

Man O' War Shoal
Dredging Public Meeting
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Sponsored by the
Department of the Army/Maryland
Department of the Environment
and the Maryland Department of Natural Resources

Held at the
Governor Hall at Sailwinds Park
Cambridge, Maryland

**Maryland DNR Fisheries Service
Man O' War Shoal Dredging Public Meeting**

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KEYNOTE: "---" denotes inaudible in the transcript.

E V E N I N G S E S S I O N

(7:05 p.m.)

Welcome and Overview

by Joseph P. DaVia, Chief, Maryland Section Northern

U.S. Army Corps of Engineers, Baltimore District

MR. DaVIA: Okay, we are going to get started. Can everybody hear me okay?

MR. : No.

MR. DaVIA: No, you can't. Okay, how about now? Better? Okay. Okay, good evening, ladies and gentlemen. I want to welcome you to this joint U.S. Army Corps of Engineers and Maryland Department of the Environment public hearing for the Maryland Department of Natural Resources proposed Man O' War Shoal dredging project.

My name is Joseph DaVia. I am chief of the Maryland Section Northern in the regulatory branch of the U.S. Army Corps of Engineers Baltimore District. With me here tonight at the front table from the Corps, to my right, is Abbie Hopkins, who is the Corps regulatory project manager and point of contact for the Corps.

Also at the front table from the Maryland Department of the Environment is Bob Tabisz. I would like to thank the city of Cambridge and Sailwinds for allowing us to hold this public hearing at their venue. And I want to thank you guys also for attending on this cold and rainy evening and for

1 participating in our review process.

2 It is the responsibility of my office to evaluate
3 applications for Department of the Army permits for any
4 proposed work in waters of the U.S., waters of the United
5 States, including wetlands. The Corps authority is found in
6 Section 10 of the Rivers and Harbors Act of 1899, and Section
7 404 of the Clean Water Act.

8 Each application received through our regulatory
9 program has specific and unique issues and impacts that must
10 be considered in relationship to weighing the potential
11 benefits and detriments to the Chesapeake Bay and its users.
12 The Corps of Engineers is neither a proponent or opponent of
13 any project.

14 The logistics for tonight's hearing are as follows.
15 First I will briefly describe where we are in the permit
16 process. I will then make a few opening remarks concerning
17 the purpose of the hearing. I will then call on the State's
18 hearing officer, Mr. Robert Tabisz, to provide MDE's opening
19 remarks.

20 I will then call on Mr. Dave Goshorn of Maryland
21 DNR, for the applicant's statement regarding their proposed
22 project. After these required presentations, we will
23 facilitate public statements by calling first on any elected
24 officials or their representatives to make a statement. We
25 will then call on those of you who indicated on the sign-in

1 sheet that you wish to speak in the order that you signed in.

2 You may provide comment into the record by written
3 statement or oral statement. If you have a written statement,
4 you do not need to provide oral comments. You should provide
5 all written statements or comments to any of the Corps or MDE
6 representatives at the registration desk.

7 If you did not sign in to speak but wish to do so,
8 please sign in at the registration desk. When called, please
9 proceed to the microphone, state your name, address, and if
10 applicable, the organization or group you represent. We do
11 not permit cross-examination of the speakers during their
12 presentations but you may pose questions as part of your
13 statement for our consideration and our permit evaluation.

14 This venue is for the Corps and MDE to hear and
15 record your public comments. We will not be responding to
16 questions or comments posed tonight. However, if you have
17 specific questions about the project, there is a poster
18 session in the lobby where you can speak with Maryland DNR
19 representatives and ask questions about the project.

20 Statements made here tonight in this auditorium will
21 be transcribed and will be part of the official hearing
22 documentation for this permit application.

23 Okay, the project description: The project proposed
24 by the Maryland Department of Natural Resources is to
25 hydraulically dredge two to five million bushels of oyster

1 shell from Man O' War Shoal as part of a comprehensive,
2 five-year research and development effort to monitor and
3 assess the ecological consequences of removing shell from the
4 shoal.

5 Man O' War Shoal is located north of the Chesapeake
6 Bay Bridge in the upper Chesapeake Bay near the mouth of the
7 Patapsco River, Baltimore County, Maryland. The dredging is
8 to be performed as cuts that will extend no more than
9 one-third of the distance into the shoal along the shoal's
10 perimeter, which could total 20.7 acres of the 214-acre shoal.

11 The hydraulic dredging operation involves dislodging
12 sediment and shell from the bottom and pumping this material
13 up to the dredging vessel into a shell washer. The washing
14 process separates shells from fines, which are shells and
15 shell pieces less than 1 inch in size.

16 The sorted shell and fines are placed in separate
17 barges. And the washed water with the remaining sediment and
18 small bits of shell is discharged by pipe below the water
19 surface, refilling the dredge cuts by 10 to 15 feet.

20 The shell is to be used for the restoration of
21 native oyster populations and oyster fisheries. These
22 potential sites are all charted, natural and historic oyster
23 bars, and possibly some aquaculture sites in the Chesapeake
24 Bay and its tributaries.

25 Should the study conclude that the shell dredging

1 has no adverse effects to the shoal, Maryland DNR may apply to
2 the Corps and MDE for authorization to do additional dredging
3 that will ultimately remove 30 percent or 30 million bushels
4 of shell from the shoal's available shell.

5 Any subsequent application to perform additional
6 shell dredging will be subject to the same review process that
7 is undertaken for this application, which includes a public
8 notice and public interest review.

9 We want to be absolutely clear that the focus of
10 this hearing is to look specifically at the potential benefits
11 and detriments of dredging the Man O' War Shoal. And the
12 shells' general usage in restoring native oyster populations
13 and oyster fisheries.

14 The purpose of tonight's hearing is to inform you of
15 this project and allow you the opportunity to provide comments
16 to be considered in our Corps regulatory public interest
17 review of the proposed work. In compliance with the National
18 Environmental Policy Act, the Corps Regulatory Branch will be
19 preparing an environmental assessment for the proposed project
20 in which your comments will be included and addressed.

21 Your comments are important in our preparation of
22 this document and in our evaluation of the permit application.

23 The decision on whether or not to issue the permit
24 will be based on an evaluation of the probable impacts,
25 including cumulative impacts, of the proposed activity on the

1 public interest and compliance with the Clean Water Act
2 Section 404(b)(1) guidelines.

