

Executive Summary

As the Land for Maine's Future (LMF) program continues to expand and conserve more acreage of land in Maine, it becomes imperative that the program remain true to its original goals and place taxpayers' interest at the forefront of its decision making. While conservation plays a key role in Maine's economy, LMF and other conservation programs have only vaguely conceptualized the challenges these efforts present to municipalities and taxpayers in Maine.

Recent controversy surrounding the program's land acquisition and funding patterns suggests the LMF program review its internal procedures and reform policies to ensure Maine citizens are getting the best return on their public investment in land conservation. Maine citizens will get the most out of land conservation when LMF takes steps to maximize municipal tax revenues, revise its internal appraisal oversight procedures, expand its outreach to Maine citizens regarding the public lands they have access to, and completes projects consistent with development risks across the state.

Because these lands are acquired with public funds, it is the duty of the LMF program to ensure Maine citizens are making a sound investment, and that their funds are going where conservation is needed most, in areas at risk of development. This has not occurred recently, however, and over the last three decades, the program has charted a course that suggests land conservation in Maine is never ending because voters will always approve new bonds for the program.

The findings of this study reveal that the LMF program:

- Does not place priority on projects that allow lands to remain on municipal tax rolls.
- Does not review appraisals for all project types consistent with Uniform Standards of Professional Appraisal Practices (USPAP) standard 3.
- Does not adequately inform the public of which Maine lands are open for public use.
- Approves and completes projects at levels inconsistent with the development risks throughout Maine.

Policy recommendations to address these findings include:

- Revising internal policies to place exclusive priority on acquiring lands that remain on municipal tax rolls and face a genuine threat of development.
 - Extending its formal appraisal review under USPAP standard 3 to include Conservation & Recreation, Farmland, and Water Access projects.
 - Establishing digital, modernized platforms for Maine citizens to engage with all public LMF lands.

Introduction: How the LMF Program Works

Established in 1987, the LMF program was created after the citizens of Maine voted to fund a \$35 million bond allowing the state to purchase and conserve, by fee simple ownership or easement, various lands of statewide importance, making the entity itself Maine's primary funding mechanism for the conservation of land with natural and recreational value. Through partnerships with local, regional, statewide or federal conservation entities, LMF uses matching funds to finance the acquisition of lands for public use. The entity engages in projects involving Conservation & Recreation lands, Farmland, Working Waterfront, and Water Access properties, with the focus of conserving undeveloped physical features of Maine's landscape.

Since its inception, LMF has broadened its goals to allow for funding to be used on projects that have local and regional significance throughout the state. Originally, the program allowed only agricultural and working forest easements. In 1999, however, Maine voters authorized the conservation of lands owned by local groups partnering with municipalities and private land trusts. Additionally, the Maine Legislature has made notable revisions to LMF over the years that have evolved the scope of the program. In 2005, the Legislature added a Working Waterfront pilot program, allowing LMF funds to be used to acquire Working Waterfront properties through easement. In 2010, the Legislature raised the requirement for matching funds on LMF projects to a 1:1 ratio.

LMF only acquires land from landowners willing to sell and aims to provide tangible returns to everyone who uses LMF lands. However, Maine State law does allow the program to obtain land through the use of eminent domain at the consent of the Legislature. Municipal and county approval of a project residing within a municipality, county, or unorganized territory is only required when more than 1 percent of the municipality or county's state valuation is sought for acquisition. Approval by a municipality is also required when eminent domain is used to acquire land that exceeds either 50 acres or \$100,000 in assessed value. This requirement does not extend to unorganized territories.

To date, the program has completed projects in each county in Maine. A comprehensive list of completed projects and lands acquired since 1987 can be found on the LMF website.ⁱ The program's authorizing laws can be found in Title 5, Chapter 353 of Maine Revised Statute.ⁱⁱ

LMF selects parcels of land for conservation through the application process outlined in the LMF Workbookⁱⁱⁱ. The workbook highlights the manner in which land is evaluated, dependent on its statewide, regional, or local significance for recreation, wildlife habitat preservation, sustainable extractive use, and its threat of development. Agricultural projects are evaluated based a farm's significance to the local economy. The entirety of the LMF's Board adopted policy and guidelines can be found in Section 1 of the LMF workbook.^{iv}

The LMF Board is comprised of nine members; six public citizens and three commissioners representing the Department of Agriculture, Conservation and Forestry (DACF), the Department of Inland Fisheries and Wildlife (DIFW), and the Department of Marine Resources (DMR). The six public citizens are appointed by the Governor, subject to review by the Joint Standing Committee on Agriculture, Conservation and Forestry, and confirmed by the Maine Legislature. Public members of the board must be chosen for their knowledge of Maine's natural resource landscape and devotion to land conservation. Board members are limited to serving two consecutive terms.

The LMF program also has a body that reviews project appraisals called the Appraisal Oversight Committee (AOC). The AOC conducts a layperson's review of Conservation & Recreation, Farmland, and Water Access projects to ensure the appraisal meets required standards outlined in LMF statute and that it renders fair market value. The full composition of the LMF Board and its various subcommittees can be found on the LMF website.^v

Easements and Land Acquisition

The LMF and Public Access to Maine Waters Funds are used to purchase and conserve land of statewide importance or at risk of development. The program acquires property by use of fee, or less-than-fee, simple interest or easement. Easements defined by statute include, but are not limited to, conservation easements, scenic easements, and other long-term leases of land lasting a minimum of 99 years.

There has been much public debate surrounding the value of conserving land in Maine through fee acquisition or easement. Fee acquisitions allow the state to play a more prominent role in protecting and managing the property in question, however easements allow the LMF program to conserve more acreage. Currently, conservation easements protect more land in Maine than fee acquisitions.

