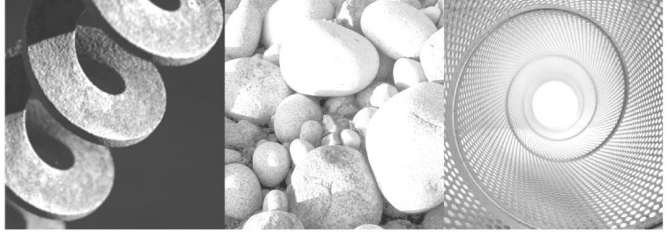

GEI Consultants

Project Report

Blue Hill Pilot Project, Curtis Cove Road

Blue Hill, Maine

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November 2024
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1. Introduction

GEI Consultants, Inc. (GEI) has undertaken a planning-level alternatives analysis for a flood adaptation project along Curtis Cove Road in the Town of Blue Hill, Hancock County, Maine (Figure 1-1). We have evaluated alternatives for the reconstruction of Curtis Cove Road with the goal of reducing the impacts of coastal flooding and rising sea levels which may include damage and loss of transportation assets and/or impacts to vehicular access along Curtis Cove Road.

Figure 1-1. Curtis Cove Road Location

The memo provides an overview of the flood risk, introduces adaptation design alternatives and provides information on design feasibility, relative costs, permitting constraints, right of way constraints, and next steps for design implementation. The findings of the alternatives analysis will serve to inform ongoing applications for state, federal, and nongovernment funding for continued engineering and design of the selected adaptation design alternative.

The North American Vertical Datum of 1988 (NAVD88) was the reference datum for elevations in this report.

2. Project Area Description

Curtis Cove Road is in the Town of Blue Hill, Hancock County Maine. The road is located in East Blue Hill and stems from the intersection of East Blue Hill Road (Route 176) and Morgan Bay Road. It travels approximately 1.1 miles east from the East Blue Hill Road and Morgan Bay Road intersection before it reaches its terminus. There are several local streets, private roads, and driveways that stem from Curtis Cove Road, for which Curtis Cove Road is their sole access. The terrain along Curtis Cove Road is surrounded by trees. Runoff from roadside ditches is conveyed by grass-lined roadside ditches along the roadway.

Curtis Cove Road dips to a low elevation of approximately 12.5 ft about 0.4 miles from its intersection with East Blue Hill Road. At this location, Curtis Cove Road opens up to a view of Curtis Cove, and crosses over a culvert that provides conveyance from small river north of the road to Curtis Cove. Figure 2-1 shows an image of the roadway adjacent to Curtis Cove where the culvert is located, including nearby utilities, a private access pathway to Curtis Cove, and a parking area alongside the roadway.

Figure 2-1. Curtis Cove Road and Surroundings

According to the Maine Coastal Program (MCP) Tidal Restriction Atlas, the culvert that provides conveyance underneath Curtis Cove Road was assessed in January 2020 and is a round pipe that has a diameter ranging from 2.3 ft to 2.7 ft. The crossing has been identified as a restriction that prevents habitat continuity between the tidal harbor and the upstream river (MCP, 2020).

There are approximately 41 buildings located east of the low point along Curtis Cove Road, for which Curtis Cove Road is the only access.

3. Environmental Considerations

3.1. Wetlands

According to the U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory, an Estuarine and Marine Wetland is identified along the southern side of Curtis Cove Road, near the location where the culvert crosses underneath the road and it opens up to a view of Curtis Cove. This is typical in tidal areas along the Maine coast. On the northern side of Curtis Cove Road, the National Wetlands Inventory has indicated the presence of a Riverine system, which travels underneath Curtis Cove Road via the culvert before it outlets to Curtis Cove. A figure of these mapped wetlands is provided in Appendix A.

The National Wetlands Inventory can be useful in understanding the general area or presence of wetlands. However, a wetland scientist should confirm the type and boundaries of wetlands present in the project area for detailed design and permitting. A wetland delineation by a wetland scientist would likely be required by regulatory agencies as part of the permitting process depending on the adaptation alternative selected.

3.2. Coastal Sand Dunes

The Coastal Sand Dune Geology of Curtis Cove, Blue Hill, Maine, was mapped by the Maine Geological Survey in 2023 (MGS, 2023). A frontal dune is indicated as present approximately 50 ft south of Curtis Cove Road within the tidal area of Curtis Cove. Curtis Cove Road is outside the limits of the sand dune area. The frontal dune area is described as an Erosion Hazard Area (EHA). An EHA is defined by the MGS as “any portion of the coastal sand dune system that can reasonably be expected to become part of a coastal wetland in the next 100 years due to cumulative and collective changes in the shoreline….”

The mapped coastal sand dune geology of the area is provided in Appendix B.

3.3. Endangered Species, Critical Habitats, and Conserved Lands

The Maine Department of Inland Fisheries & Wildlife (Maine DIFW) Beginning with Habitat (BwH) tool indicates the presence of a Tidal Waterfowl / Wading Brid Habitat (TWWH), blue mussel shellfish beds, and softshell clam shellfish beds (Maine DIFW, 2024) at and adjacent to Curtis Cove Road. The BwH tool also indicated the presence of Blue Hill Heritage Trust Conserved Land, called “Windswept,” which is approximately 20 acres of private conserved lands located adjacent to the southern side of Curtis Cove Road within the project area.

Additionally, the United States Fish & Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) tool has identified four species that are either endangered, proposed endangered, or candidates for endangered status; and fifteen types of migratory birds, including bald eagles, that may be present in the area (USFWS, 2024). The endangered species include Tricolored Bats, Roseate Terns, Atlantic Salmon, and Monarch Butterflies. The fifteen migratory birds include the Bald Eagle, Bay-breasted Warbler, Black-billed Cuckoo, Bobolink, Canada Warbler, Cape May Warbler, Chimney Swift, Evening

Grosbeak, Lesser Yellowlegs, Purple Sandpiper, Rose-breasted Grosbreak, Semipalmated Sandpiper, Veery, Whimbrel, and the Wood Thrush.

The above summary of site environmental conditions is based on planning-level resource mapping. This data is useful for initial screening for site conditions and environmental resources, but site-specific information should be verified on site by qualified professionals. Upon selection of a preferred design alternative and determination of the scope and scale of construction, site investigations should be planned to verify site-specific and project-specific data in sufficient detail to undertake the regulatory permitting process.

The figure summarizing the BwH tool results is provided in Appendix C. The IPaC resource list is provided in Appendix D.

4. Flood Exposure

4.1. Flood Vulnerability Study

Under a separate task as part of this project, we performed a flood vulnerability assessment to evaluate current and future flood risk due to coastal storm surge and sea level rise. The flood scenarios evaluated in the study, and their descriptions, are provided in Table 4-1 below. For more detail on the flood vulnerability methodology, and the limitations, see the 2024 GEI report (GEI, 2024).

Table 4-1. Flood Scenario Numbers

Flood Scenario Description	Water Surface Elevation (NAVD88, ft)	Flood Scenario Number
2050, High Tide, Commit to Manage (1.5 ft SLR)	6.7	1
2070, High Tide, Commit to Manage (2.4 ft SLR)	7.6	2
2070, High Tide, Prepare to Manage (3.0 ft SLR)	8.2	3
Present Day, 100-year Storm	9.4	4
2090, High Tide, Prepare to Manage SLR (5.0 ft SLR)	10.2	5
2050, 100-year Storm, Commit to Manage (1.5 ft SLR)	10.8	6
2070, 100-year Storm, Commit to Manage (2.4 ft SLR)	11.7	7
2070, 100-year Storm, Prepare to Manage (3.0 ft SLR)	12.3	8
2090, 100-year Storm, Prepare to Manage (5.0 ft SLR)	14.3	9

Notes: “High Tide” refers to MHHW elevation. “100-year Storm” refers to the 1% annual chance stillwater elevation.

The results of the flood vulnerability study indicate that by 2090, approximately 145 ft of Curtis Cove Road, near the culvert location, would be inundated by up to 1.8 feet of flooding during 1% annual chance coastal storm events (“100-year” storms). The flood vulnerability study was a planning-level study and did not include the impact of wave action on flood depth. Wave action during storm events would likely increase the depth of flooding and the likelihood for damage during storm events. With wave action, flood inundation along the roadway during coastal storm events would likely occur in the near-term. Additionally, the flood vulnerability study did not evaluate the risk of flooding due to precipitation events. Heavy precipitation events have the likelihood of overwhelming the culvert and overtopping the roadway leading to road inundation.

4.1.1. Summary of Tidal and Flood Elevations

In addition to the results of the flood vulnerability study, we have provided a summary in Table 4-2 of other pertinent elevations. The table includes 1% annual chance stillwater elevation for present-day sea levels and for future rates of sea level rise, the FEMA Base Flood Elevation (BFE), and elevations for

various stages in a typical tide cycle for present-day sea levels. The table also includes the minimum roadway elevation near the culvert.

Table 4-2. Tidal and Flood Elevations

Elevation Reference	Elevation (NAVD88, ft)	Source of Data
2090 “Prepare to Manage” 100-yr Storm	14.3	GEI (2024)
Minimum Roadway Crest Near Culvert	12.5	LiDAR Data (USGS, 2021)
2070 “Prepare to Manage” 100-yr Storm	12.3	GEI (2024)
2070 “Commit to Manage” 100-yr Storm	11.7	GEI (2024)
Existing FEMA BFE	11	FEMA FIS (FEMA, 2016)
2090 High Tide “Prepare to Manage”	10.2	GEI (2024)
2050 “Commit to Manage” 100-yr Storm	10.9	GEI (2024)
January 13th, 2024 Coastal Storm Event	9.9	NOAA (2024)
Present-Day 100-yr Storm	9.4	FEMA FIS (FEMA, 2016)
2070 High Tide “Prepare to Manage”	8.2	GEI (2024)
2070 High Tide “Commit to Manage”	7.6	GEI (2024)
Highest Astronomical Tide (HAT)	7.2	MGS (2024)
2050 High Tide “Commit to Manage”	6.7	GEI (2024)
Mean Higher-High-Water (MHHW)	5.3	NOAA (2023)
Mean-High-Water (MHW)	5.0	NOAA (2023)
Mean-Sea-Level (MSL)	-0.3	NOAA (2023)
Mean-Low-Water (MLW)	-5.6	NOAA (2023)
Mean-Lower-Low-Water (MLLW)	-6.0	NOAA (2023)

Notes: “High Tide” refers to MHHW elevation. “100-year Storm” refers to the 1% annual chance stillwater elevation.

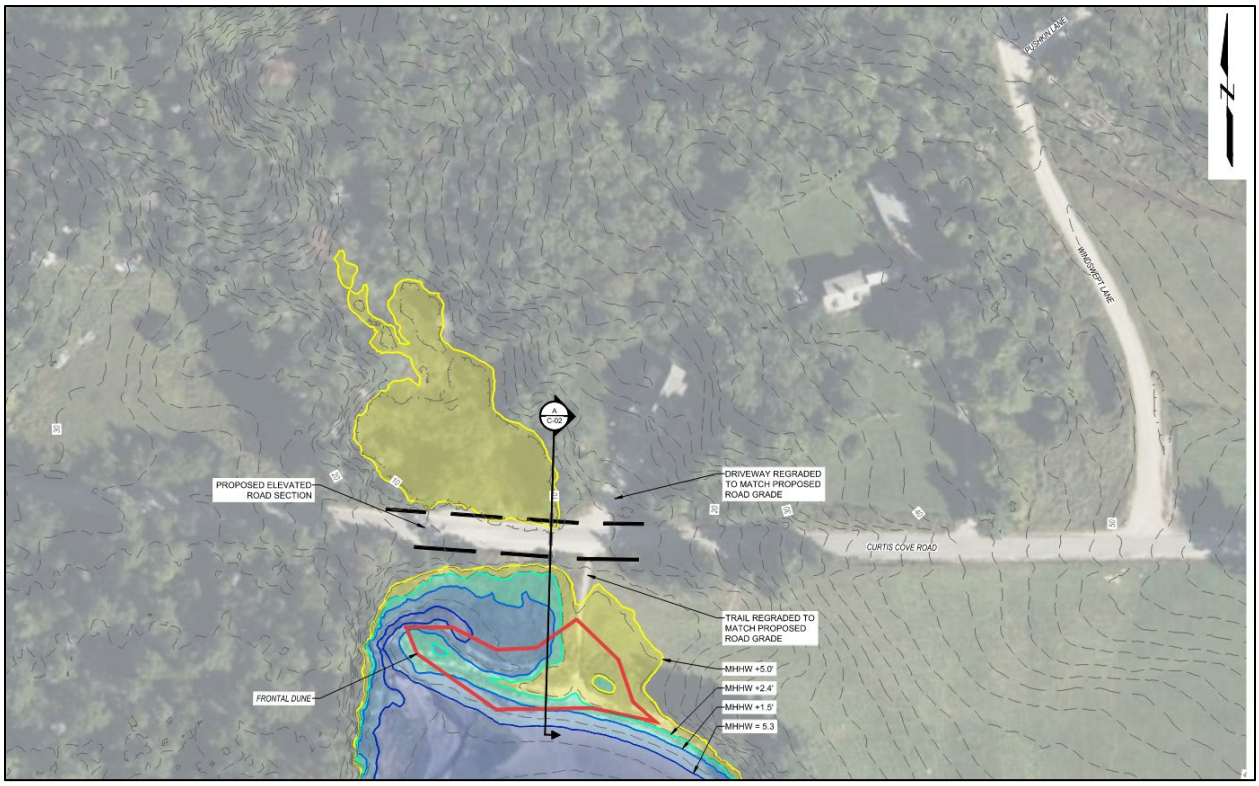
5. Adaptation Design Alternatives

The Town of Blue Hill requested an analysis of alternatives to reconstruct Curtis Cove Road to minimize the risk of overtopping and flooding of the road during coastal storm events and for increased sea levels. Two alternatives were evaluated:

1. Maintain existing alignment and raise the road to a top of pavement elevation of 15.0 ft.
2. Do-nothing option.

For each option, we evaluated design considerations, permitting constraints, and relative costs. Figure 5-1 shows a diagram of the proposed roadway segment that would be elevated under design alternative 1. Appendix E provides figures showing a profile of the alternative. It should be noted that alternative 1 is conceptual in nature and the actual elevated segment and expanded footprint may be influenced by the existing property ownership and right-of-way acquisition potential, as well as site conditions and avoidance of environmental resource impacts.

