

**MINUTES OF THE REGULAR MEETING
POTOMAC RIVER FISHERIES COMMISSION
COLONIAL BEACH, VIRGINIA
NOVEMBER 3, 1989**

COMMISSIONERS: John Thomas Parran, Chairman; John W. Freeman, Sr., Vice-Chairman; James W. Peck, Secretary; R. Wayne Browning and William A. Pruitt. Commissioner Francis J. Russell was unable to attend this meeting.

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

PRESS: Lawrence Latane, Richmond Times Dispatch; Isobel Gough, Richmond News Leader and Dick Myers, St. Mary's Countian.

GUESTS: Lee Zeni, Interstate Commission on the Potomac River Basin; Bill Seiling, Maryland Department of Agriculture - Seafood Marketing; Richard Daiger and Patricia F. Lacey, Virginia Extension Service; Herb Austin, VIMS, Pete Jensen, George Krantz and Ruth Ann Slagel, Maryland D.N.R.; Woody Willing, Edward M. Frere, John Mattingly, and Francis X. Wood, MD D.N.R. Police; Ellen Smoller and L. E. Vickers, Jr., Virginia Marine Resources; Herbert N. Sadler, Donald O'Bier, Clifford Dameron, O. P. George, Jr., Keith Nuttall, Douglas Thompson, Mike Morris and Davis Wilson, V.M.R.C. Police; Elgin Dunnington, Chesapeake Biological Laboratory; Robert T. Brown, St. Mary's County Watermen's Association; William L. Rice, Charles County Watermen's Association; Willard Dutton, Charles S. Bourne, Thomas J. Dent, Jr, Allen Dent, William Dent, Eddie Dent, Harry Boyden, John Cameron, Jr., Jonny Dent, George Smith, Edward R. Dent, Kenneth Cumberland, Bob Hayden, Leslie Brown, George Robberecht, Maurice Bosse, Walter Parkinson, Denzal Chatham, Charles Squires and several others who did not sign the register.

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

APPROVAL OF MINUTES

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

"THAT THE MINUTES OF THE MEETING OF AUGUST 11, 1989 BE APPROVED AS WRITTEN AND DISTRIBUTED". The motion passed unanimously.

PUBLIC HEARING - SOFT SHELL CLAM REFRIGERATION REQUIREMENTS

Chairman Parran opened the Public Hearing at 9:35 a.m. and requested the Executive Secretary explain what the proposed regulation changes would entail.

Mr. Carpenter informed the Commission that the advertising and notification requirements for this public hearing had been met. He announced that "hand outs" containing the precise text of the regulations were available at the table in front of the room. He summarized the proposed regulations by stating that they would require each clam harvesting vessel, from May 15 to September 30, to have a refrigeration unit capable of reducing the internal temperature of soft shell clams of the species Mya arenaria to 60° F. The unit would have to be clearly labeled as such, and law enforcement officers would have the authority to open that unit for inspection. There is, however, a provision exempting razor clams from these requirements so long as each bushel of razor clams contained no more than 10% soft shell clams (Mya arenaria).

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Maryland currently has similar regulations in place. The distinction between our regulations and Maryland's is that the PRFC regulations contain specific language requiring the unit(s) to be labeled and gives authority for the unit to be inspected by Marine Patrol Officers. Maryland has established "buying stations" where the clams must be landed, checked and approved for distribution. Mr. Peck stated that the regulations have been extremely successful and highly praised in the northern states where most of the clams are sold.

Mr. Carpenter reported that the only comments he had received on the subject were from Mr. Larry Simms, President of the Maryland Watermen's Association, who conveyed the effectiveness of the Maryland program and encouraged the same regulations be adopted for the Potomac. Mr. Robert T. Brown, speaking on behalf of the St. Mary's County Watermen's Association, supported the proposed regulations.

Mr. Jensen reported that Maryland will be using an April 1st starting date on their regulations, beginning in 1990, and asked the Commission to use the same date. The legal officer informed the Commission that it would be allowable to adopt the April 1st date instead of the May 15th date.

