

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)
September 12, 2016

LIST OF ATTENDEES

Commissioners Present:

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|---------------------------|---|
| Kelley Cox (Co-Chair) | Phillips Wharf Environmental Center (PWEC) |
| Scott Eglseder (Co-Chair) | Eglseder Wealth Management Group, Inc. |
| J.D. Blackwell | 38° North Oysters |
| Robert T. Brown | Maryland Watermen’s Association |
| 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) |
| Johnny Mautz | State Delegate |
| Jim Mullin | Maryland Oystermen’s Association (MOA) |
| Deborah Rey | State Delegate |
| Peyton Robertson | National Oceanic and Atmospheric Administration (NOAA) Chesapeake Bay Office |
| Jason Schmidt | Talbot County Seafood Heritage Association |
| 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:

| | |
|----------------|---|
| Don Boesch | University of Maryland Center for Environmental Science (UMCES) |
| Kelton Clark | Morgan State University (MSU) |
| Jim Mathias | State Senator |
| Ben Parks | Maryland Watermen, Dorchester County |
| Ann Swanson | Chesapeake Bay Commission |
| Aubrey Vincent | Lindy Seafood |

Other Meeting Attendees Present:

Bay Journal: Mr. Tim Wheeler

Calvert County Oyster Committee: Ms. Rachel Dean

Cape McKinsey: Mr. Jason Port, Mr. Fletcher Port

Chesapeake Bay Commission: Ms. Bevin Buchheister

Chesapeake Bay Foundation: Ms. Ann Attanasio

Citizen: Mr. Charles Denton, Mr. Lani Hummel, Mr. Jeremy Karsh, Mr. Doug Myers

Coastal Conservation Association (CCA): Mr. Larry Jennings

Congressman Andy Harris' Office: Ms. Denise Lovelady

Delmarva Fisheries Association Inc.: Capt. Robert Newberry

Institute of Marine and Environmental Technology/UMBC: Ms. Colleen Burge

Maryland Department of Natural Resources (DNR): Mr. Dave Blazer, Mr. George O'Donnell, Mr. Eric Weissberger, Mr. Chris Judy

Maryland Environmental Service (MES): Ms. Christine Holmburg

Maryland Grow Oysters (MGO): Mr. Bob Whitcomb

Severn River Association (SRA): Mr. Tom Guay

South River Federation: Mr. Jesse Iliff

Handouts:

- Meeting Agenda
- August 22, 2016 Draft Meeting Summary
- Presentation – Overview of the County Oyster Committees
- Presentation – 5-Year Report (Ch. 5) Effectiveness Tiers & Future Management Alternatives
- DNR Oyster Productivity Tiers
- UMCES - Sixteen Decades of Political Management of the Oyster Fisheries in Maryland's Chesapeake Bay
- Letter from Bill Goldsborough – CBF
- OAC Homework – Narrowing down selection of 4th & 5th tributaries

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:

- OAC members will review the tributary criteria ranking spreadsheet and other data and fill in a scoring sheet (OAC homework sheet). Commissioners will indicate the top five candidate tributaries in order of preference and also the tributaries that they believe should not be considered as candidates. **(OAC members will submit their scoring sheets to DNR by October 5th)**
- DNR will provide the OAC with the following:
 - List of County Oyster Committee Members
 - Paper Copies of the 5-Year Oyster Report **(These are being provided to members prior to the October meeting)**
 - ORP Proposal (in response to the Request for Proposals (RFP))
 - Regulatory Flow chart
 - Revised Tributary Criteria Spreadsheet (with an additional column to indicate whether the area has had shell planted on it by the state of Maryland)
 - List of dates, locations, and topics for future OAC meetings:

MEETING SUMMARY:

Welcome and Introductions (Kelley Cox)

The meeting attendees introduced themselves.

Meeting Summary Approval (Scott Eglseder, Co-chair)

The August 22 meeting summary was approved by the Commissioners. Minor corrections were submitted by Ms. Sowers which will be incorporated prior to the summary being posted on the Oyster Advisory Commission (OAC) webpage.

