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DEPARTMENT OF ENVIRONMENTAL PROTECTION



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**TESTIMONY OF
ROB WOOD, DIRECTOR, BUREAU OF LAND RESOURCES
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

SPEAKING IN SUPPORT OF L.D. 708

**AN ACT TO ALLOW FOR RECISSION OF A SITE LOCATION OF DEVELOPMENT
PERMIT WHEN A DEVELOPMENT IS DECOMMISSIONED**

PRESENTED BY REP. BRIDGEO

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

DATE OF HEARING:

MARCH 3, 2025

Senator Tepler, Representative Doudera, and members of the Committee, my name is Rob Wood and I am the Director of the Bureau of Land Resources at the Department of Environmental Protection. I am speaking in support of L.D. 708. The Department appreciates Rep. Bridgeo for presenting this bill on the Department's behalf.

The Legislature enacted Title 38, section 489-C in 1993 and amended the section 1995. This section states that a Site Location of Development Law (Site Law) permit may only be rescinded under certain circumstances. For developments other than a subdivision, the Site Law permit may only be rescinded if the permittee has not constructed or

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caused to be constructed, or operated or caused to be operated, the development. This provision does not contemplate a scenario in which a development has been constructed and operated, but subsequently decommissioned and removed. The Department recently encountered such a scenario, when a temporary asphalt production facility licensed under the Site Law was removed from the site and the permittee requested to have its permit rescinded. At the time, under the applicable statutes and rules, the Department's only option was to revoke the permit. License revocation is procedurally more complicated, as it is intended for situations when the permittee does not wish to forfeit the license. Recission, by contrast, is intended to occur at the request of the permittee, and the recission application is processed as a minor revision in accordance with section 489-C.

L.D. 708 would allow for a recission to occur under circumstances such as those the Department recently encountered, when a development has been fully decommissioned and removed from the site. The proposed definition of "fully decommissioned" is similar to the definition of "decommissioning" in the Solar Energy Development Decommissioning Law (35-A M.R.S. §3491(1)), but it has been generalized to apply to other types of development. The proposed definition would also require the site to be returned to preconstruction grade before the license can be rescinded, which is different from the Solar Decommissioning Law, which requires the site to be returned to postconstruction grade. The Department believes that returning to preconstruction grade is appropriate if the permit will be completely erased from the site through a recission, but we are noting this difference as a topic for the Committee's consideration.

Finally, the Department wishes to make the Committee aware that aside from recission, there is another pathway through which a permittee may seek to rid itself of a license, which is through a voluntary surrender under Title 38, section 344, subsection 10. Until recently, the Department's rules for voluntary surrender mirrored the requirements of the Site Law recission statute, requiring that a permittee could not surrender a permit unless the permitted activity had never begun. When the Department's Chapter 2 rules were updated last fall, this provision was relaxed to give the Department more discretion

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in determining when to approve a voluntary surrender. In the case of a Site Law development, the Department believes it is appropriate to require that the project must be fully decommissioned before the site is free from the license, whether through a recission or surrender, and the provisions of L.D. 708 would make this clear.

Thank you for the opportunity to testify before you today. I would be happy to answer any questions from the Committee, both now and at the work session.