

**FINAL REPORT  
AND  
RECOMMENDATIONS FOR IMPLEMENTATION  
OF THE  
SEARS ISLAND PLANNING INITIATIVE  
JOINT USE PLANNING COMMITTEE**

This Final Report of the Sears Island Planning Initiative's Joint Use Planning Committee, prepared pursuant to the Sears Island Planning Initiative Steering Committee Consensus Agreement, is hereby respectfully submitted to the State of Maine's Joint Standing Committee on Transportation of the Maine Legislature for approval and implementation.

**Background**

For over 40 years, proposals to develop Sears Island by government and industry encompassed an oil refinery, a nuclear power plant, a coal power plant, a new container port and, a liquefied natural gas terminal. Each one has failed largely due to insufficient support from the broader state and Penobscot Bay communities that are concerned by the impacts on Sears Island as well as the bay.

In 2005, Governor Baldacci demonstrated that years of acrimony and controversy could be settled through a sound, inclusive process designed to produce a fair outcome, when he charged a representative stakeholder group, the Sears Island Planning Initiative Steering Committee (SIPISC) to work together to create an acceptable resolution resulting in a Consensus Agreement. The committee consisted of the local Searsport committee organized by the Town of Searsport working with MaineDOT, the Sears Island Alternative Use Committee (SIAUC), conservationists, and representatives of the industrial and transportation sectors.

The SIPISC Consensus Agreement, signed in April 2007, established appropriate uses for Mack Point and Sears Island, marine transportation, recreation, education and conservation that could be compatibly managed. The Governor charged a smaller stakeholder group, the Joint Use Planning Committee (JUPC) to comply with the directive of the Consensus Agreement, establishing a line of demarcation between potential transportation and conservation areas and to develop a Conservation Easement for the conservation area.

Meeting regularly (19 times) since July 11, 2007, the 15-member JUPC has, in accordance with the Consensus Agreement, discussed and addressed appropriate and inappropriate land uses for Sears Island; the build out of Mack Point; outdoor recreation, education and conservation opportunities on Sears Island by creation of a Conservation Easement; and the Maine Department of Transportation's (MaineDOT) jurisdiction over Sears Island.

## Process

The JUPC is comprised of 15 members and 2 alternates representing a balance of conservation, transportation, municipal, government, business, and local citizen interests:

Becky Bartovics (Alternate), Penobscot Bay Alliance  
Sara Bradford, Town of Stockton Springs  
David Cole, Maine Department of Transportation  
David Colter, GAC Chemical Corporation  
Anne Crimaudo, Town of Searsport  
Scott Dickerson, Coastal Mountains Land Trust  
Jim Freeman, Friends of Sears Island  
James Gillway, Town of Searsport  
Bob Grindrod, Montreal, Maine & Atlantic Railway  
Steve Miller, Islesboro Islands Trust  
Rosaire Pelletier, Maine Governor's Office  
Bruce Probert, Town of Searsport  
Joan Saxe, Sierra Club  
Dianne Smith, Town of Searsport  
Jim Therriault (Alternate), Sprague Energy  
Eliza Townsend and Molly Docherty, Maine Department of Conservation  
Bob Ziegelaar, Telford Group

Their efforts are supported by a multi-disciplinary team comprised of MaineDOT and Maine Coast Heritage Trust (MCHT) personnel:

Duane Scott, MaineDOT Support Team Project Manager  
Ciona Ulbrich, MCHT Project Manager

The purpose of the JUPC was to propose methods of implementing the recommendations of the SIPISC Consensus Agreement for compatibly managed conservation, education, recreation and transportation activities on Mack Point and Sears Island.

Pursuant to the SIPISC Consensus Agreement, the JUPC was empowered by the Governor of Maine, Joint Standing Committee on Transportation of the Maine Legislature, and the Town of Searsport to create a report containing recommendations regarding land use activities on Mack Point and/or Sears Island.

