetation types and habitat in the photos, converted data to GIS and then compared periods. Thanks to funding from The Merrymeeting Bay Trust, we are conducting a 10-year update of this work. An updated air photo mission was flown by Sewall on August 21. The 1998 reports [from Sewall and from FOMB] are posted in the Resource Planning section of our "Cybrary."

Legal: Endangered Species Act Win!

On 9/3, National Marine Fisheries Service and US Fish & Wildlife Service announced their proposal to redefine the endangered Gulf of Maine population of Atlantic salmon to include fish found in the Kennebec, Androscoggin and Penobscot Rivers! This decision comes in large part from pressure brought to bear by Doug Watts, Tim Watts, FOMB and the Maine Toxics Action Coalition in their 2005 citizen ESA petition to list the Kennebec Atlantic salmon and from a 2008 lawsuit filed in federal court by FOMB, Doug Watts and the Center for Biological Diversity to force the listing decision, which was 2 years overdue in spite of support from a federal status review of Gulf of Maine salmon.

We continue to be engaged in legal proceedings in the Maine Supreme Court appeal on fish passage and right to appeal.

Land Conservation

At press time we are within a few weeks of permanently protecting some beautiful Richmond land from future development. Look for details in our fall issue.

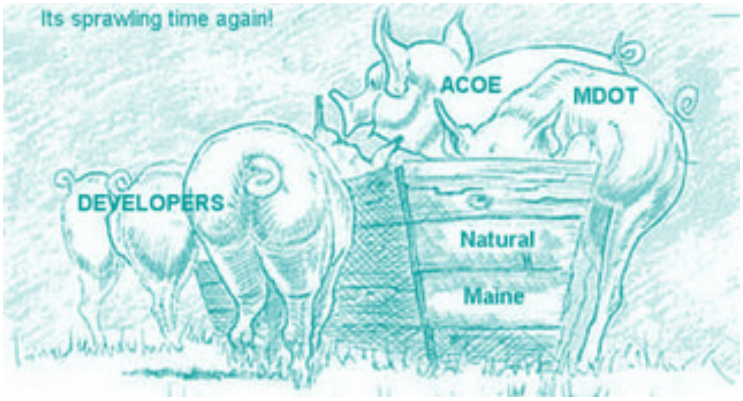
Join Our Environmental Education Effort!

Have you ever wondered what children around the Bay are talking about when they mention the "Critter Visits" in their classroom? Are you interested in learning more about our education program for students? Do you like helping local children learn more about the natural world? Well, we are looking for passionate people like you!

FOMB has been working hard to bring Bay education into local classrooms. Through our bi-annual Bay Days or in class visits we find unique opportunities to link volunteers with local children in fun and creative ways. We work hard to build a strong connection between young children and the environment around them by providing hands on activities.

As FOMB prepares for another exciting year we would like to invite our dedicated members to join our education efforts. No experience necessary- just a passion to help local children learn about the natural world. FOMB provides resources, training, and continuing support to all our volunteers. If you are interested in this wonderful volunteer opportunity or would like to learn more please contact Misty Gorski @ 582-5608 or fomb@gwi.net. We hope to see you this school year!

AND JOIN US FOR FALL BAY DAY:
TUESDAY, SEPTEMEBER 30th. CALL MISTY!



Run *from* the Bank

News from the Penobscot Bay Blog

Mitigation Banks are supposed to provide greater flexibility when the law requires a state department or a developer to compensate for wetland or important habitat damage they have caused. While conceptually possibly a decent idea, in actuality Umbrella Banks mostly have served to streamline the environmental permitting process for projects that damage or destroy wetlands. Banks are not very common but have a very poor record of follow-through and maintenance for compensatory lands. In Maine, the Department of Transportation proposes to act both as the Mitigation bank "loan officer" and as "loan applicant." The Umbrella Mitigation Bank "Instrument" in Maine is intimately tied to the fate and use of Sears Island and involves "double dipping" where land already possibly to be set aside on Sears for protection is being proposed as the initial deposit in a Mitigation Bank. This violates the "no net loss" wetlands provisions also in law.

The Army Corps and DOT had an informational meeting in Augusta sometime ago on the banking plan. All attending parties [including FOMB] were asked to submit requests for a public hearing if we still supported a hearing after the session. See below summary (and above illustration) courtesy of our colleagues at the Penobscot Bay Blog. All comments are posted in the FOMB "cybrary" on our web site.

