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Dear Senator Tepler, Representative Doudera and Members of the Joint Committee on Environment and Natural Resources

I am submitting these supplemental comments as addenda to the previous testimony I gave on Wednesday, 12 March, 2025. I urge you to read them. If you have time it would be worth reading the various documents I attached to my earlier testimony such as the Alliance for Sears Island analysis of the “alternatives analysis.” I hope you will also look at the attached photos and documents. The urgencies we face such as environmental disruption, the sixth extinction including more than 60% of avian species, sea level rise, ocean temperature rise etc require very careful consideration of the way we develop our extremely important coastal ecosystems. The availability of an immediately adjacent property that can house an Off Shore Wind development while preserving the ecosystem services of Sears Island seems to be an extremely important consideration as you look at LD 226. Please vote ought to pass on this bipartisan bill.

**A: LD 226**

**1) Soil Removal- JUPC-**

One of the many stipulations in the Consensus Agreement was that there would be **no soil harvesting** on Sears Island. During the hearing it was suggested that somehow we had not lived up to the agreement as we oppose the proposed development on the island. It is very clear in the Agreement that we would not oppose for other reasons than the environmental due diligence and evaluation that a proposal would require. So far the MDOT has spent a ludicrously minimal amount of the \$5.8 million already expended doing their “Alternatives Analysis,” only \$9,800 or 0.0017th of the total spent for this project.

In their proposal, 2.2 million cubic yards of material would be removed from the 100 acre site. It will require blasting to turn the substrate into soil. Some of that soil may be able to be used to fill the 25 acre pier that will extend into the harbor. Some of it may be able to be used to amend the dire situation with the roadbed and rail beds mentioned in the hearing. However at least 1 million cubic yards of soil removed from the site will need to be put elsewhere. Perhaps the parcel MDOT “owns” across Route One can take a few thousand cubic yards? That is not in their “Analysis”. However you look at it, MDOT is proposing soil harvesting.

By comparison, 85,000 cu yds is the amount MDOT’s own engineer suggested as dredge spoils for the Mack Point site. According to Appledore Engineering<sup>1</sup> that Sprague Energy used to evaluate their site, that soil could be used to build the similar 25 acre pier that would add to the land on Mack Point. The Pier on Mack Point is already state owned and managed by MDOT.

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<sup>1</sup> <https://www.appledoremachine.com/services/>

## 2) Rail bed/roadway-

Constructed on a sandbar that dried out at low tide, the Sears Island causeway was built out of compliance with the original permit. It has none of the culverts required to ensure exchange of water from Stockton Springs Harbor into Long Cove/ Searsport Harbor. Not only did that omission cause significant damage to the fisheries in both harbors, but it also set up the dynamics that are damaging the original causeway now and caused the EPA to ultimately file a Consent Decree regarding further development on Sears Island.

Currently it is a crumbling asset. The east side of the causeway is no longer safe to drive on. As you can see from the picture it is undercut by wave action in recent storms. If a rail bed was build originally, it is not an asset that can be used now. This is the likely reason MDOT requested such large grants during 2024 which they failed to achieve in the previous Administration. The cost to build an industrial park on Sears Island will require significant infrastructure improvement by Maine's taxpayers.

The attached photo is from March 2, 2024. It has not improved since then.



### 3) Collateral Damage- Species Extinction<sup>2</sup>

We are losing species at a rapid rate. More than 60% of migratory song birds, 60% of honey bees and of all species that perform pollinating we depend upon for sustenance/ food<sup>3</sup>. Human caused habitat loss is among the most significant reasons. We build in one place assuming that we can “save” another place for the same ecological services. The rate of habitat loss is astronomical. When we choose to build in an undeveloped place we permanently take that site out of commission to perform the services it previously provided. Saying “oh, well, we can just mitigate the damage” equals habitat destruction. Settling for collateral damages is how we have gotten here in the Sixth Extinction.

As legislators tasked with protecting our Environment and Natural Resources, you have to ask yourselves whether a particular project or development plan is worth the loss. In this case, if you ask the fish and the people who depend upon them, it is not. Particularly when you have an already developed site within the same geographical proximity that can provide the same services. Who and what are you seeking to benefit? What if the exhausted birds who provide pollination in our region can no longer land on Sears Island? What if there is no place that is available for them to land on when they have flown up the East Coast looking for rest that isn't lit at night? What if we don't have fruit to eat? What if we actually create the silent spring Rachel Carson feared?

