

MINUTES OF THE MEETING  
OF THE  
DELAWARE BAY SECTION OF THE NEW JERSEY SHELLFISHERIES COUNCIL

Haskin Shellfish Research Laboratory  
MS Teams Conference Call  
Bivalve, NJ  
Tuesday, March 7, 2023  
6:00 PM

Present were: Chairman: Warren Hollinger (Cumberland County)  
Vice Chairman: Steven Fleetwood (Cumberland County)  
Councilman: Richard Malinowski (Salem County)  
Councilman: Scott Sheppard (Cumberland County)  
Councilman: Vacant (Cape May/Salem County)

State/Fed Reps: Joe Cimino, Marine Fisheries Administration  
Russ Babb, Bureau of Shellfisheries  
Jeff Normant, Bureau of Shellfisheries  
Craig Tomlin, Bureau of Shellfisheries  
Andrew Hassall, Bureau of Shellfisheries  
Megan Kelly, Bureau of Shellfisheries  
Conor Davis, Bureau of Shellfisheries  
Robert Shuster, Bureau of Marine Water Monitoring

Haskin Lab: David Bushek, Director  
Jennifer Gius, Laboratory Researcher IV  
Iris Burt, Laboratory Technician

General Public

- 1. Councilman Fleetwood motioned to approve the minutes for November 2022. Councilman Malinowski second the motion. All were in favor and the motion passed.**
- 2. January 2023 Council Minutes were presented for Council's Consideration**
- 3. Delaware Bay Office Revenue Collected in January and February 2023**

**3.1 Revenue collected for January totaled \$5,332.00 and is summarized as follows:**

License Type	Total	License Type	Total
Commercial Crab Pot	\$1,500.00	AC & DB Dredge	\$600.00
Nets	\$2,074.00	Menhaden	\$230.00
Application Fees	\$82.00	Otter Trawl	\$102.00
Commercial Shellfish	\$100.00	Assigned Fees	\$300.00
Recreational Shellfish	\$30.00	Map Sales	\$30.00
Area 1, 2, & 3	\$84.00	Tonging Tags	\$200.00

**3.2 Revenue collected for Febuary totaled \$5,458.00 and is summarized as follows:**

License Type	Total	License Type	Total
Commercial Crab Pot	\$1,600.00	DB & AC Crab Dredge	\$800.00
Nets	\$2,074.00	Menhaden	\$566.00
Application Fees	\$92.00	Tonging Tags	\$300.00
Commercial Shellfish	\$50.00		

**4. Oyster Resource Development Account (082):**

*(as of 3/05/2023)*

Expended	<b>\$186,135.53</b>	
Unexpended	<b>\$495,815.36</b>	

**5. Lease Ground Application for Decision**

**5.1 Application for Charles Cummings to Lease in ADZ-4**

Applicant	Section	Lot	Acreage	Acreage Fee	Application Fee
Charles Cummings	ADZ-4	4	3	\$300.00	\$2,000.00

**Councilman Fleetwood motioned to approve the lease application. Councilman Sheppard second the motion. All were in favor and the motion passed.**

**6. Old Business**

**6.1 Red Knot Stakeholder Committee Update**

Councilman Hollinger confirmed that as of April 15<sup>th</sup>, 2022, a change to the conservation measures listed in the Programmatic Biological Opinion for red knots when into effect, which requires aquaculture racks' legs to measure ten inches (not including bends for feet) and be maintained at a height of eight inches of clearance to allow for the passage of horseshoe crabs.

**6.2 New Jersey Shellfish Legislation – Actions and Bills**

Mr. Babb began by sharing a slide that listed several legislative bills that are currently before the State Assembly and/or Senate. The first of these bills that Mr. Babb discussed was bill A4243/S2908/S428 “Establishes certain shellfish aquaculture activities as eligible for Right to Farm Protects.” According to Mr. Babb the bill has made it through the Senate and Assembly, now it is before the Governor awaiting final approval.

