

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

**MEETING SUMMARY
January 24, 2008
Meeting Number 12**

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

Start/End: 4:00 p.m. / 6:30 p.m.

Attending: *Members/Alternates*
Tom Isles, DeWitt Davies, Jay H. Schneiderman, Robert Whelan,
Tamara Sadoo, Wayne Grothe, John Aldred, Stuart Heath, Gregg Rivara,
Karen Rivara, Debra Barnes, Arnold Leo, David Lessard, Jon Semlear

Staff
Lauretta Fischer, Jennifer Kohn, Michael Mulé, Barbara DelGiudice

Others
Gregory Greene, Keith Brewer, Kimberly Somers, Robert Nuzzi,
Michael Osinski, Chip Maran, Michael Craig, Bill Pell, David Relyea,
Matthew Atkinson, David Bergen, Norman Edwards, Chuck Steidle, Bob
Link, Floyd Carrington, Wade Carden, Christina Rizzo, Jim King,
Melanie Douglass, Kerrin Craig, Howard Pickerell, Jennifer Skilbred,
Michael Kujawa, Ken Stauffer.

Materials

Distributed: Final meeting agenda; January 8, 2008 ALPAC Meeting Summary;
Correspondence/Communications (January 14, 2008 letter from Edward
Warner, Jr., and response letter from Thomas Isles dated January 24, 2008
[Attachment #1]; January 17, 2008 comments from East End Marine
Farmers Association on Suffolk County Draft Shellfish Aquaculture Lease
Program – Proposed Program Components – Working Draft December 18,
2007); *Revised* Draft S.C. Shellfish Aquaculture Lease Program –
Proposed Program Components (dated January 16, 2008); Draft Suffolk
County Aquaculture Lease Program Shellfish Cultivation Zone
Alternative 1B- Minimum Lease with Moderate Growth Map (January
24, 2008); Summary of Potential Adverse Impacts of the Proposed Lease
Program; *Preliminary* Proposed Draft Generic Environmental Impact
Statement for the Shellfish Aquaculture Lease Program in Peconic and
Gardiners Bays – January 24, 2008.

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 stated that the agenda items will be time-regulated to keep the meetings from extending past 6:30 pm. T. Isles indicated that there was a change to the agenda format. The change was to include a brief public comment following each agenda item, in addition to the public comment period at the end of the meeting.

Review of January 8, 2008 ALPAC Meeting Summary

T. Isles asked the committee for comments regarding the January 8, 2008 ALPAC Meeting Summary. No comments or questions regarding the summary were raised by the ALPAC committee.

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 January 8, 2008. Correspondence received and discussed was submitted by Edward Warner Jr., Town of Southampton Trustee and the response letter to Edward Warner, Jr. from T. Isles. Email correspondence regarding the Lease Program was received by the County from Karen Rivara, Matthew Atkinson, and Debra Barnes. Comments on the draft Proposed Program Components were submitted by Bill Pell, on behalf of the East End Marine Farmers Association (EEMFA). D. Davies also stated that he received a phone call from Dean Yaxa.

Public Comment Period on Agenda Items #1-3.

1. Mike Osinski, Village of Greenport Trustee, asked if the titles and/or organizations of people named during the meeting could be included during discussions.
2. Ken Stauffer asked for clarification on E Warner's letter, specifically, why he asked if Suffolk County residents could be given priority in obtaining a lease. T. Isles replied that E Warner would like to see priority given to Suffolk County residents in obtaining a lease since the Lease Program is open to anyone. T. Isles added that the notion of granting priority to Suffolk County residents is being reviewed by the County attorney's office.