The JUPC, with the aid of experts as needed and in compliance with the Consensus Agreement, discussed baseline natural resource inventory data necessary for the Conservation Easement, fixed conservation and transportation land use boundaries, solicited for and selected an easement holder, determined appropriate access issues, explored a municipal revenue plan, identified options for mitigation, and addressed other necessary issues.

The JUPC has agreed that the following uses and activities are not appropriate for Sears Island:

- No demolition of the causeway;
- No unauthorized motor vehicle traffic;
- No residential development;
- No nuclear power plants;
- No coal-fired power or industrial plants;
- No commercial retail or restaurants;
- No casinos;
- No chemical manufacturing;
- No international airport, airstrip or helicopter landing area;
- No overnight camping without a permit;
- No permanent religious buildings;
- No unauthorized cutting or harvesting of wood;
- No marine transport of out-of-state or domestic garbage or construction waste to or from the island;
- No incinerator;
- No unlawful destruction of wetlands or habitat; nor
- No soil harvesting.

## Recommendations of the JUPC

In the interest of implementing the terms of the SIPISC Consensus Agreement, the JUPC offers the following seven recommendations for consideration and implementation:

### **1. Conservation Easement**

“draft mutually acceptable buffer easement language which references a baseline natural resource inventory”<sup>1</sup>

The Conservation Easement (CE) is the agreement between MaineDOT and the JUPC identifying a portion of Sears Island as a Protected Property (Conservation Parcel). The CE names MaineDOT as the Grantor, Maine Coast Heritage Trust (MCHT) as the Holder and the Maine Department of Environmental Protection (MDEP) as the Third Party Enforcer. The CE establishes the location of the Protected Property, the potential location for an Education and Maintenance Center Area, the Cell Tower Lease Acquisition, LLC, the Enhancement/Restoration Areas and the Transportation Parcel. The total land area of the Protected Property is 601 acres, the land area of the Transportation Parcel is 330 acres and the Cell Tower Lease is 5 acres.

The purposes of the CE are to preserve the availability of the property for low-impact pedestrian outdoor recreation, nature observation, and study; to provide for the opportunity to construct facilities and structures permitted under the easement for educational activities, nominal visitor amenities and land management needs; and to protect and preserve important natural, scenic and wildlife resources.

The JUPC reviewed Federal Highway Administration (FHWA) Section 4(f) regulations and it was determined that the joint use approach utilized in the Consensus Agreement process is compliant with the Section 4(f) Final Rule of April 11, 2008.

The CE on the Protected Property is granted exclusively for the following conservation purposes:

- To provide significant public benefit by protecting and preserving in perpetuity the natural and undeveloped character of the Protected Property.
- Preserving the opportunity for low-impact outdoor recreation, education and nature observation.
- Limiting the uses of the Protected Property to activities that are compatible with the protection of wildlife habitat and preservation of open space, natural values and its scenic character when viewed from public vantage points.

The CE allows creation, enhancement, and/or restoration processes to occur on two degraded wetland sites on the Protected Property, as further described in the Mitigation Options section of this report.

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<sup>1</sup> SIPISC Consensus Agreement

It is the intention of the CE that the Natural Area be used as conservation land for low impact outdoor recreation, nature observation and study, and that uses and improvements within the Natural Area be limited to the extent necessary or appropriate to preserve its natural and undeveloped character including preserving its wildlife habitat and natural scenic values, as well as to buffer the shoreline and important conservation values of the Protected Property from the impacts of permitted development and uses within the Protected Property's Education and Maintenance Center Area and from the transportation facilities that may be located on the excluded Transportation Parcel. The Transportation Parcel is being reserved by MaineDOT for future transportation use and 23 CFR § 774.11(i) allows for joint or concurrent development of a transportation facility such that future development of that reserved land does not constitute a use under 23 CFR § 774.17.

