

Meeting Summary
Oyster Advisory Commission (OAC) Meeting
Maryland Department of Natural Resources (DNR), Tawes State Office Building
Annapolis, MD
(6:00 PM – 9:00 PM)
August 22, 2016

LIST OF ATTENDEES

Commissioners Present:

Kelley Cox (Co-Chair)	Phillips Wharf Environmental Center (PWEC)
Scott Eglseder (Co-Chair)	Eglseder Wealth Management Group, Inc.
J.D. Blackwell	38° North Oysters
Don Boesch	University of Maryland Center for Environmental Science (UMCES)
Robert T. Brown	Maryland Watermen's Association
Kelton Clark	Morgan State University (MSU)
Ron Fithian	Kent County Commissioners
Bill Goldsborough	Chesapeake Bay Foundation (CBF)
Jeff Harrison	Talbot County Watermen's Association
Steve Hershey	State Senator
Bill Kilinski	Charles County Watermen's Association
Doug Legum	Douglas Legum Development Inc.
Ken Lewis	Coastal Conservation Association (CCA)
Jim Mathias	State Senator
Johnny Mautz	State Delegate
Jim Mullin	Maryland Oystermen's Association (MOA)
Ben Parks	Maryland Watermen, Dorchester County
Deborah Rey	State Delegate
Peyton Robertson	National Oceanic and Atmospheric Administration (NOAA)
Eric Schott	University of Maryland Center for Environmental Science (UMCES)
Angie Sowers	U.S. Army Corps of Engineers (USACE), Baltimore District

Commissioners Unable to Attend:

Jason Schmidt	Talbot County Seafood Heritage Association
Ann Swanson	Chesapeake Bay Commission
Aubrey Vincent	Lindy Seafood

Other Meeting Attendees Present:

Aquaculture: Ms. Betty Colhoun

Bay Journal: Mr. Tim Wheeler

Chesapeake Bay Commission: Ms. Bevin Buchheister

Chesapeake Bay Foundation: Mr. Karl Willey, Mr. Tom Zolper

Citizen: Mr. Charles Denton, Mr. Lani Hummel, Mr. Bob Whitcomb, Ms. Jennifer Herzog

Coastal Conservation Association (CCA): Mr. Larry Jennings, Mr. David Sikorski

Congressman Andy Harris' Office: Ms. Denise Lovelady

Delegate District 30B: Delegate Seth Howard

Delmarva Fisheries Association Inc: Capt. Robert Newberry

Maryland Department of Natural Resources (DNR): Mr. Dave Blazer, Mr. Dave Goshorn, Ms. Jodi Baxter, Mr. George O'Donnell, Mr. Eric Weissberger

Maryland Environmental Service (MES): Ms. Kate Meade, Ms. Christine Holmburg

Oyster Recovery Partnership (ORP): Mr. Bryan Gomes

South River Federation: Mr. Jesse Iliff

Senator Hershey's Office: Ms. Erica Howard

Tidal Fish Advisory Commission: Ms. Rachel Dean

Handouts:

- Meeting Agenda
- August 1, 2016 Draft Meeting Summary
- Presentation – Oyster Restoration Tributary Selection Criteria
- USACE Native Oyster Master Plan

Note: Meeting agendas, handouts and approved meeting summaries will be available on the OAC webpage:

<http://dnrweb.dnr.state.md.us/fisheries/management/?com=oac&page=meetings>

Action Items:

- For the next OAC meeting DNR will:
 - Present the list of criteria that were agreed upon by the OAC that also shows how the Commissioners prioritized these criteria.
 - Present data on the criteria for each of the MD sanctuaries
 - Provide a presentation on County Oyster Committees

- Discuss the feasibility of rotational harvest within sanctuaries and a timeline for this discussion
- Provide the OAC with some guidance about what would be required to allow rotational harvest in MD sanctuaries where State Capitol Funds have been used for restoration in the past.
- DNR will provide a link to the questions regarding the Man -O-War Shoals application for shell dredging that DNR received from the USACE (as well as the DNR responses to these questions). Note: The link to the questions and responses is provided under the “Permits” tab on the OAC website <http://dnr2.maryland.gov/fisheries/Pages/mgmt-committees/oac-index.aspx> (Action Item Completed)
- DNR will provide the OAC with the following:
 - Breakdown of where (within the Chesapeake Bay) Federal Funds for oyster restoration have been spent in the past.
 - Paper copies of the “2014 Chesapeake Bay Watershed Agreement”. This was placed on the website instead of printing: <http://dnrweb.dnr.state.md.us/fisheries/calendar/v2/event.asp?id=1243> (Action Item Completed)
- DNR will establish dates, locations, and topics for future OAC meetings:
 - Dates for monthly OAC meetings will be posted on the webpage. (Action Item Completed)
 - One or two alternative future meeting locations for the OAC meetings will be identified due to the likelihood of increased public attendance and the need for a larger meeting space.
 - DNR will consider whether it would be possible to include a discussion of rotational harvest at a future meeting due to the upcoming oyster season.

