

**Maryland Aquaculture Coordinating Council**  
**Minutes – May 12, 2016**

**Members Attending:**

Don Webster  
Erin Butler  
Karl Roscher  
Reggie Harrell  
Chris Sherman  
Terry Witt  
Pete O’Neill  
Kathy Brohawn  
Tony O’Donnell  
Andrew Griffin  
Johnny Shockley  
Stephan Abel  
Jon Farrington  
Evan Richards rep. Kathy  
Klausmeier

**Guests Attending:**

Chris Aiken (Self)  
Steve Schneider (DNR)  
Maude Morris (DNR)  
Alyssa Cranska (DNR)  
Rebecca Thur (DNR)  
Robin Henderson (DHMH)  
Steve McHenry (MARBIDCO)  
Kelton Clark (MSU)  
Brian Connelly (Shipping Creek)  
JD Blackwell (38° North)  
Moochie Gilmore (QA CO.)  
Kaity Goldsmith (MARCO)  
Ryan ONO (Ocean Conservancy)  
John VanAlstine (Self)  
Laura Shively (ACOE)  
Sarah Gross (ACOE)  
Kathy Anderson (ACOE)  
Woody Francis (ACOE)  
Kevin Chu (NOAA/NMFS)  
George O’Donnell (DNR)  
John Backus (MDE/SSA)  
Shawn Garren (NRP)  
Brian Russell (STS)

Kim Coulbourne (MDHMH)  
Hal McBee (SCFTS)  
Tal Petty (Hollywood Oyster, CO)  
Bill Cox (Honga Oyster)  
Rob Witt (Self)  
Johnny Mautz (MD Delegate)  
Wayne Jones (NRP)  
Larry Jennings (CCA)  
Scott Budden (Industry)  
Adriane Michaelis (UMD)  
John Devine (BIO)  
Gary Wolf (FDA)  
Brad Cheng (Self)

**Call to Order:**

Chair Butler called the meeting to order at 6:35 pm and welcomed three new council members: Stephan Abel (Oyster Recovery Partnership), Peter O'Neil (Department of Commerce) and Colby Ferguson (MD Farm Bureau), who was unable to attend this meeting.

**Administrative:**Approve March Minutes

The March 10, 2016 meeting minutes were approved as written, by the Council.

Announcements

- Ms. Brohawn announced she attended the Mid-Atlantic Regional Council on the Ocean's (MARCOs) annual meeting. MARCO just received funding for Ocean Acidification research and will host an upcoming workshop. Guests and council members were asked to contact her if they would like additional information.
- Mr. Webster announced that the University of Maryland Extension's schedule of 20+ workshops, demonstrations and short courses will be mailed out to all leaseholders this week. He also announced the HACCP training for shellfish shippers was held and 15 people attended, Chair Butler thanked Mr. Webster for hosting the event annually.
- Delegate O'Donnell announced the Governor signed all three pieces of legislation introduced in the 2016 general assembly.
- Mr. Griffin announced that the Maryland Young Farmer's Advisory Board, an advisory body to the Maryland Agriculture Commission and Secretary of Agriculture which represents young farmers in Maryland, is seeking nominations to fill one vacancy and would like an aquaculture grower on the Board. He also announced that the USDA and National Organics Standard Board are proposing standards for organically produced, farm-raised shellfish and finfish.

**Reports:**Aquaculture Division Report (Mr. Roscher, DNR)

The Division has received seven new shellfish lease applications since the last ACC meeting. A total of 19 new lease applications have been received so far in 2016; nine of which are for water column leases. In addition, ten new lease agreements have been issued. Hydrographic surveys for 13 lease applications have been completed since the March meeting and eight additional surveys are pending. Public notices for 14 proposed projects were initiated for which the comment periods will end in mid April to late June. Six of these have received a protest and/or request for PIM to date. In addition, 12 new lease application packets were prepared and forwarded to the Corps of Engineers for review.

Fifty Shellfish Import Applications have been received in 2016 to date, 31 of which have been issued for shell, seed and larvae. One inspection of VA shell piles was completed in mid-March and a second inspection at a different facility in VA is planned for May 20<sup>th</sup>. Six new Shellfish Nursery Permit applications have been received in 2016 and one has been issued.

