

Shellfish Advisory Council meeting minutes - 4/29/2021

ShAC members in attendance:

Lewis Pinkham - Chair
 Jessica Joyce - Co-Chair
 Amanda Lyons
 Joan McDonald
 Kevin Brodie
 Ryan McPherson
 Evan Young
 Marissa McMahan
 Ronald Parritt
 Anthony Delano
 Dick Douty

DMR staff present:

Kohl Kanwit
 Deirdre Gilbert
 Jeff Nichols
 Major Rob Beal
 Sargent Troy Dow
 Denis Nault
 David Miller
 James Becker
 Ari Leach
 Hannah Annis
 Heidi Leighton

ShAC members absent:

Mike Danforth
 Charlie Tetreau
 Scott Moody

Motion to approve minutes – Ms. Joyce moved to approve, Mr. Brodie seconded motion. No questions/comments. Motion passed.

CARES Act update (Deirdre Gilbert-DMR): 1st round Maine was allocated just over \$20 million from the National Oceanic and Atmospheric Administration (NOAA) from a total of \$300 Million for fisheries in the national bill. DMR allocated most of 1st round to direct payments, just over \$19 million, remaining funds were directed to marketing. DMR received 2600 harvester applications and 130 dealer applications.

About 2 weeks ago NOAA announced an additional \$17 million in funding for Maine. Ms. Lyons made a comment about in her area (Lubec) the market didn't really shut down, making it difficult for people to prove hardship. Ms. Lyons asked what will be done to investigate fraud in the applications? Ms. Joyce asked if DMR tracked the number of individuals in various fisheries who received/applied for funding. DMR did not, the focus has been on paying out funds. Ms. Joyce asked what DMR's plan is for the second round of funding. Ms. Gilbert said last time DMR did an online survey asking participants how they would prefer to receive funds, overwhelmingly respondents preferred direct payments. For this round, a survey may not be issued until NOAA can confirm more concrete information about how funds can/cannot be distributed. Possibly using a one-page form to ask participants what their ideal scenario would be.

CARES Act update (Jeff Nichols-DMR): \$1 million of CARES Act set aside to develop Maine seafood marketing initiative. The objective was to establish a unified brand for Maine seafood to attract consumers to Maine seafood. Accomplished this by developing an online/social media presence and press strategy. Launched a website last December, lots of outreach to media and on social media (142 stories run about Maine seafood). Nearly 12,000 visits to the website

(SeafoodfromMaine.com). Doing paid promotions with the company that owns Allrecipes.com and Wine.com. Currently doing a Mother's Day promotion similar to what the Maine lobster collaborative did last Valentine's day. Focused on continuing social media/online presence. July will mark the end of funded marketing. Management of online/social media will return to DMR staff at that time.

Ms. McMahan asked if there is a long-term plan to sustain the program/funding once CARES Act funds end. DMR is continuing to seek additional funding and remains committed to sustaining the program and improve it.

Update on virtual Fisherman's Forum (Jessica Joyce-council member): Three events occurred virtually; all were recorded and available online. They are also going to be rebroadcast in an edited format on WERU radio.

Septic System Vulnerability (Jessica Joyce-council member): FB Environmental is doing this work through a coastal community grant to develop a guidance document to help communities develop tools to address septic system vulnerability. They are doing a case study in Waldoboro. More information will be provided at the next meeting if FB Environmental can join.

Warden Training (Kohl Kanwit-DMR): Certification and recertification classes normally run in March and Mike Pinkham was contracted to teach them for the past several years. With the pandemic, DMR is unable to train in person and has extended certifications with existing wardens. New wardens without certification remain stuck; they can perform some duties but cannot write summonses. Most have been able to take the required online training, but in-person training is required to be fully certified. Many towns do not have fully certified wardens currently. DMR will reassess in June to see if an in-person training can happen. Towns can appoint any certified warden to cover enforcement in the interim. Even if a town doesn't have a certified warden, closed areas are still being monitored by the state Marine Patrol.

Vibrio Training (Kohl Kanwit-DMR): Maine has Vibrio regulations for several harvest areas throughout the state. This year, Chapter 115 changed to add several harvest areas to this regulation including Spinney Creek and Scarborough and Nonesuch Rivers. New regulations also require if harvesters are not using ice then the product must reach the dealer within 2 hours of harvest. Dealers now only have 3 hours to get the product to 50 degrees F. DMR hosted virtual training sessions and there is one make-up training on May 12th. All harvesters and primary dealers must have this training if harvesting or buying from the areas listed in Ch. 115. DMR maintains a list of people who have taken the training and this list is available online.

Maine Shellfish Learning Network (Bridie McGreavy-member of the public): Updates on ongoing activities; Maine Shellfish Restoration and Resilience Fund – 4 projects were funded this year; over the last three years, there have been a total of 33 projects. The towns of Beals, Bristol, and Thomaston as well as the Downeast Rural Health Collaborative were funded this year. The pandemic is likely the cause of fewer proposals submitted this year. MSLN has a listserv and ShAC members have been added. Planning to organize field trips to get onto flats and learn about applied shellfish projects happening along the coast this summer. Ms. Lyons asked how information is being disseminated and if there is a more practical way to share information. Ms. McGreavy said there are more effective ways to share information, though the

pandemic has made this difficult. MSLN is willing to help with getting information to towns. Ms. Kanwit said that DMR has been asked to distribute this information, but this doesn't mean it trickles down to the right people. Would a physical mailer be more effective? Or educating town clerks on getting information to the shellfish committee?