No Wild Place in Maine is Safe. The US Army Corps of Engineers **has decided not to hold a public hearing** on **MDOT's Umbrella Mitigation Bank Plan**.

This despite the Corps receiving:

"...10 letters in opposition, 7 of which contained public hearing requests, 0 letters in support of the project, and 4 letters which either requested more information or simply raised points about the banks or its potential candidate projects."

Those ten letters, according to the Lt Colonel who initialed the decision, were pretty specific on a variety of topics:

"a. The UMB lacks any specific site or sites and/or standards for those sites."

"b. The bank review process has not addressed various key points or raises concerns about short-cutting the permit process."

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Friends of Merrymeeting Bay · Box 233 · Richmond, Maine 04357

Membership Levels

❑ $1,000+ Sturgeon ❑ $750 American Eel ❑ $500 Wild Salmon ❑ $250 Striped Bass

❑ $100 Shad ❑ $50 Alewive ❑ $20 Smelt ❑ Other

Name

RR# or Street Address

Town/State/Zip

Phone Email

❍ $7 Enclosed for a copy of *Conservation Options: A Guide for Maine Land Owners* [$5 for book, $2 for postage].

❍ Renewal ❍ New Member ❍ Send me information about volunteer opportunities.

Thanks to Will Everitt for design and layout of this newsletter edition.

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Run *from* the Bank

"c. The UMB proposes to use biophysical region service areas within the entire State of Maine rather than watershed service areas which are referenced throughout the Mitigation Rule."

"d. The UMB prospectus lacks sufficient clarity and detail."

"e. There will be specific sites proposed which themselves are of concern for a variety of issues: Sears Island and Sherman Marsh"

"f. Maine DOT should not be both permit applicant and bank sponsor because that causes a conflict of interest."

"g. Maine DOT is not qualified to be a bank sponsor due to the unknown quality of their past mitigation efforts."

"h. The establishment of a bank in Maine is precedent-setting."

"i. Mitigation generally has a poor track record."

In essence ACOE's response to these was 'Don't worry, trust MDOT, and even if you don't, relax because: *"furthermore, each proposal will be fully vetted by an interagency review team.*" How reassuring! As if 7 & 1/2 years of Bush administration reorganizing of those very agencies hasn't made such review teams mere rubberstampers for industry getting its way!

The Penobscot Bay Blog is all about Penobscot Bay conservation and the interactions between the public, commercial, scientific, journalistic, regulatory and political players that focus on Maine's biggest bay and its natural inhabitants. A special emphasis in 2008 is on the fate of Sears Island; the Maine Legislature expects a final report from the pro-port faction by December 31, 2008. FMI: http://penobscotbay.blogspot.com

Views from the Water

The five story brick building pictured above highlights the river scene when boating or paddling the Kennebec at Richmond's Waterfront Park. The Hathorn Building, as it is called, was constructed in 1850 by Capt. Jeff and brother Jackson Hathorn. A successful merchant family including sea captains and ship builders, the Hathorns built this handsome, sturdy building in a Greek Revival style. They used it as a principal residence with apartments on the upper floor. The first bank in Town was located here. The future of this privately owned landmark is uncertain. The building is on a list of endangered historic properties and is in need of extensive renovation.

Photo: Steve Musica

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Sebasticook River Section Reborn

The lower 5 miles of the Sebasticook River above where it meets the Kennebec in Winslow was recently restored to a free-flowing river as Ft. Halifax Dam was removed. A recent paddle on the stretch revealed massive beds of exposed freshwater mussels, numerous bald eagles and ospreys and many native American habitation sites. Striped bass once chased alewives all the way up the 60 miles of river to Sebasticook Lake, also site of one of the oldest eel weirs in the country.

Above: The dam before removal. Below: Free-flowing river after removal.

Protected Farm for Sale

A beautiful 145 acre formerly active sheep farm overlooking the Kennebec River and long protected by a FOMB conservation easement is now for sale. The farm, half in Dresden and half in Pittston is located well off Rte. 27 and its rolling terrain tumbles to flat river bottom land with 1800 feet of frontage on the Kennebec. The restored 18th century 11 room farmhouse, barn and outbuildings have been meticulously maintained. From the dining room with your spotting scope watch the eagles nesting directly across the river.

For detailed information see the Morton Real Estate direct link to the farm at: www.mainere.com/-138.aspx.