

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

February 9, 2022

Present: Owen Mulvey-McFerron – Program Coordinator, Shellfish Lease Program
Teri Dane – Shellfish Lease Biologist
Marla Chuffo – Administrative Specialist I
Dee Lupton – Deputy Director
Dustin Walters – Staff
Anthony Frost - Staff
Scottie Tripp – Staff
Elizabeth McCormick – Staff
Patricia Smith – Staff
Tina Moore - Staff
Lara Klibansky - Staff

Attendees:

Phillip Lannan, James Kyle Frey, Micah and Jack Williams, Paul “Drew” Harrison, Jr., James Tyler Chadwick, Allison Matzelle and Christopher Baillie, Raiford and Ava Trask, Niels Lindquist, Jessica Emory, David Allen and David Allen Jr., Tancred Miller, Lisa Bondurant, Bobby Schultz, William Schultz, Mike Jones, Ana Zivanovic-Nenadovic, Grant Murray, Bill Adams, Vince Emory, Martha Liles, Joe Westbrook, Kara Blount, Randy Fichera Barnhill, Paul Cough

Meeting: 08 February 2022, 6:02-6:39 PM via WebEx for Carteret County proposed shellfish lease

Applicant(s): Phillip Lannan, James Kyle Frey, Micah and Jack Williams, Paul “Drew” Harrison, Jr., James Tyler Chadwick, Allison Matzelle and Christopher Baillie, Raiford and Ava Trask, Niels Lindquist, Jessica Emory, David Allen and David Allen Jr., Tancred Miller

I. Meeting

At 6:02 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. Tonight’s hearing is being conducted in a new format to minimize personal contact, and to maximize social distancing protocols in order to promote public health concerns related to the COVID-19 pandemic. We have folks participating both by telephone and through the WebEx virtual meeting application. PowerPoint slides presented here on WebEx are also available on the division’s website for those participating by telephone. We would like to thank everyone participating in this adjusted format and appreciate your patience. Before we get started, we would like to explain how tonight’s hearing will work. Our first order will be a roll call to identify participants

in these proceedings. Please be advised, all callers will be recorded. Patricia Smith will now go over the information on how to participate and will do the roll call.”

Patricia Smith gave instructions for the WebEx and telephone participation and then took roll call of the participants on the call. (The attendees are listed in the above section)

Owen Mulvey-McFerron continued with the following statement:

“Now I will go over important information for tonight’s hearing. No decisions will be made at tonight’s hearing. All public comment received tonight and during the comment period will be taken into consideration. Once the applicants have had an opportunity to speak, I will open comments to anyone else who wishes to be heard. I will call on commentators by name in the order in which they were listed during roll call.”

“The purpose of this public hearing is to receive public comment on one proposed shellfish lease in Carteret County. Applicable investigations by division staff have determined that this 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.”

“I will give each of the shellfish lease applicants an opportunity to speak first and then will open the floor for public comment on these proposed sites.”

“First, I would like to review some hearing guidelines with you.”

- “This hearing is held in compliance with SL 704 Section 4.31 PUBLIC BODIES/REMOTE MEETINGS DURING DECLARED EMERGENCIES”
- “This hearing is a formalized process where we take only public comment on proposed shellfish leases that have been noticed in **The Carteret News Times** newspaper on **January 5th and January 12th, 2022, February 6th, 2022**, and on the division’s website.”
- “This hearing is being recorded and is a public record. All chats, instant messages, texts, or other written communications between members of the public body regarding the transaction of the public business during the remote meeting are deemed a public record.”
- “Written comments on these shellfish leases can be submitted to the division up to 24 hours after the public hearing.”
- “Comments from all speakers including the shellfish lease applicants should be limited to no more than three minutes. If a speaker exceeds this timeframe, they will be asked to wrap up their remarks. Once you have made your comments for the record, please mute your phone or microphone to allow someone else an opportunity to speak.”

