

MERRIMACK RIVER BEACH ALLIANCE

C/O: OFFICE OF SENATE MINORITY LEADER BRUCE TARR STATE HOUSE, ROOM 308 BOSTON, MA 02133

April 9, 2015

Coastal Erosion Commission
c/o Bruce Carlisle, Director of the Massachusetts Office of Coastal Zone Management
ATTN: Coastal Erosion Commission Draft Report
251 Causeway Street, Suite 800
Boston, MA 02114

Dear Members of the Commission,

The ocean beaches in Salisbury and the Newbury and Newburyport sections of Plum Island have suffered severe erosion over many years and a number of homes have been lost to erosion on Plum Island recently. In addition, coastal erosion is threatening many homes and businesses as well as vital sewer and water infrastructure serving over a thousand homes (1200 on Plum Island alone) and businesses both on Salisbury Beach and Plum Island.

The Merrimack River Beach Alliance (MRBA) was created in 2008 to address the severe beach erosion on Plum Island and Salisbury Beach, to make progress on repairing the deteriorating Merrimack River jetties and to protect the homes and businesses on Plum Island and Salisbury Beach. The MRBA includes the City of Newburyport and the Towns of Newbury and Salisbury as well as our state legislators and interested federal and state agencies and non-governmental organizations.

The MRBA has met regularly over the years and has created a uniquely open, cooperative, consensus-driven coalition of concerned citizens, state and local elected officials, local conservation agents and coastal engineering consultants. Our meetings always include representatives of state and federal agencies that are involved in current and proposed coastal protection projects, such as the Army Corps of Engineers (ACOE), the state Department of Conservation and Recreation (DCR) and its Division of Marine Fisheries, Massachusetts Coastal Zone Management, the state Department of Environmental Protection, the Massachusetts Emergency Management Agency, the United States Fish and Wildlife Service, and the United States Coast Guard, among others. Representatives of other coastal cities and towns in the region also attend our meetings as needed. We also are pleased to invite the public and reporters and editors from the Newburyport Daily News and other media to attend all of our meetings. Additional information on the MRBA is presented in the enclosed PowerPoint presentation.

The MRBA has made significant progress in achieving its goals. For example, with the help of federal funding provided through the Army Corps of Engineers (ACOE) and matching state funding through DCR, the ACOE completed a Merrimack River dredging and beach nourishment project on

Plum Island and Salisbury Beach in 2011. DCR funded beach nourishment projects on Salisbury Beach in 2008 and 2013. In addition, two ACOE projects restored almost all of the Merrimack River South Jetty on Plum Island in 2012 and 2013-14 and the ACOE now has funding to restore the Merrimack River North Jetty on Salisbury Beach and to complete the restoration of the South Jetty during 2015. The ACOE is also working on a project to model the coastal dynamics of the Merrimack River and the adjacent barrier beaches to determine whether alteration of the jetties could have beneficial effects on the beaches.

The MRBA has learned a great deal over the years about coastal processes, about practical approaches to shoreline management and about regulatory responses to coastal erosion and damage both in the midst of emergencies and in the aftermath. We therefore view the creation of the Coastal Erosion Commission (Commission) and its report and recommendations as a major step forward in recognizing a critical, ongoing problem, as an opportunity for deeper understanding of coastal erosion issues, and as a step toward increasing the availability of cost effective measures to protect against coastal erosion.

Major Themes and Key Recommendations

The Commission has produced an extensive report, reflective of considerable effort and diligence. Before commenting on many of its specific elements, we first want to express four general themes and overarching key recommendations that result from our experiences and the understanding they have produced. We believe that they should guide and frame the final report, and they are as follows:

Pro-action not Reaction

All too often, and for far too long, our Commonwealth and its cities and towns have addressed coastal erosion through reaction rather than pro-action. Coastal storms often find local and state officials and property owners desperately seeking ways to prevent damage to property and infrastructure in the midst of a crisis. This situation leads to solutions that do not benefit from careful planning and engineering and cause missed opportunities for more cost-effective and environmentally sound measures.