The LMF program provides three types of conservation easements; working forest, working waterfront, and agricultural easements.

Working Forest Easements

Working Forest easements are made up of two sub-categories, including strip easements (intended for property that lies along bodies of water, with a primary focus on keeping water frontage undeveloped) and landscape easements. The purpose of working forest easements are to protect the natural and economic value of the forest, and to provide traditional recreational opportunities (hunting, fishing, hiking, snowshoeing, and observing) to the public.

Each easement varies based on the property involved. Working Forest easements outline existing conditions of the forest and clearly define the goals of the easement holder. They also develop a process by which landowners and the easement holder meet annually to review the agreement and its implementation, and proactively address solutions for non-compliance. The landowner

and easement holder can mutually determine acceptable amendments to the original easement, so long as the amendments remain faithful to the project's original goals.

The LMF program only allows for gravel, sand, and shale to be mined on these sites for the purpose of road construction and maintenance on the property in easement. It also grants rights to the easement holder to construct, maintain, and relocate trails and signage for motorized or non-motorized recreation, the right to provide public vehicular use of certain roads on the property, and road access to the property itself.

Working Waterfront Covenants

Working Waterfront Access Protection Program funds are used to obtain development rights on waterfront properties for sale by owner. The restrictions on these transactions are found in a legal document called a Working Waterfront Covenant (WWC), granted by a landowner and held by the state of Maine.^{vi} The WWC is a legal agreement between the owner of the working waterfront land and one or more qualified holders, and the purpose of the agreement is to grant access to, and ensure the availability and affordability of, working water front properties for commercial fishery use.

Each covenant addresses the specific properties being protected and their potential use as a commercial fishery. Protection is granted by limiting the property's future uses, as well as potential alterations or additional developments. "The covenant 'runs the land' meaning that it is permanent and remains in place as a restriction on the use and value of property regardless of future ownership. A Right of First Refusal granted to the holder (State of Maine) permits the state to intervene and enforce the terms of the covenant during a future deed transfer."^{vii}

The original property owner retains all rights and privileges of property ownership. This includes the ability to limit the accessibility of the property, including public use and the right to maintain and diversify the property and its business within the limits of the covenant. The property owner needs permission for any future developments or changes to the property's infrastructure that has not been clearly outlined in their individual covenant.

The state has all rights to prevent, and require corrections of, any violation of the terms of the covenant. The state also maintains the right to enter the protected property for the purpose of monitoring the terms of this covenant and inspecting for violations, so long as the holder does not interfere with grantor's use of the property.

On an annual basis, the property owner must complete a reporting form provided by the state detailing any property alterations, maintenance repairs, or any other improvements or modifications to the protected property, as well as a list of proposed activities for the subsequent year.

Agricultural Easements

The LMF program invests in farmlands with the intention of protecting these homesteads from

conversion to non-agricultural uses and development. The program targets farmlands comprised of soils classified by the USDA Natural Resources Conservation Service as “Prime Farmland,” “Farmland of Statewide Importance,” and “Farmland Soils of Local Importance.” Also included are “Unique Farmlands,” which do not rely on statewide or locally significant soils but produce high-value crops. LMF also places a particular interest in protecting farming operations in areas of the state that “support and anchor a viable agricultural economy.”^{viii}

The LMF program protects farmlands by purchasing their development rights. LMF obtains conservation easements or fee simple rights on farmland to prevent productive farm assets from converting to non-agricultural operations. The Maine DACF serves as the sponsoring agency for these acquisitions. The conservation partner serves as the holder and steward of conservation.

Upon being granted public funds to purchase development rights from the farmland owner, conservation partners must sign a Project Agreement with LMF and the sponsoring agency to become a cooperating entity, agreeing the sponsoring agency will be a third party to the conservation easement.

Land Appraisal

The LMF Board requires that land appraisals for all projects abide by guidelines outlined in the Uniform Standards of Professional Appraisal Practices (USPAP). USPAP is widely accepted as the proper standard for property valuation and land appraisal in the United States. “USPAP was adopted by Congress in 1989, and contains standards for all types of appraisal services, including real estate, personal property, business and mass appraisal. Compliance is required for state-licensed and state-certified appraisers involved in federally-related real estate transactions.”^{ix} USPAP standards are updated biannually to ensure appraisers have the information needed to “deliver unbiased and thoughtful opinions of value.”

Additionally, all LMF projects that have been allocated taxpayer dollars must obtain an independent appraisal from a state-certified appraiser to be in line with USPAP guidelines. The process that ensues is as follows; the appraisal is submitted and sent to the LMF AOC for review, the AOC recommends acceptance to the LMF Board, and finally, the project is cleared for closing procedures pending further due diligence.^x

Of the various LMF project types (Conservation & Recreation, Farmland, Working Waterfront, and Water Access), only Working Waterfront projects require a formal appraisal review at USPAP standard 3. The additional third party review of Working Waterfront project appraisals was put in place after the LMF Board experienced numerous issues regarding inflated appraisals for Working Waterfront properties. Conservation & Recreation, Farmland, and Water Access projects receive a layperson’s appraisal review by the LMF Board.

Scoring Review and Criteria

All project proposals must meet a basic “threshold criteria” that serve as minimum requirements

to receive LMF funds. It is noted, however, that a proposal may still be considered without meeting these requirements. The “threshold criteria” for consideration include the property has a willing seller, adequate title, appraised value, and a 1:1 ratio of matching funds. Proposals should have matching funds greater than or equal to 50 percent of eligible project costs, meaning for every \$1 of LMF funds allocated to a project, there must be \$1 of match value from a cooperating entity. No more than 30 percent of the match value can be for services associated with acquisition of the land, and 70 percent of the match value must come in the form of tangible assets, primarily cash or land.

