

**Minutes of the Regular Meeting  
Potomac River Fisheries Commission  
Colonial Beach, Virginia**

**January 19, 2016**

**Commissioners Present:** William L. Rice, Sr. (MD) – Chairman, A. J. Erskine (VA) – Vice-Chairman (via teleconference), Lynn H. Kellum (VA) – Secretary, Dennis C. Fleming (MD), John M.R. Bull (VA), Phil L. Langley (MD), Ida C. Hall (VA) and Dave Blazer (MD).

**Officers Present:** Martin L. Gary – Executive Secretary, Ellen B. Cosby – Assistant Executive Secretary and Michael C. Mayo – Legal Officer.

**Others Present:** Sgt. Charles Simmons – MDDNR Law Enforcement; Capt. Jim Rose and Ofc. Mike Simms – VMRC Law Enforcement; Troy Tuckey – VIMS; John F. Tucker Brown and Wayne France – Oyster/Clam Advisory Committee; Elgin Nininger and John Morris – Crab Advisory Committee; Dusty Remington – Finfish Advisory Committee; John Dean, Sam Dorrough, Bill Kilinski, George Willett, Gale Willett, Carl Kirk, Bill Mattingly, and several others who did not sign the guest register.

**Press:** None

Chairman Rice called the meeting to order at 6:00 p.m. He recognized and thanked Jim Wesson, Mark Homer and Robert Bussell for their help with the oyster survey upriver. The Commission appreciates their time and effort in doing this. He also thanked Bill Kilinski and Wayne France for assisting. Mr. Gary also took part in the survey and Chairman Rice thanked him and staff for all the hard work they do for getting things done, especially when there are extra meetings involved.

**Introduction of Dave Blazer**

Chairman Rice introduced Mr. Dave Blazer, Acting Director of Fisheries for MD DNR who will be serving on the Commission.

The Pledge of the Allegiance was recited.

**Public Hearing and Regulation Changes**

Chairman Rice asked Mr. Mayo to explain the advertised Regulation change. Mr. Mayo stated this is a Regulation to enable the Commission, in the future, to make changes more efficiently by Order rather than by Regulation.

Regulation II, Sec. 2(a)(4) – Closed Areas for Hand Scraping / Hand Tonging

Chairman Rice asked if there was any public comment in regards to the proposed Regulation change. Hearing none, he turned it over to the Commission for discussion.

*A motion was made by Commissioner Bull, seconded by Commissioner Blazer and unanimously passed to adopt Reg. II, Sec. 2(a)(4) as presented.*

**Regulation II, Sec. 2(a)(4) Closed Areas for Hand Scraping / Hand Tonging**

The following area(s) shall be closed for the purpose of taking or catching, or attempting to take or catch oysters by means of a hand scrape at any time:

- (1) “All areas lying upstream from a straight line between a point (38°16.02’ North Latitude, 76°52.00’ West Longitude) at Neal Sound Entrance Light #2 in Charles County, Maryland and a point (38°11.52’ North Latitude, 76°54.20’ West Longitude) at the mouth of Popes Creek in Westmoreland County, Virginia and,
- (2) Heron Island Oyster Bar, bound on the north by the PRFC/DNR jurisdictional line, as marked by markers PR “M3A”, “M3B”, “M3C”, “M3D” and “M3E”; on the west by Dukeharts Channel, as marked by the navigational aids “G C1”, “FL G3” and “G C5”; on the south by the Potomac main channel, as marked by navigational aids “R N 14” and “R N 12”; and, on the east by Breton Bay Channel, as marked by navigational aid “R G N ‘Hi’” and Marker “PR M3E”.

Notwithstanding the above provisions of this Regulation the Commission may, by appropriate Order, open or close any areas of the Potomac River under its jurisdiction to the taking or catching of oysters by hand tong and/or hand scrape. If a closure is specified, it shall be unlawful to take any oysters in violation of such Order.

**Discussion of Economic Impacts**

Mr. Gary presented a chart of the past harvest for the six oyster bars that were closed due to a spat strike in the lower river on the Maryland side. At the last special meeting when the lower river oyster bars were closed, the Commission gave staff direction to investigate options to mitigate for economic impacts for the oyster industry. From staff’s perspective, the only way to look at this is from past harvest on those bars. The chart presented shows the areas affected and their harvest going back to the 1980’s. There was some discussion of forward projection as to what the mitigation might be in terms of income, had those six oyster bars remained open. Wayne France will probably speak on that issue. Staff relied on tangible data and felt what Mr. France will suggest may be considered speculative.

