

POTOMAC RIVER FISHERIES COMMISSION
September 18, 1970
Colonial Beach, Virginia

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PRESENT - MEMBERS: Commissioners J. Clifford Hutt, Richard E. Lankford, Lawrence O. Hayden, Milton T. Hickman, William P. Hunt.
Absent: Commissioner Roy E. Julie, Jr.

OFFICERS: Robert M. Norris, Jr., Executive Secretary;
K. Thomas Everngam, Legal Officer.

VISITORS: (Advisors to the Commission) Chief J. William Ryland and Supervisor E. Ralph Dameron, of Virginia Marine Police; Lt. Paul C. Wentzell and Lt. Harvey C. Cook, of Maryland Marine Police; Dr. Donald W. Lear, of FWOA; Dr. Morris L. Brehmer, of VIMS; Elgin A. Dunnington, Jr., of CBL; C. R. Bagnell, of Virginia Marine Resources Commission; Messrs. M. Sean Kilpatrick, John Frye, Horton Beirne and Miss Isobel Gough and Mrs. Jackie Shinn representing the press; Delegates Calvin Compton and Mrs. Loretta Nimmerichter, of Charles County, Maryland; Delegate Walther B. Fidler, of Virginia; Frank L. Hamons, of Maryland Fish and Wildlife Administration. In addition, there were 42 other persons in attendance. (List attached)

Mr. Hutt, Chairman, called the meeting to order at 10:10 a.m. in the Town Hall of Colonial Beach, Virginia. He asked for consideration of the Minutes of the last meeting held June 19, 1970 in Colonial Beach, Virginia and the Minutes of the Public Hearing on soft shell clamming held August 17, 1970 in LaPlata, Maryland, stating that mimeographed copies of each Minutes had been previously mailed to each member of the Commission. A motion was offered and seconded that both aforementioned Minutes as presented be approved. The motion was approved.

Mr. Hutt referred to the proposal offered to open area(s) adjacent to Charles County in the Potomac River for dredging soft shell clams, saying that a public hearing on this question had been held in LaPlata, Maryland on August 17, 1970; however, that many present no doubt wished to offer some statement and asked that they be brief. Mr. Compton spoke, asking that the area, or areas, not be opened for clamming; Delegates Fidler and Mrs. Nimmerrichter declined invitation to speak. Several persons spoke for, and others against, approval of this proposal. The Commission decided to discuss the question later in the morning in executive session, saying that a decision would be announced before the meeting adjourned.

The Executive Secretary said that two missing jurisdictional line markers - one in Lower Machodoc River and one on Douglas Point - had been replaced, and the one on Cockpit Point would be replaced within the next few weeks, or as soon as an engineer would be available to locate the station.

Dr. Lear reported on the organization of the previously discussed Pollution Advisory Committee outlining three main objectives, which are to:

1. Keep Commission informed of actual and potential detriments to the Potomac Estuary, especially as applied to fisheries.
2. Act, within institutional capabilities, to investigate problems in the estuary.
3. Act in technical advisory capacity to Commission on matters of marine and estuarine science.

Mr. Hutt recognized Mr. C. C. Presnall and Mr. M. A. Thorne, of the Westmoreland County, Virginia, Planning Commission. Mr. Presnall requested cooperation of the PRFC in instituting a series of monitoring stations along the estuary to monitor pollution, and publish the findings, and eventually do something about it. Dr. Lear said that he already is doing some of this type of testing. He further said that he would be glad to talk with the representatives of the Planning Commission and cooperate with them in any way possible.

Mr. Dunnington reported on a hearing before the Congressional Subcommittee on Environmental Matters, Congressman Reuss, Chairman, held in Washington, D. C. June 22nd and 23rd on electric generating and oil companies operations around the Potomac River, encompassing present and proposed operations as applies to fisheries. He reported that testimony pro and con was presented, but that the status of the hearings is not known, because there is no report from the Committee as yet. Mr. Everngam, Dr. Cronin, Dr. Brehmer, Dr. Lear, Mr. Dunnington and Mr. Norris were in attendance at these hearings representing the PRFC.

