



May 5, 2025

Senator Tepler, Chair
Representative Gramlich, Chair
Distinguished Members of the Environment and Natural Resources Committee
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

Re: LD 1882 "Resolve, Directing the Department of Environmental Protection to Conduct Rulemaking Regarding Significant Vernal Pools"

Senator Tepler, Representative Gramlich, and Distinguished Committee Members,

I am writing this letter on behalf of the Associated General Contractors of Maine to share our initial concerns with additional requirements for significant vernal pools. In 2007, AGC Maine participated in stakeholder meetings and rulemaking when Maine enacted new regulations related to vernal pools. In this bill, time hasn't allowed conversations with our internal stakeholders to properly share any concerns or suggestions based on the presented language. However, we did gather some initial reactions that we will certainly provide if the bill is enacted into law and rulemaking commences.

Vernal Pool Buffer

The bill requires rules to update the vernal pool buffer to define the pool's extent better. However, the spring and fall high water marks could be different and challenging to define. Describing the pool limits as ponded water during vernal pool mapping may be best.

Habitat Management Standards

Currently, the buffer is 100' from the pool's edge and is regulated as no disturbance. If the suggested change is 250' from the buffer, that will be overly restrictive. Today, 25% of the 250' buffer is allowed to be disturbed. The rationale for the current allowance is that some buffer impacts permit this tolerance, such as roadways or infrastructure that can't be avoided.

Property Boundaries

One of the difficulties with vernal pool mapping occurs when the location crosses or is off the development parcel. This becomes a challenge as it implies trespassing to map or know the extent of a vernal pool. That is the reason for the current regulation, and it will have both legal and development issues.

Given the discussion necessary to produce a reasonable approach, we recommend a stakeholder approach to vernal pools and a report back to this Committee if modifications are desired. Regardless, any changes to the current regulations should be considered major substantive, not routine technical. Current property owners with significant vernal pools will have additional concerns if they have plans or have reduced the value of their property due to rule



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changes. That includes critical infrastructure like water/wastewater, transportation, and other utilities, along with planned housing or commercial development.

For all those reasons, we are opposed to the suggested changes. Still, we recommend discussing modifications with the construction, engineering, land use, environmental, and development communities. Thank you for considering my comments.

Sincerely,

Kelly Flagg
Executive Director