From September 2010 through May 10, 2016, 362 lease applications have been received, 284 of which have been received since August 1, 2011 when the Department began accepting applications for water column leases and

leasing in sanctuaries. The State has issued 184 new commercial shellfish aquaculture leases totaling approximately 4,361 acres. An additional 100 lease applications are in process, five of which are incomplete.

So far in 2016, 1,674 Shellfish Aquaculture Harvester Permits were issued; comprised of 469 Permittee and 1205 Registration cards. This represents 415 individuals who are permitted to work in the industry.

The Division is ready to submit the Shellfish Aquaculture Harvester Permit (SAHP) regulation changes discussed at previous Council meeting and may be able to request an emergency action so the changes can be implemented during this growing season.

The Division is working with the Governor's office to add industry council appointments. A new process has been implemented for nominees to enter biographical information online and we are hoping to have members approved by the next meeting.

The Division received a list of clamming industry contacts and has committed to sending letters to those contacts when projects go on public notice just as we do with the County Oyster Committee Chairs. The Department is also developing a process to resolve clamming conflicts, such as requiring a clam density survey on applications that are protested. Exact metrics need to be determined and more information will be presented at a future meeting.

Mr. Roscher touched on a few key points from a contested case hearing over a lease application in Sotterley Creek, St. Mary's County. The hearing took place over three full days in which the protestants brought multiple witnesses to the stands. The Department's arguments showcased its leasing process and all the steps taken to review applications. The judge will make his decision by May 20<sup>th</sup>.

Finally, Mr. Roscher announced there is a memo included in tonight's packet that was sent to members of the DNR Tidal Fisheries Advisory Committee (TFAC). The memo addresses questions raised about the selling and planting of oysters harvested from a public oyster bar to an aquaculture lease. Chair Butler pointed out that an Oyster Harvest Areas and Commingling Zone map was also included in tonight's packet.

#### Shellfish Aquaculture Financing Program Status (Mr. McHenry, MARBIDCO)

MARBIDCO began working with the DNR in 2011 to provide loans for eligible aquaculture activity. Two programs - Regular (water column and shell on bottom leases) and Remote Setting - loan up to \$100,000 with a portion forgivable after three years of interest only payments. There are a total of 62 current projects (59 Regular and 3 Remote Setting) in ten counties with 52 of the loans fully drawn. Funds are still available for larvae and \$300,000 in Capital funds will be available in FY 2017. Over \$500,000 has been paid back to the program which can be applied to either program. As Mr. McHenry reported last meeting, the program is slowing down so everyone is encouraged to spread the word because funds are available. A pamphlet with more information about the program was handed out to all guests and council members.

#### Tidal Fisheries Advisory Committee (TFAC), April meeting summary (JD Blackwell)

Mr. Blackwell has been appointed to the TFAC to represent Aquaculture. He reported on topics discussed at their recent meeting.

- Clammers requested the Department open more bottom for clam harvest. However, declassifying a PSFA for clamming will also open it to Aquaculture
- A motion was made to include aquaculture leases in the closure book
- Commercial watermen are required to purchase their own tags but the Aquaculture industry is provided with farm-raised tags
- Commercial watermen are required to pay the seafood marketing fee but aquaculture leaseholders are not
- Aquaculture leasing precludes trotline crabbing
- Concerns were raised about wild oysters being sold as aquaculture product and how the product is marketed
- Undersized oysters are reported being planted on aquaculture leases then sold when marketable size

## **Presentations**

### Proposed Changes to Federal Shellfish Aquaculture Permitting (Mr. Francis, USACE Balt. District)

Mr. Francis reported that the Baltimore District, U.S. Army Corps of Engineers Regional General Permit-1 (RGP-1) that has been used to authorize commercial shellfish aquaculture projects will expire on August 15, 2016. He gave a brief history of previous permits issued in the past and announced that the District is proposing to reinstate the Nationwide Permit 48 (NWP-48) and use the NWP-48 instead of the RGP-1. The proposed reinstatement of the currently suspended NWP-48 will authorize new and existing commercial shellfish aquaculture activities within the State of Maryland under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 that meet the revised conditions. Mr. Francis handed out the Public Notice the ACOE issued on April 28, 2016 and presented on the proposed modifications in the notice and enclosures. The overall goal of reinstating the NWP #48 is to streamline the permitting process to make it more efficient and cut down on processing time. The Baltimore District is also working to streamline the joint/state federal aquaculture review process with Maryland DNR.

