

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

**MEETING SUMMARY**

**November 8, 2007**

**Meeting Number 10**

Rev. 01-30-08

**(Amended as discussed at the January 8, 2008 ALPAC meeting)**

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

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

Attending: *Members/Alternates*  
Tom Isles, DeWitt Davies, Wayne Grothe, John Aldred, Edward  
Bausman, Stuart Heath, Gregg Rivara, Karen Rivera, Cornelia Schlenk,  
Carrie Meek Gallagher, Martin Trent, Robert Whelan, William Wise,  
James Gilmore, Edward Warner, Jr., Jon Semlear, James McMahon,  
David Lessard, Debra Barnes, Arnold Leo.

*Staff*

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

*Others*

Gregory Greene, Keith Brewer, Kimberly Somers, Floyd Carrington,  
Kevin McAllister, Bill Pell, Michael Craig, Thomas J. Kehoe, Ken  
Stauffer, David Relyea, Chip Maran, Dennis Quaranta, Michael Kujawa,  
Jennifer Skilbred, David Bergen, Chuck Steidle, Howard Pickerell,  
Michelle Weiss, John Dunne, Laura Stephenson, Rebecca Packard, Scott  
Gillis, William P. Caldwell, Brian Mastaglio

Materials

Distributed: Final meeting agenda; September 26, 2007 ALPAC Meeting Summary;  
Lease Program and its Goals and Outcomes (Draft); Oyster Grant Title  
Search Summary (Draft); Reports from Cashin & Associates Task 1.3 –  
Interviews (Telephone Discussion with Ramashwar Das, Town of East  
Hampton - September 17, 2007; Telephone Discussion with Dean Yaxa -  
September 27, 2007; Telephone Discussion with Ed Warner, Trustee,  
Town of Southampton – October 16, 2007; Email Correspondence from  
East End Marine Farmers Association – October 20, 2007; Telephone  
conversation with David Lessard, Town of Riverhead – October 23,  
2007); Draft Preliminary Shellfish Cultivation Zone Maps – Alternative  
1A and Alternative 1B.

Chairman Tom Isles began the meeting by giving a quick overview of the agenda. A brief summary of the preceding meetings and what has transpired to date was provided. T. Isles informed the committee that Mr. Jim Gilmore will be replacing ALPAC Committee member Mr. Gordin Colvin as the NYS DEC Bureau of Marine Resources representative. There were no comments on the summary of the September 26, 2007 ALPAC meeting.

Mr. DeWitt Davies gave a brief summary of the communications the County has received regarding the lease program since the September 26, 2007 ALPAC meeting. Communications received and discussed were submitted by Mr. Bob Whelan, Ms. Karen Rivara, Mr. Dennis Quaranta, and Mr. Dean Yaxa.

### Lease Program Goals and Outcomes

D. Davies then discussed the Draft Legal Basis for Suffolk County Authority and the Lease Program Goals and Outcomes handout. He noted that the recently passed County Proposition No. 1 (Suffolk County Drinking Water Protection Program) contains an explicit reference to “management of underwater lands subject to Suffolk County shellfish aquaculture leasing authority” as an activity that would be eligible for funding under the County Water Quality Protection/Restoration/Land Stewardship Program.

Mr. Bill Wise noted that the term ‘anoxia’ used to describe low dissolved oxygen levels in the lease program Outcomes handout should be changed to the correct term, ‘hypoxia’. D. Davies stated that the correction will be made to the handout.

Mr. John Aldred mentioned that he would like to see the interests of the local municipalities included in the outcome of the lease program. T. Isles reassured the committee that it is not the County’s intent to monopolize the lease program, and that the County would like to receive comments from the local town’s regarding the lease program’s goals and outcomes.

### Oyster Grant Title Search Progress Report

Mr. Michael Mulé gave a brief overview of the status of the title search that the Division of Real Property Acquisition and Management conducted for the underwater lands throughout the Peconic Estuary. He stated that the title search has been completed. Over 500 title searches were researched and approximately 5% (5,923 acres) of the underwater lands in the estuary are privately owned. The total acreage of the 466 tax map underwater parcels is approximately 110,240 acres. Fifty (50) parcels were identified as privately owned, and account for approximately 4.25% (approximately 4,676 acres) of the entire estuary. An additional 17 parcels, accounting for 1% (approximately 1,246 acres) of the estuary, currently have title issues (e.g., dual ownership) and will be considered as private ownership until further resolved. Parcel sizes ranged from less than 1 acre to hundreds of acres. M. Mulé added that a final report will summarize the execution of the title search, with details regarding each identified private parcel.

