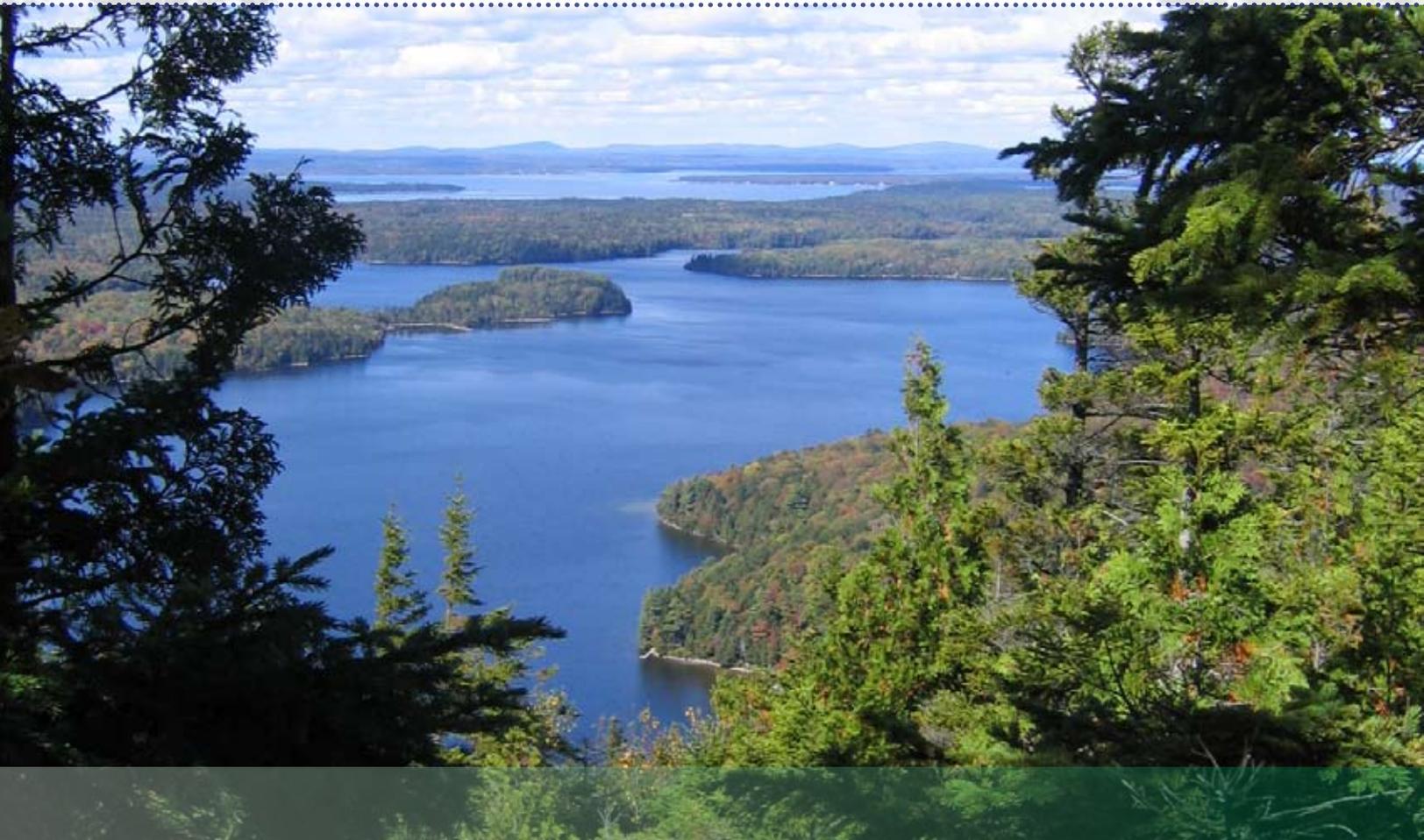


Gubernatorial Report Card on the Environment



The Administration of
Governor John E. Baldacci
2006–2008

B-



Maine League of Conservation Voters

Gubernatorial Report Card

The Administration of Governor John E. Baldacci 2006-2008

In June 2006, the Maine League of Conservation Voters released its first ever report on the environmental record of a sitting governor. Written that spring, the report covered the first three plus years of Governor John E. Baldacci's administration. As a frame of reference, we used the speech then-candidate Baldacci delivered at Bowdoin College entitled "Meeting Maine's Environmental Needs." Broadly cheered by the environmental community, the speech outlined a sturdy commitment to protecting Maine's environment, and when the Governor was inaugurated expectations were high.

The 2006 report reflected a mixed environmental record. While Governor Baldacci showed unquestioned leadership on a few issues (Air Quality, Energy, Toxics), on some he fell well short of what he might have achieved (Fisheries & Wildlife, Forestry, Land Conservation, Wilderness.) Others remained largely overlooked despite their importance to the State (Marine Resources, Smart Growth), and his handling of one issue was a disaster (Water Quality), although he finally took steps to mitigate it. In summing up, the report stated:

In giving Governor Baldacci and his Administration an overall grade of B-, we reflect an expectation of leadership—describing a vision for the future and developing specific plans to achieve it—that has not been realized, and a weakness in commitment to some environmental goals. While his heart has been in the right place, that is not sufficient. A scorecard for the Governor must measure accomplishments, not positions like those of legislators. In the end, his position is less important than his list of actions.

