

MINUTES OF THE MEETING  
OF THE  
ATLANTIC COAST SECTION OF THE SHELL FISHERIES COUNCIL

Nacote Creek Law Enforcement  
Port Republic, NJ  
May 21, 2007

Present were: Chairman John Maxwell (Atlantic)  
Councilman Walter L. Johnson III (Ocean)  
Councilman Walter Hughes (Monmouth)

State Representatives: James W. Joseph, Bureau of Shellfisheries  
Jeffrey C. Normant, Bureau of Shellfisheries  
Michael Celestino, Bureau of Shellfisheries  
Gustavo Calvo, Bureau of Shellfisheries  
Samuel Reynolds, US Army Corp of Engineers

Mr. Maxwell called the meeting to order. Mr. Joseph read the State's compliance with Sunshine Law. He announced that the meeting would be recorded.

1. Total Revenue collected for March 2007: \$ 1,993.05  
Shellfisheries Law Enforcement Fund: \$ 1,496.00  
  
Total Revenue collected for April 2007: \$ 4,062.75  
Shellfisheries Law Enforcement Fund: \$ 2,434.00

2. February 21, 2007 and March 19, 2007 Minutes

The minutes of the February 21, 2007 and March 19, 2007 meetings were approved on a motion by Mr. Johnson and a second by Mr. Hughes.

3. Applications for New Ground – Consideration

| <u>APPLICANT</u>  | <u>LOT #</u> | <u>SEC.</u> | <u>ACRES</u> | <u>LOCATION</u>            | <u>MAP</u> |
|-------------------|--------------|-------------|--------------|----------------------------|------------|
| Peter MacAvoy Sr. | 486          | B           | 2.00         | Creek before Jenny's Creek | 24.2       |
| William K. Avery  | 2535         | B           | 2.00         | Scull Bay                  | 27         |
| Peter Drukas, Jr. | 2543         | B           | 2.00         | Scull Bay                  | 27         |
| Robert Mayer      | 101          | B           | 2.00         | Peck Bay                   | 4          |

Mr. Normant provided the Council with copies of the biological investigations for the lease applications. All applicants were present at this meeting. Pursuant to the leasing regulations, a decision will be rendered at the next meeting.

4. Applications for Transfer

| <u>LESSEE</u>   | <u>APPLICANT</u> | <u>LOT #</u> | <u>SEC</u> | <u>ACRES</u> | <u>LOCATION</u> | <u>MAP</u> |
|-----------------|------------------|--------------|------------|--------------|-----------------|------------|
| Santo Rando     | Michael DeMari   | 2293         | B          | 1.60         | Dry Bay         | 24.2       |
| Elvin L. Mathis | Patrick Bowen    | 307          | B          | 3.65         | GB- Cape Horn   | 10         |

Without discussion, the lease transfers was approved on a motion by Mr. Johnson and a second by Mr. Hughes.

## 5. Old Business

### Lease Transfer Clarification

Mr. Normant informed the Council that on July 6, 2005 there was a signed lease transfer agreement in which John O'Mara transferred leases 527, 558 and 569 in Little Egg Harbor Bay to Dale S. Parsons. The lease transfers were supposed to be approved by the Council at the next meeting after the agreement was signed. Due to an oversight, the Commissioner of the Department of Environmental Protection signed the lease transfer agreement before Council approved it. Mr. Normant asked if the Council could recommend approval of the transfer after the fact. The lease transfer was approved on a motion by Mr. Johnson and a second by Mr. Hughes.

