



Coastal States Organization

Est. 1970

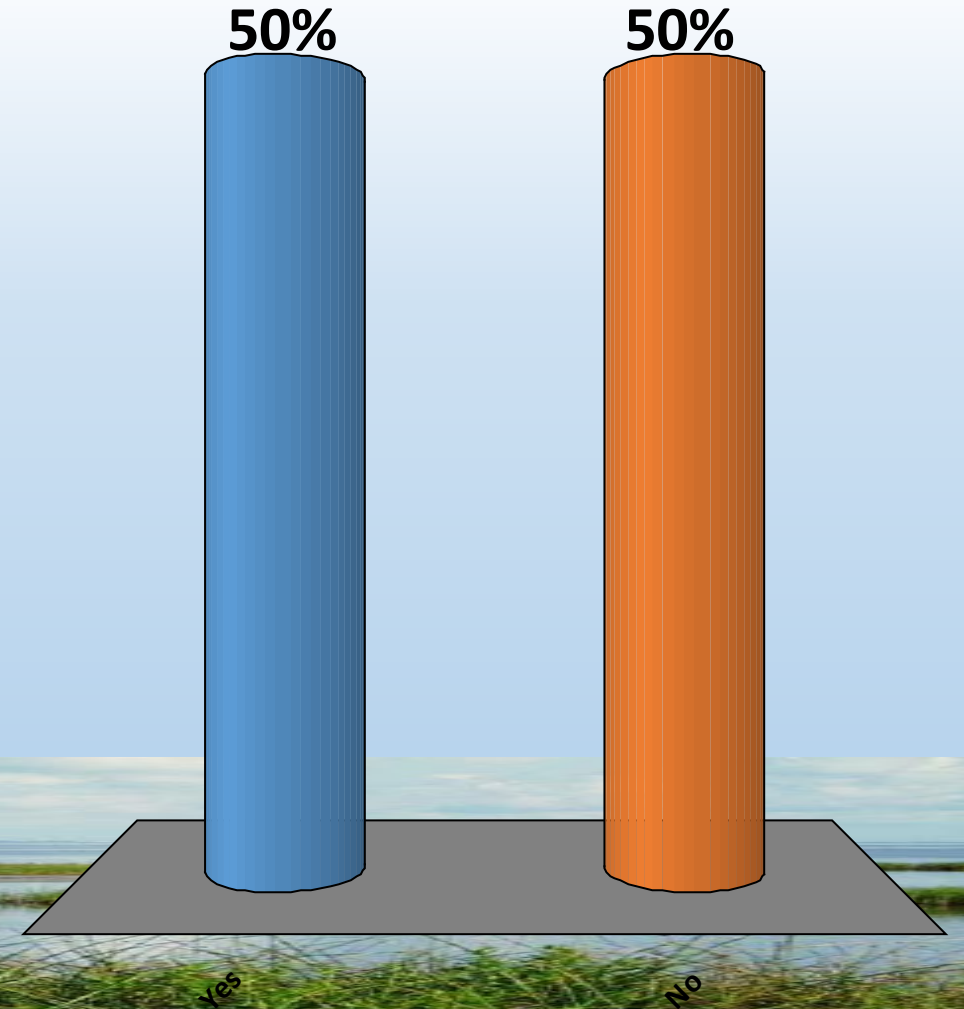
CSO represents the Governors of the nation's thirty-five coastal states, commonwealths and territories on legislative and policy issues relating to sound coastal, Great Lakes and ocean resource management, protection, and development.



Have you ever heard of CSO?

A. Yes

B. No



Presentation Overview



- CSO Overview
- Coastal Zone Management Act and Federal Consistency
- State Examples that touch on NAI concepts
 - California and Federal Consistency
 - Massachusetts and Municipal Zoning
 - Ohio and Policy Discussion
- CSO & ASFPM Partnering on Resilience
- CSO and USACE SAGE
- Conclusion

Coastal States Organization: Structure & Operations

- **Governing Board consists of an Executive Committee with:**
 - Officers: Chair, Vice Chair, Treasurer and Past Chairs
 - Regional Representatives from: Northeast, Mid-Atlantic, Gulf of Mexico, Great Lakes, Pacific, Islands
- **Work Groups focus on Key Priorities:**
 - Habitat
 - Adaptation
 - Coastal NPS
 - Beach and Inlet Management
 - Communications
- **Biannual Meetings bring together our Members for discussion, business actions and networking:**
 - Spring Meeting in Washington DC with Coastal Program Managers' Meeting
 - Spring Legal Council Meeting in Washington DC
 - Fall Meeting rotates among Member States' locations



