

Aquaculture Advisory Council
January 15, 2010
Meeting Minutes

Attendees: Secretary Douglas H. Fisher, Mr. Jim Joseph (Commissioner Mark Mauriello), Dr. John Kraeuter (Dr. Eric Powell), Mr. Rich Ritota (Commissioner Heather Howard), Mr. Joe Constance (Ms. Caren Franzini), Mr. George Saridakis, Dr. Bradley Hillman (Dr. Robert Goodman), Mr. Bill Avery (Mr. Oliver Twist), Mr. Steve Carnahan, Mr. Chris Scales (Mr. John Maxwell), Mr. Paul Waterman, Mr. Walter J. Canzonier (Mr. Robert Munson)

In Absentia: Mr. James Tweed, Mr. John Messeroll (Ms. Jeanette Vreeland), Mr. Gilbert Ewing Jr.

Public in Attendance: Dr. Gustavo Calvo, Mr. Michael Celestino, Mr. Gef Flimlin, Mr. Troy Joshua, Mr. George Mathis, Mr. Joseph J. Myers, Mr. Tony Ni, Mr. Jeff Normant

Secretary Fischer called the meeting to order. Mr. Myers performed roll call. There is quorum for this meeting.

Sec. Fisher asked for a motion to approve the minutes from the July 2009 meeting. Mr. Canzonier made the motion, which was seconded by Mr. Carnahan. All voted in favor and the motion passed.

Mr. Myers announced that James Tweed was appointed to the Council effective January 11, 2010. He replaces Dan Cohen but there is expected to be minimal change to the Council since James often served as proxy for Mr. Cohen. All other seats on the Council remain expired with the designee continuing to serve. Mr. Joseph asked if AAC appointments must pass Senate confirmation and they do not.

Mr. Myers briefed the Council on the activities since the last meeting to finalize the NJ Shellfish Census, which included receiving comments from the Council and industry and conducting a conference call to finalize the survey form. He presented the Council with the final draft of the survey form ready for vote. Dr. Kraeuter stated that the examples on page 3 need to be edited so that the numbers make sense and do not confuse the person completing the form. Mr. Joshua said that a final revision would be done by USDA-NASS to add proper data coding. USDA-NASS has a copy of this and is reviewing it as if it is a part of the Special Census of Aquaculture and the approval is expected to take 9-10 months. Approval at NASS in Washington D.C. can happen after the AAC approves the document. Mr. Flimlin asked if Mr. Joshua could attend one of the meetings of the NJ Shellfisheries Association. This would allow shellfish farmers to operate their business throughout the year knowing that this survey would need to be completed at the end of the year. Mr. Myers said that the time needed for approval of the document by USDA-NASS should not delay its implementation. Since data collection for the Special Census of Aquaculture will happen at the end of 2010, the NJ Shellfish Census could happen at the end of 2011 or the end of 2012, depending whether the survey is annual or biannual.

Mr. Canzonier said that this should also be discussed with the oyster industry in the Delaware Bay to allow them the same opportunity to learn about the survey and plan for its completion. Mr. Joshua said he is willing to market the NJ Shellfish Census through all necessary channels. Dr. Kraeuter made a motion to accept the Census form which was seconded by Mr. Scales. All voted in favor and the motion passed.

