

MAINE STATE LEGISLATURE

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To: Senator Scott Cowger, Representative Ted Koffman and Members of the 122nd Legislature's Joint Standing Committee on Natural Resources
From: Dawn Gallagher, Commissioner, Department of Environmental Protection
Subj: Progress Report on "Framework Agreement on Sand Dunes and Coastal Management in Maine"
Date: January, 2005

Background

Following testimony delivered by the Department on provisionally adopted sand dune rules last February, the Natural Resources Committee requested that a stakeholder group be put together to resolve some still outstanding issues in the rules. While the provisionally adopted rules had been the subject of a great deal of public comment in 2003, it was clear at the public hearing that an additional round of focussed discussion on a number of important policy areas within the rules, including reconstruction provisions, habitat management, and beach nourishment and mitigation was needed.

As a result of the Natural Resources committee's charge, three state agencies and five stakeholders¹ agreed to a two-year process to improve beach management in Maine, via the "Framework Agreement on Sand Dunes and Coastal Management in Maine" ("Framework"). A copy is attached.

I am reporting to you today on the significant work done to date by this group.

Stakeholder Group Formed

In July 2004 DEP convened the signatories to the Framework and over six months the group has met 8 times. A DEP staff member provides facilitation services for the group. DEP, the Department of Conservation/Maine Geological Survey and the State Planning Office provide staffing for the group in the form of research, writing, concept development and similar activities.

Progress to Date on Topics as Outlined in the Framework

The stakeholder group's initial work consisted of moving systematically through each of the topical issues identified in the framework (beach nourishment policy, wildlife and habitat management, voluntary acquisition of storm-damaged properties, improved hazard mitigation plans and regulatory changes.) It quickly became apparent that the topics were extremely interrelated, and stakeholder positions on one topic depended on the discussion and ultimate resolution of another topic area.

¹ Original stakeholder groups were Save Our Shores Maine, Maine Coastal Coalition, Maine Audubon Society, the Maine Innkeepers Association, and one individual, a consulting geologist in private practice. A sixth stakeholder group, the Conservation Law Foundation was added after the agreement was brokered.

Given that complexity, the group has recently focused on a “package approach”, i.e. the development of a comprehensive management approach for Maine’s beaches that will include a number of interrelated elements. While great progress has been made on evaluating various tools and techniques that might be used to improve beach management, this is an interim report rather than a definitive course of action. Hard work in the coming months by a committed group of individuals will likely result in a draft of this comprehensive approach by May 2005.

The remainder of this interim report includes brief summary of accomplishments to date on six topical areas as identified in the framework document.

Beach Nourishment Policy

The stakeholder group has spent considerable time on the topic of beach nourishment as one tool that may be beneficial to include in Maine’s comprehensive approach to beach management. The group has accomplished the following:

- Created a preliminary description of erosion characteristics along sand beaches.
- Viewed and endorsed the use of a “beach scoring system” developed by MGS that provides information about what management techniques are appropriate for certain shoreline types.
- Created and reviewed draft for evaluating beach nourishment proposals.
- Created and reviewed draft criteria for when public expenditures on beach nourishment might be warranted.
- Endorsed the idea that publicly funded nourishment projects would include a grant of public access.
- Discussed the benefits that would accrue to the state in terms of public ownership or establishment of public easements on nourished beaches.
- Created draft rules that might be adopted to regulate beach nourishment.
- Researched public and private funding options for beach nourishment.

Wildlife and Habitat Management

Wildlife habitat management needs to be an integral part of Maine’s developing beach management program, given that most activities have the potential to affect the presence and quality of habitat for endangered and threatened species. Progress on this issue to date includes:

- Development of draft considerations for habitat management in light of other practices (nourishment, acquisition.)
- Endorsement of management practices developed by Maine Audobon in use by the town of Wells and strong support for their adoption by additional municipalities and private landowners.²

Voluntary Acquisition of Storm-Damaged Properties

Acquisition of land and buildings in high hazard areas from willing sellers has been a topic of consideration deliberation by the stakeholder group. There seems to be wide

² These practices are currently in use via cooperative agreements with towns and landowners, but could be used more extensively.

acceptance of voluntary acquisition as a viable technique for use in Maine. The group's accomplishments under this topic include:

- Development of funding options for acquisition.
- Development of a draft set of principles to guide any voluntary land acquisition.

Outstanding questions related to voluntary acquisition include:

- Should acquisition be limited to storm damaged properties or is a more proactive approach desirable?
- Should voluntary acquisition of high hazard properties be incorporated into an existing land acquisition program at the state level or should a new program be created.

Improved State Coastal Hazard Mitigation Plans

Hazard mitigation is a catch all phrase that includes many tools and techniques to lessen the risk of, in this case, flooding and erosion damage. Mitigation techniques can include acquisition of structures and/or land, removal and/or relocation of structures, floodproofing of buildings and infrastructure, relocation of infrastructure, and land use planning and zoning. Hazard mitigation is often accomplished on a project basis after storm-damage, but may also be done proactively. The programs of the Federal Emergency Management Agency have been largely reoriented to focus on proactive mitigation to avoid flood damages.

During the stakeholders' first six months of work, the Maine Emergency Management Agency (MEMA) was drafting an updated State Hazard Mitigation Plan for submittal to the Federal Emergency Management Agency (FEMA). The Maine Geological Survey was able to work with MEMA to improve its draft submittal. There are additional improvements that could be made to the state's plan. MEMA submitted this initial draft to meet baseline requirements for FEMA funding programs. Additional emphasis can be added in the future regarding Southern Maine beaches as a distinct geographic area subject to storm hazards, erosion and sea-level rise.

Improved Public and Private Voluntary Hazard Mitigation Programs

The stakeholder group devoted most of one meeting to the topic of hazard mitigation planning, hosting a MEMA mitigation planner. In an effort completed in November of 2004, FEMA funds were distributed to County Emergency Management Agencies to develop regional hazard mitigation plans. Development of plans at a county-level scale is not optimum, but corresponded to the amount of federal funds available to complete the work. Individual towns have signed onto the county plans. These plans were submitted this fall to FEMA to qualify for federal grant programs. There are limited funds available to municipalities to craft more specific hazard mitigation plans. One stakeholder with considerable experience in municipal government stated that there are significant hurdles for towns to overcome to obtain what are typically very limited funds.

Voluntary, private mitigation is a topic not yet covered by the stakeholder group, to any extent. The group did acknowledge that public education campaigns to let people know about their mitigation options would increase the amount of voluntary activity. The stakeholder group learned of one case where a municipality was unsuccessful in spending federal mitigation funds because property owners were not interested in making improvements. Further research is needed over the next year for the stakeholder group to understand the impediments to full utilization of existing hazard mitigation programs and consider the potential for new efforts.

Regulatory Changes

The stakeholder group was asked specifically to deliberate on three areas of potential changes to existing rules, specifically:

1. Reconstruction of Buildings in the Frontal Dune and V-Zone
2. Removal of existing statutory Prohibition on the use of outdated V-Zone Maps
3. Regulatory Incentives to Encourage Construction or Reconstruction Outside of the Frontal Dune

The group has deliberated on a range of rule changes at three meetings. It is expected that a revised set of rules will be developed for posting to public hearing in early summer 2005. Provisionally adopted rules will be presented to the Natural Resources committee at the second session of the 122nd Legislature.