CSO Member Activities

- Participate actively on Work Groups relevant to state interests
- Testify in front of Congressional committees and subcommittees on relevant legislation
- Present to Congressional Members and Staff at Congressional Briefings
- Engage with Federal, State and Local Agencies



CSO Resilience Program:

- Highlighting and enhancing role of State Coastal Zone Management Programs in building resilient coastal communities
- NOAA, FEMA, USACE, HUD, DOI, etc. resilience strategies
- Natural and Nature Based infrastructure, and incorporation of the Systems Approach to Geomorphic Engineering (SAGE)
- Beach and sediment management
- Working at Federal, State, and Local levels
- Various initiatives



More on CSO:

- Appropriations support/defense and other Congressional outreach
- Educate Congress and relevant Federal Agencies (NOAA, USACE, HUD, FEMA, etc.) on CZ Programs
- Digital Coast
- Sec. 6217 (moving toward approved programs)
- Represent States with National Ocean Council
- Regional Ocean Partnerships
- Offshore Geophysical and Geological activities
- President's Task Force on Climate Preparedness and Resilience



Coastal Zone Management Act (CZMA):

Congressional findings (Section 302) [16 U.S.C. § 1451.]

- *The increasing and competing demands upon the lands and waters of our coastal zone* occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, ***permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.***



CZMA: Congressional declaration of policy

(Section 303) [16 U.S.C. § 1452.]

- (1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;
- (2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of **management programs to achieve wise use of the land and water resources of the coastal zone**, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development
- **(B) the management of coastal development to minimize the loss of life and property caused by improper development...**



CZMA: *Federal Consistency Provision*

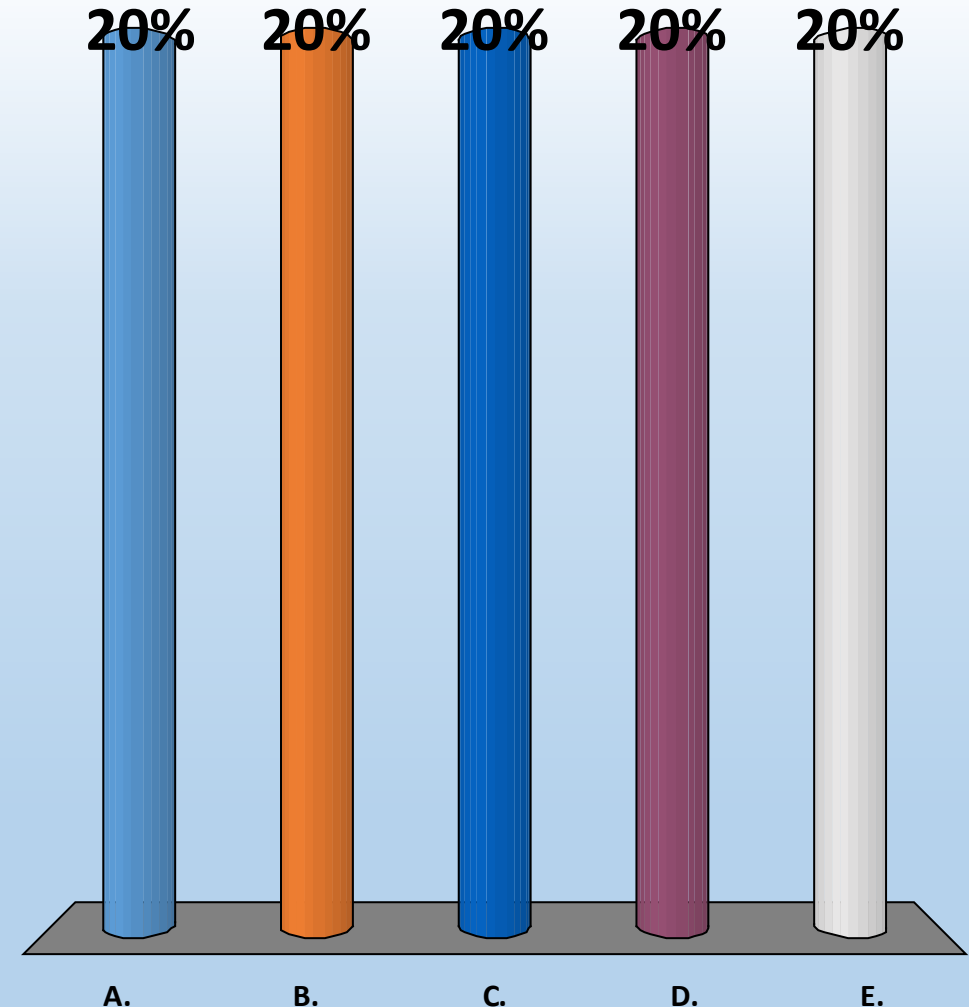
(Section 307) [16 USC §1456]

