



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION, AUGUSTA, MAINE 04333-0017

BOARD ORDER

IN THE MATTER OF

NORDIC AQUAFARMS, INC	) APPLICATIONS FOR AIR EMISSION,
Belfast and Northport	) SITE LOCATION OF DEVELOPMENT,
Waldo County, Maine	) NATURAL RESOURCES PROTECTION ACT, and
	) MAINE POLLUTANT DISCHARGE ELIMINATION
A-1146-71-A-N	) SYSTEM (MEPDES)/WASTE DISCHARGE LICENSE
L-28319-26-A-N	)
L-28319-TG-B-N	)
L-28319-4E-C-N	) TWENTY-FIRST PROCEDURAL ORDER
L-28319-L6-D-N	)
L-28319-TW-E-N	)
W-009200-6F-A-N	)

The Board of Environmental Protection (Board) held an adjudicatory hearing in Belfast from February 11 through February 14, 2020 on Nordic Aquafarms, Inc.'s (Nordic's) applications for permits for an Atlantic salmon land-based aquaculture facility proposed to be located in Belfast and Northport. On August 13, 2020, Department staff issued a draft of its recommendation on Nordic's Maine Pollutant Discharge Elimination System/Waste Discharge License (MEPDES/WDL) application in the form of a draft proposed Board Order. The deadline for comment on the draft proposed Order was September 14, 2020.

1. The following entities submitted comments on the MEPDES/WDL draft proposed Order: Nordic; Upstream Watch; Northport Village Corporation; Jeffrey R. Mabee, Judith B. Grace, and Lobstering Representatives (MGL) and Friends of the Harriet L. Hartley Conservation Area<sup>1</sup>; and Kristina Debye.
2. The comments submitted by Nordic on September 14 point out some typographical errors in the draft proposed MEPDES/WDL Order. First, Nordic notes that the word "quiet" is misspelled "quite" in one instance in the draft proposed Order. Second, Nordic states that the figure for nitrogen removal should read 85% and the figure for phosphorus removal should read 99% in the draft fact sheet, which is part of the draft proposed Order. These percentages are reversed in the draft fact sheet that was issued for comment.

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<sup>1</sup> Friends of the Harriet L. Hartley Conservation Area is not a party to the Board's proceeding; however, the opportunity for comment is not limited to parties. Any member of the public may comment on the draft proposed orders.

3. Following receipt of Nordic's comments on the draft proposed Order, Michael Lannan, on behalf of intervenor Northport Village Corporation, filed a request on September 14, 2020 for clarification of the applicant's proposal regarding the percentage of nitrogen removal, issuance of a revised staff's draft proposed Order incorporating the corrections, and initiation of a new 30-day comment period. MGL joined in this request.
4. A review of the record indicates that the reversal of the nitrogen and phosphorus removal figures in the draft proposed Order is a result of a reversal of these figures in a table in Nordic's application for a MEPDES/WDL permit. *See* EPA Form 2D, Question #V(A/B), Attachment 2. This transposing of the numbers came to light during the hearing on February 13, 2020. In questions during the hearing, DEP staff asked Nordic's representative about the nitrogen and phosphorous removal numbers stated in the application and Nordic's representative, Simon Dunn, stated on the record that the removal rate for nitrogen was expected to be 85% rather than 99%. *See* Hearing Transcript, Day 3, at 404-05. However, the typographical error initially made in the EPA Form 2D that was attached to the application was inadvertently carried forward by DEP staff in the draft proposed fact sheet.
5. Department staff has examined the table in Nordic's application and confirmed that the reversal of the removal percentages is a typographical error and is not the result of a mathematical error in the table or the application materials. The reversal of the percentages does not affect the substance of the license limits or any conditions in the draft proposed Order.
6. Ruling: The transposition of numbers in the draft proposed fact sheet does not warrant an additional 30-day comment period for several reasons. First, it is simply a typographical error and not the result of a mathematical error in the application materials. Second, the expected removal rates for nitrogen and phosphorus were included only as background information in the application summary section of the draft proposed fact sheet. These percentages were not used by the staff in determining the proposed license limits for nitrogen or any conditions related to nitrogen or phosphorus in the draft proposed Order. *See* Draft Fact Sheet at 19-27. Put another way, the percentages describe the reductions in nitrogen and phosphorus Nordic expects to achieve via its wastewater treatment process, but they did not affect the calculations of the amount of these nutrients that may be discharged pursuant to the draft proposed Order.

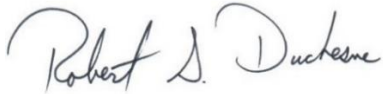
Procedurally, the Department's rules do not provide for parties or the public to comment on or reply to comments submitted by other parties or the public. The staff will consider Nordic's September 14 comments and respond to them along with the other comments received on the draft proposed Order.

Nevertheless, given that some confusion may be associated with the typographical error reversing the percentages for nitrogen and phosphorus removal, the commenters listed in paragraph 1 of this procedural order may amend the relevant portion of their previous submittals, or file an additional comment, to correct or augment their comments. Any

amendments or additions to the parties' comments should be limited solely to addressing the nutrient removal percentages. The deadline for filing is Monday, October 5, 2020 at 5:00 p.m.

DONE AND DATED AT AUGUSTA, MAINE THIS 24th DAY OF SEPTEMBER, 2020.

BOARD OF ENVIRONMENTAL PROTECTION

A handwritten signature in cursive script that reads "Robert S. Duchesne".

BY: \_\_\_\_\_  
Robert S. Duchesne, Presiding Officer