



Committee on Environment & Natural Resources
% Legislative Information Office
100 State House Station
Augusta, ME 04333

January 10, 2023

RE: LD 2030, An Act to Exempt Certain Emergency Activities and Structure Elevation Increases in Flood Zones from Permit Requirements Under the Natural Resources Protection Act

Dear Sen. Brenner, Rep. Gramlich, and Members of the ENR Committee:

My name is Francesca “Ches” Gundrum and I am Maine Audubon’s Policy Advocate. Maine Audubon is a wildlife conservation non-profit – we fulfill our mission to “conserve Maine’s wildlife and wildlife habitat” by engaging people of all ages in nature through a science-based approach to education, conservation, and advocacy. On behalf of Maine Audubon and our 30,000 members, supporters, and volunteers, thank you for the opportunity to submit testimony neither for nor against LD 2030, *An Act to Exempt Certain Emergency Activities and Structure Elevation Increases in Flood Zones from Permit Requirements Under the Natural Resources Protection Act*.

The Natural Resources Protection Act (NRPA) is one of Maine’s most important environmental protection laws and changes to this statute – *big or small* – must be considered thoroughly. From education to conservation, Maine Audubon works to conserve the diverse natural resources of state significance that NRPA was created to help protect. We understand that this legislation will help address some novel and pressing challenges with the Department of Environmental Protection’s (DEP) authority over administering NRPA.

LD 2030 adds three exemptions to the permit requirements detailed under NRPA. This legislation exempts: 1) one-time increases in the height of existing piers over coastal wetlands, 2) elevating or replacing existing building foundations in areas of special flood hazard, and 3) emergency activities to alleviate flood events. Maine Audubon would like to offer some suggestions around the last exemption related to addressing flood-related challenges listed here.

As the climate warms, Maine will continue to endure drastic shifts in temperature, intense drought periods, severe fires, sea level rise, biodiversity decline, catastrophic flooding and storms, and more. All of these consequences of climate change impact human and wildlife communities. Recent and extreme flooding events over the past year are dangerous and perfect examples of the changes we face. Ensuring that Mainers can protect themselves, their families, homes, and communities from the

impacts of heavy, long rains is, of course, essential. The changes suggested in this legislation will help reduce barriers for local governments and the state to take action to alleviate immediate threats from flooding in times of emergency. We, of course, are supportive of opportunities to address public safety as we navigate what will surely be more frequent flooding challenges ahead. However, these adjustments to NRPA have raised a handful of questions regarding how we adjust this law so that our communities can be responsive to immediate public safety threats *and* ensure that the protection of Maine’s natural resources under this law remains strong. We suggest that DEP develop some sort of notification protocol for when the “emergency flood alleviation” exemption has been used so that the agency can track and monitor ongoing situations as needed.

Additionally, defining what constitutes an “emergency” to make sure the exemption is utilized properly should be considered here – referencing existing definitions, for example, could be a way to address this. We suggest researching statutory language beyond Maine for guidance, as several other states have addressed this issue before. Massachusetts’s “Emergencies” section under their Endangered Species Act ([321 CMR 10.15](#)) is one example that addresses the notification and tracking components raised above; it also includes a post-emergency reporting process to help ensure assessments of whether or not further restoration and mitigation efforts need to be performed in order to restore the impacted areas are communicated to DEP and vice versa. Big picture, it is important to develop systems within the agency that will help safeguard protected natural resources without hampering emergency-related response efforts.

We hope you take our questions and suggestions into consideration as this bill evolves. We welcome opportunities to help serve this committee in future discussions. Thank you for your consideration.

Sincerely,



Francesca “Ches” Gundrum | Policy Advocate