

Meeting Summary
Oyster Advisory Commission (OAC) Meeting
Calvary United Methodist Church, Fellowship Hall
301 Rowe Blvd, Annapolis, MD
(6:00 PM – 9:30 PM)
March 21, 2017

LIST OF ATTENDEES

Commissioners Present:

Kelley Cox (Co-Chair)	Phillips Wharf Environmental Center (PWEC)
Scott Eglseider (Co-Chair)	Eglseider Wealth Management Group, Inc.
J.D. Blackwell	38° North Oysters
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
Bill Kilinski	Charles County Watermen's Association
Ken Lewis	Coastal Conservation Association (CCA)
Johnny Mautz	State Delegate
Jim Mullin	Maryland Watermen's Association (MOA)
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
Aubrey Vincent	Lindy Seafood

Commissioners Unable to Attend:

Don Boesch	University of Maryland Center for Environmental Science (UMCES)
Jim Mathias	State Senator
Ben Parks	Maryland Watermen, Dorchester County

Other Meeting Attendees Present:

Calvert County Watermen's Association: Ms. Rachel Dean, Mr. Simon Dean

Chesapeake Bay Foundation (CBF): Ms. Anna Mudd

Citizen: Ms. Ann Attanasio, Mr. Charles Dent, Mr. Andrew Eaton, Ms. Isabelle Fair, Ms. Lani Hummel, Ms. Jennifer Miller-Herzog

Congressman Andy Harris' Office: Ms. Denise Lovelady

Coastal Conservation Association (CCA): Mr. Larry Jennings

Delmarva Fisheries Association Inc.: Capt. Robert Newberry

Maginnes Productions: Mr. David Maginnes

Maryland Department of Natural Resources (DNR): Mr. Bill Anderson, 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

Queen Anne's Watermen Association: Mr. Jeff Anthony, Mr. Troy Wilkins

Severn River Association: Mr. Bob Whitcomb

South River: Mr. Jesse Iliff

St. Mary's River Watershed Association: Mr. Joe Anderson, Mr. Bob Lewis, Mr. Chandler Wyatt

Talbot Waterman Association: Ms. Robin Harrison

Handouts:

- Meeting Agenda
- February 13, 2016 Draft Meeting Summary
- Handout – Consolidated Strawman Management Plan Proposal: Proposed changes to current oyster management areas – Draft Version: Additional Information Requested
- Handout – Oyster Density in Proposed Rotational Harvest Area
- Presentation – Information on the 4th and 5th Candidate Restoration Partnership Sanctuaries
- Handout – OAC “Homework” Assignment #2
- Letter – Joint Letter submitted by Chesapeake Bay Foundation on behalf of 29 environmental groups
- Letter – From Dr. Donald Boesch, University of Maryland Center for Environmental Science, relating to three requests for additional information regarding the Strawman Proposal
- Letter – From Ms. Allison Colden, Chesapeake Bay Foundation, relating to five requests for additional information regarding the Strawman Proposal
- Letter – From Mr. Peyton Robertson, National Oceanic and Atmospheric Administration, containing NOAA Comments on MD DNR “Consolidated Strawman Management Plan Proposal: Draft Version 1”
- Letter – From Mr. John Backus, Maryland Department of the Environment, voicing MDE’s concerns for the selection of the Severn River as a large scale oyster restoration project.

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 to provide Ms. Colden with an explanation regarding why the reserve harvest program did not work as planned and why the program was discontinued.
- DNR will provide Mr. Harrison with the most recent oyster disease data for Maryland oyster populations.
- DNR will provide the OAC with information on the historical seeding of oyster bars.
- DNR will provide Ms. Colden with information on mortality rates for oyster spat on shell.
- DNR will provide Captain Newberry with a copy of the updated and resubmitted water quality permit application for oyster restoration work on the Little Choptank Oyster Habitat Restoration Project, when it is available
- DNR will provide the OAC with an electronic copy of the Chesapeake Bay Foundation letter.

MEETING SUMMARY:

Welcome and Meeting Summary Approval (Ms. Kelley Cox, Co-chair)

Ms. Colden requested two changes. The first change was on pg. 7 to clarify that her statement was referencing the Department of Natural Resources (DNR) Oyster Tier system as opposed to the US Army Corps of Engineers (USACE) Oyster Tier system. The second change was to the public comment section on pg. 14 regarding Mr. Pluta's request for the inclusion of the December letter from environmental groups on the agenda item for the upcoming meeting.

The meeting summary from the February meeting was approved as amended.

**Discussion on Consolidated Management Strawman Proposal
(Secretary Mark Belton, DNR)**

Handout – Consolidated Strawman Management Plan Proposal: Proposed changes to current oyster management areas – Draft Version: Additional Information Requested

Handout – Oyster Density in Proposed Rotational Harvest Area

Secretary Belton stated that many questions have been received regarding the House Bill (HB 924) which, if passed would prevent boundary changes from being made to the current sanctuary system until a Fisheries Management Plan was developed based on the Oyster Stock Assessment, which must be published by December 2018, is completed. He noted that amendments to this legislation have been proposed: (1) to allow for the selection of the final two restoration sanctuaries tributaries prior to the publication of the Oyster Sustainability Report, and (2) to allow work to be done within sanctuaries as long as the sanctuary boundaries are not changed.