MEETING SUMMARY:

Welcome and Introductions (Kelley Cox)

The meeting attendees introduced themselves.

Meeting Summary Approval (Scott Eglseder, Co-chair)

The August 1 meeting summary was approved by the Commissioners with a few corrections by Senator Hershey and Ms. Sowers. The corrections will be made prior to the posting of the summary on the OAC webpage.

Mr. Lewis commented on the conditions for recommendation that were developed by the Commission at the August 1 meeting. Regarding condition #1, which directs the Department of Natural Resources (DNR) to apply for permits to dredge at Worton Point, Plum Point, and Shad Battery Shoals, Mr. Lewis stated that the US Fish and Wildlife Service (USFWS) has opposed

dredging for shell at these locations in the past and unless the USFWS has changed their position regarding the protection of habitat in these areas, applying for permits to dredge shell at these locations is unlikely to be successful.

Mr. Goldsborough commented, repeating a comment made at a prior meeting, that the rock used as substrate in restoration came from the Susquehanna and is native to the bay.

Review of Task 2: Recommending the Next Two Tributaries (Dave Blazer, DNR)

The conditions agreed upon by the Oyster Advisory Committee (OAC) at the August 1 meeting have been finalized, circulated in DNR for discussion, and forwarded to the appropriate Federal agencies. These conditions accompanied the Committee's recommendation that the State of Maryland allow the USACE to move forward with the completion of 8-acres of federally funded oyster reef restoration in the Tred Avon River.

Mr. Blazer explained that tonight's meeting will focus on the second task that Secretary Belton requested which is to recommend the 4th and 5th tributary to be selected for the Maryland oyster habitat restoration program. It is anticipated that it will take three meetings for the OAC to select the final two tributaries for restoration.

The third task that Secretary Belton requested that the OAC address (which will be discussed at future meetings), is to provide recommendations regarding the current oyster sanctuary and fishery programs. It is anticipated that these future meetings, which will focus on sanctuaries and public fisheries options such as rotational harvest, will take 5-6 months (meeting monthly) to complete.

Selection of the 4th and 5th tributaries is required by the 2014 Chesapeake Bay Watershed Agreement which was signed by New York, West Virginia, Virginia, Pennsylvania, Delaware, Washington D.C., and Maryland. Restoration work in the first three tributaries (Tred Avon, Little Choptank, and Harris Creek) has already been started. The 2014 Chesapeake Bay Watershed Agreement goal includes a commitment to restore oyster populations in 10 tributaries in the Chesapeake Bay; Maryland and Virginia committed to identifying and restoring 5 tributaries in each State to historic oyster population levels by 2025. Funding, planning, and many other activities will need to be undertaken in the next year in order for Maryland to meet the 2025 goal which has prompted the need to select the remaining two tributaries in a timely manner. The discussion, presentation and activities tonight will focus on:

- 1. What criteria the OAC would like to use to select the 4th and 5th tributaries, and*
- 2. The identification of some initial candidate tributaries by the OAC for further discussion.*

- Mr. Blackwell asked about the goals for choosing the tributaries. For example, is the goal to fix water quality, or is it to create an oyster brood stock preserve to reseed other areas?
 - Mr. Robertson explained that in the 2014 Chesapeake Bay Watershed Agreement which was signed by the governors in the regional jurisdictions, the question regarding "restored" was asked and for what purpose (i.e. what ecosystem services are expected from the condition of being restored). A workgroup created

a basis for determining whether restoration had been achieved which are referred to as the “Oyster Metrics”. These metrics include the density of oysters present (specifically 15 -50 oysters per m² over 30% of the reef area). Ecosystem services (including improved water quality) described for the overall outcome are predicted to increase if these metrics are met.