Figure 5-1. Curtis Cove Proposed Project Location



5.1. Maintain Existing Alignment and Elevate to 15.0 ft

This option would involve elevating Curtis Cove Road to a minimum top of pavement El. 15.0 ft, which would increase the road profile of Curtis Cove Road by up to 2.5 ft.

This alternative would include constructing a new cross culvert along Curtis Cove Road at the existing culvert location, which could be designed to reduce the restriction, restore habitat connectivity, and reduce risk of flood inundation due to rainfall events. The cross culvert would be designed to provide conveyance for a design rainfall event and take into consideration the tidal nature of the crossing.

5.1.1. Flood Risk

Elevating the road to El. 15.0 ft would likely prevent flooding due to stillwater conditions (i.e., standing water) during 1% annual chance coastal events by 2090 considering 5.0 ft of sea level rise.

5.1.2. Design Considerations and Challenges

We have compiled a list for the Town to consider when evaluating this alternative:

- Elevating the roadway in its existing alignment would increase the footprint of the roadway and drainage requirements and likely require right of way acquisition or easements. An increased roadway footprint may encroach on the Blue Hill Heritage Trust conserved land located adjacent to the roadway, depending on a final design selected and information obtained from a boundary site survey. Construction of vertical-faced walls along the embankments on either side of the road to contain the elevated roadway fill is an alternative that could be considered during design development to minimize the footprint of expansion onto adjacent properties and resources.
- This alternative could have upstream impacts to private property. An elevated roadway will alter the existing drainage flow patterns upstream. Additional drainage cross culverts may need to be installed along Curtis Cove Road alleviate flooding due to rainfall**.**
- There are currently overhead electric power lines along the north and south side of Curtis Cove Road. Coordination with the utility owners will be required for accommodation of construction impacts to these utilities. Relocation and/or bracing of the power poles may likely be required.
- This alternative would require coastal protection of the roadway, such as a stone revetment or sea wall, at the location of the culvert, to contain the fill from the elevated road and reduce the damage potential of wave action.
- The culvert at this location could be upsized to reduce the restriction and restore tidal connectivity. We recommend following the CoastWise Approach (MCP, 2023) when designing for a new culvert at this location.
- This alternative would require elevating approximately 200 linear feet of roadway to tie in with an existing road grade of 15.0 ft at each end.
- This alternative would be subject to several local, state, and federal permitting regulations. Permit considerations are discussed further in Section 6.0. Our preliminary evaluation suggests the project would be outside the limits of the Coastal Sand Dune, which would likely be necessary to comply with Maine DEP's Coastal Sand Dune Rules.

5.2. Do-Nothing

For the Do-Nothing alternative, the existing roadway alignment and elevation of Curtis Cove Road would be maintained. Flood inundation due to storm surge during coastal storm events for future sea levels would likely occur. Flood inundation events would likely increase in frequency and floodwaters would likely get deeper and extend further inland as seas rise and during periods of wave action. Vehicles and residents could be stranded during periods of roadway inundation and/or damage from storms. The cost of repeated roadway reconstruction, maintenance, and repair over time would likely exceed the cost of proactively adapting the roadway. The National Institute of Building Sciences reported that every $1 invested in pre-disaster risk reduction results in $6 of avoided disaster damage (MCC, 2020).

6. Permitting Considerations

Adapting Curtis Cove Road by elevating the road would be subject to local, state, and federal permitting requirements. The specific regulatory constraints and required permits would vary depending on the alternative that is selected, and the associated quantity and type of impacts to regulated resources. We have outlined federal, state, and local permits that would likely be required for adaptation of this roadway considering the following features of the site location:

- The existing alignment of Curtis Cove Road is located adjacent to Curtis Cove (a coastal wetland under Maine DEP regulations and waters of the United States under the Army Corps of Engineers (ACOE)).
- The existing roadway is located approximately 50 ft north of a Coastal Sand Dune System (MGS, 2023).
- The coastal wetland is mapped in Tidal Waterfowl and Wading Bird Habitat – a Significant Wildlife Habitat as defined by the MDEP regulations.
- The site is mapped in a FEMA AE Zone (FEMA, 2016).
- The site is also within the Limited Residential Shoreland Zone according to Town of Blue Hill Shoreland Zoning Map.
- It is anticipated that the work will require a permit from Maine DEP under the Natural Resource Protection Act, from the ACOE under the Maine General Permit, and from the Town of Blue Hill under local shoreland zoning regulations.

In addition to the permits described below, the Town will need to demonstrate they have sufficient title, right, or interest (TRI) in the project area in order to advance roadway adaptation. For alternatives that can be constructed fully within Town-owned right-of-way, TRI can be anticipated to currently exist. For projects that would increase the footprint of construction outside of the existing town-owned right-of-way, or for reconstruction of the road on an alternate alignment, property acquisition will be necessary to obtain the required right-of-way. The right-of-way acquisition process is described in Section 8.

6.1. Federal Permits

The ACOE regulates waters of the US under Section 404 of the Clean Water Act and navigable waters of the US under Section 10 of the Rivers and Harbors Act. The limit of ACOE jurisdiction for tidal waters is the Highest Astronomical Tide (HAT) Line, which is elevation 7.2 ft for this site. ACOE jurisdiction also includes freshwater wetlands, tributaries to navigable waters, intermittent streams, vernal pools and other waters. The national wetlands inventory (NWI) identifies a riverine area that is crossed by the alignment of Curtis Cove Road, and the existing road includes a culvert at the crossing. The freshwater wetland would need to be delineated by a wetland scientist to determine the presence of wetlands that and their impacts resulting from the project. An ACOE permit may be required for Option 1.

6.2. State Permits

Curtis Cove is defined as a coastal wetland by the Natural Resources Protection Act (NRPA). Similar to the ACOE, the HAT line is the defining boundary line that determines the landward extent of the coastal wetland. Under the NRPA, the MDEP jurisdiction extends from the coastal wetland to 75 ft landward of the HAT. In addition to the coastal wetland, the site is located nearby a mapped frontal dune of a Coastal Sand Dune System. The entire mapped dune is within an erosion hazard area.

Activities that require a permit under the NRPA include dredging, bulldozing, removing or displacing soil, sand, vegetation, or other materials, draining or otherwise dewatering, filling, including adding sand or other material to a sand dune, or and construction, repair, or alteration of any permanent structure.

Under Chapter 355 § 5(E) of the NRPA, a new seawall or similar structure may not be constructed in a coastal sand dune system.

Under the NRPA, there is a statutory exemption for public works projects (480-Q(9)); however, Maine DEP has indicated that elevating the road is not allowed under this exemption. However, we anticipate this project would be outside the Coastal Sand Dune Limits and sand dune permits would likely not be required by Maine DEP.

Any potential improvements to the road within 75 ft of Curtis Cove Bay and/or potential impacts to delineated wetlands, significant vernal pools, streams, brooks, or rivers may require a permit under the NRPA.

Another permitting consideration is that the coastal wetland in the vicinity of the road is mapped as Tidal Waterfowl and Wading Bird Habitat (TWWH), a significant wildlife habitat as defined by the NRPA. Typically, this requires specific construction timeframes and limitation of vegetation removal. The project design should carefully consider efforts to avoid and/or minimize impacts to significant wildlife habitat areas in order to minimize challenges during regulatory permitting.

6.3. Local Permits

The project site is within the Limited Residential Shoreland Overlay Zone. According to the Town of Blue Hill Shoreland Zoning Ordinances, Table 1 Land Uses in the Shoreland Zone Table, roads are allowed in the Limited Residential Zone with Planning Board approval and driveways are allowed with approval from the Code Enforcement Officer (Town of Blue Hill, 2022). Additionally, under Section 15 of the Shoreland Zoning Ordinance, existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream, or wetland.

In addition to the Shoreland Zoning permit, a permit will be required under the Floodplain Management Ordinance. Review standards are outlined in Article V of the Blue Hill Floodplain Management Ordinance.

7. Cost Estimate

We have provided order of magnitude cost estimates for the two adaptation alternatives that were considered for Curtis Cove Road. These estimates may vary significantly from true project costs due to the high-level nature of this study. A summary of the adaptation options, flood risk, regulatory or other constraints, and approximate total costs are provided in Table 7-1.

The costs are based on recent published information on unit prices of materials and similar projects constructed in Maine. The costs include a general mark-up for permit preparation, design, and construction oversight. The cost estimates below do not include costs for regulatory permit fees or land acquisition. Land acquisition costs will depend on the final alignment of the road and the right of way process with landowners.

These costs should be used for general planning purposes. Actual costs may vary over time depending on when construction takes place and the actual quantity of materials used, among other factors. Costs should be refined as alternatives are developed.

Table 7-1. Summary of Road Adaptation Cost Estimates

Adaptation Alternative	Description	Coastal Flood Risk	Approximate Total Cost
1	Raise Road to 15.0 ft; Maintain Existing Alignment	Not likely for flood scenarios included in this study.	$300,000
5	Do Nothing	Likely by 2090 due to stillwater inundation during coastal storms	6x Mitigation Costs over life span

8. Right-of-Way Process

The adaptation alternatives presented in this report for Curtis Cove Road would likely require obtaining right-of-way to accommodate a new alignment of the road or an increased footprint of the exiting road alignment. Right of way for transportation projects may include obtaining fee ownership of the land or a permanent easement of the land. Temporary construction rights may be obtained to cover contractor activities during construction. The MaineDOT Locally Administered Projects Manual (MaineDOT, 2024) dedicates a chapter to "Right of Way." The chapter, included in Appendix F of this report, outlines the right of way process. The following sections outline the right of way process as explained by Maine DOT.

8.1. Town Right-of-Way Responsibilities

Since Curtis Cove Road is a town-owned road, the Town of Blue Hill would be responsible for undertaking the right of way process, including creating right-of-way plans, title examinations, appraisal and appraisal reviews, negotiations, and acquisitions. The Town should work with experienced professionals and legal counsel throughout the process. The MaineDOT Right of Way chapter provides a link to pre-qualified professionals who could help with this process.

If the project is federally funded, it must adhere to 49 CFR part 24, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," and the MaineDOT Right of Way Manual. If the project is funded by MaineDOT, it must meet all State and Federal requirements, and the MaineDOT Right of Way Manual. Before putting the project out to bid, the Town of Blue Hill must certify that it has obtained the rights to construct the project as designed.

8.2. Protections for Property Owners

The constitutions of Maine and the United States protect ownership of private property. To acquire private property for expanding the footprint of Curtis Cove Road, the Town must demonstrate public exigency, pay just compensation, and afford each owner due process of law. Property owners are protected by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (as amended). The key protections include:

- A property owner must receive just compensation for their property.
- An owner must have an opportunity to accompany an appraiser during a property inspection.
- The Town must negotiate with a property owner in good faith. Coercion is illegal.
- The Town must provide a written offer of just compensation and reasonable notice before acquiring rights.
- The Town must pay the greater of just compensation or a negotiated settlement amount before an owner must surrender possession of their property.

In the case that a property owner offers to donate property, the Town may accept once the National Environmental Policy Act (NEPA) permitting process is completed for the design and:

- The donation was not coerced.
- The Town has notified the owner in writing that they have the right to have their property appraised and to receive just compensation.
- The donor signs a form releasing the Town from its obligation to appraise the property and pay just compensation.

8.3. Determining Right-of-Way Limits and Impacts

The Town must identify the location and limits of the right-of-way. This can be accomplished by reviewing the original layout, tax maps, and performing a field survey. A field survey should include a Property Owner Report form, where abutters can verify locations of property markers, wells/septic systems, and buried utilities.

8.4. Title Investigation

An abstract of title must be prepared for each parcel to be acquisitioned and include information about property boundaries, owner names and addresses, and encumbrances. Permanent acquisitions require that the chain of title be traced back 40 years, but easements and temporary rights may only require research into the last acquisition or current owner. This work should be carried out by a qualified lawyer.

8.5. Right-of-Way Mapping

Right-of-way plans depicting the land and rights-in-land must be acquired to construct a project. They must be prepared separately from design plans and stamped by a professional land surveyor.

