

PENOBSCOT NATION

DEPARTMENT OF
NATURAL RESOURCES

JOHN S. BANKS, DIRECTOR



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October 29, 2018

Gregg Wood
Maine DEP Bureau of Water Quality
Division of Water Quality Management
17 State House Station
Augusta, ME 04333-0017

RE: Penobscot Nation comments on Whole Oceans, LLC proposed draft permit MEPDES #ME0037478

Dear Mr. Wood:

The Penobscot Indian Nation is submitting these comments on the above referenced proposed draft MEPDES permit for the Whole Oceans, LLC application for a land based recirculating aquaculture system (RAS) in Bucksport, Maine. The proposed permit is to discharge wastewater from the new facility to the Penobscot River.

As a riverine tribe with upstream sustenance fishing rights and active involvement in water quality we have interest in this facility and its potential impacts to fisheries and aquatic resources of the Penobscot River. In general terms, given the nature of this facility and the limited knowledge about RAS effluent here in Maine we support Maine Department of Environmental Protection's (MEDEP) proposed approach of using 3 phases and requiring monitoring and dye studies to collect the data and information needed for determining water quality impacts and establishing appropriate permit limits for the proposed facility. Because of some historic issues regarding algal blooms in the Penobscot River, it is important to better understand the effect of phosphorous and nitrogen loadings to the river while preventing blooms from recurring.

We have a few specific issues that we would like to see addressed in the final permit:

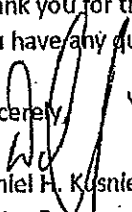
- 1) Given PIN's sustenance fishing rights and our active involvement with restoration and management of Atlantic salmon and other anadromous fish species in the Penobscot watershed we would like to be added to the Escape Reporting Contact List in Special Condition L. We request the following people be added to the list (Dan Kusnierz, Water Resources Manager dan.kusnierz@penobscotnation.org; and Dan McCaw, Fish Passage Specialist dan.mccaw@penobscotnation.org).
- 2) We would like to know why escapes of ≤ 50 fish are not reportable to the Escape Reporting Contact List.
- 3) We request that total phosphorous limits be established for the facility, similar to the approach used in the proposed permit for total nitrogen. While collecting information through a permit monitoring requirement is useful, we believe that a permit limit is needed to ensure adequate water quality protections. It is well documented through ME DEP's Penobscot River studies and

Phosphorous Waste Load Allocation, that phosphorous has been a significant problem in the Penobscot River, resulting in episodic algal blooms and non-attainment of dissolved oxygen criteria. To prevent these problems from occurring ME DEP has established phosphorous limits in other discharges to the Penobscot. We believe that Phase I should have an initial phosphorous limit, which can then be adjusted for Phase II and Phase III after more information is available through the monitoring studies in the proposed permit.

- 4) It is unclear why the facility will not be subject to toxics testing requirements of ME DEP's Surface Water Toxics Control Program. It would seem prudent, given that this is the first permit for the facility, to at least initially require toxics testing to better understand the potential toxics that might be found in this effluent. It is unknown whether the food that is being fed to the various life stages of the salmon may contain toxics depending upon its source. There are reported instances of aquaculture fish containing high levels of toxics because of the source of the fish food. Likewise, the drugs that may be used for disease control and antibiotics may either contain or break down to contain toxics.
- 5) We would recommend that when drugs are used for disease control, or when antibiotics, fungicides, bactericides, parasiticides, or other compounds are used, that the facility should monitor the effluent to determine whether these compounds are being removed by the RAS treatment system and the extent to which they may enter the receiving water. It is unclear why environmental monitoring and evaluation is required for Investigational New Animal Drugs (INAD) but is not required for other compounds. This data is important to help understand the nature of the effluent and whether these compounds or metabolites are entering the Penobscot River.
- 6) We would like to call your attention to what appears to be missing information on page 14 of the 9/28/18 Proposed Draft Fact Sheet. The second to last paragraph contains the following statement "The Department has also assessed the impact of the discharge of BOD, TSS, and total and nitrogen from the Whole Ocean's facility..." The underlined section appears to be missing some words that are needed to better understand this statement.

Thank you for the opportunity to provide comments on this proposed draft permit. Please contact me if you have any questions regarding these comments.

Sincerely,


Daniel H. Kusnierz
Water Resources Program Manager,
Penobscot Indian Nation Department of Natural Resources

Cc: Ellen Weitzler, EPA
Michael Stover, EPA