No structures, temporary or permanent, may be located or constructed on the Natural Area of the Protected Property, and no alterations may be made to the vegetation or to the surface of the earth or to wetlands or watercourses on the Natural Area of the Protected Property, without the prior written consent of Holder, except that certain enumerated rights are reserved by Grantor and are also authorized by the Grantor to be implemented by an approved Land Management Entity. The Land Management Entity will advise, oversee and manage the Protected Property in accordance with this Conservation Easement and any uses permitted herein

The CE provides the right to construct an Education and Maintenance Center within an area to be determined by the agreement of MaineDOT and the Holder and Land Management Entity, called the Education and Maintenance Center Area. This Area will be a single contiguous land area located east of the Stetson Hills Road and within 1.1 miles south of where State Highway 255 crosses the railroad tracks on the mainland. The CE allows for a facility of multiple buildings to be constructed that do not exceed an aggregate 10,000 square foot footprint or 30 feet in height. The easement also provides the rights to install a wind generator, and a dock/pier designed to accommodate small marine craft of not more than approximately 30 feet in length, in the Education and Maintenance Center Area.

The following structures are not permitted in the Natural Area: buildings, sheds, storage units, gazebos, screen houses, tent platforms, rip rap, jetties, barns, bleachers, stages, paved platforms, major recreational improvements such as swimming pools, tennis courts, athletic or sports or equestrian fields or courts or courses that require grading of the surface or extensive barring of mineral soils.

The Conservation Easement also provides for:

**Maintenance of Stetson Hills Road and Road along ROW to Tower:** the right to maintain and improve the existing Stetson Hills Road, and the approximately 10-foot wide gravel roadway over the right of way to the Tower; each depicted generally on the sketch map attached to the easement, Exhibit B.

**Maintenance Roadway:** the right to establish and maintain a roadway from the Stetson Hills Road to facilities located in the Education and Maintenance Center Area as necessary.

**Footpaths and Trails:** the right to establish and maintain, anywhere on the Protected Property, unpaved footpaths and trails of not more than 8 feet in average combined tread width and side clearance, designed and located to prevent erosion and protect the other conservation values of the Conservation Easement.

**Wetland Mitigation:** the Grantor may implement the creation, enhancement, and restoration of wetlands, hydrologic features, and wetland habitat features on the Protected Property within those two sites in the Natural Area that are depicted in Exhibit B, as “Enhancement/Restoration Areas,” to compensate for unavoidable wetland impacts of transportation activities on or near Sears Island or other areas of the State of Maine by MaineDOT, after notice in writing to the Holder specifying the scope of work and a timeline for completion. MaineDOT may propose that the remaining 598.8 acres of the Protected Property may be considered for deposit as compensatory mitigation credits in a proposed Federal Umbrella Mitigation Bank for use on transportation projects anywhere at the discretion of MaineDOT with approval of the regulatory agencies.

Within forested areas of the Natural Area, it is the intention of the Conservation Easement to foster an intact, healthy forested area, and to limit the removal of vegetation to preserve healthy soils and habitat for wildlife, including current and future threatened, rare or endangered species, to assure biological diversity, to preserve the scenic character of forested areas of the Protected Property from public vantage points, and to protect, maintain and/or restore those wetlands, as well as open and unforested areas, in the Natural Area that provide habitat for wildlife including current and future threatened, rare or endangered species or that provide a scenic benefit from the public vantage points.

The Grantor permits, and will refrain from prohibiting or discouraging, use of the Protected Property by the general public for low-impact outdoor recreational uses, such as walking, hiking, nature observation, and for pedestrian access to the intertidal area of the shore, exercised in a manner that is consistent with the protection and preservation of the natural and ecological character of the Protected Property.

The Holder has the right to enter the Protected Property for inspection and monitoring purposes and for enforcement at a reasonable time and in a reasonable manner that is consistent with the conservation purposes. Except in emergency circumstances, the Holder will make reasonable efforts to contact the appropriate Land Management Entity prior to entry onto any area of the Protected Property that is not then open to the public. “Emergency circumstances” means that the Holder has a good-faith basis to believe a violation of the easement is occurring or is imminent.

The Transportation Parcel has been professionally surveyed as part of the easement description. It will be the Grantor’s obligation to keep the boundaries between the Transportation Parcel and the Protected Property clearly marked. In the event boundaries are not adequately clear or marked and the Grantor fails to accurately mark within a reasonable time after notice by the Holder, the Holder will have the right to engage a professional surveyor to re-establish and re-mark boundaries of the Protected Property.

