

DRAFT Meeting Summary
Oyster Advisory Commission (OAC) Meeting
 University of Maryland Eastern Shore
 Princess Anne, Maryland
 (4:00 PM – 7:00 PM)
 September 17, 2008

LIST OF ATTENDEES

Commissioners Present:

William Eichbaum (Chair)	Vice President, World Wildlife Fund
Eric Schott, Ph.D.	University of Maryland Biotechnology Institute (UMBI) - Center for Marine Biotechnology
Senator Richard Colburn	Maryland Senator, Dorchester County
Mark Luckenbach, Ph.D.	Virginia Institute of Marine Science (VIMS), Wachepreague Laboratory
Delegate Tony O'Donnell	Maryland Delegate, Environmental Matters Committee; Legislative Sportsmen's Caucus 2001
Douglas Legum	General Partner, Real Estate Development
Ben Parks	Maryland Watermen's Association, Dorchester County
Don Boesch, Ph.D.	President, University of Maryland Center for Environmental Science (UMCES)
Don Webster	University of Maryland Cooperative Extension

Commissioners Unable to Attend:

Kim Coble	Chesapeake Bay Foundation (CBF)
Delegate Stephen Lafferty	Maryland Delegate, Environmental Matters Committee 2007
Sherman Baynard	Coastal Conservation Association
Brian Rothschild, Ph.D.	Montgomery Charter Professor of Marine Science and Technology, School for Marine Science and Technology, University of Massachusetts Dartmouth
Jason Ruth	Harris Seafood Co. LLC
Bill Windley	Maryland Saltwater Sportfishermen's Association
Bill Richkus, Ph.D.	Operations Manager and Division Director, Versar, Inc.
Torrey Brown, M.D.	President, Intralytix; Board of Trustees, Chesapeake Bay Trust; Chairman, Oyster Recovery Partnership (ORP)
Doug Lipton, Ph.D.	University of Maryland (UMD), Sea Grant Coordinator
Mark Bryer	The Nature Conservancy
Pat Montanio	Director, Office of Habitat Conservation – National Oceanic and Atmospheric Administration (NOAA)

Other Meeting Attendees Present:

National Oceanographic and Atmospheric Association (NOAA): Mr. Peyton Robertson

Chesapeake Bay Seafood Industry Association (CBSIA): Mr. Bill Sieling

Maryland Department of Natural Resources (MD DNR): Mr. Mike Naylor, Mr. Chris Judy

Maryland Environmental Service (MES): Ms. Kerri Martin, Mr. Joshua Chapman

Maryland Oysterman's Association (MOA): Mr. Jim Mullin, Mr. Jim Kline, Mr. Marc Castelli

Oyster Recovery Partnership (ORP): Mr. Stephan Abel, Mr. Steve Allen

Somerset Co. Watermen's Assn. (SWA): Mr. Lommy East, Mr. Ray P. Manny, Mr. Greg Price, Mr. Daniel Webster, Mr. Wayne Boeman, Mr. Russell Morgan, Mr. Edgar Brimer, Mr. Grant J. Corbin, Sr.

Tangier Sound Watermen's Assn. (TSWA): Mr. Roland Bradshaw

Coastal Conservation Assn. (CCA): Mr. Larry Jennings, Mr. Ken Lewis

Morgan State University (MSU): Mr. Kelton Clark

University of Maryland Sea Grant Program: Mr. Tom Rippen

Southern Maryland Oyster Cultivation Society (SMOCS): Mr. Len Zuza

Public: Mr. Harold Kennerly, Mr. Jim Perdue, Mr. Charles Evans, Jr.

ACTION ITEMS

1. The OAC will determine the date of their next meeting based upon the release of the Oyster EIS.
2. A blank map of the Chesapeake Bay will be distributed to all OAC members for developing their own oyster industry strategies.

MEETING SUMMARY

Opening Remarks and Meeting Objectives (Bill Eichbaum, OAC Chairman)

Mr. Eichbaum welcomed the members of the Commission and other meeting attendees to the meeting. He welcomed the members of the watermen's associations and noted that the OAC was meeting in Princess Anne in order to facilitate the participation of lower Eastern Shore watermen. Mr. Eichbaum stated that the next couple of meetings would likely be held in the Annapolis area and would focus on the review of the Oyster EIS.

Mr. Eichbaum informed the group that Ms. Kathy Brohawn, Maryland Department of the Environment (MDE) was unable to attend today's meeting and would be invited to present in October. In addition, Mr. Peyton Robertson, National Oceanographic and Atmospheric Administration (NOAA), would be providing a short update on the proceedings of the recent Congressional hearings on oyster fishery issues directly after the initial public comment period.

