



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

March 10, 2024

**RE: LD 2253, An Act to Authorize a Stop-work Order Regarding an Activity That Is Creating a Substantial Adverse Impact to a Protected Natural Resource**

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

My name is Francesca 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 in favor of LD 2253, *An Act to Authorize a Stop-work Order Regarding an Activity That Is Creating a Substantial Adverse Impact to a Protected Natural Resource*.

LD 2253 authorizes the Department of Environmental Protection (DEP) to issue a stop-work order whenever DEP finds that an activity is being performed in a manner that violates state environmental protection laws or rules or the terms or conditions of a license or permit issued by the department and that the activity is creating a substantial adverse impact to a protected natural resource. “Protected natural resources” include coastal sand dune systems, coastal wetlands, significant wildlife habitat, fragile mountain areas, and freshwater wetlands, amongst others.

Giving DEP stop-work authority when a violation substantially adversely impacts a protected natural resource is a tool that we believe this agency should have and, frankly, it is surprising they do not already have this authority and is long overdue. This is a good common sense initiative – and the details matter. Maine Audubon offers several suggestions for this Committee to consider as you deliberate on this bill moving forward.

We ask the DEP and this Committee to consider both the temporal structure of the stop-work order and the penalty scale. As written, the duration of the stop-work order may not exceed 2 weeks from the date of its issuance. It may be prudent to either extend this initial stop-work period and/or include language that explicitly says that the activity may not continue until DEP has conducted whatever assessments are required for them to lift a stop-work order – along this same thread, it is important to

make sure that the stop-work order is not interrupted if the permittee chooses to appeal the order. This could offer the agency the flexibility it needs if they are, for example, unable to conduct the assessments required to lift the stop-work period within said period.

Additionally, we ask this Committee to consider the penalties associated with this new initiative. As written, a person who violates a stop-work order is subject to a civil penalty of up to \$5,000 per day, per violation of the stop-work order. It is our understanding that adjusting the daily penalty to up to \$10,000 per day would be consistent with the DEP's current penalty structure. For reference, when a Land Use Planning Commission (LUPC) permit is violated, the penalties are also up to \$10,000 per day.

Finally, we suggest that this Committee grant the same authority to the LUPC – the zoning and planning authority for nearly half of Maine – as they face similar challenges of addressing permit violators and it would be helpful to have consistency between the two agencies.

The Natural Resources Protection Act (NRPA) is one of Maine's most important environmental protection laws. This initiative will better allow the DEP (*and hopefully the LUPC as well!*) to do their best NRPA work. We thank DEP leadership and staff for their commitment to the protection and enhancement of our environment. We hope you join us in supporting LD 2253 and take our suggestions into consideration in upcoming Work Sessions.

Sincerely,

A handwritten signature in black ink, appearing to read "Francesca Gundrum". The signature is written in a cursive, flowing style.

Francesca "Ches" Gundrum  
Policy Advocate