

**Minutes of the Regular Meeting
Potomac River Fisheries Commission
Colonial Beach, Virginia
September 13, 1996**

Commissioners Present: John W. White, Sr. (VA) - Chairman, Sarah J. Taylor-Rogers (MD) - Vice Chairman, Paul H. Kellam, III (MD) - Secretary, Gordon M. Birkett (VA), John T. Parran (MD), William A. Pruitt (VA), William L. Rice, Sr. (MD), and Kenneth W. Williams, Sr. (VA).

Officers: Kirby A. Carpenter - Executive Secretary and J. Clifford Hutt - Legal Officer.

Others Present: Dr. Mark Homer - MdDNR, Rob O'Reilly - VMRC Fisheries Management, Capt. Dean Scarborough - MdDNR Law Enforcement, Lt. Col. Lewis Jones, Capt. M. Ray Jewell and MPO's J. N. Insley, W. R. Davis, T. K. Fitchett, Richard W. Pruitt, Allen Marshall, and Jamie Parks - VMRC Law Enforcement, Bill Sieling - MD Department of Agriculture, James T. Russell, II - St. Mary's County Waterman's Association; Bob Holden and John E. Newsome.

Chairman White called the meeting to order at 9:30 a.m. and welcomed all those present and asked Commissioner Parran to provide an invocation.

Approval of Minutes

A motion was made by Commissioner Parran, seconded by Commissioner Taylor-Rogers and passed unanimously to approve the minutes of the June 7, 1996 meeting as written and distributed.

Introduction

Commissioner Pruitt introduced Mr. Gordon M. Birkett as the Commission's newest Virginia member. He was appointed to this Commission July 15 by Governor Allen and fills the vacancy created when Commissioner William A. Hudnall's term expired.

VMRC Law Enforcement Cross Training

Commissioner Pruitt introduced several Marine Patrol Officers who were present as part of their Virginia Marine Resources Commission in-service cross training.

Resolution of Appreciation - William A. Hudnall

Commissioner Rice read the following resolution of appreciation for Commissioner William A. Hudnall whose terms on the Virginia Marine Resources Commission and Potomac River Fisheries Commission expired. The resolution was unanimously adopted.

WHEREAS, William A. Hudnall has served with distinction and honor as a Commissioner of the Potomac River Fisheries Commission since 1990; and

WHEREAS, William A. Hudnall has drawn upon a lifetime of experience on the water to render decisions that reflect a dedication to natural resource management; and

WHEREAS, William A. Hudnall has brought a voice of reason and compassion to the Commission and has graciously served as an "unofficial chaplain".

NOW, THEREFORE, BE IT RESOLVED, that the Potomac River Fisheries Commission and its staff express their sincere gratitude to William A. Hudnall for his service, and

BE IT RESOLVED, that the Potomac River Fisheries Commission and its staff also express their gratitude to Mrs. Hudnall for the extraordinary baked goods she made for each meeting.

BE IT FURTHER RESOLVED, that a copy of this Resolution be spread upon the Minutes of the Potomac River Fisheries Commission for all to see and be reminded of the service of William A. Hudnall.

Oyster Repletion Program Report

The Executive Secretary reported the 1996 oyster repletion program approved by the Commission at its April meeting had been completed. There were two fresh shell plantings as follows: Hog Island - 59,755 bushels on 6.5 acres and Kitts Point - 60,382 bushels on 9 acres.

Dr. Mark Homer reported on the Heron Island Oyster Bar experiment. Five similar areas of the oyster bar, each approximately 5 to 6½ acres, had been identified to receive different repletion methods. Plot 1 was planted with 34,469 bushels of fresh shell, Plot 2 had been worked 8 hours with a bagless dredge, Plot 3 was tilled with a clam dredge, Plot 4 was tilled with a McKenzie cultivator, and Plot 5 received no activity and would be monitored as a control. Each of these areas will be examined during the annual survey to see which treatment method is most cost effective as an oyster repletion activity.

The Executive Secretary presented the following program cost summary:

<u>Shell Planting:</u>	Fresh Shell 120,137 bushels @ 65¢	\$ 78,089.05
	Count and Control	<u>2,494.50</u>
		\$80,583.55
<u>Heron Island Experiment:</u>	Plot 1 - Fresh Shell Planting	20,681.40
	Plot 2 - Bagless Dredging	300.00
	Plot 3 - Clam Dredge	DNR
	Plot 4 - McKenzie Cultivator	DNR
	Plot 5 - No Activity - Control	0
	Count and Control	<u>450.00</u>
		\$21,431.40

Dr. Homer also reported that the planned hatchery seed planting on Pascahanna Oyster Bar by PEPCO would not be taking place this year. The unusually high fresh water flows and resultant low salinity levels caused a total set failure at the Piney Point Hatchery.