Wayne France stated when those six oyster bars were closed on the Maryland side, you essentially closed the Virginia side down as well. With only a few bars on the Virginia side, no one is going to pay the oyster license fees to work those few spots. He felt that should be considered.

Robert T. Brown, President of the Maryland Watermen’s Association, stated even though it would have been speculative, there would have been a lot of revenue coming into the

Commission had the lower river remained open. The watermen felt they were going to do better in the lower part of the river, especially with parts of Jones Shore being opened to hand scrapes. The money from license fees and oyster tax would have come to the Commission and the watermen would have made more than what they have earned in the past. No one really knows an amount and it would have also provided relief to other areas they are working now.

### **Oyster Industry Economic Mitigation Work Group Recommendations**

Wayne France presented the work group's recommendations, from the meeting on November 13, 2015. Recommendations were passed by consensus as follows:

1. WG recommends by consensus to open Swan Point Bar, Beacon Bar, Pope's Creek Bar and Horseshoe Bar to hand scraping for the remainder of the 2015-2016 season (March 31, 2016). Polygons to be drawn around Swan Point Bar south to Yellow Banks Bar to the Hand Scrape/Hand Tong line and following the Cobb Neck shoreline. Polygon to be drawn around Horseshoe and Pope's Creek Bars and following the channel edge as the SW boundary. Polygon to be drawn around Beacon Bar with Red channel buoy #6 the southern boundary.
2. WG recommends PRFC's Oyster/Clam Advisory Committee develop a trigger mechanism for management options/contingency planning to mitigate closures such as the one that occurred this year, as well for other reasons such as poor water quality, natural disasters etc.
3. WG recommends PRFC's Oyster/Clam Advisory Committee work to clarify the existing oyster cull regulation to address ambiguity in the language.
4. Concern was raised about conflicts that could arise between hand scrapers and fixed fishing gear (pound nets, gill nets and fyke nets) in the areas suggested in #1.

### **Oyster/Clam Advisory Committee (OCAC) Report – January 13, 2016**

Wayne France stated the committee met on January 13, 2016 to review and discuss options for mitigation for the oyster industry. They reviewed Oyster Industry Economic Mitigation Work Group recommendations. A motion was made by Wayne France, seconded by Rocky Rice and unanimously passed (7 to 0) to recommend the following options, in order of priority to the Commission for consideration of adoption at the January 19<sup>th</sup> meeting of the Commission.

1. To open Swan Point Bar polygon on Monday, Wednesday and Friday, and Pope's Creek Bar/Horseshoe Bar on Tuesday and Thursday to the use of hand scrapes
2. To open Swan Point Bar polygon on Monday, Wednesday and Friday to the use of hand scrapes
3. To open Pope's Creek Bar/Horseshoe Bar on Tuesday and Thursday to the use of hand scrapes

4. Extend the Hand Scrape Line to the Rt. 301 Bridge on Monday, Wednesday and Friday, excluding the closed areas (Lower Cedar Point, Pascahanna, Bluff Point and Bluff Point Lumps Sanctuary)

#### **Results of the January 7, 2016 Oyster Survey on Beacon, Horseshoe and Pope's Creek Bars**

Mr. Gary presented the results of the oyster survey. He stated it was not a survey to find out population estimates, but to get a closer look at the areas the industry wanted to potentially open to hand scraping. This investigative survey was conducted with the intent of enhancing the knowledge of the PRFC as to the spatial distribution, length frequencies and (if possible) the age structure of the oysters that inhabit the three sampled bars. Attempts to age the oysters were inconclusive, but based upon the recruitment history on sentinel sites on Beacon and Pope's Creek bars, scientific consensus is that the oysters in this area of the Potomac are very old, possibly as old as thirty years, since the last significant recruitment event occurred in 1986. Length frequency data indicated the oyster population on these bars are strongly skewed toward larger animals, which are likely dominated by females. Despite the presence of these larger, older oysters, significant recruitment has not occurred since 1991. The survey was not designed to provide a quantified population assessment, but the observations did provide insight as to what appears to be a modest population of adult animals, with few, if any younger oysters.