Review of Goals and Objectives of the OAC (Dave Blazer, DNR)

Mr. Blazer reviewed the OAC's goals and objectives. Mr. Blazer stated that the overall goal of the OAC is to have more oysters in the Chesapeake Bay and the objective is to provide the Department of Natural Resources (DNR) with advice on matters related to oysters in the Chesapeake Bay through the review of the science, economic and cultural information and recommend changes for the framework and strategies. The specific objectives of the OAC as stated by Secretary Belton include:

- Provide a recommendation to DNR on the progression of the Tred Avon River oyster habitat restoration project. (Completed)
- Provide recommendations to DNR regarding the 4th and 5th sanctuaries in Maryland for oyster restoration in order to fulfill the Chesapeake Bay Agreement commitment.
- Recommend changes to the locations of current oyster sanctuaries and public oyster grounds.

Mr. Blazer reminded the OAC that DNR has been keeping a “parking lot” list of the additional issues that have been brought up by commissioners during past meetings. DNR has been researching and discussing how to resolve these issues and will schedule time for the OAC to fully discuss the compiled data and analyses associated with these issues. The “parking lot” list of issues is included at the end of the meeting summary.

County Oyster Committees (Chris Judy, DNR / Bill Kilinski/Rachel Dean)

Presentation: Overview of County Oyster Committees

Mr. Judy described the structure, membership requirements, and purpose of the Maryland County Oyster Committees. DNR conducts the election of committee members and voting is open to all active license holders in each County. The committees serve as advisory bodies that advise the Department on oyster-related issues. The oyster surcharge and tax revenue is used for oyster repletion activities based on the recommendations of the oyster committees, subject to DNR’s approval. The size of each committee is variable. The committee membership is listed on the webpage: <http://dnr.maryland.gov/fisheries/Pages/oysters/county-committee.aspx>.

Mr. Judy explained that the County Oyster Committees were more involved in DNR programs when the State had a large scale commercial shell and seed program. Since these programs have ended, the main focus of the committees has been on hatchery seed plantings and some limited shell plantings.

- Mr. Schmidt asked why the shell and seed programs stopped.
 - Mr. Judy explained that since 1960 the shell program used shells dredged from the upper Chesapeake Bay to restore oyster bars for harvest. However in more recent times, intense concern and opposition arose regarding the environmental issues associated with dredging shells, so it was decided to not renew the dredging permit upon its expiration in 2006 due to this opposition. The last permit that the Board of Public Works approved was for only 1 year; previous permits were approved for 3-5 years. Once that 1 year permit expired at the end of 2006, no new application was submitted and the shell program ended. The seed program ended a few years later because there were no longer enough shells to maintain quality habitat in the Seed Areas where the seed were produced.
- Senator Hershey asked if there were other programs within DNR or within other State agencies which support the commercial oyster industry.
 - Mr. Judy replied that other than the hatchery and shell planting efforts currently underway, there are no additional programs within DNR which support the commercial oyster industry, however, the Maryland Department of Transportation (MDOT) provides funding for the oyster industry; used for the hatchery and shelling efforts.
 - Mr. Judy noted that for the oyster sanctuary program, DNR Fisheries Service receives State capital funds and also works with the US Army Corps of Engineers (USACE) and the National Oceanographic and Atmospheric Administration (NOAA) to fund, develop and implement oyster restoration plans. Currently work has focused on restoring 5 tributaries in Maryland in order to fulfill the

Chesapeake Bay Agreement commitment. The Oyster Recovery Partnership (ORP) and University of Maryland Horn Point Lab are used as contractors to carry out the oyster sanctuary restoration work. Request for Proposals (RFPs) are issued by ORP to create subcontracts with marine companies when funding is being used to place material on sanctuaries.

Charles County Oyster Committee – Rotational Harvest Plan Presentation

Mr. Kilinski gave a presentation on the Charles County Oyster Committee and their recommendations for future oyster management through rotational harvest. Under this plan certain bars would be closed for 4 years to allow for more mature growth of oysters. Mr. Kilinski explained that Charles County was using triploid oysters on their bars because they grow faster and are more disease resistant.

- Mr. Goldsborough noted that the Charles County plan is reminiscent of the ‘harvest reserve’ plans which were established in the early 2000’s and he asked why the harvest reserve program was abandoned last year.

Calvert County Oyster Committee – Management Alternatives Discussion

Ms. Dean gave a presentation on the Calvert County Oyster Committee and their recommendations for future oyster management. She noted that the Calvert County Oyster Committee has submitted proposals for MDOT funds in the past, but have not always been successful.

