

MINUTES OF THE MEETING
OF THE
ATLANTIC COAST SECTION OF THE NEW JERSEY SHELLFISHERIES
COUNCIL

Nacote Creek Law Enforcement
Port Republic, NJ
April 16, 2018

ROLL CALL: Chairman: John J. Maxwell (Atlantic County)
 Vice Chairman: Walter L. Johnson III (Ocean County)
 Councilman: Walter Hughes (Monmouth County)
 Councilman: Vacant (Cape May County)
 Councilman: Vacant (Burlington County)

DEP Representatives: Jeffrey Normant, Bureau of Shellfisheries
 Kira Dacanay, Bureau of Shellfisheries
 Jenny Tomko, Bureau of Shellfisheries
 Lloyd Lomelino, Bureau of Shellfisheries
 Brett Nicklow, Marine Enforcement
 Robert Schuster, Bureau of Marine Water Monitoring

Mr. Normant read the State's compliance with the Sunshine Law and announced that the meeting would be recorded. Notice was filed with the Secretary of State Office and newspapers designated by the Department.

1. Total Revenue for March 2018: \$ 2,019.18
 Shellfisheries Law Enforcement Fund \$ 557.00
2. Presentation of November 27, 2017 & February 12, 2018 minutes for approval.

The November 27, 2017 and February 12, 2018 meeting minutes were presented for consideration and approved on a motion by Mr. Johnson and seconded by Mr. Hughes.

3. Applications for Transfer

LESSEE	APPLICANT	LOT #	SECTION	ACRES	LOCATION	MAP #
Richard F. Crema & Raymond Crema	Raymond Crema	384	B	6.63	G.B. Cape Horn	10
Richard F. Crema & Raymond Crema	Raymond Crema	404	B	7.7	G.B. Cape Horn	10
Richard F. Crema & Raymond Crema	Raymond Crema	325	B	2.09	G.B. Cape Horn	10
Richard F. Crema & Raymond Crema	Raymond Crema	326	B	2.54	G.B. Cape Horn	10

Richard F. Crema & Raymond Crema	Raymond Crema	413	B	1.32	G.B. Cape Horn	10
Richard F. Crema & Raymond Crema	Raymond Crema	382.4	B	1.7	G.B. Cape Horn	10
Richard F. Crema & Raymond Crema	Raymond Crema	383	B	10.56	G.B. Cape Horn	10
Richard F. Crema & Raymond Crema	Raymond Crema	2209	B	4.68	Dry Bay	24.2
Richard F. Crema & Raymond Crema	Raymond Crema	2225	B	1.72	Dry Bay	24.2
Richard F. Crema & Raymond Crema	Raymond Crema	2218	B	3.67	Dry Bay	24.2
Richard F. Crema & Raymond Crema	Raymond Crema	2203	B	3.69	Dry Bay	24.2
Richard F. Crema & Raymond Crema	Raymond Crema	2249	B	4.38	Dry Bay	24.2
Richard F. Crema & Raymond Crema	Raymond Crema	2210	B	2.18	Dry Bay	24.2
Richard F. Crema & Raymond Crema	Raymond Crema	2436	B	423' Linear Feet	Motts Creek	26
Richard F. Crema & Raymond Crema	Raymond Crema	2405	B	350' Linear Feet	Motts Creek	26
Robert M. Yorke	Charles Price	1417	B	2.00	Middle Island	6.1

Without discussion all applications for transfer were approved on a motion by Mr. Johnson and seconded by Mr. Hughes.

4. Applications for Consideration

LESSEE	LOT #	SECTION	ACRES/FT	LOCATION	MAP#
Great Bay Oyster, LLC, Thomas McAnney	184	B	386.2' Linear Feet	Mullica River	1.1
Gretchen Maxwell	186	B	305.5' Linear Feet	Mullica River	1.1
Bridgitte Bliss	194	B	2118.77' Linear Feet	Mullica River	1.1

Mr. Normant provided the Council with copies of the above lease application. As per N.J.S.A. 50:1-23, “no new leases shall be granted under the waters of the Mullica River above line extending in a westerly direction from the south end of Deep Point, provided, however, that leases may be granted for lands heretofore leases in that areas in the Mullica River”. Mses. Maxwell, Bliss, and Mr. McAnney were present at the meeting Pursuant to N.J.A.C. 7.25-24.6, lease applicants shall attend at least one of the two council meetings at which the Council reviews their applications. If the applicant fails to attend at least one of the meetings at which the lease application was discussed, the application shall be cancelled.

