

IMPLEMENTATION



CASCO BAY PLAN

*It is only
through the
collective effort
of groups,
agencies,
businesses,
and citizens
that the actions
outlined in
this Plan can
be achieved.*

IMPLEMENTATION

Implementing and Financing the Casco Bay Plan

Introduction

Every single person or group has the ability — or responsibility — to prevent the pollution of Casco Bay. But it is only through the collective effort of groups, agencies, businesses, and citizens that the actions outlined in the *Plan* can be achieved.

Fortunately, there are many individuals and organizations already addressing specific bay issues. Groups that have worked cooperatively to develop the *Casco Bay Plan* will continue collaborating on its implementation. The *Plan* represents a unique opportunity to build on existing activities and take further steps to sustain the health of Casco Bay.

This chapter describes the process used to consider management options for the bay and outlines a proposed structure for public review.

Options for Managing Casco Bay

Throughout the process of documenting environmental issues, developing plans, providing grants, and conducting research, the Casco Bay Estuary Project has sought to address the critical question: Who will be responsible for the long-term management and stewardship of the Casco Bay ecosystem and how will this be accomplished? Three written reports were prepared for the project over the past four years to provide background and guidance concerning how the *Casco Bay Plan* might be implemented.

One report, *Review of Water Quality Planning Programs Relative to Casco Bay*, assessed seven programs similar to the Casco Bay Estuary Project that have operated in Maine over roughly the past 20 years. The report, by Metcalf and Eddy, Inc., assessed how well each program was able to implement its goals. While every program provided different lessons for Casco Bay, some common recommendations for successful implementation did emerge, including the need to find local solutions (without large federal subsidies) and the need for implementation committee members with sufficient authority to enact the recommended measures.

The ability to resolve watershed issues in Maine is hampered by the absence of any regional authority. In the Casco Bay watershed, for example, there are 41 separate municipalities with “home-rule” authority on issues that impact the region’s environment.

To explore the questions of regional versus local control, a report entitled *The Regulation and Management of Casco Bay* was prepared for the Casco Bay Estuary Project by the Marine Law Institute at the University of Maine School of Law (1992). This report reviewed the existing regulatory framework governing the project’s five priority issues and considered four regional management agencies that could serve as models for managing Casco Bay: (1) the Cape Cod Commission, (2) the San Francisco Bay Conservation and Development Commission, (3) the Puget Sound Water Quality Authority, and (4) the Cobbossee Watershed District (in Maine).

Several critical factors surfaced in a review of the four regional agencies:

- Each regional management agency was created for a specific purpose (*i.e.*, existing institutions are not capable of managing critical issues).
- A regional agency should only be established if it will not duplicate functions performed elsewhere.
- A regional agency is more likely to generate local support if it works with existing programs at the local level.
- Linkages and networking with existing programs give a regional agency the benefit of ongoing programs.
- The need for a regional management approach depends on its function.
- To be successful, any regional agency needs professional staff.
- Regional management requires significant grassroots support.

The Management Committee of the Casco Bay Estuary Project discussed the concept of creating a watershed district to provide a “single-purpose” agency that could focus on improving water quality in Casco Bay. Formation of a watershed district, which is guided by state law in Maine, requires significant local support (demonstrated through municipalities and residents or by local referendum). An application to form a district must be approved by the State Board of Environmental Protection after a public hearing, and then be ratified by a vote of municipalities that form the district.

To assess possible management models, the Casco Bay Estuary Project hired Charles S. Colgan, Ph.D. (at the University of Southern Maine's Muskie Institute) to prepare a report entitled *Options for a Management System for the Casco Bay Estuary: A Discussion Paper*. This report, which reviewed a wide range of centralized and decentralized management options for Casco Bay, outlined the following criteria for selecting an appropriate management system:

- effectiveness of the management system
- cost of implementation
- use of existing resources
- plans for effective communication
- political acceptability
- geographic scope of responsibilities

Regardless of which management system is selected, the system must perform certain ongoing functions to be effective, such as:

- policy planning
- decision-making
- implementation
- monitoring
- information flow

In November 1993, the Casco Bay Estuary Project held two public forums, entitled *Managing Casco Bay for the Future: Who Should Protect Casco Bay?*, to discuss possible management strategies and gather responses from local government officials, business owners, industry leaders, fishers, farmers, environmental conservation groups, and concerned citizens. While consensus regarding a management approach was not reached, the forums did foster discussion of the timing, feasibility, funding, and political acceptability of regional management and local control options.

