

Aquaculture Advisory Council

July 16, 2010

Meeting Minutes

Attendees: Secretary Douglas H. Fisher, Mr. Rich Ritota (Commissioner Poonam Alaigh), Mr. Joe Constance (Ms. Caren Franzini), Dr. John Kraeuter (Dr. Eric Powell), Mr. George Saridakis, Mr. Mike DeLuca (Dr. Robert Goodman), Mr. Steve Carnahan, Mr. James Tweed, Mr. John Maxwell, Mr. Paul Waterman, Mr. Walter J. Canzonier (Mr. Robert Munson)

In Absentia: Asst. Comm Amy Cradic/Mr. Dave Chanda (Commissioner Bob Martin), Mr. Bill Avery (Mr. Oliver Twist), Mr. John Messeroll (Ms. Jeanette Vreeland), Mr. Gilbert Ewing Jr.

Public in Attendance: Dr. Gustavo Calvo, Mr. Gef Flimlin, Ms. Betsy Haskin, Mr. James Joseph, Mr. Joseph J. Myers, Ms. Linda O'Dierno, Mr. Dale Parsons, Dr. Eric Powell, Mr. Maury Sheets

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 April 2010 meeting. Mr. Carnahan made the motion, which was seconded by Dr. Kraeuter. Dr. Kraeuter and Mr. Canzonier suggested several typographical amendments to the minutes. Mr. Carnahan accepted the amendment. All voted in favor and the motion passed.

Mr. Myers provided an update on actions that the NJDA had taken since the previous meeting at the request of the Council. The letter sent on behalf of the Council from the Office of the Secretary to the family of former Assemblyman Joe Azzolina was distributed. Mr. Myers surveyed several state aquaculture coordinators through the NASAC network and discovered that about six state departments of agriculture have contacted USDA NASS directly to express their concerns for the elimination of the Census of Aquaculture. Sec. Fisher recently attended a NEASDA meeting that includes all secretaries of agriculture from the northeastern states. Many of the agency leaders were unaware of the proposed elimination of the Census, and a resolution was drafted at this meeting to express interest in reinstating the funding. While leadership at USDA NASS acknowledges that they may not be able to conduct the Census this year, they have received the message that the aquaculture industry and supporting agencies want to have the funding for the Census of Aquaculture reinstated.

Mr. Myers announced that the most recent clam marketing workshop scheduled for July 7th was poorly attended because of the busy time of the year for the industry. The second workshop, needed to complete the problem solving process would be held after Labor Day at a date of the industry's choosing. The report from the first workshop was distributed in May and the process has helped the industry identify two solid root causes of marketing issues. Mr. Waterman says that aquaculture has an opportunity. Wild clams that are arriving at retailers and restaurants are not cold enough and therefore rejected by buyers in Atlantic City and Cape May. This is a reversal of a long-standing trend and aquaculture seems to have an advantage. Mr. Maxwell said that this is one of consequences of increased scrutiny of the health issues surrounding *Vibrio*. Processing all of the necessary paperwork when buying from a wild clammer is not worth his effort. Mr. Ritota sought to clarify some confusion surrounding changes in the rules coming from NJDHSS. These changes will not affect clams, but only aim to codify current practices in the oyster industry. His agency did see sporadic cases of *Vibrio parahaemolyticus* in clams. Thankfully it was not considered an outbreak. The cases were also observed in surrounding states. The goal is to have good temperature control in a reasonable amount of time because it is based on an observed public health issue. Hopefully, the same weather conditions of last year do not repeat. Mr. Parsons noted public beach near leases in Great Bay. Bathers walk off with rakes and take clams that have no knowledge of proper handling. However, problems will fall back on industry. Mr. Ritota somewhat disagreed because interviews help identify the source of the clams, as long as people are not hiding illegal take of clams which in most cases will claim forgetting the source. The perception of bad clams can still have an

effect on the industry. Mr. Tweed recommended education directed toward recreational clammers on proper handling. Mr. Ritota said this was a good point and Sec. Fisher said the Council would help with this effort. Mr. Flimlin said that growers believe this is a case of mislabeling. The person affected had weakened health, although it is still treated as a case. The confidence limits are too tight and do not account for the underlying health of the person. There is also a functional difference between the inside and outside temperature of shellfish, which he will be investigating with Dr. Shaffner at Rutgers. Sec. Fisher said that outside temperature could rise and the internal temperature should be acceptable. Mr. Maxwell said there is a provision for controlled breaks in the cold chain. Mr. Ritota said that time-at-temperature is controlled for as well as critical temperatures. Mr. Canzonier said that thermal control is seen as a panacea and there are many other factors influencing the risk of a case that are not well understood. Mr. Flimlin asked to what point in the supply chain the problem was traced. Mr. Ritota said that after arrival at first dealer. Sec. Fisher said that incremental steps make progress and this parallels health issues in fruits and vegetables.

