

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, July 11, 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: Russ Babb, Bureau of Marine Habitat and Shellfisheries
Jeff Normant, Bureau of Marine Habitat and Shellfisheries
Craig Tomlin, Bureau of Marine Habitat and Shellfisheries
Conor Davis, Bureau of Marine Habitat and Shellfisheries
Robert Schuster, Bureau of Marine Water Monitoring
Amanda Wenczel, Department of Agriculture
Jason Hearon, Bureau of Land Management
Mary E. Monteschio, Esq., NJ Fish & Wildlife

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

General Public

1. March & May 2023 Council minutes were presented for Council's consideration.
2. Delaware Bay Office Revenue Collected in May and June 2023

2.1 Revenue collected for May totaled \$47,894.00 and is summarized as follows:

License Type	Total	License Type	Total
Commercial Crab Pot	\$700.00	AC & DB Dredge	\$100.00
Nets	\$1,065.00	Menhaden	\$52.00
Application Fees	\$58.00	Recreational SF	\$40.00
Oyster Tags	\$44,664.00	Assigned Fees	\$1,000.00
Dredge Boat Renewal	\$215.00		

2.2. Revenue collected for June totaled \$45,347.00 and is summarized as follows:

License Type	Total	License Type	Total
Commercial Crab Pot	\$500.00	DB Crab Dredge	\$100.00
Nets	\$1,371.00	Menhaden	\$310.00

Application Fees	\$66.00	Recreational SF	\$20.00
Oyster Tags	\$39,920.00	Commercial SF	\$150.00
Dredge Boat Renewal	\$10.00	Assigned Fees	\$2,900.00

3. Oyster Resource Development Account (082): *(as of 7/10/2023)*

Expended	\$393,067.43	
Unexpended	\$411,302.29	

4. Old Business

4.1 Red Knot Stakeholder Committee Update

Councilman Hollinger reported that restrictions for accessing the beaches along the Cape Shore region of the Delaware Bay were lifted on 7 June 2023.

4.2 New Jersey Shellfish Legislation – Actions and Bills

Mr. Babb updated the Council that on June 30, 2023, bill A-3847, which allows for Sunday harvest by permitted aquaculturist, has passed through both the Senate and Assembly and has been sent to the Governor. The Governor has forty-five days to sign the bill into law, veto it conditionally, or veto it absolutely. If the Governor takes no action within forty-five days of receiving it, the bill will become law in mid-August.

Councilman Hollinger did ask if there will be a call-in requirement. Mr. Babb informed the Council that there is not a call-in requirement at this time. There has been discussion with Law Enforcement about this issue. From those discussions, it has been decided that it is best to wait and see if there is a necessity for a call-in requirement for structural aquaculturist harvesting on Sundays.

Councilman Hollinger also asked about the status of the Council's proposal to allow for Sunday harvest. Mr. Babb reminded the Council that the Council has a standing proposal to allow for harvest of oysters by dredge from lease-grounds in the Delaware Bay on Sundays. This proposal was not specific to structural aquaculture. Therefore, it is up to the Council's pleasure to reformat the proposal without a call-in requirement. Council members responded that they were still in favor of moving forward with the proposal with a call-in requirement.

4.3 GP-30 Structure Notification Form

Mr. Babb began by informing the Council that a discussion on a General Permit 30 Notification Form has been started with the Atlantic Coast Section of the New Jersey Shellfisheries Council. Mr. Babb went on to explain the form was to give the industry a way to meet the requirement listed in *N.J.A.C. 7:7-6.30 General permit 30 – commercial shellfish aquaculture activities*. Specifically, the requirements listed in *N.J.A.C. 7:7-6.30 (c)*, which reads, "Prior to the commencement of activities authorized by this general permit, the permittee shall notify the Department's Bureau of Shellfisheries in writing:..." and (d), which lists what information should be included in the notification. Mr. Babb also explained that individuals working under a GP-30 would only have to submit this form one time for the life of the GP-30, unless changes in gear type occurred.

5. New Business

5.1 Salt Marsh Habitat Restoration

Mr. Hearon began by informing the Council that the Bureau of Lands Management, in partnership with the Wetlands Institute, NJ Department of Transportation, and US Army Corps of Engineers, is in the process of applying for an *America the Beautiful Challenge* grant, which differs from other grants in that it can only be applied for through states. The funds from the grant will be used in conjunction with already established funds for upcoming dredging and beneficial use projects near and in Abbotts Meadow W.M.A. and Cape May Coastal W.M.A. The funding from the *America the Beautiful Challenge* grant will go towards creating adaptive management plans and monitoring of the projects with a particular interest in creating diversity between high and low marshes and imperiled saltmarsh species, such as: saltmarsh sparrows, black rails, diamondback terrapins, and northern harriers. Currently, the Delaware Bayshore Council has written a letter of support for the grant application. Mr. Hearon asked for a letter of support from the Delaware Bay Section of the New Jersey Shellfisheries Council.

Councilman Fleetwood motioned to write a letter of support. Councilman Hollinger seconded the motion. All were in favor, and the motion passed.