- Senator Mathias suggested that the rotational harvest discussion be held sooner than Mr. Blazer was planning due to the impending oyster season.
- Mr. Brown suggested that the OAC recommend a policy or program to open up some of the sanctuary areas to public harvest as soon as possible. Mr. Brown stated the Chesapeake Bay is showing improvements and will eventually adapt; in the meantime actions need to be taken to help the fishing industry. Mr. Brown suggested that the goals and objectives of the OAC be reviewed and changed as necessary in order to address this need. Regarding the DNR application to dredge shell from the Man-O-War shoal, while it is in the permit review process the OAC should investigate an alternative location where shell can be obtained in case the permit is not approved.
- Delegate Mautz stated that issues related to the Maryland Oyster Management Plan (and the State’s focus on oyster restoration sanctuaries) are at the forefront of everyone’s thoughts. Delegate Mautz asked if the OAC was required to follow the Maryland Oyster Management Plan, which was created 5 years ago, or whether the plan could be changed to allow for a more efficient and effective method for restoring oysters. A common criticism is that the current plan focuses on oyster restoration in only a few sanctuary areas. Delegate Mautz suggested discussing issues regarding the current Oyster Management Plan at a future meeting.
- Mr. Fithian suggested that the issue of dredging for buried oyster shell at Man-O-War shoals be a future topic of discussion and that the OAC create a letter of support for the DNR permit and the use of shell in future federally funded oyster restoration projects. He noted that there are 46 years of data available regarding dredging shell and he hopes that this data is taken into account regarding the permit application.
 - Mr. Blazer stated that US Army Corps of Engineers (USACE) recently sent DNR some questions regarding the Man-O-War shoals permit application. DNR responded to those questions and are waiting to hear back from USACE. DNR expects an email from the USACE within the next few days regarding the anticipated timeline for their response. Mr. Blazer noted that the USACE questions and DNR responses will be placed on the DNR website.
- Mr. Goldsborough explained that the previous OAC had extensive discussions regarding the Man-O-War shoals and suggested that the OAC members review the meeting summaries and reports from these meetings. He noted that it was estimated that 100 million bushels of shell could potentially be removed from the Man-O-War shoals which would be enough shell for the proposed projects. However, he explained that there are other aspects related to dredging Man-O-War shoals which concern Maryland stakeholders. Specifically, Man-O-War shoal contains the last natural three dimensional

(3D) oyster reefs in Maryland. Mr. Goldsborough emphasized the importance of investigating the use of various alternative materials for the restoration of oyster reefs while oyster shell in large enough quantities for the proposed restoration projects continues to be unavailable. He noted that the OAC had recommended the use of rock for oyster reef restoration after extensive discussion and analysis. He noted that the topic of substrate is very important and he recommended that the topic be discussed further by the OAC.

- Mr. Legum expressed concern regarding the amount of shell which will be needed for the oyster reef restoration areas. He asked if watermen object to placing rock in the Severn River.
 - Mr. Brown stated that some trot lining does occur in the Severn River. He noted that watermen are mostly concerned about the use of large stone (boulders) for the construction of oyster reefs.
- Mr. Fithian noted that if DNR received a permit to dredge the Man-O-War shoal there would be enough shell for aquaculture, public and private oyster bars, sanctuaries, etc. from the Man-O-War shoal area.
- Mr. Legum asked if it made sense to replant the Man-O-War shoals with oysters rather than dredge the shell off of this area.
 - Mr. Fithian replied that oyster planting on Man-O-War shoals has never been productive and other sites are better for planting.
 - Mr. Parks agreed, stating that Dorchester County undertook to plant Man-O-War shoals with seed oysters in the past, but they found it wasn't productive.
 - Mr. Fithian stated that the OAC needs to decide if it is serious about bringing the oyster populations back and sacrifice the Man-O-War shoals for the good of the bay.
- Mr. Brown distributed the USACE Native Oyster Master Plan for OAC review. He stated that the plan does not reflect anything regarding the working man. Mr. Brown explained that this USACE Plan is the document that established the large scale approach to oyster restoration in the Chesapeake Bay tributaries. He explained that the plan established the goal to set aside 20-40% of historic oyster habitat (equivalent to 8-16% of Yates oyster bars) for restoration. Mr. Brown noted that Maryland has now established sanctuaries on 24% of the oyster bottom in Maryland based on this Master Plan; however the USACE was discussing the historic size of the oyster bottom in the Chesapeake Bay, which is why the USACE and Maryland figures on the amount of oyster ground do not match up.
 - Ms. Sowers stated that the 24% of mapped oyster bar habitat which the State of Maryland set aside as sanctuaries is the State's own set of numbers. The sanctuaries were designated prior to the USACE Master Plan. The numbers in the USACE Master Plan refer to the percentage of historic bottom targeted for effective oyster habitat restoration in the Chesapeake Bay in any given sanctuary.
- Mr. Boesch asked about how historical oyster bottom is determined and how it is determined whether an area of bottom within a sanctuary is restorable or not.

- Mr. Weissberger replied that the location and percentage of historical oyster bottom is based on the hardness of the bottom which can support shell or spat on shell (i.e. can the bottom support material without sinking). The Maryland Geological Survey (MGS) uses side-scan sonar to locate appropriate bottom, followed by the National Oceanic and Atmospheric Administration (NOAA) using multi-beam sonar to refine the areas to obtain a higher resolution scan of the bottom. In order to determine whether an area of bottom within a sanctuary is restorable or not they use both the data on the location of hard bottom as well as other criteria, such as whether an area is hypoxic.

