

**Testimony of Conservation Law Foundation  
in Support of LD 2160, An Act Relating to the Statute of Limitations for Injuries  
or Harm Resulting from Perfluoroalkyl and Polyfluoroalkyl Substances**

**July 28, 2020**

Senator Carpenter, Representative Bailey and members of the Judiciary Committee:

My name is Phelps Turner and I'm a Senior Attorney at Conservation Law Foundation (CLF), a non-profit organization which advocates for homes, schools and communities in Maine that are safe from toxic chemicals, including per- and polyfluoroalkyl substances (PFAS), so that Mainers and Maine's environment are not harmed by PFAS and other dangerous chemicals.

Because PFAS chemicals pose serious risks to Mainers and Maine's environment, CLF has been urging Maine's health and environmental officials to take strong action to reduce those risks. In 2018, CLF petitioned Maine's Department of Health and Human Services to establish a drinking water standard for PFAS.<sup>1</sup> In 2019, after participating in the PFAS Task Force process, CLF called on the Task Force to strengthen its recommendations.<sup>2</sup> In 2020, CLF testified in support of LD 1923, which would allow Maine DEP to access funding for cleaning up PFAS contamination.<sup>3</sup>

CLF supports LD 2160 because it is narrowly tailored to allow claims concerning PFAS contamination to be filed within six years of the discovery of contamination, rather than within six years of the occurrence of contamination. In so doing, LD 2160 will enhance the ability of claimants—including landowners and municipalities—to pursue those who are responsible for manufacturing PFAS and for contaminating properties and water supplies in Maine, and thus help protect our health and our environment by improving the chances of recovering the money required to clean up PFAS contamination.

**I. PFAS Chemicals Pose Serious Risks to Mainers' Health and to Maine's Environment.**

Mainers are exposed to PFAS chemicals in a number of ways, including by drinking PFAS-contaminated water, by eating PFAS-contaminated food, by using products made with PFAS

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<sup>1</sup> Petition of Conservation Law Foundation for Rulemaking to Establish a Treatment Technique Drinking Water Standard for Per- and Polyfluoroalkyl Substances, December 19, 2018, [https://www.clf.org/wp-content/uploads/2018/12/PFAS-Petition\\_12.19.18\\_Conservation-Law-Foundation\\_Maine.pdf](https://www.clf.org/wp-content/uploads/2018/12/PFAS-Petition_12.19.18_Conservation-Law-Foundation_Maine.pdf).

<sup>2</sup> Comments of Conservation Law Foundation on Maine PFAS Task Force Draft Report, December 6, 2019, <https://www.maine.gov/pfastaskforce/materials/report/comments/CLF%20Comments%20on%20Maine%20PFAS%20Task%20Force%20Draft%20Report%2012.6.2019.pdf>.

<sup>3</sup> Testimony of Conservation Law Foundation in Support of LD 1923, *An Act To Define as a Hazardous Substance under Maine Law Any Substance Defined under Federal Law as a Hazardous Substance, Pollutant or Contaminant*, January 24, 2020, <http://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=139144>.

and by breathing PFAS-contaminated air.<sup>4</sup> Scientific studies show that these exposures to PFAS chemicals may: increase the risk of cancer; lower a woman’s chance of getting pregnant; interfere with natural human hormones and the immune system; inhibit growth and learning and interrupt thyroid function; and disrupt liver, thyroid and pancreatic function.<sup>5</sup>

Despite these well-known dangers, PFAS chemicals continue to be used widely in products many Mainers rely on every day, including non-stick cookware, water-repellent clothing, stain-resistant fabrics and carpets, cosmetics and fire-fighting foams. Maine’s water supplies are also threatened by a number of other PFAS sources. For example, PFAS-contaminated sludge has been spread for decades on hundreds of fields across Maine as fertilizer.<sup>6</sup> PFAS have also been released into the environment through the use and discharge of PFAS-containing firefighting foams.<sup>7</sup> These releases and others have contaminated our environment and our water supplies.

PFAS chemicals are commonly referred to as “forever chemicals” because once they enter our environment and our bloodstreams, they remain for decades. Thus, the threats posed by PFAS chemicals to Mainers and Maine’s environment will persist until we start cleaning up the PFAS.

## **II. LD 2160 Will Help Protect Mainers’ Health and Maine’s Environment.**

Although Mainers and Maine’s environment have been exposed to PFAS and the risks posed by PFAS contamination for decades, the lack of testing in Maine for PFAS contamination in water supplies and in farm soils, among other sources, means that the extent of PFAS contamination in Maine is only beginning to be measured. There is no reason for landowners, municipal water treatment facilities or others to have looked for PFAS contamination until recently, and there is every reason to believe that more PFAS contamination will be discovered in the years ahead.

LD 2160 provides that an action arising out of any harm or injury caused by PFAS must be commenced within six years after the plaintiff discovers or should have discovered such harm

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<sup>4</sup> Agency for Toxic Substances and Disease Registry (ATSDR), “How Can I be Exposed to PFAS?,” <https://www.atsdr.cdc.gov/pfas/pfas-exposure.html>.

<sup>5</sup> Agency for Toxic Substances and Disease Registry (ATSDR), “Per- and Polyfluoroalkyl Substances and Your Health,” <https://www.atsdr.cdc.gov/pfas/health-effects.html>; National Institute of Environmental Health Sciences, “Perfluoroalkyl and Polyfluoroalkyl Substances,” <https://www.niehs.nih.gov/health/topics/agents/pfc/index.cfm>; U.S. Environmental Protection Agency, “PFOA, PFOS and Other PFASs,” <https://www.epa.gov/pfas/basic-information-pfas>.

<sup>6</sup> See, e.g., “Maine Dairy Farm Plagued by Chemical Contaminants May be Tip of the Toxic Iceberg,” March 23, 2019, <https://bangordailynews.com/2019/03/23/news/york/maine-dairy-farm-plagued-by-chemical-contaminants-may-be-tip-of-the-toxic-iceberg/>.

<sup>7</sup> “Maine Plans to Search Out Firefighting Foam Containing Forever Chemicals,” July 5, 2019, <https://www.pressherald.com/2019/07/05/maine-plans-to-search-out-firefighting-foam-containing-forever-chemicals-3/>.



or injury. Thus, LD 2160 is narrowly tailored to change the statute of limitations only for claims concerning PFAS contamination, and those claims will still be subject to the legal requirements for claims for damages from toxic chemicals.

LD 2160 will enhance the ability of claimants—including landowners and municipalities—to pursue the parties who are responsible for manufacturing PFAS and for contaminating properties and water supplies in Maine, and it will help protect our health and our environment by improving the chances of recovering damages required to clean up PFAS contamination. Further, LD 2160 will align Maine with the 37 other states that allow for suits related to PFAS contamination to be based on the date of discovery, rather than the date of occurrence.

Currently, few financial resources exist for farmers, landowners and communities struggling to cleanup PFAS contamination. If Maine is going to start tackling PFAS contamination, and the resulting harm to the health of Mainers and to the health of Maine’s environment, we must improve the ability of claimants pursuing claims for PFAS contamination to bring non-time-barred actions to recover damages and thereby help fund PFAS cleanup. LD 2160 does just that.

Thank you for your time and attention to this important matter.