

Maryland Aquaculture Coordinating Council

Meeting Summary – September 12, 2013

Members Attending:

Tony O'Donnell
Kathy Klausmeier
Don Webster
Karl Roscher
Erin Butler
Amy Laliberte (for Kathy Brohawn)

Stacy Kubofcik
Craig Mask
Capt. Charles Vernon
Johnny Shockley
Don Flax
Andrew Lazur

Guests:

Margarette Jennings
Larry Jennings, CCA
Linda Arnold, MARBIDCO
Laura Shively, USACOE
Woody Francis, USACOE
Cynthia Lyles-Quinn, USACOE
Roman Jesien, MD Coastal Bays
Bill Mahoney, MD Coastal Bays
Kristi Shaw
Carol McCollough, PWEC

Bill Cox, Honga Oyster Company
John VanAlstine
Dave Schwenk
Eugene Morris
David Pasnik
Becky Thur, DNR
Steve Schneider, DNR
Alyssa Cranska, DNR
Stephanie Richards, DNR

Call to Order at 6:30 pm

Administrative

Approve July Meeting Summary - The July meeting summary was approved as written.

Announcements – Chairman Webster and members:

- **Disease Testing Results** – Dr. Ryan Carnegie had contacted Chairman Webster recently to alert him to a positive test for the oyster disease *Bonamia* that had occurred in North Carolina in June. Previously, the disease had been detected in Chatham MA. Dr. Carnegie had delivered a presentation on oyster disease to the Council earlier this year.
- **Affordable Small Business Loans Available** - Affordable loans may be available for oyster aquaculture businesses as a result of the Maryland Casino funds starting September 19, 2013. Contact Mr. Webster or Mr. Roscher for more information.
- **ORP Fundraiser Event** - A benefit for the Oyster Recovery Partnership is being held at the National Aquarium (Baltimore) on October 1st from 6:30 - 9:30 pm. Tickets for this fundraiser are \$90 each or \$150 for two. See Mr. Webster for more information if you are interested.

- **Upcoming Oyster Advisory Commission Meeting** - The Oyster Advisory Commission is scheduled to meet on October 23, 2013, location TBD. Subcommittees will be presenting information on substrate and enforcement issues.

Reports

Shellfish Aquaculture Status – Mr. Roscher, DNR Aquaculture Division (DNR-AD)

Mr. Roscher introduced Alyssa Cranska, a one-year contractual employee who is the latest addition to the DNR aquaculture team. The Department's commitment to supporting the Aquaculture Division continues with two additional positions cleared for recruitment. Currently, there is a Natural Resource Biologist (NRB) IV advertised and a Natural Resource Biologist (NRB) II position that will be posted in the near future. Both positions are dedicated to improve the cycle time for lease application review and permitting. With the contractor position and two NRB vacancies filled and trained, the Division will be fully staffed and better manage growth of the Maryland aquaculture industry.

During August 2013 the Division received two new shellfish aquaculture lease applications, one for a submerged land lease and one for a water column lease. Eleven new leases were issued in August and, two additional lease agreements were referred to the Office of the Attorney General (OAG) for review and issuance. Two Shellfish Lease Agreements were mailed to leaseholders for signatures in August. Five proposed lease sites were referred for hydrographic surveys and four surveys were completed. Two public notices were initiated this month and two new lease application packets were forwarded to the Army Corps of Engineers for review.

One lease transfer was executed and three transfer requests were received in August. Three others are on hold for incomplete paperwork. Six lease renewal agreements were mailed for signature, all of which have been returned and referred to the OAG for review and issuance. Two of these have been executed to date. In the same time period, two additional Shellfish Import Permit applications were received, four were issued and two others are pending. No Shellfish Nursery Permits were issued. Shellfish Aquaculture Harvester Permittee Cards were issued to 8 individuals and Registrant Cards were issued to 39 individuals, bringing the total number of registration cards issued from January through August of 2013 to 1,093.

