

Maryland Aquaculture Coordinating Council
Minutes - July 10, 2014

Members Attending:

Don Webster	Terry Witt	Karl Roscher
Tony O'Donnell	Jon Farrington	Andy Buck
Kathy Klausmeier	Stacy Kubofcik	Johnny Shockley
Kathy Brohawn	Joanna Kille	
Don Flax	Erin Butler	

Guests:

Robert T. Brown, MWA	Alyssa Cranska, MD-DNR
Moochie Gilmer, QA Co. Waterman	Becky Thur, MD-DNR
Rona Kobell, Bay Journal	Carl Kirk
Kim Coulbourne, DHMH	Mutt Merrit, UMCES
Bob Parkinson, Moonstruck Oysters	JD Blackwell, 38 North
Lori McCarty, Leaseholder	Larry Jennings, CCA
Jill Buck, Patuxent Seafood	Victoria M. Brown, MWA
Rob Witt, Witt Seafood	Bobby Witkop, Shorething Shellfish
Charles Purdy, Nova Scotia Oyster Grower	Kevin Boyle, Shorething Shellfish
Vicki Swan, Aquaculture Assoc. Nova Scotia	Brian Russell, Shorething Shellfish
Brendan O'Donnell, Scotian Halibut	John VanAlstine, Watermen
Jed Siscoe, Eel Lake Oyster Farm	Karen Leonard, Leaseholder
Anna Priester, UMD	Bobby Leonard, Leaseholder
Daniel Straw, MD Sea Grant	A. Bagnall, Nova Scotia Dept. of Fisheries
David Saleno	Jill Parisi, ORP
Steve McHenry, MARBIDCO	J. Devine, Barren Island Oysters
June Fowler, Fowler Shellfish	Tal Petty, Hollywood Oyster
Gina Hunt, MD-DNR	Spike Meatyard, Double T
Steve Schneider, MD-DNR	Kelton Clark, Morgan State University
Stephanie Richards, MD-DNR	Scott Budden
Maude Morris, MD-DNR	Ron Fowler, Fowler Shellfish

Call to Order:

Chairman Webster called the meeting to order at 6:30 pm and thanked the invited members of the industry for attending.

Administrative:

Approve May Minutes

The May 8, 2014 meeting minutes were approved as written, by the Council.

Announcements (Chairman Webster and Members)

- Chairman Webster welcomed Robert T. Brown, Sr., President of the Maryland Watermen's Association (MWA) and Moochie Gilmore, Executive at Large of the MWA and part of the Queen Anne's County clamming industry.
- Copies of the latest edition of the Shellfish Grower's Association newspaper were made available to attendees of the meeting.
- Chairman Webster shared information regarding the Hazard Analysis Critical Control Point (HACCP) training workshop scheduled for July 16th. The workshop will take place from 9am to 3pm at the University of Maryland Wye Research & Education Center. This training is a requirement for existing or new shellfish shippers for developing a HACCP plan for their business to comply with state and federal regulations on shellfish sanitation and quality. There is still space available with 20 of the 30 spaces currently filled. If interested, please contact Don Webster's office to enroll.
- Guests from Nova Scotia (Aquaculture Association, Scotian Halibut, Eel Lake Oyster Farm, and the Nova Scotia Department of Fisheries) who are visiting the area were introduced. They extended their thanks for the opportunity to visit and learn from the Maryland industry. They also encouraged those interested to come and visit Nova Scotia.

ACC Special Recognition (Chairman Webster, Vice-chairman Buck, Mr. Roscher)

Distinguished Service Awards were presented to Senator Klausmeier and Delegate O'Donnell on behalf of the Aquaculture Coordinating Council in recognition of their support for the industry and commitment to Aquaculture in Maryland. Both Sen. Klausmeier and Del. O'Donnell each spoke briefly about their experiences with Maryland Aquaculture and expressed their appreciation for the awards.

Rotation of Officers

Don Webster passed the office of Council Chairman to Andy Buck who had been unable to attend the May 8th meeting when the rotation of officers would normally have taken place.

