



Friends of Merrymeeting Bay

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

Education

Conservation & Stewardship

Research & Advocacy

Member Events

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

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

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



2011-2012 Speaker Series

All talks at 7:00 p.m.

Location: Curtis Memorial Library, Brunswick unless noted.

- OCTOBER 12** **Smart Meters: The Big Lie**
The Smart Meter Safety Coalition
• Bowdoinham Town Office •
- NOVEMBER 9** **9,000 Years Ago in Dresden**
Arthur Spiess, Maine Historic Preservation Commission
• Bridge Academy, Dresden •
- DECEMBER 14** **Col. John Allan, 1746-1805, Maine's Unsung Hero**
Chris Groden, Historian
• Bath City Hall Auditorium •
- JANUARY 11** **Notes on a Lost Flute**
Kerry Hardy, Ecologist, Linguist, Author
FOMB Annual Meeting & Potluck: 6:00, Public Welcome
• Cram Alumni House, Bowdoin College •
- FEBRUARY 7** **Birds, Bats & Blades-Wind Turbines & Wildlife**
Steve Pelletier, Wildlife Ecologist, Stantec
- MARCH 13** **Steamboating on the Sasanoa-Bath to Boothbay**
Charlie Ipcar, Nautical Historian, Musician
- APRIL 10** **Tails of the Kennebec & Sebasticook**
Nate Gray, Fisheries Restoration Biologist, DMR
- MAY 8** **Direct-Action on the High Seas!***
Capt. Paul Watson, Director, Sea Shepard Conservation Society
• Bowdoin College - Kresge Auditorium, Brunswick •

FREE • OPEN TO THE PUBLIC • FREE

Sponsored by: Friends of Merrymeeting Bay

With support & door prizes from: Patagonia, Inc.-Freeport

Contact Ed Friedman at 207-666-3372 or edfomb@comcast.net for more information.

Full speaker bios at: www.friendsofmerrymeetingbay.org

Co-Sponsor- *Bowdoin Environmental Studies

Research

Thwings Pt. Dig

This year's archaeology dig and field school continued earlier 2007 and 2009 efforts homing in on and hoping to find evidence of a 17th



*Look what Miranda found!
credit: Lynne Thompson*

century structure. This Kennebec River point in Woolwich was site of the first European settler government in the Merrymeeting Bay area as citizens met at the home and trading post of Thomas Ashley in 1654 to sign papers enabling the new governing body. In the late 1800s there

were two ice houses on the site as well and ice workers bunked in the yellow Lund home just to the north. The focus of our efforts this year continued on property now owned by the Robinsons and protected by conservation easement. It was part of a larger parcel formerly owned by Jeanette and John Cakouros and now owned by the State of Maine and managed by the Department of Inland Fisheries & Wildlife. The entire parcel was protected through efforts led by FOMB in partnership with the Maine Wetlands Protection



Deep in the sumac grove

Coalition and acquired several years ago with funds from the Land for Maine's Future Bond.

Wetlands Jam

Billed as the best little blues and roots music picnic and barbeque of 2011, Wetlands Jam was designed to be a significant annual fundraiser for wetlands restoration, conservation, and education efforts. Only a month or so before show-time, promoter Randy Labbe of Deluge Entertainment brought the offer of this fundraiser to FOMB. He'd heard about our good work and offered us the chance to be the main beneficiary of Maine's first Wetlands Jam. After some discussion we agreed and helped to pull together additional support for the fabulous event we hope can be repeated with more advance publicity next year.

Wetlands Jam assembled an incredible line-up of internationally renowned blues and roots music musicians, including Tab Benot, Michael Doucet of the greatest Cajun

We had terrific participation in the dig led by former state historic archaeologist Lee Cranmer and his assistant Kathy Bridge, a part-time field staffer for the Maine Historic Preservation Commission who got her archaeology start at an FOMB dig years ago. Over 20 volunteers turned up an immense collection of artifacts spanning the 17th through 20th centuries. Two cellar holes were discovered and as the dig finished



Plenty to sink our teeth into

up on Saturday, a sheep or goat skull with curved horn was partially uncovered about five feet down in one pit. Out of time, we had to leave it behind. Close to 25% of our participants were young people and it is an honor to expose interested kids to something like this at an early age. We've had fourth-graders at Bay Day exclaim



Lynne cools off

how they are not leaving, they are going to stay and become an archaeologist. Attending a field school like this one of ours, is a great next step for them.

