



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

To: Mark Gibson
Deputy Chief for Marine Fisheries, DFW

From: W. Michael Sullivan
Director

A handwritten signature in black ink that reads "W. Michael Sullivan".

Date: January 10, 2008

Re: Decision on January 3, 2008 Marine Fisheries Public Hearing Items

I am writing in response to your January 9, 2008 memorandum regarding the regulatory proposals presented at the January 3, 2008 public hearing. I have reviewed all of the supporting documentation forwarded with your memo – the minutes of the September 12, 2007 Shellfish Advisory Panel meeting, the public hearing summary document, the summary of public hearing comments including the written comments submitted by the RI Shellfishermen's Association, and the minutes of the RIMFC January 7, 2008 meeting.

Pursuant to my review and consideration of all of the above-noted information, I have decided to adopt the three-part recommendation of the Council, as well as the several technical amendments that were noticed as part of the proposals. Specifically:

- For all shellfish management areas other than Greenwich Bay – i.e., Bristol Harbor, Potowomut-A, Bissel Cove/Fox Island, and High Banks – status quo shall be maintained. As such, all of the areas will remain open from the 2nd Wednesday in December until the end of April, every Monday/Wednesday/Friday from 8 am – 12 noon, unless closed due to water quality conditions.
- For the western Greenwich Bay management area, there shall be an annual December, a post-December, and a pre-Memorial Day weekend schedule as follows:
 - December: The existing process of setting a December schedule for the management area, subject to a 48-hour (monthly harvest effort) cap, at least 60 days prior to the first scheduled opening, shall be maintained; provided, however, that the first six openings shall take place from 8 am – 10 am, and the second six openings shall take place from 8 am – 11 am. The existing regulatory provision that allows for adjustments to the schedule if two or more previously scheduled days are lost due to water quality closures shall be maintained.
 - Post-December: If the management area is open for shellfishing during the month of December, the area will remain open, from January until the end of April, every Monday/Wednesday/Friday from 8 am – 12 noon. If the management area fails to open during the month of December, upon reopening after December, the

first six openings shall take place on the first six Mondays/Wednesdays/Fridays from 8 am – 10 am, and the second six openings shall take place on the second six Mondays/Wednesdays/Fridays from 8 am – 11 am. Thereafter, the area will remain open from 8 am – 12 noon on all consecutive Mondays/Wednesdays/Fridays until the end of April.

- Pre-Memorial Day Weekend: The management area shall be open to shellfishing from 8 am – 12 noon on Monday/Wednesday/Friday during the one week immediately preceding Memorial Day weekend.
 - All of the above-noted schedules will remain subject to water quality conditions.
- All other technical amendments set forth in Option 3 of the proposed regulations are to be adopted.

In reaching this decision, I note that the essence of the proposal was introduced by the RI Shellfishermen's Association, and broached with -- though not formally endorsed by -- the Council's Shellfish Advisory Panel. At the January 3 public hearing, a total of 27 people attended, 16 offered comments, and all who commented, other than Chief Hall, offered support for either Option 3 or something akin to it, with the exception that the status quo be maintained in all management areas except Greenwich Bay. Chief Hall expressed the desire to see greater symmetry on the operational times of all management areas. We respect Chief Hall's views and will look to additional discussion in the future on this matter. And at the January 7 meeting of the full Council, which I attended, the Council was unanimous in support of Option 3 for Greenwich Bay, while maintaining the status quo for the other management areas.

As noted at the Council meeting by Councilman Anderson, the proposal, as characterized by the RI Shellfishermen's Association, has two objectives: 1) to help control the flow of product to the market when Greenwich Bay first opens every year, thereby contributing to price stabilization; and 2) to help maintain regulatory compliance with the 3-bushell daily limit. As noted by Dr. Anderson, and by you, it is not at all clear that the truncated openings will achieve their intended purpose. A two-hour initial opening is still likely to result in a sudden spike in landings; moreover, Chief Hall maintains that we are quite capable of effectively enforcing the 3-bushell daily limit in the management areas, regardless of how long they are open. Nonetheless, in the spirit of collaborative management, I am inclined to lend my support to a measure brought forth by industry and broadly embraced by the public and the Council. I appreciate the continuing interest of all involved to consider new management approaches, and I endorse the current proposal in that regard. I recognize that if this approach doesn't work, as intended, we will likely be back at the table, perhaps rethinking the whole management framework for Greenwich Bay. We will also be better equipped to move forward, based on the benefit of experience.

The most important, and most challenging, aspect of this new regulatory scheme will involve notification. Because the openings may be altered by water quality closures, we need to make every effort to ensure that the industry is properly notified, on a day-to-day basis, as to when they can fish in Greenwich Bay and for how long. This will be particularly important when the area first re-opens, and during the first few weeks thereafter. By copy of this memo, I will direct Associate Director Mouradjian to coordinate with the Divisions of Law Enforcement, Fish & Wildlife, the Office of Water Resources and our electronic technology staff to develop and implement an appropriate notification process in advance of the upcoming opening, slated for February 1.

This has been (another) challenging issue. I appreciate the hard work provided by you and your staff.

cc: Larry Mouradjian
Steve Hall
Alicia Good
Warren Angel