

POTOMAC RIVER FISHERIES COMMISSION
La Plata, Maryland
November 14, 1963

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The meeting was called to order at 2:06 P. M. by Chairman Valliant, in the Circuit Court Room, of Charles County Courthouse, La Plata, Maryland. Commissioners Byrd, Hickman, Jones, Ball, Weems and Legal Officer K. Thomas Everngam present. Present were Law Enforcement Officers Roy Rafter and Paul Wentzell, of Maryland, and J. William Ryland and Ralph Dameron, of Virginia.

Commissioner Ball offered motion, seconded by Commissioner Hickman, that Minutes of meeting held October 2, 1963 be approved as written in mimeographed copies previously mailed to each Commissioner and that reading of same be dispensed with. Motion carried.

Motion was made, seconded and approved that proceedings of Public Hearing held earlier in the morning in the same place, on Proposed Regulation III, be attached to and made a part of the Minutes of this meeting.

Commissioner Jones offered motion, seconded by Commissioner Ball, that season for Stake Gill Nets be February 15th to December 1st inclusive each year. Motion carried unanimously.

Commissioner Hickman offered motion, seconded by Commissioner Jones, that Sub-section (q) being an addition to Section 2, Regulation I, reading "The season when shad and herring may be taken by any means on the Potomac River shall be from March 1 to June 15 inclusive, of each year" be eliminated from the Proposed Regulation IA (I) and III. Motion carried unanimously.

Motion was made, seconded and unanimously carried that Sections 1, 2, and 3, of Proposed Regulation III, be adopted as written.

Commissioner Byrd offered motion, seconded by Commissioner Jones, that Section 4 be adopted as written in Proposed Regulation III, deleting the words "in which an appeal is taken" and the words "forfeiting same" and adding the words "in an amount equal to the value of the property seized" by changing the last sentence in Section 4 to read: "In any case the property shall be released upon the filing of bond in the amount equal to the value of the property seized as provided for by the Court and upon final determination of the case, the same may be released or condemned or the bond forfeited, depending upon whether the party is acquitted or found guilty". Motion carried unanimously.

Commissioner Jones offered motion, seconded by Commissioner Weems, that Sections 5, 6, 7 and 8, of Proposed Regulation III, be accepted as presented. Motion carried unanimously.

Commissioner Weems offered motion that Sub-section (c) of Section 9, of Proposed Regulation III, be approved with the addition at the end of the sentence of the words "to be effective July 1, 1964". Motion was seconded by Commissioner Jones and carried unanimously. Commissioner Weems then requested that studies be made, and the study results be made available to the Commission as soon as possible, on the advisability of prohibiting the use of Haul Seines during the months of January, February and March. The Chairman requested the Executive Secretary so to do.

Commissioner Jones offered motion, seconded by Commissioner Weems, that Sub-section (a), (b) and (d) of Section 9; that Section 10; and that Section 11, with the change of the word "and" before black bass to read "any"; that Section 12; Section 13; and Section 14 be adopted. Motion carried unanimously.

Commissioner Weems offered motion, seconded by Commissioner Byrd, that Sub-section (c) of Section 9, of Proposed Regulation III, be reconsidered. Motion carried unanimously.

Commissioner Byrd offered motion, seconded by Commissioner Jones, that Sub-section (c) of Section 9, of Proposed Regulation III, be abrogated. Motion carried unanimously.

Commissioner Byrd offered motion, seconded by Commissioner Weems,

that we postpone any action on Sub-section (c) of Section 9, of Proposed Regulation III, as proposed until we get further scientific information on the advisability incorporating this in our Regulation.

Commissioner Jones offered motion that Sub-section (d) of Section 9, of Proposed Regulation III, reading "It shall be unlawful for any person to fish with a haul seine on the Potomac River during the period from Friday midnight until sunrise on Monday" be now designated and known as Sub-section ("c"). Motion seconded and unanimously carried.

Commissioner Jones offered motion, seconded by Commissioner Byrd, that we reconsider Sub-section (i) of Section 2, of Regulation I. Motion carried unanimously.

Commissioner Jones offered motion, seconded by Commissioner Hickman, that the sentence reading "This Sub-section shall be effective July 1, 1964" previously added to Sub-section (i) of Section 2, of Regulation I. Motion carried unanimously.

Commissioner Byrd offered motion, seconded by Commissioner Jones, that Legal Officer and Executive Secretary be authorized to re-codify and re-number Regulations I, II and III as adopted today and previously of the Potomac River Fisheries Commission, and publish same in pamphlet form but that re-codification be approved by the Chairman and Vice-Chairman before publishing. Motion carried unanimously.

