

STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

Mark C. Draper, Chair

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Sent by electronic mail only

September 3, 2020

John Spritz, President
Northport Village Corporation
813 Shore Road
Northport, Maine 04849
nvcmaine@gmail.com
jspritz@maine.rr.com

RE: MEPDES/WDL and Site Law Application Process and Second Request for a Hearing with Respect to Anti-Degradation Policy Requirements

Dear Mr. Spritz:

I have reviewed and considered your letter dated August 31, 2020, in which Northport Village Corporation (NVC) renews a request that the deadline for comment on the proposed Chapter 115 order be changed to coincide with the deadline for comment on the proposed Site Location of Development/Natural Resources Protection Act (Site/NRPA) order, requests that the deadline for comment on the proposed MEPDES/WDL order be changed to coincide with the deadline for comment on the proposed Site/NRPA order, and requests a hearing with respect to anti-degradation policy requirements.

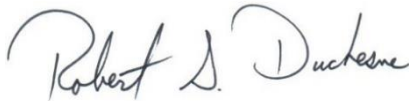
NVC has argued throughout these proceedings that consideration of the Chapter 115 air emissions requirements should be merged with consideration of the Site/NRPA air quality requirements. NVC now also argues that consideration of the MEPDES/WDL requirements should be merged with consideration of certain Site/NRPA requirements and that deadlines for comment on all three staff recommendations/proposed orders should coincide. Although they are interrelated parts of the same proposed project, the activities under consideration in each of the applications before the Board are regulated pursuant to different laws. It is therefore appropriate for staff to submit a proposed order for each of the pending applications and for those proposed orders to contain findings of fact specific to the criteria addressed in each license.

As I noted in my letter dated August 7, 2020, to the extent comments received on one draft (i.e., Chapter 115 or MEPDES/WDL) are relevant to or more appropriately addressed in another draft (i.e. Site/NRPA), those comments will be considered in that context. However, intervenors and members of the public should submit separate comments focused to the greatest extent possible on each draft order and the criteria specific to that draft order. This is important given that three different panels of the Board will consider and act on the three pending applications. NVC's

request that the comment deadlines for the draft Chapter 115 order¹ and the draft MEPDES/WDL order be extended to coincide with that of the draft Site/NRPA order is therefore denied.

NVC also requests that the Board hold a hearing pursuant to 38 M.R.S. § 464(4)(F)(5).² Section 464(4)(F)(5) provides that the Department may issue a MEPDES/WDL license that lowers the existing quality of a water body after it makes “a finding, following opportunity for public participation, that the action is necessary to achieve important economic or social benefits to the State.” According to Maine’s antidegradation policy, a discharge lowers water quality if it consumes more than 20% of the remaining assimilative capacity of a water body. Department staff has submitted for the Board’s consideration a proposed MEPDES/WDL order that, in the staff’s best professional judgment, would not permit Nordic’s proposed discharge to consume more than 20% of the assimilative capacity of Belfast Bay if the proposed order were to be approved. The Department’s recommendation would therefore not trigger the requirements set forth in section 464(4)(F)(5). NVC’s request that the Board hold a hearing pursuant to section 464(4)(F)(5) is therefore denied. NVC and others may, however, submit for the Board’s consideration comment on the proposed MEPDES/WDL order that address, among other issues, the staff’s analysis of the near-field and far-field dilution factors and the requirements of section 464(4)(F)(5).

Sincerely,



Robert S. Duchesne, Presiding Officer
Board of Environmental Protection

cc: Service List

¹ The August 17, 2020 deadline for comment on the draft Chapter 115 order has passed.

² To the extent that NVC makes this request because it wishes to comment on the subject of the far-field dilution factor, I note that all parties were provided with an opportunity to submit written comment on that issue pursuant to the Seventeenth Procedural Order and that all parties and the public may submit additional comment on that topic during the thirty-day comment period on the proposed MEPDES/WDL order, which closes on September 14, 2020.