Mr. Babb then went on to discuss bill A3847, “Exempts shellfish aquaculturist with commercial shellfish aquaculture license from law prohibiting taking of shellfish on Sunday,” which has passed through committees and is awaiting a final vote.

Next on the list was A4028, “Eliminates shellfish license fees for veterans and active-duty service members.” This bill was introduced and referred to the Assemble of Agriculture and Food Security committee. No further information on the status of the bill was available at the time of the meeting.

Mr. Babb explained a new bill, A5197, “Directs DEP to identify oyster reefs in need of restoration and allow certain entities to establish non-harvest restoration sites” was introduced on February 16, 2023. It was unknown at the time of the meeting what committee would be responsible for reviewing the bill. Mr. Babb did share a handout that illustrated the bill’s language. After a short discussion on the implication of what the bill proposes, the Council discussed writing a letter to the bill’s sponsor stating their position and concerns about the bill’s language and intent.

**Councilman Fleetwood motioned to send a letter to the bill’s sponsor, Assemblyman Conway, which would state the Council’s position and concerns with the bill. Councilman Sheppard second the motion. All were in favor and the motion passed.**

Additional bills that are before the legislators and were briefly address as part of the update to the Council are: A733/S793, “Requires assessment of bay scallop resource, and authorizes DEP to establish a bay scallop fishery;” SR67, “Urges Atlantic States Marine Fisheries Commission to continue prohibiting harvest of female horseshoe crabs;” S2281, “Requires State agency to identify at least two existing rules for repeal for every one new rule adopted;” and A4483, “Requires study of ocean energy potential; directs BPU to establish wave and tidal energy generation goals and take other action to establish NJ as a nationwide leader in ocean energy.”

#### 6.2.1 Dredge Boat License Consolidation Administrative Consent Order (ACO)

Mr. Tomlin informed the Council that at the time of the meeting, “tacit approval” to issue the ACO has been given by the Commissioners office. Therefore, once it is officially issued industry members will be able to come to the Delaware Bay Shellfish office to consolidate a total of ten dredge vessel licenses under one designated harvest vessel.

#### 6.3 Sunday Harvest Committee Recommendations Discussion

Councilman Hollinger began the discussion by reviewing the Council process on accepting a “standing motion” from a committee.

**In accordance with the guidelines set forth by the Shellfish Council Administrative Guidelines document (not officially adopted at the time of discussion) and in parallel with the “Robert’s rules” that govern the Marine Fisheries Council, Committee recommendations are submitted as a report to the Council as a standing motion to discuss the adoption of the recommendations. Councilman Fleetwood second the motion to discuss the report. The motion passed and the Committee chair was asked to formally report the recommendations for Sunday Harvest from lease grounds in the Delaware Bay.**

Mr. Gaine reviewed the Sunday Harvest Committee’s recommendations, which are as follows:

- 1) The Committee recommends the allowance of Sunday harvest at a specific time within Delaware Bay: Namely Sunrise to Sunset, Trenton time for given day.
- 2) The Committee recommends the allowance of Sunday harvest on leases in specific Areas within Delaware Bay: Namely Sections A, B, C, D, & E.
- 3) The Committee recommends the allowance of Sunday harvest via a specific method including,

contacting the Bureau of Shellfisheries (Delaware Bay office) 48 hours prior to a Sunday harvest with the following information: Lease grounds to be harvested, estimate harvest amount, estimated time of landing, and the location of the landing.

- 4) The Committee recommends a report be presented to the Council annually with the aggregate information collected by the Bureau regarding the use of the Sunday allowance.
- 5) The Committee recommends regulations be established that allow the Council the flexibility to modify or dismiss the Sunday allowance without a regulatory change, should it not be sufficiently used or needed.

Following the review, Councilman Hollinger recommended rewriting “recommendation-three” from contacting the Bureau of Shellfisheries (Delaware Bay office) to contacting the State with the use of their established hotline, 1-877-WARN-DEP (1-877-927-6337).

