

MINUTES OF THE REGULAR MEETING  
POTOMAC RIVER FISHERIES COMMISSION  
COLONIAL BEACH, VIRGINIA

AUGUST 12, 1988

COMMISSIONERS: R. Wayne Browning - Chairman, John Thomas Parran - Vice-Chairman, John W. Freeman, Sr. - Secretary, Verna E. Harrison, William A. Pruitt and Francis J. Russell.

OFFICERS: Kirby A. Carpenter - Executive Secretary and J. Clifford Hutt - Legal Officer.

PRESS: Thornton Reese - St. Mary's Tide, Isobel Gough - Richmond News Leader, Dick Myers - WPTX/WMDM Radio, Kim Lancaster - The Free Lance-Star.

GUESTS: Richard Bohn - Maryland Sea Grant, Pete Jensen, George Krantz, Janet VanTassel and Charles Frisbie - Maryland DNR, Lee Zeni - ICPRB, Lore Hantske - Tri-County Council for Southern Maryland, Ray Tilghman - Accokeek Foundation, John Mattingly, Jack Taylor and W. B. Willing - DNR Police, Bob Markland and Donald O'Bier - VMRC Police, William Rice - Charles County Watermen's Assoc., Willard Dutton, Jim Banagaw, James L. Jones, Wayne Balderson, Warren McKenny, Walter Hundley, and several others who did not sign the register.

The Chairman called the meeting to order at 9:35 a.m. and welcomed all those in attendance.

The following motion was made by Mr. Pruitt and seconded by Mr. Freeman:

"THAT THE MINUTES FOR THE MEETINGS OF MAY 6, 1988 AND JUNE 10, 1988 BE APPROVED AS WRITTEN AND DISTRIBUTED." The motion was unanimously approved.

#### HUGGINS OYSTER BAR

The Legal Officer reported to the Commission that he had been in contact with the Attorney General's Office in Maryland and they had agreed that the liability claim they were filing would require anyone who damages an oyster bar to repair said oyster bar, regardless of liability. They have made a demand on the barge company but to date have had no response. Mr. Hutt stated that if the response from the barge company was not favorable, he, in conjunction with the Maryland Attorney General's Office, would be filing suit.

#### POWER ASSISTED HAND TONGS

The Legal Officer stated that after researching this subject, he felt that there were two major issues before the Commission. The first would be the legal definition and secondly, the efficiency of the gear. The data provided to the Commissioners showed that on average, boats using the power assisted gear increased their catch over those without the power assist equipment.

Mr. Pruitt stated that the Commission's charge to maintain and preserve the resource should be the basic issue. Mr. Carpenter said that based on last year's very low catch, he did not believe the resource could withstand any additional pressure. Mrs. Harrison said that she felt that one of the tools in conserving the resource was the inefficiency of the gear used to harvest oysters.

Mr. William Rice of the Charles County Watermen's Association spoke in favor of changing the definition of power assist hand tongs so that they could raise the tongs to the cull board. Mr. Hutt reminded the Commissioners that in his opinion, such a change would make the gear patent tongs which are prohibited by the Compact.

The following motion was made by Mrs. Harrison and seconded by Mr. Parran:

"THAT NO FURTHER ACTION BE TAKEN REGARDING THE DEFINITION OF POWER ASSISTED HAND TONGS". The motion passed unanimously.

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ROCKFISH STUDY GROUP

Mr. Carpenter informed the Commission that the ASMFC is currently working on a re-write of the 1981 coastwide plan regarding Striped Bass. The ASMFC will be meeting in September of this year to work on the final draft and as soon as this is available, the Commission would have a better idea of what modifications of the regulations would be needed to comply with the coastwide management plan.

At the May, 1988 Commission meeting, the Chairman requested that the Executive Secretary prepare a list of persons for the Chairman's consideration. Mr. Carpenter provided the Chairman with a list and the Chairman requested anyone interested in this subject to get in touch with Mr. Carpenter.

The Chairman explained that the purpose of this Committee would be to come up with suggestions regarding the fishery for Striped Bass when the current restrictions are lifted. Also, the Committee would be responsible to make recommendations which were in compliance with the ASMFC guidelines because the PRFC has to stay within the ASMFC guideline or the Federal Government will intervene. The Committee would be constructed of 8 or 10 individuals from Maryland and 8 or 10 individuals from Virginia who are from different sectors of the community, therefore giving an even balance for recommendations. The Chairman said he would review the list and make his appointments later. He explained that only appointed committee members would be allowed to vote at Committee meetings, but added that all interested persons would be welcome to attend the Committee meetings.

