

## OYSTER/CLAM ADVISORY COMMITTEE REPORT

August 25, 2014

PRFC Office, Colonial Beach, VA

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### **Members Present**

John F. Tucker Brown-St. Mary's Co. Clammer's Assoc.  
Nealy Little - Commercial Oysterman  
William L. Rice, Jr. - Commercial Oysterman  
Wayne France – Twin Rivers Watermen's Assoc.  
Craig Kelly – St. Mary's Co. Tonger's Committee  
Paul M. Springer Jr. - Charles Co. Tonger's Committee  
Thomas E. Lewis – Commercial Oysterman

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### **Members Absent**

Richard Wade Chatham - Oyster Buyer

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### **PRFC Commissioners**

Ida Hall

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### **Support Staff Present**

Lt. Shawn Garren – MdDNR Law Enf.  
Marty Gary – PRFC Staff  
Ellen Cosby – PRFC Staff  
Becky Butler – PRFC Staff  
Cathy Friend – PRFC Staff

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### **Technical Advisors**

Dr. Jim Wesson - VMRC

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**Others Present:** Elgin Nininger – Crab Advisory Committee, John Dean representing St. Mary's County Watermen's Association, Mike Warfield, Cathy Warfield, William Bartlett, Jim Aanestad, Dave Carro, Mike McCarthy, Bill Goddard, Bonnie Maines, Peggy Schaumburg, Ed Harne, Richard Riche, Roger Hill, Nancy Shertler, Mark Vinson, Elizabeth Vinson, Bob Mitchell, Bill Kilinski, Matthew Fowler and several others who did not sign the guest register.

The meeting was called to order at 6:00 p.m. by Chairman Tucker Brown and he introduced the newest member to the committee, Mr. Thomas Lewis.

### **Oyster/Clam Advisory Committee Prioritization Exercise (1-5 year planning horizon)**

Mr. Gary stated he was going to have the committee members list their top five priorities that they would like the PRFC to focus their resources on for the next three years. The resources at the Commission are limited and we would like to see where we should focus our time, efforts and funding. The rationale for doing this is to limit the amount of "fires" we address so frequently. Mr. Gary wants to get things prioritized, get the Commission on board with this and work towards the concerns of all three advisory committees. This is in regards to how we operate and this is a more strategic way of conducting business. The Commission receives annual appropriations from Maryland and Virginia each year and that is a major source of our funding. In 2008 both states cut that funding due to the economic recession and it dropped significantly. We have talked about seeing if we can get the appropriations from the states back to what they were. However, one of the questions that's being asked by the Commissioners is "Do we even need more money?" Mr. Gary hopes to show the Commission by doing this exercise with all three advisory committees, that there are legitimate concerns that require monetary funding and have some success in getting the appropriations back to where they need to be. He gave the committee a few minutes to brainstorm and write down their ideas and concerns. Once they were finished, a list will be compiled by staff and will be presented later in the meeting, if time allows. Results will be presented to the Commission.

## **Swan Point Development Company Proposed Marina**

Mr. Gary explained that last year there was a public hearing on construction of a marina at Swan Point. The Commission's concern was expressed that evening, because the proposed marina is in very close proximity to the 950 acre Swan Point natural oyster bar in the Potomac River. Most of the Potomac River oyster bars are not doing well right now, but Mr. Gary was not willing to write Swan Point oyster bar off as being dead and gone. He doesn't believe that anyone affiliated with the Commission was willing to do that. This issue was discussed with the Commission and they were asked how we should move forward. In the process of evaluating the proposal, we found out that the Swan Point Development Company had done a great job on the terrestrial components of everything going on there in terms of land use, but the oyster bar was only referenced in one email back in 2006 that it could be impacted. This drew concern. The Commission discussed the historical data related to Swan Point. It was noted that the bottom substrate was in good condition, but there isn't a lot of life there in terms of living biomass of oysters. It is in a position, we think, to be revitalized. When evaluating the permit application, we just didn't want to take a chance with the marina going up. The Commission opposed the project at that time. There were some meetings with Swan Point Development Company and they did offer some mitigation, but they did want the Commission's support in exchange. The Commission felt like going along with that would be like being bought. We know the marina is not really compatible with water quality and the natural oyster bar located right there. The Commission directed Mr. Gary to oppose the project and he did so which resulted in the permit being protracted. The Commission asked for an environmental assessment study that was never granted. The end result was that Maryland Department of the Environment (MDE) has offered a favorable recommendation to take it to the Board of Public Works. That took place a few weeks ago. Mr. Gary went back to the Commission to ask for additional guidance, because there is a process where we can engage the Board of Public Works. We consulted with Maryland and Virginia biologists and scientists, Dr. Jim Wesson and Mitch Tarnowsky, and they suggested that there is some uncertainty, but the oyster bar is really big and we can't prove that there is going to be an absolute detrimental impact there. Mr. Gary stated his staff recommendation was to back off and reach out to the developer to see if they would like to continue to help us in some capacity with oyster restoration. The Commission voted and there were two in favor of going to the Board of Public Works and six in favor of staff's recommendation. A letter will be sent to the developer to continue future discussions.

