

## **Coastal Regulatory and Legislative Update**

### **Moderator:**

**Deb Garrett, Deputy Commissioner, Maine Department of Environmental Protection**

### **Speakers:**

**Kathleen Leyden, Director, Maine Coastal Program**  
**David Littell, Commissioner, Maine Department of Environmental Protection**

## **Integrated Beach Management and Stakeholder Participation by Kathleen Leyden**

Report of most recent beach stakeholder process released in February, 2006, entitled Protecting Maine's Beaches for the Future, A Proposal to Create and Integrated Beach Management Program. Process involved State Government, business owners, land owners, environmental, groups and beach users. The report includes 31 recommendations and is available online at

[www.maine.gov/dep/blwq/topic/dunes/report06\\_protect.pdf](http://www.maine.gov/dep/blwq/topic/dunes/report06_protect.pdf)

The report addresses:

- Beach nourishment
- Habitat protection
- Mapping erosion hazard areas
- Impact of 2 foot sea level rise
- Land acquisition study
- Hazard mitigation – dune preservation and restoration
- What motivates people to or not to protect property
- Plan oversight

These recommendations were brought before the Joint Standing Committee on Natural Resources of the 122<sup>nd</sup> Legislature, 2<sup>nd</sup> regular session.

The most progress has been made in data and information gathering, but there is a serious need for funding for the recommendations. A \$2 million allocation was under consideration by the legislature in spring, 2007, but it was not funded. At this point there is good data, several small but strong projects, and a newly formed advisory group which will make an annual report to legislature. It will be critical to keep the question of funding for beach management before the legislature. If participants are interested, there are plenty of ways to contribute to these efforts.

## **Regulatory Update by Commissioner David Littell:**

Natural Resource Protection Act (NRPA) See the complete act at <http://www.maine.gov/dep/blwq/docstand/nrpapage.htm>. This presentation addresses recent changes made to the Natural Resources Protection Act in

regards to Significant Wildlife Habitat and in particular shorebird habitats and tidal waterfowl and wading bird habitats.

Inventories indicate that there has been a significant loss of shorebirds in recent decades. One of the likely causes is the loss of habitat from coastal development.

NRPA seeks to protect tidal waterfowl and wading birds by regulating activities in their habitat and a 75 foot wide area adjacent to the habitat. A 100 foot wide buffer will be regulated adjacent to shorebird feeding areas. A 250 foot wide buffer will be maintained adjacent to shorebird roosting areas. Roosts may be outcroppings or high sand bars. The goal with all these habitats is to avoid impacts where possible or to minimize impacts, if avoidance is not possible. Compensation might be required for unavoidable impacts.

After the initial rules were adopted in 2006, they were revisited during this past legislative session and revised as reflected above. Most everyone recognized the value of protecting these high value wildlife habitats but also realized that waterfront property owners had legitimate concerns about the new rules that needed to be addressed. The revised rules reflect compromises that a variety of stakeholders made. As a result of the recent legislative changes, IF&W is updating the shorebird and tidal waterfowl and wading bird maps to remove developed areas from the maps and to incorporate the revised buffer areas.

### **Question and Answer Period**

Q. Are these set back distances based on solid science?

A. To the extent that is possible given the political realities. There is some estimating involved, but we know that shorebirds roosting areas need to be free from disturbance more than shorebird feeding areas. There was some compromising needed to achieve the final buffer widths.

Q. Has there been a study of the economic impact of these set backs?

A. This questions has not been studied extensively enough.

Q. Are there any problems in addressing both working waterfront and waterfowl use?

A – The standards are the same for commercial piers and wharfs, and private recreational docks. Commercial wharfs are likely to have fewer alternatives and DEP is aware that many commercial fisherman have difficulty accessing the water. There have also been instances, when adjacent land owners have appealed permits that were issued to commercial wharfs because of conflicts

between the working waterfront and people who want to live on the water but not be impacted by commercial activities on the waterfront.

Q. It seems that there might be some shoreland zoning implications as a result of the new significant wildlife habitats.

A. Shoreland zoning will be affected by the designation of the shorebird habitat and tidal waterfowl and wading bird habitat. There will probably be some required changes to local shoreland zoning ordinances.