

Re: Comments to Belfast Planning Board regarding Nordic Aquafarms

Wayne Marshall <wmarshall@cityofbelfast.org>

Tue 10/6/2020 1:34 PM

To: jrmabee@gmail.com <jrmabee@gmail.com>

Dear Jeffrey Mabee and Judith Grace:

I want to let you know that I have received your email and that I will provide such to the Planning Board in advance of the upcoming October 7 public hearing.

Wayne

Wayne Marshall
Project Planner
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From: Jeffrey Mabee <jrmabee@gmail.com>
Sent: Tuesday, October 6, 2020 1:17 PM
To: Wayne Marshall <wmarshall@cityofbelfast.org>
Subject: Comments to Belfast Planning Board regarding Nordic Aquafarms

10-6-20

To the members of the Belfast Planning Board from Jeffrey Mabee:

Judith and I would like to thank the Belfast Planning Board members for the many hours you have put into this NAF permitting process.

In the past year, the most important thing that Judith and I have come to know without any doubt is that Nordic Aquafarms strategy is to run us out of money for the legal defense of our private property and the Friend's defense of the Conservation easement. They have thrown every harebrained motion at us in order to leave our lawyers no choice but to respond. They have bandied about the heirs of Harriet L Hartley release deeds, all the time knowing that Harriet L Hartley did not own any property in Maine when she died. They have sued us for tortious interference while still maintaining a contract with the Eckrotes. Included in that

suit is the claim that the first annual meeting of The Friends of Harriet L Hartley Conservation Area last year, which I clearly remember as a heartfelt and wonderful event with lots of good feelings engendered, was designed to intimidate the Eckrotes in New Jersey. Our putting up signs that welcome people to the Harriet L Hartley Conservation Area and inviting them to stroll on the mudflats is also named as an intimidating behavior. Nordic has subpoenaed our emails and deposed Judith , where they attempted to impugn her competence. What they have not done is to offer a single shred of evidence that they have any title, right or interest to our property. We have remained quiet because we have found that anything we say can and will be used against us.

And then there is the matter of the executives and employees of NAF denigrating us in public media. Their first shot was calling us bad neighbors and, in so doing, gave us an idea of what they might be like as neighbors. Eric Heim said, in an industry publication, that protecting our private property is a "Trumpian move", while they, in turn, try to bully their way across our private property. One of their lawyers said we were money grubbers, an interesting thing to say for the law firm that is making millions of dollars from Nordic. Now they are saying, in another industry magazine, that we are using delaying tactics, which is exactly what they are doing, attempting to run us out of money before the defense of our property is addressed. Believe me, we would have liked to have had the defense of our property over a year ago, but they have done everything they can to keep the merits of this case from being addressed. They know who owns this property and they have no deeds or surveys to prove otherwise. I know the moral and ethical qualifications of applicants are not criteria that you are charged with evaluating, but their unfair tactics and dishonesty in this arena may well point to the same in other areas which are under your purview.

Lastly we are disappointed that the board did not follow the directive of the Tomasino decision in which the Supreme Court of Maine ruled that permit applications are not to be processed without proof of TRI. We wonder why the city's lawyer would advise you not to follow a supreme court ruling. We hope you will, at the very least, require that NAF show TRI before issuing a permit.

Regards,

Jeffrey R.Mabee

Judith B. Grace

290 Northport Ave

Belfast, ME 04915

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www.maine cohousing.org

"When you open yourself to the continually changing, impermanent, dynamic nature of your own being and of reality, you increase your capacity to love and care about other people and your capacity to not be afraid. You're able to keep your eyes open, your heart open and your mind open." -Pema Chodron

Re: Emailing: PlanBDlet

Public Hearing <public@cityofbelfast.org>

Tue 10/6/2020 12:09 PM

To: David Losee <David@loseelaw.com>

Hello David

A short note to let you know that I have received your email sent at 11:48 and that I will provide such to the Board in advance of the upcoming October 7 public hearing for Parties-in-Interest. If you are in a position to provide information on the '86' requests/questions you identified that would be appreciated. I will regularly be checking this email site between now and 6:00 pm this evening so send the information along when you have completed such.

Wayne

Wayne Marshall

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From: David Losee <David@loseelaw.com>**Sent:** Tuesday, October 6, 2020 11:48 AM**To:** Public Hearing <public@cityofbelfast.org>**Cc:** Amy Grant <agrant7108@gmail.com>**Subject:** Emailing: PlanBDlet

Good afternoon Wayne: Attached is a letter regarding tomorrow's presentation by Upstream Watch.
Dave Losee

Your message is ready to be sent with the following file or link attachments:

PlanBDlet

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

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October 6, 2020

RE: APPLICATIONS OF NORDIC AQUAFARM, INC.