Presentation: Tributary Selection Criteria (Eric Weissberger, DNR)

Mr. Weissberger reviewed a set of Oyster Restoration Tributary Selection Criteria that had been used in the past to select tributaries for restoration. The criteria included:

salinity, dissolved oxygen (DO), depth, amount of hard bottom, historic spat set, potential for larval retention, proximity to fished areas, enforceability, geographic placement, historic levels of oyster diseases (Dermo, MSX) and mortality levels, current oyster density, Maryland Department of the Environment (MDE) restricted areas, and surrounding land use.

He explained that the DNR Secretary, Mark Belton, had requested that the OAC consider four additional criteria when choosing the additional tributaries:

1. Avoid choosing additional tributaries within the middle Eastern Shore area. The two additional tributaries should be located outside of this area because the first three tributaries are already located here and the restoration projects in these tributaries are having an impact on the oyster fishing industry in this area and this burden should not be increased.
 2. Choose tributaries which require little investment to reach the restoration goal in order to reduce costs (ideally where there are areas of hard bottom and/or where good spat set already occurs)
 3. Choose tributaries which are already protected as sanctuaries (since these areas have already been assessed and identified as potential restoration sites and in order to reduce the cost of additional assessment)
 4. Choose tributaries with areas for restoration that are large enough to be meaningful in terms of achieving desired ecological effects, but are also a tractable size.
- Mr. Blackwell asked if maps that show bottom type (hard bottom, soft bottom) are available. Mr. Weissberger referred the OAC to the 5-year report, which is available on the DNR webpage.
 - Delegate Rey asked whether restoration of oyster reef habitat in contiguous areas is required.
 - Mr. Weissberger replied that oyster reef restoration does not need to be contiguous and that it would be very hard to find contiguous historical hard bottom where restoration could take place.

- Delegate Rey suggested that other uses of the tributary (fishing, crabbing boating) should be added as one of the criteria used for the selection of the two tributaries to be restored. Delegate Mautz noted that there are land owners in coves who would be affected by restoration efforts as they would be unable to dredge their coves when needed.
- Mr. Goldsborough asked if a sub-priority could be given to the tributaries which are present on the USACE Master Plan list.
 - Mr. Blazer stated that this could be one of the criteria for the discussion and evaluation of candidate tributaries. The DNR will research the different tributaries based on the suggested criteria provided by the OAC.
- Mr. Goldsborough asked if all of the tributaries on the USACE list have been approved for federal restoration projects under the National Environmental Policy Act (NEPA) review process (an assessment that includes economic, cultural and environmental analysis). He suggested that additional criteria for identifying the final two tributaries for restoration should be whether or not the tributary has a completed NEPA approval already. He asked if Ms. Sowers could provide DNR and the OAC with a list of the tributaries which have been through the NEPA review process already and which are therefore already approved so that the USACE would have the authority to start work in them without additional NEPA review.
 - Ms. Sowers replied that some of the tributaries on the USACE list have already been reviewed under the NEPA process but not all of them. She noted that none of the tributaries that have been assessed using the NEPA process have a full assessment for the entire tributary. She explained that any specific areas of a tributary that is chosen for a federal restoration project, which has not already passed the NEPA review approval process, will need a NEPA assessment completed and approved before work can occur.
 - Ms. Sowers agreed to provide information to DNR regarding which tributaries and which areas of these tributaries have already been approved for restoration through the NEPA process so that it can be discussed as criteria at the next OAC meeting.
- Ms. Cox asked which tributaries have already had federal funds spent in them.
 - Mr. Blazer indicated that he would provide a breakdown.
- Mr. Goldsborough requested that the tributaries on the USACE list (including the tributaries that have already been reviewed under the NEPA regulations) be added to the list of candidate tributaries. Mr. Goldsborough asked if DNR would grade the list of potential tributaries according to the criteria to allow for comparison.
 - Mr. Blazer noted that this meeting was the discussion stage for OAC members to provide input and future meetings would have more details based on the list of candidate tributaries.
- Delegate Mautz asked if the next two tributaries would be a shared project between the State of Maryland and USACE.