The grade of B- notwithstanding, the Maine League of Conservation Voters endorsed Governor Baldacci when he ran for re-election, and again we had high hopes for improvement. As his second term meets the halfway point, it is time to evaluate the Administration's record once again. As before, MLCV asked Thomas Urquhart, former Maine

Audubon executive director, to solicit input from Maine's environmental organizations, especially focusing on the 25-member Environmental Priorities Coalition. They assessed the Governor's environmental performance in the following areas:

- Air Quality & Climate Change
- Energy
- Forestry
- Inland Fisheries & Wildlife
- Land Conservation & Open Space
- Marine Resources
- Smart Growth
- Toxics
- Transportation
- Water Quality
- Wilderness
- Administration & Appointments

Mr. Urquhart also contacted the natural resource departments (either commissioner or deputy commissioner) so as to learn what each agency considered its achievements as well as to understand the context and constraints under which they have been working.

A mid-term report is in some ways more important than a final assessment in as much as there remain two years to crown successes and to bring other grades up to par. Wherever possible, we have concluded each issue report with recommendations for Governor Baldacci to consider during his last two years in office.

The following report includes input from a broad range of individuals and organizations representing Maine's environmental leadership. The opinions expressed, however, are those of the Maine League of Conservation Voters.

Unless otherwise indicated, quotes at the head of each topic are from the Maine League of Conservation Voters' 2006 Gubernatorial Report Card.

The Report Card

Overall Grade: B-

The Maine League of Conservation Voters annually holds Maine's legislators accountable through their votes on environmental issues. Whether or not a bill is passed, the vote is a signal of his or her position. Governors have no such hard and fast benchmarks. A governor's grade depends on more qualitative elements: vision; degree of pro-activeness; commitment of human and financial resources; willingness to expend political capital; and the ability to lead and follow-through in reaching a successful conclusion.

As he was two years ago, Governor Baldacci has been most effective in the areas of Air Quality & Climate Change, Energy and, especially, Toxics where his grade increased. For Inland Fisheries & Wildlife, Forestry, and Land Conservation, the grades slipped to B-, C+, and C+ respectively, because in these areas his Administration appears largely to be coasting. In both Marine Resources and Wilderness, the Governor got major demerits: in the former for his actions resulting in a set-back for restoration of alewives on the St. Croix River; in the latter because he has significantly backslid on important issues that have resulted in the weakening of the wilderness character of the Allagash Wilderness Waterway, Maine's only "wild and scenic" river.

On the other hand, we congratulate him on the significant improvement of the grade on Water Quality, from D to B-. In both Smart Growth and Transportation (a category added this year) his grades represent disappointment that his achievements have fallen short of his words. Similarly, C+ in Administration & Appointments (combined this year) reflects the fact that, despite some notable environmental accomplishments, overall his administration is not providing dependable environmental leadership.

In giving Governor Baldacci and his Administration an overall grade of B-, we reflect an expectation of leadership that has not been realized, and a weakness in commitment to some environmental goals. While his intentions on environmental matters seem to be generally good, the chief executive must be judged on more than that. In the end, it is delivery on promises and intentions that matters and is the basis for evaluating his performance.

With a year and a half of his administration left, Governor Baldacci might yet describe a vision for the future and implement specific plans to achieve it. We urge him to revisit the speech he gave at Bowdoin College as a candidate and to commit himself to forging an environmental legacy while there is yet time. The Maine League of Conservation Voters is committed to giving him every assistance toward that end.

Subject	Grade	Comment
Air Quality & Climate Change	A	Continued action on climate change issues; needs to address transportation emissions
Energy	A-	Consistent progress, but could do more; focus on energy efficiency in Maine's homes
Forestry	C+	Relatively minor achievements; needs to encourage private and public investment in the forest as forest, not as financial commodity
Inland Fisheries & Wildlife	B-	Not the priority it should be considering its importance to Maine; DIFW must give more attention to non-game as well as game species
Land Conservation —Open Space	C+	LMF funding inadequate; support meals & lodging and real estate transfer taxes to fund public land acquisition
Marine Resources	C-	Another important resource given short shrift; restore alewives to St. Croix River
Smart Growth	C+	More promises than results
Toxics	A	Major achievements of national importance; next step is to prioritize chemicals to address under Maine's national precedent-setting law
Transportation	C	Not enough action to support the talk; Maine must deal with pollution from cars
Water Quality	B-	Significant improvement (up from D); more needed on the Androscoggin River, new opportunities at Long Creek
Wilderness	C-	Minor progress and major back-sliding on the Allagash; must revive the River Driver's Agreement and designate more wilderness on public lands
Administration & Appointments	C+	Good intentions but consistency and commitment lacking; needs to exert greater leadership over Maine's natural resource policies as a whole
Overall Grade	B-	All Maine's natural resources merit the leadership the Governor showed on Toxics and Air Quality & Climate Change

Abbreviations:

State Government:

AWW—Allagash Wilderness Waterway
 BEP—Board of Environmental Protection
 BPL—Bureau of Parks and Lands
 CDC—Center for Disease Control and Prevention
 DEP—Department of Environmental Protection
 DECD—Department of Economic and Community Development
 DIFW—Department of Inland Fisheries & Wildlife
 DOA—Department of Agriculture
 DOC—Department of Conservation
 DOT—Department of Transportation
 DMR—Department of Marine Resources
 LMF—Land for Maine's Future
 LURC—Land Use Regulation Commission
 MFS—Maine Forest Service
 MOHF—Maine Outdoor Heritage Fund
 MSHA—Maine State Housing Authority
 PUC—Public Utilities Commission
 SPO—State Planning Office

U.S. Government:

EPA—Environmental Protection Agency
 NPS—National Park Service
 USDA—United States Department of Agriculture
 USFWS—United States Fish and Wildlife Service

Air Quality and Climate Change

2006 Grade: A+

2008 Grade: A

“Governor Baldacci’s accomplishments, and those of his Administration, in the areas of air quality and global climate change are considerable. The Governor has been a leader on these issues” (MLCV 2006).