Dear Mr. Chairman and Members of the Belfast Planning Board:

In your Fifth Procedural Order you directed "Parties in Interest" to file by noon today, October 6, 2020, a summary of the remarks they intend to offer at the Public Hearing scheduled for tomorrow evening, October 7, 2020. This is a summary of the remarks of Party in Interest, Upstream Watch.

Mindful of your admonition to not repeat presentations or to submit materials offered before, seven Upstream Watch volunteers reviewed all the videotapes of all of the Planning Board meetings conducted to date concerning the applications of Nordic Aquafarms. The purpose of the reviews was to ascertain what questions or requests for additional information from Nordic Aquafarms, Inc. were made by members or by the Board as a whole, or by Mr. Marshall in support of the Board. A further inquiry was to find evidence in the tapes that those Board requests were fulfilled. Upstream's volunteers were unable to find in the videotapes where any of these inquiries were addressed. If any were addressed and the responses not reflected in the videotapes, Upstream offers its apologies.

Upstream Watch's volunteers were surprised to find 86 questions or requests for further information made to Nordic Aquafarms from August 5, 2019 to the present. These 86 include questions or requests that were asked multiple times but were included unless the videotape revealed responses. It was my intention to create a "Schedule A" to this letter that included all 86 questions but I was unable to do so because I didn't realize how many questions there were and because I had to deliver to DEP/BEP a 77 page Memorandum on SLODA/NRPA by 5 PM yesterday. There just hasn't been time. However, with the Board's indulgence, I will try to rewrite those questions (the transcript is a bit sloppy) and email it to Mr. Marshall later this afternoon.

In addition to these questions/requests for more information, Upstream Watch will offer:

- Its analysis of the fresh water supply as revealed by the record to date and explain its concerns and the reasons for its concerns.
- Upstream Watch's analysis of and concerns about the dams and the Little River.

- Upstream Watch's concerns about Nordic's management of the mercury situation.
- Upstream Watch's concerns about the possible injury to neighbors from well drawdown and from a dam release.

Upstream Watch is grateful for this opportunity to participate in the Planning Board process and will remain available to the Board for any assistance the Board may request.

Very truly yours,

A handwritten signature in black ink, appearing to read "David B. Losee", written over a faint horizontal line.

David B. Losee

SCHEDULE A

QUESTIONS AND REQUESTS FOR INFORMATION FROM THE BELFAST PLANNING BOARD TO APPLICANT, NORIC AQUAFARMS, INC.

Note: I said there were 86 inquiries. I miscounted. There are 92, although some questions are asked repeatedly, apparently without response or at least without a response determined by the Board to be satisfactory. If Upstream's volunteers could not identify the speaker we said "Board".

8/5/19

- 1) Chairman asks, "When will your financing grow to fruition?"
- 2) Chairman asks, "How will the construction financing take shape? Is Phase 1 a distinct component? What is the guaranteed funding?"
- 3) Ms Beal asks, "What happens if some kind of environmental damage happens?"
- 4) Chairman asks, "is there a full letter of commitment from a financial institution and some kind of loan the system?"

8/19/19

- 5) Chairman advises the Board, "We will see if all questions have been resolved and then we will make decisions based on that."
- 6) Board requests information about NAF experience in the U.S. or elsewhere.
- 7) Board asks for evidence that this technology can "scale up" as Nordic represents.
- 8) Mr. Marshall tells board he will meet with NAF about issues raised and make the responses public on the website.

8/26/19

- 9) Ms. Beal asks the impact of the intake pipe on fish populations (Nordic/Norman deau says a study would be required to answer that and they have not done it).
- 10) Planning Board requests a winter visual from the hiking trail and from Perkins Road.
- 11) Mr. Corey requested an illustration of the height of the proposed smokestacks visible above existing roof lines (Elizabeth Ransom claims no visual impact)
- 12) Mr. Corey request visual from McClellan poor.
- 13) Planning Board presented a list of requests to NAF about visual effects (no response noted in the record).
- 14) Board requested a display of tree removal areas along with a survey of what trees are there now that are currently healthy specifically in the areas where the pipeline is going in the bypass is going

15) Ms. Beal asks for a plan to maintain the replacement forest

1/15/20

16) Mr. Marshall asked for a copy of the January 15, 2020 PowerPoint

17) the chairman asked the destination of the removed soils and how many yards would be removed

18) Mr. Corey asked if there would be an on-site concrete batch plant.

19) Mr. Corey asked if Stone crushing will be done on site (to be decided later)

20) Mr. Corey requested the amount of concrete to be used on the site (will be provided later)

21) Mr. Corey requested a summary of traffic estimated from construction and normal operation.
(Mr. Cotter agreed to do that)

1/22/20

22) Mr. Cotter agreed to submit responses to various questions in writing prior to January 29, 2020.

