



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

June 26, 2006

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**Subject:** Reference to the Conservation Framework within Plum Creek's 2006 petition for rezoning.

Dear Ginger:

This correspondence is in response to your letter dated May 26, 2006, and received by the Commission's staff on May 30, 2006, in which you describe Plum Creek's position on the so-called "Conservation Framework", as defined on pages IV-19 to IV-24 in the "Plan Description". Currently, reference to the Conservation Framework appears in a large number of places in both text and maps submitted to LURC as part of Plum Creek's 2006 petition for rezoning to implement a concept plan in the Moosehead Lake region. In your letter, you state that the Conservation Framework is part of Plum Creek's proposed concept plan because it directly bears upon land within the plan area. You also state that Plum Creek has distinguished the Conservation Framework from the 72,000 acres of permanent conservation presented as 'balance' for the proposed development (meaning, as staff understands the petition, the lands that Plum Creek proposes as sufficient to meet the criterion of Section 10.23,H,6,f of the Commission's regulations), regardless of existence of the Conservation Framework.

This correspondence is also in response to three letters received in May 2006 from the Moosehead Region Futures Committee, Maine Audubon, and the Natural Resources Council of Maine, in which these parties have requested that LURC require Plum Creek to remove any reference to the Conservation Framework from its application materials. These letters are enclosed for your reference. In general, these three parties contend, among other things, that exclusion of the Conservation Framework in Plum Creek's petition is necessary because the Conservation Framework is a non-regulatory, private transaction that is not relevant to LURC's regulatory review, involves the voluntary sale and purchase of conservation easements and lands, and misrepresents the proposal that is for the Commission to consider. We are also aware of media presentations sponsored by Plum Creek seeking to describe this transaction as integral to what Plum Creek is proposing to the Commission.

The Commission's staff has carefully considered this matter, including in discussions with our consultants and the Attorney General's office. Our concerns regard several issues, among them: (1) the degree to which the Conservation Framework, as currently described in the application materials, is legally irrelevant and/or potentially prejudicial to the regulatory decision that the Commission will be required to make on Plum Creek's petition, and (2) whether the content of the petition, in combination with other public statements made by Plum Creek, creates public confusion as to what parts of the petition are beyond the authority of the Commission to consider or impose as part of its review process and to enforce should the petition be approved.



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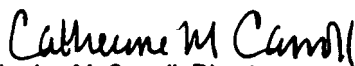
Based on this review, the Commission's staff notes that:

- (1) as we understand it, the Conservation Framework is offered as a non-regulatory, contingent and voluntary arrangement among private parties -- Plum Creek and The Nature Conservancy and/or other private groups -- which may or may not be implemented;
- (2) conservation of the lands included in the Conservation Framework appears to depend, in part, on The Nature Conservancy's and other entities' ability to raise the funding required to purchase these easements and lands from Plum Creek for a price and under terms that, to date, have not been made public or available to us. Under the current circumstances as presented in Plum Creek's petition, the Commission has no authority to require Plum Creek to sell or The Nature Conservancy or other entities to purchase and protect the Conservation Framework lands; and
- (3) Plum Creek's petition states that the opportunity for The Nature Conservancy or other entities to execute the Conservation Framework and conserve the lands identified therein is dependent upon the Commission's approval of the form and substance of the Concept Plan proposal filed with the Commission by Plum Creek in April 2006, although the Commission has had no involvement in the form or substance of the Conservation Framework, and the terms of these transactions have not been made public or available to us.

While the LURC staff does not find inclusion of these references in the petition to be a "deficiency" as such, it has made no determination as to whether they have any bearing on the matter to be considered by the Commission. Ultimately, questions about the degree of relevance and prejudice in the Commission's regulatory decision-making are for the Presiding Officer to make. If the Presiding Officer ultimately concludes that the petition in its current form, containing numerous references to the Conservation Framework, should not be included in the administrative record presented to the Commission for its regulatory review, Plum Creek will be provided an opportunity to make changes in its application materials as required by the Presiding Officer.

To help minimize potential confusion or the possibility that the Presiding Officer will issue a ruling adverse to Plum Creek in this matter, we encourage Plum Creek to consider amending its petition to either eliminate mention of the voluntary Conservation Framework or to explicitly place it in context by expressing it as a non-regulatory and voluntary plan along the lines of the three points listed above. We further encourage Plum Creek to take every opportunity in its public presentations to clarify these points.

Sincerely,

  
Catherine M. Carroll, Director

Enclosures: Correspondence related to the Conservation Framework:

- > Letter from Plum Creek (received May 30, 2006).
- > Letter from the Natural Resources Council of Maine (received May 25, 2006).
- > Letter from Maine Audubon (received May 18, 2006).
- > Letter from the Moosehead Region Futures Committee (received May 15, 2006).

xc: Sally Stockwell, Maine Audubon  
James Glavine, Moosehead Region Futures Committee  
Diano Circo and Pete Didisheim, Natural Resources Council of Maine  
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