Councilman Fleetwood added that it should be noted that the drafted recommendations were not unanimously agreed upon by the Committee. Mr. Gaine did confirm that the Committee voted four to one in favor of making the recommendations. When questioned why it was not a unanimous decision, Mr. Gaine stated that the one vote in opposition to the recommendations represents members of the industry that are not in favor of any form of harvest of shellfish on Sundays.

Mr. Williams expressed his support for the Council to adopt the recommendations given that bill A3847 does not address the needs of the shellfish aquaculturist operating in the Delaware Bay, whereas the recommendations before the Council do directly benefit all commercial shellfish leaseholders operating within the Delaware Bay.

Mr. Tomlin added that “recommendation-two” needs to be expanded to include the State’s Aquaculture Development Zones (ADZs), particularly ADZ-4, which is not located in any of the leasing sections listed in the recommendations.

Mr. Babb did add that the Bureau of Shellfisheries and the Bureau of Law Enforcement have not had the opportunity to review or comment on the recommendations.

**At the end of the discussion Councilman Hollinger motioned to forward the Committee’s revised recommendations to the Department of Environmental Protection for review and comment. Councilman Fleetwood second the motion. The motion passed with a vote of three in favor to one in opposition.**

#### 6.4 Shellfish Council Administrative Guidelines

Mr. Babb began with a quick reminder that the Shellfish Council Administrative Guidelines were drafted in 2015 and discussed by the Council in 2017, but they were never formally adopted. Furthermore, it is the hope of the Bureau that the Council has had time to review the document and make edits as needed, and that the guidelines be made available to the public to create a more transparent decision making processes by the Council.

**Councilman Hollinger motioned to conditionally approve the adoption of the Shellfish Council Administrative Guidelines given that the Bureau of Shellfisheries edits the document per the comments provided by Council, notes the changes to the document, and provides a copy of the updated document to the Council so that it can be formally adopted at the next Council meeting. Councilman Fleetwood second the motion. All were in favor and the motion passed.**

#### 6.5 Oyster Tonging Industry Update

Mr. Davis gave a brief update on the oyster tonging industry stating at the time of the meeting 1,250 tonging tags had been sold and 874 bushels of harvest had been reported.

## 6.6 Delaware Bay Oyster Tongs Committee (OTC)

Mr. Davis began the update by reminding the Council that at the January Council meeting, permission to reconvene the OTC was given. Following January's meeting, staff researched available funding and discussed the need for surveys to locate shellfish resources for a transplant outside of the Direct Market Program's annual oyster transplant, and to find suitable grounds to receive shellfish resources. After informing the Council of what revenue had been collected from the sale of tonging tags, the need for survey work prior to a transplant in waters listed under Title 50:3-14, and the timing of a transplant regarding other established sustainability protocols; a motion was made.

**Councilman Sheppard made a motion to approve the expenditure of all revenue collected from the sale of tonging tags for enhancement efforts in Nantuxent Cove and its three primary tributaries (Nantuxent, Cedar, and Back Creeks) as described by Title 50:3-15 c., which will first include an oyster transplant followed by a shellplant in the tongs areas. Councilman Fleetwood second the motion. All were in favor and the motion passed.**

## 6.7 Vibrio Update

Mr. Shuster began the update by stating that the Vibrio control plan for 2023 has been drafted with no changes in harvest or handling practices. Mr. Shuster then went on to summarize the 2022 Vibrio case load. In 2022 there were nine cases of Vibrio with New Jersey product implicated. Of those nine, only two were multiple source cases involving shellfish from other states. Of the seven single source Vibrio cases, five of those cases were linked to dredge boat harvest in the Delaware Bay. Furthermore, those five cases all involved product from the Ship John seed bed harvested in a one-to-two-week time from in late July into early August. Therefore, the cases occurred within the thirty-day evaluation period. As such, a risk evaluation was done based on the numbers collected by the Bureau of Shellfisheries as part of the Direct Market Program. Fortunately, the calculation for the risk evaluation fell below a score of one in 100,000 servings, which deems the area safe for future harvest. Moreover, the three cases in late summer came from restaurants in the Mid-west, and Mr. Shuster suspects transportation and handling practices during transport may have been responsible for the outbreaks.