5. Applications for Decision

LESSEE	LOT #	SECTION	ACRES	LOCATION	MAP#
Elyssa L. Glenn	1099	A	2.06	Great Sound	5
Sky Glenn	1029	A	2.08	Great Sound	5
Amber Glenn	2550	B	1.81	Scull Bay	27
Douglas Rohmeyer	8	D	2.00	Swan Pt.	1
Casey Pesce	10	D	2.00	Swan Pt.	1

Ms. E. Glenn and Mr. Pesce were present at the meeting. Mr. Rohmeyer was present at the prior meeting. Mr. S. Glenn, and Ms. A. Glenn were absent at this meeting and at the previous meeting in which their applications were presented for consideration. Mr. Normant stated that because they did not attend one of the two meetings at which their applications were discussed, their applications were denied. Messrs. Pesce, Rohmeyer and Ms. E. Glenn’s applications were unanimously approved on a motion by Mr. Johnson and a second by Mr. Hughes. Mr. Normant informed the applicants they have 30 days to sign their lease agreements and pay the lease fees.

6. Old Business:

Leasing Committee - Leasing Policy

The Leasing Committee met on March 29th to discuss amendments to the Council’s Leasing Policy. The committee discussed a new lease area proposed to the Council at Clam Island in Barnegat Bay, but couldn’t support the proposal because the area was mapped as Submerged Aquatic Vegetation habitat and in an area known for wild clam harvest. Mr. Normant stated that after the Leasing Committee meeting was held, there was an inquiry to add a new lease to the existing Swan Point block in Barnegat Bay. Mr. Normant was concerned that any additional expansion would encroach further into the bay that was heavily utilized by other user groups such as boaters and impede navigation. He requested adding an amendment to the policy to temporarily put a hold on accepting applications for new leases at Swan Point until the Leasing Committee could discuss this issue at its next meeting. Mr. Maxwell asked if all Swan Point leases were applied for and leased. Mr. Normant informed him that all the leases were occupied. Mr. Johnson inquired about Committee’s recommendations regarding new leases in Manahawkin Bay. Mr. Normant informed him that the Committee would discuss the matter at the next Leasing Committee meeting and the Bureau would do some investigation of the area. Mr. Maxwell inquired about proposals in the Great Egg Harbor River. Mr. Normant informed

him that there were no current proposals, but remains an area of interest in the Leasing Policy. A motion was made by Mr. Johnson to accept the recommendations of the Leasing Committee, including the temporary hold on adding new leases at Swan Point until the Leasing Committee has a chance to discuss it at their next meeting. The motion was seconded by Mr. Hughes and unanimously approved.

Vibrio Plan

Mr. Schuster informed the Council that the Bureau of Marine Water Monitoring (BMWM) developed a draft of the 2018 Vibrio Management Plan (VMP). There were no changes to the time and temperature control requirement section of the plan. Mr. Schuster stated that the NJ Department of Health had requested harvesters notify them of the landing areas that are being utilized for subtidal oyster aquaculture. Mr. Schuster estimated that a final version of the VMP would be available as early as next week. Both Mr. Maxwell and Johnson requested that BMWM staff reach out to the Department of Health about attending the next council meeting and discuss any changes to their sections of the plan.

ESA Update

Ms. Tomko informed the Council that she had reached out to Ms. Wendy Walsh of the U.S. Fish and Wildlife Service with regards to endangered species conflicts with aquaculture. She stated she received one inquiry from a lessee in Rose Cove, and had requested more information from the U.S. Army Corps of Engineers regarding shoreline habitat for Red Knots.

Bureau of Ocean Energy Management

Ms. Dacanay informed the Council that on April 11, the Bureau of Ocean Energy Management (BOEM) posted a Call for Information and Nominations regarding the Commercial Leasing for Wind Power on the Outer Continental Shelf in the New York Bight into the Federal Register. Comments or information regarding the proposed four Call Areas are due to BOEM on May 29th. The four Call Areas encompass 2,047 sq. nm on the Outer Continental Shelf in the New York Bight identified as the Fairways North, Fairways South, Hudson North, and Hudson South. Mr. Johnson opined the council should provide comments since the Call Area's would likely impact New Jersey fishermen. Mr. Maxwell agreed, and added that the Council should inform industry members about the opportunity to provide comments to BOEM. A motion was made by Mr. Johnson to draft a letter on behalf of Council to BOEM regarding the Wind Energy Call Areas and was seconded by Mr. Hughes.