WHITE PERCH

Mr. Carpenter said that at the May, 1988 Commission Meeting there was a request to establish a size limit for white perch. The Chairman requested that the staff present some information at this meeting. Mr. Carpenter presented the Commission with a history of Commission action regarding white perch regulations and white perch landing in the Potomac from 1964 to 1988, including the white perch Young of the Year Index information. Also provided was a listing of size limits for white perch for Maryland, Virginia, PRFC and Washington, D.C. The listing showed that Maryland has an eight inch minimum size limit on the commercial catch and no jurisdiction had any size limit on the recreational catch.

Mr. Parran asked Mr. Carpenter for a staff recommendation. Mr. Carpenter stated that he supported the 1986 committee recommendation for a 6" size limit with a 5% tolerance for undersize fish. Mr. Carpenter further stated that the white perch are a valuable species and there has been a large increase in using the smaller white perch for bait.

Mr. Willard Dutton stated that he felt that since people couldn't fish for Rockfish, they were fishing for white perch and that you can see a definite decline in the number of white perch. Also, if a 6" size limit were established, it would decrease their use as bait. He felt that if the Commission did not do something, the white perch would end up with the same problems as the rockfish.

Dr. Krantz said that he investigated this in 1986 and that white perch reproduction is not a problem, the problem is that there has been a change in the utilization of the white perch, many of the smaller ones are being used as bait for crab pots. Dr. Krantz suggested that if the Commission were to adopt the 6" size limit, they would increase the economic return to the watermen as well as protect the resource.

The following motion was made by Mr. Freeman and seconded by Mr. Parran:

"THAT THE COMMISSION SCHEDULE A PUBLIC HEARING FOR THE NOVEMBER COMMISSION MEETING TO CONSIDER ESTABLISHING A 6" SIZE LIMIT FOR WHITE PERCH". The motion passed unanimously.

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YELLOW PERCH

Mr. Carpenter said that this item was put on the agenda because Maryland is taking measures to protect this species and he asked Mr. Pete Jensen to elaborate on Maryland's intentions regarding the Yellow Perch.

Mr. Jensen stated that Maryland has proposed to close several rivers which have low stocks of Yellow Perch and to institute a 10" size limit for the species to rebuild the spawning stocks of these fish. As a result of their public hearings on this proposal, it has been modified so as to phase in the size limit increase at half-inch intervals per year to check the growth rate. Mr. Jensen said that after Maryland goes through their second round of public hearings, they will advise the Commission of the outcome of the hearings.

Chairman Browning stated the Commission will re-evaluate the Yellow Perch Fishery after they get their report from Maryland.

ACKNOWLEDGMENT

Mr. Parran introduced Ms. Lore Hantske and Mr. Ray Tillman who work with Charles, St. Mary's and Calvert Counties on environmental issues, and thanked them for attending today's meeting.

DISBURSEMENTS AND CASH ON HAND

A report on the fourth quarter disbursements (April-June 1988) was presented by budget item which totaled \$183,193 of which \$133,453 was spent for oyster repletion expenses. A statement of cash on hand as of August 10, 1988 was presented as follows:

FIRST VIRGINIA BANK - NORTHERN NECK:	\$146,964.03
Checking - includes \$200.00 petty cash	
FIRST NATIONAL BANK OF MARYLAND:	7,265.64
Savings: Maryland Office	
VA LOCAL GOVERNMENT INVESTMENT POOL:	146,999.67
MD LOCAL GOVERNMENT INVESTMENT POOL:	<u>145,906.42</u>
GRAND TOTALS IN BANKS:	\$447,135.76

Mr. Carpenter reported that there were no unusual or irregular expenses. However, a check drawn in payment of the annual insurance premiums for \$4,341.00 was erroneously sent directly to the vendor without the Chairman's or Vice-Chairman's countersignature. This check cleared the bank before the error was discovered. Mr. Carpenter stated that the bank had been notified of this incident and requested to follow the Commission's written policy of requiring countersignatures on checks over \$3,000.00. The Chairman stated he had reviewed the payment and determined it a proper disbursement and he had written the bank regarding this matter. Given the payment was proper, the Commission determined no further action on this matter need be taken.

The following motion was made by Mr. Parran and seconded by Mr. Freeman:

"THAT THE FOURTH QUARTER DISBURSEMENTS OF \$183,193.00 BE APPROVED AS PRESENTED". The motion passed unanimously.

