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DEPARTMENT OF ENVIRONMENTAL PROTECTION



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

**SPEAKING IN SUPPORT OF L.D. 269**

**RESOLVE, REGARDING LEGISLATIVE REVIEW OF PORTIONS OF CHAPTER 375:  
NO ADVERSE ENVIRONMENTAL EFFECT STANDARDS OF THE SITE LOCATION  
OF DEVELOPMENT ACT, A MAJOR SUBSTANTIVE RULE OF THE DEPARTMENT  
OF ENVIRONMENTAL PROTECTION**

**REPORTED BY REP. DOUDERA**

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

**DATE OF PUBLIC HEARING:**

**APRIL 14, 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, speaking in support of L.D. 269. L.D. 269 provides for legislative review of a major substantive rule provisionally adopted by the Board of Environmental Protection that amends portions of the Department's Chapter 375 rules, which elaborate on the no adverse environmental effect standard of the Site Location of Development Act (Site Law).

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In 2023, the Legislature passed Public Law 2023, Chapter 448.<sup>1</sup> This law was enacted in response to the loss of wildlife habitat and farmland occurring from solar energy and other forms of renewable energy development. The law broadly seeks to offset those losses by requiring developers to preserve wildlife habitat and farmland when developing projects that affect these resources. The farmland section of the law is not before you today; the Department of Agriculture, Conservation and Forestry recently completed routine technical rulemaking regarding compensation requirements for impacts to high-value agricultural land. There is one Site Law component to the farmland rulemaking which will require legislative review that we expect will come before you later this session.

The major substantive rule before you today has been provisionally adopted to address compensation for impacts to wildlife and fisheries habitats. The law directs the Department to establish a compensation fee program for renewable energy development, including solar, wind, and high-impact transmission lines,<sup>2</sup> to allow for the payment of a compensation fee when the Department determines that habitat improvement or preservation is necessary to mitigate the adverse effects of the development on wildlife and fisheries habitats. The law requires that these habitats must include large undeveloped habitat blocks, important wildlife corridors, and other habitat types identified in consultation with the Maine Department of Inland Fisheries and Wildlife (IFW).

Currently, today, when a proposed development is reviewed under the Site Law, the Department's existing Chapter 375 rules allow for broad review to determine whether

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<sup>1</sup> An Act Regarding Compensation Fees and Related Conservation Efforts to Protect Soils and Wildlife and Fisheries Habitat from Solar and Wind Energy Development and High-impact Electric Transmission Lines Under the Site Location of Development Laws.

<sup>2</sup> A high-impact transmission line is defined in 35-A M.R.S. §3131(4-A) as a transmission line greater than 50 miles in length that is either A) Constructed to transmit direct current electricity, or B) Capable of operating at 345 kilovolts or more and is not a generator interconnection transmission facility and not constructed primarily to provide electric reliability, as determined by the Public Utilities Commission.

the developer has made adequate provision for the protection of wildlife and fisheries. When a developer proposes impacts on wildlife and fisheries habitats that cannot be avoided through alternative siting or project design, the Department often requires on-site or off-site habitat improvements or preservation to compensate for the proposed impacts. In the case of renewable energy development, the Department has required, for example, compensation for impacts to black racer snake habitat from multiple solar energy projects in Sanford; impacts to upland sandpiper habitat from a large solar project in Hancock; and impacts to migratory birds from multiple wind energy projects Downeast. The Department has required compensation for impacts to regional habitat connectivity and fragmentation of large contiguous areas of undeveloped habitat from the NECEC transmission line, the Three Corners Solar project in Unity Township, and the Hartland Solar project in Hartland.

The provisionally adopted Ch. 375 rule builds on and codifies such compensation requirements, specifically for renewable energy projects. The rule establishes a consistent program to determine compensation requirements for wildlife and fisheries impacts from renewable energy projects and allows developers the option of using an in-lieu fee to satisfy any compensation requirements.