Massachusetts must recognize the recurring nature of coastal erosion threats, and plan for the actions necessary to prepare for and respond to them rather than merely tolerating eleventh hour, contingency-based actions forced by the immediate need to protect public health and safety, property and infrastructure.

Key Recommendations:

1. Develop and implement a broader regulatory definition of “emergency” which includes not only when a threat is occurring, but also when a threat that is likely to do substantial harm is likely to occur or recur.
2. Adopt a regulatory framework that allows the necessary flexibility, through the Wetlands Protection Act (WPA) and other relevant regulations for cities and towns to take or authorize actions to confront coastal erosion threats in planned and monitored ways.

Regulatory Flexibility

Coastal Erosion has been and continues to be a dynamic condition, requiring a careful regulatory balance between shoreline defense and environmental protection. This situation demands a flexible response, reflected in regulations not paralyzed by dogma or preconception, and which are fueled in part by considerations of practicality, cost-effectiveness and innovation. Because of the flexibility achieved on Plum Island and in Salisbury through partnership between the MRBA and regulatory agencies, projects like the installation of sand tubes have provided invaluable protection of homes and infrastructures while advancing considerably our collective understanding of the benefits and liabilities of the tubes.

Key Recommendations:

1. Incorporate into the state's regulatory framework the flexibility to use identified innovative measures in emergencies, pilot projects and research projects to combat erosion and increase the body of knowledge relative to anti-erosion techniques. Through carefully monitored pilot programs and evidence-based research, develop accurate and reliable information of the costs and benefits of measures to combat erosion, coupled with a database of existing research made available in clearly understandable terms.
2. Identify and seek legislative (statutory) changes needed to provide regulatory flexibility.

Cost-Effectiveness

Given limited budgets for state and local governments, homeowners and organizations, state regulations must recognize a variety of measures to address erosion. That means taking into account not only the immediate costs and benefits of a particular action, but also those over a longer-term. Critical to this process is the consideration of practicality (e.g., shore side deployment of sand may initially cost less than an engineered structure, but yield protection of a much shorter duration. Conversely, beach scraping may be cost-effective even though it must be repeated.)

Key Recommendations:

1. Incorporate into the Wetlands Protection Act and other relative regulations the considerations of cost-effectiveness and practicality in allowing or permitting actions to address erosion.
2. Through carefully monitored pilot programs and evidence-based research, develop accurate and reliable information of the costs and benefits of measures to combat erosion, coupled with a database of existing research made available in clearly understandable terms.

Collaboration

Preventing and combating erosion necessarily involves numerous regulatory agencies, such as the Office of Coastal Zone Management (CZM) and the Department of Environmental

Protection, local officials and the public, and it cannot be successful without collaboration and regular communication and interaction between them. The Merrimack River Beach Alliance (MRBA) has achieved unprecedented accomplishments since 2008 and its model can and must be replicated throughout coastal Massachusetts.

Key Recommendations:

1. Establish an ongoing Coastal Erosion Interagency Task Force to facilitate communication, collaboration and coordination among all relevant state agencies, and to the extent possible, federal agencies, relative to coastal erosion actions and regulations.
2. Create an environment that fosters the creation of consensus-based regional organizations, perhaps centered around existing CZM coastal zones, to allow public and private stakeholders to have a venue to collaborate, coordinate and inform the regulatory processes at the state and federal levels with regard to coastal erosion.

Specific Comments on the Commission's Draft Report

We thoroughly reviewed the Commission's draft report dated January 7, 2015, and respectfully offer the following comments on the strategies and recommendations presented in the report.

Science, Data, and Information

The MRBA supports the recommendations and strategies of the Commission with regard to better understanding coastal processes and dynamics as they relate to coastal erosion. The better these processes are understood, the more effective efforts to protect property and curtail erosion will be.

Strategy #1: Increase understanding of coastal and near-shore sediment dynamics, including the effects of man-made, engineered structures, to inform potential management actions and other responses to coastal erosion.

Action 1-A: Increase observational capabilities for waves, water levels, and coastal response.