Mr. Wayne Grothe added that The Nature Conservancy currently owns underwater lands in the Peconic Estuary that had been issued via colonial patent. He wanted to know how these lands will be affected by this program. (After looking into this issue, it appears that The Nature Conservancy's lands are located landward of the 1000-foot shoreline buffer, and therefore are outside the jurisdiction of the County program.)

#### Cashin Associates (CA) Progress Report

Mr. Greg Greene of Cashin Associates (CA) gave a brief overview of the status of the DGEIS and maps created to date. G. Greene provided a summary of the data collection and interview process since the last ALPAC meeting on September 26, 2007. He explained that CA contacted the Towns of Riverhead, Southold, Southampton, and Shelter Island requesting input on shellfish cultivation zones. He briefly discussed the responses received from the Towns of Riverhead and Southampton. In addition, a brief overview of telephone conversations and emails received from Ramashwar Das, Dean Yaxa and Karen Rivara were presented. Draft memos of CA's correspondence with Riverhead, Southampton and on other stakeholder input were included in the meeting's packet. G. Greene expressed that CA would like to be as open as possible, and would appreciate receiving additional comments on the draft memos presented, and other aspects of the project.

Ms. Kimberly Somers, CA, gave an update on the *Draft Existing Aquaculture Programs within the Peconic and Gardiners Bays* report. K. Somers also provided a brief summary of progress on the DGEIS, saying that it is about 90% complete.

Mr. Keith Brewer, CA, provided an overview of the lease program alternatives (Alternatives 1A – Maintain Existing Access; 1B – Moderate Expansion Over and Above Existing Access; and 2 – No Lease Program) and the Preliminary Draft Shellfish Cultivation Zone Maps. K. Brewer explained that under Alternative 2, no County lease program would be implemented and access would be obtained through current practices. Under Alternative 1A, the existing temporary marine area use assignments within the shellfish cultivation planning area would be incorporated into the Suffolk County lease program. The temporary assignments that are situated partially or completely within the 1,000-foot shoreline buffer zone would not be included in the lease program under Alternative 1A, but could be considered if the assignment holder is willing to move the site beyond the 1000-foot boundary. Oyster grant parcels, or a portion of which, that lie within the shoreline buffer will also not be included in the County's lease program under Alternative 1A; however, they will be able to cultivate shellfish under the provisions of their NYSDEC cultivation permits. Oyster grants located seaward of the 1,000-foot buffer would be included in the lease program.

K. Brewer explained that Alternative 1B is the same as Alternative 1A, with the addition of a 1% growth increase per year for shellfish cultivation beyond the existing grants and assignments. He explained that the 1% growth rate for Alternative 1B was based on the total acreage of existing temporary marine use assignments and oyster grants (approximately 6,000 acres). Under Alternative 1B, the 1% growth rate per year (about

60 acres) would continue for five years and undergo a review process during the fifth year. The Draft Shellfish Cultivation Zone Alternative 1B Map depicts the area where the 1% growth could occur; it is designated under the legend category “Area Considered For Additional Lease Placement,” and is shown on the Alternative 1B map in blue color.

K. Rivara asked what would happen to the temporary marine area use assignments that were outside of the 1,000-foot shoreline buffer, but not in the blue area. K. Brewer replied that those temporary assignments, given that they have been conducting shellfish cultivation activities on their sites and meet the 2004 Leasing Law stipulations, will be incorporated into the lease program and be considered as cultivation zones. G. Greene added that the lease program would not interfere with the existing rights of the oyster grants. D. Davies informed K. Rivara that existing shellfish cultivation activities would be grandfathered; temporary assignments inside the 1,000-foot shoreline buffer would be moved into the shellfish cultivation planning area outside that 1000-foot mark and be considered shellfish cultivation zones; and grants holders cultivating shellfish species in addition to oysters would be accommodated through different leasing arrangements. D. Davies added that specific lease details still need to be worked out, but it is not the intent of the lease program to prevent current shellfish farms from continuing their activities in the future.

