

MINUTES OF THE REGULAR MEETING  
POTOMAC RIVER FISHERIES COMMISSION  
COLONIAL BEACH, VIRGINIA  
NOVEMBER 4, 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: Joseph Norris - The St. Mary's Countian, Isobel Gough - The Richmond New Leader and Lawrence Latane - The Richmond Times Dispatch.

GUESTS: Richard Bohn - Maryland Sea Grant, Pete Jensen, George Krantz, Verna Harrison and Janet Van Tassel - Maryland DNR, Lee Zeni - ICPRB, Ray Tilghman - Accokeek Foundation, Jack Taylor, W. B. Willing, Edward Frere and John Mattingly - Maryland DNR Police, Bob Markland, Donald O'Bier, Paul E. Huddleston, Almon C. Newsome, B. G. Mathrun, M. F. Stone, W. F. Wright, James E. Davis, W. V. Collins and George R. Daniel - VMRC Police, Jack Travelstead-VMRC, William L. Rice - Charles County Watermen's Association, Martha Daughdrill and Jim Banagan - DECD St. Mary's, Arthur Loving, Joe Hands, Jack Crutchfield, Paul Wathen, George Perry, Roger Hill, Michael West, Dennis Jenkins, William West, John H. West, John M. West, Charlie Coates, Jr., George Marshall, James Hill, Billy Ray Hill, Dempsey Roy, Bennie Jenkins, Andrew Jenkins, James M. Deal, William Laith, Hand Atwell and several others who did not sign the register.

The Chairman called the meeting to order at 9:30 a.m. and welcomed all those in attendance.

#### INTRODUCTIONS

Chairman Browning recognized Mr. James W. Peck as the new Maryland Commissioner taking the place of Mrs. Verna Harrison. Mrs. Harrison then introduced Mr. Peck as a West Point graduate, former District Engineer for Corps of Engineers Baltimore District and presently the Assistant Secretary for the Maryland Department of Natural Resources. She stated that she enjoyed the time she had spent on the Commission and she felt that the watermen of the Potomac have an excellent constituency representing them.

Mr. Peck stated he was very pleased with his appointment to the Commission and had been aware of the Commission's outstanding reputation.

Chairman Browning stated that the Commission will sorely miss Mrs. Harrison's participation as a Commissioner and hoped she would continue to attend the meetings.

Superintendent Jack Taylor of the Maryland DNR Police introduced Captain Edwar Frere as the new supervisor of the southern region. Captain Frere stated he was looking forward to working with the Commission.

Mr. Pruitt introduced Mr. Bob Markland, who in turn, introduced several Virginia law enforcement officers present as part of the Virginia Marine Resources Commission cross training program.

Mr. Parran introduced Mr. Ray Tilghman, a former county Commissioner for Charles County, who is now doing consulting work for the Accokeek Foundation on the preservation of the Potomac.

#### MINUTES

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

"THAT THE MINUTES OF THE MEETING OF AUGUST 12, 1988 BE APPROVED AS WRITTEN AND DISTRIBUTED." The motion passed unanimously.

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PUBLIC HEARINGS

At 9:35 a.m., the Chairman called the Public Hearing to order.

The Executive Secretary informed the Commission that all legal advertising requirement had been met regarding the items on the agenda scheduled for public hearings today. The Chairman then opened the floor for public comment on the subject of establishing a 6: minimum size limit for White Perch.

White Perch (Reg. III, Sec. 11(a))

Mr. William Rice, representing the Charles County Watermen's Association, stated that 29 of 31 members present at their last meeting voted in favor of adopting the 6: size limit for white perch.

Mr. Pete Jensen of Maryland Department of Natural Resources stated that he felt establishing an 8: minimum size limit would be preferable because the 8: white perch is a more valuable fish. He also stated that the recreational catch in Maryland exceeds the commercial catch and he believes the same trends are true in the Potomac. However, a 6" limit was better than no limit. Mr. Hutt reminded everyone that the 6" limit as proposed would apply equally to both commercial and recreational fishing.

Mr. Carpenter said that he had received a telephone call from Mr. Willard Dutton who requested that the record show he was in favor of the 6" minimum size limit.

5% Tolerance for Undersized White Perch (Reg. III, Sec. 11(c))

The floor was opened for public comment on the subject of allowing for a 5% tolerance for undersized white perch.

The Legal Officer explained that the Commission has in effect an Order which allows for 5% tolerance of undersized foof fish caught in pound nets. However, this Order #85-3, does not specify which types of fish, and in essence, allows for the taking of undersized striped bass. The proposal before the Commission would amend Regulation III, Section 11(c) to specify 5% tolerance per species for catfish, flounder and white perch, by the actual count of fish.

