



Maine Dairy Industry Association

In Opposition to

LD 489 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to a Healthy Environment

March 8, 2021

Senator Brenner, Representative Tucker, and distinguished members of the Environment & Natural Resources Committee:

MDIA represents all of the dairy farm families that are shipping over 70 million gallons of fresh quality milk each year. ME's dairy sector is a critical piece of our economic development network – with over \$570 million annually in economic activity, especially infusing our rural areas, providing thirteen hundred jobs directly on our farms, and a total of almost 4000 jobs statewide as we provide the quality Maine dairy products that feed our people.

Every day our farmers take actions that reflect our responsibility to care for our natural environment as we endeavor to provide food for our neighbors. We are always looking to the future and the hope that subsequent generations will carry on the proud legacy of the agricultural profession. And that is why we oppose the language proposed in LD that seeks to amend the Maine Constitution. Here is an example of some of the questions that have arisen from the proposed language in the bill before you.

- As written, the right includes “preservation of natural, cultural, recreational, scenic, and healthful qualities”. Does this mean that nothing will ever be allowed to change the status of nature anywhere? Does this prevent any man-made structures to be built anywhere that is not currently developed? Or would it extend back further to anything that ever was in an untouched, undeveloped state? The very inclusion of the word “cultural” implies that humans lived and left an impression on the earth. Does that represent a failure to preserve the natural ecology? What about “recreational”? That word is all about human activity, but if culturally humans had hunted game in the Maine woods and impacted the number of animals in the ecosystem, then is this a culturally accepted practice that will be constitutionally protected going forward, whether for food or for recreation? The definition of “scenic” is somewhat subjective. There are not specific quantifiable attributes that define it. How would we proceed if a tree stand grows and blocks the view of the mountains 60 miles away, or of the water 20 yards away? And the “healthful qualities of the environment” are also a subjective perspective (although less so than “scenic”). For those of us with seasonal grass, pollen, or mold allergies, we would argue that the natural outdoors is a less than healthy environment during certain times of the year.
- More troublesome still is the next sentence – “The State may not infringe upon these rights by action or inaction or through the action of others.” This either neuters the ability to of the State to regulate, grants it broad and total power to regulate everything, and prevents any private activity within our borders that has any interaction with air, water, or land. (Please see concerns over the interpretation of the language in the first bulleted section.)
- The 3rd sentence infringes on personal property rights and their interpretations that appear elsewhere in the Maine Constitution, as well as the US Constitution. In making the State a “trustee of the natural resources, among them its waters, air, flora, fauna, ecosystems”, is the State now assuming an ownership status over all land that shelters animals (including people), grows any plant material – from grass to crops, to forests? I foresee much debate over whether people must continue to pay property taxes, as well as discussions of conflict with private property rights that have a historically and culturally existed in in various forms throughout human history. If this extends to water, then we are indeed unravelling centuries of riparian private rights that are critically important to agricultural production and our history of smaller, family owned and operated farms. If you are in doubt that this is a concern, please look to the southwestern United States, where water has become a resource almost wholly managed by government, which has resulted in a drastic decline in small farm operations, in favor of larger corporate-styled agricultural production facilities that can afford to pay the exorbitant fees associated with access to and use of water resources. Maine's agricultural landscape looks radically different from that because we have a history (and a culture) of working together to manage water resources for mutual benefits and longevity.
- While these examples may appear to be nitpicking and maybe even going to an extreme, should language with so much ambiguity be enshrined within our Constitution? Should we undermine symbiotic relationships and the delicate balance between private and public ownership?

- Today, we are the beneficiaries of a much better understanding of how human actions can impact our natural resources. Previous generations of Mainers followed the practices of the day, which have evolved and been fine tuned to be less invasive and capable of achieving long-term sustainability of our resources. These are good advances and as science and understanding continues to progress, we will be able to react and modify practices in a way that allows for a peaceful and smooth transition of practices, rather than the extreme actions that may result from this constitutional amendment.
- The proponents of this amendment are well-meant in their effort to raise awareness of the need to be stewards of the natural resources in our state and beyond. They are the voices that spur advances in management practices and encourage scientific discovery. But the use of the State Constitution to try reach their goals with a single swift action is like using a cannon to swat a fly. It is an over-reach that could negate any potential gain with an untold number of unintended consequences.

Thank you for your time today and I would be glad to provide additional information or answer any questions.

Julie-Marie R. Bickford
Executive Director
Maine Dairy Industry Association