Mr. Hutt asked for report of committee appointed at last meeting to investigate oil spill at Piney Point, Maryland. Mr. Everngam read a report dated July 6, 1970 in response. The following motion was offered and seconded:

"That the report of July 6, 1970 prepared by Legal Officer K. Thomas Everngam concerning the recent oil spill at Piney Point, Maryland, containing his opinions as to area of responsibility for civil and criminal prosecutions for oil spillage in the Potomac River, be accepted and made a part of the Minutes of this meeting by being attached hereto." Motion approved.

A motion was offered and seconded as follows:

"That the question of opening area(s) for soft shell clamming in the Potomac River opposite Charles County be considered at the end of the agenda in executive session, and that the Commission then re-convene in public session and announce its decision." Motion approved.

Mr. Dunnington reported that the Chesapeake Biological Laboratory vessel "ORION" with research crew had surveyed all oyster bars in Potomac River on August 24th and 25th. He said that it is evident that the recent seed plantings are a significant part of the present population of the river beds. Also, that last year a significant portion of the harvest came from the extreme upriver bars. His written report was distributed and a copy filed with the Commission.

After full consideration of number of days to open river for tonging beginning October 1st, the following motion was made and seconded:

"That the river be opened for the usual five days (Monday through Friday) for tonging, subject to the Commission taking action later on as circumstances dictate, such as unusual conditions arising concerning health problems." Motion approved.

A recent reported fish kill at Morgantown Pepco Plant was discussed. Dr. Lear said that it appeared to have resulted from a combination of wind and tide action, which trapped fish for two days in oxygen-poor water behind a curtain wall at the intake canal and not from any continuing condition. He has been told that Pepco plans to install a "bubble" wall to keep fish away from the curtain wall and to oxygenate the water at the same time.

Mr. J. Willard Dutton asked that anchored gill nets be authorized beginning January 1, 1971 as per proposal made at last meeting. Mr. Hutt suggested that because of the time required for advertising a public hearing plus the time required after adoption for a new regulation to become effective and the additional expense involved in having an extra public hearing, that Mr. Dutton's proposal be considered by the Legislative Committee on new regulations, which meets annually in January, and that any recommendation on anchored gill nets will be considered thereafter by the Commission.

Itemized lists of disbursements for months of June through August were distributed. A motion was offered and seconded as follows:

"That disbursements for June, July and August 1970 being \$4,409.56 -- \$5,345.59 -- and \$4,040.47, respectively, plus payment of \$80,000 for notes for funds borrowed for 1970 spring seed planting, be approved." Motion unanimously approved.

Mr. Norris reported that the Maryland and Virginia accountants had audited the books of the Commission during the first two weeks of August, but that the report of the audit has not been returned yet.

Mr. Compton asked about three lines of stake gill net poles near buoys #'s 7 and 9, which have apparently been abandoned. Mr. Hutt asked that letters be sent to the owners of these stands requesting that the poles be removed and that, if the licensees wish licenses in the future, the poles must be removed.

A public notice from U. S. Corps of Engineers was read describing application from Potomac Sand & Gravel Co. for permit to dredge sand and gravel around Craney Island area to a depth of 50 feet. This area is between Hallowing and Sycamore Points. The biologists advised that this is a prime spawning area for shad and striped bass. A motion as follows was offered and seconded:

"That the Commission send the Corps of Engineers a letter stating the above facts regarding the spawning of shad and striped bass and asking that if a permit is issued, that it include a provision prohibiting dredging said area during the months of April and May of each year, which is the main spawning period." Motion approved. It was requested that copies of this letter be sent to Board of Public Works and other pertinent agencies.

At 11:25 a.m. the meeting recessed to the Commission Offices, where it resumed in executive session at 11:40 a.m. to consider a decision concerning opening certain areas opposite Charles County for hydraulic dredging of soft shell clams.

Mr. Hutt asked Mr. Everngam his opinion concerning the right of the Commission to sit in executive session. Mr. Everngam said that the PRFC is neither a Maryland or a Virginia Commission, and he knows of no laws that prevent, or prohibit, the Potomac River Fisheries Commission having executive sessions. He also says that decisions can be made in executive sessions and then announced in public.

