

Mr. Robert Duschene, Presiding Officer  
Bureau of Environmental Protection  
17 State House Drive  
28 Tyson Drive  
Augusta, Maine 04333-0017

February 18, 2020

Re: Comments for the record on permit applications by Nordic Aquafarms, Inc.

Dear Sir:

Thank you for the public hearings that you, your fellow Board members, and the staffs of the state agencies held in Belfast last week. I want to commend you personally for the even-handed way in which you managed the proceedings, and the assistance you received from senior staffer Bertocci and attorney Bensinger from the Office of the Attorney General. I attended all three and one-half days of testimony and the public comment session on Tuesday evening. I believe your deliberations on the permit applications from Nordic Aquafarms, Inc. (NAF) will truly be precedent-setting decisions.

My primary concern about NAF's proposed fish factory is this: the ability of the applicant to construct its proposed pipelines for saltwater intake and wastewater discharge depends on proving that it has "title, right, or interest" (TRI) to the intertidal zone those pipelines must cross. I know that the Attorney General's office has told DEP, BEP, and BPL that permitting agencies should leave legal controversies to the courts. And, as you are aware, NAF's claim to have sufficient TRI is being contested in state superior court and federal district court. Simply put, the claim is unproven and could be rejected by decisions in those cases. NAF cannot build its plant without a favorable ruling: No pipelines; no plant.

If the Board decides to grant one or more of the permits that NAF seeks, I ask that you condition those permits on the successful resolution of the ongoing legal cases. Until the cases are decided, it is extremely risky to allow NAF to begin any site preparation or construction. If NAF loses in either venue, it will appeal. If the opposing parties lose in either venue, they will appeal. If site clearing and construction activities begin before the cases are settled and NAF loses, the City of Belfast and the Belfast Water District could be left with a 50-acre scar. Does the Board want to put Belfast and the surrounding communities in that position?

There are four advantages to conditioning any permits on resolution of the legal cases.

1. NAF is assured that construction can proceed uninterrupted if the company wins.
2. Belfast and Belfast Water District can be confident that their negotiated contracts with NAF will be honored.
3. Complications (including lawsuits by NAF contractors) arising from abandoning the project mid-stream are avoided if the company loses.
4. Whatever the ultimate legal outcome, concerned citizens on both sides of the controversy will know that BEP and the state permitting agencies acted in the best interests of the people of Maine by insisting that the court cases be settled before any ground is broken.

Please consider this request. I wish you all level heads and patient hearts as you complete your mission.

Sincerely,  
Andrew E. Stevenson  
143 Head of the Tide Road, Belfast, ME 04915