23) Chairman asked for a spreadsheet regarding construction traffic at the January 29, 2020 meeting.

24) Mr. Gilchrest asked for a specific breakdown of the number and type of trucks (Mr. Cotter said he would provide that).

25) Mr. Gilchrest requested additional information on saltwater intrusion and on erosion control during the excavation for the installation of pipes 40 feet below the ground surface.

26) Mr. Gilchrest requested better understanding of the two dams and an analysis of what would happen in a "worst-case scenario" that the upper dam fails.

27) Chairman asked about the blasting impact on the dams and the nature of the structural assessments to be done before blasting.

28) Chairman asked about the removal of the buffer along Route one .

29) Chairman asked about disturbance of the birding habitat.

30) A Board member asked about the plan for the disturbance of Mercury.

31) Mr. Gilchrist asked about Nordic's promise of "green roofs" and wondered when when additional information would be available from NAF.

32) Chairman asked NAF to produce a better buffer for Perkins Road and to do a and analysis about bird species in that area.

33) Mr. Gilchrist asked about Nordic's technical ability and asked Nordic to demonstrate why their problems in Frederickstad Norway would not recur in Belfast.

34) Mr. Gilchrist asked about the capacity of Central Maine Power and requested a letter saying the Central Maine Power understood the power needs of Nordic and that they could supply those needs.

35) Mr. Bond requested a better analysis of the dams in a plan for their for their future given that both are in dangerous condition; who is responsible?

36) Mr. Bond requested explanation about zoning regulations affecting the pipe through the Eckrote property in the conflict with setback rules as well as engineering plans for the rerouting of Route 1.

37) Mr. Bond asked if Nordic would put up a performance bond to cover the cost of removing the structure if they left mid project.

38) Ms. Beal asked where the promised solar panels are .

- 39) Mr. Bond asked how the smokestacks associated with the generators could be higher than zoning allowed.
- 40) Mr. Townsend asked if Nordic would need water from the upper reservoir and the minimum amount of water needed altogether and a contingency plan.
- 41) Mr. Townsend asked for an alternate Route 1 by-pass plan to sacrifice fewer trees.
- 42) Mr. Townsend asked Nordic to do a presentation for how their entire system would work and to fund an independent review.
- 43) Various board members again asked the total amount of water necessary and the circumstances impacting that number.
- 44) a board member asked to them to demonstrate that RAS is an appropriate system; to provide assurance that RAS systems are allowed by city zoning; and that the RAS system is within appropriate carbon emissions limits.
- 45) Mr. Corey again asked for verification that funding was in place and committed.
- 46) Ms. Beal asked Nordic to provide expert testimony on the overall ecological impact of the project.
- 47) Ms. Beal asked Nordic's plans for the two dams in the contingency plan should a dam fail and flood the Nordic site.
- 48) Ms. Beal asked for an explanation of how the impounded water, well water, and the aquifers interact specifically addressing Nordics water needs.
- 49) A Board member again asked for a performance guarantee so that if the project wasn't completed the city would have money to repair the site.
- 50) A Board member asked Nordic about greenhouse gases and how would affect the city's carbon impact especially regarding the state's mandatory limits.
- 51) A Board member was concerned about fish kill and ask what is the waste control plan if there is a sudden die off?
- 52) Members requested a breakdown of what would be in the effluent: would it be purely excrement, waste from the fish slaughter, or are there different waste streams feeding into it.
- 53) A Member wanted to know the composition of the fish food and if Nordic were unwilling to commit to a fish food to be used in the future to provide a breakdown of the fish food that they're currently using in Norway.
- 54) A Member asked for an explanation of the difference between Nordics RAS and Sustainable Blue and why Sustainable Blue technology could not be used in Belfast
- 55) Chairman asked what the plan is if phase 2 is never built?
- 56) Chairman asked about other routes for the pipeline to avoid traffic disruption in the bypass?
- 57) Chairman asked for a spreadsheet outlining the construction plan over time.
- 58) Chairman said Nordic a discussed new modeling of the discharge plume and requested that information.
- 59) A Board member asked what happened if local wells go dry?
- 60) A Member expressed concern about the buffers on Route one and Perkins Road.
- 61) A Member asked Nordic to provide the number of kilowatts to be supplied by Nordics solar array

2/5/20

- 62) The Board asked a number of questions about Nordic's finances. What is the minimum money required before breaking ground what we do if you don't get additional money? Is this operation sustainable at Phase I only? Please provide a balance sheet. What is NAF's current financing plan now that we are nearing the end of the permit process? What is the financing structure of California and how does it relate to the financing structure in Maine? Isn't the debt issuer and the debt holder the same in California and Maine? What have they told the lenders about the amortization of the facility? Why is the Casida lease not a purchase? Who is financially liable if either California or Maine fails? Is there a loan guarantor and is at the same for both facilities?
- 63) The board asked a number of questions about water. What happens if NAF has to change the composition of where the water comes from? What if there isn't enough water? What is the future ownership of the lower dam? Demonstrate that they can take 250 gallons per minute with the dam structures currently in place and without those structures. What specifically will Nordic do if private wells in the area fail after Nordic starts to pump?

