



STATE OF MAINE
DEPARTMENT OF CONSERVATION
MAINE LAND USE REGULATION COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

JOHN ELIAS BALDACCI
GOVERNOR

PATRICK K. MCGOWAN
COMMISSIONER

MEMORANDUM

November 29, 2005

To: Commission Members
From: Jeremy Pare, Senior Planner
Re: **CLUP Revision – Conservation Easements**
December 2005 Commission Meeting

The Commission Meeting on December 7th in Brewer provides the group an opportunity to focus some time on LURC's ongoing role with the conservation easement. We have invited Jeff Pidot from the Attorney General's Office to share his knowledge involving LURC's historical use of conservation easements, current legal standing, and future opportunities for involvement.

As an integral part of this discussion, I am enclosing LURC's [guidelines for selection of conservation easement holders](#) ("guidelines"), and Jeff Pidot's publication titled "[Reinventing Conservation Easements](#)."

Mr. Pidot's presentation will run for about twenty minutes, with the floor then opening for discussion and questions. I suggest looking closely at his publication for potential reforms as these may shed light on the role LURC could undertake as it works to implement its shared vision. Also, I suggest looking at the model conservation easement printed in the provided guidelines for a better understanding of what the easement requires of the parties involved.

As part of the aforementioned guidelines, amendments in 2004 added language to strengthen the Commission's discretion and broaden the responsibilities of the easement holder. Among the changes, the Commission 1) holds final discretion to decide whether a holder *or* the terms of a conservation easement are satisfactory, 2) has discretion to require a back-up holder in the event the current holder of the easement ceases to exist or fails to undertake its responsibilities, 3) may impose the right to directly enforce the restrictions of the easement, and 4) must approve transfers of the easement. Modifications for the holder include 1) showing a track record and/or capacity to enforce the easement, and 2) demonstrating a satisfactory track record and commitment with regard to knowing and complying with laws applicable to it.

If you have any questions or comments regarding this memorandum or its contents, please feel free to call me at 287-4194. I look forward to seeing you all in December.