

Meeting Summary
Oyster Advisory Commission (OAC) Meeting
 Calvary United Methodist Church, Fellowship Hall
 301 Rowe Blvd, Annapolis, MD
 (6:00 PM – 9:30 PM)
 February 13, 2017

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)
Allison Colden	Chesapeake Bay Foundation (CBF)
Ron Fithian	Kent County Commissioners
Jeff Harrison	Talbot County Watermen's Association
Steve Hershey	State Senator
Doug Legum	Douglas Legum Development Inc.
Greg Kemp	Talbot County Seafood Heritage Association
Ken Lewis	Coastal Conservation Association (CCA)
Johnny Mautz	State Delegate
Jim Mullin	Maryland Watermen's Association (MOA)
Ben Parks	Maryland Watermen, Dorchester County
Deborah Rey	State Delegate
Peyton Robertson	National Oceanic and Atmospheric Administration (NOAA) Chesapeake Bay Office
Eric Schott	University of Maryland Center for Environmental Science (UMCES)
Angie Sowers	U.S. Army Corps of Engineers (USACE), Baltimore District
Ann Swanson	Chesapeake Bay Commission

Commissioners Unable to Attend:

Bill Kilinski	Charles County Watermen's Association
Jim Mathias	State Senator
Aubrey Vincent	Lindy Seafood

Other Meeting Attendees Present:

Calvert County Watermen's Association: Ms. Rachel Dean

Charles County Waterman Association: Mr. Eric Robertson

Chesapeake Bay Foundation (CBF): Mr. Patrick Borne, Ms. Anna Mudd, Mr. Karl Willey

Chesapeake Riverkeeper Association (CRA): Ms. Emily Harris

Citizen: Ms. Ann Attanasio, Ms. Victoria Brown, Ms. Gibby Dean, Mr. John Dean, Mr. Charles Dent, Ms. Isabelle Fair, Ms. Lani Hummel, Ms. Nora Jackson, Mr. Ron Ketter, Ms. Janet Mackey, Ms. Eileen McVey, Mr. James McVey, Mr. Fred Millhiser, Mr. Joe Mollna, Mr. Doug Myers, Mr. David Tana, Ms. Camera Thomas, Ms. Libby Truff

Congressman Andy Harris' Office: Ms. Denise Lovelady

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

Delmarva Fisheries Association Inc.: Capt. Robert Newberry

Dorchester County Council: Mr. Tom Bradshaw

Friends of the St. Clement's: Ms. Liz Curtz

Maginnes Productions: Mr. David Maginnes

Maryland Department of Natural Resources (DNR): Ms. Jodi Baxter, Secretary Mark Belton, Mr. Dave Blazer, Mr. Chris Judy

Maryland Environmental Service (MES): Ms. Maggie Cavey

Midshore Riverkeeper Conservancy: Mr. Matt Pluta, Mr. Dan Watson

Phillips Wharf Environmental Center (PWEC): Ms. Carol McCollough

Queen Anne's Watermen Association: Mr. Jeff Anthony, Mr. Phil Jewell, Mr. Clint Smith, Mr. Ron Smith, Mr. Lee Washington, Mr. Troy Wilkins, Mr. Tony Youna

Queen Anne's County: Mr. George Luongo

Senator Steve Hershey's Office: Ms. Erika Howard

Severn River Association: Ms. Lynne Rockenbauch

South River: Mr. Jesse Iliff

St. Mary's County Wild Oysterman: Mr. Chip Crowder, Mr. Craig Kelley, Ms. Rachael Riche, Mr. Richard Riche

St. Mary's River Watershed Association: Mr. Bob Lewis, Mr. Larry O'Brian, Ms. Meghan Webster

Talbot Seafood Heritage Association: Mr. Stuart Dawson, Mr. MJ Dubois, Mr. Tony Dubois, Mr. Greg Kemp Sr.