Proposals are reviewed by the LMF Board’s Scoring Committee and are then transferred to the Board’s Nominations Committee. This committee reviews each proposal and offers a list of finalists and fund allocations to the full LMF Board. The board considers each finalist’s proposal, makes their selections, and allocates funding.

There are several requirements that the LMF Board reviews upon granting Working Forest easements as Conservation & Recreation projects.^{xi} Working Forest easements do not permit additional non-forestry or non-recreational related development of the land, including industrial and residential uses. They also limit the division of the property in easement with the goal of maintaining parcels large enough to be cost effective in managing timber production and recreational purposes. The landowner of the property in easement vacates their right to enjoy exclusive use of the land and must allow the public to use the forest for traditional recreational purposes. Finally, the forest must be maintained for its potential to provide consistent fiber and timber production.

The proposal and selection process is similar for water access and agricultural projects, however, their scoring criteria are not the same. Water access projects are considered based on the location of the body of water in relation to population centers and other water access sites, the size of the water body and its recreational potential, level of water access needs in proximity to existing public sites, value of fisheries opportunities based on DIFW and/or DMR evaluations, expected demand and diversity of uses of the site, and its threat of development.

Farmland Protection Proposals are scored based on current productive farm assets, threat to conversion, significance to regional and local markets, open space, and other cultural and public benefits. Working Waterfront properties are scored with great consideration of the land’s threat to development or conversion. The full scoring criteria LMF uses regarding all of its project types is outlined in Section 4 of the LMF Workbook.^{xiii}

Review of Existing Literature

The following literature review offers a synthesis of past studies and records concerning the LMF program, its purpose, and its efficacy as a mechanism for conserving land in Maine.

Land conservation drives forest management, recreation and tourism, and other industry-related jobs and revenues to Maine. However, it is important to understand a crucial omission in studies regarding the economic benefits of land conservation in Maine. No existing studies consider the economic potential of developed land versus land conserved through the LMF program, or any other conservation method. In this regard, the full scope of the economic potential for these lands is never wholly realized, nor the impact of these lands being removed from municipal tax rolls.

Existing studies of the LMF program highlight economic impacts as a result of conservation without considering potential impacts as a result of economic development. A 2010 study from the University of Southern Maine (USM) accentuates the “direct economic impacts” of land conservation, meaning revenue-generating activities, include revenues from harvest and sale of farm, forest, and marine products, coupled with revenues from Maine’s recreation and tourism industry.^{xiii} These conservation projects create new jobs in forestry, guiding, hospitality, agriculture and other industries that should enhance the development of infrastructure to support these landscapes. Additionally, they offer employment and other economic opportunities to citizens in rural areas of Maine that they would not otherwise have without organic economic development.

The USM study also outlines indirect economic benefits of land conservation as increased land and home values in areas surrounding conservation land, and health benefits from increased outdoor activity. Advocates of LMF and similar conservation entities also assert that conservation boosts municipal tax revenues by raising the value of nearby property, however, land trusts and other non-profit entities partnering with the state in fee simple acquisitions are not required to pay taxes on these lands. While some partnering, tax-exempt organizations offer Payments In Lieu of Taxes (PILOTS) to the municipalities in which they reside, these figures do not fully account for the taxes that would be regularly acquired from these properties had they remained on municipal tax rolls. Because the duration of an easement is essentially forever, these properties will remain absent from municipal tax rolls unless policy is adopted at the state or local level to address a public need for this revenue.

A key finding of the USM study is that “there is a difference between projects that generate economic benefits as a secondary product of their conservation objectives and those which are intentionally designed to integrate economic objectives along with traditional conservation aims.” While each project is different and generates varying levels of economic benefit for a given community, the LMF program must understand the broader economic shortfalls that come from approving projects that place economic opportunity as a second, or lesser, priority of conservation. Given that LMF acquires land through use of public funds, it is imperative the

public gets the greatest return on its investment, and that every community is directly benefitting from the acquisition of these lands.

There is no questioning that land conservation contributes to Maine's economy and offers new economic opportunities, but little evidence exists to suggest all of the program's primary and secondary economic benefits, as outlined in the USM study, are being realized by the people of Maine. Nor can they be directly attributed to the success of Maine's tourism industry. It also remains uncertain how many Mainers are utilizing conservation lands to improve personal health and other quality of life matters.

A 2011 study of the LMF program by a Yale researcher suggests that there are ways to delineate the difference between benefits caused by land conservation and benefits associated with land conservation. "Investments in working lands or major recreational areas will nominally be associated with all the jobs and earnings that the land generated before the transaction went through. However, care must be taken to delineate the share of those jobs and earnings directly ascribable to conservation when reporting the benefit of the land deal."^{xiv} The study describes the methodology for determining the difference as follows:

- 1) Surveying recreationists on whether they would visit a given site if it were not available, or spend their money elsewhere.
- 2) Quantify the difference in employment at a site before and after its protected.
- 3) Cite historical precedent.

A notable criticism of this approach is that the second delineation method being applied will always produce net results beneficial to conservationists when the land in question is not at risk of development.

In 1996, Governor Angus King created the Land Acquisition Priorities Advisory Committee (LAPAC) as a mechanism for identifying lands of interest for acquisition by public and private conservation entities in Maine,^{xv} ensuring further expansion of the LMF program. The report claims the original \$35 million bond for the LMF was "largely exhausted" by 1996, generating a "timely opportunity to assess past public land acquisition efforts and to identify needs to be addressed in the coming years." However, like many publications that have analyzed the program, the LAPAC report does not identify the state of Maine's growing cause, or need, for conserving more than the originally approved \$35 million in Maine land assets, suggesting the program's goals being diluted by the growing interests of conservationists in Maine.

