

Meeting Summary
Oyster Advisory Commission (OAC) Meeting
 Calvary United Methodist Church, Fellowship Hall
 301 Rowe Blvd, Annapolis, MD
 (6:00 PM – 9:30 PM)
 May 15, 2017

LIST OF ATTENDEES

Commissioners Present:

Kelley Cox (Co-Chair)	Phillips Wharf Environmental Center (PWEC)
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
Sean Corson	National Oceanic and Atmospheric Administration (NOAA) Chesapeake Bay Office
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)
Deborah Rey	State Delegate
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:

Scott Eglseder (Co-Chair)	Eglseder Wealth Management Group, Inc.
Don Boesch	University of Maryland Center for Environmental Science (UMCES)
Bill Kilinski	Charles County Watermen's Association
Jim Mathias	State Senator
Ben Parks	Maryland Watermen, Dorchester County
Aubrey Vincent	Lindy Seafood

Other Meeting Attendees Present:

Chesapeake Bay Foundation (CBF): Mr. Doug Myers

Citizen: Ms. Ann Attanasio, Mr. John Rodenhousen, Mr. Larry O'Brien

Congressman Andy Harris' Office: Ms. Denise Lovelady

Coastal Conservation Association (CCA): Mr. Larry Jennings

Delmarva Fisheries Association Inc.: Capt. Robert Newberry

Dorchester Banner: Bob Zimberoff

Dorchester County Council: Mr. Tom Bradshaw

Friends of St. Clements Bay: Liz Curtz

Maginnes Productions: Mr. David Maginnes

Maryland Board of Public Works: Bill Morgante

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

Maryland Environmental Service (MES): Ms. Christine Holmburg

Maryland Waterman's Association: Ms. Victoria Brown

National Oceanic and Atmospheric Administration: Ms. Stephanie Westby

Oyster Recovery Partnership: Emily French, Megan Munkacsy

Phillips Warf Environmental Center: Carol McCollough

Queen Anne's Watermen Association: Mr. Troy Wilkins

Senator Hershey's Office: Erika Howard

Severn River Association: Mr. Bob Whitcomb

St. Mary's River Watershed Association: Mr. Bob Lewis

University of Maryland Center for Environmental Science: Mike Wilberg

Handouts:

- Meeting Agenda
- March 21, 2017 Draft Meeting Summary
- Presentation – Homework #2 Results: 4th and 5th Candidate Restoration Partnership Sanctuaries
- Presentation – Stock Assessment Terms of Reference Review
- Handout – External Estimates for Maryland Oyster Stock Assessment
- Handout – Primary Data Sources to Potentially Include in Maryland Oyster Stock Assessment

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:

- Once the restoration sanctuaries are selected and prior to the public hearing process, the county government where the proposed restoration sanctuaries are located would be provided with an informational briefing and offered the opportunity to provide comment and/or guidance. As the planning process proceeds, the county would continue to be appraised of the management actions underway.
- The OAC will not meet in August.
- The OAC will review the document titled Stock Assessment Terms of Reference and submit comments to DNR by June 5th.
- The OAC will review the Data Inventory and Report and provide any potentially useful data to DNR by June 5th.

MEETING SUMMARY:

Welcome and Meeting Summary Approval

(Ms. Kelley Cox, Co-chair)

Minor edits from Kelton Clark were included in the March meeting summary. The summary was approved by the OAC.