No public comment was offered on this subject.

Order #85-3 - Consideration of Continuance or Revocation

The floor was opened to public comment on the subject of the continuation or revocation of Order #85-3.

The Legal Officer observed that if the Commission were to adopt the amendment to Regulation III, Section 11(c) regarding the 5% tolerance, this Order #85-3 should be revoked.

No public comment was offered on this subject.

Order #88-1 - Consideration of Continuance or Revocation

The floor was opened for public comment on the subject of continuance or revocation of Order #88-1 which provides for a 12 noon cut-off time for oystering for the 1988-89 oyster season.

The Executive Secretary explained that this Order was adopted at the last regular Commission meeting so the Commission would have the opportunity to evaluate the oyster situation. He reported the disease had moved up the river, therefore, the harvest will be concentrated in the Middle and Upper River areas. Also, there are more boats working so far this year.

He also reported that a large number of watermen had talked to him in favor of keeping the 12 noon cut-off time, at least until the end of December.

William Rice reported that at the last meeting of the Charles County Watermen's Association, the 31 members present voted unanimously in favor of keeping the 12 noon cut-off time, at least until December 31. He stated that they realize that there was a chance that the disease may come and kill the oysters that are left behind, but they felt that they had to take care of the oyster bars as best they could, and everyone is making a good days work at this time.

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Roger Hill, speaking for himself and 11 persons present with him, spoke in favor of lifting the 12 noon cut-off time and allowing the oystermen to work until 3:00 p.m. They believe that bad weather was coming and if the cull law was enforced, there are enough small oysters in the river for next year.

There being no further comments on this subject, the Chairman declared the Public Hearing closed at 10:05 a.m.

#### YELLOW PERCH - STATUS OF MARYLAND'S REGULATIONS

Mr. Pete Jensen of Maryland Department of Natural Resources reported that Maryland is considering increasing their size limit from 8 inches to 10 inches in  $\frac{1}{2}$  inch per year intervals. Also, they are closing 9 river systems below the bay bridge (none of which are tributaries of the Potomac) to the harvest of yellow perch. He stated that they hope to document that the yellow perch will grow if allowed to do so and he will report to the Commission as new development occurs.

Commissioner Russell stated that the Commission may wish to consider raising the Potomac's size limit on yellow perch to coincide with Maryland.

#### OYSTER REPLETION PROGRAM REPORT

Mr. Carpenter stated that there had been no activity from the repletion committee due to the unavailability of seed based on the VIMS shell string report and the fall oyster survey. The spat count was insufficient to move. He hoped to have a report for the Commission at the February meeting.

#### JOINT MARYLAND/VIRGINIA BLUE CRAB WORKSHOP

Mr. Jack Travelstead of Virginia Marine Resources Commission gave a briefing on this subject. He stated that the purpose of the Workshop was the collection of background information necessary for the development of a baywide fishery plan for the blue crab. Last December, the Governors from Maryland and Virginia formulated the new Chesapeake Bay Agreement and the first three species selected for joint Maryland/Virginia management plans were the Blue Crab, the Oyster and the American Shad. The two states have been meeting on a monthly basis to identify problems. One strategy which will be used for fishery management will be complimentary regulations and laws. The states are now at the stage that they have adopted problem statements and goals and objectives. The two states should have their final draft of strategies ready by July 31, 1989. Once Maryland and Virginia adopt new harvesting regulations, it may be necessary for the Potomac regulations to be modified.

#### AUDIT REPORT

Each Commissioner reported that he had received his copy of the Commission's Audit Report for FY 86/87.

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

"THAT THE COMMISSION ACCEPT AND APPROVE THE AUDIT REPORT FOR FISCAL YEAR 1986/87". The motion passed unanimously.

#### DISBURSEMENTS AND CASH ON HAND

A report on the first quarter (July - September 1988) disbursements was presented by budget item which totaled \$127,144.54, of which \$87,189.11 was spent for oyster repletion expenses. A statement of cash on hand as of November 2, 1988 was presented as follows:

FIRST VIRGINIA BANK - NORTHERN NECK:	\$ 54,648.69
Checking - includes \$200.00 petty cash	
FIRST NATIONAL BANK OF MARYLAND:	8,531.45
Savings: Maryland Office	
VIRGINIA LOCAL GOVERNMENT INVESTMENT POOL	149,576.37
MARYLAND LOCAL GOVERNMENT INVESTMENT POOL	<u>147,883.38</u>
GRAND TOTAL IN BANKS:	\$ 360,639.89

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

"THAT THE FIRST QUARTER DISBURSEMENTS OF \$127,144.54 BE APPROVED AS PRESENTED". The motion passed unanimously.