Mr. Gary provided detailed information for each site that was surveyed. Stations were marked at each bar and the tow interval was about 10 minutes. Beacon Bar had four stations sampled with the total percentage of markets at 86 percent. Horseshoe Bar had four stations sampled with the total percentage of markets at 93 percent. Pope's Creek Bar had three stations sampled with the total percentage of markets at 99 percent. He reminded the Commission that there is a 5 percent tolerance when harvesting oysters. For Pope's Creek and Horseshoe, the outcome would be that every oyster that comes up will be harvested. Beacon had some smaller oysters, but the majority of oysters would be harvested there as well. Mr. Gary then presented the catch per unit of effort estimates to get some sense of what would be extracted from the bottom, stating it's difficult to determine what the impact would be. It was noted that Dr. Wesson spoke with MD DNR biologists and he may want to give his thoughts on this.

Mr. France added that when the survey was done, the boat used was just rigged up and we weren't used to operating the scrape yet. The boat pulled the dredge very slowly. A normal two person operation would probably double or triple the amount of harvest we did that day.

Commissioner Hall questioned if Swan Point was surveyed. Mr. Gary explained the areas of focus were above the Rt. 301 Bridge, because of the lack of information available. Talking to the MD DNR scientists and Dr. Wesson, there was a good level of knowledge already for Swan Point Bar.

Commissioner Langley asked if there was any hand tong harvest information on these bars. Chairman Rice responded it would be very minimal, if any. He explained that these oysters are not as close together as we would like to have them when tonging. In this particular area of the river, the tide is very swift and on a good day you are still limited to the amount of time you could work. You could do it, but it would be a slow process.

Dr. Wesson stated Mr. Gary covered the survey very well. He noted that with hand tongs, they get fewer oysters. That would be considered very low density and below spawning efficiencies. The important take away here is that there are no juveniles there, so any oysters you take out will not have recruitment going back in. The small ones could be older oysters, because they grow so slowly. A juvenile there is not like the ones we're used to seeing in Virginia, Maryland or the mouth of the Potomac River. They are very long lived, slow growing animals.

Commissioner Bull asked Dr. Wesson his thoughts on why these oysters have survived 25 to 30 years. Dr. Wesson explained because there is no recruitment, we have to assume they are that old. When you look at their shells, they are actually dissolving from the outside. They've been there that long. They grow just a small amount each year.

Commissioner Bull asked how these oysters survived all the freshets over the years. Dr. Wesson stated they are unique oysters that can shut down during freshets. They can handle winter freshets better than summer freshets. They are uniquely adapted to low salinity and can go two or three months without having to pump. The bad thing about this location with no recruitment events, you are left with a lot of female oysters. If you move them they will die. They have micro adapted to their location.

Commissioner Langley stated if these animals are that unique, would it be possible to remove some of those oysters and provide a habitat in a lab similar to what they are accustomed to and see if they will spawn. If that is successful, possibly plant some spat on shell in that area in hopes of them surviving the freshets in the future. Dr. Wesson stated that could be done if the money were available. That would be for the sake of doing a project based on limited funds. However, you really don't want to plant where things grow really slow, because you are trying to recoup some money back from it. The idea of building a fishery would not work with this type of oyster.

Commissioner Erskine stated his experience with these older female oysters is the egg quality and viability tends to deteriorate with age.

Commissioner Hall asked Dr. Wesson about the oyster shells disintegrating. Dr. Wesson explained all oyster shells disintegrate. In higher salinity waters, the half life of shells is about four years. The half life up river is certainly longer, but it was definitely occurring.

Mr. Gary stated speculation was that these oysters were the progeny from the 1986 or 1991 year class. The question he asked Dr. Wesson was how old can an oyster live? Dr. Wesson explained we really don't know. Some oysters are found with rings that could estimate 50 years or above. With all aging, you need a reference of animals that you've kept over time. Without that, it's really hard to tell. We know they are long lived oysters, but at the same time, long lived animals are unusual even historically. We dredge for fossil shells and they are not millions of years old by any means, but most look just like they do today. Oysters have been living and dying forever. They build their habitat and their coffins at the same time.

Chairman Rice felt they had received enough history and information from the survey to move forward, if there were no other questions.