Mr. Joseph gave a brief overview of new applications on the Atlantic Coast side that his office receives approximately 13 new applications per year, the biological survey costs about \$665 and the hydrographic survey costs about \$739 if only one field day is required to survey and mark the corners of the lease. This is a fairly expensive process so the strategy is to permit blocks of leases to keep down costs per lease. In 2008, Mr. Parsons and a person from south Jersey approached the Bureau of shellfisheries to pursue a new block of leases suitable for aquaculture in the Middle Island Thorofare in Barnegat Bay. Considering the environmental and user group issues, the Bureau pursued the blocks of leases together. Thirty leases were delineated. Mr. Joseph gave a PowerPoint presentation on the strategy to survey this area of prospective leases, detailing the extensive technical surveys that were performed to assess submerged aquatic vegetation and shellfish densities, which resulted in some reconfiguration and elimination of the leases as originally delineated. Twenty-two leases exist, of which one is vacant and available for lease application. This accommodated everyone who applied for a lease in this block. There is an active study on submerged aquatic vegetation in this area conducted by Paul Bologna of Montclair State University. Mr. Flimlin said that Dr. Bologna worked with Mr. Parsons and others to develop a proposal to study the effect of proximal shellfish farming on submerged aquatic vegetation. NJ Sea Grant did not approve the study for funding. Mr. Scales asked if control plots were incorporated into the experimental design of this study. Mr. Joseph said that his project is a mitigation project for some damage elsewhere in the Barnegat Bay. Mr. Parsons said that certain environmental conditions needed to culture clams overlap with areas that are also good for submerged aquatic vegetation. Mr. Parsons said that this is a good example of finding ways within the existing policy to allow shellfish culture to expand. A greater emphasis on the conditions needed for clam culture will help solve future issues where there is this overlapping of environmental conditions with valued habitat areas and areas where clam culture is economically feasible. Mr. Flimlin said that clams in Dry Bay are showing slower growth rates. This suggests that Dry Bay might be at carrying capacity, so he is pursuing a phytoplankton regime study which might call for a realignment of plots. Mr. Avery said that he has seen changes in Dry Bay. Mr. Parsons said that conditions can change in any particular area, but this new area is unique because of strong and consistent tidal flows, but it is difficult to find areas that comply with regulatory agencies and industry. Mr. Joseph said that when the Bureau was looking for nursery leases for shellfish restoration, the

Bureau was bound by the same restrictions. This case was a good compromise. Mr. Flimlin asked where the next block of leases may be approved. Mr. Joseph said he hopes these new leases are adequately used by all applicants. Mr. Parsons said that this is an unavoidable part of any public policy open to the public. Some people will try to take advantage of any given situation. Mr. Joseph said that a provision in the leasing policy says that a lessee must hold a lease for one year before transfer. It will be interesting to see how many lessees initiate transfers after one year and a day. Sec. Fisher acknowledged that the good news is that there are new shellfish leases and he appreciated the work in making this happen. Mr. Flimlin highlighted that new shellfish leases mean more money into the economy. Dr. Krauter said this is a good example of focusing on one spot, compromising from all sides and making progress and a lot of work went into this. Mr. Joseph said that his staff put \$49,000 of work into establishing these leases. Mr. Parsons said that the dollar value of clams that could be produced from these leases could eventually be more than tenfold. Mr. Scales thanked Mr. Parsons for his persistence.

Mr. Myers provided an update of the Aquaculture Rule 2:89, and the strategy that was employed to minimize the gap between rule proposals. The previous rule expired in July 2009, so the existing rule was readopted with no changes. This became finalized in December 2009 which allowed the expired Aquatic Farmer Licenses to be reissued for those that applied. Before any AFLs expired, there were 192 AFLs issued. Out of the 112 AFLs that expired in 2009, 64 were reissued. The remaining 48 involved some applications that showed no reported production since initially filing for an AFL in 2004. Since these licensees applied under the Part B form that existed at the time, which was reserved for currently operating farms, no production at 2004 and 2009 indicated that they may have never been in production. Therefore, if these applicants wish to obtain another AFL, they will need to reapply under the forthcoming new rules that include a major overhaul to the AFL program. These changes include an overhaul to the application process to include one of six application types. This helps streamline the application process for a given applicant. The Rule also updates the health management and import process for finfish in aquaculture. This updated rule is set to complete the legislative rule process and enter publication in the state Register sometime this spring where the rule will be open for public comment. Mr. Avery asked if AFLs are issued to individuals or business. Mr. Myers said that AFLs are issued to business entities, which could be individuals, based on how the application is issued. Mr. Joshua asked how many new AFLs are issued per year. Mr. Myers said from six to ten, on average. There are currently 144 AFLs issued. Mr. Ritota said that it would be helpful for the NJDA to report on the current statistics of the Aquatic Farmer Program at each meeting. Mr. Myers agreed to provide such a report and said that the number of licenses that were not issued should not come at a surprise. It is not reflective of a mass of individuals leaving the industry or a contraction. Some may have naturally discontinued shellfish farming, but many people likely applied who were not actively farming or were simply holding leases. The greatest numbers of those farmers who account for the majority of aquaculture production have reissued AFLs.