## 7. New Business

### 7.1 Review 25th Stock Assessment Workshop (SAW)

Ms. Gius began by sharing a presentation summarizing what was discussed at the 2023 Stock Assessment Workshop. Prior to discussing each mortality region individually, Ms. Gius gave a description of the Bay as a whole. To do so, a slide with four graphs was shown. The first graph showed the total number of oysters (any oyster measured over 20 mm) for the past ten years. For the past ten years the total abundance of oysters has been greater than the threshold but only above the target for two years, which was in 2017 and 2018. The next graph was similar but split market sized oysters (2.5 inches or greater) for the past ten years. For the past ten years oysters greater than two-and-one-half inches has been above the threshold and target. The number of market size oysters has been stable with greater fluctuation in abundance of sub-legal oysters. The third graph showed recruitment for the past ten years. Recruitment has been highly variable with the largest occurrence happening in 2022, with a cohort just greater than what had been seen in 2016 and 2017. Lastly, the fourth graph showed the natural mortality rate throughout the bay, which has been on a downward trend for the past ten years. With that said, the mortality rate was slightly elevated for the year 2022 compared to the past few seasons.

After describing the Bay as a whole, each region was described in a similar way. The following is a summary of the health of each region and the SARC's recommendations for each region:

Very Low Mortality (VLM): In 2018 a large mortality event occurred due to high precipitation. Since then, the population has continued to rebound with rises in both market and submarket abundance. That is, the region received a record high spat set, which pushed the number of oysters less than two and a half inches well past the threshold and target levels for the region in 2022. However, the number of oysters equal to or greater than two and a half inches is still below the target and threshold levels for the region. Moreover, the area experienced some fishing mortality as part of the Intermediate Transplant Program (ITP); with the SARC's recommendation for the 2022 ITP, an exploitation rate of 1.93% was set and the product was transplanted to the Low Mortality region. For 2023, the SARC recommended an exploitation rate of 1.49%, with the resource being moved to the LM region.

Low Mortality (LM): The results of the 2022 surveys of the area showed that total abundance of oysters in the region is well above the threshold and just below the target. This region also experienced a large spat set in 2022. Due to the 2022 transplant from the VLM to the LM region and from the LM region to the MMM region, fishing mortality was split between size classes. That is, oysters less than two and a half inches were added to the region, while market size oysters were removed from the region. Lastly, the 2022 exploitation rate for this region was recommended at the minimum rate of 0.76, while the SARC recommended a maximum exploitation rate of 2.26% for 2023.

Medium Mortality Transplant: The region continues to show stable trends in total abundance, market abundance, and mortality. The area did receive a significant amount of set in 2022, but to a lesser degree than what was seen in the VLM and LM regions or what had occurred in the MMR region in 2017 & 18. The SARC recommended the maximum exploitation rate of 2.46% for both 2022 & 23.

Medium Mortality Market: The region has been stable in total abundance, market abundance, mortality, and recruitment for the past few years. Yet, the number of market size oysters did drop below the target level for the area, which corresponds with the total number of oysters being well below the target level for the region and close to being below the threshold level for the area. That is, the total number of oysters for the region in 2022 is the current record low since 2013.

The SARC recommended the median exploitation rate of 3.03%, which would result in 24,960 bushels of quota. No transplant to the area was required or recommended.

Shell Rock: The data for this region in 2022 showed an uptick in the number of oysters, both market and submarket size. That is the overall number of oysters for the region sits between the threshold and target levels, but individually measured, both market and submarket size oysters sit above the threshold and target level. The area did receive a significant spat fall. Dermo was measured at its lowest since 2013, with natural mortality being on average compared to previous years. Lastly, 2022 set a record with the highest level of harvest.

High Mortality: The data for this region in 2022 showed a decline in both market and submarket size oysters. That is the overall number of oysters for the region sits below the threshold level, but individually measured, market size oysters sit above the threshold and target level, while the number of submarket sized oysters sits just below the target level. The area did not receive a significant spat fall like the other five regions did. However, dermo was measured at its lowest since 2015, with natural mortality being on average compared to previous years. Lastly, 2022 set a record with the highest level of harvest.

