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DEPARTMENT OF ENVIRONMENTAL PROTECTION



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COMMISSIONER

TESTIMONY OF
MELANIE LOYZIM, COMMISSIONER
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
SPEAKING IN OPPOSITION TO

L.D. 383

SPONSORED BY SENATOR MARTIN

BEFORE THE JOINT STANDING COMMITTEE
ON
ENVIRONMENT AND NATURAL RESOURCES

DATE OF HEARING:

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Senator Tepler, Representative Doudera, and members of the Committee, I am Melanie Loyzim, Commissioner of the Department of Environmental Protection, speaking in opposition to L.D. 383. The Department supports many of the underlying objectives of the bill, but opposes reconstruction of the Department and the LUPC.

Section 1 of L.D. 383 would simply move LUPC over to DEP like pieces of a Roy Toy log set. This will not improve the services of the LUPC to the unorganized territories. The LUPC serves as their municipal land use authority.

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Like town planning and zoning boards, the LUPC makes decisions about development and use priorities for the unorganized territories through zoning and a Comprehensive Land Use Plan. The unorganized territories have a long history of forestry and agricultural uses that are tied to the mission of the Department of Agriculture, Conservation and Forestry (DACF). The Department recommends that DACF is the appropriate agency to administer the statutory responsibilities of the LUPC.

Section 2 of the bill requires DEP to evaluate reconstruction with LUPC into a combined entity. Many of the goals of the evaluation are consistent with current efforts of both agencies, to develop and implement rules that are reasonable and ensure sustainable land use practices. The Department continuously reviews our rules to identify revisions that could reduce burdens on the regulated community. Land owner rights and property values are considered by the Department, in balance with scientific analysis to set limitations on land use activities that would, otherwise, impair Maine's valuable natural resources or harm public health. Throughout my career, I have been repeatedly told by regulated entities that they support stringent requirements for environmental protection so long as they know what they are and have time to plan and budget. Clear regulatory standards enable property owners to plan and design development of their property in ways that prevent diminution of the natural environment.

However, L.D. 383 requires the DEP to recommend changes to Maine law to comprehensively change the mission of the DEP. It would eliminate the agency of Maine state government whose first priority is to prevent, abate and control the pollution of the air, water and land.

***Purpose.** The department shall prevent, abate and control the pollution of the air, water and land and preserve, improve and prevent diminution of the natural environment of the State. The department shall protect and enhance the public's right to use and enjoy the State's natural resources and may educate the public on natural resource use, requirements and issues. 38 M.R.S. §341-A(1)*

It would, in its place, create an agency whose first priority is to protect landowner rights. Virtually every regulation of an activity that causes pollution imposes a restriction on a landowner's rights. Following the charge of L.D. 383, the new agency's responsibility for environmental protection would only be where a property owner's right to use of their property is impeded by the activities of another property owner. This would make the new agency primarily an adjudicator of property disputes.

Many environmental standards are set based on the premise that pollution caused by one person can harm the health of another person, or can diminish the economic value of a natural resource. For example, long-term exposure to particulate emissions can cause asthma for residents downwind of a large industrial facility, and pollutants in wastewater can reduce fish populations in an entire coastal fishery. Many of the people impacted by this pollution may not own property in the affected areas. L.D. 383 would limit the new agency's authority only to activities that could harm the public's health on their own property or diminish their property's economic value.

L.D. 383 would also reduce opportunities for the public (including potentially impacted property owners) to substantively engage with agency decision-makers on licensing decisions by limiting review of all applications to no more than 6 months, whether it is for a temporary dock or a new coal-fired power plant. This would likely increase the frequency of license appeals and the success of those appeals. Although obtaining a license from the DEP is currently an arduous process for some projects, those licenses stand up in court. People making major investments in their property need certainty that agency approvals will not be rescinded by a judge.

Maine's natural resources are a huge part of our economy and our culture. DACF and DEP both strive to promote those resources. The Department is committed to a continuous review of our rules and processes to improve effectiveness, reduce administrative costs, and reduce regulatory burdens. L.D. 383 is unnecessary to promote those objectives.

Thank you for the opportunity to provide this testimony. I would be happy to answer any questions you have now, or at the work session.