The commitment to tackling air quality and global climate change, which Governor Baldacci demonstrated during his first administration, has continued, although with fewer specific results.

Legislation authorizing the Regional Greenhouse Gas Initiative (RGGI) established Maine’s participation, along with nine other states in the region, in the first U.S. cap and trade program to regulate carbon dioxide (CO₂) emissions. The law dedicates the majority of the carbon auction proceeds to energy efficiency, making it a major milestone on the state’s path to a sustainable energy future. With Commissioner Littell as vice chair of RGGI Inc., Maine is in a pivotal position to implement the initiative. Maine is the third state to enact greenhouse gas controls on power plants.

The Governor was also closely involved with the Maine Public Utilities Commission (PUC) in preventing “leakage”—power from major CO₂ polluters outside the area “leaking” into the RGGI system—especially from New Brunswick, which has three large dirty plants. Governor Baldacci and the Premier signed an MOU that takes advantage of the high percentage of non-CO₂ generating power in Maine and New Brunswick.

Other achievements included:

- expanding the *Governor’s Carbon Challenge*, a voluntary program established to complement the Climate Action Plan, to include more than 150 businesses and institutions. Participants reported carbon reductions totaling 96,505 metric tons in 2007. A similar program at the PUC for residential carbon reductions received more limited promotional activities;
- controlling emissions from outdoor wood boilers. Emergency rulemaking provided standards for emissions, setbacks, siting and nuisance criteria. The final rules apply to existing as well as new boilers and were improved significantly from draft versions during a highly contentious process.

The fact remains that despite the Administration’s generally promising efforts, greenhouse gas emissions in Maine have continued to increase. While we applaud the State’s focus on bringing non-CO₂ generating power (wind, tidal, etc.) to market, it has failed to present any coherent strategy on transportation emissions. (See Transportation)

The Governor still has time to develop a strategy to confront the significant problem of transportation emissions, and to take steps as necessary to meet the 2010 targets for greenhouse gas emissions (*i.e.* reduced to 1990 levels). By implementing the wind power task force’s recommendations, he can make Maine a leader in wind power development as one strategy for reducing carbon emissions.

Energy

2006 Grade: A

2008 Grade: A-

“The Administration has shown a consistent level of responsiveness and creativity on this issue” (MLCV 2006).

Maine has become a leader in the promotion of renewable energy. The work of the Governor’s Task Force on Wind Power was a landmark in heading Maine to a less polluting future. The Office of Energy Independence and Security was formalized in statute, which directed it to generate a state energy plan.

Government leading by example:

- Since July 1, 2006, the State has purchased 100% of its electricity from renewable resources through the purchase of Maine-generated renewable energy credits.
- Some buildings in Augusta are heated with a bio-fuel blend.
- Modest improvements in efficiency in state buildings and fleets have continued.

Efficiency:

- Efficiency Maine at the Public Utilities Commission (PUC) has continued to provide resources and incentives for residential and commercial customers to increase energy efficiency, yielding over 1 million tons of avoided carbon emissions to date.
- The Governor held a major summit on energy efficiency in 2008, targeted at the business community, and delivered the opening keynote address.
- Low-interest business loans for energy efficiency saw a minor increase in funding.
- State Planning Office (SPO) undertook a yearlong process to create a uniform building code (Maine was one of only 10 states without them) that included energy efficiency as an important component.

Renewables:

- Legislation, based on the Wind Power Task Force’s recommendations, established aggressive goals for wind power development with guidelines for siting and permitting of wind power projects throughout the state.
- Building on Maine’s current highest in the nation renewable portfolio standard, legislation implemented the State’s goal of increasing the share of renewable energy capacity resources to 10% in 2017.

Governor Baldacci has consistently taken positive positions on many important energy issues. We encourage him to focus on energy efficiency. With today’s spiraling energy costs, the Governor should do everything in his power *between now and the next heating season* to ensure that every home and business has access to efficiency-improving programs and resources; the state should fund and coordinate these activities across all sectors and for all fuels. He should use the second half of his term to see that Maine achieves all feasible, cost-effective efficiencies in the electrical sector.

Forestry

2006 Grade: B+

2008 Grade: C+

“Governor Baldacci has moved toward sustainable forestry..., [but it] has not been championed within the Administration” (MLCV 2006).

In 2006, the Governor fulfilled several campaign pledges, e.g. limiting liquidation harvesting, enrolling more land in “green” certification programs, and developing new sustainable forestry programs. Two years later, his Administration has added only relatively minor achievements in this area. Meanwhile, there is increasing evidence that systemic changes among a large number of Maine’s major forest land ownerships have increased pressures on land prices, land speculation, parcelization and potential for conversion to development, all posing new and serious risks to the long term viability of our forests as noted by a number of economists and other experts. The Governor must now provide leadership and action that will stem the tide of these changes, so that Maine’s vast forestlands remain useful and used for sustainable natural resource utilization and conservation purposes.

During this period, the administration has:

- continued to encourage landowners to become certified; however, it has failed to distinguish between the two programs, or to promote the independent Forest Stewardship Council (FSC) certification over the less environmentally-rigorous, industry-designed Sustainable Forestry Initiative (SFI);
- created a task force to initiate a discussion on the future of Maine’s forestlands, but failed so far to take meaningful action to assure that Maine’s major forest lands remain committed to forestry and conservation uses;
- started to develop forest management rules, including carbon sequestration opportunities, in conjunction with the Department of Environmental Protection (DEP) as part of Maine’s commitment to the Regional Greenhouse Gas Initiative (RGGI).