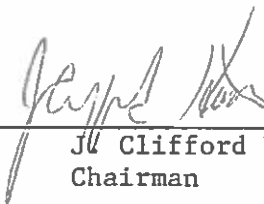
After lengthy discussion, the following motion was made and seconded:

"That the Commission re-open for the catching or taking of soft shell clams by use of hydraulic dredge the uper area under consideration, (i.e., the area opposite Cuckolds Creek entrance containing 215 acres and lying above Swan Point), on Mondays, Tuesdays, and Wednesdays of each week between the hours of 8:00 a.m. and 1:00 p.m. beginning on Monday, October 5, 1970 and extending through Wednesday, November 4, 1970; therby leaving the area closed on Thursdays, Fridays, Saturdays, and Sundays." This motion was unanimously approved.

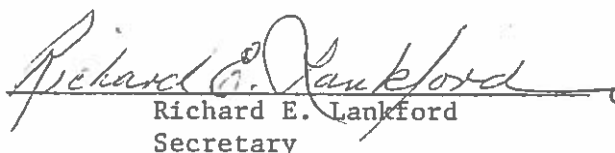
At 1:15 p.m. the Commission closed the executive session and re-convened in public session, with the press and spectators present. Mr. Hutt announced the above decision and that the area off Cobb Island will remain closed, at least until the November 20, 1970 meeting, when the Commission will make a further decision based on the results and behavior of the clambers on the Swan Point area. He also said that the Swan Point area will be patrolled at all times during clamming hours by Maryland Marine Police, and that he would recommend closing on 24-hour notice this clamming area for any violations of the Potomac River Fisheries Commission regulations.

The next meeting will be held November 20, 1970.

At 1:45 p.m. the meeting adjourned.



J. Clifford Hutt
Chairman



Richard E. Lankford
Secretary

J. W. Ryland ✓	Empire Mt. Club (Va)
^{2^d home} Mike Pollio	Ridge Md.
James Gathrow	Ridge Md.
Garrett Russell	atell Md
Frank Ellis	avenue md
Joseph C. Thompson	Avenue Md
George L. Beitzell	Avenue Md.
Alvin Amund	Cotton Point Md
Shirley Young	Chaptico Md.
Arthur Baker	Clement's Md
Sarah Johnson	Avenue Md ✓
Frances Armstrong	Avenue Md
Margaret Young	Avenue Md
Mary Ann Herbert	Avenue Md
Celeste Jones	Cotton Point Md
Tucker Brown	Avenue Md
Loy Russell	Avenue Md.
Rose Russell	Bushwood Md.
James T Russell	Bushwood Md.
James E. Young	Avenue Md.
James Short	Avenue Md.
Marie Dyer	Cotton Point Md.
Susan McPhail	Bushwood, Md.
Keargeat Hart	Col. Beach
Donald W. Lan ✓	U.S. Dept Interior, FURIA, Annapolis, Md.
Morris L. Breiner ✓	Va. Institute of Marine Science
Paul C. Wenzel ✓	Md. Marine Police

- M Sean Kipatuck - Fox Lane Sta
- W. H. C. Cook - Md Marine Patco
- Isaac Fough - Richmond News Leader
- Jim Page - Hunt Fisherman
- Boston Pierre - Richmond Seven Dispatch
- H. E. Summers - Wash. Co. P. Evening Courier
- M. A. Thorne - " " " " "
- Clifford C. Presnell - " " " " "
- James W. Dutton - White Plains, Md.
- Willard Elliot - Rt. 1 Box 212 King George Va
- Wm A. Lewis - Nanjemoy Md
- Nancy T. Stone - Rt. 1 Box 41
- Francis E. Byrnes - Rt. 1 Box 274 Nanjemoy
- Calvin L. Comfort - Port Tobacco Md
- Letta Nimmericetta - Waldorf - Md.
- Sam Bailey Jr - Bushwood, Md -
- Samuel Y. Bowling - Rock Point Md
- Frank L. Hawkins Jr - Fish & Wildlife Administration
- Herman W. Dwyer - Abell Md
- Bobby Pilkerton - Compton Md
- Joseph A. Thompson Jr - Avenue Md
- Evans Faurce - Abell P.D.
- David Lawrence - Abell Md
- Billy Morris - Avenue, Md
- Bernard Bailey - Bushwood, Md.
- Louis Thompson - Avenue Md
- Sam Bailey Sr - Bushwood Md
- Jackie Shinn - Cal. Beach W.D.

