

MAINE STATE LEGISLATURE

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REPORT OF THE
JOINT STANDING COMMITTEE
NATURAL RESOURCES

REVIEW OF THE LAND USE
STANDARDS AND DISTRICTS ADOPTED
BY THE MAINE LAND USE REGULATION
COMMISSION ON JANUARY 12, 1977

H.P. 796

Senate

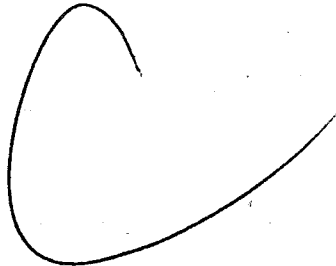
Howard M. Trotzky, Chairman
Andrew Redmond
Donald R. O'Leary

House

William Blodgett, Chairman
Donald M. Hall
James F. Wilfong
Sharon B. Benoit
Ross A. Green
Guy I. Hunter
Karen L. Brown
Edward L. Dexter
Sherry F. Huber

Legislative Assistants

Helen Ginder
John Bailey



The Maine Land Use Regulation Commission adopted permanent land use standards and districts on January 12, 1977. 12 MRSA §685-A, sub-§7 specifies that the permanent land use standards adopted by the Land Use Regulation Commission (L.U.R.C.) be submitted to the Legislature for approval. H.P. 796 of the 108th Legislature assigned the task of reviewing these standards to the Joint Standing Committee on Natural Resources. During the legislative interim and the Second Regular Session of the 108th Legislature the Natural Resources Committee carefully reviewed the standards and districts and made many suggestions to the Land Use Regulation Commission. Most of these suggestions were incorporated in the amendments to the land use standards and districts adopted by the Commission on March 17, 1978.

To accomplish their review, the Committee met four times in August and September, 1977, and held several working sessions on the study during the second regular session of the 108th Legislature. The Committee studied the statutes and the L.U.R.C. Comprehensive plan as well as the adopted Land Use Districts and Standards. They received testimony from interested parties, and reviewed testimony submitted during public hearings held in November, 1976 and February, 1978 on the proposed standards. Commission staff aided the review by preparing reviews and attending working sessions to explain the relation between the statutes, the Comprehensive plan, and the standards. Legislative staff attended Commission meetings, and monitored their reaction to the Committee's recommendations. Since administrative problems had been addressed by other actions (P.L. 1977 Chapters 213, 327), this review primarily examined whether L.U.R.C.'s standards are within the scope and intent of their enabling legislation.

During the Committee's review of the standards, specific issues were raised in the following areas:

1. subdistricting of management districts - data availability for designating Management-Highly Productive areas and objective criteria for Management-Natural Character were discussed;
2. mineral extraction standards - application of restrictions to small private woods roads and gravel excavations for woods roads;
3. permit authority for deer wintering areas;
4. clarification of stream protection subdistricts - application of clear-cutting restrictions and road construction standards;
5. other protection subdistricts, including remote ponds, wetlands, and aquifer protection subdistricts;
6. possible conflicts between the standards and statutory provisions.

Correspondence to the Land Use Regulation Commission containing specific recommendations of the Committee are included as appendices.

With one exception all of the problems brought up during the review of the standards were satisfactorily addressed by the amendments to the standards adopted by the Commission on March 17, 1978. The description of the Management Natural Character subdistricts is still vague, and the criteria for designating these areas are not sufficiently specific. Otherwise the Land Use Districts and Standards are considered to have been greatly improved, are within the scope of the authority delegated by 12 MRSA §685-A, and are an appropriate implementation of legislative intent. The Com-

mittee is hopeful that the deficiencies with the Management Natural Character subdistricts will be corrected by January 12, 1979, and the Committee will decide by January 26, 1979 whether additional legislation is necessary to correct these deficiencies.