- Mr. Weissberger stated that it depends on the tributary selected since the USACE must conduct a full NEPA review and be approved before they can move forward with a project. If a project is not approved through the NEPA process there would not be any federal funding. When there is a joint project between the USACE and State, the Federal agency pays 75% while the State pays 25% of the project cost in compliance with the Water Resources Development Act (WRDA). This applies to any joint USACE and state project.
- Mr. Brown stated that the restoration effort needs to be more balanced between Maryland and Virginia. Currently Maryland has 14 tributaries identified in the Plan while Virginia has 10 tributaries identified.
 - Ms. Sowers explained that the Master Plan list summarizes the suitability of candidate tributaries. Virginia may have fewer tributaries listed, but they are typically larger (more acreage) than those in Maryland.
- Mr. Legum asked if there is an understanding of why there are oysters in Virginia growing outside of the sanctuaries where oyster restoration has not taken place. If so, then finding an area in the Chesapeake Bay with those conditions would be very helpful. Mr. Legum asked if there was a salinity threshold which improved reproduction but did not foster disease.
- Mr. Boesch clarified that an inherent conflict between reproduction and disease does not exist. In Virginia, it is being demonstrated that if the populations are confronted with disease epidemics there will be survivors who are resistant to diseases. He noted that there is also fairly rapid evolution of the diseases as well so it is important for disease resistance to develop in a tributary where disease is an ongoing issue and where there is a sufficient population of surviving oysters for continued reproduction so that the population continues to develop resistance over time. In Virginia there is higher salinity; higher disease prevalence; but also with larger populations of oysters they have achieved disease resistance and a reduction in mortality. Mr. Boesch cautioned the group not to be driven away from any particular area of higher salinity on the basis of disease.
 - Mr. Weissberger agreed and stated that one of the long term goals of the sanctuary program was to foster disease resistance.
- Mr. Clark requested that the DNR make copies of the 2014 Chesapeake Bay Watershed Agreement for distribution to the OAC. Mr. Clark stated that the criteria for determining the remaining two tributaries for restoration should be measurable, allowing DNR some mechanism to apply across different tributaries, and take in to account variability. Mr. Clark stated that placing oysters in restricted areas should be investigated taking into account the risk of poaching which can be very detrimental to oyster populations.
 - Mr. Blazer stated that OAC members will be asked to vote on what members believe to be the more important criteria.
- Mr. Fithian stated that he would like to know which substrate would be in use before any decisions are made.

- Mr. Blazer responded that in accordance with the conditions that the OAC put on their approval of the Tred Avon 8-acre project, the goal will be to use as much shell as possible. If there is a situation where another substrate is required for a project this will be refer back to the OAC for comment.

Mr. Blazer listed the criteria that had been discussed and the list of criteria was put up on posters around the room. He asked that the OAC members choose (and mark on the posters with dots that were provided to each member) their top three choices for the criteria that should be weighted as most important for determining the two tributaries for restoration.

The number of dots OAC members marked for each criterion was:

- 17 Amount of Hard Bottom
- 11 Historic Spat Set
- 8 Potential of Larval Retention
- 5 NEPA Approved
- 4 Enforceability
- 3 MDE Restricted Area
- 2 Salinity
- 2 Geographical Placement
- 2 Current Oyster Density
- 2 Other Tributary Uses
- 1 Dissolved Oxygen 1 Proximity to Fished Areas
- 0 Depth
- 0 Historic Disease/Mortality
- 0 Surrounding Land Use

Mr. Blazer reminded the members that DNR is keeping a list of related issues (“parking lot”) that the OAC has asked for more information on. DNR will keep a running tab on these requests. The list is included at the end of the meeting summaries.

Discussion on Candidate Tributaries (OAC members)

The OAC will select tributaries to be evaluated based on a review of each tributary by criteria. Ms. Cox asked the OAC to suggest various “strawman” tributaries for an initial discussion.

- Mr. Robertson discussed how the Interagency Oyster Workgroup (which included NOAA, USACE, DNR and consulting scientists) completed a thorough investigation of the available information regarding the best locations in the Bay for oyster restoration. The workgroup used the same criteria that the OAC is currently considering as well as additional screening guidelines. He noted that the Interagency Oyster Workgroup analysis indicated that the tributaries on the South Western Shore of the Bay (an area with higher salinity) would be a good area to focus on, particularly the Potomac River. He noted that there is documented high recruitment and high spat sets and existing oyster populations in this area as well as in areas on the Lower Eastern Shore.

