

Meeting of the
 DELAWARE BAY SECTION of the SHELL FISHERIES COUNCIL
 February 23, 2009

MINUTES

NJDEP, Division of Fish and Wildlife
 Bureau of Shellfisheries
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ADVISORY COUNCIL

Warren Hollinger, Chair, Cumberland Co.
 Scott Bailey, Cumberland, Co.
 Stephen Fleetwood, Cumberland, Co.

STATE REPRESENTATIVES

James W. Joseph, Shellfisheries
 Russell Babb, Shellfisheries
 Jason Hearon, Shellfisheries
 Craig Tomlin, Shellfisheries

HASKIN SHELLFISH LABORATORY

Eric Powell, Director
 David Bushek, Research Professor

Compliance with Sunshine Law:

Notice of this meeting was posted with the Secretary of State's Office, State House, Trenton, NJ and the Bridgeton Evening News, The Press, and Daily Journal on February 9, 2009, pursuant to L. 1975 c. 231.

Mr. Joseph notified the Council that the meeting would be recorded.

The January 2008 minutes were presented to the Council, due to inadequate review time, a decision on the January 2008 minutes will be held-over until the next scheduled meeting. **Councilman Hollinger made a motion to accept the September, October and November 2008 minutes.**

1. Revenue collected for January totaled \$6,045.00. This revenue collected is itemized as follows:

License Type	Total	License Type	Total
Commercial Crab License	\$500.00	Oyster Dredge Boat License	\$222.00
Delaware Bay Crab Dredge License	\$1,200.00	Map Fees	\$7.00
Atlantic Coast Crab Dredge License	\$1,200.00	Otter Trawl License	\$157.00
Commercial Shellfish License	\$600.00	Net License	\$2,051.00
Recreational Shellfish License	\$40.00	Application Fees	\$66.00
Juvenile Shellfish License	\$2.00		

- Oyster Resource Development Account balance as of February 23, 2009: \$686,430.31

2. Vessel transfer

For Council's information Todd McConnell has transferred the Oyster Dredge Boat *NJ5163FF* and License #3 to Bobby Robbins.

3. Old Business

3.1 Leasing Policy Committee Meeting Schedule

Chairman Hollinger stated that the Leasing Policy Committee would be holding their first meeting within the next two weeks. He read a list of those people who expressed an interest in participating on the committee. The proposed membership includes: Barney Hollinger (committee chair), Barry McConnell, John Kraeuter, Dr. Jacqueline McBride, Geoffrey Carr, Robert Malinowski, William Riggan, Walter

Canzonier, James Tweed and Evans Robinson. Mr. Hollinger stated that the meeting would be held during the week of March 9, 2009 at 6 p.m at the Haskin Shellfish Research Laboratory (HSRL).

4. New Business

4.1 2008 Stock Assessment Report

Dr. Powell presented the findings of the 11th Stock Assessment Workshop that was held February 2-4, 2009. Dr. Powell stated that the executive summary would be available for anyone that would like a copy and he noted that the full 100⁺-page version is available upon request through his office. Dr. Powell gave a brief overview of the current status of the stock. He stated that the HSRL had surveyed three beds upbay of the low mortality bed that had not been previously included in the stock assessment. Dr. Powell explained that the HSRL had named the beds as *Hope Creek*, *Liston Range*, and *Fishing Creek* and that they comprised approximately 40 percent of the stock of the entire bay. He further explained that the new charts that depict the beds are presented in the executive summary report. He stated that Shell Rock is the only bed that has improved over the last 19-year time frame (since Dermo entered the Bay). He added that recruitment continued to be relatively low throughout the bay. He also stated that Dermo continued to plague the stock and that the current epizootic had continued though last year. He noted that Dermo seemed to have a seven-year cycle and we might be at the end of this cycle. Dr. Powell warned that the Bay was in poor shape in terms of abundance but in relatively good shape in terms of biomass (due to continued high meat condition). He stated that the high mortality beds were in poor shape in terms of biomass as well as abundance.