From September 2010 through the end of August 2013, the Department had received 193 lease applications, 131 of which have been received since August 1, 2011 when the Department began accepting applications for water column leases. Currently, water column leases account for 60% of all lease applications. Through September 11, 2013, the State has issued 81 new commercial shellfish aquaculture leases totaling 1,586 acres, including 6 water column leases issued as Tidal Wetlands Licenses during that time. An additional 66 lease applications are in process, seven of which constitute complete applications.

Status of Application Backlog - Any application that is complete and in process for six months or longer (since prior to February 28, 2013) without being issued, is counted as part of the application backlog. The backlog total is a rolling number with new lease applications being added as others are issued. Through August 31 the number of lease applications meeting those criteria totaled 44, not including those on hold in the St. Mary's River Sanctuary (11). At least 10 of the 44 applications are awaiting action by someone other than DNR to complete issuance (7 of the 44 have been mailed their lease agreements to be signed but have not yet

returned them after several months; one is awaiting a formal protest withdrawal; one is on hold at the Corps of Engineers indefinitely and not be issued by the State until resolved; and one is ready to be mailed for signature but has been placed on hold until a sizeable debt owed by the lease applicant to the State has been paid).

Current shellfish aquaculture leases: 275 Submerged Land Leases – 3365 acres
33 Water Column Leases – 129 acres
308 total shellfish leases – 3494 acres

After Mr. Roscher's presentation, Delegate O'Donnell requested additional details regarding the average age of a lease application, delays in the lease issuance process, and information on the progress made in reducing the metric time for lease application processing.

Statistics for current lease processing are as follows:

- For completed applications (based on 66 applications) the *mean* is 320 days
- For Applications once the review process starts (based on 41 applications) the *mean* is 250 days

Ms. Thur (DNR-AD) provided additional information regarding statistical analysis of the metric and Mr. Roscher stated the Division's goal as having a 120 day turnaround on applications. Mr. Roscher detailed the factors contributing to delays but out of the Division's direct control. These include staffing, applicant delays in returning documents and the need to have applications reviewed by other (Federal) agencies. Currently, 10 applications are awaiting external input from other agencies involved in the review process. Delegate O'Donnell suggested a regular report to assess the status of the metric and commented that the frustration level felt by the industry will decrease as the application time period declines.

Improving response time of applicants by implementing a timeline for returning lease documents was discussed since some applications went many months without being returned. This was been done on a limited (individual) basis in the past and was successful. Such procedures help reduce staff time lost in tracking and contacting applicants who delay the process (which affects Division metrics). In addition, it was suggested that the application fee be forfeited, or a late fee imposed, if applicants fail to respond to Division communications.

Mr. Roscher announced that the Chapter 23 Shellfish Aquaculture permanent regulatory package is due soon. The proposal allows certified dealers of farm-raised oysters to generate their own tags with required information on them. Leaseholders who are not certified dealers are supplied tags by DNR with Mr. Schneider responsible for distribution. Only one type of tag is permitted on a boat at a time; either wild or farm-raised. Regulations specify that wild tags cannot be used on farm-raised shellfish or vice versa. Mr. Roscher will supply a copy of the regulations to the Council when they become available.

Shellfish Aquaculture Financing Programs – Ms. Arnold, MARBIDCO

Ms. Arnold reported that \$1,592,685.93 has been disbursed in the regular Shellfish Aquaculture Financing Program and \$55,208.48 in the Remote Setting Program. In addition, there are seven NRCS EQIP assignments totaling about \$123,000 that have been contracted with the NRCS as of 9/12/2013.

