

PRESENT - MEMBERS: Commissioners Lawrence O. Hayden, Milton T. Hickman, William P. Hunt, J. Clifford Hutt.

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

VISITORS: Dr. L. Eugene Cronin, Dr. Joseph Mihursky and Mr. Elgin A. Dunnington, of the Chesapeake Biological Laboratory; Dr. William J. Hargis and Dr. Morris' Brehmer, of the Virginia Institute of Marine Science; Lt. P. C. Wentzell, of Maryland Marine Police; and Mr. Charles Bagnell, of the Marine Resources Commission of Virginia.

Mr. Hutt, Chairman, called this session of the Commission to order at 8:55 p.m. commenting that no formal action would be taken, but that this conference would allow a review of the agenda and any suggestions regarding possible addition of other business; also that this would allow time for additional consideration of any matters that the Directors of the two marine laboratories would like to present before formal consideration takes place tomorrow.

Dr. Cronin said that the afternoon had been spent in conference with Dr. Hargis, Dr. Brehmer and Dr. Mihursky discussing the power plant at Morgantown relative to recommendations they will make tomorrow to the PRFC regarding the application of PEPCO for a permit to use Potomac River waters for cooling purposes through their condensers. He said that only today had PEPCO sent to the PRFC pertinent information needed by this group, on which to base recommendations. He said that the four had spent the afternoon consolidating their opinions on problems relating to use of said water, and that since he will not be present tomorrow, that Dr. Hargis will present the joint report.

A long period of informal discussion on this problem followed the above statements of Drs. Cronin, Hargis, Mihursky, Brehmer and Mr. Dunnington to the Commissioners with questions and answers by same.

At 11:45 p.m. the meeting was recessed to meet on the 24th at 10:00 a.m.

JANUARY 24, 1969

At 10:15 a.m. January 24, 1969 the Commission re-convened with the following present:

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

OFFICERS: K. Thomas Everngam and Robert M. Norris, Jr.

VISITORS: Dr. William J. Hargis and Dr. Morris Brehmer, of the Virginia Institute of Marine Science; Mr. Charles Bagnell, Repletion Officer, Chief J. William Ryland and Supervisor Ralph Dameron, of the Marine Resources Commission of Virginia; Mr. Elgin A. Dunnington, Jr., of the Chesapeake Biological Laboratory; Lt. P. C. Wentzell, of Maryland Marine Police; Mr. David Sayre and Mr. George Poe, of St. George's Island; and Mrs. Marietta Kincannon, Miss Isobel Gough, Mr. Ron Claxton, Mr. Dallas Long, of the press.

Mr. Hutt declared the meeting in session and called attention to short quorum at meeting held November 16, 1968.

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

"That action taken at meeting of November 16, 1968 be confirmed and that Minutes of that meeting, as mimeographed and circulated to each Commissioner prior to today's meeting, be approved." Motion approved.

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

"That the Minutes of meeting held October 14, 1968 be approved." Motion approved unanimously.

At this time Dr. Hargis summarized some of the salient facts concerning the PEPCO application and the laboratories' efforts to determine a basis for a recommendation to the PRFC. He said that specifications in PEPCO's application were not made available until date of public hearing (January 7, 1969) on same; that it became apparent that PEPCO could not return water to river within temperature limits of Maryland Board of Water Resources Regulations (90 degree F. max.), so PEPCO has requested use of additional water for tempering and that this had not been considered in the model studies; that at public hearing on January 7, 1969, PRFC requested that the Board of Water Resources leave the permit application open until a later date to give Dr. Cronin, himself and associates time to study further data and details of permit application, the bulk of which was not forthcoming from PEPCO until yesterday; that the Water Resources Board did agree to hold the permit open until February 4, 1969. A transcript of the recommendations submitted by Dr. Cronin and Dr. Hargis to the PRFC regarding PEPCO's application is as follows:

"January 23, 1969

APPLICATION OF 23 DECEMBER 1968 TO MARYLAND DEPARTMENT  
OF WATER RESOURCES FOR MORGANTOWN GENERATING STATIONS UNITS 1 and 2

REPORT AND RECOMMENDATIONS TO POTOMAC RIVER FISHERIES COMMISSION

Virginia Institute of Marine Science  
and  
Chesapeake Biological Laboratory

We have reviewed the material presented with the application by the Potomac Electric Power Company and several supplementary documents.