Cashin Associates, P.C., Progress Report

Greg Greene, Cashin Associates (CA), provided a brief overview of the changes made to the Draft Shellfish Cultivation Zone Alternative 1B – Minimum Lease with Moderate Growth Map (dated January 24, 2008). He informed the group that grants outside the 1,000 ft. shoreline buffer were included into the Shellfish Cultivation Zone, and that a scale of the total lease acreage available for leases for the first five years (300 acres) and

ten years (600 acres) of the proposed program have been added in response to Gregg Rivara's request made at the January 8, 2008 ALPAC meeting.

G. Greene then discussed the revisions made to the draft proposed program components (dated December 18, 2007). G. Greene stated that the changes shown on the revised version of the proposed program components (dated January 16, 2008) were based on input and data collected since the January 8, 2008 ALPAC meeting. G. Greene stated the important changes to the following program components:

- The term of a lease was changed from 5 to 10 years.
- The bond requirement was deleted and the requirement of an annual lease fee for each lease was added. G. Greene stated that the County is presently searching for other means to address abandoned aquaculture gear, and the lease fee amount will be determined later on as the program develops. G. Greene stressed that the County is not looking at the aquaculture program as a money-making program and that lease fees are not expected to be substantial.
- Lease holders would be responsible for obtaining all necessary permits from NYSDEC and other regulatory agencies.
- Lease holders would be responsible for the removal of aquaculture gear from the lease site upon termination of the lease. G. Greene stated that the bond previously considered was a mechanism to address gear removal, and that the gear removal will be a condition of the lease.
- The NYSDEC was added to the list of entities that would review lease applications.
- New leases on lands not currently used for aquaculture would be square in shape (with the exception of grants).
- Sub-leases would be limited to a maximum of 2. G. Greene stated that the County needs to define "persons or entities" as described under component #16, and that the County is currently working on addressing the transfer of leases.
- All grants outside of the 1,000 ft. shoreline buffer would be permitted to obtain a lease with the County. G. Greene stated that instead of differentiating which grants are eligible for leases to cultivate species other than oysters, a change was made to include all grants in the Shellfish Cultivation Zone because they all have had historical aquaculture uses.
- Experimental/educational leases would have to be placed within the Shellfish Cultivation Zone.
- Leases for habitat restoration were included. G. Greene added that these leases would be good for the bays and good for shellfish stock.
- An additional component involving larger leases (>10 acres) was included. G. Greene explained that this component was added to address the recommendation

of 50-acre leases by the Suffolk County Aquaculture Committee 2002 Report on Policy Guidance on Shellfish Cultivation in Peconic and Gardiners Bays.

John Aldred suggested that criteria for a change in the Shellfish Cultivation Zone should be established prior to issuing any leases. J. Aldred also stated that it would be useful if Suffolk County requires reporting on a lease and thought that it should follow the same guidelines as NYSDEC requires, making it easier for the lessee.

G. Greene replied that the reporting requirements will be kept basic and similar to NYSDEC's requirements, but noted that the County would establish its own reporting requirements.

J. Aldred noted that some of the items in the draft program components document are similar to each other.

T. Isles stated that the grouping of similar components may be done in the future to simplify the component document.

Debra Barnes asked if the existing temporary assignments would be limited to off-bottom leases only. D. Barnes expressed her concerns that when the temporary marine assignments were initially issued, the public was permitted to harvest any shellfish underneath the aquaculture gear at any temporary assignment site.

G. Greene stated that if a temporary assignment is not located within the blue zone, then the lease holder may only continue the present off-bottom culture operations at the site.

G. Rivara asked whether experimental/educational leases would be permitted on grants.

G. Greene replied that as long as the grants were located outside of the 1,000 foot shoreline buffer, they would be eligible for an experimental/educational lease.

Wayne Grothe asked if there should be an acreage limit on habitat restoration leases.

G. Greene replied that the County would like to be as flexible as possible for such leases and therefore will be based on a case-by-case basis.

D. Davies added that the County would like to avoid the possibility of large environmental groups that oppose the Lease Program that lease a large piece of underwater land with the intention to prevent commercial aquaculture acreage availability.

