

## Maryland Aquaculture Coordinating Council Minutes - May 14, 2015

### Members Attending:

Don Webster  
Erin Butler  
Karl Roscher  
Reggie Harrell  
Chris Sherman  
Tony O'Donnell  
Terry Witt  
Stacy Kubofcik  
Matt Weiss (for Sen.  
Klausmeier)

### Guests Attending:

Larry Jennings (CCA-MD)  
JD Blackwell (38° North Oysters)  
Rob Witt (Witt Seafood)  
Chris Aiken (Self)  
Kim Coulbourne (DHMH)  
Steve Schneider (DNR)  
Stephanie Richards (DNR)  
Maude Morris (DNR)  
Katie Busch (DNR)  
Alyssa Cranska (DNR)

### Call to Order:

Vice Chair Butler called the meeting to order at 6:34 pm. Chairman Buck was unable to attend tonight's meeting due to other commitments.

### Administrative:

#### Approval of March Minutes

#### **Motion: (Webster/Harrell) - Passed**

*The Council approved the March 12, 2015 minutes with a page two modification (first bullet point) correcting the title of Vice Chair for Ms. Butler and not Ms. Brohawn.*

#### Announcements (Vice Chair Butler and members)

- Vice Chair Butler announced that the next ISS Annual Conference will be held on October 24-29, 2015 in Salt Lake City, Utah. There is currently a call for proposals that are due by June 26, 2015 through the formal submission process on the ISSC website. You do not have to be a member to submit a proposal and you can contact either Vice Chair Butler or Katie Busch if you need assistance with the process. The submitted proposals will be distributed to the ISSC members for review prior to the annual meeting.

- Mr. Webster reported that about a month ago visitors from Mississippi were hosted as part of their Governor's initiative to rebuild their area's industry. They were here for two days and Mr. Webster passed along his thanks to Delegate O'Donnell for his keynote comments at the reception the group hosted, as well as to the many Maryland industry members who attended, for their support.
- Mr. Webster discussed the remote setting training meeting last week and informed the Council that remote setting sign-ups are now on-going from June to the end of August. Interested individuals can contact Steven Weschler at Horn Point Laboratory (HPL) at (410) 221-8376. The program is in the process of transitioning people from the training program to being able to run their own remote setting operations.
- Mr. Roscher provided an update on HB 1287; an aquaculture industry representative will be added to the Tidal Fisheries Advisory Commission (TFAC) as of July 1st. Council members should provide their nominations for the position by May 22nd to Mr. Roscher via email: [karl.roscher@maryland.gov](mailto:karl.roscher@maryland.gov). Del. O'Donnell nominated J.D. Blackwell for the Tidal Fisheries Advisory Commission (TFAC) position.
- Mr. Roscher indicated that the opening on the Aquaculture Coordinating Council, created by Dr. Lazar's resignation, will be filled by HPL Hatchery Program Director, Dr. Donald "Mutt" Meritt.
- Mr. Roscher informed the Council that as of May 13, 2015, Chris Judy, former Aquaculture Division staff member in charge of Field Operations, has been named Director of the Fisheries Service Shellfish Program. Mr. Judy had previously held this position and his work with Marylanders Grow Oysters (MGO) will continue to be his responsibility as the Department's Shellfish Program Director.
- Mr. Roscher reported that, in response to a motion made at the March 12, 2015 ACC meeting, a letter was sent to Senator Mikulski thanking her for her support of the Maryland aquaculture industry. A copy of this letter was provided to the Council as part of tonight's meeting packet. A second motion passed on March 12th, to write a letter to the new Secretary, Mark Belton, inviting him to attend the Council meetings (citing the relevant code), is still pending; as are letters to the other State agency Secretaries. Ms. Kubofcik asked to be notified when the letter to the Business and Economic Development (agency) Secretary is sent, so that she can alert the relevant staff to ensure it makes its way to the Secretary. It was recommended that the same be done for each ACC (State agency) Member's office. Del. O'Donnell pointed out that this is not actually an "invitation" as they are required by law to attend or should designate an attendee to represent them at the meetings.
- Mr. Roscher informed the Council that the information requested for tonight's meeting regarding the proposed inclusion of aquaculture leases in the State of Maryland Shellfish Closure Areas book, is not ready. The plan is to move the Agenda item to the July 9, 2015 meeting so that it can be presented to the ACC.

