

POTOMAC RIVER FISHERIES COMMISSION
ANNAPOLIS, MARYLAND
FEBRUARY 6, 1970

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

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

VISITORS: Mr. Randy Arndt, Associated Press, Annapolis, Maryland.

Mr. Lankford, Chairman, called the meeting to order at 10:20 a.m. and asked for consideration of the Minutes of the last meeting held December 19, 1969, saying that the Minutes as presented had previously been mailed to each Commissioner. There being no corrections or objections, Mr. Lankford declared the Minutes approved.

Mr. Norris, reported that Mr. Manning, Director of Department of Game and Inland Fish, had written in reply to offer from this Commission of the intermediate marker in the mouth of Nanjemoy Creek installed by the PRFC, accepting this marker as the property of his Department and said that they would maintain a spar buoy on the jurisdictional line across the mouth of that tributary, identifying it as a Potomac River-Maryland jurisdictional line marker.

Mr. Hayden reported that the harvest effort on the recently opened area for soft-shell clamming out from mouth of Dukehart's Creek had resulted in an estimated 5,000 bushels of clams, and that the population of clams has been reduced to a quantity which would support only a few clammers. He said that there were not as many clams in the area as had been estimated originally; that there were larger populations in the area but they were under good oyster bars. Lt. Wentzell suggested that the effort was not worth maintaining a patrol boat in the area, and that the only clams that could be caught in substantial quantities were in the closed areas adjacent. Mr. Hutt offered a motion, seconded by Mr. Hunt, as follows:

"That reasonable notice be given to all licensed clammers and magistrates, by certified mail with return receipt requested, and that notice to the public through newspapers and radio be arranged advising that the area opposite Dukehart's Creek, in the Potomac River, be closed to soft shell clamming by hydraulic dredging effective Monday, February 16, 1970; the area in question being the same as that which was temporarily opened by action of the Commission at the December 19, 1969 meeting." Motion was approved.

There was a general discussion concerning the use of clams smaller than the present legal size of 2" minimum, in light of the recent several mortalities of all size clams before they reach maturity. Mr. Hutt suggested that these smaller size clams should be utilized even if the minimum size is reduced. Lt. Wentzell commented that this poses a problem since the Potomac River clams, if minimum size is lowered, would then be illegal in the remainder of Maryland. Mr. Hutt offered a motion, seconded by Mr. Hayden, as follows:

"That discussions with the Department of Game and Inland Fish, or its successor agency, be instituted to determine if the two agencies could agree on a smaller minimum size soft shell clam, in order to utilize this resource." Motion approved.

Mr. Norris, who was authorized at the last meeting to request the Coast Guard to approve a temporary discontinuance of all

jurisdictional line markers above Mattawoman Creek and Occoquan Bay, reported that the Coast Guard, by telephone, approved a temporary discontinuance for six months, and that they would give proper notice to mariners. However, that if the discontinuance was to extend beyond six months, that it would then become a permanent discontinuance; but that if the PRFC later wished to renew these markers, that a written request would be honored by the Coast Guard.

The Commissioners considered at length two new regulations proposed by the committee appointed at the last meeting to present suggestions. In regard to scarcity of catfish in the upper river discussed at last meeting, Lt. Wentzell reported that in a survey of upper river fishermen by himself, Mr. Dameron and Mr. Norris, that the consensus seems to be that the problem of scarcity lies not with conservation laws, but with pollution, attributed by the fishermen mainly to chemical pollution.

Two suggested changes in the regulations were then recommended by the above committee as follows:

#1. That Regulation I, Section 2(r) be rescinded and the following regulation be adopted, which in addition to the conventional stake gill net, would also make available an "anchored-stake" gill net as follows:

"(r) Stake Gill Nets and Anchored-Stake Gill Nets. It shall be unlawful to hold or attempt to hold a stake gill net stationary in the water by any other means than as hereinafter set forth and defined. A stake gill net shall be a flat net which is suspended vertically in the water with meshes that allow the head of a fish to pass but entangle its gill covers as it seeks to withdraw. (1) A conventional stake gill net shall be held stationary in the water by means of a series of wooden stakes or poles driven or embedded firmly into the bottom in such a manner as to support themselves and the net hung thereon. (2) An anchored-stake gill net shall be held stationary in the water by means of a wooden pole or stake at each end, which end pole or stake shall be firmly embedded upright in the bottom. Anchors shall be used to hold said end poles or stakes perpendicular in the water. Anchored-stake gill nets shall not have a length greater than 500 feet including lines, stakes and rings. A visible daymarker and night light shall be affixed to each channel-side end stake."

#2. That Regulation I, Section 5, be rescinded and the following regulation be adopted in its stead:

"Section 5. (a) Commercially Taking Seafood. Commercially taking or catching seafood under the Regulations of the Potomac River Fisheries Commission shall be construed to be taking or catching of same for market or profit. Taking of crabs by crab pots, fin-fish by use of nets (other than dip nets), and soft shell clams by means of a hydraulic dredge, shall all be deemed a commercial taking or catching of seafood requiring a license hereunder.

