

Legal Update

June 2022 - Thank you for helping us continue the fight against Nordic Aquafarms fish factory. There are those that think Nordic is a “done deal” and they’ll be breaking ground any minute. We know that’s not true, but we also know that we have to keep up the pressure. If you’re able to donate at this time, thank you for your contribution. If you can share this update with 10 of your friends we can increase our mailing list and keep more people informed.

<https://www.upstreamwatch.org/>

Upstream Watch continues to fight Nordic on many levels including the TRI (ownership of the intertidal), eminent domain (the City of Belfast taking private land and giving it to Nordic for their pipes) and our recent second round of briefs to the Maine Supreme Court appealing the Board of Environmental Protection (BEP) permitting process.

Upstream’s BEP brief makes three major points:

CLEAN AIR ACT: Nordic applied for a permit to construct and operate 8 electric generators and smokestacks. Nordic never mentioned any of the other sources of air emissions. Upstream claims this failure invalidates the air permit awarded to Nordic by the BEP.

CLEAN WATER ACT: Nordic applied for a wastewater discharge permit using 20-year-old discredited technology that would allow the discharge of 7.7 million gallons per day of partially treated wastewater from Nordic’s wastewater treatment plant – a plant bigger than the municipal plant in Portland. Nordic’s discharge would contain 1,300 pounds of dissolved nitrogen at a concentration of 23 mg/l per day.

SLODA: The Maine Site Location of Development Act (SLODA) requires that an applicant demonstrate that the applicant’s project, if permitted, would not cause an “unreasonable adverse impact” on air quality, surface water quality or climate. Upstream claims that the BEP could not determine whether there would be an adverse air impact because Nordic refused to provide information about its “other sources”. This makes it impossible to determine if the site would violate the National Ambient Air Quality Standards, thus causing an unreasonable adverse impact on air quality in violation of SLODA.

Upstream Watch claims that BEP knows that the wastewater discharge of nitrogen it permitted will degrade the water quality in Penobscot Bay and will thus cause an unreasonable adverse impact on surface water, in violation of SLODA.

At the outset of the hearing process, Upstream asked BEP to include “Climate” on the list of hearing topics. BEP refused. Therefore, no data on climate impacts

was introduced into the record. With an empty record Nordic cannot be found to have met its burden to show no unreasonable adverse impact on climate. There's no data at all. This also violates SLODA.

After the case is fully briefed, the Supreme Court will schedule the case for oral argument. Following argument, the court will schedule the case for discussion among the Justices and, at some point in 2023, the Court will issue a decision. This fight is far from over, thank you for joining us!