STATE OF MAINE

In House

Whereas, the Maine Land Use Regulation Commission adopted Land Use Standards and Districts on January 12, 1977; and

Whereas, the Maine Land Use Regulation Commission is required to adopt permanent districts no more than 48 months after the adoption of interim districts; and

Whereas, Title 12, section 685-A, subsection 7, provides that the permanent land use standards adopted by the Maine Land Use Regulation Commission shall be submitted to the Legislature for approval or modification at the next regular or special session of the Legislature after their adoption; and

Whereas, if the Legislature fails to act, the standards shall remain in full force effect; and

Whereas, to provide for prompt Legislative review of these land use standards and districts, it is necessary that a Joint Standing Committee of the 108th Legislature be assigned the task of this review; now, therefore, be it

Ordered, That the Joint Standing Committee on Natural Resources of the 108th Legislature shall review the Land Use Standards and Districts adopted by the Maine Land Use Regulation Commission on January 12, 1977; and be it further

Ordered, The Senate concurring, that the Joint Standing Committee on Natural Resources complete its study and report its findings and recommendations including complete and final drafts of any recommended legisla-

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ion to the Legislature, not later than July 1, 1977; and be it further

Ordered, Upon passage in concurrence, that suitable copies of this Order be transmitted forthwith to the Maine Land Use Regulation Commission as notice of this directive.

IN SENATE CHAMBER
TABLED BY SEN. Blodgett
OF Waldoboro

MAR 16 1977

PENDING Passage
MAY 24, 1977, Secretary

SPEC. ASSIGN'D EDZ

3/17/77

IN SENATE
TAKEN FROM TABLE
BY President AND Blodgett

MAR 17 1977

Passed, concurred

IN NON CONCURRENCE
SENT DOWN FOR CONCURRENCE

On Motion of Mr. Blodgett of Waldoboro
HOUSE OF REPRESENTATIVES
HOUSE RECEDED & CONCURRED

MAR 22 1977

Edwin Davis
CLERK

(Blodgett)

NAME:

William Blodgett

TOWN: Waldoboro

STATE OF MAINE
SENATE
108TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A " to JOINT HOUSE ORDER, H.P. 796
Relating to Maine Land Use Regulation Commission.

Amend the Order by striking out in the last line
of the next to the last paragraph the word and figures
"July 1, 1977" and inserting in its place the word and
figures 'October 1, 1977'

IN SENATE CHAMBER
READ ~~and~~ *Adopted*
SENT DOWN FOR CONCURRENCE

MAR 16 1977

MAY M. ROSS
SECRETARY

on Motion of Mr. Bledsoe of Waldoboro
HOUSE OF REPRESENTATIVES
HOUSE RECEDED & CONCURRED

MAR 22 1977

Edwin S. [Signature]
CLERK

Trotzky

(Trotzky)
NAME:

COUNTY: Penobscot

Reproduced and distributed pursuant to Senate Rule 11-A.

March 16, 1977

(Filing No. S-28)

STATE OF MAINE

Inter-Departmental Memorandum Date November 23, 1977

Kenneth Stratton, Director, Land Use Regulation Commission

Sen. Howard Trotzky & Rep. William Blodgett

Natural Resources Committee review of Land Use Regulation Commission Standards adopted January 12, 1977

The Natural Resources Committee has reviewed the Land Use Regulation Commission Standards adopted January 12, 1977 as provided in TL2 \$685-A\$57 and makes the following recommendations:

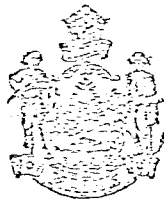
1. National Character Management Subdistrict. The description of National Character Management Subdistrict needs improvement to clearly define the area characteristics and specify the criteria which the Commission will follow when classifying land in this subdistrict.
2. Highly Productive Management Subdistrict. The criteria or standards to be followed when classifying land as a Management Highly Productive Subdistrict should be established so that land owners will not be subject to present or future uncertainties regarding this classification and its possible application to their land.
3. Mineral Extraction Standards. The standards for mineral extraction should be modified to permit use and extraction of mineral resources while providing soil erosion control, preventing water pollution, minimizing the effect of the extraction activities on other uses and protecting and enhancing possible other appropriate uses of the area during the extraction process and subsequently.
4. Roads and Water Crossings. Provide for an alternate standard for culvert size in instances when the culvert is pulled annually.
5. Unusual Area Protection Subdistrict. Establish criteria for classifying remote ponds that are applicable to all ponds in the Land Use Commission jurisdiction and definitive to the extent that there is some measurable physical characteristic regarding their remoteness and special significance.