3 That decision will reflect the national concern for
4 both protection and utilization of important resources. The
5 benefits, which may reasonably be expected to accrue from the
6 proposal, will be balanced against its reasonably foreseeable
7 detriments.

8 All factors that may be relevant to the proposal are
9 considered. Among these are conservation, economics,
10 aesthetics, general environmental concerns, wetlands, historic
11 properties, fish and wildlife values, flood hazards, flood
12 plain values, land use, navigation, shoreline erosion and
13 accretion, recreation, water supply and conservation.

14 Water quality, energy needs, safety, food and fiber
15 production, mineral needs, threatened and endangered species,
16 environmental justice, cumulative impacts, considerations of
17 property ownership, and in general the needs and welfare of
18 the people.

19 The comment period for this project extends to
20 February 18, 2016. Comments received tonight and throughout
21 the comment period will be considered. The time required to
22 reach a Department of the Army permit decision is dependent
23 upon necessary coordination of concerns and issues with
24 resource agencies, careful evaluation of all substantive
25 comments and ensuring statutory requirements are met.

1 | questions may be asked of and directed to the presiding
2 | official but cross-examination may not be conducted.

3 | The hearing is not a contested case hearing under
4 | the Administrative Procedures Act.

5 | Second, the hearing will be conducted in the
6 | following order: One, the introduction of any presiding
7 | officials, presentation of the project by the applicant,
8 | comments by public officials, comments by other persons and
9 | closing the hearing by the presiding officials.

10 | Finally the presiding official has the authority and
11 | duty to conduct a full and fair hearing to avoid unnecessary
12 | delay and maintain order, regulating the course of the hearing
13 | and conducting the conduct by the participants.

14 | The hearing is being recorded this evening -- that
15 | is what she is doing over there -- and will be used to
16 | facilitate the department's report and recommendation, which
17 | will be submitted to the Maryland Board of Public Works.

18 | It is important to note that it is not necessary to
19 | read a statement or make it part of the official record.
20 | Written comments are accepted and receive the same
21 | consideration as an oral statement. Are there any questions
22 | on how this evening's meeting is going to proceed?

23 | (No response)

24 | MR. TABISZ: Okay, thank you. The public
25 | informational hearing is being conducted pursuant to Section

1 5-204 of the Environmental Article for State Wetlands
2 Application 15-WL-0757, submitted by the Maryland Department
3 of Natural Resources, Fisheries Division, for the dredging of
4 the Man O' War Shoals.

5 It is important to note that this hearing is not a
6 contested case hearing under the Maryland Administrative
7 Procedures Act or the Public Hearing for Water Quality
8 Certification pursuant to the Code of Maryland Regulations
9 26.08.02.1.

10 A State wetlands license is issued by the Board of
11 Public Works, which is comprised of Governor Hogan,
12 Comptroller Franchot and State Treasurer Kopp. The statutory
13 authority for the issuance of the tidal wetlands license is
14 Title 16 of the Environmental Article Annotated Code of
15 Maryland, which is entitled Wetlands and Riparian Rights.

16 Other regulatory requirements governing the review
17 and issuance of the tidal wetlands license can be found in
18 COMAR 23.02.04, promulgated by the Board of Public Works, and
19 COMAR 26.24 promulgated by the Maryland Department of the
20 Environment.

21 In accordance with Title 16 of the Maryland
22 Constitution, the Board of Public Works is the sole body with
23 authority over State property. In this particular case, this
24 property includes tidal wetlands, submerged lands and aquatic
25 resources.

1 In its proprietary authority, the board has the
2 right to grant a third party the right or use to construct or
3 conduct an activity in tidal wetlands via a state wetlands
4 license.

5 According to Section 16-202 of the environmental
6 article, the Secretary of the Maryland Department of the
7 Environment shall assist the board in determining whether to
8 issue a license to dredge or fill state wetlands.

9 The Secretary shall submit a report indicating
10 whether the license should be granted, and if so, the terms,
11 conditions and considerations required after consultation with
12 any interested federal, State and local units, and after
13 addressing public notice and holding any requested hearings
14 and undertaking any evidence the Secretary thinks is
15 advisable.

16 In making its decision, the Board of Public Works is
17 guided by the public policy of the State, taking into account
18 varying ecological, economical, developmental, recreational
19 and aesthetic values to preserve the tidal wetlands and to
20 prevent their despoliation and destruction.

21 The Maryland Department of the Environment is
22 considering an application submitted by the Maryland
23 Department of Natural Resources Fishery Division to conduct
24 regulated activities requiring a state wetlands license.

25 In addition, the department must issue a water

1 | quality certification as required under Section 401 of the
2 | Clean Water Act, and a federal consistency determination
3 | pursuant to Section 307 of the federal coastal zone management
4 | act of 1972 as amended.

5 | The regulated activities are necessary for the
6 | dredging of oyster shell, which will be used for the
7 | restoration of native oyster populations and oyster fisheries
8 | in the bay. The oyster shell shall be placed to provide
9 | substrate at sanctuary bars or other nonharvest bars,
10 | aquaculture sites, harvest reserves, and open-harvest areas.

11 | The work associated with the proposed project will
12 | take place at the Man O' War Shoal, the site of the proposed
13 | oyster shell dredging. It is located north of the Chesapeake
14 | Bay Bridge in the Chesapeake Bay near the mouth of the
15 | Patapsco River in Baltimore County.

16 | The dredged oyster shell is to be planted throughout
17 | the Maryland portion of the Chesapeake Bay and its
18 | tributaries. The proposed work under Maryland's State
19 | application number 15-WL-0757 consists of the following
20 | regulated activities:

21 | To hydraulically dredge 2 to 5 million bushels of
22 | oyster shell as part of a comprehensive research and
23 | development effort to monitor and assess the ecological
24 | consequence of removing shell from the shoal. Maryland DNR is
25 | proposing to dredge approximately 27.7 acres of the 214-acre

1 shoal. Returning sediment and water is proposed to be
2 discharged below the water surface at the dredge site.