Approve August 17, 2008 Meeting Summary (Bill Eichbaum, Chair)

Mr. Eichbaum noted that recommendations from the Industry Re-Emergence workgroup had been attached to the previous month's summary. However, upon a short discussion, the August summary was approved without this attachment.

Public Comment

Mr. Greg Price, a Somerset County waterman, said that he had been following the discussion over whether or not to introduce a non-native oyster. He supports an introduction because it is the best solution to problems with the Chesapeake Bay oyster fishery.

Mr. Eichbaum noted that the issue of whether or not to introduce non-native oysters to the Chesapeake Bay is of great concern to the Commission. He noted that the Environmental Impact Statement (EIS) would be reviewed by the OAC when it is released in the next few weeks. Mr. Eichbaum asked MES for a status update on the EIS. Mr. Chapman replied that the EIS is scheduled for release on October 17, 2008.

Sen. Colburn suggested that the next commission meeting be re-scheduled to occur after the release of the Draft EIS. Mr. Eichbaum was hesitant to change the date of the next meeting because a change of date could confuse potential attendees. Dr. Luckenbach noted that the document is close to 1400 pages long, and there would not be adequate time to review the EIS before an October meeting. Mr. Eichbaum suggested that a decision be made in a few weeks when the OAC receives copies of the EIS for review.

Update on Congressional Hearings Concerning Oysters (Peyton Robertson, NOAA)

Mr. Robertson said that U.S. Senators from Maryland and Virginia met and discussed, among other issues, the Chesapeake Bay oyster fishery. The senators asked about the EIS, specifically, if all eight original alternatives were still going to be included. They were told that all eight would be included, but the Draft EIS would also contain few specific combinations of the alternatives. The Senators also asked questions concerning the influence of disease on oyster populations in the Bay.

The House Natural Resources Committee also discussed the Chesapeake Bay oyster fishery at a recent meeting. Dr. Roger Mann, Virginia Institute of Marine Sciences (VIMS) provided background information for the committee. Mr. Robertson noted that the work of the OAC was mentioned frequently during the hearing, with specific references to the preliminary report released in January 2008. The Committee seemed to agree that ecological and economic restoration couldn't both be the focus of oyster restoration; one of the two will need to be decided on. Questions were raised about the buyback programs and disease resistance. The Committee asked Mr. Robertson what role the Federal government should play in restoration efforts, specifically, whether public or private funding of oyster restoration was of bigger concern. Mr. Robertson responded that both funding sources would be vital components of restoration. There was also a discussion about the role of science in oyster restoration. While there was some debate as to whether future scientific investigation should be in the form of research studies or applied scientific studies, there was agreement that more scientific information is needed on the Suminoe oyster (*Crassostrea ariakensis*). Mr. Eichbaum thanked Mr. Robertson for his update.

Harold B. Kennerly, Jr.; A Historical Perspective of Oyster Aquaculture

Mr. Webster introduced Mr. Kennerly as a long-time oyster grower and former owner of one of the largest oyster businesses in the nation, saying that Mr. Kennerly had spent many years cultivating oysters in his family's business, and had spent his life trying to promote oyster culture to watermen to expand the industry. Mr. Kennerly elaborated, saying that he began raising oysters with his father in the Nanticoke River, where leased bottoms were common even in 1935. Oysters grew well in the Nanticoke, often yielding two harvests a season. During his time raising oysters, he developed many new markets for oysters in-shell. He also kept up-to-date on oyster farming techniques, from growing oysters on bottom in the shallow waters around Nanticoke, and experimenting with other methods and areas. He concluded by saying that he believed that oyster farming could still be a profitable enterprise, despite the problems faced by the oyster today.

Del. O'Donnell asked Mr. Kennerly what he felt was the biggest impediment to private investment in oyster farming. Mr. Kennerly said that most important factor in oyster farming was direction from a trained biologist. He also noted that a site with an appropriate combination of good bottom and amount of nutrients must be identified for oyster aquaculture to be successful. Dr. Luckenbach asked if Mr. Kennerly had planted oysters on muddy bottoms before. He said that he had, with moderate success, for it had frequently taken up to 35 thousand bushels of shells per acre to make them productive. Dr. Luckenbach then asked if disease became a factor over time. Mr. Kennerly confirmed that warmer summers would often bring Dermo outbreaks, and that MSX became an increasingly serious problem in high salinity waters, prompting a move to less saline environments.

