

**Aquaculture Advisory Council**  
**April 21, 2023**  
**Cape May RCE, Cape May Courthouse**  
**Meeting Minutes**

**Members Present:** Sec. Douglas Fisher, Mr. Russ Babb (Comm. Shawn LaTourette), Mr. Loel Muetter (Comm. Judith Persichilli), Mr. Samuel Ratcliff (Dr. Dave Bushek), Dr. Douglas Zemeckis, Mr. Barney Hollinger, Ms. Lisa Calvo (arrived late), Mr. Matt Gregg, Mr. Steve Fleetwood (Mr. Frank Virgilio), Dr. Amanda Wenczel

**Members Absent:** Ms. Melanie Willoughby (Sec. Tahesha Way), Mr. Mike De Luca (Dr. Laura Lawson), Mr. Maury Sheets, Mr. Bob Rush (Mr. Richard Herb)

**Public in Attendance:** Alison Stout (USDA), Rebecca Watson (NJ-NRCS), Elisha Wall (USDA), Ned Gaine, Matthew Williams, Jeff Normant (NJDEP), Virginia Wheatley (NJDOH), Frank Minch (NJDA)

Sec. Fisher called the meeting to order; a quorum was present.

Approval of January 13, 2023 meeting minutes- Motion by M. Gregg seconded by D. Zemeckis. B. Hollinger and R. Babb abstained, all others in favor- so moved. L. Calvo not present for vote.

***Public Comment***

Ned Gaine- Mr. Secretary, in light of your retirement, I think it's appropriate to say that to most aquaculturists, you have been the only Secretary. During that time, you have been great; any time that you felt you could help, you did help. I appreciate that, thank you. You are good at telling us stories, based on your experiences. I ask that you tell your replacement stories about us and what we've been through these past years.

Sec. Fisher- Thank you. I didn't know when I was going to retire. You get these chapters in your life and I thought, I think this might be the right time. That's as far as I have gotten in terms of what I am going to be doing. It's been wonderful to watch the challenges you have faced and the miraculous work you have all done in New Jersey. I'm always trying to find places where we can bob-&-weaver. It's a business, enterprise you all love so, and it's a job and a culture all wrapped into one. I think there are exciting times ahead. I'm always looking for ways to grow with all the talent in the industry. So, thank you.

***New Business***

**Shellfish Aquaculture Right to Farm Law**

Shellfish Right to Farm Law was signed by the Governor; copies were provided at the meeting.

M. Gregg- Where do we stand with the AMPs. Right now, we defer to the current AMPs, correct?

A. Wenczel- Yes, the current ones are in effect. As you are aware there can be site-specific AMPs developed for specific cases or issues that arise. The AMPs are formally adopted into regulation through the SADC. It needs to be through a regulatory change- whether specifically for this or a routine change. They would then formally adopt them. They still need to review to make sure that

it fits with their program. M. Gregg- So for now, it's the old ones. A. Wenczel- As far as I am aware, yes.

D. Zemeckis- As the chair of the Committee that developed the AMPs, is there anything else that we can do to move these along? A. Wenczel- It's with SADC. I can reach out for an update, but I don't think there is anything else we can do to move a regulatory amendment.

B. Hollinger- On the AMPs, I've brought this up at a Shellfish Council meeting; the Council is concerned because of the one-month notice if there is an illness. We've look at this in the Shellfish Council, and especially in Delaware Bay, where we have a very vibrant oyster industry. If we have an illness in the Bay, which is probably brought in from someone buying seed, we are going to lose a fishery that is worth a lot of money. I think we're in the estimate of \$40 million and a lot of people work in the industry. We need to change that. It just so happens the next thing we are talking about at 2:89-5.1, it says that anyone who knows or suspects a disease subject to an emergency declaration by USDA, APHIS must notify the Department, without delay but no more than 48 hours after. We need the AMP to match. One month is unacceptable. One disease coming in from another state could wipe us out.