Election of Vice-chairman

Chairman Buck opened the floor to nominations for the office of Vice-Chairman.

Motion: (Shockley/Roscher) - Passed

To nominate Erin Butler as Vice-chairman for the Aquaculture Coordinating Council.

Ms. Butler accepted the nomination and was approved by a unanimous vote. She will serve as Vice-chairman on the Council.

- Ms. Kille brought it to the Board's attention that the Governor's 2014 Buy Local Cookout will take place Thursday, July 24, from 7 p.m. to 9 p.m. at Government House in Annapolis. This is the seventh annual Buy Local Cookout that Governor and Mrs. O'Malley will host. Attendance at this event is invitation only. Council Members are asked to RSVP by next Friday.
- The recommendation was made by Ms. Kille to invite two speakers to the September ACC meeting. The first was Dale Hawks, director of the NASS Maryland Field Office to discuss the recently released Agricultural Census Data. The second suggested speaker was Steve Connelly, MDA Marketing Specialist - Farm and Crop Insurance.

Motion: (O'Donnell/Butler) - Passed

To invite Dale Hawks and Steve Connelly to speak at the September ACC meeting.

Reports:

Aquaculture Division Report (Mr. Roscher)

Updating the Council on the Department's leasing and permitting activity Mr. Roscher reported that since September 2010 through March 12, 2014, Maryland has received 236 lease applications. Of those applications, 161 have been received since August 1, 2011 when the Department began accepting applications for water column leases and leases in sanctuaries. The State has issued 107 new commercial shellfish aquaculture leases totaling 2,164 acres. An additional 79 lease applications are in process, five of which are incomplete.

Currently, there are 312 active shellfish aquaculture leases totaling 3,886 acres consisting of 48 water column leases (178 acres) and 264 submerged land leases (3,707 acres). Leasing activity for May and June included nine new shellfish lease applications, nine new lease agreements were issued with one pending issuance. Five new lease application packets were prepared and forwarded to the Corps of Engineers for review. The status of leases awaiting hydrographic survey, public notice initiation/conclusion, and protests received was presented. Detailed information regarding lease totals and acreage by county were provided as part of Mr. Roscher's leasing summary.

Other Division activity included reviewing the 37 Shellfish Import Applications received this season. Out of those, 26 have been issued with one import application denied because the oyster seed was determined to have a higher prevalence of disease than the destination lease site. In addition, nine Shellfish Nursery Permits for land based and in-water nurseries were issued. So far in 2014, a total of 1,424 Shellfish Aquaculture Harvester Permits (SAHP) have been issued. That number is a combination of 370 Permittees (leaseholders and co-leaseholders) and 1054 Registrants (registered workers). This represents a total of 455 individuals who are currently permitted to work in the industry.

Mr. Roscher discussed the Summertime Harvest Season reporting that 172 leases are declared for the summer harvest season. These represent individual leases where leaseholders have declared intent to harvest between June 1 and September 30, but do not necessarily indicate the total number of leases actually reporting active summertime harvest. An update on the Summertime Harvest Season will be presented at the September ACC meeting as part of the Aquaculture Division report.

At the member's request, Mr. Roscher provided an update on the status of Don Marsh's lease, indicating that it is currently in the Court of Appeals. The discussion continued with inquiries about the relationship with the Corps of Engineers and the status of their current timeline for the lease application review process. Mr. Roscher explained that the turnaround time is not as fast as it was before, but that the Aquaculture Division was working with them on this issue. After the members reviewed several Corps related concerns, Mr. Roscher suggested that it would be a good idea to encourage the Corps to attend future ACC meetings

Motion: (Roscher/O'Connell) - Passed

To invite the Army Corps of Engineers to attend future meetings of the Aquaculture Coordinating Council.

Mr. Roscher went into further detail concerning the joint application process involving the Department and the Corps of Engineers. This dual approach was designed to provide both a State and Federal level review with an expectation that state/federal issuance would occur close to the same time.