Talbot Waterman Association: Ms. Robin Harrison

Handouts:

- Meeting Agenda
- January 9, 2016 Draft Meeting Summary
- Handout – Man-O-War (MOW) Shoals Shell Dredging Permit Update
- Presentation – Consolidated Strawman Management Plan Proposal: Proposed changes to current oyster management areas.
- Copy of Past Presentation – Oysters in Virginia: Restoration, Wild Fishery, and Aquaculture.
- Letter – From William M. Eichbaum, 2007-2011 Chair of Oyster Advisory Commission, “The Recovery of Oysters”

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:

- DNR will provide a list of public oyster fishery areas and oyster sanctuary areas by Tier classification.
- DNR will provide a list of research projects, current and planned, occurring in the current oyster sanctuary areas.
- DNR will provide a chart that shows the proposed conversion of Tier 1 oyster sanctuary areas to public fishery areas and the scientific documentation that supports the conversion, including Hooper Straits.
- DNR will provide a list of alternatives to dredging buried shell from MOW Shoals for the acquisition of substrate to grow oysters in Maryland.
- DNR will provide the adjusted estimate for the amount of shell that could potentially be dredged from MOW Shoals.
- DNR will provide the commissioners with additional data on poaching within Maryland sanctuaries.

MEETING SUMMARY:

Welcome and Meeting Summary Approval

(Ms. Kelley Cox, Co-chair)

Two new OAC members were introduced: Ms. Allison Colden is replacing Mr. Bill Goldsborough as representative for the Chesapeake Bay Foundation (CBF) and Mr. Greg Kemp is replacing Mr. Jason Schmidt as representative for the Talbot County Seafood Heritage Association.

Ms. Cox announced that the Consolidated Strawman Management Plan Proposal would be presented before the update on the Man-O-War shell dredging application because the OAC members who are elected officials have to leave the meeting early.

Delegate Rey made a motion to approve the January OAC meeting summary and Mr. Fithian seconded the motion.

**Consolidated Strawman Management Plan Proposal:
Changing Portions of Oyster Management Areas**

(Mr. Chris Judy, DNR)

Presentation – Consolidated Strawman Management Plan Proposal: Proposed changes to current oyster management areas.

A proposal for changes to the current oyster management areas was presented as a “strawman” for the OAC to discuss. The intention of the Consolidated Strawman Proposal was to present a fair and balanced set of proposed changes to the current oyster management areas based on the values and concerns that were expressed by the various oyster stakeholder groups while complying with the guidelines and criteria that DNR had initially established for the scope of the proposals.

Secretary Belton stated that the Consolidated Strawman Management Plan is not a DNR proposal to the OAC, but rather an OAC proposal for their review and discussion. It is based upon input they have received from various groups, simply packaged by DNR for OAC review.

The Consolidated Strawman Proposal establishes the following requirements:

- Maintenance of the 20-30% closure ratio of estimated oyster bottom (using the estimated productive oyster bottom as defined in the 2009 Environmental Impact Statement for Oyster Restoration in Chesapeake Bay).
- No changes to the three current restoration partnership sanctuaries (Harris Creek, Little Choptank River, Tred Avon River) that were selected to meet the 2014 Chesapeake Bay Agreement commitment.
- New oyster sanctuary areas must have restoration and planting plans.
- The creation of small sanctuaries that have hard to enforce boundaries is to be avoided.
- Areas that are located in the middle of an extensive oyster sanctuary will not be converted to public fishery due to enforcement issues.
- Creation of 4-6 rotational harvest and planting areas – areas that could be successful if funding was invested.
- New proposed rotational harvest areas must have planting and management plans.
- Rules regarding what harvest gear types are allowed in an area will not be changed.
- Declassified sanctuaries are to be managed under current public fishery regulations.
- DNR will work with County Oyster Committees to determine final boundaries within each rotational harvest area that comply the requirements listed above.

The Consolidated Strawman Proposal contains:

- (1) New rotational harvest/planting areas.
- (2) New oyster sanctuary areas.
- (3) Expanded existing oyster sanctuary areas.
- (4) An offer that funding will be requested to increase the number of sanctuaries where restoration efforts are occurring, with the goal to address sanctuaries beyond just the 5 restoration partnership sanctuaries.
- (5) A suggestion for the selection of the 4th and 5th restoration partnership sanctuaries to meet the 2014 Chesapeake Bay Agreement commitment.

