

POTOMAC RIVER FISHERIES COMMISSION
COLONIAL BEACH, VA.

MAY 2, 1969

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

OFFICERS: K Thomas Everngam, Legal Officer; Robert M. Norris, Jr., Executive Secretary; Lt. Paul C. Wentzell, of the Maryland Marine Police; Chief J. William Ryland and Supervisor E. Ralph Dameron, of the Marine Resources Commission of Virginia; Elgin A. Dunnington, of the Chesapeake Biological Laboratory.

VISITORS: Messrs Carl J. Johnson, of the Interstate Commission on the Potomac River Basin; Douglas Brawley, Associate Commissioner of the Marine Resources Commission of Virginia; Charles R. Bagnell, Repletion Officer of the Marine Resources Commission of Virginia; M. A. Thorne, J. W. Dutton, Thomas H. White, Seafood Tax Auditor of the Maryland Department of Chesapeake Bay Affairs.

PRESS: Miss Isobel Gough, Mr. John Frye, Mr. Barry Fitzgerald.

Mr. Lankford, Chairman, called the meeting to order at 10:00 a.m. (EDT) declaring a quorum to be present. Mr. Lankford asked attention of the Commissioners to the Minutes, copies of which had been previously circulated by mail to each. Mr. Hickman offered the following motion, seconded by Mr. Hutt:

"That the Minutes of the meeting held March 6 and 7, 1969 be approved as read." Motion was approved.

Report of committee on new regulations was presented by Mr. Everngam. He requested that due to illness of one of the members that proposals for any new regulations be postponed except one as follows:

"Regulation III, Section 12(b). Crabbing and Fishing Near Public Bathing Beach. It shall be unlawful to commercially take or catch, or attempt to commercially take or catch crabs and fish within 200 yards of any public bathing beach during the months of May, June, July, August and September of any year."

Mr. Hickman offered the following motion, seconded by Mr. Hunt:

"That the foregoing proposed regulation be adopted for advertising as required by the 1958 Maryland-Virginia Compact, with a public hearing to be held in the Potomac River Fisheries Commission office, Colonial Beach, Virginia, on June 20, 1969 at 10:00 a.m. EDT." Motion was approved.

Mr. Everngam said that re Minutes of March 7, 1969 he had written Mr. Paul McKee, Director of the Maryland Board of Water Resources March 12, 1969 requesting that the words capitalized in full as follows be added to the permit issued on March 6, 1969 by Mc. McKee to PEPCO. Said permit is for appropriation of Potomac River waters through the electric generating plant at Morgantown:

"3. When natural water temperatures are greater than 50 degrees F. the MAXIMUM temperature elevation, between the natural water temperature at the point of intake and the water temperature at the point of discharge to the waters of the State, must not exceed 10 degrees F. AT ANY POINT."

Mr. Everngam reported that Mr. McKee, in letter dated March 17, 1969, said it was not possible for him to make the changes recommended.

Mr. Lankford recognized each of the following visitors: Mr. Douglas Brawley, Mr. Carl J. Johnson, and Mr. Charles R. Bagnell.

Mr. Hutt offered the following motion, seconded by Mr. Hayden:

"That itemized disbursements for the months of March and April, 1969 totaling respectively \$8,851.60 and \$59,077.50, of which \$59,469.50 was for purchase of seed oysters, be approved." Motion was approved.

The Commission was advised that it was necessary to convert \$15,000 in funds on Certificate of Deposit with the Peoples Bank of Montross, Montross, Virginia to checking account to pay for seed oysters; that the bank would pay us approximately \$100 more in interest on the Certificate of Deposit if it was allowed to run to anniversary date 95 days hence than interest on same amount borrowed would cost us for the 95 days.

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

"That the following resolution be adopted:

'WHEREAS, the Potomac River Fisheries Commission has need for \$15,000 to pay for seed oysters purchased for its 1969 rehabilitation program, therefore,

BE IT RESOLVED, that a loan of \$15,000 for a term of 95 days from date of this meeting is hereby authorized, to be negotiated at the Peoples Bank of Montross, Montross, Virginia, said note to be signed by (1), either the Chairman or the Vice-Chairman and (2), the Executive Secretary, of this Commission."

Motion was approved.

