

## MAINE

# BEP issues draft order for Androscoggin

## Environmental groups see both wins and losses if the pollution permit changes pass January's vote

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LEWISTON — Advocates for improving water quality on the Androscoggin River said Friday they both win and lose in a recently issued draft order for changes to pollution permits for two mills and a dam operator on the river.

Among other things the order, which won't be voted on until mid-January, requires those discharging pollution to the river to ratchet back the amounts and to do so by 2010 rather than 2015 as previously outlined. And while environmental groups are pleased with the shorter compliance periods, they dismissed the new pollution limits, saying both mills were already at the levels outlined in the proposed order.

The order impacts paper mills in Jay and Rumford and also requires the operator, Florida Power & Light Co., of the Gulf Island-Deer Rips hydropower dam in Lewiston to participate in upgrading a "bubbler" system that adds dissolved oxygen to the river at the pond.

The draft order is another step in what's been a long process as the existing permits for discharging pollution to the river are under appeal by both the mills, owned by Verso in

Jay and New Page in Rumford; the power company and a coalition of environmental organizations including the 400-member Androscoggin River Alliance.

"It's kind of only the beginning of the end," said Neil Ward, the program director for the river alliance. His group is pleased the time frame for bringing the pond at Gulf Island into compliance with the state's standards for a Class C river are being shortened by BEP, he said Friday. "But you have to put it all into context, class C is the very lowest and ultimately we would like to see Class B and Class A water at some point."

Three separate findings of fact issued by the board for each party with permits under appeal are 36, 20 and 17 pages.

The parties have until Dec. 18 to make any comments on the proposed order to the BEP but because many of the findings have already been deliberated on by the panel, including straw votes, it's unlikely to change much, according to Steve Hinchman, an attorney with the Conservation Law Foundation in Brunswick.

"The board decision eliminates what would have been just a massive loophole in the Clean Water Act," Hinchman said of the current permits 2015 compliance deadline. "We im-

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Neil Ward, program director for the Androscoggin River Alliance

mediately appealed that because we felt that was illegal not just under state law, but was an outrageous violation of the Clean Water Act." Hinchman said allowing a 10-year compliance period also set a very poor precedent for environmental law in Maine. "Every polluter in the state would have been pleading financial hardship so they could get a 10-year compliance schedule," Hinchman said.

The order reduces the amount of total phosphorus allowed to be discharged to the river from the mills from 193 pounds a day to 150 pounds per day. It also says that all three permit holders will contribute to upgrading an oxygen injection system at the pond based on the amount of pollution they are responsible. If that doesn't improve the oxygen levels at the pond, then all three parties will be responsible to install an additional "bubbler" system

there, the order stated.

Nick Bennett, a staff scientist with the Natural Resources Council of Maine, voiced disappointment with the order. "The mills are already well below those (phosphorus limits) and have been for years," Bennett said. "You know the river isn't clean enough now because it doesn't meet standards and this isn't reducing any pollution."

Ward also expressed concern about the focus on injecting oxygen into the river instead of further reducing pollutants to it.

"I don't think anybody is sold on the bubbler except the DEP, and they are sold on it because they have a compliance issue here — they are mandated by law to bring this impoundment into standard," Ward said.

Jack H. Montgomery, an attorney with Bernstein, Shur, Sawyer & Nelson in Portland, said the impacts of the order on all parties are closely inter-

woven and that he would spend the weekend going over the draft. Montgomery works on BEP permitting issues for Florida Power & Light Co. "We are looking it over and reading all of the orders very carefully," Montgomery said Friday. "We will be working very hard between now and (Dec. 18)."

Tony Lyons, a spokesman for the New Page mill in Rumford, said at first blush his company was satisfied with the order because it already was in compliance.

"We have said and have said several times when the opportunities are there that we are happy to operate under those conditions," Lyons said Friday. He said some smaller procedural components of the order may cause concern for New Page. "But, generally, I think we are satisfied with the way the draft order seems to address each party's responsibilities."

Bill Cohen, a spokesman for Verso, offered a more critical review of the order, saying his company was disappointed it retained such a "linear and regulatory approach."

Cohen said much of Verso's testimony to the board in the ongoing process focused on the phosphorus loading to the river that comes from "non-

point" sources. This includes stormwater runoff from farm fields, forests and roads. And while the BEP board didn't have any non-point permits under appeal, Cohen said the board could have ordered the various partners to come up with a plan for reducing that type of pollution. Verso has maintained the dissolved oxygen problem at Gulf Island Pond is being disproportionately blamed on the mills. Verso has suggested a study to determine the impact of non-point source be commissioned. "Rather than just say the second bubbler is what we are going to do, they should have said come back to us with a plan for non-point sources."

The board will still have the opportunity to change the order before the vote on it in January and that could happen, Cohen said.

"What we are not trying to avoid here is doing anything so radical that we upset the apple cart and put either the environment or the mill at risk," Cohen said. "I think there are some strongly divided opinions on the board, so how they are going to sort through it all will be interesting, but wouldn't it be nice if something could be done so it isn't appealed."

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