

July 18 and 19, 1968

Colonial Beach, Virginia

PRESENT: MEMBERS: Commissioners Lawrence O. Hayden, Milton T. Hickman, Donald E. Hood, William P. Hunt, J. Clifford Hutt, Richard E. Lankford.

OFFICERS: K. Thomas Everngam, Legal Officer; Robert M. Norris, Jr., Executive Secretary.

VISITORS: Dr. L. Eugene Cronin, Elgin A. Dunnington, Jr., Dr. Joseph Mihursky, Dr. Morris L. Brehmer, Dr. William J. Hargis, Jr., William R. Prier.

Chairman Hutt called the meeting to order at 9:25 P. M. July 18, 1968 with a statement that this session was for information and review of tomorrow's agenda, with informal discussion only, and that no action would be taken tonight; that more important, it would enable the Commission, including the three new Commissioners, to become acquainted, review the agenda and discuss problems prior to the public meeting on the following day.

Mr. Hutt extended a welcome to the new members, Mr. Hayden, Mr. Hood and Mr. Hunt, remarking that he hoped they would enjoy their service on the PRFC as much as he has.

The Chairman continued with a brief review of the advertised regulations, calling attention to the Minutes of May 23-24 meeting in folders provided each Commissioner, asking them to study Minutes prior to meeting the next day; that tomorrow the Directors of CBL and VIMS will present progress report on Pepco's application to use river water for cooling in the new Morgantown plant. He mentioned, for future discussion, the proposal of Steuart Petroleum Company to build an oil refinery and establish a free port at Piney Point, Maryland.

At this point, since Dr. Cronin will not be present tomorrow, he and Dr. Hargis discussed results of experiments with the Alden Laboratories, Worchester, Massachusetts, hydraulic model of the Morgantown section Potomac River built for Pepco. This model is for the purpose of determining how best to design the cooling water intake and discharge for heated water back to the river at Morgantown; they have insisted that the Morgantown Model Committee (Mr. Paul McKee, Director of Maryland Board of Water Resources, Donald Pritchard, A. L. Penniman, Chairman, L. Eugene Cronin, John C. Geyer and Lawrence C. Neale) work with them, which has been done through a series of committee meetings. At present (exhibiting a model map) tests show a complete tidal swing up and down river. Answering a question, "does the model reflect accurately a picture of the results of the operation of the plant?", Dr. Cronin replied that the principal report from Pepco in June '68 gives good estimates. The Company proposal at this time is to take water from a deep intake, heat not more than 10 degrees, convey upriver and "jet" out for discharge. This jetting system will provide a fast heat dispersal. Their impression is that these are good ideas.

Drs. Cronin and Hargis think that Pepco will apply soon for permit to use river water, and that, of course, the Maryland Board of Water Resources must seek the recommendations of the PRFC but does not have to follow them in issuing permit. Dr. Cronin said that Pepco reports they will not discharge water with a heat rise of over 10 degrees; that Director McKee, of the Board of Water Resources, says he is not concerned with internal operation of plant - the maximum 10 degree heat rise at discharge is his concern; that chlorination is a problem, and he thinks Mr. McKee will listen to the PRFC on this. Dr. Hargis and Dr. Cronin both mentioned a plant (that is still sitting idle) in New Hampshire constructed before receiving a permit for water use, and that the permit has never been granted. This last was mentioned in response to a statement by a Commissioner (PRFC) that not much legal leverage is available, but the moral leverage and public opinion will probably affect Pepco's design, as they must have a permit from Maryland to operate. The Directors, responding to question whether they are satisfied with thermal standards in water resources law, said they think the standards leave something to be desired - that the water is required to be returned to the river in the same "physical", but not same biological, condition.

Mr. Hutt said that within the water standards set there is no precedent (or ceiling) on temperatures within the plant, and that the temperatures generated within the plant are a prime concern of the PRFC. Dr. Mihursky replied with the question, "is the cropping rate faster than the recovery rate?", which he says is critical; that if "cropping" creates only a dent in marine life, there is no worry; but if the dent is large, it should be a concern. Dr. Cronin, referring to map of

model tests, reported evidence of a small area where the temperature will be 5 degrees above river temperature; he added that we should be able to predict such conditions ahead of time - decisions must not be rammed down our throats - time is needed to develop proper decisions.

