MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

February 28, 1979

Honorable Joseph E. Brennan
Governor of Maine
State House
Augusta, Maine 04333

Re: Municipal Authority to Hold Federal Government Harmless;
    Emergency Shoreline Protection Project.

Dear Governor Brennan:

    You have asked whether a municipality has the authority to
provide a "hold-harmless" assurance to the United States if
required by the Corps of Engineers for federal funding of an
emergency shoreline protection project. Our answer is that a
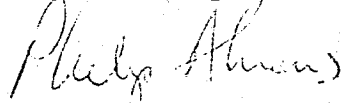municipality has such authority.

    The Legislature has provided broad "home-rule" powers to
municipalities pursuant to 30 M.R.S.A. § 1917, which provides,
in pertinent part:

        "Any municipality may, by the adoption,
        amendment or repeal of ordinances and
        bylaws, exercise any power or function
        which the Legislature has power to confer
        on it, which is not denied either expressly
        or by clear implication. . . ."

    The Corps of Engineers has questioned whether 30 M.R.S.A.
§ 3553, which grants authority to the Governor to make a
hold-harmless agreement with the United States with regard
to Governor-approved flood control projects, constitutes a
denial of municipal authority "expressly or by clear implica-
tion." Section 3553 is enabling legislation enacted prior to
§ 1917, and should not be construed to prohibit a municipality
from entering into a hold-harmless agreement.

If you have any further questions, please contact me at any time.

Very truly yours,

PHILIP AHRENS
Assistant Attorney General

PA/ec
cc: Raymond C. McCulloch, Esquire
     Corps of Engineers