**Statement of Scientific Advisors from MD DNR & VMRC**

Dr. Wesson advised this is a statement from all of the advisors in response to the recommendations of the Oyster/Clam Advisory Committee (OCAC). He noted he doesn't like being here in this position, because the OCAC has been very forward thinking the past few years. We don't like being against the way things are going, but this is so black and white scientifically. We didn't think we would be here because no one ever thought about hand scraping these areas when the RNOHP was created and Jones Shore was scheduled to open. The hand scrape line, where it is right now, is pretty much on the line where spat sets stop. From the hand scrape line up, there has been no recruitment. So to open an area with no recruitment where it is open for harvest now and is part of the RNOHP, is not forward thinking. In Maryland and Virginia, we don't allow dredging in areas there is no spat set. They will get everything and in this case they are taking away the majority of oysters there and they will not be replaced in our lifetime. Any oyster that is harvested is gone. If you want to do that as an economic decision, just know that area will be done and you won't have to worry about it anymore. The only way to get oysters back in that area now is to build up the oysters in hopes that they spawn. You really can't do a seed planting, because you would be mixing different types of oysters and you could actually dilute the gene pool of the ones that are already up there with the built-in tolerance. It's just the wrong gear for that area and the hand scrape / hand tong line is there for a reason. You harvest where you might get recruitment in the lower Potomac.

Commissioner Kellum asked if that recommendation includes Swan Point. Dr. Wesson stated yes, because it's above hand scrape line. Swan Point is scheduled to get seed in the RNOHP in the future.

Commissioner Fleming asked Dr. Wesson if he was making his statement on behalf of Maryland and Virginia. Dr. Wesson stated yes, we all met and talked and this was our opinion.

**Public Comment – 6:55 p.m.**

Mr. France stated that last fall when the decision was made to close Jones Shore, the watermen sacrificed to give up the lower river. The Commission and everyone involved made the right decision to let the spat continue to grow and become our future. The decision for mitigation was discussed and the OCAC came up with some options. The area above the bridge has always been open. We are asking to comply with the 8 bushels a day, 12 working days above the bridge and 18 working days below the bridge. He doesn't think that's unreasonable. The oysters can die from freshets, raw sewage and now possibly coal ash. Water quality could become a big issue up river. It's two oyster bars out of twelve above the bridge we are asking to open and the watermen don't think that's unreasonable.

Mr. Brown thanked the Commission for the adoption of the earlier Regulation. As far as mitigation, this is something new we are all dealing with. He is looking at this as an opportunity. It's time for the watermen to make a new management plan, instead of just doing nothing. We have to have a plan other than just harvesting. We can plant spat on shell while they are young and they will adapt. We're only talking a few days of work. Let us work the area and then go back and plant seed. Doing nothing is not the answer. Maryland Watermen's Association supports the OCAC recommendations. If you don't try something, you'll never get anywhere.

Bobby Boarman representing the Charles County Watermen's Association stated Dr. Wesson is correct in saying the oysters grow slow up river. The association asks that the Commission consider opening up at least Swan Point and give us a change to work. He agrees with Mr. Brown and stated a little is better than none. It's time to get our heads out of the sand and try something.

John Dean, Chairman of the St. Mary's County Watermen's Association thanked the Commission for having this meeting. What we are asking for is basically about 20 percent of the oyster bars to be opened up river. This was a huge economic impact on the watermen, because some of them only work the Potomac. We have to be thinking about the possibility of what we are going to do if we get another strike. If we get another strike, we will be completely out of business immediately, but will be okay in the future.

Richard Richie stated he is a waterman who worked the lower Potomac as much as he could. He thanked Mr. Gary for all the leg work in preparation of tonight's meeting. He was concerned that we are going in the direction of simply saying look everyone, we have old oysters and not opening anything. Eventually those oysters are going to die and we are going to lose revenue by just watching them lay there and die. He agrees that we should give it a try. We need to keep our watermen working.

Chairman Rice closed the public hearing at 7:08 p.m. and thanked everyone for their comments.

### **Staff Recommendation**

Mr. Gary stated he would like to ask Dr. Wesson if any of these areas were to be opened, do you think this will draw a crowd, due to the fact that Maryland and Virginia have limited resources open right now. Dr. Wesson stated he has had people call him already and feels that anyone who doesn't want to sit at home and make crab pots will come here to oyster. Dr. Wesson advised not to run out of licenses, because they will come.

