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Testimony of Tom Doak

Executive Director

Maine Woodland Owners

Neither For Nor Against

LD 417

“An Act Regarding the Confidentiality of Certain Records
Belonging to the Department of Agriculture, Conservation and Forestry
Related to the Bureau of Forestry”

Senator Talbot Ross, Representative Pluecker and Members of the Joint Standing Committee on Agriculture, Conservation and Forestry, my name is Tom Doak, Executive Director of Maine Woodland Owners speaking today Neither For Nor Against LD 417 “An Act Regarding the Confidentiality of Certain Records Belonging to the Department of Agriculture, Conservation and Forestry Related to the Bureau of Forestry”.

My organization certainly supports the idea that information and records regarding investigations should be confidential until a case is resolved. I am speaking Neither For Nor Against because I am not sure of what issue this bill solves, why it would only apply to one agency in a department that has a significant regulatory role across multiple agencies, and to raise a concern about what might be an unintended consequences as the bill is written.

I have been in this position for 21 years and in all that time, I have never had a member raise an issue about the release of confidential information from the Maine Forest Service or any other agency. That is not to say that it never happened or could not happen, but whatever standards and rules that are in place have apparently functioned very well. If there has been a breach, I expect those situations have been addressed.

Earlier in my career, I served as Director of the Maine Forest Service. I also spent three years in the then Department of Agriculture as the Director of Policy and Information. So, I am fairly familiar with the functions of both agencies. It seems odd, and a bit confusing, to make one set of rules for confidentiality for one program and not all programs in the same department. And in reality, the agriculture side of the department has a much larger footprint in regulation than the forestry side. It would seem to make sense to make them consistent across the department.

Regarding unintended consequences as the bill is drafted, I have two concerns or questions.

One, involves **Section 2. Paragraph B**. It states that the legislation pertains to records obtained in connection with providing a service to the public and not limited to investigations. I am not sure what information the Maine Forest Service obtains that is not through a service to the public. So, does this mean all information they obtain is confidential?

Two, involves **Section 5. Violations**. It states, "A person who knowingly or intentionally makes a disclosure of records in violation of this section commits a civil violation for which a fine not to exceed \$1,000 may be judged." Is this intended to apply to Maine Forest Service employees or to anyone? It would not be uncommon, in the course of an investigation, for many private citizens to be interviewed about what they know about an incident and thus learn that a particular person or company is being investigated. If that person discloses to anyone that they are aware of the investigation, would they be subject to Section 5?

We are certainly in favor of making sure that information that should be kept confidential is kept confidential. But, the bill as written raises a number of issues for my organization. Thank you for this opportunity to bring those concerns to this Committee.