Having no further comments offered, the Chairman closed the public hearing at 9:40 a.m.

STATUS REPORT ON POTOMAC EEL FISHERY

Mrs. Ellen Smoller of the Virginia Marine Resources Commission was asked at the August 11th Commission meeting to look into the Potomac Eel Fishery and give a report and recommendation at this meeting. Mrs. Smoller stated that she had spent time with the Potomac eelers and talked with the Maryland eelers and crabbers who trot line. She reviewed the landings data for the Potomac and Virginia and she observed that the Potomac landings fluctuate and are quite erratic. She noted that there had been an increase in the number of eel fishermen during the past 5 years and that the number of pots used by each fisherman had increased. These two factors together greatly inflated the fishing pressure on the eels, and it is still continuing to climb. A lot of the Potomac eelers use 1/2" x 1/2" mesh pots because they have a good market for small and medium size eels with Maryland crabbers who trot line. However, the demand for smaller eels declines in the fall. The data she reviewed showed that the number of large eels caught has decreased and that the average size of the eels being caught has also decreased. Mrs. Smoller concluded that all of the data gathered indicated that "growth" overfishing of the species is occurring in the Potomac.

Mrs. Smoller presented slides which showed techniques and gears used by the different eelers she had observed during her study. Mrs. Smoller recommended that the Commission consider closing the eel fishery during the months of December through February and a second closure during July and August. During the fall season (September - November) she recommended the Commission require the eelers to replace only the door on their eel pots with a door of a minimum of 1/2" x 1" mesh size. This would allow the smaller eels to escape without putting too much of a burden on the eelers. She suggested that the Commission may wish to consider adopting the recommendations for a "3 year study period" so that the fishery could be re-evaluated at that time to see how beneficial the restrictions were.

Mr. Melvin Dent stated that he was not in favor of the recommendations because he felt the larger mesh would allow the smaller eels to clean out the bait in catfish pots. Mr. Billy Rice felt that scientific information should be provided before the Commission took any action. The 1/2" x 1/2" mesh suits the Maryland eelers because there is a big demand for smaller eels and he objected to the closure during July and August. Mr. George Roberrecht stated that he was against closing the fishery in July and August. In his opinion, all that was necessary was an increase in the mesh size. Mr. Jimmy Dent said that he had been eeling for 40 years in the upper Potomac. He felt that even though the

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price was less for salted eels, it was better than taking a chance of loosing 100% of live eels in a live box. He stated that eeling and catfishing were the only commercial activity they have in their area of the river and he was not in favor of the recommended restrictions. Mr. Willard Dutton stated that he felt there were enough eels in the Potomac for everyone and that the Commission had already been through this process once and didn't change the mesh size then. He also said that eels eat up more fish eggs than anything else in the river and he did not feel they should be protected in any kind of way. Mr. Robert T. Brown stated that when this Commission considered increasing the eel pot mesh size a few years ago, he had supported the recommendation, which the Commission did not adopt. However, since then, other fisheries have dwindled and he felt that the watermen didn't need any additional restrictions at the present time.

Mr. Peck stated that the data is saying there is greater pressure on the eel fishery and a decline in the catch and people should be concerned about the eel fishery. He suggested that the Commission may wish to take some modest measures before more drastic measures are needed. There was a great amount of discussion regarding the size and sex of eels in certain portions of the river. It was established by Mrs. Smoller that females tend to go up river further than males and that most eels 18" or over would probably be female. Mr. Jensen announced that the Maryland Department of Natural Resources is proposing a plan which will regulate the eel fishery more stringently in the state of Maryland, to be effective beginning in 1991.

Mr. Pruitt recommended scheduling a public hearing on the subject for the next meeting, which will be held in February. The following motion was made by Mr. Freeman and seconded by Mr. Pruitt:

"THAT A PUBLIC HEARING BE HELD AT THE FEBRUARY, 1990 MEETING OF THE COMMISSION TO CONSIDER REGULATIONS THAT WILL INCREASE THE MINIMUM MESH SIZE FOR EEL POTS AND TO RESTRICT THE USE OF EEL POTS AS RECOMMENDED IN THE REPORTS PRESENTED TODAY". The motion passed unanimously.