- federal actions that have *reasonably foreseeable effects* on any *land or water use or natural resource of the coastal zone* should be **consistent** with the enforceable policies of a coastal state's federally approved CMP
- Meant to facilitate early cooperation and coordination
- Balances federal and state interests along our coasts
- State can object to **certain federal actions**, any appeal determined by Secretary of Commerce
- Enables state coastal zone programs to object to any adverse impacts in the coastal zone



Which of the following is a reviewable federal action under the CZMA consistency provisions?

- A. A. Activities and development projects performed by a Federal agency, or a contractor for the benefit of a Federal agency.
- B. B. Activities performed by a non-Federal entity requiring federal permits, licenses or other form of federal authorization.
- C. C. Federal Agency approvals for OCS plans, pursuant to the Outer Continental Shelf Lands Act.
- D. D. Federal assistance to state and local governments.
- ✓ E. E. All of the above are reviewable under CZMA consistency if inconsistent with an enforceable policy of a state CMP



- ***Federal agency activities:*** activities and development projects performed by a Federal agency, or a contractor for the benefit of a Federal agency. 15 C.F.R. part 930, subpart C.
- E.g., Fisheries Plans by the National Marine Fisheries Service, Naval exercises, the disposal of federal land by the General Services Administration, a U.S. Army Corps of Engineers (Corps) breakwater or beach renourishment project, etc.
- ***Federal license or permit activities:*** activities performed by a non-Federal entity requiring federal permits, licenses or other form of federal authorization. 15 C.F.R. part 930, subpart D.
- E.g., activities requiring Corps 404 permits, Corps permits for use of ocean dump-sites, Nuclear Regulatory Commission licenses for nuclear power plants, etc.
- ***OCS plans:*** approvals for OCS plans, pursuant to the Outer Continental Shelf Lands Act. The CZMA process is similar to federal license or permit activities. 15 C.F.R. part 930, subpart E
- ***Federal assistance to state and local governments.*** 15 C.F.R. part 930, subpart F.
- E.g., Federal Highway Administration funds to coastal state and local governments, construction grants for wastewater treatment works, hazardous waste management trust fund, etc.

“Coastal Effects” Test:

- any **reasonably foreseeable effect** on any coastal use or resource resulting from a Federal agency activity or federal license or permit
- Effects are not just environmental effects, but include effects on coastal uses
- Include both direct effects which result from the activity and occur at the same time and place as the activity, and indirect (cumulative and secondary) effects which result from the activity and are later in time or farther removed in distance, but are still reasonably foreseeable



CZMA Consistency: Objection and Appeal

- How a state coastal program's consistency objection can be overridden:
- Objection is appealed by the third party
- Secretary of Commerce is charged to determine validity of the appeal:
Substantive or procedural
- Grounds for Secretary to override state objection are:
 - Ground I: activity consistent with the objectives or purposes of CZMA
 - Objectives/purposes as stated in Congressional findings (Section 302) & Congressional declaration of policy (Section 303)
 - Ground II: activity is necessary in the interest of national security



Consistency: in Context

- In 2008 the California Coastal Commission (CCC) opposed a plan to construct a toll road within the coastal zone under Section 307 of the CZMA
- CCC filed consistency objection claiming that the project was inconsistent with the enforceable policies of the California Coastal Management Program
- CCC Claimed that project would adversely effect wetlands, environmentally sensitive habitat areas, and public access
- CCC consistency objection was appealed
- Appeal was not successful and CZMA consistency provision empowered the CCC to prevent adverse effects to in the coastal zone



