



JANET T. MILLS  
GOVERNOR

Mark C. Draper, Chair

Cynthia S. Bertocci  
Executive Analyst

Ruth Ann Burke  
Board Clerk

## MEMORANDUM

To: Board Members  
From: Cynthia Bertocci, Executive Analyst  
Re: Nordic Aquafarms, Appeals of Third Procedural Order  
Date: November 7, 2019 Board Meeting

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### Background

On November 1, 2019, Presiding Officer Duchesne issued the Third Procedural Order in the Nordic Aquafarms' proceeding. That order identified the issues that will be the subject of the Board's hearing. As stated in Section 1C of that order, narrowing the issues "allows the Board and the parties to focus hearing time on issues that are most in dispute and for which live testimony and cross-examination of witnesses will assist the Board in evaluating the evidence." The applicant is still required to demonstrate that the proposed project would meet all of the licensing criteria of each license or permit being sought, and the Board will make findings and conclusions on all of the licensing criteria. However, for the non-hearing issues, Nordic's applications will be judged on the written submissions of the applicant, the intervenors, and members of the public.

### Appeals Received

- 1) The Intervenor Group made up of Jeffrey Mabee, Judith Grace, and the Maine Lobstering Union has appealed the Presiding Officer's ruling that the issue of whether the applicant has demonstrated sufficient Title, Right or Interest (TRI) will not be a hearing topic as set forth in Section 1(D) of the Procedural Order. They are requesting that TRI be a topic at the hearing, with testimony of witnesses and cross-examination.

The applicant has filed a written response to this appeal.

- 2) Intervenor Upstream Watch and Northport Village Corporation have requested clarification of the ruling regarding "impacts to existing uses from construction and operations, including blasting and odor" which is listed as a hearing issue under the Site Location of Development/Natural Resources Protection Act application. The intervenors are requesting that the application for an air emissions license be a topic at the hearing, with testimony of witnesses and cross-examination.

The applicant has filed a written response to this appeal.

### Questions before the Board

The appeals are asking the Board to reverse the ruling of the Presiding Officer on the topics to be addressed at the hearing with respect to two items. The questions before the Board today are whether the issues of TRI and the Air Emissions license application should be added to the list of the issues to be addressed at the hearing through testimony and cross-examination of witnesses or whether those topics should be addressed through written submissions. The Board is not judging today the adequacy of any aspect of Nordic's applications.

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