INTRODUCTIONS

The Chairman recognized Mr. Richard Daiger who introduced Mrs. Pat Lacy, Marine Extension Agent of the Virginia Cooperative Extension Service.

FISHERY MANAGEMENT PLANS

Mr. Carpenter reported that the Chesapeake Bay Fishery Management Plans for Blue Crab, Oyster and Alosid had been signed and accepted by representatives for Virginia, Maryland, Pennsylvania, the Federal Government, the District of Columbia and the Chesapeake Bay Commission. Each Commissioner was provided with a copy of the adopted plans and an outline of the Plans with language pertaining to the commitment of the Potomac River Fisheries Commission in conjunction with their efforts. After review and discussion of the Commission's commitments, the following motion was made by Mr. Peck and seconded by Mr. Browning:

"THAT THE COMMISSION ADOPT THE LANGUAGE PROVIDED TODAY FOR INCLUSION OF THE POTOMAC RIVER FISHERIES COMMISSION IN THE CHESAPEAKE BAY FISHERY MANAGEMENT PLANS FOR BLUE CRAB, OYSTER AND ALOSID". The motion passed unanimously.

HUGGINS OYSTER BAR GROUNDING

Mr. Hutt informed the Commission that he had been notified by the Maryland Attorney General's Office that they were going ahead with plans to institute a suit against the tug "Roleta" for the oyster bar grounding that occurred May 13, 1987 at Huggins Oyster Bar.

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DISBURSEMENTS AND CASH ON HAND

A report of the first quarter (July - September 1989) disbursements was presented by budget item which totaled \$54,043.12, of which \$4,522.80 were development and repletion expenses. The Executive Secretary noted no unusual expenditures. A statement of cash on hand as of November 1, 1989 was presented as follows:

FIRST VIRGINIA BANK - NORTHERN NECK: (Checking - includes \$200.00 petty cash)	\$ 96,909.04
FIRST NATIONAL BANK OF MARYLAND: (Savings: Maryland Office)	14,229.90
MARYLAND NATIONAL BANK: (Certificate of Deposit)	100,000.00
PEOPLES BANK OF MONTROSS: (Certificate of Deposit)	100,000.00
VIRGINIA LOCAL GOVERNMENT INVESTMENT POOL:	35,616.28
MARYLAND LOCAL GOVERNMENT INVESTMENT POOL:	<u>34,229.90</u>
Grand Total in Banks:	\$380,985.12

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

"THAT THE FIRST QUARTER DISBURSEMENTS OF \$54,043.12 BE APPROVED AS PRESENTED". The motion passed unanimously.

CRAB HARVEST REPORT

A preliminary report on the 1989 crab landings to date showed a total of 102,726 bushels of hard crabs and 43,604 pounds of peelers had been harvested from the Potomac through September.

OYSTER PRODUCTION REPORT

An oyster production report was presented to the Commission which showed the amount of tax collected, licenses sold and oyster harvest by bar and gear, thus far, for the 1989/90 oyster season. Mr. Carpenter noted that, compared to last year, oyster license sales were up and there was an increase in the total bushels of oysters caught. He attributed the increase in bushels caught to an increase in the effort, not an increase in the number of oysters available for harvest in the River. He noted that 17,000 of 20,000 bushels harvested thus far have come from only one oyster bar (Cedar Point).

CONSIDERATION OF SOFT SHELL CLAM REGULATIONS

The following motion was made by Mr. Freeman, seconded by Mr. Peck and unanimously approved:

"THAT THE COMMISSION AMEND REG. V, SECTION 3(c) AS ADVERTISED BY REPLACING MAY 15 WITH APRIL 1 IN THE SECOND SENTENCE, AND FURTHER THAT THE SOFT SHELL CLAM REGULATIONS, AS ADVERTISED, AMENDED HEREIN AND PRINTED BELOW, BE ADOPTED EFFECTIVE JANUARY 1, 1990".