The status of shellfish leases under protest was addressed next by with Mr. Roscher describing that lease protests are at various stages and some of them are being reviewed by the Office of Administrative Hearings (OAH). A Public Information Meeting was held on July 1 regarding proposed sanctuary leases in Saint Mary's County. Of the 43 who submitted formal protests, only seven attended the Public Information Meeting and all of those were non-adjacent landowners. It was suggested that these results indicate that the individual leases may not have been the concern, but rather the overall issue of leasing in oyster sanctuaries.

Continuing his summary, Mr. Roscher reported that there have been 22,150 tags distributed to date in 2014 which is five thousand more than in all of last year; not including dealer tags that have been used. Mr. Roscher will present more details on tag distribution at the next Council meeting.

Delegate O'Donnell asked for an update on the current cycle time for lease application processing, how it compares to the Division's goal and what the main obstacles are for reaching that goal. Mr. Roscher responded by describing a six month processing time for lease applications that have been recently filed. The 120 day goal for lease application processing is especially challenging considering the growing influx of applications and the Aquaculture Division is continuing to develop ways to accommodate the increasing workload. Obstacles that contribute to the extended timeline were identified as: Delays with receiving feedback from federal partners and protests to proposed lease sites. To reduce the potential for protests, sometimes pre-application meetings are held, modifications to applications are proposed and informal mediation meeting are conducted between the Department, the applicant and protesters. The members then discussed how the Department can best address public comments/concerns, identify legitimate protests and keep the industry from being slowed down unnecessarily.

Mr. Roscher concluded his summary by highlighting the provided lease information spreadsheet that details lease applications submitted since 2010 and his willingness to answer questions at a later date.

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

Providing details about MARBIDCO's Main Program (also referred to as the Regular Program), Mr. McHenry explained that these five year loans, for both bottom and water column leases, are interest only for the first three years and that the last two years are amortized with loan forgiveness for good performance. This is the fourth year of the regular program with 13-15 loans made per year on average. Since 2011, the total amount of approved aquaculture loans is \$3,259,303.90. Funds are dispersed over many months in the program; any unused funds are reverted and put back into the program for future loans. These funds, when re-lent are unrestricted. Recently, the regular program fully utilized the available Federal funds as well as \$500,000 in State Capital funds. This is the first year that the Program will have repaid principal of approximately \$85,000 to loan out to borrowers. There will be an estimated \$315,000 in repaid loan principal returned to the Program in fiscal year 2016.

Mr. McHenry continued his presentation with information about the Remote Setting Program (also referred to as the Specialized Program). There have been four loans approved in this program (two each in 2012 and 2013) for a total of \$90,500.

For all 60 aquaculture projects in 10 counties there are 27 on bottom projects, 25 water column projects, four combo projects and four remote setting projects. TFL holders represent a high percentage of aquaculture project loan approvals by MARBIDCO with 49 out of the 60 projects associated with TFL holders. In addition, 18 shellfish aquaculture borrowers have been awarded multiple loans in one or both programs. Thus far \$2,208,959.78 has been disbursed in the regular Shellfish Aquaculture Financing Program and \$60,000 in the Remote Setting Program. In addition, there are seven NRCS EQIP assignments totaling about \$123,000 that have been contracted with NRCS as of July 9, 2014.

Workgroup: Industry Development Priorities (Dr. Lazur)

Chairman Buck, on behalf of Dr. Lazur who was unable to attend tonight's meeting, discussed the status of the Aquaculture Industry Needs Assessment survey previously distributed this summer to leaseholders. So far, 41% of the surveys have been returned and a reminder card has been sent to encourage those who have not yet responded to send in their surveys. Dr. Lazur will present an update at the next meeting.

Workgroup: Active Use Requirements (Mr. Roscher)

Meetings to facilitate input from the industry on active use requirements are currently scheduled for August 12th and 14th. These evening meetings, to be held on both the Western and Eastern Shore, will run from 4 - 7pm. The venues are being finalized and Mr. Roscher will update the members on the results of those meetings in September.