Mr. Lankford asked, as a practical matter, what can PRFC as a regulatory authority on river do to require proper operating standards. Mr. Hutt said he thinks that the Commission's record should contain what is consistent with its responsibilities. Drs. Cronin and Hargis said that, in addition, the Commissioners have the right to express their opinions and should exercise this right, if Pepco requests an exception to the water standards. Mr. Dunnington thinks that as a "bi-state" Commission, the PRFC exerts more influence than either or both states individually.

The informal discussion on Pepco ended with Drs. Cronin and Hargis being requested to evaluate all factors and return to the Commission with recommendations as to whether certain things (relating to the operation of Pepco's Morgantown plant) are, or are not, a concern of this Commission.

There followed a short discussion relating to the current crab harvest, with laboratories; representatives saying that there are several questions that need study for answers. The application of Steuart Petroleum Company for permit to build an oil refinery and establish a free port at Piney Point, Maryland, was considered. Mr. Lankford said that Governor Agnew asked that the request be "put on ice" for a while, so there is no immediate concern; several present expressed the thought that pressure could be applied in sufficient dosage to freeze out such a plant either in Maryland or Virginia.

At 10:50 p.m. July 18th the meeting was recessed until 10:00 a.m. on the 19th.

COLONIAL BEACH, VIRGINIA - TOWN FIREHOUSE
Friday, July 19, 1968 - 10:00 A. M.

All Commissioners and officers, of the PRFC, and the following persons were present:

Elgin A. Dunnington, Jr., William R. Prier, E. Ralph Dameron, John W. Allen, Charles C. Lancaster, Jr., Glen D. Cole, James W. Dutton, Stanley C. Lorence, Thomas H. White, Maurice A. Thorne, J. William Ryland, Roy W. Rafter, Paul C. Wentzell, William J. Hargis, Jr., Morris L. Brehmer, Delegate Calvin L. Compton, R. D. Hopkins; and press representatives John Frye, Bill Spaven, Miss Isabel Gough (and Free Lance Star representative).

Mr. Hutt declared the meeting open for the purpose of holding a public hearing to consider the proposed changes in regulations as advertised.

Nimeographed copies of the proposed regulations were placed in the hands of all present. Mr. Hutt said the proposed change in REGULATION I, SECTION 2, SUB-SECTION (f) consisted of charging \$3.00 for the "OT" (oyster tonging) tags, which in previous years have been issued free with a tonging license to the boat operator. He asked for comments on this proposed change; there were no comments.

Mr. Hutt said the proposed change in REGULATION I, SECTION 2, SUB-SECTION (h) consisted of a license fee for pound nets of \$15.00 annually instead of \$7.00 as in previous years. He asked if everyone understood the proposed change and if there were any comments; there were no comments.

Mr. Hutt said the proposed change in REGULATION I, SECTION 4, consisted of striding the word "habitual" as applying to violators of the regulations and strengthening the PRFC's position in regard to refusing to issue, after a hearing, a license to anyone who is a violator of the regulations, or who fails to file seafood catch reports as required by the regulations. Mr. Charles C. Lancaster, Jr., President of Charles County Watermen's Association, asked for interpretation of a violator, especially in the case of an "accidental" violation. Mr. Everngam, the legal officer of the Commission, replied that to be a violator a person must be convicted in a court, and that failure to file catch reports has caused management, including the biological laboratories who advise the Commission, a lack of background data concerning location and size of catches on which to make proper management decisions. There were several statements against the penalty for failure to file catch reports; one being by Delegate Calvin L. Compton, of Charles County, who said to question on this that perhaps 20 days was more reasonable.

Mr. Lancaster went back to the question of the \$3.00 charge for tags, saying that \$3.00 for "replacement" tags, when original is lost, is all that is needed. The Chairman reminded him that all the monies collected by the Commission go into the river for repletion efforts. He further explained that when the tags were distributed gratis that far too many so-called "operators" of tonging boats would take the tags and not use them, and not return negative catch reports so stating; that this caused both an administrative and accounting problem, as well as a law enforcement problem in trying to track down "phantom" operators.

Mr. Hutt said the proposed changes in REGULATION IV, SECTION 1 and REGULATION IV, SECTION 2, consisted in changing only the amount of the oyster inspection bushel tax from 20¢ to 25¢, the maximum allowed under the terms of the Compact, asked if everyone understood the proposal, and if there were any comments; adding that the equivalent Virginia tax is 25¢ and the new Maryland tax is 25¢, therefore the PRFC wishes to make the tax in the three contiguous areas uniform. A question concerned taking Potomac River oysters and planting on private ground - is the tax applicable? The Chairman answered, "Yes". Mr. Lancaster said the 5¢ increase is unreasonable.