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Reg. V, Section 2(c): Refrigeration Required. From April 1 through September 30, inclusive, each vessel licensed to take or catch soft shell clams by hydraulic or mechanical dredge and used to take or catch soft shell clams of the species Mya arenaria or any such vessel with said species of clams on board shall be equipped with a storage unit or units capable of reducing the internal temperature of such clams to 60° F within two (2) hours of being placed in said unit, and capable of maintaining those clams at or below 60° F while said clams are aboard the vessel. Said storage unit or units shall be clearly labeled in letters not less than two (2) inches in height and contrasting color with the words "CLAM STORAGE UNIT". Any duly authorized law enforcement officer or agent of the commission shall have the right to open and inspect the contents of the clam storage unit.

Reg. V, Section 2(d): Specifications of Containers. When used within Regulation V the following specifications of containers shall apply: i) bushel basket - A U.S. standard bushel basket which may be over filled to a height of 6 inches without any additional devices or assistance. ii) Clam Container - A rectangular box with inside measurements of no more than twenty (20) inches long, twelve and one-half (12 1/2) inches wide and eleven and one-quarter (11 1/4) inches deep and shall be an even measure to the top of the box only.

Reg. V, Section 2(e): Exemption of Specifications. Any vessel licensed to take or catch soft shell clams by hydraulic or mechanical dredge and used to take or catch soft shell clams of the genus Tagelus, commonly known as razor clams, shall be exempt from the refrigeration requirements of this section, provided however, that no more than 10% by volume of each bushel or container of razor clams are Mya arenaria.

Reg. V, Section 2(f) to read as follows: Failure to Comply With Specifications. Any vessel licensed to take or catch soft shell clams by hydraulic or mechanical dredge and failing to meet the specifications as to the dredge and equipment contained in this section, shall have its license suspended until such time as the dredge or equipment has been inspected and determined to be in compliance. During such period of suspension the license and tags shall be returned to the commission office.

Reg. V, Section 3(c): Storage of Clams. Once taken, all clams shall be placed in a bushel basket or clam container as herein defined. From April 1 through September 30, all Mya arenaria shall be placed within the clam storage unit(s) as soon as they are taken. The clam storage unit(s) may be used at such other times as the licensee deems appropriate. It shall be unlawful for any person to conceal or store any soft shell clams in a cabin, compartment, locker, cupboard or other place which is not labeled as the clam storage unit(s) on any vessel or rig in the Potomac River. All soft shell clams found on any licensed vessel or rig in the Potomac River shall at all times be in plain view in their bushel baskets or clam containers or in the clam storage unit(s) and readily accessible for inspection by any duly authorized officer of Maryland or Virginia or agents of the Potomac River Fisheries Commission.

Reg. V, Section 4(a): Catch Limit. It shall be unlawful for any person licensed hereunder to take or catch soft shell clams with any hydraulic or mechanical dredge or rig in the waters of the Potomac River or have in possession aboard a vessel in excess of fifteen (15) bushel baskets or fifteen (15) clam containers as herein defined, of soft shell clams of the species Mya arenaria in any calendar day. It shall be unlawful for any hydraulic or mechanical dredge or rig licensed for the taking or catching of soft shell clams to be employed for the taking or catching of more than the limit(s) established herein.

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Reg. V, Section 5(a): Prohibited Areas. It shall be unlawful to take or catch or attempt to take or catch soft shell clams with any hydraulic or mechanical dredge within the following areas:

- (1) Within 100 yards of any commercially productive oyster tonging or hand scraping area as may now exist, or as may be defined on the charts of the Department of Natural Resources, or as may be established by survey of the Commission, or any area on which the Commission has planted oysters or shell; or
- (2) Within any area prohibited or closed by Commission Rule or Order, and marked with buoys or other markers by the Commission; or
- (3) Within 50 feet of any fish nets, wharf or pier, constructed or erected in, out in, over or under any of the waters of the Potomac River; or
- (4) Within 1,000 feet of any public bathing beach on the Potomac River during the months of May, June, July, August and September of any year; or
- (5) Within 100 yards of the mean low water marker of any Potomac River shore line; or
- (6) Within 500 yards of any occupied duck blind where decoys are set out, during the legal duck hunting season.