The Committee would appreciate receiving draft proposals in response to these recommendations and notice of Commission meetings and hearings on these and other possible amendments to the standards. The committee plans to review the adopted amended standards during the second regular session of the 108th Legislature.

The Committee greatly appreciates the capable cooperative assistance provided by you and your staff during its study.

cc: Mary McEvoy, Chairman,
Land Use Regulation Commission

HOWARD M. TROTZKY, PENCOSCOOT COUNTY, SENATE CHAIRMAN
 ANDREW REDMOND, SOMERSET COUNTY
 DONALD R. O'LEARY, OXFORD COUNTY



WILLIAM B. BLODGETT, WALDOBORO, HOUSE CHAIRMAN
 DONALD M. HALL, SANDERVILLE
 JAMES F. WILFONG, STOW
 SHARON B. BENDIT, SOUTH PORTLAND
 ROSE A. GREEN, AUGURN
 GUY I. HUNTER, BENIGN
 KAREN L. BROWN, BETHEL
 EDWARD L. DEXTER, KINGFIELD
 SHERRY F. HUBER, FALMOUTH

PATRICIA A. ROLLINS, COMMITTEE ASSISTANT

STATE OF MAINE

ONE HUNDRED AND EIGHTH LEGISLATURE

COMMITTEE ON NATURAL RESOURCES

March 16, 1978

To: Land Use Regulation Commission
 From: Sen. Howard Trotzky and Rep. William Blodgett, Natural Resources Committee

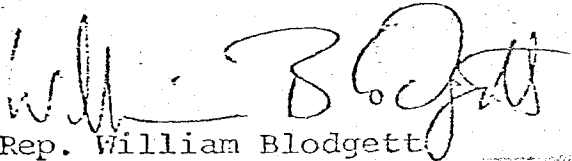
Subject: LURC Standards Revision

Having reviewed the LURC staff recommendations relative to the proposed changes to the Land Use Districts and Standards, the Committee makes the following recommendations:

1. Management-Natural Character Subdistricts. This sub-district should not be applied to any area until the re-districting program has been completed, and more specific criteria for defining this subdistrict are developed.
2. Management-Highly Productive Subdistricts. This sub-district should not be applied to any area until more data is available to determine the specific criteria to be used in identifying highly productive management areas.
3. Mineral Extraction Activities. Section 10.17, A, 3, d should be amended to explicitly exclude hauling roads from the definition of facilities intended primarily for public use. Vegetative screens should not be required between mineral extraction areas and haul roads.
4. Recreation Protection Subdistricts (Remote Ponds). The Land Use Regulation Commission should in no way prohibit seaplane landings on remote ponds. If fishing pressure from seaplane traffic threatens the fisheries resource on any remote pond, the Department of Inland Fisheries and Wildlife should consider appropriate action. These measures might include closing the pond to fishing, increased stocking, or reduced bag limits.

The Committee trusts that these issues will be adequately addressed prior to the Commission adopting the proposed Land Use Districts and Standards.

Sen. Howard Trotzky
 Senate Chairman


 Rep. William Blodgett
 House Chairman



STATE OF MAINE
OFFICE OF LEGISLATIVE ASSISTANTS
STATE HOUSE
AUGUSTA, MAINE 04333

April 6, 1978

Ms. Mary McEvoy, Chairman
Land Use Regulation Commission
Department of Conservation
Ray Building
Augusta, Maine 04330

Dear Ms. McEvoy:

The Joint Standing Committee on Natural Resources has completed its review of the standards adopted by the Land Use Regulation Commission. With one exception, the Committee approves the standards adopted by the Commission to date and finds that the areas of concern expressed in earlier correspondence have been adequately addressed.

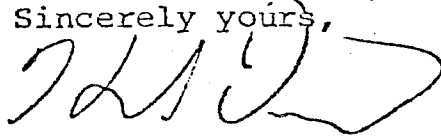
The one standard that the Committee is not satisfied with is the Management Natural Character Subdistrict. These reasons express the Committee's dissatisfaction:

1. Much of the language in the purpose clause and description sub-sections is vague;
2. References to permitted uses should be deleted from the purpose clause;
3. The examples of significant and important features are features which are found throughout L.U.R.C. jurisdiction;
4. The description does not clearly define the characteristics or specify the criteria which the Commission will follow when classifying land in this subdistrict with the exception of the 10,000 acre size.

