

FREDETTE DION LLC

TESTIMONY IN SUPPORT OF LD 1075

Senator Dill, Representative O'Neil and distinguished members of the Agriculture, Conservation and Forestry Committee, my name is Kenneth W. Fredette, and I am here to testify in Support of LD 1075 on behalf of Mainers for Local Power.

I would propose that LD 1075 is before this Committee today because the legislature has not yet quite finished its' job on Title 12. In fact, in the Preamble of sec 598-A of that Title, the 24th word to be exact, the statute clearly starts by saying, "... [public] land... may not be 'reduced or substantially altered, except by a 2/3 vote of the Legislature."

Now to give the Legislature credit where credit is due, Title 12 sec 598(5) does define "substantially altered" as to mean, ".... Significantly alter physical characteristics in a way that frustrates the essential purposes for which the land is held by the State...." Which then begs the question, "... what is the purpose for which the land is held by the State...", which may or may not require an analysis of "multiple use objectives..."

Each of these legal terms, individually and collectively, are significant in application, scope and purpose.

In the end, LD 1075 simply seeks to require the Department to adopt rules so that the citizens of our great State, can see, review and, frankly, question the Department's determination of what its' analysis means when applying the terms "reduce or substantially alter" to any application or project. Fundamentally, the purpose of this is so that the Department does not act arbitrarily on its' analysis.

I would like to provide the Committee with a similar example: Most of us know someone who has a child that has been involved in court proceedings and the question often times is: "what is in the best interests of the child" with respect to parental rights and responsibilities? The legislature has properly identified 18 different factors for the court to consider when making that decision including the age of the child, stability arrangements for the child, the existence of any prior child abuse and many other factors. These factors force the judge to apply the facts of any case to the law and make a decision, one that can then be appealed to a higher court by a party if they think the judge got it wrong. LD 1075 ask no less of the Department's actions here.

This bill is critical to the right of our citizens to understand how the Department makes these determinations as applied to our public lands, and should include the rights as follows:

1. The right to an objective evaluation process;
2. The right to require public notice of that process;

3. The right of the public to comment on that process and/or its' results.

Finally, as detailed in LD 1075, these proposed rules by the Department must then, and I repeat, must be classified as major substantive rules thus preserving your right, along with the rest of the the Maine Legislature, to vote on whether or not the work of the Department has met intent of this legislation.

It is a sacred duty of our State to protect our public lands and manage them as intended by its' people. This bill furthers that mandate and our citizen should expect no less.

Thank you and I will answer any questions the Committee may have.