4th and 5th Candidate Restoration Partnership Sanctuaries

(Jodi Baxter, DNR)

Presentation – Homework #2 Results: 4th and 5th Candidate Restoration Partnership Sanctuaries

At the March meeting the commissioners were asked to choose 3 sanctuaries (out of the 51 sanctuaries) for recommendation for inclusion in the restoration partnership program and to identify 3 sanctuaries to recommend for no tributary restoration and to justify their recommendations. The Maryland Department of Natural Resources (DNR) received recommendations from 22 of the 24 Commissioners as follows:

For inclusion as restoration sanctuaries (total of 8 tributaries):

- Breton Bay – 12

- Manokin & St. Mary's – 11
- Severn – 10
- Nanticoke & South – 9
- The other sanctuaries received 2 or fewer recommendations for inclusion

Against inclusion as a restoration sanctuary:

- Breton Bay, Magothy and South – 6
- Manokin & St. Mary's – 10
- Severn – 7
- Nanticoke – 9
- The other sanctuaries received 1 or fewer recommendations against inclusion

A total of eight sanctuary tributaries were recommended for inclusion in the restoration partnership sanctuary program. The Commissioner's provided justifications for and against these choices as listed in the presentation.

Secretary Belton stated that extensive discussions have been held with the members of the OAC regarding recommendations for the selection of the 4th and 5th restoration tributaries. DNR will take into consideration all of the recommendations and information that has been provided by the OAC. Secretary Belton will discuss the issues raised by the OAC with his staff, and will make a recommendation for selection of the 4th and 5th restoration tributaries to discuss with the State House. A public hearing will be held at some point. Once the selections are made there will be an in-depth study to create specific plans for the restoration projects and there will be a National Environmental Policy Act (NEPA) review process to assess the potential impacts associated with the plans.

- Mr. Harrison asked about the 2025 deadline.
 - Secretary Belton stated that the Chesapeake Bay Agreement committed Maryland to restoring oyster populations to historic levels in 5 tributaries by 2025.
- Ms. Colden asked if Secretary Belton felt comfortable with the OAC's recommendations and justifications.
 - Secretary Belton replied that DNR will seek out any other information if deemed necessary.
- Ms. Sowers requested that DNR consider choosing sanctuaries that have good water quality when selecting the two restoration partnership sanctuary tributaries. She noted that there is low dissolved oxygen in Breton Bay.
- Mr. Brown recommended that DNR not consider any tributaries located on the eastern shore or any tributaries that received equal votes for and against restoration. He asked DNR to consider the fact that St. Mary's and Manokin Rivers have high densities of oysters already so they do not need to be restored. He suggested that areas in these tributaries be made available to watermen to use as seed areas. He expressed concern that

once the tributary is designated as a restoration sanctuary then it could not be used as a seed area.

- Mr. Fithian stated that in the past seed oyster seed areas were built with shell and were very similar to sanctuaries. He stated that if the sanctuaries were to be built with fossil shell and do not take land away from the industry then it would not matter where they were built, as long as they are built correctly and can be used by watermen as future seed areas. He expressed concern that the sanctuaries would be built with concrete and stated that the State should not rush to choose the final two tributaries when the US Army Corps of Engineers (USACE) has not addressed the issues related to using stone and building reefs that interfere with fishing boats.
 - Ms. Sowers pointed out that once the tributaries are selected for restoration, the USACE would start a 2-year planning process that includes researching all potential issues and conflicts and that considers oyster industry issues and concerns.
- Delegate Rey asked for clarification regarding the steps taken before the finalization of the 2 selected tributaries. She recommended that DNR hold public hearings.
 - Secretary Belton replied that he would hold discussions with his staff to make sure that all of the information is understood and then discussion will be held with the staff at the State House in order to make a written recommendation. The decision will then go to the governor. Once the two tributaries are selected, a planning process will occur which may produce new information which could affect the selection. He stated that he would investigate the legality and requirements of holding public hearings; if public hearings were held, it would be after the final selection of the two tributaries.
- Mr. Lewis stated that there is more than enough information currently available to make a decision on the selection of the two tributaries.
 - Secretary Belton stated that during the planning process more information could come from the in-depth survey data collected by the USACE and the National Oceanic and Atmospheric Administration (NOAA), which could become a factor effecting the ultimate selection of a tributary for restoration by the federal agencies.
- Mr. Harrison stated that Talbot County and Tilghman Island have been drastically impacted since the oyster restoration sanctuary work was started in 2010; this not only affects the resale value but the wholesale value. On Tilghman Island (Knapp Narrows), inland businesses including local inns are being negatively impacted due to the decrease in oystermen, the postponement of dredging in the channel, and impacts related to the poor placement of stone in the restoration sanctuary. Mr. Harrison asked for an investigation of the possible inland effects which may occur from the selection of the final two tributaries.