M. Gregg- So what timeframe do you want? B. Hollinger- 48 hours. M. Gregg- Were you on the AMP committee? B. Hollinger- I was at the time. M. Gregg- This is already out of Committee, so we would have to take it back. B. Hollinger- This is required by statute, so we don't have a choice. A. Wenczel- This is regulation. S. Fleetwood- I can't understand the rationale for why someone wouldn't want this to happen. I don't see the downside to letting everyone know as soon as possible.

**B. Hollinger- Motion to change the AMP disease notification language from one month to mirror the language at N.J.A.C. 2:89-5.1. M. Gregg Second.**

M. Gregg- Can we just make that change or do we need to send it back to the Committee? A. Wenczel- It would be up to the Council how you want to proceed.

A. Wenczel- Point of clarification, in the regulations that speaks specifically to an emergency declaration by the USDA, APHIS. The AMP language is broader to include an unusual or abnormal mortality or illness event. Not to dissuade a change, just making sure it is known that the scope of each is different. B. Hollinger- The AMP is broader. I think 48 hours is plenty of time for someone to notify authorities if they notice something is going on.

[Further discussion as D. Zemeckis left meeting momentarily.]

Sec. Fisher- Why isn't it as soon as you know something? B. Hollinger- One of the people on the Committee did not want anyone to know what was going on, on their farm. Sec. Fisher- I don't know what's going on there, but realistically when you think about it one month is long. When you think about recalls, through say FISMA and there is an outbreak, you want to target it as fast as you can. If you can know something instantaneously, why wouldn't you share that. B. Hollinger- From the wild-caught fishery, we have been through two epizootics already with MSX and Dermo. They nearly wiped us out. We are back at point were nearly everybody is making money. If

something got loose and got into the fishery, it would wipe out an industry. The number of boats, people, money would devastate the Bayshore region. Sec. Fisher- What I'm saying is two days is too much.

D. Zemeckis updated on discussion. D. Zemeckis- A lot of the sticking points on that part was the language if testing was to be done. The 48 hours is in regulations but if it's stricter we should put that in. B. Hollinger- My concern is how far reaching an impact could be to the whole region.

Roll call vote: [L. Calvo arrived prior to motion and was present for discussion.]

Sec. Douglas Fisher- Yes

Mr. Russ Babb (Comm. Shawn LaTourette)- Yes

Mr. Loel Muetter (Comm. Judith Persichilli)- Yes

Mr. Samuel Ratcliff (Dr. Dave Bushek)- Yes

Dr. Douglas Zemeckis- Yes

Ms. Lisa Calvo- Yes

Mr. Barney Hollinger- Yes

Mr. Matt Gregg- Yes

M. Gregg- Add one thing, this is a complex issue because we do not define a high mortality event. This sheds light on the need for monitoring. We should realize that monitoring and pathology are so important. The permission to import seed is a zero tolerance, correct. R. Babb- Typically if the level is fairly benign, so low prevalence of Dermo say, it is usually not an issue. We rely on the Haskin lab and the seed transport committee for tougher issues. When the seed gets to a larger size that's when there is more concern generally. That's not just for diseases that impact oysters, but also for different Vibrio strains. For example, we had one coming out of Virginia where they have a different Vibrio strain, and we had concern over that one.

B. Hollinger- The other big issue we're going to have is the gardening folks who import seed and hang it off their docks. That's probably more an issue up your way [Barnegat/Atlantic inland bays].

M. Gregg- This also shows we need seed production within the State. These issues are all connected.

Sec. Fisher asked about how often shellfish gardening is occurring or how often people hear about the push for it. Consensus was there is a push for it, and may always be a push for it, but that there is no allowance for such activities at this time. N. Gaine noted that even if it is not sanctioned there is also not an effort to make sure it does not happen. Education was also discussed as being needed to reduce potential for gardening to bring in outside seed which could damage wild and farmed shellfish.

NJAC 2:89 Readoption without amendments: Amanda Wenczel

The regulation at 2:89 provided details on the Aquatic Farmer License as well as details effluent treatment and the aquatic organism health management plan. These were going to expire in October of this year. We moved to readopt the regulations without amendments to ensure the regulations would not expire. In the interim the Council can review the regulations to see what amendments may be wanted or needed.

In addition, there is a handout [provided at meeting] describing statutes and regulations. It describes the processes to amend each because there is a difference in how each are amended. The timeframes for amending each is also different.

