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MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

**SPEAKING IN OPPOSITION TO L.D. 390
AN ACT REGARDING THE MAPPING OF SHORELAND ZONES**

SPONSORED BY REPRESENTATIVE PERRY

**BEFORE THE JOINT STANDING COMMITTEE
ON
ENVIRONMENT AND NATURAL RESOURCES**

DATE OF HEARING:

MARCH 3, 2021

Senator Brenner, Representative Tucker, and members of the Committee, I am Nick Livesay, Director of the Bureau of Land Resources within the Department of Environmental Protection. I am here today to speak in support of the intent of LD 390, but in opposition to the bill

Shoreland zoning serves a number of important purposes. One is to promote environmental protection by:

- a) Requiring the identification of select, valuable natural resources,
- b) Establishing zoning districts around these resources, and
- c) Enacting ordinance provisions that address the types, intensities, and locations of development in these zones.

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LD 390 is intended to make these first two steps easier for municipalities.

Wetlands and streams are important natural resources, long recognized in Maine's Shoreland Zoning Act. For example, for thirty years, the definitions of "freshwater wetlands" has remained the same. The expectation has been that municipalities will identify these resources and build their shoreland zoning maps accordingly.

LD 390 proposes to change how certain resources are defined, not because our scientific understanding of what constitutes a wetland or stream has changed, or because our appreciation of their value is any different, but because redefinition would make mapping easier. For example, the legislation redefines freshwater and forested wetlands based on available GIS data layers as opposed to observations on the ground.

The Department supports efforts to make the development of shoreland zoning maps easier and more affordable for towns. GIS mapping is a powerful tool, a tool that we anticipate will play an increasingly prominent role in our discussions around climate change, adaptation to sea level rise, and zoning.

While GIS technologies should inform our policy making, it should not drive it. The Department's concern with the present proposal is that the GIS data layers that would be used to define important natural resources, particularly freshwater and forested wetlands, are not sufficiently accurate to reflect the actual existence and location of wetlands on the ground. Areas both with and without wetlands would be miss-zoned.

The limitation of the existing GIS data and proposed approach also is reflected in the need to clean up the maps that would be generated using the proposed definitions. Our understanding is that the proposed exemption of lots from the resource protection zone where less than 2, 500 square feet of the lot would be zoned resource protection is based solely on GIS functionality and not science. The implications of this exemption are not clear to the Department, but it could be significant.

Additionally, unanswered in the present legislation is what would happen in those towns that have developed and updated shoreland zoning maps based on the existing law. Would they be expected to change their maps even if that made them less accurate or would they keep the field-verified maps, resulting in two classes of maps throughout the state?

In closing, the Department appreciates the desire of municipalities to find more efficient ways to develop shoreland zoning maps. GIS mapping is a valuable tool and opportunities may exist for using publicly available GIS data layers to assist municipalities with their shoreland zoning efforts. However, given present limitations of the GIS data layers proposed to define important natural resources, particularly freshwater and forested wetlands, the Department opposes LD 390.