A joint report produced by the Edmund S. Muskie School of Public Service at USM and the Margaret Chase Smith Center for Public Policy at the University of Maine^{xvi} offers recommendations to strengthen LMF under the same parameters. The study asserts that Maine faces "intense development pressures on scarce coastal and shore lands," but provides no substantial evidence to support this conclusion. The joint report applied LAPAC guidelines to

produce conclusions that bolster support for the public acquisition of lands and rapid expansion of the program.

As noted above, past publications assessing the qualities, successes, and challenges of the LMF program fail to articulate the full scope of economic potential these lands have outside of individual conservation goals. These reports and records were prepared to enhance the scope of the program and to broaden land conservation efforts in Maine by comparing the economic output of conservation to the output of development and industry largely absent from Maine's economic portfolio.

Perhaps the most exhaustive and articulate review of the LMF program came from the Governor's Office of Policy Management (OPM)^{xvii} in 2015 by way of a Government Evaluation Act (GEA) report. Not only does the report more adequately assess the program's successes, it provides substantial policy recommendations for the LMF Board to consider for better achieving the goals outlined at the outset of the program. It also highlights various opportunities for the LMF Board to ensure the citizens of Maine are receiving the best return on their investment.

Explored in the 2015 GEA report is the value of acquiring lands through fee acquisitions versus easements, finding easements to be of greater value and advantage for several reasons. "It is clear that the purchase of easements affords the opportunity to conserve more acreage with hardworking taxpayer dollars." While fee acquisition allows more state control of the property in question, these efforts do not engage the public at the same level of easements. In easement, land remains in private ownership but can still be managed for economic needs and used by the public. It also remains on municipal tax rolls, providing greater stability to Maine communities. The OPM study found that easements may be less costly to purchase than fee interest in land, allowing the public to protect more acres from development. During the program's first decade, there was a startling 23:1 ratio of acreage covered by fee acquisition compared to conservation easements for Conservation & Recreation projects, but from 2005 to 2014, the figure shrunk to 1:3. The current ratio is much closer to 1:1. The trends favoring conservation easements should continue, as the principle outcomes of easements better reflect the initial aims of the program.

The OPM study also references a 2007 GEA report that illustrated technology issues regarding public access to LMF data. The 2007 report made reference to "an online database that contained a project directory with maps, photos, and information on how to access public LMF properties, but it is no longer active." According to the 2017 biennial report, the LMF program has established a partnership with Maine Trail Finder, where approximately 126 trails in its database exist on LMF lands. LMF has also partnered with Bangor Daily News reporter and blogger Aislinn Sarnacki, whose blog covers "one minute hikes" in Maine. This partnership resulted in the creation of an interactive map of 40 locations featured in Sarnacki's blog that were acquired with LMF funds.

Finally, the 2015 OPM study spotlights the program’s scoring and project evaluation procedures as an “emerging issue,” calling into question whether current methods work effectively and emphasize the program’s top priorities. A workgroup reviewed these procedures and presented their findings to the LMF Board, but failed to answer the core concerns. As part of their due diligence during the 2015 GEA report, the OPM requested appraisal reviews of several projects from the most recent LMF project round. A third party appraisal firm, Bowditch Appraisal Review Specialists LLC, assisted the OPM by conducting the reviews. As noted above, while all LMF projects allocated taxpayer funds are required to obtain an independent appraisal by a state-certified appraiser, only Working Waterfront projects require a formal appraisal review under USPAP standard 3, as the standard does not extend to Conservation & Recreation, Farmland, or Water Access projects.

During the review, a number of inconsistencies were noted regarding three Conservation & Recreation projects: Howard Hill, Brave Boat Headwaters, and Clapboard Island. The inconsistencies discussed in a letter to the LMF Board from the OPM on June 15, 2016 led to intense political discourse concerning the ethics of the program.^{xviii} The following summary highlights the primary concerns raised during the appraisal review regarding each projects original appraisal:

Howard Hill (Augusta – Conservation & Recreation)

1. The appraiser did not analyze how the option agreement held by the Kennebec Land Trust before the appraisal would affect market value, making its appraised value 18 percent higher than option price.
2. Statements describing the potential market for the parcel were unsupported.
3. The Highest and Best Use (HBU) portion of the appraisal was speculative and unsupported.
4. The original appraisal references a 53-lot subdivision as part of value creation but does not reference its current application or site development rules, both impacting development potential.
5. The Sales Comparison Approach portion of the appraisal found that three of five sales comparisons had opposing zoning or highest and best use than the property in question but still received 60 percent of the weighting in setting value. The Sales Comparison Approach is a method used to compare properties with similar features that have been recently sold.

Brave Boat Headwaters (Kittery – Conservation & Recreation)

1. Recent transfer of the property occurred before the appraisal value date, and the transfer amount was noted as \$600,000, but final appraisal market value was determined to be \$1,350,000. The appraiser argued the recent transfer price did not represent current market value but provided no support for this claim.

2. Improper HBU analysis of a 27-lot subdivision that did not include a test of feasibility.
3. Errors in the calculations using the adjustment grids and for discounted cash flow were significant enough to affect valuation of the property.
4. Failing to meet a number of basic LMF standards and guidelines.

Clapboard Island (Falmouth – Conservation & Recreation)

1. The project budget assumed a value of \$300,000 and built its grant request based on this figure. The budget submitted showed the applicant had an actual purchase price of \$300,000 and was owner of record at time of appraisal.
2. The appraisal concluded the parcel's value was \$125,000. The project application noted \$165,000 had been privately secured for land purchase and an additional \$60,000 for a stewardship endowment contribution. This total exceeds the purchasing price of the parcel, making LMF grant unnecessary given funds already secured for the project
3. Recent related land transactions in Falmouth require the LMF Board to decipher the "need" for state dollars in this transaction.

