



# SIERRA CLUB

## MAINE CHAPTER

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To: Joint Committee on Environment & Natural Resources  
From: Matthew Cannon, Sierra Club Maine  
Date: 24 February 2026  
Re: **Testimony NFNA for LD 2187: An Act to Update Certain Water Quality Standards and to Reclassify Certain Waters of the State**

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

I write on behalf of the Sierra Club Maine, representing over 20,000 supporters and members in Maine and millions nationwide. Founded in 1892, Sierra Club is one of our nation's oldest and largest environmental organizations, and we are working diligently to combat climate change and protect our natural resources. In Maine, that work includes advocating for improving water quality across the state.

Though we support most of the suggested upgrades to water classifications in LD 2187, our primary concern is the omission of Chandler Bay being upgraded to 'SA' status, as it must be based on the findings. We commented on the Department of Environmental Protection's (DEP) Triennial Review process and will share some of that below, but urge you to amend this legislation to rightfully ensure Chandler Bay's water quality is protected.

The goal of the Clean Water Act is to restore and maintain the integrity of our waters. Sierra Club Maine appreciates the work of DEP in reviewing all state water quality data, and balancing the need to uphold strict water quality protections with competing interests. We understand that some bodies of water can be upgraded now, some may be upgraded with more data, and some cannot at the moment. We appreciate progress on protecting and improving water quality for protecting salmon, and are glad there are upgrades of water quality for salmon spawning, including the Penobscot River and Kennebec River basins. Our comments to this committee (and to the Board of Environmental Protection (BEP) previously for the Triennial Review) focus on a pathway to improving water quality and having closed loop, recirculating finfish aquaculture in Chandler Bay. Moreover, the DEP recommendations highlight staff capacity concerns that this committee will need to address.

### **DEP Capacity**

Our primary concern highlighted in DEP’s analysis that is the basis for LD 2187 is the ongoing need for increasing DEP funding and capacity. DEP states it needs more time and resources “to fully evaluate the potential impacts of, and consider how to most appropriately implement, any revisions to Maine’s DO concentration criteria for Class A waters.” (p. 20) What specific capacity does DEP need to fully evaluate DO concentrations, and in general all of this data? DEP states it needs more time and resources “to fully evaluate the potential impacts of, and consider how to most appropriately implement, any revisions to Maine’s DO concentration criteria for Class A waters.” (p. 20) What type of resources? Would having more staff and more water quality monitoring equipment require substantially more time?

There will always be capacity limits, but it is our position that this report should identify the resources that are needed so that DEP can fulfill its role rather than using the technological and financial capacity of DEP as reasons to not attain higher standards. We question the validity of including these constraints as significant considerations for reclassification.

### **Chandler Bay**

The water classification system “is used to direct the State in the management of its surface waters, protect the quality of those waters for the purposes intended by the Legislature, and where standards are not achieved, restore the quality to achieve those purposes.” Per the Clean Water Act, “the classification standards establish designated uses, related characteristics of those uses, the criteria necessary to protect those uses, and an antidegradation policy.”<sup>1</sup>

DEP explicitly states that the standards are intended to provide an antidegradation policy; degrading water quality is inherently in opposition to that stated goal. Maine has an opportunity to be a leader in both improving water quality and allowing for beneficial industries, yet this review seems to concede as inevitable a regression in water quality classification for Chandler Bay.

DEP admits in the analysis: “Chandler Bay is an important ecosystem to protect in eastern Maine and an upgrade to Class SA would have a very beneficial effect on the immediate marine environment and the communities that surround it.”<sup>2</sup> However, it

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<https://www.maine.gov/dep/water/wqs/2025%20Triennial%20Review%20Department%20Recommendations.pdf>, page 6.