A recurrent theme in public forums and reports has been the need to use existing resources and not duplicate functions performed elsewhere. The Casco Bay Estuary Project's Management Committee took this concern seriously in developing its strategy to implement the *Casco Bay Plan*. Recognizing that all organizational and governmental budgets are currently stretched, the Management Committee worked to extend the concept of ecosystem planning by building on existing resources and efforts.

There is not widespread support for a new form of regional authority in the Casco Bay watershed, but there is general agreement that Casco Bay should be managed on a regional scale through the coordinated efforts of existing groups. Local control will be developed through a "compact" signed by agencies, non-profit organizations, other groups, and individuals who come together to collectively protect Casco Bay. The Management Committee has developed a plan that recognizes Maine's strong "home-rule" tradition and emphasizes environmental protection at the local level.

Management Structure for *Plan* Implementation

The *Casco Bay Plan* sets forth actions that need to be taken in five spheres: monitoring, public education, technical assistance, regulation, and planning. Each action addresses one or more of the five priority issues described in the *Plan*: stewardship, clam flats and swimming areas, stormwater management, habitat protection, and toxic pollution.

In implementation, the organization will change from a “top-down” to a “locally driven” organization with agencies, non-profit organizations, other groups, and individuals coming together and signing a “compact” demonstrating their commitment to protecting Casco Bay. The project will be governed by a committee that will focus on policy issues and results and will conduct an annual evaluation of the project’s effectiveness, as well as the effectiveness of the Board. Every two years the Board will determine if the project should continue, change, or dissolve. An independent director/coordinator housed in a “host” organization will report to the Board. That person will be responsible for coordinating with other groups and task forces, fund raising, leveraging projects, and *Plan* implementation. The organization will be housed in a “host” organization in order to share facilities and support services.

Board Structure

Numerous agencies, organizations, and individuals bring extraordinary collective knowledge and expertise needed to protect Casco Bay and to implement the *Casco Bay Plan*. By coming together, these individuals and representatives of larger groups are able to work collectively toward common goals. The current Management Committee of the Casco Bay Estuary Project will be dissolved and a new Board will come together, consisting of members who bring passion toward environmental protection, energy to follow through, and authority to bring the weight of their organization to bear in implementing the *Plan*. The new Board will bring the ability to focus on policy issues. For those members representing state agencies, the members will be requested by the Board and appointed by the Governor of Maine. The Board will consist of the following:

1. *Maine Department of Environmental Protection, Commissioner*

The Maine Department of Environmental Protection has established an agenda that includes pollution prevention, watershed management, technical assistance, nonpoint-source stormwater management, and environmental monitoring. These issues are critical to the long-term success of the *Casco Bay Plan*.

*Casco Bay
should be
managed on a
regional scale
through the
coordinated
efforts of existing
entities.*

2. *Maine State Planning Office, Director*

The Maine State Planning Office serves as the lead agency in coastal planning and supports Maine's role in Gulf of Maine management. Coordination with Gulf issues will be important since the Casco Bay watershed must be managed in the context of the larger Gulf watershed. Also, the comprehensive planning program has been transferred from the Maine Department of Economic and Community Development to the Maine State Planning Office.

3. *Maine Department of Marine Resources, Commissioner*

The Maine Department of Marine Resources is the lead agency responsible for shellfish harvesting. Its role in implementation is vital for determining whether Casco Bay's clam flats can be harvested and for increasing awareness of Maine's marine resources through public education. The Department of Marine Resources also acts as a consultant to regulatory agencies (state and federal) and to developers on projects that impact marine habitat, marine fisheries, and navigation.

4. *Portland Water District, General Manager*

Through education and technical assistance to municipalities in the upper watershed, the Portland Water District protects not only the drinking water and public health of area residents, but also contributes to the overall protection of water quality in Casco Bay. Technical assistance and educational efforts in the lower watershed could be a logical extension of their work.

5. *Friends of Casco Bay, BayKeeper*

Friends of Casco Bay is a grassroots organization that works to improve and protect the bay's environmental health by taking a cooperative approach to solving pollution problems and by creating a strong association with bay businesses, marine entities, and regulatory agencies. With Casco Bay Estuary Project funding, Friends of Casco Bay has implemented a water quality monitoring program. It has developed projects involving marine debris collection, oil recycling, mobile pumpout programs, and clam-flat restoration. Friends of Casco Bay could assist with the recommended *Plan's* monitoring and public education activities.