- Delegate Rey commended the DNR staff on a job well done in creating the Consolidated Strawman Proposal that encompasses all of the OAC discussions and the submitted proposals.
- Senator Hershey stated that the Consolidated Strawman Proposal would serve as a great starting point for the OAC to amend and adapt and thanked the DNR staff for their efforts.
- Mr. Fithian stated that the MOW Shoals shell dredging permit should have been discussed before the Consolidated Strawman Proposal was presented because the plans proposed by the Consolidated Strawman Proposal depend on the availability of shell. He added that shell is necessary for successful sanctuaries. He stated that it is possible to restore the oyster population in the Bay but only if everyone involved works together. Mr. Fithian requested time at the end of the meeting to share the letter he had written to the Commissioners.
- Mr. Mullin thanked DNR for their efforts and suggested that members of the OAC should meet outside of the regular OAC meetings to discuss issues and concerns pertaining to the Consolidated Strawman Proposal. He stated that a plan for the future will require give and take from both the industry and the environmental groups and he stated that he is willing to work for that.
- Mr. Harrison noted that in Talbot County it appeared that the changes suggested in the Consolidated Strawman Proposal would amount to taking public fishery area from one dredge type and giving it to another. In reference to the options presented for the 4th and 5th restoration partnership sanctuaries, he stated that the top choices are based on the homework assignment previously completed by the Commissioners yet not all of the members voted. He asked what percentage of the Commissioners actually completed the assignment.
 - Secretary Belton stated that DNR plans to work closely with the County Oyster Committees to insure that changes do not heavily impact factors such as gear type. He explained that the top choices for the 4th and 5th restoration partnership sanctuaries are not set in stone and are still open for discussion by the OAC.
- Mr. Blackwell asked how long it would take DNR to implement the changes recommended in the proposal. He asked how the 4th and 5th sanctuaries would be selected.
 - Secretary Belton and Mr. Blazer stated that if a decision was reached within the next couple months (by April or May 2017), this could potentially allow time for changes to be implemented by next fall.
 - Secretary Belton stated that recommendations for the 4th and 5th sanctuaries would be selected through further discussions by the OAC.
- Mr. Robertson noted that once the 4th and 5th restoration partnership sanctuaries have been selected by the State, they will be assessed by the federal agencies and a design plan

will be developed based on what will need to be done to reach the goals for restored oyster habitat within an oyster sanctuary tributary.

- Mr. Legum asked if the program for oyster management that is presented in the Consolidated Strawman Proposal is dependent upon DNR being granted a permit to dredge buried shell from the MOW Shoals. Mr. Legum explained that he would be willing to contribute funding and his time to work on fund-raising in order to put together enough resources to plant public fishery areas based on the oyster management proposal that is agreed upon.
 - Secretary Belton stated that the ability to implement the changes proposed in the Consolidated Strawman Proposal is not dependent upon having a permit, but having a permit to dredge buried shell would make some of the proposed changes in oyster management easier to implement.
- Ms. Colden asked if the classification of tributaries as either Tier 1 or Tier 2 oyster bottom (based on the Five Year Oyster Review Report) was considered when the Consolidated Strawman Proposal was developed. She stated that she would be interested to see the breakdown of public fishery area verses sanctuary areas by Tier classification.
 - Ms. Baxter stated that DNR would provide a list of public oyster fishery areas and oyster sanctuaries broken down by Tier.
- Mr. Boesch acknowledged that the Consolidated Strawman Proposal has many positives aspects, however he encouraged the Commissioners to take a step back and look at the plan holistically. If the proposal were accepted as is, the percentage of oyster bottom in sanctuary would be reduced from 23.7% to 21%. Under the proposal just under 1,000 acres of estimated oyster bottom would be converted from oyster sanctuary to public oyster fishery and the Hooper Straits sanctuary would be converted to a public oyster fishery area under a rotational harvest. He noted that the conversion of Tier 1 oyster sanctuary to public oyster fishery area was not discussed in the 5 Year Report.
- Ms. Swanson requested that additional information be provided to justify the conversion of the Hooper Straits sanctuary to a public oyster fishery area. She stated that if the Hooper Straits' sanctuary were preserved as an oyster sanctuary area, it would keep the percentage of sanctuary bottom closer to the current 23.7%. Ms. Swanson also requested a list of research projects, current or planned, occurring in the sanctuary areas.
- Mr. Clark stated that the Consolidated Strawman Proposal was well developed and praised the DNR staff on their efforts. He noted that the members of the Calvert County waterman's association are discussing the issues related to oyster sanctuaries and possible solutions to their concerns with the community at large.
- Delegate Rey suggested that the OAC break up into sub-committees by bay area to discuss the Consolidated Strawman Proposal and in order to meet with community members and environmental and waterman groups to discuss local issues associated with the proposal. She stated that it would allow for a deeper evaluation of the Consolidated Strawman Proposal if members concentrated on issues that the members are already more