Mr. Lankford asked for report of committee on type of river bottom and depth of water at proposed locations for jurisdictional line markers above Potomac River Bridge. The Executive Secretary said that on Wednesday past he, Mr. Toledziecki, an engineer of the Maryland Department of Chesapeake Bay Affairs, and Mr. Dameron, Supervisor of the Marine Resources Commission of Virginia, had conferred and that based on their tests that day, plus Mr. Toledziecki's experience in 1965 in locating stations for previous markers in that section of the river, and his work in driving marker stakes in those locations, that it appeared that similar type and length steel piling would be proper for the Maryland side of the river; that on the Virginia side, in some areas, a greater depth of soft material would be found and the contractor would have to add 10 to 15 feet to some of the piling.

Mr. Hutt offered the following motion, seconded by Mr. Hayden:

"That the Executive Secretary request bid proposals, using same specifications as on piling installed in 1968, for materials and labor for installation of 26 jurisdictional line markers in the area concerned in the above report and submit to the Commission for consideration at the next meeting." Motion was approved.

Mr. Lankford asked for Mr. Everngam's report on public hearing on PEPCO canals held on April 22, 1969 by Maryland Board of Water Resources, in Annapolis, and attended by Executive Secretary, Mr. Elgin Dunnington and Legal Officer. He reviewed briefly questions asked by the committee regarding size of the area involved for intake and discharge canals and discussion with hearing officer of the Maryland Board of Water Resources, PEPCO officials, and their consultants concerning request of PRFC that PEPCO stake off the area involved in their canal construction; this to be done in order that a survey of the oyster and clam population could be made to evaluate the amount of damage to seafood production that would ensue from dredging. Mr. Everngam said

he requested of the hearing officer, of the Maryland Board of Water Resources, that action on the permit be delayed until after the PRFC meeting to be held May 2, 1969 (today). He reported that Mr. Webber, the hearing officer, said that it was sutomary to withhold action on any application for fifteen (15) days. Mr. Everngam suggested that the PRFC write the Maryland Board of Water Resources and the Board of Public Works asking that damages to the natural oyster rock and soft shell clam bed producing areas involved be determined, and that said resulting funds be paid to the PRFC for repletion of oyster and/or clam areas in other parts of the river to offset the above loss.

Mr. Dunnington added that the above areas were surveyed this past Monday with the help of PRFC personnel, an engineer from the Maryland Department of Chesapeake Bay Affairs, himself and associate from Chesapeake Biological Laboratory, and it appears that the following areas will be lost to production forever:

2-3/4 acres of live oyster population and producing area
14 acres of live soft shell clam population and producing area

Mr. Hickman offered the following motion, seconded by Mr. Hutt:

"That we calculate the probable and potential damage that will ensue now and in the future as a result of taking the oyster and clam producing areas out of production forever, and that we pursue with the Maryland Board of Water Resources and the Board of Public Works what the probable potential damage is and seek reimbursement on that basis, and that such reparations as are determined accrue to the Potomac River Fisheries Commission." The motion was approved unanimously.

The Commission, through Chairman Lankford, instructed the Executive Secretary to send a telegram to Mr. John L. Reynolds, Chief of Operations, Baltimore District, U. S. Corps of Engineers, requesting that no permit be issued by his agency approving the dredging of the Potomac River bottom for the canals by PEPCO until damages, as set forth above, have been determined.

In reply to several questions, Mr. Dunnington gave the following related inforation or opinions: that the cofferdam proposed by PEPCO in its plans will destroy area in the 14 clam areas and of lesser importance the 2-3/4 acres of oyster bottom - that siltation from the proposed canal work in toto will not be a problem because the river currents in this area are such that they will keep the bottom scoured. He said that the Alden Research Reports confirm this. He advised that the dredged spoil will be deposited ashore - also that there seem to be no buried deposits of reef shells, as had been suggested by C. J. Langenfelder and Son, to be salvaged.

The Commission was advised that the Corps of Engineers have published notices that anyone withing to file criticism or protests concerning the effect of the proposed PEPCO canal work upon navigation and other matters affecting the public interest should submit such to the Corps of Engineers on or before May 24, 1969 and that all comments received will be considered in determining whether it would be in the best public interest to grant a permit.