6. *U.S. Environmental Protection Agency, Maine State Office, Manager*

The U.S. Environmental Protection Agency administers the National Estuary Program under Section 320 of the Clean Water Act (which authorizes the agency to work in partnership with a state to develop a management plan and monitor its implementation). Seventy-five percent of estuary project funding comes from the U.S. Environmental Protection Agency. The agency also has oversight of many environmental protection programs that affect Casco Bay, including point-source

permits, wetlands permits, construction of treatment plants, ground-water protection, dredging, and nonpoint-source protection. In addition, the agency has extensive technical expertise that it can lend to Casco Bay protection efforts.

7. *U.S. Fish and Wildlife Service, Director, Gulf of Maine Project Office*

The U.S. Fish and Wildlife Service works to protect wildlife and important habitats. The Gulf of Maine Office has completed a habitat study for the Casco Bay Estuary Project and plays a crucial role in monitoring, planning, public education, and regulatory activities.

8. *Maine Department of Inland Fisheries and Wildlife, Commissioner*

The Maine Department of Inland Fisheries and Wildlife works to protect wildlife and important habitats. Its knowledge and understanding of habitat issues would be crucial in monitoring, planning, public education, and regulatory actions.

9. *University of Southern Maine, President*

The University of Southern Maine, the region's major state-run educational institution, has both undergraduate and graduate programs related to coastal policy and planning issues. The University owns Wolfe's Neck Farm in Freeport, a property donated to the University for use in environmental education.

10. *Environmental Education (K-12) Representative*

To foster further environmental education in the Casco Bay watershed, a committee member would be appointed who represents the environmental education community.

11/12. *Business Representatives (two)*

The Governor would appoint two business representatives, since most regional businesses depend — directly or indirectly — on Casco Bay for their livelihood and the bay depends on their responsible operating practices.

13/14. *Citizen Representatives (two)*

Two citizen representatives will represent public involvement in stewardship and protection of the bay.

15/16/17/18/19. *Municipal Representatives (five)*

Because many of the *Plan's* initiatives must be implemented through local ordinances and actions, municipal involvement is critical. A Greater Portland Council of Governments representative may act as one of the municipal representatives.

20. *Casco Bay Island Development Association*

Island residents in Casco Bay have a unique perspective on problems and issues affecting the bay. The Committee's island representative would be appointed by the Casco Bay Island Development Association, a non-profit group that represents the bay's populated islands.

21. *Cumberland County Soil and Water District, District Office Manager*

The Cumberland County Soil and Water District, a non-regulatory agency, provides technical assistance, education, and outreach to landowners, municipalities, and private groups on watershed management, erosion and sedimentation control, and stormwater management. The District has managed the Casco Bay Technical Assistance Program, a pilot program to deliver technical assistance to municipalities on stormwater management, clam-flat restoration, swimming-beach monitoring, and training for septic system installers and pumpers.

Funding the *Casco Bay Plan*

Implementation of the *Casco Bay Plan* will take place in a challenging political and financial environment. Federal funding sources are declining and state budget constraints are apt to preclude any funding allocations or broad-based taxes or fees that could support implementation during the first five years. In the absence of traditional state and federal support, municipalities will be acutely challenged to fund critical services.

Despite the apparent dire funding environment, both the U.S. Environmental Protection Agency and the Maine Department of Environmental Protection have identified watershed management and the evolution of watershed management institutional capability as central to their resource management and protection strategies in the future. The importance of watershed management is substantiated by the U.S. Environmental Protection Agency's ongoing commitment to provide \$200,000 in post-planning implementation funds for a four-year period beginning in 1996 (contingent upon Congressional appropriation) and by the Maine Department of Environmental Protection's support of flat funding at \$90,000 in general funds (contingent upon legislative approval).

Recognizing the financial limitations and political sentiments, the implementation of the *Casco Bay Plan* must focus available funds wisely, develop a fundraising organization to seek funds to support the *Plan's* actions, and lay the groundwork for a mix of new funding opportunities that will be needed to replace U.S. Environmental Protection Agency and Maine Department of Environmental Protection funds in the future.

Funding Approach

To fund implementation of the *Plan*, a detailed five-year budget is proposed. Beyond that period, alternative funding ideas are proposed to provoke discussion and potentially fund future pollution prevention and habitat protection projects. *The budget for implementation continues the philosophy of the entire program: There is a role for all to play in the protection of Casco Bay. Strong federal, state, and local support will continue to work together.*

In the absence of new funding sources, the Casco Bay Estuary Project will use \$290,000 in anticipated funds to build on past achievements, funding a core program that will:

- Support the staff necessary to advance implementation efforts
- Manage data, especially in support of the Monitoring Plan
- Begin to fund actions outlined in the *Plan*
- Monitor the environmental trends and health of the bay

Beyond this core program, the Casco Bay Estuary Project will attempt to secure between \$185,000 and \$480,000 per year in additional funds from diverse sources to support actions outlined in Chapter 7:

- public education
- technical assistance for local communities
- regulatory changes
- planning and assessment actions

Based on actions outlined in Chapter 7, the total proposed implementation budget for fiscal years 1997-2001 (including only direct costs to the Casco Bay Estuary Project, not those costs incurred by other state/federal agencies and nonprofit organizations) is outlined in Table 9-1. *While the proposed budget is*

intended to be as specific as possible at this time, it should be viewed as one subject to change.