familiar with. Delegate Rey made a motion to establish sub-committees for an in-depth discussion of the Consolidated Strawman Proposal.

- Mr. Blackwell stated that sub-committees was a logical move but questioned whether there was enough to discuss to warrant sub-committees.
 - Ms. Colden stated that the proposal needs to be looked at holistically and did not believe it to be beneficial to break in to area based sub-committees.
 - Mr. Legum stated that sub-committees could be beneficial but also stated that they could lead to unnecessary work if there is little to no issues with the proposal as is.
 - Mr. Fithian suggested that Delegate Rey propose the sub-committees later in the meeting after more discussion has occurred.
 - Ms. Cox reminded Mr. Fithian that due to the legislative session, Delegate Rey would be leaving early and unable to propose the motion later in the meeting.
 - Mr. Boesch stated that he could not vote in favor of the creation of sub-committees based on the current discussion.
 - Mr. Clark stated that he would introduce Delegate Rey's motion for sub-committees later in the meeting since she would not be there to do so.
 - Secretary Belton stressed that the Consolidated Strawman Proposal is the OAC's proposal. The OAC can change the proposal or keep it as is. He encouraged the OAC to take ownership of the proposal.
 - Mr. Clark made it clear that currently there is no structure to meet and discuss the proposal outside of the regular OAC meetings.
 - Delegate Mautz suggested that DNR should still be intimately involved if sub-committees are created. He stated that the Consolidated Strawman Proposal has merit and should be shared and discussed with the Commissioners' organizations and communities.
- Mr. Schott stated that he had reviewed the Consolidated Strawman Proposal carefully and he can see the reasoning for each aspect. He stated that when reviewing the best available science, the 5 Year Report, there is no mention of converting Tier I sanctuaries to public fishery areas. He explained that the decrease from the current 23.7% to 21% of sanctuary bottom does not seem like a huge decrease but it is an 11% decrease of sanctuary area. Mr. Schott pointed out that Tier I sanctuaries do not require a lot of funding and could be restored on their own which is something that Secretary Belton had urged the Commissioners to consider. Removing the current protection that oyster sanctuary status provides for oyster habitat in Tier I oyster bottom areas could end up costing more in the future. Moving oyster sanctuary areas to areas that are not Tier I oyster bottom habitat, may result in there being greater costs associated with the restoration of oyster habitat since these less productive areas would require more management, materials, and funding to restore oyster habitat. This would cost more than allowing a Tier I oyster areas become restored with little to no need for expensive restoration efforts.
 - Secretary Belton stated that he would be asking for capital funding to contribute to the restoration of the state sanctuaries, beyond the 5 restoration tributaries.