J. Gilmore asked what the long-term goal of the lease program was; and if there would be a 1% increase every year, how many years would it continue. D. Davies replied that the 1% growth rate per year for the first five years allowed for conservative growth to occur. A cap on “new” acreage leased could also be established later, if warranted.

Mr. Martin Trent asked CA if they have received any input from recreational fishermen. K. Brewer informed him that Greenport headboats have been consulted, and CA will be contacting other recreational interests in the near future. G. Greene added that any navigation channels (formal or informal) will be placed on the Draft Shellfish Cultivation Zone Map to further refine the cultivation area.

Mr. Arnold Leo requested clarification on the difference between Alternative 1A and Alternative 2. T. Isles informed A. Leo that the temporary marine use assignments under Alternative 2 provide for “temporary” access, in that they are subject to renewal decisions each year by NYS DEC. A. Leo also said that Councilwoman Pat Mansir stated at a recent Town of East Hampton meeting that recreational fishermen and other recreational users of the bay should be contacted as part of this program.

B. Wise asked whether the terms and conditions can change for the oyster grant lands that have become fallow, but are still paying taxes to the County. K. Brewer explained that all oyster grants, fallow or active, have been included in determining the 1% growth rate since they retain the right to cultivate oysters at any time.

T. Isles requested input on the Shellfish Cultivation Zone from the each of the ALPAC members.

Ms. Cornelia Schlenk expressed concern over the impacts that aquaculture gear could have on navigation interests, especially in channels. She also added that Sea Grant has a person who works with recreational fisheries, and will provide CA with contact information.

Mr. Ed Bausman suggested that some of the land in the blue area be used on a trial basis, and expressed concerns regarding impacts of hydraulic shellfish harvesting on finfish populations, and the creation of a monoculture system on the seabed as a result of shellfish farm activity. He agreed with the conservative 1% shellfish cultivation growth rate.

J. Aldred stated that interest in leasing could be high during the early years of a leasing program, and that the 1% rate may not be sufficient. Should it be raised to 2% or higher?

J. Gilmore asked whether the County has considered instituting harvesting windows for the lease program to avoid sensitive ecological periods, such as spawning times, especially if hydraulic dredging is permitted. Protection of Essential Fish Habitats is an important factor.

K. Rivara expressed concerns for allowing existing shellfish cultivation activities currently conducted on temporary assignments to continue. She also added that the 1% growth rate cannot restrict oyster grant holders that currently cultivate other species of shellfish, and that oyster grant holders seeking a lease to add other shellfish species to their grant should not be considered in the 1% growth rate.

Ms. Carrie Meek Gallagher said that information in the DGEIS will help to analyze specific aspects of the proposed project. She also questioned whether or not the 1% rate would be sufficient to enable the shellfish aquaculture industry to grow. It is important to see what happens during the first five years and then re-evaluate.

M. Trent believed that the 1% growth rate may not be sufficient. Perhaps it should be larger and capped after evaluation during the first five years.

Mr. Robert Whelan asked whether off-bottom culture permits are issued for temporary assignments if they are located in a navigation channel. Ms. Debra Barnes replied that each permit application must undergo regulatory review by the Army Corps of Engineers and Coast Guard to determine if navigation could be impaired, and that special markers may be required.

Mr. Greg Rivara expressed that there could be a “gold rush” in efforts to secure new temporary assignments before any cut-off date is established in the leasing program.

Mr. Jon Semlear questioned the extent, if any, of the regulatory role that the County would have under a leasing program, given the NYS DEC authority over issuance of shellfish cultivation permits. He stated that shellfish dredging should not be part of a County program.

W. Grothe asked whether historical eelgrass beds would be researched, and whether a public meeting would be held once the final shellfish cultivation zone map has been completed. K. Brewer informed W. Grothe that historical eelgrass beds that were researched by Cornell Cooperative Extension have been added to the Draft Existing Conditions Map and considered in preparing the Draft Shellfish Cultivation Zone Map.