C. B. Gagnon ✓
Elinor Dunnington ✓
V. Ralph DeLorenzo ✓

~~Prophetess~~ ✓
Solomons, Maryland
U.S. Marine Reserve

MARYLAND - VIRGINIA COMPACT 1958

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LAWRENCE O. HAYDEN (MD.)
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WILLIAM P. HUNT (VA.)



K. THOMAS EVERGAM
LEGAL OFFICER

R. M. NORRIS, JR.
EXECUTIVE SECRETARY

PHONE 224-2923

POTOMAC RIVER FISHERIES COMMISSION

P. O. BOX 128

COLONIAL BEACH, VIRGINIA 22443

July 6, 1970

Potomac River Fisheries Commission
Box 128
Colonial Beach, Virginia

Re: Interim Report
Piney Point Oil Spill
Steuart Petroleum Company

Gentlemen:

As requested by the Commission at its meeting on June 19, 1970, the writer has made the following investigations and makes this interim report.

1. On June 20, 1970, Commissioner Lawrence Hayden advises that he went to Piney Point and examined the Potomac River beaches, talked to local citizens, consulted with the President of the County Watermen's Association and with the President of a local citizens group. He reported this by telephone to the writer on June 21, 1970.

2. On June 22, 1970, the writer had an hour conference in Annapolis with former Governor Millard Tawes, Secretary of the Maryland Department of National Resources. He called in Joseph Manning, the Director of the newly combined state agency (formerly known as Department of Chesapeake Bay Affairs), and Paul McKee, Director of the Maryland Department of Water Resources and his assistant Mr. Henry Silberman. State Senator Paul J. Bailey of St. Mary's County went with the writer to see Governor Tawes, but had to leave before the others came.

3. The entire situation of the current oil spill, previous oil spills and preventing future oil discharge was discussed. Governor Tawes lead the discussion and was most cooperative. The other gentlemen were frank, appeared concerned, and promised cooperation. Mr. McKee promised to send me a copy of an interim report which he said was in preparation. (No such report has been received to date.) Mr. McKee said daily reports had been made to the State Water Resources Board by the U. S. Coast Guard (who have a station adjacent to the oil spillage site), and the Water Resources Board had men on the site and received daily telephone calls from the Steuart Petroleum Company manager

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and assistant manager. The first call was from a Stuart Petroleum official to Mr. Silberman at his home - within an hour of the oil spillage. Both Water Resources officials said their department was on top of the situation. They said they were aware that this oil spillage problem was within the exclusive jurisdiction of their agency under Maryland law.

4. Mr. Manning promised Governor Taves to send a boat to tong some oysters in the area of the oil spill to ascertain if they were contaminated by the current or previous spills. He also said he would send a helicopter over the area that day to ascertain the extent of the oil slick on the beaches - a week after the spillage.

5. Mr. Manning and Governor Taves discussed whether it was necessary or feasible for the state to insist on Stuart bulkheading the river area where the ships and barges unloaded so as to confine the spillage area in case of an accident. It was pointed out that the oil unloading area is exposed to high winds and rough seas and bulkheading would help eliminate this hazard. Mr. Manning recommended that the area be brightly lighted at night so that an unloading accident or spillage could be more readily visible and corrected quickly. It was pointed out that the depth of the water and exposed position might make bulkheading most expensive and may be impossible. It was said that more barges and tankers are unloaded in Winter (when the need for oil was largest), and this is the time of year when the roughest water is present and constitutes the time of greatest danger.

6. The writer met Commissioner Hayden, the President of St. Mary's County Watermen's Association, the St. Mary's County Health Sanitarian, and two County Commissioners of St. Mary's County at the Court House in Leonardtown, Maryland at 1 P.M. June 22, 1970. We discussed the situation and listened to the local officials present.

