

Man O' War Shoal
Dredging Public Meeting
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Sponsored by the
Department of the Army/Maryland
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Held at the
Sparrows Point High School
Edgemere, Maryland

Man O' War Shoal Dredging Public Meeting

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KEYNOTE: "---" denotes inaudible in the transcript.
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E V E N I N G S E S S I O N

(7:03 p.m.)

Welcome and Overview

by Joseph P. DaVia, Chief, Maryland's Section Northern

U.S. Army Corps of Engineers, Baltimore District

MR. DaVIA: Okay, we are going to get started. 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, and I am chief of Maryland's Section Northern in the U.S. Army Corps of Engineers Baltimore District. With me here from the Corps at the front table, sitting in the middle, is Ms. Abbie Hopkins, who is the point of the contact for this application and the Corps project manager.

Sitting to her left is Bill Seib, chief of the regulatory branch, U.S. Army Corps of Engineers, Baltimore District. Also at the front table from the Maryland Department of the Environment is Mr. Bob Tabisz. I would like to thank Baltimore County for allowing us to hold this public hearing at the Sparrows Point High School.

It is the responsibility of my office to evaluate applications for Department of the Army permits for any proposed work in waters of the United States, including

1 wetlands. The Corps authority is found in Section 10 of the
2 Rivers and Harbors Act of 1899, and Section 404 of the Clean
3 Water Act.

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

9 The logistics for tonight's hearing are as follows:
10 First I will briefly describe where we are in the permit
11 process. I will then make a few opening remarks concerning
12 the purpose of the hearing. I will then call on the State's
13 hearing officer, Mr. Robert Tabisz, to provide MDE's opening
14 remarks.

15 I will then call on Mr. Dave Goshorn of the Maryland
16 Department of Natural Resources, for the applicant's statement
17 regarding their project. After these required presentations,
18 we will facilitate public statements by first calling on any
19 elected officials or their representatives to make a
20 statement. We will then call on those of you who indicated on
21 the sign-in sheet that you wish to speak in the order that you
22 signed in.

23 You may provide comment into the record by written
24 statement or by oral statement. If you have a written
25 statement, you do not need to provide oral comments. You

1 | should provide all written statements or comments to any of
2 | the Corps or MDE representatives at the registration desk.

3 | If you didn't sign in to speak but wish to do so,
4 | please sign in at the registration desk. When called, please
5 | proceed to this microphone, state your name, address, and if
6 | applicable, the organization or group you represent.

7 | Recognizing the number of people wishing to speak,
8 | please limit your remarks to three minutes. We will be
9 | reminding you of your available time. We will give you a red
10 | card and then a black card. We do not permit cross-
11 | examination of the speakers during their presentations. But
12 | you may pose questions as part of your statement for our
13 | consideration and our review of the permit application.

14 | This venue here 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. If you have specific
17 | questions about the project, there is a poster session in the
18 | lobby where you can speak with Maryland DNR representatives
19 | and ask questions about the project.

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

23 | Okay, the project proposed by the Maryland
24 | Department of Natural Resources is to hydraulically dredge two
25 | to five million bushels of oyster shell from Man O' War Shoal

1 as part of a five-year comprehensive research and development
2 effort to monitor and assess the ecological consequences of
3 removing shell from the shoal.

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

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

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

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

24 Should the study conclude that the shell dredging
25 has no adverse effects to the shoal, Maryland DNR may apply

1 for Corps and MDE authorization to do additional dredging that
2 will ultimately remove 30 percent or approximately 30 million
3 bushels of shell from the shoal's available shell.

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

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

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

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

22 The decision on whether or not to issue a permit
23 will be based on an evaluation of the probable impacts,
24 including cumulative impacts, of the proposed activity on the
25 public interest and compliance with the Clean Water Act

1 Section 404(b) (1) guidelines.

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

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

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

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

25 Since this is a joint hearing with the Maryland

1 Department of the Environment, I now want to call on
2 Mr. Robert Tabisz of MDE to make a statement. Following
3 Mr. Tabisz's statement, we will have the applicant's statement
4 followed by public comments.

5 ***Comments***

6 ***by Robert Tabisz, Maryland Department of the Environment***

7 MR. TABISZ: Good evening. My name is Robert Tabisz
8 and I am representing the Maryland Department of the
9 Environment. And I would like to welcome everyone, and thank
10 you for taking the time to participate in the State's
11 regulatory process.

12 The purpose of the evening's public informational
13 hearing is for the applicant to present the proposed project
14 and discuss the tidal/wetland impacts that will be associated
15 with their activities.

16 In addition, the hearing provides the Maryland
17 Department of the Environment with an opportunity to solicit
18 additional information from interested persons. While I want
19 to stress the fact that we are here for a free exchange of
20 information, it is necessary to have some structure to this
21 evening's hearing.