We have also drawn upon our experience with related problems in the Patuxent, York and James Rivers and on our knowledge of the Potomac, its fisheries, and the ecology of the Chesapeake Bay area.

Several specific questions are pertinent to the consideration of the Potomac River Fisheries Commission:

1. Does the Commission have formal responsibilities in this matter?

This question is outside of our competence.

Under any interpretation, we believe that the Maryland Department of Water Resources and other responsible agencies would welcome the comments and recommendations which the Potomac River Fisheries Commission considers to be constructive in providing optimal protection of the important resources of the River and that the Commission has a responsibility to comment.

2. Should the use of tempering waters be permitted?

We recommend that the Commission vigorously oppose pumping of natural estuary water, to be used for tempering overheated water, into the steam electric station discharge canal. This procedure, which is proposed to be used when condenser cooling water temperature exceeds state standards of 90°F, is simply moving the mixing zone into steam electric station property and is, therefore, a deviation other than natural from the Maryland Water Resources standards, as established by their regulations. The 90°F was established as a state water quality standard in order to protect aquatic life; it recognizes the thermal requirements of estuarine biota. If this 90°F level is allowed to be exceeded, it then ignores developed biological data and established standards and will not provide the protection of these estuarine organisms for which the regulation is designed. Biota contained in the cooling water supply are important to continued production in the estuary, and therefore must not be damaged.

3. Are the temperature predictions from the hydraulic model reasonably accurate?

We agree with the comments of the Model Advisory Committee that the model data appear to provide reasonable good estimates, but that the actual temperature effects should be carefully observed and tested after operation begins.

4. Is the available biological data adequate as a base-line description of the condition of the River and prediction of the effects of the plant?

The survey data provided with the application are limited to certain small sites, poorly selected for this purpose, and containing serious lacks and errors. In our opinion, they do not provide adequate base-line or prediction data and should be ignored.

The experience of our staffs provides considerable, but not complete, information on the oysters, clams, crabs, fish and other organisms of the area. They are helpful but must be supplemented.

We recommend that the Commission urge the Maryland Department of Water Resources to require thorough pre-operational and post-operational sampling of the organisms which, in light of current knowledge, may be threatened by such operations. These include planktonic eggs and larvae of the shellfish, fish and other species, Bottom species in the receiving area, including those which may accumulate heavy metals - phytoplankton, zooplankton and jellfish.

In our opinion, these studies, should be conducted in a manner satisfactory to the pertinent scientists on our staffs, and to impartial experts. Such research may be especially important if PEPCO applies for expansion at this plant site or for additional sites on the Potomac in the future.

SUMMARY OF RECOMMENDATIONS

1. That waters must not be heated more than 10°F across the condensers of the plant or above 90°F.
2. That practice of using tempering waters to reduce water temperature to meet effluent requirements be prohibited.
3. That thorough pre- and post-operational studies be conducted to determine accurately the effects of the plant operations on River temperatures and biota.

Operations of the Morgantown steam electric station, as proposed in the application, do not meet recommendations 1, 2, or 3. We urge that Maryland Department of Water Resources be requested to require compliance with all of these.

Respectfully submitted:

Morris L. Brehmer, VIMS  
L. Eugene Cronin, CBL  
William J. Hargis, VIMS  
Joseph A. Mihursky, CBL  
Elgin A. Dunnington, CBL

"

A long period of questions and discussion thereon followed of which concerned damage to the natural oyster population in the area known as "Pascahanna Oyster Bar" immediately in front of the generating plant at Morgantown, as a result of dredging intake and discharge canals for the cooling water for the plant.

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

"That recommendations of Chesapeake Biological Laboratory and Virginia Institute of Marine Science be accepted." Motion approved unanimously.

Discussion followed concerning the responsibility of PEPCO for damages to a public resource (natural oyster population) in return for the privilege of damaging same for its benefit.

