

**Aquaculture Advisory Council
July 15, 2022
Cape Atlantic Soil Conservation District Office
Meeting Minutes**

Members Present: Sec. Douglas Fisher/Mr. Frank Minch, Mr. Joe Cimino (Comm. Shawn LaTourette), Ms. Virginia Wheatley (Comm. Judith Persichilli), Mr. Samuel Ratcliff (Dr. Dave Bushek) [arrived at 10:10am], Dr. Douglas Zemeckis, Mr. Mike De Luca (Dr. Laura Lawson), Ms. Lisa Calvo, Mr. Barney Hollinger, Mr. Matt Gregg, Mr. Maury Sheets, Dr. Amanda Wenzel

Members Absent: Ms. Melanie Willoughby (Sec. Tahesha Way), Mr. Steve Fleetwood (Mr. Frank Virgilio), Mr. Bob Rush (Mr. Richard Herb)

Public in Attendance: Emilie Guzman (NJDEP), Matthew Williams, Kristin Adams, Ned Gaine, Ted Gaine, Rebecca Watson, Megan Kelly (NJDEP), Jeff Normant (NJDEP), Amelia Stanley, Betsy McShane, Ashely Kerr, Robert Fenton

Secretary Fisher called the meeting to order. Quorum was present.

D. Zemeckis made motion to approve meeting minutes from April 22, 2022. Second by M. Sheets. All in favor; so moved.

Public Comment

Ned Gaine- In light of current situation with fuel costs and labor shortages, supply side issues, I ask the Council to support the initiative put forward by the NJ Farm Bureau and the NJ Ag Experiment Station Board of Managers to advocate for a coalition of agencies, researchers, advocates and most importantly commercial industry be formed for the purpose of the creation of actionable items to address this current economic paradigm in commercial agriculture and aquaculture. Industry being integral to the effort, I ask that the Council also include an ask for an aquaculture representative be included. Similar to the FARMS Report from the 90s. Sec. Fisher- We will address under new business. Opened the floor to any other public comment.

Robert Fenton- I had a clam farm from 1989 to 2001. Stopped when the price of clams dropped from 19cents to 13cents with imports from Virginia and other states.

New Business

Began *New Business* with item brought forward by N. Gaine in public comment. B. Hollinger asked for more details prior to Council discussion.

N. Gaine- The FARMS Report was created the last time there was an economic downturn. This is replicating that- it's a coalition of agencies, advocates like Farm Bureau, Board of Agriculture, industry representatives, academic, the experiment stations. They look at the current situation and then develop action items to address specific problems. The big item right now is the economics with much higher costs to produce. It's now double the cost to run a business, fuel up your boat.

Sec. Fisher- The '95 report was a look back and a look forward. It included action items.

J. Cimino- Who do they report out to? N. Gaine- [referencing the '95 report] It was to the public in general. No specific audience. Could be an item to bring to the Legislature to provide action items. Personal perspective is that we were under prepared for the current situation, under prepared for Covid, and I don't think we should have been. How do we prepare for situations like this in the future and better prepare our industries?

Sec. Fisher- So you are asking to be a part of this process moving forward. You want to support the process and you want a representative from aquaculture to be a part of the coalition.

M. Sheets- How does your vision of this coalition differ from what the Council [AAC] is doing?
N. Gaine- If I didn't bring this up, I don't think we would be a part of the process. We are de facto part of the agriculture community. I think the Council needs to stress to any groups that aquaculture is agriculture and should be at the table for any agriculture initiatives.

D. Zemeckis- Sounds like a great idea but who is leading this? Is it Farm Bureau, NJDA, NJAES?
Sec. Fisher- It is coalescing now. It is not something the NJDA is leading. It is definitely something the State Board will be a part of, and it was discussed at the State Ag Convention. Looking to have something like the FARMS Report to help with current issues facing industry. N. Gaine- More of a push for this right now with economic downturn farms are facing.

