



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



GERALD D. REID  
COMMISSIONER

**TESTIMONY OF**  
**MARK BERGERON**  
**DIRECTOR OF THE BUREAU OF LAND RESOURCES**  
**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**SPEAKING IN OPPOSITION TO LD 1287**

**AN ACTO TO PROTECT THE PENOBSCOT RIVER AND PENOBSCOT BAY FROM  
MERCURY CONTAMINATION**

**SPONSORED BY REP. DODGE**

**BEFORE THE JOINT STANDING COMMITTEE  
ON  
ENVIRONMENT AND NATURAL RESOURCES**

**DATE OF HEARING:**

**APRIL 11, 2019**

Senator Carson, Representative Tucker, and members of the Committee, I am Mark Bergeron, Director of the Bureau of Land Resources, speaking in opposition to L.D. 1287.

The Natural Resources Protection Act (NRPA) contains standards (Title 38 §480-D) that an applicant must meet to qualify for a permit. In making a determination, the Department relies on reviews by our own staff scientists and from other state agencies, such as the Department of Marine Resources.

We also consider input from affected parties, such as municipal officials, abutting land owners, and members of the public. L.D. 1287 would create additional public notice requirements for

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333 0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941 4570 FAX: (207) 941 4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
(207) 764-0477 FAX: (207) 760-3143

specific groups, some of whom already receive notice through other existing mechanisms. The Department acknowledges that administrative procedures related to public notice, particularly to fishermen, could be improved, and we are already engaged with the Department of Marine Resources to accomplish this through interagency coordination.

Once a licensing decision has been made, an appeal process exists that an aggrieved party may decide to make use of. This process has worked well for many years. Through this process, projects with greater potential for environmental impact, including dredging projects where toxics are present, receive greater scrutiny.

L.D. 1287 would preempt this process by stipulating limits to what purpose dredging would be limited, and by spelling out in detail what sampling methodology must be used. This bill is unnecessary and counter-productive. Sampling methodology should be developed in response to a specific project proposal. To put it in law prevents us from considering what would be the most appropriate approach on a given project. It could result in not only unwarranted expense to an applicant, but also could lead to data that is not sufficient to complete an environmental review.

Furthermore, L.D. 1287 proposes changes that would restrict consideration of a full range of remediation options that may be recommended pending the outcome of current litigation in federal court regarding mercury pollution in the Penobscot River. The State of Maine is not party to the suit but is monitoring the outcome and suggests that it is not appropriate to limit the opportunity to evaluate remediation options, in accordance with all applicable environmental statutes and permitting, before they have even been defined.

If every project that could cause significant harm to the environment resulted in additional language being added to the NRPA, imagine how voluminous and unwieldy the law would become. This is not an effective way to govern. Therefore, I recommend that you vote "ought not to pass" on L.D. 1287.

Thank you for the opportunity to provide testimony on this bill. I am available to answer questions of the Committee, both now and at work session.