DNR has testified in opposition to the bill since it disregards the Oyster Advisory Commission's (OAC's) collaborative efforts. If the State Senate passes HB924, the legislation would go to the governor's office for potential signature.

- Mr. Harrison asked if the Oyster Stock Assessment would likely be published sooner than December 2018.
 - Mr. Belton replied that it is possible, however an additional Fall Survey and analysis is needed before the Report can be completed.
- Mr. Fifthian stated that HB924 undermines the OAC's efforts and shows the unwillingness of some parties to work together.
- Mr. Mullin noted that the OAC has been working hard for eight months. The time feels wasted because of the introduction of HB924. He encouraged the commissioners to testify on Thursday at 1:00 pm in opposition to the proposed legislation.
- Delegate Rey stated that she agreed and had voted against the bill. She encouraged the commissioners to contact their Senators regarding how they feel about the legislation.
- Ms. Swanson noted that the Chesapeake Bay Commission did not take a position on HB924. She also noted that the General Assembly has sent a signal that it wants DNR to select the final two restoration sanctuaries. She encouraged the OAC to continue to work on developing a recommendation for the final two restoration sanctuaries.
- Mr. Legum noted that it is not any one commissioner's fault that HB924 was proposed. He suggested a public/private partnership for rotational harvest outside of the sanctuaries.
- Mr. Blackwell noted that the proposed legislation would forbid changing a sanctuary boundary until the Report was completed. He asked if the proposed language would also impact the leasing of oyster aquaculture areas within the boundaries of sanctuaries.
 - Delegate Rey replied that as long as the sanctuary boundaries are not changed leasing would still be permissible within sanctuary boundaries.
- Mr. Kemp stated that the legislation would affect industry. Leasing of the bottom within sanctuaries should not be allowed until the boundaries of the sanctuaries can be changed.
- Ms. Vincent asked if oyster aquaculture leases within sanctuaries affect the assessment of how effective the sanctuaries are. She noted that funding is uncertain and asked how uncertain funding would affect the work of the OAC.
 - Ms. Baxter stated that only 10% of the area within an oyster sanctuary could be leased for oyster aquaculture. She noted that additional information on the percentages of sanctuaries that are currently being leased could be provided to the OAC.
 - Secretary Belton agreed with Ms. Vincent that the ability of the State to act on the recommendations made by the OAC is dependent on funding.

- Delegate Mautz stated that an amendment to the legislation had been proposed (but was rejected by the legislature) which would have given DNR the authority to take 25 cents for each \$1 for oyster restoration and place it into a shell and seed program that would have benefited the oyster industry. The amendment would have allowed for the placement of shell and seed on oyster bottom within sanctuaries, which are declining because they are no longer receiving shell. The amendment also would have allowed DNR to enact a Management Plan, which would provide for rotational harvest. Another amendment that was proposed but rejected would have required DNR to hold local public meetings regarding the location of the next two sanctuaries for large scale restoration work in order to promote local buy in.
- Ms. Colden noted that the compilation letter that had been signed by a number of environmental groups in response to the Strawman Proposal (which was submitted to the OAC in December) was never presented to, or discussed by the OAC. She noted that the perspective of the environmental groups was not incorporated into the revised Strawman Proposal. She requested that the letter be read and entered into the record.

Secretary Belton reminded the OAC that the goal of the current discussion is to present the Strawman Proposal and to review the responses from various stakeholder meetings (held by OAC members) in order to establish a possible OAC consensus. He noted that it is planned that this discussion will continue at the next OAC meeting as well.

- Mr. Harrison commented that it is appreciated that the OAC is a place where watermen have a voice. He reported that the County Oyster Committees that represent the watermen on the eastern shore had reviewed and discussed the Strawman Proposal at the Eastern Shore Meeting. The group attempted to develop a consensus among the Committees. They were generally in favor of the proposed plan for rotational harvesting because it would spread oystermen out and help prevent overharvesting.

The Queen Anne's County Oyster Committee expressed concern regarding the investment that they had made in the Chester River and the effects of a possible future hold on rotational harvesting. They expressed interest in rotational harvesting but wanted to make sure that the harvesting would be allowed to occur in the area invested in.

The Talbot County Oyster Committee indicated that they had several concerns about the Strawman Proposal but are generally in favor of it, however they would like to power dredge in the Miles River for two weeks in March. They expressed concern that the bottom area that was proposed for rotational harvest has very little or no oysters on it currently and receives very little or no spat fall. They believe that the bottom area that the Strawman Proposal identifies for protection, as sanctuary is more productive than the area identified for rotational harvest and that the proposed sanctuary area would make a better harvest area. Concern was expressed about funding especially for work in the Chester River, but it was agreed that a rotational harvest plan would help.