Local Methods for Adverse Impacts: Massachusetts

- Gove v. Zoning Board of Appeals of Chatham, 444 Mass 754 (2005)
- Massachusetts Supreme Court affirmed municipality regulation preventing new construction in flood plain
- Not a state coastal management action, but highlights importance of local and municipal zoning and land use ordinances in addressing adverse impacts
- No government “taking” of the property because advancing of a substantial state interest of health, safety, and welfare of public and did not render property completely without value
- Palazzolo v. Rhode Island, 533 U.S. 606 (2001)



Enhancing Resiliency of Existing Structures

- Chatham example prevented the building of a structure in a flood prone area due in part to potential adverse impacts of such construction
- The FEMA Community Rating System (CRS) incentivizes (via discounts on flood insurance premiums) communities to undertakes activities that preserve and enhance the natural functions of floodplains
- ASFPM & CSO grant partnership will promote CRS participation, providing guidance on activities that increase community's rating, and working directly with communities to increase their resiliency through the CRS process



ASFPM & CSO NFWF Grant

- Research will be focused on activities in the CRS manual as they relate to natural floodplain functions and potential future conditions impacts
- Grant will develop a **resource guide** containing methods, techniques, best practices, and case studies to maximize a community's CRS points as it relates to natural functions of floodplains and coastal resiliency
- Addressing resilience issues from top down and bottom up
- Two selected states, Ohio and Rhode Island, will be the focus of the pilots used to demonstrate and refine the resources being produced



