

**Suffolk County Aquaculture Lease Program Advisory Committee
Public Meeting**

MEETING SUMMARY

May 14, 2008

Meeting Number 15

Location: Cornell Cooperative Extension, Kermit W. Graf Building,
423 Griffing Avenue, Riverhead, New York – Second Floor Conference
Room

Start/End: 4:00 p.m. / 6:15 p.m.

Attending: *Members/Alternates*
Tom Isles, DeWitt Davies, Jay H. Schneiderman, Martin Trent, Tamara
Sadoo, Kenneth L. Koetzner, Debra Barnes, Arnold Leo, Gregg Rivara,
Cornelia Schlenk, John Aldred, Wayne L. Grothe, David Lessard, Peter
Bethge, James McMahon, William M. Wise.

Staff
Daniel Gulizio, Laretta Fischer, Jennifer Kohn, Michael Mulé, Barbara
DelGiudice

Others
Gregory Greene, Keith Brewer, Kimberly Somers, Robert Nuzzi, Dean
Yaxa, Treimane Eason, Floyd Carrington, Chuck Steidle, Michael
Kujawa, Christina Grahn, Jen Skilbred, Robert W. Ott, Florence
Sharkey, Norman Edwards

Materials

Distributed: Meeting Agenda; April 2, 2008 ALPAC Meeting Summary; *Underwater
Land Title Search Data Report – February 2008*; Oyster Grant Activity
Maps; Suffolk County Shellfish Aquaculture Lease Program
Administrative Guidance – First Draft May 14, 2008; Letter to Dr.
Lawrence Swanson, Council Environmental Quality, from Thomas A.
Isles dated May 7, 2008 including Summary of Substantive Comments
on DGEIS, Written comments on DGEIS received as of May 7, 2008,
Written comments on the Preliminary Draft Administrative Guidance
received as of May 7, 2008, March 19, 2008 CEQ Meeting Transcript
(pp. 7-88), and the April 17, 2008 CEQ Public Hearing on the DGEIS
Transcript.

Welcome and Introductions

Chairman Tom Isles began the meeting by giving a quick overview of the agenda and a summary of work conducted at previous meetings. T. Isles introduced Peter Bethge as the new member of ALPAC, replacing Edward Bausman as the representative for the Town of Shelter Island.

Review of April 2, 2008 ALPAC Meeting Summary

T. Isles asked the committee for comments regarding the April 2, 2008 ALPAC Meeting Summary. No comments were raised.

Correspondence, Communications and Updates

DeWitt Davies gave a brief summary of the correspondence and communications the County has received regarding the Lease Program since the last ALPAC meeting on April 2, 2008. Phone calls were received by Dennis Quaranta of Winergy Power LLC regarding the topics in his letter to the County dated April 14, 2008 (primarily requesting a change in the Shellfish Cultivation Zone Map to include an area located to the south of Plum Island); and from Matthew Atkinson of Peconic Baykeeper regarding his email to the County dated May 1, 2008 on the approach taken in the lease program that de-couples the County process of issuing leases from the NYSDEC process of issuing shellfish culture regulatory permits. Also received from John Aldred was the newly released *East Hampton Town Shellfish Hatchery 2007 Annual Report of Operations/ 2008 Operating Plan*.

D. Davies informed the group that comments received on the Draft Generic Environmental Impact Statement (DGEIS) during the public comment period and during the public hearing have been compiled and are attached to the letter to the Council on Environmental Quality (CEQ) dated May 7, 2008 in the handout material. D. Davies explained that also attached to this letter is a complete transcript from both the March 19, 2008 CEQ meeting where the Council first considered the DGEIS, as well as the April 17, 2008 public hearing on the document. D. Davies stated that the County is still awaiting comments from the NYSDEC, which are expected to be submitted to the County by June 1, 2008. All of the comments and correspondence received will be included in the Final Generic Environmental Impact Statement (FGEIS).

D. Davies added that the funding request for surveying lease boundaries was approved by the Suffolk County Water Quality Review Committee on April 24, 2008 and has been advanced to the resolution phase. It is expected that the resolution will be presented to the Legislature in June.

