

**N.C. Division of Marine Fisheries – Habitat and Enhancement
Shellfish Lease and Aquaculture Program – Public Hearing**

February 15, 2023

Present: Owen Mulvey-McFerron – Program Coordinator, Shellfish Lease Program
Teri Dane – Shellfish Lease Biologist
Marla Chuffo – Administrative Specialist I
Dustin Walters – Staff
Anthony Frost - Staff
Scottie Tripp – Staff
George Stilson – Staff
Robert Farnell - Staff
Elizabeth McCormick – Staff
Patricia Smith – Staff
Jeff Moore – Staff
Zach Harrison - Staff
Ashley Bishop - MPO

Attendees:

Brad Rich, Nancy Dupuis, Stephanie Foss, Hans Hofe, Mandy Uticone, Pat Tester, Bobby Smith, Jud Kenworthy, Jamie Ridenhour, Kenneth Brennan, Mary Hamman, Adrienne Strickland, Cynthia Delafuente, Kyle Frey, Ben Strickland, Grayson Parker, Tyler Chadwick, Keith Larick, Ally Allen, Mason Allen, Kent Gitter, Chris Allen, Chris Matteo, Cindy Baker, Mack Baker, Lori Stokes, Kevin Brown, Cyndi Brown, Phillip Lannan, John Foss, Creighton McNeil, Brittney McNeil, Marie Frey, Patrick Jest, Joe Harvey, Frank Milchuck, Jacob Milchuck, Joseph Michael, James Morris Sr., Kevin Daniels, Eric Herbst, Jet Matthews, Matt Godwin, Doug Brady

Meeting: 15 February 2023, 6:08-6:40 PM via in Person and WebEx for Carteret County proposed shellfish lease. Location at Central District Office, 5285 Hwy 70 W, Morehead City

Applicant(s): Benjamin Strickland, Tyler Chadwick, Hershall Kevin Brown, Charles Merritt, Charles Allen, John Foss, Austin Goodwin, James A. Morris Sr., James A. Morris Jr., Cynthia Delafuente, James Kyle Frey (2), Nancy Dupuis, Patrick Tosto, Lori Stokes, Joseph McMichael, Kent Gitter

I. Meeting

At 6:08 pm the public hearing was called to order by Owen Mulvey-McFerron:

“I’d like to call this Shellfish Lease Public Hearing to order. My name is Owen Mulvey-McFerron, and I am the Shellfish Lease and Aquaculture Program Coordinator of the North Carolina Division of Marine Fisheries. I will be serving as the hearing officer tonight.

The purpose of this public hearing is to receive public comment on proposed shellfish leases in Carteret County. Site investigations by division staff have determined that these proposed shellfish leases generally meet the standards for shellfish leasing under NC General Statutes and NC Marine Fisheries Commission rules. The director of the division has authorized this hearing to receive public comment.

Tonight's hearing is also being conducted virtually, so we have folks participating by telephone and through the WebEx virtual meeting application. PowerPoint slides presented tonight are also available on the division's website for those participating by telephone. This hearing is being recorded and is a public record. All verbal comments, chats, messages or other written communications between members of the public body regarding the transaction of the public business during this meeting are deemed a public record. This hearing is a formalized process where we take only public comment on the proposed shellfish leases that have been noticed in the Carteret News Times Newspaper on January 15th and January 22nd, 2023, and on the division's website. No decisions will be made at tonight's hearing. This hearing is also not a dialogue or forum. Any discussion or discourse should be held until after the hearing concludes. Written comments on these shellfish leases can be submitted to the division up to 24 hours after the public hearing. If you wish to speak tonight, you need to sign up on the list we have by the door on your way in. If you are not already on the speakers list, I will ask if anyone else wishes to speak at the end of the meeting at which point you may provide comment and then we will ask that you sign the speakers list. Now we will do a roll call of the folks participating on Webex or by phone. Please be advised, all participants will be recorded. Patricia Smith has been taking attendance as people have signed into the meeting. She will now finalize that and go over the information on how to participate."

