

Maryland Aquaculture Coordinating Council Minutes - March 12, 2015

Members Attending:

Ben Parks	Kathy Brohawn
Don Webster	Terry Witt
Erin Butler	Johnny Shockley
Karl Roscher	Jon Farrington
Chris Sherman	Matt Weiss (for Sen. Klausmeier)
Tony O'Donnell	

Guests Attending:

Gibby Dean (MSGA)	Rob Witt (Witt Seafood)
Linda Arnold (MARBIDCO)	Ted Cooney (Madhouse Oysters)
Jill Parisi (ORP)	Scott Robinson, Sr. (Madhouse Oysters)
Katie Busch (DNR)	Scott M. Robinson, Jr. (Madhouse Oysters)
Becky Thur (DNR)	Kim Coulbourne (DHMH)
Steve Schneider (DNR)	Pat Hudson (True Chesapeake)
Stephanie Richards (DNR)	JD Blackwell (38 ^o North Oysters)
Chris Judy (DNR)	Larry Jennings (CCA MD)
Alyssa Cranska (DNR)	Chris Aiken (Self)
Maude Morris (DNR)	John VanAlstine (Self)
Tyler Sondberg (True Chesapeake)	

Call to Order:

Vice-Chair Erin Butler called the meeting to order at 6:40 pm. Chairman Buck was unable to attend tonight's meeting due to other commitments.

Administrative:

Approval of January Minutes

Motion: 1 (Roscher/Brohawn) - Passed

For the Council to approve the January 8, 2015 Minutes as written.

Announcements (Vice Chair Butler and members)

- Mr. Webster provided information on a workshop on Aquaculture Best Management Practices to be held on March 31, 2015 at College Park. Those interested can contact Don Webster or visit the program website for more information.
- Mr. Roscher informed the board that Dr. Lazur has resigned from the Aquaculture Coordinating Council (ACC) due to other work commitments. The position on the Board is designated for the University of Maryland Center for Environmental Science (UMCES) and Mr. Roscher is awaiting a reply from President Don Boesch, regarding a new appointee. Mr. Roscher expressed his appreciation for Dr. Lazur's service on the ACC.

- Vice Chair Butler and Ms. Brohawn presented details about the 67th Annual Interstate Seafood Seminar (ISS) to be held in Ocean City, MD at the Clarion Resort Fontainebleau Hotel on April 15 - 17, 2015. Information about the seminar is available on the Interstate Shellfish Sanitation Conference (ISSC) website: <http://www.issc.org/upcomingevents.aspx> and on the East Coast Shellfish Growers Association (ECSGA) listserv: <http://ecsga.org/Pages/Join/JoinListServ.htm>
- Mr. Webster noted that a group representing a Governor's Oyster Aquaculture Initiative will be visiting from Mississippi to learn about hatchery-based restoration and commercial production.

Special Order:

Report from Sea Farmers Conference (Delegate O'Donnell and Mr. Webster)

The 2015 Sea Farmers Conference took place in Halifax, Nova Scotia, this past January. Del. O'Donnell and Mr. Webster gave an overview of their experience of the event, where Del. O'Donnell was a keynote speaker and Mr. Webster chaired a panel. They described Nova Scotia as having industries that are primarily natural resource-based and they had the opportunity to learn from the local industry while attending the conference. A fundraiser was their Sip n' Shuck event that paired local wine and seafood, and the possibility of a similar program in Maryland was discussed to support both industries.

Reports:

Aquaculture Division Report (Mr. Roscher)

The Aquaculture Division has received nine new shellfish aquaculture lease applications since the last ACC meeting, two of which are incomplete. A total of 14 new lease applications have been received so far in 2015. In addition, seven new lease agreements have been issued and 10 new leases are pending issuance. Four lease transfers have been fully executed and three sets of transfer forms were mailed. 24 additional transfer requests are pending. Two leases were surrendered during the annual review process.

Ice has delayed many hydrographic surveys and 18 are currently pending for lease applications. Once complete, these projects can move to public notice and be forwarded to the Corps of Engineers. There are three proposed leases on public notice with comment period dates in March and early April. One of these has already received a petition of protest. Since the January ACC meeting, public notice periods for seven proposed leases have concluded; three of which received protests. Five new lease applications were prepared and forwarded to the Corps of Engineers for review.

