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AUGUSTA, MAINE 04333-0002  
(207) 287-1315

## **William D. Pluecker**

State Representative  
1133 Finntown Road  
Warren, ME 04864  
(207) 273-3044

[Bill.Pluecker@legislature.maine.gov](mailto:Bill.Pluecker@legislature.maine.gov)

### **Testimony in support of LD 489, “RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to a Healthy Environment”**

Presented by Representative Bill Pluecker, House District 95. Presented to the Environment & Natural Resources Committee, Monday, March 8<sup>th</sup>, 2021.

Senator Brenner, Representative Tucker, and other distinguished members of the Environment & Natural Resources Committee. I am Representative Bill Pluecker from Warren and I represent House District 95 which is Appleton, Hope, the eastern half of Union, and Warren. I am here today as a co-sponsor and supporter of LD 489, “RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to a Healthy Environment,” otherwise known as the Pine Tree Amendment (PTA).

Senator Maxmin first brought the idea of this bill to me last summer. As a farmer and Independent, she thought that I might bring a unique perspective to this legislation. I must say—at first, I was skeptical. I was worried about the broad implications of adding language like this to the Maine Constitution. I asked myself if this was truly necessary.

Through conversations with Senator Maxmin, advocates, lawyers, and experts on this issue in Maine and other states—my mind has changed. I see this amendment as an issue of rights. The Pine Tree Amendment is about preserving our rights as Mainers to clean air, clean water, and a healthy environment. As an organic farmer, I understand how important these resources are to the very foundation of Maine’s economy, yet we have no guarantee that our government will protect the environment that keeps Maine going. The PTA holds our government accountable and protects these fundamental rights. For the first time, Maine residents will have standing to protect themselves from the government overreach that impacts our environment and the resources that I depend upon for my family’s livelihood.

**District 95: Appleton, Hope, (part) Union & Warren**

There will be experts coming after me who will explain the legal implications of this language. For now, I wanted to lay out a few points, as a farmer.

First, I have heard some worry that this amendment could be used as an opportunity for neighbors to complain about farm activities. Based on conversations with legal experts, my understanding is that this is not the case. This language holds the government accountable, not individuals and companies. It is extremely unlikely that a court would allow this amendment to be used for one private entity to sue another private entity. This is a tool to ensure that permits, laws, funding, are in the best interests of Mainers and environment.

There are three examples from Pennsylvania, where there is a similar constitutional amendment, showing how this has been used in other states to protect farmers:

- Their Public Utility Commission relied, in part, on the state's environmental rights amendment to shore up its determination that a powerline should not be approved because the company had failed to demonstrate a genuine public need in the face of the tremendous environmental and economic harms that would result. A number of farms were among the challengers to the project, including organic farmers. The farmers were concerned about the ramifications of the project on their farming practices, their safety, the economic vitality of their farms, and the ability to sell their farms given the undesirability of power lines.
- This amendment was also used in Pennsylvania to challenge, as unconstitutional, a law that would override local zoning and include mandating the right to frack in agricultural districts. This protection was very important for farmers who do not want to find themselves abutted by industrial fracking given all the water, air and land pollution they cause. Although we do not have a threat of fracking in Maine, this is an example of how this language can be used to protect farmers.
- Given Pennsylvania's failure to put in place needed drinking water protections to address high levels of PFAS contamination, a legal challenge relying on the Pennsylvania Environmental Rights Amendment is currently advancing through the courts. In fact, just the filing of the lawsuit has sparked the state to act.

After having learned about the Pine Tree Amendment over the past year, I feel confident that this bill is a solid path forward for Maine. This is a hallmark piece of environmental legislation that deserves our full support.

Thank you for your time, and I am happy to answer any questions.