

Maryland Aquaculture Coordinating Council Minutes – January 12, 2017

Members Attending

Reginal Harrell	Andrew Griffin	Johnny Shockley
Donald Webster	Colby Ferguson	Lt. Shawn Garren
Karl Roscher	Stephan Abel	Senator Klausmeier
Kathy Brohawn	Terry Witt	Delegate Mautz
Kim Coulbourne	Don Meritt	

Guests Attending

Stuart Dawson (Industry)	Brian Russell (Industry)
Steve Schneider (DNR)	Kathryn Busch (DNR)
Nat Warning (DNR)	Alyssa Cranska (DNR)
Kari Bradberry (DNR)	Maude Morris (DNR)
JD Blackwell (Industry)	Harold McBee, Jr. (Industry)
Rebekah Borgert (MSU)	Rob Witt (Industry)
Bill Cox (Industry)	Larry Jennings (CCA)
Nancy Shockley (Industry)	Ken Lewis (CCA)
Dave Tibbets (Industry)	Ted Cooney (Industry)
Adriane Michaelis (UMD)	Russell Rothschild (Industry)
Kevin Chu (NOAA)	Jodi Baxter (DNR)
Kelton Clark (MSU)	Steve McHenry (MARBIDCO)
Deborah Rey (Delegate)	Amber DeMarr (MSU PEARL)
Capt. Brian Rathgeb (NRP)	

Call to Order

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

Administrative

Mr. Roscher noted recent additions to the Aquaculture and Industry Enhancement Division and requested attending staff members to introduce themselves. The newest addition to the team is Nathaniel Warning, Field Operations Manager.

Approve November Minutes

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

Announcements

- Mr. Webster announced the upcoming East Coast Commercial Fishermen's and Aquaculture Trade Exposition to be held January 13-15, 2017 in Ocean City, MD.
- Mr. Ferguson provided the Council with an update from the Maryland Farm Bureau. Recommendations made at the November Coordinating Council Meeting were officially added to Maryland Farm Bureau Policy. The addition to the policy reads: "We support the Maryland Aquaculture Coordinating Council's recommendations that provide science-based guidance on how aquaculture should be managed". Mr. Ferguson noted

that the MD Farm Bureau would support nutrient trading if/when that becomes an option. The 2017 Maryland Farm Bureau Policy Book can be viewed at:
<http://mdfarmbureau.com/wp-content/uploads/2017/01/MFBPolicy-2017-Final.pdf>

- Mr. Abel announced that The Chesapeake Bay Program approved oyster aquaculture as a Best Management Practice for TMDLs in December 2016.

Reports

Aquaculture and Industry Enhancement Division Report (Mr. Roscher, DNR)

The Division has received 11 new shellfish lease applications since the last ACC meeting. A total of 52 new lease applications were received in 2016. In addition, seven new lease agreements have been issued since the last meeting; 38 in total (645 acres) for 2016.

In 2016, 52 shellfish import permits were issued. Also, a total of 13 new shellfish nursery permits were issued in 2016, with 11 permit modifications.

From September 2010 through January 12, 2016, Maryland has received 399 lease applications. The State has issued 212 new commercial shellfish aquaculture leases totaling approximately 4,695 acres. There are currently 393 active leases covering 6,186 acres.

In 2016, the Division issued 1,897 permit cards (520 Permittees and 1,377 Registrants); with a total of 459 discrete individuals.

Mr. Roscher provided Council members with an update on the Annual Leaseholder Mailing. As of January 12th, the Department had received 323, of the 374 mailed, packets back from leaseholders. Also, 2017 rental payments were due to the Department by January 1, 2017. Leaseholders who have not paid their rent by January 12th will receive a lease termination letter and have 30 days to appeal.

In 2016, a total of 63,236 bushels of shellfish were harvested from Maryland Aquaculture leases. This is an increase over 2015, where approximately 52,000 bushels were harvested. TFL leaseholders accounted for 30,500 bushels of the total 2016 harvest. Harvest was reported by 83 leaseholders on 179 leases in 2016.