Calvert County recommends returning the current Calvert County Tier 3 sanctuaries to public bottom. Calvert County is interested in opening Cedar Point sanctuary (although it is in St. Mary’s County waters). They would like to utilize 15% of their funds on the replenishment of Holland Point bar (located in a sanctuary at the head of the Patuxent River) so that tongers have more area for harvesting and so that harvest pressure can be reduced in other areas. If the bar was opened, it would not be on a rotational basis.

Ms. Dean explained that when the sanctuaries were being planned for Calvert County, the committee tried to negotiate a trade-off in the Patuxent River, but instead of a trade both of the areas ended up being included within the sanctuary. She noted that a program allowed state contracted boats to go in to the Calvert Bay Shore Sanctuary and remove 22,000 bushels from the bottom. Ms. Dean asked why that incident was not mentioned in the draft 5-year report. She indicated that the Calvert County Oyster Committee recommends that a review be conducted on whether or not the Calvert Bay Shore Sanctuary can be returned to public bottom. Ms. Dean requested a review and discussion on the 5-year report regarding the dredging of shell off of the Calvert Bay Shore Sanctuary.

- Delegate Rey asked which organization was responsible for the dredging of Calvert Bay Shore Sanctuary. She suggested investigating the records of all of the sanctuaries for similar incidents.
 - Mr. Judy and Mr. Weissberger replied that the shell dredging was conducted by the DNR Shellfish Division under the prior Administration as part of the shell

reclamation program where previously planted shell that has become covered in sediment is dredged and placed elsewhere. The shell reclaimed from the sanctuary was placed on public fishery grounds.

- Ms. Dean stated that Tier 2 sanctuaries require some management strategies as stated by the draft plan but recommended that other options be considered.
- Mr. Goldsborough asked if part of the Calvert County proposals included creating sanctuary areas to compensate for the areas that would be taken out of sanctuary.
 - Ms. Dean replied no.
- Mr. Schmidt reiterated that many counties tried to swap public harvest areas for sanctuary areas when the proposals for the new sanctuaries were being reviewed, however the state then placed all of the areas in sanctuary.
- Mr. Brown stated that areas were placed in sanctuary and have had no funding invested to be rebuilt. He requested that the areas taken in excess of the 24% of good bottom be given back to the public fishery.
- Mr. Schott asked if disease was a problem as it has not been a problem for the fishery over the past few years.
- Mr. Kilinski noted that there is a difference in approach between the Calvert and Charles County oyster programs. The concept for Charles County is to promote the biggest return on investment.
- Mr. Harrison voiced a concern regarding the economic impact of the sanctuaries; the hand tongs have taken a 67% cut.
- Ms. Sowers asked if a map was available showing the different gear types throughout the Bay.
 - Mr. Judy replied that the creation of gear-type maps for the entire State is a very complex project, and that such a project is currently underway (but the maps aren't completed yet). He noted that if the OAC had a specific area or question, that could be worked on more efficiently because it would limit the scope of the effort.

Overview on Process to Change Regulations and Laws (Dave Blazer, DNR)

Regulation changes can come about from recommendations made at public information meetings or at council, committee, and workgroup meetings (Atlantic States Marine Fisheries (ASMFC), Mid-Atlantic Fisheries Management Council, Tidal Fish/Sport Fish Advisory Commissions etc.). The process generally starts with a scoping process where ideas are distributed for public discussion and feedback. Once feedback is received, preparation would begin on a more formal 90-day public review process. Regulatory proposals are reviewed internally and are then submitted through the Administrative Procedures Act which takes additional time. The regulations are then sent to the Administrative, Executive, and Legislative Review Committee

(AELR) which reviews proposed regulations. After the review period, which could take a few weeks to a few months, the regulations are published in the Maryland Register with a 30-day public comment period which would also include a public meeting if required. The public comments are reviewed and then DNR makes a determination on the final regulation process (i.e. withdraw, adopt as proposed, or make non-substantial changes and adopt). The final regulations get published in the Maryland Register and go in to effect in 10 days. Regarding rotational harvest, the process to change regulations would take 90-100 days. The options for this oyster season are limited due to the time constraints.