J. Aldred asked if habitat restoration leases would be used to restore habitat or shellfish stock.

G. Greene informed J. Aldred that a broad restoration term was used; however, the intent is to restore shellfish and shellfish habitat.

D. Barnes suggested that the term for such leases should be renamed to “shellfish resource restoration leases,” and that this new term would be more in conjunction with the provisions stated in the Leasing Law.

J. Aldred asked if collaboration between government and non-government entities on projects under restoration leases would be allowed under the Lease Program.

G. Greene replied that the County would like to see cooperation between governmental and non-governmental entities on such projects.

Jay Schneiderman asked if there will be any limits on leases in terms of navigation if a lease were to have large surface structures associated with the aquaculture operations.

D. Barnes stated that requirements from NYSDEC, the Army Corps of Engineers, and the US Coast Guard would consider navigational risk prior to approving the placement of such structures on the water surface.

Karen Rivara suggested that an information packet be developed that contains information a person looking to obtain a lease would need to know, such as procedures required for starting an aquaculture operation and any other pertinent information they would need to know before they move forward.

J. Aldred asked if round leases would require less money for surveying.

T. Isles replied that circle leases may still be as costly as a square lease for the amount of effort it would take for the surveyor to actually gear up and go to the site.

G. Greene added that a survey cost for one point, as in a circular lease, or four points, as in a square lease, may be not different; however, square leases would be preferred since the four corner markers would make it easier to determine the lease boundaries.

J. Schneiderman asked which lease shape would be easier to operate – a circle or a square.

David Lessard replied that most of the temporary assignments are worked as if they are a square within the circular lease area.

Dave Relyea added that it would be next to impossible to conduct aquaculture operations along a curved line.

G. Greene gave a brief overview on the revised changes to the Draft Shellfish Cultivation Zone Alternative 1B - Minimum Leases with Moderate Growth Map.

Prior to CA’s discussion of the comments received from EEMFA on the draft program components, K. Rivara provided the group with a brief historical perspective of the need to develop a shellfish aquaculture lease program.

G. Greene addressed the following comments received by EEMFA on the draft components document:

- Response to component #4 comment: G. Greene stated EEMFA's comment to remove the component explaining the relocation of leases could not be deleted as proposed due to the provisions stated under the Leasing Law, which requires adjustment of the Shellfish Cultivation Zone, if needed following a review of the program after the first 5 years. G. Greene stated that it is the County's intent to define the criteria for the relocation of a lease. G. Greene agreed with EEMFA's comment to change 3 years to 5 years for relocation time.
- Response to component #6 comment: G. Greene stated that the County is responsible for the Lease Program and should have its own set of information on operations reported from the lease holders. G. Greene added that the County will define what information would be required, and perhaps this information could be in a form-format that could be included with every annual lease renewal.

J. Schneiderman added that any lease information received by the County should remain private and confidential.

- Response to component #7 comment: G. Greene stated that Oyster Bay is a different situation, in that leases do not change from year to year. G. Greene added that CA is currently looking into information regarding surveying costs.

J. Schneiderman asked if considerations to having the County perform the survey has been ruled out. J. Schneiderman stated that previous survey programs have been funded by the SC Legislature, and could be possible under the Lease Program, perhaps under the 447 Fund for water quality projects.

T. Isles replied that the County needs to get a handle on the costs associated with surveying circle leases and square leases first, but having the County perform the surveys is still a possible outcome.

D. Relyea added that all the beds in Oyster Bay were surveyed at once; but the same cannot be done in the Peconic Estuary because leases would be added on each year.

Floyd Carrington stated that the boundaries of the leases must be determined prior to issuing the lease. F. Carrington stated that if lease surveys are performed in clusters then it would cost less. F. Carrington also expressed his concern against putting the survey burden on the lease holder.

M. Osinski (Village of Greenport Trustee) asked why the blue zone in Greenport has been completely removed and navigational channels not delineated as in other areas of the estuary.

