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TESTIMONY BEFORE THE JOINT COMMITTEE ON AGRICULTURE,
CONSERVATION AND FORESTRY

IN SUPPORT OF LD 1075

An Act to Protect Public Lands

April 1, 2021

Senator Dill, Representative O'Neil, and honorable members of the Joint Standing Committee on Agriculture, Conservation and Forestry, my name is Andy Cutko, and I am the Director of the Department of Agriculture, Conservation and Forestry's Bureau of Parks and Lands. I am speaking in support of LD 1075 on behalf of the Department.

This bill would require the Bureau of Parks and Lands to establish a formal process for determining if a proposed activity on designated land would reduce or substantially alter the uses of that land. Currently the law does not require any such process. However, because the Department and Bureau recognize the value of public input in deciding whether an activity reduces or substantially alters public land pursuant to 12 M.R.S. 598-A, we support the general intent of the bill. When making decisions whether to grant a license, lease, or other type of agreement, we have routinely considered the following factors, including but not limited to:

- the management plan and for the property, and the degree to which the activity is consistent with that plan
- types and extent of public uses on the property
- the extent of the activity (e.g., acreage of disturbance)
- the duration of the activity
- the type of disturbance
- the habitat affected

With respect to the 2014 and 2020 lease to CMP, these factors were considered in determining whether that lease constitutes a substantial alteration of the uses of those public reserved lands. LD 1075 is an opportunity to codify these types of considerations through the rulemaking process.

If the Committee moves forward with this bill, we encourage you to consider two factors:

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First, Title 12 M.R.S. 598 includes certain lands managed by agencies other than DACF, including Wildlife Management Areas managed by MDIFW and certain lands managed by Baxter State Park. In communications with MDIFW, we understand there are some concerns regarding the implications of LD 1075 on lands managed by that agency. In particular, MDIFW has existing statutory guidance on the land use activities legally allowed, and MDIFW honors that process created by the legislature. IFW doesn't believe there is a need to follow an ACF approval process for management on lands that are within the scope of the purpose in which the land was originally acquired. Because lands managed by MDIFW and Baxter State Park would be affected by this legislation, we feel that the Committee should consider limiting the application of this legislation to only lands administered by the Bureau of Parks and Lands.

Second, the Bureau would prefer that the rulemaking process consists of routine technical rules rather than major substantive rules. Routine technical rules would enable the efficient and appropriate documentation and public input scaled to each project without unnecessary administrative burdens. Accordingly, routine technical rules would likely be in place sooner than major substantive rules.

Thank you for your thoughtful consideration of these issues, and I would be glad to answer any questions now or at the work session.