Proposed OAC Schedule (Dave Blazer, DNR)

Mr. Blazer explained that due to the urgency of concerns regarding harvest areas, the OAC would work on the two objectives: Task 2 (Selection of the 4th and 5th tributaries for restoration) and Task 3 (adjustments and changes to the sanctuary and public fisheries areas) simultaneously over the next meetings. He provided an outline of the future OAC activities in regards to the tasks.

- Jim Wesson of the Virginia Marine Resources Commission will be coming to the next meeting (October 17) to give a talk about Virginia oyster management.
- Two public open houses will be held to obtain input on recommendations made by the OAC).
- Mr. Harrison asked if emergency regulation could be used due to the economic impact to the watermen.
 - Mr. Blazer replied that it is a possibility if it is a true emergency, but the regulations do not move during a legislative session.
- Delegate Mautz requested that the 5-year report be discussed in depth.
 - Mr. Blazer stated that the highlights will be discussed at this meeting.
- Mr. Brown stated that some sort of action needs to take place in order to open some of the sanctuaries up for rotational harvest before the end of the oyster harvest season (March 31st). There should be an effort to get an emergency regulation or legislation change in place before the end of the season, especially in any areas that have been designated as sanctuaries but where no restoration funding has been spent yet.
- Mr. Fithian stated that the OAC recommendation of 4th and 5th tributary for oyster restoration efforts should not move forward before a plan for where the oyster shell substrate will come from has been established. At the previous meeting there was discussion regarding the Man O' War shoals and it was decided that additional information was needed; however the OAC has not received that information to have an informed discussion.
- Senator Hershey asked why issues such as rotational harvest were not being prioritized. He asked what the deadline would be for the OAC to submit a proposal for regulation changes allowing for rotational harvest in sanctuaries in order to move forward with rotational harvesting in the 2017 season. He stated that there is no urgency associated with selecting the 4th and 5th tributaries for oyster habitat restoration. Senator Hershey

stated that all options for rotational harvest within sanctuaries should be up for discussion since this is the OAC's first priority.

- Mr. Blazer replied that a review of the information by the OAC regarding rotational harvest would take time and the OAC might not be able to come to an agreement in a timely manner for the 2017 season. Mr. Blazer stated that a proposal would be needed in October.
- Mr. Goldsborough asked for clarification regarding how the OAC would identify locations for rotational harvest. He stated that Public Shellfish Fishery Areas (PSFAs) as well as sanctuaries should be considered for rotational harvest.
 - Mr. Blazer explained that the OAC would need to both identify locations for rotational harvesting as well as recommend parameters for how rotational harvesting would take place.
- Delegate Rey noted that in some cases sanctuaries are located in rivers that form the boundary between counties and are located in multiple counties. She asked if each of the sanctuaries were identified by county and if so which County Oyster Committee would have jurisdiction over rotational harvesting within the sanctuary.
 - Mr. Judy replied that in these instances DNR works with both County Oyster Committees, because the counties share the river and the sanctuary.
- Delegate Rey asked if there was any reason why the County Oyster Committees could not be tasked with creating a rotational harvesting proposal.
 - Mr. Blazer replied that it was possible.
- Delegate Rey asked what the OAC's role would be once the different counties came up with rotational harvesting proposals and how fast could those proposals be put together.
 - Mr. Judy replied that the amount of time it would take to put a proposal together would depend on the scope of the proposal. He noted that any rotational harvesting proposals which granted access to sanctuaries would require a longer process compared to a proposal that involved only a fishery area due to the controversial nature of a sanctuary proposal and the need for regulatory changes.
- Mr. Brown noted that the County Oyster Committee chairmen met with DNR the previous year and he proposed that a similar meeting be held in the next few weeks to create a proposal regarding rotational harvesting prior to the October deadline.
 - Mr. Blazer agreed and the date of September 24th was selected to discuss proposals for rotational harvesting.
- Mr. Schmidt stated that in Talbot County three to four rivers were designated as sanctuaries. Regarding whether or not this counts as an emergency, there will be 200+ boats working a single bar which is not sustainable.
- Mr. Fithian stated that the OAC is not productive and cannot have full discussions and when the meeting agenda consists of 10-11 items. Mr. Fithian suggested selecting a

single issue to discuss in depth in order to make progress. Regarding funding, Mr. Fithian stressed spending on shell substrate.