Before his term of office ends, we urge Governor Baldacci to take strong action across all affected agencies to keep Maine forests as forests by:

- encouraging private and public investment in Maine’s forests as a renewable resource, and
- making the state less attractive to investors seeking short-term and speculative financial gain and more attractive to landowners who act in the long-term interests of sustainably utilizing and preserving Maine’s forests.

We further encourage the Governor to renew efforts on landscape-scale public land acquisitions, which have languished since purchasing Katahdin Lake. Large-scale easement and other acquisitions that support conservation and sustainable forestry and prevent development will result in residual land prices that allow wood to be grown and harvested sustainably.

Finally, the Governor could be a champion for the innovative research into wood-based bio-fuels being carried out by the Forest Bioproducts Research Initiative at the University of Maine.

Inland Fisheries & Wildlife

2006 Grade: B

2008 Grade: B-

“Non-game wildlife and species at risk have received little of the Governor’s direct attention. However, on some controversial issues...the administration took the heat and stood firm” (MLCV 2006).

Fisheries and wildlife are still not a priority for this Administration. The Department of Inland Fisheries and Wildlife (DIFW) continues its traditional focus on game management rather than a holistic approach to all wildlife species. On the plus side, DIFW:

- provided leadership for Beginning with Habitat (BWH). Other supportive agencies included State Planning Office (SPO) (comprehensive planning rules adopt BWH information as the standard Natural Resource data); Department of Transportation (DOT) (incorporates some BWH goals into planning). However, the Administration has yet to make this a priority that cuts across multiple agencies.
- began ground-breaking work to protect important wild Brook trout waters and the genetic integrity of Maine’s native fish through the Heritage Brook Trout and Char Waters, Brook Trout Joint Venture, and National Fish Habitat Joint Venture.
- supported the legislative update of Maine’s Endangered and Threatened Species List, especially resisting strong pressure from sportsmen to de-list Barrow’s goldeneye.
- provided written comments on issues such as a proposed dam on the Crooked River that could destroy landlocked salmon habitat in Sebago Lake, and Plum Creek’s development proposal that could degrade water quality and fishing on Moosehead Lake.

The Department of Environmental Protection (DEP):

- led the initiative, with DIFW, to pass compromise legislation that maintained basic Significant Wildlife Habitat protection challenged after adoption in summer 2006.
- adopted statewide water withdrawal standards that support aquatic life.
- created in-lieu fee mitigation program to offset unavoidable impacts from development on wetlands and other protected natural resources.

The Department of Marine Resources (DMR):

- worked hard to restore anadromous fisheries in Maine by supporting dam removal, fish passage, and riparian habitat acquisition. On the St. Croix River, the department’s efforts were undercut by Governor Baldacci. (See Marine Resources)

On the other hand,

- DIFW has no clear management policy on native versus non-native fish; despite good work on some species, the agency does not manage from an ecosystem perspective.
- Governor Baldacci sought the assistance of Maine’s two U.S. senators in arranging a meeting between Maine landowners and a U.S. Interior Department official (who later resigned) which resulted in a decision not to designate Maine’s forestlands as habitat for the Canada lynx.

Protection of the Canada lynx was raised in our 2006 report. It is time the Governor directed DIFW to abandon its opposition to court-ordered US Fish and Wildlife Service (USFWS) designation of critical habitat, and to stop seeking USFWS approval for coyote-snaring, which threatens the lynx.

Land Conservation—Open Space

2006 Grade: B

2008 Grade: C+

“The Governor was unable to deliver on this key promise [\$100 million Land For Maine’s Future bond].... [However] DOC has negotiated (or is negotiating) over 750,000 acres of important landscape-scale conservation” (MLCV 2006).

Support for several bond issues aimed at land conservation is laudable. In addition to new money for the Land for Maine’s Future (LMF) program, the Governor supported a bond for State Park maintenance, and the River Bond. That said, the amount of the LMF Bond was disappointingly small, and the Governor’s efforts in this area have never measured up to his campaign promises.

In 2006, MLCV criticized Governor Baldacci’s lack of courage when he delivered only \$10 million of the \$100 million LMF bond he had promised as a candidate. In 2007, we expected him to support a land bond comparable to his original pledge. Not only is the \$17 million insufficient to meet the need, but the Administration opposed alternative funding sources for LMF such as the meals and lodging tax or the real estate transfer tax. It is fair to ask if LMF really is a priority for the Governor. Unprecedented opportunities for land acquisition, as well as needs for public land operations and infrastructure, go unmet for want of adequate funding.

The Administration did help secure funding for several Maine projects through the federal Forest Legacy Program. The Department of Conservation (DOC) supported important land acquisition in Grafton Notch (8,000 acres), Katahdin Lake (see Wilderness) and Turner Cove on the Androscoggin River (300 acres, in process to be added to existing state land for a new State Park). The Governor created a Task Force to develop recommendations for managing public lands and publicly-held easements.

The Land Use Regulation Commission (LURC) has worked hard. It denied rezoning for a 70 house-lot subdivision on Burnt Jacket peninsula on Moosehead Lake. LURC has conducted a rigorous review of the Plum Creek development proposal; input from other state agencies was thoughtful and thorough. LURC so far has also conducted an extensive and open process in developing a revised Comprehensive Land Use Plan (CLUP); a strong draft now out for public comment has the broad support of the conservation community and the public, but its fate, given the heavy opposition mounted by the Maine Forest Products Council, is unknown. In these times of increased development pressures on Maine’s land and water resources, we urge LURC, with the Governor’s firm support, to remain resolute in upholding its stated goals and values, including to conserve and protect the jurisdiction’s unique natural character and resources. However, the latest staff draft recommendations on the Plum Creek proposal are cause for concern.