B. Hollinger- I want to create a committee to review this and then bring it back to the Council. After discussion it was agreed that the Legislative Committee could lead the review.

CSAP Harvest Data 2022: Bob Schuster, Chief BMWM

We have compiled the data we receive for aquaculture from hard clam and oysters. We also have the data from the depuration plants and Fish and Wildlife to have a complete view of harvest data. A copy of the data was provided to A. Wenczel and sent after the meeting to the Council.

The data is aggregated and does not identify individuals. For oysters, we had about 3.7 million reported harvest and about 8.4 million hard clams reported to us. In comparison, when you look at the direct market relative to aquaculture, it's running at about 12% for aquaculture. Looking at depuration versus aquaculture for hard clams, aquaculture is about 15%. As Barney was saying earlier, the wild harvest of natural resources is around 80 to 85%; aquaculture is about 12 to 15% of what's out there now.

S. Fleetwood- How do you think your reporting has been? B. Schuster- It's what is being reported to us. We are hoping it is as accurate as possible because those numbers are needed when we use them. Last year we used them. In the dredge boat fishery last year, we had several single-source vibrio cases; it was three cases in thirty days. Using the harvest numbers, we did not close the harvest down last year because we were able to show the risk was less than 1 in 100,000 servings. It's important to get as accurate of numbers as possible because that's what we use for these harvest areas to determine the risk.

S. Fleetwood- Has the FDA been satisfied with those numbers? B. Schuster- We provide these to the FDA, so they all get reported out on a monthly basis. What's interesting, I have plotted it all out and the peak times for harvest for the dredge boat versus aquaculture, when it's being sold. In 2022, the dredge boat harvest had some of its highest numbers in May. For aquaculture, the harvest was highest in August for oysters, for hard clams it was July. Some of the peaks for aquaculture are likely due to the way the shellfish are grown out, when they reach market size.

B. Hollinger- What do you think changed? The wild caught used to be worse in June, now you're saying its in May? B. Schuster- The Vibrio cases are still in the same peak months of June to July. What I'm saying is the harvest numbers for the dredge boats were highest in May. Then the numbers gradually decline, whereas the aquaculture numbers go up to a peak in August.

S. Fleetwood- The stuff that is going to other states, that's when they need it. As the summer goes on, they use their own stuff, or the Chesapeake fishery comes into play.

COASTAL Project: Amanda Wenczel

The COASTAL project is an RCPP funded project, mainly through Ocean County with some in Atlantic County. It is looking to restore oyster reefs through partnerships with the industry.

COASTAL flyer provided at meeting; reminder about upcoming stakeholder meetings.

S. Fisher- Before moving to the Council Committee reports, I wanted to address an item that I have been pushing from my office, for a number of years. It is to get aquaculture as a part of specialty crops. We run most of our Jersey Fresh campaign with funding we get for specialty crops. We also fund several hundred-thousand-dollar projects throughout the state for specific commodities with the funding. I spoke with the head of AMS [USDA, Agriculture Marketing Service] down in D.C., let him know that we don't understand why aquaculture is not part of the program. It is a cultured and harvested crop like the others. There is a little bit of pushback actually from the fruits and vegetable sectors because they see us diminishing their commodity. I don't see that because seafood and fruits & vegetables are complimentary.

### ***Council Committee Reports***

#### **Marketing Committee- B. Hollinger**

B. Hollinger- Marketing Committee had a meeting on 04.13. We talked mostly about a bill that would provide \$100,000 directly for aquaculture marketing, through an annual appropriation. Right now, it's in the Assembly but it's not in the Senate. A. Wenczel clarified that the bill is in the Senate, in a committee but not on an agenda for a hearing. B. Hollinger- If that's something we want to send a letter for, we should do that asking that they move it forward. One problem is it's an appropriation, \$100,000 now and then \$100,000 each year after that. It will have to end up in appropriations somewhere.

M. Gregg- We went through this last time. I don't think we can specifically reference legislation in our letter if we are going to have votes from academia and government. B. Hollinger- I don't think I can vote on it because of the State Board [of Agriculture].