Patricia: "Thanks Owen. I have been taking your names for our attendance records and asking who would like to speak as you have been signing in. Hans Hofe, would you be speaking tonight? He declined. Bobby Smith, can you hear me?"

Hans Hofe: "Okay, I'll speak for Bobby. He's in Dare County. I'm sure he's not speaking, he's listening."

Patricia: "Okay, thank you. Okay, so that gets everyone then. So later in the meeting I will go down the list of those who indicated they wanted to speak, which is right now, no one and then I will tell you then how, if someone decides they want to speak."

Owen Mulvey-McFerron: "As a reminder, no decision will be made at tonight's hearing. All public comment received tonight and during the public comment period will be taken into consideration. I will give each shellfish lease applicant an opportunity to speak first and then I will open comments to anyone else who wishes to be heard. I'll call on commenters by name in

the order in which they signed up to speak. Comments from all speakers including the shellfish lease applicants should be limited to no more than three minutes. I will indicate when your time is up at which point you should return to your seat. If you are participating on online, please mute your microphone after you finish speaking. When you get up to podium, you'll see the conference call speaker. There will be a red microphone on there. Press the microphone, it'll turn blue and then you can speak.

When you're done speaking press again, it'll turn red, and then you can go back to your seat. Once called please come to the podium and state your name and if applicable any organization you are representing or where you are from, which lease or leases you were commenting on and your comments, please direct your comments to me and not through the rest of the audience. Please be courteous and respect all people who wish to speak. If you were discourteous or disruptive, I will ask you to leave. If anyone has questions not directly related to the proposed shellfish leases, staff and I will be happy to meet with you after the hearing. And with that, I will read information on proposed shellfish leases.

First, we have a 2.06-acre shellfish bottom and water column lease applied for on July 6th, 2021, by Old Salt Oyster Company, agent Benjamin Strickland Jr., located in Bogue Sound. The management plan indicates the use of floating and bottom gear for the commercial production of oysters. Division staff conducted a site investigation on May 27th and 29th, 2022, which found zero bushels of shellfish per acre and zero submerged aquatic vegetation, which I will refer to as SAV for the rest of the hearing.

Next, we have a 2.12-acre shellfish water column lease applied for on March 21st, 2022, by Linda Jolly and James Tyler Chadwick, located in the Newport River. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on May 16th and June 15th, 2022. No samples were collected because the proposed water column lease overlies an existing shellfish bottom lease.

Next, a 3.91-acre shellfish bottom and water column lease applied for on April 5th, 2022, by Hershall Kevin Brown, located in the White Oak River. The management plan indicates the use of floating and bottom gear for the commercial production of oysters and clams. Division staff conducted a site investigation on May 5th and 12th, 2022, which found 4.38 bushels of shellfish per acre and 1% SAV.

Next, we have a 1.83-acre shellfish bottom and water column lease applied for on April 12th, 2022, by Charles Merritt located in Ward Creek. The management plan indicates the use of floating and bottom gear for the commercial production of oysters and clams. Division staff conducted a site investigation on May 19th and 23rd, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next, a 3.72-acre shellfish bottom and water column lease applied for on April 19th, 2022, by Changing Tide Renovations, LLC, agent Charles Mason Allen, located in South River. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on June 9th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next, a 3.67-acre shellfish bottom and water column lease applied for on June 6th, 2022, by John Foss, located in Adams Creek. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on July 6th and 7th, 2021, which found zero bushels of shellfish per acre and zero SAV.

Next is a 3.44-acre shellfish bottom and water column lease applied for on June 9th, 2022, by Austin Goodwin, located in Ward Creek. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on September 7th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next, a 3.32-acre shellfish bottom and water column lease applied for on June 13th, 2022, by Sea Level Shellfish Co., LLC, agent James Morris Jr., located in Long Bay. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on June 30th and July 21st, 2022, which found zero bushels of shellfish per acre and 7% SAV.

