AGC MAINE
THE CONSTRUCTION ASSOCIATION

Testimony of Matt Marks in Opposition to LD 2070
"An Act to Prohibit Landfill Expansion into Wetlands"
Joint Standing Committee on Environment and Natural Resources
132nd Maine Legislature

Senator Tepler, Representative Doudera, and distinguished members of the Committee, my name is Matt Marks. I am a Principal at Cornerstone Government Affairs and testifying on behalf of the Associated General Contractors of Maine. AGC Maine represents approximately 300 construction firms that employ approximately 30,000 workers across the state. AGC members build and maintain essential infrastructure that protects public health and the environment, including many of Maine's solid waste management and recycling facilities. AGC Maine respectfully testifies in opposition to LD 2070.

Maine contractors have decades of experience constructing and upgrading highly engineered waste management facilities. This includes constructing new landfill disposal cells with advanced liners and leachate collection systems; performing landfill closures and installing long-term environmental containment systems; constructing landfill gas collection and piping systems; and developing gas-to-energy facilities that convert methane into usable power.

Contractors also construct related site infrastructure, including stormwater systems, access roads, and utility connections, as well as biosolids processing facilities and recycling or materials-recovery buildings. This work is conducted under strict regulatory oversight and in accordance with extensive environmental siting and design standards. LD 2070 would significantly restrict where this work can occur, potentially undermining environmental protection goals.

The bill proposes prohibiting landfill development in wetland areas, but this approach overlooks key geotechnical and hydrogeologic realities. Many wetlands form in areas with native low-permeability soils, such as clays and silts, that prevent surface water from infiltrating and create ponded or saturated conditions in depressions. From an engineering standpoint, these low-permeability soils are often preferred for landfill siting because they slow the movement of groundwater and reduce the rate at which contaminants could migrate in the unlikely event of a leachate release. These soils can provide an added natural layer of protection beyond engineered liners and collection systems. A blanket prohibition could, therefore, eliminate some of the most geologically protective sites from consideration.

Wetland areas also frequently coincide with upward groundwater gradients, where groundwater at depth flows toward the surface. This upward flow contributes to saturated conditions and wetland formation. From an environmental protection perspective, upward gradients can be beneficial because groundwater tends to move toward the surface rather than downward into deeper

aquifers. This reduces the likelihood that contaminants will migrate toward sensitive receptors, such as private drinking water wells. By prohibiting development in wetland areas without regard to site-specific hydrogeology, LD 2070 could remove locations that are naturally protective of groundwater resources.

It is also important to recognize that the Maine Department of Environmental Protection's Chapter 401 Landfill Siting, Design, and Operation Rules already include prohibitive siting criteria designed to protect public health, safety, and the environment. These rules were developed through a formal rulemaking process that included public review and comment, technical evaluation by the department, and legislative oversight. LD 2070 would impose new blanket prohibitions without the same technical, science-based process that originally established these carefully developed standards. Major changes to landfill siting policy should be grounded in updated scientific and engineering analysis and vetted through the regulatory rulemaking process.

Chapter 401 also contains restrictive criteria addressing development in significant wildlife habitat, as defined under state law. These include significant vernal pool habitat, high and moderate value wading bird habitat, shorebird nesting, feeding, and staging areas, and habitat of state endangered and threatened species. Development in these areas is already tightly controlled and generally prohibited unless a variance is granted following rigorous environmental review. LD 2070 would convert certain wetland-related restrictive criteria into absolute prohibitions, preventing site-specific project evaluation even when impacts could be avoided, minimized, or effectively mitigated.

Maine's high percentage of wetlands presents additional practical challenges. According to state data, about one quarter of Maine's land area is classified as wetlands. On a two-hundred-acre parcel, it's common to find fifty acres or more of discontinuous wetlands. A strict ban on landfill development in any wetland area could severely restrict the number of viable sites statewide and lead to the development of smaller, more numerous landfills. This would raise overall construction and operating costs per ton of waste and might force facilities into locations that are less geologically protected than those being excluded. Ironically, the combined footprint of many smaller facilities could surpass that of a few carefully planned, larger facilities designed with modern environmental controls.

Finally, modern environmental permitting recognizes that wetland functions can often be maintained or even improved through thoughtful design and mitigation. Projects are frequently required to avoid and minimize impacts on wetlands, restore or enhance degraded wetlands, and create new wetland areas to replace lost functions. With proper engineering and environmental planning, wildlife habitat, water storage capacity, and water quality functions can be preserved or enhanced. A categorical prohibition removes the ability to apply these science-based solutions on a case-by-case basis.

AGC Maine shares the Legislature's commitment to protecting Maine's environment and natural resources. Maine contractors build the very systems that prevent pollution, capture landfill gas, manage stormwater, and ensure waste is handled safely. However, LD 2070 replaces site-specific scientific evaluation with a blanket prohibition that could eliminate geologically protective sites, increase costs for municipalities and taxpayers, complicate long-term waste management

planning, and undermine the carefully balanced regulatory framework already in place. For these reasons, AGC Maine respectfully urges the Committee to vote Ought Not to Pass on LD 2070.

Thank you for your consideration. I would be happy to answer any questions.