

MINUTES OF THE MEETING
POTOMAC RIVER FISHERIES COMMISSION
COLONIAL BEACH, VIRGINIA
OCTOBER 8, 1982

454

PRESENT: COMMISSIONERS - James E. Douglas, Jr., Chairman; John T. Parran, Jr., Francis J. Russell, R. Wayne Browning, Ivan D. Mapp, and William P. Jensen

OFFICERS - Robert M. Norris, Jr., Executive Secretary; Kirby A. Carpenter, Assistant Executive Secretary

VISITORS - Paul C. Wentzell, Francis X. Wood, John Mattingly, Maryland Marine Police; Donald O'Bier, Virginia Marine Police; Scott Marple, Charles Frisbee, DNR; Elgin Dunnington, U of M, CEES; Garnett Reamy, John Allen, Willard W. Elliott, Bobby Self, C. Dalpro, Douglas F. Jenkins, Jr., Donald P. Markwith, Elgin Nininger, Joseph Hughes, Donald St. Don, Francis Cullison, Richard Holbrook, Walter Parkinson, Richard Daiger, Norman Bishop, Donald Drury, W. F. Bowie, Jr., W. I. Maddox, Allen Powell, Bill Thomas, James W. Dutton, Robert T. Brown, Tucker Brown, James Lathroum, Louis Thompson, Jr., Louis Thompson, III, plus about 30 others who did not sign the register.

PRESS - Lawrence Latane, Westmoreland News; Larry Evans, Free Lance-Star and Isobel Gough, Richmond News Leader.

The meeting was called to order at 9:30 a.m. by Mr. Douglas, Chairman. Mr. Douglas introduced the two new Commissioners from Virginia for the benefit of all who had not met them. He also introduced Mr. Brent Hare, Asst. Attorney General from Maryland, available today to comment if any legal problems arose. Mr. Douglas said that no decisions would be made on the proposed amendments to the regulations during the public hearing.

O P E N P U B L I C H E A R I N G

The public hearing was opened at 9:35 a.m. Mr. Carpenter gave a brief outline of the intent of each proposed amendment to the regulations.

Regulation I, Section 2(k) - No comment.

Regulation I, Section 2(d) - No comment.

Regulation I, Section 2(m)(1) - Some discussion by watermen, Mr. Frisbee and Commissioner Jensen re merits of mesh size ensued.

Regulation I, Section 2(m)(2) - Mr. Frisbee asked if a bait pot is similar to a crab pot. Mr. Carpenter described the pot as defined in the proposal.

No further comments.

Regulation I, Section 2(i)(1) - One comment by spectator that minimum distance between nets should be 1,650 feet.

Regulation I, Section 2(i)(2) - Same comment as in 2(i)(1) above.

Regulation I, Section 5(a) - No comments.

Regulation I, Section 5(e) - No comments.

Regulation I, Section 2(L)(1) & 2(L)(2) - No comments.

Regulation III, Section 10(a) - No comments.

Regulation III, Section 8 - Seven comments divided pro and con on 3-3/4" mesh.

Regulation III, Section 9(a) & (b) - Twelve persons commented. - Nine opposed regulation as proposed but most felt the declining fish catches require some type of harvest restriction but there was no consensus of that restriction.

Regulation III, Section 9(c) - No comments.

Regulation I, Section 2(h)(1) and (2) - No comments.

Regulation III, Section 14 - Rather lengthy and numerous comments pro and con.

Regulation II, Section 14 and 15 - No comments.

Regulation V, Section 1(b)(2) & Section 4(c) - No comments.

Regulation II, Section 2(a)(4) - Six comments evenly divided.

Regulation V, Section 1(b)(2) - No comments.

Regulation V, Section 4(c) - No comments.

The Chairman closed the Public Hearing at 11:15 a.m.

C L O S E P U B L I C H E A R I N G

During this recess Mr. Jensen asked that the record show he hand-delivered a copy of the eel report to Mr. Robert T. Brown.

The meeting was reconvened at 11:25 a.m.

MINUTES

Mr. Douglas requested consideration of the Minutes of the July 23, 1982, meeting, mimeographed copies of which had been previously sent to each Commissioner. The following motion was made and seconded:

"That the Minutes of the July 23, 1982 meeting be approved as written and circulated." The motion was approved.

REGULATION CHANGES

Mr. Douglas announced that the agenda would be changed so as to consider the amendments to the regulations at this time. The public was reminded that the public hearing was over and any discussion should be between the Commissioners, unless specific questions are directed to someone in the audience.

Regulation I, Section 2(k) - A motion was made and seconded to adopt this sub-section as advertised. The motion was approved.