- Delegate Mautz stated that local economies are impacted negatively by having tributaries selected as restoration sanctuaries. There are a lot of facts and data regarding what happens in the water, but there is a lack of information and data about what happens on land. He recommended a formal acknowledgement of the local governments regarding the selection of the final two tributaries to allow them to be brought in to the selection process. Delegate Mautz requested a motion to allow the counties a chance to voice their approval or rejection, and be able to ask questions about the restoration sanctuaries before the remaining two tributaries are finally approved. The motion is for the interaction between the state and respective county to occur before the state contracts with federal partners to designate the next tributary. It does not prohibit or diminish the state's authority but allows the respective county to have notice and information about the state's intentions. It also will allow the counties to share any comments or suggestions.

- Mr. Clark asked for clarification regarding the motion requested by Delegate Mautz. He asked if the counties would be able to veto the selection of a tributary.
 - Secretary Belton stated that soliciting community and local feedback and hopefully support would be essential to the tributary selection process. However since bay waters are under the state's jurisdiction, local governments would not be able to veto a given selection.
 - Mr. Fithian stated that this motion would give counties an opportunity to comment on what will take place off of their shores. It would be a courtesy to inform the county.
 - Ms. Sowers asked if the intent of the motion was to seek county input or whether the motion was intended to allow the county to reject the tributary selection.
 - Delegate Mautz replied that the motion is to alert counties of the selection and their response may affect the governor's decision. Currently the individuals who are directly affected are receiving second hand information and this will allow the counties to interact and participate.
 - Ms. Colden agreed with Ms. Sowers regarding county input and reiterated that there is a long planning process, which considers and analyzes a wealth of information (i.e. bottom mapping) that can determine the location of the restoration and how much restoration is needed.
 - Ms. Colden recommended waiting to inform the counties until the in-depth information is obtained from the planning process because the uncertainty creates an environment in which individuals are inclined to say no.
 - Mr. Schott asked for a clarification regarding the motion. He noted that DNR already has a process for obtaining county input, and the motion would change when county input would occur.
 - Delegate Mautz agreed that this is correct.
 - Secretary Belton stated that DNR intends to inform the counties of the decision whether or not the OAC recommends this or not.
 - Mr. Schott stated that there has not been enough engagement with the local government in the past and recommended sharing all of the details regarding the selection with the counties.

- Ms. Swanson created language for the OAC to make a motion. She agreed that it would be a courtesy and would provide value added to show the OAC is interested in the local government perspective and the potential impact of the restoration project. Ms. Swanson read the motion:

Once the restoration sanctuaries are selected and prior to the public hearing process, the county government where the proposed restoration sanctuaries are located would be provided with an informational briefing and offered the opportunity to provide comment and/or guidance. As the planning process proceeds, the county would continue to be appraised of the management actions underway.

Ms. Cox asked if that was clear to the OAC, and the OAC agreed. The OAC voted in favor of the motion.

- Mr. Blackwell asked that the Secretary Belton and the State House consider Breton Bay, which will be helped by the St. Mary's River oyster habitat.
- Mr. Harrison asked for clarification regarding the completion of Harris Creek Project. He noted that Oyster Recovery Partnership (ORP) boats have recently been planting spat on shell even though the area is considered completed.
 - Ms. Sowers explained that the tributary plan calls for a second year class seeding to ensure multiple year classes. The spat on shell was placed on sites which were three years of age as of last year and 1.5 million spat per acre is being planted, which is much less than the initial plantings. The initial plan called for the second application and the USACE is following through.
- Mr. Kemp asked how much the seed oysters from Virginia had cost. He recommended that the State of Maryland supply its own seed from seed areas rather than going to Virginia.
 - Mr. Harrison replied that \$50 thousand has been spent (\$11.50 per bushel planted). He noted that it is more economical (5-6 times cheaper) to get oysters from Virginia than getting spat on shell. He stated that the incidents of Dermo disease have only been 12% and the industry is hoping to jumpstart disease resistance using these oysters. He hopes that the sanctuaries will use the bushels from Virginia.