AUDIT REPORT

Mr. Carpenter reported to the Commission that the FY 86-87 Audit Report for the Potomac River Fisheries Commission had been mailed to each Commissioner from the Auditor of Public Accounts of the Commonwealth of Virginia. The audit was done jointly with an auditor from Maryland. All of the Commissioners had not received their copies to date, so action on the acceptance of the FY 86-87 Audit Report was deferred until the next regularly scheduled meeting.

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1988 OYSTER REPLETION PROGRAM

Mr. Carpenter reported that pursuant to the Oyster Repletion Program which was approved for 1988, 5 acres at Piney Point was planted with 10,437 bushels of fresh shell; 25 acres at Jones Shore was planted with 262,716 bushels of fresh shell and an adjoining 25 acres on Jones Shore was planted with 257,821 bushels of reef shell. The total cost of the plantings, including count and control, was approximately \$220,641.19. Mr. Carpenter stated that the Commission had not yet received the bill for the reef shell, so the reported amount presented to the Commission was an estimate.

Mr. Carpenter reported the repletion committee has not met this summer as originally planned, to develop a list of seed planting area. He felt it was premature to do so at this time since there has been no evidence of a spat set as yet. He stated that they will follow the previously approved recommendation to move seed this fall if there is seed available.

Mr. Russell asked if it was normal for the spat set to be this low at this time of year. Mr. Carpenter replied that this was very late, usually the set occurs in June or July and sometimes it is August or September, however, there should have been some set by this time. Mr. Ben Daniel reported that Virginia is having the same problems, they have had some light strike in the Great Wicomico but none in the James River. Dr. Krantz reported that Maryland has had a very light set also, much less than in previous years and that most oysters have already spawned. He hoped for the possibility of another spawning.

There was discussion regarding the difference between Fresh Shell and Reef Shell. Mr. Carpenter stated that the availability of any kind of shell is going to be a problem in the future.

1988-89 OYSTER SEASON

Mr. Carpenter stated that he had been approached by several watermen regarding the regulations for the upcoming oyster season. They have requested, due to the oyster situation, that the Commission adopt the same regulations as last year, specifically a 12 noon cut-off time for the first six weeks of the season. If it was adopted at this meeting, it would give sufficient time to inform the watermen. Mr. Billy Rice reported that the Charles County Waterman's Association unanimously voted to request this 12 noon cut-off time. Mr. Carpenter also reported that the Maryland Oyster White Paper Committee is proposing to re-adopt their 3:00 p.m. cut-off time, which would be the same as last year. Mr. Mattingly reported no problems enforcing this regulation last year.

ORDER #88-1

A motion was made by Mr. Pruitt, seconded by Mr. Russell and unanimously approved to adopt Commission Order #88-1 as follows:

"THE POTOMAC RIVER FISHERIES COMMISSION HAVING CONSIDERED THE PROTECTION, PROMOTION, GROWTH AND CONSERVATION OF THE OYSTER RESOURCES, AND, PURSUANT TO ITS AUTHORITY UNDER REG. II, SECTION 3(b), HEREBY DECLARES AND ORTHERS THAT:

REG. II, SECTION 2(b) TIME FOR TAKING OR LANDING OYSTERS, IS HEREBY MODIFIED TO READ: IT SHALL BE UNLAWFUL FOR ANY PERSON TO TAKE OR ATTEMPT TO TAKE OR CATCH OYSTERS ON SATURDAYS OR SUNDAYS OR BEFORE SUNRISE OR AFTER 12 NOON (LEGAL ESTABLISHED TIME) ON MONDAYS THROUGH FRIDAYS. IT SHALL BE UNLAWFUL TO LAND OR UNLOAD OYSTERS EARLIER THAN SUNRISE OR LATER THAN SUNSET AT ANY TIME.

AND IT IS FURTHER ORDERED, THAT THIS ORDER #88-1 SHALL BE EFFECTIVE OCTOBER 1, 1988 AND REMAIN IN EFFECT THROUGH NOVEMBER 11, 1988.

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#### CLOSURE OF HAND SCRAPE AREA

Mr. Carpenter reported that the oyster harvest in the lower river areas impacted by the diseases had dropped from 36,475 bushels or 45% of the total harvest during the 1983/84 season to only 971 bushels or 2% of the total harvest during the 1987/88 season. Further, most of these 971 bushels of oysters were taken from only 2 of the 12 bars in that area. He felt the reduction was directly due to the effects of MSX and Dermo. He believed that the oysters in this area which have survived are more valuable as brood stock for reproduction purposes rather than marketing. Therefore, Mr. Carpenter recommended the Commission close the hand scrape area to preserve the brood stocks and to see if those oyster would produce oysters which may be more disease tolerant.