Regulation I, Section 2(d) - A motion was made and seconded to adopt this sub-section as advertised. The motion was approved.

Regulation I, Section 2(m)(1) - Mr. Parran moved to adopt this sub-section as advertised. Mr. Russell seconded. Mr. Jensen suggested the effective date be delayed to allow eelers who have smaller mesh time to convert this gear. A motion making the effective date January 1, 1984 for the mesh size was offered and seconded with Mr. Parran and Mr. Russell concurring in the amendment; Mr. Browning seconded and the motion was approved. Mr. Jensen then suggested that the Commission draw up an alternate plan because the state of Maryland and VIMS have made a study on 1/2" x 1/2" vs. 1/2" x 1" mesh size and this information should be considered prior to any action. Mr. Mapp then made a motion to table adoption of this proposal until next meeting. The motion was seconded by Mr. Russell and approved. The Chairman asked the staff to review these studies and make copies available to each Commissioner.

Regulation I, Section 2(m)(2) - A discussion followed Mr. Jensen's suggestion to combine fish pot(s) and bait pot(s) in one license. Col. Wentzell said that with no specifications and/or descriptions, it would be difficult to identify the types of gear; that this problem arose last year and ended up in court.

The Commissioners agreed with the intent of the proposed regulation but said that there was a problem with the wording and format. A motion to table this proposal was made, seconded and approved. The Chairman then asked the staff to prepare alternate format of the proposal for consideration at the next meeting. Counsel ruled that if the basic intent of the proposal is unchanged, there is no need to re-advertise it for consideration at the next meeting.

Regulation I, Section 2(i)(1) - A motion was made and seconded to adopt this proposal as written and advertised. The motion was approved.

Regulation I, Section 2(i)(2) - A motion was made, seconded and approved to adopt this proposal as written and advertised.

Regulation I, Section 5(a) & (e) - Mr. Parran moved to adopt both sections as proposed. Mr. Russell seconded the motion. Mr. Jensen moved to amend the title of 5(e) to "Taking Crabs for Immediate Household Use." Mr. Parran seconded it. After some discussion on combining 5(e) with 5(b), Mr. Russell offered a substitute motion to the effect that while the Commissioners agree with the intent of this proposal, to table it until next meeting in order to give consideration to the format. Mr. Parran agreed and seconded and the motion to table was approved.

Regulation I, Section 2(L)(1) and 2(L)(2) & Regulation III, Section 10(a) Mr. Parran made a motion to adopt all three sections as proposed and Mr. Russell seconded.

Mr. Jensen made a motion to amend the motion by adding the words "except a fish trot line" after the words "a rod and reel" to Regulation I, Section 2(L)(2). Mr. Parran seconded and the motion was approved. The original motion as amended was then approved.

Regulation III, Section 8(b) - Mr. Jensen suggested the Commission consider a minimum of 3-3/4" only during the period from March 15 thru June 1. The Chairman said this is somewhat different than discussed during the Public Hearing and asked for comments from the floor. Five watermen spoke for the 3-3/4" year around and two against any change.

Mr. Jensen then offered a motion to amend the proposal to read "gill net 3-1/2" from March 15 thru June 1 and 2-1/2" at any other time." It was seconded by Mr. Parran and approved. A motion was then made, seconded and approved adopting the proposal as amended.

Regulation III, Section 9(a) & (b) - Mr. Douglas asked Mr. Dunnington where and when the major portion of the rock fish spawning occurs. Mr. Dunnington replied between Hallowing Point and Douglas Point from early to mid April thru the end of May.

Mr. Douglas asked what is occurring during the proposed six week (Jan. 1st thru Feb. 14th) closure. Mr. Dunnington replied that the male rock fish are moving in and upriver. Mr. Jensen offered that the downriver line should be Douglas Point.

Mr. Russell opposed this entire Regulation III, Section 9(a)(b) & (c) as written.

Mr. Jensen moved not to adopt Section 9(a) and change (b) to (a), change February 14 to January 1 in (2) anchor gill net and (3) stake gill net, adopt (a) as amended and adopt sub-section (c). This motion was seconded and approved.

Regulation I, Section 2(h)(1) & (2) - Mr. Parran moved that both sections be adopted as proposed. Mr. Russell seconded and the motion was approved.

Regulation III, Section 14 - Mr. Hare, the Maryland Assistant Attorney General said the way this section is written could be a problem and suggested inserting "intentionally" after "not" in the first line and before "molest" in the fourth line. He also believed that the last sentence should be amended to read "Seine Haulers may lift and shall replace crab pots, bait pots and eel pots while actually engaged in laying and taking up their seines."

