

Bertocci, Cynthia S

From: Lisa Fryer <lisa.m.fryer@gmail.com>
Sent: Monday, August 03, 2020 5:29 PM
To: Kim Ervin Tucker; Barry A. Costa-Pierce; Bensinger, Peggy; Bertocci, Cynthia S; Boak, Scott; Brewer, Angela D; Burke, Ruth A; Carrie Byron; Charles Tilburg; David Losee; David Perkins; DEP, Nordic Aqua Farms; Diane Hunt Braybrook; Jr.; Donna Broderick; Ed Cotter; Eleanor Daniels; Elizabeth M. Ransom; Erik Heim; Jacki Cassida; Jensen, Laura; Joanna Tourangeau; Kristin M. Racine; Lawrence Reichard; Marianne Naess; Martin, Kevin; Mike Lannan; Northport Village Corporation; Peter Tischbein; Wood, Gregg; Reid, Jerry; Loyzim, Melanie; Madore, David .
Cc: John Spritz
Subject: NVC Filing
Attachments: NVC let to BEP 07-30-20 (6) (1).docx
Categories: Red Category

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Ms. Bertocci-

While it is understood that any final BEP air permit document would be a summary of the Findings of Facts, the Order, and Permit Conditions, it seems somewhat presumptuous to draft and issue each of these documents together for a facility of this magnitude and with this many outstanding permit issues. Based upon the applications as submitted and the testimony provided, there are many, many draft Findings of Facts missing from this draft document. As a result it is impossible to condition this permit at this time until the Findings of Facts are revised to reflect not only the submitted information, but the required but missing permitting information, as well.

It is important to remember that any draft order should be dependent on the final Findings of Facts, and any draft permit conditions should be dependent on the final Findings of Facts and the Final Order. It may not be the intent, but when BEP issued these three items together as draft, it appears that the first two items (the draft Findings of Fact and the draft BEP Order) are set “as-is” or “nearly final”, and will not be subject to revisions based upon valid comments or concerns that could be raised during the comment period. This combined drafting approach seems to circumvent the overall review and potential approval procedures discussed throughout this BEP process.

Attached is a letter requesting the more iterative approach to air permitting that has been discussed throughout this BEP combined application and review process. As the Northport Village Corp and other Intervenors have said repeatedly, all of the air permit criteria, and all of the permitting criteria are interrelated. This interrelation and complexity beyond town lines is part of the reason why a project of this magnitude triggered a permitting requirement to have its full permit review process

combined together, and to be handled by BEP directly, and not through the more traditional individual DEP permit review process. This draft permit, as issued, with its three-drafts-in-one, fits the traditional DEP mode of individual permit review where there may be little to no comment or concern anticipated, and not the more complex review mode of the BEP process.

Additionally, for this Chapter 115 air permit in particular, it is simply impossible to condition this permit without first knowing what the Findings of Facts are, or could be, from the air permitting requirements in SLODA. As a result, this review process must be delayed to allow for Findings, Orders, and Conditions to be coordinated across all permits simultaneously.

We await the Board's response to our requests to restructure the review process, and to coordinate the review timelines.

Thank you for your time and consideration.

The Northport Village Corporation

Attachments area



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July 30, 2020

Hon. Robert S. Duchesne, Presiding Officer
Maine Board of Environmental Protection
17 State House Station
Augusta, ME 04330

File No:

A-14-781-A-N
L-28319-26-A-N
L-28319-TG-B-N
L-28319-4E-C-N
L-28319-L6-D-N
L-28319-TW-E-N-N
W-009200-6F-A-N

RE: Air Permit Application Process Logistics Questions

To the Presiding Officer and Board of Environmental Protection:

On May 20, 2020, BEP held its last formal public deliberations. During that meeting there were outstanding air quality items of concerns and needs raised. Some comments specifically related to the applicability of air emissions from this application and possible conditions that could be in either, or both this license and/or site conditions. including interactions with respect to stack heights and buildings, vehicle emissions, batch plant, etc.

On July 17, 2020, BEP issued the Air Permitting draft Findings of Fact from the Department of Environmental Protection (DEP), the Draft Order from the Board of Environmental Protection (BEP) based upon those draft Findings of Facts, and the draft Air Permit based upon the draft BEP Order. It was our understanding that draft findings would come out first, so that they could be commented upon with respect to relevancy and completeness.

While "Facts" themselves are not subject to comment, there is the potential for discussion of wording, relevancy, and omission of Facts--and therefore the Finding of Facts are subject to comment and revision.

There are literally thousands upon thousands of pages of material in the record, some of it contradictory, and some of it begging for more information or clarification.

If the draft Findings of Facts were to change for any reason, then the Board's draft Order would need to change accordingly, and be sent out for comment again. If the draft Order changes, then the air license would need to be redrafted again, and so on. This iterative process suggests that the Draft Order and Draft Air Emission license may be premature. Combining these elements together may have made for timely review, but providing each item for comment first would seem to be timelier than this approach, if DEP does plan to revise the Draft Findings of Facts by incorporating comments.

More importantly, this combined DEP memo reveals the DEP conclusion as it solicits comments on what should be proposed facts and conclusions. The way DEP has done this, comments from citizens, intervenors, anyone but Nordic, are irrelevant and useless because the conclusions which might have been influenced by the comments by anyone else other than the Applicant, have already been written. This process not only violates fundamental fairness and due process, but it is not at all what was expected from the last public deliberation process, or the many meetings, hearings, and orders prior. DEP owes the citizens who have been deeply involved in the process an unbiased summation of the Application and not simply suggest a forgone conclusion when summarizing its Findings of Facts.

Therefore, the Northport Village Corporation Requests a Single Purpose Comment Process for a Facility of this Size and Complexity. We request that the Draft Finding of Facts be extracted from the Draft Order and the draft license for comments first with respect to completeness, relevancy and omission of facts.

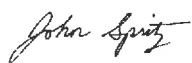
In addition, we have concerns regarding the Chapter 115 license. It was understood that DEP desired to compartmentalize the air emission process by splitting the process into the Chapter 115 license for the 8 engines at the hearing and then everything else for written comment. We repeatedly argued that one could not testify on one without the other with respect to compliance with the Clean Air Act and interrelated nuisance air contaminants to no avail, but the hearing process is now over.

SLODA requires that the air emissions of the facility-wide construction, operations, and maintenance actives be considered for its Findings of Facts. We believe that it is imperative that emissions from the entire "facility" or "source" for construction, operations, and maintenance be examined together before someone can reasonably comment on these specific emission units. **Therefore, we request to delay Chapter 115 Comments so that they can be discussed with SLODA Air Emissions.**

Finally, we request that BEP extend the deadline for the Chapter 115 draft Finding of Facts comments to coincide with the comments from the SLODA application draft Findings of Facts.

Thank you for considering these requests.

Sincerely,



John Spritz, President, Northport Village Corporation