8.6. Appraisal

A real estate appraiser licensed by the State of Maine and with knowledge and previous experience with similar projects must perform the necessary valuation tasks to determine the fair market value of the rights to be acquired and compensable property impacts.

The appraisal must be formally reviewed by a second appraiser. The reviewer will recommend or not accept the original appraiser's opinion of value. If a valuation is not accepted, the original appraiser may make corrections or provide additional information.

8.7. Determination of Just Compensation

Once the reviewing appraiser has recommended the amount of just compensation for each acquisition, the Town' highest-ranking administrative officer must sign a Determination of Just Compensation, which at minimum states that the town has reviewed and agrees with the recommended value of just compensation.

8.8. Negotiation

The Town may negotiate with property owners or their legal representatives after the NEPA process has been completed and a Determination of Just Compensation has been issued.

At a minimum, a negotiator must be able to understand and explain the valuation presented in an appraisal report and be able to read design plans and right-of-way maps.

The negotiator must present each owner or legal representative with a written offer for the full amount believed to be just compensation. This is not a "take it or leave it" option, rather it is a starting point from which the negotiator must strive to reach an amicable settlement in the public interest. The negotiator should document any counteroffer. The negotiation must be free from coercive action.

The Town must give each owner or legal representative reasonable time to consider an offer and present information relevant to determining the value of the rights to be acquired. As an example, MaineDOT provides notice of at least 28 days from when it presents an offer to when it condemns the rights for a project.

8.9. Acquisition

When the Town and owner negotiate successfully, they must sign a settlement agreement. A standard Owner Offer – assent form is a good starting point. If the settlement amount exceeds 110% of the Determination of Just Compensation, it must be approved by MaineDOT to be eligible for federal participation. After signing the settlement agreement, the Town cannot take possession of land or rights-in land until the owner receives payment of the negotiated amount and a statement of just compensation.

If the Town reaches an impasse with the property owner, it may:

- Use eminent domain to condemn the necessary rights.
- Continue negotiations.
- Redesign the project.

To acquire rights by eminent domain, a condemnation order usually must be filed with the appropriate officials and serve the owner with a copy of the condemnation order and a check for the damages awarded. Property owners may appeal the just compensation awards in eminent domain takings to the Hancock County Superior Court.

8.10. Right-of-Way Certification

Before a project is put out to bid, the Town must issue a right-of-way certification that states either that all necessary rights were acquired in conformance with the federal Uniform Act or that no rights-of-way were required. The certification should be modeled after Letter 14 in the MaineDOT Right-of-Way Manual and be signed by the Town's highest-ranking administrative officer. The certification must be submitted to MaineDOT with the final plan, specifications, and estimate for a project.

8.11. Confidentiality and Retention of Records

Records relating to appraisals and settled negotiations must remain confidential and closed to public inspection for nine months after the completion of a project.

All records relating to the right-of-way process must be retained for at least three years after the Federal Government has paid the final voucher for a project.

9. Next Steps

The report presents conceptual options for adapting Curtis Cove Road in the Town of Blue Hill, Maine. The options are based on available online background information of the wetlands, sand dunes, and endangered species and critical habitats present at the site. Additionally, the adaptation alternatives took into consideration site specific flood risk due to present-day and future high tides and coastal storms. This adaptation alternatives analysis provides a high-level summary of options.

We have provided a summary of recommended next steps for the Town to advance the adaptation of Curtis Cove Road. Next steps for this project could include:

- **Decide on whether and when to pursue adaptation.** This decision will likely be informed by the cost and the ability to obtain right of way. The decision should involve a robust community engagement process. The Town should begin conversations with landowners who may be impacted by the alternatives. The Town should engage with legal counsel to assist with right of way access.
- **Pursue relevant funding options.** Adapting Curtis Cove Road through one of the alternatives presented in this report may require support from multiple grants, over multiple funding cycles, to complete. The Town should continue to explore grant opportunities focused on implementation of flood adaptation measures.
- **Contract with a consultant to develop preliminary and final designs, procure the necessary permits, and oversee construction.** The consultant(s) should be responsible for several tasks. These tasks could be part of separate contracts, funded through various grant programs, and take several years to complete. The tasks that the consultant(s) could be responsible for include:
    - **Conducting field investigations.** This would include scope items such as coordinating topographical and parcel boundary surveys of the area, performing wetland delineation, and carrying out a geotechnical investigation, as applicable.
    - **Develop preliminary and final designs.** The alternative would need to be advanced through preliminary and final phases of design development.
    - **Procure permits.** The consultant would help prepare and submit regulatory permits required for the selected design.
    - **Continue with a robust community engagement process.** As designs are developed, the community engagement process should be maintained to keep the public informed of the project.
    - **Prepare construction bid documents and oversee the bid process.** The consultant could help prepare construction plans and bid documents and assist in the selection of a contractor for the construction of the project.
    - **Oversee construction.** The consultant could oversee the construction of the project to document progress and compliance with design plans and specifications.

10. Limitations

This report summarizes our work for the Town of Blue Hill. The project did not include field data collection and relied on readily available online information, published references, and our professional judgement. The purpose of this alternatives analysis was to provide high-level conceptual options for adapting Curtis Cove Road. Estimates included in this report s represent a rough order of magnitude of the probable cost of project implementation. The estimate may be useful for budgeting and pursuit of grant funding, but actual construction costs may vary based on final design approaches, costs for right of way and regulatory compliance, and escalation that occurs in the time until implementation takes place.

The flood extents were based on still water elevations representing 1% annual chance storm surge and MHHW elevations for present-day and future conditions for four values of sea level rise. The sea level rise values used were recommended by the Maine Climate Council (2024) and the 1% annual chance storm surge SWEL was based on the FEMA coastal analysis for Hancock County (FEMA, 2016). There is no indicator for when FEMA will revise the coastal analysis for Hancock County to revise the 2016 maps. The previous coastal analyses and flood maps for Hancock County were completed and instated between the years 1987 and 1991. Actual storm surge elevations and rates of sea level rise will vary from what has been presented in this report. The numbers and cost estimates included in this study should be considered approximate.

This study does not include an evaluation of the structural integrity of the roadway or culvert. We recommend site survey and site-specific design be completed for any infrastructure project the Town pursues. Because the methods, procedures, and assumptions used to develop the analysis are approximate, the results should be used only as guidance.

Reuse of this report for any purposes, in part or in whole, is at the sole risk of the user.

11. References

FEMA (2016). Flood Insurance Study. Hancock County, Maine, July.

GEI, Inc. (2024). "Blue Hill Climate Vulnerability Assessment: Coastal Flooding and Adaptation Report," October.

Maine Climate Council (MCC) (2024). "Scientific Assessment of Climate Change and its Effects in Maine," June.

Maine Climate Council (MCC) (2020). "Scientific Assessment of Climate Change and Its Effects in Maine," August.

Maine Coastal Program (2023). The CoastWise Approach: Achieving Ecological Resilience and Climate-Ready Road Crossings in Tidal Environments. Maine Department of Agriculture, Conservation and Forestry (2023). "Maine Conserved Lands" layer databased. Accessed October 2023 from: https://hub.arcgis.com/datasets/maine::maine-conserved-lands/about.

Maine Coastal Program (2020). Tidal Restriction Atlas. Accessed September 2024 from: https://www.arcgis.com/apps/webappviewer/index.html?id=8f7fc922c464482d8fe946ca5b17c7ea.

Maine Department of Inland Fisheries & Wildlife (DIFW) (2024). Beginning with Habitat. Interactive Web Viewer. Accessed November 7, 2024 from: https://webapps2.cgis-solutions.com/beginningwithhabitat/mapviewer/.

Maine Department of Transportation (DOT) (2024). MaineDOT Local Project Administration Manual & Resource Guide, August.

Maine Geological Survey (MGS) (2023). Coastal Sand Dune Geology. Curtis Cove, Blue Hill, Maine.

NOAA (2024). Bar Harbor, Maine Tide Gage. Station 84113320. Water level data accessed August 2023 from: https://tidesandcurrents.noaa.gov/waterlevels.html?id=8413320.

NOAA (2023). Vertical Datum Transformation (VDATUM) Online Tool. Accessed September 2023 from: https://vdatum.noaa.gov/vdatumweb/vdatumweb?a=114202120230727.

Town of Blue Hill (2022). Shoreland Zoning Ordinance for the Municipality of Blue Hill. April.

U. S. Fish and Wildlife Services (USFWS) (2024b). IPaC Resource List. Blue Hill, Hancock County, Maine. Accessed September 12, 2024 from: https://ipac.ecosphere.fws.gov/location/index.

U.S. Geological Survey (USGS) (2021). USGS Lidar: Midcoast Maine. Accessed September 2023 from: https://coast.noaa.gov/dataviewer/#/lidar/search/.

Appendix A Curtis Cove Road National Wetlands Inventory

U.S. Fish and Wildlife Service

National Wetlands Inventory

Curtis Cove Road

November 7, 2024

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

Appendix B Curtis Cove Coastal Sand Dunes

Maine Geological Survey

Address: 93 State House Station, Augusta, Maine 04333
Telephone: 207-287-2801 **E-mail:** mgs@maine.gov
Home page: www.maine.gov/dacf/mgs/

Coastal Sand Dune Geology

Curtis Cove, Blue Hill, Maine

by Peter A. Slovinsky and Stephen M. Dickson

Open-File Map No. 23-378
2023

MAPPING MAINE'S DYNAMIC DUNES

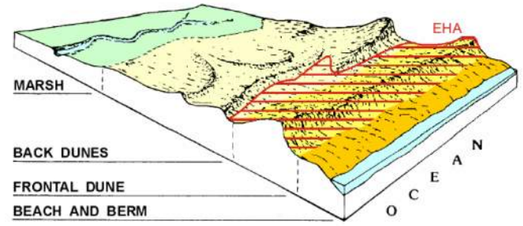
"Coastal sand dune systems" are sand and gravel deposits within a marine beach system, including, but not limited to, beach berms, frontal dunes, dune ridges, back dunes and other sand and gravel areas deposited by wave or wind action. Coastal sand dune systems may extend into coastal wetlands. Coastal sand dune systems include dunes that may have been artificially created, dunes that may have been altered by development activity, and dunes supported by sand fencing or stabilization structures. Coastal sand dune systems naturally migrate landward through the process of overwash. For the purposes of this definition, a small windblown accumulation of sand within a street is not considered a dune. Maine's coastal beaches and dunes are constantly changing. Erosion or accretion can reshape the beach and dunes over time so remapping is needed for resource protection and coastal development. This map series updates and supersedes the previous Coastal Sand Dune Geology Maps of 2011 (Slovinsky and Dickson, 2011) and the Beach and Dune Geology Aerial Photo series maps (Dickson, 2001). The extent of coastal sand dunes were mapped using available aerial orthoimagery, lidar (light detection and ranging) topographic data, permit reviews, and field evaluations. Erosion Hazard Area boundaries were mapped according to the existing definition using historical shoreline change data, geomorphology, FEMA flood maps, and field evidence of storm washover in dunes.

COASTAL SAND DUNE RULES

The Maine Natural Resources Protection Act (NRPA: Title 38 Section 480-D) requires that new coastal development will not unreasonably (1) interfere with the natural supply or movement of sand or gravel within or to the sand dune system; (2) increase the erosion hazard to the sand dune system; (3) cause or increase the flooding of the dunes or adjacent properties; (4) interfere with the natural flow of any surface or subsurface waters; (5) inhibit the natural transfer of soil from the terrestrial to marine or freshwater environments; (6) harm any significant wildlife habitat, threatened or endangered plant habitat, travel corridor, freshwater, estuarine or marine life; or (7) interfere with existing scenic, aesthetic, recreational, or navigational uses.

Permits are usually required for building projects located in Maine's coastal sand dune system. The Coastal Sand Dune Rules, Chapter 355, of the Maine Department of Environmental Protection clarify the criteria for obtaining a permit under NRPA (in regard to coastal sand dune systems). The rules outline classes of projects which are exempt from the requirement of obtaining a permit. For all other projects, the rules outline standards which must be met to satisfy the statutory criteria. The rules are based on the location of the project within the sand dune system.

EXPLANATION OF MAP UNITS



D1 Frontal dune. The frontal dune is the area consisting of the most seaward ridge of sand and gravel and includes former frontal dune areas modified by development. Where the dune has been altered from a natural condition, the dune position may be inferred from the present beach profile, dune positions along the shore, and regional trends in dune width. The frontal dune may or may not be vegetated with dune vegetation and may consist in part or in whole of artificial fill. In areas where smaller ridges of sand are forming in front of an established dune ridge, the frontal dune may include more than one ridge. The frontal dune includes former frontal dune areas modified by development. Where the dune has been modified by structures, the dune position may be inferred from the present beach profile, dune positions along the shore, and regional trends in dune width.

D2 Back dunes. Back dunes consist of sand dunes and eolian sand flats that lie landward of the frontal dune or a low energy beach. Back dunes include those areas containing artificial fill over back dune sands or over wetlands adjacent to the coastal sand dune system.