Dr. Homer stated salinity levels in the Potomac were extremely low especially after the occurrence of Tropical Storm Fran earlier this month. The previous day's reading taken on the bottom of the river above the 301 Bridge was one-half part per thousand and he anticipated the oysters in that area would not be able to survive under those conditions. Salinity levels on Cedar Point and Swan Point were only slightly better, approximately one-and-one-half parts per thousand. He stated that since 1990, Popes Creek, Beacon, Pascahanna, and Lower Cedar Point Oyster Bars have suffered a 90% mortality rate caused by three major freshet events (springs of 93 and 94 and Tropical Storm Fran Sept. 96).

Jones Shore - Open for Hand Scraping

Cubby Russell asked the Commission to reconsider opening Jones Shore Oyster Bar for hand scraping. Since this item had been endorsed by the Oyster Repletion Committee and the Shellfish Advisory Committee, he thought it would have been adopted by the Commission and therefore did not speak on this issue during the public hearing held in June. The Executive Secretary stated that opening Jones Shore for harvest by hand scrapes was a staff recommendation forwarded to, and endorsed by, the repletion committee. The industry segment of the repletion committee also proposed including Ragged Point. The Commission voted against both proposals at the June meeting. If opening Jones Shore was to be reconsidered, another advertised public hearing would have to be scheduled.

The Executive Secretary stated that he was not sure the repletion committee would endorse changing the status of Jones Shore in light of the oyster mortalities in the upper river. Commissioner Taylor-Rogers asked that the repletion committee have an opportunity to give another recommendation prior to the next meeting. After further discussion, the following motion was made by Commissioner Williams, seconded by Commissioner Rice and unanimously approved:

"That a public hearing be scheduled for the next meeting to consider opening Jones Shore for hand scraping during February and March. Further, the Oyster Repletion Committee and the Shellfish Advisory Committee shall have an opportunity to review this proposal along with the mortality information presented today, and present its report at that hearing."

Black Bass Case

The Legal Officer requested an Executive Session.

Executive Session - A motion was made by Commissioner Williams, seconded by Commissioner Birkett and unanimously approved to go into executive session at 10:05 a.m. to consider legal issues. The Commission reconvened to regular session at 10:35 a.m. Chairman White stated the Legal Officer would report the status of the black bass case later in the meeting.

1996-97 Oyster Season and Time Limits

The Executive Secretary reported that staff recommendations for the upcoming oyster season were reviewed by Shellfish Advisory Committee at their meeting held on August 27 and the advisory committee recommendations were presented as follows:

Tonging - The Committee voted unanimously in favor the staff proposal for tonging as follows:
 Season: October 1 through December 31, close month of January, reopen February 1 through March 31.
 Time Limit: October through December - sunrise to noon, February & March - sunrise to 3:00 p.m.

Hand Scraping - The Committee voted unanimously in favor of the following proposal for hand scraping:
 Season: November 1 through December 31 and March 1-31
 Time Limit: November and December - 8:00 a.m. to 1:00 p.m., March - 8:00 a.m. to 3:00 p.m.
(Staff proposal suggested a noon cut-off time during November and December)

Cubby Russell spoke in favor a 1:00 p.m. cut-off time for both tonging and hand scraping.

ORDER #96-12 - 1996-97 OYSTERING TIME LIMITS

A motion was made by Commissioner Rice, seconded by Commissioner Williams and unanimously approved to adopt Commission Order #96-12 as follows:

**ORDER #96-12
1996-97 OYSTERING TIME LIMITS**

THE POTOMAC RIVER FISHERIES COMMISSION, having considered the protection, promotion, growth and conservation of the oyster resources and pursuant to its authority under Regulation II, Section 2(b) and Regulation II, Section 3(b), **HEREBY DECLARES AND ORDERS:**
 The 1996-97 oyster season dates, days and times shall be as follows:

<u>Gear</u>	<u>Season</u>	<u>Days</u>	<u>Hours</u>
Hand Tonging	10/01/96 through 12/31/96	Monday through Friday	Sunrise to 1:00 pm
	02/01/97 through 03/31/97	Monday through Friday	Sunrise to 3:00 pm
Hand Scraping	11/01/96 through 12/31/96	Monday through Friday	8:00 am to 1:00 pm
	03/01/96 through 03/31/97	Monday through Friday	8:00 am to 1:00 pm

BE IT FURTHER DECLARED AND ORDERED: Possession of a hand scrape shall be permitted during the aforesaid times and from one hour before and for two hours after such times. The use or possession of any hand scrape at any other time is unlawful.