Reg. V, Section 5(b): Prohibited Times. It shall be unlawful to take or catch or attempt to take or catch soft shell clams with any hydraulic or mechanical dredge or to operate any hydraulic or mechanical dredge during the following periods:

- (1) on any Sunday.
- (2) from May 15 through September 30 inclusive, between 1:00 p.m. and 1/2 hour before sunrise.
- (3) from October 1 through May 14 inclusive, between sunset and sunrise.

Reg. V, Section 7(a): Officer Authorized. Any officer duly authorized to enforce the Regulations of the Potomac River Fisheries Commission or the laws relating to the Potomac River is hereby authorized to examine the boat, dredge, rig, cargo, hold, bin, cabin, or lot of soft shell clams in order to enforce the Regulations of the Commission or the laws relating to the Potomac River.

Reg. V, Section 7(b): Clam Storage Unit Open for Inspection. The captain, master or operator of any vessel equipped with a clam storage unit or units or any vessel licensed to take or catch soft shell clams with a hydraulic or mechanical dredge shall allow any officer duly authorized to enforce the regulations of the Potomac River Fisheries Commission access to the contents of the clam storage unit or units in order to enforce the regulations of the Commission or the laws relating to the Potomac River.

ROCKFISH STUDY GROUP

Commissioner Freeman, Co-Chairman of the Rockfish Study Group thanked all participants of the Group for their time and willingness to work together. Mr. Freeman then read the Group's preliminary recommendations to the Commission. The Group saw a definite need for more accurate, detailed and reliable recreational fisheries data. The Group entertained the idea of a recreational fishing license as a means of obtaining that information. The Group specifically asked the Commission for guidance regarding the acceptability of a recreational license before continuing their discussion on such a license. The Commission expressed the opinion that the idea of a recreational fishing license certainly had merit and were interested in further details on the subject.

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The preliminary recommendations also included suggested seasons for each user group. There was an 18" size limit recommended for each user group. The different seasons and creel limits were discussed. Mr. Freeman informed the Commission that the Group should have a more detailed and final report for the Commission to consider at their February 1990 meeting.

REPORT ON ASMFC ANNUAL MEETING

Mr. Carpenter reported that the ASMFC had adopted fishery management plans for several species, other than striped bass, at their annual meeting held on October 1 - 5, 1989. He explained that the Potomac River Fisheries Commission would have to modify some of their regulations to be in compliance with these ASMFC Plans. After further discussion, the following motion was made by Mr. Peck and seconded by Mr. Freeman:

"THAT A PUBLIC HEARING BE HELD AT THE FEBRUARY, 1990 MEETING OF THE COMMISSION TO CONSIDER ESTABLISHING A RECREATIONAL CREEL LIMIT FOR BLUEFISH OF 10 FISH PER PERSON PER DAY; ESTABLISHING A MINIMUM SIZE LIMIT FOR RED DRUM OF 14" WITH A 2 FISH PER PERSON PER DAY CREEL LIMIT FOR RED DRUM GREATER THAN 32"; AND INCREASING THE MINIMUM SIZE LIMIT FOR SUMMER FLOUNDER TO 14". The motion passed unanimously.

STRIPED BASS MANAGEMENT PLAN

The Chesapeake Bay Striped Bass Management Plan was presented along with an outline of the Plan and suggested language pertaining to the commitment of the Potomac River Fisheries Commission in conjunction with the efforts of Maryland and Virginia. Mr. Carpenter reported that the Governors of Maryland and Virginia were scheduled to sign the Striped Bass Management Plan December 19, 1989. After review and discussion of the Plan and the Potomac River Fisheries Commission's commitment, the following motion was made by Mr. Peck and seconded by Mr. Browning:

"THAT THE COMMISSION ADOPT THE LANGUAGE PROVIDED TODAY FOR INCLUSION OF THE POTOMAC RIVER FISHERIES COMMISSION IN THE CHESAPEAKE BAY FISHERY MANAGEMENT PLAN FOR STRIPED BASS". The motion passed unanimously.

