

Nicole Grohoski
Senator, District 7



P.O. Box 1732
Ellsworth, ME 04605


THE MAINE SENATE
131st Legislature

**Testimony of Senator Nicole Grohoski
In Support of LD 508, “Resolve, Directing the Department of Environmental Protection to
Review Its Environmental Permitting Laws”**

**Before the Committee on Environment and Natural Resources
20 April 2023**

Good afternoon Senator Brenner, Representative Gramlich, and members of the Joint Standing Committee on Environment and Natural Resources. My name is Nicole Grohoski and I am honored to represent the 22 coastal and island communities of Senate District 7. I am here to present an amended version of LD 508, originally titled “Resolve, Directing the Department of Environmental Protection to Review Its Environmental Permitting Laws.”

I’d like to briefly explain why I narrowed the resolve to the version that was circulated on Tuesday. The original language would have tasked the Department of Environmental Protection (DEP) with reviewing its environmental permitting authority in light of evolving climate science across both the terrestrial and marine environments, which are of course interrelated. Part of the inspiration for this effort is Strategy F3 of the 2020 Climate Council report.

 <p>Emphasize Resilience Through Land-Use Planning and Legal Tools</p> <p>Develop and implement updated land-use regulations, laws, and practices by 2024 in order to enhance community resilience to flooding and other climate impacts.</p> <p>An update of land-use laws and practices will give communities the tools they need to build resilience, enhance ecosystem services, and get out of harm’s way. Maine is a home-rule state, which in a climate context means that local governments have the authority and responsibility for planning and implementing most activities for community resilience. In Maine’s unorganized territories, the state’s Land Use Planning Commission serves the planning function.</p> <p>The tools communities currently use — including comprehensive planning, zoning, site location of</p>	<p>development, and stormwater and floodplain management practices — were not designed with climate change in mind. They need be updated to:</p> <ul style="list-style-type: none">• Consider climate hazards like sea-level rise• Leverage nature-based solutions• Contain more consistent and scientifically-sound definitions• Provide more utility to communities for building climate resilience• Support development and economic activity in areas less vulnerable to climate impacts. <p>The state should lead a process to update Maine’s land-use laws, tools, and practices to address the threats communities face from climate-change impacts. The update process must include significant stakeholder participation, especially from vulnerable communities. The rollout of updates must be coordinated with technical assistance, training for planners and code-enforcement officers, and incentives.</p>
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3 State House Station, Augusta, Maine 04333
State House (207) 287-1515 * Fax (207) 287-1585 * Toll Free 1-800-423-6900 * TTY 711
Nicole.Grohoski@legislature.maine.gov * legislature.maine.gov/senate

The Legislature passed “Resolve, to Analyze the Impact of Sea Level Rise” in 2021, which is an important effort under Strategy F3 but not the whole picture. Unfortunately, after meeting with DEP staff about LD 508, it seems fair to say that they are constrained by resources and would not be able to undertake the review as originally envisioned.

Thus, I decided to focus on a portion of this resolve that is particularly important to my region – the coastal marine environment. Specifically, many people I represent are concerned that our current regulatory structure for **on-water net pen finfish aquaculture** hasn’t been modernized to appropriately regulate the impact of these fish farms on our shared coastal resources. These are waters that lobstermen, clammers, shellfish and seaweed aquaculturists, and other harvesters rely on for their livelihoods. They are waters that boaters of all types enjoy. They are an integral part of our treasured natural landscapes along Maine’s 3,500 miles of coastline.

In 2020, a Norwegian company announced its intention to develop a salmon farm in Frenchman Bay (Hancock County) to produce 66 million pounds of fish annually.¹ That’s enough salmon to feed 33,000 people if all they ate was salmon for a year! American Aquafarms, as it was called, would use “cutting edge” technology (aka, untested) to grow these fish in one of Maine’s most protected bays, and in close proximity to Acadia National Park. People of all stripes came together to fight this project because they realized that it threatened our way of life, and that the costs would outweigh the benefits.

After a year and a half of wreaking havoc in Downeast Maine, American Aquafarms’ application was terminated by the Department of Marine Resources (DMR) due to improperly-sourced salmon eggs. If the DMR had found that their requirements had been met, would the DEP have permitted this project? I hope we don’t find out the hard way that the answer is yes. Seeing as American Aquafarms’ director of project development told the Ellsworth American in March that they planned to return with a new proposal, we may know soon enough.²

Why are people in my community concerned about current DEP permitting requirements³ for industrial fish farms? Here are a few examples:

- Two projects were proposed in the same bay under different permits, and yet the combined effect of their untreated effluent does not need to be considered by the DEP.
- DEP effluent regulations do not require considering other sources of nutrients in the same bay or the carrying capacity of the bay.
- DEP does not require accurate modeling of how tides and fresh and saltwater mixing affect nutrient persistence in a bay.

¹ <https://www.bangordailynews.com/2020/11/08/news/hancock/norwegian-firm-envisions-harvesting-66m-pounds-of-salmon-from-30-pens-in-frenchman-bay/>

² https://www.ellsworthamerican.com/news/liens-placed-on-american-aquafarms-as-company-ponders-next-move/article_8a9fee04-c817-11ed-9883-ebfe812bfecd.html

³ <https://www.maine.gov/dep/water/wd/net-pen-aquaculture/index.html>

- Finfish farms used to be monitored by video, but no longer are. The DEP and DMR do not have information about bottom conditions directly under salmon pens.

These are specific regulations that clearly need improvement to protect current and future users of our marine ecosystems. Others testifying may share additional areas of concern. What is clear to me is that we can do better and that – to be good stewards of our common waters – we must do better when it comes to marine finfish aquaculture.

Thus, the amendment before you outlines a working group which would have more than a year to consider how our current regulations for marine finfish aquaculture might be improved to ensure that our shared marine environment remains one that benefits all users well into the future. It is set up as a legislative study in recognition of limited agency resources. There are members with a great deal of knowledge about aquaculture operations and ones without, but who are marine stakeholders. A legislative study is an opportunity for people of varying backgrounds to take a deep dive together on a particular subject. Having served on such a group, I can attest to how productive it can be.

On-water finfish farming is not what it was decades ago. Nor are our coastal marine environments as healthy as they once were. It is time for the Legislature to review regulations which haven't changed in nearly 20 years to see if they sink or float.

Thank you for your attention and I am happy to answer any questions you may have.