- “Once called, please state your name, where you are from, if you are representing any organization, what shellfish lease or leases you are commenting on, and whether you support, oppose, or have other comments on the advertised shellfish lease sites.”
- “Please be courteous and respect all persons who wish to speak.”
- “If hearing participants have questions about issues 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 the information on the proposed shellfish leases:”

- 1) A shellfish **bottom** lease applied for on **April 19th, 2021**, by **Shepard’s Point Oyster Company, LLC, agent Phillip Lannan**, located **in the Newport River**, and as proposed will cover approximately **2.39** acres. The management plan indicates the use of **bottom gear** for the commercial production of **oysters and clams**.

Division staff conducted a site investigation on **May 17 and 18th, 2021**. The results of that investigation found **zero** bushels of shellfish per acre and **zero** submerged aquatic vegetation, which I will refer to as SAV.

- 2) A shellfish **bottom** lease applied for on **April 19th, 2021**, by **Crystal Coast Oyster Company, LLC, agent James Kyle Frey** located **in the Newport River**, and as proposed will cover approximately **3.86** acres. 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 17 and 18th, 2021**. The results of that investigation found **zero** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

- 3) A shellfish **bottom and water column** lease applied for on **April 6th, 2021**, by **Micah Williams and Jack Williams** located **in the Newport River**, and as proposed will cover approximately **5.62** acres. The management plan indicates the use of **floating and bottom gear** for the commercial production of **oysters**.

Division staff conducted a site investigation on **August 19th, 2021**. The results of that investigation found **0.14** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

- 4) A shellfish **bottom and water column** lease applied for on **May 24th, 2021**, by **South Cape Oyster Company, LLC, agent Paul Harrison Jr.** located **in the Newport River**, and as proposed will cover approximately **5.01** acres. 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 **June 9th, 2021**. The results of that investigation found **0.08** bushels of shellfish per acre and **1%** submerged aquatic vegetation.

- 5) A shellfish **bottom and water column** lease applied for on **July 13th, 2021**, by **Chadwick's Seafood, LLC**, agent **James Tyler Chadwick** located in **South Leopard Creek**, and as proposed will cover approximately **1.72** acres. The management plan indicates the use of **floating gear** for the commercial production of **oysters**.

Division staff conducted a site investigation on **August 5th, 2021**. The results of that investigation found **1.69** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

- 6) A shellfish **bottom and water column** lease applied for on **July 20th, 2021**, by **Allison Matzelle and Christopher Baillie**, located in **North River below the bridge**, and as proposed will cover approximately **1.94** acres. The management plan indicates the use of **floating gear** for the commercial production of **oysters**.

Division staff conducted a site investigation on **August 23rd, 2021**. The results of that investigation found **zero** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

- 7) A shellfish **bottom and water column** lease applied for on **July 9th, 2021**, by **RG Trask Farms LLC**, agents **Raiford Trask, III and Ava Trask** located in **Ward Creek**, and as proposed will cover approximately **9.54** acres. 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 **September 22nd and October 5th, 2021**. The results of that investigation found **0.13** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

- 8) A shellfish **bottom** lease applied for on **July 28th, 2021**, by **South Cape Oyster Company, LLC**, agent **Paul Harrison Jr.** located in **Lower North River**, and as proposed will cover approximately **3.29** acres. The management plan indicates the use of **bottom gear and predator netting** for the commercial production of **clams**.

Division staff conducted a site investigation on **August 11th, 2021**. The results of that investigation found **zero** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

- 9) A shellfish **bottom** lease applied for on **August 2nd, 2021**, by **Sandbar Oyster Company, agent Niels Lindquist**, located **in North River**, and as proposed will cover approximately **3.31** acres. The management plan indicates the use of **cultch on bottom** for the commercial production of **oysters**.

Division staff conducted a site investigation on **August 25 and 26th, 2021**. The results of that investigation found **5.58** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

- 10) A shellfish **bottom** lease applied for on **August 2nd, 2021**, by **Sandbar Oyster Company, agent Niels Lindquist**, located **North River below the bridge**, and as proposed will cover approximately **5.85** acres. The management plan indicates the use of **cultch on bottom** methods for the commercial production of **oysters**.