Next, an 8.61-acre shellfish bottom and water column lease applied for on June 13th, 2022, by James Morris Sr., located in Long Bay. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on September 2nd & 4th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next is a 5.08-acre shellfish bottom and water column lease applied for on July 15th, 2022, by Seafood for the Soul NC, LLC, agent Cynthia Delafuente, located in lower North River. The management plan indicates the use of floating and bottom gear for the commercial production of oysters and clams. Division staff conducted a site investigation on August 25th and 26th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next is an 8.22-acre shellfish bottom and water column lease applied for on July 18th, 2022, by James Kyle Frey, located in Newport River. The management plan indicates the use of floating and bottom gear for the commercial production of oysters. Division staff conducted a site investigation on September 12th & 13th, 2022, which found 0.05 bushels of shellfish per acre and zero SAV.

Next is a 3.86-acre shellfish water column lease applied for on July 18th, 2022, by James Kyle Frey, located in Newport River. The management plan indicates the use of floating and bottom gear for the commercial production of oysters. Division staff conducted a site investigation on September 2nd, 2022. No samples were collected because the proposed water column lease overlies an existing shellfish bottom lease.

Next is a 4.11-acre shellfish bottom and water column lease applied for on July 21st, 2022, by Nancy Dupuis, located in North River, below the bridge. The management plan indicates the use of floating and bottom gear for the commercial production of oysters and clams. Division staff conducted a site investigation on August 30th and 31st, 2022, which found 0.41 bushels of shellfish per acre and zero SAV.

Next is a 1.87-acre shellfish bottom lease applied for on August 1st, 2022, by Patrick Tosto, located in lower North River. The management plan indicates the use of predator nets for the commercial production of clams. Division staff conducted a site investigation on August 30th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next is a 1.88-acre shellfish bottom and water column lease applied for on August 1st, 2022, by Dick Stiffner's Oyster Farming, A Sustainable Way to Grow, LLC, agent Lori Stokes, located in lower North River. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on August 24th and 25th, 2022, which found zero bushels of shellfish per acre and 2% SAV.

Next is a 7.20-acre shellfish bottom and water column lease applied for on August 2nd, 2022, by Joseph McMichael located in lower North River. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on September 1st, 2022, which found 0.05 bushels of shellfish per acre and zero SAV.

Last is a 1.34-acre shellfish bottom and water column lease applied for on August 1st, 2022, by Kent Gitter, located in Ward Creek. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on September 7th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Now, I will call on the applicants and give them an opportunity if they wish to speak to their proposed shellfish lease. This is not a requirement of the applicants. Please limit your comments to three minutes. Once your three minutes are up, we will move to the next speaker.

I would like to call on Benjamin Strickland Jr. to present their proposed shellfish lease.”

Patricia: “I may have him on here, let me check.”

Owen: “Benjamin Strickland, just stood up” *Declined comment.*

Owen: “I would like to call on James Tyler Chadwick to present their proposed shellfish lease.”

James Tyler Chadwick: “I’ll keep my comments short, to the point. We got a lot of people here, but I just want to thank the State for the work, they put into the proposed bottom. I look forward to looking forward to working that bottom putting floats oyster bags on it. I look forward to cleaning North Carolina waters.”

Owen: “We’ll handle any questions after we’ve closed the official part of the hearing. Thank you for comments.”

“I would like to call on Hershall Kevin Brown to present their proposed shellfish lease.”
Declined comment.

“I would like to call on Charles Merritt to present their proposed shellfish lease.”
Declined Comment.

“I would like to call on Charles Mason Allen to present their proposed shellfish lease.” *Declined comment.*

“I would like to call on John Foss to present their proposed shellfish lease.” *Declined comment.*

“I would like to call on Austin Goodwin to present their proposed shellfish lease.”
Declined comment.

“I would like to call on James Morris Jr. to present their proposed shellfish lease.” Not present.

“I would like to call on James Morris Sr. to present their proposed shellfish lease.”
Declined comment.

“I would like to call on Cynthia Delafuente to present their proposed shellfish lease.”
Declined comment.

“I would like to call on James Kyle Frey to present either of his proposed shellfish leases.”
Declined comment.

“I would like to call on Nancy Dupuis to present their proposed shellfish lease.”

Nancy Dupuis was online: “Good evening, everybody. I do not have any comments.”