22 First, the applicant and any interested person will
23 be given an opportunity to present the facts and make
24 statements for or against the granting of the authorization.
25 Clarifying questions may be asked of or directed to the

1 | presiding official but cross-examination may not be conducted.

2 | The hearing is not a contested case hearing under
3 | the Administrative Procedural Act.

4 | Two, the hearing will be conducted in the following
5 | order: Introduction of the presiding official, presentation
6 | of the proposed project by the applicant, comments by the
7 | public officials, comments by other persons and the closing of
8 | the hearing by the presiding officials.

9 | Finally the presiding official has the authority and
10 | duty to conduct a full and fair hearing, to act on unnecessary
11 | delay and to maintain order and regulate the course of the
12 | hearing and to conduct the participants.

13 | The hearing is being recorded this evening and will
14 | be used to facilitate the development of the department's
15 | report and recommendation, which will be submitted to the
16 | Maryland Board of Public Works.

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

22 | (No response)

23 | MR. TABISZ: The public informational hearing is
24 | being conducted pursuant to Section 5-204 of the Environmental
25 | Article for the State Wetlands Application 15-WL0757 submitted

1 | by the Maryland Department of Natural Resources, Fisheries
2 | Division, for the dredging of the Man O' War Shoal.

3 | It is important to note that this hearing is not a
4 | contested case hearing under the Maryland Administrative
5 | Procedural Act or the Public Hearing for Water Quality
6 | Certification Code pursuant to Maryland Regulations 26.08.02-
7 | 1.

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

14 | Other regulatory requirements governing the view and
15 | issuance of the tidal wetlands license can be found in COMAR
16 | 26.03.04, promulgated by the Board of Public Works and COMAR
17 | 26.24 promulgated by the Maryland Department of the
18 | Environment.

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

24 | In its proprietary authority, the board has the
25 | right to grant a third party the use or right to construct or

1 | conduct an activity in tidal wetlands via a state wetlands
2 | license.

3 | According to 16.202 of the environmental article,
4 | the Secretary of the Maryland Department of the Environment
5 | shall assist the board in determining whether to issue a
6 | license to dredge or fill state wetlands.

7 | The Secretary shall submit a report indicating
8 | whether the license should be granted, and if so, the terms,
9 | conditions and considerations required after consultation with
10 | any interested federal, State and local units, and after
11 | issuing a public notice, holding a requested hearing and
12 | taking any evidence the Secretary thinks is advisable.

13 | In making this decision, the Board of Public Works
14 | is guided by the public policy of the State, taking into
15 | account the varying ecological, economic, developmental,
16 | recreational and aesthetic values to preserve tidal wetlands
17 | and to prevent their despoliation and destruction.

18 | The Maryland Department of the Environment is
19 | considering an application submitted by the Maryland
20 | Department of Natural Resources Fisheries Division to conduct
21 | regulated activities requiring a State wetlands license.

22 | In addition, the department must use a water quality
23 | certification as required under Section 401 of the Clean Water
24 | Act, and a federal consistency determination pursuant to
25 | Section 307 of the federal Coastal Zone Management Act of 1972

1 as amended.

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

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

13 The dredged oyster shell is to be planted throughout
14 Maryland's portion of the Chesapeake Bay and its tributaries.
15 The proposed work under the State's wetlands license
16 application 15-WL0757 consists of the following regulated
17 activities:

18 To hydraulically dredge 2.5 million bushels of
19 oyster shell as part of a comprehensive research and
20 development effort to monitor and assess the ecological
21 consequence of removing shell from the shoal. Maryland DNR is
22 proposing to dredge approximately 20.7 acres of the 214-acre
23 shoal. Returned water and sediment is proposed to be
24 discharged below the water surface at the dredge site.

25 If monitoring results of the 5-year dredging show no

1 adverse effects, Maryland DNR will submit a joint permit
2 application no sooner than year 5 of the permit to continue
3 dredging of the shoal until the maximum of 30 million bushels
4 has been removed.

5 Now I would like to take this opportunity to see and
6 recognize any public official. I think, Joe, you have already
7 done that. The reinstatement of the purpose of what we are
8 doing tonight: I would like to emphasize that the purpose of
9 the hearing is to consider the tidal wetlands application
10 pending before the Maryland Department of the Environment.

11 There may be a number of additional concerns related
12 to the issues that are beyond the scope of this particular
13 hearing. I would like to have, as much as possible, to have
14 this hearing remain focused on issues related to the
15 applications of the State tidal wetlands license. Joe?

16 MR. DaVIA: Thank you, Mr. Tabisz. I now call on
17 Mr. Dave Goshorn from Maryland DNR for the applicant's
18 statement.

19 ***Applicant's Statement***

20 ***by Dave Goshorn, Assistant Secretary, Aquatic Resources***

21 ***Maryland Department of Natural Resources, Fisheries Service***

22 MR. GOSHORN: Thank you. Good evening. My name is
23 Dave Goshorn with the Department of Natural Resources. I am
24 assistant secretary for aquatic resources. And I am going to
25 very brief. I just want to say three things.

