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TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON ENERGY,  
UTILITIES AND TECHNOLOGY  
IN OPPOSITION TO LD 1111

*An Act Concerning Contracts and Agreement for Large-scale Water Extraction*

March 30, 2023

Senator Lawrence, Representative Zeigler, and members of the Joint Standing Committee on Energy, Utilities and Technology, my name is Judy East, and I am the Director of the Bureau of Resource Information and Land Use Planning. I am speaking on behalf of the Department of Agriculture, Conservation and Forestry (DACF) in opposition to LD 1111, *An Act Concerning Contracts and Agreement for Large-scale Water Extraction*.

This bill amends the State's laws concerning contracts and agreements for the large-scale extraction and transportation of water by requiring any such contract or agreement to be approved by a vote of the legislative body of each municipality and township located within the watershed from which water is to be extracted and transported pursuant to that contract or agreement. It also limits those contracts to terms of up to 3 years.

Importantly, this bill speaks to watersheds, not aquifers, even though extraction happens from the latter. A watershed is a concept, not a legal boundary. As written, "watershed" is not defined and could have many meanings. For example, it could mean the watershed delineated at the point of withdrawal, which could be very tiny, or a large river watershed like the Penobscot, which could include a significant percentage of the entire State. It could also mean a watershed as delineated by the United States Geological Survey (USGS), but these exist at multiple scales, and the USGS often revises the watersheds and their boundaries.

Municipal sources should be well studied for flow and sustainability to know if there is the capacity to export surplus to bottled water or transport. If new contracts are proposed, the utility might hire a consultant to evaluate water resources. The Maine Geological Survey (MGS) might be called upon to provide a peer review of aquifer data for sustainability or surplus supply, or to evaluate the geographic extent of aquifers. Aquifer depletion could impact stream flow in watersheds which DEP regulates for minimum flows.

Approval by all municipalities or townships in a watershed from which water is to be extracted and transported assumes a level of technical expertise by small rural municipalities that may not exist for determining the impact of water withdrawal. In addition, including municipalities and townships in the matter of where water is to be transported would be exceedingly complicated.

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There would need to be a determination as to which municipalities must issue approvals: those from which water was extracted or also those through which it was transported? An obvious conflict is that towns lack authority over what trucks pass through them on state roads. The bill language would require significant clarification on the extent of municipal authority intended. Further complicating the implementation of this bill is that in unorganized townships, given that the legislature is the legislative body of townships, the onus would fall to the legislature itself for contract or agreement approval.

The Commission To Study the Role of Water as a Resource in the State of Maine created a report to the legislature last December. The report provides draft legislation, recommends DACF do more with two boards; find a way to centralize all water data for simpler distribution; study watersheds vulnerable to drought; and do further legal study on groundwater ownership rights, among other things. The report does not propose a municipal or legislative review of contracts to extract or transport water.

Thank you for your time. I would happily answer any questions now or at the work session and attend with State Geologist Stephen Dickson and/or MGS Hydrogeologist Ryan Gordon for technical assistance.