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COMMISSIONER

**TESTIMONY OF
Melanie Loyzim, Commissioner**

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

SPEAKING IN SUPPORT OF L.D. 1363

**AN ACT TO SUPPORT EXTRACTION OF COMMON MINERALS BY AMENDING
THE MAINE METALLIC MINERAL MINING ACT**

SPONSORED BY REP. LANDRY

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

DATE OF HEARING:

APRIL 13, 2023

Senator Brenner, Representative Gramlich, and members of the Committee, I am
Melanie Loyzim, Commissioner of the Department of Environmental Protection,
speaking in support of L.D. 1363.

Maine has one of the most stringent mining laws in the nation, ensuring that valuable
minerals can be safely extracted and processed in our state without sacrificing the
quality of drinking water, lakes and streams, and other natural resources. L.D. 1363
would make changes to Maine's Metallic Mineral Mining Act to clarify what metallic
minerals are covered by the law, and it would allow open-pit mining under a very narrow
set of circumstances. This bill would retain all other environmental protections currently

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provided by Maine's law and the Department's Chapter 200 rule, *Metallic Mineral Exploration, Advanced Exploration and Mining*.

Recent discoveries of metallic mineral deposits have led to questions about whether mining of those deposits are, or should be, subject to the Mining Act. The current law's blanket prohibition on open-pit mining makes it virtually impossible from a practical perspective to extract metallic mineral deposits near the surface, and compliance with the highly protective requirements of the law and DEP's rule will be very expensive for those who want to mine for metals in Maine. The owners of a quarry in Newry, where a spodumene deposit containing lithium was discovered, have asserted that the rocks they remove from the deposit do not meet the current law's definition of a metallic mineral. DEP disagrees with their interpretation of the statute, and they have filed two lawsuits against the Department on this issue that are now pending in the Kennebec County Superior Court. Due to that pending litigation, DEP is not able to discuss the particulars of that situation here today, but looking forward suggests that the Legislature is a more appropriate forum to decide how mining should be regulated in Maine.

Prior to 2011, Maine's Mining Act specifically excluded "common rock forming minerals, such as quartz, calcite, dolomite, feldspar, pyroxenes, amphiboles, zeolites, clays, or micas." Pyroxenes include spodumene. The new definition adopted into Maine's law in 2011 mirrored a similar mining law in effect in Michigan, which does not include those specific exemptions. Throughout three rounds of major substantive rulemaking to incorporate Maine's 2011 mining law into DEP's rules, from 2012 through 2017, there was little discussion about what that new definition of metallic mineral would cover. The primary focus by citizens and lawmakers was on massive sulfide deposits, groundwater contamination, siting restrictions and tailings management.

Now that lithium and so-called "rare earth metals" are in high demand for renewable energy technology and other uses, and deposits of those metals are being found in

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Maine, we are faced with a question of balancing the fight against global climate change with protection of groundwater and natural resources in our backyards.

As we prepared for this legislative session, DEP considered recommending that the old exclusion of common rock forming minerals be added back into Maine's mining law. However, that would categorically exempt all activities involving those minerals from the environmental standards in the mining law and rule, including facilities that may process those minerals using chemicals and other extractive methods to create a high value, raw metallic product. Although digging up minerals like pyroxene and silica may present a lower risk to the environment than the extraction of sulfidic metals such as gold, industrial metallic processing facilities produce tailings and other wastes that must be carefully managed and are subject to a wide array of state and federal environmental standards. Maine's Mining Act and DEP's rule give mining companies a roadmap for meeting all of those standards.

Additionally, we could not assure you that digging up any of those minerals would not jeopardize ground water supplies in all locations of the state. It may be relatively low risk in some locations, and high risk in others, depending on the surrounding geology. Therefore, we recommend a careful approach focused on environmental risk. The proposed change to the metallic mineral definition in LD 1363 is not a perfect solution, but is intended to focus changes to the law in a way that retains the Mining Act's highly protective effect.

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