

OYSTER/CLAM ADVISORY COMMITTEE REPORT
August 22, 2017
PRFC Office, Colonial Beach, VA

Members Present

Tucker Brown-(MD) - Chairman
Paul Springer, III – (MD)
Joseph W. Howeth, II – (VA)
Craig Kelly – (MD)
Roger L. Hill – (VA)
William L. Rice, Jr. – (MD)

PRFC Commissioners

Dennis C. Fleming

Support Staff Present

Ellen Cosby
Cathy Friend
Becky Butler
Marty Gary

Technical Advisors

None

Others Present: Ingrid Braun, Richard Riche, Bobby Boorman, Chip Crowder, John Dean, Kenny Pearson and Monica Schenemann via teleconference.

Chairman Brown called the meeting to order at 6:03 p.m.

2016-2017 Oyster Harvest Report

Ellen Cosby presented the harvest report, which was a summary of the 2016/2017 season. On Cedar Point, 2,994 bushels were taken by tongers and on Jones Shore, 3,510 bushels were taken by hand scrape. The OMR participants harvested 959 bushels in September/December 2016 and 2,403 bushels in March/April 2017. Chairman Brown reacted to the dockside value of \$496,748.93 and asked when the last time we have seen that value. Mrs. Cosby explained the values were combined OMR and Natural Bar.

Craig Kelly asked if the oystermen were happy with the catches off Jones Shore or caught what they thought they would catch. Rich Riche said the buyers complained about the quality of the oysters from Jones Shore, and noted about 30 percent were boxes. Buyers really liked the oysters up river that shucked nice and were a pretty, healthy oyster. Price stayed steady at about \$40/bushel. Commissioner Fleming asked what the value was coming off of Cedar Point. John Dean responded an average of \$50/bushel, and there was concurrence around the room.

Bill Kilinski questioned the time limit on Order 2017-11 and why are we restricting time when there is a bushel limit in place. Mrs. Cosby noted that the time limit was put in place prior to putting bushel limits in place.

Rocky Rice made a motion for Order 2017-11, to adjust times for all gears from sunrise to 3:00 p.m. for the entire season. Motion was seconded by Paul Springer and unanimously passed (6 to 0).

A motion was made by Rocky Rice to approve Order 2017-13 as written, seconded by Billy Howeth and unanimously passed (6 to 0).

Jones Shore SMA Rotation for 2017 – 2018 and Order 2017-12

Mr. Gary I stated last year was first time oystermen worked the upper Area 1 with hand scrapes. This year we will rotate down to Area 2, which will be open for hand tong or hand scrape. Areas 1 and 3 will be hand tong only. Mr. Gary explained that the plan was modified last year due to mortality, and Order 2017-12 will be consistent with the original plan the workgroup came up with. Chairman Brown made a suggestion to keep Area 1 open to hand scrape due to the number of boxes up there. Mr. Riche thinks we need to have a survey done before that is decided. Mrs. Cosby stated the Fall Survey will be done toward the end of October. Mr. Gary stated that we will request DNR to buoy off the area. Mr. Boarman would like to consider changing time limits for Jones Shore to reflect the time limits on the public oyster bars.

Rocky Rice made a motion that Jones Shore time limits be consistent with the time limits in the rest of the river and accepted the rest of the Order as presented. The motion was seconded by Paul Springer and unanimously passed (6 – 0).

Consideration of third OMR Bar – Sheepshead and New Draft Order 2017-14

Mrs. Cosby stated that the participants in the OMR program previously made a recommendation to the Commission to set aside (designate) Sheepshead Bar as a third OMR bar to possibly plant diploids. Mr. Dean feels, as a member of the OMR program, that the money that's being put into the program is not being made back. The two very best oyster bars are in the OMR program. Chairman Brown stated that the OMR does have a future and that it went through some hard times and will survive it. If MD/VA ever get together and say they want to bring the river back, they will see how good the OMR Program is. However if leasing ever does happen, we can say at least we have somewhere to work. Chairman Brown emphasized that the thing we have going for us is the Potomac River Fisheries Commission. The Commission wants to see the river grow and Sheepshead is in dredging ground. Mrs. Cosby clarified that Sheepshead would remain open as a public ground until something was planted on it, but she did not know when that would be.

Mr. Kilinski stated that he made money and feels the program is worth it. It's a choice to get in it or not get in it, and if it fails, it fails within itself. He stated that he dragged Sheepshead last year and the only place he found any shells was north of St. Clements. Where is the spat going to come from if we take it away or leave it...two or five years down the road. The catch rate is increasing with all programs and with management plans in place now, almost 8,000 bushels oysters were caught; go back six years for 30 bushels caught.