Commissioner Hall stated Mr. Gary explained the process very well and explained she was one of the two Commissioners who did not support the permit. She felt that we didn't want to diminish the integrity of the Commission by changing our position. She supports Dr. Wesson's view point and the Commission's decision that we reach out to the developer and hopefully they will be willing to work with us to protect the oyster ground as best as possible and potentially help fund some oyster restoration throughout the river.

Chairman Brown stated he would hear from anyone who would like to speak on the issue. He said to keep in mind how vital Swan Point oyster bar is and we do need some help in any way.

Danny Mare stated he is a resident of Swan Point and feels that everyone respects the river and we will do everything we can to protect the river. More importantly to them, they are trying to protect their homes. We have concerns if the development did not proceed, we would see our home values plummet. We have watched this and based on the developers conduct and what

they have done so far, he can not visualize them not working with the Commission. He is not speaking for Swan Point Development Company, but for himself. He thanked the Commission for the work that they do.

Chairman Brown stated it's good to get together and air things out. We're all good people and it's nice to know if you're out there and something goes wrong, you might have someone to help when needed. We understand where you're coming from.

Mike Warfield stated he is a resident of Swan Point and questioned how the Commission goes about rejuvenating an oyster bar. Mr. Gary explained that there was a Blue Ribbon Oyster Panel that convened in 2011 and that's what resulted in the new information that protracted the permit award. One of the strategies for restoration was basically reseeded the oyster bars; it's a jumpstarting of those bars. The substrate or bottom is firm and hard which makes it suitable for oyster settlement, but there are not enough living animals to repopulate it on its own. The Commission used Virginia wild seed and planted Pascahannah Bar this year. Lower Cedar Point Bar was planted last year and we are hoping that the environmental conditions don't become adverse and kill the oysters. It's very volatile here in the middle part of the river, but that is the strategy and Swan Point is next in line for the rotational planting. The next question is do we take a risk with \$50,000 and plant the oysters or do we consider another oyster bar to plant.

William Rice, Jr. stated himself and Marty personally sampled the bottom of Swan Point with a set of hand tongs. The bottom is very suitable and the shell is there. It just needs a jump start. He understands the concerns with the value of the homes. He understands there is one marina in Cuckold Creek already that belongs to Swan Point Development and he doesn't know how the second marina will do more than the first. He is concerned about the sewage treatment plant that dumps into Cuckold Creek. We all know oysters clean the river and nothing will increase your property value more than a clean river with some oysters out there revitalizing things.

### **Rotational Natural Oyster Harvest Plan (RNOHP)**

Mrs. Cosby stated this Rotational Natural Oyster Harvest Plan (RNOHP) was developed in 2012 and started in 2013. In May of 2013, ten acres of Lower Cedar Point were planted with 4,250 bushels of Great Wicomico seed with a very high count. In April of 2014, there were 5,000 bushels planted on Pascahannah on ten acres with the seed coming from the James River. The remaining oyster bars in the RNOHP to be planted are Swan Point and Gum Bar. The fifth oyster bar has yet to be selected. The oyster bars are checked during the fall oyster survey and are in good shape.