The Dorchester County Oyster Committee agreed with the Strawman Proposal plan for the County and wanted to move forward with it. There was a concern regarding the Dorchester

portion being swapped since it is mostly the members of the Talbot County Committee that harvest in this area.

- Mr. Kilinski noted that the County Oyster Committees were well represented in the meetings. He stated that the Charles County Oyster Committee is in favor of the Strawman Proposal. He suggested dividing the Strawman Proposal up by counties and revising the proposal to address the county committee's concerns and recommendations if possible. He noted that if the Strawman is to remain one package, there are some issues that will need to be addressed. Mr. Killinski echoed Mr. Kemp and Mr. Harrison's concerns regarding the current proposal.
 - Ms. Cox noted that there are also concerns due to the possibility of the administration changing as well as concerns regarding rotational harvesting and possible disease outbreaks.
- Ms. Colden reported that the meeting that had been held at the Chesapeake Bay Foundation (CBF) had gone well. CBF and the watermen that had attended the meeting had worked on coming to an understanding on the remaining two tributaries to be recommended as Restoration Partnership Sanctuaries.
 - Mr. Brown agreed that the meeting had gone well. They had discussed the merits of rotational harvest, the oyster industries investment in the sanctuary network, as well as the possibility of creating seed areas within the sanctuaries.
 - Mr. Robertson stated that they had also discussed concerns about the lack of shell production within current sanctuaries, and how the public fisheries could provide shell.
 - Secretary Belton suggested that another meeting be held.
- Mr. Robertson agreed that future federal funding is uncertain. He restated Secretary Belton's criteria suggestions for the selection of the 4th and 5th tributaries, which includes choosing tributaries that will not require significant state or federal investment. He noted that this could alleviate some of the funding concerns. He noted that the oyster restoration efforts that have taken place in the Chesapeake Bay go beyond any efforts elsewhere in the world. He emphasized that the efforts of the OAC have made an impact. Regarding the memo included in the Commissioners packets, the National Oceanic and Atmospheric Administration (NOAA) agrees with the guidelines provided by the Department of Natural Resources. The actions of the General Assembly provide an opportunity for the OAC to move forward with the selection of the 4th and 5th tributaries. It was a logical and sensible move by DNR to wait for the science and the 5-year study before they made any decisions. Mr. Robertson suggested that the OAC follow the recommendations given in the 5-year report, particularly regarding the potential of the Manokin and St. Mary's river as sanctuaries, which would meet the Chesapeake Bay Agreement goals without significant financial investment. NOAA disagrees with the notion that stone is not a good substrate for use as oyster reefs. He noted that in some situations stone has work better than shell for restoring oyster habitat. If restoration is the goal, then stone should be considered as a building material in order to conserve available shell for use where it is needed most.
- Mr. Robertson stressed that the science from the 5-year review should be taken into account for the selection of the next tributaries. Regarding the Tier 1 sanctuaries, they are

responding well in the absence of harvest and show high biomass and are a reservoir of reproductive capacity. He suggested that the OAC investigate the other benefits, both commercial and recreational, of oyster sanctuaries. For example, fish are known to aggregate around oyster reefs. Sanctuaries have been proven to have spillover effects in to other areas; they provide fish habitat and produce oyster spat that set elsewhere. In many ways the benefits from healthy oyster sanctuaries accrue to the recreational and commercial fishery. NOAA supports the concept of conservation equivalency, however they have requested that DNR consider the trade-offs when proposing changes to the boundaries of oyster sanctuaries. Mr. Robertson provided as an example the successful policy of restricting the scallop industry, which has allowed scallop populations to recover as well as improving the viability of the scallop industry.

- A letter from Mr. Boesch was included in the OAC handouts, who was absent from the meeting, which stated his concurrence with NOAA.
- Mr. Brown noted that the St. Mary's river has a potential to be a seed area for the state and could be used for sanctuaries or aquaculture. Currently it is not being used to its maximum potential and would benefit from shell placement.
- Mr. Blackwell noted that there are currently areas within the sanctuary boundaries, that can be leased for aquaculture, and some of these areas have been proposed for conversion to public harvest areas for rotational harvest management. It was explained that if those aquaculture areas were converted to public fisheries areas a reclassification would have to occur in order for those areas to be leased for aquaculture again.

Mr. Blackwell stated that this would be a loss for aquaculture leaseholders. He asked if DNR had considered this and how those cases would be handled. He stated that aquaculture leaseholders would also be affected by the conversion of sanctuary areas surrounding a lease being converted to public fishing areas since this would mean that aquaculture area would no longer be protected from poaching by the ban on public oyster harvest within the sanctuary boundaries.

- Mr. Judy stated that leased bottom has existed with public fisheries before because at one point sanctuaries did not exist. The issue can be investigated, but the co-existence of leases and public fishery areas is possible.
- Secretary Belton stated that the issue would be taken into consideration.

