

Maryland Aquaculture Coordinating Council Minutes – September 9, 2016

Members Attending

Reginal Harrell	Kim Coulbourn	Chris Sherman
Donald Webster	Andrew Griffin	Evan Richards (representing
Karl Roscher	Colby Ferguson	Sen. Klausmeier)
Peter O’Neill	Stephan Abel	Terry Witt
Kathy Brohawn	Ben Parks	

Guests Attending

Chris Aiken (Self)	Linda Arnold (MARBIDCO)
Alyssa Cranska (DNR)	Larry Jennings (CCA)
Kathryn Busch (DNR)	Woody Francis (ACOE)
Rebecca Thur (DNR)	Ted Cooney (Industry)
Kari Bradberry (DNR)	Rob Witt (Industry)
JD Blackwell (38° North)	Carnelious Jones (Industry)
Hal McBee (SCFTS)	Amy Caliberte (MDE)
Bill Cox (Industry)	Heather Merritt (MDE)
Johnny Mautz (MD House of Delegates)	Julie Reichert (ORP)
George O’Donnell (DNR)	Rebekah Borgert (MSU)

Call to Order

Chairman Harrell called the meeting to order at 6:30 pm and asked guests and members to introduce themselves.

Administrative

Approve July Minutes

The July 14, 2016 meeting minutes were approved by the Council after one correction.

Announcements

- Vice-Chair Webster announced the Northeastern Regional Aquaculture Center is hosting a Work Group to develop a project to aid growers to develop businesses in the region.
- Vice-Chair Webster announced two UMD Extension workshops:
 1. *Understanding Sidescan Sonar Charts of your Lease*
Date: September 14, 2016, 6 pm - 8:30 pm
Location: UM Wye Research & Education Center, Queenstown, Maryland
 2. *Business Planning for Shellfish Growers*
Date: September 20, 2016 and September 22, 2016, 9 am - 3:30 pm
Location: UM Wye Research & Education Center, Queenstown MD (SEP 20) & Calvert County Extension Office, Prince Frederick MD (SEP 22)
- Captain Chris Sherman announced that this may be the last ACC meeting he attends. He is retiring soon and Lieutenant Garren will likely be his replacement on the Council. Chairman Harrell thanked Captain Sherman for his service.

Reports

Aquaculture Division Report (Mr. Roscher, DNR)

The Division has received four new shellfish lease applications since the last ACC meeting. A total of 36 new lease applications were received so far in 2016; six were subsequently withdrawn due to conflicts with restoration areas within a sanctuary. In addition, six new lease agreements have been issued since the last meeting; 26 are the total (482 acres) to date in 2016. Four leases are currently pending. Hydrographic surveys for eight lease applications have been completed since July and seven additional surveys are pending. Public notices for seven projects were initiated with the comment periods ending between mid-September and mid-October. Two have received protests and/or requests for PIM to date. In addition, six new lease application packets were prepared and forwarded to the Corps of Engineers for review.

Sixty-one Shellfish Import Applications have been received in 2016 and 48 have been issued for larvae, wild and hatchery seed (diploid and triploid), broodstock and market-sized oysters, as well as oyster and clam shell. Ten Shellfish Nursery Permit applications have been received in 2016 with ten being issued.

From September 2010 through July 14, 2016, Maryland has received 379 lease applications with 301 since August 1, 2011, when the Department began accepting applications for water column leases. The State has issued 195 new commercial shellfish leases totaling 4,503 acres. An additional 97 lease applications are in process but 3 are incomplete.

So far in 2016, 1,828 Shellfish Aquaculture Harvester Permits have been issued; these are comprised of 500 Permittee and 1,328 Registration cards. Therefore, 441 individuals are permitted to work in the industry.

There are currently 386 leases held by 171 individuals/companies on 6,062 acres. Approximately 44% of leases issued since 2011 are water column leases and 47% of primary leaseholders have TFLs.

During the last calendar year (2015) the total harvest was 50,637 bushels of oysters. Through July 2016, a total of 41,292 bushels of oysters were harvested. It is expected that there will be an additional 25,000 bushels harvested by the end of the calendar year.