Thanks to Lee Cranmer & Kathy Bridge and to Volunteers:

Hilary Warner-Evans, Isabel Llorente, DJ Rogers, Steve Cowperthwaite, Sarah Cowperthwaite, Mike Dekker, Jordan Hernandez, Mary Perkins, Claire Robinson, Michael Robinson, Ted Batutis, Miranda Doak, Carol Bradford, Charity Bedell, Don Goodrich, John Harvey, Ed

Friedman, Christopher Pettersen, Lynne Thompson, Kala Getchell, Ellie Pass, Katherine Larrabee, Jane Frost, Dorothy Laudino.

band in the land BeauSoleil, Christine Ohlman, Sarah and the Tall Boys, Sean Mencher and his Rhythm Kings. Maine native and noted singer/songwriter Jud Caswell served as the 2011 Wetlands Jam emcee and FOMB had a display on site.

Thanks to volunteers:

Tom & Wendy Walling, Andrew Fiori, Nate Gray, Chris Gutscher, Angela Kimberk, Petey & John Ambrose, Bob Dale & Jean Parker and Ed Friedman;

To FOMB Sponsors:

Harraseeket Inn, Rosemont Grocery, Point of View Helicopter Services and Bath Savings Institution;

And to Randy Labbe and all of the musicians who played for peanuts to make this happen.

Advocacy

With two federal lawsuits down and two pending, we are 0 for 4. While we did not win in the Kennebec Dredging or Worumbo Dam cases, we put various state and federal agencies as well as a rogue dam owner on notice someone is not only watching but willing to take action. We should have easily won both cases but Maine judges, whether state or federal, are considered amongst the worst when it comes to giving undue deference to errant agencies. Throw in any reference to emergencies or homeland security and any logic or respect for the law simply takes a judicial holiday. It's certainly enough to make a cynic of even the most "hardened" optimist.

Kennebec Dredging

Partnering with the Town of Phippsburg, Phippsburg Shellfish Commission, Phippsburg Land Trust, clambers, lobsterman and others we simply asked the DEP, then BEP and finally federal court for a common-sense compromise solution that would allow for the minimum summer dredging necessary to allow the destroyer *Spruance* to leave BIW on schedule. Instead of excavating the channel to full maintenance specifications, removing up to 7' of bottom and dumping a short distance downstream where it could return, we



Kennebec Dredge

suggested a local contractor be used [5 minutes away] for minimal dredging and that the Army Corps of Engineers bring their hopper dredge to the Kennebec for dredging as usual in the winter when

marine life, shell fishing and tourists are all at their low.

A couple of weeks after the decision in our case, we were in Portland's federal court [the Kennebec case was heard in Bangor] for our Worumbo case [see below] and the assistant US Attorney remarked to us how surprised even he was that Judge Woodcock in Bangor had rejected our sound compromise. According to news reports no endangered or threatened species [shortnose sturgeon, Atlantic salmon or Atlantic sturgeon] were killed in the dredging operation. The National Marine Fisheries Service [NMFS] did not respond to multiple written and phone requests for a tally of any endangered species interactions with the dredge. As you can see from the aerial photo, any incident the required fish Observer on the dredge might see would probably only be by pure, dumb luck.

Many thanks are due all of our partners and supporters in this case and to attorney Steve Hinchman for his able and valiant representation.

Worumbo Dam, the Untold Story

In a meander from our Endangered Species Act [ESA] take case against seven dams on the Kennebec and Androscoggin Rivers we went to federal court in an attempt to stop the illegal waiver of a full ESA consultation prior to removal and rebuilding of a large portion of Worumbo Dam between Lisbon Falls and Durham on the Androscoggin. Much of this dam is still an old timber crib structure [picture a Lincoln logs cribwork filled with stone and capped on the upstream side with concrete] although the fish passage, turbine and steel gates are all recent. Since at least



Worumbo looking upstream-coffer dam on left-post Hurricane Irene

2009, Mark Isaacson of Miller Hydro, the dam owner has known the timber crib needed routine maintenance or was approaching the end of its life. [It must be noted that Mark Isaacson was the most vocal opponent of our proposed Androscoggin

River upgrade and that several years ago when interviewed by College of the Atlantic students on how "green" was the certified green power from Worumbo, he told them he did not provide inexpensive American eel upstream passage, something many dams do, because it was not required].