## **Reports:**

### Aquaculture Division Report (Mr. Roscher)

The Aquaculture Division has received ten new shellfish lease applications since the last ACC meeting, two of which are incomplete. A total of 24 new lease applications have been received so far in 2015; 12 of which are for water column leases. In addition, five new lease agreements have been issued and nine new leases are pending issuance. One Amendment to a Shellfish Lease Agreement was executed.

Hydrographic surveys are pending for 18 lease applications. Once complete, these projects can move on to public notice and be forwarded to the Corps of Engineers. Mr. Roscher added that the Hydrographic Division has responded to pressing demand for surveys; specifically thanking Louis Wright for his efforts in conducting the surveys, especially given the difficult weather this winter. He continued by explaining that it is a time consuming

job to confirm lease coordinates, adding that the combined efforts of the Hydrographic Division and the GIS staff (assisting with the review of the lease applications) has really helped improve the overall lease process time.

There are ten proposed leases currently on public notice with comment period end dates from mid-May to mid-June. Three of these have already received petitions of protest and two received requests for a Public Information Meeting. Since the March ACC meeting, public notice periods for four proposed leases have concluded, two of which received protests. A total of 13 projects are in various stages of protest at this time. Five protests were recently withdrawn via a settlement agreement and one, for proposed projects in the St. Mary's River Sanctuary, was dismissed by the OAH. The Department will begin issuing some of these leases subject to certain conditions of the settlement agreement. In addition, 12 new lease application packets were prepared and forwarded to the Corps of Engineers for review.

Since the last meeting, 20 new shellfish import applications and 27 import permits have been issued since March 11th. Permits for all seed requests are held until health certification information is received and evaluated. Responding to a question from the Council, Mr. Roscher confirmed that the import permits are principally associated with Virginia. Five new Shellfish Nursery Permit applications were received and four new Shellfish Nursery Permits were issued. Seven sets of lease transfer forms were mailed and five lease transfers were fully executed, while seven new lease transfer requests were received.

From September 2010 through May 14, 2015, Maryland has received 297 lease applications, 226 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 129 new commercial shellfish aquaculture leases totaling approximately 2,447 acres. An additional 108 lease applications are in process, two of which are incomplete. Mr. Roscher indicated that the Division is addressing what needs to be done to keep the timeline for lease processing down in response to the high number of applications being received. There are currently 332 active leases (276 B and 56 WC) for a total of 4,174.25 acres (3956.89 B and 217.36 WC).

Thus far in 2015, there have been a total of 1,565 Shellfish Aquaculture Harvester Permits issued; comprised of 416 Permittee and 1149 Registration cards. This represents 509 individuals who are permitted to work in the industry. The total number of leases that have been permitted so far for 2015 is 304 out of a total 332 leases. Mr. Roscher next presented the breakdown of lease applications using a new format that is generated directly from the Division's database. This allows for quick access to the information and a copy of the application summary (new format) was provided to the Members.

After Mr. Roscher completed the first part of his report, Del. O'Donnell asked for further information about the nature of the three protests and the status of leases in St. Mary's County. The three protests were related to oystering in commercial areas (active harvesting in that area) and adjacent landowners. There was only one user conflict. Continuing, Mr. Roscher explained that, of the three proposed lease areas in St. Mary's County, one has moved forward and been issued after the judge determined that it could not be protested on the stated grounds. The other two are the focus of discussions for 11th hour agreements, including modifying one of the lease areas and increasing the number of samples taken in the St. Mary's River Sanctuary.

