

# Committee Reports







North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

**MEMORANDUM**

TO: N.C. Marine Fisheries Commission  
Sea Turtle Advisory Committee

FROM: Chris Batsavage  
Division of Marine Fisheries, NCDENR

DATE: July 15, 2015

SUBJECT: Sea Turtle Advisory Committee Meeting

The Sea Turtle Advisory Committee met at 6 pm on Thursday, June 18, 2015 at the Department of Environment and Natural Resources Regional Office at 943 Washington Square Mall, Washington, NC. The following attended:

Advisers: Bob Lorenz (Chair), Adam Tyler (Vice Chair), Matthew Godfrey, Craig Harms, Tricia Kimmel, Brent Fulcher, Chris Hickman, and Troy Outland

Absent: Richard Peterson and Charles Aycock

Staff: Chris Batsavage, Jacob Boyd, John McConnaughey, Jeff Dobbs, Daniel Ipock, and Garland Yopp,

Public: James Coulbourn

Bob Lorenz, serving as chair, called the meeting to order. He provided some opening remarks and welcomed Troy Outland to the Advisory Committee since he was unable to attend the meeting on March 19, 2015. Outland clarified that he came to the last meeting but was unable to get access to the building. Outland is a pound netter from Manteo and his interest in sea turtles comes from the impacts sea turtle management has had on his family and friends.

**MODIFICATIONS TO THE AGENDA**

Lorenz asked the committee if there were any modifications to the agenda were needed. Craig Harms brought up the following issues and comments he wanted to discuss at the meeting:

- Learn more about the leatherback sea turtle entanglement in the ocean off Topsail Island.
- Questions about how sea turtle interactions are recorded during research, if gillnet attendance is required for research nets, and what sort of mitigation takes places when researchers have interactions.

- Pier education outreach discussion. Several outside groups are doing outreach programs at Jennettes Pier.
- The National Oceanographic and Atmospheric Administration (NOAA) is planning a sea turtle meeting in the future for post-release mortality that Harms will be attending.

Lorenz said these issues can be discussed later in the meeting. As such, no modifications were made to the agenda.

### **APPROVAL OF MINUTES**

**Brent Fulcher motioned to approve the minutes of the March 19, 2015 Sea Turtle Advisory Committee meeting and was seconded by Adam Tyler—motion passes.**

### **OBSERVER PROGRAM UPDATE**

Jacob Boyd presented updated information on observer coverage estimates in 2014, as requested by the committee at their March 19, 2015 meeting. Final observer coverage estimates were not available for the last meeting because commercial gill net trip data from the North Carolina Trip Ticket Program is finalized in April. Boyd provided tables comparing the estimated observer coverage and final observer coverage for the large mesh gill net fishery by month and management unit. The overall observer coverage in 2014 based on finalized trip numbers was 8.8 percent; the 2014 overall observer coverage based on estimated trip numbers was 5.4 percent. Fewer large mesh gill net trips occurred in 2014 compared to previous years because of closures due to sea turtle interactions and to prevent red drum discards while the commercial red drum season was closed.

Brent Fulcher asked how the observer coverage is calculated to ensure the minimum observer coverage is met, and Boyd responded that it is calculated by management unit and season for large and small mesh gill nets. Chris Batsavage added that the Observer Program continues to collect observer trips after the estimated coverage (based on previous years) is met in case the number of gill net trips in a given management unit or season is higher than expected.

Fulcher suggested that a call-in system where fishermen notify the division's Observer Program before they go fishing would ensure observer coverage is met.

Boyd explained changes in observer coverage estimates. The program now uses the average annual fishing trips per management unit and season from multiple years instead of just the previous year. Boyd also discussed the recent closures of Management units A and B because of sea turtle takes.

Matthew Godfrey asked why there is such variability in yards per trip observed, and Boyd explained that alternative platform trips may only observe a portion of a trip, and yardage fished is variable between management unit and season.

Godfrey expressed concern that the Sea Turtle Incidental Take Permit (ITP) states that management units must close when take limits are approached, not exceeded, and he asked if

there should be some closures in fall to avoid the overage in Management Unit A. Boyd and Batsavage explained that they have spoken with National Marine Fisheries Service staff on how to avoid overages in the future.

Outland asked if the takes in Management Unit A were all around Oregon inlet and Batsavage explained that most occurred south of the US Highway 64/264 bridges over Croatan and Roanoke sounds—the portion of Management Unit A closest to Oregon Inlet. He added that the division may request moving the boundary line between Management units A and B up to the bridges (the boundary is located at Oregon Inlet).

Fulcher asked if there is a way to move the boundaries so smaller areas close when takes occur, and Boyd explained that the allowed sea turtle takes are already allocated to each management unit and cannot be changed under the current ITP.

Boyd also informed the committee that the division has placed instructional signs about sea turtle interactions on every ocean fishing pier in the state and plans are being made for training fishing pier staff on proper handling of sea turtles that interact with hook-and-line gear on the piers.

### **OBSERVER PROGRAM DATA VERIFICATION DISCUSSION**

Boyd explained the Observer Program data sheets provided for visual aid examples to the committee, and he explained the process of how data is recorded, transcribed, coded, and verified. The purpose was to show the committee the type of data recorded on an observer trip to determine the best method for fulfilling fishermen's requests for a way to verify the data recorded on their boat is accurate. Fishermen have always been able to request copies of the data from observer trips on their boats, but some in the industry do not trust the observers and they would not trust information provided two weeks after their trip.