Worumbo is a very low run-of-the-river dam built up only about six feet [on a natural ledge] for much of its length. In high flows, the river runs right over the top [run-of-the-river] of the structure. It is classified by the Federal Energy Regulatory Commission [FERC] as "low hazard", a formal designation meaning if it were to suddenly fail, there would be only minimal impacts downstream. In fact for years, Mark has applied for and received FERC exemption for the creation of any emergency action response plan.

On New Years Day, 2011 unbeknownst to virtually anybody, a small legal notice appeared in Lewiston's Sun Journal indicating Miller would be conducting a rehabilitation project on their dam and letting the public know they would have 20 days from

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Worumbo Annotated Google



Conservation canines



Anadromous fish printing



Emptying the seine



Sifting for artifacts gives a new perspective



Nate's got the best job



Dipping for macro-invertebrates

Education

Bay Day: The weather gods smiled on us as usual when Fall Bay Day rolled around on September 27th. 150 fourth grade students from Bowdoin, Bowdoinham, Harpswell, Dresden and Chop Pt. schools had a great day getting dirty and learning lots about the Bay in the best way possible, hands-on. Ask yourself, how many rivers flow into the Bay and what are their names? How many migratory fish species use the Bay and which ones are they? Do you know the difference between red ware and pearl ware? How about stickleback, mummichug and blueback herring? Or uses for milkweed seeds or a well-trained hunting dog? You could probably Google these questions or...just ask a fourth grader who came to Bay Day!

Aside from Bay Day we engage in other outreach and education efforts during the summer including our popular Outings series, narrating Maine Maritime cruises into the Bay, conducting programs at various camps & libraries and this summer co-hosting some outrageous music at the first [hopefully annual] Wetlands Jam. Thanks to so many volunteers for making all this possible:



Secrets of the milkweed



Watersheds



Record of a striped bass



Misty gives Cody a drink of water



The past comes to light



Steve tops out a wigwam with some good help

Special Thanks
to Misty Gorski for
coming out of retire-
ment to help organize
Bay Day

Guides: Betsy Steen, Blaine Carter, Heather Stukas, Kerry Hardy, Steve Eagles, Kent Cooper, Jess Balukas, Nate Gray, Leslie Anderson, Kathleen McGee, Shannon Dougherty, Pete Goodwin, Leith Smith, Jay Robbins, Bill Burgess, Steve Musica.

Coordinators: Misty Gorski, Ed Friedman, Tom Walling, Andrew Fiori

Chaperones: Tina Goodwin, Joan Llorente, Colleen Moore, Cathy & Stuart Reynolds, Carol Sargent, Chet Gillis, David Whittlesey, Dana Cary, Bill Heaphy, Ed Benedikt, Petey Ambrose, David Barber, Carole Dyer, Tom Walling, Andre Fiori, Milo Stanley

Special Assistance from: Wild Oats Bakery, G.A. Downing, & Jim Connolly, IF&W

Summer Outings – Although a couple of outings were weathered out we thank the trip leaders who donated their valuable skills and time:

Michelle and Stan Moody, Ed Friedman, Jay Robbins, Art Spiess, Andy Cutko, Andrew Fiori

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the date of filing for a DEP permit in which to comment. The filing occurred several days later and Mark's strategy of covert preparation worked well. Only browsing the FERC e-library some months later did Doug Watts chance upon the Woromo project.



*Timber crib portion of dam
[west end]*

Normally in a project of this magnitude, the removal and rebuilding of most a dam on a major river, there would be a full ESA consultation that would look at the full range of issues including construction effects, improvements to fish passage and alternative dam types. Miller had been running the dam as normal, access to the area below the dam had remained open for fishing and there was nothing on the record or in practice to indicate any serious problems or emergency existed. Nonetheless, Mark was able to get an official at FERC to, for the first time, suggest in a letter to NMFS an emergency existed and request special action from the fisheries agency. There exists in statute [50 CFR §402.05] language that allows NMFS to waive full prior ESA consultation specifically for major emergencies [flood, hurricane, tornadoes, terrorism] considered Acts of God. Oddly enough, the statute also requires once the emergency actions have been relieved, a full consultation take place. A bit late for that, wouldn't you agree? With a final project permit needed from NMFS, FERC asked NMFS to invoke this emergency ESA waiver and NMFS agreed. This is where we drew our line in the sand.