5.2 Direct Market Harvest Program

Mr. Tomlin shared a table summarizing what has occurred so far in the 2023 Direct Market Harvest Program:

Bed Name	Region	Boat Days	Total Bushels	CPUE
Bennies Sand	HM	4	291	73
Bennies	HM	274	37,044	135
Nantuxent	HM	6	528	88
New Beds	HM	5	340	68
Total MMM		0	0	0
Total SR		132	17,051	129
Total HM		283	38,203	134
Total		415	55,254	133

Mr. Tomlin also reported that there are approximately 10,000 bushels of quota available for Shell Rock. This does not include the additional quota from the intermediate transplant program, which will become available once all initial quota for the three market regions is harvested.

5.3 2023 Shellplant Project

Mr. Tomlin gave the 2023 Delaware Bay Shellplant project update stating, the project started on July 11, 2023 and will continue until a minimum of 100,000 bushels are planted. Furthermore, staff has expectations of surpassing the minimum with an additional 20,000 to 40,000 bushels. *This information was also reported to the Marine Fisheries Council on July thirteenth by Councilman Hollinger.*

Mr. Tomlin also explained that a shellplanting, using funds from the sale of tonging tags, is planned for Maurice River Cove tonging beds following the D.M.P.'s Shellplanting project.

Lastly, Mr. Tomlin reported a second day of transplanting from Cohansey Cove to Nantuxent Cove had occurred since the last Council meeting. Councilman Sheppard asked Mr. Tomlin to confirm that

the plant site reported at the previous Council meeting was in approved waters. Mr. Tomlin did confirm that the water quality in Back Creek was seasonally approved.

5.4 Commercial Shellfish Lease Agreement

Mr. Babb opened the discussion on the new commercial shellfish lease agreement by introducing Mary Monteschio, Esq., NJ Fish & Wildlife's Regulatory Officer, who liaised with the Attorney General's office while the agreement was being drafted. Mr. Babb went on to state that the Bureau had sent out the newest draft of the agreement to each Council member with the request to note primary areas of concern. Furthermore, the agreement had been reviewed and discussed by the Atlantic Coast Section of the Council at their July meeting. Councilman Fleetwood, who had attended the Atlantic Coast Section meeting, asked Mr. Babb if he could review the comments made at that meeting to facilitate the discussion and review the agreement. Mr. Babb agreed and began reviewing the comments as they were made and without priority assigned. The following is summary of each comment and response:

There was a concern about making sure that there was language included in the agreement that clarified permitted structural gear was covered by the agreement, even in cases where the majority of the system is suspended in the water column or at the surface, above the lease.

Mr. Babb stated that the Bureau understood the concern and would be adding clarification to address floating and semi-submerged systems anchored on the lease.

It was commented that the word "default" is referenced thirteen times in the document, each equating to lease revocation.

Mr. Babb acknowledged the use of the word and how it is defined in the agreement.

Section 7 – Lease Activity Report – concerns submitting a lease activity report along with supporting documentation.

Mr. Babb has a note to work with Ms. Monteschio and staff to ensure an understanding of the requirement to report and the amount of effort needed to submit the report correctly.

Section 8 – Maintenance, Care, and Condition of Leased Premises – Subsection D – reference to "local governments"

Mr. Babb's notes state to discuss this further with Ms. Monteschio and staff.

Section 8 – Maintenance, Care, and Condition of Leased Premises – Subsection F – no signage except for the marking of authorized structure or staking of leases.

Mr. Babb remarked that the clause is meant to prevent excessive signage and to protect fishing rights and access. With that said, there has been internal discussion to allow for some signage in the area to alert the Public what is occurring on the lease. Ms. Monteschio reminded Mr. Babb that he had asked for suggestions from growers what they felt is a necessity in order to draft the standards for signage on leases.

Section 10 – Department's Access to Leased Premises – Right to Inspection – "Lessee shall have no claim or cause of action against the Department for inspecting Lessee's Leased Premises."

Mr. Babb expressed the comment was in concern about damage caused to a lease or neighboring lease by State employees during an inspection. Mr. Babb stated that it seems responsible that the State

would be liable in this case, and that Ms. Monteschio and staff would be having further conversations to address this issue.

Section 13 – Insurance – Subsection A – The below insurance requirements shall not be required for aquaculture operations that are authorized pursuant to N.J.A.C. 7:7-4.17 (permit-by-rule 17) & N.J.A.C. 7:7-6.31 (General Permit 31).

Mr. Babb explained that growers practicing traditional growing methods like predator screens or planting shell to catch a set do not require insurance. Activities that require GP-30 or individual permits, such as floating cages or on-bottom cages, will require insurance. Lastly, Mr. Babb stated that staff is considering clarifying the exception. *Further discussion ensued.*

7. Date, time, and place of next meeting:

DATE: Tuesday, September 5, 2023

TIME: 6:00 PM

LOCATION: Hybrid (Haskin Shellfish Lab)

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

Councilman Sheppard motioned to adjourn the meeting. Councilman Fleetwood seconded the motion. All were in favor, and the motion passed.

The meeting was adjourned at 8:14 P.M