New Business:

Commercial Clam Industry: Discussion of issues with invited representatives (Mr. Brown and Mr. Gilmer)

Only Board Members and invited guests, Robert T. Brown, Sr. and Moochie Gilmer, were designated as participants for the discussion.

Mr. Brown opened the discussion by providing a historical perspective on the clamming industry; such as the impact of disease and pollution, and how clams have fared overall (when compared to oysters) in the State in response to these factors. Detailing that the clamming industry was left out of the process when aquaculture was set up, Mr. Brown indicated that there was now a need to protect areas for clambers and that there should be a happy medium for both industries.

The discussion continued with Mr. Gilmer detailing some of the difficulties faced by clambers. This included a description of how clams can come and go in an area, that (as a result of clam movement) it is hard to judge when you are going to work any one location, the difficulty of giving up an area that might then be used for aquaculture leases, and concerns that the presence of such leases might prove to impact clamming.

In addition, the topic of identifying specific clam harvest areas was raised, in particular the limitations of the NOAA codes currently used for monthly harvest reporting by commercial watermen. In response, Gina Hunt (MD-DNR Fisheries Service Deputy Director) elaborated to the Council that the limitation occurs because NOAA codes correlate to large areas and do not show specifically where clams are being harvested. An

example given during the resulting discussion was that all of the Chester River area is covered by only three NOAA codes.

The possibility that the shellfish aquaculture lease application review process could include an opportunity for leases (in areas where clamming could potentially be impacted) to be screened by clamming industry representatives was introduced and discussed. A specific concern cited was that the ability to accurately survey and identify clamming areas is impacted by the availability of Department resources and the fact that clams are transient and not easily represented in a mapping survey. It was put forth that protests occur after a lease application has been processed/surveyed and placed on Public Notice; “flagging” such leases for clamming industry screening early on might decrease the incidence of protest situations.

The Council gave consideration during the ensuing dialogue to such topics as: the effect of environmental factors (over-harvesting, weather and pollution) on both the oyster and clamming industries, developing guidelines based on data to determine what is clam bottom and what is oyster bottom, supporting growth in both industries, shared use (clam, oyster, crab, etc.) of harvesting areas, and the utilization of the more sophisticated GPS equipment currently available that could provide specific coordinates and clam harvest location data.

It was suggested that a subcommittee might be formed to scope out the size of the areas involved and see what the two industries are dealing with in terms of overlapping oyster/clam areas. It was proposed that identifying areas of concern and preparing maps in advance of such a subcommittee meeting would facilitate discussion. Mr. Brown agreed to work with commercial clambers to draft maps of clamming areas of concern. Members of the subcommittee could be determined at a later date, but the suggestion was made that Mr. Brown, MWA President, be one of the members.

Motion: (O’Donnell/Butler) - Passed

To form a Council Subcommittee to work with stakeholders to identify specific clamming areas that could be considered to be part of the lease review process for recommendation purposes.

Chairman Buck thanked both Mr. Brown and Mr. Gilmer for attending tonight’s meeting.

Demonstration Leases: Regulatory Scoping (Mr. Roscher)

A Demonstration Lease is defined as a lease of submerged land for the purpose of demonstrating the ecological benefits of growing shellfish or for research or education.

Existing Maryland Law, Natural Resource Article, §4-11A-11, establishes certain restrictions and/or requirements for Demonstrations leases. Examples of these are: Who can be issued a Demonstration Lease (such as public high school, incorporated college or university within the State or 4-H Club), a size limit of five acres, restrictions on where proposed lease areas may be located (distance from federal navigation channel or public shellfish fishery for example), assignment or transfer will be prohibited, and established (active) use and purpose requirements. A person may not harvest shellfish for commercial or consumption purposes from an area that is subject to a Demonstration Lease.