Chip Crowder stated that OMR program does nothing for spat content, it just pumps the biomass content up. He thinks that we should plant diploids on a bar we already have.

Mr. Dean asked about area down below Breton Bay that will be designated for the NRG project, and we will be allowed to take seven percent of the oysters. Mr. Gary agreed that was one way to look at it, but there may be another way to look at it with density of the oysters; either way it would be a limited harvest. The source of the money, which has strings attached, came from litigation over nutrient penalties. Oysters are being planted on the basis of removing nutrients, so we have to leave some. The proposal was written specifically so it would not to be a flat out

sanctuary and that would allow some harvesting with hand tongs only. Mr. Dean noted that if Area 1 on Jones Shore strikes, that would be a good place to put it.

Mr. Boarman suggested we table this issue for now and let the strategic oyster committee see what they might want to do with a spat set, and if it is a good spat set, and would turn this back over to the other committee. Chairman Brown concurred and said we also need to wait and see what happens with what Robert T. Brown is doing with spat on shell. As Chairman, he wants to table this discussion and wait for the Fall Survey and if it doesn't, then he will bring it back up.

Rotational Natural Harvest Program and Special Management Area

Mr. Gary brought their attention to the Rotational Natural Oyster Harvest Plan, dated March 8, 2013, which states the rotational cycle is for five years, and "Once the planted oyster bar has been closed for four years, it will be opened for public harvest". If you want the kind of flexibility that was put in play for Lower Cedar Point last year (early opening), for Pascahanna, Bluff Point, etc, then we need to modify language in the plan and bring it to the Commission for modification. What are the committee's preferences going forward in regards to Pascahanna and Lower Cedar Point, and what needs to be done with the plan to adjust it if need be.

Mr. Rice suggested instead of having a hard time-frame tied to it, obtain flexibility by tying it into a survey in a percentage of harvestable oysters. Once the bar reaches a certain size percentage, that would automatically give the Commission flexibility to open whenever they deem necessary. Mr. Kilinski agreed with the idea. The more language, the more verbiage and the more restrictions, the harder it is to go work on these bars.

Roger Hill stated that there is more area on Cedar Point to work than the small area that was planted. It's a big bar and he's positive there are a lot of natural oysters all over the bar to catch.

When Marty was asked by Chairman Brown about the environmental studies from the bridge, he responded that the first planting on Lower Cedar Point was Great Wicomico seed and subsequent plantings have been James River seed. Great Wicomico seed tends to grow faster. We won't know until Pascahanna survey is done. The plan calls for a certain amount of oysters be left; but Mr. Gary doesn't know how you can tell how many have been harvested and how many have been left. He knows Dr. Wesson feels you will inherently leave some down there. He asked if the committee was interested in opening Lower Cedar Point this fall. Mr. Springer asked if it could be opened during the regular oyster season, October 1st. Chairman Brown stressed that they need to wait until the survey comes back, in the meantime, Cedar Point could be opened back up. Make a recommendation to open Cedar Point October 1st. Once survey is done, then reconvene the committee for a December meeting and discuss opening it after that. Mrs. Cosby said it would be call in again for Cedar Point, because we'd have to monitor what is taken off. She cautioned they would need to be monitored closely. Until the fall survey is done and the bar has been assessed, she strongly advised against opening the planting again. Mr. Dean stated that there is a 10-acre section planted and why couldn't those ten acres be marked off and leave the rest of the bar open for harvest. Chairman Brown says there are top dollar oysters on that bar. He is very concerned about the plan because it is working, but as big as Cedar Point is, it wouldn't hurt to let them go there and work it.

Mr. Rice noted that the call in last year was due to a special opening of Lower Cedar Point. He thinks that the whole bar should be opened November 1st to December 31st, 2017. The Commission would have the final say and if they want to change the rotational cycle for Pascahanna from a date to a percentage of marketable oysters, then they could revisit for March.

Mr. Kilinski noted that if you take Cedar Point away, those licenses are gone and license sales would be gone. We would need to give them something else to work on. Chairman Brown said we need to stay within the plan, but he does not find anything wrong with opening Cedar Point up this year. The survey will give a rough idea of what is left. If you close off the ten acres worked last year, it is not going to hurt the bar. Mr. Crowder clarified that the percentage in the plan is only stuck to the ten acres that were planted. Mr. Dean asked how to keep the data separate from rest of the bar. Mrs. Cosby said that is why daily call in is very important and the committee agreed.

A motion was made by Rocky Rice to ask staff to come up with rewording on the rotational cycle in Section 2 to give some flexibility to the plan. Paul Spring seconded, and the motion passed with a unanimous vote.

A motion was made by Paul Springer to open Cedar Point from November 1 to December 31, 2017 with a daily call in.