“I would like to call on Patrick Tosto to present their proposed shellfish lease.”

Declined comment.

“I would like to call on Lori Stokes to present their proposed shellfish lease.”

Declined comment.

“I would like to call on Joseph McMichael to present their proposed shellfish lease.”

Declined comment.

“I would like to call on Kent Gitter to present their proposed shellfish lease.”

Declined comment.

“So, with that, we're going to move to the public comment portion of the meeting, and I'll call a first speaker here in a second. And I would like to remind speakers to limit their comments, three minutes. When you get to two minutes, I'll hold up by finger indicating you've one minute left. And then when you reach three minutes, I'll hold my hand, indicating these wrap-up comments, and allow the next person that comes to me. As a reminder, please state your name where you're from, if you're representing any organization and then your comments on the proposed shellfish leases. If you have any questions, we will address them after the public hearing has concluded.”

“So, with that first name, I have here is Jet Matthews, public comment. Okay. (Declined to speak) All right. So next I have Matt Godwin.”

Matt Godwin: “First my name is Matt Godwin. I'm an attorney in Beaufort, and a member of Lukens Island Hunting Club. We are before you in opposition, to the Changing Tide Renovations proposed shellfish lease. A number of documentation, Owen, have been submitted to the Division of Marine Fisheries prior to today but I would like to highlight a few things that have been submitted. This is obviously being addressed pursuant to North Carolina, General Statute, 113 -202, and in that these leases have to be considered in relation to navigation, fishing and recreation. Where this proposed lease lies on the shore of South River interferes with all three of those things. The agencies report that done this summer voices concerns for all three of those things. Both recreational fishing, commercial fishing and more importantly, duck hunting. Duck hunting that is done along our property along shores to South River is done through both permanent blinds and also accessing the shores of the river through the property. We've got designated trails reaching the edge of South River exactly where this proposed lease is, that would prevent us from using our land for hunting. If that lease was allowed to proceed within

150 or 200 yards for the shore, we essentially would not be allowed to go to the end of the trails to take advantage of our property to hunt. Furthermore, as the report has indicated, there is two permanent duck blinds already established within 50 yards of this proposed lease. If the proposed lease went forward, we would essentially be prohibited from using our own duck blinds. Also, this proposed lease, Owen, is dangerously close to where the polluted water line is that's up south river. The last thing I'll say, and if that polluted line changes, it could be within the area of this proposed lease. I've got a few documents to give to you. The last thing I'll say is that there is a proposed development plan for our land, that would allow lots along these edges of South River. If the shellfish lease went into place, it would essentially terminate the opportunity in this section to allow any development. So, I'd ask you to take those comments into account. And I'm going to ask that you receive the documentation. Thank you.”

Owen: “All right, now we're going to move on to Doug Brady, am I reading that right? Mr. Brady?”

Doug Brady: “Good evening, thank you for the opportunity to speak. This is in reference to the Changing Tide Renovations lease on South River, that Mr. Godwin spoke about. First, a little bit of background, I'm very supportive of Mariculture and the industry and its is wonderful to see how it's growing in the county, and I have experiences as a lease owner and grower of shellfish, and it's come along way. I do think that in granting these leases though, it is paramount that siting of them minimizes user conflicts. I know that the division and the marine fisheries commission works toward that. It is my opinion, that this particular lease where it's sited causes user conflicts with a number of people. Also, the land adjacent owners. You know, riparian rights issues or right given by the state, adjacent landowner is entitled to use, the water from the property. And we can't restrict people from using property in front of our land, but we can build structures and docks. It's my opinion that granted this lease which is 30 or 40 feet it appears off our shoreline would give exclusive right of this area. Basically, in the water column to a private use, thus infringing on our riparian rights and on the rights of just the general public that use this area, which is a used for fishing boating, anchoring, etc., which is noted in the report. This lease is in the direct corridor of riparian rights that we do have a development plan for and I know that the division and the Marine Fisheries division did push the riparian line, to the 250 feet out on the developed shoreline line did not address the undeveloped shoreline and in my opinion that is wrong and that is it needs to be looked at again because we do have rights they want to develop shore line and the fact that it's not done now I think it should be pushed out. It should be pushed out to 250 feet from property. Thank you.”