Fisheries Regulatory Scoping April 2015 - A written summary of possible regulatory changes were provided to the Council for review and to solicit feedback on how to proceed with scoping (e.g. open houses, web feedback only, etc.). For each topic, a brief description was given with proposed solutions and scoping recommendations. The specific topics included in the summary were:

- NSSP Compliance for Shellfish
- Shellfish Aquaculture:
  - 1) Liberalize Registration Requirement
  - 2) Possession of Permit
  - 3) Water Column Rental Fees
  - 4) Rental Fees for Leases Less than 1 Acre
  - 5) Power Dredging Notification
  - 6) Public Shellfish Fishery Area (PSFA) Correction
  - 7) Clarify Wild vs. Aquaculture Regulations

The Council discussed the individual topics and received additional information regarding the NSSP tagging requirements, Permittee (only) supervision of Registrants, rent amounts (\$3.50) versus the cost of processing for smaller (< 1 acre) leases, compliance for the sanctuary power dredging notifications (analysis shows all harvest in sanctuary is from people who have called the hotline), and the need to clarify some sections of the NSSP in regulations.

DHMH Memorandum Regarding Summertime Harvest - Each year, DHMH sends out a memorandum to leaseholders who have declared for summertime harvest. A copy of this year's memorandum was provided to the Council in tonight's meeting packet as an FYI that it was sent out. The memorandum cites the associated regulations, details the June 1 through September 30 requirements and associated time restrictions.

Continuing the Division Report, Mr. Roscher reviewed the changes to the lease active use requirements. A planting density requirement of 200,000 seed per acre with a five year rotation of areas planted is now in place. The best way to address natural set and verification is something that still needs to be fleshed-out. This includes how to verify the setting; such as working with University of Maryland Extension to train leaseholders to understand and be consistent in verification standards. Mr. Roscher asked that this topic be added to the July ACC meeting agenda for further discussion.

All shellfish aquaculture water column lease registration (SAHP) cards have now been reissued with "Water Column" printed in red on the card. This was done at the request of NRP for easier identification of water column lease harvesters during the enforcement of size restrictions (which are different for water column versus bottom leases) for harvested aquaculture oysters.

The development of the NSSP required Harvester Education Program is in process. The training is required for aquaculture harvesters and is not meant to be complex, but to provide important information for those working in the industry. The timeline is to have training in place for the Fall of 2015, so everyone is on board and trained before the 2016 permits are issued. This vital training will take place in person first, with the availability of online training anticipated for recertification. One issue facing the program is that the NSSP requires this certification to be done every two years. There is a proposal planned for the upcoming ISSC to change this two year requirement to a one-time only training requirement (similar to the HACCP training). Vice Chair Butler indicated that there is also a dealer training program in development so the industry will require both certifications.

Shellfish Aquaculture Financing Program Status (Mr. Roscher)

As neither Mr. McHenry nor Ms. Arnold was available to attend tonight's meeting, Mr. Roscher presented the MARBIDCO shellfish aquaculture program status report. There are a total of 62 projects (58 Regular and 4 Remote Setting) in ten counties with 42 of the loans fully drawn. Mr. Roscher indicated that, while the program is doing well, there is a continuing issue of unused funding and the need to get the word out to leaseholders about this great opportunity (i.e. the 25% forgiveness for amortized loans, etc.). Currently, there is still about \$150,000 available in capital funds with another influx of funds due in FY 2016. In the Remote Setting program, only \$90,500 of the \$200,000 initial funds (for three years) from the Maryland Department of Transportation have been used to date. The State run remote setting training program is only funded through 2016, but with an additional \$100,000 to be added back in, there should be enough to fund about 14 more remote setting programs.

After the status report, Dr. Harrell asked if the low MARBIDCO participation numbers thus far in 2015 were due to a lack of awareness or possible saturation in the industry. Mr. Roscher responded that, while the information is out there, potential participants don't pursue it and learn more about the program's opportunities. He suggested that putting the funding information into layman's terms might increase understanding and potentially increase participation. Mr. Webster added that his team at University of Maryland Extension is getting ready to reprint the remote setting manuals. He has seen an increase from 11 participants (in the first year) to 32 last year and highlighted that this will be the last year for free larvae and system use in the remote setting program for participants who have been in the program during all of the past five years.