Mr. Gary asked Richard Riche if he has thought about tonging this area up river, since it has remained open. Mr. Richie stated when the tide gets bad, you can't work and the expenses are more than what you can make tonging this area.

Mr. Gary asked law enforcement about their concerns of enforcing the area with these possible proposals. Sgt. Simmons from MD NRP stated it would be easier to enforce if specific days and times were established; the simpler the better. Ofc. Mike Simms from VMRC stated he doesn't have a problem with days. Everything has a season. He is concerned with extending the hand scrape line. He says that's a lot of area and a lot of oyster bars to cover where the potential is there to run dredges across oyster bars they shouldn't be open to. As far as the upper river bars, he doesn't have a concern, but would like to see something in place to obtain accurate counting of exactly what's being harvest from that area. He suggested a designated landing site for unloading the oysters. Aqualand would be a prefect spot. He stated we will do the best we can with the resources we have.

Mr. Gary offered a few thoughts before he gave staff's recommendation. As a biologist, he is concerned about the resource. He thinks about the Compact and what the intent is for this Commission quoting "...conserving and improving the valuable fishery resources of the tidewater portion of the Potomac River". He is not sure given the population of the oysters above the bridge, that allowing additional exploitation is going to conserve or improve them. He doesn't think we would catch every last one, but he's not sure as Executive Secretary, he would feel comfortable leaving a legacy of extirpation of animals in that area. The other part is, he has learned a lot dealing with this issue and he does care about the human element and understands the economic impacts. Staff's recommendation is not to allow any additional exploitation above the Rt. 301 Bridge, but open Swan Point, Yellow Banks and Natural Oyster Bar to the use of hand scrapes. We have a long road bringing this oyster fishery back and many long and hard discussions ahead of us.

### **Commission Discussion of Management Options**

Commissioner Kellum questioned how long staff's recommendation was for opening the Swan Point area. Mr. Gary explained it would be for Monday through Friday. Another point would be that Bill Kilinski, President of Charles County Watermen's Association, who couldn't be here tonight, had requested previously for this area to be opened, so this would give them the opportunity to test what they were saying.

Commissioner Hall questioned if Swan Point was a good area to harvest. Mr. Gary explained the area is large and has mussel issues. He feels the industry is not overly optimistic, but they may be surprised so it's worth an opportunity. From the scientists, they are saying it's above the line and should not be worked with this type of efficient gear, but he also hears that there is some sense that if you are protecting something, there is some sort of biomass. There is always risk in any decision you make, but he feels this is a good choice to make.

Mrs. Cosby explained the fall oyster survey generally finds 30 market oysters per bushel on Swan Point, which is a pretty good count. They tend to have mussels on them, but the oysters are of good size and there has been a consistent amount of them each year.

Chairman Rice feels the discussion has shifted down towards Swan Point and that's a good thing. We got away from talking about the areas up river. He said we need to think about what we are doing. What we have been doing for the past 30 years has not been working. He suggested leaving Beacon Bar alone, because we have to leave some stock up there. We don't want to be the Commission that takes all the oysters out. These oysters will not live forever.

Commissioner Bull thanked Mr. Gary and the scientists who spent a lot of energy, time and effort on this. He is thinking the upper area is a non starter and he doesn't want to see the oysters go. He would hate to see that legacy disappear for the future. He is focusing on Swan Point. His calculation comes down to this; we have the HS/HT line for a reason. We don't have a lot of oysters on Swan Point, but there are some. There's not a lot of recruitment there. Is it worth letting dredges up there to have them potentially go hog wild on other areas where they should not be, or if worth taking a risk that they will confine themselves to just this area? If we do open Swan Point and someone breaks the law, he stated he will have no mercy if you come before the Commission.

Commissioner Erskine commended the industry for coming together and coming up with several options and plans for this mitigation. This Commission and staff has put a lot of time into this in investigating these proposals. It troubles him that we may be ignoring the oysters that are above the bridge. They are not contributing to recruitment in this area and that's pretty clear. The question becomes, are you going to leave these oysters and what purpose are they going to serve ecologically for us in terms of recruitment. He doesn't think they are serving much purpose. As far as Swan Point, it seems there are fewer oysters there, but he does feel inclined to the aspect of mitigation. He would favor opening above the bridge and allowing people to take those oysters with one contingency and that's with a plan. He would recommend opening Horseshoe, Pope's Creek and Beacon bars for hand scrapes and take those oysters. We would need a plan in place that states that money is specifically earmarked for purchase of diploid spat on shell to put back in those areas.

