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TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON ENVIRONMENT  
AND NATURAL RESOURCES  
IN OPPOSITION TO LD 2174 AMENDMENT

*An Act to Increase Predictability in the Permitting of Renewable Energy Development*  
February 25, 2026

Senator Tepler, Representative Doudera, and members of the Joint Standing Committee on Environment and Natural Resources, my name is Ben Godsoe, and I am the Acting Executive Director of the Land Use Planning Commission (LUPC or the Commission) within the Department of Agriculture, Conservation and Forestry (DACF). I am here today to testify in opposition to the newly proposed amendment to LD 2174, *An Act to Replace the Maine Waterway Development and Conservation Act with the Maine Renewable Energy and Associated Transmission Development and Conservation Act*.

LUPC serves as the planning, zoning, and land use permitting authority for the unorganized and deorganized areas of the state, including all townships, most plantations, and certain small towns. These areas either lack local government or have chosen not to administer land-use controls at the local level. LUPC is the primary permitting authority for solar energy development in the unorganized territories, except when the Site Location of Development Act, or site law, applies to a proposal and therefore the Department of Environmental Protection (DEP) has authority.

Smaller solar projects, non-grid-scale wind, stand-alone battery energy storage systems, microhydro, and other similar proposals in the unorganized territories that do not trigger site law thresholds are permitted solely by LUPC. When site law is triggered and DEP is the lead permitting authority, LUPC's role is to: a) certify to DEP that the proposed use is allowed in the zone(s) at the site, and that b) the project meets any land use standards in the Commission's rules not considered by the Department in its review. This process is called Site Law Certification.

LUPC's zoning covers nearly half the state and the most rural portions of Maine. Existing development zones often lack sufficient area to accommodate future growth. If a proposal is not an allowed use or exceeds the area zoned for such development, the proposal must seek rezoning approval from the Commission before it can apply for a permit and *before the Commission can issue a site law certification*. The rezoning process includes an assessment of the proposed location's suitability for the new zone. For example, new development zones for solar energy facilities must be proximate to interconnection points with transmission lines and within reach of

emergency services. This makes the regulatory review for projects that trigger site law a two-step process, where LUPC first designates appropriate zoning if it does not already exist. Following rezoning, DEP can then issue a permit, which includes the LUPC certification. The timelines called for in the bill apply only to the DEP review process. Including language requiring automatic permit approval if no action is taken within a certain time period could be problematic if an applicant has not yet completed the rezoning process, particularly if the Commission denies their petition to rezone.

Because a section of LD 2174 touches on DACF authority to permit solar developments on high-value agricultural land, we solicited input from our sister bureau, the Bureau of Agriculture, Food and Rural Resources. BAFRR asked us to raise these points: First, when DACF receives an application, the permit can either be approved, denied, or provisionally approved pending final approval of a management plan. BAFRR asks that the bill clarify that granting provisional approval within 150 days would satisfy the agency's obligation to issue a decision and that any ongoing work to craft an acceptable management plan would not be construed as a failure to issue a decision within time limits. Second, DACF forwards approved permits to DEP for calculating any compensation due. Again, BAFRR requests clarity that the time DEP may require for calculating any fee occurs outside the 150-day window. Lastly, Section 2 could result in automatic approval of Site Law permits. If the applicant hasn't proposed adequate compensation for HVAL impacts, the Site Law permit would be approved anyway if agencies missed the processing deadline. Staff will be available at the work session and would be happy to work with the committee to ensure no proposals inadvertently conflict with this important program.

In closing, DACF agrees that a consolidated, efficient permitting process for renewable energy projects that also prevents undue adverse environmental impacts is in the best interests of the people of Maine. A thoughtful approach is needed to specify jurisdiction in the Unorganized Territories and to ensure we are upholding environmental review standards.

Thank you for your time. I would be happy to answer any questions now or at the work session.