1 First, and most importantly, thank you for coming
2 tonight. I know that there are a lot of people who feel quite
3 strongly on all sides of this issue, and we really want to
4 hear your comments. That is why we are here tonight. So I
5 appreciate your coming.

6 I want to just give you a really quick background of
7 how we got to the point of applying for this permit. And then
8 a very brief summary of what we are proposing to do.

9 Oysters are in dire straits in the Chesapeake Bay.
10 The population is estimated at about 1 percent of its historic
11 levels. We are expending a lot of resources trying to restore
12 that resource for a variety of benefits -- for the economic
13 benefits to the industry, for the environmental benefits to
14 the bay and all that comes with that.

15 One of the major limiting resources in being able to
16 do that is shell. Oysters need hard bottom in order to settle
17 and to grow. And the best hard bottom is oyster shell. And
18 we are severely lacking in oyster shell.

19 During the 2009 general assembly, the general
20 assembly passed and the governor signed House Bill 103, which
21 requires the Department of Natural Resources to apply for a
22 permit to dredge buried oyster shell from Chesapeake Bay for
23 restoration purposes.

24 After that bill was passed into statute, we turned
25 to the Oyster Advisory Commission, which is a Secretary-

1 appointed advisory commission consisting of scientists,
2 commercial watermen, recreational interests, conservationists
3 and the general public for advice on where to dredge. And
4 their advice was Man O' War Shoal.

5 After that, DNR began working closely with the Corps
6 of Engineers and MDE, and ultimately in July of 2009,
7 submitted a permit application to dredge Man O' War Shoal.
8 After reviewing the permit application, the Corps came back
9 and said that they were not convinced that we had met the
10 purpose and need parts of that. In other words, we had not
11 explored all other alternatives.

12 So we withdrew the application at that point and
13 began to explore what other opportunities there may be, what
14 other substrates may be available and so forth. As part of
15 that process, we worked with the county oyster committees.
16 These are committees of commercial watermen in the counties
17 along the bay, and identified areas where shell had been
18 planted in the past that we did have permits to reclaim.

19 We went forth and we worked with them. We reclaimed
20 about 413,000 bushels of oyster shell and planted them on
21 bars, but that exhausted that supply.

22 So after that, that was in 2012, we began to work
23 again. We thought that we had thoroughly explored all other
24 options. And began to rework the permit application, which we
25 then resubmitted this past year. And it is that permit

1 application that we are here to hear your comments on tonight.

2 So very briefly, what exactly are we applying to do?
3 You have heard bits and pieces of it already so I will be
4 quick. In this permit application, we are applying to dredge
5 up to 5 million bushels from Man O' War Shoal in a controlled
6 process. This represents approximately 5 percent of what we
7 estimate is in the -- to exist in the bar.

8 To go beyond that 5 million bushels in the first
9 five years would then require another permit application.

10 That 5-year process in year 1, we would not dredge
11 any shell. Year 1 would be to collect baseline information on
12 water quality, fish communities, et cetera, that are currently
13 associated with Man O' War Shoal. Year 2, we would dredge up
14 to 2 million bushels.

15 Years 3 and 4 we would do no more dredging. We
16 would go back and we would follow up on the monitoring to
17 identify what if any impacts there were to the fish
18 communities, to the water quality, the environmental quality
19 of the shoal.

20 And then if that found no significant impacts, then
21 in year 5 we would go back and dredge the remaining 3 million
22 bushels. So that is what we are here to hear your comments on
23 tonight. The last thing I want to add, and this has been
24 alluded to, is that as much interest as there is in whether or
25 not we get the application to do this, there is probably an

1 equal amount of interest in what we will do with the shells if
2 we receive the permit.

3 That is not part of this hearing tonight. That is a
4 decision that DNR would make if we get the permit but we are
5 very interested in your comments on that. But that is not the
6 purpose of the hearing.

7 If you want to give us your comments on that, and we
8 do have three different scenarios that are outlined in the
9 posters out in the lobby. We would love to hear your comments
10 on which of those three scenarios you would like us to pursue
11 if we get the permit. And there are papers out there that we
12 would love to hear your comments on that.

13 If we get the permit application, then that is what
14 we will look at in making those decisions. Again I thank you
15 for coming and look forward to hearing your comments.

16 MR. DaVIA: All right. Thank you, Mr. Goshorn. All
17 right, now that, that is out of the way, we want to hear from
18 you guys. I am going to first call on elected officials or
19 their representatives and then I will call on the public.

20 What I will do is I will call two names. The first
21 person will be commenting. If the second person who will be
22 on deck, if they could make their way down toward the front to
23 be ready to step to the podium, that would be great to
24 facilitate the public comments.