3 If monitoring results of the 5-year test dredging
4 show no adverse effects, Maryland DNR will submit a joint
5 permit application no sooner than year 5 of the permit to
6 continue dredging of the shoal until the maximum 30 million
7 bushels of shell has been removed.

8 And once again, has everyone signed in on the
9 sign-in sheet? If not, you can do it over there. Now I will
10 turn it back over to Joe.

11 MR. DaVIA: Thank you, Mr. Tabisz. I now want to
12 call on Mr. Dave Goshorn from Maryland Department of Natural
13 Resources for the applicant's statement.

14 ***Applicant's Statement***

15 ***by Dave Goshorn, Maryland Department of Natural Resources***

16 MR. GOSHORN: Good evening. My name is Dave Goshorn
17 with Maryland DNR. First of all, I want to thank everyone for
18 coming tonight. We had another hearing last night over in
19 Baltimore. I know there are a lot of people who feel very
20 strongly on both sides of this so we appreciate your coming
21 and giving us your opinions on the project.

22 What I want to do, I will be brief, I just want to
23 talk about two things. One is a brief summary of how we got
24 to the point, the history that got us to putting in this
25 application, and where we are now. And then secondly just a

1 really brief overview of what we are proposing to do.

2 I don't think that I have to tell anyone in this
3 room that Maryland's oyster population and oyster industry are
4 a dim shadow of what they used to be. The estimates are that
5 it is about 1 percent of its historic size, and there is a lot
6 of effort underway to restore both the population and the
7 industry.

8 One of the major limiting factors in accomplishing
9 that is the availability of fresh shell or shell in general.
10 During the 2009 general assembly, the legislature passed House
11 Bill 103, which the governor subsequently signed, requiring
12 DNR to put in an application to the Corps and MDE to dredge
13 buried shell for use in restoration and the industry.

14 We then turned to the Oyster Advisory Commission,
15 which is a Secretary-appointed group of scientists, public
16 interests, watermen, conservationists who advise the
17 department on oyster-related issues. And they recommended
18 that we make that application for Man O' War Shoal.

19 Later that year, 2009, we did just that. We put in
20 an application to the Corps of Engineers. After reviewing our
21 application, the Corps came back and said they were not
22 comfortable that we had met the purpose and needs section of
23 that, meaning that we had not fully explored alternatives.

24 So we withdrew the application at that point and did
25 just that. We explored alternatives. I am sure most of you

1 are familiar with the county oyster committees. One of the
2 things we did is we went to the county oyster committees to
3 identify areas that had had shell placed before that had
4 subsequently been buried that we did have permits to go bring
5 back up.

6 We did most of that in 2012. And we brought up,
7 reclaimed, about 413,000 bushels through that effort. But
8 that was then exhausted.

9 So having done that, having explored other options,
10 we then went back to our permit and reapplied this past year.
11 So that is how we got to the point that we are at today.

12 What are we applying to do? Well, you heard some of
13 it already. In this application, we are applying to dredge up
14 to 5 million bushels, which represents about 5 percent of what
15 is estimated to be on the bar. To go beyond that will require
16 another permit application. And go through this process
17 again.

18 So during this -- the current application that we
19 have in, to dredge up to 5 million bushels over a 5-year
20 period, year 1 would be monitoring. There would be no
21 dredging. We would be monitoring the water quality,
22 fish/shellfish populations, the ecology of the shoal for
23 baseline conditions.

24 Year 2, we would then dredge up to 2 million
25 bushels. Years 3 and 4 we would then go back to the

1 monitoring. We would do two years of post-dredging
2 monitoring, same parameters, to evaluate what impact that 2
3 million bushels had.

4 And assuming there are no significant adverse
5 impacts, we would then go back in year 5 and do the remaining
6 3 million bushels, for a total of 5 million.

7 And again if we then decided that we wanted to do
8 more, we would have to go through the permit application
9 process a second time.

10 So that is what we are here to hear your comments on
11 tonight. I will address just one other issue. I know one
12 issue that is very interesting to a lot of folks is if the
13 department gets this approved and we go ahead, what then
14 happens with the shell?

15 In our original proposal, we had -- the original
16 proposal back in 2009 laid out that 90 percent would go to
17 restoration. 10 percent to the industry in aquaculture. We
18 have put two other options in this current application.

19 That one plus a 50/50 and a 75/25 option. Those are
20 described over on this one poster. How that is allocated is
21 not part of the Corps process. That is something that DNR
22 will make a decision on if we get the application but we want
23 to hear your comments on that, too. So not during this
24 hearing, but there is opportunity over there to give us your
25 comments on that as well.

1 So we are using this to hear both of those. But,
2 please, your comments tonight are for the Corps and MDE part
3 of the process. The allocation, we ask that you put your
4 comments on the sheets over there, and we will incorporate
5 those. Thank you very much.

6 MR. DaVIA: Thank you, Mr. Goshorn. Okay, now that
7 all of that is out of the way, we want to hear from you now.
8 Let me first recognize some elected officials or their
9 representatives first here.

10 From Congressman Andy Harris's office is Denise
11 Lovelady. Denise, would you stand up, please?

12 (Standing)

13 MR. DaVIA: Thank you. We also have Senator Johnny
14 Mautz. Did I pronounce that properly? Is that right? Oh,
15 delegate. Mr. Mautz, did want to give a statement or no?
16 Okay, I will call on you first.

17 And then representing Senator Eckardt, is it, Patty
18 Shreves. Patty, thank you. Did you want to give a statement,
19 Patty?

20 MS. SHREVES: Oh, no, that is okay.

21 MR. DaVIA: Okay. That is all that I see who have
22 signed in. Is there any other elected official or
23 representative who would like to stand and be represented?
24 Sir, is it Ron Fithian? I wasn't sure. Okay, please,
25 Mr. Fithian. You are with the -- commissioner of Kent County.

1 Thank you. And did you want to give a statement as well?
2 Okay. Let me first call on Delegate Mautz for a statement.

3 ***Public Comment Session***

4 DEL. MAUTZ: Hello. I will make it short and sweet.
5 Thanks a million. My name is Johnny Mautz, delegate for
6 District 37B, which includes Talbot, Caroline, Dorchester and
7 Wicomico counties.