Before adjourning the public session, Mr. Hutt asked if anyone had any other comment. Mr. J. W. Dutton said that he feels the small number of spectators at this hearing is evidence that the watermen have confidence in the Commission; however, he would suggest that in January or February each year, when new regulations are being studied, that the watermen, or their representatives, be allowed to meet with the Commission to discuss any modifications before they are advertised. Mr. Hutt invited Mr. Dutton and all citizens and watermen to attend all Commission meetings, which are open, and all hearings and offer suggestions which, in the past he said, have often been most helpful to the Commission.

Another question from the floor had to do with the position of the PRFC regarding the proposed refinery at Piney Point and would the Commission take a stand. Mr. Hutt said the Commission has no formal notice yet on this proposal, but in due time, will have this under consideration.

After this, there were no further comments or questions from the spectator.

The Chairman declared the public hearing session in the Firehouse adjourned at 11:00 a.m.; and at 11:10 a.m. reconvened the meeting in the headquarters of the PRFC with all Commission members, the legal officer, executive secretary, and the following visitors:

Messrs. Elgin A. Dunnington, Jr., William R. Prier, E. Ralph Dameron, Thomas H. White, M. A. Thorne, John Frye, William Spaven, J. William Ryland, Roy W. Rafter, Paul C. Wentzell, William J. Hargis, Morris L. Brehmer, Calvin L. Compton, and Miss Isabel Gough.

Mr. Hickman offered a motion, seconded by Mr. Lankford, that reading of the Minutes of meeting of May 23 and 24, 1968, previously distributed to each Commissioner, be dispensed with. Motion was approved.

Mr. Lankford offered a motion, seconded by Mr. Hickman, that the Minutes of meeting held May 23 and 24, 1968 be approved as written. Motion was approved.

Mr. Hutt said that since Mr. Hood, Mr. Hayden and Mr. Hunt were not at meeting when the regulations changes were drafted, that each proposed change would be considered separately.

REGULATION I, SECTION 2, SUB-SECTION (f) was explained and discussed. Mr. Lankford offered a motion, seconded by Mr. Hayden, that the change in this section as proposed and advertised, creating a fee of \$3.00 for "OT" tags, be adopted, making sub-section (f) read as follows:

"(f) For each individual working on any boat used in taking or catching oysters by hand or ordinary tongs, a license fee of \$12.50. No oysters shall be taken by patent tongs, hand scrape, or by dredging. no oysters shall be taken or caught except during the tonging season, which shall begin on the first day of October in each year and end on the 31st day of March next succeeding. Before engaging in the catching or taking of oysters by hand shaft tongs, each operator of boat(s) or vessel(s), used in tonging oysters, shall be issued a set of "oyster tonging" tags, which shall be firmly attached to both sides of the vessel(s) described in the license. The tags shall be positioned on or above the hull forward, but not on or near the bow, and in such a manner as to be clearly visible to passing boats. It shall be unlawful to tong oysters from any boat(s) or vessel(s) not displaying said tags. Tags shall be issued for a fee of \$3.00 per set."

Motion approved unanimously.

REGULATION I, SECTION 2, SUB-SECTION (h) was explained and discussed in that it increases the fee for a pound net license from \$7. to \$15. Mr. Hickman offered a motion, seconded by Mr. Lankford, that this section as proposed and advertised be adopted, making sub-section (h) read as follows:

"(h) For each pound net, a license fee of \$15."

Motion unanimously approved.

REGULATION I, SECTION 4, concerning issuance of licenses to violators was explained and after discussion Mr. Lankford offered the following motion, seconded by Mr. Hood that this section as proposed and advertised be amended to read "20 days notice" instead of "10 days notice, and that the words "after a hearing" be added in the second sentence making said sentence read, "The Commission may, after a hearing, refuse to issue a license to any person..... etc". Motion was approved unanimously.

Mr. Hickman offered a motion, seconded by Mr. Lankford that REGULATION IV, SECTION 4 be adopted as amended reading as follows:

"Section 4. The Potomac River Fisheries Commission after twenty (20) days notice to any person holding a license issued by it, may after a hearing, suspend or revoke such license. The Commission may, after a hearing, refuse to issue a license to any person (a) who is a violator of the regulations of the Commission or of the applicable laws regulating the taking, catching, and marketing of seafood on the Potomac River, or (b) who has failed to file any report required by the regulations of the' Commission."