Fulcher asked how long data recording and transcription takes, and Boyd replied that it usually takes two hours to complete the data coding, but it may not be completed until the end of the week due to other duties of the observer.

Fulcher stated he believed there is a disconnect between the industry's perception of how the data is recorded, and what actually happens. He also believed data issues are occurring dockside by observers recording incorrectly. Boyd explained the system and provided an example of a form the division proposes to provide fishermen with the data from the trip that they had an observer along with them, if requested. The system includes the fishermen signing the form to request their data in electronic form, hard copy, or both. This option could include the observers taking pictures of the data sheets to be sent to the fisherman. The data would be sent to the fisherman as soon as it was complete with the completion time depending on the workload at the time of the request. The fishermen also have the option of taking pictures of the field data sheets with their camera or cell phone at the end of the trip.

Fulcher did not believe that fisherman would have a use for the coded data. He thought the simplest form possible would be best, and Chris Hickman agreed. The form Fulcher was referring to is the Field Collection Sheet that observers fill out upon completion of trips.

Lorenz questioned whether a summary report of only commercially important catch would better suit the data requests, but Tyler said that the existing longhand form would be adequate.

Based on the discussion by the committee, the division will revise the proposed data request form, and the data provided to the fishermen will include the field data sheets and the observer trip information sheets; both provide information on the catch, gear parameters, location, and time of day fished for the observed gill net sets.

### **PUBLIC COMMENT**

No public comment

### **OTHER BUSINESS**

Lorenz opened discussion on topics discussed at the March 19, 2015 meeting and by Harms at the beginning of this meeting. He began with the call-in system Fulcher discussed at the March 19, 2015 meeting. Batsavage explained that due to a busy schedule and other priorities, the division has made very little progress on this.

Fulcher asked about the status of the memorandum of understanding for the N.C. Commercial Fishing Resources Fund board, and Batsavage replied that he would need to check on the progress.

Sergeant Garland Yopp provided the committee with information about the leatherback sea turtle entanglement Harms asked about at the beginning of the meeting. Sergeant Yopp was one of the officers who responded to the stranding. The sea turtle was entangled in a sink gill net offshore of the Jolly Roger Fishing Pier on Topsail Island. Yopp and other Marine Patrol officers successfully removed the sea turtle from the net and the sea turtle swam away. Harms commended Yopp and Marine Patrol for responding so quickly and for disentangling a very large sea turtle from a gill net.

Harms explained his concerns with research gill nets that had multiple sea turtle takes. Batsavage explained that this has been discussed by staff, and they are planning a meeting with the division's Fisheries Management section chief to discuss the issue in the near future.

Batsavage addressed Harm's interest in outside groups putting similar signs as the division about sea turtle interactions on ocean fishing piers. He plans on looking in to it further.

### **FUTURE MEETING TOPICS AND PLAN AGENDA ITEMS FOR NEXT MEETING**

Lorenz asked the committee if there were any items they would like to discuss at the next meeting.

Fulcher requested a report for the number of fishing days each area was open during the previous fishing year, and Batsavage agreed to provide this.

Outland asked why the incidental take permit fishing year begins in September and not January. Batsavage explained the fishing year was aligned with the beginning of the peak gill net fishing season. This helps prevent closures that would adversely affect peak fishing effort.

Batsavage said the committee will review and make recommendations on potential amendment items for the Sea Turtle Incidental Take Permit at their next meeting.

### **MEETING ARRANGEMENTS**

The next meeting is scheduled for Thursday September 17, 2015 at the Department of Environment and Natural Resources Regional Office in Washington, NC.

The meeting adjourned at approximately 7:40 pm.

/cb

|     |                  |                  |                         |
|-----|------------------|------------------|-------------------------|
| Cc: | Catherine Blum   | Jess Hawkins     | Jerry Schill            |
|     | Mike Bulleri     | Brad Knott       | Gerry Smith             |
|     | Scott Conklin    | Dee Lupton       | District Managers       |
|     | Dick Brame       | Nancy Marlette   | Committee Staff Members |
|     | Louis Daniel     | Lauren Morris    | Marine Patrol Captains  |
|     | Charlotte Dexter | Phillip Reynolds | Section Chiefs          |
|     | Kristy Long      |                  |                         |





INFORMATION  
WILL BE  
PROVIDED AT  
THE MEETING.





North Carolina Department of Environment and Natural Resources

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Secretary

**MEMORANDUM**

TO: N.C. Marine Fisheries Commission  
Oyster and Hard Clam Advisory Committee

FROM: Tina Moore  
Stephen Taylor  
Division of Marine Fisheries, NCDENR

DATE: May 11, 2015

SUBJECT: Oyster and Hard Clam Fishery Management Plan Advisory Committee Meeting

The Oyster and Hard Clam Fishery Management Plan Advisory Committee met Monday, May 4, 2015 at the Department of Environment and Natural Resources Regional Office, 943 Washington Square Mall, Hwy. 17, Washington, N.C. The following attended:

Advisers: Joey Daniels, Nancy Edens, Niels Lindquist, Stephen Swanson, Adam Tyler, Ted Wilgis, Jeff Taylor, Ami Wilbur

Absent: Dell Newman, Bob Cummings, Lee Setkowsky

Staff: Joe Facendola, Garry Wright, Trish Murphey, Dean Nelson, Tina Moore, Stephen Taylor, Clay Caroon, Jason Peters, Curtis Weychert, Alan Saunders, Steve Murphey, Brian Conrad

Public: None

Ted Wilgis serving as chair, called the meeting to order.