AND, BE IT FURTHER DECLARED AND ORDERED: That this Order #96-12 shall become effective September 18, 1996 and remain in effect through March 31, 1997.

Shellfish Advisory Committee Report

Other items considered by the Shellfish Advisory Committee at its August 27th meeting were:

Review Format of Crab Catch Reports:

Since crab catch report forms will soon be reprinted, the Committee was asked for input regarding any changes in its format. The committee recommends: the reports should be monthly instead of weekly; and voice mail reporting should be considered as a future option.

Review of 1996 Crab Regulations and Catch Data:

The Committee was asked to review the 1996 crab regulations and catch data and make any suggestions regarding regulations for 1997. The Committee did not feel any changes in current regulations were needed at this time.

New Business:

Jones Shore - Ricky Morris asked the Committee to support opening Jones Shore to hand scraping. The Chairman stated this issue had been considered by the PRFC at its public hearing in June and was not approved. He recommended the request be taken through proper channels. Billy Feldman recommended Ragged Point be opened to hand scraping also.

Crab Harvest Report

A preliminary report on the 1996 Potomac crab landings from April 1 through August 31 was presented which showed a total of 65,479 bushels of hard crabs and 71,779 pounds of peelers harvested. This was compared to the 1995 April through August total of 59,600 bushels of hard crabs and 67,563 pounds of peelers and a ten year average for those months of 84,047 bushels and 50,768 pounds respectively.

Update of Postable Bond Schedule

The Executive Secretary presented recommended changes in the bond schedule that reflected recent regulation changes and occurrences brought to the Commission's attention by law enforcement officers. The proposed changes (shown in shaded areas below) had previously been reviewed by representatives of Maryland and Virginia law enforcement who concurred with the recommendations. The following motion was made by Commissioner Parran, seconded by Commissioner Williams and unanimously approved:

"That the following schedule of postable fines or appearance bonds for first offenses be adopted and become effective immediately."

**Schedule of Postable Fines or Appearance Bonds for First Offenses
Effective September 13, 1996**

<u>Type of Violation</u>	<u>Reg.</u>	<u>Sec.</u>	<u>Sub Sec.</u>	<u>Bond</u>
GENERAL				
Charter boat w/o sport decal	VI	3	e	2x license fee
Sport fishing w/o license	VI	3	b	2x license fee-\$50 min.
Commercially fishing/crabbing				
oystering/clamming w/o license	I	3	b	2x license fee-\$50 min.
Fishing during striped bass season w/o permit	VI	3	g	25.00
Incomplete striped bass permit log sheet	VI	3	g	10.00
Improper or no identification of pots, nets, gear, vessel, etc.				
Pound, Gill, or Fyke Net	I	2	n(9)	50.00
Fish Trot Line	I	2	q	50.00
Eel, Fish, or Bait Pot	I	2	m(4)	50.00
Crab Pot	I	2	d	50.00
Oyster Tong	I	2	f(1)	50.00
Hand Scrape	I	2	f(3)	50.00
Soft Clam	V	1	a	50.00
Buoys/Gear/Pots in marked channel	I	3	c	25.00 per buoy/pot
Failure to exhibit license (commercial)	I	3	b	25.00
Failure to exhibit license (sport)	VI	3	d	25.00
OYSTERS				
Unculled oysters - 6 to 10%	II	2	f(1)	100.00
Unculled oysters - 11 to 15%	II	2	f(1)	250.00
Unculled oysters - 16% or more	II	2	f(1)	400.00
Oysters in containers	II	2	g	100.00
Not culling on oyster bar	II	2	f(2)	100.00
Tonging during closed season (note Order #)	II	2	b	150.00
Tonging before or after closed hours (note Order #)	II	2	b	150.00
Unlawful use of power assisted hand tongs	II	2	a(1)	50.00
Hand scraping during closed season (note Order #)	II	2	b	250.00
Hand scraping before or after closed hours (note Order #)	II	2	b	200.00
Possess hand scrape during unlawful time (note Order #)	II	2	b	100.00
Operating vessel w/ patent tongs/dredging equip. w/o permit	II	2	e	25.00

