



**Testimony in Support of LD 780,
“An Act Regarding Uncontrolled Hazardous Substance Sites”
Submitted by Sharon Treat, Institute for Agriculture and Trade Policy
Joint Standing Committee on Environment and Natural Resources
April 5, 2021**

Senator Brenner, Representative Tucker, and honorable members of the Environment and Natural Resources Committee. My name is Sharon Treat and I live in Hallowell. I am Senior Attorney for the Institute for Agriculture and Trade Policy (IATP), on whose behalf I am testifying today in support of LD 780, “An Act Regarding Uncontrolled Hazardous Substance Sites”.

IATP is a 501(c)(3) nonprofit headquartered in Minneapolis, Minnesota with offices in Hallowell, Maine and other locations.¹ As an organization that works closely with farmers and seeks to promote local, sustainable and environmentally beneficial agriculture, IATP is particularly interested in how PFAS contamination is affecting food, farms and farmers.

We testified in support of similar legislation last session, and we again urge the committee to support this bill, which incorporates committee amendments designed to address concerns from publicly owned treatment works and water systems. We’ve lost an entire year due to the pandemic, which halted action on this and other critically important PFAS legislation. LD 780 provides an important tool, by allowing the State to classify PFAS compounds and other emerging contaminants as hazardous substances under the Department of Environmental Protection (DEP)’s Uncontrolled Sites Program, thereby granting the State clear legal authority and freeing up funds to clean up and remediate contamination. Passing LD 780 will enable the State to act quickly to protect the public and environment.

The scope of the PFAS contamination problem in Maine could be enormous, and there is a high probability that many more uncontrolled sites with PFAS pollution will be found as investigations continue.

A year ago in my testimony I suggested that the significant ongoing contamination of Stoneridge Farm in Arundel likely wasn’t an anomaly. Unfortunately, I was right. Now a second farm, the Tozier farm in Fairfield, cannot sell its milk due to PFAS contamination, and several dozen neighbors’ wells are also polluted with sky-high PFAS levels. Data collected by DEP has identified 500 properties where sludge was spread over the past 40 years, but testing at most of those sites is yet to be done. What contamination will be found in the groundwater and soils near these sites, once they are tested?

¹ IATP also has offices in Washington, D.C. and Berlin, Germany. For over 30 years, IATP has provided research, analysis and advocacy on agriculture-related issues including farm to school; climate; soil health; water quality and access; farmworker and farm health and economic security; and trade and market policies. See, www.iatp.org.

Hundreds of landfills are also likely continuing sources of PFAS pollution. DEP groundwater test results topped out at an astounding 3,050 ng/l for PFOA, 2700 ng/l for PFOS and 3095.1 ng/l for combined PFOA + PFOS. Even the average groundwater sample, out of about 46 samples for this category, found levels of 407.3 ng/l for PFOA, 204.1 ng/l for PFOS and 587 ng/l for combined PFOA + PFOS. In its tests of drinking water wells near landfills (116 samples), DEP found maximum levels of 458 ng/l for PFOA, 120 ng/l for PFOS and 470 ng/l for combined PFOA + PFOS. Average results were also high; 46.0 ng/l for PFOA, 13.5 ng/l for PFOS and 52.5 ng/l for combined PFOA + PFOS. These measurements are far above safe levels for human consumption.²

Remember, this contamination is a result of run-off from *closed municipal landfills*, NOT Department of Defense sites where PFAS-infused firefighting foams have been routinely used,³ or federally-designated Superfund sites. In fact, the levels of groundwater contamination at landfills that DEP has sampled are *similar to or exceed levels found at Superfund sites in Maine*.⁴ In reality, these landfills have the characteristics of a DEP “uncontrolled site” without access to the funding and administrative tools for cleanup and remediation that come with such a designation – what this legislation is intended to help remedy.

Besides being extraordinarily persistent -- as demonstrated in the Fairfield contamination by the many years (at least 17) that have passed since these chemicals were likely introduced into the environment via sludge spreading -- PFAS have other properties that increase the likelihood that we will be discovering contamination for years to come.