Mr. Parks asked how a waterman could get into the oyster aquaculture business. Mr. Kennerly said that the waterman would have to decide whether the oysters were to be grown on the bottom or in trays, and secure a location with the proper amount of nutrients. Mr. Legum said that he had heard about the success of tray-grown oysters, and suggested that the water filtration function of oysters could be used as another incentive to encourage aquaculture.

Mr. Eichbaum asked Mr. Kennerly what he would suggest to Gov. O'Malley if the Governor asked for advice on how to restore the oyster industry. Mr. Kennerly stated that in his opinion, an "oyster czar" should be appointed to manage oyster aquaculture operations. He said this was being done on the west coast and in France, and that the Chesapeake should follow their lead to remain a force in the oyster production industry.

Task Matrix Review (Bill Eichbaum, Chair)

Mr. Eichbaum asked Mr. Stephan Abel, Oyster Recovery Partnership (ORP), to review the latest task matrix for the Oyster Advisory Commission. Mr. Abel began by briefly explaining the chart's organization; the chart is divided into three columns, one explaining the issues facing oyster populations, the second column listing action items, needing to be addressed, and the third column listing the current status of the issue at hand. Mr. Luckenbach asked who was intended to carry out these action items. Mr. Abel responded that the action items are measures or issues the OAC has recommended or will recommend to be addressed by outside parties that were initially highlighted in the Commission's interim report.

Mr. Abel said that disease was the first issue addressed in the matrix, the action item being increased research of disease-resistant oyster strains. Dr. Boesch noted that a significant change in the genetic makeup of eastern oysters would not be possible. Dr. Luckenbach noted that disease-resistance research could be useful in aquaculture programs, asking that this point be added to the matrix.

Mr. Abel went on to the next issue, which was shell availability. Mr. Legum noted that a New Jersey university has had some success in growing oysters on shell. Dr. Luckenbach clarified that the university was Rutgers, and agreed that the program was successful. Dr. Boesch said that identification of the most productive strains of oysters would be important to success in this area. Dr. Luckenbach agreed. Mr. Eichbaum asked that the commissioners not discuss the issues during the meeting, since the intent was simply to review the matrix.

Mr. Abel continued with the matrix review. He said that the last general issue with oysters was the availability of high-quality seed. The next issues were specific to ecological restoration: determining the benefit of restored oyster reefs, creating more high-quality oyster habitat, and the creation of a sufficient budget for ecological restoration. Under the broad topic of fishery restoration, the first issue identified by the matrix was the availability of bottom leases. This part of the matrix will be updated following Mr. Webster's presentation. The subsequent issues identified were funding for oyster fishery programs and training watermen in oyster aquaculture techniques; these issues will be discussed by the OAC in November. The last issues were oyster fishery management and public outreach, to educate the public about OAC recommendations.

Del. O'Donnell expressed concern that the matrix featured little mention of restoration of a natural oyster fishery when compared to aquaculture. Mr. Abel said that oyster aquaculture and the natural oyster fishery are separate management issues. Dr. Luckenbach pointed out that oyster aquaculture operations would not compete with or otherwise influence the natural oyster fishery. Del. O'Donnell recognized that point, but said that he was concerned that the wild oyster fishery would become defunct.

Del O'Donnell suggested the need for greater public outreach beyond what was indicated as the technical work and recommendations of the OAC. He believes it will be inadequate to simply do a public outreach on the recommendations and actions of the commission but that we need to engage in a continuing public outreach program beyond that to capture the public's imagination with regard to oyster restoration efforts. He cited his previous effort that passed into law a tax credit for waterfront property owners to grow oysters at their piers. This is currently in Maryland's tax law. He cited as an example of what he was talking about. The example was programs that over time have successfully engaged the public's interest in recycling household waste materials. Household recycling started out slowly decades ago but through continuous public outreach has become a successful and mostly voluntary program. If public monies will be needed as a funding source for OAC recommendations in the future, he believes it will be essential to engage the public in a way that they feel vested in the importance of as well as the success of any programs resulting from the Commissions efforts.

Dr. Luckenbach added that technical training was also needed in hatcheries, and he lauded the programs currently available through Horn Point and some Virginia community colleges. Mr.

Eichbaum noted that UMES could also offer this training. Mr. Webster noted that an excellent method of training future growers would be through 4-H clubs. This was recognized in MD in 1982 with the passage of legislation authorizing 4-H clubs to obtain leases for educational purposes. Mr. Legum suggested that the commission review possible sources of Federal funding for technical training.