A. Leo asked how the 1% growth rate was determined. D. Davies explained that it is a percentage rate that would provide some access to new entrants without scaring opponents of the program. D. Davies stated that the 1% growth rate was used in order to try to define a reasonable approach. A. Leo stated that a 3% growth rate may be better suited for the program.

Mr. David Lessard questioned if the costs for obtaining leases had been determined, and who would be responsible for administering the program in the County. T. Isles replied that these issues have not been determined at this time, and are anticipated to be discussed at the December 13, 2007 ALPAC meeting. D. Lessard said that there must be minimum performance standards that a lease holder must meet in order to prevent speculation and improper acquisition of lease areas.

Mr. James McMahon stated that any future leases under the lease program should be monitored to make sure that shellfish cultivation activities are being conducted. He believes the percentage for expansion should be somewhere between 1 and 3 percent. He questioned how much demand there will be for new lease development, and stated that some may try aquaculture and give up after they realize how much hard work is involved.

J. Semlear stated that the lease program would be a benefit to the bay system. He believed that the bay was more productive when Long Island Oyster Farms was in operation, and that aquaculture helps productivity.

T. Isles discussed the ALPAC meeting schedule and agendas for December and January.

D. Davies informed the group that all project draft maps and reports will be posted on the project website.

J. Aldred requested that township boundary lines be shown on all future project maps. K. Brewer replied that CA would implement this change on all future maps.

Public comment:

1. Mr. Floyd Carrington (Raynor, Marcks & Carrington Surveying) quoted the New York State Environmental Conservation Law, Section 13-0302, Subsection 4 with respect to the preparation of an accurate survey as a condition for the leasing program. He expressed his concern for Suffolk County to comply with all applicable laws, including Article 145 of the NYS Education Law. He also suggested that fishing clubs and marinas be contacted to further identify areas of

recreational fishing interest. T. Isles replied that the work will be done in full accordance with all NYS laws, as he stated at the prior meeting.

2. Mr. Kevin McAllister (Peconic Baykeeper) stated that he agrees with the lease program, but feels that the growth rate should be conservative. The carrying capacity of the bay should be identified, and the ability to adjust the program as conditions warrant, e.g., eelgrass bed growth, should be considered. He expressed concern about the potential impact of hydraulic harvesting on fisheries, and that harvesting methods should be evaluated.
3. Mr. Bill Pell (Co-President of East End Marine Farmers Association, President of Southampton Oyster, temporary marine assignment holder, grant owner) stated that all existing temporary marine use assignments should not be lost as a result of the lease program; and that holders of temporary assignments that lie within the 1,000-foot buffer should be given first preference to move their operations to nearby sites just outside the 1,000-foot buffer. He stated that he would like to see the program go forward, but does not want to see fees substantially increase. He believes that hydraulic and mechanical dredging are productive for the bay bottom. As an assignment holder and an oyster grant owner, he wants to maintain access under a lease program to both areas. He also stated that grants are private assets, and should not be subject to loss because of lack of activity.
4. Mr. Mike Craig (East End Oysters, temporary marine assignment holder) stated that he would like to keep lease program costs at a minimum, and would like the option of expanding 5-acre sites to 10-acres.
5. Mr. Tom Kehoe (East Coast Shellfish Growers, East End Marine Farmers, K&B Seafood, Inc., temporary marine assignment holder) expressed Dean Yaxa's written comments, stating that K. Rivara is a responsible shellfish dredge boat operator, and that he does not want to move his parcel from within the 1,000-foot shoreline buffer into the cultivation zone.

T. Kehoe expressed his concerns that the 1% growth rate is too conservative, and would not do much for the industry. He stated that given the proper nurture and opportunity, a prosperous shellfish aquaculture industry can occur, and should be given the opportunity to expand. T. Kehoe believes that bottom culture and hydraulic dredging may be a viable alternative and should not be ruled out. He also requested CA to contact Mr. Robert Rheault, who is an expert in the aquaculture industry, and make arrangements for a presentation at a future ALPAC meeting.

6. Mr. Ken Stauffer (K&B Seafood) stated that oyster grant owners should have the ability to cultivate shellfish species other than oysters under the lease program, and that the 1% growth rate acreage cap should be in addition to any acreage leased on oyster grants.