There are currently 49 Aquaculture Projects in 10 counties with:

21	Number of On Bottom Projects	9	Number of Loans Approved
19	Number of Water Column Projects	23	Number of Loans Settled
4	Number of Combo Projects	17	Number of Loans Fully Drawn
5	Number of Remote Setting Projects	40	TFL Holders (Non-TFL Holders 9)
14	Number of Shellfish Aqua borrowers awarded multiple loans (one or both programs)		
4	Number of Remote Setting borrowers awarded multiple loans (one or both programs)		
4	Number of Approved Loans subsequently withdrawn		

Shellfish BMP Revision – Ms. Butler

Ms. Butler indicated that the workgroup was hard pressed to get together, but there was a timeline for the issue. The Chairperson recommended accepting the ECSGA’s Best Management Practices (BMP) manual while acknowledging it as a work in progress, so that there can be updates if revisions are needed. The document was funded by the USDA’s Northeastern Regional Aquaculture Center and included meetings in most coastal states, including two in Maryland. Ms. Butler and Mr. Roscher will provide a final review to determine need for an addendum, possibly directing users to related documents. A concern was raised whether the BMP changes are set and the Council determined that any changes should be brought before it for review.

***Motion:** (moved by Ms. Butler, seconded by Mr. Shockley)

To accept the current edition of the East Coast Shellfish Growers Association (ECSGA) Best Management Practices document with the option to amend versions in the future.

–The Council approved the motion with no dissenting votes.

Shellfish Production Issues – Vice Chairman Buck

Mr. Buck, the Workgroup Chairman, was unable to attend tonight’s meeting; his report from the Workgroup on Shellfish Production Issues was presented by Chairman Webster. The workgroup was assigned the task of developing recommendations on three charges for Aquaculture Coordinating Council consideration:

1. *Shellfish Aquaculture Harvester Permits*

Charge: Regulations require everyone working on a lease hold a SAHP for that particular lease, leading to confusing and burdensome paperwork loads for leaseholder and the Department. Develop recommendations for modifying current regulations to determine who must be documented on a lease; what documentation is required for enforcement and verification of safe and legal harvest; create a program that minimizes current paperwork and speeds issuance.

Recommendations: Give each permittee a defined and reasonable number of Harvester Cards for their lease to identify day laborers/harvesters under their control. The permittee would be responsible to issue and retrieve cards from the work force.

- If the permittee is on the vessel with their Harvester Card identifying them as the owner of the lease, additional workers should not need to have Harvester Cards in their possession.
- Place all leases for a permittee/harvester on a single card instead of issuing one for each lease to the individual.

2. “Active Use” Requirements for Leases

Charge: Current law mandates levels of planting volume and percent of lease coverage (1 million seed per acre on ¼ of the lease annually) that may not be realistic since they fail to adequately recognize natural sets in active lease management or the inconsistent nature on bottom leases. Recommend new standards to allow growers management flexibility while ensuring that leases are in commercial use and meet “use or lose” principles.

Recommendations:

- Bottom Lease – The principal issue is one of leaseholders being able to obtain adequate supplies of shell to stabilize bottom prior to planting.
- Growers should be allowed credit for bagless dredging or other renovation of leases to reclaim old shell for bottom preparation and potential wild spat set.
- Consideration should be provided to leaseholders working leases part-time (<30 hrs/wk) or full-time for the time required to maintain and harvest a lease. It was expressed that the one million seed per acre requirement for one-quarter of a lease annually is excessive for those who only work leases part-time.
- Water column leases are worked in various ways using a variety of gear making some nearly impossible to place one million seed per acre. For active water column leases credit should be given for having water column gear on at least one-quarter of the lease annually instead of a seed density per acre since various gear types hold different amounts of seed/oysters, and it’s more costly acquiring water column equipment as opposed to working a bottom lease.

3. Shellfish Closure Book Listing

Charge: Should it be mandatory for leases to be listed in the Shellfish Closure Book or should this remain a voluntary listing; what are the advantages/disadvantages from protection and enforcement perspectives?

Recommendations:

- Feedback from leaseholders indicated no one had an issue with leases being placed in the Shellfish Closure book. The consensus was that it would make it easier to prosecute a harvester if they trespassed on a lease illegally and harvested shellfish that were private property of the leaseholder.

