



Dare County Shellfish Lease Hearing

Wednesday, November 13, 2024

6:00 PM — 6:20 PM

In Person and Via Webex

Dare County Government Center
954 Marshall C. Collins Dr
Manteo, NC 27954

Attendees

Staff

Zach Harrison, Section Chief

In Person

Marla Chuffo, Administrative Officer II

Via Webex

Mitch Melkonian, Administrative Specialist I

Via Webex

Stephen Johnson, Biologist I

Via Webex

Kristina Flanigan, Conservation Biologist I

Via Webex

Elizabeth McCormick, Administrative Specialist

Via Webex

Robert "Scottie" Tripp, Environmental Tech II

Via Webex

Applicants

Smith Oyster Co, LLC, Robert Smith, Jr.

23-026BL/23-027WC, 23-044BL/23-045WC

In Person

General Public

Patrick Byrd

In Person

Reese Stecher

In Person

Transcript

Hearing Officer

Zach Harrison, Habitat and Enhancement Section Chief

Time of Commencement

6:00 PM

1. Opening Remarks

Zach Harrison, Hearing Officer

“The time is six o’clock and I’d like to call this Shellfish Lease Public Hearing to order. My name is Zach Harrison, and I am the Habitat and Enhancement Section Chief 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 Dare 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, or written communications between members of the public body regarding the transaction of business during this meeting are deemed 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 Coastland Times on October 9th and October 16th, 2024, 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 by 5pm tomorrow.

If you wish to speak tonight and are not already on the speakers list, you will get a chance to speak after we have gone through the registered speakers.

Now we will do a roll call of the folks participating on Webex or by phone. Please be advised, all participants will be recorded. Mitch has been taking attendance as people have signed into the meeting. He will now finalize that and go over the information on how to participate.”

2. Roll Call/Attendance

Mitch Melkonian, Hearing Staff

“Currently, we do not have anyone signed on. If attendees join later, I can gather their names and confirm their interest in speaking as they arrive.”

3. Presentation of Evidence/Statements

Zach Harrison, Hearing Officer

“Before beginning the Public Hearing, I will first give a quick overview of the shellfish leasing process and the goal of public comments.

Some shellfish lease basics. Shellfish leases are public trust water leased for shellfish aquaculture. When we say aquaculture, we mean artificially propagated stocks. That means they're reared in a controlled environment. And so those leases give specifically private rights to shellfish in that area. The water is still considered navigable at your own risk.

Shellfish leases are governed by law, and so the majority of what outlined shellfish leases is in general statutes. And so that makes up the largest portion of what to find shellfish leases. There are some that are also defined in marine fisheries commission rules, and lastly in the director's decision. And so those shellfish lease general statutes are NCGS Chapter 113 Article 16, and that includes all the changes to shellfish leases. And there have been quite a bit of changes including 20 succession loss since 1997. So, for the shellfish lease application process, this is a fairly large process, which includes us.

Alright, so this is a shellfish lease process. There's a lot that goes into it. We are currently at this set of public comments, so we have a 30-day public comment period, and we have put out two legal notices, and this is our, of course, public hearing.

For the shellfish lease investigation that's already occurred, the technicians that go out are looking primarily at the marking poles and the acreage to make sure that the proper location and the acreage is correct. They are also looking at the biological pieces, so sampling submerge aquatic vegetation, sea grass, otherwise known as SAV, and natural shellfish to abide by the requirements in general statutes and also the requirements of the United States Army Corp of Engineers. And so when we go out to a shellfish lease site, here is a proposed site and those dots, all those little dots are the samples that are taken for submerged product vegetation and natural shellfish. We do so with meter-wide patent tongs to take grabs to get not only what is on the surface but what could be below including clams or rise ones for those submerged product vegetation. And lastly, the technicians are looking at navigation in depth, so they are taking a snapshot of the location at that time. They are not trying to characterize any other public trust usage in that area by looking at one day.