(b) Taking Seafood for Immediate Household Use.

The taking or catching of seafood for immediate household use, without a license, shall be lawful provided that no person shall take more than one bushel of oysters, one bushel of soft shell clams, one bushel of hard crabs, and three dozen soft crabs or peeler crabs per day. No oysters shall be taken for household use by any method prohibited by these Regulations, or between the hours of sunset and sunrise."

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

"That the proposed modification of Regulation I, Section 2(r), as written above concerning the retention of the conventional stake gill net license plus the addition of an "anchored-stake" gill net of 500 feet or under be approved, to be properly advertised under the terms of the Compact and a public hearing be held on same." Motion approved.

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

"That the proposed modification of Regulation I, Section 5, as written above concerning the taking or catching of seafood for immediate household use be approved to be properly advertised under the requirements of the Compact of 1958 and a public hearing be held on same." Motion approved.

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

"That Regulation I, Section 2, sub-section (i) be amended by the insertion of the following wording, "For each anchored-stake gill net location of 500 feet and under, including lines, stakes, and rings, a license fee of \$8.00." making the section read as follows:

"(i) For each stake gill net location of 1,200 feet and under, including lines, stakes and rings, a license fee of \$8.00. For each anchored-stake gill net location of 500 feet and under, including lines, stakes and rings, a license fee of \$8. For each float or drift gill net of 1,200 feet and under, a license fee of \$8. The season when float or drift gill nets may be set or used shall be from April 1st to May 26 inclusive, of each year. No float or drift gill net shall be set or used at any other time on the Potomac River. There shall be no closed season for the setting of stake nets or for the taking and catching of shad and herring on the Potomac River.

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

"That the aforementioned three (3) proposed modifications in the Regulations be advertised as required by the 1958 Potomac River Compact and that a public hearing on these proposed regulations be held at 10:00 a.m. Friday, April 17, 1970 at Colonial Beach, Virginia." Motion was approved.

A resolution concerning guidelines for approval and payment of travel, lodging, meals, et cetera, of the Commissioners, administrative staff, scientific and other advisors of the PRFC, when on Commission business or affairs, was presented as follows:

RESOLUTION

WHEREAS, Article I Section 5, of the Potomac River Compact of 1958, provides as follows:

"Section 5, Compensations, Expenses - Commissioners shall be entitled to receive from the General Fund of the Commission compensation of Twenty-Five Dollars (\$25.00) for each day or portion thereof spent in the performance of their duties, and reimbursement for reasonable expenses incident to the performance of their duties", and

WHEREAS, Article I Section 7 of said Compact provides that the Commission shall establish and maintain an office at such locations as it may select, and may employ an Executive Secretary

and such other administrative, clerical, scientific, and legal personnel as it deems necessary, and to prescribe the power, duties and compensation of all employees, who shall not be subject to the applicable personnel laws of Maryland or Virginia.

Now Therefore, the Potomac River Fisheries Commission adopts the following Resolution, to wit:

1. Each Commissioner of the Potomac River Fisheries Commission shall receive Twenty-Five Dollars (\$25.00) for each day or portion thereof spent in the performance of their official duties, plus reimbursement for their travel to and from their respective places of residence.

2. Each Commissioner, the Executive Secretary, and the Legal Officer of the Commission shall be reimbursed for their travel in their personal automobiles at the rate of ten cents (10¢) per mile, plus bridge tolls, and other actual out-of-pocket expenses for travel and other necessary reasonable costs in the performance of their duties for the Commission.

3. Either the Chairman, the Vice-Chairman, or the Executive Secretary of the Commission is authorized to pay for meals and lodging for members of the Commission, its official staff, and the scientific and other personnel and officials of the state agencies, institutions, and departments of Maryland and Virginia, while said persons are providing the resources and assistance to the Commission, authorized by Article III Section 7, of the Potomac River Compact of 1958. It being the policy of the Commission that either the Chairman, the Vice-Chairman, or the Executive Secretary may pay for said meals and lodging in one bill for each occasion in lieu of having individual expense vouchers submitted by each person.

4. All claims and expense accounts, of the Executive Secretary, shall be approved by the Chairman, or Vice-Chairman, of the Commission.

5. All claims and expenses of any nature of the Commission shall be made a part of the Minutes of the next preceding meeting of the Commission.

The foregoing Resolution was unanimously passed this 6th day of February 1970.

ATTEST:

/s/ Robert M. Norris, Jr.
Executive Secretary

/s/ Richard E. Lankford
Chairman

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

"That the foregoing resolution be approved and adopted as a policy guideline for approval and payment of said expenses for the administration of the PRFC." Motion was approved.

At 11:22 a.m. Mr. Lankford said that all old business having been transacted that he would install Mr. J. Clifford Hutt as Chairman of the Commission for the year 1970. This was done and Mr. Hutt recognized Mr. Lawrence O. Hayden as Vice-Chairman for 1970 and Mr. Lankford as Secretary for the same term.