Secretary Belton requested comments on the first Strawman Proposal. He noted that the Strawman Proposal had been created from the recommendations that had been made by oystermen and environmental groups.

- Mr. Clark noted that for rotational harvesting to work the natural world is being asked to be consistent, which cannot be guaranteed. He noted that regulators created the oyster management program in Virginia while the OAC is a committee comprised of different members from different backgrounds. Mr. Clark would like feedback from environmental organizations, aquaculturists, and fisheries regarding Virginia's rotational harvest program. Mr. Clark recommended having individuals from different groups present in each of the smaller meetings to ensure and promote collaboration. Regarding substrate, it is an unnecessary distraction. Until DNR sets the criteria for artificial substrate, the conversation will not be productive.

- Ms. Swanson noted that the Strawman Proposal had provided the OAC with something to focus their discussion on regarding the selection of the two remaining sanctuaries and what to do with the other sanctuaries. She suggested following the original guidance, which stated that the best rivers for oyster restoration should be chosen for restoration. Ms. Swanson stated that Tier 1 sanctuaries should remain sanctuaries. Proposals for rotational harvesting in Tier 1 sanctuaries should be reconsidered. She stressed the use of conservation equivalence when discussing swapping between Tier 1 and Tier 2 sanctuaries and placing some of the areas in public fisheries or rotational harvest. The OAC should try to maintain a percentage between 20-30% of the oyster bottom in sanctuary. Ms. Swanson stated that the report discussed the minimization of the small sanctuaries since it is difficult to enforce poaching laws in these areas. Ms. Swanson asked the OAC to revisit the smaller sanctuaries. Ms. Swanson stated that using other substrate such as rock in sanctuaries will not affect watermen and strongly suggested using rock and other alternative substrate in sanctuaries in order to save natural shell for the public fishery and rotational harvest fishery. Ms. Swanson stated that there are serious issues with federal funding for all the agencies involved with the environment and the OAC should anticipate a significant reduction in resources. The two sanctuaries to be selected need to be able to provide high caliber results with minimal investment.
- Mr. Lewis agreed with Ms. Swanson and stated that the metric of large oysters in terms of fecundity is missing from the data.
- Delegate Rey suggested that the OAC investigate the Charles County Oyster Committee Proposal further since it does not affect the sanctuary.
- Mr. Harrison stated that the watermen are against the Talbot County Oyster Committee proposal for rotational harvesting because it would still result in a reduction in harvestable bottom and because there is no funding. The watermen wish to plant oyster shell at the head of Broad Creek because this area has been successful in the past. He supports recommending the Severn River and Breton Bay for designation as restoration partnership sanctuaries because they have good salinity although not the best spat fall. He suggested introducing disease resistant strains of oysters from Virginia and focusing on the creation of a seed area.
- Mr. Fithian stated that he strongly disagrees with Mr. Robertson especially regarding Harris Creek. He believes it is a travesty to bury good bottom underneath stone. Mr. Fithian suggested making huge seed areas and allowing it to grow before it is transported to an area where it would be more effective.
- Mr. Schott stated that the Strawman Proposal has shortcomings. It appears to not adhere to the recommendations from the 5-year report and the OAC ignores those facts at its own peril. If an evidenced based program is not followed then there is a real risk to the future. Reducing the sanctuary acreage and the quality of the bottom through harvest is not a good idea. Following the 5-year report and keeping Tier 1 sanctuaries protected is recommended. There is potential for the Chesapeake Bay funding to be reduced by 95%. Mr. Schott noted that there is no guarantee that there will be any funding to restore Tier II oyster bottom areas. Regarding Mr. Harrison's view that the increase in spat set is not due to the sanctuaries, Mr. Schott used the crab fishery restrictions as an example, where restrictions were placed in 2008 currently the crabbing industry is thriving. Mr. Schott

suggested letting broodstock oysters grow to 5" in size and waiting a few years so that these oysters can reproduce. Discussions need to be held regarding areas which could be swapped without losing the potential for restoration. The OAC needs to reach an agreement to address the watermen needs without compromising the sanctuaries.