#### 2015 Legislative Summary (Del. O'Donnell)

Three aquaculture related bills were signed into law by Governor Hogan as a result of this session. Two of the bills, HB 287 and HB 1287 were signed together with members of the Aquaculture Coordinating Council and industry present, including: Del. O'Donnell, Jon Farrington, Johnny Shockley, J.D. Blackwell, Karl Roscher, and Larry Jennings.

- HB 287 - Originated at the request of the Aquaculture Coordinating Council and provides liability protection (as with the timber industry), including triple damages.  
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.
- HB 1287 - Added an aquaculture representative to both the Tidal Fisheries Advisory Commission (TFAC) and Sport Fisheries Advisory Commission (SFAC).  
Synopsis: Altering the composition of the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission; requiring the Governor, with the advice of the Secretary of Natural Resources, to appoint a representative of the aquaculture industry in the State to both the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission; providing for the terms of the membership of the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission; etc.
- HB 286 - Allows for directional agricultural signage (including aquaculture) on scenic highways in Calvert and St. Mary's Counties and could provide advertising for the industry.  
Synopsis: Authorizing the State Highway Administration to issue a permit for an outdoor sign along or near a scenic byway on a federal-aid primary highway in Calvert County or St. Mary's County in conformance with federal law if the sign was erected on or before January 1, 2008, or is a directional

sign for a facility that sells principally local agricultural or aquacultural products and is located within a 5-mile radius of the sign; establishing specified standards for a sign erected under the Act; etc.

Two bills, HB 419 *Consideration of User Conflicts* and HB 638 *Shell Seeding, Shell Replenishment and Rotational Harvest*, were considered by the ACC and industry to have negative implications for Maryland aquaculture and were ultimately withdrawn. One positive aspect of facing this type of legislation was that the industry (especially in response to HB 419), showed its strength in the legislative arena.

Del. O'Donnell continued his report by thanking Ms. Brohawn for her efforts to pull together a meeting at MDE to bring about change in the discharge restrictions that impact shellfish nurseries. The initial focus had been to revise the regulations to allow for greater water flow but the final outcome exceeded expectations with the decision being made at MDE to do away with the restriction all together in the regulations. This should be in place by August and reflects a very positive example and outcome for the industry working through the ACC.

The Council discussed the bills that had been proposed during this session of the General Assembly, including how well Del. O'Donnell and Sen. Klausmeier (as bi-partisan colleagues) work together for the benefit of the industry. The bills themselves reflect the relationship of commercial watermen and the aquaculture industry. It is hoped that continuing efforts, such as the potential positive impact of an industry representative on TFAC, will help to improve relations between the two groups.

#### Interstate Seafood Seminar (Mr. Roscher)

Held from April 15 -17, 2015, the Interstate Seafood Seminar (ISS) was hosted this year in Ocean City, MD. This three day event rotates between the host states it represents: New Jersey, Delaware, Pennsylvania, Virginia, North Carolina and Maryland. This year's agenda covered a multitude of topics, including: National Issues, Water Quality, Environmental Water Quality, *Vibrio* and Source Tracking, Fisheries Management/Restoration, Seafood Safety, and Aquaculture/Industry Perspective. Mr. Roscher highlighted a few of the presentations, such as: Maryland Seafood Marketing (Steve Vilnit, DNR), Pollution Source Tracking with Canines & DERMO (Karen Reynolds, Environmental Canine Services) and the panel discussions held on Day 3 with representatives from different states.

Panel discussions on the last day drew strong attendance for State and industry representatives' presentations and Q&A sessions that followed. Panel participants from Maryland included: Karl Roscher, J.D. Blackwell (38<sup>o</sup> North Oysters) and Johnny Shockley (Hooper Island Oyster Aquaculture Co.). Steve Fleetwood's (Bivalve Packing Co., New Jersey) presentation about his on board refrigeration solution, and accompanying visual aide (coated Styrofoam container), also made a strong impression.