- Mr. Robertson recommended that the OAC consider tributaries within the Potomac River. He noted that the Potomac River Fisheries Commission is currently developing a plan for the lower Potomac which will identify areas for oyster recovery. Mr. Robertson reminded the OAC that Virginia does not expend as many resources because they have extensive natural spat set on areas that have existing areas of hard bottom and shell. An example in Virginia is the Piankatank River. Virginia has established an upstream line and a downstream line within the Piankatank River which establishes boundaries in which restoration can take place. Mr. Robertson asked the OAC to consider whether a similar plan for the Potomac might work. Mr. Robertson specifically recommended the St. Mary's River (a tributary to the Potomac River) which has a high spat set.
- Mr. Robertson also recommended the Manokin River on the Eastern Shore in Somerset County as an addition to the candidate list.
- Mr. Robertson suggested that the OAC consider the Severn River (although historically there has been a low level of oyster reproduction in this river) since there has been a lot of public interest. He noted that if restoration was going to be carried out in the Severn River, more resources would need to be expended and that this would increase the cost of the restoration projects compared to cost for restoration in other tributaries.
- Mr. Clark recommended that the OAC discuss the Rhode River (a tributary to the West River).
- Ms. Cox pointed out that the West River and tributaries within the West River are not currently designated as sanctuary areas. She noted that the DNR Secretary had requested that the next two tributaries selected for restoration be chosen from the areas that have already been designated as sanctuaries.
- Mr. Harrison suggested the South River and the Severn River due to public interest.
- Mr. Fithian noted that both the Severn and South River are not especially good candidates since they would not provide a large return on investment. He noted that there is dissatisfaction with how other sanctuaries were previously chosen (for example, parts of the Chester River were designated as a sanctuary even though the area has low salinity, and low spat set). Mr. Fithian stated that areas with high spat set are one of the most important criteria.
- Delegate Rey pointed out that the DNR Secretary had suggested that the OAC pick candidate tributaries that are already designated as sanctuaries. She indicated that she does not feel that this should be a reason to discount suggested candidate tributaries such as the Severn River and the South River.
- Mr. Blackwell asked if there was a sense of size that the selected tributary would need to meet. If Breton Bay was chosen for restoration, would the restoration have to encompass the entire tributary or could half of the area be the federal restoration site allowing the other half to be open for possible harvesting uses?

- Ms. Sowers replied that how much of the tributary is taken would be determined by the amount of available restorable bottom in the tributary. It has been identified in the metric that the restoration goal should be 50-100% of restorable bottom. If there is enough hard bottom, the sanctuary could be positioned in a way but the science would need to be investigated (i.e. water circulation, larval transport) to determine what alignment for the sanctuary within the tributary would be best. It would be decided on a case by case basis.
- Ms. Sowers suggested that all of the current sanctuary tributaries should be evaluated by the criteria (as established by the OAC) and then ruling out tributaries and narrowing down the candidates would be easier.
 - Mr. Eglseder asked if DNR had the ability to take the criteria, match it against the available sanctuary tributaries to determine which tributary has the most points (i.e. each criterion as a point).
 - Mr. Blazer stated that for the next meeting the tributaries will be compared with data associated to the criteria.
- Mr. Brown stated, regarding the St. Mary's River, that rotational harvesting needs to be discussed for this tributary. He spoke in favor of designating parts of the river as seed areas to improve the public fishery.
- Mr. Brown suggested that legislation be written to state that any shells taken from a sanctuary which has been opened up for rotational harvesting are required to be sold to the State so that they may be returned for use as substrate within the sanctuary.
- Mr. Parks stated that there are many watermen (from three different counties) who are currently working the same areas of water in the Manokin River. He suggested that this river should be set aside for the public fisheries.
- Mr. Kilinski voiced a concern with the direction of the discussion and stated that the OAC should stay away from all of the public fishery areas.
- Mr. Goldsborough stated that the overall project of selecting two of the five tributaries for restoration is not the beginning and end of the oyster restoration. There is a need to look beyond 2025. Mr. Goldsborough suggested that the members of the OAC learn as much as they can from this process and that they select tributaries which are in both high and low salinities to gather the most information.
- Mr. Clark asked for clarification regarding the rivers being chosen for restoration, that public fisheries would be lost.
 - Mr. Boesch replied no, public fisheries would not be lost if the tributaries selected were already in sanctuary.
 - Mr. Brown stated that there was discussion of having rotational harvest within sanctuaries, and does not want to run the risk of losing areas to permanent sanctuaries by making the tributary selection before a discussion on rotational harvesting is held.