Our attorneys Dave Nicholas, Bruce Merrill plus Josh Kratka and others from the National Environmental Law Center deviated from our existing ESA take case to try and prevent this Worumbo travesty. Like the Kennebec, our logic was impeccable and the law was clear. Like the Kennebec, in the end justice, logic and judicial responsibility all took a holiday. Our argument was simple. There is nothing at all in the written or operational records to support the claim this was an emergency BUT, even if there was, any ESA waiver would only extend until the emergency was relieved. IF the dam was actually in threat of imminent failure, there were two ways to relieve this, one [the quickest] being to lower water levels on the upstream side and the other to remove the timber crib structure [part of the rebuild plan]. There was simply no way an Act of God ESA waiver would extend to the REBUILDING of the dam. How wrong we were.

Remaining on the Docket-ESA & St. Croix

We are proceeding as scheduled in the ESA take case where two of the defendants, Brookfield Asset Management and NextEra or Florida, Power & Light are multi-billion dollar companies easily able to afford safe and effective salmon passage if desired. On the positive side, Judge



Gathered 'round for archaeology

Singal in Portland who rejected our Worumbo claims, denied all defendants claims to dismiss the cases.

On the St. Croix River we are working with Dave Nicholas, and Earthjustice attorney Roger Fleming to reopen the river to alewives, blueback herring, shad and other species banned by the state of Maine in 1995 in response to the hysterical voices from a small population of smallmouth bass [an introduced species] fisherman.

We entered a Motion for Summary Judgment [requesting a ruling on the facts] at the same time as the State moved to Dismiss. The State's motion claims extirpating a native fish species through river closure is something allowed under normal fish and game laws and can be done at the discretion of the fish and wildlife agencies. The motion neglects to mention all of the agencies were last supporting re-opening the river. The state also suggests we should take our argument to the EPA, [which we did in non-legal way over a year ago]. In the end, it was the state who closed the river, a more tangible argument than that of EPA's failure to enforce water quality laws. We are awaiting a decision on the Motion to Dismiss. If denied, the court will consider our Motion for Summary Judgment.

Conservation & Stewardship

Completing the Houdlette Conservation Project in Dresden remains our top priority. We are 60K shy of our Phase 2 goal of 180K to complete the project. We have until March to repay an interest-free loan we took to purchase this last portion of the property. This means you as members can give generously now, and again after January 1 to utilize the tax advantage in both years. Looking at the big picture, we have 60K to finish what has been in total a 600K project.



As in Phase 1, we applied to the Land for Maine's Future program for funding. Of over 30 statewide projects and 14 approved for funding, ours scored third [and this seemed to be without consideration of the rare plants on site]. Unfortunately, none of the projects received full funding and so we are busily submitting grant applications hoping to make up the difference. Much of grant funding has dried up so support from our membership is critical to our success. This is a place you can easily make a concrete difference protecting one of the most significant parcels in Maine.

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

Membership Levels

- \$1,000+ Sturgeon \$750 American Eel \$500 Wild Salmon \$250 Striped Bass
 \$100 Shad \$50 Alewife \$20 Smelt Other

Name _____

RR# or Street Address _____

Town/State/Zip _____

Phone _____ Email _____

- Renewal New Member Send me information about volunteer opportunities.

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

Friends of Merrymeeting Bay Steering Committee

- Ed Friedman, Chair (Bowdoinham)
 Nate Gray, Secretary (Freeport)
 Tom Walling (Bowdoinham)
 Sarah Cowperthwaite (Topsham)
 Andrew Fiori (Bowdoinham)

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This Space Open

HRHG Outreach Coordinator

Kathleen McGee 666-3598

Thanks to David Hansen for layout and design of this issue.

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If you were not among the more than 30 attendees at our wonderful August 21 site walk: *Where Archaeology & Ecology Meet*, featuring archaeologist Art Spiess and ecologist Andy Cutko, or if you just want to learn more about the sites' pre-history and acquisition, a second chance will be offered by Art Spiess at Bridge Academy in Dresden on November 9. Please see our Speaker Series schedule for details.