Karen Rivara asked whether the County has reached out to the Department of Agriculture and Markets for comments. Tom Isles replied that they have not been contacted, but they will be contacted to advise them of the lease program.

Distribution of Underwater Land Title Search Data Report

Michael Mulé gave a brief presentation on the database for the title search conducted by the Division of Real Property Acquisition and Management on over 400 underwater land parcels in Peconic Bay and Gardiners Bay, and related recommendations contained in the *Underwater Land Title Search Data Report*. M. Mulé also gave the group an overview of the status breakdown of all the oyster grant lands as shown on the Oyster Grant Activity Maps. M. Mulé explained that, based on the title search findings and permit information provided by NYSDEC, there are currently 65 privately-held underwater land parcels in Peconic Bay and Gardiners Bay accounting for 5,800 acres. Of this total, about 5,100 acres are not permitted for shellfish aquaculture, i.e., are fallow. About 700 acres are permitted for shellfish culture, and of this total 366 acres are associated with title conflicts.

John Aldred asked whether the parcel identified as grant #61 in Map 2 of the report that is listed with title conflicts is privately owned. M. Mulé explained that oyster lot #61 listed in Appendix B is privately owned. He further explained that the parcel identifying numbers on Map 2 relate only to the owner names listed on the map, and that these key numbers do not relate to the oyster lot numbers in Appendix B.

Debra Barnes stated that the grant identified in the report as grant parcel #18 on Map 2 is actually five or six grants, only some of which have permits to cultivate shellfish. M. Mulé replied that the title search was conducted using the Suffolk County Tax Map Base, which may have more than one grant on a parcel.

Arnold Leo stated that the owner for the grant identified in Map 2 of the report as grant parcel #64 has been deceased for 20 years and may be in the ownership of his family.

T. Isles stated that any comments regarding the *Underwater Land Title Search Data Report* can be submitted to the M. Mulé.

Report on CEQ April 17, 2008 Public Hearing

M. Mulé gave a brief overview of the status of the SEQR process for the program. He informed the group that the next step for SEQR is to submit all public comments received on the DGEIS to CEQ at their May 21, 2008 meeting, and to seek a recommendation to proceed with the preparation of a FGEIS. The comments are expected to be presented to the County Legislature in June.

Keith Brewer, Cashin Associates, P.C. (CA), provided a summary of the substantive comments received. K. Brewer explained that the majority of the comments received referred to oyster grant lands, hydraulic dredging, environmentally and socio-economically sensitive areas identified in the study area, and shellfish cultivation practices. K. Brewer also presented a portion of the Draft Shellfish Aquaculture Lease Map showing available lease areas delineated into 20-acre parcels consisting of a 10-acre lease area and surrounding buffer area. He explained that a lease holder would be able to identify a desired lease area from the map. Each leaseable parcel would be issued an

identification number that would be used to tag cultivation equipment used on the lease site.

T. Isles added that the transcripts of the CEQ Meeting conducted in March and the CEQ Public Hearing on the DGEIS in April are also attached to the letter, and if a commenter has any discrepancies on their comment to please advise the County of same. Greg Greene (CA) informed the group that every comment received will be issued a response, whether positive or negative. The response to comments will be the main part of the FGEIS. The FGEIS will also include revisions to the Lease Program Components in response to comments. A draft response to comments will be developed and submitted to the County for review.

Suffolk County Shellfish Aquaculture Lease Program Administrative Guidance Report

T. Isles stated that this draft document describes the procedures for implementing the Lease Program. He stated that more drafts of this guidance document will follow, as this is the first draft.

G. Greene stated that the document will provide additional details of how the program will be implemented, and the public comments received through April 23, 2008 have also been taken into consideration in this draft. G. Greene provided an overview of the major changes to the guidance document from the Preliminary Draft Administrative Guidance document dated April 2, 2008.

J. Aldred asked if an oyster grant would be considered active if it was only permitted for oyster cultivation in the past 10 years. G. Greene replied that such grants would not be considered as fallow, but does not have an answer at this time as to whether they would be eligible for cultivating other shellfish species.