**MODIFICATIONS TO THE AGENDA**

**Adam Tyler made a motion to approve the agenda. Jeff Taylor seconded the motion. The motion passed unanimously.**

**APPROVAL OF MINUTES FROM March 9, 2015**

**Ami Wilbur made a motion to approve the minutes. Adam Tyler seconded the motion. The motion passed unanimously.**

Ted Wilgis gave an update on the Oyster Summit which had taken place on the 10<sup>th</sup> and 11<sup>th</sup> of March in Raleigh. Over 150 people attended the summit, which included discussion panels and a legislative reception. Wilgis outlined the goal of the summit to discuss and coordinate the major efforts to restore oysters in North Carolina. The goal of the summit was to promote

oysters and oyster restoration as a driver of economic development in Eastern NC. The summit highlighted the links between water quality, oyster habitat, and economics. Major topics of discussion included promoting mariculture, as well as techniques to help sustain the wild fishery. The Blueprint for Action Oyster Plan was commented upon as the engine driving restoration, and as a document to help coordinate key actions across all participating groups. Wilgis suggested visiting the Coastal Federation website or contacting him directly for more information on the summit or Oyster Steering Committee.

### **PUBLIC COMMENT**

None.

### **OVERVIEW OF OYSTER AND HARD CLAM HABITAT ENHANCEMENT**

Curt Weychert, plan development team member, presented an overview of the oyster and hard clam habitat enhancement sections. Weychert reviewed the history of both the oyster sanctuary and cultch planting programs. He highlighted that 8.5 million bushels of material has been planted over 1,600 sites since 1981, and that the oyster sanctuary program has been active since 1996. Niels Lindquist asked the location of the oyster sanctuary located in Bogue Sound. Weychert replied that it was near the old red tide relay site. Steve Murphey added that after a series of storms that sanctuary was buried due to being located in a high energy environment. Wilgis asked if the amount of oyster relayed onto private leases was tracked. Brian Conrad replied that he would be discussing this during his presentation. Lindquist asked about the current status of the remainder of the oyster sanctuaries, and commented that some sanctuaries are not located in appropriate locations. Weychert replied that site selections in the past have been informed by spat set on planted cultch. Lindquist commented that cultch sites may show boom and bust trends, and there is no long term monitoring to assess sanctuary viability. Lindquist added that in subtidal areas with high salinity oyster reefs would not establish, and in moderate salinity areas oysters may last for two years before declining. Lindquist elaborated that boring sponge is a real problem, and the use of concrete or granite may help. Weychert commented that there is a current review of site selection criteria and suitable materials within the sanctuary program. Lindquist encouraged staff to review the data he has sent to the Division when considering future sanctuary placement and design. Ami Wilbur commented that there is a benefit to locating sanctuaries in high salinity areas for the developing disease resistance. Lindquist emphasized that in high salinity areas the only reefs that would establish would be intertidal. Garry Wright commented that with present resources it is not possible to sample all sanctuaries intensively. Wilgis then asked if monitoring was funded through APNEP. Wright replied that there was not funding to perform monitoring. Wilgis asked if there was anything as an advisory committee could do to support monitoring efforts. Tina Moore responded that this could be incorporated into the amendment as research recommendations.

### **OVERVIEW OF THE OYSTER AND HARD CLAM PRIVATE CULTURE FISHERY**

Brian Conrad, plan development team member, gave an overview and an extensive historical timeline of the lease program and shellfish aquaculture in the state of NC. Lindquist asked for a clarification on the meaning of artificially propagated. Conrad defined this as “hatchery raised”, however pointed out that this term is not currently formally defined in statute. Wilbur made a clarification to a point in the historical timeline as presented by Conrad. She stated that 4.3 million dollars was spent on the UNCW hatchery, and the 8 million dollars cited by Conrad for

this was intended to fund all the proposed facilities. Wilgis asked if an individual with a submerged lands claim automatically receives a shellfish lease. Conrad replied that there is currently a list of submerged lands claims that are recognized as valid by the state Attorney General. He added that he has only has had one lease issued through a submerged lands claim.

### **OTHER BUSINESS**

Adam Tyler discussed questions he had regarding shellfish relay. He asked the committee members and attending division staff if the relay of oysters out of polluted areas was contributing to the downstream movement of polluted area boundaries. Wilgis replied that he was not aware of anyone looking at that question specifically. Stephen Taylor commented that during the 1990's significant bushel amounts were relayed in Brunswick Co. and the lines were not moving at that time. Steve Murphey added that permanent shellfish closures is correlated with the percentage of impervious surface within the watershed, with amounts of 10% or greater impervious surface in a drainage leading to closures. Stephen Swanson questioned if current relay practices which are taking the oysters functioning as a filter out of polluted areas is just washing the problem downstream. Lindquist commented that historically relay was done from areas of high salinity towards the ocean, to areas of low salinity in the upper tidal creeks. He also added that some thought should be given to a reversal in the direction of current relay practices. Wilgis commented on the current potential function of polluted areas in the southern region as sanctuaries. Steve Murphey commented that Virginia does open areas with high spat set that are not polluted to serve as source areas for relay into other open areas with low spat set. Lindquist remarked that they have experienced low mortality when moving oysters from areas of high to low salinity. Tyler remarked that this topic is something to think further about.

