



Maine Forest Products Council

The voice of Maine's forest economy

Testimony in Opposition to LD 2264

“An Act to Further Clarify the Meaning of “private road” and “public easement” in Certain Provisions of Maine Law”

Tuesday, March 19, 2024
Patrick Strauch, Executive Director

Good afternoon, Senator Nangle, Representative Stover and members of the Committee on State and Local Government. I'm Patrick Strauch, the Executive Director of the Maine Forest Products Council. I am submitting testimony today in opposition to LD 2264, “An Act to Further Clarify the Meaning of “private road” and “public easement” in Certain Provisions of Maine Law.”

The Maine Forest Products Council (the Council) represents more than 300 member companies from all facets of the forest products industry from the stump to the mill. We also represent over 8 million acres of commercial forestland in Maine, which, as you can imagine, includes many abandoned and decommissioned roadways. While the Council appreciates the work of the Abandoned and Discontinued Roads Commission (the Commission) to develop comprehensive solutions to issues pertaining to these roadways and easements, landowners, both large and small, are concerned with the proposal before you today. It represents a major shift in policy that would significantly impact our membership.

As drafted, if a municipality opts to discontinue or abandon a public easement on a roadway, and if three or more landowners along the easement request it, a road association must be formed to maintain the public easement at the shared cost of the landowners along the route. The Council takes issue with this proposal for the following reasons:

- The same minimum threshold of three landowners applies whether there are four landowners along the route, or 50 (or more). This means that for easements with many landowners, a very small minority could incur costs for all landowners.
- Unlike a private road association that has the authority to limit use and access to private roadways to protect the investment, public easements remain open to the public and to all forms of use (vehicles, ATVs, snowmobiles, etc.) at the discretion of the municipality. It isn't difficult to imagine a scenario under this proposal where private landowners would have to foot the bill for damages to their property and natural resources by recreational and off-road vehicles without any ability to minimize that risk.
 - The law holds landowners liable for all environmental violations that occur on their property. If a public user of an abandoned or decommissioned roadway uses the public easement and inflicts damage to natural resources, the landowner (not the municipality) is liable even though they have no authority to limit public use.

Companies represented on the MFPC Board

A & A Brochu Logging
American Forest Mgmt.
Baskahegan Co.
BBC Land, LLC
Columbia Forest Prod.
Cross Insurance
Family Forestry
Farm Credit East
Fontaine Inc.
H.C. Haynes
Huber Resources
INRS
J.D. Irving
Katahdin Forest Mgmt.
Key Bank
Kennebec Lumber
LandVest Inc.
Louisiana Pacific
Maibec Logging
ND Paper
Nicols Brothers
Pingree Associates
Prentiss & Carlisle
ReEnergy
Richard Wing & Son
Robbins Lumber
Sappi North America
Southern Maine Forestry
Stead Timberlands
St. Croix Tissue
St. Croix Chipping
TD Bank
Timber Resource Group
Timberstate G.
Wadsworth Woodlands
Wagner Forest Mgt.
Weyerhaeuser
Woodland Pulp

If enacted, this bill would unfairly add burden and liability to private landowners, and potentially erode relationships between private landowners and recreational user groups. If a municipality would like to maintain an easement, the municipality (the public) should be required to pay for the maintenance and upkeep of that access, and it should provide liability protections to the landowners.

The Council sympathizes with the need to avoid land locking landowners; however, public easements have become recreational corridors with unrestricted use, which is a policy that needs to be examined further by the Commission.

For these reasons, we suggest that public easements not be included in the road association provision, or that participation in road associations is voluntary for landowners along public easements. Please vote **'ought not to pass'** on LD 2264. If the Commission decides to continue to work on issues pertaining to private roadways, the Council would be happy to assist on behalf of our members. Thank you for your consideration.