Mr. Roscher provided a copy of the regulatory package to that was submitted to AELR. The package has been posted in the September 2, 2016 issue of the Maryland Register. The change removes the requirement for individuals working under the supervision of a Shellfish Aquaculture Harvester Permittee on a lease from having to possess a registration card. Public comments will be received by the Department through October 3, 2016. The new regulations are expected to be approved on November 7, 2016. Chairman Harrell advised the Council to read the package carefully. Mr. Roscher encouraged members to contact him if they had any questions concerning the package.

Mr. Roscher updated the Council on protested applications:

- Lumpkins (#129a & #129b) case went to the Court of Special Appeals, which ruled in favor of the Department. The Protestants still have the option to take the case to the Court of Appeals.
- Mr. Pomeroy had three applications in process (#250, #251 & #252) with one being protested. A public information meeting was held for all projects and protests were subsequently resolved for #252. Mr. Pomeroy's lease has been issued.
- A protested lease in Sotterley Creek #179 (Hollywood Oyster Company) has been issued after the Court ruled in favor of the Department; an appeal has been filed by the protestants.
- The Dubois and Dawson case (#224, Miles River) was transmitted to the OAH. The protestants did not participate in the pre-hearing conference which resulted in a default order by the Judge. The protestants did not respond to the default order and the lease has been issued.
- Protestants of the Airedele Rd, LLC (True Chesapeake Oyster Co.) application #243 have withdrawn their protests and the Department is currently drafting lease documents.

Mr. Roscher noted that there are currently six outstanding public information meetings.

Shellfish Aquaculture Financing Program Status (Ms. Arnold, MARBIDCO)

Ms. Arnold stated that there have been no changes since the last ACC meeting, including no new loans issued. MARBIDCO has approved 60 projects this year with 54 loans fully drawn. Over \$2.9 million has been dispersed and \$954,000 has been repaid to the program. Ms. Arnold encouraged everyone to spread the word about their program since they have plenty of funds available and she provided brochures for those interested.

Oyster Advisory Commission (Mr. Parks)

Mr. Parks reported that the OAC has met at total of four times since the group reformed. The Tred Avon River was the topic of conversation at the first two meetings. At the upcoming meetings they will discuss which areas could be considered for possible restoration work.

Tidal Fisheries Advisory Committee (Mr. Blackwell)

Mr. Blackwell reported on the following topics discussed at their last recent meeting:

- The oyster panel is developing a master plan for oyster activities in the Chesapeake Bay (Maryland) and Potomac River
- Rotational harvest
- Aquaculture
- Recreational harvesters catching more than allowed limits
- Illegal seafood dealers

Southern Maryland Agricultural Development Commission - SMADC (Mr. Blackwell)

SMADC was created to help support Southern Maryland tobacco farmers' transition to other types of agriculture. The commission has provided millions of dollars in grants to farmers and they still have millions available to qualified individuals. SMADC supports many types of agricultural practices and recently added aquaculture. This addition was made after results from a community survey indicated support for the industry.

Oyster Promotion at the 2016 MD State Fair (Mr. Jennings, CCA)

Mr. Jennings updated the Council on the Coastal Conservation Association's "Oyster Alley" at the 2016 Maryland State Fair. Four growers were in attendance: Ted Cooney (Madhouse Oysters), Bill Cox (Honga Oyster Company), Johnny Shockley (Hoopers Island Oyster Aquaculture) and Shore Thing Shellfish. Overall, they did well at the fair and received good publicity, but there were difficulties with the application and obtaining insurance for the vendors.

Continuing Business

Oyster BMP Expert Panel Update (Ms. Reichert-Nguyen, ORP)

Ms. Reichert-Nguyen gave the council a report on the Expert Panel report to be released on September 22nd for public comment.

Two main topics discussed in the report are:

1. A *decision framework* to determine nutrients (nitrogen and phosphorus) and suspended sediment reduction effectiveness of oyster practices for BMP application.
2. *Default reduction effectiveness* estimates for nitrogen and phosphorus assimilated in oyster tissue for on-bottom and off-bottom oyster aquaculture practices.

The panel considered two approaches for determining phosphorus and nitrogen reduction effectiveness assimilated in oyster tissue of harvested oysters for aquaculture practices:

1. Separate reduction effectiveness estimates for diploid and triploid oysters

The panel has worked with the Chesapeake Bay Management Board to develop regression equations based on twenty-two general locations to determine the influence of environmental and site conditions on oyster shell height to tissue dry weight. They found that overall, triploid oysters have more biomass than same sized diploid oysters, resulting in higher nitrogen removal.