Hard Clam Relay

Mr. Johnson informed Mr. Normant that he spoke with Mr. Jenks and that he would be the designated Hard Clam Relay Coordinator. Mr. Normant stated he would set up a meeting to discuss the hard clam relay program with Mr. Jenks.

Tidelands Council Recommendation

The Council's letter in support of Mr. Ned Gaine's interest in being appointed to the Tidelands Resource Council was sent to the Governor's Appointment Office (attachment 1).

Gear on Shellfish Leases

Mr. Parsons inquired about information regarding an issue he presented to Council during the February meeting in which another lessee had placed gear on his shellfish lease at Cape Horn, in Great Bay. Mr. Normant informed Mr. Parsons that he had discussed the situation with Marine Enforcement and they were considering possible resolutions. Mr. Mr. Parson stated that his concern was that leaseholders were not required to obtain a permission slip from the lessee to remove structural aquaculture gear from another lease and the language within Title 50 offers little protection wherein another aquaculturists gear had been placed on the wrong lease. Officer Nicklow informed him that if an individual removes product (gear/oysters) from someone else's lease without that lessees' permission, they are subject to a criminal charge, but a civil charge of invasion of a lease ground for gear such as cages may not be applicable. Mr. Maxwell stated that it has always been protocol that if another individuals product/gear ends up on someone else's lease, that the person would have to contact the leaseholder for permission to remove the gear or product. The Bureau has started the process to clarify the language within the rules regarding harvest with structural aquaculture. Mr. Schuster also stated he spoke with Marine Enforcement about the possibility of requiring tags on gear to help identify the owner.

7. New Business:

Senate Bill S2112

Mr. Normant informed Council that a bill was introduced by Senators Cardinale and Smith to allow the cultivation of commercial shellfish species within condemned waters for education, research or restoration without oversight from the DEP. Mr. Maxwell stated that the Atlantic Coast and Delaware Bay sections of the NJ Shellfisheries Council submitted a joint letter to each senator's office in opposition to the bill. The NJ Marine Fisheries Council have also submitted a letter of opposition. Mr. Normant stated that the senators had reached out to staff and were interested in discussing the issue with representatives from the Chairs of both sections of the Council. (See attachments 2 & 3)

Stockton Proposal

Mr. Evert gave a presentation on Stockton University's shellfish research projects. Projects included monitoring oyster spatfall in the Mullica River and update no the restoration research project in Little Egg Harbor Bay.

FDA European Union Evaluation

Mr. Schuster stated the U.S. Food and Drug Administration (FDA) was inviting the public to comment on a proposed determination that the European Union (EU) food safety control system for raw shellfish intended for export into the United States, as

administered by the European Commission (EC), provides at least the same level of sanitary protection as the United States' system and was therefore equivalent. If finalized, this determination would permit the importation of shellfish harvested from certain production areas and processed by establishments that have been listed by FDA on the Interstate Certified Shellfish Shippers List.

Having no further new business the meeting was adjourned on a motion by Mr. Johnson, and seconded by Mr. Hughes.

8. Date, time and place of next meeting:

DATE:	May 21, 2018
TIME:	7 PM
LOCATION:	Law Enforcement Office 360 New York Rd. Rte. 9 Port Republic, NJ 08241

**NEW JERSEY SHELLFISHERIES COUNCIL
— ATLANTIC COAST SECTION —
P.O. BOX 418
PORT REPUBLIC, NJ 08241**

**JOHN MAXWELL, CHAIRMAN
WALTER L. JOHNSON III, VICE CHAIRMAN
WALTER HUGHES, COUNCILMAN**

April 5, 2018

Scarlett Rajski
Office of the Governor
Appointments Office
PO Box 001
Trenton NJ 08625

Dear Ms. Rajski,

The Atlantic Coast Section of the New Jersey Shellfisheries Council would like to recommend that Mr. Edward W. Gaine be considered for appointment on the Tidelands Resource Council of New Jersey.

