THE MAINE AQUACULTURE ASSOCIATION

SUSTAINABLE SOLUTIONS FOR MAINES GROWING FUTURE

BOX 148, HALLOWELL, ME. USA 04347

April 13, 2021

The Honorable David Miramant, Senate Chair
The Honorable Jay McCreight, House Chair
Joint Standing Committee on Marine Resources
Cross Building, Room 206
Augusta, ME. 04333

Senator Miramant, Representative McCreight, Honorable Members of the Joint Standing Committee on Marine Resources:

Thank you for providing me the opportunity to speak with you this morning. My name is Sebastian Belle and I am the executive director of the Maine Aquaculture Association (MAA). The MAA represents the states aquatic farmers and the many infrastructure companies that provide goods and services to our producers. In the year 2020 our members, many of who are your constituents, grew products worth over 100 million dollars at the farm gate and employed over 700 Maine citizens.

I stand before you today (virtually) to testify in strong opposition to LD1146, “An Act to Protect Maines Ocean Waters and Support Regulatory Oversight and the Long-Term Health of the Aquaculture Industry”. I can say categorically, in twenty plus years of representing the aquaculture sector LD 1146 is one of the most serious threats I have ever seen to the sector. As you know LD 1146 is a concept draft and as such it is very difficult to understand its true intent or even how it would achieve those intentions. Broadly speaking it appears to raise issues that a group organized by Ms. Crystal Canney has been paid to advocate for. I want to start by stating that I believe Representative Alley has the best of intentions and that he sincerely cares about the future of Maines coastal communities and working waterfronts. None of my comments today are intended in any way to question that sincerity or his dedication to Maine’s coastal communities and the men and women who go down to sea to make a living every day. I sincerely believe that Representative Alley and some in the lobstering community have been misled and, in some cases, intentionally misinformed to gather their support for this bill.

LD 1146 raises a series of issues all of which are complicated and have a lot of history behind them. I apologize for the length of my testimony but I ask you as committee members to read it carefully and understand that you have the value of peoples businesses and the future of many young people in your hands as you consider this bill. Your vote will shape the choices and options that Maines coastal communities have to face the many challenges they face now and in the

future. Your vote will either help these communities hang on to tools that will allow them to successfully meet those challenges or take those tools away. Why take a tool away that will allow our young working waterfront people to compete and hang on to their families maritime heritage? Why take a tool away that will help preserve working waterfronts in the face of the rapid gentrification that is occurring in Maines coastal communities?

The existing leasing and environmental monitoring system is NOT broken and does not need “improvement”, it works. The existing system is the product of over 40 years of legislative and public discussion. It has been repeatedly improved and refined. Maine is seen as the gold standard in aquaculture management systems and has been copied by other states and jurisdictions around the world. DMR does need more staff and resources. The Bills supporters have NEVER advocated for those but the MAA has repeatedly, in front of Governors and the legislature. In addition, the aquaculture sector has repeatedly agreed to increases in fees and rents to the point where we pay more for our access to a public resource than any other marine resource user. LD 1146 appears to suggest that those rents and fees should be increased yet again. Those increases would be a barrier to entry for new and small growers. Exactly the type of grower that MAA and a number of other institutions such as the Island Institute, Coastal Enterprise Institute, Maine SeaGrant, Down East Institute and the Gulf of Maine Research Institute have been working hard to train to ensure there is another generation of young folks working on Maines working waterfronts.

The Bill appears intended to force a lease holder to go all the way back through a new application and hearing process to either renew or transfer a lease. Current law requires DMR and DEP to ensure that any renewal or transfer complies with the original criteria under which the lease or permit was granted and that such transfer or renewal does not violate the original conditions placed on the lease or permit or result in speculation. Lease renewal and transferability are critical components of the existing law. Without those characteristics the value of an aquaculture business would be severely reduced preventing growers from getting loans for operating expenses or growth of their business. Going back to the beginning of the leasing process will cost the state hundreds of thousands of dollars and clog the leasing system with unnecessary procedures that will slow down the processing of everyone’s lease applications irrespective of whether they are big or small. The intent of the legislation appears to be to devalue aquaculture companies and slow down or stop entirely growth in the aquaculture sector.

LD 1146 revokes an exemption that aquaculture has to Title 38. Currently aquaculture is exempt from conducting a NRPA review (article 6) and site development regulations (article 5). Aquaculture’s exemption is not unique. Many other activities have similar exemptions because there are other laws and regulations in place that achieve equivalent levels of environmental protection to

Title 38. This is true for aquaculture as well. Title 38 is designed to deal with land development and also to protect inland waters and marine salt marshes and estuaries, significant wildlife habitat, and coastal wetlands and sand dunes. The exemption for aquaculture was originally granted because DMR had a monitoring and leasing program that was more suited to and effective for managing subtidal marine ecosystems and uses. The exemption was part of the deal cut between DMR and DEP over who regulated what and the development of Maines so-called "one stop" aquaculture leasing system. It is important to note that another exemption to NRPA requirements for finfish aquaculture was voided when Maine became a delegated state under the Clean Water Act. When that happened all finfish operations had to apply for NPDES permits under the state Department of Environmental Protection. The monitoring requirements under the NPDES permits are actually stricter than those that were required by DMR. The revocation proposed in LD 1146 would do nothing to increase environmental monitoring around finfish operations it would ONLY ADD requirements for Viewscape Impact and Alternative Site studies.