Mr. Hutt asked for consideration of the itemized statements of disbursements for the months of December 1969 and January 1970, which were presented to the Commission. After consideration, Mr. Lankford offered a motion, seconded by Mr. Hickman, as follows:

"That the disbursements for the aforementioned months, being \$4,364.95 and \$3,943.95 respectively, be approved." Motion was approved.

Mr. Hutt next asked for consideration of policy on temporarily utilizing for revenue purposes some of the current funds of the Commission until such time as the monies can be used for

repletion of seafood resources. There was lengthy discussion on this matter, such as the propriety of investing funds while waiting for the availability of seed oysters, and the Executive Secretary was requested to ask our Legal Officer for his opinion on the appropriate type of depository for our funds, terms and conditions of same, in order to realize revenue while seeking sources of seed oyster for replenishing the seafood resources of the river and to report Mr. Everngam's opinion at the next meeting.

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

"That an investment committee be appointed by the Chairman to determine the type of investment to be considered." Motion was approved.

Mr. Hutt named Mr. Roy E. Julie, himself as Chairman, and R. M. Norris, Jr., Executive Secretary to serve as the committee approved above.

Apropos the above the spring planting program was discussed. Mr. Lankford said he had requested from Mr. Digges, the Assistant Attorney General of Maryland for seafood affairs, an opinion on the sale to the PRFC by Maryland of seed oysters resulting from their planting program, and that Mr. Digges' opinion should be available next week.

Mr. Dunnington said it was very desirable to move the shall plants from Jones Shore area to areas up the river, if the seed count no less than 200 per bushel.

Mr. Hickman said that he would talk further with Mr. Vernon Drewer, who has offered some seed from leased ground in the James River to this Commission, and determine the quantity, quality, and cost of this source.

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

"That the Commission proceed to move Jones Shore seed to upriver bars at a cost not to exceed \$25,000 as soon as weather permits; the moving and planting to be guided by the advice of same counselors as have guided this type of program in past years, and that Commissioner Hayden, Chairman Hutt, Mr. Dunnington and the Executive Secretary be a committee to implement this program." Motion approved.

Mr. Hutt requested the Executive Secretary to determine the per bushel cost of reef shells overboard by next meeting.

Mr. Hutt appointed the three Maryland Commissioners and Mr. Norris to learn if seed from Maryland are available, if leased bottom for sub-lease on which to plant shells in St. Mary's River or any similar area can be made available to the PRFC and if so, what terms and conditions would prevail.

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

"That the Commission purchase two (2) \$25,000 - 3 months-certificates of deposit." Motion approved.

A motion was made by Mr. Hickman, seconded by Mr. Hunt, that the following agreement concerning a "time deposit, open account" passbook saving account be approved:

" AGREEMENT

It is agreed that the Potomac River Fisheries Commission and the Bank of Westmoreland shall establish in the Bank of Westmoreland a time deposit, open account upon the following conditions and terms,

That the Potomac River Fisheries Commission shall give to The Bank of Westmoreland thirty (30) days' notice

in writing in advance of any withdrawal to be made from said account. The Bank of Westmoreland shall pay interest on deposits placed to such account, from the date of the deposit at the rate of $4\frac{1}{2}\%$ per annum, payable semi-annually. No interest, however, shall be paid on amounts specified in a withdrawal notice after the expiration of such notice period.

/s/ J. Clifford Hutt
Potomac River Fisheries Commission

/s/ Jean C. Jones, Cashier
The Bank of Westmoreland

Motion approved.


Mr. Norris advised that in response to a notice from the U. S. Corps of Engineers concerning proposed construction of a pier with dimensions of 100' x 130' near Persimmon Point, in the Potomac River, by George F. Smith et al, Washington, D. C., he had written the Corps that until the PRFC was advised of the use, intended use, or purpose of this pier that the Commission interposed an objection to the issuance of a permit by the Corps. He said that a reply had been sent stating that the construction was for an over-water deluxe restaurant. The Commission did not indicate any opposition to this proposal and instructed the Executive Secretary to so notify the Corps of Engineers.

Lt. Wentzell outlined a proposal being considered by several departments and agencies in Maryland to purchase an electronic survey and sonar system for locating oyster bars, plantings of shell and seed and relocating same with exactness at later dates. Mr. Dunnington said that this was an excellent aid and several Commissioners concurred in this. Mr. Wentzell asked if the Commission would be interested in participating in the cost of this system, as other agencies are considering doing, in order to have a precise and quick way to survey and locate areas. There was considerable favorable discussion on this matter, and it was suggested that when more is known about the costs that it would be considered further.

Mr. Norris said that Mr. Carl Johnson, Director of the Interstate Commission on the Potomac River Basin has asked that the Commission be advised of a forthcoming meeting of his agency on pollution, water quality and improvement on the lower Potomac Estuary, to be held at St. Mary's City (St. Mary's College) on April 16-17, 1970 and hoped this Commission would participate.

There being no further business the meeting adjourned at 12:50 p.m.


CHAIRMAN


SECRETARY