

Good morning. My name is Anthony Moffa, and I am a Professor of Environmental Law at the University of Maine School of Law. I am here today in my professional capacity to offer my expertise to the committee in interpreting and crafting the language of this bill and its underlying constitutional amendment. I am also here to testify in my personal capacity in support of the legislation and the amendment in principle.

First, as to my expertise – to the extent the committee will be holding further working group sessions on the language of this proposed amendment, I would be glad to provide my analysis based upon my research and experience in environmental law. The constitutions of six other states protect environmental rights: Hawaii, Illinois, Massachusetts, Montana, Pennsylvania, and Rhode Island. New York State is actively considering a similar amendment now. I will briefly share my reading of the proposed text in light of these similar provisions now, but let me stress that a more in-depth analysis may be warranted. The first sentence makes clear that the citizens of the state have a constitutional right to a clean environment, and the second sentence makes that right operable as against the government, should it fail to adequately protect it. The third sentence establishes that the government holds natural resources in trust for the benefit of the citizens of the state. The fourth sentence makes clear that the beneficiaries of that trust relationship should all be treated equally – including as between current and future generations of beneficiaries. The final sentence, while not necessary, makes clear that this right is on equal footing with other rights enumerated in the Maine Constitution.

Turning now to my personal opinion. I support this bill and the underlying amendment because it attempts to confront the core policy challenge of environmental law as it relates to common resources – the collective action problem. In particular, the incentives for any particular government to address environmental harm in any given session are frequently misaligned. This is largely due to timescale. The effects of environmental degradation are often felt by future generations of humans, where the perceived economic cost of addressing those harms are felt in the present. Put another way, we have an intergenerational collective action problem. The amendment's text would allow citizens to hold the government accountable for inequitable, inefficient, and harmful myopic decisions.

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