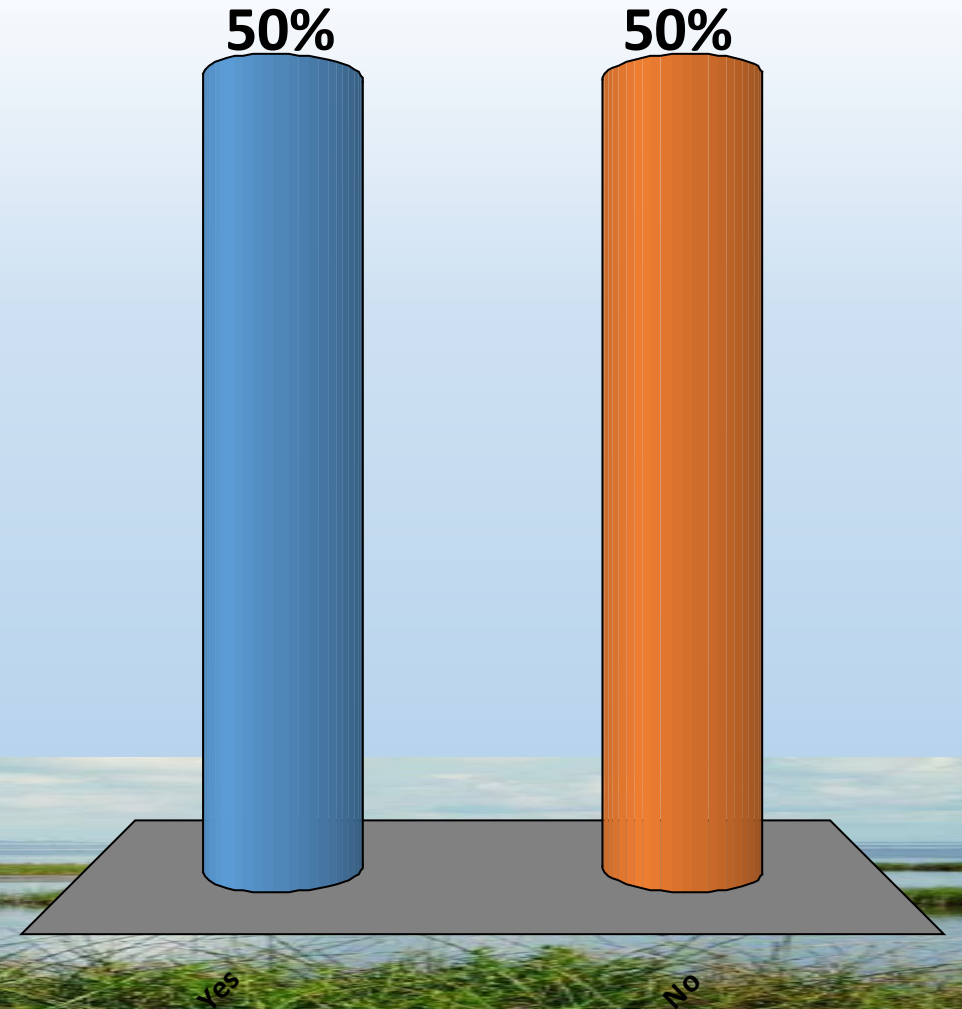
ASFPM & CSO Grant: continued

- The state of Rhode Island, while small in geographic area, has a significant potential risk of future flooding.
 - Approximately 14% of the land area in the state (1,100 sq. mi.) is considered flood prone.
 - The state floodplain management office (which coordinates the NFIP) has prioritized CRS participation as a state goal.
- Ohio provides a good testing opportunity for a major Great Lakes community