L. Calvo- Need clarity on what the action is that is being requested? Are we writing a letter to someone? Or pointing to someone to follow up on this? What do you suggest is the actionable item we are motioning to move forward?
J. Cimino- We don't have the authority to create this group, but you would like **a motion that says that we support the effort and that we should have representation on any coalition that is formed.**
N. Gaine- Yes.

B. Hollinger made the motion. L. Calvo Second. All in favor. Motion carries.

Sunday Harvest Bill (S520)

[Due to scheduling needs, the agenda shifted to address discussion on Sunday Harvest Bill]

A. Wenczel- This bill was previously discussed by the Legislative Committee. The bill, S520, has moved through the Senate, and is now with the Assembly Agriculture and Food Security Committee (companion introduced in Assembly A3847, both now with the Assembly Committee). Legislative Committee and Councilmembers expressed concerns with previous iterations of the bill. Current language is specific to shellfish aquaculture and appears to have addressed some of the concerns with previous language.

L. Calvo- Motion for the Council to support this legislation and advance a letter to the appropriate Assembly representatives. Sunday harvest has a tremendous benefit to the industry, to aquaculture, shellfish farmers. **M. Gregg- second the motion.**

Sec. Fisher- To be clear, there is no unanimous agreement that Sunday harvest is something everyone wants. Is that correct?
L. Calvo- There were some concerns with previous versions and wild harvest of clams and the implications for the recreational harvest of wild clams. The language in these bills addresses that and specifies this is only for shellfish aquaculture.

J. Cimino- DEP will not typically comment on legislation. I agree that many of the DEP concerns with the previous bill language have been addressed, but I will be abstaining from the vote.

R. Fenton- I was around when the first Sunday harvest bill was introduced. All the clammers got together and we wrote letters stopping the bill. Problem of theft on the clam lots and guys didn't want to work seven days a week. The industry is definitely against it.

B. Hollinger- Delaware Bay Shellfish Council wrote a letter, not so much to comment on the bill itself but that they were going around us. There is a portion in Title 50 that allows us to do that [allow harvest on Sunday]. I know the Atlantic Coast Council has written a letter in opposition. They are worried about it becoming a recreational issue in the future, and I can guarantee that's going to happen if this moves forward. The shore towns want it. M. Gregg- I haven't seen the letter from the Council but my understanding is that the opposition is to the process and not the substance of the bill. We have tried to include the Atlantic Coast Council in this. We have brought this up in meetings and asked to discuss it. B. Hollinger- Never been brought before the Delaware Bay. We wrote that letter because it went around us, and in Title 50, we have the authority to open Sunday harvest with regulations. The Atlantic Coast is in opposition to Sunday harvest. I am not against the idea- speaking personally and in terms of what the Delaware Bay Council has discussed.

L. Calvo- Not sure that Title 50 specifies that you are the only one that can advance aquaculture policy. My understanding is that you have the authority to advance that which relates to the lease. Jeff Normant- To clarify, both Councils were concerned that the process went around them. Typically, when changes to Title 50 are made, they go through the Shellfish Council. That is the main crux of the Council concerns- the Atlantic Coast also had this concern [with the process]. Wanted to clarify that point. This will be discussed at the next Council meetings. Council can address and make policy or regulation. M. Gregg- this is not policy or regulation, this is legislation. J. Normant- When Title 50 is discussed, the Councils lead that discussion.

L. Calvo- We have a group of legislators that have interest in the industry, have become educated about, and are interested in promoting it. The moment is now to ride that wave and not have in-fighting to lose support. They will move away from this, and they will not come back to it. This is a way to work with the legislators and to develop this industry. There is not hard opposition to what is proposed. It is the process. We have brought this to the Councils, definitely to the Atlantic Coast and incorrectly assumed Barney was representing the Delaware Bay in Legislative Committee meetings. If we back down on this and don't give legislators a win on this, we cannot go back to them with other items we want.