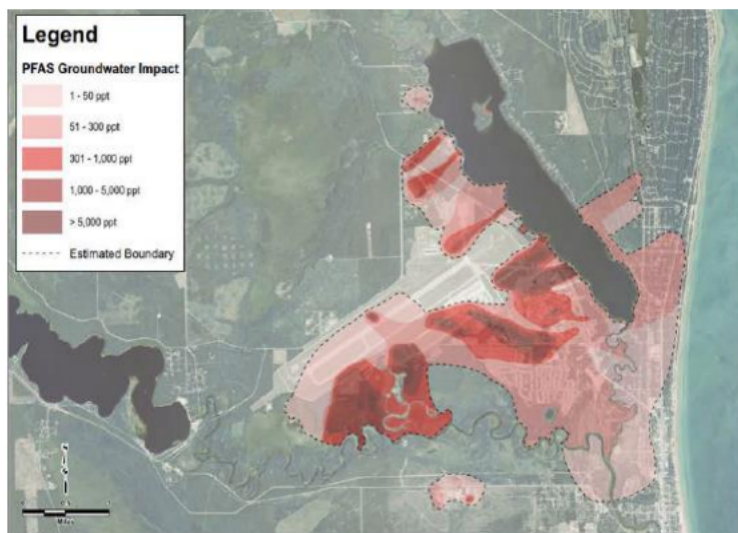
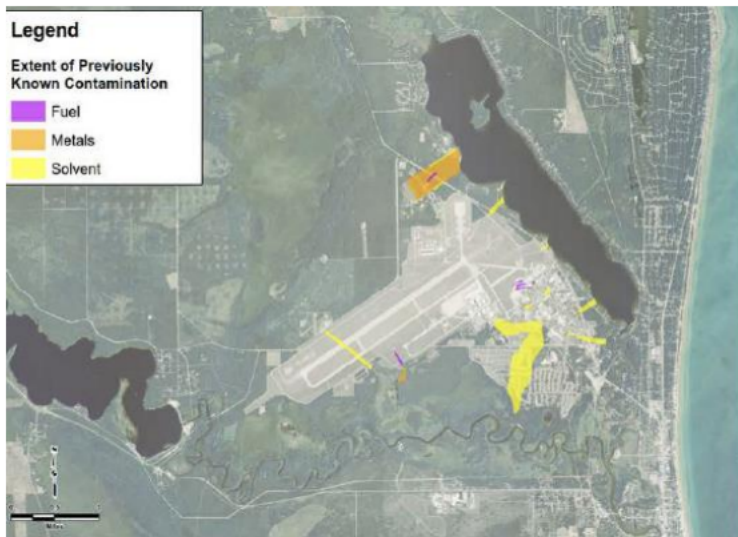
They are extremely mobile, and can be found in high concentrations at great distances from where contamination first occurred. I recently participated in a legal course on PFAS presented by commercial real estate lawyers who illustrated these characteristics, and how PFAS differ from some other pollutants in this regard. I have included a screenshot of a slide from that course illustrating this. In the image on the next page, the top map shows how far solvents, metals and other pollutants traveled from the point of initial contamination at an airport (in yellow) compared to PFAS groundwater contamination at the same airport (in red). The PFAS has traveled far in groundwater from the airport footprint, and some of the highest concentrations (in dark red) are furthest away.⁵

² To put these data in perspective, New Hampshire has finalized drinking water standards intended to protect the most sensitive populations over a lifetime of exposure. The New Hampshire Maximum Contaminant Levels (MCLs) are: PFOA, 12 ppt; PFOS, 15 ppt; PFHxS, 18 ppt; and PFNA, 11 ppt. New Hampshire Department of Environmental Services, NHDES Proposes New PFAS Drinking Water Standards, Final Rulemaking Proposal for PFOA, PFOS, PFHxS and PFNA, June 28, 2019, <https://www.des.nh.gov/media/pr/2019/20190628-pfas-standards.htm>

³ DEP’s maximum results for combined PFOA + PFOS contamination at Department of Defense sites are as high as 33,000 ng/l. Maine PFAS Task Force, Final Report Appendix C, PFAS Results Summary (January 2020)

⁴ For example, the maximum PFOA level for groundwater contaminated by a Superfund/RCRA site was 270 ng/l for PFOA, 738 ng/l for PFOS and 759.2 ng/l for PFOA + PFOS. (PFAS Task Force Report data)