Mr. Roscher updated the Council on some protested applications:

- There are currently 25 open protests.
- December 19, 2016 there was a hearing for the Hollywood Oyster lease (#179), with results currently pending.
- November 15, 2016 there was a meeting with protestors of the proposed Lumpkins lease but they were unwilling to withdraw and the Department is working with the applicant.
- January 17, 2017 there is a prehearing conference with OAH for the Barnette proposed lease (#321).
- The court ruled in favor of the Department for the MD Water Holdings lease (#255). This lease is currently being issued.
- January 26, 2017 there is a Public Information Meeting scheduled for the Cooney and Robinson proposed leases (#259 & #260).

Shellfish Aquaculture Financing Programs (Mr. McHenry, MARBIDCO)

Mr. McHenry provided the Council with a handout summarizing approved MARBIDCO Aquaculture loans. MARBIDCO has approved 61 projects in ten counties, totaling \$3.7 million, with \$3.4 million advanced. Over one million dollars of principal repayments have been made to the program. Mr. McHenry noted that \$200,000 of capital funds still remain for FY 2016 and the Board of Public Works is expected to approve another \$300,000 for FY 2017.

He also noted that loan demand was slow last year, with only five loans distributed in 2016, and they would like to see an average of about 12 loans per year.

Tidal Fisheries Advisory Committee & Oyster Advisory Commission (Mr. Blackwell)

Mr. Blackwell reported that there has not been a TFAC meeting since the last ACC meeting in November. He did note that NRP recently obtained their own helicopter; they had previously been using a State Police helicopter.

The meeting turn-out for the OAC has been very high lately; they recently had to move their meeting to a different building to accommodate the attendees. Several different groups have recently presented and meetings have been contentious. The Five Year Report on sanctuaries was recently published. In addition, TFL holders have made presentations about what they would like to see in nearby sanctuaries but their suggestions have not been well received by some groups.

Mr. Blackwell reminded the Council about the OAC's tasks:

1. Make a decision about Tred Avon
2. What to do about the management of the sanctuaries
3. Choose two more tributaries for restoration

The choice of tributaries for restoration has not been made yet, but has been narrowed to nine locations. It is expected that the Department will make a proposal at the next OAC meeting.

Also, the ACOE has not made a decision about Man-O-War Shoal dredging.

Continuing Business

Oyster Public/Private Partnership Project (P3) – (Mrs. Baxter, DNR)

Ms. Baxter provided an overview of the P3, a watermen's cooperative with governmental and non-governmental partners. MD DNR Deputy Secretary Joanne Throwe led this initiative and invited several partners to participate: DNR, ORP, UMD Environmental Finance Center, Anne Arundel County Oyster Committee, Anne Arundel County Government, and the Anne Arundel MWA Chapter. Funding is coming from the Chesapeake Bay Trust and NFWF.

The objectives of the P3 include:

1. Create a pilot Oystermen's Cooperative (Co-Op)
2. Scale and accelerate investment in productivity of the State's unproductive/low density oyster areas
3. Expand the project through the use of revolving funds (seed replanting, expansion to new areas, etc.)

At this point the P3 is still in its infancy but they are currently planning on obtaining lease area in Anne Arundel County for their pilot project. South River and Rhode River are two locations being considered. Other interested counties include: St. Mary's, Charles, Queen Anne's, and Worcester.

The next steps include: develop a Board of Directors, develop bylaws, obtain leases, and start planting in summer 2017. The P3 had their kickoff meeting in November 2017 and on January 23, 2017 they will hold a meeting at SERC.

New Business

Submerged Aquatic Vegetation (SAV) and Leasing – (Mr. Roscher & Mrs. Busch, DNR)

Mr. Roscher and Mrs. Busch discussed the role of the Department, and the Division, in relation to submerged aquatic vegetation and aquaculture:

The Department must strive to meet SAV management goals, which include:

- Sustain and increase the habitat benefits of SAV (underwater grasses) in Maryland's tidal waters
- Achieve and sustain the ultimate outcome of ~ 114,000 acres of SAV in MD waters necessary for a restored Chesapeake Bay (Maryland's commitment to the Chesapeake Watershed Agreement)

The Living Resource Assessment group works directly with VIMs, which manages Bay-wide SAV data, to set goals for the Maryland portion of the Bay. Annually, VIMS takes aerial photos of all major Bay tributaries which they use to identify areas with SAV growth. These aerial photos, in conjunction with habitat surveys, help the Department make management decisions pertaining to SAV Protection Zones.