Keith Brewer, CA, replied that this area was identified as a popular recreational fishing area with heavy navigation use.

G. Greene added that the Greenport Harbor area is a complex waterbody, and that eliminating the navigation channel only left a narrow strip of blue zone on each adjacent shoreline buffer, too small for leases.

Arnold Leo stated that if survey costs were the responsibility of a lease holder, it could be an inhibiting factor. A. Leo suggested combining leases for survey purposes and that a rent/fee should go towards surveys to be performed by the County. A. Leo also stated that the public should be compensated in some manner.

J. Schneiderman suggested higher initial fees for new leases to offset the County's costs for surveying. J. Schneiderman also suggested the use of GPS equipment for marking lease boundaries as well as performing the lease survey.

Bob Whalen suggested that each of the five east-end Towns get a certain amount of leases to have clusters that could be pre-surveyed.

T. Isles stated that more information is needed on surveying options and costs.

G. Greene added that under the Draft Generic Environmental Impact Statement, 10-acre leases were plotted on a map.

D. Barnes stated that the law requires that the County post pending leases with the applicant's name and lease boundaries for public review; therefore, a survey would have to have been conducted prior to the public comment period. D. Barnes then asked what would happen in regards to survey costs if the public opposes a lease location during the public review period.

F. Carrington stated that pre-survey corners of leases could be published.

A. Leo suggested computerizing the blue zone and laying-out 10-acre plots and then to use a GPS instead of a survey.

J. Schneiderman informed A. Leo that the survey is a state law requirement and would be difficult to change.

- Response to component #8 comment: G. Greene stated that the previous discussion on lease fees answered this comment.
- Response to component #10 comment: G. Greene stated that the County is currently considering other ways to deal with abandoned gear.

A. Leo suggested that a fee be paid to the Peconic Baykeeper to determine if aquaculture gear has been removed from a lease site.

- Response to component #11 comment: G. Greene stated that the law requires a two-month notification of a pending lease that needs to be reviewed by the NYSDEC, Towns and public.

Dave Bergen (Town of Southold Trustee) stated that the Southold Trustees would like to be involved in lease reviews within 1,500 ft. of the shore, since it will still be in the Town's jurisdiction.

J. Aldred added that the Towns' review of lease applications should speak to adopted policies within the Town.

Norman Edwards (Town of East Hampton Trustee) stated that leases outside of the blue zone would change existing conditions of commercial fishermen, especially on grants cultivating species other than oysters.

J. Aldred asked if a public review of leases on grants already cultivating species other than oysters would be required.

K. Rivara stated that if a grant already cultivating species other than oysters would be required to public review it would be unfair to the grant holder since the operations have already been conducted over time without opposition.

W. Grothe suggested re-examining the areas outside of the blue zone for possible lease placement.

Jon Semlear informed W. Grothe that natural shellfish beds such as those located in Orient Harbor were initially excluded from the blue zone, as well as areas used for commercial fishing and dragging in Gardiners Bay.

J. Aldred stated that a public review process is appropriate and allows commercial fishermen and the public to comment on each lease application.

N. Edwards stated that the waters west of Gardiners Bay are heavily trafficked by large yachts and to mark off these areas would be inadequate.

Bob Link asked whether new applicants would need to address Town Local Waterfront Revitalization Programs.

T. Isles replied that the County does not interfere with other regulation policies.

- Response to component #12 comment: G. Greene commented that private oyster grants make up a large portion of the blue zone and could be used for bottom culture.
- Response to component #14 comment: G. Greene stated that the Leasing Law requires the placement of leases in non-productive areas, therefore some type of ground-truthing is necessary.

J. Schneiderman stated that a benthic survey of a lease plot should not be the responsibility of the lease holder.

T. Isles stated that the County is looking into other state's bottom survey requirements.

A. Leo stated that it would be excessive to ask an applicant to perform a benthic survey of their lease.

K. Brewer suggested that a benthic survey be conducted only if a lease application is opposed during the public comment period.

