

I write in opposition to LD 1146.

Mike Gaffney here. Along with my family, I own a 4-acre oyster farm (Eros Oyster) in Georgetown.

We like the part of this bill that asks for more staff for DMR, but all other provisions seem to be designed to hurt rather than help aquaculture in Maine.

1. It wants to remove caps on application fees and lease rents and make it more difficult to obtain leases in excess of 5 acres.

There are six small farms in Georgetown that wouldn't be there if each farmer had to individually come up with the current \$1500 application fee and \$5000 for escrow. They formed a Coop to share that expense and now share a 20-acre lease. This bill would not only bump up that fee, but also make it harder to get or renew a lease that size.

2. By revoking the aquaculture exemption to Title 38, Chapter 3, the Natural Resources Protection Act, and site development laws, it will allow opponents of projects to require visual impact and alternative site studies.

There are two groups which are most concerned about lease siting. Lobstermen who don't want to be pushed out of waters where they make their living, and waterfront owners who feel their view is spoiled by visual evidence of a working waterfront.

There's actually not a lot of conflict between lobstermen and farmers because the waters they prefer are generally not the same. And when there is an overlap -- when a lease applicant is looking for a site where significant fishing is taking place -- DMR will not approve the lease. When lobsterman/farmer conflict arises, existing fishing use wins out over proposed future farming use -- and that's as it should be.

Different story with waterfront owners. DMR currently does not disapprove a lease application simply because somebody complains that the gear would offend their eye. When this sort of conflict arises, the development of working waterfront wins out over waterfront owner aesthetic sensibilities. Clearly, that was the intent of the legislative architects of our current leasing law. This bill proposes to change that, and the consequence would likely be a dramatic slowing of the growth of aquaculture, and perhaps even shrinkage of the sector.

As evidence that aquaculture lease approvals are too readily given, proponents of this bill point out that 96% (or some equally high number) of lease applications are approved. But this statistic doesn't mean DMR is being too easy; it reflects how straightforward the current law is in warning applicants of the numerous hurdles they

must address in order to be successful. Currently, an applicant knows upfront that to be awarded a lease, their proposed site can't interfere with existing fisheries, can't interfere with navigation channels, can't restrict a waterfront owner's access to their property from the water, can't be placed over eelgrass, can't obstruct access to moorings, etc. So, before they make the decision to send off their \$1500 application fee and devote as much as a year's time going through various inspections and public hearings, they can pretty well gauge whether or not their application will succeed. And that's not a bad thing. But this bill would revoke the exemption that currently assures applicants that they won't be blocked by somebody who simply doesn't like the way they look. Say goodbye to predictability.

On a related note, alternative siting sounds like a reasonable compromise to those unfamiliar with aquaculture. But it is unrealistic when you understand that growers spend a great deal of time prospecting and researching sites for the best mix of temperature, salinity, nutrients, and turbidity that will produce healthy and great tasting product. Telling a shellfish farmer where to site his lease would be like telling a miner where to pan for gold, or wildcatter where to drill for oil – or telling a lobsterman where to put his traps. Especially for aquaculture, all water is not created equal.

That's why when you go into Harbor Fish in Portland you will see a single sign for "lobster" on the tank where all the lobsters reside together, no matter who caught them. And in the display case, you'll see all the haddock fillets caught by many fishermen spread out under a single tag, "haddock".

But not farmed oysters. You'll find them not in a single bin, but in 20 different bins each carrying the brand of the farm where they were produced, the waters where they were grown, and a description of the flavor note differences between the brands. In this respect oyster growing and marketing is akin to wine production.

For shellfish growers (the largest sector of Maine aquaculture) the success of a farm hinges first upon the grower's ability to find a unique piece of water that will produce a winning product. An alternate site arrangement as suggested by this bill, which directs a grower where to place his/her lease would not work.

And once the grower has acquired a lease that allows the production of a great oyster, he/she needs to spend a great deal of energy, time, and money marketing their brand. To do that, a farmer needs assurance that the value they create with their brand will not be lost to them at the end of the lease. The provisions of this bill give no assurance that even if a farmer remains a good steward of that water, their lease will be renewable or transferable to their children or a buyer. To the contrary, this bill creates doubt.

In summary, the architects of aquaculture policy in Maine designed legislation that has worked very well. They anticipated where conflict would occur, and promoted expansion of Maine's working waterfront by 1) placing provisions in the law to protect existing fisheries from

encroachment by new farmers, and 2) by protecting the new farmers from being blocked by NIMBY waterfront property owners. And it works! The system is attracting entrepreneurs, capital, and labor – and customers throughout the country. In fact, it is working so well that more DMR staff are needed to keep up with the demand for lease application processing. That's the only part that needs fixing.

This appears to be a terrible bill for the aquaculture sector, masquerading as one that promotes the health of aquaculture.

Looks to me like a wolf in conceptual clothing.