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May 10, 2023

The Hon Henry Ingwersen, Co-chair
The Hon Bill Pluecker, Co-chair
Joint Standing Committee on Agriculture, Conservation and Forestry
State House
Augusta, Maine 04330

Re Testimony Neither for Nor Against L D. 1881, "An Act Regarding Compensation Fees and Related Conservation Efforts to Protect Soils and Wildlife and Fisheries Habitat from Solar and Wind Energy Development and High-impact Electric Transmission Lines Under the Site Location of Development Laws"

Dear Sen Ingwersen, Rep Pluecker, and members of the ACF Committee

On behalf of Longroad Energy (Longroad), I am writing to offer testimony neither for nor against L D 1881, "An Act Regarding Compensation Fees and Related Conservation Efforts to Protect Soils and Wildlife and Fisheries Habitat from Solar and Wind Energy Development and High-impact Electric Transmission Lines Under the Site Location of Development Laws "

Longroad participated in discussions with other interested parties in the process leading up to development of L D 1881, and we appreciate the dialogue that occurred at that time

Longroad develops and operates wind and solar energy projects in markets across the United States In Maine, we employ a dozen people including Maine Maritime Academy graduates and U S military veterans who operate hundreds of renewable energy power plants across the country from our Scarborough office The Longroad team has been developing renewable energy projects in Maine for over 15 years, and during that time, we have invested over a billion dollars in developing approximately 700 megawatts of clean energy here in the state

Longroad is supportive of aspects of L D 1881, but also has concerns about certain provisions

Section 2 of L D 1881 would create an option for an in-lieu fee payment to offset impacts to wildlife and fisheries habitat that are regulated under the Site Law Longroad supports this proposal and believe it represents a win-win for the environment and the regulated community Currently, if a project requires off-site preservation or habitat improvement to mitigate for project impacts, the developer must find and secure land that satisfies a range of

ecological criteria established ad hoc by the review agencies during the review process. There are no established criteria for, or is no coordinated process among, developers to ensure conservation of priority lands that contribute to well-connected and important habitats. Instead, every developer engages in one-off mitigation that may, but does not necessarily, fit within broader statewide conservation priorities. Moreover, once conservation requirements are identified, typically late in permit review, it can be challenging for developers to find available and suitable land for conservation without causing a delay in schedule.

Allowing payment of a fee to a program administered by the State not only would provide flexibility to applicants, but ensure that mitigation funds, which are significant in amount, would be put to their highest and best public use. The State is uniquely positioned to identify and acquire high priority conservation land and can do so as part of a broader set of goals. Longroad believes that this would lead to better overall public conservation outcomes. The State's experience with the in-lieu fee program for mitigating wetland impacts provides concrete evidence of the benefit of such a program and the resulting improved conservation outcomes. We believe this could be a similar program that benefits the regulated community and the environment.

Longroad does not believe, however, that the option to pay a fee for mitigation should be limited to solar and wind projects and high-impact transmission lines. Because it benefits developers and leads to better conservation outcomes, it would be appropriate for the option to be available to all projects regulated under the Site Law. Accordingly, we recommend that the limitation be removed, and that the compensation fee program be available for all Site Law projects.

Section 3 would require rulemaking to establish the compensation fee program and to define the wildlife and fisheries habitat that are regulated under 38 M.R.S. § 484-C. Longroad agrees that the proposed rulemaking is necessary and appropriate to eliminate what has been an ad hoc process and provide greater clarity to the regulated community on the types of impacts that require mitigation and the criteria for determining resulting mitigation ratios. The language in Section 3 that would require DEP to include "large undeveloped habitat blocks, important wildlife corridors and other habitat types identified in consultation with the Department of Inland Fisheries and Wildlife," however, is both unnecessary and inappropriate. It would essentially predetermine the outcome of the rulemaking instead of allowing a robust stakeholder process to occur that would then inform the specific types of wildlife and fisheries habitat that should be regulated. We understand that DEP believes those listed habitats are priorities and should be regulated as part of the rulemaking, and thus they almost certainly will be part of the rulemaking. But the key is for it to be considered within the rulemaking and not


required by statute without the benefit of evidence, analysis, broad input, and detailed discussion. To the extent the rulemaking defines habitat and fisheries under the Site Law, it will be of general applicability and therefore it is particularly important not to prejudge what should or should not fall within that definition.

Finally, where, as here, DEP embarks on a significant new regulatory program, Longroad believes that the rulemaking should be major substantive and not routine technical.

In closing, in order to meet the state's energy and beneficial electrification objectives, new renewable energy and transmission projects will be needed. It is important to keep in mind that cost impacts from new mitigation requirements will negatively impact Maine ratepayers.

Thank you for the opportunity to share our views on this bill.

Sincerely,

Handwritten signature of Chad Allen in black ink, appearing as 'Chad Allen'.

Chad Allen
Director, Development
Longroad Energy Holdings, LLC