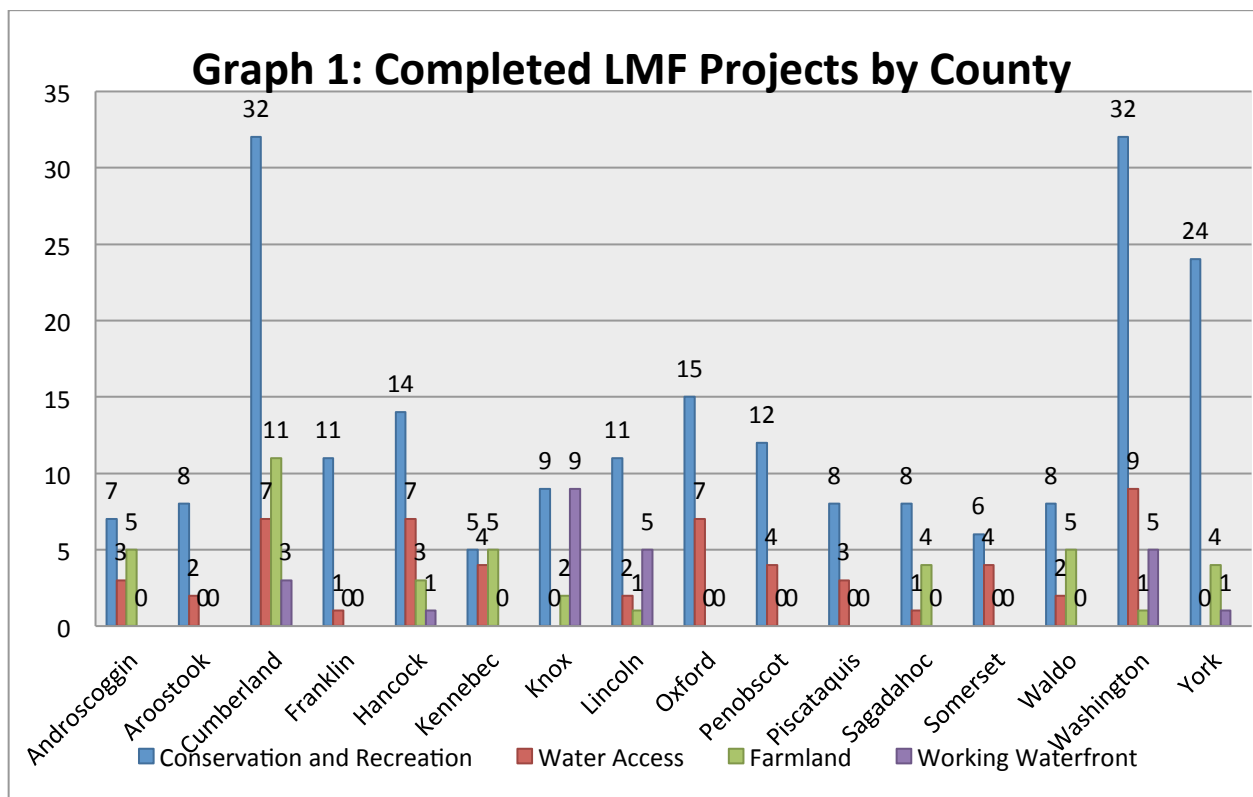
The issues with appraisal reviews highlighted by the OPM regarding Conservation & Recreation projects suggest a layperson review of all project types, excluding Working Waterfront projects, is insufficient, and that an appraisal review under USPAP standard 3 should extend to all project types.

Current Realities of the LMF Program

Projects Approved and Land Acquired

In the most recent biennium, LMF completed 12 new projects; 8 Conservation & Recreation, 1 Farmland Preservation, 2 Public Access to Water Ways and 1 Working Waterfront Access project for a total of 12,835 acres in additional conservation lands. LMF funding accounted for \$4,902,950 in the acquisition of these lands and the program received \$11,087,914 in total matching funds. As of December 31, 2016, the LMF program had \$4,977,806 in available funds and \$4,250,000 in bonds to be sold.

Graph 1 highlights the total number of LMF projects completed in Maine since the start of the program.



Source: 2017 LMF Biennial Report

To date, LMF has completed 210 Conservation & Recreation, 56 Water Access, 41 Farmland, and 24 Working Waterfront projects. Cumberland County has the most total approved projects with 53, followed by Washington County with 48 and York County with 29. Table 1 shows the total acreage of land in Maine acquired by the LMF program since 1987.

Table 1: LMF Land by County (in acres)

	Conservation and Recreation	Water Access	Farmland	Working Waterfront
Androscoggin	2,927	32	679	0
Aroostook	6,668	12	0	0
Cumberland	7,886	334	3,550	3
Franklin	40,323	1	0	0
Hancock	47,175	36	409	1
Kennebec	7,529	40	1,184	0
Knox	669	0	242	6
Lincoln	1,304	7	92	27
Oxford	11,260	236	0	0
Penobscot	17,072	8	0	0
Piscataquis	271,290	57	0	0
Sagadahoc	2,728	4	560	0
Somerset	73,744	168	0	0
Waldo	2,277	2	818	0
Washington	8,4247	58	1,523	4
York	14,318	0	699	1