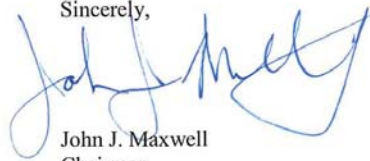
As recognized, the tidelands or waters flowed to the mean high tide are state properties, owned by all, yet by none. These lands under tidal waters are effectively within the public trust.

As some shellfish aquaculture occurs in the water column directly, we are issued a fee from the Tidelands Resource Council, therefore, we as stakeholders feel the need for representation on this Council.

Structural shellfish aquaculture has, and will be, increasing within these tidal waters bringing the interactions between shellfish aquaculture and the Tidelands Resource Council more frequent. It is important that the Tidelands Resource Council have a member who can represent and communicate the honest interest of the shellfish aquaculture industries.

Thank you for your consideration in this matter.

Sincerely,



John J. Maxwell
Chairman

c. Delaware Bay Section of NJ Shellfisheries Council

NEW JERSEY SHELLFISHERIES COUNCIL

Mail Code 501-03
501 EAST STATE STREET, 3RD FLOOR
P.O. BOX 400
TRENTON, NJ 08625

ATLANTIC COAST SECTION

JOHN J. MAXWELL, Chairman
WALTER L. JOHNSON III, Vice Chairman
WALTER HUGHES, Councilman

DELAWARE BAY SECTION

WARREN HOLLINGER, Chairman
STEPHEN FLEETWOOD, Councilman
RICHARD MALINOWSKI, Councilman

April 3, 2018

Senator Gerald Cardinale
350 Madison Ave.,
Cresskill, NJ 07626

Senator Bob Smith
216 Stelton Rd.,
Suite E-5,
Piscataway, NJ 08854

Dear Senators Cardinale and Smith,

It has come to our attention that you have proposed a new Bill, S2112, that will require the Department of Environmental Protection (DEP) to allow, for research or educational or for ecological restoration, the cultivation of commercial shellfish species in coastal and inner harbor waters classified as contaminated.

The NJ Shellfisheries Council (Council) is troubled by the introduction of this Bill, as well as the previous Bill S2617 that was passed into law in January 2016 under Title 50, Shellfish. This proposed law, to replace the previous law, as written, would take away any oversight and enforcement of shellfish grown in condemned waters from DEP. The real intent of Title 50 is to provide powers and duties to the Commissioner of DEP and Council to provide direction for the preservation and improvements for the shellfish industry and resources. Much of this is done through the regulatory and Council policy process that includes input from shellfish industry members and the public to ensure a safe and sustainable shellfish product that is sold to consumers. We have two sections of the Council that both meet on a monthly basis. We are industry members and we, along with the industry members we represent, are very active participants and enjoy an excellent working relationship with our DEP counterparts.


Senate Bill 2112 directly undermine and compromise the exact processes that ensure that shellfish harvested and sold from NJ waters are safe for human consumption. Many of us sell our harvested product raw for human consumption. The allowance of commercial shellfish species to be grown in contaminated/condemned waters, without any oversight from DEP is inviting misfortune to the NJ shellfish industry. The safeguards that are currently in place to ensure safe shellfish products have been developed nationally through the National Shellfish Sanitation Program (though the Interstate Shellfish

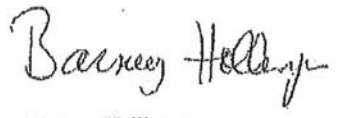
Sanitation Conference and the Model Ordinance). All states involved with the interstate shipping of shellfish must comply with the Model Ordinance. There are provisions within the Model Ordinance that requires states to provide oversight of these type of "shellfish gardening" activities. NJ currently has regulations in place to allow these activities through a permitting process, which insures oversight, enforcement and culpability.

The justification for the passage of this Bill seems short-sighted and quite frankly, ill-informed. We all agree that oysters do filter and clear water. However, it is this ability that takes and concentrates contaminates. These same oysters also hold these contaminates in their tissues which thereby make them harmful to consumers, if consumed. If there is no oversight, what would prevent someone from consuming them or prevent someone from selling them where no oversight is in place to ensure accountability? Additionally, market-sized oysters under the NSSP guide lines are 1 1/2" in length or greater, not 2" and a large 5" oyster is not a typical market-size oyster. Currently, the majority of the market demand is for a smaller-sized oyster for the half shell industry (raw bar).