The implementation budget is divided into three components:

1. Core Operations include:
 - Casco Bay Implementation Committee
 - Staff and data management support
2. Programming includes:
 - Public Education Actions
 - Technical Assistance Actions
 - Regulatory/Enforcement Actions
 - Planning and Assessment Actions
3. Monitoring includes:
 - Environmental monitoring

Table 9-1

**Proposed Implementation Budget
1997 through 2001**

PROGRAM BUDGET:	FY97	FY98	FY99	FY00	FY01
Core Operation:					
Director/Admin.	\$100,000	\$105,000	\$110,250	\$115,700	\$121,500
Data Management	25,000	26,250	27,562	28,940	30,387
Subtotal					
Core Operation	\$125,000	\$131,250	\$137,812	\$144,640	\$151,887
Programming:					
Public Education	\$ 70,000	\$ 73,000	\$ 63,000	\$98,000	\$ 63,000
Technical Assistance	110,000	40,000	40,000	50,000	50,000
Regulatory/Enforcement	0	0	0	0	0
Planning and Assessment	15,000	145,000	85,000	45,000	25,000
Subtotal Programming	\$195,000	\$258,000	\$188,000	\$193,000	\$138,000
Monitoring:					
Environmental (Tier 1)	\$155,000	\$165,000	\$155,000	\$165,000	\$255,000
Municipal	0	0	5,000	0	5,000
Public	0	0	0	0	20,000
Subtotal Monitoring	\$155,000	\$165,000	\$160,000	\$165,000	\$280,000
TOTAL EXPENSES	\$475,000	\$554,250	\$485,812	\$502,640	\$569,887

Source: Finance Plan

Municipal monitoring

Public attitudes and actions monitoring

Funding Sources

Funding sources for each of the recommended actions have been proposed. As noted, they include an annual allocation of \$200,000 from the U.S. Environmental Protection Agency and a \$90,000 annual allocation from the Maine Department of Environmental Protection to promote watershed management.

The Maine Surface Water Fund is the proposed primary source of support for monitoring the health of Casco Bay. However, there are many competing uses for funds and approval is yet to be secured. Other state and federal grant funds may be available to support the *Plan's* actions. Coastal Zone Management funds (administered by the Maine State Planning Office) and Clean Water Act Section 319 funds (administered by the Maine Department of Environmental Protection) are two programs targeted to assist implementation.

Table 9-2

**Proposed Funding Sources for
Plan Implementation 1997-2001**

FUNDING SOURCES	FY97	FY98	FY99	FY00	FY01
Post-CCMP Funding (US EPA & ME DEP)	\$290,000	\$290,000	\$290,000	\$290,000	\$ 90,000
CWA 604(b) (Planning)	0	0	0	0	0
CWA 319 (Implementation)	0	0	0	0	0
ME CZM	25,000	55,000	15,000	35,000	78,000
ME Surface Water Fund	50,000	50,000	35,000	30,000	65,000
US Fish & Wildlife Service	10,000	10,000	30,000	55,000	10,000
US EPA	0	100,000	0	0	0
Gulf of Maine Council	80,000	10,000	10,000	10,000	10,000
Sea Grant	0	0	0	0	0
Portland Water District	0	0	0	0	25,000
Foundation Grants	20,000	25,000	23,000	33,000	40,000
New Sources	0	14,250	62,812	29,640	231,887
NPDES Permit Fees	0	0	20,000	20,000	20,000
TOTAL INCOME	\$475,000	\$554,250	\$485,812	\$502,640	\$569,887

Source: Finance Plan

Table 9-2 outlines all funding sources proposed at this time. If the listed sources are unavailable, the Casco Bay Estuary Project will search for new funding sources.

Future Funding Mechanisms

Some stable funding sources for the first four years of implementation will allow the Casco Bay Estuary Project to generate vital trend information about the bay's ecology and undertake numerous actions to prevent pollution and protect important habitats.

To continue this work beyond the four-year time frame, new sources of funding will be needed. The current financial restructuring efforts underway at federal and state levels make it difficult to anticipate which funding mechanisms may be available in the future to protect and restore Casco Bay. Table 9-3 outlines a sampling of such possible future mechanisms in terms of likelihood, potential, and stability.