Erosion hazard area (EHA). Any portion of the coastal sand dune system that can reasonably be expected to become part of a coastal wetland in the next 100 years due to cumulative and collective changes in the shoreline from: (1) historical long-term erosion; (2) short-term erosion resulting from a 100-year storm; or (3) flooding in a 100-year storm after a two-foot rise in sea level, or any portion of the coastal sand dune system that is mapped as an AO flood zone by the effective FEMA Flood Insurance Rate Map, which is presumed to be located in an Erosion Hazard Area unless the applicant demonstrates based upon site-specific information, as determined by the department, that a coastal wetland will not result from either (1), (2), or (3) occurring on an applicant's lot given the expectation that an AO-Zone, particularly if located immediately behind a frontal dune, is likely to become a V-Zone after 2 feet of sea level rise in 100 years (Ch. 355, Section 3.P.).

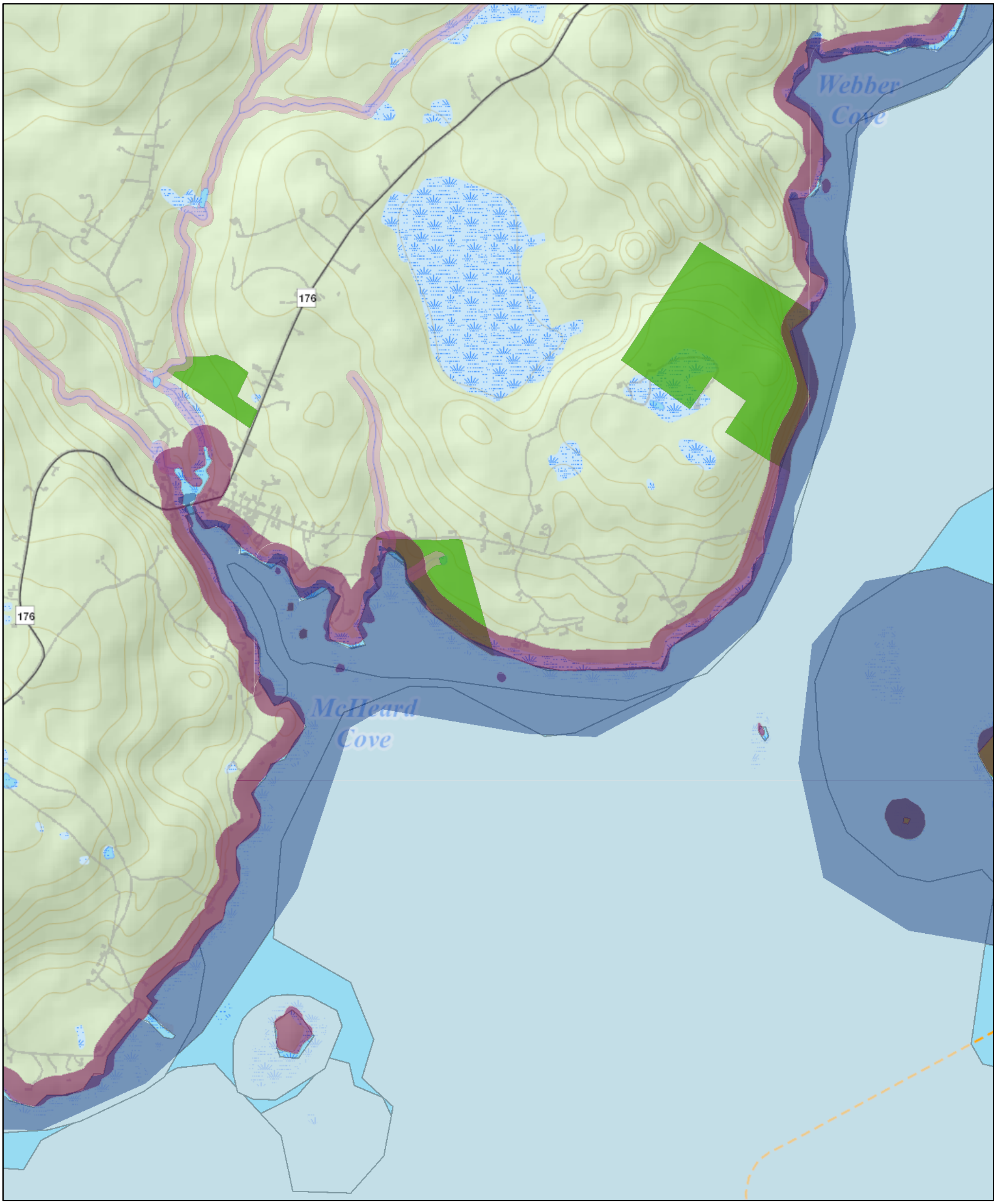
Additional Sources of Information

Contact the Maine Department of Environmental Protection, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333 for information regarding the Coastal Sand Dune Rules and the Natural Resources Protection Act.

Mapping of Maine's sand dune system is performed by the Maine Geological Survey with partial funding from the Maine Coastal Program/Maine Department of Marine Resources under the Coastal Zone Management Act of 1972 as amended, through the Office for Coastal Management/National Oceanic and Atmospheric Administration.

Appendix C Curtis Cove Road Beginning With Habitat

Curtis Cove Road Beginning With Habitat



November 7, 2024

- Shellfish Beds
- Stream Buffer (75 feet)
- Great Ponds, Rivers and Coastal Buffer (250 feet)
- Tidal Waterfowl / Wading Bird Habitat
- Conserved Lands

1:18,056

0 0.15 0.3 0.6 mi

0 0.23 0.45 0.9 km

Beginning with Habitat Program for Planning Purposes Only
Map Created With BWH Map Viewer

Appendix D Blue Hill IPaC

IPaC **U.S. Fish & Wildlife Service**

IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location

Hancock County, Maine

Local office

Maine Ecological Services Field Office

(207) 469-7300
(207) 902-1588

MAILING ADDRESS

P. O. Box A
East Orland, ME 04431

PHYSICAL ADDRESS

306 Hatchery Road
East Orland, ME 04431

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species[1] and their critical habitats are managed by the Ecological Services Program of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries[2]).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact NOAA Fisheries for species under their jurisdiction.

---

1. Species listed under the Endangered Species Act are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the listing status page for more information. IPaC only shows species that are regulated by USFWS (see FAQ).

2. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Mammals

NAME	STATUS
Tricolored Bat Perimyotis subflavus Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

Birds

NAME	STATUS
Roseate Tern Sterna dougallii dougallii No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/2083	Endangered

Fishes

NAME	STATUS
Atlantic Salmon Salmo salar There is **final** critical habitat for this species. Your location does not overlap the critical habitat. https://ecos.fws.gov/ecp/species/2097	Endangered

Insects

NAME	STATUS
Monarch Butterfly Danaus plexippus Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/9743	Candidate

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

There are no critical habitats at this location.

You are still required to determine if your project(s) may have effects on all above listed species.

Bald & Golden Eagles

Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act[1] and the Migratory Bird Treaty Act[2].

Any person or organization who plans or conducts activities that may result in impacts to bald or golden eagles, or their habitats[3], should follow appropriate regulations and consider implementing appropriate conservation measures, as described in the links below. Specifically, please review the "Supplemental Information on Migratory Birds and Eagles".

Additional information can be found using the following links:

- Eagle Management https://www.fws.gov/program/eagle-management
- Measures for avoiding and minimizing impacts to birds https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds
- Nationwide conservation measures for birds https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf
- Supplemental Information for Migratory Birds and Eagles in IPaC https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action

There are likely bald eagles present in your project area. For additional information on bald eagles, refer to Bald Eagle Nesting and Sensitivity to Human Activity

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the PROBABILITY OF PRESENCE SUMMARY below to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle Haliaeetus leucocephalus This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.	Breeds Dec 1 to Aug 31

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "Supplemental Information on Migratory Birds and Eagles", specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is 0.25/0.25 = 1; at week 20 it is 0.05/0.25 = 0.2.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

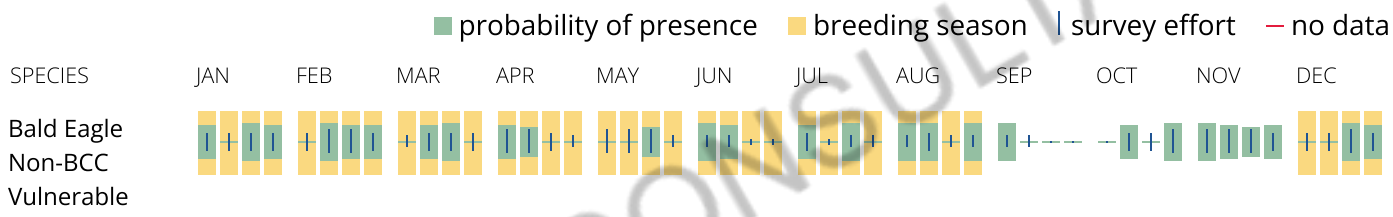
Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

To see a bar's survey effort range, simply hover your mouse cursor over the bar.

No Data (–)
A week is marked as having no data if there were no survey events for that week.

Survey Timeframe
Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



What does IPaC use to generate the potential presence of bald and golden eagles in my specified location?

The potential for eagle presence is derived from data provided by the Avian Knowledge Network (AKN). The AKN data is based on a growing collection of survey, banding, and citizen science datasets and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle (Eagle Act requirements may apply). To see a list of all birds potentially present in your project area, please visit the Rapid Avian Information Locator (RAIL) Tool.

What does IPaC use to generate the probability of presence graphs of bald and golden eagles in my specified location?

The Migratory Bird Resource List is comprised of USFWS Birds of Conservation Concern (BCC) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the Avian Knowledge Network (AKN). The AKN data is based on a growing collection of survey, banding, and citizen science datasets and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle (Eagle Act requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the Rapid Avian Information Locator (RAIL) Tool.

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to obtain a permit to avoid violating the Eagle Act should such impacts occur. Please contact your local Fish and Wildlife Service Field Office if you have questions.

Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act[1] and the Bald and Golden Eagle Protection Act[2].

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats[3] should follow appropriate regulations and consider implementing appropriate conservation measures, as described in the links below. Specifically, please review the "Supplemental Information on Migratory Birds and Eagles".

1. The Migratory Birds Treaty Act of 1918.
2. The Bald and Golden Eagle Protection Act of 1940.

Additional information can be found using the following links:

- Eagle Management https://www.fws.gov/program/eagle-management
- Measures for avoiding and minimizing impacts to birds https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds
- Nationwide conservation measures for birds https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf
- Supplemental Information for Migratory Birds and Eagles in IPaC https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action

The birds listed below are birds of particular concern either because they occur on the USFWS Birds of Conservation Concern (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ below. This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the E-bird data mapping tool (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your

list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found below.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the PROBABILITY OF PRESENCE SUMMARY below to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle *Haliaeetus leucocephalus* This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.	Breeds Dec 1 to Aug 31
Bay-breasted Warbler *Setophaga castanea* This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds May 25 to Aug 1
Black-billed Cuckoo *Coccyzus erythropthalmus* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9399	Breeds May 15 to Oct 10
Bobolink *Dolichonyx oryzivorus* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 20 to Jul 31
Canada Warbler *Cardellina canadensis* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 20 to Aug 10
Cape May Warbler *Setophaga tigrina* This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds Jun 1 to Jul 31
Chimney Swift *Chaetura pelagica* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Mar 15 to Aug 25

Evening Grosbeak Coccothraustes vespertinus — Breeds May 15 to Aug 10
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Lesser Yellowlegs Tringa flavipes — Breeds elsewhere
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
https://ecos.fws.gov/ecp/species/9679

Purple Sandpiper Calidris maritima — Breeds elsewhere
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Rose-breasted Grosbeak Pheucticus ludovicianus — Breeds May 15 to Jul 31
This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

Semipalmated Sandpiper Calidris pusilla — Breeds elsewhere
This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

Veery Catharus fuscescens fuscescens — Breeds May 15 to Jul 15
This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

Whimbrel Numenius phaeopus hudsonicus — Breeds elsewhere
This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

Wood Thrush Hylocichla mustelina — Breeds May 10 to Aug 31
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "Supplemental Information on Migratory Birds and Eagles", specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
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3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (▪)
Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