Dr. Powell presented the Council with the area management advice from the Stock Assessment Review Committee (SARC). He continued by stating that the SARC recommended a harvest of no more than the 40th percentile on the low mortality beds without a substantial transplant and that Shell Rock was in good shape and that any percentile presented in the respective table would be acceptable. Dr. Powell went on to say that much discussion was held regarding the medium mortality beds, the effectiveness of the current harvest scheme on this bed area and an experiment using a higher exploitation rate on these beds. He reiterated that if the Council decided to go with the experimentally high harvest percentile that it was a one-year experiment and was in no way precedent-setting. Dr. Powell presented data to the Council about the transplant beds and the potential for additional quota following these transplants. He noted that the transplant from the low mortality beds should only be from one bed at a time and be set at the 40th percentile. A lengthy conversation ensued about the amount of boats realistically available for the intermediate transplant program (ITP).

Councilman Fleetwood made a motion to harvest the 50th percentile on the high mortality beds, the 60th percentile on Shell Rock and to use the 100th percentile for the medium mortality beds. His motion also stated that the transplant would start the first week of April and continue for two week with the possibility of extending it to three week in lieu of weather without affecting the start of the season. This motion was later amended by Mr. Fleetwood to allow the ITP to start during the last week of March. The preceding harvest levels would result in a starting industry allocation of 59,808 bushels. Individual quotas would likely increase by some fraction after the intermediate transplant is completed. Mr. Hearon noted that the high mortality beds would need to remain closed until 30 days after the last bushel was transplanted to the area.

A lengthy conversation ensued regarding the potential length of the intermediate transplant program. Mr. Babb stated that current discussions could result in an ITP that could run for up to seven weeks. He added that given current workloads the Bureau could not agree to that length of an ITP. Mr. Fleetwood confirmed that the suction boat could indeed be used to complete the ITP should the traditional boats be incapable of completing in a reasonable time frame. Mr. Joseph and Dr. Powell agreed that it could be used but only on beds other than the *Very Low Mortality* seed beds. However, Mr. Babb stated that the State's direct purchasing authority (DPA) still only allowed a given contractor to be paid up to \$29,000. Therefore, regardless of the vessel used, Bivalve Packing Company, Inc. could not be engaged for an amount, in

aggregate, above that threshold. Mr. Fleetwood stated that the ITP would have to potentially be completed after July 1 (new fiscal year equals new DPA threshold).

A very lengthy conversation ensued regarding the ramifications should the ITP not be completed or if participation was less than ideal during the first week of the ITP. Mr. Babb stated that he would need a minimum of three weeks (once the required paperwork was submitted by the licensees) to ensure that the contractors could be engaged in the ITP. Mr. Hearon stated that for expediency the ITP should begin in late March rather than waiting until April.

A decision was made to have an alternate plan should participation be less than four boats on average after the first week of the ITP. The Council motioned if industry participation was less than four transplant vessels operating during the first week of transplanting, every license holder would be responsible for transplanting approximately 500 bushels per licensed vessel participating in the direct market harvest. This transplant would be required before any individual quotas would be available for harvest. In the event that this scenario is enacted, the start of the direct market season would be delayed. Mr. Fleetwood suggested that the fee per bushel paid to ITP participants should be increased. Mr. Hollinger stated that theoretically the per bushel fee paid to ITP participants should not be higher than the amount collected from the landing fee. This is in an effort to keep the cultch account in good standing. Mr. Bailey stated that the ITP boats would be steaming over a great distance of the Bay and should be compensated for this. Mr. Babb reminded the Council that again, due to the established DPA thresholds, the higher the fee paid to ITP participants, the fewer oysters that would be moved. Mr. Fleetwood stated that he might not participate in future programs if his company had to move all of the ITP oysters on behalf of the entire industry. He stated that he is unsure as to how a couple of guys have become responsible for executing all of the ITP and adding all of these extra bushels to the total industry quota – to everyone's benefit. He stated that they made zero money in this program in 2008. He stated that the Council needed to devise a way to get the industry as a whole to help fund these important programs. Mr. Hollinger stated that it would not take long to exhaust the monies in the cultch account if not wisely spent. Mr. Bailey suggested \$2.25 per bushel be paid to ITP participants. Mr. Fleetwood stated that it should be set at \$2.50 per bushel and to leave the landing fee at \$2.00 per bushel adding that the ITP will enhance the lower beds significantly. **Mr. Hollinger made a motion to set the ITP fee at \$2.50 per bushel and to leave the landing fee at \$2.00 per bushel. Mr. Bailey seconded the motion. Mr. Fleetwood made a motion to not pay ITP vessels that did not report to the beds as designated by the Bureau. Mr. Bailey seconded the motion.**