We recommend assembling a master list of existing buoy data and locations and coordinating the use of that data. The placement of new buoys in areas where data is lacking is critical to fully understanding coastal sediment systems and would help to forecast events that may cause coastal erosion as well as serve as a tool to help gauge effects of resource management projects.

Action 1-B: Advance sediment transport mapping and modeling to develop regional sediment budgets.

The MRBA has been actively involved in several efforts to better understand sediment dynamics, with participation in the efforts of the Army Corps of Engineers, the Hurricane Sandy Resiliency Grant Model for the Merrimack River and Plum Island Sound issued to

the National Wildlife Federation (which was contracted to Merrimack Valley Planning Commission, Mass. Department of Conservation and Recreation, University of New Hampshire, and Ipswich River Watershed Association), and the DCR's North Shore Regional Sediment Management Study. As recognized in the Commission's report, sediment transport does not begin or stop at state boundaries. It is important to coordinate efforts with adjoining states and federal authorities to ensure that the systems that affect Massachusetts' shorelines are fully understood.

Action 1-C: Continue to assess long-term and cumulative effects of shoreline management techniques and practices, including impacts to adjacent properties and natural resources (physical and biological).

Statements made about the negative or positive impacts of beach nourishment, dune restoration, seawalls, jetties, revetments or breakwaters are largely based on anecdotal observational information. There is a lack of data to support these statements. There is especially a deficit with regard to comparisons between the allowable "soft solutions", such as sand tubes, and more hardened structures such as revetments that may provide longer-term protection to structures. In protecting resources and existing homes and infrastructure both soft and hard solutions should be considered. Further assessment and analysis is required in this area.

**Create Action 1-D:* We understand that DCR is formulating a program for ongoing shoreline profile monitoring on Massachusetts beaches, including barrier beaches, and we fully support those efforts.

Strategy #2: Enhance available information base on type, extent, impacts and costs of coastal erosion on public infrastructure, private property, and natural resources to improve the basis for decision making.

Action 2 A: Improve the ability to isolate damage due to coastal erosion from other hazards (e.g., flooding, wind damage).

The MRBA is in favor of efforts to better account for the monetary damages from coastal erosion. We caution that coastal erosion cannot be neatly separated from the action of wave and wind. We do not see the value in investing significant resources in separating erosion damage from that of flood and wind along the coast when all three components often are synergistically intertwined. It is important to measure specific coastal impacts that involve at least a component of erosion and differentiate these impacts from other types of damages.

Action 2-B: Establish inter-agency agreements with federal agencies (e.g., FEMA, NOAA/NWS, U.S. Army Corps of Engineers, U.S. Geological Survey) to facilitate timely collection of perishable data on post-storm damage and impacts.

The MRBA supports this recommendation. The MRBA has facilitated the timely collection of Aerial Photographs of coastal damage through efforts coordinated and funded by the Plum Island Taxpayers Association. We support a more comprehensive protocol

that includes photographs, on the ground measurements, LIDAR data, etc. to better understand the impacts of storms and how systems recover from those impacts.

Action 2-C: Develop a comprehensive economic valuation of Massachusetts' beaches; including information at community, regional, and state level.

We agree with this recommendation. The beaches of Plum Island and Salisbury are economic hubs for the communities in which they are located. These values are often not considered when allocating funding to prevent and cure damage from coastal erosion.

Strategy #3: Improve mapping and identification of coastal high hazard areas to inform managers, property-owners, local officials and the public.

Action 3-A: Develop estimates of future shoreline change by assessing use of approaches that combine model derived and observed shoreline positions for shoreline change.

This effort must go hand in hand with a better understanding of the sediment modeling efforts in Strategy #1. The MRBA supports better understanding of what areas are actually higher hazard in a more refined manner than is understood today. Current efforts, by default, call areas mapped as V zones and Primary Frontal Dunes as high hazard includes many areas that may not actually be as hazardous as others, and excludes areas that may be more at risk. It should be recognized that for the purposes of coastal erosion, a high hazard area might be of low risk for flood, but high risk of erosion.

Action 3-B: Improve ability to assess vulnerability of sites by characterizing geologic and geographic variables that are not currently accounted for in inundation maps but have potential to significantly increase risk to erosion and inundation hazards. Evaluate the potential integration of these factors into an exposure index or other tool.