Mr. Parran moved to adopt this portion with recommended change. Mr. Browning seconded and the motion was approved.

Mr. Parran moved to recodify Regulation III, Sections 14 and 15 to become Sections 15 and 16. The motion was seconded and approved.

Regulation V, Section 1(b)(2) & Regulation V, Section 4(c) - Mr. Parran moved to adopt both sections as proposed and Mr. Jensen seconded. The motion was approved.

Regulation II, Section 2(a)(4) - Mr. Parran made a motion to adopt this proposal as written, Mr. Russell seconded and the motion was approved.

The following motion was made and seconded: "That Regulation II, Section 2(a)(4) become effective November 8, 1982 and the balance of the regulations that were not tabled become effective January 1, 1983." The motion was approved.

OYSTER REPLETION

Mr. Carpenter said the seed oyster transplanting from Jones Shore seed area is continuing and as of October 7, 1982, 183,100 bu. have been planted on 11 areas farther upriver; also, that the operation should be completed by October 20 or 21.

JURISDICTIONAL MARKERS

Mr. Norris said that we entered into a contract with Capt. Charles Wroten to replace two markers that had been temporarily deactivated for several years at Hallowing Point and Sycamore Point; to replace two markers destroyed by ice at Mattawoman Creek and repair and redrive 12 others from High Point to Coan River. Bids for this work ranged from \$20,000 to 46,000 with Mr. Wroten submitting the low bid. Mr. Douglas explained that Mr. Norris had talked with him and Vice Chairman Parran prior to signing the contract since it was over the budgeted amount. A motion was made, seconded and adopted approving the \$20,000 contract. Mr. Norris then presented a letter from the Homeowner's Association at Hallowing Point protesting and asserting that the marker there constituted an eyesore. He said he has talked with this group and told them that if the marker needs repairs in the future, he felt sure the PRFC would try to adjust the location if feasible.

POWER DREDGING

Mr. Douglas reported that last year the Commission had asked the General Assemblies to address power dredging in the Potomac. Virginia passed legislation allowing power dredging and collection of a repletion fee on oysters caught by those means. Mr. Jensen said a similar bill did not get out of Committee last year but said he believed it would be approved this year.

DISBURSEMENTS & CASH ON HAND

Disbursements for the first quarter of FY 82-83 (Jul-Sep) were presented by budget item totaling \$145,146.10 of which \$117,739.00 was oyster repletion

program work. A motion to approve disbursements of \$145,146.10 was made, seconded and approved.

A statement of cash on hand as of October 6, 1982 was presented as follows:

First VA Bank - Northern Neck

Checking	\$ 19,915.57
Savings	76,072.11

Maryland National Bank

Savings	7,902.66
Certificate of Deposit	100,000.00

Peoples Bank of Montross

Certificate of Deposit	100,000.00
------------------------	------------

Grand Total	\$303,890.34
-------------	--------------

OYSTER SURVEY

Mr. Dunnington reported that there is an excellent 1982 set of oysters in the lower portion of the river with some very high counts. The setting still seems to be occurring, and it should provide good production from the "set and grow" shell plantings in the lower part of the river over the next several years. In addition, some high count seed from Jones Shore should be available next spring. The heavy setting is confined to the lower part of the river and does not extend above St. George's Island and Ragged Point. Some mortality was found in the lower river but not on an alarming scale.

OYSTER REPLETION PROGRAM

As reported earlier the seed moving operation is continuing. Subject to Commission approval, the contractors have agreed to continue moving seed over and above the contract for 200,000 bushels, more or less, through the first of December at \$.50 a bushel which is \$.10/bu. below the contract price. Mr. Carpenter said that the most that could be moved under this proposal before December 1, 1982 would be 95,000 bushels, however, that 60,000 to 70,000 bushels is more likely what would be moved. The staff recommended moving the seed this fall at the lower cost and Mr. Dunnington expressed his support for the plan. There were two comments from the floor: Mr. Daiger cautioned against planting seed in cold weather and Mr. Brown suggested the higher count seed available next spring may be more valuable even at a high cost for moving.

A motion was made, seconded and approved not to extend the seed planting program beyond the contract number.

OYSTER BAR CHARTS

Mr. Norris said the Engineer for the Hydrographic Operations of the Maryland Department of Natural Resources has graciously provided most of the surveying of our seed and shell plantings as well as other engineering work since the Commission started. The question of a custodianship of these records has been raised and subject to such questions, Mr. Norris asked the Commission to formally request that the Engineer for the Hydrographic Operations be authorized and requested to be the custodian of and maintain and update the oyster and clam charts of the Potomac River and to survey areas when shelled or seeded and establishing them as planted or natural oyster bars, as the case may be, on the charts. After a discussion on the status of a "natural oyster bar", the following motion was made and seconded:

"That the Potomac River Fisheries Commission hereby requests that the Engineer for the Hydrographic Operations of the Maryland Department of Natural Resources be authorized and requested to be the custodian of and maintain oyster and clam charts of the Potomac River and to survey the areas when shelled or seeded." The motion was approved.

