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U.S. District Court Middle District of Florida
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Dear Members of the Joint Standing Committee on Criminal Justice and Public Safety:

I submit testimony and supporting evidence in opposition of L.D. 1473. This bill improvidently proposes to exempt all land-based aquaculture facilities from the Maine Uniform Building and Energy codes – placing the workers at these facilities at grave risk. No other industry in this State has been granted such an exemption. Currently, the only buildings that have such an exemption are buildings that house livestock and harvested crops. The workers at land-based aquaculture facilities should not be treated like livestock or harvested crops and deserve to work in a safe and healthy environment. These workers should be granted the protections all other workers in Maine have when they go to work.

This bill – characterized as an “emergency” by the Governor – does not meet the criteria for this designation. It is but one more example of the Mills Administration ignoring, bending and now attempting to exempt the aquaculture industry from environmental and public safety laws. It is unclear what the obsession of this Administration is with regard to bringing foreign corporations to Maine to site such facilities. However, encouraging the expansion of a land-based aquaculture industry in Maine should not and must not come at the expense of our environment or public safety. If these facilities are unable or unwilling to satisfy the requirements of our laws, they should not come to our State. This latest effort to exempt this industry from our uniform building and energy codes – laws enacted to protect the safety of the public and workers -- is simply a bridge too far.

For more than two years I have represented private landowners, lobstermen and the Maine Lobstering Union in opposing the Nordic Aquafarms, Inc. (“NAF”) facility proposed for siting in Belfast and Northport, Maine. During this time, I have witnessed the Mills Administration ignore the impacts of this project on our environment, economy and lobster fishery in Penobscot Bay. Indeed, the Mills Administration has even ignored the fact that NAF seeks permits to use land owned by other private citizens who vehemently object to this misuse of their land – land under the protection of a recorded Conservation Easement created pursuant to 33 M.R.S. § 477-A.

The Mills Administration was advised as early as January 25, 2019 by then DEP Commissioner-nominee Jerry Reid, that NAF had a “*non-trivial title, right or interest problem with its MEPDES permit application*” – a defect which was never cured or resolved yet the DACF-BPL, DEP and BEP have proceeded to approve permits for this project despite the applicant lacking administrative standing. Indeed, the private landowners who actually claim ownership by deeds to this intertidal land have had to file a lawsuit to quiet title to this land to which NAF has no legitimate claim by easement or title, as well as Rule 80C challenges to the DACF and DEP-BEP final agency actions on NAF’s permit applications to protect their land for an unjust regulatory taking – aided and abetted by the Mills Administration. There is a quiet title action and two Rule 80C appeals pending over this project now in Waldo County – all based, in part, on the failure of NAF and the State to

acknowledge that NAF has neither a claim of title or an easement to use the intertidal land NAF proposes to use to site its pipes into Penobscot Bay.

The attached emails to the Governor from Governor Mills's brother Peter Mills and Peter DelGreco of Maine & Co. (a company that is promoting aquaculture companies to come to Maine), dated January 24 and 25, 2019, obtained in February 2021 through a FOIA request filed by Lawrence Reichard in October 2020, demonstrates the inexplicable bias being provided by the Mills Administration to the "burgeoning" land-based aquaculture industry coming to Maine. But at what cost to Maine's environment, economy, lobster fishery and now public and worker safety?

I provide these emails to the Committee to show the lengths to which the Mills Administration, with the urging of the Governor's brother and Maine & Co. have ignored existing legal requirements (here the necessity that an applicant have title, right or interest in all land for which a permit being sought would authorize the applicant to use the property for its private purposes).

The Governor's staff have claimed that L.D. 1473 is not proposed to assist NAF. But it will. More alarmingly, the Governor's staff have advised representatives of the Sierra Club that L.D. 1473 is actually being proposed to help a different land-based aquaculture facility (Whole Oceans) in Bucksport, Maine, along the Penobscot River. The explanation for this bill is that Whole Oceans is "retrofitting" the former Bucksport Paper Mill and is having "challenges" with the sprinkler system so this exemption *for all land-based aquaculture* is allegedly needed to alleviate these "challenges".

Let's all stop and think about that rationale.... In 2014, I represented Bucksport Mill employees represented by the IAMAW (the same union that represents BIW employees) in their effort to keep that Bucksport Paper Mill open. When the former Bucksport Paper Mill was operational it had a functional sprinkler system to protect the hundreds of workers at that facility. Now, when Whole Oceans proposes to operate this same building with 50-100 workers, those workers are not going to have a legal right to work in a safe facility that has a sprinkler system that meets the Maine Uniform Building and Energy codes?! This is an unconscionable proposal, contrary to the public interest, and certainly not a legitimate justification for the proposed exemption of either the Whole Oceans facility and all such land-based aquaculture facilities from the protections afforded the public and workers by the Maine Uniform Building and Energy Codes.

I implore you to vote that L.D. 1473 "*ought not to pass*" in the name of preservation of our environment and the safety of all Mainers who may work at land-based aquaculture facilities in the future.

Respectfully,



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