LD 1146 is a “back door” way to get esthetic, Viewscape criteria into the aquaculture leasing process and add a requirement for applicants to examine alternative sites. Visual impact and alternative site studies are expensive. Ironically in order to justify the expense of going through these additional and expensive permitting processes, lease applications will have to get BIGGER and more intensive. Additionally, because the DMR leasing system works on a first come first serve basis the addition of these two additional processes will mean that the system will grind to a halt. Even though lease applications smaller than 5 acres will not be required to go through the additional two processes they will have to wait for applications in front of them in the que to complete those studies. Take the current 2-3-year time period for a lease application to be processed and add on another 2-3 years at best and if it is a contentious application think more like 4+ years. The revocation of the NRPA and site law exemptions will undo the one stop shopping lease application system, add no additional environmental protection and take Maine back to the 70’s.

LD 1146 moves to substantially reduce the maximum size of an individual lease and the total number of acres an individual can lease. One of the strengths of the Maine aquaculture sector is its diversity. We have small, medium and larger companies. That diversity has helped us survive through the COVID challenge. Larger companies have helped smaller companies with infrastructure and distribution support and by getting into retail markets they would normally have been too small to serve. Reducing the size limit of aquaculture leases in Maine will have a devastating impact on many family-run aquaculture businesses that are working to scale to a sustainable size, provide jobs for local people, build long term livelihoods on the coast.

The original individual lease size cap was chosen by the legislature to allow for the efficient operation of mussel bottom operations. It is also important for any

aquaculture operation (shellfish, finfish or seaweed) in deep water to allow for appropriate anchor scopes. A 50 acre cap will prevent farms from having adequate scope on their anchors in deeper waters leading to an increased risk of storm damage and gear break away. The 100 acre cap was also chosen to give aquaculture operations enough capacity to produce enough product to be efficient and not spread out all over a bay or through multiple areas. A cap of 50 acres will cause aquaculture operations to spread out through a bay, cause more conflicts with other users and force inefficiencies on operators.

Currently the cap on total acreage held by one person or business is 500 acres, NOT 1000 acres as the anti-aquaculture campaign has been falsely telling fisherman and small farmers. There is a provision that allows a farm to apply for an exemption to the cap and to lease up to 1000 acres IF and only IF that farm files a fallowing and site rotation plan. In order to grant such an exemption, the DMR staff review that plan and must find it is in the best interest of the state and the marine environment. In addition, all other environmental and navigational permits have to be attained in order to lease those additional acres.

No entity in Maine has ever leased more than 650 acres. Even then, only 390 acres were active on that farm on any given year. The remaining 260 acres were fallowed and inactive. Fallowing, and site rotation methods for aquatic farms were pioneered right here in Maine. These methods were originally based on organic farming techniques designed to reduce environmental impacts and reduce the risks of disease. Much the same way an organic land farmer uses fallowing and crop rotation to reduce the risks without the use of chemicals, aquatic farmers can do the same. The Maine methods were developed in cooperation with recommendations from environmental groups on the development of Best Management Practices. The site rotation and fallowing methods developed here in Maine have since been widely adopted in other countries and by all the major Seafood Sustainability Certification Programs. To lower the total acreage cap would result in much more intensive operations and risk greater environmental impact. Equally importantly to lower the total acreage cap to 100 acres will make our current salmon farming sector illegal, and put hundreds of people out of work in Washington, Franklin, Somerset and Hancock counties.

LD 1146 tasks DMR to hold yet another round of stakeholder meetings to determine a "statewide plan" for aquaculture. Maine has conducted 23 aquaculture studies over the last 35 years, 13 of which have focused on policy issues around aquaculture development and the leasing system. Maine Seagrant is currently conducting another statewide stakeholder study. The results of that study will be released later this summer. It is unlikely that another task force created under LD 1146 will develop any new policies or proposed regulations that have not already been thoroughly discussed in Maine. Many of the prior studies came out of opponents to a particular lease application wanting to either

delay the application or change the leasing criteria to ensure the application was denied. LD 1146 is yet another example of this.

Finally, LD 1146 attempts to garner grower support for a statewide “plan” by dangling the idea of areas with “expedited permitting”. The Bills authors know full well that substantial changes to existing state AND federal law would have to occur for this to happen. In the meantime, the State would have to spend thousands of dollars and hours of staff time to examine the concept and make the necessary changes to programs and laws. All of that will prevent staff from processing lease applications and managing the sector. LD1146 is an end run round the existing leasing process and will divert DMR staff time and resources away from processing lease applications and managing the aquaculture sector. It is intended to delay lease applications for ALL applicants “big” and small, slow growth in the sector and raise the barrier to entry for all applicants.

Finally, I want to take this opportunity to once again thank the Department staff and the Commissioner for their hard work and efforts to ensure Maines aquaculture sector is rigorously managed, able to continue producing some of the world’s best seafood and build Maines Brand. I also want to think the committee for your patience and willing ness to listen closely to the men an d women who rely on this sector to help their families make a living and preserve maines endangered working waterfronts. Please vote Ought NOT to Pass on LD 1146. Thank you for your attention. I would be glad to answer any questions you have.

Respectfully,

Sebastian Belle
Executive Director
Maine Aquaculture Association