- Mr. Kemp stated that determining where shell can be obtained is a major concern. He stated that rotational harvest areas create shell that can be placed elsewhere.
- Secretary Belton explained that if the Commissioners recommend Tier I areas for the 4th and 5th restoration partnership sanctuaries that would require little to no work to restore, less shell would be needed.
- Mr. Blackwell noted that rotational harvest management appears to be fairly new to Maryland. He emphasized that rotational harvest management of public fishery areas does not take the place of oyster sanctuaries and noted that rotational harvest seems like a step forward but perhaps in a different direction.
 - Ms. Baxter explained that under the Consolidated Strawman Proposal:
 - Based on the charted historic oyster bars - 9,399 acres of sanctuary charted bars and 10,636 acres of public fishery charted bars would be converted to rotational oyster harvest management areas.
 - However, based on the current EIS estimated oyster bottom, 1,209 acres of sanctuary oyster bottom and 1,296 acres of public fishery oyster bottom would be converted to rotational oyster harvest management areas.
 - These data were presented to show that both types of bottoms are part of the rotational harvest program.
- Ms. Sowers requested a chart that shows the conversion of Tier I sanctuary areas to public fishery areas and scientific justification for the conversion.
- Mr. Brown stated that rotational harvest areas serve as temporary sanctuaries. He suggested that areas, such as Plum Point, rather than whole rivers, would be better suited as areas set aside as sanctuaries.
- Mr. Robertson commended DNR staff on the Consolidated Strawman Proposal. He agreed with Delegate Rey that conducting more in-depth discussion among sub committee members could be beneficial. He reminded the OAC that Mr. Wesson had stressed the importance of maintaining oyster sanctuaries as sources for broodstock. He indicated that he is concerned that converting Tier I sanctuary areas to public fishing areas under rotational harvest could affect the amount of available broodstock. He noted that Mr. Luckenbach had mentioned that Virginia was somewhat reactive with their rotational harvest efforts. That being said, he applauded DNR's efforts to incorporate rotational harvest. He added that implementing 4 to 6 rotational harvest areas would prevent the "gold rush" effect. Mr. Robertson suggested coordination with aquaculture and exploration of aquacultures vision.
- Mr. Legum stated that the Consolidated Strawman Proposal is a good starting point. He noted that oyster shucking houses are a good source for shell for oyster restoration and stated that there needs to be a backup plan for acquiring shell if the shell dredging permit application to dredge shell from MOW Shoals is not approved.

- Ms. Sowers noted that alternative substrates could be used to restore sanctuaries as they are in Virginia which would reduce the need for shell.
- Mr. Brown agreed that conducting discussions about the Consolidated Strawman Proposal among sub committee members and with constituents might be beneficial.
- Mr. Mullin noted that rotational harvest management would require investment and management efforts from the industry.
- Mr. Schott agreed and stated that he has faith that the industry will continue to support investment in rotational harvest areas however, he is unsure that the same level of reliable funding will be available to restore oyster sanctuaries.
- Mr. Boesch reminded the OAC that they had been tasked with the selection of the 4th and 5th restoration partnership sanctuary so that Maryland can meet the 2014 Chesapeake Bay Agreement commitment. He noted that the OAC had not completed this task yet and that they need to revisit this task with consideration of the best available science.
- Ms. Colden stated that she agreed with the concerns that Mr. Boesch and Mr. Schott had expressed regarding declassifying Tier I sanctuaries and converting them to public fishery areas. She urged the OAC to consider the impact on the production of oyster larvae if 1,000 acres of sanctuary was converted to public fishery.
- Mr. Fithian stated that some of OAC members had not made their selections for the 4th and 5th restoration partnership sanctuaries because they are not convinced that the proper substrate is being used to restore the current sanctuaries. He added that the funding spent on sanctuary restoration is important to consider. Without the proper substrate, millions of dollars are being spent to force the success of sanctuaries using stone instead of shell.
- Delegate Mautz stated that it is important to include local government and local citizens that could be impacted by the choices made by the Commission.
- Mr. Brown encouraged the OAC to consider rivers in need of restoration efforts for the 4th and 5th restoration partnership sanctuaries and not select rivers that are already doing well without assistance.
- Mr. Parks stated that the Consolidated Strawman Proposal has value and noted that the Nanticoke River is already protected as a sanctuary.
 - Secretary Belton explained that under the Consolidated Strawman Proposal, the 4th and 5th restoration partnership sanctuaries were being selected from the existing state sanctuaries.
- Mr. Harrison stated that 30,000 bushels had been planted outside Harris Creek and Broad Creek in order to improve spat production, spat set down river, and oyster harvest down river from the sanctuary. He noted that the watermen are not seeing the desired spat fall

occurring down river from the sanctuary areas. He added that the Fall Survey numbers agree with what the watermen are seeing.