Elgin Nininger questioned if the \$50,000 includes money from the commercial license registration fees. Mrs. Cosby stated the Commission committed to investing \$50,000 each year for four years from their budget for the two revitalization programs. The Commission decided to split the money collected from the Commercial License Registration (CLR) fees each year between the two programs (OMR and RNOHP), and it is deposited into their respective reserve accounts. After four years, the programs are designed to become self-sustaining, and the money in the reserves will be tapped into for funding them. Mr. Gary explained that this is something the Blue Ribbon Panel had talked about, to build up a bank depository and let the Commission subsidize the programs. Once a base line is created, all the banked money will be tapped into

and used for future plantings. This is what the Commission planned and invested in for the programs to work.

William Rice, Jr. commented the Commission invested \$50,000 for four years. We're banking \$15,000 a year from the CLR. On year five, when the \$50,000 is done, we are going to have \$60,000 plus in a kitty to continue year five and six from the CLR and license fees to continue the program.

### **NSSP Model Ordinance Update – Order 2014-09**

Mr. Gary stated this Order was passed at the June Commission meeting to come into compliance with health standards. It's to comply with the National Shellfish Sanitation Program Guide for the control of molluscan shellfish. Virginia and Maryland are already in compliance. Order 2014-09 was adopted to be in compliance and was presented to the Committee for informational purposes.

Wayne France asked Lt. Shawn Garren if they placed oyster sacks over top the baskets to shade them is that sufficient? Lt. Garren stated he would have to reread the laws but he would think so.

### **Bushel Tags Update**

Mrs. Cosby stated the oyster tags have been ordered and received. The OMR tags are purple and this is the first year that harvest will take place. On the back of the tag is the description of the tag and it reads as follows:

#### ***Potomac Pride Oysters***

***Potomac Pride Oysters*** are harvested from the Potomac River Oyster Management Reserve, providing economic benefits in an ecologically sustainable manner. Watermen from Maryland and Virginia have invested their time, energy and resources to cooperatively plant and harvest these excellent oysters from historical Potomac River oyster bars. The infamous "Oyster Wars" between Maryland and Virginia are now a part of history. Taste the Potomac River oysters and feel the pride of the generations of watermen who have worked on this river.

The OMR oysters will be harvested in September. They are triploid oysters that grow well, but do not reproduce. They will be sold to shucking houses and we are looking forward to seeing what this program will do.

Mrs. Cosby said there are white tags that will be used for the wild fishery and they will be sold for \$.50 each to watermen. Their bushels will also have to be tagged. This is the first year that baskets will be allowed on board the vessels, and all oysters must be contained in baskets with a tag attached to each basket. This will help the buyers identify where the oysters came from. The oyster tax will increase from \$1.00 to \$2.00 and there is a fee of \$50.00 to become a registered buyer and that money will be going back into the program as well.

Mr. Gary stated the one thing that is really refreshing is that the fees and funds collected by this fishery will be put back into the fishery for future growth. It's great to see exactly where the money is going. These oyster programs have been a learning experience for Mr. Gary and he

noted that we have struggled with obtaining the oyster larvae this year. The triploid oysters are predominate in Virginia but not so much in Maryland. There is limited structure to produce triploid oysters. We've been working very hard to find this product. We are still below our target, but we are working hard to maintain our interests. He credited Mrs. Cosby for the success of these programs.

Dr. Wesson stated there were several issues that limited production. Virginia has a number of hatcheries that are contained within a company, so they produce for themselves and also sell outside. One of those hatcheries signed a contract with Corps of Engineers for oysters, so that limited some of the resource. There are two main hatcheries in the state that are open to the public. This has been an upswing for aquaculture in Virginia for five or six years and the hatcheries have been doing really well keeping up with the demand. This year was a challenge with the hatchery at Gwynn's Island having problems due to bridge work contamination, which resulted in the closing of the hatchery for a period of time. The bridge work was halted and immediately after that, production increased but it never came back to what it had been and it's still struggling. Assuming everything gets cleaned up and new equipment is put in place, we hope everything will be back up and running in full production for next year.

Chairman Brown stated this is an eye opener and that Maryland needs to look into private hatcheries. He would like to see this pursued since Maryland is getting into the aquaculture business. He says this is our future and Virginia has done a tremendous job considering the situation.