#### CRAB HARVEST REPORT (APRIL - SEPTEMBER 1988)

The Executive Secretary stated that this was an informational report for the Commissioners. At the last regular meeting a report was presented for the first three months of the season and this was an enhancement to that report.

#### OYSTER HARVEST REPORT (1988-89 SEASON) AND CONSIDERATION OF ORDER 88-1

Mr. Carpenter reported that at this point in the season, this year's harvest has exceeded last year's harvest. He noted however, that most of the effort has been concentrated on just two bars. There have been reports that the James River catch would be diminishing and it is expected that more of those boats will be coming to the Potomac.

The Chairman asked if anyone had additional comments, in light of the harvest report, regarding the time limit. Mr. Rice noted the cull law was more easily enforced with the noon cut-off time. Mr. Hill noted colder weather will shorten the time available and asked for the 3:00 p.m. cut-off time.

A motion was made by Mr. Parran and seconded by Mr. Peck to extend the effective date of Commission Order #88-1 to December 31, 1988 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 ORDERS 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, OR FOR ANY BUY BOAT TO 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 DECEMBER 31, 1988".

Upon a roll call vote, Mr. Freeman voted nay, Mr. Pruitt voted aye, Mr. Russell voted aye, Mr. Parran voted aye, Mr. Peck voted aye and Mr. Browning voted aye. Chairman Browning, noting the vote of 5 approving to 1 opposing, declared the motion carried by a majority vote.

#### CONSIDERATION OF REGULATION CHANGES

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

"THAT THE COMMISSION AMEND REGULATION III, SECTION 11(a) BY ADDING THE FOLLOWING SENTENCE: "(12) WHITE PERCH (ROCCUS AMERICANA) LESS THAN 6 INCHES.";

AMEND REGULATION III, SECTION 11(c) TO READ AS FOLLOWS: "(c) RETURN OF INCIDENTAL CATCH. ANY FISH WHOSE SIZE IS PROHIBITED BY THESE REGULATIONS, WHICH MAY BE CAUGHT OR ENTRAPPED AS AN INCIDENT TO OTHER LAWFUL FISHING ACTIVITIES, SHALL BE IMMEDIATELY RELEASED AND RETURNED TO THE WATERS WHERE FOUND. PROVIDED, HOWEVER, A TOLERANCE OF 5% PER SPECIES OF UNDERSIZED WHITE PERCH, CATFISH OR SUMMER FLOUNDER SHALL BE ALLOWED. THE PERCENTAGE WILL BE DETERMINED BY THE COUNT OF THE ACTUAL NUMBER OF FISH PER SPECIES IN POSSESSION OR A SAMPLE OF AT LEAST A ONE-HALF BUSHEL OYSTER TUB";

AND FURTHER, TO RESCIND COMMISSION ORDER #85-3: ALL TO BECOME EFFECTIVE JANUARY 1, 1989". The motion passed unanimously.

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RANGIA CLAMS - CONSIDERATION OF REQUEST FOR PERMIT TO HARVEST

Mr. Carpenter reported that 2 years ago, a request was made to harvest rangia clams. The same persons are interested and ready to buy again. Mr. Carpenter recommended continuation of the monitoring effort through the permits, since there had been so little harvest 2 years ago. He presented the Commission with a copy of the permit, which had two changes to the previous requirements which were:

- 1) the downstream boundary was moved up river from the 301 bridge to a line drawn from Upper Cedar Point (MD) to the mouth of Chotank Creek (VA); and 2) that the harvester be required to use a cull board designed to return the small clams to the river. The market is for larger clams and if the small clams are put back, they should grow and bring higher values later. Mr. Dunnington stated that the small clams are also food for water fowl and concurred with the cull board requirement.

Mr. Carpenter stated that the proposed permit, like the original, provides for only 10 permits to be issued at any one time.

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

"THAT THE COMMISSION AUTHORIZE THE HARVEST OF RANGIA CLAMS UNDER THE 'RANGIA CLAM HARVEST PERMIT' AS PRESENTED". The motion passed unanimously.

REPORT ON ASMFC MEETING REGARDING STRIPED BASS

Mr. Carpenter reported the ASMFC annual meeting was held September 26-30, 1988. He stated that the ASMFC is continuing its work on a new Striped Bass Management Plan. Under this new plan, when the Maryland Young-of-the-Year Index reaches a 3 year average of 8, they will begin to allow a very limited fishery. He reported that Maryland's Young-of-the-Year Index did not reach the level needed this year, however, the "Head of the Bay" had a stronger index than in the past while the Potomac had a lower than average index. Therefore, until the Young-of-the-Year Index is attained, the original plan, as amended, is to be followed. Amendment #3 of that plan calls for protection of the 1982 year class females, and subsequent year classes, until 95% of those females have spawned at least once. This could be accomplished by either minimum size limits above the average size of the 1982 year class (currently 33") or a combination of season and size limits that protect the females (such as Virginia and this Commission are doing). The ASMFC voted to require the Potomac River Fisheries Commission to sample the catch and be able to demonstrate our compliance with the plan. We are currently in the process of collecting that data and should be able to report at the next meeting. He further reported that the Atlantic Striped Bass Conservation Act (the Studds Bill) has been reauthorized by Congress and is awaiting the President's signature which is expected to happen in the next several days.

