

From: O'Connell, Thomas
Sent: Friday, December 22, 2006 4:58 PM
To: Slattery, Mike; King, Howard; pwjones@netzero.com; Judy, Chris; Fegley, Lynn
Subject: FW: Oyster EIS Executive Committee meeting, December 11, 2006 FYI - See below.

From: John_Wolflin@fws.gov [mailto:John_Wolflin@fws.gov]
Sent: Fri 12/22/2006 11:51 AM
To: Anninos, Dionysios COL NAO
Cc: fritz.mike@epamail.epa.gov; Hanmer.Rebecca@epamail.epa.gov; Jack Travelstead; Jamie.King@noaa.gov; Corbin, Jeff; julie_thompson@fws.gov; Mansfield, Mark T NAO; Slattery, Mike; pomponio.john@epa.gov; Bryant, Preston; AC Carpenter (E-mail); Franks, C. Ronald; Robertson@noaa.gov; McCann, Terry A NAO; O'Connell, Thomas; Chris_Guy@fws.gov; greiner.jennifer@epa.gov; Annette_Smith@fws.gov
Subject: Oyster EIS Executive Committee meeting, December 11, 2006

Dear Colonel Anninos:

I appreciated the opportunity to visit with you and the other lead agency representatives at the recent Oyster Environmental Impact Statement (EIS) Executive Committee (EC) meeting. I agree with you that

we need to continue to move forward with a coordinated, action-oriented

approach to restoring oysters to the Bay. The Service is committed to working with the lead and cooperating agencies to develop a scientifically defensible EIS that will drive effective oyster restoration in the Chesapeake Bay.

During the EC meeting you announced your commitment to release a Draft EIS in May or June 2007. While I understand and support the need to complete the EIS in a timely manner, I believe that Congress and the public both expect and deserve a scientifically defensible document. This means a document that has undergone formal peer review and that clearly identifies a preferred alternative, and an even clearer strategy

for meeting the goals and objectives established in the "Purpose and Need" statement of the EIS (Federal Register Notice, January 5, 2004, Volume 69, Number 2, pages 330-332). Not including these key elements in the Draft EIS will weaken the credibility, findings, and recommendations stated in the Final EIS, and I have reservations about the ability to complete these steps by May or June 2007.

To maximize oyster restoration efforts while the EIS is being completed,

I believe that we must minimize risks that could jeopardize effective restoration. This includes not opening sanctuary areas to harvest where

there is scientific documentation of disease resistance. Although compromised by disease, there is still a population of native oysters

present in the Bay. The Federal agencies should support and assist the states in developing a formal survey process for developing a stock assessment for the native oyster. The Federal agencies also should support the scientific analysis of data collected from past and present native oyster restoration activities. From this analysis, the agencies will be able to make scientifically informed decisions regarding how and where native restoration should occur in order to maximize effectiveness. I also believe that the use of triploid native oysters in aquaculture could provide economic relief to the oyster industry while the EIS is being conducted.

Finally, I submit that by continuing to permit triploid non-native aquaculture trials, the Corps is compromising the selection of reasonable alternatives identified in the EIS. Cumulative reproductive risk that occurs when a site is used for multiple trials could result in the establishment of *C. ariakensis* before the EIS is completed. Three of the Virginia Seafood Council sites have exceeded the benchmark for risk (<2 free living adults of the F2 generation) when cumulative reproductive risk is taken into account. This benchmark was agreed upon in the 2005 permit process. Section 1506.1 of NEPA states, "Until an agency issues a record of decision as provided in 1505.2, no action should be taken which would: 1) have an adverse environmental impact, or 2) limit the choice of reasonable alternatives. Further, the lead agencies of the EIS have concluded that they do not need any more information for the triploid *C. ariakensis* aquaculture alternative. Given this, continued trials at these three sites will increase the cumulative reproductive risk with little or no benefit to the EIS process. As an alternative, the use of triploid native oysters in aquaculture could provide economic relief to the oyster industry while the EIS is being conducted. I suggest that the best public interest decision is to limit deployment of triploid *C. ariakensis* to sites where there is no cumulative risk.

Again, I appreciated the opportunity to meet with you and look forward to having future discussions about how the Federal agencies can move forward to restore oysters to the Chesapeake Bay.

John

John P. Wolflin, Supervisor
Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, Maryland 21401
410-573-4573
fax: 410-266-9127
<http://www.chesapeakebay.fws.gov> <<http://www.chesapeakebay.fws.gov/>>