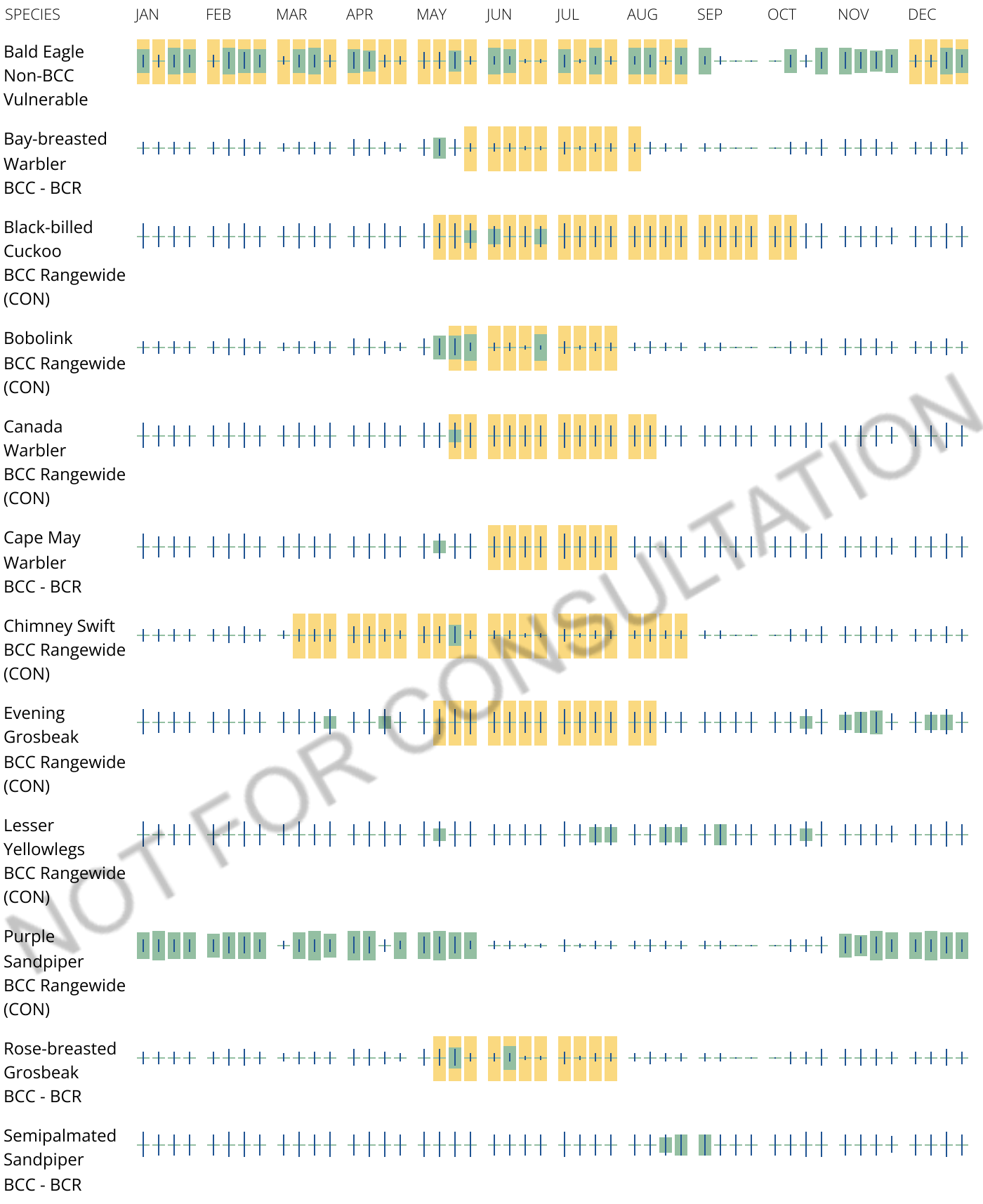
Survey Effort (|)
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

To see a bar's survey effort range, simply hover your mouse cursor over the bar.

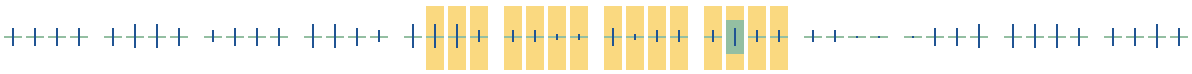
No Data (–)
A week is marked as having no data if there were no survey events for that week.

Survey Timeframe
Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.

▪ probability of presence ▪ breeding season | survey effort – no data



Wood Thrush
BCC Rangewide
(CON)



Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

Nationwide Conservation Measures describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. Additional measures or permits may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?

The Migratory Bird Resource List is comprised of USFWS Birds of Conservation Concern (BCC) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the Avian Knowledge Network (AKN). The AKN data is based on a growing collection of survey, banding, and citizen science datasets and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle (Eagle Act requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the Rapid Avian Information Locator (RAIL) Tool.

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the Avian Knowledge Network (AKN). This data is derived from a growing collection of survey, banding, and citizen science datasets.

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may query your location using the RAIL Tool and look at the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird

on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are Birds of Conservation Concern (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the Eagle Act requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the Northeast Ocean Data Portal. The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the Diving Bird Study and the nanotag studies or contact Caleb Spiegel or Pam Loring.

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to obtain a permit to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key

component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Facilities

National Wildlife Refuge lands

Any activity proposed on lands managed by the National Wildlife Refuge system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

There are no refuge lands at this location.

Fish hatcheries

There are no fish hatcheries at this location.

Wetlands in the National Wetlands Inventory (NWI)

Impacts to NWI wetlands and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local U.S. Army Corps of Engineers District.

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

This location overlaps the following wetlands:

ESTUARINE AND MARINE DEEPWATER

M1UBL

ESTUARINE AND MARINE WETLAND

M2RS1/AB1N
M2US1N
M2RS1N

FRESHWATER POND

PUBHh

RIVERINE

R4SBC
R5UBH

A full description for each wetland code can be found at the National Wetlands Inventory website

NOTE: This initial screening does **not** replace an on-site delineation to determine whether wetlands occur. Additional information on the NWI data is provided below.

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

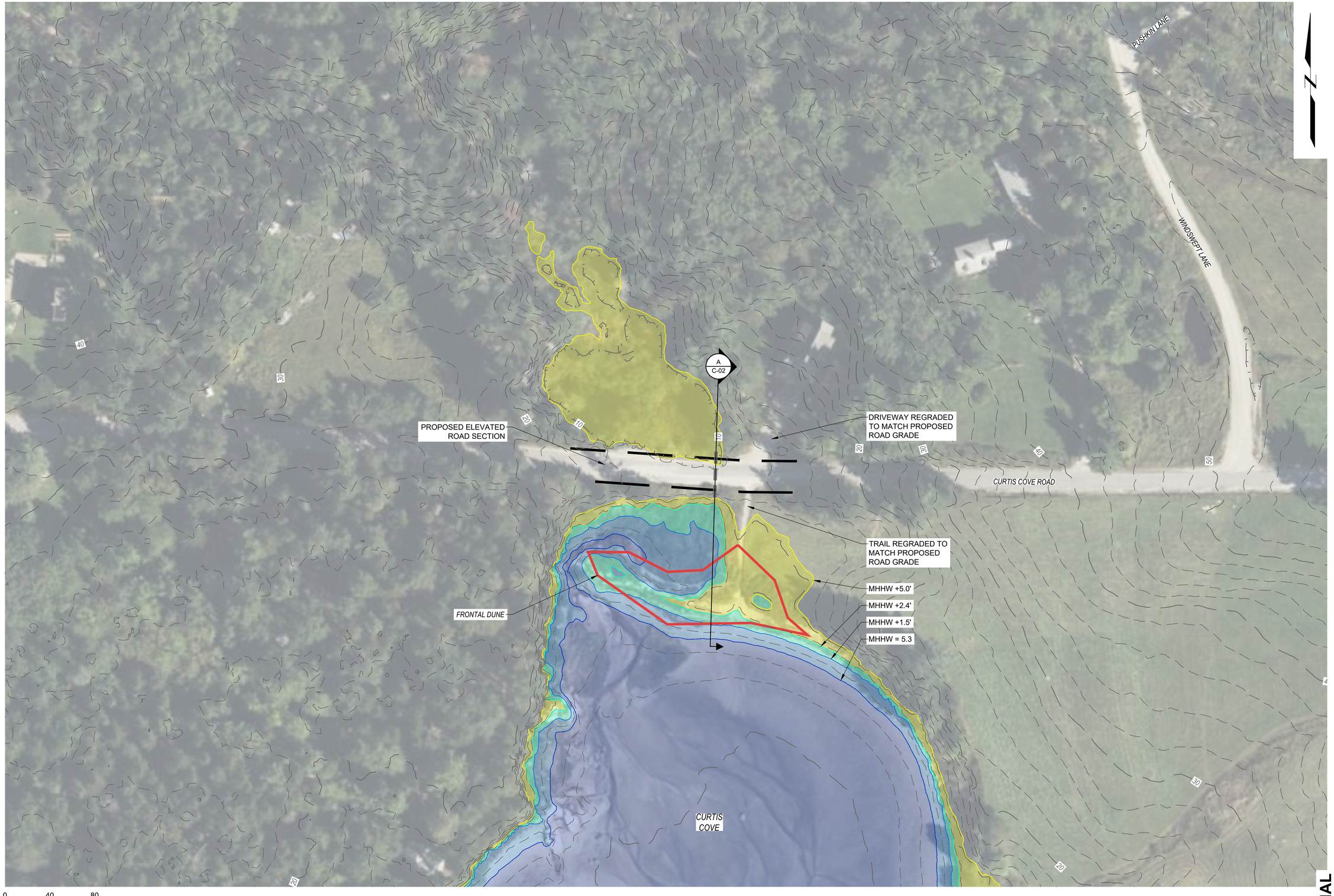
Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tuberficid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate Federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

Appendix E Project Drawings



0 40 80
SCALE, FEET

PLAN

SCALE: 1" = 40'

FINAL

GEI Consultants
GEI CONSULTANTS, INC.
5 MILK STREET
PORTLAND, ME 04101
(207)797-8901

THREE TOWNS
CLIMATE
VULNERABILITY
ASSESSMENT
BLUE HILL, MAINE

CURTIS COVE ROAD

BLUE HILL, MAINE

P.E. No.:	
Approved:	
Checked:	
Drawn:	JLD
Designed:	DT
GEI Project	2303435

Attention:
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If this scale bar does not measure 1" then drawing is not original scale.

NO.	DATE	ISSUE/REVISION	APP
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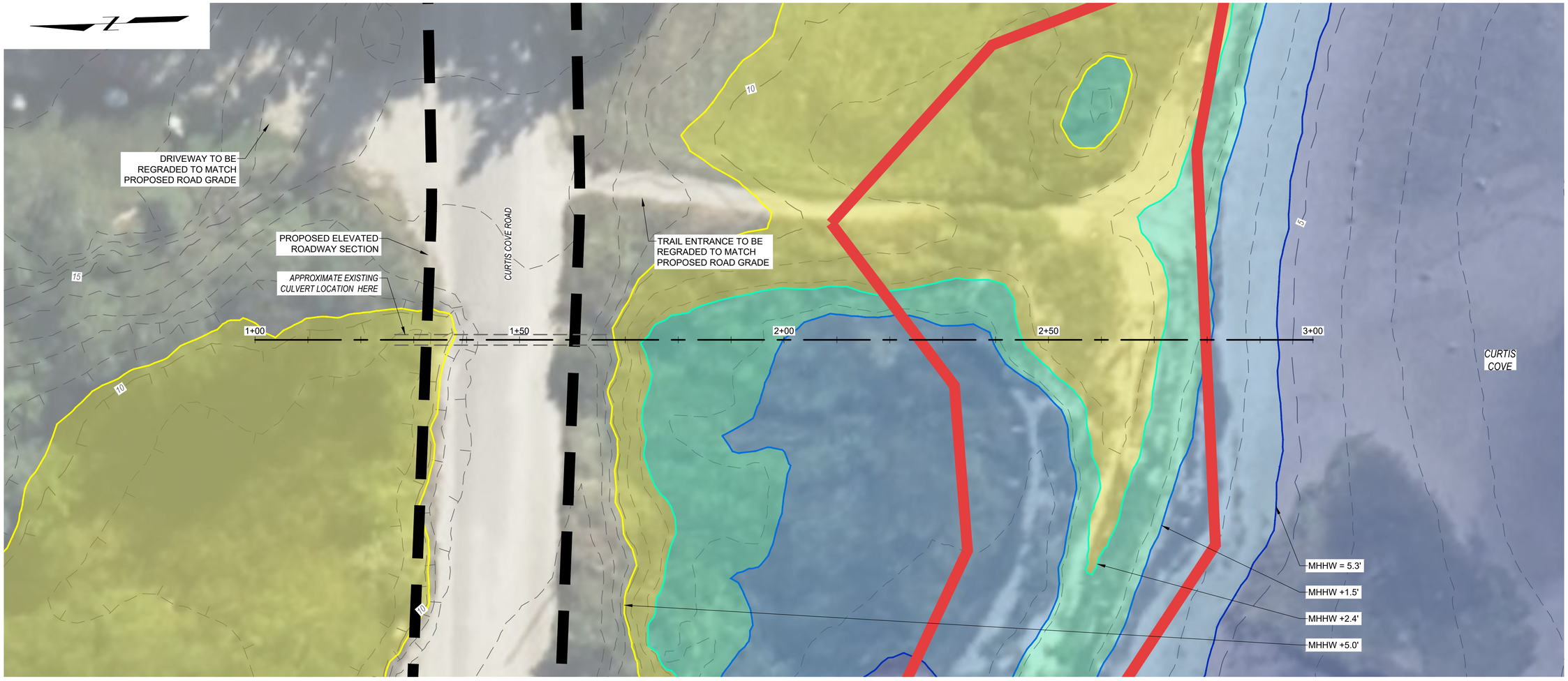
SHEET NAME

CURTIS COVE ROAD SITE DEVELOPMENT

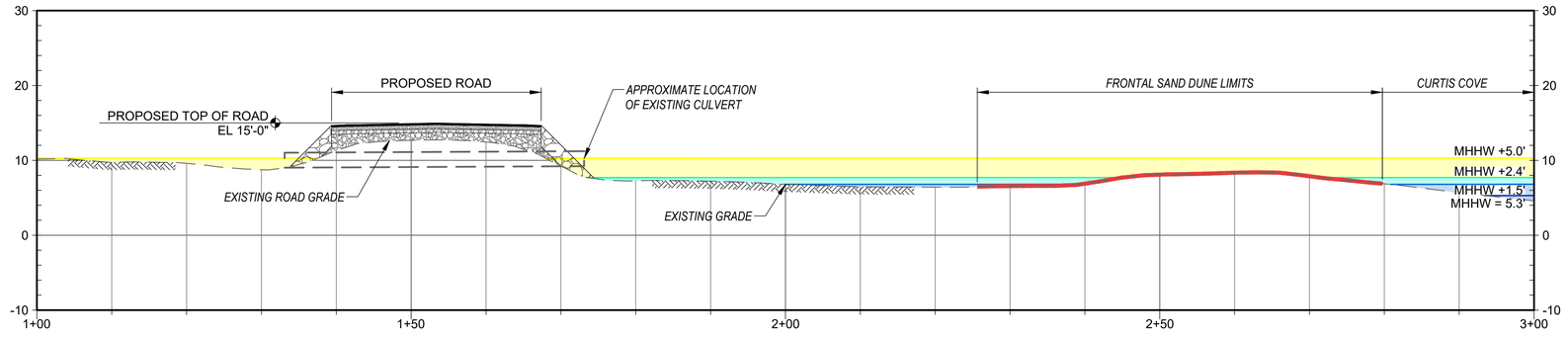
SHEET NO.