2/26/20

- 64) The Board asked (because BEP asked) Nordic for the minimum amount of freshwater they need. Nordic said the production manager would have to answer that, but no answer has ever been provided.
- 65) A Board member asked for assurance that the water volumes that are needed would be available.
- 66) A Board member asked if they if Nordic intended to buy the lower dam. The Nordic representative said they should purchase it and they should use it. Where will they get the money and use it for what purpose?
- 67) What is the effect of the ocean discharge when the freshwater sources are used in different proportions?
- 68) A Board member wanted to know what "short-term" meant because Nordic's and representatives use the term frequently

2/27/20

- 69) A Board member asked for more information on the Route 1 buffer plan specifically what are they planting? Mr. Cotter said there was a list and he would provide it but there is no evidence that he did
- 70) Board Member is your final engineering plan for the bypass available?
- 71) Mr. Corey quoted Mr. Cotter as saying Nordic needed 1205 gallons per minute to operate and therefore needed the water from the lower reservoir. Mr. Cotter denied that. The Chairman requested a "comprehensive plan/schedule of use?" Mr. Cotter said they were working on a letter and the board would have it shortly.

5/6/20

- 72) Ms. Beal asked how Nordic would handle a worst-case scenario such as a large fish die off?
- 73) Chairman his reviewed a plan for removal of trees for the Route 1 bypass but wants to see a complete plan of restoration.

5/14/20

- 74) Nordic was asked whether the DEP permitting contemplates extraction of surface water with the dam in place or without the dam or both?
- 75) Another Board Member asked again about safety in relation to the upper dam and asked if a study had been done. The answer was no.
- 76) At this point the Chairman asked the Board Members about their current concerns. One Board Member asked for a proper study about odors and how the RAS system worked. Ms. Beal wants to know what nutrients will be in the effluent and their effect on existing ecological systems. Chairman asked for a "overall spreadsheet showing who and when we do the inspections monitoring etc. where the reports would go and how often"?
- 77) Chairman again asked for specific final plans concerning the need for surface water and the future of the dams

5/27/20

- 78) Mr. Corey asked how the facility would run if there were no lower dam and what the financial impact would be.
- 79) Attorney Kelly thought NAF should affirm to the board that the plans the Boards is considering are the same as those before the DEP.
- 80) Chairman said "we need to see Plan B for surface water technology without dam with a free-flowing river"; we need assurances from NAF that this will work.
- 81) Mr. Corey asked again for assurance that Nordic can obtain 1205 gallons of water per minute and needs to see a demonstration of how that can be accomplished.
- 82) Mr. Townsend asked for a better study of the likely effect on private wells and monetary performance guarantees. He recommended Planning Board consider monetary performance guarantees for final approval.
- 83) Mr. Townsend asked for specific numbers and money to back them up because he felt that "a promise is not enough from NAF".

7/8/20

- 84) The Chairman asked how a person who's well is destroyed by Nordics pumping might prove the relationship and get compensated for his well problems.
- 85) Mr. Corey wanted Nordic to tell him what would happen to property owners who lost their well if Nordic failed.
- 86) The Chairman asked Mr. Cotter for a letter on Nordic letterhead with the general engineering solution and a detailed study with regard to water use.
- 87) Mr. Corey asked for proof of money in hand for Phase 1 and Phase 2 along with detailed financial and technical capabilities proof. Planning Board expressed a need for professional opinion and third-party review of the RAS plan. The board asked again for a detailed description of how the RAS system would work.
- 88) The Chairman felt the clearing of trees on the bypass is not properly shown on the plan and asked Nordic to show additional buffering and to demonstrate what will happen in times of snow as well as identifying all removal and replacement greenery in the bypass.
- 89) Another Member asked Nordic to explain in detail how they can obtain the necessary water and to do so in writing

8/5/20

- 90) Member was concerned about lowering wells and the saltwater intrusion impact and wanted a plan in writing from Nordic to address those issues.
- 91) The Chairman asked what would mitigation (for destroyed wells) look like, would it be a bond or connection to a public water supply or new well?
- 92) Chairman asked about the extent the Nordic's extraction would draw down the Little River and whether there should be any limit on that given that there is no data.