Sec. Fisher- So you are an Aquaculture Advisory Council, you advise. You are in favor of something, or you are not in favor of something. Everyone may not agree. You represent the industry side, not the recreational side.

D. Zemeckis- Are there any concerns from the enforcement side that have been unaddressed? B. Hollinger- Based on talks with enforcement they do not see a lot of problems if this is not recreational. At this point they cannot make a true determination. J. Cimino- I can speak for DEP and we do have that concern. Funding is limited for the work that they are doing now. Much of

what they have to do is federally funded because it comes from federal mandates. Allowing this bill without additional funding is a concern of DEP. Sec. Fisher- If this bill passes and is signed by the Governor, then that is the time when DEP says that they are understaffed to implement the bill. First step is to conceptually decide if they want this. There will be problems downstream, but first we need to decide if we even want it. If you want it fine, you are advising.

D. Zemeckis- Second part of the question is whether Department of Health has concerns. V. Wheatley- Echo DEP concerns and comments. Sec. Fisher- If this gets to the Governor's desk, your departments will notify the Governor's office of your concerns. It doesn't matter what happens there, you have to start with first deciding if you are in favor of the bill and not presuppose every obstacle that could happen.

Sec. Fisher asked for roll call vote (see motion above):

Sec. Douglas Fisher- In Favor
Mr. Joe Cimino- Abstain
Ms. Virginia Wheatley- In Favor
Mr. Samuel Ratcliff- In Favor
Dr. Douglas Zemeckis- In Favor
Mr. Mike De Luca- In Favor
Ms. Lisa Calvo- In Favor
Mr. Barney Hollinger- In Favor
Mr. Matt Gregg- In Favor
Mr. Maury Sheets- In Favor

Motion Passed.

Shellfish Aquaculture Siting Tool Presentation [Mike De Luca]

* Prior to presentation, Mike introduced Sam Ratcliff. He is the new manager at the Cape Shore Rutgers Lab. He is serving as the proxy for Dave Bushek. *

See Attached PDF for the presentation provided.

M. De Luca stressed that the utility of the tool is that all the data that was in different locations is now in one place. J. Normant stressed that it is also public facing and can help someone looking for a lease to enter the process well-informed of potential conflicts in a select area. The Shellfish Council and NJDEP will still conduct same process for final lease allotments and allocations.

Sec. Fisher- How do you become the one place for folks to go for this information. M. De Luca- The information in this tool is extracted directly from the source, so when it is updated, the tool is updated. It brings together multiple data sources into a useful application. We are also going through several steps of outreach to reach users.

Discussion on data and GPS. Concerns over including with public facing since it will ID leases with shellfish.

L. Calvo- See benefit for resource management with this tool. In the future, spatial planning would be beneficial for the industry and the State.

Betsy McShane- NRCS is always looking for tools like this with good data that helps to show the better or best areas for restoration. This helps us make informed and timely decisions. M. De Luca- Add that the Pew Institute is interested in restoration and as a component of this effort, they have funded research to identify natural populations. B. McShane- Hope our soil mapping data is included. M. De Luca- Information with soils is in there.

Commercial Shellfish Aquaculture Website Presentation [Jenny Tomko]

J. Tomko walked through a multiagency website aimed at collecting pertinent items for the Commercial Shellfish Aquaculture industry. Agencies include state- NJDEP, NJDA, NJDOH- and federal- USACE, FDA.

The primary goal of the website is to provide new and existing shellfish growers with a single location to obtain resources related to conducting commercial shellfish aquaculture in NJ. This includes, but is not limited to, information pertaining to leasing, permitting, safe harvest and handling practices, upcoming meetings, etc.

While each aquaculture operation in NJ can be unique, requiring different siting and permitting considerations, the information provided on the website is meant to serve as a primer for general information and steps needed to grow shellfish in the state.

To visit the website, go to: <https://dep.nj.gov/aquaculture/>

L. Calvo- Congratulations on completing this.

*This website, and the tool presented by Mike, will be linked (e.g., link on each site to go between).