C-02



A C-02 PLAN

SCALE: 1" = 10'



A C-02 PROFILE

HORZ SCALE: 1" = 10' VERT SCALE 1" = 10'

0 10 20

SCALE, FEET

FINAL

GEI Consultants
GEI CONSULTANTS, INC.
5 MILK STREET
PORTLAND, ME 04101
(207)797-8901

THREE TOWNS CLIMATE VULNERABILITY ASSESSMENT
BLUE HILL, MAINE

CURTIS COVE ROAD

BLUE HILL, MAINE

P.E. No.:	
Approved:	
Checked:	
Drawn:	JLD
Designed:	DT
GEI Project	2303435

Attention:
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If this scale bar does not measure 1" then drawing is not original scale.

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SHEET NAME

BLUE HILL SECTION

SHEET NO.

C-03

Appendix F MaineDOT LAP Manual: Right of Way

Local Project Administration Manual & Resource Guide

Right of Way

MaineDOT

Integrity - Competence - Service

Chapter 6 - Updated Fall 2024

Right of Way

During design, the local agency administering a project must determine if land or easements must be acquired to carry out the work. If so, the agency must be careful to protect each property owner's constitutional right to receive just compensation, based on an appraisal of the fair market value of the land or rights-in-land necessary to move forward with the project.

Chapter 6 of this Manual explains the right-of-way process and covers the following:

The right-of-way process involves the acquisition of what is known as real property, which covers the interest, benefits and rights inherent in real estate ownership. Rights-of-way acquired for transportation projects may include one, some or all of the types of rights identified below:

- **Fee ownership** is full acquisition covering all right, title and interest in a property.
- **Permanent easements** are acquired in perpetuity for a specific use, such as for drainage or placement of an embankment. Owners, however, retain title to their properties.
- **Temporary construction rights** cover contractor activities and expire upon completion.

➲ Important things to remember:

- If a project has federal funding, the right-of-way process must meet the requirements set out in 49 CFR part 24, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," and the MaineDOT ***Right of Way Manual***.
- Negotiations with property owners toward just compensation **cannot** begin until: a.) the National Environmental Policy Act (NEPA) process is completed; and b.) the acquiring agency has issued a Determination of Just Compensation for each affected parcel.

6.1 MaineDOT Right-of-Way Responsibilities

MaineDOT generally will acquire the land and rights-in-land required for projects on the state highway system, even if other work is locally administered. If MaineDOT will acquire rights, the senior property officer in the MaineDOT Multimodal Program will lead the right-of-way process.

If the State of Maine will acquire rights for a project, **MaineDOT** usually will take the lead on the following tasks, as shown in Table 6-1 "State & Local Responsibilities" on the next page:

- Field survey;
- Title research;
- Right-of-way mapping;
- Property appraisals and appraisal reviews;
- Negotiations with property owners;
- Acquisition/condemnation; and
- Right-of-way certification.

MaineDOT right-of-way work on a federal-aid project comes out of the budget for that project. That's why it is important to identify right-of-way needs by project kickoff. MaineDOT recommends budgeting **$5,000 per abutting property** to cover the activities listed above.

6.2 Local Right-of-Way Responsibilities

If a project is located off the state transportation system, the local agency administering the project must carry out the right-of-way process. If that is the case, the local agency will be responsible for right-of-way plans, title examinations, appraisals / appraisal reviews, negotiations, and acquisition – all of which are reimbursable at the same rate as other project activities.

The right-of-way process for projects funded by MaineDOT must follow federal and state requirements, as well as the procedures in this section and the MaineDOT ***Right of Way Manual***. MaineDOT recommends that local agencies contract with experienced professionals pre-qualified in the categories listed below: www.maine.gov/mdot/cpo/prequal/.

- 301.20, Property Surveys;
- 401.00, Title Research / Abstracting;
- 402.00, Property Valuation and Appraisal Services; and
- 403.00, Property Negotiations / Ownership Information Services.

Additionally, a local agency should consult with legal counsel and obtain approval from its governing body before acquiring rights-of-way. In such cases, the Maine Municipal Association may be an additional resource: www.memun.org.

Before putting a project out to bid, an acquiring local agency must certify that it obtained the rights to construct a project as designed, in conformance with federal and state requirements. This certification must be submitted with the final Plans, Specifications & Estimate (PS&E) package. *(For an example, refer to **Letter 14**, on page 6-24 of this chapter.)*

Note: *The tasks listed below will apply whether rights are permanent or temporary.*

TASK	RESPONSIBILITY
❑ Verification of Existing Right of Way	State Highway: MaineDOT
	Off State System: Local Agency
❑ Field Survey	State Highway: MaineDOT
	Off State System: Local Agency
❑ Property Owner Reports	State Highway: MaineDOT
	Off State System: Local Agency
❑ Preliminary Right of Way Plans ▪ *Created at design stage Plan Impacts Complete*	State Highway: MaineDOT or consultant with MaineDOT approval.
	Off State System: Local Agency
❑ Title Examinations	State Highway: MaineDOT
	Off State System: Local Agency
❑ Final Right of Way Mapping ▪ *Maps show affected areas and types of rights*	State Highway System: MaineDOT or consultant with MaineDOT approval
	Off State System: Local Agency
❑ Review/Verification of Right of Way Maps	State Highway: MaineDOT
	Off State System: Local Agency
❑ Notice of Interest to Acquire ▪ *Sent to property owners*	State Highway: MaineDOT
	Off State System: Local Agency
❑ Property Appraisals & Appraisal Review	State Highway: MaineDOT
	Off State System: Local Agency
❑ Negotiations [after NEPA completed] ▪ *Owner has at least 28 days to consider an offer*	State Highway: MaineDOT
	Off State System: Local Agency
❑ Acquisition of Rights / Condemnation	State Highway: MaineDOT
	Off State System: Local Agency
❑ Right of Way Certification	State Highway: MaineDOT
	Off State System: Local Agency

6.3 Protections for Property Owners

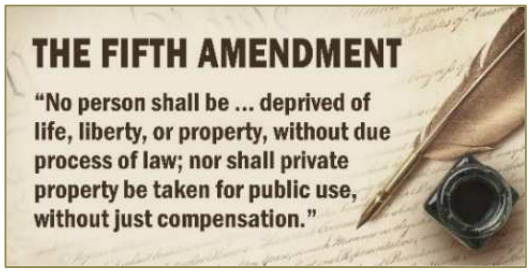
Ownership of private property is protected by the constitutions of Maine and the United States. When a public agency must acquire private property for a project, that agency must demonstrate public exigency, pay just compensation, and afford each owner due process of law.

The primary safeguard is the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (as amended). This landmark law applies when there is federal funding in a project – *even if right-of-way is acquired with other funds.* It serves to ensure that owners affected by property acquisition for public projects are treated fairly and are not disproportionately harmed. Maine, through state law, has extended the provisions of the Uniform Act to state-funded projects.

➲ Violating the Uniform Act will jeopardize the federal funding for a project.

Below are the **key protections:**

- ❖ A property owner must receive just compensation of at least the appraised fair market value of the rights to be acquired and any property impacts eligible for compensation.
- ❖ An owner or representative must be afforded an opportunity to accompany an appraiser during a property inspection.
- ❖ An agency must negotiate in good faith; **coercion is illegal**.



- ❖ An acquiring agency must provide a written offer of just compensation and reasonable notice before acquiring rights. MaineDOT affords an owner at least **28 days** in which to consider an offer and to present relevant information.
- ❖ An acquiring agency must pay the greater of the approved amount of just compensation or a negotiated settlement amount before an owner must surrender possession of property.

6.4 Donations of Property

Occasionally, someone may offer to donate property. If that is the case, a public agency may accept a donation once the National Environmental Policy Act (NEPA) process is completed, as long as the parties follow the steps set out below:

- ▪ An acquiring agency must avoid coercing an owner into donating property;
- ▪ The agency must notify the property owner in writing that the owner has the right to have an appraisal performed and to receive just compensation for the property; and
- ▪ A donor must sign a standard form releasing the agency from its obligation to perform an appraisal and to pay just compensation.

➲ The "Donation and Release of Agency Obligation" form is kept in the Right-of-Way section of the LPA Documents page: www.maine.gov/mdot/lpa/lpadocuments/.

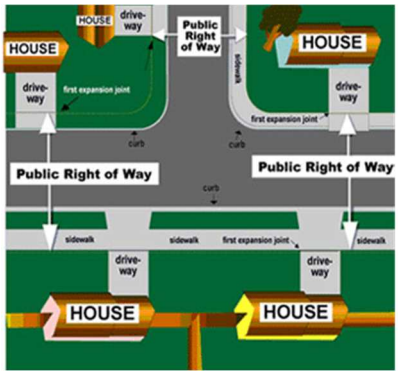
6.5 Determining Right-of-Way Limits

One of the first tasks in laying out a project is to identify the location and limits of the right-of-way. An original layout filed with a county or municipality can serve as a starting point, since it typically establishes the width and center of a road. In using such a record, be aware that the actual alignment may have shifted away from the center of the original layout over time.

If a project is on a state, state-aid or formerly state-aid highway, MaineDOT may have records showing the right-of-way limits. Contact the Records and Research Unit of MaineDOT's Property Office at (207) 624-3154 or (207) 624-3460.

Tax maps may provide initial ownership information, but they cannot be used exclusively to determine property boundaries.

After the initial research, a local agency should arrange for a field survey that, when coupled with the recorded layout data, will document the right-of-way limit for design purposes as part of an Existing Conditions Plan.



➲ **Remember**: Field staff cannot enter private property without the owner's permission.

6.5.1 Property Owner Report

During field work, an acquiring agency should send abutters a Property Owner Report form (POR). The POR seeks to verify locations of property markers, wells/septic systems, and buried utilities. The form also asks for owner contact information. If an agency receives no response within a reasonable period, the agency should follow up to obtain the necessary information.

➲ The POR template is kept in the Right-of-Way section of the LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/.

6.6 Identifying Right-of-Way Impacts

Research and field data form the baseline for design plans that show the existing right of way, proposed new construction, property boundaries, and utility locations. In laying out the project, those plans identify the potential property impacts, enabling a local agency to visualize how much additional land or rights-in-land may be necessary to carry out a project.

There are two primary types of **permanent rights**:

- **Fee simple absolute**, where an agency acquires interest in all or a portion of a parcel; and
- **Permanent easement**, where the owner retains title, but an agency obtains the right to use all or part of a parcel for a specific purpose, such as for drainage or the placement of a slope.

An acquiring agency also must consider the need for **temporary construction rights**, which are short-term easements allowing a contractor to grade, loam, seed, place fill, clear trees and brush, and integrate driveways into the construction. Such rights expire at the end of a project.

6.7 Title Investigation

Public agencies identify the legal owners of property affected by a project through title work performed at a county registry of deeds. Once the design plans have enough detail to identify all of the acquisitions that will be required, a researcher examines each deed in a parcel's chain of title and then prepares an **abstract of title** with information about property boundaries, owner names and addresses, and encumbrances such as mortgages and liens.

The chain of title for a parcel should contain the following information:

- Grantor;
- Grantee;
- Type of deed;
- Date of record;
- The reference book and page; and
- The acreage conveyed.


Title Deed

This is to certify that

Title work is covered in the ***Right of Way Manual***, section 2-4, "Title Investigation and Certification." The manual is available online: www.maine.gov/mdot/rowmanual/.

MaineDOT performs title work for projects on state highways. In other cases, it will fall to the **local agency** managing a project to carry out title examinations using either its legal staff or a private title firm. A local agency should consult with its legal counsel before moving forward.

Title examinations must follow the standards of the Maine State Bar Association, and the work should be either performed or certified by a lawyer with appropriate qualifications. As the table below shows, permanent acquisitions will require the chain of title to be traced back 40 years, while most easements and temporary rights require research into the last acquisition or current owner.

