

STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

Mark C. Draper, Chair

Cynthia S. Bertocci
Executive Analyst

Ruth Ann Burke
Board Clerk

Sent by electronic mail only

July 31, 2020

Ms. Kim Ervin Tucker
48 Harbour Pointe Drive
Lincolnton, ME 04849
k.ervintucker@gmail.com

RE: Nordic Aquafarms, Inc.'s Proceeding, Response to Letter of

Dear Ms. Tucker:

This letter responds to your filing on July 30, 2020 in which you wish to appeal to the full Board the Twentieth Procedural Order, which denied the amended renewed motion by Jeffrey R. Mabee, Judith B. Grace, and Lobstering Representatives (MGL) to stay the Board's proceedings on Nordic Aquafarms' (Nordic's) applications. In your filing, you also responded to the footnote in the Procedural Order which states that the Friends of Harriet L. Hartley Conservation Area is not a party to the Board's proceeding on Nordic's applications.

Pursuant to Chapter 3, §§ 4(C) and (D) of the Department's *Rules Governing the Conduct of Licensing Hearings*, the Presiding Officer has authority to rule on issues of procedure and such rulings are not appealable to the full Board. Accordingly, Twentieth Procedural Order is not appealable to the full Board. Please note that "[a]n appeal of the Presiding Officer's ruling is not a necessary prerequisite to preserve a party's objection for the purpose of judicial appeal." Ch. 3, § 4(D).

With respect to the Friends of Harriet L. Hartley Conservation Area (Friends), Friends petitioned the Board for intervenor status in these proceedings on the afternoon of February 10, 2020—the day before the start of the hearing and several months after Friends came into existence. As recorded in the hearing transcript and stated in the Eleventh Procedural Order, Friends' petition was denied at the beginning of the hearing as untimely. Nevertheless, members of Friends were able to testify during the portion of the hearing reserved for testimony by members of the public. None of the arguments raised in your email of July 30, 2020 save Friends from the untimeliness of its motion to intervene nor do they provide a basis for Friends to participate as a party at this time. As with any interested person, Friends may comment on any draft license decisions issued in the normal course of these proceedings. *See* Ch. 3, § 27(B). Additionally, any person aggrieved by a final agency action may seek judicial review. *See* 5 M.R.S. § 11001.

Sincerely,

A handwritten signature in cursive script that reads "Robert S. Duchesne".

Robert S. Duchesne, Chair
Board of Environmental Protection

cc: Service List