Motion was approved unanimously.

REGULATION IV, SECTION 1 and REGULATION IV, SECTION 2 both were explained in that the only change in each section was that of increasing the 20¢ per bushel oyster inspection tax to 25¢ as proposed and advertised. Mr. Hickman offered a motion, seconded by Mr. Hayden, that the proposed regulations as advertised be adopted. Motion was approved unanimously.

Mr. Hunt offered a motion that the above regulations as adopted become effective thirty (30) days after today. Mr. Lankford seconded this motion, and it was unanimously approved.

The Chairman asked if any delegations were present; there apparently were none. He introduced Mr. Jess Malcolm, Executive Director of the Chesapeake Bay Foundation, and the Honorable Calvin L. Compton, Delegate from Charles County, to the Maryland House of Delegates, and asked if they wished to present any matters to the Commission. They unanimously replied affirmatively to the effect that their concern was the Piney Point situation, and that they would enter into later discussion on this subject.

Mr. Hutt asked Dr. Hargis if he would give a progress report concerning research on use of river water in power plant at Morgantown. Dr. Hargis said there had been several meetings with Dr. Cronin and other members of the Morgantown Model Committee regarding studies of this problem by and for Pepco. Full reports have not been received from Pepco, and the various states institutions have not fully completed their studies; however, he and Dr. Cronin will continue their study and report later. Mr. Dunnington added that full studies on exhaust and intake design are currently being made with the hydraulic model of the section of the river involved.

Dr. Hargis continued with discussion on proposed refinery at Piney Point, saying that the import of the proposal warrants close watching by the PRFC and suggested that the Executive Secretary get all information possible on this and send to Dr. Cronin and himself.

Mr. Compton said that proceedings concerning application for permits for refinery and free port have been kept quiet, and those who have knowledge of details will not talk. That the Tri-County Council of Southern Maryland is seriously studying the idea of the proposed plant, et cetera; which, with allied industry, could hurt the livelihood of lots of people on the river. Mr. Jess Malcolm said that the Chesapeake Bay Foundation, an agency of citizens to promote the welfare of the Chesapeake Bay, found in the meeting in Leonardtown recently that neither Steuart Petroleum Company, or the County Commissioners, would divulge any plans. That the Director of the State of Delaware Game and Fish Commission stated at this meeting that such an installation is against the public interest. Mr. M. A. Thorne, a Westmoreland Count, Virginia citizen, living across the river from Piney Point, said he once worked with an oil refinery; that this, plus the tankers, will pollute the river with oil and though this may not kill marine life, it will so taint the flavor that it is ruined for food. That one of the by-products is air pollution including a combination of sulphur and moisture in the air, which produces an acid which is detrimental to everything it contacts.

Mr. Lankford offered a motion, seconded by Mr. Hayden, as follows:

"That the Executive Secretary act in accordance with Dr. Hargis' suggestion, and that all information available concerning the proposed refinery and free port be sent to Chesapeake Biological Laboratory, Virginia Institute of Marine Science, and also to Chesapeake Bay Affairs and Virginia Marine Resources Commission." Motion was approved.

The Chairman reviewed the jurisdictional line marking program, wherein the Commission has marked the lines above Route #301 Bridge, but this is not considered as critical as marking jurisdictional lines below said bridge for the reason that natural oyster bars in the lower area of the Potomac, and natural and/or private oyster bars and grounds in both Maryland and Virginia adjoin in many places. Also, he pointed out that although the jurisdictional line across the tributaries on the Maryland side of the river are more or less arbitrary lines, those on the Virginia side are states lines and must therefore be marked exactly. It is necessary for proper enforcement of the oyster regulations particularly that the lines below Route #301 Bridge be re-marked since 14 of the 33 markers were lost the past winter due to weather. An outline of the specifications of the type of piling and markers recommended by the U. S. Coast Guard was described; they being seamless steel pipe 3/8 inch wall thickness, 12 inch diameter and 40 feet long driven to refusal. Mr. Hutt reported that proposals have been recieved for labor and materials installing 33 markers (including one lighted marker in Lower Machodoc Creek); the lowest bidder being Cox Construction Company, Nanticoke, Maryland, with a total cost of \$16,615.90 including the removal of the old markers still remaining. The work, Mr. Hutt added, will be supervised by Maryland and Virginia Inspectors and the stations for the markers will be surveyed by a team, one engineer each from CBA and MRC of Virginia.