Mr. Myers discussed the need to develop an update to the Aquaculture Plan. The Aquaculture Development Act calls for an update to the original State Aquaculture Plan to be developed every five years. Since the last and only update was done in 2002, a subsequent update is nearly three years overdue. Since starting his position in 2004, he has developed over 30 position papers, status updates, and policy pieces. The Council has developed a few documents pertaining to aquaculture development and leasing, and individual members and attendees of the Council have developed documents such as a paper on "Status and Potential of Aquaculture in New Jersey" that was developed by Mr. Canzonier and Dr. Krauter last year. These numerous works can be assimilated to comprise the greatest portion of the new Aquaculture Plan Update so as to not "reinvent the wheel." The plan is to develop an outline to send out to all people interested in working on the plan update within one month and develop a very mature draft of the Aquaculture Plan Update before the next Council meeting in April. He recommends the formation of a subcommittee that would be the core group of people to develop this plan. Mr. Flimlin asked what entity, the NJDA or the Council, is actually charged with the development and issuance of the plan update. Mr. Myers said he would check the wording of the Act to see which entity is charged with this exercise. Mr. Canzonier said that the subcommittee should have some kind of written mandate to clarify objective of the subcommittee. The subcommittee consists of Dr. Krauter, Mr. Flimlin, Dr. Calvo, Mr. Canzonier, Mr. Joseph, Mr. Carnahan, Mr. Avery, Mr. Scales, and Mr. Myers. Mr. Myers said he did not foresee the need for extensive on-site meetings. Most of the work could be handled through conference calls and e-mails. Mr. Carnahan recommended that this subcommittee meet following today's meeting to develop a plan of action. Sec. Fisher said the NJDA would send out a written statement or the Council to review.

PUBLIC COMMENT:

Mr. Carnahan asked if anyone with an Aquaculture License has applied for Farmland Preservation and if not are they qualified to do so. Mr. Myers added that aquaculture would neither be a detraction or a bonus for Farmland Preservation consideration. The applicant would have to meet whatever criteria are set forth by the State Agriculture Development Committee. Mr. Parsons said this might be like the Working Waterfront initiative in Maine. Mr. Myers said there is a Federal bill on preserving Working Waterfronts nationwide, but the status of that bill is uncertain. Mr. Parsons said that there are about six clam hatcheries in New Jersey that need waterfront locations but the dollar value of the property exceeds the dollar value of the operation. Mr. Avery said that taxes have gone up six times at his hatchery in Atlantic City and his fees for maintaining his dock have also gone up as a result. Mr. Parsons said there is almost no recognition of clam farmers as farmers. Sec. Fisher said that sentiment in New Jersey would never allow for consideration for agriculture taxation to be less than five acres, but asking for special consideration for specific types of operations may be a viable strategy. Mr. Canzonier said that a Working Waterfront effort was initiated with Art Brown, but the effort lost political will. The effort extended to commercial fishing ports. He wondered if this effort could be revised. Sec. Fisher said that although the \$400 million ballot issue passed, but the incoming administration may not allow the bond to be issued. Mr. Ritota asked if tax breaks would be helpful instead of Farmland Preservation. Sec. Fisher recommended that tax breaks may be a more likely

course of action. He recommended bringing this issue to the local legislators with information on the economic losses of closing these facilities. Mr. Carnahan recommended this issue be addressed in the Aquaculture Development Plan Update.

Mr. Canzonier discussed concern that arose from the October meeting of the Interstate Shellfish Sanitation Conference. The FDA issued a statement that *Vibrio vulnificans* is not adequately addressed by the ISSC. The problem is that the FDA bypassed the memorandum of understanding (MOU) between the ISSC and the FDA. They intended to ban the sale of oysters from the Gulf of Mexico during the summer months unless undergoing post-harvest processing. The FDA backed off of this position under political pressure, but did not change their policy toward the MOU. There is intention from the FDA to pursue this issue at a later date. He suggested the only way the FDA would be committed to the MOU would be to express this concern to the political powers that empower the FDA. With no National Shellfish Sanitation Program, the industry is in big trouble. Mr. Ritota said that the NSSP is collaboration with States, Industry, FDA and academia and this brings a balanced approach to regulating shellfish. Mr. Flimlin said that Mike Rice, a state representative in RI submitted a bill stating that the FDA continue to work within the process of the MOU. He would like to pursue getting this introduced in New Jersey. Sec. Fisher urged an effort like this to get support from both sides.