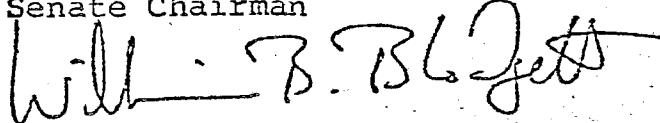
The Committee strongly recommends that the Commission not apply this sub-district as presently described to land areas under its jurisdiction. The Committee recommends further that it is essential that the Commission promptly and actively seek to find more specific criteria which it will follow to classify land as Management Natural Character Sub-district. The Committee realizes that this is not an easy task but feels sure that it can be accomplished. We hope that the Commission will advise the Committee of its progress and provide us with draft proposals for comment. The purpose of this request is to avoid our finding ourselves in the same situation in the next session of the Legislature with a standard, already adopted, which the Committee does not approve of.

The Committee expects that the Commission will report to the Committee by January 12, 1979 with its proposed amendment to the standards which will respond to our recommendations.

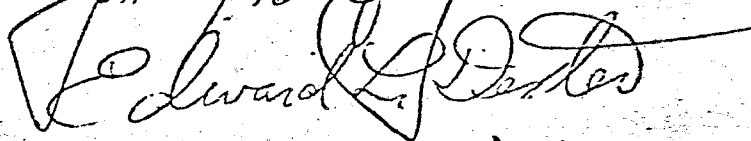
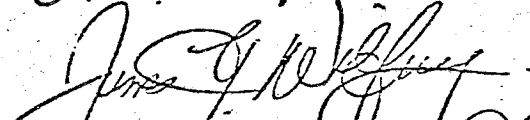
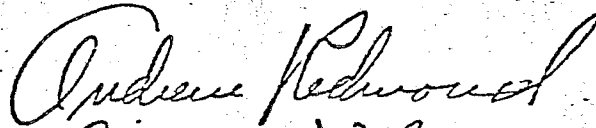
Sincerely yours,



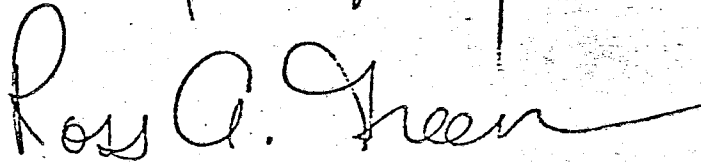
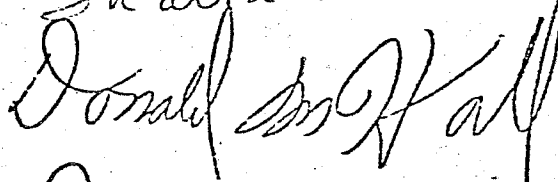
Sen. Howard M. Trotzky
Senate Chairman



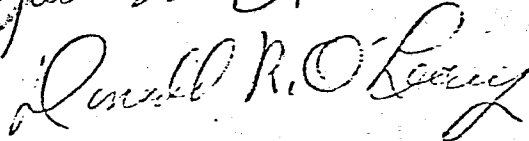
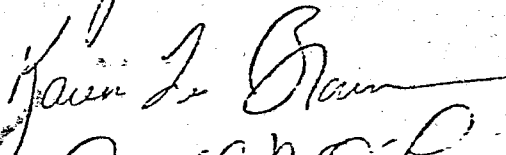
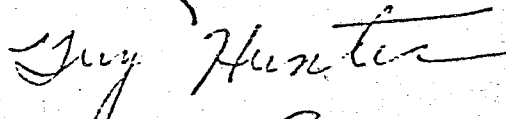
Rep. William B. Blodgett
House Chairman
Natural Resources Committee



Sharon B. Benoit



Sam F. Adams



cc: Kenneth Stratton; Charles A. Blood; Woodbury E. Brackett; Robert H. Ciullo;
Robert H. Page; Henry W. Saunders; William L. Vaughan