A discussion took place between members of the Council and guests in attendance about issues addressed in the notice.

### **Motion (Webster/O'Donnell)**

For the Council to send a letter to the ACOE acknowledging the proposed changes in the permitting process with the following points: 1) We agree that the project size limits should be removed since that is consistent with MD law and the court decisions that have reinforced it; 2) Encourage the move towards more concurrency in the permit process in order to shorten the period for those seeking to get into business or to expand current operations 3) Supporting the ongoing engagement with NMFS to resolve issues on fish habitat that were based more on opinion than science; 4) Nothing that the overall limit of 20K acres is unrealistic and should likewise be removed; VA has far more than that in traditional leases with no adverse effects; 5) That we would hope to continue our ongoing relationship with ACE-Baltimore District to further streamline the process of aquaculture permitting in the next iteration of NWP#48 to continue to aid the development of shellfish culture.

Mr. Francis requested for everyone to review the Public Notice posted on their website and submit comments by the May 31<sup>st</sup> deadline. The notice can also be found below:

<http://www.nab.usace.army.mil/Missions/Regulatory/Public-Notices/Public-Notice-View/Article/745578/spn16-25-expiration-of-regional-general-permit-1-and-reinstatement-of-nationwid/>

Maritime Law Enforcement Information Network (MLEIN) (Captain Sherman)

Captain Sherman introduced his colleagues Major Jones and Lieutenant Garren, one of whom will replace him on the Council when he retires. He presented information regarding a tool NRP utilizes called “Maritime Law Enforcement Information Network” (MLEIN). This consists of a series of cameras and radar that allow law enforcement to view and follow vessels within Maryland waters. The initial survey area was small but has now expanded throughout the Bay and tributaries and will continue to grow in coverage. The areas monitored are kept confidential and the technology has been tested and used in prosecuting court cases.

**Motion (Delegate O’Donnell/Chair Butler)**

For the Council to send a letter to the NRP Superintendent, DNR Secretary and Governor’s office to request to include additional funding in the FY 2018 budget for the MLEIN.

**Continuing Business:**

2016 Council Annual Report (Mr. Griffin)

Mr. Griffin reported that the council subcommittee met two weeks ago to develop the 2016 annual report. A draft report is not currently available but many topics from last year’s report will carry over. Several new issues were added such as labor and employment, USDA grants for the industry, nutrient trading and including a section in the report that showcases a grower every year. A final list of items will be provided to Council Members for comments and feedback. An electronic copy of the report will be coming soon.

**New Business**

Shellfish Lease Markers, Enforcement Issues (Cpt. Sherman)

Cpt. Sherman reported on a long on-going issue with theft/loss of markings on aquaculture leases. For enforcement and prosecution purposes, leases must be marked at all times. Inclusion of lease coordinates in the closure book was mentioned, but according to the law, the lease still needs to be marked to be enforced. After discussion, it was brought up that a law change may need to be developed. Members of the Council decided that a decision would not be made tonight, but a meeting will be held with leaseholders and a member of the Attorney General’s office to identify problems comprising theft of privately owned oysters and to develop recommendations for solutions.

Vice-Chair Nominations/Election (Chair Butler)

Chair Butler announced that nominations for the new Vice-Chair normally take place at the July meeting but neither she nor Vice-Chair Harrell will be in attendance in July. Accordingly, Chair Butler opened the floor for nominations for a new Council Vice-Chairman.

**Motion (Griffin/Chair Butler)**

Mr. Griffin nominated Mr. Webster for the Vice-Chair position, Chair Butler seconded the motion. Vice-Chair Webster will begin serving at the July meeting.

**Award Presentation**

Vice-chair Harrell presented outgoing (and retiring) Chair Butler with an award in recognition of her past service to the citizens of Maryland, the aquaculture industry and Coordinating Council.

**Public Comments:**

No comments were made by the public

**Adjourn:**

The meeting was adjourned at 8:52 pm with the next regularly scheduled meeting to be held on Thursday, July 14, 2016 at 6:30 pm in the Maryland Department of Natural Resources, C-1 Conference Room.