

Is Maine up to regulating the aquaculture industry, and protecting the state's coastline?

Emails show confusion, reluctance by Maine's chief aquaculture overseer after die-off



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SOMESVILLE, Nov. 27, 2021 - The only salmon aquafarm with an operating permit in Maine was ranked the worst seafood sustainability performer of all aquaculture companies in the world as measured by an organization which monitors such matters.

Canada-base Cooke Seafood, which had a massive die-off of fish at its farm just south of MDI in August and is seeking a renewal of its Maine permit, "is the worst performing aquaculture company, scoring an abysmal 0.7 out of 100," according to industry observer [the fishsite.com](https://www.thefishsite.com).

"Cooke ranks 28th in the Seafood Stewardship Index, sitting at the bottom of the list due to lack of disclosure on most key topics across all measurement areas," stated the summary by the [World Benchmarking Alliance](https://www.worldbenchmarkingalliance.com).

"Cooke does not explain how it traces the origins of its products and how it assesses illegal, unreported and unregulated risks ... the company could organise and strengthen its efforts in all areas by disclosing a sustainability strategy with time-bound targets."

Cooke's Canadian spokesman Joel Richardson, said, "We have never participated in this so-called 'ranking' which is funded by foreign overseas governments and organizations.

"In Maine, like other local food producers, we are inspected, audited and certified regularly by multiple American government departments including the US Food and Drug Administration."

"In October, we were named to the SeafoodSource.com Top 25 Seafood Product Innovators – 2021 Edition."

When QSJ pointed out that Cooke, with \$2.3 billion in sales, is a paid advertiser and sponsor of SeafoodSource.com, a trade organization, Richardson got testy with QSJ:

"Sadly, it seems you are always looking to find a negative angle."

QSJ is not familiar with all the players in the global seafood hierarchy, but citations of bad behavior by industry characters keep crossing my screen, along with questions of how rigorous the state of Maine is monitoring the aquaculture industry as it grows.

QSJ obtained emails by Marcy Nelson, Maine's acting aquaculture director, showing her reluctance last August to investigate Cooke too aggressively lest DMR would be forced to "potentially having to then take action."

The email chain started after Nelson asked a staffer at the Maine environmental protection department whether DEP was planning a dive to visually inspect the sea bottom after the die-off of 116,000 salmon in pens operated by Cooke at Black Island, next to the Gott islands just south of Bass Harbor.

The DEP staffer, Clarissa Trasko of the Eastern Maine compliance office, responded:

"No.

"What are you concerned about that would require a dive? Is Cooke video taping the bottom under that pen sites for DMR? Do you have the authority to ask them for that, if it is not being done?"

Nelson wrote back, "Just to take a look and confirm that there is not any organic build-up from this event. There are claims of a 'dead bottom' circulating. Cooke is not collecting videos for us at this time. Although we have the authority to ask for videos, there was concern in the past about it being contrary to the MEPDES permit should we start collecting that information and potentially having to then take action."

Trasko replied,

"Hi Marcy, If you are willing to exercise DMR authority, I am thinking this would be a good time to ask for videos, given the situation."

MEPDES is Maine's statute for regulating waste water and other water pollutants. The email conversation occurred Aug. 30, two weeks after Cooke discovered the die-off.

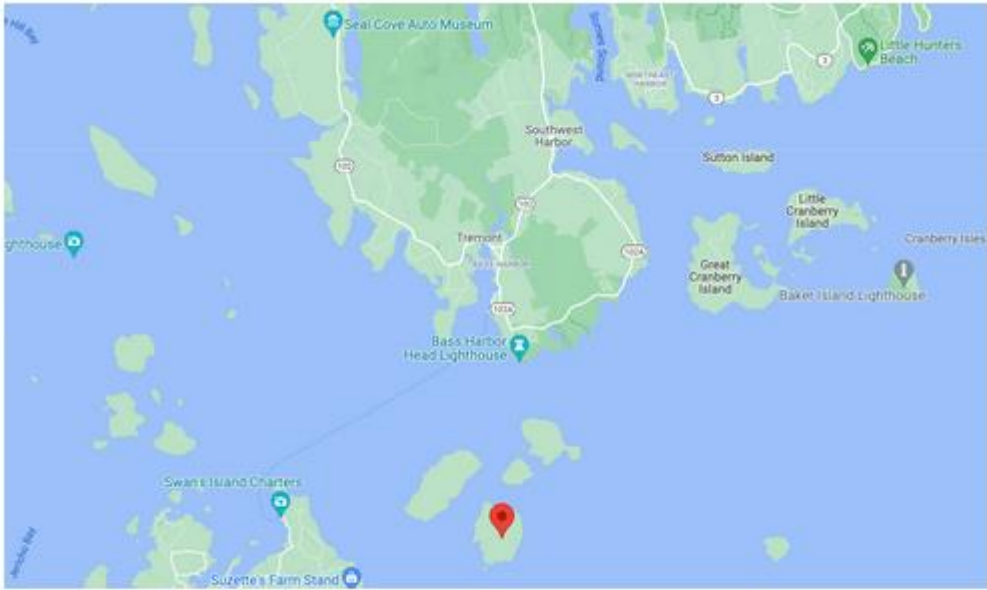
QSJ asked Nelson in an email, and copied the deputy attorney general overseeing Maine's Freedom of Access Act, "I would like a more detailed explanation of this email thread so I understand terms like 'dead bottom' circulating and the concern in the past about what is contrary to MEPDES permit ..."