COLONIAL BEACH, VA

SEPTEMBER 13, 1996

<u>Type of Violation</u>	<u>Reg.</u>	<u>Sec.</u>	<u>Sub Sec.</u>	<u>Bond</u>
CRAB				
	<u>#/Bushel</u>	<u>#/Barrel</u>		
Unculled crabs - 5 to 9	VII	2	a	50.00
10 to 14	VII	2	a	100.00
15 to 25	VII	2	a	150.00
26 or more	VII	2	a	300.00
Unculled crabs - by non-commercial persons	VII	2	a	30.00
Transporting crabs not in baskets/barrels	VII	5	a	50.00
No culling container on board	VII	5	a	50.00
No or closed cull ring	VII	5	b	25.00 per pot
Fishing more pots than licensed	I	2	d(1)	25.00 per pot
Crab potting during closed season	VII	3	a	150.00
Failure to remove peeler traps	VII	1	d	150.00
FISH				
<u>Striped Bass</u>				
Possession during closed season (note Order #)	III	13	b	250.00 per fish
Possession in excess of catch limits (note Order #)	III	10	a/b/c	100.00 per fish
Undersize striped bass	III	11	a	50.00 per fish
Failure to tag commercially caught striped bass	III	10	c	50.00 per fish
Use striped bass ID tags of another	III	10	b	10.00 per fish-\$50 min
<u>All other species</u>				
Undersize fish	III	11	a	25.00 per fish
Exceeding catch limit	III	10	a/b/c	25.00 per fish
Possession during closed season	III	13	b	25.00 per fish
Failure to remove stakes	I	2	s	10.00/stake-\$100 min
Failure to maintain stakes or buoys	I	2	n(10)	10.00/stake-\$50 min
Fishing nets, trot lines during closed season	III	9	a(1-7)	150.00
No reflective material on gill or pound net	I	2	s	50.00
Gill net set out of location	I	2	s	50.00
Gill net set in water depth more than 36' MLW	I	2	h(2)	250.00
Exceed minimum or maximum mesh size	III	8	b	200.00
Violation of haul seine regulations	III	8	c	150.00
CLAM				
Clamming in closed area	V	5	a & b	500.00
Undersize clams - 6 to 10%	V	3	a	100.00
11 to 15%	V	3	a	150.00
16% or more	V	3	a	250.00
Exceeding catch limits	V	4	a	100.00

Disbursements

A report on the fourth quarter (April through June, 1996) disbursements was presented by budget item which totaled \$190,475.66, of which 101,714.95 was spent on oyster repletion expenses. The Executive Secretary noted that it was brought to his attention that the category of "Other Contractual Services" was over budget by approximately \$5,000. He stated this was the result of a special motion by the Commission at its April 1996 meeting to contribute \$10,000 in funding to the Maryland DNR striped bass spawning stock survey in the Potomac. He reported no other unusual expenditures.

A report of cash on hand as of September 11, 1996 was presented as follows:

First Virginia Bank - Northern Neck:	\$346,796.35
Checking (includes \$400.00 petty cash)	
Nations Bank (Maryland Office):	26,001.57
Virginia Local Government Investment Pool:	60,877.36
Maryland Local Government Investment Pool:	<u>58,286.20</u>
Grand Total in Banks	\$491,961.48

The Executive Secretary noted the large sum of money in the checking account was due to the recent receipt of this year's appropriations. He stated majority of funds in that account would soon be transferred to the LGIP accounts.

The following motion was made by Commissioner Parran, seconded by Commissioner Rice, and unanimously approved:

"That the fourth quarter disbursements of \$190,475.66 be approved as presented."

ASMFC Issues

The Executive Secretary reported the following:

Summer Flounder - He would be traveling to Philadelphia, PA to meeting with the Mid-Atlantic Council and ASMFC to finalize the 1997 summer flounder regulations.

Striped Bass - The striped bass management board will be meeting in Connecticut regarding the 1997 striped bass quotas and restrictions.

Annual Meeting - The ASMFC's annual meeting would be held October 20 through 24, 1996 in Hyannis, Mass. Commissioner Parran noted that it had been the Commission's policy to send a delegation to the annual meeting and he hoped this would continue. The following motion was made by Commissioner Parran, seconded by Commissioner Pruitt and unanimously approved:

"That a PRFC delegation, consisting of the Chairman, one other Commissioner and the Commission Officers attend the ASMFC's annual meeting."

Other New Business

Striped Bass - The Executive Secretary reported that he anticipated the Potomac's 1997 commercial striped bass quota would be subject to a penalty reduction due to an overage in the 1996 commercial harvest. It was also reported that Maryland's 1996 young-of-the-year index will be the highest on record. Commissioner Pruitt stated the original striped bass plan actions which restricted, and even closed the striped bass fishery, were based on Maryland's young-of-the-year index. He felt that since the recovery, ASMFC is not using the same criteria to increase quotas. He urged participation at the annual meeting.