NOMINATING COMMITTEE

Chairman Parran appointed Commissioner Peck and Commissioner Pruitt as the Nominating Committee, asking them to report a slate of officers for 1990 at the next meeting.

OYSTER REPLETION COMMITTEE

Chairman Parran re-appointed the members of the 1989 Oyster Repletion Committee as the 1990 Oyster Repletion Committee with changes in membership to be announced at a later date.

ADDITIONAL CLAMMING AREA

Mr. Robert T. Brown of the St. Mary's County Watermen's Association, stated that some of the clambers would like to test some clamming area up river. Mr. Carpenter determined the area in question was already open on a seasonal basis and Mr. Brown withdrew his request.

FALL OYSTER SURVEY REPORT

Dr. George Krantz reported the results of the 1989 Fall Oyster Survey. It showed almost all oysters from the 301 Bridge to the mouth of the River are legal size as a result of no spat set for the past couple of years. The only source of small oysters in the Potomac are the oysters at Jones Shore, which are 100% infected with disease. Mortality has extended to Cedar Point and Swan Point and from St. Clements to the mouth of the River, the mortality rate is approximately 30% to 50%.

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SEARCH AND RESCUE VESSEL "HUNTER"

Major Woody Willing of the Maryland Department of Natural Resources Police extended an invitation to the Commissioners and guests for a ride aboard their new hovercraft, a search and rescue vessel named the "Hunter" which was on a training mission this week in the Potomac River.

HEARING OFFICER'S REPORT

The Commission reviewed the Hearing Officer's report of October 11, 1989 regarding 16 persons delinquent in filing seafood catch reports. The Chairman asked each person to come forward as his name was called. The only person present was Mr. John Ridgely Cameron, Jr. The Hearing Officer had recommended that all of Mr. Cameron's licenses be suspended for one month. Mr. Cameron addressed the Commission and stated that he had filed the reports late and apologized for his tardiness in filing these reports.

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

"THAT THE COMMISSION APPROVE THE RECOMMENDATIONS MADE BY THE HEARING OFFICER PRESENTED TODAY IN THE HEARING OFFICER'S RECOMMENDATION DATED OCTOBER 11, 1989, EXCEPT FOR MR. JOHN RIDGELY CAMERON, JR., WHO WILL SERVE ONE YEAR PROBATION INSTEAD OF A ONE MONTH SUSPENSION ON ALL OF HIS LICENSES". The motion passed unanimously.

Also present was Mr. Robert Leslie Brown who had been denied an oyster license because of action taken by the Commission at a previous Hearing. Mr. Brown's offense was several years ago and Mr. Brown stated that he was not fully aware of what the problem was then, but he assured the Commission that they would have no trouble with him in the future. The following motion was made by Mr. Freeman and seconded by Mr. Pruitt:

"THAT MR. ROBERT LESLIE BROWN BE GRANTED PERMISSION TO PURCHASE HIS POTOMAC RIVER OYSTER LICENSE". The motion passed unanimously.

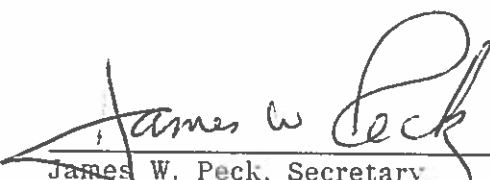
DATE AND PLACE OF NEXT MEETING

The next regular meeting of the Potomac River Fisheries Commission was scheduled for February 2, 1990 at 9:30 a.m. in the Commission Office, Colonial Beach, Virginia.

ADJOURN

It was moved by Mr. Freeman and seconded by Mr. Pruitt to adjourn the meeting at 12:30 p.m.


John Thomas Parran, Chairman


James W. Peck, Secretary