Commissioner Byrd offered motion, seconded by Commissioner Weems, that we adjourn until December 12th. No vote and Commissioner Weems withdrew his second to this motion. Executive Secretary requested directive from the Commission regarding enforcement of 5% cull law or enforcement of the Maryland policy of warning to be issued on first offense, if tonger has uncultured oysters amounting to 6 to 9% of his catch. It was decided to follow the policy of the Maryland Department of Tidewater Fisheries temporarily and to put this item on the agenda for the next meeting.

Chairman Valliant declared the Commission would now go into executive session, and Chiefs Ryland and Rafter and Inspectors Wentzell and Dameron withdrew.

At 3:50 P. M. the Commission went into executive session with all Commissioners present plus Legal Officer Everngam and Executive Secretary Norris.

Under Old Business, Commissioner Byrd reported on Maryland Department of Tidewater Fisheries' claim of jurisdiction to issue Potomac River non-resident buy boat licenses. He reported that in conference with the Attorney-General of Maryland and others, that the Attorney-General held that the waters of the Potomac belong to Maryland and that Maryland still controls marketing, and that issuance of buy boat licenses comes under "marketing"; that the 1958 Compact gives the Potomac River Fisheries Commission power to license operators for only the taking of fish, oysters, clams, etc. Commissioner Byrd said that temporarily the Maryland Department of Tidewater Fisheries is accepting the Potomac River Fisheries Commission licensing of buyers, and that the Maryland Department is furnishing the buyer with a report form for information that the Maryland Department desires; but this is a "stop-gap" arrangement. No action taken and it was suggested that this Commission should take time to determine how to act; in the meantime, proceed as we think we are authorized to do under the Compact. It was also suggested that perhaps each legislature might adopt legislation to clear this and other problems regarding jurisdiction in Potomac River.

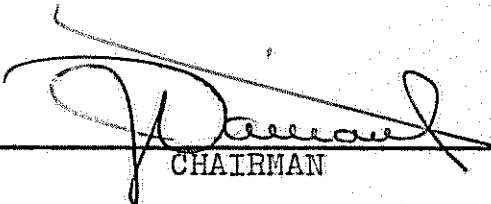
Commissioner Byrd offered motion, seconded by Commissioner Jones, that the Legal Officer of the Potomac River Fisheries Commission be requested to formulate a brief in reply to the written opinion of the Maryland Attorney-General's office, regarding jurisdiction of the Potomac River Fisheries Commission. Motion carried unanimously.


Commissioner Byrd offered motion, seconded by Commissioner

Weems, that the Potomac River Fisheries Commission issue a permit for a period not to exceed one week, from Monday through Saturday, for the purpose of moving dredging equipment and/or boats from one tributary to another across the waters of the Potomac. Motion carried unanimously.

Commissioner Jones offered motion, seconded by Commissioner Weems, that the remainder of the agenda be tabled until next meeting. Motion carried unanimously.

Commissioner Ball offered motion, seconded by Commissioner Hickman, that the Commission adjourn to meet again December 12, at 10:30 A. M., in the Commission Offices at Colonial Beach.


CHAIRMAN


SECRETARY

NOTES ON PUBLIC HEARING ON PROPOSED REGULATION
IA (I) AND REGULATION III, OF THE POTOMAC RIVER
FISHERIES COMMISSION, HELD IN THE CIRCUIT COURT
ROOM, CHARLES COUNTY COURTHOUSE, LA PLATA, MD.

Chairman Valliant convened Public Hearing at 10:45 A. M. Present Commissioners Ball, Jones, Byrd, Lewis, Weems, Hickman, Chairman Valliant, Legal Officer Everngam, Executive Secretary Norris, Chief Rafter, Chief Ryland and Inspectors Dameron and Wentzell. Mr. L. C. Linton, Delegate from Charles County was present plus three (3) citizens from Westmoreland County, Virginia and thirteen (13) citizens from Charles County. There was no representation from any other counties.

Chairman Valliant declared public hearing open, followed by invocation by Commissioner Ball. Chairman Valliant requested comments on Regulation I, Section 2, Fish. Mr. Dutton, of Charles County, asked for extension of Stake Gill fishing to June 15th of each year to correspond to proposed shad and herring season. He also requested an open season in the fall for stake gill netting. After some discussion, Commissioner Jones offered motion that we eliminate any season on stake gill nets. Chairman Valliant asked Commissioner Jones that motions be held until executive session. Commissioner Jones requested that the word "motion" be changed to "suggestion".

Chairman Valliant asked for comments on what harm is inherent in the suggestion to allow stake gill net fishing the year around.

Mr. Stine, of Charles County, said to eliminate drift gill net fishing, because this operation is done mainly by big outside operators.

Chairman offered floor to Law Enforcement Chiefs. Chief Rafter says there is no objection other than possible necessity for modifying dates and time limit for pulling stakes. Fishermen are now allowed thirty (30) days after season during which stakes must be removed from the River.