Source: 2017 LMF Biennial Report

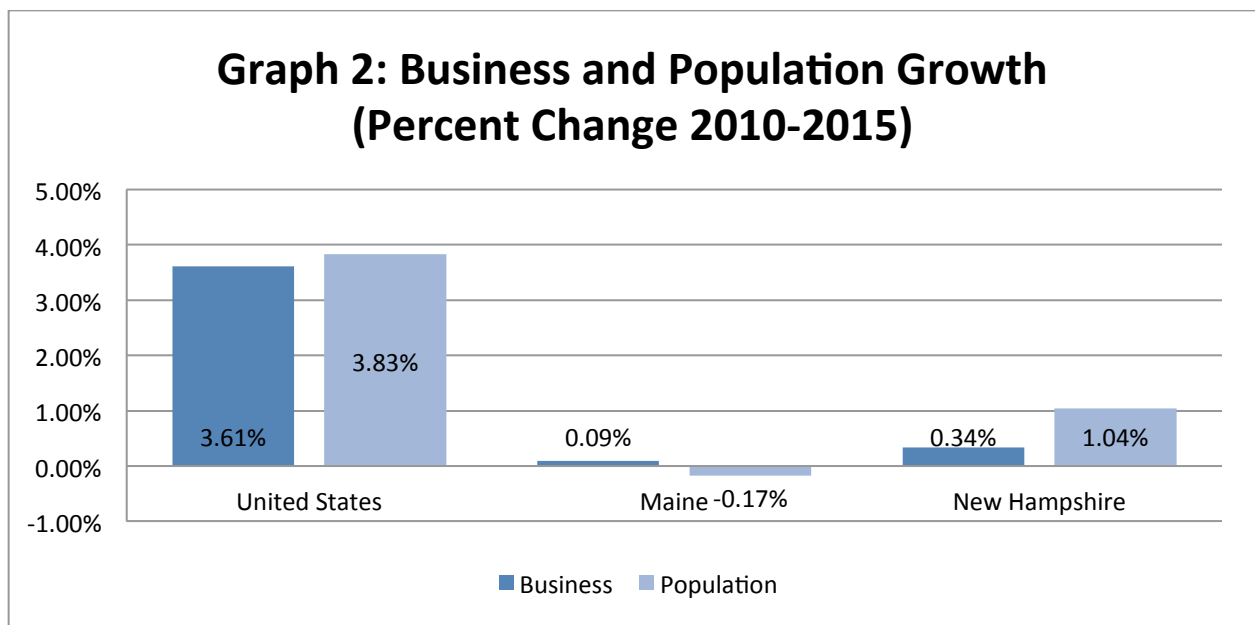
As exemplified by Table 1, the total number of projects completed in a given county is not proportional with the total amount of acreage conserved. For example, Piscataquis County, which has only 11 completed LMF projects residing within its borders, has conserved more land through the LMF program than any other county, totaling 271,347 acres. Cumberland County, holding 53 completed projects, has conserved just 11,774 acres of land through the LMF program. The amount of land conserved per county is primarily dependent on the scope and landscape of the project in question rather than the total number of projects completed. Operating in its 30th year, LMF has conserved a total of 601,929 acres of land in Maine.

Relative Risk of Development

Considering the LMF program aims to conserve lands at risk of development, it is necessary to explore what drives economic development and places a region at-risk of development. Maine, which fosters a relatively unfriendly business climate,^{xix} is an unpopular destination for out-of-state capital. The main factors that drive long term economic growth and development (the accumulation of capital and increased labor input and consumer demand),^{xx} are mostly absent in Maine’s economy in comparison to other states and the rest of the globalized world. LMF conservation projects should enhance the development of surrounding infrastructure in the municipality it resides in, but this remains to be seen in rural Maine. This woe stems from business regulations and demographic shortfalls unique to our state, preventing Maine from being considered “at risk” of sustained economic development.

A number of factors contribute to Maine’s relatively low risk of development, including but not limited to, the state’s business tax climate and trends in business and population growth, which affect labor output and consumer demand.

Graph 2 below compares Maine’s business and population growth trends with its closest neighbor, New Hampshire, as well as the United States as a whole, to give an accurate reading of the state’s recent relative threat of development.



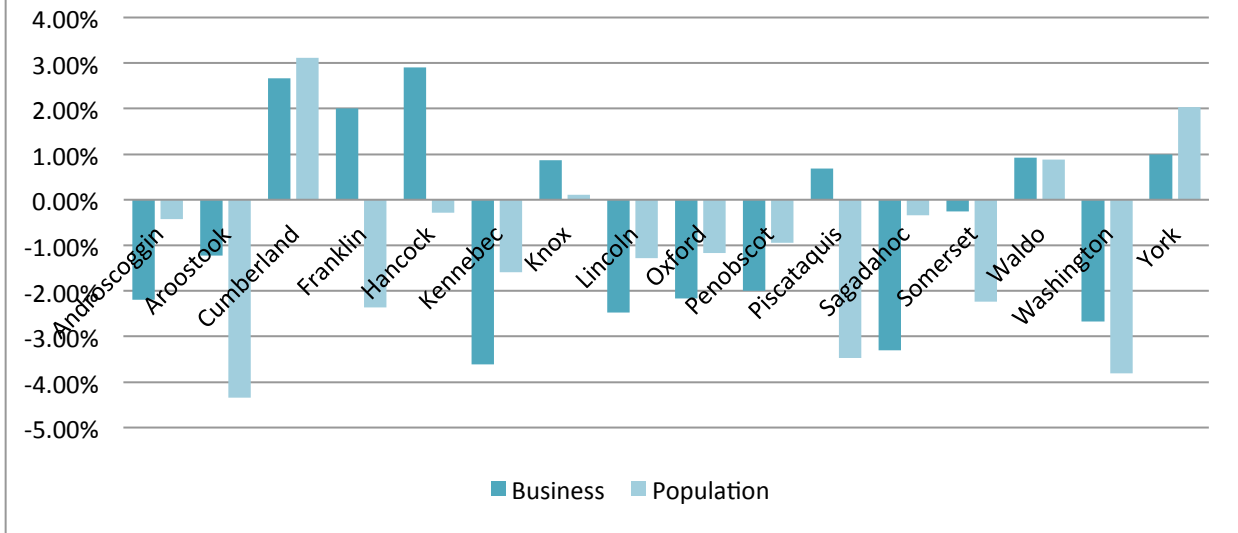
Source: U.S. Census Bureau

Maine’s relative threat of development pales in comparison to both New Hampshire and the United States. Maine’s economy continues to struggle in competing with the rest of the nation, and the most recent data available concerning the number of businesses in Maine suggests the state has not yet fully rebounded from the 2008 recession.

