



# BAGADUCE RIVER MONITOR

## BROOKSVILLE PENOBSCOT SEDGWICK CASTINE

### TESTIMONY IN OPPOSITION TO LD 2003 AN ACT TO PROTECT ACCESS TO MAINE'S INTERTIDAL ZONE

Greetings Senator Reny, Representative Hepler, and Honorable members of the Joint Standing Committee on Marine Resources.

I write today to voice my opposition to LD 2003. It appears that this bill attempts to settle two separate issues at once. Unlimited access to the intertidal zone and the harvesting of seaweed within the intertidal zone.

#### **ENVIRONMENTAL CONCERNS:**

Rockweed provides the following ecological services:

- Absorbs carbon dioxide from seawater
- Produces oxygen through the photosynthesis process
- Reduces ocean acidification
- Buffers the effects of wave action on the shoreline that causes erosion and sediment transfer
- These ecological functions are key to combating climate change
- Provides habitat for multiple species – both predator and prey

A two-year study led by UMaine researchers titled Bed-Scale Impact and Recovery of a Commercially Important Intertidal Seaweed by Elliot M. Johnston et.al. found that when rockweed is harvested, it grows back wider – faster than it grows back in height.

After regeneration, the biomass may remain constant but the effect on how the ecosystem functions was not considered.

It is the height of rockweed that allows it to effectively dampen wave action and provide shelter for marine creatures. Due to its proximity to the shoreline, intertidal rockweed is key to combating erosion. Wave action erodes the intertidal flats resulting in “sediment transfer” which negatively affects the shellfish and marine worm fisheries by physically removing the sea floor which changes the chemical and mineral composition of the substrate.

## MANAGEMENT CONCERNS:

- Lack of long-term studies of the effects of rockweed harvesting
- Lack of DMR capacity to regulate a new coast wide fishery
- Lack of a proper stock assessment to base harvest levels on

Regulators are beginning to shift to an *Ecosystem Based Management* model which considers how harvesting one specie affects other species. More studies are needed to fully understand the complete role that rockweed plays within the ecosystem.

For comparison, to open a commercial alewife harvest, DMR requires a minimum of 10 years of specific data be collected to be **considered** for a harvest, including the number of fish passing through the proposed harvest site.

## ECONOMIC CONCERNS:

- Of the 20 most valuable fisheries listed by DMR, rockweed harvesting ranks 18<sup>th</sup>
- DMR data indicates that there were 113 harvesters in 2013  
<https://www.maine.gov/dmr/sites/maine.gov.dmr/files/docs/brochure01-11-13.pdf>
- The Maine Seaweed Council data indicates there were no more than 58 rockweed harvesters each year between 2008 – 2015  
<https://www.seaweedcouncil.org/wp-content/uploads/Seaweed-Species-landings.pdf>

Where is the push by DMR to meet the rockweed demand through aquaculture?

Commercializing an environmentally important natural resource for the benefit of a few people for a few dollars does not make sense to me. This is nothing like the wood products industry which has employed tens of thousands of Mainers for decades.

## EXISTING POLICIES:

The Governor's Office of Policy, Innovation, and the Future (GOPIF) has invested millions of dollars in climate change mitigation policies. One GOPIF program is the Maine Climate Council which contains the Coastal and Marine Working group. This working group is investigating the value of *blue carbon* which refers to how carbon dioxide is absorbed and stored by marine life. This working group has only just begun this investigation and there are many unanswered questions such as how much rockweed is there in the Maine coast? Allowing a commercial harvest of rockweed without a proper stock assessment or fully understanding how rockweed contributes to mitigation of climate change seems counterproductive to the ***Maine Won't Wait Climate Action Plan***.

## ACCESS CONCERNS:

Private ownership of the intertidal zone has been accepted for over 400 years. Title to the intertidal lands in what is now Maine were granted by:

- 1606 by King James of England to the Plymouth Company at Popham Colony
- 1641-1647 Colonial Laws enacted
- 1788 – Massachusetts became a state and adopted Colonial Law
- 1820 – Maine became a state and adopted Massachusetts Law
- 1987 – Maine's Superior Court rules that *The Public Trust in Intertidal Land Act* 12 MSRA 573 was unconstitutional
- 1989 – Maine's Supreme Judicial Court rules that title to the intertidal lands are privately held in *Bell v Town of Wells*

LD 2003 creates a "taking", and without compensation, is unconstitutional according to the 5<sup>th</sup> amendment to the U.S. Constitution. The last line of the amendment states:

***...nor shall private property be taken for public use, without just compensation.***

- What will be the cost of this taking and subsequent lawsuits and how will it be paid for?
- Municipal shorefront taxpayers will demand a tax abatement increasing the tax burden on inland property owners.
- The State assessed values of coastal municipalities will need to be reduced. How will that affect payments from the State to municipalities?

I respectfully request that you vote ought not to pass for LD 2003.

Thank you for taking the time to consider these thoughts and I am happy to answer any questions that you may have.

Respectfully submitted,



Bailey Bowden

Bagaduce River Monitor