Each potential future funding mechanism is discussed briefly in the fol-

Table 9-3

Assessment of Potential Future Funding Mechanisms

SOURCE	PAID BY*	ADMIN.**	AUTHORITY***	POTENTIAL****	STABILITY
Fees for Service	Beneficiary	Exists	Possible	Moderate	Cyclical
Water/Sewer Fees	Beneficiary	Change	Possible	Moderate	Stable
Abutter Donations	Beneficiary	Exists	Possible	Low	Cyclical
Mooring Fees	Beneficiary	Change	Possible	Low	Stable
Saltwater Fish Lic.	Beneficiary	Change	Possible	Low	Stable
Boat Reg. Fees	Beneficiary	Change	Possible	Low	Stable
NPDES Fees	Polluter	Change	Possible	Moderate	Stable
Utility District	Polluter	Change	Possible	Moderate	Stable
Fines	Polluter	Exists	Possible	Low-High	Erratic
Special Tax District	Beneficiary	Change	Unlikely	Moderate	Stable
Impact Fees	Polluter	Change	Unlikely	Moderate	Cyclical
Marine Fuel Tax	Beneficiary	Change	Unlikely	Moderate	Seasonal
Shellfish Tax	Beneficiary	Change	Unlikely	Low	Seasonal
Local Option Tax	Public	Change	Unlikely	High	Stable

NOTES:

* Indicates whether funding burden falls on polluters and/or beneficiaries of Casco Bay or on the general public.

** Indicates whether the administrative mechanism is already in operation, needs adjustment, or must be created.

*** Indicates whether the chance of securing necessary legal authorization is high, moderate, or low.

**** Indicates whether the potential revenues vs. Casco Bay Estuary Project's financial needs are high, moderate, or low.

Source: *Finance Plan*

lowing paragraphs.

Fees for Service are not currently proposed for use during the initial five years of implementation and beyond.

Water and Sewer Fees are currently a common and stable fee administered by water districts based on water consumption by households. Management of water quality in the receiving waters of sewage treatment plants is not similarly funded and the feasibility of extending jurisdiction for this function to water districts should be explored. Some form of surcharge on sewer rates could provide funds for managing and protecting Casco Bay (enacted through political and legislative effort).

Abutter Donations are a potential funding source for projects that focus on

assessing or restoring a specific geographic area.

Municipal Mooring Fees could be increased as a means to fund local GIS or technical assistance fees.

Saltwater Fishing License Fees offer a future funding source. Although proposed legislation to create a recreational saltwater fishing license failed to pass in 1995, the issue may be revisited.

Boat Registration Fees that apply to direct users of the bay give municipalities an opportunity to finance Casco Bay protection. Legislative approval would be necessary for this measure.

National Pollutant Discharge Elimination System Permit Fees: Currently there is no legal ability to obtain funds from permit holders; however, this idea should be researched.

Utility Districts involve the establishment of a public utility to service uses that impact scarce and publicly controlled, owned, provided, or regulated resources. One possibility for a utility district in Casco Bay involves a septic system district that would assume the proper operation and maintenance of septic systems within a defined area.

Fines generated by pollution offenses have traditionally been unpredictable. However, recent legislation established a mechanism that will allow environmental litigation settlements and fines to support applied scientific research on the sources and corrective strategies for marine pollution. This legal mechanism should be reviewed and amended to benefit Casco Bay.

Betterment Districts are special self-imposed taxing authorities that levy a surcharge on property taxes in a defined area where specific services are delivered.

Impact Fees are imposed on new real estate development activities to offset the financial impact on municipalities. Impact fees could assist municipalities with the cost of managing nonpoint-source pollution.

Marine Fuel Tax, imposed by the state or region on fuel pumped at marinas, could be used to fund protection/management efforts in Casco Bay. This tax targets beneficiaries who are occasional polluters.

Shellfish Tax on clams could be a logical source of support for clam-flat restoration efforts.

Local Option Taxes would require that the Legislature give local municipalities the option to levy a sales-tax surcharge. While the Legislature has historically opposed such an option, the changing political landscape may influence the way it is viewed in the future. Such funds can be focused by municipalities on protection efforts.

Funding for implementation of the *Casco Bay Plan* is based on a five-year cycle. A detailed budget is proposed for the first five years of implementation, with plans for longer term funding offered. A complete copy of the Finance Plan, which outlines funding for all proposed actions, is available through the Casco Bay Estuary Project.

NOTES