- Mr. Boesch noted that if the selected tributary was a sanctuary it would remove the opportunity for it to be opened to the public for rotational harvest if federal funds are spent.
- Delegate Mautz requested that since three tributaries located in the Choptank basin (in the Mid Eastern shore area) have already been selected for federal funded restoration, that the OAC not select another tributary in the mid to lower Eastern Shore area.
- Mr. Schott stated that disease resistance is an important goal for oyster restoration in the existing sanctuaries. If it is an important goal there should be sanctuaries in the lower bay (currently the majority of sanctuaries are located in the upper bay). Mr. Schott proposed the trading of sanctuaries and public fisheries to create a no net loss for fisheries while allowing for sanctuaries in the Lower Chesapeake Bay.
- Senator Hershey asked how cost was being considered and how the tributaries would be funded (i.e. budget allocation). He also asked how the funds are allocated.
 - Mr. Blazer replied that more detail will be given regarding the budget items at a later date, but USACE, the State of Maryland, and NOAA all have different cost ratios that were described by Mr. Weissberger in his presentation. He explained that the Maryland Capital Program funds for oyster restoration must be approved by the Board of Public Works (BPW). Contracts for the work are awarded to contractors. He noted that future funding is not guaranteed and cautioned the OAC to be cautious and prudent as future funding sources are unknown
 - Ms. Sowers noted that USACE funding comes from WRDA and contract work is evaluated for award based on performance and cost criteria. She noted that other federal funding is provided through NOAA.
- Senator Hershey asked about ORP funding and whether there is a ballpark amount of funding that will be available for oyster restoration.
 - Mr. Blazer replied that he will obtain that information regarding ORP funding and present it to the OAC at a future meeting.
 - Ms. Sowers replied that funding has to be requested no matter what the size; a project with broad stakeholder support (although it is larger and more costly) would most likely have more of a chance for funding than a smaller tributary which is generally opposed by the public. The USACE must make a good argument for why a project should be funded as part of the federal funding process.
 - Mr. Weissberger reminded the OAC that it is not necessarily tributary size, but the amount of restorable bottom which is important (i.e. a larger tributary can have less restorable bottom than a smaller tributary in some cases).
- Mr. Boesch noted that the 5-year report provides data and analysis regarding how best to determine where restoration should take place. Restoration in areas where there is low salinity with low recruitment of oyster spat increases the cost of restoration. He recommended eliminating sanctuaries in low salinity areas from the review and instead considering restoration in areas where recruitment is more regular. Mr. Boesch noted

that if you look at the data on sanctuary performance where restoration has not taken place, it is possible to identify current sanctuary areas where oysters will likely do well with little restoration effort. Based on the data, the St. Mary's River and the Manokin Rivers both deserve consideration as tributaries where restoration may be successful. In addition, both sanctuaries are close to public fishery areas which would provide the opportunity for the restoration of self-reproducing oysters to have benefits to both the improvement of public fisheries and habitat creation goals. The focus should be on the option which produces the most benefits at the lowest cost.

- Mr. Parks stated that areas of low salinity need to be replanted every year. If the state is looking to take those areas out of sanctuary they will have to be reseeded.
- Mr. Kilinski noted that in the Potomac there is high spat set and suggested a sanctuary off the Potomac might be considered as preferable to the St. Mary's River sanctuary.
- Delegate Rey asked for clarification regarding whether it would be possible to establish a restoration area within just a portion of an already established sanctuary. She asked if the whole sanctuary must become a restoration area and therefore permanently prohibited from public oyster fisheries.
 - Mr. Blazer replied that within a sanctuary tributary where habitat is restored with federal funding no harvest would be allowed; however leasing of oyster ground for aquaculture is allowed although it is limited to 10% of the restorable bottom within the sanctuary.
 - It was noted that if the WRDA federal regulation changed the restored areas might possibility be harvested again.
 - Mr. Robertson clarified that leasing for aquaculture is allowed in sanctuaries, but sanctuaries are closed to the public oyster fishery. He pointed out that if a sanctuary is restored using federal funds, there would be no further loss to the public oyster fishery since oyster harvest is already prohibited. If no federal funds are used then the state can change their policy to open up sanctuaries and allow for use by the public oyster fishery.
- Ms. Sowers stated that at the beginning of the meeting there were two distinct tasks (Task 2: Identification of two additional tributaries for restoration and Task 3: Identification of areas within current sanctuaries that might be opened for rotational harvest). From tonight's discussions it seems that the tasks are no longer as distinct as they once were.
- Mr. Schott advised the OAC to not loose site of the fact that the intended goal of a sanctuary is to enhance the fishery by providing a natural source of seed. Mr. Schott stated that there will be short-term impacts to fishermen (i.e. sediment plumes, unavailable fishing grounds) and suggested that there might be a way to balance impacts and benefits.
- Delegate Mautz stated that there are other aspects which play a large role in these decisions. Shell is extremely important and will solve many of the problems. Delegate Mautz suggested having the shell discussion as an agenda item at the next meeting.

- Mr. Fithian and Mr. Parks suggested that the OAC send a letter to the USACE stating that the OAC is in favor of the permit to dredge shell from the Man-O-War shoals.
 - Ms. Sowers stated that she would have to abstain from any vote regarding the Man-O-War shoals.
 - Many other members of the OAC expressed a concern of rushing a decision and requested more information on the subject before a motion could be voted on. Mr. Goldsborough suggested that the issue be discussed as part of a future agenda item and that DNR could provide analysis so that the OAC would be able to develop an informed decision.
 - Mr. Fithian withdrew the motion until further information was received.
- Ms. Cox replied that sanctuaries which were restored with federal funding would never be opened up to public fisheries, but if the sanctuary was funded by the State of Maryland then there is a possibility for consideration for rotational harvesting. Mr. Parks stated that Oyster Shell Point was funded by money solicited from Dorchester County Commissioners not the State or federal government and that it is now a designated sanctuary.