- Ms. Swanson asked how the Commissioners should now move forward. She commended DNR for taking everything the Commissioners had discussed and drafting the Consolidated Strawman Proposal. She stated that the “homework” previously assigned by the DNR had been very helpful. She encouraged DNR to give a similar assignment to the Commissioners regarding the Consolidated Strawman Proposal. She suggested that the Commissioners review the strawman and draft additions and amendments to be discussed at the March OAC meeting.

Man-O-War (MOW) Shoals Shell Dredging Permit Application Update (Mr. Chris Judy, DNR)

Handout – MOW Shoals Shell Dredging Permit Update

The Commissioners’ packet includes answers to several permitting questions that the Commissioners had asked at the last meeting.

DNR has addressed the USACE questions from the December 9, 2017 letter to DNR. The response to USACE was due April 1, 2017 but DNR provided USACE with the answers early (on February 13, 2017). To date, DNR has updated and added additional text and maps to the permit application, as requested by USACE. Mr. Judy stated that DNR’s reply to USACE would be available on the OAC webpage.

<http://dnr.maryland.gov/fisheries/Pages/oysters/permit-applications.aspx>

- Mr. Fithian noted that Maryland Department of Transportation’s Port Administration (MPA) is granted channel maintenance sediment dredging permits on a regular basis and many of the concerns associated with shell dredging are similar to those associated with sediment dredging. In both cases there is often concern about sediment plumes, impacts to wildlife, and noise. He asked why MPA is able to obtain permits to dredge shell from the shipping channels with so much ease compared to DNR trying to obtain a permit to dredge shell. He shared a letter to the OAC that he had prepared.

http://dnrweb.dnr.state.md.us/fisheries/calendar/events/1259/RFithian_Letter_to_OAC_2-9-2017.pdf

- Mr. Lewis noted that additional sources of shell would need to be identified in the future even if the permit is approved since the permit would only supply enough shell for temporary replenishment.
 - Ms. Sowers stated that based on the schedule proposed by the permit application, shell from MOW Shoals won’t be available immediately even if the permit is approved.
- Mr. Harrison noted that in the past, when shucking houses were still in operation, shell was returned to the bar the next day. The industry would like to go back to the immediate

return of shell but the MOW Shoals shell dredging permit is needed to jump start the restoration.

- Mr. Legum suggested looking into the price for reopening the shucking houses.
- Mr. Brown suggested that DNR begin to work on permit applications for alternative shell dredging projects. As the Commissioners have seen, the permitting process is rather long and if the MOW Shoals shell dredging permit is not approved the OAC should be prepared to move to the next option. Mr. Brown motioned that a resolution be made that the Commissioners would provide suggestions for other shell dredging projects for DNR to explore at the next meeting.
 - Mr. Mullin second Mr. Brown's motion.
 - Ms. Cox called for a vote and the motion carried.
- In response to a comment about why the prior shell reclamation program wasn't a viable option, Mr. Judy stated that there is currently a one-page fact sheet available that provides an evaluation of what will and will not work in regards to acquiring shell for oyster restoration work. The fact sheet explains why surface dredging for shell is not viable for the longterm. He stated that DNR will provide alternative options for shell dredging and present these options at the next OAC meeting.
- Mr. Lewis asked for the adjusted numbers on the available shell in MOW Shoals.
 - Mr. Judy stated that he would get the adjusted numbers and share them with the OAC.
- Mr. Boesch noted that several years ago, there had been opposition regarding what dredged shell could be used for. He asked what percentage of the available buried shell in MOW Shoals would be allocated for fisheries, sanctuaries, and aquaculture if DNR received approval for the permit.
- Mr. Boesch asked if the MOW Shoals shell dredging permit application was open for public comment and whether if the permit application received negative feedback from the public if this could be used as a reason to deny the permit. He suggested hosting outreach/stakeholder meetings to increase support for the MOW Shoals shell dredging permit.
- Mr. Parks stated that the aquaculture board is supportive of the MOW Shoals shell dredging permit because they also need shell for aquaculture. He suggested having Mr. Don Webster, University of Maryland, come speak to the OAC regarding aquaculture.
- Mr. Fithian made a motion for the Commissioners to draft a letter of support for the MOW Shoals shell dredging permit and ask for the process to be expedited.
 - Mr. Harrison seconded Mr. Fithian's motion.
- Mr. Blackwell asked Secretary Belton why the permitting has taken so long for this specific shell dredging project. He stated that the MOW Shoals shell dredging permit was originally submitted in 2009 before being withdrawn and resubmitted under Secretary

Belton. He added that several of the USACE permitting staff members are not familiar with shell dredging. He asked how long the permitting process normally takes. Mr. Blackwell asked if there is a difference in time when submitting a permit to the Baltimore District USACE verses to the Norfolk District USACE.