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[https://www.maine.gov/dep/water/wqs/ProposalDocs/2024-2026/2025\\_WQS-ChangeProposals\\_ForPublic\\_05282025.pdf](https://www.maine.gov/dep/water/wqs/ProposalDocs/2024-2026/2025_WQS-ChangeProposals_ForPublic_05282025.pdf), page 17.

bases its decision not to upgrade Chandler Bay due to the existing Kingfish permit. DEP says:

*“Based on the current status of the wastewater discharge permit held by Kingfish Maine, Chandler Bay does not meet statutory requirements in 38 M.R.S. Section 465-B.1.C stating there may be no direct discharges of pollutants to Class SA waters except for in certain cases. Therefore, the Department does not recommend that Chandler Bay be upgraded at this time.”*<sup>3</sup>

In the response to public comments, they said: “If approved, an upgrade for Chandler Bay to Class SA would prohibit Kingfish Maine from executing the aforementioned discharge permit.”<sup>4</sup>

But state statute is very clear:

*“When the actual quality of any classified water exceeds the minimum standards of the next highest classification, that higher water quality **must** be maintained and protected. Pursuant to subsection 3, paragraph B, the board **shall** recommend to the Legislature that that water be reclassified in the next higher classification.”* 38 M.R.S. § 464(4)(F)(4) (emphasis added).

Chandler Bay seems to have water quality that exceeds SA standards and it meets statute’s qualification for outstanding ecological importance due to high water quality, abundance of eelgrass, and designation as an essential fish habitat by NOAA, among other reasons. as defined in 38 M.R.S. §§ 465- B.1.<sup>5</sup> The rationale provided by DEP in this triennial review for not upgrading is focused on the granted permit for Kingfish to discharge, **not the current minimum standards being met for reclassification. We think those standards require Chandler Bay to be upgraded.**

**The words ‘must’ and ‘shall’ have legal meaning. DEP has acknowledged the current water quality could meet SA designations, currently. A project not yet built, though permitted, does not obviate DEP’s legal responsibility to upgrade water quality in Chandler Bay.** We tried to interject in these permit proceedings to make the point that Kingfish should be a fully recirculating project (no discharge) based on Chandler Bay’s high water quality. That allows for economic development and

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[https://www.maine.gov/dep/water/wqs/ProposalDocs/2024-2026/2025\\_WQS-ChangeProposals\\_ForPublic\\_05282025.pdf](https://www.maine.gov/dep/water/wqs/ProposalDocs/2024-2026/2025_WQS-ChangeProposals_ForPublic_05282025.pdf), page 17.

<sup>4</sup> [https://www.maine.gov/dep/water/wqs/TR\\_DEP-PubComm\\_RTCs\\_final\\_08212025.pdf](https://www.maine.gov/dep/water/wqs/TR_DEP-PubComm_RTCs_final_08212025.pdf), page 52.

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[https://www.maine.gov/dep/water/wqs/ProposalDocs/2024-2026/2024-TR\\_Upgrade\\_EMCI\\_ChandlerBay.pdf](https://www.maine.gov/dep/water/wqs/ProposalDocs/2024-2026/2024-TR_Upgrade_EMCI_ChandlerBay.pdf), page 3.

protects our water. Now, we are left knowing that the water quality classification could and should be higher, were it not for a permit granted to Kingfish. With nothing being built yet, there is still an opportunity to revise the permit, protecting a development project and protecting the environment.

Per Kingfish's MEPDES permit, DEP can change limitations based on new information:

*L. REOPENING OF PERMIT FOR MODIFICATION In accordance with 38 M.R.S. § 414-A(5) and upon evaluation of the test results from tests required in the Special Conditions of this permit, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to: (1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded ; (2) require additional monitoring if results on file are inconclusive; or (3) **change monitoring requirements or limitations based on new information.** (emphasis added)<sup>6</sup>*

**We hope that you will upgrade the classification of water quality in Chandler Bay in LD 2187, based on the merits and the legal obligation under the Clean Water Act. Doing so can still ensure businesses can succeed while not degrading our waters.**

We appreciate your consideration of our comments. In addition to amending LD 2187 to protect Chandler Bay, we also think this Committee should ensure DEP has the resources to fulfill its mandate to the people of Maine and to our natural environment.

Respectfully submitted,

Matt Cannon  
Sierra Club Maine

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