All present (with the exception of the President of the Watermen's group) drove to the Stuart Petroleum Company plant at Piney Point. We met with the Manager and Assistant Manager of the plant facility - both of whom have held these positions for many years. They pointed out that we were about the seventh governmental agency to visit their plant and oil docks and make inquiries and investigation in the week since the last spillage. They are listed as follows:

1. U. S. Coast Guard (2 visits to that date from a Norfolk officer and daily surveillance by the local staff.
2. Federal Water Quality Agency.
3. Maryland Water Resources Commission
4. Corp of Army Engineers
5. Potomac River Commission
6. County Commissioners of St. Mary's County

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7. Maryland Department of Health

They also said the metropolitan and local press had written numerous news articles about the spill. Some of the pictures and news articles that have come to the attention of the writer are enclosed herewith.

We inspected the hose which is alleged to have ruptured - due to no known cause according to the Steuart officials. They said the ruptured hose section was to be sent for analysis and report to the manufacturer. I do not remember the name but it was a nationally known manufacturer.

The Steuart officials took us on foot to visit their oil unloading pier and facilities. They explained the operations to us and what happened the night of the accident. They said the hose ruptured without warning and sprayed oil for about three minutes-until the wheel closing the pipe was completely closed. They said their employees were at the site and acted as speedily as humanly possible. We noted the unloading operations and they are very sizeable and several hundred yards out in the deep water of the Potomac River.

7. We then took a boat trip of the area and near the beaches within a 4 to 5 mile area of the Steuart plant in a Maryland Marine Police boat. The two officials of Steuart, the two County Commissioners, the County Sanitarian, Commissioner Hayden and the writer took this trip. At a distance we saw crews of boys and men clearing up the beaches. We also noted boats in which sand (with oil impregnated) was being hauled and dumped. We mentioned to the Steuart officials the complaints of some local people as to the alleged unsuitable dumping place for this oil sand. They told us of their extensive efforts and considerable expenses to clean up the water and beaches.

8. We then visited the Steuart oil boom used in this spill and the \$60,000 rig which is used to take up (absorb) spilled oil from the water. They said that they had \$100,000 worth of equipment and supplies on hand to alleviate oil spillage. It is obviously not very effective in sizeable oil spills.

9. The Steuart officials were courteous and cooperative. They minimized somewhat the amount of oil spilled. They said it was 300 to 500 gallons, but that 200 gallons "got away" that night under cover of darkness. This was the oil that they said was driven away by a strong wind and onto the beaches. From their conversation, it was my conclusion that oil spills of various sizes are the normal expectancy of any sizeable overwater oil unloadings and cannot be prevented totally. They apparently can only be minimized.

Law of Maryland

10. The applicable law of Maryland, Article 96A Sections 26 and 27, Annotated Code of Maryland, gives exclusive responsibility for the enforcement, civil and criminal prosecutions, and civil penalties for oil spillage in the waters of Maryland (which includes the Potomac River) to the Maryland Department of Water Resources.

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Other agencies of Maryland may be called upon for administration, equipment, enforcement, and assistance in the oil spillage program. The Attorney General of Maryland must prosecute all cases arising under the provisions of this oil spillage law - including enforcement of civil and criminal penalties. The Department of Chesapeake Bay Affairs has the specific responsibility to develop a program, including training, which would enable the State to respond to an emergency oil spillage in Maryland waters.

Photocopies of the applicable Maryland law are being sent under separate cover to the Potomac River Commission.

We will supplement this interim report later after the hearings to be held in Washington, D. C. on July 21 and 22, 1970.

Respectfully yours,

K. Thomas Evergam
Legal Officer

KTE:1
cc: Lawrence Hayden

7/6/70

Mr. Norris:

Please make photocopies of this and send to all the Commissioners except Larry Hayden.
Thank you.

K. Thomas Evergam



*Copies made 7-7-70 to: Commissioner J. C. Blunt
" M. J. Duckert
" W. P. ...
" K. E. ...
" K. E. ...*

*also to: Dr. L. E. ...
" W. J. ...
" D. Lear*