- Also helpful to have expert CZ Managers: Scudder Mackey of Ohio and Grover Fugate of Rhode Island



Have you ever heard of a Systems Approach to Geomorphic Engineering (SAGE)?

- A. Yes
- B. No



Policy Discussion: Lake Erie Bluffs Preserve, Ohio

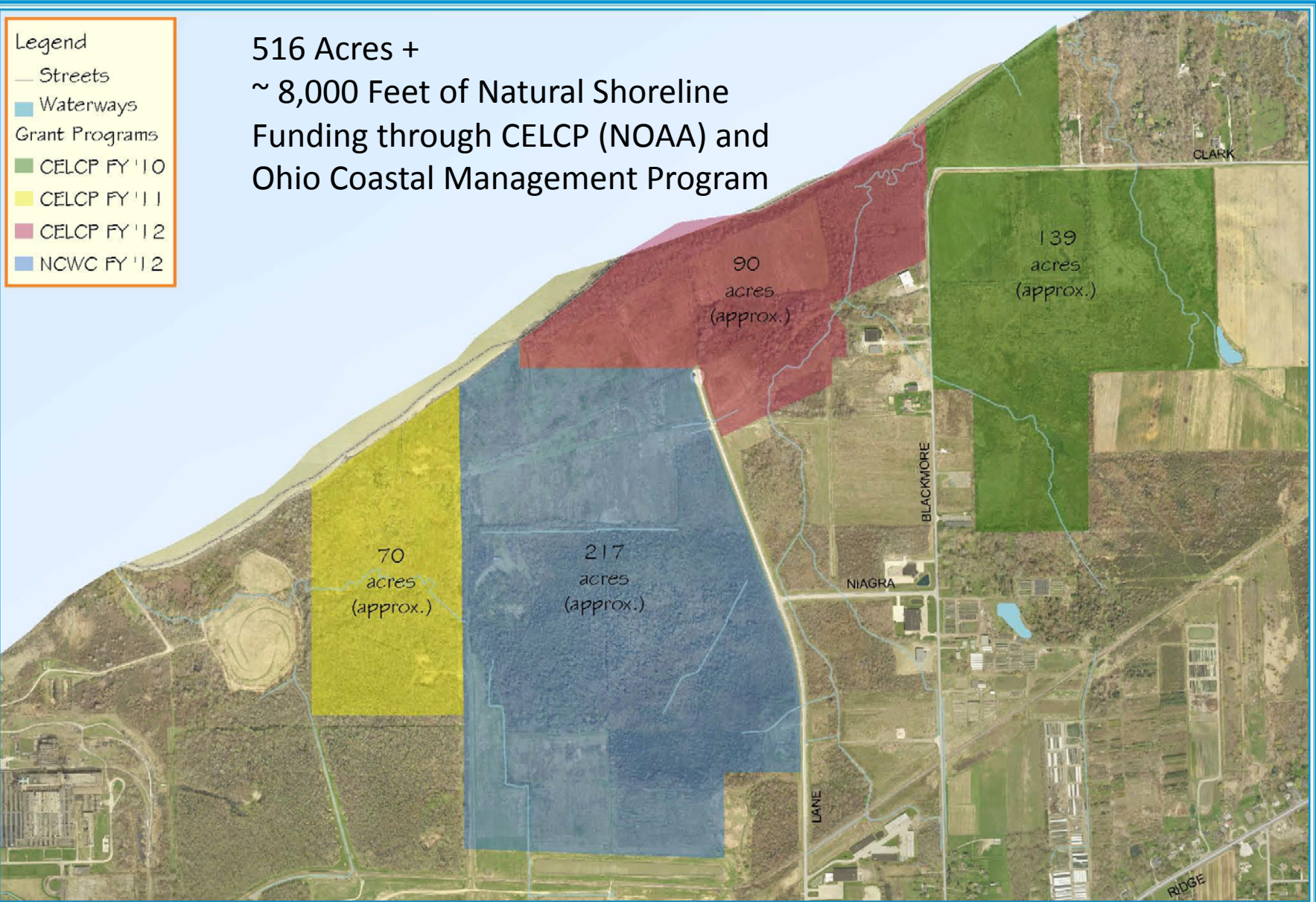
- Lake Metroparks (Lake County, Ohio)
- Through funding from CELCP (NOAA) and Ohio Coastal Management Program - Example of Federal and State partnering - acquisition of coastal parcels for shoreline and wetland preservation/restoration
- (516 acres+) 8,000 Feet of Natural Shoreline