25 So again let me first call on elected officials.

1 The first being Senator Johnny Salling. And on deck is going
2 to Delegate Bob Long.

3 ***Public Comment Session***

4 SEN. SALLING: Good evening. First I want to say
5 this: As a senator in the Sixth District of Baltimore County,
6 I am against this dredging. I have talked to many good people
7 who are very knowledgeable about what is going on in our
8 waters. I talked to the watermen. I believe these men that I
9 talked to and that I deal with know exactly what is going on
10 out here.

11 I talked to sportsmen, and I speak with them often.
12 And they tell me, this is not something that is beneficial in
13 the long run. I hear what is being said. I do understand.

14 One thing I do understand: There have been years
15 now when we have had serious problems with oysters. We have
16 had serious problems with crabs. We have serious problems in
17 our bay because the pollution has been a very serious problem.
18 I understand that, and I think we all do.

19 Is it getting better out there? It is. It is
20 getting much better. Are people working out here to not just
21 solve the problem -- I think that is a good thing -- but
22 create in areas where we can do better? We have been doing
23 that.

24 I know for a fact that with CCA and MSSA, they are
25 against this. Every waterman that I have talked to, they are

1 | against this. I have to talked to other delegates and
2 | senators. They are against this. There is a reason why.
3 | There is a better way we could do this.

4 | And I believe working with the people with the
5 | understanding and the knowledge is where we need to go. I say
6 | this again: As a senator in the Sixth District, being the
7 | second year man, I talk to the people who are out there, who
8 | are doing it. That is who I talk to. That is where I get my
9 | understanding and knowledge.

10 | And knowing that, I see one thing and one thing
11 | only: that they are benefiting me because they are telling
12 | this is not a good thing. I know for a fact there have been
13 | areas like in Pooles Island where they have done this and it
14 | didn't work well. All I am saying is this: This is what I
15 | want and this is what you need. Please hear these men and
16 | these women out here.

17 | Get a greater understanding of what is going on.
18 | And I believe you will realize that dredging Man O' War Shoal
19 | is not the right thing to do. I want to thank you so much for
20 | this opportunity and this time that we do have. I want to
21 | thank Sparrows Point High School -- the year I graduated here
22 | in 1979 -- for having us here.

23 | But more than anything, please listen to the people
24 | here and get a greater understanding of what is going on. And
25 | I believe we will learn something even more this evening. So

1 | thank you so much for this time, and God bless you.

2 | (Applause)

3 | MR. LONG: Good evening, good evening. Delegate Bob
4 | Long. I live in Dundalk. I have lived down here for over 30
5 | years. I have fished the Man O' War Shoal many a summer. My
6 | son-in-law fishes down here.

7 | You know, we want to protect what we have. I heard
8 | some words was potential, what effect it was going to have.
9 | It is disturbing that we are going to even disturb that bar
10 | knowing that it is historical. That was another word I heard.
11 | It was historical. It has been around forever.

12 | And you know, oyster is -- I mean, we do have a
13 | problem with oyster restoration, that is for sure. But we
14 | need to look at every different avenue that we can take. We
15 | have to be absolutely sure that we don't disturb this bar and
16 | hurt it because once it is gone, it is gone.

17 | It is natural, and let's face it: It is hard to
18 | reproduce what Mother Nature has done. I know the oyster
19 | population is on the way up somewhat. But, you know, again we
20 | have to weigh out is it really worth disturbing that bar. And
21 | I for one -- in my district, the people whom I have talked to,
22 | they all said no. That is not quite what they said, but they
23 | said no.

24 | And I am here to stand with the people and, you
25 | know, let's just leave it alone and look at some other

1 options. And thank you so much.

2 (Applause)

3 MR. DaVIA: Thank you, Senator Salling and Delegate
4 Long. Next is Delegate Rick Metzgar, and on deck is Delegate
5 Robin Grammer.

6 DEL. METZGAR: Good evening, ladies and gentlemen.
7 I will turn this around so everybody on this side can see and
8 hear as well.

9 Ladies and gentlemen, I urge you -- first of all, I
10 just have just a couple of points. I urge you to take this
11 off the table. Ladies and gentlemen, this has been a great
12 concern not only to our delegation but our community. More
13 watermen have on the western shore and the eastern shore, who
14 make their living by harvesting in the Chesapeake Bay.

15 We must preserve this, and we need to urge you.
16 Preservation of Man O' War Shoal oyster beds have been an
17 issue for many years. I can remember Alex Dimitri doing a
18 story about how well it was. We must leave this untouched and
19 preserved just the way it is.

20 Natural reefs are beneficial to our oyster
21 population. I have written a letter as well to -- with a copy
22 of the letter to Secretary Belton and -- on the urging of
23 Mr. Russ Spangler, and I thank you, ladies and gentlemen, for
24 the opportunity just to say publicly we urge you not to touch
25 this area. God bless you.

1 (Applause)

2 DEL. GRAMMER: Good evening. For those of you who
3 don't know me, my name is Robin Grammer. I am one of three
4 state delegates representing District Six. I will keep my
5 remarks tonight brief.