As noted by many scholars and government officials, Maine is also troubled demographically. Between 2010-2015, Maine’s population totals dropped, and future forecasts suggest this trend will continue, due in large part to Maine having the highest median age of any state. Maine is also the least diverse state in the union, which hinders economic growth in sectors of the economy where Maine citizens are not traditionally employed.

Because Maine is at low risk of economic development, it is crucial to explore county data regarding business and population growth in comparison to the total number of LMF projects approved. Ideally, the number of projects completed in a given county would reflect its threat of development. This is not the case, however, as data shows little consideration is given to a parcel’s threat of development before the project is approved and closed by the LMF Board.

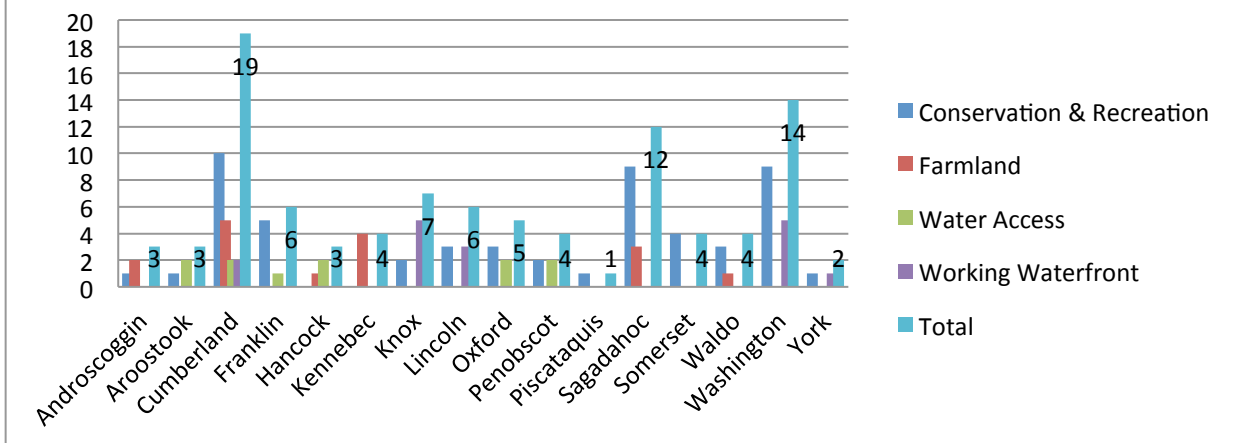
**Graph 3: Business and Population Growth
(Percent Change 2010-2015)**



Source: U.S. Census Bureau

Based on each county’s business and population growth, the following counties, in order of greatest threat of development to least, should have the most approved projects during the measured time span; Cumberland, York, Waldo, and Knox. Additionally, Washington, Kennebec, and Sagadahoc counties should be among those with the least number of projects approved. The total number of approved LMF projects between 2010-2015 can be seen in Graph 4.

**Graph 4: Completed LMF Projects by County
(2010-2015)**



Source: Land for Maine’s Future

As seen above, there are many inconsistencies between the stated goals of the LMF program, the criteria it uses to score projects for approval (particularly Working Waterfront projects, which outline the consideration of developmental threats in greater detail than other project types), and the number of completed projects in each county. While Cumberland County faced the greatest threat of development and has the most approved projects between the years of 2010 and 2015, this uniformity is far from universal. Washington County, which saw the greatest decline in business and population, had the second highest total of projects approved and the highest number of Working Waterfront projects approved. Additionally, York County, having the second highest rates of business and population growth during the measured time span, saw a total of two projects approved.

These findings show that the LMF program's funding and approval trends do not reflect development threats faced throughout Maine, and that the program does not give adequate consideration to land development risks before approving projects and dispersing public funds. It is also unlikely that, in counties where business and population rates have declined, this land is at any genuine threat of development, illustrating a number of funding actions undertaken by the LMF Board that are antithetical to scoring criteria and conservation goals described by the program and outlined in Maine statute.

Policy Suggestions and Recommendations

Taking into account all such literature and statistical findings surrounding the LMF program, a number of policy conclusions can be drawn that would enhance municipal tax revenues, reaffirm public trust in the program, and expand outreach to the public, all for the purpose of ensuring Maine taxpayers will receive as much as possible from their collective public investment in land conservation.

Improving Municipal Tax Revenues

Given that fee acquisition of lands can reduce municipal tax revenues, it is imperative for the LMF program to 1) understand the implications of removing land from municipal tax rolls and 2) modify its internal procedures to place priority on the use of easements to acquire land. This requires limiting the number of fee acquisitions and increasing the number of conservation easements, which better establishes a community based coalition of support for the project. Easements cover more acreage of conservation lands in Maine and bring together private land owners, NGO's, and state entities, best living up to the goals of the LMF program. While LMF's most recent biennial reports show the acquisition ratio is now closer to 1:1, LMF should seek to enhance the proportion of easements used to acquire land, ensuring municipalities do not lose out on valuable revenues. LMF could begin by altering its scoring criteria to better reflect this priority.