The following is a summary of the proposed ITP following the Council's lengthy deliberation **(on a motion by Mr. Fleetwood seconded by Mr. Bailey): Middle, Upper Middle, Arnolds, Upper Arnolds & Round Island: A "culled" transplant of approximately 25,913 bushels (not to exceed 9.4 million oysters) of oysters from the Middle, Upper Middle, Arnolds, Upper Arnolds and Round Island seed beds will occur to the upper portion of the high mortality beds commencing on March 30, 2009 and ending on or before April 17, 2009. Hope Creek: A "culled" transplant of approximately 11,759 bushels (not to exceed 5.1 million oysters) of oysters from the Hope Creek seed bed will occur to the lower half of the Ship John seed bed commencing on June 15 and ending on or before June 28, 2009. Given the prohibited status of the providing beds used as part of this ITP, the recipient beds (i.e., the high mortality beds) would have to be closed to begin the season. These beds would be opened to industry harvest commencing 30 days after the end of the transplant program (anticipated to be on or around May 18-20, 2009). At this time, the increase to the industry's total allowable catch would be added and divided amongst industry participants via the standard procedure. The first intermediate transplant will commence on March 30, 2009 and end on or before April 17, 2009 and, if necessary, would be followed by a second intermediate transplant commencing on June 15 and ending on or before June 28, 2009.**

Mr. Hollinger made an additional motion regarding various dates, tag purchasing deadlines and tags fees: **to maintain the per bushel tag fee at \$2.00 per bushel, participants are directed to purchase single-bushel tags in batches of at least 200 unless a lesser amount is needed to fulfill an oyster dredge**

vessel's allocation prior to the close of a season, the Council continued to urge all harvesters to phone-in their tag orders one day prior to when they are to be picked up, area management will once again be employed in this year's harvest management program, deadline to express interest in participating in the 2009 harvest program is March 12, 2009, deadline to express interest in participating in the 2009 ITP is March 5, 2009 Assuming no delays due to ITP program, the Direct Market Program would open on April 6, 2009, the *Vibrio parahaemolyticus* closure would be from June 15 – June 28, 2009 and the Direct Market Program will close on November 13, 2009. Mr. Fleetwood motioned that unlike previous years, participants would not be required to purchase a minimum number of tags by a mid-season deadline (see footnote below)¹.

A lengthy conversation ensued regarding the cost of harvest tags and the intent to someday have the industry assist the Bureau in pre-ordering their tags. It was agreed that while this may not be possible for the 2009 season, it was an issue that should be vetted in future years.

5. Adjournment

The next meeting of the Delaware Bay Shell Fisheries Council will be held on Tuesday, March 3rd, 2009, at 6:00 P.M. in the library of the Haskin Shellfish Research Laboratory.

¹ On February 24, 2009, the Council discussed this issue via phone with Bureau personnel and amended the motion to require harvesters to purchase at least 600 tags of their initial tag allotment by July 7, 2009. Participants who purchased less than 600 tags of their allocation by this date would not be eligible to purchase any additional tags of their allotment. All remitted quota would be equally distributed among all remaining, eligible participants.