### **PLAN AGENDA ITEMS FOR THE NEXT MEETING**

Moore reviewed topics for the next meeting to be held June 15<sup>th</sup>. She highlighted the change in meeting dates and locations, with the July meeting occurring at the Central District Office in Morehead City. The Marine Fisheries Commission chairman requested that this meeting be held in the southern region, as the issues to be presented directly impact this area. This meeting will have a call in option for Advisory Committee members. Moore informed the group that once all issues and sections were presented to the committee, the draft of the entire document will be presented in October for their final input on issues at this stage. The first draft will then be presented to the MFC in November, then go out for public comment and the MFC standing and regional committees to gain their input. The Advisory Committee will be able to give the final document a last review at the January 2016 meeting and provide final recommendations on issues.

Chairman Wilgis adjourned the meeting.

/jf

Cc: Catherine Blum  
Mike Bulleri  
Scott Conklin  
Dick Brame  
Louis Daniel  
Charlotte Dexter

Jess Hawkins  
Jennie Hauser  
Dee Lupton  
Jessica Marlies  
Nancy Marlette  
Jerry Schill

Gerry Smith  
District Managers  
Committee Staff Members  
Marine Patrol Captains  
Section Chiefs



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**MEMORANDUM**

TO: N.C. Marine Fisheries Commission  
Oyster and Hard Clam Advisory Committee

FROM: Tina Moore  
Stephen Taylor  
Division of Marine Fisheries, NCDENR

DATE: June 22, 2015

SUBJECT: Oyster and Hard Clam Fishery Management Plan Advisory Committee Meeting

The Oyster and Hard Clam Fishery Management Plan Advisory Committee met Monday, June 15, 2015 at the Department of Environment and Natural Resources Regional Office, 943 Washington Square Mall, Hwy. 17, Washington, N.C. The following attended:

Advisers: Nancy Edens, Niels Lindquist, Adam Tyler, Bob Cummings, Jeff Taylor

Absent: Dell Newman, Lee Setkowsky, Joey Daniels, Ami Wilbur, Ted Wilgis, Joey Daniels, Stephen Swanson,

Staff: Trish Murphey, Tina Moore, Stephen Taylor, Joe Facendola, Garry Wright, Jason Peters, Curtis Weychert, Jacob Boyd, Steve Murphey, Greg Allen, Carter Witten

Public: Chuck Weirich

Bob Cummings serving as chair, called the meeting to order. The Advisory Committee did not have a quorum for this meeting.

**MODIFICATIONS TO THE AGENDA**

**The agenda was approved by consensus.**

**APPROVAL OF MINUTES FROM May 4, 2015**

**The minutes were approved by consensus.**

**PUBLIC COMMENT**

None.

## **OVERVIEW OF THE ISSUE PAPER; RE-DEFINING OFF-BOTTOM CULTURE**

Steve Murphey, DMF Habitat and Enhancement Section Chief, reviewed this issue paper which discussed the current definitions, regulations, and practices in the bottom and water column culture of shellfish in NC. This issue was brought to the attention of the Oyster and Hard Clam Plan Development Team (PDT) in March of 2013 by the Shellfish Growers Association (SGA). The SGA requested clarification of current definitions and added flexibility in bottom lease practices. Cummings questioned if an individual with a water column lease was also required to have an aquaculture operation permit (AOP). S. Murphey replied, that an AOP was required if any structures were to be placed in the water column lease. Neils Lindquist asked about the current definition of "cultch". Garry Wright, PDT member, responded that the Division of Coastal Management (DCM) has defined it as natural material such as dead shell or marl, and does not currently include processed recycled concrete in that definition. Lindquist then questioned if that definition would apply to leases. Wright replied that there may be some uncertainty regarding that issue, but currently non-natural materials such as concrete would be considered fill by DCM. S. Murphey added that he would look into this issue to see if this materials restriction applied to leases, or just division cultch planting efforts. Lindquist then asked about what the Army Corps of Engineers allows in other states. S. Murphey directed him to the table on page 3 of the issue paper for a full overview. Cummings then proposed a scenario where an individual has a bottom lease with cages less than 12" from the bottom (per the PDT recommendation) and someone runs a boat through this lease damaging both the cages and the boat. He then questioned who would be held responsible, would the boater be liable for damage to the cages, or would the lease owner be liable to the damage to the boat. S. Murphey replied that this situation would be similar to a boater hitting cultch materials currently allowed on leases. He added that if the lease was properly marked, he was not sure how Marine Patrol or the Army Corps would handle the situation. Cummings also added that he personally owns a lease that if 12" cages were placed on the bottom they would at low tide be out of the water, and take up the majority of the water column at other times. He suggested that in a situation like this it seems a water column lease would be appropriate. Carter Witten, a Marine Patrol officer, added that even with a properly marked water column lease, boaters often do not know to stay out of that area. Cummings replied that the water column lease gives the lease holder rights to the area, and would place the boater at fault even if they were unaware of what the markings and yellow poles meant. Cummings then asked what the cost difference between a bottom and water column lease. S. Murphey responded that a water column lease is \$100 per acre versus the \$10 per acre of a bottom lease. Adam Tyler commented that in his region it is not an issue of people running over and damaging leases, as they are aware of what is there. Cummings suggested that in other areas with more people who are not familiar with the water, this may be an issue.