To reiterate, the Council strongly opposes the passage of Senate Bill 2112 as it would likely undermine the integrity of the shellfish industry, which could jeopardize an industry worth approximately hundreds of millions of dollars per year to the NJ economy. The Council and shellfish industry does not oppose shellfish restoration, gardening and research. In fact, we strongly support these endeavors and even partner in this area with the State DEP. However, the DEP does so in a responsible manner that does not threaten NJ's shellfish industry. In fact, shellfish enhancement and restorations programs are vital to the sustainability to NJ's shellfish resources and industry.

Thank you for your consideration in the matter. If you would like, the Council would like the opportunity to discuss this with you in the near future and as always, whenever you are interested in shellfish-related issues, we would welcome you or your staff to reach out to either of the Councils for our input.

Sincerely,

John J. Maxwell
Chairman, Atlantic Coast


Barney Hollinger
Chairman, Delaware Bay

cc.
Honorable Phil Murphy, Governor
Senator Christopher Bateman co-sponsor
Senator Robert Gordon, co-sponsor
Senator Stephan Oroho, co-sponsor
Senator Richard Codey, co-sponsor
Senator Linda Greenstein, co-sponsor
Senator Chris Brown
Senator Christopher Connors

Senator Vin Gopal
Senator James Holzapfel
Senator Declan O'Scanlon
Senator Robert Singer
Senator Stephen Sweeney
Senator Jeff VanDrew
Acting Commissioner, Catherine R. McCabe, DEP
Secretary Douglas Fisher, NJDA
Deputy Commissioner, Debbie Mans, DEP
Dick Herb, Acting Chair, NJ Marine Fisheries Council

NEW JERSEY MARINE FISHERIES COUNCIL

Mail Code 501-03
501 EAST STATE STREET, 3RD FLOOR
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COUNCIL MEMBERS

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JAMES ALEXIS
ERLING BERO
ELEANOR A. BOCHENEK
WARREN HOLDINGER
JOHN MAXWELL
FRANCES E. PUSKAS
SERGIO RADOSSI
JOSEPH RIZZO
ROBERT K. KUSH, JR.
JOSEPH A. ZABOROWSKI

April 13, 2018

Senator Gerald Cardinale
350 Madison Avenue
Cresskill, NJ 07626

Senator Bob Smith
216 Stelton Road
Suite E-5,
Piscataway, NJ 08854

Dear Senators Cardinale and Smith,

It has come to the New Jersey Marine Fisheries Council's (Council) attention that a new Bill, S2112, has been introduced that requires "The Department of Environmental Protection to allow, for the research or educational purposes or for ecological restoration, the cultivation of commercial shellfish species in coastal and inner harbor waters classified as contaminated." The proposed Bill will also "repeals laws that allows DEP to adopt certain regulations concerning such cultivation."

The Council unanimously opposes Senate Bill S2112, as it would compromise the reputation, integrity and viability of New Jersey's shellfish industry and invite the inevitable consumption of tainted shellfish by an unknowing public. Regulatory oversight is necessary to minimize public health risks from the consumption of tainted shellfish and to ensure the sustainability and growth of New Jersey's shellfish industry. The possibility of consumption and/or the inclusion of tainted shellfish into New Jersey's shellfish market could have a devastating impact on the hardworking, honest shellfish harvesters of the state.

The Council adamantly supports restoration and enhancement efforts of New Jersey's Marine and Shellfish habitats if done in a responsible manner as these efforts are vital to all of New Jersey's commercial and recreational fisheries. It is estimated that NJ's marine fisheries and

shellfisheries are worth approximately \$2.5 billion annually to New Jersey's economy and support thousands of jobs. The dangers of taking away regulatory oversight for the growing of commercial shellfish species in contaminated waters far outweighs any restoration benefits.

Thank you for your consideration in the matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Dick Herb". The signature is fluid and cursive, with a large initial "D" and "H".

Dick Herb
Acting Chairman

cc.

Honorable Phil Murphy, Governor
Senator Christopher Bateman co-sponsor
Senator Robert Gordon, co-sponsor
Senator Stephan Oroho, co-sponsor
Senator Richard Codey, co-sponsor
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NJ Shellfisheries Council Members