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Environment and Natural Resources Committee
Government Oversight Committee

**Testimony of Senator Richard Bennett before the
Joint Standing Committee on Agriculture, Conservation and Forestry**

April 1, 2021

LD 1075, An Act To Protect Public Lands

Senator Dill, Representative O’Neil and esteemed members of the Joint Standing Committee on Agriculture, Conservation and Forestry: My name is Rick Bennett, I live in Oxford, and I have the honor of representing 13 towns in the beautiful foothills and lakes region of western Maine in the Maine Senate. I am pleased to present for your consideration LD 1075, “*An Act To Protect Public Lands.*”

This bill requires the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands to adopt rules that establish an objective evaluation process for determining if a proposed activity on designated land would cause the land to be reduced or substantially altered and designates those rules as major substantive rules.

As this committee is well aware, Article IX, Section 23, of Maine’s Constitution requires a 2/3s vote of the Maine Legislature to permit the substantial alteration of use or the sale of our precious public lands. In 1993, the bill that became this constitutional amendment came before the Committee of State and Local Government. I served on that committee at that time as a member of the House of Representatives. After much legislative consideration, a conference committee of three senators and three representatives, including me, drafted and recommended the language which received supermajority support in the Legislature and was sent to the voters for ratification. In November 1993, nearly three-quarters of Maine voters enshrined the new amendment into our Constitution.

For many years, through multiple administrations, this amendment has worked as intended. It has become routine to seek legislative review and approval. If there is nothing to hide, nothing sinister at work, why not simply present the case to the Legislature, and have an open, public debate – if needed at all?

But then, of course, along comes the CMP Corridor, and all rules, regulations, and even clear constitutional protections are bent to the point of breaking in order for this project to be approved. In 2014 and 2020, two different governors approved leases of Johnson Mountain Township and West Forks Plantation without seeking supermajority support of the Legislature. As Justice Michaela Murphy recently ruled, there was no finding by the Bureau of Parks and

Lands whether or not the leases constituted a substantial alteration in the use. Two governors simply ignored the Constitution in this case and did what they pleased, without even public notice let alone legislative approbation.

This legislation before you prospectively will eliminate such discretion unconstitutionally asserted by two governors by requiring the promulgation of rules to establish an objective evaluation process for determining if a proposed activity on designated land would cause the land to be reduced or substantially altered. This legislation also designates those rules as major substantive rules to ensure the Legislature's role is understood and protected. While I am pleased the Bureau of Parks and Lands will be testifying in favor of this bill, they insist on making the rules routine technical rather than major substantive. Given it is that agency's lack of transparency and infidelity to the Constitution that makes this bill necessary, I believe their suggestion is laughable and totally devoid of self-awareness.

More significantly, I am stunned and saddened that such legislation is required at all. The amendment I helped write 28 years ago was designed to put the public interest first and to rein in sweetheart deals by the politically powerful on behalf of corporate interests. However, the undisclosed and unconstitutional land deals benefiting the foreign corporations behind the CMP Corridor sadly signal that we have come full circle as a state.

I ask this committee act favorably on this bill to uphold our Constitution, defend legislative authority, and protect our precious public lands. Thank you.