Commissioner Fleming questioned if we were to entertain the proposal put forth by Mr. Brown and Commissioner Erskine, how would we designate those funds specifically for that area and is that possible. Mr. Gary stated staff could do it, as long as that is the will of the Commission. In terms of implementing it, an account could be created and he doesn't see an issue with doing so. Chairman Rice stated that any hand scrape license sold after tonight's meeting would be a result of any action taken, so the money should go back to the oyster bars that are being worked.

Mrs. Cosby stated the Commission might want to keep in mind the RNOHP that is already in the works and is an established program. The funds from the public oyster fishery already go toward that program. It is supposed to be self sustaining. No funds were put towards this program, because the Commission agreed to refund license fees because of the lower river closure. Staff would need direction on what to do with this program, because there are not enough funds to plant several areas.

Commissioner Langley stated this is getting complicated as we go. He feels the industry makes a lot of valid points. He is concerned with the density of the oysters and that there has been no measurable reproduction since 1987 and 1991. He doesn't like the idea of harvesting everything that's there and he doesn't like the idea of leaving it there and not doing anything.

Commissioner Blazer thanked everyone involved in this process. The difficulty he is having is trying to figure out what the objective is, as far as the end result. He hears the issues with revenue and harvest and it's difficult to make a decision without knowing what the end game is. Trigger recommendations were talked about, but we don't have any in place. He hasn't heard a good quantifiable number that says yes or no. This is a short-term look for mitigation, but we also have the responsibility to look long-term. Mr. Gary stated we have not done anything with that other than hearing Commissioner Erskine's suggestion. He is not sure that going up river is the way to go. He feels we are going to sacrifice these oysters, because when they are gone, they are gone for good. The biologist in him feels that is fundamentally wrong.

Commissioner Fleming explained we attempted to have a plan years ago with the Blue Ribbon Oyster Panel, then along comes this closure and mitigation. If we do this up river opening, we upset the "master plan" for a "sub plan".

Chairman Rice stated as for funds, we don't have any because we haven't sold any licenses. It seems like to him if we do something that generates license sales, we're going to get some money and we'll be able to do something in terms of planting.

Mrs. Cosby explained how the RNOHP works to the Commission. The Commission focused on this program to try and make it work in the middle part of the river. This is supposed to be a continuing program and not interrupted, because it won't work if you do that.

#### **Consideration of Draft Order 2016-06**

*A motion was made by Commissioner Bull, seconded by Commissioner Blazer to approve opening Swan Point, Yellow Banks and Natural Oyster Bar from February 18<sup>th</sup> through March 31, 2016, Monday through Friday. The rest of the areas would be closed.*

*Commissioner Fleming offered a friendly amendment of the recommendation from law enforcement of a central buy point to be determined in a separate motion. Commissioner Bull accepted that as a friendly amendment.*

Chairman Rice suggested dealing with Commissioner Bull's motion and not add other stuff to it.

*Chairman Rice called for the vote and with 4 in favor, 3 against (Erskine, Rice and Hall) and 1 abstained (Kellum); the motion fails.*

*A motion was made by Commissioner Kellum, seconded by Commissioner Hall to support the OCAC with their option #1 to open Swan Point Bar on Monday, Wednesday and Friday and Pope's Creek/Horseshoe Bar on Tuesday and Thursday to the use of hand scrapes.*

*Commissioner Erskine offered a friendly amendment to open Pope's Creek, Horseshoe and Beacon and Swan Point would remain closed. Chairman Rice stated that would be a substitute motion, therefore it can not be accepted.*

*Chairman Rice called for the vote and with 4 in favor and 4 against (Fleming, Erskine, Blazer and Bull) the motion fails.*

*A motion was made by Commissioner Erskine, seconded by Commissioner Kellum to open to hand scrapes on Pope's Creek, Horseshoe Bar and Beacon Bar from February 18<sup>th</sup> to March 31<sup>st</sup>, Monday through Friday and all other areas would remain closed. Chairman Rice called for the vote and with 4 in favor and 4 against (Fleming, Langley, Blazer and Bull) the motion fails.*

