

## Testimony of Jeff Thaler

### In Support Of

#### **LD 2210, An Act to Clarify Board of Environmental Protection Procedures Regarding Appeals of Licensing or Permitting Decisions of the Commissioner of Environmental Protection**

**February 25, 2026**

Senator Tepler, Representative Doudera, distinguished members of the Joint Standing Committee on Environment and Natural Resources, I am Jeff Thaler from Yarmouth, and an attorney at the law firm of Preti Flaherty. I am not here this morning representing any client. Rather, I am here in general support of LD 2210, but do have a few discrete suggestions for you in order to make it more internally consistent.

I began my environmental legal career as Maine Audubon's sole Staff Attorney in the 1980s, and since then have handled many proceedings at the Maine Board of Environmental Protection (BEP), as well as appeals both to it, and appeals from it to court. I wrote the first and only Handbook on Maine Environmental Law, and have taught the subject at Maine Law School and the University of Maine. I also have been involved in past revisions to the DEP's procedural rules, and currently am on the Maine Supreme Court's Civil Rules Committee where I have been updating the procedures as to appeals of agency and municipal decisions to the Superior Court. Thus, I am here today in my continuing efforts to help improve our environmental laws, processes and procedures.

Here are my suggested edits to LD 2210:

- 1) In Section 4(A), this new sentence is proposed: "The licensee or permittee, if the licensee or permittee is not the appellant, may submit to the board a written response to the merits of the appeal." That is an excellent idea; however, it needs to then be added elsewhere in the LD for consistency reasons.
- 2) Thus, at the top of page 2 of the LD, 2<sup>nd</sup> line, after the clause "any supplemental evidence admitted by the board on appeal" should be inserted "the non-appellant licensee's or permittee's written response to the merits of the appeal".
- 3) Likewise, in Section 4(D) of the LD, in the eighth line or so after "any supplemental evidence admitted by the board on appeal," should again be inserted the phrase "the non-appellant licensee's or permittee's written response to the merits of the appeal".

Thank you for your ongoing efforts and public service, and I would be pleased to answer any questions that you may have.