CLAM CHARTS

Mr. Scott Marple, Hydrographic Operations Engineer, displayed two clam charts, one showing the existing closed areas for clamming and the other a proposed modification where certain areas were either open or closed based on a study committee's recommendations.

Mr. Douglas said he thinks the clam charts need further study and they should go back to the committee for additional input from the various watermen. Mr. Douglas also asked Mr. Marple to put the oyster seed and shell plantings on the chart when they are redrawn. Mr. Brown asked for the area at the entrance to St. Catherine's Sound to be opened at this meeting.

Mr. Jensen made a motion to move the westerly boundary of the soft shell clam closed area "J" (St. Catherine's Channel) so that the westerly boundary can be determined by citing navigational aid "1L" on PRFC marker PRM5A. Mr. Russell seconded and the motion was approved.

REGULATION CHANGES

Mr. Hare said he would like time to study the language of Regulation III, Section 14, referring to molest, disturb, etc. and discuss it with Judge Murphy before recommending specific wording.

A motion was made, seconded and approved to recall the motion which adopted Regulation III, Section 14. A motion to table Regulation III, Section 14 was then made, seconded and approved.

A motion was made, seconded and approved that the aforesaid regulations as adopted above be attached to and made a part of these minutes.

CATCH REPORTS

The following men who have failed to file the required seafood catch reports and therefore unable to obtain licenses, as ordered by the Commission at previous hearings, appeared before the Commission to request that their privilege to obtain a license be reinstated. As each man was called, Mr. Carpenter reviewed the circumstances surrounding the individual being called to a hearing and the Commission actions at that time. Each man was given an opportunity to address the Commission, which they did, and the following actions were taken:

MR. DONALD CLEMENTS ST. DON - Motion made and seconded that Mr. St. Don be granted the licenses he requests and that he be placed on probation for one year from the date any license is granted. The motion was approved.

MR. JOHN HARDING ALLEN - Motion made and seconded that Mr. Allen be granted the licenses he requests and that he be placed on probation for one year from the date any license is granted. The motion was approved.

MR. FRANCIS EMERICK CULLISON - Motion made and seconded that Mr. Cullison be granted the licenses he requests and that he be placed on probation for one year from the date any license is granted. The motion was approved.

MR. FRANCIS RANDOLPH GODDARD - Motion made and seconded that Mr. Goddard be granted the licenses he requests and that he be placed on probation for one year from the date any license is granted. The motion was approved.

MR. JOSEPH CLAUDE HUGHES - Motion made and seconded that Mr. Hughes be granted the licenses he requests and that he be placed on probation for one year from the date any license is granted. The motion was approved.

MR. RICHARD JOHN LOCOCO - Motion made and seconded that Mr. Lococo be granted the licenses he requests and that he be placed on probation for one year from the date any license is granted. The motion was approved.

MR. DAVID MITCHELL YOUNG - Motion made and seconded that Mr. Young be granted the licenses he requests and that he be placed on probation for one year from the date any license is granted. The motion was approved.

WHITE CATFISH

Mr. Dutton said he had been asked by a group from the upper river who were here earlier but had to leave to request the limit on white catfish be raised to 10". The Chairman asked the staff to include this for consideration at the next legislative committee meeting.

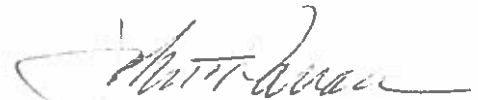
DONATION

Motion was made, seconded and approved to donate \$25.00 to the Colonial Beach Volunteer Fire Dept., and express our thanks for the use of their large meeting hall.

FUTURE MEETINGS

Mr. Douglas said he had received a letter from Mr. Richard Daiger asking the Commission to hold its meeting at a time more convenient to working watermen. He also noted the minutes show a similar request made at the last meeting. He then appointed Mr. Russell a "committee of one" to investigate this matter and determine an appropriate time to hold meetings. The next meeting will be held sometime in December, subject to Mr. Russell's findings.

A motion to adjourn was made, seconded and approved at 3:10 p.m.



JOHN T. PARRAN, JR.
Acting Chairman



R. WAYNE BROWNING
Secretary

*Respectfully,
R. Russell*