J. Tomko also thanked those who reviewed the website prior to the meeting.

J. Normant- One stop shop for everything in one place to help with permitting and contact. Should also help with compliance.

Sec. Fisher- Great work to get all this information into one place.

U.S. Fish & Wildlife Service Red Knot Updates [Wendy Walsh]

Starting with the Critical Habitat Designation. This is a court mandate that we designate critical habitat. This process for the red knot originated in 2012. While we published the draft regulations in the federal register last year, we received public comments on a dataset that provides new information. We were aware of the data but did not realize that some was pertinent to the critical habitat designation. USFWS has revisited the data and the only NJ change is a small area near the new horseshoe island off of Forsythe. Because of the changes, we are reopening the public comment period. It was sent last fall for publication. We have not heard any updates since. After the register publishes for the public comment period, it will likely be another year until it is final

given the process. Revisited the economic analysis as well, and the only change is an increase in administrative costs. Not anticipating any new or revised Conservation Measures based on the critical habitat designation. This is because the way “harm” is defined in the ESA, habitat modification is already considered. The PBO already limits habitat modifications (e.g., rack heights, no gear in the protected area). At most, this will be new text to describe the critical habitat in documents, but no additional or modified conservation measures expected [based on critical habitat designation].

The draft recovery plan from last year is expected to be published in a final version this calendar year. A five-year review, as required in the Act, was assigned in 2021. In 2020 we released a species status assessment. These all should be available on the USFWS website.

The status of the red knot in Delaware Bay has been in the headlines the last two years. Last year was a record low for the NJ aerial survey counts. Previous years were ~19,000 and last year was under 7,000. This year was the second lowest in the data series with ~12,000. Most biologists are concerned and are not sure why this is happening. Having such a long time series for the data, these two anomalous years are concerning, but there may be other factors that can help to explain. Perhaps it is timing or stop over distribution. We are comparing the NJ flyover data with the USGS flagged resighting data. The flyover may only capture a few hours on the couple of days they are out and may miss a bulk of the birds if the timing is shifted. The USGS number was flat in 2021. It was around 40,000. This is still estimated at 50-80% of all the rufa red knots and Delaware Bay is still the single most important stop over site. The USGS 2022 number is expected in September. To put Delaware Bay in context, we worked with our partners in other states and did a flyover from Florida to Delaware Bay [data was not yet available at the time of the meeting]. The counts provided by the NJ flyovers and the USGS are baywide metrics, include NJ and DE.

USFWS has funded several studies. One is the processing of the backlog of feather samples taken from tagged birds. Using stable isotopes, they can determine where the birds overwinter. Another study is to synthesize all the geolocators. They were a common method from 2010 to 2020. Now that technology is replaced with satellite transmitters. In 2020, the transmitters were finally small enough to place on a red knot. Satellite data is much better because the GPS transmitters lost signal in the artic and would only record when they were sitting on the nest. Also, the recovery plan calls for protecting what are called Tier 1 habitat sites. In January, there is a project funded to map those Tier 1 sites and Delaware Bay is highly likely to be one of the first Tier 1 areas mapped.

M. De Luca- It may benefit to look more broadly at the impacts to red knots, taking a regional approach. Has there been any effort to contact other countries relevant agencies to examine this?
W. Walsh- Critical habitat is designated in the US only because that is the way the Act is setup. Recovery can cross international borders and I would assume it will in this case. The Tier 1 effort will be run by Manomet in Massachusetts because they have hemispheric experience and local partners and local knowledge. They run the Western Hemisphere Shorebird Reserve Network. We are trying to tap into their local partners and connect with those on the ground as part of the mapping exercise. All the birds nest in Canada, so right there, we need to work with international partners.