- Mr. Legum stressed finding another option for finding shell since it is not available locally.
- Mr. Goldsborough asked if there was a comparable mechanism for other stakeholders to put forward proposals on rotational harvesting similar to the County Oyster Committees.
- Mr. Blazer stated that if the County Oyster Committees wanted to make adjustments to the PSFA's then the process would go quickly. It would be a longer process if changes to sanctuaries were involved as this would require regulatory changes. For regulatory changes, DNR must schedule open houses for public input; DNR would look into public input on an accelerated schedule if needed.
- Mr. Eglseder stated that the OAC's job is to recommend changes to the Department. He noted that other stakeholders should be able to voice their opinion on the proposal before it is submitted.
- Mr. Schmidt asked what DNR saw as the process for the OAC to investigate the sanctuaries and rotational harvest.
 - Mr. Blazer replied that DNR envisioned a regulation or legislative change based on proposals submitted by the OAC; there is no preconceived notion of what the end product will be.

Five Year Oyster Report Results: Grouping Areas into Productivity Tiers (Dave Blazer, DNR)

Mr. Blazer provided the results of the 'dot exercise' from the first meeting. The results indicate that the OAC's top two priorities for selecting sanctuaries for restoration are good habitat and reproduction. The number of votes that were recorded for each criterion are as follows:

- 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 gave a presentation that provided an overview of the 5-year oyster report, focusing on Chapter 5 and Appendix A which grouped the 51 areas into productivity tiers.

- Mr. Robertson suggested adding the term “restoration tributary” to the glossary to differentiate between existing sanctuaries versus tributaries which are being restored.
- It was noted by Mr. Robertson that in regards to management options for tributaries being restored, (specifically tributaries which meet the 2014 watershed agreement), the alternative is to remain a sanctuary but with no continued investment.
- Mr. Robertson noted that under ‘current state’ for the Little Choptank and Tred Avon it should be noted that the plans for the restoration of these tributaries are not complete. If there were no further plans for investment and further restoration efforts in these tributaries then the restoration goals would not be achieved.

Homework Assignment – Candidate Tributaries #4 and #5 (Dave Blazer, DNR)

Mr. Blazer stated that members of the OAC were given a spreadsheet with all 51 sanctuaries and selection criteria. The criteria were evaluated for each sanctuary using the data from the 5-year report. Each criterion was rated as good, moderate, or poor. The goals for the exercise are for the OAC, using the information provided, to identify: (1) a number of good candidates for sanctuary tributaries 4 and 5 for restoration; and (2) a number of sanctuaries that should not be considered for restoration.

- Mr. Robertson asked, regarding the PSFAs, if there was information regarding areas which have been shelled by the state of Maryland and if not if an additional column could be added with that information.
- Mr. Harrison asked if it was true that if any USACE funding had been used in the past to restore oysters in a sanctuary if this would mean that the area would be off limits for rotational harvesting.
 - Ms. Sowers stated that if the funding was pre-2007 then it can be investigated whether or not an area could be opened for harvesting.
- Mr. Harrison stated that in Talbot County there are no additional areas which could be used for rotational harvest of oysters.
- Mr. Goldsborough asked if the same type of tool which is being used for selection of the 4th and 5th tributaries and rotational harvesting could be used to select areas within the PSFAs for rotational harvest.
 - Mr. Blazer replied that DNR plans to provide this information for the PSFAs at the next meeting and there would be another homework assignment for the OAC so that the commission could rate these areas for potential rotational harvest.
- Mr. Schmidt stated that Secretary Belton had mentioned that commercial public oyster harvesting in the Choptank area would not be further impacted by restoration sanctuaries,

and that no more public fishery bottom would be designated as sanctuary. He asked if this was still the case.