The easement acknowledges that the Holder has neither possessory rights in the Protected Property, nor any responsibility nor right to control, maintain, pay taxes on or keep up the Protected Property. The Grantor (or Grantor's agents, tenants, and licensees, as the case may be) and any Land Management Entities, and not the Holder, will retain all responsibilities and bear all costs and liabilities of any nature related to the ownership, operation, upkeep, improvement and maintenance of the Protected Property, including but not limited to hazardous waste and other environmental compliance obligations and liability.

In order to establish the present condition of the Protected Property and its conservation attributes protected by the Conservation Easement, and its natural and scenic resources, so as to be able to monitor properly future uses of the Protected Property and assure compliance with the terms of the easement, the Holder and Grantor have prepared an inventory of the Protected Property's relevant features and conditions.

MDEP, pursuant to its Wetland Protection Rules, Code of Maine Rules, Chapter 310 as Third Party Enforcer, is granted the right to enforce the terms of the Conservation Easement by proceedings at law and in equity, including the right to require the restoration of the Protected Property to its prior condition after reasonable prior written notice of any concerns or apparent violations to afford the Grantor and/or a Land Management Entity a reasonable opportunity to correct any infringements on the restrictions in the Conservation Easement that are the result of actions or omissions on the part of the Grantor and/or a Land Management Entity.

## **2. Land Use Plans (Boundary Map)**

“fix the boundaries of the two areas in a way which reserves adequate acreage for a potential port while creating a functional area for conservation, recreation and education”

In order to establish the two land use areas for conservation and transportation on Sears Island, the JUPC reviewed 14 different natural resource Geographic Information System (GIS) data layers. These consisted of: 250-foot coastal buffers; wetlands >10 acres with 250-foot buffers; wetlands <10 acres with 75-foot buffers; streams with 75-foot buffers; eagle nest and ribbon snake locations; coastal waterfowl and wading bird habitat; amphibian breeding pools; eel grass beds; dune grassland locations; shellfish habitat; slopes >15%; shellfish restoration areas; existing trails; and State and federal dredging locations. After this technical information was presented to the JUPC, they requested from MaineDOT a proposed boundary line establishing the conservation and transportation land use areas. MaineDOT, working with the Office of Freight Transportation and Business Services and the Environmental Office, proposed a boundary that would accommodate both uses. The JUPC formally approved the boundary map.

A number of factors weighed in on the appropriate location of the Transportation Parcel. The two primary elements were the transportation facilities orientation to the existing federal channel and site topography to accommodate rail service. The secondary factors were wetlands, amphibian breeding pools, endangered species, coastal waterfowl and wading bird habitat, eel grass and shellfish habitat. Given the location of the federal channel on the west side of the island, an area was laid out on the western shore with the best access to the channel. The area chosen had minor to moderate topographic changes that could be manipulated to serve a rail line. A primary access corridor was reserved from the existing causeway along the westerly shoreline to the southern most survey line. This access may service a road and rail line on a relatively flat grade. The existing improved Stetson Hills Road that currently serves the island would become a secondary access for the transportation facility because the moderate to steep grades will not accommodate rail. The Transportation Parcel consists of 330 acres with 11,514 feet of shoreline.

The location of the Protected Property was determined by the existing network of trails available to the visitor, the important view sheds available along the eastern and southern shoreline, an important natural beach on the northeast side of the island with a potential for a carry-in boat launch, direct access from the unimproved Stetson Hills Road (Tower Road), land suitable for a visitor orientation area adjacent to the causeway and historic/archeological sites, a Maine Natural Areas Program rare natural community feature, habitat for the rare Ribbon Snake and eagle nests, and coastal waterfowl feeding areas. The Protected Property consists of 601 acres with 19,290 feet of shoreline.