- Response to component #15 comment: G. Greene stated that Suffolk County needs its own set of documents and information reported from lease holders in addition to the state's required information.
- Response to component #16 comment: G. Greene stated that he agreed with EEMFA's comment that leases are businesses and that CA and the County are looking into transfer options.

W. Grothe asked if an applicant on a lease waiting list would be the next in line for an open lease, or if the open lease would instead be able to be transferred.

K. Rivara stated that she believes that the lease holder should be able to sell his or her business, product and gear included.

W. Grothe responded to K. Rivara's comment by stating that there is no title associated with a lease to sell.

Bill Pell stated that he would like to be able to sell his aquaculture business when he retires.

- Response to component #18 comment: G. Greene stated that leases cannot be defined as "permanent."
- Response to component #20 comment: G. Greene stated that the County has the need to collect data on leases.
- Response to component #23 comment: G. Greene stated that the Lease Program only applies to underwater lands outside the 1,000 ft. shoreline buffer; therefore, the temporary assignment sites within the 1,000 ft. buffer cannot be grandfathered.
- Response to component #24 comment: G. Greene stated that although CA agrees with separation between leases, ½ mile is a bit excessive. G. Greene stated that the distance between leases should be flexible in certain areas.
- Response to component #25 comment: D. Barnes stated that she disagrees with the EEMFA's comment and that she will consult with NYSDEC council.

Matthew Atkinson asked what the NYSDEC's jurisdiction would be before and after the Lease Program. M. Atkinson stated that he sees no change before or after the Lease Program and that leases on grants for species other than oysters should also be for experimental/educational work on grants.

- Response to component #26 comment: G. Greene stated that a grant holder can cultivate shellfish on their grant without a lease from the County under present conditions only and that the grants are presently subject to NYSDEC permit requirements and renewal.

K. Rivara stated that leases on grants are confusing and asked if a lease on a grant could also be transferred if the grant is transferred.

T. Isles stated that a grant is permanent and leases are not.

- Response to component #27 comment: G. Greene stated that there are hypothetical caps on the amount of underwater land committed to aquaculture for the purposes of the DGEIS.

G. Greene gave a brief overview of the status of the DGEIS. T. Isles added that a hand out for public comments on the DGEIS has been included in the handouts.

K. Rivara suggested printing large reports on double-sided paper in the future.

K. Brewer also offered the option of electronic versions of future large documents.

Kimberly Somers, CA, provided a brief overview of the potential adverse and beneficial impacts outlined in the DGEIS.

Public Portion/Comments:

1. Bill Pell, President of EEMFA, invited the committee members to join him on his boat to view oyster culture operations first hand.
2. Mike Craig, a temporary marine assignment holder, stated that the County should pay for the required property surveys and that lease holders can lay the boundary markers out. M. Craig asked that the County make the program practicable for the lease holder. M. Craig also stated that a ½ mile buffer between leases is not an excessive buffer.
3. Chip Maran stated that the committee needs to see operations on the water first hand. C. Maran informed the committee that power seining is still conducted in the Peconics and suggested a buffer of 2,000 – 3,000 ft. from shore. C. Maran further stated that he agrees with the proposed 1% growth rate.
4. Dave Bergen, Trustee, Town of Southold Town, stated that there is high navigational traffic between buoys R22 and G3 on the east/north side of Robins

Island, from Nassau Point to the south side of Robins Island, and that any buoys placed in this area would cause conflicts.

5. M. Craig responded to D. Bergen's comment informing him that his temporary marine assignment is located in the waters D. Bergen described east of Robins Island and that he has never had any conflicts with his site over the last 5 years.

The meeting was then adjourned by T. Isles.