Division staff conducted a site investigation on **August 24 and 25th, 2021**. The results of that investigation found **zero** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

- 11) A shellfish **bottom and water column** lease applied for on **August 2nd, 2021**, by **Jessica Emory** located **in North Bay**, and as proposed will cover approximately **4.32** acres. The management plan indicates the use of **bottom and floating gear** for the commercial production of **oysters and clams**.

Division staff conducted a site investigation on **August 30 and 31st, and September 2nd, 2021**. The results of that investigation found **zero** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

- 12) A shellfish **bottom** lease applied for on **August 2nd, 2021**, by **Jessica Emory** located **in North Bay**, and as proposed will cover approximately **7.47** acres. The management plan indicates the use of **bottom and floating gear** for the commercial production of **oysters**.

Division staff conducted a site investigation on **August 30 and 31st, and September 2nd, 2021**. The results of that investigation **zero** bushels of shellfish per acre **zero** submerged aquatic vegetation.

- 13) A shellfish **bottom** lease applied for on **August 2nd, 2021**, by **David Allen and David Allen Jr.**, located **in Bogue Sound**, and as proposed will cover approximately **0.89** acres. The management plan indicates the use of **bottom and floating gear** for the commercial production of **oysters**.

Division staff conducted a site investigation on **September 3rd, 2021**. The results of that investigation found **zero** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

- 14) A shellfish **bottom** lease applied for on **August 2nd, 2021**, by **Tancred Miller** located in **North River below the bridge**, and as proposed will cover approximately **1.75** acres. The management plan indicates the use of **predator netting** for the commercial production of **clams**.

Division staff conducted a site investigation on **September 3rd, 2021**. The results of that investigation found **zero** bushels of shellfish per acre and **zero** submerged aquatic vegetation.

Owen: “Now, I will call on each applicant and give them an opportunity if they wish to speak to their proposed shellfish lease. This is not a requirement of the applicant. Please limit your comments to three minutes. Patricia will unmute each applicant after their name is called. Once the three minutes are up, I will inform the applicant and you will be muted for the next speaker. I would like to call Phillip Lannan to present their proposed shellfish lease.”

Phillip Lannan: “I do not wish to speak.”

Owen: “I would now like to call on James Kyle Frey to present his proposed shellfish lease.”

James Kyle Frey: “I don’t have anything to say either. We have a lease right next to it, I have nothing to say.”

Owen: “All right, thank you Mr. Frey. I would now like to call on Micah and Jack Williams to present their proposed shellfish lease.”

Jack Williams: “We have nothing to say as well.”

Owen: “All right. Thank you, Mr. Williams. I would like to call on Drew Harrison to present on his proposed shellfish lease.”

Drew Harrison: “I don’t really wish to speak either, thanks.”

Owen: “All right. Thank you, Mr. Harrison. Now I would like to call on Tyler Chadwick to present on their proposed lease.”

Tyler Chadwick: “Yes, I’ll make it real short. We have the adjacent lease, right beside the proposed. We have the equipment and the structure in place. We have not had any problems with

production requirements or anything in that nature. I'd just like to thank the State for all the work it's done and put into the proposals here. That's pretty much all I have to say."

Owen: "All right, thank you Mr. Chadwick. Now, I would like to call on Allison Matzelle and Chris Baillie to present on the proposed shellfish."

Allison Matzelle: "Yeah, we don't really have much to present. This is our first lease and happy to answer any questions or concerns."

Owen: "All right. Thank you, Allie. So now I'd like to call on Raiford and Ava Trask to present on their proposed shellfish."

Raiford Trask: "Thank you. We are very excited about the opportunity and happy to answer any questions."

Owen: "All right. Thank you. I would like to call on Drew Harrison to present on their other proposed shellfish lease."

Drew Harrison: "Thank you, I don't wish to speak."

Owen: "All right. Thank you, Drew. I would like to call on Niels Lindquist to present on their proposed shellfish lease."