B. Hollinger- Wondering if the cooler water temperatures had been an influence. W. Walsh- In 2019, there was the late spawn, and that was a year with colder weather into the season. The numbers were a little lower for the birds with aerial surveys, but USGS held steady. Indications were that the birds left early. Not a great year and they were likely not making weight. In 2020, when they had the really low survey numbers, there were no indications that the spawn was off and no observations that the temperatures were lower. Another idea is that the issue is in the southern hemisphere and that was the cause of the crash. That is not the case; the population counts in Tierra Del Fuego are way too low, but they are stable. Not enough empirical data to figure out the low populations, but I'm sure water temperatures will be one component to consider.

L. Calvo- The aerial surveys, those conducted in the last two years, have they focused in on the same two weeks in the year? Historical data included weekly surveys in May into June so there is greater likelihood of capturing the peak stop over. W. Walsh- Up through 2008 or 2009 the surveys were weekly. After that time, they went to just two surveys, and that is the protocol they have followed in the last two years. There is a higher potential chance of missing the birds if the peak is middle of May. Historically, it had never been middle of May but with climate change we could be seeing changes with phenology. In 2019 when the water was cold, the USGS model showed the birds peaked early, around the second week of May. That's the earliest we had ever seen that.

Sec. Fisher thanked Wendy & USFWS for working cooperatively with the industry over the past several years.

Council Committee Reports

Marketing Committee

No Update

AMP Committee

No Update

Legislative Committee

See Sunday Harvest discussion above.

Shellfish Council Updates

No Update

Red Knot- Aquaculture Update

M. De Luca- No updates. Not much to report and that's a credit to the work that has already been done to address items that were priorities with the Conservation Measures.

M. Williams- Right now waiting for more information before anything can be done.

Councilmember Comments

None.

Old Business

Aquaculture Right to Farm

A. Wenczel- Two bills currently in Senate and Assembly addressing Aquaculture Right to Farm. SADC staff, NJDA staff and engaged group of growers have been meeting to facilitate legislation that will be adequate and appropriate as well as to move a bill through the process. That collective group met this week to speak to the latest set of bills which contain language that is closer to what the group has been discussing. Some questions remained and those items were addressed at this week's meeting. Agreement to work from the newer bill, A4243 [companion bill S2908].

Sec. Fisher clarified that there are two sets of bills and that the group is not working from or connecting to one legislator, but rather to the approach and the concepts in the bill. Requested that the bill language from the SADC-NJDA-Growers be sent to the Council since there seems to be consensus on that language.

*Sec. Fisher left at ~11:26am. Frank Minch assumed the role of Chair. *

M. Gregg asked about a timeline on the SADC-NJDA feedback to the grower group. A. Wenczel- There was internal discussion after the meeting, so this is still moving as of this week. Noted that the legislature is out of session so there is a little time right now, and that may dictate timeframe- have a bill ready for when the legislature resumes.

ADP Recommendation Status

No updates from last meeting.

M. Gregg- Do you know when the AMP Committee will resume? A. Wenczel- Right to Farm bill language took precedence and same people working on topics. Needed to work with legislative timing to get bill language together. F. Minch- will pick back up on committee items once the Right to Farm bill gets pickup in the legislature. D. Zemeckis confirmed that the Marketing Committee would also be reconvening in the near future.

B. Hollinger- Where are we on printing the ADP? F. Minch- Jeff Wolfe (who was present at the meeting), the NJDA Public Information Officer is going to work on adding some nicer pictures and features to improve the document. We worked out the funding, and we are now into the new fiscal year.

Public Comment

N. Gaine- Unacceptable that there are no updates for the Committees. We can do multiple items. Strongly suggest the Council call for committee chairmen if there are not any. Industry person as the Chair, then set a schedule. We got the ADP done over a year ago and we are waiting for pictures.

We are waiting to hear from DOH & DEP, their comments on Jersey Fresh. This was discussed at the last meeting. Should talk about that right now, this should be in old business.

Even if there are no updates to the ADP, we should go over each of the recommendations, individually, to see what we are supposed to be doing and what we have to do.