Sec. Fisher- There won't be a hearing on it, it will either be in the Governor's budget or it's not. The Governor has proposed his budget. The Legislature has it now. They can suggest changes. The Governor can either accept or reject those, he cannot add anything at that point. Now that you're saying you have members who cannot vote, we will make it known that you support this funding. M. Gregg- Last time we said we support the premise- right to farm protections for aquaculture- not specifically the bill. Sec. Fisher- You can educate. We can, on your behalf, tell them what the money would do for you, should it be funded. Tell me now, what will that money do for the industry. B. Hollinger- Hopefully, spur sales. Educate people that aquaculture is actually in New Jersey. Probably a lot of people don't know how big it has gotten over the last ten years. And that there's a viable industry here.

**Sec. Fisher- You all need to empower us to write that letter on your behalf. B. Hollinger- Motion. M. Gregg- Second. All in favor, so moved.**

#### **Legislative Committee- M. Gregg**

M. Gregg- The only meeting we've had since the last AAC meeting was a joint meeting with the Marketing Committee. We need to meet between now and the next meeting. There's not a lot going on right now legislatively.

I just got back from a trip to D.C. with the East Coast Shellfish Growers Association (ECSGA). One of the top priorities there was trying to get a bill reintroduced that hasn't gotten a lot of traction. It's called the Keep America's Waterfronts Working Act. It's going to be reintroduced shortly. It's bipartisan with two reps from each side of the aisle sponsoring it. It's not specific to aquaculture but includes wild catch as well. It sets priorities for working waterfronts. We are not in a unique situation here; Maine is seeing problems, Rhode Island too. It's all along the Atlantic Coast. We are seeing waterfront property going to the highest bidder not necessarily the best use. It can be analogized to farmland in the state. It's important to have areas to land and launch our boats and areas to process our shellfish. Need to make sure we can continue to make a living.

B. Hollinger- Did you get a chance to speak with Bob Rheault [Executive Director, ECSGA] about the livestock piece? Why shellfish are considered livestock and that's why they are not in the specialty crop. M. Gregg- Did not get the chance. I think Dale Parsons said he would follow-up.

B. Hollinger- A little about the working waterfronts, I'm on a township committee and we brought that up between Maurice River Township and Commercial Township. The DEP has a little pushback on that with the land-based portion. The DEP has a program called working waterfronts, but the DEP has never done it. There is federal money out there. What they ended up doing through the State Planning Commission is awarding Commercial Township what they call a "node". All of Port Norris' waterfront is within the node. We're still trying to figure out what that means to us, and we don't know. We are hoping it will streamline permitting, but we haven't heard that yet. The State Plan side is still being finished. Maurice River Township is going after the same thing with their state planning.

R. Babb- Our Bureau put in a proposal with our Coastal Zone Program to look at hatchery capacity in the State- bottlenecks, issues, potential. We think it's been funded. Hopefully we can move on that by the end of the year.

#### ADP Recommendation Status Chart- A. Wenczel

These are the recommendations from the ADP and their status. Copies of the chart were provided to the Council in advance of the meeting, as well as print copies for Council and attendees.

N. Gaine- Has there been any change? A. Wenczel- The only changes were the ones noted in the last AAC meeting. Nothing else was provided since then.

#### Shellfish Council Updates

B. Hollinger [Delaware Bay]- Nothing except that the season started April 3<sup>rd</sup>. We are going to start transplanting oysters later this month into May. As far as I know season is good, oysters are real good.

L. Calvo- What's the quota this year? B. Hollinger- 1200 bushels per boat. S. Fleetwood- That will be established after our intermediate transplant. L. Calvo- What's the total harvest? B. Hollinger- Multiply that by 80. 1200 by 80.

B. Hollinger- For aquaculture, we did approve another deep-water lease for aquaculture in Delaware Bay. It's right off of Thompson's Beach, ADZ-2, I think. Sec. Fisher- New grower, or

new lease? B. Hollinger- Both. R. Babb- The deeper ADZs are not new but they have been largely unused.