Jet Matthews: “Okay, my name is Jet Matthews. I'm a lifelong resident of Craven and Carteret Counties. I have owned and operated Marina Management Services, a development company corporation that builds, develops, and manages marinas. One of which is Matthew's Point Marina on the Neuse River built 1987 has 107 slips, and the Morehead city yacht basin where we

have 87 slips, 1400 feet of sidetide dockage. I'm also one of the founding members of Lukens Island. I'd like voice my opposition for this water column lease. I'd like everybody to know that I think it's a great program, and I'm not opposed to the program, I'm just opposed to citing this particular location. And one of the reasons I'm following up, we made three submissions, all of the other documents on it. Because I'm in the Marina business, one of the key anchorages on the entire Neuse River, is South River. I started Matthews Point in 1987 with a hundred boats, they all mainly either go to Oriental, or they go to South River and anchor. A lot of these people are older, a lot of the people that moving north-south, are older, they're transient in this area. We take in between a thousand and 1200 transients every spring and every fall going back and forth. They usually have stopped either there or Oriental before they make their trip into the yacht basins. So, it's a large number we have coming into that area, they are anchoring, sometimes they come in late at night. Like these people are older and they usually put their dogs on a dingy go ashore at the graveyard or on some sandy beaches there. I have some concerns that because these people probably only have a flashlight; that they're going to get overboard to get in there and not see these leases. This lease I think is right where they've been coming and I'm gonna submit these ads that are running in published Atlantic Intercoastal Waterway Guides, there's three of which are the salty of southeastern cruisers net, where their vectoring these people in and telling them this is where you can anchor and this is where you can go. I think I've covered it.”

Chris Matteo: “My name is Chris Matteo. The head of the North Carolina Shellfish Grower’s Association. I do not have a lease in the pool today but wanted to make some comments because I have a farm in Pamlico County that's surrounded by the Jones Island Club which is the hunt club that has sixty-four hundred acres. They're primarily duck hunters, we coexist nicely. Another point I want to make is, I've lived in Oriental. I lived in Adams Creek. South River is one of the most remote locations in Carteret County, as far as citing leases. Lukens was abandoned, the actual little town of Lukens, about a hundred years ago, or 110 years ago, and there's been no development there since. We do understand that duck hunting is important. We're all for duck hunting. Shellfish growers can coexist with duck hunters, we do it all the time, currently. The lease area where they're talking about, yes people do drop anchor nearby, but South River is a large place. I lived on Adams Creek, next creek over, and same thing happened there. You know, if you're trying to support folks and trespassing at night, then I understand there to be an issue. But, you know, Lukens in that area is privately owned. So, people shouldn't be coming ashore at night, really, for any reason. We've been leasing water bottom for 165 years in this state to cultivate shellfish. And I think it's really important when it comes to user conflict to understand that, first of all, from a development perspective, if there are current plans to develop this site within the next 10 years, I think it's more relevant. It's been abandoned or not developed for over a hundred years now, with exception of a graveyard. So, I support the lease in that site, South River. And I also support every other grower before you today. Most of them I know personally through the shellfish growers association, I'd say, 70% of them are active

growers currently looking to either expand or relocate because of a variety of dynamic conditions in the estuary. And I just wanted to make those comments in support. Also, the perspective growers coming out of our local Community College.”

Patricia – (call speakers)

Now Patricia will call the folks who are joining us via Webex or by phone who wish to speak. She will unmute you after she calls your name. No one chose to speak online.

It does not appear that anyone else would like to speak, so I'm going to turn it back over to you. Is there anybody else that is here this evening that would like to submit a public comment has not already.

Owen - “Is there anyone else who would like to comment on any of these proposed shellfish leases?”

“If no one else wishes to speak, I will close this public hearing. I would like to thank you for your time and participation in this process. Time of closure is 6:40 P.M.

Stop Webex Recording

Now that the hearing has concluded, I will take any questions that folks may still have.