6 I have come here with a statement in opposition of
7 the dredging at Man O' War Shoal. I applaud the intent of the
8 proposal. We all know the oyster population in the Chesapeake
9 is at historic lows. However, personally I have been given no
10 indication that this is a valid, long-term solution to the
11 problem.

12 I was personally, actually very surprised when I
13 heard about the request for public comments. I have had
14 conversations with members of the Department of Natural
15 Resources dating back more than 12 months, and I have never
16 heard of a single person who believed this was a long-term,
17 viable solution.

18 In fact, at a recent watermen's caucus meeting in
19 Annapolis attended by various watermen's groups from across
20 the bay, every single attendee was opposed to the proposal. I
21 don't know who is for the proposal.

22 Finding shell is important for a viable long-term
23 solution for restoring the oyster population. However,
24 without fixing the long-term causes of the depletion of the
25 oyster population, this dredging does nothing more than

1 shuffle shells around the bay.

2 The Man O' War Shoal is one of our few healthy
3 oyster habitats. Let us halt this proposal and focus on a
4 more viable solution for the recovery of our oyster
5 population. Thank you.

6 (Applause)

7 MR. DaVIA: Thank you, Delegate Metzgar and Delegate
8 Grammer. Any other elected official in the audience who would
9 like to comment or be recognized?

10 (No response)

11 MR. DaVIA: Okay. I will call two names. The first
12 will, of course, comment, and if the second could come down
13 and be on deck, that would be great.

14 I will do the best with the pronunciation of your
15 name but I am Italian so I will just do my best. The first is
16 William Huppert. And on deck is John Wingate.

17 MR. HUPPERT: I am going to make a presentation that
18 is totally different. I have got several pages of notes that
19 I am not going to refer to.

20 MR. : We can't hear you.

21 MR. HUPPERT: I am sorry. Am I in the right place
22 now?

23 MR. DaVIA: Just sort of hold this up. They are
24 having trouble hearing you. You are going to speak into that
25 one there.

1 MR. HUPPERT: This one.

2 MR. DaVIA: This one right here.

3 MR. HUPPERT: Okay. Sorry about that. Can you hear
4 me now? I have changed directions on what I am doing today
5 completely. I have several pages of notes that I am not going
6 to read to you. I am going to give you a history lesson. I
7 am going to give you a history lesson today.

8 1891, 1891, there was a gentleman who wrote a book
9 by the name of William Brooks. He is a scientist. And he
10 wrote a book about the Chesapeake Bay in 1891. The book was
11 published. It was called the Oyster. And the morning paper
12 edition was published in 1996.

13 In his 1891 edition, he wrote, we have wasted our
14 inheritance by improvidential and mismanagement and blind
15 confidence. That is in 1891.

16 In 1991, Larry Simns said, oyster harvesting is a
17 lie. He said, all we need is a good spat set. My solution,
18 short and sweet. That is from Larry. Anyhow, let me remind
19 you that the role of wooden sticks that were used to propagate
20 oyster growth. Wooden sticks were rolled up, weights
21 attached, and put down in oyster waters where we know spat
22 came from.

23 That is how Dr. Brooks worked out the solution and
24 raised the first spat and the first oysters in the bay. It
25 was done earlier in other parts of Europe, by the way. Around

1 1966, dredging for oyster shell began in the upper bay below
2 Pooles Island, and 185 million bushels were shipped to the
3 lower bay.

4 There was no increase in oyster population as a
5 result of all that movement of oysters. It is still down at
6 about zero percent. I have not found any -- found out for
7 certain that most of the cuts contain silt. I am not talking
8 about the original cuts up above below Pooles Island. And we
9 have no idea how much silt is there. But we do know one
10 thing: You can't grow anything in silt.

11 Everybody here knows you can't grow anything in
12 silt. And in 1993, fewer than 1,000 bushels were harvested.

13 And where are we now? We are back to that zero
14 percent. And that is not progress, folks. Listen to the
15 words that I read to you. Take them to heart. This guy knew
16 what he was doing. I have a copy of his book.

17 (Applause)

18 MR. DaVIA: Mr. John Wingate, and on deck is
19 Mr. Russell Donnelly.

20 MR. WINGATE: My statement is brief. I just need to
21 throw my two cents' worth in. And ladies and gentlemen, I am
22 a recreational fisherman, taxpayer, voter, lifelong citizen of
23 Maryland. I would like to share some concerns with you
24 regarding the Man O' War Shoal dredging, the last remaining
25 viable natural fishing reef in the upper bay.

1 For over four decades we watched as the shells from
2 the upper bay were dug up, ruining our fishing grounds,
3 creating a desert, and hauled down the bay at our expense.
4 185 million bushels. Where are those shells now? What good
5 did they do? How much cleaner is the bay? 185 million
6 bushels, and we need more.

7 So what are we going to do now? Same thing that
8 didn't work before. Is there a difference in the bay now that
9 is going to make it work? I am not aware of any. I have been
10 told the definition of insanity is doing the same thing over
11 and expecting different results. I am concerned for people
12 who are in favor of this project. Thank you.