Sec. Fisher informed the Council about statements from DEP Commissioner Martin made at the recent Garden State Seafood promotional event in Trenton, reiterating his commitment to ban shellfish gardening in condemned waters. Mr. Joseph read from the June 7, 2010 press release banning research related gardening of commercial shellfish species in docks and harbors with less than approved waters and the removal of those organisms currently in condemned waters. The focus is on one particular conservation group in North Jersey. Mr. Joseph noted that the relay program started as a legal mechanism to utilize clams from the Special Restricted waters of northern Monmouth County and now all legal harvests from this area must go through depuration. Nevertheless, illegal harvest persists from these closed areas in which illegal products could enter commerce and make someone sick. This could negatively affect the commercial shellfish industry. S2122 sponsored by Senator Cardinale, apparently to counter the Commissioner to allow research and restoration of commercial shellfish species in condemned waters. The concern is about the detrimental impact the shellfish industry. According to NMFS, the industry had a 2008 value of \$131 million dockside, and with an economic multiplier of six that is commonly used with seafood, this figure ramps up to \$790 million in economic value to the State. Mr. Flimlin asked if that was the dockside value of clams and oysters. Mr. Joseph said that is the value of commercial molluscan landings excluding squid. Mr. Flimlin said that the numbers are inflated because scallops are not species that are under consideration of the ban. Mr. Joseph said that the issue is that if someone got sick, the whole industry would be affected. The other issue is that in the 2009 assessment, the FDA identified inadequate patrol of condemned waters and could shut down the whole state for the interstate shipment of shellfish. If someone gets sick from an illegal clam or oyster in North Jersey, someone in South Jersey may think twice before consuming shellfish. Sec. Fisher said that shellfish gardening in condemned waters is done in other states. Sec. Fisher believes the issue is protecting the industry versus environmental groups doing conservation and education. Mr. Flimlin said that the environmental community is split on the issue. Mr. Parsons supports efforts to rebuild natural shellfish populations. Dr. Powell not a fan of the hype behind the classic shellfish gardening scenario that oysters will clean the environment, but removing essential estuarine habitat is an irrational position from NJDEP. Mr. Ritota said that he hears horror stories from enforcement personnel. These projects make poaching that much easier. He reiterated that this is not a state rule, but an issue of compliance with a Federal authority's national program. His program does decertify some shippers to keep the state compliant. Sec. Fisher said that the problem is individuals trying to game the process. Mr. Ritota said that the issue is there are not enough personnel to police these condemned areas. Mr. Parsons said that enforcement has the responsibility to protect the industry as well as the environment, and the environment should not suffer because of lack of enforcement. Sec. Fisher asked what the penalties for illegal harvest are. Mr. Joseph said that monetary penalties of \$3,000 to \$5,000 can include the confiscation of gear. He felt that it is important not to get hung up on the penalties, but understanding that if illegal shellfish is commingled, it will affect the entire industry.

Mr. Joseph said that even with double the amount of enforcement, this would still an issue. NYDEC was supporting a Mussel Watch program of less than 100 mussels and a few bags were clearly cut by poachers. Additionally, enforcement in NY caught SCUBA divers illegally harvesting shellfish at night. Illegal harvesters

will go to extreme measures if they know shellfish are present. NJDEP cannot do anything about the 944 million clams already in the Raritan Bay and Sandy Hook bays, but we can control the artificial enhancement of shellfish. Minimal inspections of 16 days per month still leave up to 15 days where no enforcement is present. Mr. Joseph added that the measure announced by the Commissioner is supported by the Delaware Bay section of the Shellfisheries Council. Commissioner's recent decision was read by Mr. Joseph. This bill, which was recently heard in the Senate Environment Committee, would direct NJDEP to authorize shellfish propagation in prohibited waters.

Mr. Flimlin said the inspection has two facets. In a meeting at Assunpink over a year ago to discuss these shellfish programs, Law Enforcement said they cannot inspect every shellfish gardening project. He does not agree with leaving the shellfish in these areas throughout the year, rather only during the time they are only growing which cuts down the risk of poaching. The sites used by the Baykeeper were selected because they were seasonally approved waters or could easily be watched from shore. This issue gets back to the *Vibrio* issue. Dealers need to be vigilant and know the areas where approved shellfish are grown. Because Watershed Ambassadors are gone, if shellfish restoration efforts are removed in this area, there remains no one to bring continual public awareness that the water is polluted. In the end, pollution is still occurring but the shellfish industry bears the brunt of the problem. Dr. Kraeuter suggested the State should shut down clam harvests in the Raritan Bay for the same logic. There is no recognition of differences in these areas and this blanket, kneejerk reaction which is untenable. He also does not understand why the regulatory community is more adamant about recognizing that because these shellfish are in polluted waters. Since it is illegal to pollute in New Jersey, why is NJDEP not trying to fix the pollution sources causing the problem. Sec. Fisher said that statewide fixes sometimes do not work because they are too broad, such those with efforts to address soil conservation and a fertilizer control. He asked if the ban was currently in place. Mr. Joseph said that the press release states that no further permits would be issued for shellfish planting projects in condemned waters and the order to remove existing shellfish has been made. Mr. Joseph said that in a 2001 meeting, NJDEP acknowledged appreciation for what were trying to accomplish, but rather than focusing on water quality issues, their mission is oyster restoration because there were historically oyster beds in that region. The Hudson River Foundation has a goal of 500 acres of restored oyster beds by 2015 and 5,000 by 2020.