Cummings questioned why anybody who was intending to put out cages off the bottom would not want a water column lease for the added protection it affords. S. Murphey replied that there are also four times greater production requirements for water column leases when compared to standard bottom leases. Tyler asked what regulation is there currently in place to stop an individual from layering 24" of natural cultch material on the bottom of a lease. Witten responded that there is no way to enforce lease cultch plantings for vertical profile. S. Murphey added that in some of the oldest leases, oyster rocks with vertical profiles have actually developed from planted cultch material. Wright commented that DCM is responsible for monitoring and enforcing height restrictions for cultch plantings, but they do not currently have



the manpower to perform inspections. S. Murphey added that DMF currently only has marking, payment, and production enforcement options for leased bottom. Lindquist questioned why the PDT chose 12” as the height limit in their recommendation. Murphey explained that decision was made based on mirroring current regulations in Virginia, as their lease program is often cited as an example for NC to strive to follow. Niels then asked why the SGA is asking for 18”. Moore replied for the allowance of three 4” cages stacked on each other and additional height needed for legs on the cages. Tyler asked the committee if they should consider recommending an 18” maximum height from the bottom. Lindquist agreed and suggested 18” to allow for the three cage stack with legs. Both Cummings and Lindquist commented that it seems that anybody who intends to place cages on the bottom would benefit from obtaining a water column lease to protect their monetary investment in gear.

**The committee agreed by consensus to recommend defining on bottom culture as any structure that extends no higher than eighteen inches attached to or resting on the bottom.**

### **OTHER BUSINESS**

Bob Cummings led a discussion regarding the marking requirements for proposed leases. Cummings presented the group with several photographs of how a proposed lease was marked in the New River, and the amount of shellfish he was able to collect in a small area within the proposed lease. Cummings expressed concern with the method the lease applicant used to for signs sent from DMF that must be displayed on a proposed lease site. Cummings discussed the photographs which showed small diameter PVC pipe with the signs rolled around the pipe, making impossible to read, or even see at a distance. Cummings also explained that local individuals who utilize this area frequently were not aware that this was a proposed lease site, and confusion surrounded the marked area. S. Murphey commented that the proposed lease is currently approved, requiring a survey and approval from the director to be finalized. Cummings suggested that the marking during the application period was not adequate according to rule. Curt Weychert, PDT member, added that there is a 3” diameter requirement for poles marking leases. S. Murphey clarified that this rule is not applicable during the lease application process, however this issue could be corrected by providing a rigid plastic sign to lease applicants in place of waterproof paper. Cummings then commented that he encountered significant shellfish resource within this area, and he was able to collect the amount of oysters and clams in the photographs he presented within 20 minutes. Cummings added that during the winter when the sampling was done by DMF staff, the clams may have been deeper and inaccessible to the sampling equipment used. S. Murphey replied that he reviewed the sampling that was performed and that the proper protocol was used. He explained that the sampling was performed with patent tongs in an “X” shape across the proposed area, with random samples collected in the area. This sampling design does not focus on defining small areas of high shellfish concentrations, so the densities of shellfish Cummings found may not have been represented in the sample. S. Murphey listed that DMF staff captured 380 oysters, and 1 scallop during their sampling efforts. He added that for a lease of 5 acres in size over approximately 5,000 shellfish would have to be captured during the sampling to deny the lease application. Cummings commented that using tongs as opposed to a bull rake, and the time of year when the sample was collected may have missed a significant number of clams. S. Murphey added that additional methods to advertise potential leases may have to be explored, such as posting signs in local fish houses. Lindquist commented that he believed that the lease under discussion did not adequately

notify the public, and that some follow up may be required in the future to insure signs are posted properly during the application process.

Moore provided the committee an update of the new regional district structure of DMF, reducing districts to a northern and southern. She also informed the group of the new positions held by PDT members, Steve Murphey serving as the section chief of habitat and enhancement, Trish Murphey serving as the southern region district manager, and herself as the biologist supervisor in the central district office.

**PLAN AGENDA ITEMS FOR THE NEXT MEETING**

Moore reviewed topics for the next meeting to be held July 13<sup>th</sup>. The shellfish license issue paper and effort impacts to oyster resources in the southern region issue paper will be presented. She highlighted the change in meeting location, with the upcoming July meeting occurring at the Central District Office in Morehead City. This change in location was made at the request of the Marine Fisheries Commission Chair, to provide a closer venue for members of the public from the southern district to attend. This meeting will have a call in option for Advisory Committee members only.

Chairman Cummings adjourned the meeting.