QSJ did not get a reply.

"Cooke Aquaculture has been fined millions of dollars across the country." said Protect Maine's Fishing Heritage Foundation Executive Director Crystal Canney.

"The commissioner of DMR continues to turn a blind eye to the violations and may in all likelihood renew this lease. Despite efforts to have an open and collaborative statewide conversation about this, the administration resists at every turn. The Department of Environmental Protection did not even visit the site until more than two weeks after the event, long after the pens were cleaned.

On Aug. 13, according to Freedom of Access records, employees at Cooke found dead fish at the site which totaled more than 116,000 fully grown salmon. The company blamed low oxygen in the pens and hired a clean-up crew out of Portland. The carcasses were dumped in a compost site in Tremont.



Black Island directly south of Bass Harbor

Richardson said Cooke was not obligated to report the incident to the state because low-oxygen in the pens did not trigger a “threshold” reporting requirement and that Cooke did so only as a courtesy. That begs the question of how a massive die-off would not trigger a required alert to the state.

The handling of the die-off by the state and previous violations by Cooke have been of great concern to citizens who oppose another aquafarm application for Frenchman Bay, a much more closed-in body of water than Cooke’s farm at the edge of the Gulf of Maine.

In some ways, Cooke is the collateral target of this much bigger concern, the unthinkable construction of two larger salmon farms in one of the world’s most pristine bodies of water, enjoyed by local fishermen, recreational yachtsmen and visitors to Acadia National Park.

The process for that application has exposed the conflicted interest of the state with one authority charged with enforcing environmental issues (DEP) and another seeking to enable and grow sea-born businesses (DMR).

The one time the state appeared to sanction Cooke for violations was also a mirage.

In 2019, the DEP received copious publicity when it “fined” Cooke \$156,213 as part of a consent agreement for multiple violations at fish farming sites Cooke operates in Hancock and Washington counties, including having too many fish in pens, failing to conduct environmental sampling, and failing to follow a number of procedural measures laid out in the company’s operating permit, including on-time filing of pollution sampling reports and fish spill prevention plans.

But instead of an actual fine, the state decided to go into business with Cooke, leasing water rights to enable the restoration of Atlantic Salmon to the Machias River with Cooke managing the project which still hasn't started. The state considered that project to be a satisfactory punitive measure for the violations.

The "partnership" with the state gave Cooke a huge deniability.

"The administrative consent agreement was created to determine a path forward and to start anew - wipe the slate clean," Cooke spokesman Richardson said.

"These infractions are administrative/procedural in nature and companies across various types of industries go through [administrative consent agreements] to improve administrative procedures by working with the state in this manner," he wrote. "These violations of the permit are mainly timing and clerical issues and are resolved as part of our continuous improvement program. This agreement was written with much communication between our operations in Maine and the Maine DEP and has just recently been finalized. Cooke Aquaculture USA Inc. remains in compliance with our MEPDES permit."

The recent focus on Cooke sends a clear message to the state: "If you can't manage the only permitted salmon farm, why would you allow others?"

"It is difficult to make sense of DMR granting a renewal to a foreign company that continues to demonstrate that they have no respect for our waters," said Canney.

All that said, QSJ has his own questions.

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Why does Maine still not have a permanent director of its aquaculture program, while the department cannot keep up with the surge of applications?

Why was Cooke allowed to operate for more than two years after its permit expired?

Why was the DMR staff in a state of confusion about its own enforcement authority?

What did the acting director mean when she wrote, "there was concern in the past about it being contrary to the MEPDES permit should we start collecting that information and potentially having to then take action."

Is the reluctance to pursue aggressive regulatory action coming from the commissioner? The governor?

And will this lackadaisical enforcement effort carry over to future aquafarms?

FOOTNOTE: A reader asked about the status of a QSJ partnership with the Maine Monitor announced last spring to collaborate on a series of articles focusing on the aquaculture industry. Unfortunately, the editor of the Maine Monitor and the reporter left to take jobs with Spectrum Cable halfway through the project. QSJ will continue the effort on his own.