

Testimony of the Advocates for Herring Bay (AHB)<sup>1</sup>  
Regarding SB 437: Aquaculture  
Submitted by Kathleen Gramp, March 1, 2023  
*Favorable with amendments*

SB 437 would modify some of the procedures governing Maryland's oyster planning and management programs. While AHB is generally supportive of SB 437, we urge the Committee to amend the provision regarding requests for informational meetings on proposed aquaculture leases (page 5, lines 15-18).

Under SB 437, only persons who have a "specific right, duty, privilege, or interest that is different from that held by the general public" could ask the Department of Natural Resources (DNR) to hold informational meetings. Legal precedents suggest that that language could limit informational requests to those who have "standing" to protest the issuance of a lease because of their geographic proximity or other similar personal interests.<sup>2</sup>

Had the bill's limits been in effect in 2020, AHB may not have been allowed to request an informational meeting on an application for mechanical harvesting of a 31-acre tract that is integral to breeding habitat for terrapins, horseshoe crabs, and other fish and wildlife. Without the participation of groups like AHB in that proceeding, DNR may not have been alerted to the ecological consequences of mechanical harvesting in that specific area, or considered the restoration benefits of having the lessee plant diploid instead of sterile triploid spat on a site within the Herring Bay Oyster Sanctuary.<sup>3</sup>

There are no immediate substitutes for DNR's informational meetings. Under the current leasing process, the meetings are the only venue for the public to learn about a project's scope, timing, and method of operation. As shown in the attachment, public notices give the location of the lease but lack details about the applicant's plans for planting and harvesting oysters. There are no written environmental assessments.<sup>4</sup>

We recognize the need to expedite the approval process for aquaculture leases and avoid unnecessary delays. But we also believe that having an open and transparent decision-making process is key to sustainability of the aquaculture industry and the health of the Chesapeake Bay. We urge the Committee to amend the bill in a manner that will streamline the approval process while providing a venue for informed and substantive engagement with the public.

Thank you for considering our views.

## **Attachment**

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<sup>1</sup> The Advocates for Herring Bay, Inc. is a community-based environmental group in Anne Arundel County.

<sup>2</sup> See Elissa Torres-Soto, *A Comparative Analysis of Maryland's Public Participation Framework in Commercial Shellfish Aquaculture Leasing: Standing to Present Protests*, [Sea Grant Law & Policy Journal](#), Volume 11-1, August 2021, page 102.

<sup>3</sup> See [AHB Comments on Shellfish Aquaculture Lease Application #482, June 20, 2020](#).

<sup>4</sup> Action 7.0.2 in Maryland's 2019 Final Oyster Management Plan states that DNR will "Identify areas suitable for submerged land and/or water column leases that do not create adverse impacts to existing living resources."

**Example of a Public Notice for a Proposed Aquaculture Lease  
Application # 482, in the Herring Bay Oyster Sanctuary**

**Public Notice  
Maryland Department of Natural Resources  
Fishing and Boating Services  
Application for Shellfish Aquaculture Lease – Maryland Seafood Cooperative, Inc.**

The Secretary of Maryland Department of Natural Resources (DNR), pursuant to Natural Resources Article, §4-11A-09(g), Annotated Code of Maryland, is giving notice of an application for a shellfish aquaculture submerged land lease by Maryland Seafood Cooperative, Inc. in the Herring Bay oyster sanctuary, Anne Arundel County, Maryland, located approximately 1 mile northwest of Holland Point and 800+ feet south of navigation aid flashing red "2". The area applied for contains 31.2 acres more or less and is enclosed by a line beginning at corner 1, at or near Lat. 38° 44' 3.9" N., Long. 76° 32' 32.1" W., then running 295° 21' (True), approximately 308 meters to corner 2, at or near Lat. 38° 44' 8.2" N., Long. 76° 32' 43.6" W., then running 315° 38' (True), approximately 290 meters to corner 3, at or near Lat. 38° 44' 14.8" N., Long. 76° 32' 52.1" W., then running 56° 5' (True), approximately 229 meters to corner 4, at or near Lat. 38° 44' 19.0" N., Long. 76° 32' 44.3" W., then running 122° 50' (True), approximately 405 meters to corner 5, at or near Lat. 38° 44' 12.0" N., Long. 76° 32' 30.0" W., then running 191° 13' (True), approximately 254 meters to the point of beginning.

The applicant proposes to deposit oyster shell and spat-on-shell as needed within the given area to a maximum depth of 3 inches for the purpose of culturing Eastern Oyster (*Crassostrea virginica*), and to harvest using methods approved by the Department. A map of the proposed lease is available on the Fishing and Boating Services Public Notice web page, [dnr.maryland.gov/Fisheries/Pages/Pub\\_Notices.aspx](http://dnr.maryland.gov/Fisheries/Pages/Pub_Notices.aspx).

The Department will hold a public informational meeting upon written request from a member of the public. In addition, any person who has a specific right, duty, privilege, or interest that is different from that held by the general public and may be adversely affected by the proposed lease may file a Petition of Protest with the Department. Petitions that meet the requirements of Natural Resources Article §4-11A-09(g) shall be forwarded to the Office of Administrative Hearings for adjudication. Comments, written requests for public informational meetings, and/or Petitions of Protest must be received by the Department of Natural Resources Aquaculture and Industry Enhancement Division 580 Taylor Avenue E-4 Annapolis, MD 21401 by June 15, 2020. For questions about the project or the public notice please contact Rebecca Thur at the DNR Aquaculture and Industry Enhancement Division at [rebecca.thur@maryland.gov](mailto:rebecca.thur@maryland.gov) or 410-260-8252.

**Jeannie Haddaway-Riccio, Secretary  
Maryland Department of Natural Resources**