Maryland Oyster Stock Assessment Review

(David Blazer, DNR)

Presentation – Stock Assessment Terms of Reference Review

Handout – External Estimates for Maryland Oyster Stock Assessment

Handout – Primary Data Sources to Potentially Include in Maryland Oyster Stock Assessment

Mr. Blazer gave a presentation on the progress being made on the current Oyster Stock Assessment effort.

- Mr. Clark recommended looking for individuals outside of Maryland for the peer review; including industry input for the harvest data; and establishing a group which will be able to explain the assessment to the general public.
- Mr. Legum asked if there was another jurisdiction which has completed this type of oyster assessment.
 - Mr. Blazer replied that a stock assessment has not been completed on this level.

Schedule for Future Meetings

(Ms. Kelley Cox, Co-chair)

Ms. Cox asked the OAC members whether they would like to hold OAC meetings in July and August or whether they would prefer to take a summer break.

- Mr. Clark recommended that the OAC skip the August meeting date. Mr. Blackwell seconded this recommendation.
- Ms. Cox noted the motion to skip the August meeting and the motion was approved by the OAC.

Mr. Blazer stated that it would be 4-5 months before an update on the stock assessment would be available. He indicated that DNR does not have a schedule in mind for when the agency plans to send a recommendation for the location of the two restoration tributaries to the State House for discussion. He updated the OAC on the status of the three tasks that they had been asked to complete.

- 1) Decide whether oyster habitat restoration work should continue in the Tred Avon River – this is complete
- 2) Provide recommendations to DNR for the 4th and 5th restoration tributaries – the OAC recommendations are currently being considered by DNR
- 3) Investigate and make recommendations concerning rotational harvest and harvest area boundary changes – this process is on hold due to House Bill 924 which requires that no changes to the boundaries of oyster sanctuaries be made until the stock assessment for oysters is completed

Secretary Belton explained that the OAC would meet in June to discuss and address the issues listed in the “Parking Lot”. Once the “Parking Lot” issues are addressed the OAC may consider a less aggressive meeting schedule (i.e. bi-monthly or quarterly).

Mr. Blazer noted that rotational harvest in public harvest areas could be discussed further by the OAC. He noted that the Charles County Oyster Committee is moving forward with their rotational harvest proposal. He stated that DNR plans to have the fall survey and disease data available for a presentation to the OAC and that DNR was planning on the OAC having a discussion about the Little Choptank permit and plans. DNR is also planning on presenting information on seed areas and the interagency workgroup has a 3-year check-in date regarding the Harris Creek project, which DNR is also planning on providing to the OAC for review and discussion.

- Mr. Fithian asked if DNR had an update regarding the Man O’ War Shoals dredging permit. He asked if the Man O’ War Shoals permit was different from any other

dredging permit, could USACE could use other dredging permits as precedence in their decision making.

- Mr. Judy stated that the USACE will have a decision on Man O' War Shoals sometime this summer (2017). The USACE is currently undergoing their mandated consultation regarding the Endangered Species Act (ESA) and the Essential Fish Habitat (EFH).
- Mr. Lewis asked about the status of the Little Choptank River permit.
 - Mr. Judy stated that DNR has prepared updated (revised and corrected) documentation for the Board of Public Works (BPW). The documentation has will be sent to MDE who will then forward it to the BPW.
- Mr. Harrison brought up the issue of shellfish aquaculture leases being applied for in areas where there are clams growing. Currently leaser's are going through the process of applying for a lease and having their permit contested; this is not only unfair to the watermen, but it is also not fair to those who are applying for a lease since they do not find out it is clam bottom until the end of the process. He suggested a process where potential leasers could determine if an area has clam bottom before going through the lease application process.
 - Mr. Brown stated that the current clam bottom charts are being revised with the help of watermen who have been bringing scientists to the areas to prove an area is clam bottom.
 - Mr. Judy stated that DNR is working on creating bay charts which have been marked by clambers, designating the clam bottom; these charts are being digitized to provide them to the shellfish aquaculture groups. Should a lease application be made, the charts may be used up front to determine if an area is available for shellfish aquaculture lease.