Mr. Hickman offered the following motion, seconded by Mr. Hayden:

"That this Commission is opposed to the U. S. Corps of Engineers granting PEPCO a permit for dredging for canal construction in the Potomac River at the Morgantown, Maryland, generating plant site until compensation payable by PEPCO is determined on the basis of loss of wildlife in the river as a result of such dredging." Motion was approved unanimously.

The question of how to properly dispose of confiscated or "seized" property, and who shall maintain custody of any "seized" property, equipment, etc. until ownership is determined by courts, was raised by the Executive Secretary. The Law Enforcement personnel and executive Secretary were advised to follow the procedure as out-

lined in PRFC Regulation III, Section 4 and the Potomac River Compact of 1958, Article V, Sections 2 and 4. The Commission expecially directed that no nets, etc. be sold until ownership or rights have been established in each case according to the above Compact Article and PRFC Regulation.

The Chairman requested that any action on a proposed budget for 1969-70 be postponed until next meeting.

The Commission discussed the application of Steuart Investment (Petroleum) Company for an oil import quota from the Department of Interior of 100,000 barrels of residual oil per day and their application to the U. S. Corps of Engineers for a new pier and an extension of the existing pier at Piney Point, St. Mary's County, Maryland. The Commission was told that following the letter dated April 17, 1969 from this Commission stating that the position of the Potomac River Fisheries Commission remains the same as set forth in the resolution dated September 12, 1968 bearing on any extension of the oil facilities at Piney Point, that the Corps of Engineers has set a date of May 2, 1969 to receive any comments, criticism, or objections. The resolution of September 12, 1968 (set forth in parenthesis following) was reviewed and discussed in light of recent applications by Steuart.

("BE IT RESOLVED that, the Potomac River Fisheries Commission does hereby oppose the extension of the size, scope or function of any petroleum facility at Piney Point in St. Mary's County, Maryland, because the Commission believes that such an extension will be detrimental to marine resources of the river and will not be compatible with the use of the river for the conservation, repletion and production of seafood,

AND, the Executive Secretary is hereby instructed to send copies of this resolution to all pertinent governmental agencies.")

Mr. Hutt offered the following motion, seconded by Mr. Hayden:

"That the Potomac River Fisheries Commission hereby reaffirms that its current policy is the same regarding the Steuart Petroleum Company, as set forth in the above resolution dated September 12, 1968". Motion was approved.

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

"That this Commission hereby confirms and approves action taken by Executive Secretary in sending letter dated April 17, 1969 to Mr. John L. Reynolds, Chief, Operations Division, Corps of Engineers, incorporating the above resolution and advising that in the absence of any change that the position remains the same as stated in the resolution." Motion was approved.

Mr. Lankford asked that the Executive Secretary send Mr. John Reynolds a telegram confirming the above decision.

Mr. Hutt offered the following motion, seconded by Mr. Hunt:

"That we send a copy of the September 12, 1968 Resolution to the Secretary of the Interior with a letter reiterating this to be the position of the Potomac River Fisheries Commission." Motion approved unanimously.

The Executive Secretary was also asked to send the same communication to the Fish and Wildlife Service, regional headquarters in Atlanta, Georgia.

Mr. Hickman offered the following motion, seconded by Mr. Hunt:

"That the Executive Secretary send a copy of the aforementioned resolution with a covering letter of explanation to all

state and federal agencies that may be interested in his situation." Motion approved.

Mr. Lankford recognized Mr. J. W. Dutton, who asked that when new regulations, other than the one adopted for adversiting today, are under consideration that those suggested in his recent letter be included; also that he is interested in having the jurisdictional lines across the mouth of Nenjemoy Creek marked. Mr. Lankford assured him that these requests will receive proper attention and that the line marking is being pursued at this time.

Mr. Lankford recognized Mr. M. A. Thorne, who stated that he strongly approves the Commission's stand on the Steuart Petroleum Company applications; he also called attention to a hearing to be held May 12, 1969 in Prince Frederick, Maryland regarding the Baltimore Gas & Electric Company atomic power generating plant now approved for Calvert Cliffs, Maryland.

The next meeting will be held June 20, 1969 at 10:00 a.m. with public hearing on new regulation at Colonial Beach, Virginia.

A motion to adjourn was offered at 11:30 a.m.


CHAIRMAN


SECRETARY