Chairman Hutt requested Mr. Everngam make a report evaluating the laws concerning the above damage and the position of this Commission thereto. Mr. Everngam said he would do so. A short discussion followed, in which it was established that: (1) If there is any deviation from Board of Water Resources standards, then Board must ask Potomac River Fisheries Commission for statement thereon; (2) that there is a deviation from said standards; (3) Mr. Everngam said he advised Mr. Downs, an attorney for the Board of Water Resources, on Friday, January 17, 1969 that if there is a deviation that the Board must consult the Potomac River Fisheries Commission. Mr. Everngam advised that if the Commission wishes, it can file with the Department of Water Resources a statement to the effect that there appears to be a deviation other than natural from the standards established by the Department of Water Resources and suggested that the department consult with the PRFC prior to acting on the application of PEPCO.

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

"That the legal officer of the PRFC prepare a bill of particulars, to be signed by the Chairman or Vice-Chairman, and filed with the Maryland Board of Water Resources setting forth that there is a deviation other than natural from the Maryland water quality standards regulations, and therefore this Commission requests that the Maryland Board of Water Resources consult with the Potomac River Fisheries Commission before final action on the application of PEPCO for a permit to use water for cooling at the Morgantown plant." Motion approved unanimously.

There was discussion concerning differences in water pollution damage and damage to oyster populations resulting from construction and operation of PEPCO plant - that water pollution is one question, and damage to oyster populations and payment for a lost resource because of dredging operations is another; that the first concerns the Water Resources Board, and the second the Board of Natural Resources as a separate action; that the principal of compensation should be employed where a natural resource is destroyed, so that those persons who will profit as a result should reimburse the state and its citizens for the lost resource.

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

"That it is the opinion of the Potomac River Fisheries Commission that there is apparent and potential damage by intake and discharge canals at PEPCO plant at Morgantown, Maryland and that the Board of Public Works of Maryland be requested to hold a consultation with PRFC to discuss and assess said permanent damage to natural shellfish resources. It is the opinion of PRFC that PEPCO should be responsible for damages, and said compensation should be paid by PEPCO so that this fund can be expended in the public interest for rehabilitation of the Potomac River. The Potomac River Fisheries Commission respectfully requests that the Board of Public Works see that no permit is issued for channel, or canal, construction until provision is made for assessment and payment of damages." Motion approved unanimously.

The Executive Secretary reported on letter of June 30, 1967 and subsequent extension of time limit to same, from U. S. Coast Guard, requesting the Commission to initiate action to replace missing jurisdictional line markers, and repair and replace leaning or worn markers, above Route #301 Bridge. He said that originally 45 markers were installed and that the law enforcement personnel estimate at least one-half (1/2) are now missing, or leaning. The Chairman appointed a committee to submit recommendations regarding replacing, repairing, remarking or removing remaining markers in this section of the river. The committee named is as follows: Robert M. Norris, Jr., K. Thomas Everngam, Lt. P.C. Wentzell and Supvr. E. Ralph Dameron.

The Chairman reported that after consultation with several Commissioners subsequent to November 1968 meeting that it was determined that the statement for cost of daymarkers for line markers below Route #301 Botomac River Bridge should be paid in full, and this action was approved.

The joint Md. and Va. audit report for the fiscal year July 1, 1967 - June 30, 1968 was considered. The recommendation that future budgets of the Commission be adopted prior to the commencement of the fiscal year was noted, and the Executive Secretary reported that the only delinquent oyster inspection tax account on which Auditors requested action for the pertinent year, William T. Ward for \$107.70, had been collected. A motion was offered by Mr. Hunt, seconded by Mr. Hayden, as follows:

"That Maryland-Virginia Auditors' report for the said year has been received, noted and approved." Motion approved.

Disbursements for the months of November and December 1968, each respectively totaling \$5,419.49 and \$3,189.24, had been submitted to each Commissioner in itemized form prior to the meeting. A motion was offered by Mr. Hickman, seconded by Mr. Hood, as follows:

"That disbursements for the months of November and December 1968 as submitted be approved." Motion was approved.

Chairman Hutt advised that the Commission has a total of \$185,878.35 cash in banks as of January 22, 1969 for operating, maintenance and repletion purposes on deposit in savings deposits, certificates of deposits; and a checking account maintained in sufficient amount for current operating requirements.

At 12:30 p.m. the Commission recessed for lunch and reconvened at 1:25 p.m. for further transaction of business.