In addition, there have been 23 new shellfish import applications for importation of hatchery larvae and seed, wild VA seed, clam shell and oyster shell. Permits for seed requests are held until health certification information is received and evaluated, which does not typically become available for hatchery seed until early May.

From September 2010 through March 11, 2015, Maryland has received 287 lease applications, 216 of which 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 123 new commercial shellfish aquaculture leases totaling 2,389 acres. An additional 104 lease applications are in process, three of which are incomplete and 15 are under protest. There are currently 327 active leases, with 272 being submerged land leases and the remaining 55 being water column leases.

Thus far in 2015, there have been a total of 1421 Shellfish Aquaculture Harvester Permits (375) and Registration Cards (1046) issued. This represents 475 individuals who are permitted to work in the

industry. The total number of leases that have been permitted (lease has completed annual review or is a newly issued lease) so far for 2015 is 275.

After presenting the Division summary, Mr. Roscher responded to questions from the Board regarding public notices, resulting protests (especially those relating to homeowners), and an update on activity from the Corps of Engineers since the January ACC meeting. He indicated that there has been increased activity from the Corps concerning applications moved to issuance, but that this has been recent.

In response to requests from prior meetings for more detail, Mr. Roscher made a presentation on Shellfish Aquaculture Lease Application Processing Time. A hard copy of the presentation was provided to Board members. The preliminary results provided: insight into the application process; a metric regarding processing time to issuance for all lease types; identified 11 distinct processing stages; and the next steps on how to reduce delays. Mr. Roscher emphasized that the State review is an extensive and thorough process designed to assure that when a lease is issued to a grower, the project has been assessed in accordance with our statutory and regulatory requirements and the lease is a legally sufficient document without contest. This is especially important when individuals/companies consider investing in the resulting aquaculture businesses.

Shellfish Aquaculture Lease Application Stages:

1. Complete
2. Resource Review 1*
3. Resource Review 2*
4. Survey Requested (includes 19 separate resource reviews)*
5. Survey Received
6. GIS Rescreen
7. Public Notice
8. Lease Agreement Sent for Signature*
9. Signature Received
10. Lease Agreement Forwarded to the Attorney General's Office
11. Lease Issued

*Denotes this stage as one of the four longest (average work days) that is being reviewed for possible solutions to resolve delays.

Both Standard (no delays outside of the State process) and Non-Standard (one or more significant delays outside the Department's control) lease applications were addressed. Examples of Non-Standard delays include: Public Shellfish Fishery Area (PSFA) declassification; protest; applicant delay (non responsive); water quality sampling; and Federal delay. The overall metric showed that, for all applications (9/2010 to Present), the minimum days to issuance was 131, with a maximum of 655 and an average of 338 days. The difference between the processing time for submerged land leases and water column leases was discussed, with the additional concerns (*i.e.* protests) raised during the processing of water column leases adding to their cycle time to issuance. This was compared with the metric for applications received from 4/2014 to present showing the minimum days to issuance as 155, with a maximum of 220 and an average of 180 days.

Next Steps:

- Processing time has been reduced in the various stages of the review, since April 2014, by about 180 work days.
- Division will continue to work at reducing this timeline by evaluating our processing time within all review stages, especially the four longest.
- Currently working with other DNR Programs/Units to obtain quicker turnaround on reviews requested from outside the Division.
- Additional details to be provided on improvements to process at the July Coordinating Council meeting.
- Continue to provide detailed updates on time to issuance to the Council twice a year in addition to traditional Division reports.

Mr. Roscher ended his presentation by thanking his Division staff for their efforts, not only in the processing of applications, but for the numerous other responsibilities (e.g. field work, law and regulation coordination, coordination with NRP, compliance with NSSP/FDA, non shellfish aquaculture, other permits and harvest/annual reporting) they are tasked with on a daily basis.

The Board discussed the information in the presentation and Mr. Roscher addressed specific questions and responded to suggestions made by members. Topics included: the possibilities for parallel processing of some stages (to keep the application moving forward) and lease site revisions after public notices (can only reduce size of requested lease area) and relationships with outside agencies. Mr. Roscher mentioned that Ms. Brohawn's agency (MDE) has done a great job submitting project comments relating to water quality classifications, and this has helped reduce the processing time.