Industry Re-Emergence (Economic Restoration Workgroup) and Aquaculture Discussion and Recommendation (Don Webster)

Mr. Webster began by introducing the Industry Re-Emergence Working Group (WG) and its stated objectives. He noted that shellfish leasing laws have not been updated for 103 years, and that literature on oyster farming from this time period is still relevant today. He summarized the history of oyster production in the Chesapeake, noting that the Virginia industry was based on private cultivation while Maryland's was based on public harvest. Disease has shrunk the overall size of the fishery creating much of the problem that we now face for restoration.

Mr. Webster discussed Industry Management Areas, which would be growing areas of public bars that would be managed by groups of watermen. Legislation would be required to support this concept. The WG endorses this idea, as it brings investment and gives property rights to watermen, which would be expected to manifest itself in careful fishery management.

Currently, each oyster-producing county has its own oyster committee. Unfortunately, communication between counties is often insufficient and in need of reorganization. Also, more funding is needed for natural resources law enforcement on oyster sanctuaries and managed reserves. There is a problem with undersize oyster harvesting because of the misguided idea that oysters will all die from disease anyway. Another problem arises from the failure of oyster buyers to pay the severance tax, reducing funding for improvements to the oyster fishery.

In addition, many improvements are needed to more strongly encourage aquaculture. Mr. Webster reported the recommendation of the Maryland Aquaculture Coordinating Council (MACC) that the entire section of the DNR title concerning shellfish aquaculture be repealed and replaced with new regulations. They believe that amendments to the current law would be insufficient to properly encourage aquaculture. MACC suggested that the multi-agency board that reviews aquaculture permits be given more power. The MACC is also developing the concept of Aquaculture Enterprise Zones at the direction of the legislature.

Mr. Parks noted that the state will need to prove it supports hatcheries by increasing funding for them, and streamlining the process. He stated that this would make support from watermen more likely.

Del. O'Donnell indicated it is in the states interest to manage working bars to maintain a healthy reserve. Mr. Webster indicated there has not been enough funding provided to properly investigate the long-term ecological benefits of the managed reserve program. Dr. Luckenbach suggested a mixture of private aquaculture and restoration, along with a worthy investment of seed would be best for the oyster population. Mr. Webster concluded, saying that oyster

aquaculture development will be a long-term project, and that economic benefits for the state would be very important.

Mr. Parks noted that good hatchery stock could produce oysters that live up to five years. Dr. Schott pointed out that this would not help the wild fishery. Mr. Eichbaum said that strengthening natural resources laws, enforcement, and prosecution would be a good short-term goal of oyster restoration. He went on to ask the Commission to think about ways to balance reserves, sanctuaries, aquaculture operations, and the wild fishery, using the maps distributed not as plans to be compared, but as jumping-off points to create a more efficient oyster fishery. Mr. Eichbaum asked Mr. Abel to distribute a blank map to the Commission to draw up possible scenarios.

Public Comment

Mr. Zuza, a former employee of the Office of Management and Budget, suggested that the OAC create a plan identifying the infrastructure needed for successful oyster aquaculture, and how the state could procure the infrastructure. In addition, outreach in the private community, as well as the general public will increase the amount of private funding for oyster aquaculture. He believed that a plan to phase out state funding of oyster aquaculture should be drawn up.

Mr. Jim Mullins, Maryland Oystermen's Association, took issue with the implication that oystermen are stealing oysters. He presented a memo from Lt. David Gough, Natural Resources Police (NRP) and MD Delegate Michael Smigiel, stating that NRPs records show that there have only been seven cases of harvesting oysters on a sanctuary since 2000, six of which ended in conviction.

Mr. Ed Brimer asked what percentage of oyster spat live to become adult oysters. Dr. Boesch said that there were varied projections, but in general, the number was around 50%. Mr. Abel clarified that the 50% number represented oysters surviving to the first year, and that only about 20 – 30% of oysters survive to market size. Dr. Boesch agreed, and added that the industry is making efforts to cut down on harvest mortality. The public responded that even with 20% mortality, hatcheries were still producing a significant number of oysters. Dr. Luckenbach agreed, but noted that the best numbers to look at are the numbers of oysters found in the first survey; mortality rates can be misleading. Mr. Grant Corbin expressed frustration that \$54 million had been spent only for oysters to decline in population.

Adjourn

The meeting was adjourned.