- Secretary Belton stated that it normally takes about 3-4 months to hear back from USACE.
- Mr. Harrison asked why the 2009 MOW Shoals shell dredging permit had been withdrawn in the first place.
 - Mr. Judy explained that the permit was withdrawn because DNR had been asked by the USACE to first make sure they had exhausted every other option for obtaining shell. DNR had then worked to collect more information about other shell options and had conducted several field projects to assess options. These efforts took many years and during this time the permit application remained withdrawn. It was resubmitted in 2015.
- Mr. Schott explained that many of the USACE permitting staff members are new and are still learning. He expressed concern that a letter requesting that review and approval of the MOW Shoals shell dredging permit be expedited at this time could result in the USACE permitting staff feeling rushed and could result in the permit being declined.
 - Ms. Swanson agreed that a letter might do more harm than good and she asked Ms. Sowers to let the permit group at USACE know that the OAC is still eager to move forward with shell dredging.
 - Mr. Lewis noted that with a fairly new Commander and a new permitting staff at USACE Baltimore District, delays to the resolution of controversial permitting questions should be expected.
 - Mr. Brown noted that the OAC's eagerness is obvious by DNR replying to USACE questions quickly and ahead of schedule.
- Ms. Cox called for a vote regarding Mr. Brown's motion to write a letter to USACE requesting that the MOW Shoals shell dredging permit be expedited.
 - The Commissioners voted and the motion did not carry.
- Mr. Clark stated that he had forgotten to make a motion for Delegate Rey. The motion was to break the Commissioners into sub committees to discuss and make any changes to the Consolidated Strawman Proposal prior to the March OAC meeting.
- Ms. Cox called for a second regarding Mr. Clark's motion to break the Commissioners into sub committees to discuss and make any changes to the Consolidated Strawman Proposal prior to the March OAC meeting. There was no second for the motion so the motion did not carry.

Public Comment

- Ms. Carol McCollough, Phillips Wharf Environmental Center (PWEC), asked if any Tier II tributary oyster bottom areas might improve and be relisted as Tier I tributary oyster bottom areas in the future if the suggested changes presented in the Consolidated Strawman Proposal were accepted.
 - Secretary Belton stated that the listing of areas as either Tier I or Tier II could change over time.
- Mr. Matt Pluta, Midshore Riverkeeper Conservancy, encouraged the Commissioners to look historically at the productive bottom and consider the effects on the ecosystem and the industry if 3% of productive bottom currently protected as oyster sanctuary was lost. Mr. Pluta requested the December 2016 letter from the environmental community (signed by multiple groups) be placed on the March meeting agenda.
- Mr. Paul, Annapolis resident, expressed concern about poaching of oysters. He asked if DNR has been able to quantify the acres or the number of oysters that have been a victim of illegal poaching in the sanctuary areas. He stated that he believes that a large percentage of the Harris Creek sanctuary oysters have been a victim of poaching.
 - Secretary Belton stated that oyster poaching is a concern and has been made a priority with the Natural Resource Police.
 - Mr. Paul maintained his concern for poaching in sanctuaries. He elaborated by stating that the Commissioners are considering the effects of decreasing the percentage of bottom in sanctuaries by a few percent. If the sanctuaries are subject to heavy poaching then poaching is a major aspect for the Commissioners to consider as well. He concluded that the percentage of oyster bottom in sanctuaries is null if they will just be poached anyway.
 - Mr. Harrison stated that the amount of poaching has decreased. He added that several people have lost their fishing license forever and are facing criminal charges. He concluded that it is impossible to stop all poaching as there will always be a few that think it is worth the risk but he reaffirmed that the amount of poaching has decreased significantly.
 - Mr. Paul requested more information and data on poaching within the sanctuaries.
 - Mr. Brown stated that that the punishment for poaching not in a sanctuary is loss of fishing license for 5 years.
 - Mr. Judy replied to Mr. Paul that if he or anyone knows about poaching, to please call DNR. Mr. Judy said many viewpoints surface at meetings or in the media about the vast extent of poaching, but no specific details or actual knowledge are ever provided to support the claims. He stressed that any information on poaching will be very helpful and will be relayed to the Natural Resources Police anonymously.
- Mr. Jesse Iliff, South River, stated that he had concerns about Senate Bill 390/House Bill 1281. He stated that this bill lowers penalties for licensed oystermen poaching in sanctuaries, as long as they do not use a power dredge. He requested that DNR file testimony in opposition to the bill.
 - Mr. Iliff later sent a correction and stated that his original statement had been incorrect. He stated the bill actually changes Nat. Res. Article 4-1210(a)(2)(ii)