8 Senator Eckardt couldn't be here so she sent her
9 staff. Patty Shreves is here. Senator Eckardt and I both
10 discussed this permit a couple of times this week, and it is a
11 honor for us to be here to testify in support of the permit.
12 We are a little unclear about the three options, and through
13 our discussions, it is pretty clear we would much rather favor
14 the 75/25, which would be option 3 on the board. So thank you
15 very much.

16 MR. DaVIA: Thank you, Delegate Mautz. Let me call
17 next on Commissioner Fithian, please?

18 CMSNER. FITHIAN: Thank you very much. My name is
19 Ron Fithian. I have been the county commissioner of Kent
20 County, Maryland, for 18 years. More importantly, prior to
21 that, through my whole childhood life, I grew up around the
22 water. And then for 30 years of my adult life, I was an
23 active waterman. Oystered 15 or 18 years. Traveled all over
24 the bay from Rock Hall to Smith Island and all the places in
25 between.

1 One thing that anybody who grew up and worked
2 through the '70s and '80s -- '60s, '70s and '80s -- in the
3 oyster business knows firsthand that the seed program, the
4 shell program, known to most of us as Langenfelder -- that was
5 the company that used to do it back then -- that was an
6 integral part, and a very important part, of sustaining the
7 oyster industry in the Chesapeake Bay.

8 In today's world, it even becomes more important
9 because now you have the aquaculture, you have the hatcheries,
10 you still have the commercial fishery. And having that
11 element of shell is just sincerely important to this industry
12 if we ever decide to bring it back.

13 Years ago, every one of these communities up and
14 down this eastern shore and western shore that had a shucking
15 house in it, at the end of the year they would have a mountain
16 of fresh oyster shells. Those would immediately be put out in
17 the spring. We would put them back on the bars along with
18 Langenfelder's program.

19 So we were constantly putting stuff back and
20 refreshing the oyster bars. Today about 80 to 90 percent of
21 the oysters harvested in the State of Maryland goes to
22 Virginia.

23 We don't get those shells back anymore so the vast
24 majority of those fresh shells have disappeared from being
25 able to be used here in the State of Maryland. Now they are

1 not wasted because Virginia is taking advantage of what we
2 used to do.

3 They are using our shells to restructure their
4 oyster bars and they have also used Langenfelder down there to
5 dig shells in the James Rivers to put on their oyster bars.
6 They have learned from what was once done in the State of
7 Maryland.

8 So I don't know how anybody who is involved in the
9 oyster industry, and is sincere about bringing it back -- and
10 no matter whom you talk to, whether it is the oystermen or an
11 environmentalist, they will tell you that they oyster is a
12 very, very important part of not only the industry but the
13 cleaning and the filtering of the Chesapeake Bay.

14 And if we ever want to bring it back, we have to
15 consider sacrificing an area for the betterment of the oyster
16 industry here in the Chesapeake Bay. And I would like to say,
17 I heard them talk about this project, that in year three and
18 four, we would evaluate what we had done as far as dredging
19 the first year or second year.

20 And let me just say, we are not reinventing the
21 wheel here tonight. This dredging process has been done in
22 the upper bay for at least 30-plus years. So by now I would
23 think we ought to know just what is going to happen when we
24 take these shells off of this Man O' War Shoal.

25 It is not something new that we have to study. We

1 | have studied it for 30 years and obviously it didn't hurt
2 | anything because we never stopped it in the past. So I just
3 | can't emphasize enough how much the shell program is to the
4 | future of this oyster industry. Thank you very much.

5 | MR. DaVIA: Thank you, Commissioner Fithian. Is
6 | there any other elected official or their representative who
7 | would like to give a statement? Sir? Tom Bradshaw,
8 | Dorchester County Council. Thank you, Mr. Bradshaw.

9 | MR. BRADSHAW: Like Mr. Fithian, I grew up around
10 | the water. My grandfather was a commercial fisherman. And I
11 | worked for a seafood packer for a couple of years when I was
12 | in high school and first graduated.

13 | And I have seen the oyster industry at its height in
14 | the '80s and diminish to nothing. And as Commissioner Fithian
15 | said, the shell program, when the shucking houses got done
16 | here, the fresh shell was put out back in the water. So it
17 | was sort of a put and take.

18 | Man O' War Shoal, I think, is a great idea. Of the
19 | ones I have talked to who have been part of this program say
20 | that it was very successful, and I think it is very much
21 | needed. It is native material as opposed to, as everyone in
22 | this room I am sure is well aware of, the Florida material
23 | that was put into the Little Choptank, which was not native to
24 | this area, introducing an invasive material into Maryland
25 | waters, which is against Maryland law.

1 So I think it is a good idea to go back to this Man
2 O' War Shoal, do this dredging project and get more shell to
3 put back on these oyster bars. And again as Commissioner
4 Fithian said, to bring these oysters back so that we can have
5 a healthy Chesapeake Bay. Thank you.

6 MR. DaVIA: Thank you, Mr. Bradshaw. Any other
7 elected official or representative here who would like to give
8 a statement?

9 (No response)

10 MR. DaVIA: Okay, I will just go down the list. Our
11 first commenter is Mr. Chip MacLeod. And on deck is Mr. Billy
12 Benton.

13 MR. MacLEOD: Thank you very much. Thank you very
14 much. My name is Chip MacLeod. I am an attorney is
15 Chestertown here representing the Clean Chesapeake Coalition,
16 which is an association of seven Maryland counties, many of
17 which are tidewater counties, who have coalesced for the
18 purpose of pursuing improvement to the water quality of the
19 Chesapeake Bay in the most prudent and fiscally responsible
20 manner possible.

21 And one of the centerpieces of the coalition mission
22 is to do whatever we can, the local officials can, to advocate
23 for a robust oyster restoration program in the Chesapeake Bay.
24 It is indisputable the ecological value of oysters in the bay.
25 So that is part of the coalition's mission.

1 The Clean Chesapeake Coalition supports the issuance
2 of the permit to DNR to dredge the natural shell from Man O'
3 War Shoal with the understanding that any dredging for shell
4 will occur away from and out of the vicinity of any
5 undertaking by the Baltimore County Watermen's Association to
6 restore a part of that shoal.

7 So to the extent that there is any activity there by
8 that local association, none of the dredging that DNR would do
9 under this permit should be done there.