J. Normant [Atlantic Coast]- We had a short meeting for our last meeting. The Council passed new administrative procedures, which outlines the ways to get onto Committees. We will have an application if we form a committee. It will be similar to the Marine Fisheries Council. We formed a Structural Aquaculture Committee. M. Gregg- Did you get a lot of interest in the Structural Aquaculture Committee? J. Normant- I got one email and we still have to send out the application. We are going to use the CSAP and send an email to anyone that has structural aquaculture checked off on their application.

B. Hollinger- I think at our next meeting we are going to approve the administrative procedures too- the same thing. There are also new leasing rules coming out. R Babb- The guidelines are basically by-laws for the Councils. They are almost mirroring each other with some changes reflecting the different Councils. The biggest change is in formalizing committees and application processes. Most of the documents outline what the Council have already been doing. B. Hollinger- But the leasing agreement is going to be new. R. Babb- Yes, that will consume a few meetings to go through.

#### Red Knot- Aquaculture Update

B. Hollinger- The last thing we approved was the rack height at 10 inches, maintained at 8 inches. That went into effect in last April or May. M. Williams- We haven't met in two years.

Sec. Fisher- But you're navigating it. B. Hollinger- There's not much more to navigate. We went through the PBO restrictions. The only thing we don't know about is the habitat- critical habitat listing. R. Babb- That got tabled due to changes coming out of North Carolina. The feds are going through making changes, then they have to relist the new information for adoption. M. Gregg- Are there drafts that you have seen? What is that going to look like for us in New Jersey? R. Babb- I don't think we saw a bunch of changes. I think there were changes to the coast but nothing for Delaware Bay. It was really new data for North Carolina that led them to pull the whole thing. M. Gregg- Did you see any areas that are going to be problematic to growers? R. Babb- I think most areas were near inlets. J. Normant- The new island that's forming off of Brigantine, Horseshoe Island or Horse Island, that was added, but that's it. R. Babb- The Rutgers-DEP aquaculture siting tool has the red knot habitat layer in it currently, I believe. So when that's out from the feds, you can look at the tool to see if there are any changes or updates.

L. Calvo- The time restrictions are still hurting our businesses. I have two schoolteachers working for me on my farm that's 50% of my crew and we can't work on the weekends in May. It's a struggle making it work. We are getting through it. Sec. Fisher- I wasn't suggesting it was rosy but that you can do it. L. Calvo- Yes, we can do it. Sec. Fisher- There was a time when even that was in question, with the racks and gear and the timing. I'm saying you're making this work.

N. Gaine- In regards to the red knot critical habitat listing, one of the concerns I have is, is there any concern over areas for roosting or other areas for habitat besides the feeding areas? For example, in the listing on the coast do we have concern that if we apply for permits to the Army Corps, they will dictate our starting times and our hours we can operate because of the new habitat

listing? R. Babb- As a grower, I would think this may be the case, but I can't speak to that. N. Gaine- We say that critical habitat is not going to change much for the Delaware Bay because we're already permitted and have our routes but for the coast we're not dealing with the same. I believe the birds roost over there. I think we should be aware that there may be concerns with us getting to our plots in the early hours. It's cautionary to be aware of what might be coming in our permits.

### ***Councilmember Comments***

L. Calvo- The regional biosecurity program that is being led by Rutgers and VIMS, has been in the works for a dozen years and is really strong right now. There is a hatchery certification program in place. Basically, it demonstrates that these hatcheries are being certified as being at the highest level of biosecurity. That work has really demonstrated that the 2mm size seed and less are very safe for movement, there is minimal risk. As we are talking about this, we should keep in mind that the program is robust and has a lot of sound science to support the program and the findings related to the small seed. I would like to see the state move in the direction where they are working with this program to allow the 2mm seed to come in through an easier process if the hatchery is certified. Some other states are already doing this by removing the wait time when moving the small seed from certified hatcheries.

R. Babb- It would be interesting to see how the other states are implementing this. See if they are using regulations and see how they are making this actionable. We have seen the same thing with the smaller seed being relatively benign. Our bigger issue is when get request to bring in 2.5inch oysters. Regardless of where it's coming from that's a red flag. Fifteen, twenty years ago the AAC was working on subchapter 20 which dealt with seed health. That was shelved. It didn't do too much, but things have also changed. Right now, we have broad authority in Title 50. As far as regulatory teeth though, I think we need to review further.