Mr. Gary stated he is very excited about these programs and thanked Mrs. Cosby and everyone who has been a part of this process. He said he was going to use his connections and work hard to reach out for more help and see how big we can make these programs.

#### **Order 2014-10 – The 2014-2015 Oyster Season Dates, Days and Time Limits**

Mrs. Cosby stated the draft Order is presented in the packet. This is to update the Order for the upcoming 2014-2015 commercial oyster season. The only changes to the Order are calendar year changes.

**A motion was made by Wayne France, seconded by Paul Springer to recommend Order 2014-10 as presented to the Commission for consideration. The motion passed unanimously.**

#### **Sanctuary Mapping Exercise**

Mr. Gary explained that the Commission over the last several meetings has inquired about the status of the oyster sanctuaries that exist in the Potomac River. MD DNR has worked with Mr. Gary and pulled together a compilation of information and a VIMS scientist ran a remotely operated vehicle (ROV) on each sanctuary to get a sense of what was going on. The results indicated that there were very low levels of biomass on each sanctuary. The Commission has indicated it wants to have sanctuaries as part of its model. If these sanctuaries are not providing ecological benefits, then we can either plant seed or designate new oyster bars as sanctuaries. He spoke with colleagues in Maryland and Virginia and posed the question "if we were going to create a sanctuary or sanctuaries, where would we have our best success?" The feedback was the

lower part of the river. The NOAA Chesapeake Bay Program has offered to conduct a survey to map out several oyster bars for the Commission, free of charge. What they have asked for is a list of oyster bars for them to survey. This is to make you aware of this exercise and staff will keep you updated on the process.

Chairman Brown stated there are very few bars down river, but the survey would be good for informational purposes. The committee spoke of Hog Island Bar and suggested that it be looked at. Mr. Gary was not sure if that was a viable candidate or not. Dr. Wesson responded that was an area we were looking at, but he doesn't feel it needs to be that big.

Richard Riche suggested creating reserves instead of sanctuaries. Sanctuaries are cemeteries, whereas reserves are useful and allow for future management. Chairman Brown stated he was 100 percent right on that, however we need to have the survey done first and we can go from there.

Wayne France questioned how many oysters would it take to produce 50 million larvae. Dr. Wesson replied two female oysters.

Elgin Nininger stated Bluff Point Lumps has been a sanctuary for years and it's time we do something there. He said there are three large areas and it should be checked. Mr. Gary explained the VIMS survey showed little to no life on that bar. Chairman Brown stated he wanted Bluff Point Lumps to be placed on the next agenda so they could discuss having that area looked at.

### **Jones Shore Discussion**

Mr. Gary presented an assessment of the two surveys that have been conducted on Jones Shore. On April 2, 2014 a patent tong survey was conducted. Jones Shore was separated into three sections for the survey. Total amount of surface shell (cultch) on all three areas was rather low. All three sections had modest quantities of subsurface (gray) shell, which was estimated at about ten to fifteen percent of the total amount of shell in the patent tong samples. The three areas surveyed all had hard packed sand.

On August 14, 2014 Captain Craig Kelly was asked to show us a few areas where he thought market oyster abundance was sufficiently high for harvest. Two locations were dredged, using a handscape. The tows were timed and distance was measured. Both samples were worked up as normally done on the fall survey. The first tow had a total of 42 liters (~bushels) of shells with about 15 percent subsurface shell. A subsample of 14 liters was taken containing 23 markets, 2 smalls, and 5 spat (2014 year class). The second tow had a total of about 50 liters (~1 bushel) with about 5 percent subsurface shell. A subsample of 14 liters was taken in which there were 22 markets, 3 smalls, and 1 spat. Comparing these tows with patent tong samples taken in the same general area of Lot #1 indicated much higher abundance estimates from the dredge samples, although comparable to patent tong samples taken just north and south of where the dredge tows were made. After the timed/distance tows were taken, Capt. Kelly was asked to dredge for ten minutes in an area of his choice as if he were commercially harvesting on the area, with Capt. France assisting him. The first tow produced about 3 to 3.5 bushels of markets (18-21 bu/hr) and the second tow produced only about 0.2 bushels of markets (1.2 bu./hr.).