Niels Lindquist: "Thank you. I'd like to start by thanking the Division of Marine Fisheries and all the hard work the staff has put into the shellfish leasing program, it's been fantastic. And yeah, we're just looking to do some really simple cultch on bottom growing of oysters. So, no floating gear, no cages. Minimal impacts. Thank you."

Owen: "All right, and Niels, did you have anything that you wish to say about your other proposed shellfish lease?"

Niels Lindquist: "The same comments for that one as well."

Owen: "All right. Thank you, Mr. Lindquist. I would like to call on Jessica Emory to present on their proposed shellfish lease."

Jessica Emory: "Good evening, everyone. I wish just would like to thank, as did some of the other proposals tonight, the Division and Marine Fisheries for all the hard work that has gone into this process. We've been just very pleased with everything from beginning to end. This is a first-time lease application for both of our leases. That's all I wanted to say this evening. So, I'm well happy to answer any questions if anyone has any at any time."

Owen: "Did you have anything to say about the other shellfish lease application?"

Jessica Emory: "No sir, other than the fact that they're very close to each other, just a couple yards away actually."

Owen: "All right. Thank you, Ms. Emory. I would like to call on David Allen to present on their proposed shellfish lease."

David Allen: "Well, thank you. I do also want to thank the state for their part and education and ease of help with the application process. We are almost just a small family, first time lease. We did go through the Carteret Community College and Shellfish Farming Academy. So, we do have some experience now in employ with best practices and hurricane preparedness guides. We are very easy to get along with and responsible. We do have a small lease to check everything out this time around and it's less than an acre and it does encompass both a water column and bottom. And that's it."

Owen: "All right. Thank you, Mr. Allen. Finally, I would like to call on Tancred Miller to present on their proposed shellfish lease."

Tancred Miller: "Thank you Owen. This is a first-time application for my wife and I. This lease is a bottom lease and the lease plans right in front of our property of our development, which is entirely in front of our property. The only visual impacts would be the marking poles."

Owen: "Thank you Mr. Miller. Now Patricia will call the first speaker. I would like to remind speakers to limit their comments to three minutes. As a reminder, please state your name, where you are from, if you are representing any organization, comments indicate whether you support, oppose, or have other comments on the shellfish lease sites. Additional questions can be answered after the hearing has concluded. I have our contact information on the slide now, you are welcome to reach out to any of us at any time to answer questions. Also, if you do get cut-off at the three-minute mark, the Division is accepting comments on the website up to 24 hours after the public hearing."

Patricia Smith: Calls the first person signed up to speak.

Lisa Bondurant: "Good evening. This is Lisa Bondurant and I am together with Stuart Bondurant, my husband and Susan Erinhouse. We own a unit at Atlantic Beach right across from the Allen lease. I'm from Atlanta because we are supposed to state where I'm from, but our wonderful vacation home is there at 8 ½ Marina. We opposed the Allen lease just because we are concerned very concerned as property owners that visually, it will impact our enjoyment of that property. We have just an absolutely fantastic view of the waterway and across to Morehead

City. And as I understand it, the lease will involve the objects very, very close to our property. We're also concerned that they'll be diminishing in value of the properties there, as a consequence of that. The entire 8 ½ Marina community will be impacted. And that particular area in Bogue Sound is really pretty heavily used by the homeowners, vacationers for boating, kayak, kayaking in particular, some jet skiing, and we are afraid that the lease will impede on those wonderful activities that we all enjoy. It is a heavily used part of the sound, so we would just ask that careful consideration be given to whether there is another location that might be appropriate for that lease. It's a big sound and not just right outside our back doors and thank you very much for the opportunity to speak.”

Patricia Smith: “The next person that I have on my list is Mr. Bobby Schultz, just a moment. Let me get you unmuted here. Go ahead and Mr. Bobby Schultz.”