Ms. Gius ended the presentation by sharing two table (shown below) that summarized quota recommendations for 2023:

SARC 2023 Transplant Regions Recommendations

Region	Label	Exploitation Rate	Total Abundance	Removals	Oysters/Bushel	Est. Quota Bushels
VLM		1.49%	86,474,109	1,288,464	503	256
LM	MAX	2.26%	395,790,825	8,937,844	449	3,981
MMT	MAX	2.46%	250,596,989	6,164,686	330	7,846

SARC 2023 Direct Market Regions Recommendations

Region	Label	Exploitation Rate	Total Abundance	Removals	Oysters/Bushel	Est. Quota Bushels
MMM	Median	3.03%	170,956,918	5,179,995	269	19,256
MMM*	MAX	3.70%	170,956,918	6,325,406	269	23,515
SR	Median	3.70%	118,822,930	4,396,448	269	16,344
SR*	MAX	4.88%	118,822,930	5,798,559	269	21,556
HM	Median	7.49%	102,176,998	7,653,057	269	28,450
HM*	MAX	9.82%	102,176,998	10,033,781	269	37,300

\*Transplant Required

## 7.2 Setting of the 2023 Direct Market Harvest Program Quota and Season Dates

The Council reviewed and set the dates for actions to take place regarding the program. Councilman Hollinger informed the Council of the following information: sign-up for the program was from March 13 – 24; sign-up to participate in transplant operations was from March 13 – 24; bushel and cage tags would be available March 27; beds would be open for the program from April 3rd to November 24, pending water temperature. The Council decided to schedule the intermediate transplant to start April 25, and to keep the transplant fee at \$3.00 per transplanted bushel. **Councilman Fleetwood made a motion to approve the dates and price per bushel. Councilman Sheppard seconded the motion. All were in favor and the motion passed.**

Mr. Tomlin inquired whether the Council would accept and adopt the SARC's recommendations. **Councilman Sheppard motioned to follow the SARC recommendations which were as follows: the MMM region was recommended at the median exploitation rate of 3.03% to harvest 19,256 bushels (bu.) prior to transplant operations with the potential to be increased to the rate of 3.7% to harvest 23,515 bu; Shell Rock was recommended the median rate of 3.7% to harvest 16,344 bu. prior to transplant operations with the potential to be increased to the rate of 4.88% to harvest 21,556 bu. after an intermediate transplant.; and the High Mortality region was recommended the median exploitation rate of 7.49% to harvest 28,450 bu., prior to transplant operations with the potential to be increased to the rate of 9.82% to harvest 37,300 bu. after an intermediate transplant. Councilman Fleetwood Second the motion. All were in favor and the motion passed.**

Having set the DMP quota for 2023, the initial industry allocation would be **64,050 bu.**, which allowed each currently licensed boat to harvest 800 bu., which is 150 bu. less than the starting quota for 2022. The potential industry allocation if a transplant occurred would be **82,371 bu.** which would allow each currently licensed boat to harvest 1,030 bu. This is a decrease of 251 bu. per harvest vessel license for the year of 2023 when compared to 2022.

7.3 Setting of the 2023 Intermediate Transplant Parameters

**Councilman Fleetwood made a motion that transplant quoted would not be allocated until all of the initial pre-transplant quota had been used up. Councilman Hollinger seconded the motion. All were in favor and the motion passed.**

**8. Date, time, and place of next meeting: - Council**

**Councilman Hollinger motioned to adjourn the meeting. Councilman Malinowski seconded the motion. All were in favor and the motion passed.**

DATE: Tuesday, May 2, 2023

TIME: 6:00 PM

LOCATION: Hybrid(Haskin Shellfish Lab)

Councilman Hollinger reviewed the date and of the next meeting and noted the location was to be determined.

**Councilman Hollinger motioned to adjourn the meeting. Councilman Fletewood seconded the motion. All were in favor and the motion passed.**

**The meeting was adjourned at 7:58 P.M.**