Arnold Leo asked if a grant holder would be permitted to cultivate shellfish other than oysters on their entire grant, or on only a portion. G. Greene replied that if a grant holder seeks to cultivate species other than oysters on a small portion of their grant, and no proof can be produced indicating that the grant holder uses plot rotation, then a lease could be issued to that small portion of the grant parcel.

Karen Rivara stated that she does not want to be limited to an active portion of her oyster grant because she needs the non-active portions to provide for more flexibility and modify activities as conditions change. G. Greene replied that it is not the intent of the Lease Program to curtail shellfish farmers and the proper operation of a grant.

A. Leo asked if consideration would be given to grants in commercially-sensitive areas (e.g., conch harvest areas, gill netting areas) and navigational channels. G. Greene replied that navigational channels have been excluded from the Shellfish Cultivation Zone and that the grants that are in commercially sensitive zones are primarily located in Gardiners Bay. G. Greene added that most of the grants in Gardiners Bay are considered fallow, and would only be allowed to enter the Lease Program on a limited phased basis.

Public comment from Dean Yaxa, oyster grant holder: Peconic Bay and Gardiners Bay have not been commercially harvested for shellfish in many years. Diggers come to these areas, and then they go; nobody cares to shellfish commercially in these areas. It is not profitable.

A. Leo stated that item #19 of the guidance document indicates that the County will provide for a survey of each lease. A. Leo reiterated his statement from previous meetings asking that some portion of the lease fees be designated to a fund that could reimburse the County for the costs of the surveys. T. Isles replied that this topic would be taken under consideration, but that other fees collected by the County usually go to the general fund.

Bill Wise: If applying for a lease in January or February, when will the lease actually begin? G. Greene: It could take effect the following year.

J. Aldred asked if there is any flexibility on changing the shape/location of the lease, for example, if a lease holder wants a portion of the buffer zone within each grid for a lease.

K. Rivara asked if active grants can continue their cultivation activity through the Lease Program and if they would be subject to a public comment period, and also if active grants could continue their current operations during the year that the program is adopted by the County. G. Greene replied that it is not the intent of the program to stop current shellfish cultivation operations.

D. Barnes asked if any of the grids on the Shellfish Lease Map have been designated to specific types of culture (e.g., on or off bottom). G. Greene replied that the County would like to provide the maximum choice possible to a lease applicant when choosing a lease site.

Public comment from Floyd Carrington, NYS-licensed land surveyor: Survey costs would be lower if multiple leases are surveyed at one time. The guidance document should also identify that surveys shall be performed by a licensed surveyor.

Public comment from Treimane Eason, NYS-licensed land surveyor: Are transfers or subleases allowed on leases, and has the lease fee been calculated to include the buffer? G. Greene replied that transfers of leases or subleases are allowed under the Lease Program, and the lease fee would not include the acreage of the buffer zone.

Public comment from Michael Kujawa, Winergy Power LLC: The Lease Map should include information on water depths and bottom contours of lease sites. If two leases are contiguous, would the lease holder be permitted to cultivate shellfish within the adjoining buffer area? G. Greene replied that the water depths could be superimposed on the Lease Map; however, an answer to the buffer question would have to be researched.

Public comment from D. Yaxa: Water depths are important and should be included on the Lease Map.

Public comment from Florence Sharkey, Brookhaven Baymen's Association: How will the leases be buoyed off? According to the law of the land, every 100 feet is required to be marked around the perimeter of a property. G. Greene replied that each lease site will be required to be marked legally in accordance with US Coast Guard standards.

B. Wise asked who would determine the validity of a productivity claim? G. Greene replied that it would be the responsibility of the County Program Administrator.

J. Aldred asked if an applicant could perform the ground truthing survey. T. Isles replied that an independent party with appropriate expertise would be required. G. Greene added that a survey must be documented.

Cornelia Schlenk asked why the criteria for the payment of ground truthing surveys, as stated in the April 2, 2008 draft, was changed. K. Brewer replied that it would be difficult to retrieve payment from a disputing private individual.

B. Wise asked if there were any specific criteria to deem whether a comment is credible in order to prevent frivolous objections intended to hold up the program. D. Davies replied that specific criteria for this and other components will be developed for the program to present to the decision makers.