10 And I want to simplify sort of the position of the
11 coalition because the whole oyster restoration undertaken in
12 Maryland has gotten overly complex, convoluted, and many
13 people seem to have missed the basic point. And you start
14 with some simple premises.

15 Oyster larvae need clean, hard bottom to attach, to
16 strike. There is no dispute, and in all the Army Corps of
17 Engineers' literature about oyster restoration, the absolute
18 best substrate is natural shell. The absolute best.

19 So just from that point alone, anybody who
20 understands the Chesapeake Bay and wants to see more oysters
21 in the Chesapeake Bay, not just for their ecological value but
22 for the economic impact on local economies, has to support
23 access to more shell.

24 Otherwise what do we get in the Chesapeake Bay? We
25 get, and let's be blunt, we get rubble. If you read all the

1 material and all the so-called reports, we have a crisis. We
2 have no shell. So because we have no shell, we have to accept
3 alternative substrate. Let's call it rubble.

4 Anybody who paid attention to what happened in the
5 Little Choptank when the fossilized, so-call fossilized shell
6 from Florida -- DNR told us at one point, well, it is so
7 fossilized we have got to call it stone, right? And frankly
8 it was slurry when you watched it being dumped in the water
9 and the plume that occurred.

10 So if we don't support access to more shell, natural
11 shell that is already here, we are going to get what we
12 deserve, and that is a bunch of junk being put in the
13 Chesapeake Bay under the guise of we are going to build reefs.

14 Now that is another point. We ought to stop calling
15 them reefs. These are natural oyster bars, okay? So to start
16 creating another theory or something that we want to dream
17 that we are going to achieve, which is three-dimensional
18 reefs, it is not going to happen in the Chesapeake Bay,
19 everybody.

20 This is a delta, okay? The Chesapeake Bay is a
21 delta of the Susquehanna River. It is not a place where we
22 are going to see three-dimensional reefs, okay? People are
23 starting to convolute it and mix it up.

24 And let me say something about the allocation of the
25 shell. I hope people see that talking about how the shell

1 | will be used by DNR misses the point of why we should be here
2 | supporting DNR to get access to more shell. All that does is
3 | drive wedges and gets people to start taking sides of, well, I
4 | want it to go to this kind of restoration or that kind of
5 | restoration.

6 | If we don't have more shell, the restoration program
7 | is headed where it is headed, which is not very good for
8 | bringing back oysters in a meaningful way throughout the
9 | Chesapeake Bay.

10 | I do have a question I want to make sure we get on
11 | the record, since you invited that. It has to do with the
12 | alternative substrate, the Florida shell, whatever we want to
13 | call it, that was placed in the Little Choptank River.

14 | The Dorchester County Council -- Dorchester County
15 | is a member of the Clean Chesapeake Coalition -- they are
16 | still waiting for any testing data of that material that was
17 | placed in the Little Choptank River.

18 | So we are still waiting. We never got it from DNR.
19 | We never heard anything from the Army Corps of Engineers.
20 | Where is the testing of that unwashed material that was put in
21 | the Little Choptank River in the name of oyster restoration?

22 | As Councilman Bradshaw said, that is nonindigenous
23 | material brought into the Chesapeake Bay. Important point:
24 | No new pollution, pathogen or toxin is going to be introduced
25 | into the Chesapeake Bay by the activity that DNR wants to

1 undertake under this permit.

2 And to hear some people say there is an economic
3 impact of this dredging activity compared to what is going on
4 in the upper Chesapeake Bay on a daily basis, and let's point
5 out two of them.

6 The sediment, nutrient-laden sediment, from the
7 Conowingo Pond that is scoured into the upper bay on basically
8 a daily basis -- and God forbid the next big storm -- and the
9 constant discharge of raw sewage from Baltimore City's sewer
10 treatment plant.

11 Those are activities happening every day in the
12 upper Chesapeake Bay. So when you get to the balancing of any
13 environmental impact compared to environmental benefit of this
14 undertaking, it absolutely should be a no-brainer because of
15 the benefit of having access to this natural shell on balance.

16 And then in the spirit of adaptive management -- and
17 we read about that all the time, that the way we are going to
18 restore the Chesapeake Bay is through adaptive management. We
19 have go to move, we have got to react to what is going on.

20 If we seriously look at the efforts so far in the
21 name of oyster restoration, and the controversy surrounding
22 what is happening in the Choptank River complex, I would dare
23 say -- I don't dare say. I would say it.

24 There would be a lot less controversy, a lot fewer
25 unanswered questions and a lot of cost savings if natural

1 shell was available for what is going on in the Choptank River
2 complex to construct these new oyster bars. And where do we
3 stand today? A lot of questions, things being slowed down
4 because of what is being used to build those bars.

5 So again Clean Chesapeake Coalition counties
6 wholeheartedly support the permit application provided that
7 any dredging of Man O' War Shoal is not done in the vicinity
8 of what the Baltimore County Watermen's Association might be
9 doing there in the interest of restoring that shoal. Thank
10 you very much.

11 MR. DaVIA: Thank you, Mr. MacLeod. Next is
12 Mr. Billy Benton, and on deck is Mr. Scott Todd.

13 MR. BENTON: Good evening. I am a commercial
14 waterman from Queen Anne's County and a member of the Queen
15 Anne's County Watermen's Association, and we would like to
16 support the shell dredging bill. And we would also like to
17 support option 3 for the DNR section of it. Thank you.

18 MR. DaVIA: Thank you, Mr. Benton. Mr. Scott Todd,
19 and on deck is Mr. Robert T. Brown.

20 MR. TODD: My name is Scott Todd. I am the
21 president of the Dorchester County Seafood Harvesters
22 Association. I am also a member of the Maryland State Shell
23 Committee for Dorchester. I have been on that committee for
24 seven or eight years and I have been screaming as loudly as I
25 can scream for eight or ten years that the number one problem

1 | we have is we don't have the shells. And when we do get the
2 | shells, the State wouldn't let us buy them.

3 | So we have got to start putting our shells back
4 | overboard. And this is probably a pretty good idea to get
5 | something going in that direction. The Langenfelder program
6 | worked for us for three or four straight decades, and it kept
7 | the bay, wherever we worked, full of shells.