Bobby Schultz: “Good evening. Bobby Schultz, Morehead City, North Carolina. I'm speaking regarding lease 21-061 BL and its associated water column amendment. That's the same lease that Miss. Bondurant just spoke about in Bogue Sound. Eastern Bogue Sound is one of the most heavily used waterways in North Carolina. My job involves working on a boat in this area nearly every day assisting members of the public. I work on the water in a large area between Pamlico Sound and Sneads Ferry. I can say with a hundred percent certainty that Eastern Bogue Sound is consistently the most heavily trafficked piece of waterway in Carteret County and arguably the state. The general assembly and the division has confirmed this by identifying Bogue Sound as an area with a substantial number of user conflicts specifically, the proposed lease site is used by boaters leaving areas in Atlantic Beach generally following the shoreline bound for what locals call the maze and other areas. Jet skiing in this area has become more popular in recent years with the addition of a jet ski rental business nearby. Paddlers and kayaks and stand-up paddle boards are constantly paddling in this area. The sand beach, that is directly south of the lease and the marshes directly to the southeast are particularly popular paddling destinations. Recreational and commercial fishermen, fish and crab the area which is locally known as a hot spot for flounder and red drum. As a kid, I enjoyed many of these activities in or near this exact lease site and I hope my kids can one day enjoy this spot the same way I did without the interference of an intensive shellfish water column operation. This heavily used and heavily developed area of Eastern Bogue Sound is not suitable for additional shellfish leases. On these grounds, I asked the Division to either deny this application or move the site to an area with less concern for user conflict. I have a solution. While I believe the best site for an additional water column lease is outside of Eastern Bogue Sound, but if the division decides that the site must stay in Eastern Bogue Sound, I propose one of these alternatives that would minimize conflicts with other users and would not place an undue burden on the applicant. I proposed this lease site be moved, just three quarters of a mile to the East in, or near to Tar Landing Bay. My written comments, including a map of this alternative site, more than doubles the distance to the nearest developed shoreline. It's less intrusive to recreation and has the same water depth, bottom composition, and

ease of access as the original site. This alternative site reduces user conflicts while minimizing any burden on the applicant is the alternative site is materially identical to the original site to force more coming up on three minutes here. (**Owen: Three minutes are up**). Sure, I'll wrap up. I would also like to personally offer to assist the applicant with any costs that he may incur by the move. We're blessed here in Carteret County with an enormous amount of other suitable, water column lease sites that do not present these conflicts. I hope the division and the applicant find my proposed alternatives acceptable and please do not hesitate to reach out."

Patricia Smith: "Thank you. And the next person is Mr. William Schultz and I need to find you, just a second here and get you unmuted. Go ahead Mr. William Schultz."

William Schultz: "Good evening. My name is William Shultz. I'm speaking in opposition to this specific location of the David Allen lease application. 20 years ago, my wife and I purchased a small condo in Atlantic Beach and the proposed shellfish lease site is very, very close to the and in plain view from my living room window and deck, the same for my neighbors. I understand that view sheds are not technically considered a public trust, right. However, according to the Division of Coastal Management administrative code, public trust areas, quote, have aesthetic value, unquote. This specific piece of water holds an enormous amount of aesthetic value to my family and neighbors. This proposed site is particularly close and poses an overwhelming nuisance directly out our living room window. Especially in view of the shellfish floating structure issue, now being discussed on CRC. Next, I want to say that I am not opposed to shellfish aquaculture in North Carolina as long as the lease locations calls minimal user conflicts with all citizens. As you know, in 2019, the General Assembly enacted a moratorium on new shellfish leases in this part of Bogue Sound. This area was identified as an area with high levels of user conflicts, due to heavy population and heavy use. The main purpose of this moratorium was to give the division time to designate shellfish enterprise areas, or SEAs, which would give growers a more streamline lease application process to lease water in areas that have low levels of potential user conflict. This moratorium was originally set to expire July 1st, 2021. As that date approached, it became clear that the SEAs associated with rulemaking would not be established by that date. The General Assembly included a five-year extension to the original moratorium in the 2021 appropriations bill which was filed in February of 2021. Unfortunately, by July 1st, this bill was still stuck in debate in the General Assembly. The moratorium expired, even though the pending bill included and it included an extension which was retroactively effective July 1st, 2021. This would have eliminated any gaps in the now seven-year moratorium. It was clearly the intention of the General Assembly, and understanding of everyone involved, that the moratorium be extended and never expire on July 1st, 2021. There was never supposed to be another lease approved in this part of Bogue Sound before this establishment of the SEAs. However, one application was received after this moratorium expired but prior to the bill extending the moratorium being signed into law. This application is the one. As everyone intended, this lease application should not even exist. Just because a lease application is received