- Ms. Sowers suggested further consideration of the proposals that would establish harvest reserves in the lower Tier sanctuaries occurring upper river segments. Proposals for the establishment of harvest reserves in the higher Tier I areas should not be reconsidered for opening up to harvest. She suggested that the Somerset sanctuary be considered for expansion to make up for the loss of sanctuary area elsewhere. Ms. Sowers supports the idea of conservation equivalency and maintaining the sanctuary system as much as possible.
- Mr. Legum stated that conservation groups want to expand the sanctuaries and stated that their voice is not being heard. Protecting tributaries that have a lot of potential for successful restoration with little cost is the best option for the future. Mr. Legum is against converting sanctuaries to harvest areas. Mr. Legum suggested raising money for rotational harvest outside of the sanctuary areas.
- Mr. Robertson asked if there were any areas of interest to the OAC that NOAA could volunteer to investigate with the Maryland Geological Service in order to provide the OAC with assessments of the areas in question.
- Mr. Brown stated, regarding the Western shore, that the Strawman Proposal does not look favorable. Under the Strawman Proposal, Baltimore, Anne Arundel and St. Mary's Counties do not get a lot of harvest area added. He noted that St. Mary's County watermen generally are not interested in rotational harvest since their harvest area is small and they would like to use Cedar Point and the St. Mary's River as seed areas. Multiple year-classes could be obtained when seed is taken from the bottom. Leaving everything alone only obtains 10% of the potential of the St. Mary's river. Mr. Brown suggested investigating not only the areas under selection but also what is going to happen with the areas once it is rotational harvest (i.e. harvest rate, how long it will be open, etc.). A plan needs to be in place that can be adjusted as everything moves along. Also, rotational harvest areas need to be spread across a large area in order to spread out the fleet.
- Ms. Vincent stated that there are some issues that can be taken care of later (i.e. management, investment, etc.). One issue which keeps on resurfacing is seed areas and it is very important to include that in the proposal. Hopefully the OAC can come to a consensus on seed areas and tackle issues such as funding.
- Mr. Blackwell asked if additions could be made for counties who have not received any areas.
 - Secretary Belton stated that the OAC would make that decision. DNR is attempting to reflect the discussions being held at the OAC, and in the County Oyster Committee and environmental group outreach meetings.
- Senator Hershey stated that HB924 is a direct reaction to what is occurring in the OAC, and it is important to note that the OAC is a very balanced committee. With regards to the Strawman proposal, there are some excellent ideas and there is an opportunity to compromise and reach a happy medium. The OAC should try to work together to see both

sides and to come together and produce a real recommendation that can be made to DNR. The OAC needs to be working together more than ever especially if federal funding gets cut.

- Mr. Mullin stated that the OAC is in agreement about the need for seed areas. He suggested that this would be a good place to start since it would benefit the oyster and everyone's vested interest. Mr. Mullin agreed with Mr. Schott regarding additional areas to be swapped, specifically which ones would not work. He stated that industry investment in the sanctuaries would benefit all.
- Ms. Colden stated that the selection of the restoration tributaries is important and it should be completed. To have these protected areas established will help the OAC define management options. She noted that the old Harvest Reserve Program management areas are very similar to the proposed Rotational Harvest Program management areas, although the management strategy differs. Ms. Colden requested information about why the old Harvest Reserve Program was abandoned. She noted that harvesting in the rotational harvest areas is very dependent on funding for the placement of substrate and seed oysters. She expressed concern that the establishment of rotational harvest areas would open these areas up to harvest even though there would not be enough funding to seed them for future rotational harvest. She asked if any of the County Oyster Committees other than Charles County had proposed locating rotational harvest areas on existing public shellfish bottom. She pointed out that the Public Shellfish Fishery Areas (PSFA's) are open to the public oyster fishery as well as any bottom area that is not a sanctuary. She suggested that these non-sanctuary areas be proposed for rotational harvest.
- Ms. Colden noted that there have been comments from OAC members regarding investigating Tier II or III sanctuaries for potential conversion to rotational harvest areas. She noted that 13 out of the 15 areas that had been given lower Tier classifications were given the classification due to there not being any data available. Ms. Colden stated that there is a concern regarding making any decisions based on a complete lack of data. She explained that the CBF has invested funding in the restoration of some of these areas, there are at least four restoration projects which fall within the areas which are proposed to be converted to harvest areas. She stated that the Strawman Proposal does not take all of this information into account and this is a cause for concern.
- Mr. Kemp echoed Mr. Harrison's comments regarding Talbot County and the lack of room for modifications. He expressed concern that \$36 million was spent on Harris Creek when making Harris Creek a sanctuary impacted a lot of people. He indicated that he does not think that this should be forgotten. It is even more concerning to move on to another project especially when there might be a lack of funding. He also expressed concern that aquaculture operation uses the same equipment as watermen and they could move things around within the sanctuary with this equipment. He indicated that watermen in the public oyster fishery do not want to work within two feet of aquaculture areas; the proximity concern goes both ways.
- Mr. Kilinski stated that he was perplexed by HB924. The legislation that was passed last year required the development of a management plan but now the HB924 would stop progress on the creation of a management plan. Many of the County Oyster Committees are having funding issues and cannot set aside any funding for rotational harvest. In St.

Mary's County people's livelihoods are being taken away. Some County Oyster Committees are for the Strawman Proposal and some are completely against it. Mr. Kilinski suggested moving on to the second version of the Strawman proposal to see where it takes us.

