

May 10, 2023

131<sup>st</sup> Maine State Legislature  
Joint Standing Committee on Environment and Natural Resources  
Senator Henry Ingwersen, Chair  
Representative Bill Pluecker, Chair

Opposition to LD 1881, HP1206

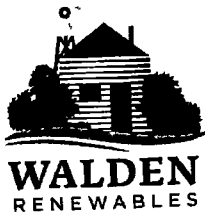
Senator Ingwersen, Representative Pluecker, and members of the Committee on Agriculture, Conservation and Forestry

I am here today to speak in opposition to the language contained in LD1881 HP 1206, Chapter 15, Protection of Agricultural Soils from Solar Energy Developments. I had limited participation in the stakeholder group that developed this bill, so some of my testimony others have heard before.

I am registered in Maine as a Soil Scientist and Licensed Site Evaluator and am Nationally Accredited as a Professional Wetland Scientist, Certified Professional in Erosion and Sediment Control, and a Certified Environmental Professional. I have spent more than 20 years as an environmental consultant working in the State of Maine. I am here today to explain to you why this proposed change in law should be rejected. While others have and will share more reasons, my specifics are bulleted below.

- The Natural Resources Conservation Service (NRCS) states EXPLICITLY in their published Use Limitations that “This data set (Farmland Soil) is not designed for use as a primary regulatory tool in permitting or siting decisions”
- The NRCS data set does not necessarily portray land that is currently used for farming, it identifies potentially productive soils that may be suitable to be farmed, IF managed for that purpose. The Farmland Soils data does not incorporate current land use changes which may affect the farmland soil designation, nor site specific conditions such as available water capacity or surface cover.
- The NRCS also EXPLICITLY states that ground-mounted solar does not represent a permanent loss of farmland soils. I have attached a memo here published by the NRCS on this issue (See Attached MAINE INSTRUCTION – 440-384)
- It has been a longstanding construct in Site Law and the Natural Resources Protection Act that in order to trigger the need for compensation, an evaluation would be performed to determine if the proposed development would have an adverse impact on the resource in question. This assumption that renewable energy will have an adverse impact on farmland soils is incorrect. The NRCS EXPLICITLY states that maintaining a vegetative cover, no

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till, is the most effective way to restore soil health and fertility. In most instances, conversion of row crops into meadow, taking it out of crop rotation, is restorative for the underlying soil. This is an important concept to introduce here, the assumption that property constructed solar projects will have adverse impacts on our soils is inaccurate.

- Many farms are located on land that is NOT identified as Farmland Soils, this is a further demonstration of why this proposed language is riddled with flaws. I have attached here a map of North Yarmouth, most of the farms in town are located on areas that are NOT identified in the NRCS data set, but some areas, such as gravel pits, are (see attached). What are the resources this bill is trying to protect, if it is Farmland, the language as proposed is deeply flawed. Further, these soils account for more than 40% of the land area in most communities.

The NRCS defines these resources as follows:

➤ Prime Farmland Soils

- Soils that have the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oil seed crops, and are also available for these uses (the land could be cropland, pastureland, rangeland, forestland, or other land, but not urban built-up land or water). It is expected to possess the soil quality, growing season and moisture supply needed to economically produce sustained high yields or crops when treated and managed, including water management, according to acceptable farming practices.

➤ Statewide Important Farmland Soils

- Soils that fail to meet one or more of the requirements of prime farmland, but are important for the production of food, feed, fiber, or forage crops. They include soils that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods.

I have personally contacted the NRCS Maine State Soil Scientist, and they said that they have had no interaction with the Maine Department of Environmental Protection, the Department of Agriculture and Forestry, or any other stakeholders on this proposed rule change. Their lack of involvement as a participant in this process is a red flag for me as a Soil Scientist.

I strongly oppose the language presented as Chapter 15 and hope you abandon the proposal.



Thank you for providing me the time to talk with you today and I would invite you to contact me anytime if you have questions regarding wetlands, permitting matters, and natural resource science in Maine

Sincerely,

A handwritten signature in black ink, appearing to read "DK", enclosed within a large, sweeping, handwritten flourish that extends to the right and then loops back down.

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**MAINE INSTRUCTION – 440-384 – FARMLAND PROTECTION POLICY ACT (FPPA) – SOLAR  
INSTALLATIONS**

**BACKGROUND**

The purpose of the Farmland Protection Policy Act (FPPA) is to “minimize the extent to which federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses” (7 U S C 4201 (b) section 1540 (b)) Policy for addressing FPPA activities resides in the Programs Manual 440, Part 523 Specifics regarding what constitutes a permanent conversion from agricultural to non-agricultural use are not provided for all situations Solar installations are a common example, funded (in part) by various federal government entities These installations on agricultural land can be grazed, and also are usually ground anchored versus the use of the extensive concrete/paving

**PURPOSE**

This instruction establishes Maine’s Natural Resources Conservation Service (NRCS) policy regarding funded solar power installations

**EXPLANATION**

Ground anchored solar installations are not considered to be irreversible conversions of farmland to non-agricultural uses by Maine NRCS

**CONTACT** state soil scientist or assistant state conservationist for programs