### **3. Maine Coast Heritage Trust designated as Easement Holder**

“help convey a deed with easement restrictions to the buffer easement holder”

In December 2007, a Request for Interest and Qualifications was distributed statewide to invite responses from organizations qualified to hold conservation easements, willing to participate in the drafting of the easement, and ultimately able to act as the independent Holder of the easement.

Interested organizations were asked to submit their expression of interest in being the Holder, taking into consideration the outline of the terms of the easement, criteria for the selection of a Holder of the easement, and the Sears Island Planning Initiative Consensus Agreement. The deadline for submission of statements of interest and qualifications was January 14, 2008 and representatives of those organizations were asked to attend the January 18, 2008 meeting of the Joint Use Planning Committee.

The criteria for selection of a Holder of the Conservation Easement included:

- The Holder should be a qualified holder of conservation easements.
- The Holder's geographic scope of service should include Maine's coastal region, and it should be familiar with coastal issues.
- The Holder should have substantial experience in drafting and holding conservation easements, particularly those that are primarily for the purposes of ecological protection, sustainable public access, and environmental education.
- The Holder should have a good understanding of local community, regional and statewide interests.
- The Holder should have a well-demonstrated capability and capacity (land protection and stewardship staff, funding support, legal defense fund, etc.) to monitor and enforce the conservation easement in perpetuity.
- The Holder should have a history of effective collaboration with other organizations to effect management of conservation properties that have high public use.
- The Holder should have a history of working effectively with government agencies.
- The Holder should be soundly established due to a long history of conservation work.
- The Holder must be willing and able to partner with the state as Grantor/landowner, as well as enforce a conservation easement it holds on land owned by the State.
- The Holder should be prepared and willing to deal with commercial operations (such as a port operator) on adjacent property.
- The Holder must demonstrate that it possesses the financial wherewithal and track record, along with the requisite management structure, to execute its responsibilities, as outlined in any finalized conservation easement, in an effective and professional manner.

Following the statewide Request for Interest and Qualifications, the JUPC identified MCHT as the preferred Easement Holder and requested MCHT assistance in drafting the Conservation Easement.

#### **4. Access Issues (Conservation Easement)**

“determine appropriate access issues”

The Grantor permits, and will refrain from prohibiting or discouraging, use of the Protected Property by the general public for low-impact outdoor recreational uses, such as walking, hiking, nature observation, and for pedestrian access to the intertidal area of the shore, exercised in a manner that is consistent with the protection and preservation of the natural and ecological character of the Protected Property. An approved Land Management Entity may have the right to prohibit, limit or charge a fee for off-hours use, fires, vehicular uses, and special events, and the right to temporarily limit or restrict such public recreational use of the Protected Property that is detrimental to the conservation values of the Protected Property, or to the extent necessary for construction and maintenance, mitigation and management activities or other activities of the Grantor or an approved Land Management Entity. For such purposes, the general public will be allowed to access the Protected Property over the Stetson Hills Road as depicted generally on Exhibit B and/or over a road to be constructed connecting the Stetson Hills Road to the Educational and Maintenance Center Area.

Public access will be allowed to the Transportation Parcel until such time as a port proposal for that parcel completes the regulatory process.

## 5. Municipal Revenue Plan

“develop a plan for annual revenues to be paid to the Town of Searsport”

The JUPC discussed potential revenue streams for the Town of Searsport associated with the development of an Education and Maintenance Center, improved recreational opportunities, and with a port development on Mack Point and/or Sears Island. Regarding potential revenues to be derived from the redevelopment-expansion of the facilities at Mack Point, development of additional or enhanced port facilities would provide proportional revenues to the Town relative to the scale of those improvements.

Based on the study, *Sears Island – Options for the Future*, the economic benefit of the Education and Maintenance Center was estimated at \$1.7 million annually to Searsport area businesses. The Education and Maintenance Center facilities may have 5 to 6 full and part-time employees and a payroll of approximately \$200,000 annually. This, in addition to new tourist spending, will be new income and spending to the area and have an additional, indirect economic impact on the area, bringing the total economic benefit to just under \$2 million annually.