TITLE SEARCH REQUIREMENTS

TYPE OF ACQUISITION	LENGTH OF SEARCH
Fee (all right, title and interest)	Full 40-year title examination
Wrought portion (prescriptive easement) - major acquisition	Full 40-year title examination
Wrought portion (prescriptive easement) – acquisition substantially same as existing area of occupation and use	Title activity since date of last acquisition/transfer
Drainage easement	Since last acquisition/transfer
Permanent easement	Since last acquisition/transfer
Slope easement	Since last acquisition/transfer
Temporary rights	Current deed only

6.8 Right-of-Way Mapping

Right-of-way plans depict the land and rights-in-land that must be acquired to construct a project. They serve as visual tools to help appraisers and negotiators do their jobs. Right-of-way plans must be prepared separately from the design plans and be **stamped** by a professional land surveyor.

MaineDOT typically will prepare the right-of-way plans for projects on the state highway system. If MaineDOT will carry out the right-of-way process, right-of-way plans – also known as "maps" – must be prepared using OpenRoads Designer (ORD) software, by Bentley Systems.

If rights will be held locally, without MaineDOT involvement, a **local agency** managing a project should work with a firm experienced in preparing right-of-way plans to MaineDOT standards. MaineDOT has a list of firms pre-qualified under service number 301.20, Property Surveys: www.maine.gov/mdot/cpo/prequal/.

Right-of-way plans in all cases must meet the standards in section 2-6 of the ***Right of Way Manual***, "Right of Way Plans." The manual is available online: www.maine.gov/mdot/rowmanual/.

Mapping the right-of-way begins at Plan Impacts Complete, covered in Chapter 3 of this Manual, "Project Design." **Preliminary** right-of-way plans, also known as maps, include the following:

- Existing right-of-way limit;
- Property features, including buildings;
- Utility locations; and
- Apparent property boundaries.

Once title work is completed, **final** right-of-way plans add the following details to the baseline:

- New right-of-way limits, including slope and clearing limits;
- Construction limits and items;
- Permanent and temporary rights;
- Calculated areas of acquisition for each type of acquisition (fee, easement);
- Updated parcel setups;
- Acquisition stations and offsets;
- Condemnation distances, including baseline and boundary lines;
- Easement limits and property lines tied into the baseline;
- Inside distance calculations;
- Total areas of property ownership calculated from available property information; and
- Plan title block with MaineDOT file number – *if MaineDOT will be making acquisitions.*

MaineDOT's Property Office must review draft right-of-way plans for projects on state highways. Plans are treated as incomplete until verified as meeting MaineDOT's mapping standards and legal requirements.

6.9 Appraisal

The amount of just compensation owed to a property owner is based on an acquiring agency's appraisal of the fair market value of the rights to be acquired and compensable property impacts, such as a change in the slope of a parcel. To use a legal term, the appraisal estimates the "damages" that must be paid for the taking and impacts.

A real estate appraiser licensed by the State of Maine must perform the valuation tasks necessary to determine just compensation. The appraiser must have experience with projects employing the power of eminent domain, must understand the federal Uniform Act and appraisal standards, and must have completed appraisal assignments with comparable complexity.

MaineDOT keeps an Appraisal Register of professionals meeting minimum qualifications for appraisal assignments. Contract appraisers are listed under service number **402.00**, Property Valuation and Appraisal Services, on the following web page: www.maine.gov/mdot/cpo/prequal/.

➲ Before performing appraisals, an agency must send each owner a **Notice of Interest to Acquire**. An example is found in Appendix 6B, "Right-of-Way Forms," on page 6-18 of this chapter.

6.9.1 Tasks of the Appraiser

An acquiring agency and its appraiser should review a project's design plans and right-of-way maps to understand the impacts and to determine the appraisal scope of work. Additionally, the appraiser must have the following information for each parcel:

- Owner's name, address and phone number;
- Title information, with current ownership and recent sales;
- Description of the property rights to be appraised; and
- Right-of-way plan sheet showing property lines and taking.

This section does not cover the appraisal criteria for projects requiring the use of eminent domain, but an appraiser on a federal-aid project generally will perform the following tasks:

- Inspecting each property with a focus on the areas of impact – after providing the owner with an opportunity to accompany the appraiser during that inspection;
- Collecting and analyzing market data from recent comparable sales;
- Using appropriate methods and techniques to prepare a credible estimate of value; and
- Developing an appraisal report.

Appraisals must be consistent with MaineDOT valuation specifications and the Uniform Standards of Professional Appraisal Practice. For more information, refer to the following references:

➲ Chapter 4 of MaineDOT's *Right of Way Manual,* "Property Valuation" – www.maine.gov/mdot/rowmanual/docs/2018/Chapter_4_Property_Valuation.pdf

➲ The regulations found in 49 CFR part 24.103, "Criteria for appraisals."

6.10 Appraisal Review

An acquiring agency must have its appraisals formally reviewed by a second appraiser to establish the fair market value of the land and rights-in-land to be acquired. Such review work is a federal requirement, set out in 49 CFR part 24.104, "Review of appraisals."

The reviewing appraiser should be chosen from the professionals listed under MaineDOT service number **402.00**, Property Valuation and Appraisal Services: www.maine.gov/mdot/cpo/prequal/.

It is the reviewing appraiser's role to check the original appraiser's computations, methods and techniques. Typically, the reviewer either will **recommend** or **not accept** the original appraiser's opinion of value.

If a reviewer does not accept a valuation, the original appraiser may be asked to make corrections or provide additional information. The reviewing appraiser's recommendation forms the basis for an official Determination of Just Compensation, covered in section 6.11 below.

➲ Refer to section 4-5 of the ***Right of Way Manual***, "Appraisal Review" – www.maine.gov/mdot/rowmanual/docs/2018/Chapter_4_Property_Valuation.pdf

6.11 Determination of Just Compensation

Once a reviewing appraiser has recommended the amount of just compensation for each acquisition, an agency's highest-ranking administrative officer must sign a Determination of Just Compensation. In many communities, that administrator must receive authorization from a governing body such as a council, select board or town meeting.

A Determination of Just Compensation should include two statements, at a minimum:

- The acquiring agency has reviewed the recommended amounts of just compensation for the rights to be acquired; and
- The acquiring agency agrees that those recommended amounts represent just compensation for the rights to be acquired.

The amount of just compensation depends on the type and scale of the rights to be taken, as well as the extent of a project's impacts. Here are examples:

Whole acquisition. If an entire property is taken, the owner is offered its fair market value.

Partial taking. If only part of a parcel is acquired – and the value of the remaining property is unchanged, less the value of the part taken – the owner is paid for the part taken.

Severance damage. When a parcel sustains "severance damage," an owner is paid for the reduction in value to the remaining property as a result of the taking.

Uneconomic remnant. If a partial acquisition leaves an "uneconomic remnant" that is determined to be of no value or use to the owner, the acquiring agency must offer to buy it.

Temporary construction easement. An owner is compensated for the right to enter a property during construction. Upon completion, interest in the property reverts to the owner.

6.12 Negotiation

An acquiring agency may negotiate with property owners or their legal representatives after:

- The National Environmental Policy Act (NEPA) process has been completed; and
- The acquiring agency has issued a Determination of Just Compensation, after receiving authorization from its governing body, if necessary.

The negotiator for an acquiring agency must present each owner or legal representative with a written offer for the full amount believed to be just compensation. This should be done in person, when possible. The offer must summarize the basis for that offer, including:

- Statement of the amount offered as just compensation; and
- Description and location of the land or rights-in-land to be acquired.

When meeting with a property owner or representative, the negotiator uses the design plans and right-of-way maps to explain the project and the need for acquisition. Although the Determination of Just Compensation is the starting point, an offer should not be a "take it or leave it" alternative; a negotiator must strive to reach an amicable settlement in the public interest. Above all else, a negotiation must be **free from coercive action** to pressure an owner into accepting an offer.

The standard offer letter and other forms may be downloaded from the right-of-way section of the LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/

6.12.1 Selection of Negotiator

The right-of-way negotiator may be either a staff member with the appropriate qualifications or a pre-qualified consultant listed under MaineDOT service number **403.00**, Property Negotiations / Ownership Information Services: www.maine.gov/mdot/cpo/prequal/.

At a minimum, a negotiator must have the following skills:

- The ability to understand and explain the valuation presented in an appraisal report; and
- The ability to read design plans and right-of-way maps.

6.12.2 Notification Period

An acquiring agency must give each owner or legal representative reasonable time to consider an offer and to present information believed to be relevant to determining the value of the rights to be acquired. MaineDOT provides notice of *at least* **28 days** from when it presents an offer to when it condemns the rights for a project. Local agencies should afford a similar notification period.

Owner reactions will vary. Some owners may settle quickly, while others may object to the offer and even to the acquisition itself. After receiving an offer of just compensation, an owner may need time to consult with relatives or legal advisors.

A negotiator should document any counteroffer in a log, since it may bring to light information that could affect the amount of just compensation owed. If presented with new information, the acquiring agency should consider it and respond appropriately.

6.13 Acquisition

6.13.1 Acquisition by a Local Agency

When a local agency and an owner negotiate successfully, the standard Owner Offer - Assent Form may be the starting point for a settlement agreement. (An example is found in Appendix 6B of this section, on page 6-21.) In using the form, an agency should consult with legal counsel to make sure that it complies with federal, state and local requirements. Settlements, in some communities, may require approval from the governing body.

➲ **Note:** Settlement amounts exceeding 110 percent of the Determination of Just Compensation for a parcel must be approved by MaineDOT to be eligible for federal participation.

After signing a settlement agreement, an owner must receive payment of the negotiated amount and a statement of just compensation. By law, an acquiring agency cannot take possession of land or rights-in-land until it pays the agreed-upon amount. Again, legal counsel should be consulted.

State law: Refer to Title 23 in the Maine Updated Statutes, Chapter 34, "Acquisition of Property for Highway Purposes": http://legislature.maine.gov/statutes/23/title23ch304sec0.html

If a local agency reaches an impasse with a property owner over the amount of just compensation owed, the agency generally has three options:

- Use eminent domain to condemn the necessary rights;
- Continue trying to reach a reasonable settlement; or
- Incur the expense and delay of redesigning the project.

Although Maine gives local governments the power of eminent domain, some communities either restrict or prohibit its use. In some cases, the only practical option is to persist in negotiating a settlement that satisfies the owner and serves the public interest. That is why communities should address difficult right-of-way cases with feedback from the public and advice from legal counsel.

If a local agency acquires rights by eminent domain, a condemnation order usually must be filed with the appropriate local official, such as a municipal clerk, that provides a description of the property or interest therein to be taken, including:

- Property location;
- Ownership of the property; and
- The amount of damages determined to be just compensation.

A local agency generally must serve the owner with a copy of the condemnation order and a check for the damages awarded. Title in most cases will pass to the municipality once the transfer is recorded at the registry of deeds and the owner receives payment. Again, legal counsel should be consulted.

➲ **Remember:** An owner cannot be made to surrender possession of land or rights-in-land until a public agency pays either a negotiated price or an approved amount of just compensation.

6.13.2 Acquisition by MaineDOT

When MaineDOT is the acquiring agency, MaineDOT prepares a settlement agreement upon successful completion of a negotiation. By signing the agreement, an owner affirms acceptance of the settlement and releases the State of Maine from any further claim or legal cause of action.

If a negotiation with an owner or legal representative reaches an impasse, MaineDOT generally condemns the necessary rights after the 28-day notification by filing a Notice of Layout and Taking at the corresponding county registry of deeds. At that point, MaineDOT provides the owner with a copy of the notice, a statement of just compensation, and a check for the approved amount and prorated taxes. MaineDOT takes possession of the rights upon making the payment.

Negotiations based on fair market value may continue, during construction, for up 60 days after the date of taking. That is when MaineDOT refers unsettled parcels to the State Claims Commission, as required by law. For more about the appeals process, refer to section 6.14 below, "Owner Appeals."

6.14 Owner Appeals

Property owners who are dissatisfied with just compensation awards in eminent domain takings have avenues of appeal that must be made within 60 days of condemnation, as set out below.

MaineDOT acquisitions. MaineDOT refers unsettled parcels to the State Claims Commission, an independent, impartial board consisting of two qualified appraisers, two attorneys-at-law, and a county commissioner. The commission may approve, partially approve, or disapprove a property owner's compensation claim.

Local acquisitions. An owner may appeal a local eminent domain proceeding to the Superior Court in the county where the property lies.

6.15 Right-of-Way Certification

Before a project may be put out to bid, the acquiring agency must issue a right-of-way certification stating either that:

- All necessary rights were acquired in conformance with the federal Uniform Act; or
- No rights-of-way were required.

MaineDOT will issue the right-of-way certification when the State of Maine acquires rights.

A **local agency** must prepare the certification when rights-of-way are acquired locally or when no rights are required. This certification should be modeled after Letter 14, found on page 6-24, and signed by the highest-ranking administrative officer.

The certification must be submitted to MaineDOT with the final Plans, Specifications and Estimate (PS&E) for a project. MaineDOT will not give a local agency authorization to advertise for construction bids unless this certification is part of the PS&E package.

➲ Letter 14, the standard right-of-way certification, is available in the right-of-way section of the LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/.

6.16 Confidentiality

Project and parcel records relating to appraisals and settled negotiations must remain confidential and closed to public inspection for **nine months** after the completion of a project. Records from cases appealed either to Superior Court or to the State Claims Commission will become open to public inspection once an official award has been made in those cases.