13 (Applause)

14 MR. DaVIA: Thank you, Mr. Wingate.
15 Mr. Russell Donnelly, and on deck is Mr. Doug Myers.

16 MR. DONNELLY: Good evening, honored panel of our
17 agency officials. And good evening, ladies and gentlemen. My
18 name is Russell Donnelly, 2114 Oak Road, Sparrows Point,
19 Maryland, 21219. I have been here relatively -- about 58
20 years.

21 The thing is, we have had this issue before with Man
22 O' War Shoal on or about the mid-1980s, when it was determined
23 that they wanted to take 40 percent of it at that time. At
24 that point, we had MSX and dermo disease running rampant
25 throughout all the beds in the lower bays where the higher

1 salinity and the disease festered and grew.

2 The premise at that time, brought by DNR again, was
3 to take healthy oysters from that Man O' War Shoal, off this
4 40 percent, and move them to the other affected beds in the
5 lower bay, hoping for recovery. The bulk of the shell, at
6 that time -- there was no aquaculture. This was prior to that
7 premise and that push -- would go to National Gypsum or
8 American Gypsum up off Broening Highway to make wallboard.

9 Behind all that at the time was a plan to open up a
10 trade channel for marine transit from the Atlantic Ocean
11 through the C and D, Delaware Canal, 80 miles south, take a
12 right at Ft. Howard into Baltimore Harbor.

13 Bear in mind, we have Transpoint Atlantic opening up
14 again, opened up now, which is going to put Baltimore and
15 Sparrows Point as the hub for the eastern United States for
16 all bulk transport/transit processing, leading, et cetera.
17 That is what is coming down here to Sparrows Point.

18 So the thing is, they would still, in the back, love
19 to have a right turn. A lot shorter than going 360 miles down
20 and back up the bay. Not that, that is connected at this
21 point, but back then it was an issue.

22 So again, we put a moratorium, five years at that
23 time. Senator Norman Stone, Janet Woods -- all the
24 watermen, some past and some sitting right in here in this
25 room, were there at that hearing held on a Tuesday morning at

1 10 a.m. in Middle River Library on this issue about Man O' War
2 Shoal.

3 Here it is back again, and this is some 20, almost
4 30 years later. It is still not a good idea. That is the
5 last largest living oyster shoal in this bay that pre-existed
6 1600. It was here when Captain Smith came up the bay. It is
7 still here, it is still alive.

8 The whole bay is down, as stated, to 1 percent of
9 oyster population. You don't make it any better by cutting up
10 the last largest living shoal. Rather, you should enhance the
11 shoal. You should use alternative media for bed media -- reef
12 balls, all the other stuff that they have come up with over
13 the years -- as the underlying strata.

14 Let the oysters recover and grow to their maximum
15 potential. You can't start from zero percent and still market
16 oysters and still run aquaculture and hope to get above zero
17 percent. It is not going to happen that way. All you are
18 doing is wiping out the last source of ancestral oysters.
19 Thank you.

20 (Applause)

21 MR. DaVIA: Thank you, Mr. Donnelly. Next is
22 Mr. Doug Myers, and on deck is Mr. Robert Fantom.

23 MR. MYERS: Hello, my name is Doug Myers. I am the
24 Maryland senior scientist for the Chesapeake Bay Foundation.
25 The Chesapeake Bay Foundation represents over 200,000 members

1 | in six states and the District of Columbia, all of whom care
2 | deeply about oysters and their ecological role both in habitat
3 | structure in the bay and maintaining clean water.

4 | As a matter of fact, in 2015 we placed over 46
5 | million spat on shell and 267,000 yearling oysters into the
6 | bay in attempts to restore the populations. We have done that
7 | all into sanctuary reefs.

8 | Its original concept for harvesting shell from Man
9 | O' War Shoal, supported by the Oyster Advisory Commission as a
10 | source of cultch for oyster reef restoration, 90 percent of
11 | the harvested shell was slated for use in sanctuary
12 | restoration reefs. At that time, CBF agreed with the concept
13 | in general, realizing the paucity of available shell for
14 | restoration but neither opposed or explicitly supported a
15 | detailed proposal.

16 | Under the current proposal, there is much ambiguity
17 | as to how much of that shell would end up in a harvest
18 | sanctuary reef versus how much would be used in open harvest.
19 | The lack of respect for natural, three-dimensional structure
20 | of Chesapeake Bay's oyster reef has to stop at Man O' War
21 | Shoal.

22 | Yes, we need substrate for restoration, aquaculture
23 | and public fishery repletion, but Man O' War is our last
24 | remaining relic 3-D reef, and if anything it should be
25 | protected with special status and replanted as an example of

1 the kind of healthy reef we should be trying to restore.