The MRBA supports this effort, consistent with our comments on 3-A above.

Action 3-C: Produce comprehensive online atlas of potential flood inundation areas from a range of scenarios, including different timescales and intensities.

While we support this effort, the public, and even professionals working in the field are often overwhelmed by numerous data sources. Any such effort should be integrated into existing systems, such as MassGIS's OLIVER or MORIS mapping systems. The information should be made available and sufficient metadata and supporting information to ensure that the new data is understandable to a wide audience.

Legal and Policy

In the enabling legislation, the Commission was directed to evaluate erosion since 1978, and project likely damages over the next ten years and, "...Based on those assessments, the commission shall evaluate all current rules, regulations and laws governing the materials, methodologies and means which may be used to guard against and reduce or eliminate the impacts of coastal erosion and shall examine any possible changes, expansions, reductions and laws which would improve the ability of municipalities and private property owners to guard

against or reduce or eliminate the impacts of coastal erosion without undue adverse environmental impacts. The commission shall focus particularly on increasing the availability of cost-effective measures to protect against coastal erosion.” We note that in many cases “cost effective” will not be the least expensive solution; but it should be the solution that most cost effectively protects against the impacts of coastal erosion on municipal or private property.

The legal and policy components to protecting our shorelines are critical, which is why the direction provided by the legislature is very direct. In this effort, it is important that the Commonwealth undertake an approach that recognizes that structures and infrastructure, both public and private on existing developed coastal property cannot just be removed or abandoned. The regulatory and policy approach of the Commonwealth should foster a hierarchy of responses to coastal erosion and only require relocation of homes and infrastructure landward when practical, nourishment and plantings, soft solutions, hybrid solutions, and hard engineered solutions are not possible.

The MRBA strongly recommends that the Commission adopt new strategies specifically designed to address the problems faced by existing developed public and private properties as well as public and private infrastructure. See proposed new Strategies X and Y below.

Strategy #4: Reduce and minimize the impacts of erosion (and flooding) on property, infrastructure, and natural resources by siting new development and substantial redevelopment away from high hazard areas and incorporating best practices in projects.

Action 4-A: Evaluate the applicability, benefits, concerns and legal authority for coastal hazard area setbacks.

Any such action needs to be carefully evaluated, with setbacks based on science and not simply fear and conjecture. In addition, some latitude needs to be afforded for redevelopment of existing developed properties. Both Newburyport and Newbury have setbacks for new development, and redevelopment within their local regulations that are linked to a calculation of long-term erosion data specific to the site.

Action 4-B: Develop and promulgate performance standards for Land Subject to Coastal Storm Flowage under the state Wetlands Protection Act.

This action item is a sweeping recommendation that should be focused to reflect key aspects of floodplain regulation that are in keeping with the Commission’s mission. For example, it is important that any Land Subject to Coastal Storm Flowage regulations allow for nourishment and shoreline protection efforts. We recommend that the Commission state key components that these regulations need to include in order to further the mission of the Coastal Erosion Commission, such as allowing property owners to protect their property, affording flexibility for existing homes, etc. Differentiation between standards for areas whose hydrology is unrestricted (open ocean) and restricted (salt marsh with limited connections through confining structures such as culverts and small bridges) should be made. Standards should not place an undue burden on existing homeowners wishing to expand or improve their properties. Sensible exceptions and exemptions should be provided for existing homes in the floodplain. It is especially important that during the development of these regulations, aggressive outreach including public meetings within

coastal communities that are well publicized in advance before the regulations are drafted and published for a public hearing. It is critical that DEP involve the many stakeholders that will be directly affected by such regulations.

Action 4-C: Adopt the 2015 International Building Codes for structures in floodplains, including freeboard requirements for buildings in “A zones”, in addition to current requirements for “V zones”.

The current building code, as modified in 2008, affords flexibility for homes within the A zone to have their first floor at or above the flood. Better information provided to homeowners considering construction or modifications to a home should be provided on how additional freeboard benefits them, but requiring freeboard is unnecessary.