During the confidentiality period, access to parcel and project files should be restricted to officials of the local acquiring agency, MaineDOT, the State Auditor or the Federal Highway Administration (FHWA). Confidential records should be kept in a safe area, and an acquiring agency should ensure that only those persons qualified to access such files can view them.

Agencies should take additional care to ensure that information subject to privacy laws is protected from disclosure. Such information may include owner income, assets and tax information.

6.17 Retention of Records

As with other phases of a project, agencies must keep all records relating to the right-of-way process. Below are examples of documents that must be retained for at least **three years** after the Federal Government has paid the final voucher for a project:

- Property ownership information, including title reports;
- Appraisal reports;
- Statement of determination of fair market value;
- Offer letters to property owners;
- Negotiation logs;
- Correspondence with property owners; and
- Settlement agreements.

➲ For more information, refer to Title 2 in the Code of Federal Regulations (CFR), part 200.333, "Retention requirements for records."

6.18 Relocation

Occasionally, a transportation project will require a public agency to acquire homes and businesses. In doing so, an acquiring agency must relocate displaced households and re-establish businesses in new locations.

Relocation is not covered in this LPA Manual because locally administered projects in Maine rarely cause displacements. Public agencies most commonly face the need for relocation on large-scale improvements that call for new highway alignments.

➲ Relocation is covered in Chapter 6 of the MaineDOT ***Right of Way Manual***, available online: www.maine.gov/mdot/rowmanual/docs/2018/Chapter_6_Relocation.pdf

Appendix 6A:
Right-of-Way Checklist

CHECKLIST: RIGHT-OF-WAY PROCESS

1. **Limits of existing right of way initially verified from:**
   - ☐ County layout records;
   - ☐ Municipal layout book;
   - ☐ Plans from previously completed MaineDOT projects.
     - Contact the MaineDOT Property Office: (207) 624-3460.

2. **Field survey work performed**.
   - ☐ Property Owner Reports completed as part of survey work.

3. **Existing Conditions Plan created.**
   - ☐ Shows limits of existing right-of-way, topography, buildings, utilities and other information gathered from recorded layout data, field survey work, and Property Owner Reports.
     - Property lines are plotted from deed, property owner information and existing plans, as correlated to property markers located in the field.

4. **Title examinations performed at county registry of deeds**.
   - ☐ Refer to section 2-4 of the *Right of Way Manual*, "Title Investigation and Certification."
   - ☐ Once all impacts are identified, Abstract of Title is prepared for each affected property.
     - A local agency should use either its legal staff or a private title company.

5. **Right-of-way plans prepared, at design milestone Plans Impact Complete**.
   - ☐ For guidance, refer to section 2-6 of the *Right of Way Manual*, "Right of Way Plans."
   - ☐ A local agency may use a consultant pre-qualified under MaineDOT service number 301.20, Property Surveys: www.maine.gov/mdot/cpo/prequal/.
   - ☐ Right-of-way plans show existing and proposed new right-of-way limits.
     - New rights to be acquired are shown, with areas calculated (MaineDOT Standards).
     - Ownership information based on completed abstracts of title.
   - ☐ Right-of-way maps reviewed by MaineDOT Property Office (if state highway).
     - Maps approved by MaineDOT Property Office (if state highway) on: _____.

6. **Notice of Interest to Acquire sent to the owner of each impacted parcel**.

7. **Appraisals performed**.
   - ☐ For guidance, refer to Chapter 4 of the *Right of Way Manual*, "Property Valuation."
   - ☐ Acquiring agency must hire appraiser on the MaineDOT Appraisal Register to determine the fair market value of the rights to be acquired and any compensable impacts.
     - Contract appraisers are listed online under MaineDOT service number 402.00, Property Valuation and Appraisal Services: www.maine.gov/mdot/cpo/prequal/.
   - ☐ Appraiser must contact each property owner and offer an opportunity for the owner or a representative to accompany the appraiser during an inspection of a property.
   - ☐ Appraisals completed on _____.
   - ☐ Appraisal report submitted on: _____.

8. **Formal appraisal review performed**.
   - ☐ For guidance, refer to section 4.5 of the *Right of Way Manual*, "Appraisal Review."
   - ☐ Acquiring agency hires second appraiser to review methodology and accuracy of appraisals.
   - ☐ Appraisers pre-qualified under MaineDOT service number 402.00, Property Valuation and Appraisal Services, are listed online: www.maine.gov/mdot/cpo/prequal/.
   - ☐ Reviewer either must recommend or not accept each appraisal.
     - If appraisal is not accepted, reviewer may request corrections or additional information.
   - ☐ Appraisal reviews completed on: _____.

9. **Determination of Just Compensation made**.
   - ☐ Must be based on the reviewing appraiser's recommendations of just compensation.
   - ☐ Must be signed by acquiring agency's highest-ranking administrative officer.
     - May require authorization from local agency's governing body.

➔ **The federal NEPA process must be completed before proceeding further**.
   - ☐ NEPA Complete Date: _____.

10. **Upon completion of NEPA process, property donations may be accepted, if applicable**.
    - ☐ Each donor is informed in writing of the right to an appraisal and just compensation.
    - ☐ Each donor signs form acknowledging this right and releasing agency from its obligation.

12. **Negotiator retained to negotiate just compensation with each property owner**.
    - ☐ Negotiators pre-qualified under MaineDOT service number 403.00, Property Negotiations / Ownership Information Services, are listed online: www.maine.gov/mdot/cpo/prequal/

13. **Negotiations initiated:**
    - ☐ For guidance, refer to Chapter 5 of the *Right of Way Manual*, "Acquisition."
    - ☐ Negotiator presents offer of just compensation in writing to each owner.
    - ☐ Negotiator gives each owner a minimum of 28 days to consider the offer and respond.
      - After 28 days, negotiator notes if Negotiations Completed or Negotiations at Impasse.
    - ☐ If negotiations are successful, acquiring agency prepares a settlement agreement and, upon execution of the document, pays the negotiated price.
    - ☐ If negotiations are unsuccessful, rights should be acquired by Eminent Domain, if possible.
      - This may require approval of a local governing body, in consultation with legal counsel.

14. **Upon acquisition:**
    - ☐ The agency sends each owner a check for the settled amount or – in unsettled cases – the agency's determined amount of just compensation.
    - ☐ Transfer of title is recorded at the appropriate county registry of deeds.

15. **Acquiring agency certifies the right-of-way (*Letter 14*)**.

16. **Unsettled parcels go to State Claims Commission (state) or Superior Court (local).**
    - Just compensation awards must be appealed within 60 days of condemnation date.

Appendix 6B:
Right-of-Way Sample Forms

- ❑ Copies of these and other documents are available on MaineDOT's LPA web page in the section labeled Right of Way: www.maine.gov/mdot/lpa/lpadocuments/

NOTICE OF INTEREST TO ACQUIRE

Date:

Project#:
WIN:
Parcel:
Route #:
Town:

Dear Property Owner(s):

The Municipality of **[Name here]** is currently working on plans for a transportation improvement project located at **[project location]**. This letter informs you of the proposed project and your involvement as a property owner. The plans indicate the Municipality will acquire a portion of your property and/or rights in land as part of this project.

A legal representative of the Municipality will contact you soon regarding the project and its impact on your property. You are entitled to due process and just compensation, as the legal representative will explain.

If you have questions pertaining to the procedures you can contact me at this office by telephone, <ENTER PHONE NUMBER HERE>. Our intention is to have you understand what is being done and why it is being done, with the least amount of inconvenience to you as an involved property owner.

Thank you for taking your time to understand our procedures.

Sincerely,

<HERE SIGNATURE HERE>
Local Project Administrator

OFFER LETTER

Re: WIN:
Town:
Parcel No.:
Item No.:

(Property Owner)
(Address)
City, State Zip

Dear Property Owner:

Today, as the Municipality's legal representative, I have explained to you the proposed construction and the effect it will have on your property. I have attempted to answer any questions you had. I have also explained the methods used in preparing our appraisal and the basis for our determination of just compensation for the land and rights to be acquired.

I have made you an offer in the amount of $_____, which represents the just compensation as determined by a qualified appraiser and approved by a review appraiser.

The land and/or rights to be acquired from you for this project are as follows:

Valuation Type	**Count**	**Area**	**Unit**
_____	____	_____	_____
_____	____	_____	_____
_____	____	_____	_____

The following is a statement by the Municipality regarding the parcel or parcels of land above referenced:

A. The highest and best use of the property at the date of taking:
_____.

B. The fair market value of the real property taken as of the date of taking:
_____.

C. Offering price: $_____.

I have explained your recourse if the Municipality's offer is not acceptable.

Please be advised that if you have a mortgage, the mortgage company holds a recorded interest in your property. Under Maine law, your mortgage company may receive a copy of the condemnation documents and may be named on your just compensation check. If your mortgage company is named on your compensation check, your lender must endorse the check before you can cash it.

Your mortgage document quite likely contains a provision that addresses eminent domain takings. If your lender is named on your check, you should review this language in your mortgage carefully and deal with your lender directly. The holders of tax liens or other recorded encumbrances on your property may also appear on your check. Again, the lender's endorsement will be required and you will need to deal with them directly.

Under certain conditions the Municipality can reimburse eligible property owners for reasonable cost associated with resetting a property pin on the new right of way line by a Licensed Professional Land Surveyor. If necessary, I will explain the eligibility criteria and application process.

.

Very truly yours,

By: _____

OWNER OFFER-ASSENT FORM

Property Owner(s):
_____

WIN: _____
Municipality:_____
Parcel/Item No.: _____

BACKGROUND

1. It has been determined that public exigency requires the construction or reconstruction by altering, widening, changing the grade of and/or changing the drainage of a portion of State Highway "_____" in the Municipality of_____, County of _____ and State of Maine through a Locally Administered Federal-aid Project identified by the WIN referenced above (the "Project").

2. In connection with the Project, the necessary real property rights (the "Property Rights") to be acquired have been assigned value, surveyed, and identified on a plan known as Right of Way Map, State Highway "_____", Project No. _____, on file at _____.

3. The Property Rights in and to a certain parcel of land identified on the Right of Way Map as Parcel No. _____, owned by the above identified Property Owner(s) (the "Property Owner(s)") in said _____, are required for construction of the Project.

4. The Municipality intends to acquire the Property Rights by filing a Notice of Layout and Taking (the "Taking") in the _____ County Registry of Deed on or about _____. At the Municipality's discretion, and with the Property Owner(s)' consent, the Property Rights may be transferred through the execution of a deed or other transactional instrument.

6. The Municipality has determined just compensation for acquisition of the Property Rights to be $_____ (the "Payment"), and this amount will be paid to the Property Owner(s) upon filing of the Taking.

6. The Property Owner(s) does/do hereby acknowledge that _____, Right of Way Agent representing the Municipality, met with or wrote to the Property Owner(s) and explained the Property Rights to be acquired, the just compensation Payment, and all construction impacts, changes of location, grade, drainage and slopes as they apply to the Property Owner(s)' land.

AGREEMENT

1. The Property owner(s) accept the Payment as just compensation for all Property Rights taken in connection with the Project.

2. The Property Owner(s) release the Municipality from any further claims of just compensation arising from the Property Rights taken in connection with the Project; however, if any changes in design or construction occur after the date of this settlement and negatively impact the Property Owner's land in an unanticipated manner, the Property Owner(s) must have the right to request that this settlement be rescinded.

In witness of the above, the parties have executed this Agreement on the date herein indicated.

Dated:_____

Property Owner(s):

_____

Printed name:_____

_____

Printed name:_____

Donation and Release of Agency Obligation

WIN: _____

PCL/ITEM NO: _____

OWNER(S): _____

(I),(We) acknowledge that we have been informed of the right to receive just compensation based upon an approved appraisal. Notwithstanding, we wish to donate the right of way (land and/or rights therein) and release the Municipality of _____ from its obligation to provide an appraisal and offer of just compensation for the real estate needed for the above referenced project. This donation to the Municipality of _____ is made without coercive action of any nature.

DATED:

WITNESS

_____

Printed name:_____

Title:_____

SIGNATURE OF OWNER(S)

_____

Printed name:_____

Title:_____

_____

Printed name:_____

Title:_____

***INSTRUCTIONS**: If a local agency acquired rights or otherwise carried out the right-of-way process, this letter must be signed by the agency's highest-ranking administrative officer and submitted to MaineDOT with the final PS&E package.*

[DATE]

[NAME], Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Right-of-Way Certification, Federal Project
MaineDOT WIN:

Dear [NAME]:

If right-of-way was acquired, use this statement:

The Municipality of [NAME] hereby certifies that:

1. The Municipality has acquired all rights-of-way necessary for construction and maintenance of [DESCRIPTION AND LOCATION], and the Municipality has legal and physical possession of those rights;
2. The acquisition was performed in accordance with Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, "Uniform Real Property Acquisition Policy"; and
3. No acquisition required compliance with Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as amended, "Uniform Relocation Assistance."

If NO right of way was required, delete the text above and use this statement:

The Municipality of [NAME] certifies with this letter that no right-of-way acquisition was necessary for construction and maintenance of the subject project. All work will occur within the exiting right-of-way, as documented in the final design plans stamped by the Engineer of Record.

All information about the right-of-way process can be made available upon request. If you need additional information, please let me know.

Sincerely,

Highest-ranking administrative officer

(Updated February 2023)

END OF CHAPTER 6