Dr. Krantz stated that this was a good idea because the oyster resource is in definite need of help. Also, with so few oysters in this area, this could be part of the reason for the low spat set.

Mr. Russell opposed this idea stating that the few oysters which may be caught would not break-up the breed. He was disappointed with the recommendation because it showed a lack of concern for the watermen of that area.

Mr. Billy Rice said that the oystermen would not be able to catch the last oyster using hand tongs and asked if the Commission didn't already have a sanctuary in this area. He further stated that if there were no oysters there, the watermen certainly wouldn't work there because they wouldn't be catching anything. Mr. Rice was opposed to this recommendation.

Mr. Harrison, noting the severity of the problem and recognizing the plite of the local watermen, reluctantly offered the following motion which was seconded by Mr. Parran:

"THAT THE HAND SCRAPE AREA BE CLOSED TO THE TAKING OF OYSTERS BY ANY MEANS FOR A PERIOD OF 2 YEARS IN ORDER TO CONSERVE THE RESOURCE AND EVALUATE THE OYSTER SITUATION IN THAT AREA".

Upon a roll call vote, Mrs. Harrison voted aye; Mr. Freeman voted nay; Mr. Parran voted aye; Mr. Russell voted nay and Mr. Pruitt voted nay. The Chairman ruled the motion defeated.

#### 1988 CRAB HARVEST REPORT

Mr. Carpenter presented the Commission with a comparative report of the crab harvest in the Potomac for 1986, 1987 and 1988 for the months of April, May and June. He explained that this information is taken from the catch reports filed by the crabbers. The report showed that the total harvest of hard crabs for these months in 1986 was 36,624 bu.; in 1987 - 23,439 bu. and in 1988 15,454 bu. The report further indicated that the peeler catch and the number of boats working also showed a declining pattern. Mr. Carpenter stated that the staff would continue to provide this type of reporting at future meetings.

Mr. William Rice, speaking on behalf of the Charles County Watermen's Association, asked the Commission to look into the Potomac crab fishery. He reported that many members of that Association believe that crabbing is at or near its maximum level in this river. And, that they do not want it to be overfished because of the oyster and fish situations which may force more effort on the crabs. They had discussed a number of different ideas as ways of dealing with the crab fishery, and, in general (although not unanimous) suggested the following: Some time around the 10th to 15th of July each year, increase the minimum size limit from 5" to 5½" until the end of the year. Then revert to the 5" cull law during the spring and ealy summer. Since they believe most of the 5" crabs released furing the late summer and fall would overwinter within the Potomac, they would be available each spring when the market conditions accept that size crab more willingly. They think that the 5" crabs might as well be given away for the price the watermen get during the late summer and the fall, and they hate to see the crab being "wasted" this way.

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Mr. Pruitt and Mrs. Harrison stated that Maryland and Virginia are currently and jointly studying the Bay-wide crab fishery. Mrs. Harrison said it is very encouraging to hear this type of constructive thinking from the crabbers. However, given the ongoing Maryland/Virginia studies and the fact that the Potomac can not operate without due consideration of Maryland and Virginia actions, she suggested the Commission be briefed on the work and status of the Blue Crab Workshop prior to any further evaluation of the proposal presented by Mr. Rice. The Commissioners concurred and the Chairman asked that such a briefing be presented at the next meeting.

#### MILEAGE REIMBURSEMENT INCREASE

Mr. Carpenter informed the Commission that he had received a memo from Virginia stating that as of July 1, 1988, they had increased their mileage reimbursement rate to 22 cents per mile for official use of personal vehicles. Maryland is currently paying 21 cents per mile and this Commission is paying 20 cents per mile.

The following motion was made by Mr. Parran and seconded by Mr. Pruitt:

"THAT THE COMMISSION INCREASE THE MILEAGE ALLOWANCE TO 22 CENTS PER MILE AND THAT THIS MOTION BE EFFECTIVE IMMEDIATELY". Mr. Browning voted nay, all other Commissioners voted aye. The motion passed by a majority vote.

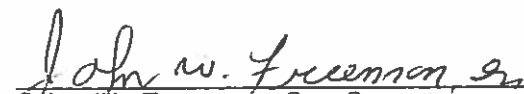
#### DATE AND PLACE OF NEXT MEETING

The next regular meeting of the Potomac River Fisheries Commission was scheduled for November 4, 1988 at 9:30 a.m. at the Commission office in Colonial Beach.

#### ADJOURNMENT

It was moved by Mr. Parran and seconded by Mr. Russell to adjourn the meeting at 11:15 a.m. The motion passed unanimously.

  
R. Wayne Browning, Chairman

  
John W. Freeman, Sr., Secretary