L. Calvo- I'm thinking of a notice, kind of like a permit-by-rule with a quick turn-around. If you put in your importation request and the hatchery is on this list, it can be quickly approved. Sometimes when you get notice from the hatchery there's not enough time. It could be as early as I need you to pick this up tomorrow. R. Babb- I think if we can list those criteria, I would feel more comfortable with it in our rules. We have an internal review process, and we try to turn those back around as quickly as we can. We are a lot faster than we used to be. We try to do it in a week, week and a half.

Sec. Fisher- So you're saying if it was certified, you can get approval faster. L. Calvo- Yes, you'll know at the beginning of the season which hatcheries are approved. Sec. Fisher- How would that take place? How would it actually happen. S. Fleetwood- I'm not quite clear. I think this is a good idea but is the state stepping in and certifying the seed from these hatcheries? Or, are the hatcheries supposed to do it? L. Calvo- There's an independent third-party certification process through this organization. Their board is made up of industry, researchers, pathologists, regulators that provides oversight. Then there is an auditing process where experts from the extension service go in an audit the hatcheries. There are guidelines and what they are looking for, how they look for it. They will then approve a hatchery for a specific size class of seed, species. They look at a history of their disease data, a history of operations, filtration methods, they're following the water. There



has been a lot of thought into this, a lot of stakeholder input. The hatcheries that have been engaged are very pleased with the process as are the regulatory staff.

Sec. Fisher- Do you know states that are doing this? L. Calvo- I think Maryland and Virginia, Rhode Island. The last list I saw with hatcheries included Maine and Virginia and I think they were working with Massachusetts this year.

Sec. Fisher- Where is the liability if something goes wrong? L. Calvo- There is a process in place to suspend hatchery sales with notification to states. That hasn't happened yet. Again, it's this very small seed, which all the monitoring has shown is very clean and very unlikely to cause an issue. It's not seed that has been exposed to raw water, it's not nursery seed. S. Fleetwood- So that is part of the process too, a limit on how big the seed can be for the sales? L. Calvo- Right. It puts in place a more rigorous monitoring program too. There are several periods throughout the year when they have to send in samples. It is also looking at past records. If a hatchery does not have back records showing that this size seed has been clean in past years, they are not yet eligible for certification. They have to demonstrate three years of clean samples.

M. Gregg- We have been awarded a Northeast SARE grant to test out bird deterrent options. Doug [Zemeckis] is my technical advisor. It's a small \$30,000 grant with testing at three sites- Barnegat Light, Great Bay and Ludlum Bay. We are going to try bird spikes on floating cages, a predatory kite, and an auditory device they use at airports. The last one I am most worried about- it's expensive and it makes noise. It recreates the call of a turn or seagull in distress. You can dial in on the birds you have in the area, and you can make the call of the predator to keep them away. The spikes are a little dangerous, but hopefully they work.

**Old Business-** None.

**Public Comment**

N. Gaine- Talking about the bird spikes, at the ISSC, we put forward the guidance document on bird deterrents and in it the task force took out the words air cannon and I suggested they put in the words noise maker. I wanted to make sure it was in as an approved or suggest tool. It's not in there but that does not mean its not recommended. It's a good category to keep in mind.

N. Gaine- Going back to the certifications, I think it's a great idea to expedite seed, but not make it exclusive to only certified seed being allowed for importation. I don't want it to say only certified seed would be allowed. M. Gregg- It's the fast lane not the only lane. L. Calvo- It's not the only lane, it's a voluntary program.

A. Stout- I work for the USDA in veterinary services. We are the people who mainly deal with livestock, but with aquaculture you could work with the USDA veterinary services. Wanted to provide an introduction should you ever need us. Hearing about biosecurity, high mortality events, notifications, those are all items we focus on with other species and could carry over to aquaculture. The other thing I wanted to put on some people's radar is National Animal Disease Preparedness and Response Planning. I don't know the timing, but from the national office we are hearing that there is a push for some aquaculture applications for grant funding.

Meeting adjourned.