Del. O'Donnell added that the presented lease application processing metric analysis was impressive and precisely the type of information he had been asking for from the Department. He considered it a major step towards refining goals going forward; so that cycle time is not limiting growth of the industry as it expands. Mr. Farrington commented that the information was extremely important and might be used as an example with the Corps to help demonstrate how they process applications. It may even give them a better understanding of the Department's approach and streamline the RGP-1 application process further. The Board completed its comments by reviewing how to improve the coordination (synchronizing) of State and federal issuance by having their permits issued simultaneously between the two agencies.

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

MARBIDCO received one recent loan application and it has been sent out to the loan committee. In the regular Shellfish Aquaculture Program there are 57 projects with approved MARBIDCO Aquaculture loans, for a total of \$3,295,317.51 with 40 loans fully drawn. In the Remote Setting Program there are four projects for a total of \$90,500 with two loans fully drawn. For both programs (regular and Remote Setting), the number of projects and fully drawn loans is unchanged since the 1/8/2015 ACC meeting. Overall, there are 61 projects in 10 counties with 50 TFL holders and 11 non-TFL holders participating in the program. Thus far, \$2,544,419.54 has been disbursed in the regular Shellfish Aquaculture Financing Program and \$60,000 in the Remote Setting Program. In addition, there are ten Natural Resources Conservation Service (NRCS) Environmental Quality Improvement Program (EQIP) assignments totaling about \$228,000 that have been contracted with the NRCS as of March 12, 2015. Ms. Arnold indicated

that MARBIDCO is being proactive and is contacting participants whose loan repayment schedule will be implemented this June so that they are aware of the impending payment.

Workgroup: Commercial Clamming/Aquaculture (Mr. Parks)

Mr. Parks expressed concern regarding the mounting issues confronting the workgroup. In January, the Department sent a letter to clamming industry representatives Robert T. Brown and Moochie Gilmore requesting that they provide clamming area maps by the end of February 2015. To date, the Department has not received the maps that were to be reviewed and used to assist in identifying clamming areas that should be considered during the aquaculture lease screening process. In addition, a recent bill (HB 419) was submitted at the urging of commercial harvesting interests for consideration by the General Assembly that subordinates aquaculture to all other uses in the Bay. This was especially frustrating given that there had been a commitment to work together to resolve such user conflicts.

2015 Legislative Update (Delegate O'Donnell)

Delegate O'Donnell (Senator Klausmeier was unable to attend tonight's meeting) reviewed some of the House Bills that were included in the current session of the General Assembly. He provided the Council with printouts of House Bill 419 (cross-filed with SB 709) *Natural Resources - Aquaculture Leases - Consideration of User Conflicts*, and House Bill 287 (cross-filed with SB 808) *Natural Resources - Aquaculture - Liability for Trespass*, to the Board. Discussing HB 419, Del. O'Donnell indicated he opposes the bill and has been working for its defeat, since it would make aquaculture subordinate to other uses of the Bay. Del. O'Donnell echoed Mr. Parks workgroup comments that HB 419 been submitted despite the ACC's efforts to try and work together with the clamming industry; to resolve user conflicts through cooperation during the lease application process. Del. O'Donnell cautioned that this bill, and others that were filed (e.g. HB 638 - Withdrawn: *Shell Seeding, Shell Replenishment and Rotational Harvest*), are indicative of attempts to restrict the industry; and the ACC needs to strongly oppose these efforts. Ms. Butler thanked Del. O'Donnell for his support.

Of special note was the passage of HB 287 (cross-filed with SB 808); which had been conceptualized after a discussion at the January 8, 2015 ACC meeting regarding the potential for having regulations, similar to those protecting the timber industry, extended to Maryland aquaculture.

Synopsis: Establishing specified damages for which specified persons are liable for entering an area leased to another person for aquaculture purposes to harvest, damage, or transfer shellfish or to alter, damage, or remove any markings or equipment; requiring a person who enters an area leased to another person for aquaculture purposes to display a shellfish aquaculture harvester registration card or an operator card for the lease area on the request of a law enforcement officer; etc.