Action 4-D: Incorporate assessment of sea level rise impacts during regulatory review of coastal projects and evaluate alternatives that eliminate/reduce impacts to coastal resource areas and provide appropriate mitigation.

The scientific opinions on how much sea level rise will be experienced over the lifetime of a coastal project differ greatly. Clear guidelines should be provided to communities for implementation of this recommendation. All communities should be able to provide project applicants an accepted SLR range for use in planning and design.

Action 4-E: Finalize and release guidance document applying the Massachusetts Coastal Wetlands Regulations – A Practical Guide for Conservation Commissions to Protect the Storm Damage Prevention and Flood Control Functions of Coastal Resource Areas.

Prior to adoption, the document should undergo a well-publicized outreach and comment period within each of the coastal regions. It should be clear within any such guidance what are regulatory requirements as opposed to best practices or recommendations.

Strategy #5: Improve the use of sediment resources for beach and dune nourishment and restoration.

Action 5-A: Advance the evaluation and assessment of the use of offshore sand resources for beach and dune nourishment and restoration within the context of the Massachusetts Ocean Management Plan.

We support this effort at appropriate locations, such as prior dredged sediment disposal sites, where it can be demonstrated that there would be no adverse impacts to fisheries resources or endangered species.

Action 5-B: Strengthen criteria and implementation of existing standards in MassDEP Chapter 91 Waterways regulations and the Massachusetts Ocean Management Plan to ensure that sediments dredged from state tidelands are public trust resources and use for beach nourishment is in the public interest.

We support this recommendation.

Action 5-C: Support the advancement of the top policy position in the joint Coastal States Organization and American Shore and Beach Preservation Association Call for the

Improved Management of America's Beaches calling for national policy to ensure that beach-compatible dredged materials are beneficially used.

We strongly support 5-C. There is an urgent need for material dredged for navigation projects to be used to nourish beaches, and offshore disposal can often be counterproductive by removing material from the system and may harm other resources, such as fisheries.

Action 5-D: Explore and implement regional dredging programs to allow for greater efficiencies and cost-effectiveness.

We strongly support 5-D. We note that cost-effectiveness needs to be carefully defined to include a comprehensive evaluation of the beneficial value of the sediments, the beaches, the public, etc. We note that the current methods by which the Army Corps of Engineers evaluates the fate of dredge spoils using the “least costly alternative” is, at times, negatively affecting the nation’s beaches when that material is part of a larger sediment system that includes barrier beaches. It is critical in situations where the dredged material can be used on barrier beaches for nourishment, that the cost effectiveness of the material for beach nourishment be appreciated, and that the cost and additional risk imposed by removing sediment from a coastal system also be considered in evaluating the “least cost” solution for the entire system.

Action 5-E: Improve effectiveness of beach nourishment projects by reviewing and potentially adjusting standards and policies that restrict placement of sand below mean high water on the nourished beach.

We strongly support 5-E.

**Create Action 5-F: Strengthen criteria and implementation of existing standards in MassDEP Chapter 91 Waterways regulations and the Massachusetts Ocean Management Plan to ensure that sediments removed from state tidelands through the process of beach contouring are public trust resources and the sediments’ use for beach nourishment is in the public interest.*

***Create Strategy X: Incorporate regulatory flexibility to improve the ability of municipalities and private property owners to guard against or reduce or eliminate the impacts of coastal erosion without undue adverse environmental impacts.**

**Create Action X-A: Revise barrier beach, coastal dune, and bank regulations for coastal engineering structures. An approach that mirrors the structure of the Rivers Protection Regulations should be developed that establishes a hierarchy of approaches and an alternatives analysis process for new structures and a demonstration of improvement for replacement structures. Such an approach would require that an applicant perform an alternatives analysis to demonstrate that the least impacting and softest solution that effectively protects property is selected. A loose hierarchy has evolved in recent years that could be enhanced through such a regulatory approach. This would require property owners to look first at relocation of structures and retrofitting a structure with pilings, vegetation and nourishment, soft solutions, hybrid solutions, and lastly hard structures.*

Any solution would need to demonstrate that it would not harm adjacent properties from end of structure scour. Existing structures would be held to a redevelopment standard similar in approach to that in 310 CMR10.58(5) for riverfront where a property with an existing engineering structure could maintain or make improvements to the protection of an already altered shoreline.

