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## MOFGA Testimony In Support Of

### *LD 2066 - An Act to Clarify Liability Under the Uncontrolled Hazardous Substance Site Law and to Waive a Fee Regarding Voluntary Response Action Plans*

January 4, 2024

Dear Senator Brenner, Representative Gramlich and members of the Joint Standing Committee on Environment and Natural Resources,

On behalf of the Maine Organic Farmers and Gardeners Association (MOFGA) I am submitting comments in support of LD 2066 - *An Act to Clarify Liability Under the Uncontrolled Hazardous Substance Site Law and to Waive a Fee Regarding Voluntary Response Action Plans*. A broad-based community, MOFGA is creating a food system that is healthy and fair for all of us. Through education, training and advocacy, we are helping farmers thrive, making more local, organic food available and building sustainable communities. MOFGA certifies 535 organic farms and processing operations representing roughly \$90 million in sales and we are working hard to create opportunities for Maine's next generation of farmers. Each of these farmers is a Maine businessperson for whom economic health and environmental health are interdependent.

We appreciate that Representative Fay has introduced LD 2006 because it would protect farmers from liability for PFAS contamination of agricultural lands under Maine's Uncontrolled Hazardous Substance Site Law. The current law requires remediation of hazardous spills with a shared responsibility among past and current landowners. LD 2006 would provide a limited exemption from liability for contamination by per- and polyfluoroalkyl substances (PFAS) if the contamination were caused by Department of Environmental Protection (DEP)-licensed land application of sludge or sludge-derived products. The bill also would waive fees for farmers seeking assistance from DEP in developing an action plan to deal with the PFAS contamination. Absent the important clarifications of LD 2006, owners of PFAS contaminated farmland could be stuck with the cost of cleaning up State-sanctioned harm that started more than 30 years ago. For decades Maine State officials encouraged farmers to apply sludge to their land as a safe method of boosting soil fertility and helping municipalities deal with waste that they could no longer dump in water bodies. Farmers who agreed to apply the sludge had no understanding of the risk they were taking. Now they face a crisis through no fault of their own and they should not bear the burden of funding remediation efforts.

Since the 1940s, PFAS have been used in industrial processing and consumer products manufacturing as protectants from high heat, and repellants of grease and water. Also known as forever chemicals because of their persistence in the environment, PFAS build up in our bodies and pose serious threats to human health including increased cholesterol levels, decreased thyroid function, low birth weight and infant development, decreased liver function, decreased response of the immune system, and increased risk of prostate, kidney, and testicular cancers. Nearly all humans have PFAS in their bodies.



Maine's Department of Agriculture, Conservation and Forestry (DACF) and DEP have identified at least 60 farms of primary concern because of the amount of sludge applied and/or the proximity to residential properties. Several of these farms are MOFGA-certified organic. In a collaborative effort with Maine Farmland Trust (MFT) and DACF, MOFGA has been administering a PFAS emergency fund to help all affected farmers understand the extent of the PFAS contamination of their water, soil, crops and livestock, and to support them in efforts to regroup, implement mitigation procedures, secure income replacement, and get medical testing and emotional support. The Fund is comprised of donations primarily solicited by The Lost Kitchen restaurant in the village of Freedom. To date, MOFGA and MFT have dispersed \$1.2 million to farms for income replacement, testing, infrastructure and wellness expenses. DACF is reimbursing the revolving fund. Thanks to early action, most farms have successfully pivoted their operations and are in business again.

MOFGA appreciates the enormous efforts made so far to address PFAS contamination on Maine farmland. This Committee, the entire Legislature, Governor Mills' administration, the University of Maine, agricultural and environmental organizations, public citizens and, most importantly, Maine farmers have worked tirelessly to tackle this problem and create systems for other states and our federal government to emulate. LD 2006 is another critical piece of the puzzle to protect our food and agriculture system.

As Maine's DACF, DEP, and Department of Health and Human Services continue their work to mitigate PFAS contamination in Maine, we need to ensure that Maine farmers feel supported and confident that the State will take responsibility for past harms inflicted on the agricultural landscape. Ultimately, the manufacturers of PFAS chemicals must take responsibility for the contamination but farmers need help and reassurance now and LD 2006 provides an essential clarification that farmers are not to blame for the PFAS crisis.

Thank you very much for your consideration of this important legislation.

Respectfully,

Heather Spalding  
Deputy Director and Senior Policy Director

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*The Maine Organic Farmers and Gardeners Association (MOFGA) started in 1971 and is the oldest and largest state organic organization in the country. We're a broad-based community that educates about and advocates for organic agriculture, illuminating its interdependence with a healthy environment, local food production, and thriving communities. We have 15,000 members, we certify more than 500 organic farms and processing facilities representing \$90 million in sales, and we are working hard to provide training and create opportunities for Maine's next generation of farmers. Each of these farmers is a Maine businessperson for whom economic health and environmental health are interdependent. While MOFGA envisions a future of healthy ecosystems, communities, people and economies sustained by the practices of organic agriculture, we attribute our success to collaboration and outreach to growers across the management spectrum.*