Commissioner Pruitt asked if Virginia's policy of establishing the same striped bass restrictions as those for the Potomac in its Potomac tributaries was working well. The Executive Secretary reported an excellent response from the fishing public with regard to the two jurisdictions working together to establish consistent seasons and limits. It was unfortunate however, that Maryland was unable to do the same in its tributaries of the Potomac.

John E. Newsome - The Executive Secretary introduced Mr. John E. Newsome who was present today requesting reinstatement of his license renewal privileges. Mr. Newsome was found guilty of a 49% oyster cull law violation last year. His license was then revoked pursuant to Reg. I, Sec. 4(c) which states any person convicted of a 26% or greater oyster cull law violation "shall have his oyster license(s) automatically and immediately revoked." The regulation further states that no new license may be issued to that person until he has appeared before the Commission.

The Commission reviewed Mr. Newsome's Potomac River arrest record which showed several violations of PRFC regulations. After discussion, the following motion was made by Commissioner Parran, seconded by Commissioner Birkett and unanimously approved:

"That Mr. John E. Newsome's renewal privileges be reinstated, effective November 1, 1996."

1996 Striped Bass Season - Mr. Bob Holden, on behalf of the St. Mary's County Charter Boat Association, thanked the Commission for adopting the later striped bass season. He also thanked PRFC staff for their efforts at the ASMFC meetings to get the striped bass quotas increased.

Meeting Schedule - Cubby Russell, referring to previous discussions by the Commission to reduce the number of meetings to five per year, requested the number of meetings remain at six.

Black Bass Case

The Legal Officer reported that he had drafted a motion as directed by the Commission. He presented copies to all Commissioners, and after review, the following motion was made by Commissioner Kellam, seconded by Commissioner Pruitt and unanimously approved:

COLONIAL BEACH, VA

SEPTEMBER 13, 1996

"That the Commission put Robert T. Brown, Sr., Dennis Patrick Woodruff, Alfred B. Grinder and Walter I. Maddox, Sr. on probation for a period of one year from this date, and further require any one or all of them to appear before this Commission at its next regular scheduled meeting and show cause, if any they can, as to why all licenses issued by this Commission to such person be suspended or revoked in the event of any charge of violation of any regulation or order of this Commission against any one of said persons during the one year probation period. This action is taken based upon the conviction of the above named persons in a United States Federal Court of catching and selling black bass taken from the waters of the Potomac River and its Maryland and Virginia tributaries."

Date and Place of Next Meeting

The next meeting of the Commission was scheduled for 9:30 a.m., November 22, 1996 in Colonial Beach, Virginia.

1997 Meeting Schedule

A proposed meeting schedule for 1997 was presented. Commissioner Pruitt proposed one meeting be held in Annapolis, MD, one in Richmond, VA, with all remaining meetings to be held in Colonial Beach. He felt it would be productive to hold a meeting in the capital of each state. He also noted that overall he felt the turnout at the night meetings was not very good and further recommended reducing the number of meetings to five per year. It was made clear that the schedule was only a planning document and meeting dates, times and/or locations could be adjusted as necessary as well as scheduling any additional special meetings if needed. The Commission also expressed its desire to hold all public hearings in Colonial Beach for convenience to watermen from both Maryland and Virginia.

After further discussion, a motion was made by Commissioner Pruitt, seconded by Commissioner Williams and unanimously approved to adopt the following meeting schedule guidelines for 1997:

February 14, 1997	Friday	9:30 a.m.	Richmond, VA
April 3, 1997	Thursday	9:30 a.m.	Annapolis, MD
June 20, 1997	Friday	9:30 a.m.	Colonial Beach, VA
September 12, 1997	Friday	9:30 a.m.	Colonial Beach, VA
November 21, 1997	Thursday	evening	Colonial Beach, VA

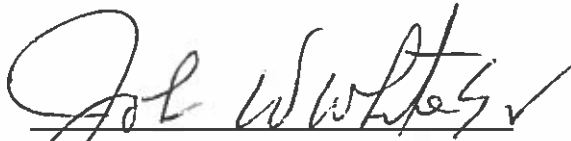
News Release - Hazardous River Conditions

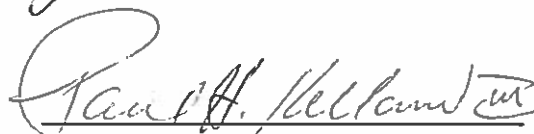
Chairman White reported that, in light of the striped bass season opening tomorrow, Maryland and Virginia would be distributing public service announcements cautioning boaters to be aware of debris in the water resulting from Hurricane Fran.

Adjourn

A motion was made, seconded and approved to adjourn the meeting at 11:20 a.m.

Respectfully submitted,


John W. White, Sr., Chairman


Paul H. Kellam, III, Secretary