Supplemental: Additional feedback – it was felt regulations should be enacted for crab trotlines, especially on rigs using automatic dippers and line pullers, for watermen who run their lines through marked Water Column Leases with bottom cages/gear since this causes damage to cages and oysters, as well as anchoring lines holding gear to the bottom.

***Motion:** (moved by Dr. Lazur, seconded by Senator Klausmeier)

To accept the report as submitted by the Workgroup on Shellfish Production Issues.

–The Council approved the motion with no dissenting votes.

Delegate O’Donnell clarified that he would accept, but not endorse the report from the workgroup and highlighted the issue of regulations for crab trotlines as controversial.

Ms. Butler agreed to accept, but not endorse the workgroup's report. She described the difficulty of listing the information required on one SAHP card when there are multiple leases and the potential regulatory concerns associated with the harvester card recommendations.

At Mr. Roscher's request, Chairman Webster will contact the Workgroup Chairman and ask that he provide Mr. Roscher with a list of the individuals who were involved in workgroup meetings.

Industry Development Priorities – Dr. Lazur

Dr. Lazur has discussed the survey with an Evaluation Specialist at UM College Park and will work towards planning a survey to send out survey this fall.

Special Order

Federal Authority for Shellfish Aquaculture Permitting – Mr. Francis, Baltimore District, US Army Corps of Engineers

Chairman Webster welcomed Mr. Francis who introduced his colleagues, Ms. Laura Shively and Ms. Cynthia Lyles-Quinn. Mr. Francis presented an overview of the Corp's role in Maryland aquaculture. DNR-AD reviews applications for completeness and initiates a permit process. The Corps reviews projects to consider likely effects of the proposed work on parameters that include navigation, environmental concerns, recreation, ensuring minimal impact to aquatic resources, completing endangered species review, making determination of historic resources, as well as tribal coordination. Upon completion of the process the permit decision is made.

Following the presentation, Mr. Francis answered questions from the council and addressed concerns regarding: improved communications with the aquaculture community; a proactive approach to preventing delays in the leasing process by identifying and resolving navigation and location concerns; continued commitment to the interagency Aquaculture Review Board (ARB); revising the Corps' image; and regulatory boundaries between Baltimore and Virginia (rural vs. developed areas). While Mr. Francis could not speak to past decisions by the Corps in its approach to aquaculture, he emphasized his commitment to be responsive to industry concerns.

A PowerPoint of the presentation and associated handouts will be made available to interested individuals.

Unfinished Business

Aquaculture Enterprise Zone (AEZ) History and Status – Mr. Roscher

Mr. Roscher gave an overview in response to the July 2013 ACC meeting request that the Aquaculture Division report on the history of the concept of AEZs and their current status. He summarized, during the Task Force on Seafood and Aquaculture from 2003-4, AEZs were identified as a way of spurring lease production under Maryland's old laws. The concept as originally devised was to have AEZs in tributaries where *submerged land leases* could be placed – mostly for protection. In 2005, legislation sponsored by Delegate O'Donnell and Senator Klausmeier established the current ACC (from the less effective Aquaculture Advisory Committee) with one task being to develop Best Management Practices (BMPs).

A subcommittee developed "Criteria for Aquaculture Enterprise Zones" to provide guiding principles regarding location requirements (tide, salinity, water quality, bottom conditions,

available acreage, and monitoring) and initial sites were identified. In late 2008, Governor O'Malley requested legislation to revise Maryland's lease laws and the ACC was asked to provide guidelines for developing the legislation. When HB312/SB271 was signed on May 7, 2009, it removed most restrictions on leasing and the need for AEZs waned as focus shifted to establishing a new leasing program and getting individual leases permitted instead.

Mr. Roscher commented that the question of existing need for AEZs within Maryland could be addressed by the ACC in the future but, at this time, he suggested that priorities be placed in other areas to help to advance the industry and support improved management techniques to increase productivity of existing leases.