We give the Governor “extra credit” for his efforts to encourage families to get outdoors, “leave no child inside,” and enjoy some of Maine’s wilderness treasures. He embarked on two well-publicized trips: paddling down the Allagash River and hiking Mount Katahdin. But regarding the former, his backsliding on the Allagash Wilderness Waterway (AWW) seriously threatens the river’s “wild” status under the Wild & Scenic Rivers Act. (See Wilderness)

With greater leadership for a significant public funding for land acquisition (*e.g.* a \$75 million LMF bond), the Governor would find his position more closely aligned with voter demand. Nor should he be timid about asking for the meals and lodging tax or the real estate transfer tax to fund public lands. The final years of his governorship give him an opportunity to make this a significant legacy.

Marine Resources

2006 Grade: C+

2008 Grade: C-

“The Governor’s response has been fractured and risk-averse...[D]espite a qualified and respected commissioner, the Governor has demonstrated a signal lack of leadership” (MLCV 2006).

Aside from supporting the waterfront protection program, the Administration continues to give short shrift to marine issues. The Governor seriously and unnecessarily undercut a broad coalition effort to restore alewives to the St. Croix River. After all the affected agencies had signed off on legislation to restore alewives in this area, at the last minute Governor Baldacci alone negotiated a deal with the Passamaquoddy tribe to leave Grand Falls dam closed to the fish.

On the following issues, the Department of Marine Resources (DMR) has done better:

Anadromous fisheries:

- continued strong support for removal of the Ft. Halifax Dam on the Sebasticook River and fish passage on the Presumpscot;
- acquired important riparian areas Downeast for Atlantic salmon;
- developed a multi-state (Maine, New Hampshire and Massachusetts) collaborative conservation program for three species of concern (smelt, Atlantic sturgeon and Atlantic salmon) in the Gulf of Maine;

Penobscot River:

- continued to support the Penobscot River Restoration Project; as the lead agency, in partnership with NGO’s, secured \$10 million dollars of federal funds;
- completed Penobscot River Multi Species Management Plan for Diadromous Fish;

Aquaculture:

- convened a stakeholder group and initiated research on the interactions between nesting seabirds and aquaculture;
- collaborated with U.S. Department of Agriculture (USDA), New Brunswick officials, and industry to cooperatively manage salmon aquaculture in Cobscook and Passamaquoddy Bays;

Coastal waters:

- Developed the ‘ecosystem based’ Taunton Bay Management Plan with local stakeholders to co-manage the marine resources of the bay.

However, DMR opposed, and the Governor declined to support, amendments to the Maine Coastal Policies Act resulting from the Coastal Waters (aka Bay Management) Study. Initiated by the legislature, the study resulted in four recommendations and an Executive Order regarding ‘near-shore waters’: regional management; more accessible data; interagency coastal strategic planning; and greater funding opportunities. Maine missed a chance to demonstrate leadership and commitment by updating the Coastal Policies Act to reflect the innovative management proposed by the Study and the Taunton Bay project.

The Governor should make alewife restoration to the headwaters of the St. Croix River a priority. The St. Croix run could be the most valuable in the state. We urge him to have DMR use the most recent scientific data and to work with the Passamaquoddy Tribe to overcome their concerns that alewives threaten the smallmouth bass fishery.

Smart Growth

2006 Grade: C+

2008 Grade: C+

“Considering his campaign pledge, the Governor’s actions on smart growth are disappointing” (MLCV 2006).

Governor Baldacci has always expressed concern about the impact of unplanned development on Maine’s quality of life. However, for much of his term of office, he took little action to address sprawl and related issues, giving insufficient priority to remedying serious deficiencies in the State’s growth management policies.

In fall 2006, the Brookings Report was released spelling out a suite of appropriate actions for making Maine’s unique ‘quality of place’ a framework for economic development. To consider the report’s findings, the Governor established the Council on Quality of Place. The Council presented its recommendations in spring 2008.

In June 2008, Governor Baldacci issued an Executive Order to state agencies to develop plans for implementing the Quality of Place Council’s recommendations and to prepare legislation to establish a Maine Quality of Place Jobs and Investment strategy in law. We are hopeful that this Executive Order may signal the beginning of a serious effort to deal with what is arguably Maine’s biggest and toughest challenge.

Other positive actions the Governor has taken on behalf of smart growth include:

- supporting the Riverfront Community Development bond to support environmentally sustainable economic development along Maine’s rivers;
- supporting the historic preservation tax credit bill, LD 262, to reduce sprawling development by aiding downtown revitalization.
- supporting the narrowly-passed Informed Growth Act, requiring towns to determine as part of permitting whether development of large retail stores (over 75,000 square feet) would have an “undue adverse impact” on the local economy, environment and community; if the town decides that it would, the permit cannot be approved; and
- supporting, with feedback from smart growth advocates and planners, the Maine State Housing Authority’s (MSHA) change of its rating system to give more weight to downtown projects and projects close to existing infrastructure and services.