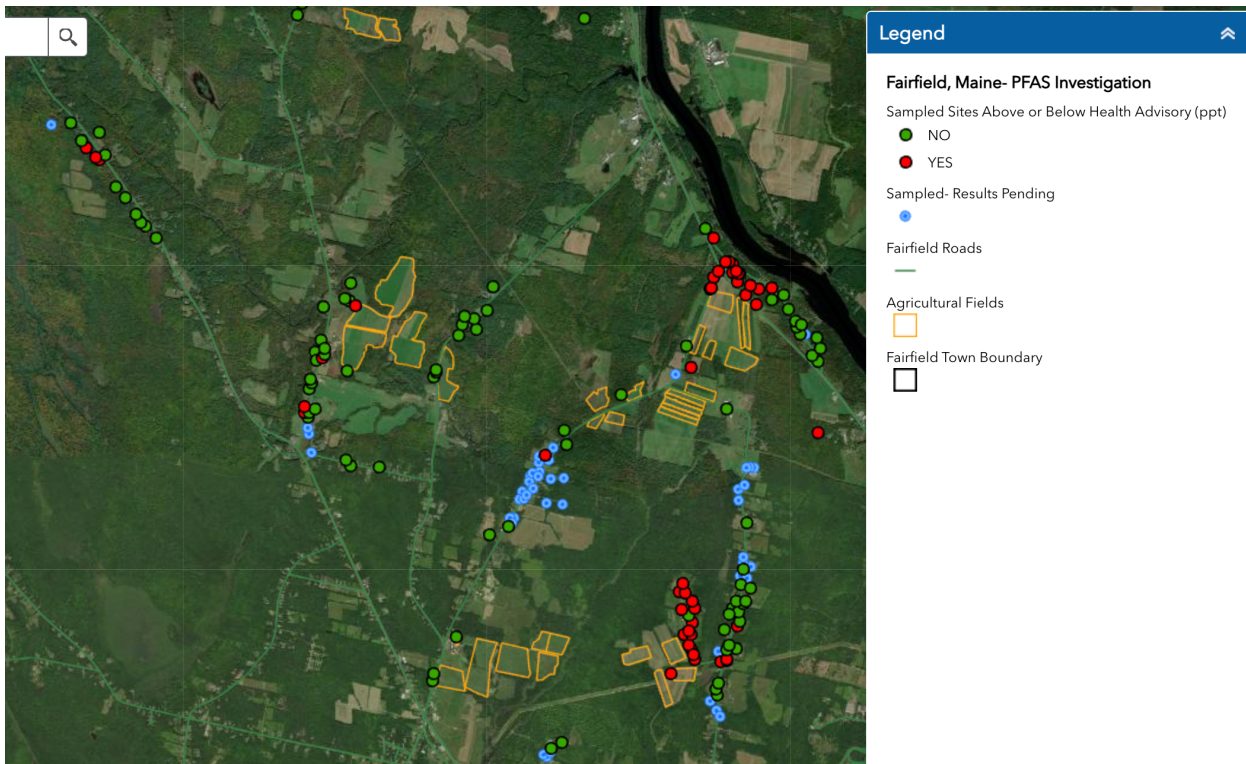
⁵ Slide used with permission from Leslie L. Nicholas, Senior Consultant, BBJ Group, LLC from her presentation “PFAS – Practical Considerations in Real Estate Transactions,” part of “The Forever Chemicals and Other Not-So-New Environmental Issues,” first presented September 30, 2020, ABA Section of Real Property, Trust & Estate Law



Source: MDEQ, Draft concentration maps, April 2017

This same dynamic is apparent in the Fairfield PFAS data that Maine DEP has collected for residential drinking water wells.⁶ The DEP data is posted online in an interactive map, which shows where the agricultural fields are located and where the wells with the highest concentrations of various PFAS compounds have been measured. While many of the highest concentrations are in wells near these fields, it is also the case that some wells with high levels of contamination are situated far from those fields. I have shared a screenshot of the DEP map on the next page.

⁶ <https://maine.maps.arcgis.com/apps/webappviewer/index.html?id=2bb04142294948458c81b2ece1011c88> (screenshot taken 3-11-21)



These characteristics increase the complexity and cost of uncontrolled site investigations and cleanup, and virtually guarantee that contamination from these “forever chemicals” will continue to pose serious environmental and health risks for years into the future.

PFAS contamination is serious. Exposure has been linked to health problems including kidney and testicular cancer, thyroid disease, infertility and compromised immune systems -- which means PFAS exposure can make people more susceptible to COVID-19 health consequences and may limit the effectiveness of vaccines. Indeed, recent research has found a strong association with PFAS exposure and COVID-19 severity, antibody response, and asthma.

While there is a great deal more that must be done to prevent exposure to PFAS, LD 780 is a necessary component of Maine’s PFAS strategy. We urge the Committee to favorably report out this legislation.

Respectfully submitted,

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