Mr. Roscher passed along comments from Ms. Brohawn that this meeting broke attendance records and that there appears to be a renewed interest in the seminar. Vice Chair Butler concluded the discussion by announcing that the next ISS meeting will be held in Cape May, New Jersey. It will be the 68th making it the longest running conference in the county.

#### **NEW BUSINESS:**

##### 2015 Coordinating Council Annual Report (Mr. Webster)

The Maryland Aquaculture Coordinating Council is charged by the General Assembly with issuing an annual report. The document provides an overview and status report, as well details regarding issues and the Council's

recommendations. Prior to tonight's meeting, a list of the two identified issues and proposed recommendations was emailed to the ACC for their consideration. Mr. Webster presented the two issues, Availability of Affordable Substrate and Enhancement of Joint Permit Process, along with the proposed recommendations for each.

**Motion: (Webster/Harrell) - No Vote (revised into separate motions)**

***The recommendations presented for the 2015 Maryland Aquaculture Coordinating Council Annual Report be accepted by the Council.***

The Council discussed the recommendations for each issue in turn and determined to address them as separate motions. For the Availability of Affordable Substrate, the discussion included how to balance the interest of dredging for shells, at Man O'War Shoals in the upper Chesapeake Bay, with the spawning time for fish. In addition, a suggestion was made to have DNR gather information that may be archived regarding studies on other areas that might contain suitable aggregations of buried shell that could be reclaimed and used for oyster culture.

**Motion: (Webster/Harrell) - Passed**

***The recommendations regarding the issue of Availability of Affordable Substrate should be placed into the 2015 Annual Report.***

**Motion: (O'Donnell/Harrell) - Passed In Concept and written out by Del. O'Donnell**

***The MDE gather all relevant scientific studies and evidence concerning the viability of using aquaculture shellfish grow-out operations for the purpose of establishing a nutrient trading and carbon sequestration system related to shellfish aquaculture. This data should be compiled for future consideration of the Maryland Aquaculture Coordinating Council (MACC).***

Delegate O'Donnell referenced the concept of nutrient trading credits that might be used as supplemental payments to growers for the biofiltration services provided by their shellfish during growout. He noted that the ACC had heard several presentations on this issue over the years and that it should be timely to gather the available scientific studies to move the issue forward. It was provided as a motion and passed for inclusion into the Report.

Continuing the Annual Report discussion with the issue of Enhancement of Joint Permit Process and the proposed recommendation. The Council expressed concern about the inordinate delays in the lease review/permitting process between the State of Maryland and the Baltimore District of the US Army Corps of Engineers. Senator Barbara Mikulski initiated an investigation of the causes and the ACC has requested a copy of the resulting report when it is provided to Senator Mikulski.

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

***The recommendation regarding the Enhancement of Joint Permit Process be placed into the 2015 Annual Report.***

The Maryland Aquaculture Annual Report is due by June 1, 2015. Additional information to be considered for the 2015 Annual Report can be forwarded to Mr. Roscher, but must be voted on by the ACC in order to be included in the report. Mr. Webster suggested information from the recently conducted 2014 Maryland Aquaculture Industry Status Report Survey would provide beneficial tracking of industry expansion. Mr. Roscher will look into the results of that survey as well as the one provided by Dr. Lazur.

Referring to the provided copy of the 2014 Annual Report/Executive Summary, Vice Chair Butler reviewed the previous four issues that were identified: Disease Diagnostic Services, Protection of Property, Financial Support Programs, and Water Quality Monitoring. She then asked if the Council wanted to place them back into the Annual Report for this year. The Council revisited the issues and recommendations, including the budget constraints for future NRP classes at the academy, and determined that the issues should be incorporated into this year's report.