However, the Governor:

- was very skittish about letting State Planning Office (SPO) staff work actively on the state-wide uniform building & energy code, on several occasions pulling them back at critical points in the legislative process
- funded LD 262 (see above) by shifting real estate transfer tax revenues out of the HOME Fund (affordable housing). In the end, the tax credit was restructured to provide more affordable housing in existing historic buildings, but the funding still came out of the HOME Fund. Smart growth and affordable housing goals should be symbiotic; one should not gain at the expense of the other
- with the exception of his recent Executive Order, has been slow to implement effective growth management.

We would like to see Governor Baldacci's recent Executive Order provide the foundation for comprehensive and innovative efforts to promote smart growth during the remainder of his term and into the future. We urge him to:

- encourage SPO and the other agencies involved to be bold as they prepare legislation to implement his Executive Order;
- ensure that state agencies review ways they may be encouraging sprawl and discouraging smart growth and that they take remedial action;
- reconsider an important recommendation in the Brookings report: a meals and lodging tax to provide towns with resources to manage spiraling growth pressures; and
- create changes in programs and laws, including those that affect municipalities, that will effectively deter sprawl that is fast destroying Maine's quality of place.

Toxics

2006 Grade: A-

2008 Grade: A

“[A]s Governor, he has worked with the environmental and public health community to find new ways to divert toxics from the waste stream” (MLCV 2006).

Governor Baldacci continued to fully support toxics reduction, in some cases exceeding the expectations of Maine’s environmental community. Based on work by the Department of Environmental Protection (DEP) and Maine Center for Disease Control and Prevention (CDC), the Governor’s legislation phased out the flame retardant deca-BDE, making Maine only the second state in the U.S. to replace this hazardous chemical with safer alternatives.

The Governor’s Task Force to Promote Safer Chemicals in Consumer Products issued an excellent report based on an assessment of the health and environmental impacts of hazardous chemicals in consumer products. Its recommendations formed the basis for chemical policy reform legislation setting a national precedent. Strongly supported by the Governor, LD 2048 requires manufacturers to disclose chemicals of high concern in their products and authorizes the State to require safer alternatives whenever available.

The Administration also supported significant legislation to address childhood lead poisoning:

- a comprehensive bill to educate citizens about lead paint hazards, encourage lead-safe remediation, and study ways for landlords to ensure rental units are lead-safe;
- a lead-renovation notification bill; and
- a bill to ban lead in toys, child care articles, children’s jewelry and lunchboxes.

The Governor furthered his commitment to solid-waste and recycling policies by:

- creating a statewide cell-phone recycling program that adds to the success of Maine’s e-waste recycling law, passed during his first term;
- convening a successful process to implement a first-in-the-world law to create financial incentives for the capture of old mercury thermostats.

The Governor and the DEP have made the HoltraChem site in Orrington a priority. They have been reliable in making sure that the former owner of the facility funds a full cleanup. Numerous structures on the site have been cleaned and/or removed. The Administration continues to work with environmentalists, including participation in quarterly progress reports on this effort.

The Administration also:

- supported investment by the Department of Economic and Community Development (DECD) and state-funded Maine Technology Institute in research and development to make non-toxic, petroleum-free bioplastics from Maine potatoes as a sustainable economic development strategy
- sponsored a major green economic development conference “Growing Maine’s Green Economy: Better Living Through Green Chemistry”

An “extra credit” goes to the Governor for going to bat for Maine’s toxicologist when she was dismissed from a U.S. Environmental Protection Agency (EPA) advisory panel, of which she was the chair, following complaints by a lobbying group for the flame retardant deca.

With the passage of LD 2048, the next step is to implement the legislation successfully, starting with the selection of those chemicals posing the greatest public health risk to children. Governor Baldacci’s record in this area gives confidence that he will ensure an aggressive process for implementation.

Transportation

2006 Grade: Not graded

2008 Grade: C

“No sensible energy policy can ignore the impact of our cars and trucks. Our vehicles generate nearly half of the greenhouse gases in Maine. In 1991, our state led the nation with the Sensible Transportation Policy Act, requiring exploration of all alternatives before widening or building new roads. Railways—such as the wonderful Downeaster line—buses, bicycles, and ferries need to be an increasingly important part of our transportation mix.”

—Candidate John Baldacci, Bowdoin College, April 2002

In many respects, our over-reliance on automobiles has become the preeminent issue in connection with energy and environmental policy. Transportation is responsible for 35% of Maine’s greenhouse gases. Transportation infrastructure is a major factor in determining patterns of development. Roads are a significant cause of wildlife mortality and habitat fragmentation.

The Downeaster, Portland’s rail-link to Boston, is one of Maine’s major transportation pollution-reduction efforts, avoiding the emission of 2,383 metric tons of carbon dioxide (CO₂) in 2005. Governor Baldacci has been a vocal supporter of the Downeaster and extending passenger rail service to Brunswick. With LD 2019—to provide funding for rehabilitating the rail line between Portland and Brunswick—before the Appropriations Committee, his visible support helped get the bill enacted. However, even the current Downeaster service may stop running in 2009 for lack of funding.

The Department of Transportation (DOT) continues to place highway-widening as the priority solution to Maine’s transportation needs, for example, Interstate 295 in the Portland area at a cost of \$91 million. It has been consistently recalcitrant in adopting Fix it First policies—those that make better use of the infrastructure we already have—and in examining ways in which its policies promote sprawl. However, we applaud DOT for initiating the Portland North Alternative Transportation Study of the feasibility of rail and bus connections to Brunswick and Auburn.