*A motion was made by Commissioner Fleming that Pope's Creek and Horseshoe open five days a week February 18<sup>th</sup> through March 31<sup>st</sup> and Swan Point and Beacon Bar remain closed. Chairman Rice called for a second to the motion three times, hearing none the motion fails.*

***A motion was made by Commissioner Langley, seconded by Commissioner Hall to open above the Rt. 301 Bridge except for Beacon Bar on Monday, Wednesday and Friday and Pope's Creek and Horseshoe Bar on Tuesday and Thursday to the use of hand scraped for the full season.***

Commissioner Erskine stated it seems like we are singling out Beacon Bar and he is curious as to why, when it's clear that they are not recruiting to the system. Chairman Rice responded having worked the area hand tonging since 1973, that Beacon Bar was the oyster bar that would show recruitment ahead of the other oyster bars, as far as Pope's Creek and Horseshoe are concerned. It's a more shallow oyster bar that would attract spat more than the other two oyster bars that we are proposing to open. The density is a little closer on Beacon Bar as well. Those oysters seem to be very resilient to resisting fresh water. If we are going to preserve an oyster bar in that area, Beacon Bar would be his choice.

***Chairman Rice called for the vote and with 5 in favor and 3 against (Fleming, Blazer and Bull) the motion fails.***

***A motion was made by Commissioner Blazer, seconded by Commissioner Bull to go with the OCAC's #2 recommendation to open Swan Point Bar Monday through Friday, February 18<sup>th</sup> through March 31<sup>st</sup> to the use of hand scrapes. A roll call vote was taken and with 5 in favor and 3 against (Erskine, Hall and Kellum), the motion fails.***

Chairman Rice stated Butch Shymansky has his hand in the air and he would like to hear what he has to say. Mr. Shymansky stated to go back to the illegal dredging that took place on Swan Point. He explained that you can not hurt Swan Point. It has been dredged illegally for years and it always comes back. We need to work Swan Point, it's just that easy. He's been an oyster buyer since the 1960's and he knows what he's talking about. He feels the Commission is wasting it's time with the proposals up river, because they will never work.

Jason Jones suggested opening all three bars, Swan Point, Horseshoe and Pope's Creek for two or three days a week and not separate above the bridge and below the bridge. Law enforcement stated they can enforce that. Let try to get everyone to agree on something.

Chairman Rice stated at the end of the day, he doesn't like to say we owe someone something but when the Commission closed the lower river, he felt like the Commission owed the industry something. We have to make a decision and he appealed to the Commission to try and find a way to agree on something.

***A motion was made by Commissioner Fleming, seconded by Commissioner Bull to open Swan Point February 18<sup>th</sup> through March 31<sup>st</sup> five days a week. Chairman Rice called for the vote and with 5 in favor and 3 against (Erskine, Hall and Kellum) the motion fails.***

Commissioner Hall stated that she does not have a problem opening Swan Point. She feels that everyone has put a lot of effort into the scientific background. She also feels that the Commission owes the watermen something. They came up with a plan with a compromise to exclude Beacon Bar and to work two days a week on Pope's Creek and Horseshoe. She thinks

they are making another sacrifice. She supports opening Swan Point as well, but the Commission should also consider these other two oyster bars. Simply letting these oysters sit out there and ultimately die doesn't serve any purpose.

Commissioner Erskine stated he is not voting to be difficult. He is wondering what the reasoning is behind opening just Swan Point when there are fewer oysters there than the oyster bars up river. If we're looking for any type of recruitment potentially, it's going to come from oysters on Swan Point versus the upper river oyster bars. Mrs. Cosby reminded the Commission that Swan Point is several times larger than the other oyster bars. We really don't know the extent of the oysters on Swan Point.

***A motion was made by Commission Langley, seconded by Commissioner Bull to open Swan Point Monday, Wednesday and Friday and above the bridge on Tuesday's and Thursday's for the month of February and then Swan Point only Monday through Friday from March 1<sup>st</sup> through March 31<sup>st</sup>. That would give two weeks of work above the bridge.***

Commissioner Bull stated he hears law enforcement in the back of his head and that if the Commission went this route and someone violated this Order would be able to come before the Commission and say they didn't understand the seasons. He is leaning towards opening Swan Point to the rest of the oyster season, Monday through Friday, then opening Horseshoe, Pope's Creek two days a week additionally and let the watermen make their choice when they want to work. This way we are harvesting some of those unique oysters up river, but probably not all of them. This seems to be an easier tool for law enforcement.