- Mr. Harrison stated that he does not consider sanctuaries to be a benefit to the industry because now is when we should be seeing the benefits of the sanctuaries. Oyster spat set has increased Baywide, but harvests have not increased. The 2010 oyster management plan discussed adaptive management practices and the watermen are trying to follow that plan by making changes due to funding restrictions. He stated that sanctuaries have not resulted in an increase in disease resistance in oysters. He requested data on the prevalence of disease in oysters.
- Ms. Vincent suggested defining common terms so everyone can understand what is being discussed (i.e. harvest reserve, seeding, rotational harvest, restoration sanctuary etc.).
- Ms. Swanson explained that in order for rotational harvesting to work, a management plan needs to be created and the harvest area needs to be seeded with oyster spat. She suggested that given funding limitations, it might be a good idea to use the limited funding that is available to do a pilot program to assure that the rotational harvest project is successful and prove its effectiveness. She requested information regarding seeding.

4th and 5th Candidate Restoration Partnership Sanctuaries

(David Blazer, DNR)

Presentation – Information on the 4th and 5th Candidate Restoration Partnership Sanctuaries

Handout – OAC “Homework” Assignment #2

Mr. Blazer reminded the OAC that the first homework assignment that was given to the OAC was to investigate the 51 sanctuaries in Maryland and create a smaller usable subset of sanctuaries for consideration as recommendations for restoration partnership sanctuary status. Of the 51 sanctuaries on the initial list, the OAC identified 14 sanctuaries for further consideration. All of these 14 sanctuaries are already established sanctuaries and there are no proposals to change the current boundaries of these sanctuaries.

For the second homework assignment, DNR has prepared documents (a presentation and handout) to help the OAC compare the qualities of the 14 sanctuaries using the objectives that were identified in the 2010 report. The purpose of these documents is to provide a basis for comparing the sanctuaries based on the potential for each sanctuary to meet the sanctuary program objectives. The presentation includes general information about the 14 sanctuaries including the oyster counts per bushel pre and post sanctuary creation. Much of the data and information being used to evaluate the extent that each sanctuary could potentially meet objectives comes from the 5-year report. The presentation and handout are being distributed to the OAC in order to help the members to complete the next homework assignment.

One objective from the 2010 report, to protect half of the most productive oyster bars, raises some questions because the objective is Bay-wide in scope. Another objective, to facilitate disease resistance, required that DNR determine the potential of each of the 14 sanctuaries to serve as an oyster production reservoir with the capacity to provide oyster spat set in other areas of the Bay.

There are three different acreages provided on each map; the estimated restorable acres, habitat total, and surface area.

- Ms. Colden asked about the data presented, specifically how oyster larvae sink area data and oyster larvae source area data was collected. She asked if the sink and source areas within a sanctuary were determined based on modeling. She asked how the patent tong survey was scored and if there are mortality estimates for the planted spat on shell.
 - Ms. Baxter explained that scientists collect data and develop models in order to analyze the data and develop estimates to determine of spatfall “sink” and “source” areas. She explained that the patent tong survey is scored based on live oysters present. She indicated that she would provide additional information to Ms. Colden on mortality estimates for planted shell.
- Mr. Kemp stated that the gear type used in the oyster surveys might influence the results of the survey. Mr. Kemp suggested using waterman knowledge to guide how surveys are conducted.
 - Mr. Judy replied that standardized gear is used for the surveys in order to assure a continuous longterm useful data set.
 - Ms. Vincent suggested using waterman knowledge in the future sampling.
 - Mr. Clark agreed that gear effect should be considered.
- Ms. Colden asked if the partnership sanctuaries would fulfill the requirements of the Chesapeake Bay Agreement if the sanctuary areas chosen do not provide tributary-wide protection.
 - Mr. Blazer stated that term “partnership” was included in order to avoid confusion with sanctuaries and restoration tributaries. They are current State sanctuaries and would qualify as restoration tributaries potentially for the 4th and 5th partnership activities.
 - Secretary Belton stated that a final determination regarding whether the sanctuaries that are chosen would fulfill the requirements of the Agreement would be made once the DNR proposal is submitted to the Chesapeake Bay Office.
- Mr. Legum asked if there were particular sanctuaries which DNR favors over others.
 - Secretary Belton stated that DNR is trying to reflect the OAC recommendations and once DNR receives the OAC recommendations DNR will make a decision.
- Secretary Belton and Mr. Blazer asked the OAC to review the homework and encouraged everyone to participate and work together. The OAC is not limited to the 14 sanctuaries; all 51 sanctuaries can be investigated. The due date for the homework has been changed to April 10th. DNR is very interested in OAC member’s explanations for why they have, or have not chosen to recommend each tributary.