New Business (John Hentz- member of the public): Would like to allow municipal shellfish wardens to have the authority to enforce harvester shellfish tagging. Mr. Hentz would like to add this authority into the §6671 statute and proposed the authority would cease when the transport vehicle is turned on. Mr. Pinkham said he has spoken to the Marine Patrol Colonel who said that wardens that are law enforcement already have this authority, so only the municipal wardens without law enforcement training don't have this authority. Ms. Lyons said she thought municipal shellfish warden jurisdiction ended at the high tide mark and in subtidal waters, and that harvesters largely believe the same thing.

Ms. Lyons says there are harvesters using this as a loophole and asked about the potential wording of a legislative proposal to fix this problem. Mr. Brodie said that if a violation is being committed below the low water mark then the warden should still have authority. Mr. Delano asked if a municipal warden has the authority to approach harvester and "hold" them until Marine Patrol can come to the scene. Lt. Troy Dow of Marine Patrol said that whomever the warden is employed by would want to support the summons. Ms. Kanwit asked if this needed to be added to the workplan, Mr. Pinkham said the issue was resolved by this discussion.

Break 14:17 - 14:25

Hard Clam Subcommittee (Tony Delano-council member): Ms. Kanwit shared a report from the subcommittee (K. Kanwit, T. Delano, R. McPherson, L. Howell, and Sgt. W. Dean). Mr. Delano said they had a small meeting during which they conducted an experiment to determine if a 1-inch quahog will hang on the gauge. Used precision micrometers and ball bearings, he feels confident that a 1-inch quahog will hang on the gauge. Mr. Delano asked if the gauges have a tolerance of 15 – 10,000ths of an inch when they are manufactured, and can they be assigned to wardens with that type of tolerance? Major Rob Beal said that this is an allowable tolerance and the gauges are certified by the Department of Agriculture, Conservation and Forestry Division of Weights and Measures. Mr. Brodie asked how often gauges need to be recertified? Major Beal said recertifications for gauges aren't codified but recommended perhaps a 3-4 year timeframe. Mr. McPherson made a motion to request clarity from Marine Patrol in writing on how quahogs are measured. Mr. Delano seconded the motion. Motion passed with 9 votes yes, 2 abstentions and none opposed. Ms. Kanwit will address this issue with the commissioner and will report back to the council at the next meeting.

Municipal Conservation Activities (Jessica Joyce-council member): Madeline Tripp, an AmeriCorps fellow working with the Casco Bay Regional Shellfish Working Group is conducting a review of all shellfish conservation activities and planning to provide a report. Ms. Joyce asked ShAC what else should be added to the list of conservation activities for review. Ms. Lyons asked to add moon snail egg collection to the list of conservation activities. Ms. Lyons also mentioned a distinction between "natural brushing" and "brushing", stating that with regular brushing the seaweed becomes a deterrent on the flat. Ms. McDonald asked how moon snail

collars (eggs cases) are found. Ms. Lyons said going out to the flats at night is best during reproduction times and look for gravely sand or a mix that is constantly wet.

Municipal Shellfish Management (Kohl Kanwit-DMR): Current laws and regulations regarding municipal shellfish programs don't provide much structure for the state to act on many concerns brought forward from the public. For example, the law doesn't define what "adequate enforcement" is, therefore if a town provides 1 hour of enforcement activity in a year they are deemed as meeting that requirement. Ms. Kanwit provided a list of concerns brought to DMR by the public over the years regarding the municipal shellfish programs and emphasized it was not an exhaustive list. DMR would like to work to expand the scope of requiring minimum standards for municipal shellfish programs if it is supported by the shellfish community. This is a very rough draft of how to begin thinking about possible changes that might be needed. Ms. Joyce stated that it is vital to harvest in a sustainable way and to find a balance between harvest and resource protection. Ms. Joyce asked what the ultimate goal is, is there a model shellfish FMP, could there be an FMP template provided to municipalities to customize? Mr. Brodie stated the when DMR gets involved in town issues it can seem like a cookie-cutter approach, restricting flexibility for individual towns. Mr. Delano feels the state should have more say in how towns manage resources and would like to move forward with this project. A member of the public emphasized that federal fisheries management goes too far, and the state should not model after their approach. Another member of the public agreed with Mr. Brodie and pointed out that there are a lot of resources that the state could use to come to an agreement on the management between towns and the state. Ms. Joyce clarified that she was not suggesting any change in the co-management system, and rather, to effectively manage the fishery, specific goals and other aspects should be explicitly added to the system. A member of the public seconded the comment that a collaborative approach would help to make this meaningful and workable. Ms. Kanwit stated that many towns could potentially benefit from greater sharing of information between one another. DMR was asked to evaluate these management methods and Ms. Kanwit asked that folks remember that DMR is not trying to come down on individual towns or programs. Ms. Lyons expressed a desire to help on this project and has no issue with giving the state reassurances provided the town has the means to accomplish its goals. Ms. Lyons would like data involving harvest area and pounds harvested, dealers do not provide this to shellfish committees, so it is hard to manage resources. Denis Nault (DMR) added that there are confidentiality issues with landings data provided by DMR, but towns can require landings from harvesters, typically monthly but also could be annual. Towns could require a landings report for harvesters to obtain a license the following year. This issue will continue to be discussed in the next meeting.

Meeting was adjourned