Shellfish Aquaculture lease applications received by the Department undergo a rigorous screening process. Applications are reviewed by several divisions, including the Living Resource Assessment group, which screens for SAV conflict. If/when conflicts are found, the division provides modification recommendations. In addition, the Living Resource Assessment group provides guidance to the Aquaculture and Industry Enhancement Division on possible SAV conflicts within existing leases and what/ if any restrictions should be imposed on a lease.

In 2009, new lease laws were passed in Maryland resulting in significant changes to the DNR shellfish leasing program including the definition of SAV Protection Zones. The new law, Natural Resources Article §4-11A-01 et al., prohibits the issuance of a lease in an SAV Protection Zone, defined as an area of SAV with a density greater than 10% as mapped in aerial surveys by VIMS in 1 or more of the 3 years preceding the application.

During the Department's negotiations of the Regional General Permit with the ACOE, concerns were raised that 3 years of data may not be sufficient. In an effort to provide additional protections to SAV populations, the Department proposed a legislative change in 2011 to modify the definition of an SAV Protection Zone to be defined as an area of SAV regardless of density as mapped by VIMS in 1 or more of the 5 years preceding the application.

Additionally, §4-11A-10(c) provides that a leaseholder may not “place shellfish, bags, nets, or structures on submerged aquatic vegetation.” Accordingly, a leaseholder may not work in an area of their lease where SAV encroaches.

In order to comply with Maryland law, applicants work early in the lease application process with the Department of Natural Resources (DNR), Aquaculture and Industry Enhancement Division and/or the Aquaculture Review Board (ARB) to determine suitable project locations away from areas of mapped SAV. All proposed projects are screened for potential impacts to SAV utilizing geographic information systems (GIS) software. Aquaculture leases are not approved within any occurrence of SAV, as mapped in aerial surveys by VIMS in 1 or more of the 5 preceding years.

Submerged Land and Water Column Shellfish Lease Agreements executed between leaseholders and the State of Maryland explicitly provide that “Lessee shall not: (a) place shellfish, bags, nets, or structures on submerged aquatic vegetation; (b) cover, dredge, or otherwise alter or destroy any submerged aquatic vegetation or tidal wetlands vegetation as a result of the operations or equipment used on the lease.” Failure to comply with this restriction would be an “Event of Default” of the agreement, and the State could terminate the lease. See also NR §4-11A-10(f).

To ensure compliance with Maryland Law, terms and conditions established in the Shellfish Lease Agreement, and ACOE Federal Permits, the Department established a protocol of annually evaluating existing leases for conflicts with the most recent SAV data available. Each year, the Department screens leases for SAV presence utilizing the annual VIMS report, “Distribution of SAV in the Chesapeake Bay and Coastal Bays” and associated GIS SAV data. If the presence of SAV is identified within a shellfish lease, staff contacts the leaseholder and conduct field surveys of each lease to verify the presence and extent of SAV.

If the presence of SAV is verified, the Department’s Aquaculture and Industry Enhancement Division evaluates the survey data and consults with the SAV experts in Resource Assessment Service to discuss the details and determine if a restriction is necessary, including the timing and duration of that restriction.

In some cases, no restrictions are required and in others, seasonal and/or partial lease restrictions may be necessary. If a restriction is necessary, the Department provides the leaseholder with a map of the lease, with the SAV survey data plotted on it, and a restriction letter informing the leaseholder that the portion of the lease where SAV is located is prohibited from being used.

Mr. Meritt expressed interest in learning more about the science that has shaped these laws and further evidence that aquaculture activities are bad for SAV.

Mr. Roscher suggested that the Council should establish a Workgroup/Subcommittee to look at the SAV situation more closely and make recommendations for modification, if needed. Mr. Webster and Chairman Harrell concurred.

Chairman Harrell asked Council members with questions about the issue to contact Mr. Roscher.

Public Comments

Senator Klausmeier encouraged Council members to contact her or Delegate Deborah Rey if there was anything they could do to help.

Adjourn

The meeting was adjourned at 8:35 pm with the next regularly scheduled meeting to be held on Thursday, March 9, 2017 at 6:30 pm in the Maryland Department of Natural Resources, C-1 Conference Room.