Chairman Rice stated that gets the Commission back to the motion Commission Kellum made earlier which makes more sense to him.

***Commissioner Langley withdrew his motion.***

***A motion was made by Commissioner Fleming, seconded by Commissioner Langley to open Pope's Creek and Horseshoe for the month of February five days a week, thereafter, Swan Point opens for the month of March five days a week. Beacon Bar remains closed. Chairman Rice called for the vote and with all in favor the motion unanimously passed.***

**EMERGENCY ORDER #2016-06****OPENING of MIDDLE POTOMAC OYSTER BARS to the USE of HAND SCRAPES**

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**THE POTOMAC RIVER FISHERIES COMMISSION**, having recognized the closure of several lower river oyster bars during the 2015-2016 season has resulted in economic impacts and hardship to the commercial oyster industry, and having found a desire to address those economic impacts and hardships, and finding urgency to implement mitigative measures, and pursuant to its authority under Regulation I, Section 7(a) and Regulation II, Section 2(a)(4), as delineated; **HEREBY DECLARES AND ORDERS:** the following oyster bars open for the taking or catching or attempting to take or catch oysters with hand scrapes:

**Horseshoe and Popes Creek (boundaries as defined herein)**

February 18th thru February 29, 2016                      Monday thru Friday                      8:00 a.m. to 1:00 p.m.  
Eight (8) bu. per licensee, sixteen (16) bu. per vessel (regardless of the number of licensees on board).

Beginning at a point at or near Lat. 38° 23.651' N., Long. 76° 59.777' W.,  
then running 308° (True) to a point, at or near Lat. 38° 24.565' N., Long. 77° 1.238' W.,  
then running 73° (True) to a point, at or near Lat. 38° 24.755' N., Long. 77° 0.446' W.,  
then running 142° (True) to a point, at or near Lat. 38° 23.940' N., Long. 76° 59.648' W.,  
then running 199° (True) to the point of beginning.

**Swan Point, Yellow Banks and Natural Oyster Bar (boundaries as defined herein)**

March 1<sup>st</sup> thru March 31, 2016                      Monday thru Friday                      8:00 a.m. to 1:00 p.m.  
Eight (8) bu. per licensee, sixteen (16) bu. per vessel (regardless of the number of licensees on board).

Beginning at a point at or near Lat. 38° 15.917' N., Long. 76° 52.074' W.,  
then running 299° (True) to a point, at or near Lat. 38° 17.155' N., Long. 76° 54.939' W.,  
then running 217° (True) to a point, at or near Lat. 38° 16.350' N., Long. 76° 55.716' W.,  
then running 316° (True) to a point, at or near Lat. 38° 17.199' N., Long. 76° 56.751' W.,  
then running 344° (True) to a point, at or near Lat. 38° 17.672' N., Long. 76° 56.921' W.,  
then running 38° (True) to a point, at or near Lat. 38° 18.508' N., Long. 76° 56.088' W.,  
then running 105° (True) to a point, at or near Lat. 38° 18.401' N., Long. 76° 55.584' W.,  
then running 184° (True) to a point, at or near Lat. 38° 17.425' N., Long. 76° 55.663' W.,  
then running 101° (True) to a point, at or near Lat. 38° 17.292' N., Long. 76° 54.800' W.,  
then running 119° (True) to a point, at or near Lat. 38° 16.069' N., Long. 76° 52.001' W.,  
then running 201° (True) to the point of beginning.

**AND, IT IS FURTHER DECLARED AND ORDERED:** this Order #2016-06 shall become effective February 18, 2016, and remain in effect through March 31, 2016.

Chairman Rice advised everyone there will be no refunds if you choose to buy a license and don't catch any oysters that's on you.

Chairman Rice stated that is all the business that will be discussed at tonight's meeting. He stated they will now break for Executive Session to discuss personnel and legal matters.

Robert T. Brown thanked the Commission for taking the consideration as they did for helping the watermen.

**Executive Session: 8:42 p.m.**

**Reconvene: 8:52 p.m.**

***Chairman Rice took a roll call vote that only personnel and legal matters were discussed during Executive Session. All Commissioners agreed.***

**Adjourn**

The meeting adjourned at 1:15 p.m.

Respectfully submitted,

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William L. Rice, Sr., Chairman

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Lynn H. Kellum, Secretary