2. A site-specific estimate for individual practices

The panel is recommending an option where the BMP implementer can apply for a site-specific estimate. This will be determined by the dry tissue weight of 50 oysters. The operation will work with the State and CBP to establish size-class categories. Once established, oysters will be analyzed to determine average tissue dry weight. For reduction effectiveness, the average tissue dry weight for each size class will be multiplied by the 8.2% nitrogen content and 0.9% phosphorus content in oyster tissue. The estimate will be re-evaluated every five years.

On September 22, 2016 from 1-3pm there will be a webinar, open to the public, to discuss the report. Following the webinar there will be a thirty day public comment period, ending October 22, 2016. Comments should be sent to jreichert@oysterrecovery.org.

Nationwide Permit #48 Update (Mr. Francis, USACE, Baltimore District)

Mr. Francis provided the Council with a handout describing reinstatement of the 2012 Nationwide Permit #48 and highlighted important facts:

- On 8/16/2016 the Baltimore District reinstated the suspended 2012 NWP #48 with revised regional conditions in Maryland's tidal waters

- NWP #48 replaces the Regional General Permit (expired on 8/15/2016)
- The reinstatement of NWP #48 only affects the federal permit application process, and does not alter the State's lease process
- Changes from RGP-1 to NWP #48 include:
 - Removing acreage thresholds, allowing submission of applications for unlimited project acreage
 - Instituting concurrent review with MD DNR - the Corps will now receive applications within seven to ten business days of MD DNR's receipt
 - Requiring additional information in applications concerning impacts to the aquatic environment and the public interest (*i.e.* effects to navigation)
 - Removing certain geographic exclusion lines (pertaining to fish spawning habitat concerns) – applications will now be evaluated on a case-by-case basis
- NWP #48 is set to expire on 3/18/2017 – the Corps will issue a public notice when the NWPs are re-issued
- The reinstated NWP #48 does not authorize certain activities, including:
 - Activities in SAV areas
 - Activities that interfere with navigation
 - Activities that interfere with ingress/egress from neighboring properties
 - Predator control devices
 - Activities that have/will have more than minimal adverse effects
- The Joint Federal/State Application for Commercial Shellfish Aquaculture Lease and Federal Permit (Joint Application) shall serve as Pre-construction notification (PCN)

Mr. Francis' contact information was provided to the Council in case of questions: woody.francis@usace.army.mil or 410-962-5689.

New Business

Asian Market Access (Mr. O'Neill, Department of Commerce)

Mr. O'Neill reported that Mr. Hudson (True Chesapeake Oyster Company) traveled to Hong Kong with MDOC support and has lined up potential buyers. He noted that, despite the 27% tariff on new shellfish entering China, they are still hoping to develop new business. Mr. Hudson attended the 2016 Seafood Expo Asia as part of the trip, with financial assistance provided by the MDOC. These services are available to all growers who have an interest and wish to apply.

Mr. O'Neill commented on the EU embargo on US shellfish and hopes that concerns over the embargo will be raised to higher levels within government. He would like to see shellfish producing states working together to present a united front to elevate concerns.

He noted that the MDOC will advertise a job opening for an Agro-Business position. This person will represent Agriculture, Aquaculture and Energy segments of the economy and he encouraged interested parties to check the listing on www.Maryland.gov.

Chairman Harrell shared that the US Food and Drug Administration has approved *Aqui-S* as a sedative for marine fish used in aquaponics.

Public Comments:

Mr. Blackwell asked Mr. Roscher about changes to the Shellfish Aquaculture Harvester Permit (SAHP) regulations and whether the changes provided for a farm manger to supervise workers on a lease. Mr. Roscher stated that, under the modified regulations, workers do not have to obtain and possess registration cards if they are supervised while working on the lease by the permittee. Under the regulations, a farm manager is not considered the supervisor unless he/she is the permit holder.

Adjourn:

The meeting was adjourned at 7:44 pm with the next regularly scheduled meeting to be held on Thursday, November 10, 2016 at 6:30 pm in the Maryland Department of Natural Resources, C-1 Conference Room.