8 | And we are in 100 percent support of anything that
9 | will bring the shells back to us. But we do have concerns
10 | about the original options. At the meeting we had with you
11 | guys last April or May up in Annapolis about the Tred Avon
12 | program, you told us that once federal money is spent on the
13 | sanctuaries, we never can work there again.

14 | So we have got huge concerns that even if half of
15 | this goes to the sanctuaries, if you put 500,000 bushels of
16 | this first million bushels of dredging on that, that covers a
17 | lot of ground, and we just would be worried that with all that
18 | shell going on the sanctuaries, we wouldn't get those back.

19 | So again, as I said, we are in favor of bringing
20 | shells back to our natural oyster bars but we would just like
21 | some kind of guarantee of how it is going to go in the
22 | process. We don't -- at the end of the day, we don't want to
23 | be left out in the cold. We are no better off tomorrow than
24 | we were today if that is the case. So thank you.

25 | MR. DaVIA: Thank you, Mr. Todd. Next is Mr. Robert

1 T. Brown, and on deck is -- is it Bob Waples? Is that
2 correct?

3 MR. BROWN: Robert T. Brown, president of the
4 Maryland Watermen's Association. We are opposed to the
5 dredging on Man O' War Shoal. And it has got to do -- number
6 one, Baltimore County, that is the only oyster bar they have.
7 And it has been seeded in 2013 and 2015.

8 Also it has got to do with the split. You have got
9 a 90/10, a 50/50 and a 75/25. This is putting the cart before
10 the horse. I mean, it is very simple. This is a bad
11 management plan. You are offering the shells, which we need,
12 but yet you are dangling a carrot out there in front of us.
13 Get the shells and then we will divide it up.

14 How much is Langenfelder going to charge us for
15 digging these shells? It used to be they got a percentage of
16 the shells. Are they going to get a percentage of the shells
17 again? Are they going to get 50 percent or 40 percent? We
18 have no idea.

19 We need to know what the percentage is and what the
20 figures are before we go give somebody a permit and then they
21 turn around and say, well, we are only going to give you 10
22 percent of the shells and you have got to give 5 percent of it
23 to aquaculture. That is unacceptable.

24 We have got to have a better game plan. If any
25 business plan is bad, this is a bad plan the way it was set

1 up. They are talking about taking 5 million over 5 years.
2 You have got to realize, who is going to be instrumental in
3 deciding these ratios?

4 It is the Oyster Advisory Commission who said take
5 it from Man O' War Shoal. They could have easily said you
6 could take it from Phoenix, where it wouldn't have been such a
7 hot topic. Could have taken it from --- and there are a
8 couple of other places over there.

9 But they didn't. They chose to do that. And if you
10 go back, you look at the Maryland Oyster Advisory Committee,
11 commission, they are the ones who helped introduce all these
12 sanctuaries that just about put us out of business. Took 25
13 percent of our best bottom.

14 And that ended up in 75 percent actually of what
15 they took from us because they took the very best of the
16 bottom that we had. And if the Oyster Advisory Commission
17 gets back in on saying, having an input on what the percentage
18 is on this, well, they were for the sanctuaries. They are
19 liable to be for the sanctuaries again and want 90 percent of
20 it.

21 So these are the reasons that we are against it.
22 And we have some ideas on how we could possibly do this a
23 little better. Number one, we have a bill that is being drawn
24 up on this Oyster Advisory Commission. We want 50 percent of
25 it to be working watermen.

1 We want the people who are out there oystering every
2 day to be on it. It is our industry. We have a right to say
3 at least 50 percent of what we want into it. When all these
4 other decisions were made, we had three watermen on it, and it
5 is probably 25 people on that commission. And they are
6 environmentalists and biologists.

7 So I mean we have been up against it for some time.
8 We have got a meeting coming up -- this past week we had a
9 watermen's caucus, and we also have, we are supposed to meet
10 with a delegation of senators and delegates, or delegates,
11 coming up some time either this week or next week, to discuss
12 the counties being able to spend their money to buy shells
13 directly from the state of Virginia.

14 In other word, one of the counties, I am not going
15 to mention their name, they have somewhere over the past year
16 accumulated somewhere around \$450,000 because they did not
17 have seed available to buy. They did not have shell available
18 to buy. And that money rolled over from year to year, and
19 they will probably get \$70 to \$100,000 more this year for that
20 one county.

21 The State won't let them go buy the shells. We got
22 to have it for the sanctuaries. They should be able to --
23 even though that money is managed by the State -- we are
24 asking the delegates to have it so they have the authority to
25 go right straight to Virginia and purchase these shells.

1 That they can line it up and say, look, this is how
2 we want it. So that is one way we can get some shells. Also
3 there are shells down there in Mexico that have been looked
4 at. I know they have been in -- it is a large volume down
5 there. It is a possibility of getting them up. And that
6 needs to be also looked into.

7 And I just want to add that the Maryland Watermen's
8 Association is opposed to this because mainly of the cut. We
9 are not trusting anything that goes to the Oyster Advisory
10 Commission without new people on it. How it will be divided
11 up. And we may end up with nothing after this is done
12 except --- if it all goes into sanctuaries.

13 And there is one thing I want to tell you about
14 sanctuaries. Sanctuaries don't produce shells. They are a
15 vacuum cleaner, and they suck them up. Thank you.

16 MR. DaVIA: Thank you, Mr. Brown. Bob -- is it
17 Waples? I am sorry if I am mispronouncing your name. And on
18 deck is going to be Mr. Doug Myers. Go ahead, Bob.

19 MR. WAPLES: My name is Bob Waples. I am a member
20 also of the Maryland Watermen's Association and also the
21 Chesapeake Bay Commercial Fishing Association.

22 I have a heard a lot of people here speak, and I
23 don't think there is anybody in this room who wouldn't want
24 more shells, regardless of what you have to do to get them.
25 But I haven't heard a whole lot of people say anything about

1 the public bottom until Robert T. said his piece, and I am
2 telling you, the public bottom is getting ready to suffer.

3 Anybody who does any dredging can tell you the same
4 thing. I think the biggest problem with this whole permit is
5 how you have got the breakdown there of 90/10, 50/50, 75/25.
6 If that was going to be on there, it shouldn't have been
7 anything on there because you feel like you are being
8 deceived.

