



Committee on Inland Fisheries and Wildlife
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

May 10, 2021

**RE: LD 883, An Act To Protect Endangered Species Whose Life Cycles Include
Maine Land or Waters**

Dear Senator Dill, Representative Landry, and Members of the Committee:

Thank you for the opportunity to submit testimony in support of LD 883, An Act To Protect Endangered Species Whose Life Cycles Include Maine Land or Waters, on behalf of Maine Audubon and our 30,000 members and supporters.

Maine Audubon supports this legislation because we believe it would increase coordination between state and federal wildlife agencies on the protection and recovery of threatened and endangered species, would create more opportunities for species protection, and would increase the role that Maine plays to expand and recover species throughout their range.

LD 883 would require the Commissioner of Marine Resources and the Commissioner of Inland Fisheries and Wildlife to recommend to be listed as endangered or threatened under the Maine Endangered Species Act (MESA) any species that is federally listed as endangered or threatened under the United States Endangered Species Act (ESA), if that species uses land or waters in Maine for any part of its life cycle. Under MESA, the Maine Legislature has the ultimate authority to list species as endangered or threatened.

Maine Audubon has seen firsthand the benefits to a species that is listed under both MESA and ESA. The Piping Plover, a small shorebird found on sandy beaches and dunes in southern Maine, is listed as ‘endangered’ under MESA and ‘threatened’ under the ESA. We work collaboratively with the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the U.S. Fish and Wildlife Service (USFWS, the federal agency that administers the ESA) to protect these species. Listing at both the state and federal levels ensures that the USFWS and MDIFW coordinate on research, monitoring, and management; developing and supporting municipal beach management agreements; law enforcement issues; and permitting issues. Having the USFWS on “the team” also results in a holistic approach to species management and recovery that benefits from sharing data collection systems and recovery strategies among multiple states across the birds’ range.

One of the biggest advantages to listing federally protected species under MESA would be the ability to designate ‘essential habitat’. Habitat loss and modification are significant threats to the majority of endangered and threatened species. The MESA may designate areas of ‘essential habitat’ for species under its purview. ‘Essential habitats’ are areas that currently or historically provide physical or biological features essential to the conservation of a species and which may require special management considerations.

The analogous designation under the ESA is ‘critical habitat’. In the case of the Piping Plover, the USFWS has not designated ‘critical habitat’ for this species in Maine, however, MDIFW has designated ‘essential habitat’ for the species. In other words, MDIFW has filled a meaningful hole left by the USFWS in the protection efforts for this vulnerable species. In the case of the Piping Plover, because the state has designated ‘essential habitat’ the USFWS has elected to not designate ‘critical habitat’, instead deferring to the on-the-ground expertise of MDIFW. LD 883 would result in more opportunities for Maine agencies to fill gaps left by federal agencies, as well as utilize their on-the-ground expertise to designate important habitat areas.

Once an area is designated essential habitat, MESA requires that no state agency or municipal government shall permit, license, fund, or carry out projects that would significantly alter the habitat or violate protection guidelines adopted for the habitat. In Maine Audubon’s experience, this has never stopped a project. Instead, it has led to collaborative work to mitigate potential impacts to the species. This can often be accomplished by simply restricting dates when the work can occur – for example, not dumping sand from a new dredge on a beach during nesting season.

Maine Audubon recognizes that one of the flaws of this legislation is that it could result in the listing of species that are not in danger of extirpation from Maine; currently, MESA only encompasses species in danger of extirpation from Maine. One federally listed species, Canada Lynx, has relatively healthy population in Maine according to MDIFW, but is the only resident breeding population in the entire eastern United States. Thus, Maine can play a positive and proactive role in helping the species recover not only in Maine, but throughout its former range by providing a source population that can disperse into other regions. However, this is less likely to happen if Maine believes we “have enough”. After all, wildlife does not respect state boundaries. When it comes to endangered and threatened species, Maine Audubon recommends taking a holistic, landscape-scale approach to recovery.

Additionally, though a species may enjoy a healthy population in Maine based only on state population criteria, Maine may have characteristics that lend itself to playing a unique and outsized role in nationwide species recovery. The Atlantic Salmon is an excellent example. Years of overfishing, pollution, habitat destruction, and the damming of rivers led to dramatic declines in Atlantic Salmon populations across the northeastern U.S. Once found in all major rivers north and east of New York’s Hudson River, the last remaining wild populations of Atlantic Salmon in the U.S. are only found in Maine. The Atlantic Salmon is a federally listed endangered species, but it not listed under MESA.

If Atlantic salmon were listed under MESA, MDIFW could work closely with the Department of Marine Resources to designate ‘essential habitat’ for the species, which would be a significant contribution to other efforts to recover the species. Maine has as many intact, cold water

subwatersheds as all other states in the east combined, though Atlantic salmon occur in small numbers in only 16 Maine rivers. In other words, Maine has amongst the best and last remaining habitat for this imperiled species. Why not increase the number of tools that Maine agencies can use to protect this iconic species?

Thank you for the opportunity to submit testimony in support of LD 883.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Lund". The signature is fluid and cursive, with the first name "Nick" and last name "Lund" clearly distinguishable.

Nick Lund
Outreach and Network Manager
Maine Audubon