

From: [Mike Lannan](#)
To: [Hinkel, Bill](#); [Burke, Ruth A](#); [Loyzim, Melanie](#); [Martin, Kevin](#); [Kennedy, Eric](#); [Gilbert, Jane](#); [Muzzey, Lynn](#); [Ostrowski, Kevin](#); [Kavanah, Brian W](#); [Wood, Gregg](#); [Wood, Robert](#); [Hallowell, Dawn](#); [Green, Robert L](#); [Callahan, Beth](#); [Boak, Scott](#); [Bensinger, Peggy](#); [Akrawi, Emma](#); [Joanna B. Tourangeau](#); [k.ervintucker](#); [ipsofmaine](#); [DPerkins](#); [David Losee](#); [president@nvcmaine.org](#); [Charles Tilburg](#); [Carrie Byron](#); [Donald W. Perkins, Jr.](#); [Diane Hunt Braybrook](#); [Lawrence Reichard](#); [Paul Bernacky](#)
Subject: RE: Nordic Aquafarms, Inc. - Court Ordered Remands to BEP
Date: Wednesday, August 9, 2023 6:41:11 PM

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Mr. Hinkel-

As you know, the Northport Village Corporation (NVC) has repeatedly outlined environmental concerns with respect to the potential consumption of natural and manmade resources, or other emerging contaminants of concerns, that were identified by public agencies or Nordic's own information since the Licenses were issued. We have been told that the approach that Nordic and DEP prefer is not to reopen the record to discuss the information gleaned over time and the potential adverse effect it may have on the findings. The attached correspondence does not apply that approach evenly to information learned since permitting, and therefore the NVC objects to the Remand process as proposed by BEP.

If one visualizes all of the material in the record that supports the DEP's findings on the licensing day as a solid and complete rectangle for that day, then by holding the record to only the information known at that time then the rectangle stays intact, and the findings can still be justified as complete over time, even as new information is learned that could poke holes in the current day's rectangle. Whether the current day's rectangle with holes in it could still support the findings today or not, can only be determined if the record was reopened and the applicant was allowed to present new information that would cure or "fill" the holes, and the intervenors were allowed to question them on this information via the same DEP permitting procedures used to establish the first and existing rectangle.

The issue at hand is that it is now known that the original rectangle from the day of licensing clearly had a hole in it the entire time, that very likely cannot be cured via the existing record at the time of licensing. The remand question is therefore simple. Based upon DEP's permitting requirements, and the record on the day of licensing and the rectangle with the current hole in it, can the record support TRI to fill the hole? That is the basic issue that needs to be determined, no more and no less.

Now, DEP can complicate this process by allowing Nordic to change to a different day and a different rectangle, say a rectangle from today, a few months ago, or sometime in the future when Nordic has hypothetically cured all the inconsistencies and discrepancies from the eminent domain effort that is not in the current record. Then the other holes that have been identified in the rectangle at the corresponding time, and with the passage of time, need to be addressed as well. Extending a permit with new TRI information, and without addressing the new fatal flaws identified is setting the NVC up for adverse impact.

What the NVC cannot risk is simply a new rectangle of the day that looks like Swiss cheese with one hole filled for TRI after this process. Whether the rectangle of Swiss cheese with the TRI hole plugged with new additional new information from the license holder can, or cannot, still support the project's findings cannot possibly be known unless the record is reopened to determine the record as of the date that Nordic is offering the TRI cure, which at this point, might actually be today, or even sometime in the future.

Unfortunately, the current process, as proposed in the attached correspondence does not satisfy the remand requirements within the existing record. It is not possible to just consider a potential cure from Nordic, that is only possible because of the passage of time, without addressing the additional issues that have arisen over that same time period. To satisfy the DEP's own procedures and licensing process, during the remand process the DEP should either:

1. Simply make a decision upon whether the existing record can fill the single hole of missing TRI on the day of licensing, or
2. The DEP can allow Nordic to propose a different day's rectangle of information with the holes in the record identified by Nordic and public agencies since permitting and justify solutions for them via the proper public vetting process in an open hearing format per DEP's licensing requirements.

As the NVC has stated repeatedly, the NVC prefers that the permitting process be reopened to consider all new information to protect the bay directly in front of our village. If DEP takes the attached "hybrid" approach with respect to time, where Nordic is allowed to cure TRI with information that is presented after the record to keep their project alive, without considering other real and publicly confirmed issues that have arisen since permitting (such as the possible lack of power, potable water limitations, newly identified potential PFAS concerns, etc.) each of which could be fatal flaws, then the NVC can be directly impacted by this approach. If all the issues known at the time of the eminent domain actions are not considered, but only the eminent domain information is considered in an attempt to fix their TRI issue, the NVC with its swim float, and parks, mooring field, beaches, abutting the discharge location, will be disproportionately impacted by this approach.

Thank you in advance for addressing this concern.

-Michael Lannan
NVC Liaison to Nordic Permitting

Michael T. Lannan, P.E.
President

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Focused Knowledge. Real Solutions.

From: Hinkel, Bill <Bill.Hinkel@maine.gov>

Sent: Wednesday, July 26, 2023 4:31 PM

To: Burke, Ruth A <Ruth.A.Burke@maine.gov>; Hinkel, Bill <Bill.Hinkel@maine.gov>; Loyzim, Melanie <Melanie.Loyzim@maine.gov>; Martin, Kevin <Kevin.Martin@maine.gov>; Kennedy, Eric <Eric.Kennedy@maine.gov>; Gilbert, Jane <Jane.Gilbert@maine.gov>; Muzzey, Lynn <Lynn.Muzzey@maine.gov>; Ostrowski, Kevin <Kevin.Ostrowski@maine.gov>; Kavanah, Brian W <Brian.W.Kavanah@maine.gov>; Wood, Gregg <Gregg.Wood@maine.gov>; Wood, Robert <Robert.Wood@maine.gov>; Hallowell, Dawn <Dawn.Hallowell@maine.gov>; Green, Robert L <Robert.L.Green@maine.gov>; Callahan, Beth <Beth.Callahan@maine.gov>; Boak, Scott <Scott.Boak@maine.gov>; Bensinger, Peggy <Peggy.Bensinger@maine.gov>; Akrawi, Emma <Emma.Akrawi@maine.gov>; Joanna B. Tourangeau <jtourangeau@dwmlaw.com>; k.ervintucker <k.ervintucker@gmail.com>; ipsofmaine <ipsofmaine@gmail.com>; DPerkins <DPerkins@curtisthaxter.com>; David Losee <david@loseelaw.com>; Mike Lannan <mlannan@techenv.com>; president@nvcmaine.org; Charles Tilburg <ctilburg@une.edu>; Carrie Byron <cbyron@une.edu>; Donald W. Perkins, Jr. <don@gmri.org>; Diane Hunt Braybrook <dbraybrook@yahoo.com>; Lawrence Reichard <lreichard@gmail.com>; Paul Bernacky <waybackhomestead@yahoo.com>

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All,

Please find attached correspondence from Presiding Officer Duchesne in the above-referenced matter.

Sincerely,

William F. Hinkel

Executive Analyst

Board of Environmental Protection

17 State House Station

Augusta, Maine 04333-0017

(207) 314-1458

bill.hinkel@maine.gov