The rule requires compensation when a renewable energy project alters a high or moderate value deer wintering area, a habitat of rare, threatened or endangered species, an important wildlife corridor — which is defined as a 100-foot riparian buffer adjacent to a river, stream or brook or a freshwater wetland that is contiguous with a river, stream or brook — or when there are significant alterations to a large undeveloped habitat block. A large undeveloped habitat block is defined as a contiguous area of undeveloped natural habitat large enough to fit an inscribed circle of more than 250 acres in the Southern Maine ecoregion and more than 500 acres in the Central Interior and Midcoast ecoregion. Compensation is required when there is more than 150 acres of impact to a large undeveloped habitat block in Southern Maine or more than 250 acres of impact to a large undeveloped habitat block in Central Maine. For context, the

Three Corners Solar project and the Hartland Solar project each impacted more than 1,000 acres of large undeveloped habitat blocks in Central Maine. The projects were required to compensate for those impacts under the Department's existing rules, and the provisionally adopted rule would codify these requirements.

Compensation amounts are variable depending on the value of the habitat, with compensation required at an 8:1 ratio for impacts to state endangered or state threatened species habitat; 2:1 for impacts to rare species, deer wintering areas, and important wildlife corridors; and at a ratio of between 0.25:1 up to 1:1 for impacts to large undeveloped habitat blocks.

The Department notes that many changes were made to the provisionally adopted rule in response to public comments received during two public comment periods. For example, compensation ratios were reduced, the method of calculating land values for determining in-lieu amounts was revised, and the definition of large undeveloped habitat blocks was changed to remove western, northern, and eastern Maine ecoregions from the definition to address concerns from commercial forestland owners.

The Department understands that renewable energy developers may propose additional changes to compensation amounts and to the definition of large undeveloped habitat blocks during the legislative review process. The Department remains open to supporting additional changes to address these suggestions.

Lastly, because large undeveloped habitat blocks will likely be a focus of testimony on L.D. 269 and L.D. 1458, the Department would like to summarize its position that is expressed in the basis statement for the provisionally adopted rule. The Department agrees with proponents of the rule who state that large undeveloped habitat blocks provide unique and substantial habitat value precisely because of their large size and undeveloped nature. These areas are critical to supporting regional biodiversity by providing large habitat areas that can host a wide variety of wildlife species. While some species can exist in small areas of fragmented habitat, many species require large

contiguous areas of undeveloped habitat. For example, an analysis of area-sensitive forest birds in Maine found that less than a dozen of these species can occur in undeveloped habitat blocks smaller than 250 acres, whereas more than 30 species occur in undeveloped habitat blocks larger than 1,000 acres.<sup>3</sup> Furthermore, many mammal species such as moose, bobcat and pine marten have large ranges covering hundreds or thousands of acres that require moving large distances across the landscape. Habitat fragmentation inhibits this movement, while large undeveloped habitat blocks support species movement. The movement of individuals across landscapes can affect many ecological processes across many scales, from individual survival to viability of species populations.<sup>4</sup> Large undeveloped habitat blocks are also important for climate resilience. Species populations must be able to shift in response to climate change, and these areas provide the backbone of regional habitat connectivity that will allow for species movement across the landscape over time.<sup>5</sup>

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 work session.

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<sup>3</sup> Maine Audubon, 2000. Conserving Wildlife in Maine's Developing Landscape. Accessible here: <https://maineaudubon.org/wp-content/uploads/2017/03/MEAud-Conserving-Wildlife-Developing-Landscape.pdf>. (The Department consulted this document in formulating the proposed rule and it is thereby included in the rulemaking record.)

<sup>4</sup> Jeltsch et al., 2013. Integrating movement ecology with biodiversity research – exploring new avenues to address spatiotemporal biodiversity dynamics. Movement Ecology.

<sup>5</sup> The Maine Climate Council Science and Technical Subcommittee report summarizes this dynamic as follows: "Climate change is predicted to cause unprecedented species loss and range shifts. As climate drives species movements, conserving diverse geophysical settings and strategically located resilient and connected landscapes can protect biodiversity."