/jf

|     |                  |                 |                         |
|-----|------------------|-----------------|-------------------------|
| Cc: | Catherine Blum   | Jess Hawkins    | Gerry Smith             |
|     | Mike Bulleri     | Jennie Hauser   | District Managers       |
|     | Scott Conklin    | Dee Lupton      | Committee Staff Members |
|     | Dick Brame       | Jessica Marlies | Marine Patrol Captains  |
|     | Louis Daniel     | Nancy Marlette  | Section Chiefs          |
|     | Charlotte Dexter | Jerry Schill    |                         |



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**MEMORANDUM**

TO: N.C. Marine Fisheries Commission  
Oyster and Hard Clam Advisory Committee

FROM: Tina Moore  
Stephen Taylor  
Division of Marine Fisheries, NCDENR

DATE: July. 13, 2015

SUBJECT: Oyster and Hard Clam Fishery Management Plan Advisory Committee Meeting

The Oyster and Hard Clam Fishery Management Plan Advisory Committee met Monday, February 2, 2015 at the Department of Environment and Natural Resources Regional Office, 943 Washington Square Mall, Hwy. 17, Washington, N.C. The following attended:

Advisers: Bob Cummings, Ami Wilbur, Niels Lindquist, Adam Tyler, Lee Setkowsky, Ted Wilgis, Jeff Taylor, Joey Daniels(on call)

Absent: Dell Newman, Stephen Swanson, Nancy Edens

Staff: Joe Facendola, Garry Wright, Trish Murphey, Dean Nelson, Tina Moore, Stephen Taylor, Patti Fowler, Catherine Blum, Steve Murphey, Catherine Blum, Jason Peters, John Hadley

Public: Henry Whitney, John Russell, Louis Midgett Jr., William Russell, Eugene Bullock

Bob Cummings, serving as chair, called the meeting to order.

**MODIFICATIONS TO THE AGENDA**

**Jeff Daniels made a motion to approve the agenda. Niels Lindquist seconded the motion. The motion passed unanimously.**

**APPROVAL OF MINUTES FROM January 5, 2015**

**Niels Lindquist made a motion to approve the minutes. Adam Tyler seconded the motion. The motion passed unanimously.**

**PUBLIC COMMENT**

Henry Whitney opened the public comment voicing his concerns with the condition of the oyster resources in the southern region of the state. Whitney stated that he has been oystering in this region of the state since 1982 and it is his opinion that the recent and current depletion of the

oyster stock was due to the creation of the \$25 shellfish license. Whitney asserted that the North Carolina Division of Marine Fisheries was not protecting or restoring the oyster resource as required by the Fisheries Reform Act. He then stated that it was not fair for those who hold commercial licenses to allow unlimited shellfish license holders the same harvest limits for a small fee. Whitney suggested that a significant amount of undocumented and unlawful sale of shellfish was occurring from the shellfish license holders. He suggested that shellfish license holders be required to produce trip tickets, and that the income be verified on tax returns. Whitney then commented that due to the depletion of shell stock and unknown landings by recreational harvesters, a coastal recreational fishing license should be required to harvest oysters in NC. He then gave examples of his previous years landings noting a severe decline in the most recent two oyster seasons. Whitney proposed the elimination of the shellfish commercial license, however allowing those individuals who did show landings to enter a lottery system where they would be eligible to purchase a standard commercial fishing license (SCFL).

William Russell commented that he did not agree that people who work hard to make a living only harvesting clams should have to pay the higher amount for a SCFL. Whitney responded that clams are getting harder to get, but that aquaculture was responsible for killing the hard clam market.

Eugene Bullock stated that he has been clamming since he was 14 years old, and is currently 34. He remarked that he works hard to harvest clams, and does not agree that the shellfish license holders do not work hard to harvest 5 bushels of oysters. Bullock added that he would be willing to spend more money on a shellfish license, however he would like to see more done with that money to replenish stocks. He does not feel much is currently being done in Carteret County, and cited failed efforts around Carrot Island. Bullock suggested that the shellfish license be only available to residents of coastal counties.

Louis Midgett commented that he feels Marine Patrol is not doing an adequate job of enforcing current rules, citing issues of individuals culling undersize shellfish onto private gardens from public bottom in the New River. Midgett added that he felt it was not fair to make someone who only shellfishes purchase a SCFL, especially when the price recently increased to fund turtle observers for gill nets. Adam Tyler responded that the SCFL cost was increased as the legislature needed help from the industry to pay for the necessary percentage of observer coverage required for incidental take permit (ITP) compliance. He added that if NC went out of ITP compliance the entire flounder net fishery would have been shut down

### **REVIEW OF THE ISSUE PAPER; ASSESSING AND MITIGATING HARVEST EFFORT IMPACTS ON OYSTER RESOURCES IN THE SOUTHERN REGION**