2 CBF also has concerns from the water quality's
3 perspective that sediment plume generated from shell washing
4 operations could have an adverse water-quality impact,
5 particularly the release of nitrogen, phosphorous and
6 suspended sediment into the water column and subsequent growth
7 of phytoplankton that might exacerbate the bay's dead zone.

8 Failing to do so suggests that DNR has still not
9 adequately considered the alternatives. Reef balls are a
10 viable alternative for oyster reef restoration. We should be
11 saving the little shell we have for the live oyster larvae to
12 attach to. That is the best substrate for them to attach to.

13 Any of the additional reef base material should be
14 used for raising the elevation at the bottom and saving our
15 small amounts of shell for the veneer of living oysters that
16 must be placed on top. Thank you for your time.

17 (Applause)

18 MR. DaVIA: Mr. Robert Fantom, and on deck is
19 Hollice Lowe.

20 MR. FANTOM: Hi. Robert W. Fantom, 2813 Superior
21 Avenue, Parkville, Maryland 21234. Retired farmer/fisherman.

22 For me, this is the fifth decade of appearances at
23 meetings and public hearing trying to preserve the historic
24 reefs in the upper bay. They are denigrated by calling them
25 shoals or fossils.

1 All reefs are fossils, and the upper bay reefs are
2 just as alive as their tropical cousins, the coral reefs.
3 True, upper bay reefs don't provide oysters for our watermen
4 to harvest. If they did, they would have been the first ones
5 flattened in 1890 with their proximity to Baltimore city.

6 These reefs provide permanent, essential benefit to
7 our bay ecosystem. Their contours provide upwelling and
8 oxygenates the entire water column and keeps them free from
9 sediment. This provides essential substrate for benthic
10 organisms, the foundation of the marine ecosystem.

11 Rhapsy Hamer*, father of this program, this fossil
12 shell program, demonstrated with his work in the 1940s and
13 1950s that sometimes oysters could be successfully grown using
14 bottom culture at reasonable cost but was quoted in 1959 that
15 it didn't always work.

16 So from 1961 to 2004, we annually strip-mined
17 irreplaceable reefs in order to provide a put-and-take public
18 fishery that failed to even begin to provide a self-sustaining
19 oyster recovery.

20 There is a scientific consensus that low-relief
21 reefs, bottom culture, doesn't work. Oysters need high-relief
22 reefs that provide habitat away from the continuous
23 sedimentation on the bay bottom. We have already taken far
24 too many liberties with our upper bay.

25 The combination of fossil shell dredging and open

1 | water placement of dredge spoil have caused permanent damage.
2 | At the Board of Public Works hearing for a wetlands permit for
3 | this program in 2004, Treasurer Nancy Kopp asked Chris Judy,
4 | the shellfish director, what was more important: Oysters for
5 | the watermen or oysters for the bay? After a pause, the
6 | response was oysters for the bay.

7 | And so here we are again looking at the possibility
8 | of removing Man O' War, historically unique in its size and
9 | shape to the entire bay. Utilized constantly by charter and
10 | recreational fishermen and by oysters tongers who still find
11 | live oysters there.

12 | We have been repeatedly told that alternative
13 | materials won't work, but the fact is that alternative
14 | materials successfully provide permanent habitat for oysters
15 | if presented as high-relief reefs. Unfortunately, high-relief
16 | reefs are far less desirable for oyster harvesters.

17 | If this program -- ask yourself, if this program is
18 | bad for our bay, why didn't the watermen oppose it from its
19 | onset? Well, the answer is simple. All reefs provide
20 | sanctuary, and if you make your living harvesting the bounty
21 | of our bay, you have no need for sanctuary.

22 | There has always been a lot of money involved in
23 | strip-mining fossil shell calcium, a valuable mineral
24 | resource, with little consideration to the permanent
25 | destruction of our upper bay reefs, the last naturally

1 | occurring reefs in the entire bay. This program is always
2 | presented to our Board of Public Works with a seven-word
3 | phrase: This program is essential to oyster restoration. Not
4 | true.

5 | As demonstrated by the Maryland Artificial Reef
6 | Initiative, the only way to truly restore oysters is to build
7 | high-relief reefs with larger, alternative material. And the
8 | only sustainable future for our oyster harvesting is
9 | aquaculture. And if you want to see what is wrong with fossil
10 | shell dredging, you can follow the money.

11 | And if you truly want to save our bay, you will
12 | follow the science. Thank you.

13 | (Applause)

14 | MR. DaVIA: Thank you, Mr. Fantom. Next is
15 | Mr. Hollice Lowe, and on deck is Mr. Kenneth Lewis.

16 | MR. LOWE: How are you all doing tonight? My name
17 | is Hollice Lowe, I sit on the Baltimore County Oyster Seed
18 | Committee. I am one of the ones responsible for having Man O'
19 | War Shoal planted with oysters in 2013 and 2015.

20 | I don't understand why the department wants to turn
21 | around and destroy a perfectly good, working oyster bar. They
22 | just do not make any sense. Thank you very much.