Mr. Hood offered a motion, seconded by Mr. Hunt, as follows:

"That we negotiate a contract for the installation of 33 jurisdictional line markers on each side of river from Route #301 Bridge to mouth of river, and arrange for disposal of old markers to the best interest of the Commission." Motion approved unanimously.

The Commissioners reviewed the itemized list of disbursements for the months of May and June 1968 totaling \$169,130.05 (including \$165,971.22 for reef shells for rehabilitation) for May; and \$14,428.37 (including \$11,025.00 for transplanting seed) for June.

Mr. Hickman offered a motion, seconded by Mr. Lankford, as follows:

"That the disbursements for May and June totaling \$169,130.05 and \$14,428.37 for May and June 1968 respectively, be approved." Motion was unanimously approved.

Mr. Hutt rendered a report on the current budget with special mention of items that vary from last year's figures for information for the presently constituted Commission. Mr. Lankford offered a motion, seconded by Mr. Hickman, as follows:

"That annual salaries of the following employees be effective July 1, 1968 as follows:

Executive Secretary	- Robert M. Norris, Jr.	\$12,500.	
Office Secretary	- Mrs. Kathryn P. Hopkins	5,016.	
Clerk Typist	- Mrs. Helen T. Gray	3,696.	"

Motion was approved unanimously.

Mr. Elgin Dunnington, Jr. reported on survey made in June of oyster rocks for condition after last year's harvest, by Chesapeake Biological Laboratory in collaboration with Virginia Institute of Marine Science. The results:

(a) no significant set last year; 1963 set responsible for past two year's harvest and still available in substantial quantities - peak of availability has passed and river will not produce as heavy as last year but with little change in harvest effort catch will be lower but good. Hazarded an estimate of at least 300,000 bushels for 1968-69; (b), seed from Virginia doing well and Jones Shore transplants to Sheepshead Bar showing much more growth than those left on Jones Shore; 1967 oysters transplanted from Hawks Nest to Cobb Bar showing good growth; (c), the cuts made by dredging reef shells from Hawks Nest (above Port Tobacco River) in 1967 have not filled; (d), tentative schedule arrangements for annual surveys of Potomac oyster rocks calls for the Chesapeake Biological Laboratory to annually conduct one in late spring or early summer to determine effects of harvest effort of past season and for the Chesapeake Bay Affairs to annually conduct a late fall or early winter survey to determine summer set and other factors and conditions; (e), Mr. Dunnington said that time is not ripe for a re-survey and delineation of clamming areas; or at least until clam set shows a change in location pattern, - perhaps next year a re-evaluation should be made.

Delegate Calvin L. Compton expressed apprehension that dredging of reef shells under bars such as Hawks Nest (where there is a small population of oysters) may destroy the sports fishing in that area. He says that the sportsfishing and marina industry is a great boost to the economy there. Mr. Dunnington pointed out that "living" oyster bars are more important to reproduction of fish than "dead" bars, therefore, best use of dead reefs may be to use them for rebuilding and repleting live bars. He said that dredging done so far is no threat; it may become so to some of the bars if continued.

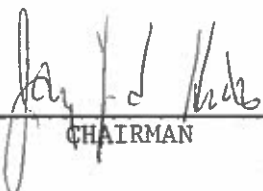
Mr. Prier, of CBSIA, indicated a hope that his organization could develop closer ties with the Virginia seafood industry. Also that from a forthcoming meeting in Washington, D. C. the following Monday, he hopes funds will be made available for a study of the crab shortage.

Mr. Ryland raised the question of culling fish caught in the Potomac River. After Considerable discussion regarding the policies and regulations of Maryland and Virginia relating to culling and possession of undersize fish, et cetera, the policy was established by consensus that: (a), when Potomac River fish are carried ashore in Maryland that the officers apply the Maryland law or regulations to the situation and that (b), when Potomac River fish are carried ashore in Virginia that officers apply Virginia law or regulations to the situation. That naturally, when the fish are in the Potomac, that PRFC regulations apply.

It was decided to hold the next meeting on September 9 and 10, 1968. The Commissioners, who can, will be present for an informal discussion on the evening of the ninth, and the public session will be held on the tenth at 10:00 a.m.

The annual meeting of the law enforcement personnel will be held in Wilkerson's Restaurant on September 9, 1968 at 1:00 p.m.

At 1:10 p.m., upon motion offered by Mr. Lankford, the meeting was adjourned.



CHAIRMAN



SECRETARY