Del. O'Donnell noted that, during the terms of the past three governors, there had been broad, bipartisan support for aquaculture and outlined three next steps:

- User conflicts in the Chesapeake Bay
- Shell availability
- Nutrient trading credits

In conclusion, Del. O'Donnell updated the Council on progress made regarding discharge limitations through MDE (as discussed at the last ACC meeting), with new regulations being submitted regarding shellfish nursery discharges. This would allow more water flow/discharge for nurseries when nothing is adding to the water during use. A copy of the January 23, 2015 letter sent by Del. O'Donnell and Sen.

Klausmeier to the Director of the Water Management Administration at MDE, Mr. Sakai (detailing their recommendation for regulatory changes), was provided to the Council. It is expected that shellfish nurseries will be exempt from having to obtain MDE discharge permits by the end of August, 2015.

NEW BUSINESS:

Maryland Shellfish Growers Association (MSGA) (Mr. Shockley and Mr. Dean)

Prompted by industry concerns, such as bills recently sent to the General Assembly and delays with Corps of Engineers permit processing, Mr. Shockley called a meeting of industry leaders in February. They have formed a new Maryland Shellfish Growers Association (MSGA). A start-up board has been formed, by-laws are in place and they are currently filing a corporate application. Membership information will be developed soon with general elections (regional representation) to follow. The intent is to move quickly and complete the process of forming the association; pulling the industry together and adding strength to the industry's ability to address issues like the recent anti-aquaculture legislation.

Mr. Gibby Dean may become the Executive Director for the new association and their intent is to address issues at hand and sponsor events like the Sip n' Shuck that was described in Nova Scotia. It will present a unified voice to assist with endeavors and promote understanding for how Maryland citizens can share the Bay. Mr. Shockley and Mr. Dean discussed ideas for sharing this vision, such as developing education curriculum for oyster history in the Bay and expanding the global market for industry product.

The Council discussed the new association and Mr. Shockley reported that MSGA had drafted a letter and given it to Del. O'Donnell requesting that a seat for aquaculture to be created on the Tidal Fisheries Advisory Commission (TFAC). Delegate O'Donnell recommended that there also be a seat created on the Sport Fish Advisory Commission (SFAC), allowing for "cross-pollination" among the groups that might allow the industry to head off user conflicts. Del. O'Donnell is working to see if he can get a bill out, requesting the seats be created, and might be able to do it this year.

2014 Aquaculture Industry Status Report Survey (Mr. Roscher)

This past year an industry survey was drafted to get feedback from leaseholders, generate industry numbers and provide information on economic trends for the ACC and General Assembly. Leaseholders embraced the survey and responded with 56% participation. Mr. Roscher presented the preliminary analysis of the survey and will submit a final report to the ACC at a later date, after the data from the respondents is checked for accuracy.

Key points from the presentation include:

- Most participants sell wholesale rather than retail, although some do both.
- Nursery (27) and Hatchery (8) production was seen as the best way to save money by buying when small and growing-out themselves.
- Other services provided were Equipment or Gear (11) and there is a market for other species/items found in the water column grow-out cages as Specialty Products (17).
- 41 unique product brands were reported out of 67 respondents.
- 26 had participated in training opportunities or educational programs, including the Remote Setting Training (RST) program.
- A total of 189 leases were reported as being associated with the survey participants (57% of total leases).

- For spat-on-shell production, nine participants reporting having their own setting facilities and there were 21 who used a remote setting option. The primary source for in-state larvae is Horn Point with 492,661,000 in state larvae reported being purchased; out-of-state was 500,000 larvae.
- Triploid (32,130,000 individuals) was the predominant share of cultchless seed produced as compared to diploid (5,000,000 individuals).
- 11 participants used their own nursery facility to produce seed oysters using either an in-water floating upweller, land based nursery system or gear on pier or wharf.
- 76 people were reported as employed full time in aquaculture, with an additional 61 working full time seasonally. In addition, 23 participants indicated that they intended to hire additional staff in 2015, including 26 new full time and 52 new part time employees.
- In 2014, approximately 35,000 bushels were harvested by the aquaculture industry.