Public Comment

- Mr. Wilkins stated that there are around 40,000 bushels of wild seed oysters available in Maryland and Queen Anne's County has 10,000 bushels. He asked if the OAC could investigate funding for wild oyster seeding projects.
- Mr. Anderson stated that the St. Mary's Watershed Association is in favor of the St. Mary's River being selected as one of the restoration partnership sanctuary tributaries. The selection process was supposed to give selection priority to those tributaries which can provide the most affordable solution in the shortest amount of time with the most chance of success. He stated that he believes that the OAC homework assignment to identify the three rivers most favored by the OAC and the three rivers least favored by the OAC for restoration was misleading and unnecessary. He pointed out that one of the arguments that was made by the OAC against the St Mary's River being selected as a restoration partnership sanctuary tributary was that there are already oyster restoration projects being undertaken in the river. This point should be listed as an argument in favor of the St Mary's River being selected as a restoration partnership sanctuary tributary. He noted that there is considerable public support for establishing the St. Mary's River as a restoration sanctuary, including two letters of support from the County

Commission. Mr. Anderson recommended that St. Mary's and Breton Bay be selected as restoration tributaries because they meet the selection priority criteria.

- Captain Newberry noted that the Tred Avon River project has been shut down due to lack of shell; the Little Choptank River project was stopped because the wrong permit was applied for; and there is an issue in Harris Creek with the misplacement of stone. He expressed displeasure that watermen must pay for the mistakes made by the USACE. He expressed concern regarding the ESA habitat area designation (to be enacted on June 1st) and asked if there would be any possible effect from this action on the construction of the restoration oyster sanctuaries, dredging of Man O' War Shoals, or any other project.
 - Secretary Belton stated that a response to this question is available in the OAC member's packets from Peyton Robertson.
 - Ms. Sowers explained that the ESA areas (for the protection of Atlantic Sturgeon critical habitat) are located at the mouth of the Susquehanna River and within the main stem of the Potomac River. She stated that there should be no conflicts with the oyster restoration efforts. Regarding the high spots in Harris Creek, the USACE constructed areas were paid for and corrected by the USACE.
 - Secretary Belton stated that there is an emergency fund, which can be used to fix any remaining high spots in Harris Creek.
- Mr. Bradshaw stated that Dorchester County has taken a disproportionate hit from the creation of sanctuaries, which has affected the county economically. Mr. Bradshaw stated that the NEPA process was supposed to be invoked and there should have been coordination with the counties regarding impacts. The data that was not received for consideration includes the economic, environmental, and social impacts that the taking of the rivers has on the County Oyster Committees. Dorchester County is against any more sanctuaries being established in or around Dorchester County waters.
- Mr. Maginnes stated that the NOAA response was very general and only states that "At this time we do not anticipate new restrictions on fishing activities on the harvest of wild oysters or restoration activities." Some of the answers that NOAA provided are contradictory. The issue should get more attention and be more fully addressed.
 - Mr. Corson stated that public hearings were held regarding the NEPA review process. A federal action (i.e. USACE permit) would be needed to trigger further consultation that could include NOAA. State commercial fishing would not trigger a federal action, but dredging would.

Next Meeting

The next OAC meeting will be held on Monday June 12th, 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) – in progress

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) - completed
9. Recommendations for future practices (e.g. rotational harvesting).
10. Establishment of shucking houses in Maryland
11. Discussion regarding 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 oyster committees – on hold by House Bill 924
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.