9 And if you are going to leave it up to the
10 department to decide on who gets what, I have no faith in that
11 whatsoever as far as the public bottom. It was distributed --
12 I have no problem with aquaculture. I have some problem with
13 sanctuaries. They are supposed to be doing a study. It isn't
14 going to be done until July 2016. Why we are going to give
15 them more shells now and not give them to the public bottom is
16 beyond me.

17 That is about all I have to say. I mean, everybody
18 is on both sides of this issues but really everybody wants
19 more shell. But it has got to be done in a fair way. And the
20 way I see it, it is not being done in a fair way. And
21 therefore I oppose it.

22 MR. DaVIA: Thank you, Mr. Waples. Next is
23 Mr. Doug Myers, and on deck is Mr. Larry Powley.

24 MR. MYERS: Good evening. Thank you for hearing me
25 tonight. I was at the hearing last night in Baltimore County,

1 and did file our official comments there for the record. But
2 I wanted to also share our comments with this community.

3 My name Doug Myers. I am the Maryland senior
4 scientist at Chesapeake Bay Foundation. The Foundation
5 represents over 200,000 members in six states and the District
6 of Columbia, all of whom care deeply about oysters and their
7 ecological role in the both the habitat structure and the bay
8 and in maintaining water quality.

9 We appreciate the Department of Natural Resources'
10 challenge in maintaining a viable wild harvest fishery in an
11 era when overharvesting, disease and poor water quality have
12 reduced the bay's population of native oysters to extremely
13 low numbers. Those that are left are found on flattened bars,
14 not the high-relief natural reefs, which we know the
15 species *Crassostrea virginica*, would naturally form is they
16 were not dredged repeatedly.

17 The lack of respect for natural three-dimensional
18 structure of the Chesapeake Bay oyster reefs has to stop with
19 Man O' War Shoal. Yes, we need substrate for restoration,
20 aquaculture and public fishery repletion but Man O' War is our
21 last remaining relic 3-D reef and if anything it should be
22 protected with special status, replanted as an example of the
23 kind of healthy reef we should be trying to restore throughout
24 the bay.

25 CBF also has concerns about sediment plume that

1 | would generated from the shell-washing activities at the Man
2 | O' War site. For these reasons, CBF opposes the department's
3 | request to dredge Man O' War Shoal and suggests that DNR still
4 | has not adequately considered the alternatives. Thank you.

5 | MR. DaVIA: Thank you, Mr. Myers. Next is
6 | Mr. Larry Powley and on deck is Mr. Bunky Chance.

7 | MR. POWLEY: Good evening, ladies and gentlemen.
8 | Larry Powley, Dorchester Harvesters Association. We are in
9 | dire need in Dorchester County of this shell. You have got
10 | three counties producing most of your oysters in this whole
11 | state or most of the production of it because we have got
12 | power dredging just in those counties, which was partly
13 | Talbot, Dorchester and Somerset. And some over there in
14 | Potomac and St. Mary's.

15 | But when you look at this pie you have got over
16 | here, they are going to say, this 10 percent should go to the
17 | public fishery of 50 percent. Well, just go by the figures.
18 | In '15 to '16, we had over half a million bushels of oysters
19 | come out of our public fishery. That is where all the oysters
20 | come from.

21 | 35,000 bushels come out of the private industry. So
22 | what do the sanctuaries bring? 0 dollars to the economy and 0
23 | oysters out of the bottom.

24 | So where should all these shells go? To where they
25 | were taken from. What was come out, let's go put it back

1 | where it was at. We are supporting Kent County, Caroline
2 | County, Talbot County, Dorchester, Somerset -- and all of
3 | these are working this little bit of water that we got oyster
4 | dredging in. And we can't sustain the whole state.

5 | It is going to fail if we don't put something back.
6 | And if we don't get something back, of if we could even close
7 | our bottom, and open some more river up, like Eastern Bay or
8 | the big Choptank and let us bring those back up that are in
9 | the sediment, we would even have to buy shell if we had a
10 | rotation program.

11 | But we haven't got one yet. But we have got to have
12 | shell to put back. If we don't, we are doomed. If you want
13 | to go by the figures, just go by what was taken out of the
14 | public fishery, what was taken out by the private industry,
15 | and that is where it should go. It is just that simple.
16 | Thank you.

17 | MR. DaVIA: Thank you, Mr. Powley. Next is
18 | Mr. Bunky Chance, and on deck is Mr. Ed Liccione. Mr. Chance
19 | is not here? Okay, thank you. Mr. Ed Liccione?

20 | MR. LICCIONE: Thank you. That is a pretty good
21 | pronunciation. My name is Ed Liccione. I am a recreational
22 | fisherman and also a member of CCA Maryland. I am against
23 | dredging on Man O' War Shoal. The key reason why I am against
24 | it, as a fisherman, is I don't believe it is good idea to
25 | destroy good habitat in the hopes that you are going to build

1 better habitat.

2 Man O' War Shoal is one of the last vestiges of a
3 real natural shoal ramp, and I do not believe, until all
4 processes are exhausted in terms of getting other shell, that
5 we should touch Man O' War Shoal. Just simply not a good idea
6 as far as I am concerned. Wherever you get the shell --
7 personally I don't have a horse in this race. I don't care
8 where you put it.

9 Touching Man O' War Shoal is a major problem for a
10 lot of people who fish on it, and because of the unknowns that
11 will be caused there. Thank you.

12 MR. DaVIA: Thank you, Mr. Liccione. That is
13 everyone who indicated on the list they wish to speak. Is
14 there anyone else who wants to comment? Yes, sir. Your name,
15 sir? Your name and address. Okay, Rob. Okay, yes. Captain
16 Rob Newberry. Go ahead, Mr. Newberry.

17 MR. NEWBERRY: My name is Captain Rob Newberry. I
18 am chairman of the Delmarva Fisheries Association. We
19 represent people in the seafood industry and watermen both in
20 the states of Maryland, Virginia and Delaware.

21 This Man O' War Shoal dredge permit is most
22 important to not only just the watermen here in the State of
23 Maryland who are in the oyster industry but as an economic
24 impact throughout the State.