### 4) Vernal Pools- VHB

Significant vernal pools are not present in February. The ground is frozen and the amphibians do not lay their eggs then. So if you wanted to pretend that there are no vernal pools on a site maybe you'd send out your newly vetted site evaluator in February so you would not find any vernal pools. Maybe the skunk cabbage had not yet emerged in February. On North Haven, Big Night is tonight ( March 17, 2025).

**Big night**<sup>4</sup> is the night when the majority of salamanders and frogs find their way out of hibernation and into the pools that provide the womb for their species, where they lay their eggs. That night is usually in March when there is a large rainfall. VBH knows this. They did not find vernal pools because they didn't want to. There is proof of the very successful vernal pools of significance on the transportation parcel. That evidence was denied by the MDEP because the researchers were not thought to have permission to be there. However the JUPC Consensus Agreement allows for citizens to use the transportation parcel until such time as it is developed. This photo was taken last April on the transportation parcel on Sears Island. You can see the egg masses in the water. This represents a significant population of salamanders.

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<sup>2</sup> <https://evolution.berkeley.edu/mass-extinction/the-earths-sixth-mass-extinction/>

<sup>3</sup> <https://www.worldwildlife.org/press-releases/69-average-decline-in-wildlife-populations-since-1970-says-new-wwf-report>

<sup>4</sup> <https://www.vernalpools.me/big-night/>





Vernal pools provide significant resources! They provide cool water to the bay in spring. They provide species that feed other species, bottom of the food chain species that humans depend upon for our survival. The Environment and Natural Resources Legislative Committee ought to care about them. <sup>5</sup>

#### **5) Climate Mitigation-**

Forested Wetlands and Coastal Forested wetlands are among the highest priority areas to protect as we move forward in these changing climatic times. <sup>6</sup> There is more to their services than the carbon sequestration they provide. They cool the water that flows into the bay while

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<sup>5</sup> <https://allianceforsearxisland.org/2024/06/27/significant-vernal-pool-habitat-is-protected-by-law-under-the-natural-resources-protection-act-nrpa/>

<sup>6</sup> <https://www.usgs.gov/centers/wetland-and-aquatic-research-center/science/coastal-wetland-vulnerability-climate-change>

providing cooling services through out the island. They provide food and shelter to copious species. They mitigate downpours and provide for drought. Using only one metric to evaluate their impact on the Penobscot Bay ecosystem narrows the evaluation. There is more to Climate Change than simply the carbon cycle. I refer you to these documents regarding Blue Carbon.<sup>7</sup>

We agreed during the JUPC not to oppose development on Sears Island for **non substantive** reasons. Our concerns for the environment have not abated since then, they have only grown more intense. The Climate Crisis we are encountering on a daily basis, is getting worse. Storms are becoming more intense. Flash Drought and Flash Flood are becoming more impactful and more frequent. We continue to be concerned about the impacts that are proposed to the development of Sears Island and the letter of the agreements we signed.

MDOT does not have an oar in the water regarding environmental protection. Their mission is to provide for transportation for the people of Maine. It is curious that a transportation entity is proposing a step into industrial development.

For these reasons the Environment and Natural Resources Committee should vote ought to pass on LD 226

#### **B: Sand Dune Bill -735**

The term “man made” sand dunes denotes intentionality. The Sand dune that lies southwest of the constructed pier on Sears Island ( which faces North Westerly) was **not** a constructed sand dune. It is the result of destruction of the functioning sand dune to its north and the interruption of water flows by installing the pier as well as the dredging that occurred adjacent to it. Sand moves. Ask the people of Saco Maine about sand moving. This is a common occurrence.<sup>8</sup> It is a poor argument to suggest that because it was not there when the pier was constructed it was man made and therefore has no ecosystem function and value. With sand dunes being a very important and rapidly declining natural resource, every effort should be made to protect them. LD 735 as proposed was complicated by two additional suggestions. Simply rescinding LD 2266 which could set in motion a series of intrusions into Maine’s environmental standards would be appropriate. Should the Legislature choose to address the two other portions of the bill, that should happen under a different proposal and likely different legislative committees.

Please vote to rescind LD 2266 by amending LD 735 to state just that.

Respectfully Submitted,  
Becky Layton Bartovics

March 17, 2025

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<sup>7</sup> <https://bluecarbonpartnership.org/about-blue-carbon/>

<sup>8</sup> <https://journals.aps.org/prfluids/abstract/10.1103/PhysRevFluids.6.104308>