BOARD OF TRUSTEES
OF THE FREEHOLDERS AND COMMONALTY OF THE
TOWN OF SOUTHAMPTON

JON S. SEMLEAR
PRESIDENT
SAG HARBOR

ERIC SHULTZ
SECRETARY/TREASURER
EAST QUOGUE



FREDERICK HAVEMEYER
BRIDGEHAMPTON

BRIAN TYMANN
WESTHAMPTON

EDWARD J. WARNER JR.
HAMPTON BAYS

116 HAMPTON ROAD
SOUTHAMPTON, NEW YORK 11968
PHONE: 631 287-5723 FAX: 631 287-5723

January 14, 2008

Mr. Thomas Isles
Suffolk County Dept. of Planning
P. O. Box 6100
Hauppauge, NY 11788

RE: ALPAC

Dear Mr. Isles:

It is the opinion of the Southampton Town Trustees that, if a leasing program were to be established in Peconic and Gardiner's Bay areas that the residents of Suffolk County should have first priority in receiving a new lease. The persons who are farming now should be grand fathered in the program and have first priority.

As for expanding the lease area from one year to the next, a 1% increase would be appropriate. This would allow ten new five-acre parcels to be leased out yearly. The unused portion would be carried over to the next year.

Very truly yours,

Edward Warner Jr.
Trustee

/jak

COUNTY OF SUFFOLK

ATTACHMENT # 1



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PLANNING

THOMAS A. ISLES, A.I.C.P.
DIRECTOR OF PLANNING

January 24, 2008

Hon. Edward Warner, Jr., Trustee
Board of Trustees
Town of Southampton
116 Hampton Road
Southampton, NY 11968

Dear Ed:

Thank you for your letter of January 14, 2008 expressing issues of importance to the Southampton Town Trustees regarding the development of the Suffolk County Shellfish Aquaculture Lease Program in Peconic Bay and Gardiners Bay. You raise the issue of Suffolk County residency as a condition of eligibility to participate in the lease program, and the need to give priority to those individuals and companies that now actively cultivate shellfish in these bays. I share your concern about the need to address these two points.

I will ask Cashin Associates to include a discussion on residency in the development of the lease program structure that will determine if it is legally permissible to restrict participation in the program to Suffolk County residents. If this participation must be open to New York State residents, given the fact that the State has certain ownership interests in the underwater lands in Peconic and Gardiners Bays, then the option of structuring the requirements to favor Suffolk County residents will be reviewed and included to the maximum extent possible.

Given the above, and as expressed at ALPAC meetings, the program will be designed to accommodate access to leases by shellfish farmers that are doing business now. There will be a transition period when the program begins implementation, when temporary assignments are converted to leases, etc. During this transition period, the program should consider and act on lease applications submitted by these active farmers so they can continue operations at their current locations if they choose to do so. I believe that this should be priority number one. After this priority is addressed, the program could then consider leases on new grounds that are currently not being farmed.

From a policy perspective, the program will be structured to give existing farmers the ability to remain in business. Hence, they will be given first priority when the program begins.

LOCATION
H. LEE DENNISON BLDG. - 4TH FLOOR
100 VETERANS MEMORIAL HIGHWAY

MAILING ADDRESS
P. O. BOX 6100
HAUPPAUGE, NY 11788-0099

Phone: (631) 853-5191
Fax: (631) 853-4044

Letter to Hon. Edward Warner

January 24, 2008

Page 2

Your comment on the rate at which leases on new areas could be issued is in concert with the draft program components now under consideration. As it stands now, the proposed one percent increase per year during the first five year period would enable 60 acres to be leased annually, with a total of 300 acres available for new leases at the end of five years.

Thank you for participating at ALPAC meetings as we proceed with developing the lease program. I look forward to hearing the recommendations of the Southampton Town Trustees and believe that we can all develop a program that is worthy of support.

Sincerely,



Thomas A. Isles, A.I.C.P.
Director

TAI:DD:bd