Although the dredge samples indicated very high market to small ratios, data from the patent tong surveys indicated much lower ratios, on the order of 1.5:1 to 2.0:1. Comparisons between these two collection gears are always difficult, given how differently they sample, with respect to abundance and size class information. Assuming that the patent tong samples are more representative of the population structure than were the dredge collections, it doesn't appear that the opening of Jones Shore for harvesting would manifest as a "one and done" situation. Mr. Gary stated the scientific advisors have suggested, based on the differences in the two surveys, that another dredge-based survey be done on Jones Shore prior to deciding whether or not to open it for harvesting. They are still supportive of discussing the option of opening Jones Shore, but want make sure of what they are seeing out there. He suggested that based on all the surveys and what they say, we look at managing Jones Shore like we do Cornfield Harbor and Kitts Point. Chairman Brown stated Mr. Gary was not wrong in his thinking. Mr. Gary stated that if Jones Shore were to have a strike in any given year, you would not be able to harvest that year. We are all working to see something happen.

Chairman Brown went through some strategies for opening Jones Shore such as bushel limits, which is similar to the OMR program. This is a way to control what is harvested and we can watch the area at the same time. We want to work and this will work. This will generate some funding for future plantings. You're not only limited to what you can catch, but you want to hit the market when the prices are the highest.

Mr. Gary questioned if there was something so uniquely different about Jones Shore compared to Cornfield or the other areas. Chairman Brown explained years ago when Maryland was looking for an area to make a seed area for the Potomac River, it was suggested that Jones Shore become that area. He said it's been sitting there a little too long now and mother nature is showing us that it's time to do something with this area. It's hard for us to see a place like Jones Shore sit there and nothing be done with it. It's up to us to do something and get it going. Asking for another year to discuss this along with the idea of the tagging system is not what we want, but we have to do this right.

Dr. Wesson suggested opening a third of Jones Shore and see what happens. Then you will have something to compare it with. Mr. Gary explained that opening Jones Shore would require a regulation change, so even the most aggressive approach on this would be early autumn of 2015. Allowing the additional survey to take place would provide more information to work with and would certainly provide more comfort for the Commissioners to make an informative decision. Mr. Gary stated he is not hearing any negativity towards the idea and everyone's comfort level would be a lot better if we can do this additional survey and move forward from that.

Dr. Wesson questioned if the Commission could do anything by March of 2015. Chairman Brown stated that would be a great time. Mr. Gary stated that would probably be the best time to work the area and clean it up. Wayne France stated that March was a good month because it's like a down time for most fishermen before crabbing starts. Mrs. Cosby added the traditional oyster season ends on March 31<sup>st</sup>.

Mr. Gary advised that he understands that is the desire of committee, however based on what was presented today, it is probably not going to happen due to the timing of the additional survey. He stated he would see what he could do to speed up the process.

Chairman Brown stated we have been dealing with this for a while now and we know the industry is changing. At the same time, we want to keep our ways and methods still going. We know the Commission is trying to keep us out here working, so we have no problem with you extending what you need to do on your part, but we do ask that you let the committee know what's going on so we can be informed with the process.

### **Oyster Management Reserve (OMR) Update**

Mrs. Cosby stated 2,420 bags of spat on shell were planted today using two boats. The participants have been excellent in giving of their time to help with the plantings. We are two-thirds of the way to our goal. The first OMR harvest will take place September 2<sup>nd</sup> with 14 participants working with a limit of 20 bushels per person for the first week.

Over at the Piney Point hatchery, Chairman Brown stated Ronnie Bevans couldn't get his workers over to help unload and load the tanks due to a contract conflict. He notified Chairman Brown and offered to pay for hiring additional people to help at the hatchery.

### **New Business**

Wayne France asked what the next oyster bar was to be considered for the next planting for the Rotational Natural Oyster Harvest Plan. Mrs. Cosby stated that would be Swan Point or Gum Bar. The fifth bar has not been selected yet. Stony Bar, Watsons Bar and Old Farms have to be surveyed to determine the fifth oyster bar, which may happen during the fall survey.

### **Adjourn**

This meeting of the Oyster/Clam Advisory Committee adjourned at 8:17 p.m.

Respectfully submitted,

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John F. Tucker Brown, Chairman