- This was confirmed by DNR and reflected in the criteria chart.
- Senator Hershey asked if there is information in the table indicating whether the designated sanctuaries have received any funding for restoration.
 - Mr. Blazer stated that the information is available in the 5-year report.
- Senator Hershey asked what the reason would be to hold areas not receiving funding in sanctuary.
 - Mr. Blazer stated that if sanctuaries contain areas with good habitat where natural reproduction is taking place then the goal is to allow the oysters to grow and reproduce in the natural habitat.
- Senator Hershey asked whether DNR had any way of knowing where the restoration of natural oyster habitat was taking place. He asked if some sanctuaries are not undergoing natural restoration and not obtaining restoration funding then why they would be kept in sanctuary. Senator Hershey suggested removing those areas from sanctuary for harvesting until a time when funding would become available.
 - Mr. Blazer replied that using the scientific approach, a determination can be made whether or not the areas can reach restoration on their own or if funding would be needed for restoration in the future.
 - Mr. Weissberger noted that some sanctuaries are protected from harvesting because oysters in the protected area provide a source of oyster larvae to other areas in the Chesapeake Bay. Other areas in sanctuaries may act as a larval sink where larvae tend to end up and can grow into adult oysters.
- Senator Hershey asked if rotational harvesting will be discussed in depth at the next meeting.
 - Mr. Blazer stated that DNR is committed to investigating rotational harvest and will develop an agenda that addresses that topic.
- Mr. Legum asked if most of the sanctuaries have produced oysters.
 - Mr. Weissberger replied that it depends on the sanctuary.
- Delegate Mautz asked if there will be a chance to critique and discuss the original tributary master plan which was the basis for the three original tributary restoration projects. Delegate Mautz also asked what criteria are being used to recommend the tributaries.
 - Mr. Blazer replied that the OAC should use the criteria discussed at the last meeting along with data from the 5-year report to make an informed decision on what would be a good sanctuary for restoration. The tributaries recommended will be brought back to the OAC for discussion; the homework is being used to narrow down the areas to focus on. The OAC will have several opportunities to decide on the next two restoration tributaries.

- Mr. Brown asked how much funding is available for oyster habitat restoration in the sanctuaries.
 - Mr. Judy stated that the funding for the sanctuaries is around \$4 million. Restoration using this funding is planned for the Tred Avon and Little Choptank Rivers, as well as for maintenance for Harris Creek as needed. Funding for the next two recommended tributaries will be included in a future budget, but will probably be around \$4 million as well.
- Mr. Brown asked if there would be any funding available for Tier 2 and Tier 3 areas.
 - Mr. Judy replied that currently there are no plans for restoration in other Tier 1, 2, and 3 sanctuary areas. The plan is to focus on the next two tributaries that are designated as restoration sanctuaries.
- Mr. Brown asked why thousands of acres of bottom were being kept in sanctuary with no intention of providing funding to improve them. Mr. Brown also asked where the Tier 1, 2, and 3 designations came from.
 - Mr. Blazer replied that the 5-year report designated tiers based on productivity.
- Mr. Brown asked for clarification regarding the alternative management plans stated in the 5-year report.
 - Mr. Blazer stated that the report was a draft and has laid out suggestions for alternative management strategies for the sanctuaries; the intention was to obtain more detail from the OAC, County Oyster Committees, and other stakeholders.
- Mr. Blackwell asked if any research has been done to determine if any of the tributaries currently meet the restoration criteria and if so there are any rankings to determine the proximity to meeting the criteria.
 - Mr. Weissberger stated that the tributaries have not been evaluated against all the restoration criteria yet, but there are some which are doing very well in the absence of any investment (e.g. the Manokin and St. Mary's Rivers).
- Mr. Blackwell asked whether a tributary that met the restoration criteria would be considered restored and would satisfy the Chesapeake Bay Agreement goal even through no active restoration took place.
 - Mr. Blazer indicated that this was correct.
- Mr. Blackwell asked for clarification regarding the time period of historic spat set.
 - Mr. Judy replied that the 5-year report encompasses spat set over the past 25 years.
- Regarding National Environmental Policy Act (NEPA) approval, Mr. Weissberger explained that when there is a federal action the federal government must get approval under NEPA. Some tributaries are not NEPA approved, but an environmental assessment would be completed for the proposed restoration work before the use of federal funds could be approved.

- Mr. Blackwell asked for clarification regarding the MDE restricted areas.
 - Mr. Weissberger stated that when oyster ground is designated as a restricted area it triggers actions under the National Shellfish Sanitation Program so that there is an increase in monitoring so that people are protected from consuming contaminated oysters.

- Mr. Fithian stated that the OAC is being asked to select restoration areas without knowing the specifics of the restoration project. The restoration project needs to be described before a decision can be made about where the restoration work should occur. Also, no population studies were done before oyster bottom areas were placed in to sanctuary so there is nothing to compare the current oyster numbers to.
 - Mr. Blazer stated that there is a lot of data on the existing sanctuaries which is presented in the 5-year report.

