THE ORDEAL OF PERMITTING OFFSHORE MUSSEL CULTURE SITES IN MASSACHUSETTS COASTAL WATERS

- ANOTHER REASON WHY WE IMPORT 80% OF OUR SEAFOOD

Richard C. Karney, Martha’s Vineyard Shellfish Group

Scott Lindell, Marine Biological Laboratory, Woods Hole

Bill Silkes, American Mussel Harvesters, Rhode Island
Background
Pilot-scale mussel farming demonstration project funded by NOAA’s National Marine Aquaculture Initiative (NMAI)

Project Goals
- provide employment opportunities for fishermen with diminished income due to reduced wild fish stocks and greater government restrictions on the amount of fish they can harvest.
- local mussel aquaculture is seen as economic development that can help to preserve traditional fishing ports in MA and RI

History of offshore mussel farming in New England
Two projects in the late 1990s set the precedent for our project

Submerged Coastal-Offshore Mussel Aquaculture System (SCOMAS) planned and managed by WHOI in MA waters

UNH Open Ocean Offshore Aquaculture (OOA) initiative
250 kg anchor

250 kg anchor

16" floats

12 m of 1" chain

17 m

165 m

117 m of 1.12" polysteel

High Flyer marking anchor line

Corner Marker Buoy

24" float

22 m of 1.12" polysteel line

Mussel growing socks suspended every 0.6m

3 m of 1" chain

3 m

As-built drawing of submerged longline
Lease areas applied for:

In RI – 2 “commercial feasibility” permits that are strictly limited in time and space, and one-time sale.

Note: A full scale commercial lease application may face an ordeal similar to the MA experience.

In MA – We initiated a long range plan to provide for future growth by applying for four “aquaculture zones” totaling 75 acres.
Mussel Aquaculture Sites

Newport (1,000 sq ft)
Block Island (1,000 sq ft)
N Chilmark (15 acres)
Aquinnah (25 acres)
W Tisbury (25 acres)
S Chilmark (10 acres)
Actual size of Aquaculture Zones
Timeline of RI permit process:

**NOV-08** - applied for two 1000sq ft locations from May 2009 to Nov 2010 under “Commercial Viability Aquaculture Permit” (limited in time-up to 3 years, & space, < 1000 square feet). Applications handled “administratively” by RI Coastal Resources Management Council (CRMC) in consultation with DEM, Fish and Wildlife, Coast Guard, ACOE etc

Required:
1. Spec sheet on the moorings.
3. Biological Assessment of the Blue Mussel Aquaculture Experiment in RI Sound. Hoagland, Kite-Powell et al. 1999 from WHOI

**DEC-08** - preliminary determination meeting held. In theory all of the identified stakeholders were notified. No substantive issues raised at the meeting. Did not have to go to a full public hearing.

**JAN-09** - Letter of Authorization received
Timeline of MA permit process:

Early in 2008 - met with local fishers, (draggermen, lobstermen, pot fishermen, hook and line fishermen, and recreational sportfishers) to determine sites with little conflicts.

June-08 - duly advertised municipal public hearings in 3 towns.

June-Aug 08 – Towns requested MA DMF on-site inspection & review.

Dec 08 - DMF gave ok to contact the US Army Corps of Engineers.

Jan 09 - submitted ACOE applications for each of the three towns; submitted letter of CZM consistency; filed Notices of Intent with all 3 local Conservation Commissions, with copies to MA DEP, MA DMF, and MA Natural Heritage Program.

Mar-09 - ACOE closed its 30-day comment period.

April-09 - responded to comments received by ACOE from MA CZM, MA DMF, the Ocean Conservancy, and MA Bureau of Underwater Archaeological Resources (MBUAR).
Timeline of MA permit process (continued):

**Apr 2009**- began local Conservation Commission hearings.
- Chilmark Con Com approval, contingent on MA Natural Heritage
- MA Heritage approves under MA Endangered Species Act
- Former MA Aquaculture Coordinator named MA Agriculture Commissioner

**May 2009** – CZM Federal Consistency Review begun
- Requirements of the MA Bd of Underwater Archaeology:
  “All work must be undertaken under the supervision of a qualified marine archaeologist and requires a Special Use Permit issued by the Board. Proponents are directed to consult with and provide their proposed research design and methodology to the State Archaeologist at the Massachusetts Historical Commission prior to conducting the field investigation…..”

$urveys to include historical research, magnetometer, $ide-$can $onar

Cost estimate = $30,000!!!
Timeline of MA permit process (continued):

May 2009 – MA Commissioner of Agriculture contacted and asked to intervene

– Chilmark Con Com issues Order of Conditions

  CZM requirements: “Please describe the protocol for detection of tunicates and other invasive species on seed mussels. Also, CZM requests additional detail on the freshwater immersion protocol for tunicate control on seed mussels.”

– West Tisbury Con Com issued Order of Conditions

– MA DMF conducts on-site resource inspections
Timeline of MA permit process (continued):

May 2009 – MBUAR agrees to a much smaller scale archaeological survey than initially required.

June 2009 – Side scan sonar conducted by URI partners - $10K

July 2009 – MBUAR finds no signs of significant cultural treasures

Aug 2009 – MA DMF approves N. Chilmark & West Tisbury sites in Vineyard Sound
  – MA DMF issues “Research Permit” for S. Chilmark in RI Sound site – observed “too many lobster pots“ conflict with wild fishery
  – CZM Federal Consistency Review approval
  – ACOE issues permit for one longline in N. Chilmark site in Vineyard Sound. Valid until Dec 31, 2014

Oct 2009 – ACOE issues permit for one longline in S. Chilmark site in RI Sound. Valid until Dec 31, 2014
Lesson learned:

Enlist political support prior to applying for permits!
Characteristics of present permit process:

• Confusing – especially on state and local levels

• Convoluted – repeated requirements for public hearings and notices at each level of the process

• Confrontational – “Precautionary Principal” appears that regulators’ are required to obstruct the project unless told otherwise by superiors

• Irrational – strict adherence to process and procedure even when it flies in the face of common sense

• Slow – no time restrictions for local and/or state reviews

• Expensive & wasteful - both private and public resources
Implications of present permitting system:

• Without reasonable policy, domestic production is hampered – job opportunities lost

• Lengthy and costly permitting is too much for most (small) growers
  - further death blow to small fishing ports and coastal communities

• Investment capital is moving to foreign operations
  - US trade imbalance increased

  - Global environmental damage exacerbated as US imports seafood from regions with few environmental safe guards

  - Regulatory process creates unduly restrictive conditions in misguided attempt to provide local environmental protections
How do we fix the problem???

1. Put an end to the confrontational “them” and “us” relationship between regulators and permit applicants. This will require:

- an open dialogue between regulators and applicants
- science and tech developed with input from regulators
- regulations/policy developed with input from industry
- need for a federal/state liaison/mediator to orchestrate the cooperation
How do we fix the problem???

2. Level the playing field - federal legislation needed to make aquaculture a “priority” like endangered species, historical preservation, etc. in pursuit of:

- food security? safety?
- jobs
- redressing international trade imbalance
- preserving local working waterfronts

*These all have potential to make the argument that aquaculture too should be granted federal “sacred cow” status*
Federal legislation:
H. R. 4363
“To establish a regulatory system and research program for sustainable offshore aquaculture in the United States exclusive economic zone, and for other purposes.”

The title of the legislation says it all. It talks of regulation not promotion.

Why not...
"An Act to Promote the Development of US Food Security through Aquaculture in the EEZ???

Why are we always playing defense?