Sec. Fisher said that the ban remains in place. He suggested the Council, as an advisory council related to shellfish, could put forth a motion. Mr. Canzonier said that there are cases where oyster gardening has contributed to a flow of oysters into commerce. Audits have pointed out that enforcement and surveillance of the Shellfish Sanitation component is inadequate and has almost been brought to losing authorization for certification and the ability of the industry to lose its ability to ship shellfish to other states. Inadequacy of enforcement is unconscionable. Although funding might not be able to be addressed, he believes it would be valuable to put on the record that this is a serious problem. Dr. Powell recommended that the Council look for ways to reallocate funds inside NJDEP to upgrade enforcement. Mr. Tweed wants to clarify that hatcheries and nurseries are exempt and allowed to operate under ISSC. Mr. Flimlin added that hatcheries are not in waters-of-the-state. Mr. Parsons said that a similar program has put 600 million oysters in the Chesapeake with a goal of one billion from just one hatchery. New Jersey has severe price competition from Virginia and if we do not allow programs like this and do not keep up with other states, NJ will be left further behind. Dr. Kraeuter said he would like to see a statement from NJDEP as to what plans they have to address the pollution problems that are causing the problems in the first place. Mr. Parsons added that they have raised fines for poaching in the Chesapeake. Dr. Kraeuter said he wants to focus on the core problem of pollution from the uplands and have at least a positive outcome from this. Sec. Fisher welcomes Dr. Kraeuter's suggestion and asked Mr. Joseph to relay this message to NJDEP. Mr. Joseph said he would brief Asst. Comm. Amy Cradic.

As a former food retailer, Sec. Fisher said he could not imagine buying untagged shellfish. Mr. Ritota added that commingled product from legal/illegal waters can be sold to unsuspecting retailers. Sec. Fisher said that those commingling product need to be issued violations. The Attorney General is behind the enforcement of proper labeling of Jersey Fresh fruits and vegetables. Mr. Ritota said Virginia authorities have informed him

that the phenomenon of commingling gardening product with commercial product in their state is out of control. Mr. Joseph added that that the Commissioner is trying to prevent the out-of-control problem that Virginia has. Mr. Ritota said that the trick is to have the food safety aspects interwoven into the oversight. Dr. Krauter said that Washington State has a rule that if an area is downgraded in water quality, the pollution problem must be solved by the authorities.

Mr. Myers discussed the request for having Tidelands on the agenda, but since the lengthy discussion at last meeting, sought clarification on what particular issue remains unaddressed. Mr. Maxwell said that Mr. Walt Johnson, who is a member of the Atlantic Coast section of the Shellfisheries Council, wanted to communicate that the AC SFC was not involved in the formation of the policy and sent a letter to the Commissioner about the formation of the new Tidelands policy. Dr. Krauter said that at the last meeting, Sec. Fisher wanted a brief statement that he could use to talk with legislators and other representatives. He presented a statement drafted along with Mr. Canzonier for the Secretary's consideration. The Tidelands issue is an example of more regulation and more fees without more help for the industry, such as cleaning polluted waters. There have been overwhelmingly negative circumstances for the industry for the past thirteen years since the passage of the Aquaculture Development Act.

Dr. Krauter suggested there should be an events list that the aquaculture industry should be targeting, rather than responding to every request for product that does not seem to return benefit for the industry. Nobody from the NJDA showed up at a recent event that was originated from the efforts by the NJDA. Sec. Fisher said that event planners are only excited when they are donated product, but forget those same businesses throughout the rest of the year. Having the proper outreach at the right events is important. Dr. Krauter said that the Council should outline a marketing strategy for the industry. Mr. Waterman said that the recent Cumberland County Fair had no aquaculture presence. Mr. Saridakis said that Cumberland County College used to be at the Cumberland County Fair every year when there was an active aquaculture program. Mr. Flimlin said that he encountered little success attending County Fairs. Mr. Myers said that the NJDA does have a supply of materials such as price cards and booklets that are available for free to help promote.

Mr. Joseph discussed a recent import application to plant 100,000 seed oysters from a Virginia hatchery for planting onto a lease in Dry Bay. The application was brought forth to the Atlantic Coast section of the Shellfisheries Council and the recommendation to the Commissioner was to deny the request. Mr. Joseph noted that testing of the seed was done to document the presence of dermo. Dermo was found but at low levels of infection. Mr. Maxwell said that the risk of *Vp* introduction was deemed to be too high. *Vp* was found in hard clams in Great Bay in 2009 and the Shellfisheries Council was concerned that this could cause a problem in clams.

Dr. Krauter and Mr. Canzonier suggested issues like this should be brought forward to the Technical Committee of this Council.

PUBLIC COMMENT

Ms. O'Dierno discussed the several workshops that she is conducting for the National Aquaculture Association

Sec. Fisher made note of the next meeting tentatively scheduled for October 22, 2010 and asked for a motion to adjourn. Dr. Krauter provided the motion which was seconded by Mr. Carnahan. All voted in favor and the motion passed.