***Motion:** (moved by Delegate O'Donnell, seconded by Mr. Shockley)

To have Aquaculture Enterprise Zones placed on the agenda for the next meeting.

–The Council approved the motion with no dissenting votes.

ACC Annual Report: Items to Include – Chairman Webster

The Aquaculture Coordinating Council Annual Report for 2012 is due in October; with the Report for 2013 to be due in May of 2014. Chairman Webster said he had received comments from Ms. Brohawn (absent for this ACC meeting and represented by Ms. Laliberte) and has included these revisions for water quality related concerns in the draft presented at the meeting.

***Motion** (moved by Ms. Butler, seconded Delegate O'Connell) to accept the Executive Summary was made, but discussion for additional revisions/amendments to the motion ensued. The need to change the language to clarify the source of funding and ensure that those funds are maintained was deemed essential; especially as it impacts FY 2015 Recommendations II (NRP personnel vs. technology) and IV (MDE water quality monitoring) in the Executive Summary. This included expanding the wording of Recommendation II to be more in line with that of Recommendation IV.

Ms. Kubofcik asked for clarification about the Executive Summary and what it covers. Mr. Roscher explained that they are moving forward on unresolved issues and then the full report will be drafted. Mr. Butler indicated that an amended draft for the Council to review would be available by Monday.

***Motion** (moved by Ms. Butler, seconded Delegate O'Donnell)

To accept the Executive Summary with the amended language by Delegate O'Donnell for the FY 2015 associated with Recommendations II and IV.

–The Council approved the motion with no dissenting votes.

Other Business

Senator Klausmeier suggested there may be a need to send a letter to each agency Secretary and the Governor to ensure that the required financial support is there. Delegate O'Donnell pointed out that ACC Board Members are their respective agency's representatives on the Council and are speaking for their Secretary during such meetings.

Mr. Mask recommended formally thanking the agencies that made funding available for oyster development (such as NOAA) to foster greater consideration for future funding. Mr. Shockley mentioned that a senior advisor to the USDA Secretary visited his business and had a positive experience; perhaps follow-up on that visit to encourage continued interest and support. Mr. Mask indicated that John Hall is no longer at USDA/NRCS, but Mr. Steven Strano (NRCS) would know who to address a letter to as well as providing support statistics.

***Motion** (moved by Mr. Mask, seconded by Dr. Lazur)

To send letters to those agencies who have shown support for oyster restoration in the past in order to foster greater consideration for future funding.

–The Council approved the motion with no dissenting votes.

Ms. Butler discussed the proposed Emergency Regulations that would go into effect regarding DHMH fee changes as of October 1, 2013. She considers new fees equitable within the industry representing change from \$400 for a Shellfish Shippers License to \$200 and seasonal as \$100. Ms. Butler will notify the Council when the Emergency Regulations go into effect.

Public Comments

Mr. John VanAlstine asked to speak about SAHP concerns and related Council issues. Mr. VanAlstine stated that he had acquired a private lease so he could do eco-tours. He feels that current regulations interfere with his ability to manage his lease since they require anyone (including day laborers) engaged in aquaculture activity on the lease to be permitted. He worked with the DNR-AD to determine a way to continue to do business and now has a letter from the Department allowing him to take tourists to his lease. He recommends changes to the SAHP regulations to allow leaseholders to have more flexibility in overseeing workers on their leases. Mr. VanAlstine also asked that use and planting requirements be restructured to address active use planting concerns such as quantity of spat on shell per acre.

Mr. Larry Jennings (CCA-MD) suggested that the letters to the Secretaries and Governor mention the 1000+ Maryland residents that earn at least part of their income from aquaculture. He feels that an increase in funding support is necessary to encourage further growth in the industry.

Meeting Adjourned at 8:55 pm

Next regular meeting will be Thursday November 14th, at 6:30 p.m. at the Maryland Department of Natural Resources, C-1 Conference Room.

Respectfully Submitted,

Stephanie Richards
Maryland DNR Aquaculture Division