The direct fiscal impact on the Town of Searsport resulting from this proposal is unknown. However, the owner and manager of the Education and Maintenance Center should, as practiced by many government agencies and nonprofit organizations, make an annual payment in lieu of property taxes to the Town based on 7% of the value of the taxable structures. Additional rental sales will help maintain the commercial viability of the area and improve the tax base of the Town. Similarly, these investments may bring research activities to the area (and perhaps additional jobs).

At the request of the JUPC, MaineDOT estimated the revenues to the Town of Searsport from a potential container terminal. MaineDOT estimated only direct revenues to the Town from the terminal. These revenues would primarily take the form of property taxes on fixed structures in the terminal and business equipment taxes on other assets in the terminal. (*Note: Businesses can file for an exemption from the business equipment tax and the State is required to reimburse the town at 50% of the tax*). MaineDOT did not measure revenues associated with general increased economic activity associated with a port, but it can be assumed that it would be significant. Such activity might include, but would not be limited to, port terminal operators, brokers, freight forwarders, rail activity, trucking, cargo surveyors, ship agents, ship chandlers, container repair companies, vessel bunkering, distribution warehousing, and manufacturing plants.

The direct revenues to the Town were based on a notional two berth container terminal described in *The Port Development Strategic Plan* developed for the Maine Port Authority by the Cornell Group of Fairfax, Virginia in 2007. The terminal was estimated to cost some \$194 million at the time of the study.

Towns derive revenues from three principal sources: property taxes, motor vehicle excise taxes, and state tax revenue sharing. In the case of a port development, revenues would be derived from: property taxes on fixed structures (buildings, piers, rail), business equipment taxes on personal property (anything not affixed to the ground, e.g. cranes and other mobile equipment),

tax on leasehold improvements or revenue sharing in lieu of property tax, and motor vehicle excise taxes.

The cost of the two berth container facility described in the Cornell Study is detailed below:

|                              |                      |
|------------------------------|----------------------|
| Harbor preparation           | \$ 55,098,049        |
| Docks & Terminal             | \$ 49,757,745        |
| Sheds, Office & Gates        | \$ 17,669,729        |
| Cranes                       | \$ 16,600,000        |
| Field Equipment              | <u>\$ 22,440,232</u> |
| Est. Cost before Contingency | \$161,565,555        |
| Contingency + 20%            | <u>\$ 32,313,111</u> |
| Total Port Facility Cost     | \$193,878,666        |

If we use this notional port facility cost estimate, excluding contingency funds, the port would pay property taxes estimated at \$940,426 (*assuming a Searsport mil rate of \$18.90*) for the docks and terminal and \$333,963 on sheds, office, and gates (*construction cost, not actual valuation*) and business equipment taxes (based on the mil rate reimbursable to the town by the state at 50% of the tax) of \$156,870 on cranes and \$212,058 on field equipment annually.

Total potential direct revenues to the town (excluding tax on leasehold improvements not included in estimates or revenue sharing in lieu of property taxes) from a potential port have been conservatively estimated at \$1,643,317 annually.

## **6. Mitigation Options**

“identify options for mitigation for a potential port”

Two degraded wetland/upland areas on the Protected Property will be set aside for wetland mitigation purposes. These two areas are locations where soil test pits were constructed back in the 1970's when Sears Island was being explored for nuclear power purposes. MaineDOT is reserving the right to construct a total of 2.2 acres of wetland restoration, enhancement and/or creation mitigation. These wetland construction areas along with the Protected Property balance of 598.8 acres consisting of wetland and upland preservation will be considered for placement in a proposed Federal Umbrella Mitigation Bank for future compensatory mitigation credit on transportation-related projects. Such a Mitigation Bank will provide MaineDOT a dedicated venue for the deposit and use of federally approved wetland mitigation site credits statewide. The Department is currently pursuing two specific sites, one being Sears Island, for the initial deposits in the proposed bank. A Banking Prospectus is currently being developed for the U.S. Army Corps of Engineers consideration. The bank instrument timeline which includes public participation and regulatory and resource agency review and approval is expected to be up and running by September 2009.