Mr. Frank Willet said that October and November should be the season and that 1200 feet, total maximum, should be a limit on stake gill netting and that it should not be open during the winter months.

Commissioner Ball asked for opinions on March 1st to December 1st stake gill net season.

Mr. Stine and Mr. Simms, from Charles County, and others, requested stake gill net season be opened on February 15th each year.

The Chairman opened for floor discussion viewpoints on Section (q), proposed to be added to Regulation I, Section 2, with reference to proposed shad and herring season from March 1st to June 15th each year. Discussion followed during which it was the consensus of opinion that nature limits the season to approximately the dates suggested.

Chairman Valliant moved the discussion to Proposed Regulation III, Section 1, Duties of Officers. Opened floor for discussion. There was no comment. Chairman moved discussion to Section 2, Arrest Upon Information. Mr. Simms questioned the severity of confiscation of fishing outfits and equipment, including costly boats, for minor violations. The word "shall" seemed to be the issue, and comments were to the effect that word "may" should be used instead of the word "shall", especially for minor violations. Chairman requested comments on Section 3, Warrant for Unknown Offender; Section 4, Procedure Upon Seizure; Section 5, Disposition of Fines; Section 6, Dynamiting Unlawful; Section 7, Threshing Unlawful; Section 8, Method of Fishing, and on each Section asked for comments. There were no comments and he announced that it was assumed that these Proposed Regulations met with approval. No voiced or other indicated opposition.

Section 9, of Proposed Regulation III was next considered. Sub-section (a) was discussed and apparently approved. Sub-section (b) same procedure and result. Sub-section (c) of Section 9, of Proposed Regulation III, brought out several comments. Mr. Simms and Mr. Stine definitely said they want the privilege of Haul Seining during the months of January, February and March - especially March for the purpose of catching white perch. They say that white perch are only salable during that month. Mr. Berry and Mr. Nininger, from Westmore-

land County, both spoke and requested open season on Haul Seining during January, February and March - especially March.

There was other strong sentiment expressed among and from those present against closing Haul Seine season during January, February and March.

Sub-section (d) of Section 9, of Proposed Regulation III, brought forth no comment.

Section 10. Sizes of Mesh, approved by absence of comment.

Section 11. The word "and" preceding the words "black bass" was changed to "any".

The question of what to do with black bass "in possession" was asked. Chief Rafter replied that a person is allowed five (5) black bass in possession, in Maryland, if caught sports fishing but not if caught commercially.

Section 12. Chairman Valliant asked for comments or criticism. The question about incorporating size of soft crabs was asked by Executive Secretary Norris and Chief Rafter. Apparently no feeling pro or con from the citizens present, and several Commissioners said this was discussed at last meeting and it was decided there would be no limit on the size of soft crabs (referring to minimum size).

No further discussion, Chairman Valliant asked for comments on Section 13 and Section 14, as proposed. There were no comments and he explained the meaning of the "Severability Clause".

Commissioner Byrd asked the Chief Law Enforcement Officers, in relation to Section 12, if sizes and definitions of crabs, is a good law.

Chief Rafter says that it helps in determining what is a peeler, or what constitutes a peeler and/or unlawful crabs.

Chief Ryland says that Virginia has just revamped its laws after not enforcing same in this area.

Commissioner Hickman commented that peelers, as such, are worth more and soft crabs under the suggested 3½ inch minimum size, are worth much more at that stage than they will ever be again, in his opinion.

Commissioner Byrd commented that it is a good law but not enforced, and he personally does not like a law that is not enforced.

Mr. Stine requested floor and referred to Sub-section (c), Section 9, and says that they are "begging", not asking, for months of January, February and March for Haul Seining.

Mr. Willet commented that the crab laws are Okay, but that his area does not have many of these, and he would not make any recommendation.

Delegate Linton asked if there was any agreement on the application on the word "confiscation" as used in this Proposed Regulation.

Chairman Valliant said that this will be considered in light of today's discussion and decided at executive session later.

Chairman Valliant announced that the Compact gives us authorization to apply a tax of up to twenty-five cents (25¢) per bushel, which income can be used for proper management and conservation of the seafood resources in the River. He requested comments on such a tax, asking whether those present thinks that the States should subsidize the management and conservation policies or should the River, through such a tax, help pay its own way.

Mr. Stine says that a small tax would not hurt and would be useful. He says that certainly other sources will not continue to help us, if we do not help ourselves.

Chairman Valliant expressed appreciation to those present for their attendance and interest and cooperation in discussing the Proposed

Regulations. There being no further discussion or comments, Chairman Valliant declared the Public Hearing closed.

Meeting was then adjourned for lunch at 12:10 P. M.

(NOTES ON PUBLIC HEARING TAKEN BY EXECUTIVE SECRETARY)