- Mr. Goldsborough noted that most of the research on oysters has focused on oyster harvest numbers and economic values. There is a lack of appreciation for other values such as the role that oysters play in creating habitat and filtering water and the importance of creating oyster reef habitat and growing populations of oysters so that there is a strong gene pool and sources of oyster larvae. These other values need to be described in more detail for the OAC so that the Commissioners will be better able to grasp their importance. Mr. Goldsborough suggested that these other values must be central to the discussion. DNR should invite experts to attend OAC meetings and have them discuss and describe these important values.
 - Mr. Fithian stated that the other values are appreciated but it is how the restoration efforts took place and how the original restoration sanctuaries (i.e. Harris Creek) were handled which is hard to appreciate.

 - Mr. Schmidt stated that many watermen may not appreciate some of the areas being designated as sanctuaries because when they were public oyster ground in the past there were restoration efforts occurring. Now no restoration is occurring and they are dormant and there is no reason to believe that oyster populations are being restored.

- Delegate Rey asked what the color coding meant in regards to the amount of hard bottom on restored acres shown on the spreadsheet.
 - Mr. Weissberger noted that there was an error with one of the areas. He explained that Secretary Belton had asked the OAC to try to pick a tributary which was meaningful in size but tractable in terms being able to complete the project by 2025. The amount of acreage shown for each sanctuary is the amount available for restoration, and it would be a portion within that area which would be restored.

- Mr. Harrison asked if work on the restored oyster reefs in the Harris Creek sanctuary tributary had been completed.
 - Mr. Weissberger stated that the restoration goal is to restore multiple age classes of oysters so that the population of oysters is more resilient and likely to survive.

This is why oyster spat are currently being placed on the restored oyster reefs in Harris Creek.

- Mr. Harrison suggested a topic for a future OAC meeting that could be added to the ‘parking lot’ list, should be a comparison of the spat sets within the sanctuaries between the years prior to 2010 and more recent years.
- Mr. Schmidt asked, regarding the 4th and 5th restoration tributaries, if a line would be drawn across the mouth of the tributary or it would be closed off on a bar to bar basis.
 - Mr. Judy replied that it would need to be investigated and clarification would be needed since if there was to be no federal commitment of funds the line could be more flexible.
- Mr. Legum asked, regarding the 4th and 5th restoration tributaries, if they would be closed to public oyster harvesting, or opened, or partially opened.
 - Mr. Blazer replied that the areas would be closed to public oyster harvesting since the purpose is to restore habitat and a naturally reproducing population of oysters.

Public Comment

Mr. Myers stated that oysters are very important for their ecological role and populations of oysters can be restored in the Bay. Mr. Myers asked the OAC to consider the fact that 76% of the oyster resource is currently available for public harvest by the industry. He urged the OAC to not take any more oyster sanctuaries from the public for use by the fishery.

Mr. Newberry asked for the name of the Virginia representative who would be coming to the next OAC meeting. Mr. Newberry announced that the Delmarva Fisheries Association (on behalf of Kent County Waterman’s Association, Queen Anne’s Waterman’s Association, Talbot County, Dorchester and Summerset County) support the dredging of the Man o’ War shoals; the industry supports the dredging of Man o’ War shoals. He stated that restoration should not be discussed until there is a solution to the problem of obtaining more shell.

Ms. Dean asked the OAC to make the motions and votes to carry decisions through to move forward with opening sanctuaries for rotational harvest of oysters.

Mr. Denton, from Wicomico County, stated that public stakeholders will be against the opening of sanctuaries and stated that it is a premature and poor decision.

Mr. Whitcomb, from Maryland Grow Oysters (MGO), stated that 400 growers are within their watershed which is a quarter of the state’s growers. Those individuals need to be heard because they are putting a lot of effort into meeting the goal of more oysters in the Bay. Mr. Whitcomb asked that the public be given an adequate amount of time to respond to the OAC’s proposals.

Next Meeting

The next OAC meeting will be held on October 17th, 2016 at 6pm at the MD DNR Tawes State Office Building.

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 watermen, 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 (e.g. rotational harvesting).
10. Establishment of shucking houses in Maryland
11. Discussion in regards to the use of capital funds versus other state funds for oyster restoration.
12. Comparisons of the spat sets within the sanctuaries between the years prior to 2010 and more recent years.