Mr. Hutt recognized Mr. David Sayre and Mr. George Poe, of St. Mary's County, who requested that stake gill nets regulations be amended to allow the setting of gill net poles or stakes with the end stakes to be supported by guy ropes and anchors. There was discussion on this, during which the Executive Secretary showed letters received recently from Mr. Henry T. Stine, Newburg, Maryland offering the same request; and from Mr. J. W. Dutton, White Plains, Maryland, requesting that the Commission legalize anchored gill nets. Each letter also requested some other changes in regulations regarding licensing of fish pots to conform to crab pots licensing "with assistants". The Commission recommended that these suggestions be considered by a committee named later in the meeting to consider other changes in regulations, and report at next meeting.

A motion was offered by Mr. Hickman, seconded by Mr. Hood, as follows:

"That an annual summary or report of the action of the PRFC be prepared at the end of each fiscal year beginning with 1968-69, and if time allows, one for the fiscal year 1967-68". Motion was approved.

Certain changes regarding (1) pound net and stake gill net stakes, (2) taking of seafood for household use, (3) closing of certain areas for the taking of seafood in an emergency, (4) crabbing and fishing near public bathing beaches, and (5) requiring oyster buyers or dealers to apply for report books prior to buying or dealing in oysters, were presented and discussed.

A motion was offered by Mr. Hayden, seconded by Mr. Hunt, as follows:

"That such proposed regulations, and requests in letters mentioned above be referred to a committee for study and report to the Commission at next meeting." Motion was approved.

Mr. Hutt appointed a committee to meet prior to next meeting in conformity with this motion. The committee is to consider such changes in regulations and present recommendations at next meeting. The committee appointed is as follows: Mr. Hutt, Mr. Hayden, Mr. Everngam, with Mr. Norris, ex officio member.

Mr. Hickman advised that the James River seed areas are open for seed buying and asked if the Commission is interested in trying to buy seed oyster for the Potomac River. After discussion concerning how to buy and handle seed at this time of year, and a suggestion that we try to buy seed starting with an offer of \$1.25 per bushel, Mr. Hayden offered a motion, seconded by Mr. Hunt as follows:

"That the Chairman and Executive Secretary be authorized to purchase James River seed up to 20,000 bushels, weather permitting." Motion approved unanimously.

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

"That the recommendations of Chesapeake Biological Laboratory and Virginia Institute of Marine Science, including the management personnel of repletion departments of the Maryland and Virginia Commissions, on locations of seed plantings be followed." Motion approved.

Mr. Hayden asked if cultivating oyster bottom with bagless dredge is helpful? Mr. Dunnington replied in some detail to the effect that it is not always beneficial but that under some conditions does some good.

The Chairman asked for nominations for officers for 1969. Mr. Hayden nominated Mr. Richard E. Lankford as Chairman with the nomination being seconded by Mr. Hood. Mr. Lankford was unanimously elected.

Mr. Hunt nominated Mr. J. Clifford Hutt as Vice-Chairman for 1969 with the nomination being seconded by Mr. Hickman. Mr. Hutt was unanimously elected.

Mr. Hood nominated Mr. Lawrence O. Hayden as Secretary for 1969 with the nomination being seconded by Mr. Hickman. Mr. Hayden was unanimously elected.

Mr. Hood offered a motion praising Mr. Hutt for his work during the past year as a job "well done" as Chairman. Mr. Hickman seconded the motion and the motion was approved unanimously.


As Mr. Lankford was not present to accept the Chairmanship, Mr. Hutt suggested that he would continue in that capacity, since he was elected as Vice-Chairman for the coming year until Mr. Lankford could assume this duty.


A motion was offered by Mr. Hickman, seconded by Mr. Hutt, as follows:

"That the appreciation of the Potomac River Fisheries Commission be extended to Dr. L. Eugene Cronin and Dr. William J. Hargis, Jr. for their work and counsel on the PEPCO Morgantown project." Motion was approved unanimously.

The next meeting will be held on Friday, March 7, 1969 at 10:00 a.m., with the Commissioners meeting informally on the evening of March 6, 1969.

At 4:30 p.m. the meeting was declared adjourned.

  
CHAIRMAN

  
SECRETARY