There was some discussion regarding whether a call in is needed for all bars, not just Cedar Point. Mr. Gary clarified the language in Section 4 “when the bar is open for public harvest, only between 60 and 75 percent of marketable oysters will be allowed to be taken and then the harvest bar will be closed”. The committee directed Mr. Gary to talk to the scientific advisors to determine if the 60 to 75 percent is the right language to have in the plan.

Paul Springer amended his motion to open Lower Cedar Point from November 1 to December 31, 2017 with a daily call in of harvest off Cedar Point, Monday thru Friday, sunrise to 3:00 p.m. Billy Howeth seconded and the motion passed by unanimous vote.

The committee wants to wait for the Fall Survey before making a decision on Paschanna.

Discussion of Harry W. Nice Bridge Replacement

Mr. Gary gave an update on the schedule for replacement of the Rt. 301 Bridge. He has been in discussion with members of a Joint Evaluation “JE” Committee paying attention to potential impacts of environmental and natural resources. The new span will be right next to the old span with a starting date of approximately 2020 and it will take about five years to complete from construction of a new span to destruction of the old span. They are likely to construct a pier out from Maryland shoreline where barges will tie off and bring materials. On the Virginia shoreline, it will be more intrusive and they will either build a causeway out to the 12 foot contour to roll machinery out or invert and dredge out a 12 foot channel. Mr. Gary said that the committee is stating there will be “no impact” because the depth is more than 1200 feet; however Mr. Gary is concerned with that statement. He wants to know what they are willing to give back because of all of the activity, stopping short of saying mitigation. Mr. Gary suggests getting all

three advisory committees to meet in unanimity, when the time is right, before the public meetings transpire.

Oyster Strategic Planning Panel Update

Mr. Gary stated that Lynn Kellam and AJ Erskine were not reappointed to VMRC by the Governor of Virginia. Since they served their PRFC terms concurrently, they are not on the PRFC Commission any longer and therefore, not on the OSPP. He did not feel comfortable moving discussions forward at the OSPP on leasing and finishing the 2018 activities of the NRG money. The Commission will appoint two new members in September 2017 and then Mr. Gary will schedule a meeting in late September/early October.

Delinquency Notices for Late Harvest Reports

Mrs. Cosby explained that staff talked with the Commission about the delinquent harvest notices, and the Commission suggested we send just one notice instead of two. This notice would alert people that their reports must be delivered to our office no more than 14 days from the date of the notice and it would be the only notice they would get before they were called for a hearing before the Commission. Mr. Kilinski asked where we were with electronic filing and Mr. Gary explained that he has reached out to vendors and they are very expensive, especially for a small organization. However, he is researching other ways such as receiving harvest reports by PDF.

Advisory Committee Vacancies

Mrs. Cosby stated that Craig Kelly's term is up soon and asked if he would serve again and he agreed. Now there are two vacant Virginia member slots. We have received a nomination form for Michael Lightfoot to replace Wayne France's vacated spot due to becoming a Commissioner. This nomination would need to be approved by the Commission in September. There is another opening for a spot that Thomas Lewis previously held and has been vacant since November 2016. It needs to be a Virginia oysterman. The committee was asked to see if they knew of anyone interested.

Election of Chairman and Vice-chairman

Craig Kelly nominated John F. Tucker Brown to serve as chairman again and was seconded by Billy Howeth. Tucker Brown accepted. Roger Hill nominated Rocky Rice to serve as vice-chairman and was seconded by Paul Springer. Rocky Rice accepted. Unanimous vote to each motion.

New Business

Mr. Boarman requested opening an oyster bar to dredging above the bridge between Popes Creek and Mathias Point, possibly for March 2018 (or whatever time frame is deemed advisable by the Commission) with the same bushel limits (8 bu. individual/16 bu. per boat) as long as it doesn't affect the planted area. Mr. Gary suggested this be added to the next agenda for discussion after

the Fall Survey is completed. Chairman Brown concurred that this could be revisited by the committee in November before the December Commission meeting.

Mr. Gary stated that NOAA designated the entire Potomac River, up to Little Falls as critical habitat for endangered Atlantic sturgeon. Congressman Andy Harris and an appropriations committee defunded funding for that designation. Mr. Gary has requested a teleconference with NOAA on Friday, September 22, 2017 at 1:00 p.m. for people who are concerned about what the designation means. Point person is Julie Crocker. Mr. Gary will mail a notice of reminder of the teleconference. Mr. Riche is concerned that there is no basis behind the law and that NOAA could implement closing parts of the river based on this law.

Adjourn

This meeting of the Oyster/Clam Advisory Committee adjourned at 8:34 p.m.

Respectfully submitted,

John F. Tucker Brown, Chairman