The current reality in Maine is that land conservation is no longer a governmental pet project. It is important that as the programs expand and more public money is invested in land conservation, LMF's conservation strategies reflect actual needs rather than industry desires. It is also necessary that the lands being conserved are at a genuine risk of development. When land at low risk of development is acquired through fee acquisition, municipalities lose a source of revenue, choking public finance. The program's current charted course suggests that land conservation in Maine is never ending because new bonds will always be approved by Maine voters. This pathway could create a propensity for the misuse of public funds and insufficient oversight of the program.

Expanding Formal Appraisal Process

The best method LMF can employ to reaffirm public trust in the program is to extend its formal appraisal review under USPAP standard 3 to include all LMF project types, not just Working Waterfront projects. While Working Waterfront projects are usually more complex, thus requiring a more sophisticated appraisal review, the findings of this report show that a layperson review is an insufficient method of appraisal oversight. The OPM's due diligence in the 2015 GEA report suggests that errors during the appraisal process can result in inflated projections and could be avoided with additional comprehensive oversight. Had the OPM not sought review of these appraisals, it is uncertain whether the public would be knowledgeable of the challenges the program currently faces regarding its appraisal review standards, which directly influence the

amount of public dollars appropriated to acquire land. Public concerns regarding the use of LMF funds can be eluded by guaranteeing the legitimacy of every project appraisal, accomplished by extending formal appraisal review to Recreation & Conservation, Farmland, and Working Access projects.

While this may prove more costly and time consuming to incorporate in the program's regular procedures, it is the LMF Board's duty to ensure that appraisals reflect real value, and that all public dollars are spent properly. This can only be achieved when an appraisal matches a parcel's real property valuation.

Enhancing Program Outreach

For Maine's citizens to truly get the most out of their public investment in land conservation, they must know what lands are accessible to them and how to access them. Without this information, citizens cannot fully utilize LMF lands or experience benefits of the program. By establishing (or reinstating) an online database equipped with project directories, maps, and information pertaining to every public LMF project, Maine taxpayers can begin to realize the benefits of their investment.

As outlined in the 2015 OPM study, LMF must forge partnerships with existing entities and resources, like Maine Trail Finder, to improve public awareness, use, and support of public lands acquired with LMF funds. Platforms like Maine Trail Finder and the Bangor Daily News offer trail data and other information regarding public lands that are user-friendly and engaging. Recent developments in program outreach could be more successful if LMF centralized all data regarding publicly accessible lands in a database that included general layouts of the landscape and suggested use of the land by the public.

With such vast quantities of public dollars being spent on the acquisition of public lands, it would be antithetical to the program's ambitions for them to go unused. By utilizing resources already available to LMF and to the public, the program can expand its outreach and engage with Maine citizens in more meaningful ways.

Conclusion

At the outset of past inquiries into the LMF program, researchers have failed to consider the economic potential LMF lands have outside of conservation purposes, never identifying organic economic possibilities in the framework of their analyses. While this potential is largely immeasurable given that Maine is at low immediate risk of development, these studies should qualify their findings to more adequately reflect the absence to which they are comparing. Many of the policy recommendations outlined in past reports call for measures to strengthen the program and expand use of public funds, but overlook the sanctity of public funds and the program's efficacy in carrying out its stated policies and procedures. LMF's long-term goals, and its use of public funds, should reflect the interests of the Maine citizens subsidizing their various land acquisitions rather than the interests of groups that advocate expansion of the program, enhanced use of public funds, and other efforts that bolster the scale conservation in Maine.

For the LMF program to be most effective, Maine citizens must remain engaged in the process. With growing numbers of conservation entities sprouting up throughout government and the private sector, it is crucial that the interest of the public remains the highest priority in all aspects of the LMF Board's decision making.

With consideration to these recommendations, the LMF program can pursue goals that better reflect its founding principle of conserving and expanding the use of public lands.

-
- i <http://www.maine.gov/dacf/lmf/>
- ii <http://legislature.maine.gov/statutes/5/title5ch353sec0.html>
- iii <http://www.maine.gov/dacf/lmf/publications.shtml>
- iv <http://www.maine.gov/dacf/lmf/docs/2017workbook/Section1.pdf>
- v <http://www.maine.gov/dacf/lmf/board.shtml>
- vi <http://www.maine.gov/dacf/lmf/docs/2013workbook/Section3.pdf>
- vii Working Waterfront Covenant Summary, Working Waterfront Access Protections Program, LMF Workbook
- viii <http://www.maine.gov/dacf/lmf/docs/2013workbook/Section4.pdf>
- ix http://www.appraisalfoundation.org/imis/TAF/Standards/Appraisal_Standards/Uniform_Standards_of_Professional_Appraisal_Practice/TAF/USPAP.aspx?hkey=a6420a67-dbfa-41b3-9878-fac35923d2af
- x <http://www.maine.gov/dacf/lmf/docs/2013workbook/AppendixN.pdf>
- xi <http://www.maine.gov/dacf/lmf/docs/2013workbook/AppendixI.pdf>
- xii <http://www.maine.gov/dacf/lmf/publications.shtml>
- xiii http://www.maine.gov/dacf/lmf/docs/2010-11_SupportingRuralEconomiesThroughLandConservation.pdf
- xiv http://www.maine.gov/dacf/lmf/docs/EvaluatingEconomicBenefitsOfConservation_20110608.pdf
- xv http://www.maine.gov/dacf/lmf/docs/LAPAC_1997.pdf
- xvi http://www.maine.gov/dacf/lmf/docs/finalreport_forweb.pdf
- xvii <http://www.maine.gov/dacf/lmf/docs/2015GEAREport.pdf>
- xviii <http://www.pressherald.com/2016/06/21/lepage-administration-raises-concerns-about-three-lmf-projects/>
- xix <https://taxfoundation.org/publications/state-business-tax-climate-index/>
- xx http://www.brown.edu/Departments/Economics/Faculty/Peter_Howitt/publication/Economic%20Growth%20Palgrave.pdf