Wayne Grothe asked if the statement regarding the incidental harvesting of wild shellfish on a lease site under "shellfish regulations" in the guidance document was from the NYSDEC. D. Barnes replied that it appeared to be from the ECL.

Public comment from F. Sharkey: How can you get an accurate reading from a crane that spills the sample during the survey? Is there any other sampling method to use?

Public comment from M. Kujawa: What if there is a hazard (e.g., drum) on the lease land that would be disturbed during the ground truthing sampling?

B. Wise asked if there are other criteria for excluding lands from the cultivation zone, such as buried hazards. G. Greene replied that historical sites within the study area have been researched as part of the DGEIS.

C. Schlenk suggested that additional information, such as grain size, obtained during the ground truthing survey should be used or shared with others. D. Davies added that it may be possible to coordinate ground truthing work with the County's Water Quality Monitoring Program.

Public Comment from Norman Edwards, Town of East Hampton Trustee: The County should not negate historic shellfishing beds even if the current sampling survey shows that such beds are non-productive..

Public Comment from T. Eason: Who determines sample locations for the productivity survey? G. Greene replied that qualified personnel would use random sampling and GPS to conduct a survey that would be statistically valid.

Jay Schneiderman asked if baymen or others have looked at the Lease Map to determine where the productive shellfish areas are located. He suggested getting baymen's input on the Shellfish Lease Map prior to implementing the program. G. Greene replied that baymen and other knowledgeable individuals were contacted to delineate these areas during the Shellfish Cultivation Zone development process. J. Schneiderman also inquired whether a family member could apply for a lease to obtain more acreage.

T. Isles asked the committee to review the guidance document and provide comments prior to the end of May.

A. Leo stated that during the April 2, 2008 ALPAC meeting, he requested that the topic of hydraulic harvesting be discussed at the May 14, 2008 ALPAC meeting. He reiterated his request that this topic be discussed at the next ALPAC meeting in June. T. Isles replied that this topic will be added to the next ALPAC meeting agenda, and that D. Davies will call him to discuss the focus of his concern regarding hydraulic harvesting. T. Isles added that the County does not have regulatory authority over hydraulic harvesting.

T. Isles requested feedback from the ALPAC members on the status of developing the Lease Program.

J. Schneiderman stated that ALPAC has done a thorough job, and asked who would pay for the lease boundary survey, as this information would be needed to be clarified to avoid time constraints. T. Isles replied that the Department of Planning has started the process of requesting funds under the County Water Quality Protection Program.

Martin Trent stated that the ALPAC process has been good to obtain the give and take of stakeholders on the issues..

C. Schlenk asked when ALPAC will see the responses to the comments received during the public comment period. G. Greene replied that the responses will be available in August 2008.

B. Wise stated that the Lease Program is developing a balanced, reasonable approach, and that it is important that Suffolk County work with NYSDEC to make the program efficient.

K. Rivara stated that she is happy that the County is moving forward with the program, and that the shellfish aquaculture industry is recognized as a sustainable growth opportunity.

W. Grothe stated that the process has been very transparent and allows the public to provide comments. He also commended the efforts of Cashin Associates on development of the Lease Program.

D. Barnes asked when the entire lease grid map will be available to view. She also raised the issue of how potential clusters of individual leases will be viewed from the permitting standpoint. G. Greene replied that this information will be presented at the next ALPAC

meeting. T. Isles added that if NYSDEC believes that clustering of leases is an issue, it should discuss this issue with the County.

Ken Koetzner stated that comments from NYSDEC on the DGEIS will be submitted to the County by June 1, 2008.

Gregg Rivara thanked Legislator Jay Schneiderman for his active participation at ALPAC meetings, and hoped that he would help educate other legislators about the lease program.

ALPAC Meeting Schedule

T. Isles asked the ALPAC members to submit any comments regarding the guidance document to the County by the end of the month. T. Isles stated that the next ALPAC meeting has been scheduled for Thursday, June 26, 2008, in the first floor conference room, Cornell Cooperative Extension.

Public Portion/Comments

No public comments were received.

Meeting adjourned at 6:15.