from "(ii) Taking oysters with [gear that is prohibited in that area]" to "Taking oysters with A POWER DREDGE IN AN AREA RESERVED FOR ANOTHER TYPE OF GEAR;" He added that since no type of gear is allowed to catch oysters in a sanctuary, his understanding is that this provision will not affect sanctuaries. Mr. Iliff apologized for his misstatement and retracted his request for DNR to file testimony in opposition to the bill.

- Mr. Newberry, Delmarva Fisheries Association Inc., thanked Ms. Sowers for providing him with some information he had previously requested. Mr. Newberry asked for the reasoning behind the vocabulary change in several of the USACE's permits. He stated that some of the permits specifically state that shell can be used in placement and other permits state that calcium carbonate can be used in placement.
 - Ms. Sowers stated that the no permit states the use of calcium carbonate and that shell is calcium carbonate.
 - Mr. Newberry stated that in 2012 the level for the oyster disease, Dermo, was 12 and according to the Fall Survey, Dermo levels have risen to 16. He asked if there were any plans to relocate the Dermo impacted oyster populations to a more northern area prior to the dry season.
 - Secretary Belton stated that there is not currently a plan in place for relocation.
 - Mr. Legum asked if moving the Dermo infected populations would just spread the Dermo to other populations.
 - Mr. Newberry stated that the last time relocation occurred, the Dermo levels decreased, referencing Mr. Judy for details.
 - Mr. Judy stated that Dermo and MSX are affected by salinity. He stated that in the past Repletion Program two things occurred when infected oysters were relocated to low salinity areas: 1) disease was moved because the oysters were moved, 2) Dermo and MSX levels declined because the relocation areas had lower salinity. The oysters survived, grew and were harvested. For Dermo, the disease was still present but at a lower level. For MSX, the disease was purged by the lower salinity.
- Mr. John Rhode, citizen, asked how the harvest of oysters increases oyster populations. He noted that the oyster harvest numbers have continued to increase and he did not understand the need to revert 11% of oyster sanctuaries back to use as public oyster fishery. He stating that he is satisfied with his taxes going toward the development and restoration of sanctuaries.
- Mr. David Maginnes, Maginnes Productions, stated that he has heard concern from citizens he has interviewed about not all shell being equal. He stated that the shell dredged from the James River has not been catching a strike and the concern is that not all shell is appropriate substrate. He asked if there was a concern that the shell dredged from MOW Shoals may not create a productive bottom.
 - Ms. Sowers stated that she could take his concerns back to USACE. She asked Mr. Maginnes to provide her with his sources following the meeting.
- Mr. Maginnes noted that Mr. Wesson had stated that there is not enough work in Virginia

alone for the fossil dredge so the approval for the MOW Shoals shell dredging permit is equally as important to Virginia as it is to Maryland since it will guarantee work for the dredge.

Next Meeting Agenda

(Mr. Dave Blazer, DNR)

The next OAC meeting will be held on March 13th, 2017 at 6pm at the Calvary United Methodist Church's Fellowship Hall.

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 problem of 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.
13. Review and discussion of proposals submitted by the county commissions.
14. Receive more information regarding the selection of the 4th and 5th restoration partnership sanctuaries based on the homework completed by the Commissioners.
15. Review the status of outstanding permits.