Asked Wendy if the 2021 data from USGS and NJ aerals was an anomaly in terms of being so different. W. Walsh- expect the peak from USGS to track better with the aerial. Now looking to see how closely they track over the length of the time series.

M. Williams- Are there any other farmers in NJ where it is illegal to harvest on Sunday? F. Minch- Not that I am aware of. M. Williams- Any other farmers in the state that need a license to harvest? F. Minch- None that come to mind. M. Williams- We hear a lot in Right to Farm that we are so different, but I think there is just one major thing that is different- we are in the Bay where it is not taxable land. We farm a crop like everybody else. We own the crop the whole way through like everybody else. Why do I need a license to take something I own? If you farm corn, you don't need a license to harvest your corn. I understand when we are selling stuff, that's a wholesale license. Why do we need a license to harvest a crop we already own from an area we leased to farm? I get the point of the Commercial Shellfish License for commercial harvest. Back to Sunday Harvest, we own the crop, why can't we harvest it when we want?

B. McShane- NRCS has opened up the next round of conservation funding with the deadline for applications to be reviewed for this funding cycle by September 23rd. This is about a month earlier than in years past. This is for EQIP funding. Contact the local service center for more information or to apply. Also, always looking for suggestions on new ideas to add to the CSP program. These are practices you can do after you have already implemented conservation practices; this is over and above.

M. Gregg- Can we just send you pictures to finish the ADP. F. Minch- That's fine. We are trying to get this to be a good product for you to hand to legislators.

M. Gregg- Can't we do the AMP work even with the Right to Farm work. A. Wenczel- Now we can. Previous iterations of the bill left it unclear how the AMPs would work with the bill language.

N. Gaine- Get the Chairs for the committees. **M. Gregg- Motion to have a chairperson on each committee. B. Hollinger- Second.** F. Minch questioned if motion and ID chair, or just have a chair. After discussion realized that not all Committee members were present at the meeting. **Motion is only for the Committees to nominate a chair. All in favor; so moved.**

M. Gregg- Do we as a Council want aquaculture added to Jersey Fresh and can we have this discussion on the Jersey Fresh bill? B. Hollinger- We already discussed. We want to be under Jersey Fresh. Secretary said this would be a change in legislation. DOH & DEP said they had reservations. Second a letter to DOH, mainly Loel, and DEP to get their concerns. M. Gregg- Concerns were based on grading & quality. If it's suitable under NJ standards, wouldn't it be suitable under Jersey Fresh. V. Wheatley- I was not present at the last meeting but willing to discuss further. Ashely Kerr- When you discussed Sunday Harvest before, maybe do that now. So you go to the legislature with these changes and support and then when the bill moves forward, to the Governor's office, then DEP or DOH can step in. **B. Hollinger- We can amend the \$100,000 bill to have us also under Jersey Fresh. That could be the amendment. Made a motion to amend the \$100k Jersey Fresh bill to also include aquaculture within the Jersey Fresh program. Council writes a letter to the bill sponsors specifying this request. M. Gregg- second. All in favor, so moved.**

M. Gregg- EU oyster import program where Massachusetts & Washington State are now approved to import from EU. V. Wheatley- Only those states can import directly, but those oysters could make it to NJ from those states. M. Gregg- Concern that the shells from an EU oysters could make it to a shell pile and there is no foreseeable benefit to NJ for this program and those oysters coming here (NJ). I don't see how NJ taking EU oysters from another state is going to benefit this state. Once those oysters are here and tagged, they will be considered eligible for interstate transport. This creates potential issues with the great shell recycling programs we have here.

J. Normant- The shell recycling program is a benefit no matter the shell source. M. Gregg- I fully support the shell recycling, my concern is the shell could be mistakenly thrown into the water and the shell could have the *Herpes* spp. virus that is known to be in the EU. N. Gaine- These are cystic viruses, so curing may not do anything to rid of them from the shell.

Meeting adjourned.