**Create Action X-B:* Better define an emergency for Conservation Agents to use in issuing Emergency Certifications. This should include allowing use of determinations by building inspectors under 780 CMR by conservation agents in determining the necessity for emergency certifications to protect coastal property.

**Create Action X-C:* Create “Pilot Program Limited Project” for coastal erosion related projects to evaluate unproven technologies and approaches to preventing, slowing, or reversing coastal erosion.

**Create Action X-D:* Add mitigation section to coastal dune/barrier beach. Develop clear mitigation standards for vegetation.

***Create Strategy Y: Evaluate how MEMA can better prepare for responses to coastal erosion emergencies. Potential Action items would include regional stockpiling of sand, stone, etc... that are appropriate to protect the various vulnerable shorelines. Fostering local, more targeted stockpiles by working with local emergency management officials may be an effective component of this. Salisbury has incorporated an emergency stockpile area within DCR’s Beach Management Plan permit, but the stockpile area has not been implemented to date. The Town of Newbury stores compatible sand for Plum Island emergencies on town property on Plum Island. In other areas of the coastline where the shoreline is armored, the types of materials necessary to cope with an emergency would be different. We envision a network of such stockpiles, coordinated by emergency management for use in major erosion events – much as they currently manage other emergency preparedness supplies.**

Shoreline Management, Assistance, and Outreach

Strategy #6: Support the implementation and study of pilot projects for innovative solutions and the encouragement of learning-by-doing and experimentation in shoreline management approaches.

Action 6-A: Implement new testing and evaluation protocols for the review of pilot projects for shoreline protection, as allowed by the revised WPA regulations.

The MRBA supports studies and pilot projects that would seek alternative approaches to shoreline protection and coastal resource preservation. The MRBA seeks clarification on where within the WPA regulations the pilot projects would be authorized. Additional information and clarification needs to be provided on how pilot projects will be developed, reviewed and authorized.

Action 6-B: Create a standing Technical Review Committee to provide impartial, external review of proposed pilot technologies/projects.

The MRBA supports this effort. An impartial peer review panel consisting of experts in coastal dynamics not affiliated with the local or state regulatory agencies would provide a valuable perspective for reviewing pilot projects. In approving and monitoring pilot projects and new/alternative technologies, local communities will need technical support from experts. Assistance in developing pilot projects and specifying appropriate monitoring protocols will be especially important.

Strategy #7: Maintain and expand technical and financial assistance and communication and outreach to communities to support local efforts to address the challenges of erosion, flooding, storms, sea level rise, and other climate change impacts.

Action 7-A: Continue and expand the new Coastal Community Resilience and Green Infrastructure for Coastal Resilience grants, that provide funds to cities and towns to increase awareness of hazards and risks, assess vulnerabilities, identify and implement measures to increase community resilience, and implement natural and nonstructural approaches, called green infrastructure.

The MRBA supports this recommendation. We would like the two grant programs mentioned to continue and to be expanded. They provide beneficial work to municipalities that could not otherwise afford it. In addition, we believe that the grant programs should be expanded to include minor structural components when they are necessary in order to support a larger green infrastructure project. In administration of these grant programs, CZM should be more forthcoming with applicants about which technologies/models they find acceptable or problematic. This is a new area of work for most municipalities (as well as most engineering/consulting firms) and there are a wide variety of techniques for modeling SLR and assessing vulnerability and damage. CZM should provide better guidance to communities as they prepare grant applications and/or plan projects on their own so that time and resources are not wasted on faulty models or models that may be inconsistent with those being used elsewhere in the region or state.

Consideration should also be given to creating a grant program aimed at private homeowners. Many areas in the most dire need of “green infrastructure” are on private property but homeowners can only afford to invest in the most simple and “sure” solution: a seawall or revetment. Green infrastructure grants for private property would enable homeowners to investigate and implement solutions they otherwise might be unable or unwilling to attempt.