Thanks to Art and Andy and to Bob Adair of Bob's Auto in Richmond for mowing the property after fledging and before our walk.



Andy Cutko describes some wetland plants

Web Thanks

Maintenance of our website takes a fair bit of work, all done by volunteers Stan Moody and Martin McDonough. Thanks to you both but especially Stan, Cybrary guardian, who bears the brunt of our heavy and sometimes complicated influx of legal documents. For any readers who want to get into the nitty-gritty of our advocacy work, most of the documents are posted in the Cybrary's Legal Documents section.

\$\$\$ Treasurer Missed & Wanted \$\$\$

After many years of minding the FOMB treasury from far off places, Vance Stephenson has finally retired. Our Treasurer is a Steering Committee position and it is quite difficult to remain actively involved when never able to be here in person to discuss issues live. In his latest round as Treasurer, Vance has lived in Ohio, Tennessee, Texas and North Carolina where he currently resides. While calling in regularly and faithfully for meetings over the years it's just not the same and we are so thankful to Vance not only for keeping terrific books but for maximizing his involvement with FOMB to the extent possible. He will be sorely missed.

Vance, an expert with Excel, has set up our accounting system using this popular software. His system allows us not only to easily keep track of expenses and income in any category but for any Steering Committee member to easily generate a report for any date range on any project.

We need a new Treasurer and it will help if you are quite familiar with Excel. Vance will be able to guide you through the transition. If you are good with numbers and willing to help us in this important position while still engaging in our normal issues, please contact Ed Friedman at 666-3372 or edfomb@comcast.net .

Executive Coordinator Position Open

Jim Mason has resigned after 7 months with FOMB. While his stay with FOMB was unfortunately short, we enjoyed working with Jim while he was here. Now living in Brunswick, Jim has gone back to his legal practice and continues to teach small business law at UNE. We wish him well. Application information and a full job description may be found on the FOMB web site.



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Richmond, Maine 04357

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Migrationist

I am in a cave in southern France, looking at a salmon cut into the cave wall 30,000 years ago, a male, over one meter long, detailed, the product of an artist who knew salmon, who saw them swimming through.

Since 1973 I have been thinking about the idea of bioregionalism, thinking about how to learn to live in a particular place, and how to gradually come to be a part of that place, a partner in the natural workings of that place, and to learn to be less and less “intrusive”, as we humans have a way of being.

As I learn about my own particular place, living here next to a lake in Maine, I come to learn about all of the beings whose lives pass through this place, at one time of the year or another. These are the great migratory tribes, and their own home regions cover a much wider range than my own. We are coming around to celebrating these friends.

We welcome the loons back, the eagles, ospreys, herons, orioles, grosbeaks, bobolinks and so many more. We watch for turtles in the road. We welcome the alewives as they arrive to swim from the ocean up into the lake, through a series of newly built pools, human-made to assist them in their journey. We look to the milkweed for monarchs, rising up in the fall for their journey to Mexico. And, so many others.

As a practicing Caribouddhist I worry about the caribou, moving from protection in Canada into the United States, to calve on the plain of the Arctic National Wildlife Refuge, or the reindeer, living with the consequences of nuclear disaster in their bodies, or the wolves

and condors reintroduced in the American west, the bears and wolves reintroduced in Italy and Slovenia, my stork friends flying from Africa to Latvia, Lithuania, flying through the horror of war in Iraq twice a year. And, so many others.

As a bioregionalist, I want my own bioregion to provide these travelers with their traditional food, lodging and safety - natural concerns for a weary pilgrim, but now I think that I must also be a migrationist, worrying about the health of their journey, the flyways, the migratory routes, the ocean, the air, so that these travelers are able to safely make their yearly journeys. My bioregion extends to the boreal forests, the South American songbird destinations, all the many parts of the world to which I am connected, my home place is connected, by these wonderful migrating friends. And, so many more.

Migration Prayer

We will greet them with colorful flags,
wave them on their way through,
light fires, burn incense,
prepare a feast to say:

We wish you well
pray for your travels
take care, take care.

Gary Lawless, 2009