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February 25, 2020

VIA EMAIL Ruth.a.burke@maine.gov

Ruth Ann Burke, Assistant to the Deputy Commissioner
Board of Environmental Protection Board Clerk
Office of the Commissioner
Maine Department of Environmental Protection
28 Tyson Drive, Ray Building
17 State House Station
Augusta, ME 04333-0017

RE: **Comment Regarding Dr. Hopeck's Memorandum of January 27, 2020 and
Nordic Aquafarm, Inc.'s February 18, 2020 Response to Dr. Hopeck's
Memorandum**

Dear Ms. Burke:

On behalf of intervenor groups NVC/Upstream and pursuant to the Eleventh Procedural Order, I submit this letter as a comment to Dr. Hopeck's memorandum dated January 14, 2020, revised as of January 27, 2020, and Nordic Aquafarm Inc.'s ("Nordic") response dated February 18, 2020.

NVC/Upstream agrees with Dr. Hopeck's recommendations. NVC/Upstream respectfully submits, however, that Nordic is required to supply much of the requested information before any permit can be issued – primarily, Nordic's revised Water Resource Monitoring Plan (revised "WRMP").

Dr. Hopeck's memorandum, in Paragraph 5(a), states:

The Department considers the existing model to be sufficient proof-of-concept with regard to the possible volume of water to be obtained, but notes, as described above, that the monitoring program must be implemented to assess impacts on existing wells, including possible effects of salt-water intrusion and lower water levels, and reduced groundwater discharge to wetlands and surface waters; effects of groundwater withdrawal on these latter resources are expected to relate largely to the extent to which they receive discharge from the weathered bedrock or deeper bedrock aquifer, and the effectiveness of the marine sediments at separating flow in the surficial aquifer from that in the bedrock aquifers. *In any event, this plan must be finalized as soon as possible so that sufficient background data can be collected to adequately characterize pre-operational conditions; the Department notes that significant amounts of information, as outlined in this memo, must still be submitted for review*

and approval before the plan to collect this information can be considered complete.
(emphasis added)

In its February 18, 2020 response, Nordic addressed the foregoing as follows:

Nordic acknowledges that a revised Water Resources Monitoring Plan (WRMP) is needed by the Department “as soon as possible,” as Dr. Hopeck mentions in in Section 5)a) of his memorandum. *Nordic anticipates having a revised WRMP, including specific locations, proposed equipment, measurement frequency, expected dates of installation for equipment, and data submission frequency to the Department within two months of receipt of a permit conditioned upon such a revised and updated WRMP.* Implementation of the monitoring network, including equipment purchase, installation, and configuration will take place as *quickly as possible after approval of the Department of the proposed plan; however, it is also subject to the final proposed construction timeline, which is in turn dependent on the timing of receipt of a permit.* Due to considerable costs associated with installing and configuring the proposed monitoring network, it is important that Nordic has a commitment to move forward with permitting for groundwater withdrawal conditioned upon the revised and updated WRMP prior to commencing this stage of the project.

...

Nordic understands the need to implement the monitoring program, as described above and in previous correspondence and, as discussed above, is committed to finalizing the monitoring plan for Department review *within two months of receipt of a permit conditioned upon the revised and updated WRMP.* Nordic recognizes the need for as complete of a background data record as possible and is committed to establishing this monitoring network quickly and efficiently once approved by the Department. (emphasis added)

NVC/Upstream disagrees with Nordic’s contention that the Department should issue a permit before Nordic supplies such crucial and relevant information. As support for why Nordic will not provide this information now, it conflates the actual implementation (installing and configuring) of a monitoring network with providing the revised WRMP. However, Nordic has not provided any reason as to why the revised monitoring plan cannot be supplied to the Department now.¹

Similarly, in its February 18, 2020 memo, Nordic “acknowledges the Department’s

¹ See also Paragraph 1(g) of Dr. Hopeck’s memorandum, in which he states that Nordic should have and provide a proposed location for an on-site weather station to obtain meteorological data for the site (“Potential locations for this station should be proposed in the revised monitoring plan.”). Nordic similarly attempts to defer its obligation by stating “Nordic will include a proposed location for this station in the revised WRMP discussed in our response to Section 1)a) above and intends to establish this station while installing and configuring the rest of the monitoring network.” Nordic should be required to provide the proposed location for this station, along with the rest of the revised WRMP, before any permit is issued.

preference for near real-time measurement of stage height and/or flow from the Little River.” However, it then states that it *will* establish a location for such measurement and it *will* propose a plan and timeline for establishing a rating curve to calculate discharge of the Little River. Nordic also states:

As noted previously, due to considerable costs associated with installing and configuring the proposed monitoring network, as well as the need to coordinate around the construction timeline (which cannot be finalized until a permit is received), it is important that Nordic has a commitment to move forward with permitting for groundwater withdrawal conditioned upon the revised and updated WRMP prior to commencing this stage of the project. Nordic is committed to working with the Department in good faith regarding monitoring and is committed to establish a monitoring network that meets the Department’s requirements.

Again, Nordic conflates submitting a plan and timeline and an identification of *how* it will accomplish something with the actual implementation of said plan. The proposed location of the measurement of the stage height and flow of the Little River could be submitted *now*, the technology that will be used to accomplish such a measurement could be submitted *now*, and the plan and timeline for establishing a rating curve could be submitted *now*. NVC/Upstream requests that the Department require such information before a permit is issued.

One other example of information Nordic can and should supply now can be found in Paragraph 1(h) of the memo. Dr. Hopeck correctly notes that any revised monitoring plan should “establish specific quantifiable measures of adverse impact that would require one or more of the actions specified, based on statistical analysis of the background data.” Once again, Nordic attempts to defer its obligation to supply such information:

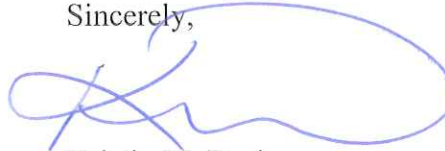
Nordic *expects to perform* a statistical analysis of background data collected prior to and during the construction period to establish such levels. Relative to action levels, this approach is anticipated to support establishment of “specific quantifiable measures of adverse impact that would require one or more of the actions specified.” *Nordic anticipates the statistical analysis, will be submitted along with proposed warning and action levels, as an addendum to the revised WRMP prior to operation.*

The proposed warning and action levels can be and should be submitted now, with the revised monitoring plan.

In sum, Nordic has had ample time to develop its WRMP, and it is NVC/Upstream’s request that the BEP require a revised plan prior to the issuance of a permit, and not allow Nordic to defer its obligations to supply this information until it receives its permit.

To that end, if Nordic does submit information responsive to Dr. Hopeck's memorandum, including but not limited to a revised WRMP, NVC/Upstream respectfully requests and reserves the right to review, to submit comments regarding, and to examine the author or originator of any later submitted plan or report.

Sincerely,



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CC: Service List