by the Division, that does not mean the application must be approved or approved exactly as applied for. All facts should be considered and then a decision based upon all those facts. On the grounds of many user conflicts in connection to this proposed lease in the attempt of general assembly and the division to reduce user conflict, I ask that you either, number one (**Owen: Mr. Schultz, we're coming up on three minutes here.**) I'm about finished. Thank you. Number one, deny this lease application, or number two, move the lease site to a location that will reduce user conflict. I recommend number two, that you approve a shellfish lease or this applicant in a different but similar location, possibly in a nearby area, that is not covered by the moratorium. Thank you for your consideration.”

Patricia Smith: “Okay, so that’s everyone who told me they wanted to speak. However, I have had a few people who came in after we took attendance. So, I'm going to unmute them now and find out if they would like to speak. First person, Martha. Lyles, do you want to speak this evening? Miss Lyles? Okay. Joe Westbrook, were you wanting to speak this evening?”

Joe Westbrook: “You know, I just wanted to echo what William Schultz said. I mean that was like that was well very well put. I mean we have a place at 8 ½ Marina and we enjoy it. And we just think that, you know, there's plenty of water out there and I don't think they have to use the water directly in front of us. That's really all I have to say.”

Patricia Smith: “The next person that I have is Kara Blount. Did you want to speak, Ms. Blount?”

Kara Blount: “So I just want to echo what everyone else said, 8 ½ has said and you know not only speaking just for 8 1/2 residents, but all folks that that are on that waterway, I think would also have the same comments and concerns about additional obstacles and things that, you know, would view our beautiful, waterway in front of us. So, thank you guys very much.”

Patricia Smith: “Grant Murray where you want to speak. Mr. Murray? I'm gonna mispronounce a name here.”

Randy Fisher-Barnhill: “Yes ma'am. I've sent some comments. I'm not in a position to speak right now that okay. Thank you.”

Patricia Smith: “They're the last person that I have on the list, then. On them Mr. Paul Cough where you wanted to speak. Mr. Cough. Okay. I think that is everyone that I have down on my list and everyone who indicated, they wanted to speak, but if there's anyone that I missed or anyone has changed their mind about speaking, you can raise your hand and I will unmute you the way you raise, your hand depends on the device that you're using to attend this meeting. If you're attending this meeting online on a regular computer, you raise your hand by clicking on

the little hand icon, that's at the bottom of the participant's panel. If the participants panel is not up on your screen, look for an icon of a person it may be at the bottom or top of your screen and click on it that should bring up the participants' panel. If you are attending online with a mobile device, such as a smartphone, you'll need to click on the three little dots and then the hand icon that that comes up there. And if you're attending by phone and I do believe I've got everyone who was attending a call in just by phone. But if you are attending my phone and I missed you, you will need to hit star three and order. Two, raise your hand. So, is there anyone else who wanted to speak that I've missed? That looks like everyone who wanted to speak.”

Owen: “Well, like I like I mentioned earlier if you have additional comments, and you'd wish to contact the Division, the written comments are open on the website through tomorrow. So please use that format, and additionally, if you've any other questions comments or concerns or like talk about issues that we're not, that we are not addressing directly. Not during this hearing, you're welcome to reach out to myself or other staff. Our contact information is on the last slide of the power point that I've shown here tonight. So, that being said, 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 the process. The time of closure is 6:39 p.m.”

Closure: 6:39 P.M.