Other mitigation options off-island have been identified in the Town of Searsport as potential mitigation candidates. One consists of the removal of an old, discontinued alignment of Route 1 near the Sears Island Road. The other is the removal of permitted excess fill material adjacent to the Sears Island Road that was deposited during the construction of Stetson Hills Road.

An extensive mitigation site search will be performed at the time of transportation facility permitting. A suite of potential sites will be presented to the resource agencies for review and consideration. MaineDOT will pursue all potential Transportation Parcel mitigation options before using Protected Property compensatory mitigation credit, however, the regulators will have the ultimate decision on where and what mitigation will be selected and approved.

As noted earlier in this Final Report, the JUPC reviewed Federal Highway Administration (FHWA) Section 4(f) regulations and it was determined that the joint use approach utilized in the Consensus Agreement process is compliant with the Section 4(f) Final Rule of April 11, 2008.

## **7. Land Management Entity/Advisory Group**

**“consider any other issues necessary to effectuate this Consensus Agreement”**

Finally, it is the recommendation of the JUPC that consideration be given to the implementation of an on-going Advisory Group:

Sears Island, a 936-acre island in upper Penobscot Bay, is owned by the State of Maine and managed under the jurisdiction of MaineDOT. As proposed by the JUPC, an initiative established by the Governor of Maine, and if approved by the Joint Standing Committee on Transportation, the island will be divided into two different parcels: a 330-acre Transportation Parcel and a 601-acre Protected Property that will be placed under a perpetual conservation easement and managed for outdoor recreation, education, and protection of ecological resources. Construction and maintenance of trails, parking areas, buildings, and other structures necessary to deliver services for the intended uses are expected improvements in the Protected Property. Such improvements will be allowed and limited under the terms of the conservation easement and are subject to all applicable local, State and federal land use regulations.

Management of the Protected Property will likely be conducted under a management agreement between the MaineDOT and one or more other Land Management Entities. For example, an environmental education institution or agency might enter into a management agreement to construct and use a visitor-education center, while a nonprofit organization might enter into a management agreement to manage the trails and lands outside of the Education and Maintenance Center Area.

Because the MaineDOT is neither statutorily charged with managing lands for the uses of the Protected Property nor has staff and other resources relevant to such management, the JUPC has proposed that an Advisory Group be established to assist the MaineDOT in the decision-making process concerning appropriate management of the Protected Property.

The Advisory Group will provide the knowledge and experience of its members to the MaineDOT with the goal of facilitating effective management of the Protected Property. In its effort to meet that goal, the Advisory Group will review and comment to the MaineDOT on the following matters concerning the Protected Property:

- policies and practices concerning management;
- management plans;
- plans concerning buildings and other substantial improvements;
- issues arising from the terms of the conservation easement;
- license agreements; and
- other matters that will arise from time-to-time that have impacts on management.

The Advisory Group does not have the power to approve or disapprove of final decisions concerning management of the Protected Property. Its role is to counsel the MaineDOT in that agency's jurisdiction of the Protected Property and related management decisions. MaineDOT has the authority and obligation to make all binding decisions. The Advisory Group would report annually regarding its activities.

The Advisory Group may be composed of one representative from each of the following, or comparable, entities:

- Maine Department of Transportation, which will act as chair;
- Maine Department of Conservation;
- Maine Department of Environmental Protection;
- Town of Searsport;
- Town of Stockton Springs;
- Holder of the Conservation Easement;
- Non-governmental organizations (two), having conservation expertise; and
- Land Management Entities of the Protected Property.

The non-governmental organizations will be appointed by the Governor. The Advisory Group is intended to be a continuing committee in providing its counsel to MaineDOT, and is not established with a specific term of years of operation. The Advisory Group will meet as often as necessary to fulfill the role described above, and not less than once per year.

## **Appendices**

Consensus Agreement

Conservation Easement

Exhibit A – Legal Description of the Protected Property

Exhibit B – Survey Plan

Exhibit C – Consent Decree Recorded Abstract and Termination

Land Use Plan Boundary Map