DOT has incorporated wildlife crossings in several major highway projects (*e.g.* the Gorham By-pass). Through its environmental office, the department hosted the 2nd biennial Northeast Transportation and Wildlife conference. However, the agency as a whole needs to become more sensitive to wildlife and ecology issues, for instance:

- including wildlife passage needs in upgrades, maintenance and construction of roads, bridges and culverts
- incorporating Beginning With Habitat principles in locating new construction

In our discussion of Air Quality issues, we noted the state’s lack of progress in curbing transportation emissions. Maine must develop a serious plan to tackle excess energy consumption and greenhouse gas emissions from the transportation sector. All government decision-making regarding major infrastructure development must consider climate and energy impacts. The Governor should direct DOT to make public-transit systems—train and bus—a priority over its highway widening projects. He should also be concerned with the proposed east-west highway and its environmental and development sprawl impacts.

Water Quality

2006 Grade: D

2008 Grade: B-

“Two issues cloud his environmental record as governor. [They] undermine the credibility of his commitment to resist ‘powerful pressures to relax environmental standards’” (MLCV 2006).

The ‘D’ grade two years ago was due to flagrant violations of Maine’s environmental laws on Flagstaff Lake and the Androscoggin River. However, we noted that the Governor had appointed a new commissioner at the Department of Environmental Protection (DEP) and that we expected this to signal a new start.

To their credit, the Governor and his agencies:

- continued to show strong support for removing the Fort Halifax Dam.
- included a \$5 million Riverfront Community Development Bond in his 2007 Bond Package. The final package was negotiated by legislative leadership, the Appropriations Committee and the Governor’s office.
- provided strong support on behalf of the Penobscot River Restoration Project for federal funding. He also committed key staff for implementation.
- supported statewide water withdrawal standards that support aquatic life.
- set up a stakeholder process to develop a restoration plan for the Long Creek watershed. One of the most developed in the entire state, this area includes 34% impervious surfaces including the Maine Mall.

However, water quality certification on the Androscoggin continued to color the Administration’s record. Of concern is the Verso mill permit recommended by the DEP and approved by the Board of Environmental Protection (BEP). The permit, which controls the mill’s emissions until 2010, made no reductions in pollution levels but required compliance in five years rather than the ten years set in the original staff permit. Besides the issue’s murky history, the legal, technical and biological complexities of the Clean Water Act ensured that none of the parties won; all—industry, environmental groups and government—shared some degree of the pain. Environmentalists will be watching closely as the Administration sets up the permitting process for 2010.

By supporting a bill to merge the dioxin monitoring program and the Surface Water Ambient Toxics program, the DEP took responsibility for dioxin testing in fish below the discharge pipes of Maine’s pulp and paper mills instead of letting the industry pay for monitoring its own pollution. The bill will siphon off funds needed for testing for other pollutants, *e.g.* mercury and pesticides.

For two years running, the Legislature’s Agriculture Committee reported out a bill to give oversight responsibility for agricultural composting operations to the Department of Agriculture (DOA) rather than the DEP. In 2007, the Governor’s Office played a constructive role, but the bill surfaced again in 2008. By failing to prevent the DOA from undercutting the DEP at the work sessions—and leaving it to the Legislature to defeat the bill—the Governor showed a serious lack of leadership.

In the next two years, we urge the Governor to:

- ensure a positive outcome for the next round of permitting on the Androscoggin
- continue and increase his leadership in the Penobscot River Restoration Project
- support DEP in working cooperatively with EPA to require Clean Water Act permits for existing storm-water sources in the Long Creek watershed. This process has been challenged by other states; let us show it can work in Maine.

Wilderness

2006 Grade: B–

2008 Grade: C–

“Governor Baldacci originally spoke up for wilderness.... It remains to be seen if [he] can stay strong against concerted opposition from the paper and forest products industries, and motorized access constituencies” (MLCV 2006).

Adding 4,000 acres around Katahdin Lake to Baxter State Park in 2006 fulfilled Governor Baxter’s original vision and was a huge achievement. Subsequently, Governor Baldacci’s office helped resolve disagreements between conservationists, sportsmen and snowmobilers over the future of lands adjacent to Katahdin Lake in the Wassataquoik Valley; much of the land was bought by conservationist Roxanne Quimby and will be managed as wilderness. The Bureau of Parks and Land (BPL) established a non-motorized, back-country recreation planning position.

Otherwise, expectations that in his second term the Governor would provide strong support for wilderness have been frustrated. On public lands, only ecological reserves (which are already protected) were designated as non-motorized, backcountry recreation. While the Wassataquoik Valley lands owned by Ms. Quimby will be managed as wilderness, it is disappointing that the State spent its resources for the benefit of motorized recreation users but not wilderness users. In essence, the Administration is leaving wilderness protection to the private sector.

In the face of political pressure, this Administration has allowed the serious undermining of wilderness character in the Allagash Wilderness Waterway (AWW):

- BPL filed and the Land Use Regulation Commission (LURC) granted an application for the construction of a new permanent bridge at Henderson Brook, a development prohibited by the original AWW law. A group that had been convened to study long-term alternatives never met. Nor has the Department of Conservation (DOC) honored a commitment to study options for Lock and Telos dams.
- DOC failed to close any motor vehicle access points, and allowed the Michaud Farm Road to remain open after it was bulldozed open by Sen. John Martin and Rep. Troy Jackson. Instead, the Governor failed to veto legislation that locks in 19 access points while designating no non-motorized winter use areas.
- By not vetoing LD 2077, the Governor reversed enhancement of the wilderness character of the AWW to which he had previously committed his administration, and abandoned an agreement his Conservation Commissioner worked hard to negotiate.
- The Administration has not adopted management plan changes mandated by a 2002 MOA with the National Park Service (NPS), nor managed the AWW consistent with its “wild” status as the State’s only designated Wild and Scenic River (WSR).