Joe Facendola, plan co-lead, presented the background and origination of this issue. Facendola highlighted that landings from the intertidal oyster fishery in the southern part of the state comprises a significant portion of the statewide oyster landing totals, despite only being a small portion of the water open to shellfishing. He then described the fishery, participation, and decreasing amounts of bushels landed per trip across waterbodies in the region. Ted Wilgis, noting that this may be a question for Patti Fowler, asked if there was an increase in percentage of closed area in the southern region from since 1994. Patti Fowler responded that this is likely the case, however most of this area is managed as conditional waters which close to shellfish

harvest after certain rain events. Niels Lindquist asked how cultch planting efforts compared with harvest. Facendola replied that the total bushels of material planted in the southern region were 131% of what was harvested since 2003. He also noted that the cultch plantings are patchy, while the harvest is widespread through the region. Lindquist then asked if it is known how well these planted areas perform, and if there is any long term monitoring. Facendola answered that current yield per bushel of cultch material is unknown but likely varies by location, and that monitoring occurs for 3 years post planting for each site. Lindquist commented that long term monitoring was needed for cultch planting sites. Facendola replied that there is no current long term monitoring, however intertidal planting locations tend to be successful at producing legal oysters and some have lasted for decades. Wilgis asked what the bushels per effort of the trips 1994 to 2000 looked like, and if it followed the trends presented in the paper. Facendola replied that differences in the way landings data was recorded prior to 2000 prevented an accurate estimation of effort or comparison with bushels per trip in the years after 1999. Facendola added that lacking any fisheries independent estimates of abundance trends in bushels landed per unit effort, or how easy it is for people to get their limit, can be interpreted as trends in abundance for the waterbodies presented. Bob Cummings asked when calculating bushels per trip if any trip ticket with any oysters on it was used, giving an example of someone targeting clams and landing a few incidental oysters. Facendola replied that all trip tickets with oyster landings were used in this analysis. Lindquist questioned the impact of the unknown amount of recreational harvest. Dean Nelson replied that from his observations in the field, recreational harvest effort is minimal when compared to that of commercial. Nelson added that many of the individuals oystering recreationally on the weekend are commercial license holders harvesting a recreational 1 bushel limit. Henry Whitney commented that many recreational harvesters purchase a shellfish license to harvest the commercial 5 bushel limit. Cummings asked how many shellfish license holders do not show landings. Facendola replied that information would be covered during the next issue paper presentation. Wilgis asked if the landings data presented in this issue included those from leases. Facendola responded that the data presented was only landings from public bottom. Louis Midgett commented that individuals are commercially harvesting oysters on the weekend around Snead's Ferry and there is a lack of a law enforcement presence on the New River. Wilgis commented that DMF is currently planting approximately 140% of what is harvested in cultch material into the southern region, and questioned what effect increasing material to a level like 200% would have. Lindquist wanted clarification on the depth of cultch material planted in intertidal areas. Facendola responded that it is typically one meter or less in thickness. Stephen Taylor added that thickness depends on the substrate of the planting area, with softer substrate receiving only a thin veneer of shell. Tyler commented that state cultch planting efforts require funding, and shrinking open bottom and increasing amounts of people harvesting would require more cultch planting to keep up. Stephen Taylor commented that we currently are not able to plant enough cultch to produce enough oysters to keep up with harvest in the southern region. Garry Wright added that the 131% rate of bushel cultch planted to bushel harvested, is only for commercial harvest and assumes a 100% landings reporting rate. Eugene Bullock stated that oysters in New River are currently limited to only one area, and there is an issue of individuals not culling in the same location where they were harvesting. Whitney agreed with this statement. Tyler suggested that this is a harvester ethics issue. William Russell questioned where Virginia gets all of their oyster restoration funding. Steve Murphey responded that Virginia has an extensive oyster use fee which applies to harvesters, shucking houses, truckers, and anybody else involved in the oyster harvesting industry.

The Advisory Committee held discussion on management options for this issue until both scheduled presentations were complete as indicated on the agenda.

**REVIEW OF THE ISSUE PAPER; CONSIDER THE ELIMINATION OF THE SHELLFISH LICENSE AND REQUIRE ALL HARVESTERS TO HOLD A STANDARD COMMERCIAL FISHING LICENSE OR A RETIRED STANDARD COMMERCIAL FISHING LICENSE**

Trish Murphey, plan co-lead, presented the issue of eliminating the shellfish license. She highlighted the current low price of the license, no cap to the amount of licenses available to NC residents, and the amount of shellfish license holders who do not have a record for landings. She also presented that the overall number of shellfish license holders is decreasing statewide. Wilgis commented that if the shellfish license was eliminated a SCFL would be required to harvest shellfish commercially. Lindquist commented that many of the people who buy the shellfish license do not have landings. Cummings commented that there are many people who commercially clam with this license but do not have oyster landings. He then questioned if they would be denied the opportunity to get a license. Trish responded that currently the only requirement for a shellfish license is to be a NC resident. Whitney commented that having shellfish sales makes one a commercial fisherman. Trish Murphey added that this discussion is getting into the issue of defining what constitutes a commercial fisherman. Cummings responded that a commercial fisherman in this instance is someone who catches oysters or clams and sells them. He added that he does not want to eliminate the shellfish license, stating the SCFL fee is currently so high to pay for observers, which are not needed for shellfish harvesting. Cummings remarked that the intention should be to weed out the recreational harvesters who hold the commercial shellfish license without making landings. Tyler stated that there are hundreds of people fishing commercially and selling their catch on the side of the road who don't show trip tickets for that sale. He cited individuals catching and selling shrimp that he had recently observed. Midgett asked if the legislature was informed enough to make decisions regarding licensing. Trish Murphey replied that recommendations are provided by the Marine Fisheries Commission through this process. Whitney stated that he is concerned that the shellfish commercial license does not have a cap, and added that it would be possible for 5000 people to show up to an area with a shellfish license and each harvest a limit. He then re-stated his suggestion to limit the availability of a commercial license to individuals who have established landings in the past. Eugene Bullock agreed that the license should be limited to those who sell their catch. Joey Daniels stated that he believes anybody who is selling their catch should be required to have a SCFL, and believes it is a matter of consumer safety. Cummings added that selling shellfish out of a truck on the side of the road is an enforcement issue, which falls under marine patrol and shellfish sanitation. Tyler suggested that these sales are a major problem, and there is no landings record produced for this catch. Wilgis requested clarification on the impacts to lease holders, aquaculture operations, and their employees if the shellfish license was eliminated. Trish Murphey replied that any changes to licensing will require statutory changes. Daniels commented that there is current legislation being considered that would allow employees of lease holders to be covered by the lease holder's license. He then stated that he is required to have a SCFL to have a lease. Trish Murphey replied that currently only a shellfish license is required to harvest from a lease. Nelson added that a SCFL is only