**Motion: (Butler/O'Donnell) - Passed**

***Maintain recommendations from 2014 into the 2015 Annual Report after contacting MDE, regarding the Water Quality Monitoring issue, and with updated phrasing of the issues and recommendations.***



### DNRid Numbers for Aquaculture Harvesters (Mr. Roscher)

The Aquaculture Division was recently made aware of a requirement (*Family Law Article 10-119.3*) for a Social Security number (SSN) to be provided in order for an individual to be issued a shellfish aquaculture harvester card. Mr. Roscher explained that, as a result of this requirement, the Division had looked at integrating with the DNRid system and is working on new regulations for an appropriate screening process (violations) for applicants. A handout describing the new Aquaculture Declaration/DNRid Requirement was provided to the Council as part of tonight's meeting packet.

Having all aquaculture harvesters obtain the Aquaculture Declaration will ensure that these requirements can be implemented efficiently, safely and in a cost effective way. Mr. Roscher identified some of the immediate benefits of this approach, including: keeping all of the permitting in-house, secure storage of Social Security numbers (without the Division burdened with collecting them), streamlined processing through licensing, and the ability to keep bad actors out of the industry through screening. Additional information was provided regarding the new requirement:

- Obtaining the Aquaculture Declaration (and DNRid) is free using the COMPASS portal and will only need to be obtained one time.
- The Division will mail a letter and instructions to leaseholders in early mid-June and Division staff will be available to provide training.
- The 2016 SAHP Renewal form (annual mailing) will identify harvesters and whether or not they have an Aquaculture Declaration,
- 2016 permits/registration cards will not be issued without the Aquaculture Declaration.
- This will facilitate the eventual transition to online/eReporting.

The goals are to have a seamless incorporation of these requirements, keep information (SSN) secure and to streamline the process. The Council discussed the new requirements, including the advantage of helping to prevent identity theft and the user friendly interface with COMPASS. Responding to a question from Mr. Blackwell (guest in attendance), Mr. Roscher clarified that each person permitted will be required to have a DNRid and Aquaculture Declaration, but that part of the direction being taken is to relax the harvester card requirements (allowing a Permittee to authorize individual workers); which will reduce the overall number of people required to have harvester cards and harvester education certification.

### Northeastern Regional Aquaculture Center (Dr. Harrell)

Dr. Harrell, NRAC Director, provided information on two opportunities available through The Northeastern Regional Agriculture Center (NRAC):

1. There is a \$25,000 mini-grant available (without the multi-state requirement) for a project associated with either a workshop or techniques that will help agricultural industry. Participants would need to identify and work with a mentoring partner.
2. A full proposal is coming out for a two year and up to \$200,000 grant (with multi-state requirement) for a project associated with areas DC and northward. Participants would need to identify and work with a mentoring partner.

Persons interested in either of these grants should get in contact with the Center and visit the NRAC website:

<http://agresearch.umd.edu/nrac>

## **Public Comments**

J.D. Blackwell asked for more information about regulatory changes associated with issuance and use of harvester cards. He explained that while relaxing the harvester cards requirements is beneficial, most of the time (90%) it is a farm manager and not a Permittee, who goes out and supervises aquaculture workers. Mr. Blackwell asked if, under the revised regulations, it would be possible for a Permittee to designate a farm manager (not a Permittee) to supervise/authorize workers. Mr. Roscher confirmed that only a Permittee can authorize harvesters and, in Mr. Blackwell's example, everyone working under the farm manager would require a harvester card.

Mr. Blackwell also asked for assistance from the Council regarding his interest in putting a floating upweller on a commercial dock in a public shellfish area. Mr. Roscher said that he will look into the possibility and Delegate O'Donnell offered to assist with any necessary legislation when Mr. Roscher has the needed information.

### **Motion: (Butler/Harrell) - Passed**

*Adjourn the ACC meeting at 8:27 pm with the next regular meeting to be held Thursday, July 9, 2015 at the Maryland Department of Natural Resources, C-1 Conference Room.*