The Governor’s failures represent a serious backsliding on issues affecting the wilderness character of the Allagash.

We urge Governor Baldacci to:

- revive his earlier commitments to the AWW as represented in the River Drivers Agreement

- demonstrate his support for wilderness through the LURC comprehensive land use plan currently receiving public comment
- encourage BPL to designate many more areas for non-motorized backcountry recreation, especially the 2,000 acres around Katahdin Lake under its jurisdiction

General Administration & Appointments

2006 Grade: C, B–

2008 Grade: C+

“[T]he Governor’s efforts are too often fractured and reactive.... The C grade—not itself a measure of environmental success—reflects a level of disappointment at what might have been....” (MLCV 2006).

Since none of the commissioners at the natural resource agencies have changed since 2006, this year we consider Appointments under General Administration.

At the Department of Environmental Protection (DEP), Commissioner Littell has been a strong leader on wildlife habitat issues; he vigorously defended the newly adopted significant wildlife habitat protections when attacked in the press. Permitting on the Androscoggin River strained relationships with some environmental groups, but it is fair to say Mr. Littell played reasonably well the bad hand he was dealt, even if the results were not what everyone expected or wanted to see. While he may not always agree with the conservation community, communications are open, and he is willing to rethink direction when persuaded.

On open space and wilderness, the Administration has, if anything, been more timid during its second term. Apart from his choice of an environmental leader, former MLCV executive director Eliza Townsend, as his deputy, Department of Conservation (DOC) Commissioner McGowan has shown less leadership, for instance on public lands issues. His record was also marred by his acknowledged inappropriate involvement in a Land Use Regulation Commission (LURC) case.

Despite some committed biologists, the Department of Inland Fisheries and Wildlife (DIFW) continues to be driven by hunting and motorized access interests, at the expense of non-game or endangered wildlife. Commissioner Martin’s lack of background in conservation has resulted in a lack of vision for all Maine’s wildlife.

The Department of Marine Resources (DMR) has benefited from Commissioner Lapointe’s practical leadership, although sometimes this has tilted towards commercial fisheries rather than conservation. The new Bureau of Sea-run Fisheries and Habitat, consolidating the Atlantic Salmon Commission and DMR’s Stock Enhancement Division, has served diadromous fish issues well.

While not their prime concern, several agencies routinely make decisions with an impact on Maine’s environment. The Public Utilities Commission (PUC), under the strong leadership of Chairman Kurt Adams, has been more involved in energy efficiency and renewable energy than in the past. The State Planning Office (SPO) no longer has the focus on smart growth it did under Evan Richert, but its staff did good work on the uniform building code bill.

In general, Maine’s natural resource agencies are hampered by lack of overall coordination. The Governor does not appear to see resolving inter-agency tensions as part of his job. For instance, the Agriculture Commissioner felt free to testify against the DEP on a jurisdiction issue. Changing his position without warning, as he did on the alewives in the St. Croix River, undercuts an agency’s confidence, especially when political calculation or behind-the-scenes lobbying appears to take precedence over environmental protection.

In 2006, we noted that despite professed environmentally positive intentions, Governor Baldacci's "Administration has a pattern of failing to take a clear position and stick with it." Two years later, the pattern continues, with no particular policy goal apparent behind it. For example, when the Legislature was considering the uniform building code bill, the Governor pulled back his support for enforcement at key moments. He has shown good intentions on many environmental issues, strong leadership on a few, but on many others consistency and commitment have been lacking. His rhetoric is not always backed up with action.

On the plus side, the appointment of Karin Tilberg, a strong conservationist, as the Governor's senior advisor on the environment has ensured that he is aware of the top environmental issues facing Maine and policy solutions to address them. It has also ensured good communication between Maine's conservation community and the Administration.

Governor Baldacci has made a point of asking environmental advocates for recommendations of candidates to Maine's citizen advisory boards, and he has followed through with some excellent appointments as a result, *e.g.* LURC, Board of Environmental Protection (BEP), Land for Maine's Future (LMF), Maine Outdoor Heritage Fund (MOHF). However, declining to appoint a conservation member to the New England Fisheries Management Council was disappointing, as were some appointments to the Allagash Wilderness Waterway Advisory Council.

Sensible appointments also facilitated the work of a number of Task Forces and Councils:

- Safer Chemicals (included businesses committed to sustainable production, with strong leadership of the DEP Commissioner as chair)
- Wind Power Development (with excellent staffing by Maine Forest Service (MFS) director Alec Giffen and SPO)
- Management of Public Lands (chaired by DIFW deputy commissioner Paul Jacques)
- Quality of Place (chaired by Richard Barringer)

The Governor's initial "streamlining" proposal to consolidate the natural resource agencies assumed that consolidation was the best way to realize efficiencies. Ms. Tilberg deserves credit for working within the Administration toward the more reasoned version passed by the Legislature, which seeks efficiencies and agrees to look at alternative structures, but without assuming the need for restructuring. The natural resource agencies are chronically under-funded and the financial components have already been consolidated, so streamlining should not be expected to save the costs of protecting Maine's environment. Furthermore, we question making consolidation of these agencies a top priority given their minor portion of the overall general fund budget.

With a continued lack of reliability, commitment, and follow-through in the last two years, it has been hard to detect any all-encompassing environmental agenda behind the Governor's actions. A clear message on environmental issues would result in greater leadership and achievement in Maine's natural resources agencies across the board. We urge the Governor to revisit the speech he gave at Bowdoin College as a candidate and to commit himself to forging an environmental legacy while there is yet time.

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