NOMINATING COMMITTEE

Chairman Browning appointed Commissioner Francis J. Russell and himself to the nominating committee for a slate of officer for 1989.

OYSTER REPLETION COMMITTEE

Chairman Browning re-appointed the members of the 1988 Oyster Repletion Committee, asking them to prepare a proposed 1989 plan for presentation at the next meeting. Members are as follows:

INDUSTRY COMMITTEE MEMBERS: William L. Rice, James L. Jones, John W. Allen, Roger Hill, Lewis T. Dameron, Jr., David Rowe, Thomas L. Shymansky, William T. Feldman, Ronald Welch, James G. Thompson, Richard Holbrook, Wesley Eugene Booth, William Graves and Charles Squires.

STAFF COMMITTEE MEMBERS: Elgin Dunnington - Chesapeake Biological Laboratory, Rodger Mann - Virginia Institute of Marine Science, George Krantz - Maryland Department of Natural Resources, Jonn Mattingly - Maryland Department of Natural Resources Police, Donald O'Bier - Virginia Marine Resources Police, Bill Outten - Maryland Oyster Repletion Officer and Ben Daniels - Virginia Oyster Repletion Officer.

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SURPLUS EQUIPMENT

The Executive Secretary asked the Commission to declare the NEC, AAPC computer surplus equipment. It would be donated to one of the school systems. The reason for this request was the computer had become obsolete for the Commission's data processing needs. The hardware used 8" floppy diskettes which prohibits the use of updated software programs and was not compatible with the Commission's other system.

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

"THAT THE COMMISSION DECLARE THE NEC APC COMPUTER, PURCHASED BY THE COMMISSION IN NOVEMBER 1983, AS SURPLUS PROPERTY". The motion passed unanimously.

EXECUTIVE SESSION

The following motion was made by Mr. Pruitt and seconded by Mr. Parran at 11:25 a.m.:

THAT THE COMMISSION CONVENE INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS". The motion passed unanimously.

The Commission reconvened to regular session at 11:55 a.m. and Chairman Browning announced that no action was taken in Executive Session.

PROCLAMATION

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

"THAT THE EXECUTIVE SECRETARY PREPARE A RESOLUTION OF APPRECIATION FOR MRS. VERA E. HARRISON, TO BE PRESENTED AT THE NEXT REGULAR COMMISSION MEETING". The motion passed unanimously.

CATCH REPORT HEARING

The Hearing Officer's report and recommendations for 11 persons delinquent in filing the required seafood catch reports was reviewed. The Chairman asked each person to come forward as his name was read. Mr. Paul B. Wathen, Jr. was the only individual present whose name was on the list. Mr. Wathen had to appear before the Commission before any new licenses could be issued to him. Mr. Carpenter reported that Mr. Thomas E. Dean, Sr., another person on the list, had been in contact with the office regarding his situation. Mr. Carpenter recommended that Mr. Dean be placed on probation for one year and his licenses be suspended for one month instead of all licenses as recommended by the hearing officer.

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

"THAT THE COMMISSION ACCEPT THE HEARING OFFICER'S RECOMMENDATION FOR 10 OF THE 11 PERSONS DELINQUENT IN FILING THEIR SEAFOOD CATCH REPORTS, THAT MR. THOMAS E. DEAN, SR. BE PLACED ON PROBATION FOR 1 (ONE) MONTH AND THAT MR. PAUL B. WATHEN, JR. BE ALLOWED TO PURCHASE HIS LICENSES". The motion passed unanimously.

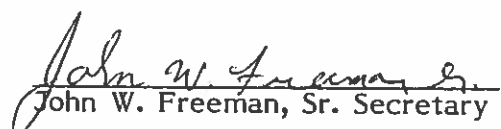
DATE AND PLACE OF NEXT MEETING

The next regular meeting of the Potomac River Fisheries Commission was set for February 3, 1989. The meeting will be held in Maryland with the exact location to be announced.

ADJOURNMENT

It was moved by Mr. Pruitt and seconded by Mr. Parran to adjourn the meeting at 12:15 p.m. The motion passed unanimously.

  
R. Wayne Browning, Chairman

  
John W. Freeman, Sr. Secretary