Action 7-B: Support the implementation of a voluntary program that facilitates the “buy-back” of high hazard or storm-damaged properties, as supported by cost/benefit analyses and other assessments.

The MRBA supports this effort. We caution that sufficient funding needs to be available in order for such a program to work, and the criteria need to allow broader consideration of the benefits of a buy-back, beyond the individual lot. FEMA offered a grant program after

six homes were destroyed on Plum Island in 2013, and not a single property was able to meet the cost benefit criteria, even though several of these property owners would have taken a fair offer on their property. The economic realities of the investment that property constitutes to its owners results in these properties being re-developed when that is the only way they can recover from the economic damage posed by the loss of a home. A program such as this that gives property owners an equivalent way to recover their investment would benefit them and the Commonwealth.

Action 7-C: Increase public awareness of coastal processes, storm events, and risks associated with development on/near coastal shorelines and floodplains; promote better understanding and adoption of best practices.

Most coastal property owners welcome information on ways to protect their properties. It is very important that the information be presented in materials that are easy to read and understand, and the best practices included in these mailings should not appear daunting or cost prohibitive for the average property owner. In addition, the methods presented must be realistic in terms of how much protection they actually afford and how long such protection takes to establish. For example, plants and snow fence are two cost effective methods when you have the luxury of time to accrete sediment on a coastal dune system. However, they are useless in protecting against an impending storm.

**Create Action 7 D: Expand DEP regulatory outreach to include pre-filing meetings and site visits when requested by a municipal government or Conservation Commission on specific projects related to coastal development and coastal erosion mitigation. The purpose is to provide more direction in guiding difficult projects at the early stages, minimizing public frustration and staff time spent on comments and appeals of projects.*

Comments on the Process used in Preparing the Draft Commission Report and Recommendations on the Steps to be taken in Preparing the Final Report

Despite the many areas noted above in which the MRBA supports the findings and recommendations in the draft Commission report, the MRBA has two major areas of concern that must be addressed before a final Commission report is issued.

1. The process used in preparing the draft Commission report did not provide adequate public notice of the meetings of the Commission or its subcommittees. Furthermore, even the limited input received from the public and the input offered by non-staff Commission members related to increasing the availability of cost-effective measures to protect against coastal erosion was not reflected in the draft report.
2. Most importantly, the draft report does not adequately address the mandate in the Commission's enabling legislation to "focus particularly on increasing the availability of cost-effective measures to protect against coastal erosion."

We understand that the only notices given to the public of meetings of the Commission or of its subcommittees were placed in the Environmental Monitor or in legal notices in newspapers. No notices were given to legislators in the communities in the regions in which the meetings were held. No press releases were issued prior to meetings. As a result attendance by the public was sparse. We also understand that all drafting of the report was controlled by regulatory agency staff and that input from task force members and the public on regulatory changes that would increase the availability of cost-effective measures to protect against coastal erosion was largely ignored. We believe that the process shows classic symptoms of “regulatory capture” in which a legislative commission charged with getting input from the public and from its non-staff members becomes controlled by agency staff. We urge that the future proceedings of the Commission be conducted in a much more open and open-minded fashion.

The MRBA strongly requests that the Commission hold another series of well-publicized public hearings in different coastal regions to solicit further public comment on the next revised draft report as well as on increasing the availability of cost-effective measures to protect against coastal erosion. No final report should be issued until this public hearing process is complete and the public is also given the opportunity to comment on a revised draft report and a final vote is taken by the Commission members prior to the reports’ final release.

On behalf of the members of the MRBA, we thank the Commission members and staff for their time and effort in putting together the draft report. It is a good starting point and we hope to continue to work together with the Commission for the sake of our coastal environment and all those who benefit from it.

Sincerely,



Bruce Tarr
State Senator
Co-Chair



Jerry Klima
Salisbury Town Moderator
Co-Chair

C.c. Governor Charles D. Baker
Lt. Governor Karyn Polito
Senate President Stanley Rosenberg
Speaker Robert DeLeo
Senator Karen Spilka
Representative Brian Dempsey
Representative Lenny Mirra
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