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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

TESTIMONY OF
CARLA HOPKINS, DIRECTOR
DIVISION OF MATERIALS MANAGEMENT
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

SPEAKING IN OPPOSITION TO L.D. 2070
AN ACT TO PROHIBIT LANDFILL EXPANSION INTO WETLANDS

SPONSORED BY REPRESENTATIVE DILL

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 Carla Hopkins, Director of the Division of Materials Management at the Department of Environmental Protection, speaking in opposition to L.D. 2070.

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This bill proposes to prohibit issuance of a permit by the Department for the alteration of freshwater wetlands if the activity impacting the wetlands is in connection with the expansion of a solid waste landfill. This approach, which singles out only one possible activity that could impact freshwater wetlands, removes the Department's ability to review these specific projects under an already established process. It also treats landfill expansions differently from any other type of project which could potentially have a similar or greater impact on wetlands.

The *Maine Solid Waste Management Rules*, specifically Chapters 400 and 401, establish the siting, design, and operating requirements for solid waste landfills which include provisions related to protection of groundwater, surface water, and wetlands. Chapter 401 also contains specific restrictive and prohibitive siting criteria and performance and design standards that all landfills must meet to protect the environment. Additionally, other sections of statute are implemented by the Department's Bureau of Land Resources (the *Natural Resources Protection Act*, 38 M.R.S. §§ 480-A–480-KK, specifically 38 M.R.S. § 480-X) and rules (*Wetlands and Waterbodies Protection, Chapter 310*) which dictate the process an applicant must follow if wetlands are proposed to be impacted, for a landfill expansion or any other type of project. This well-established system is robust. Statutes and rules were designed to ensure there will be no unreasonable impact on protected natural resources such as wetlands. Our existing framework of laws and rules requires that an applicant must demonstrate that it has avoided impacts to wetlands to the extent practicable, considering the cost, existing technology and logistics based on the overall purpose of the project. If impacts are unavoidable, an applicant must then minimize impacts as much as possible by doing such things as modifying the orientation of the project or limiting its size. Finally, if there are unavoidable impacts exceeding a certain size, the applicant must undertake compensatory mitigation in one of two ways: 1) permittee responsibility compensation, such as the restoration, enhancement, creation or preservation of an area or areas that have functions or values similar to the area impacted by the activity, or 2) pay a compensation fee in lieu of permittee responsible

compensation. If an applicant chooses to pay the in lieu fee, those fees are used to award grants through the Maine Natural Resources Conservation Program ("MNRCP") which awards competitive grants to projects that restore, enhance, and protect high priority aquatic resources throughout Maine. Since its launch in 2008, this program has awarded more than \$33 million in grants, very little of which included fees from landfill projects meaning that landfills are not a significant activity when compared to other industrial sectors that create impacts to wetlands.

Many types of projects impact Maine's wetlands every day – construction projects that include permanent structures such as homes, businesses, schools, utility infrastructure, and roads – just to name a few. The impacts from landfill expansion compared to all the other activities that impact wetlands is comparatively very small. However, this bill would have a disproportionately large effect on the ability of already existing landfills to seek an expansion. This would short circuit the system and protections already in place and make the already challenging landscape of waste management and capacity in Maine even more difficult.

Thank you for the opportunity to provide testimony. I am available to answer questions of the Committee, both now and at the work session.