- Ms. Colden shared the compilation letter that had been signed by a number of environmental groups.
(http://dnrweb.dnr.state.md.us/fisheries/calendar/events/1260/06_OAC_Letter_29JointLetter_2016-12-07.pdf).
- Senator Hershey stated that in the letter it mentions that the OAC membership is heavily weighted towards industry. He asked Ms. Colden whether she considered the membership of the OAC from previous years to have been balanced or weighted.
 - Ms. Colden stated that she did not know if the previous OAC membership had been balanced or not.
- Mr. Clark stated regarding the Maryland Sanctuary Restoration Program, the Chesapeake Bay does not care about what we want or what we think, only what we can prove. He stated that the OAC is supposed to be working with the best available science. Until the OAC accepts that it is necessary for what we want/need for the oyster population restoration effort to be backed by the best available science, we will continue to be in a discussion about what we believe and think. This puts the industry at an unfair disadvantage; the environmental community, regulatory community, and academic community has access to the best available science, but industry does not have that same access. Mr. Clark stated that Morgan State hosts science programs every summer with interns and would be happy to make the interns available to the watermen to answer questions. Mr. Clark challenged other environmental groups to offer the same services using the Sea Grant program as an example of how this can be accomplished.
- Mr. Harrison stated that oysters most likely filter 30-35 gallons of water a day, not the 50 gallons of water a day, which keeps being used as an example.
 - Ms. Colden stated that the 50 gallons per day was taken from an older scientific paper which had been peer reviewed.
 - Mr. Judy stated that 50 gallons per day was an overestimation and oysters filter closer to 30 gallons of water a day, as per a discussion he had with the University of Maryland scientist who first stated it was 50.
- Mr. Schott stated that scientists have a particular way of looking at things and the request for questions is in earnest because scientists cannot be on the water as much as watermen. Mr. Schott asked if Mr. Boesch's letter could be presented.
 - Secretary Belton stated that the opportunity will be given to read the letter at the next meeting.
- Mr. Brown stated that the initial sanctuary proposal increased the amount of habitat in sanctuary from 9% to 24%. In St. Mary's County, Breton Bay, Cedar Point, and an area in the lower Patuxent were all deemed sanctuary in order for the County Oyster Committee to keep part of St. Mary's river for a seed area. The Calvert County Oyster Committee requested a specific area and was given a completely different area instead. The same thing happened in Dorchester County. There was more bottom taken from the St. Mary's County Oyster Committee by the previous administration at DNR than any other county.
 - Secretary Belton stated that it would be investigated.

- Ms. Vincent stated that she would like to dispel the perception that the OAC is weighted in a way that is unfavorable to environmental groups. She stated that this perception is creating a sticking point for those whom Ms. Vincent is trying to represent regarding who is represented on the OAC. Stating that the OAC membership is weighted with interests opposing environmental restoration short-changes the OAC membership and their true goal, which is a healthy Bay. The issues differ, but the principles are very similar.
- Ms. Colden stated that this is not the first OAC membership and will probably not be the last. The process which went into developing the sanctuary network included countless public meetings totaling over 150 hours and a great deal of public outreach to the industry organization. Some of the trade-offs that resulted in the current sanctuary system boundaries are listed in the Code of Maryland Regulations. These include the removal of the North Side Sanctuary and the reduction of the sanctuary area by 75%. Hopefully there will be a similar opportunities for public input on the recommendations which the OAC provides to DNR.
- Mr. Blackwell asked how many members were in the last OAC membership.
 - Secretary Belton stated that there had been 22 OAC members in 2014.
- Ms. Cox stated that she represents an environmental group but Phillips Wharf Environmental Center was not involved with the compilation letter previously presented by Ms. Colden. As a Maryland Grow Oyster (MGO) group they submitted a proposal, which was accepted into the first Strawman proposal. Ms. Cox asked why the other environmental groups did not write a proposal like they were asked to. She noted that environmental groups were given a chance to voice their views.

Public Comment

- Mr. Anderson stated that he is the President of the Board of Directors for the St. Mary's River Watershed Association. Earlier in the meeting a comment was made that the input or opinion of locally elected officials is important and should be taken into consideration when the final decisions are made. The Commission of St. Mary's County has written two letters to Secretary Belton in support of maintaining the integrity of the St. Mary's sanctuary and in favor of the St. Mary's River becoming one of the next two rivers to be chosen for as an oyster restoration partnership sanctuary. It was noted that Breton Bay is also in St. Mary's county and the Commission represents almost 110,000 people and their views should be taken into consideration.
- Mr. Denton, Wicomico County, explained that he attends the OAC meeting on a regular basis. He stated that a citizen stakeholder group has been formed called "Friends of the Wicomico" and this group has signed onto the compilation letter due to complaints of overharvesting in the Wicomico River. There is no science to support the delisting of the sanctuaries to allow harvest. He noted that only some of the changes submitted for the Strawman proposal had been adopted. Also, Hooper Strait was added for rotational harvesting even though no one suggested this addition. It appears that the Strawman

proposal is filled with random suggestions with no scientific basis that would improve the Bay oyster population. Mr. Denton asked if the Strawman was giving oystermen more oysters next season due to a depleted fishery. The OAC is spending an inordinate amount of time discussing opening up sanctuaries for harvesting, which seems to be a diversion from the main problem. Mr. Denton is concerned about what is not being discussed: aquaculture, current status, trends of harvest, resources needed for success, poaching, impact of current status, prevention, enforcement, and reduction of oyster license holders. Maryland has too many licenses for a sustainable oyster population. DNR funding and resources needs to be discussed to determine if there is adequate funding to support all of DNR's oyster programs. Finally, regarding overharvesting and depletion of public fishing areas; evidence seems to suggest that there has been overfishing in Tangier Sound with repeated power dredging. Mr. Denton is opposed to opening up oyster sanctuaries for harvest without a scientific basis to be in the best interest of the Chesapeake Bay recovery. Mr. Denton requested that the topics that he had listed be added to the OAC to-do list for discussion.