required for mechanical harvest off a lease. Daniels responded that this is not the information he was previously told.

Tyler discussed his proposed motion of limiting commercial harvest of oysters on a shellfish license south of the highway 58 bridge to 2 bushels, and allowing shellfish license holders to obtain a SCFL if they showed a history of sale. Cummings commented that obtaining a SCFL is not a quick or easy process, and that this proposed option may restrict individuals with previous oyster landings to a limit of 2 bushels of oysters who harvest shellfish full time. Bullock commented that if people who previously only had shellfish licenses are granted a SCFL, there will be an increase in effort in other gears such as gill netting.

Wilgis discussed his proposed motion of supporting the PDT recommendations for the effort impacts issues, adding some additional wording to pursue the use of alternate materials. Lindquist suggested that serious effort was needed to consider locations for cultch planting, especially in sub-tidal areas, and long term monitoring should be required. Ami Wilbur recommended changing the wording in the proposed motion to include monitoring of cultch plantings. Lindquist cited problems with past siting of cultch planting efforts in Carteret County. Trish Murphey responded that significant effort and consideration is currently put into locating appropriate cultch planting sites. Lindquist replied that there is no monitoring after the plantings. Stephen Taylor replied that all plantings are monitored for 3 years for spat fall, and oyster growth and mortality. Wright added that with limited resources available, data for mortality rates over time may be lacking.

**Adam Tyler made a motion to establish a daily trip limit of 2 bushels of oysters per person with a maximum of 4 bushels of oysters per vessel off public bottom from Highway 58 Bridge south only for holders of the Shellfish License. The daily trip limit of 5 bushels of oysters per person for SCFL and RSCFL holders will be maintained in this area. Shellfish License holders will be eligible to acquire a SCFL after they show a history of sale of shellfish. Niels Lindquist seconded the motion. The motion passed 5-2.**

**Ted Wilgis made a motion to increase efforts to plant and monitor available cultch materials in the southern region and to emphasize the review and approval by regulatory agencies the use of alternative cultch material. Explore a preliminary fishery independent index of oyster abundance to inform future management action. Ami Wilbur seconded the motion. The motion passed unanimously.**

### **OTHER BUSINESS**

Tyler asked for an explanation of who was at fault for an individual who drove a boat through a water column lease and damaged bags of product. Nelson replied that it would have to be proved a willful act of destruction of gear for it to be unlawful. Nelson added that leases cannot exclude the public. Steve Murphey commented that during the lease siting process, we are currently trying to find ways to make proposed leases more public to help avoid some of these issues.

### **PLAN AGENDA ITEMS FOR THE NEXT MEETING**

Moore reviewed topics for the next meeting to be held August 10 at the Washington Regional office. The final issue regarding modifications to shellfish lease provisions will be presented. Two more meetings are scheduled for September 14 and October 12. These meetings will be used to review and prioritize research recommendations, and review the entire document. She added that any of the remaining issues that require rules changes need to be reviewed by the Rules Advisory Team, and may need to be revisited by the Advisory Committee with modified management options. Moore anticipates that in November this document will be presented to the Marine Fisheries Commission, and will go out for public comment in December and January. There will be one more chance for both the Advisory Committee and Plan Development team to modify recommendations considering any public comment received. Wilgis asked if a summary of pertinent legislation would be provided. Moore replied that legislative activity is not included in any of the issues or documents, however a verbal update can be provided at the committee meetings. She then reviewed the current status of the Senate and House bills, and stated that not much has changed since the last committee meeting.

Chairman Cummings adjourned the meeting.

/jjf

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|-----|------------------|-----------------|------------------------|
| Cc: | Catherine Blum   | Jess Hawkins    | Gerry Smith            |
|     | Mike Bulleri     | Jennie Hauser   | District Managers      |
|     | Scott Conklin    | Dee Lupton      | Committee Staff        |
|     | Dick Brame       | Jessica Marlies | Members                |
|     | Louis Daniel     | Nancy Marlette  | Marine Patrol Captains |
|     | Charlotte Dexter | Jerry Schill    | Section Chiefs         |