Memorandum

Date: December 23, 2014

From: Gregory Dain, Senior Assistant Regional Counsel

To: Maine water quality standards administrative record file

The purpose of this memorandum is to identify requirements of Maine state law relating to the Maine Department of Inland Fisheries and Wildlife (IF & W) Commissioner's authority to establish by regulation limitations on the amount of fish that may be taken from state waters by the activity of fishing.

Maine statutory provisions

Maine's IF & W was established, pursuant to Title 12 M.R.S.A. Chapter 903 section 10051, to preserve, protect and enhance the inland fisheries and wildlife resources of the State, to encourage the wise use of those resources, to ensure coordinated planning for the future use and preservation of the resources, and to provide for effective management of the resources.

Pursuant to Title 12 M.R.S.A. Chapter 903 section 10104, the Commissioner of IF & W is authorized to promulgate "reasonable regulations . . . necessary for the proper administration, implementation, enforcement and interpretation of any provision of the law that the commissioner is charged with the duty of administering. The provisions of the law that he is charged with the duty of administering are Title 12 M.R.S.A. Chapters 901 to 939."

Title 12 M.R.S.A. Chapter 903 section 10053 establishes a Bureau of Resource Management (BRM) within IF & W. The BRM's responsibilities include, among other things: 1) the management of the inland fisheries resources in the public waters of the State for their preservation, protection, enhancement and use; 2) the propagation of fish for the effective management of inland fisheries resources in public waters of the State; and 3) the development of rules governing the effective management of the inland fisheries and wildlife resources of the State.

Regulations promulgated by IF & W

When the IF & W proposes amendments to its fishing regulations, the written descriptions or notices (which I found online) of the department's proposed rulemakings have included the following statements (see e.g., "Department of Inland Fisheries and Wildlife's 2004-2005 Regulatory Agenda" and "Department of Inland Fisheries and Wildlife's Agenda of Proposed Regulations October 1, 2011 - September 1, 2012"):

1) "It is the intent of the Department of Inland Fisheries and Wildlife to adopt and amend reasonable regulations as necessary to ensure that all species of inland fish and wildlife are perpetuated to be used now and for the foreseeable future; and also to repeal regulations that are deemed no longer necessary for the protection, enhancement and continued use of these resources."

2) "The purpose of any proposed regulation regarding fish and wildlife is to provide for the fullest level of use of the resource without adversely affecting species distribution and abundance. In order to have an organized and systematic way of accomplishing this goal, Species Management Plans were

developed, and updated at five-year intervals, for all major fish and wildlife species or species groups. All proposed regulation changes will be based on the adopted goals and objectives for a particular species or species group. Species management goals and objectives are developed with input from representatives of the public from various geographic areas of the state, biological staff and members of Warden Service, and are presented to the Commissioner and his Advisory Council for adoption.
Regulations regarding recreational vehicle use are adopted to provide for the use, to the fullest extent possible, of such vehicles (watercraft, airmobiles, snowmobiles and all-terrain vehicles), without adversely affecting the resource and the safety and welfare of persons and property; and administrative regulations are promulgated for the purpose of setting forth reasonable criteria for the proper licensing, registering and tagging, and training requirements specified by law for the safety and welfare of the resource and citizens of the State.