### USACE Nationwide Permit #48

Mr. Reynolds from the US Army Corps of Engineers (USACE) summarized the details of Nationwide Permit (NWP) # 48 for the Council that had become effective on March 12, 2007. NWP # 48 authorizes certain shellfish aquaculture activities on individual shellfish leases less than 100 acres. These activities would include the use of predator nets or the planting of a thin veneer of shell to catch oyster spat. Leases that existed prior to March 12, 2007 and less than 100 acres would be subject to a reporting requirement to the USACE, which would be due 90 days after the effective date of the permit (i.e., June 17, 2007). The report would have to list the acreage of the lease, species being cultivated and equipment or structure used, such as predator nets and shell. A pre-construction notification (PCN) must be submitted if the lease was greater than 100 acres or if there was any reconfiguration of the aquaculture activities. Mr. Joseph stated that on the Atlantic Coast of New Jersey, all leases were less than 100 acres and used "traditional" shellfish aquaculture methods, including predator screening. Mr. Reynolds stated that NWP # 48 also addressed submerged aquatic vegetation (SAV) and would require a PCN if activities included dredge harvesting, tilling and harrowing in SAV. Mr. Joseph stated there were a few leases in Barnegat and Little Egg Harbor bays that were established in the early to mid 1970s in mapped SAV habitat, but hard clam harvest was by hand implements only. Mr. Reynolds stated that he had been working with the Bureau to simplify the reporting process. Mr. Reynolds stated that once the report was submitted, there was no requirement for the USACE to contact the individual unless there was a problem. The review period would be 45 days. Mr. Reynolds stated that for individuals that obtained a lease after March 12, 2007, those individuals would not be covered by NWP # 48 and would have to apply for an individual permit, which was a more involved permitting process. Mr. Maxwell inquired on leases that existed prior to March 12, 2007 and then transferred after that date. Mr. Reynolds stated that if the lease existed prior to March 12, 2007 and if the activities were reported, then it would be covered by the NWP. However, if an individual allowed a lease to lapse, the individual that re-acquires the lease would have to go through the permitting process. Mr. Reynolds stated that the NWP actually covers activities performed on the lease and that if an individual holds a lease and was not using it, the individual technically does not need a permit. However, if the individual decides to use the lease, the leaseholder would then be required to obtain a permit. Mr. Joseph stated since the reporting deadline was June 13, 2007, there was very little time to get all leases in compliance. At the Delaware Bay Shell Fisheries Council meeting, it was proposed that the Bureau would serve as an intermediary on behalf of all leaseholders that meet the one time reporting requirement and submit the required information to the USACE as one package. The Bureau would assume that all the leaseholders were involved with activities that comply with NWP # 48. If an individual leaseholder were involved in activities that are not covered under NWP # 48, those individuals would have to obtain individual permits from the USACE and the State's Land Use Regulation Program (LURP). The NWP # 48 would be valid for five years.

Mr. Keith Craffey inquired if the relay leases would need to comply with NMW # 48. Mr. Joseph stated that NWP # 48 was for shellfish aquaculture and that the relay program was never considered an aquaculture activity.

Mr. Maxwell inquired if the Council would need some type of determination from the USACE before they could approve a new lease. Mr. Joseph stated that nothing had been determined yet and that he would try to set up a meeting with LURP, Mr. Reynolds and the Bureau. Mr. Joseph stated that he felt that the greatest issue would be how LURP would fit into the process. Mr. Reynolds stated that NWP# 48 was sent

to the states for a decision on whether it was consistent with the state's coastal zone management plan. He said that New Jersey has historically been a state that blanketly denied all NWP's. That meant LURP wants to review all applications by using the state permitting process. Mr. Joseph stated that on Delaware Bay, there were 920 individual leases totaling approximately 33,000 acres and on the Atlantic Coast of NJ, there were 745 leases totaling approximately 2,500 acres, which would be an inordinate amount of paperwork for LURP and USACE. The Bureau's proposal would benefit the Department as well as the leaseholders. Further discussion on the matter ensued.

#### Cage Relay

Mr. Joseph stated that relay issues, such as proposing a cage relay, would need to be discussed by the Shellfish Resource Recovery Steering Committee, which is comprised of representative from the NJDEP's Bureau of Shellfisheries, Bureau of Law Enforcement, Bureau of Marine Water Monitoring, Department of Health and Senior Services, and occasionally the US Food and Drug Administration. There would be various issues that would also need to be resolved to implement a cage relay, such as permits for structure and clam purging rates. Mr. Joseph stated that if Mr. Craffey still wanted to pursue a cage relay program, he should submit a one page proposal to Mr. Bob Connell of the Bureau of Marine Water Monitoring. Mr. Joseph then stated that one of the main issues would also be participation. Further discussion on the matter ensued.

#### 6. New Business

##### Marine Fisheries Council Regulations – Crab License Transfer Issue

Mr. Maxwell discussed the commercial crab pot regulatory proposal that would regulate crab pot license transfers and the implementation of a two tiered licensing system.

##### Mullica River Oyster Harvest

Mr. Brett Nicklow inquired if there would be an oyster harvest season this fall. Mr. Joseph stated that as a condition of the Fish America Foundation grant, the Reef Bed would be closed for a period of five years to harvest and the new area planted on Fitney Bit would not be harvestable by this fall. Mr. Joseph stated that the Bureau would continue to look at growth and mortality. Further discussion on the matter ensued.

##### NJ Department of Agriculture Update

Mr. Joseph Myers from the NJ Department of Agriculture (NJDA) stated that on May 2, 2007, NJDA held a "Day at the Dock" event at Viking Village. There were approximately 60 representatives from six different seafood retailers that attended the event. They were given a tour of the docks and facilities. He stated that the retailers expressed a lot of interest in local seafood, especially hard clams.

There being no further business, the meeting was adjourned on a motion by Mr. Johnson and a second by Mr. Hughes.

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

DATE: June 18, 2007  
TIME: 7:00 PM  
LOCATION: Nacote Creek Law Enforcement Office  
360 N. Rt. 9  
Port Republic, NJ 08241