Mr. Roscher presented details regarding the Department’s efforts to develop regulations necessary to implement a Demonstration Leasing Program. The regulations will include requirements for the application, lease usage (educational, research, ecological, source of seed, amount, methods of growth, monitoring, etc.), application

review and penalty process. The regulations will also identify the water quality classifications within which demonstration leases can be issued (not issued in waters classified as Prohibited by MDE). Regulations will require leaseholders/workers to notify DNR prior to power dredging in a sanctuary, and require operator cards for individuals working on a lease. In accordance with COMAR 08.02.23.03(C)(2), there will be no lease application or lease rental fees for Demonstration Leases.

The anticipated timeline for Demonstration Leases is for scoping to take place in July, with proposed regulations prepared in August-September. Forms are expected to be developed in October-November and a Demonstration Leasing Program to be in place by the end of the year. Concerns were raised that this program could take up resources from the existing Shellfish Aquaculture lease application approval process. Mr. Roscher agreed that this was a valid concern and explained that the Aquaculture Division is doing what it can to accommodate the anticipated increase in demands on Division staff. There were additional questions from the members about the implementation, use and requirements for Demonstration Leases and, in an effort to proceed with the meeting's agenda, Mr. Roscher encourage any members with questions to contact him by the end of next week.

Public Comments:

Tal Petty raised the question to the Council as to why Maryland Shellfish Aquaculture was overseen by the FDA and not the U.S. Department of Agriculture. He asked if this could be changed and what the pros and cons would be for the industry. Background on the history associated with this process was provided by Ms. Brohawn and Ms. Butler. Essentially, since there is a long-term and good relationship with FDA (starting in 1925), switching from them to another agency would not necessarily benefit the industry.

John VanAlstine wished to address two issues with the Board: Having lease sites identified in the grey Shellfish Closure Area book that commercial oysterman are required to sign for each year and current Shellfish Aquaculture Harvester Permit (SAHP) harvester card requirements. Speaking in favor of having lease sites included in the Shellfish Closure Areas book, Mr. VanAlstine indicated that he believed it would help to protect the lease sites and provide necessary information as a tool for him to do his work. There was a concern raised by the Board that the size of the maps in the closure book would be too small to provide enough detail to be of used for this purpose.

Addressing Mr. VanAlstine's SAHP harvester card concerns, which had also been raised during the Public Comment period at previous Council meetings, the Board outlined the requirement which specifies that each person engaged in aquaculture activity would need to be licensed. Several Board members and industry representatives contributed suggestions for developing solutions to the current SAHP/licensing situation, including seeking leaseholder input at the upcoming active use policy meetings in August.

Motion: (O'Donnell/Farrington) - Passed

At the next Council meeting in September the Department will present information on the SAHP/licensing issue.

Kevin Boyle spoke next and supported streamlining the application approval process and reducing user conflicts. He commented that aquaculture enhances other fisheries and that applications should be encouraged. Mr. Boyle would like to see more people involved in the industry and discussed the possibility of expanding into

public oyster areas that do not currently have oysters on the bottom; suggesting that these areas might be made available for cages while avoiding leasing in-shore areas that would have potential user conflicts with SAV and riparian landowners.

Kelly Clark (Morgan State Lab) gave additional information about the practical application of Demonstration Leases and the current regulations. He commented that, while such leases could be used by researchers, their facility had to let go of a similar lease because of the regulatory limitation that they could not sell oysters from the lease.

Carl Kirk asked for clarification as to who determines the oyster density assessments for Public Shellfish Fishery Areas declassifications. Mr. Roscher responded by that the Department's shellfish program is responsible for conducting the assessment surveys by request.

J.D. Blackwell suggested that Ms. Butler be included in the SAHP/license review discussions described in the recent motion. He needs to take people out, but does not have cards for them and feels the process definitely needs to be streamlined.

Adjourn:

The meeting was adjourned at 8:40 pm with the next regularly scheduled meeting to be held on Thursday, September 11, 2014 at 6:30 pm in the Maryland Department of Natural Resources, C-1 Conference Room.