- Captain Newberry stated that he had recently received a letter from the Dorchester County Commissioners concerning the status of a water quality permit issued by the Maryland Department of the Environment (MDE) for the Little Choptank Oyster Restoration Project. He asked DNR where that project stands and what DNR is going to do about renewing the permit. He stated that the permit was issued in 2011, 2012, and 2013 and that it is now scheduled for a hearing in front of the Board of Public Works (BPW) in April. Captain Newberry requested that any copies of resubmitted permits be sent to him when it is ready for the Dorchester County Council. He stated that he hopes that the use of rock as substrate is reconsidered since the Environmental Protection Agency (EPA) has released findings that there is PCB in the concrete being used.
 - Mr. Judy stated that the permit is going to be held until a later date sometime after April because the application includes outdated information from MDE. DNR will work with MDE to edit and update the permit application documents in order to include the current MDE information. Once this is complete the permit renewal application will be sent to the BPW for review. He stated that Captain Newberry would be added to the list of interested parties to receive permit application notices. He noted that the public is allowed to speak at BPW meetings and submit written comments. The contact information for the BPW administrator will be included in the permit application public notice.
- Captain Newberry pointed out that the OAC is discussing HB924 right now but the wording in HB924 is exactly the same as the amended wording from HB937 that was discussed last year. Captain Newberry applauded DNR for opposing the bill. He noted that a group of watermen had facilitated a meeting in order to provide testimony but the CBF had not attended this meeting. He stated that it had taken 11 years for the current oyster restoration plan to be developed. He stated that the previous OAC group membership had only included two watermen and he believes that the current OAC membership does not and currently is not outweighed with watermen against the environmental groups. Captain Newberry recommended that the OAC put a letter together to provide as testimony in

opposition to HB924. Currently the oyster sanctuaries concept is being touted as the largest and best, but the success of the current sanctuaries does not compare to the resurgence in oyster populations, which occurred under DNR direction between 1973-2000 after Hurricane Agnes; The old oyster program worked for 40 years. Regarding funding, federal funds are most likely going to be limited, especially from the EPA and possibly from the US Army Corps of Engineers (USACE). Captain Newberry stated that Maryland should follow the footsteps of the Lake Erie program, which brought back yellow perch to the Lake. He noted that the program required that each person who used the lake pay \$5 and in 8 years Lake Erie is now the #1 yellow perch fishery in the world. If this strategy were implemented in Maryland and everyone who used the Chesapeake Bay paid \$5, \$11.5 million would be generated.

- Ms. Dean, Calvert County Oysterman's Committee, stated that the OAC would not accomplish anything if the members do not work together. She thanked the OAC for keeping an open mind and open conversation and she asked the OAC members to go back to the stakeholders that they represent and ask them the hard questions and work to keep a balanced OAC.
- Mr. Whitcomb, Severn River Association, requested that the Severn River be selected as one of the restoration partnership tributaries. He explained that the Severn River would be ideal given the low levels of oyster disease in the river. NOAA has already installed substrate in areas in the river so the river could potentially require less additional funding for restoration. In addition, the entire river is currently a sanctuary, which would make enforcement of anti-poaching laws easier to enforce; the water quality in the river has improved in recent years; and oyster restoration in the river has the support of the communities in the area. The largest MGO group in Maryland has focused their efforts on the restoration of the river and this group is in favor of designating the river as a restoration partnership tributary.
- Mr. Maginnes pointed out that legislation has been proposed that would establish designated Atlantic Sturgeon critical habitat in the Chesapeake Bay. He stated that this legislation could impact oyster fisheries and oyster management. He asked Mr. Robertson why he had not presented information about this legislation to the OAC since it could potentially impact oysters. He asked Mr. Robinson why he had not brought a NOAA expert on Atlantic Sturgeon critical habitat to the OAC meeting for this purpose.
 - Mr. Robertson replied that he would investigate the issue and discuss potential impacts with a NOAA expert on critical habitat designation. He stated that it might be possible for him to invite a NOAA expert to speak about Atlantic Sturgeon critical habitat at a future meeting.

Next Meeting Agenda

(Mr. Dave Blazer, DNR)

The next OAC meeting will be on May 15th at 6pm at the Calvary United Methodist Church's Fellowship Hall. The April meeting was cancelled in order to allow more time for OAC members to review the Strawman Proposal and respond to a set of questions regarding potential revisions to the proposal.

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 tributaries based on the homework completed by the Commissioners.
15. Review the status of outstanding permits.