Mr. Ritota informed the Council that *Vv* and *Vibrio parahaemolyticus*, which are naturally associated with lower salinity and therefore more associated with oysters, is beginning to be seen in clams from NJ, NY and CT. This could be associated with higher rain and there is need to educate industry on better refrigeration. Two cases are considered an outbreak. Normally, there 10-20 unreported cases for every reported case, so an epidemiological outbreak means 20-40 true cases. The industry will be receiving more information from NJDHSS and NJDEP on keeping the product cold. Mr. Avery asked if this incidence was definitely traced to New Jersey clams. Mr. Ritota said that there are many cases where no raw oysters were consumed, only raw clams. This is a new phenomenon to this area. Sec. Fisher asked what the characteristics of the cold chain are. Mr. Ritota said that 41°F is ideal. This is the reason for restricted harvest times during the summer. It looks like there needs to be even more diligence in keeping the product chilled. Mr. Scales asked if there is a difference in the way that Vibrios are being tested for. Is that confirmed through a lab? Mr. Ritota said that if you look at the data in summation, there is a clear pattern traced to clams. He also intended to look at cases of *Vibrio* infections looking at open wounds. Hopefully, this was just a unique year that is not seen this season. Mr. Parsons said that almost all of his oysters and clams are from New Jersey waters, but he has never had an incident where anyone has gotten sick. There are many more clams sold in New Jersey than what can be produced in-state. The out-of-state clams do not have as good of a shelf life and mishandling multiplies this problem. However, the problem becomes associated with New Jersey clams. The dynamic of the business has changed. Mr. Ritota said that tracking the origin of the clams is part of the investigation. Temperature abuse is sometimes part of the problem. There is still some dynamic that is happening that does not seem to be occurring in Southern states. Sec. Fisher said that the public would not care and an incident would put a mark on the entire industry. The solution is increased education. Mr. Ritota said that the plan to educate from a multi-pronged approach.

Mr. Flimlin said that John Aubin obtained a lease near Swan Point for oyster aquaculture. Coastal regulations would mean that moving forward would cost him about \$15,000. He wants to use a floating cage system to grow oysters that is commonly used in Canada. Coastal zone management is in the process of implementing new rules that would lessen this, so it is hoped that these rules move forward. His previous business has been writing environmental permit applications for other companies, so he is well aware of what is needed. He actually questions the Department as to their authority. Mr. Myers added that the biggest issue in this situation is not the waterfront development permits, but the Tidelands License. He shared that the fee for the Tidelands License would be about \$40,000. Mr. Joseph said that there are long-standing issues with Tidelands that also affect the Aquaculture Development Zones. He agreed to pass along this information to the Land Use. Sec. Fisher asked for a meeting to be arranged with Tidelands and the NJDA. Mr. Ritota added that at one of the past meetings, it was requested that a representative from Land Use regularly attend AAC meetings. Mr. Joseph added that good progress has been made with the Land Use program under the leadership of Mr. Tom Micai. Mr. Flimlin added that Mr. Micai has been good to work with. The problem is that he is stuck in the bureaucratic process in the Department of putting all coastal zone regulation changes in the docket at the same time.

Mr. Flimlin discussed Dan McVeigh's progress with a finfish and hydroponic operation that he wishes to locate in New Jersey. This is a \$20 to \$30 million project and he is looking for 100 acres. He previously said that he wanted to know if the State of New Jersey has interest in supporting the project. The project has serious backing from a Swiss-based international group with plans to invest \$500 million in aquaculture worldwide.

Mr. Flimlin announced that Rutgers is offering a new opportunity for people to pursue a Captain's License on-line. A separate Coast Guard test is not needed once this on-line course is complete.

Mr. Joseph said that NJDHSS would be discussing recent the *Vv* issue with clams at the March 15 meeting of Atlantic Coast Shellfisheries Council.

Sec. Fisher made note of the next meeting tentatively scheduled for April 23, 2010 and asked for a motion to adjourn. Dr. Kraeuter provided the motion which was seconded by Mr. Carnahan. All voted in favor and the motion passed.