

Testimony

In support of LD 928:

“RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Right to a Clean and Healthy Environment”

Senator Brenner, Representative Gramlich, members of the Environment and Natural Resources Committee: My name is Susan Inches and I am a resident of North Yarmouth. I've been an environmental advocate, organizer, and educator for many years. I'm here to testify in support of LD 928.

Amending the state Constitution should not be taken lightly. It's important that we only do so when there is a good reason, and when the life and well-being of Maine people are at stake. LD 928 checks all of these boxes. Let me explain:

Why Do We Need Environmental Rights?

Our state constitution gives us the right to free speech, the right to own a gun, the right to assemble. But we don't have the right to breathe clean air, drink clean water, or live in a healthy environment. These essential elements of life are not protected by our state constitution.

This puts Maine people—especially future generations—at risk from harmful developments that could threaten their health and life.

LD 928 establishes in statute what we know is true: Our Maine economy and way of life depends on a clean and healthy environment.

A 30+ Year Track Record with No Unintended Consequences

Environmental rights were established in Montana and Pennsylvania in the 1970s, and have been tested over the past 30 years. These rights have protected communities from serious environmental harm. There have been no surprises, and no unintended consequences. There's a lot we can learn from them.

The Pennsylvania legislature passed a law that allowed fracking for gas in any location, including schoolyards, town parks, and neighborhoods. The law superseded local zoning. A citizen's group sued the state based on their constitutional environmental rights. They won. The fracking law was overturned and local zoning was reinstated.

In Montana, a gold mine was permitted. The mine would have dumped millions of gallons of toxic effluent into the Blackfoot River, a pristine trout habitat. A citizen's group there challenged the permit, and it was overturned. The goldmine was never built.

One of the most frequently asked questions is whether the Pine Tree Amendment would lead to a lot of litigation. Based on experience in other states, the answer is no.

Five to seven cases each year in Montana and Pennsylvania mention environmental rights. And most of these are citations, adding strength to existing cases. Rarely are environmental rights used to initiate a case.

The reason for so few cases is simple: lawyers are penalized for bringing cases that are frivolous. They will not risk their reputation or license on a case without merit. For a case to rise to the level of violating constitutional rights, serious environmental harm has to be proven.

Providing Guidance for Important Developments

Maine has a significant lithium deposit, estimated to be worth over \$1 billion. Rare Earth minerals important to manufacturing electronics have been found in Aroostook County. Four commercial scale aquaculture farms are currently proposed for Maine, and a new large scale wind facility and transmission line in Aroostook County are under consideration.

Large and important developments are here, and more are on the way. We want good development in Maine—this is essential to our economy and growth. The Pine Tree Amendment would assure that these projects are developed in an environmentally sensitive way that takes the health of the people and Maine communities into consideration.

Some argue that Maine's environmental laws and rules are good enough and we don't need constitutional rights. But we have seen environmental laws and rules come and go, as the Blaine House and Legislature changes hands. Some years environmental laws are enforced vigorously. Other years not so much. The Pine Tree Amendment would assure that the health of Maine people and communities are *always* part of policy making.

Tackling environmental consequences early when policy is being made, is much easier and less costly than after the fact. Imagine if we had had environmental rights when municipal sludge was approved for spreading on farmland. We might have required testing and discovered PFAS contamination in the sludge before spreading it.

Sending the Right Message to Corporate Polluters

There is a growing recognition across the country that people need protection from a variety of threats, from toxic chemicals to greenhouse gases. Most of these threats are caused by corporate polluters.

A recent example is Cancer Alley, an 80 mile stretch on the Mississippi that has the highest cancer and covid death rates in the country. The state of Louisiana recently permitted four new plastics plants in the small town of Welcome located there.

The new permits did not take existing pollution into account. The cumulative effect of toxic emissions from the new plants would have far exceeded EPA guidelines. Residents sued the state based on an environmental rights clause in the Louisiana constitution. The permit was overturned (and is now being appealed).

In another example, 26 cases have been filed by states and cities claiming damages from greenhouse gas emissions. Plaintiffs argue that taxpayers should not have to pay for damage due to flooding, fires, storms, and sea level rise that they did not cause.

Constitutional environmental rights would strengthen these cases. The Pine Tree Amendment could be cited by Maine's attorney general if Maine were to sue for damages due to PFAS, climate change, or any other environmental threat.

Currently, eleven states are actively campaigning to add an environmental rights to their constitutions. Voters in the state of New York added environmental rights to their constitution by referendum in 2021. Montana and Pennsylvania already have them.

Maine should join these other jurisdictions and *send the message to corporate polluters that we take public health seriously.*

Environmental Justice for All

The Pine Tree Amendment would provide environmental protection for all Maine citizens, without exception. Typically in the US, toxic facilities are located in places where residents have the least ability to fight back. These are sometimes called "sacrifice zones". Fortunately, this has not happened too many times in Maine.

But the pressure is growing. How are we going to handle the growing stream of solid waste? What are we going to do with PFAs contaminated sludge? What about plastics?

The Pine Tree Amendment would assure that no group of Mainers would be unfairly exposed. The Pine Tree Amendment can prevent environmental injustice before it starts.

Let the Voters Decide

As with all constitutional amendments, LD 928 will go to citizen referendum if it passes the House and Senate. A vote for the Pine Tree Amendment would give Maine voters a chance to decide if clean air, clean water and a healthy environment is important to them.

Please support LD 928 and give Maine citizens, communities, and future generations a better chance for a clean and healthy life.

I'm happy to answer any questions you may have.

For more information: www.pinetreeamendment.org, forthegenerations.org