Topics for Future Consideration by the OAC (Dave Blazer)

Mr. Blazer asked for topics for future consideration.

1. Mr. Brown suggested a discussion regarding the OAC goals and objectives.
2. Mr. Goldsborough requested discussion in regards to the use of capital funds versus state funds for oyster restoration.
3. Mr. Kilinski requested a presentation on the County Oyster Committees.
4. Mr. Parks and Mr. Mullin requested that the OAC discuss rotational harvest as a topic at the next meeting. Mr. Parks reminded the group that the public fisheries have already lost one season and at this rate a second season will be lost if rotational harvesting is not discussed/finalized until May 2017.
 - Ms. Cox noted that even if the rotational harvest areas were agreed upon today it would be 120 days until changes could be enacted due to regulatory proceedings and public notice.
 - Mr. Blazer noted that discussions would still need to be held within the OAC regarding rotational harvest and specific details would need to be worked out. Mr. Blazer stated that the process to change the regulations could take anywhere between 90-120 days, and that late October would be the deadline for a proposal.
 - Senator Hershey suggested a discussion regarding the deadline be added to the agenda.

Public Comment

Mr. Zolper, from the Chesapeake Bay Foundation's Communication Division, urged the OAC to actively seek public input. There is a tremendous amount of public interest regarding the location of the tributaries where oyster habitat restoration is to occur. He asked the OAC to seek formal public comments or to invite specific public interest groups to future OAC meetings to address the OAC about their concerns and interests. He stated that when the first 3 Maryland

tributaries were selected for oyster habitat restoration there was no public outreach and he noted that the new tributaries could run in to the same problem.

Mr. Iliff, South River Federation, recommended the South River as one of the two tributaries for oyster habitat restoration. In addition, he suggested that road salt may improve salinity for oysters.

Mr. Whitcomb recommended the Severn River as one of the two tributaries for oyster habitat restoration. He stated that there are Yates bars (historic locations where oyster habitat occurred) which indicate that the Severn River had oyster habitat in the past. He noted that the USACE has completed restoration on a number of sites already.

Mr. Newberry noted that the members of the OAC seem to be in agreement that new sources of shell for oyster habitat restoration are needed and there are 100 million bushels of shell on Man-O-War shoals available for use. He indicated that he is frustrated that the OAC was recreated but that they are not discussing changing the 2012 plan. He noted that the 2012 plan is a statement of future intent but that it is not legally binding. There are lessons that have been learned from the restoration of oyster habitat in the Choptank complex (the first three tributaries that were selected for restoration) and from issues related to obtaining substrate (Man-O-War shoals) which should be considered.

Ms. Dean, from the Tidal Fish Advisory Commission, stated that the OAC is asking a lot from the public oyster fisheries industry by placing areas in permanent sanctuary. Ms. Dean stated that the County Oyster Committees are the best source of information regarding the trade-offs associated with locating the remaining two tributaries for oyster reef restoration and selecting sanctuaries to be opened to the fishing industry for rotational harvest. Ms. Dean suggested investing oyster restoration funds in tributaries that have been identified as Tier III sanctuaries (poor habitat and few or no oysters) rather than in a Tier I sanctuary (potential to achieve the 2014 Chesapeake Bay Watershed Agreement goals without substantial additional investment).

Next Meeting

The next OAC meeting will be held on September 12th, 2016 at 6pm at the MD DNR Tawes State Office Building. Future meetings will be held on the second Monday of each month (except for the October meeting which will be on the 3rd Monday of the month). Additional meetings will be held if needed regarding the rotational harvest issue. DNR will begin to investigate other meeting room facilities in the Annapolis area in order to accommodate the increasing attendee numbers.

This section of the Meeting Summary is to highlight future topics or other subjects to keep before the Commission:

Topics for Discussion for Future Commission Meetings:

1. Identification of where restoration efforts in oyster sanctuaries would be likely or unlikely to be successful. (DNR has provided Fall Survey data, but additional discussion may be needed)
2. The problem of boats running aground in shallow water created during oyster reef restoration. (DNR has agreed to work with waterman, USACE, and NOAA to set up a field meeting in Harris Creek to investigate and solve the high spots that are causing problems to boaters in Harris Creek)
3. Potential future sources of shell for restoration projects.
4. Recommendations that were made by the OAC in past years.
5. Land use patterns along the Chesapeake Bay shore and how land use affects oyster population and the commercial fishing industry.
6. Economic and cultural issues related to oyster harvests and sanctuaries.
7. Preference of oyster spat for various substrates.
8. The Virginia sanctuary program. (Presentation by Virginia watermen about the Virginia program)
9. Recommendations for future practices (i.e. rotational harvesting).
10. Establishment of shucking houses in Maryland.