For the public comments period, we're doing this to evaluate the compatibility of a shellfish lease. We're trying to determine the effects of public trust usage by the shellfish lease and the direct impacts. This public hearing is not a vote, but a way to gather information on those direct impacts. The public comment is then collected, and that includes comments tonight at the public hearing as well as online and letters during the public comment period, which ends again tomorrow at 5:00 PM. We also do additional outreach including posting these on our websites. We have a shellfish leasing tool where you can see exactly where those leases stand. We put our press releases, proclamations, social media posts etc. And so when the director goes to decide on a shellfish lease, the director at this point is weighing the compatibility with public trust usage. And so those are looking at things that are public trust rights in the United States or sorry, in the North Carolina constitution, which includes navigation, commercial fishing, recreational fishing, and other recreational pieces. So, the director can then decide to approve, approve with conditions that might change how that shellfish lease is set up or what is allowed on that shellfish lease, and can also deny that shellfish lease. And so, the last thing to cover is how you should be making public comments tonight.

If we have a proposed shellfish lease in an area, this is all of Bogue Sound, we are not looking for general water body comments. So, saying that a recreation or other uses occur in the water body is not what we're looking at tonight. We're looking at direct uses, specific uses of that location. So, if we have a proposed shellfish lease, the type of public comment that we are interested in is use of this shoal for recreation uses, use of this lease footprint for fishing or use of the lease footprint for other protected trust rights. So now we will switch back over to the public hearing.”

4. Public Comments

Zach Harrison, Hearing Officer

“First, I will go through the information for the proposed shellfish leases, then I will open comments to anyone else who wishes to be heard, and lastly, I will give each of the shellfish lease applicants an opportunity to speak. I will call on commentators by name in the order they signed up to speak. With that, I will read the information on the proposed shellfish leases. The proposed shellfish leases receiving public comment at this hearing are listed here. As a reminder for all speakers this evening, please be courteous and respectful. If you are discourteous or disruptive, I will ask you to leave.

First, a 6.63-acre shellfish bottom and water column lease applied for on July 24th, 2023, by Smith Oyster Company, LLC, agent Robert Smith, Jr., located in Eagles Nest Bay. The management plan indicates the use of clam seed, predator netting, bottom gear, and floating gear for the commercial production of oysters and clams.

Division staff conducted a site investigation on September 12th, 2023, which found zero bushels of shellfish per acre and 5% submerged aquatic vegetation, which I will refer to as SAV.

Next, a 6.11-acre shellfish bottom and water column lease applied for on July 24th, 2023, by Smith Oyster Company, LLC, agent Robert Smith, Jr., located off Davis Channel. The management plan indicates the use of clam seed, predator netting, bottom gear, and floating gear for the commercial production of oysters and clam.

Division staff conducted a site investigation on September 12th, 2023, which found zero bushels of shellfish per acre and zero SAV.

Now, I will call on the public for comments on the proposed shellfish leases. When I call your name, please come to the podium, state your name and organization you are representing, where you are from, which lease or leases you are commenting on, and your comments.

Please direct your comments to me, as the representative of the Division, and not the audience. Your comments are being recorded through the microphone on the podium. If you do not speak directly into the microphone, we may not be able to accurately transcribe your remarks. You will have three minutes to speak. I will hold up a finger when you have one minute remaining, and my hand when you reach three minutes.

If anyone has questions, staff and I will be happy to meet with you after the hearing. For those on Webex, if you have any questions not pertaining to the leases mentioned tonight, please call, or email us. Stephen will place our contact information in the chat for you or you can write it down from the last slide.

First, I will call on Raymond Brittain. Next will be Henry Murray.”

Zach Harrison, Hearing Officer

“Thank you. Now Mitch will call the folks who are joining us via Webex or by phone who wish to speak.”

Mitch Melkonian, Hearing Staff

“We still do not have any attendees joined by phone or Webex”

Zach Harrison, Hearing Officer

“Okay, and that concludes the registered speakers. Was there anyone I missed or anyone who has changed their mind would like to speak?”

[Inaudible]

Robert Smith, Jr., Smith Oyster Co, LLC
[Inaudible]

5. Closing Remarks

Zach Harrison, Hearing Officer

“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 Adjournment

6:20 PM