Mr. Roscher continued by discussing how the Division will be addressing the QA/QC process to ensure that any disparities in the data reported by the respondents are captured accurately. Due to confidentiality concerns, information that could be attributed to specific individuals (especially clam producers) was pulled from the public preliminary survey results presentation. Mr. Roscher added that it would be interesting to work with a statistician to extend the employment numbers out to for the industry as a whole. The floor was opened to discussion with Mr. Webster thanking the participants who had responded indicating a 56% response in the realm of surveys is an outstanding result. Discussing the importance of demonstrating how the employment and production numbers are indicative of aquaculture being a vital part of Maryland's economy, it was suggested that there be an effort to market the data and put the story (of aquaculture's role in Maryland's economy), together. Mr. Webster commented that the report due to the governor has been moved to June by legislative action and the data provided by this survey would be good information to include in that report.

Additional New Business (Mr. Webster and Council)

The East Coast Shellfish Growers Association (ECSGA) and the newly created Maryland Shellfish Growers Association (MSGGA) had a meeting with Senator Mikulski. They brought to her attention some of the lease application review issues being encountered with the Baltimore District office of the US Army Corps of Engineers. As a result, at tonight's meeting, the ACC was provided with a copy of a letter sent by Sen. Barbara Mikulski to Assistant Secretary Darcy, US Army COE for Civil Works. The March 4, 2015 letter was sent on behalf of Maryland oyster farmers and detailed their concerns about delays associated with the Baltimore District's processing of oyster aquaculture permits. Sen. Mikulski requests in the letter that there be an investigation into the Baltimore District and that solutions be suggested for more efficient issuance.

Motion: 2 (Webster/O'Donnell) - Passed

That a letter be sent to Senator Mikulski thanking her for her support of the Maryland aquaculture industry. The letter should also request that the Aquaculture Coordinating Council receive a copy of the investigation report when it is completed.

Mr. Webster noted that due to the recent state election, a new Governor had been elected, which caused all new Secretaries for Departments. Since the legislation that formed the Aquaculture Coordinating Council specifies numerous Secretaries (or their designated representatives) as voting members, it would be beneficial to send them letters that laid out the Council responsibilities, noted that they are members of it, and inviting them to attend future meetings to meet the members and hear firsthand of Council

business. Delegate O'Donnell further specified that these letters include reference to the state codes referencing the Council.

Motion: 3 (Webster/Roscher) - Passed

That the ACC send a letter to all new Secretaries of Departments having a seat on the Aquaculture Coordinating Council, inviting them to attend the Council meetings. The letters should also cite the relevant code for the Aquaculture Coordinating Council and describe its role.

It was decided that Vice-chair Butler will draft the letters to Sen. Mikulski and the Secretaries.

Completing New Business, Mr. Shockley discussed his upcoming trip to Boston where he is making a presentation on the new 3-D imaging grading technology he has helped develop. The unit is the first in the country and he is proud that it is from Maryland; the only other unit of its kind is in Australia. The State helped develop the technology through the University of Maryland's Maryland Industrial Partnerships (MIPS) program, which teams industry with a researcher and has been very successful. Mr. Shockley will be ascertaining the level of interest in leasing and buying their equipment. Parameters on the grader can be set to a belt speed of 15" per second with tens of thousands of oysters scanned per hour.

Public Comment:

Mr. VanAlstine asked for an update on the possible revisions to the harvester cards regulations. Mr. Roscher responded that there is no resolution yet, but that comments from Eastern/Western Shore meetings are being reviewed. It is not yet known if any changes to the regulations would be in place this year. Mr. VanAlstine also revisited the suggestion to include aquaculture leases in the Shellfish Closure Areas book. The Council discussed the complicated topic at length, including the practicality of viewing the lease areas in the book (small maps) and enforcement issues (especially if lease is not marked or markers are moved by poachers). The next edition of the closure book is going to the publisher this month, so there is no time to include any new information before its distribution, starting August 1st. Vice-chair Butler stated that the discussion regarding adding shellfish aquaculture leases to the Shellfish Closure Areas book and the issue of moved/missing lease markers would be added to the May ACC meeting agenda.

Adjourn:

The meeting was adjourned at 9:10 pm. The next regular meeting to be held Thursday, May 14, 2015 at the Maryland Department of Natural Resources, C-1 Conference Room.