Legend

- Streets
- Waterways
- Grant Programs
- CELCP FY '10
- CELCP FY '11
- CELCP FY '12
- NCWC FY '12

516 Acres +
 ~ 8,000 Feet of Natural Shoreline
 Funding through CELCP (NOAA) and
 Ohio Coastal Management Program



Land acquired to allow erosion of natural shoreline in State that has extensive shoreline armoring and less natural shoreline.

Why?

LAKE METROPARKS

0 500 1,000 2,000 Feet

Date Published: August 2013
 Aerial Imagery: Spring 2011
 Sources: LMP GIS, Lake County GIS
 Western Reserve Land Conservancy

Lake Metroparks
 Lake Erie Bluffs Preservation Project
 ODNR Office of Coastal Management Funding

This map is intended for use as a reference. All boundaries and locations are approximate. The information depicted was obtained from various government and proprietary sources. This map is believed to be accurate as of the publication date, but no warranty or guarantee on any part is given or implied.

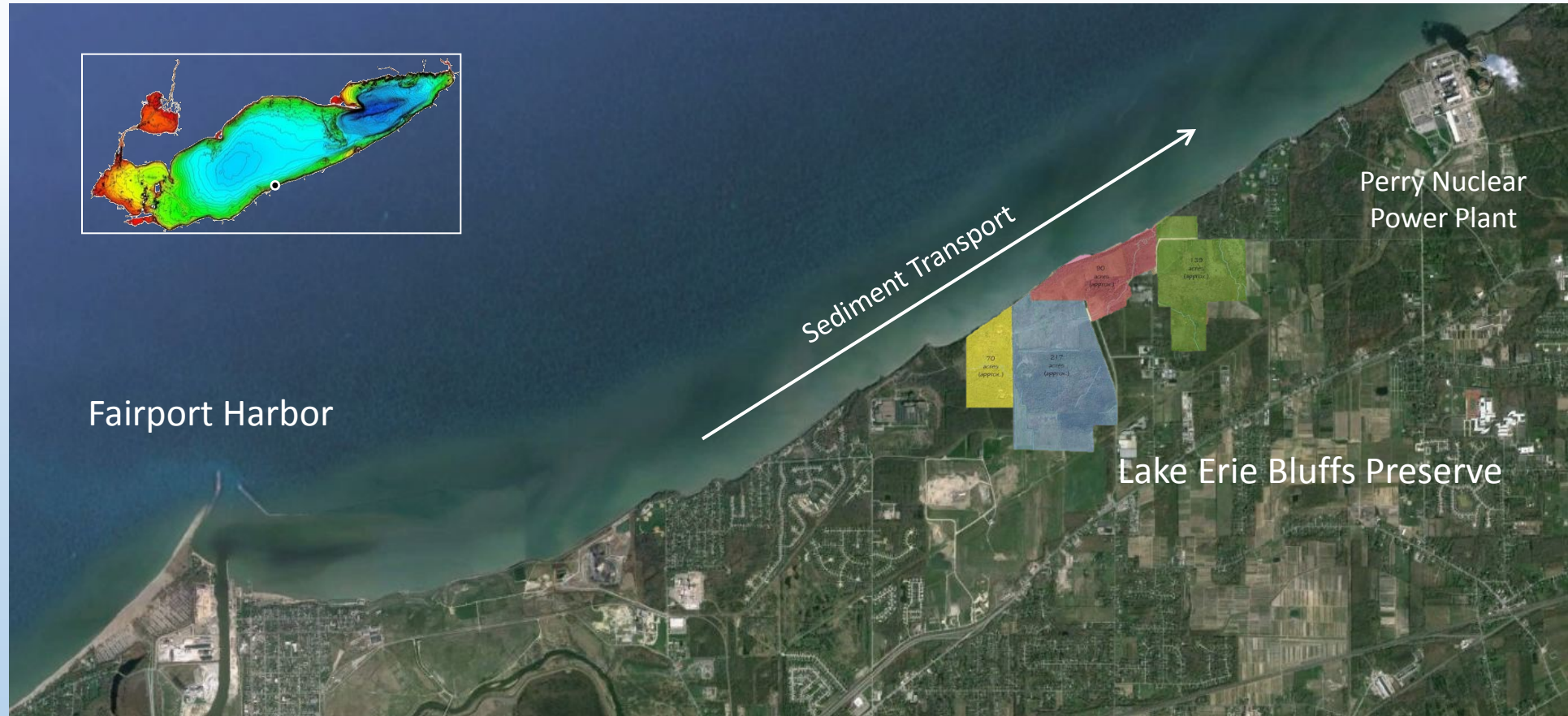


Ohio: Variable Shoreline Conditions, and Discussing a Systems Approach Policy

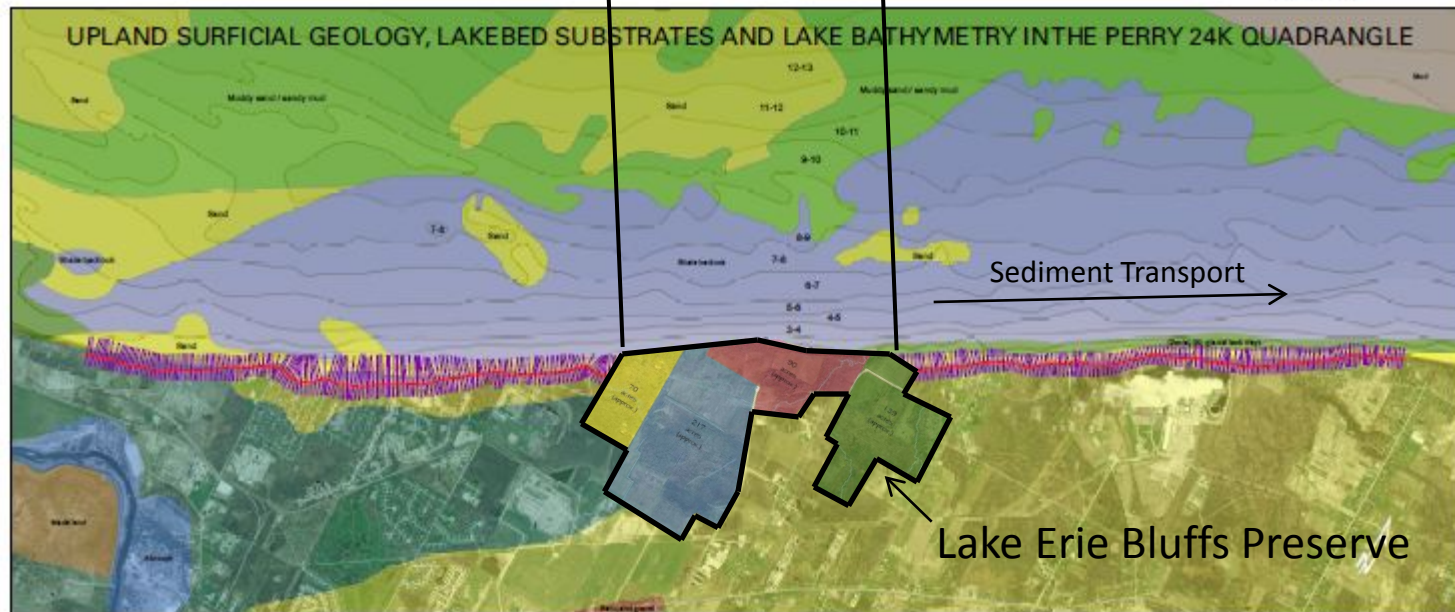
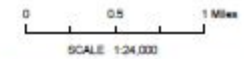
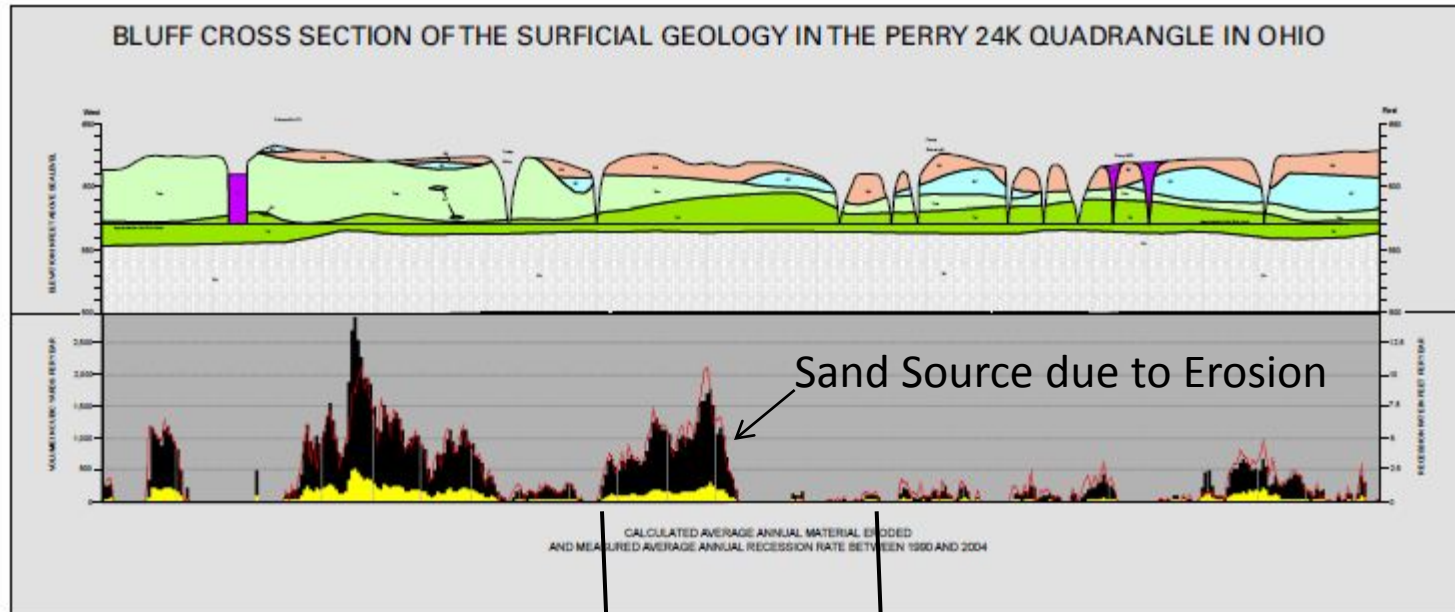
- High bluffs rapidly eroding, few shore protection structures (no armoring)
- Critical need to allow erosion as it creates sand source for other beaches
- To the east, communities exist with lots of groins to protect shoreline (only works when a sand supply) - If no sand, then groins are less effective
- Landscape conservation design of bluffs allow natural erosion of unprotected sediment and provides as a sand source to feed coastal littoral system
- Littoral transport west to east



Lake Erie Bluffs Preserve



Littoral transport west to east



Projection of digital Ohio coordinate system, north zone, North American Datum, 1983. Not to be used for navigation.

USACE: Coastal Systems Approach & SAGE

- CSO is working to highlight the role and expertise of CZ Managers with USACE
- **Coastal Systems Approach**: Significant USACE Civil Works project backlog, in part due to project-by-project approach
- Need to understand entire coastal system and watershed
- **Systems Approach to Geomorphic Engineering (SAGE)**: high level discussion



Conclusion:

- Looking back: How CZMA can enable states to avoid adverse impacts in the coastal zone
- Emerging Policy Considerations
- Role of CSO
- Thank you