25 We understand and completely support the position

1 that Baltimore County takes and their opposition to this but
2 the thing that they have to realize, you know, with the
3 technology that we have nowadays, there is no reason
4 why -- with this dredging program, they can stay far enough
5 away, as the Clean Chesapeake Coalition stated, that they can
6 stay away from these areas and not impact the seeding that has
7 been done and the seed on shell program that has been done.

8 For many years in the past, in the '60s, the
9 Langenfelder shell, it was dredged in the northern bay, and
10 you hear people from these NGOs, these nongovernment
11 organizations, that are opposed to this.

12 Well, it does seem to be funny that I was
13 implementary in the process when this permit was pulled back
14 in the '90s. and some of these NGOs that were implementary in
15 pulling this permit, after it was over, asked where was
16 Langenfelder, you know, can we get the GPS coordinates from
17 where they were dredging?

18 And as of today and as early as this summer, these
19 areas in the northern part of the bay where Langenfelder was
20 dredging are some of the best fishing areas there are. And
21 they are areas where there are deep troughs that have been
22 cut, you know, north of Tea Kettle, south of Pooles Island and
23 to the west of Tolchester.

24 So you have to look at what DNR is doing here. And
25 if DNR has exhausted all facets of receiving shell. We have

1 | seen material brought out of Florida that was presented to us
2 | as clean, washed, prehistoric oyster shell.

3 | We requested through the Clean Chesapeake Coalition
4 | and through the Delmarva Fisheries Association, being that
5 | according to Maryland law, this is nonindigenous shell, that
6 | this needs to be tested. We got an answer back from DNR
7 | saying, well, the calcium carbonate content of this is higher
8 | than shell. It is rock. It doesn't need to be tested.

9 | Then we went to the shell that was put in Harris
10 | Creek, which was an alternative substrate. It was shell from
11 | the State of New Jersey. Sea clam shell. That is
12 | nonindigenous to the State of Maryland. We asked for the test
13 | on that. Where is it? We haven't got it back. It has been
14 | over a year.

15 | Those are the questions we have. So if we have
16 | exhausted all assets, alternative substrate, to come in
17 | here -- this garbage coming out of Florida, this other
18 | shell -- the only alternative is to start turning our bay
19 | into a rubble dump.

20 | Well, I am going to tell you standing right here,
21 | Delmarva Fisheries and every waterman in this room better
22 | stand up because I will be damned if they are going to turn
23 | this Chesapeake Bay into a rubble dump. We have got plenty
24 | enough shell not only on Man O' War but there is shell that is
25 | underneath areas that could be returned.

1 DNR has done the studies going back to 2000. There
2 are people in this room who know what I am talking about. It
3 could be re-elevated not only by dredging and bringing the
4 shell up as they have but there are areas where it could be
5 brought up, as they explained, through like a hard clam
6 operation or a clamming dredge can bring it up.

7 Those are some of the other alternatives. But we
8 need shell now. We are looking at, what you had said here
9 tonight, we need shell this spring, this summer, next fall.

10 This shell won't be in our hands for a minimum of
11 the next -- figure 18 months. Let's use that number, 18
12 months if every goes correctly. But the most important thing
13 we have to look at is the economic impact of this. Let's
14 follow the money. This is what it is all about, the dollar
15 bill.

16 Who is going to pay for it, how much is it going to
17 cost? Do we want this stuff brought out of Florida? No one
18 in this room does. Do we want the stuff out of New Jersey?
19 No one in this room does.

20 Do we want any other type of alternative substrate?
21 Well, if we have got it here, and it doesn't cost the amount
22 of money to bring this stuff, millions of dollars, \$7 million
23 out of Florida. \$14 million out of New Jersey. If it is not
24 going to cost that much, if it is here, it has worked before.

25 From the 1960s, this program worked. These NGOs

1 | have put all this money and all this time into other programs.
2 | Have they ever worked? Ask yourself this. Everybody in this
3 | room, ask this question. Have any of these other groups
4 | presented a plan to Army Corps, to DNR, to MDE or anybody of
5 | something that has actually worked?

6 | And you know what that answer is? No. What has
7 | worked has been the shell program. The reason it was pulled
8 | is that these certain NGOs had enough money and enough
9 | lobbyists and enough time to kill it. I implore to Army Corps
10 | of Engineers and MDE: This plan worked for years.

11 | If it is a plume problem, please tell these people
12 | to wake up. 400 plus million cubic yards of sediment coming
13 | out of the Conowingo is a heck of a lot more sediment than
14 | what can be done by this dredge. We need the shell. We need
15 | it for this industry and the state of Maryland. So please, I
16 | implore the Army Corps of Engineers and MDE, get this permit,
17 | get it going, get our program back on board.

18 | Get these oysters in, which we all want. Everybody
19 | wants more oysters and cleaner water. Those are the two
20 | things we all want. We agree to it. But most important, on
21 | Man O' War Shoal, if you can stay away from where? Baltimore
22 | County Watermen's Association has vested interest and has put
23 | time and effort in trying to re-establish their bar with seed
24 | on shell. Please do so. Thank you very much.

25 | MR. DaVIA: Thank you, Mr. Newberry. Is there

1 | anyone else who would like to -- yes, sir? If you could state
2 | your name and address, please? Thank you.

3 | MR. KEMP: Greg Kemp, McDaniel, Maryland,
4 | representing Talbot County Watermen's Association. We are for
5 | the dredging of Man O' War Shoal --

6 | MR. DaVIA: Name again. Name and address again.

7 | MR. KEMP: Greg Kemp, McDaniel, Maryland.

8 | MR. DaVIA: Thank you, Mr. Kemp.

9 | MR. KEMP: We are for the dredging of Man O' War
10 | Shoal. Environmentally, it would be good just to get our
11 | shells back in the bay from the Man O' War Shoal and
12 | impactively it would be good for the industry, and we are for
13 | option 3. Thank you.

14 | MR. DaVIA: Thank you, Mr. Kemp. Is there anyone
15 | else who would like to comment?

16 | (No response)

17 | MR. DaVIA: Okay. Well, thank you all for your
18 | comments. Let me just remind you that the public comment
19 | period for this project extends to February 18, 2016. The
20 | Corps and MDE thank you for attending this hearing and for
21 | your attention. We appreciate it very much. This public
22 | hearing is adjourned.

23 | (Whereupon, the hearing adjourned at 8:08 p.m.)
24 |
25 |