23 | (Applause)

24 | MR. DaVIA: Thank you, Mr. Lowe. Mr. Kenneth Lewis,
25 | and on deck is Mr. Jim Mullin.

1 DR. LEWIS: My name is Dr. Kenneth Lewis from
2 Cockeysville, Maryland. I am a long-term Baltimore County
3 resident and a recreational angler, and I am here to testify
4 in opposition to granting this permit.

5 Man O' War Shoal is a common property natural
6 resource that is currently used in a nonconsumptive way by
7 many, many citizens of the county. Recreational anglers,
8 commercial fishermen, boaters, sailors, shell dredgers -- and
9 in addition to that, the activities that go on, on the shoal,
10 support other activities, economic activities, on land.

11 The marina owners in the area that supply the boats
12 that people use to fish the reef and the tackle shops. They
13 have been forgotten in the past as participants in the
14 activities that go on, on the Man O' War Shoal.

15 When the original permits were discussed to dredge
16 Man O' War Shoal, oyster restoration on a large scale was just
17 beginning. And as pointed out by other speakers, there was
18 understanding that 90 percent of the oyster shell dredged
19 would go to oyster restoration and sanctuaries. And that
20 provided some sympathy to perhaps consider dredging the shell
21 despite the negative factors.

22 However, the current permit application does not
23 designate how this shell is used, and in actuality it could
24 totally be used for a resumption of the put-and-take repletion
25 program that failed for 46 years after the dredging of nearly

1 200 million bushels as was previously mentioned.

2 It is also important to recognize that dredged shell
3 is not a permanent solution to the need for shell. These
4 shell degrade over a period of time. And in the permit
5 application itself, it is documented that the shell degrades
6 over a period of three to six years.

7 So if you put it down, it is not going to be a
8 permanent solution to the problem. After you dredge Man O'
9 War and use all the shell, as you have all the shell from the
10 upper bay, what are we going to do then for oyster management?

11 And finally this does seem to be a mechanism for
12 resumption. It is déjà vu all over again, of dredging shell,
13 moving it down the bay, mainly to subsidize the commercial
14 oyster industry. So I would urge you to deny this permit
15 application. Thank you.

16 (Applause)

17 MR. DaVIA: Thank you, Mr. Lewis. Next is
18 Mr. Jim Mullin, and on deck is Frank Holden.

19 MR. MULLIN: Good evening. I am Jim Mullin with the
20 Maryland Oystermen's Association over on the Eastern Shore.
21 And for the record, we just wanted to get the fact that
22 Phoenix Bar, off Kent County, is a viable option. We have got
23 two smaller bars north of that.

24 We have the shell reclamation permit, and to the
25 delegates and senators' points, we have got some other areas

1 | in the bay that are dormant, that have shell that is just
2 | buried in silt.

3 | In terms of the economic impact, the oyster industry
4 | would like everybody to adhere to the goals and objectives of
5 | the governor with regard to the oyster industry. Without the
6 | oyster industry, the state of Maryland does not have any
7 | shell. If you don't have any shell for sanctuary, you don't
8 | have any shell for aquaculture.

9 | So it is important that, moving forward, that the
10 | industry works with the Corps and the department and the
11 | delegation moving forward to solve this issue. If we work
12 | together, we can do it.

13 | (Applause)

14 | MR. DaVIA: Thank you, Mr. Mullin. Next is Frank
15 | Holden, and on deck is Ed Kucharski.

16 | MR. HOLDEN: Good evening, everyone. My name is
17 | Frank Holden. I am president of the Maryland Saltwater Sport
18 | Fishermen's Association, which is one of the largest groups
19 | of -- collective group of recreational anglers.

20 | I am here tonight on behalf of our membership. And
21 | Maryland's recreational anglers encourage the Army Corps of
22 | Engineers to deny this permit. I have a long prepared talk
23 | tonight. I am not going to do it. I think we have all -- we
24 | have been here long enough. We have heard enough speakers
25 | here tonight to know that this is just a bad project and we

1 all think it should be, I think the majority of us really
2 think this project should be stopped.

3 So on behalf, once again, on behalf of the Maryland
4 Saltwater Sport Fishermen's Association, and our 3,000-some
5 members, we would like to see this project stopped. Thank
6 you.

7 (Applause)

8 MR. DaVIA: Thank you, Mr. Holden. Next is
9 Mr. Ed Kucharski, and on deck is Blair Baltus.

10 MR. KUCHARSKI: Good evening, ladies and gentlemen.
11 I would like to thank the Army Corps of Engineers for giving
12 us this opportunity to express our concerns about Man O' War
13 Shoal.

14 I have been -- I am the vice president of the
15 Maryland Saltwater Sport Fishing Association, and I have
16 fished this upper bay for well over 60 years. I have watched
17 the dredging going on from Pooles Island all the way down, and
18 I have seen the deterioration of the resources.

19 We have gone through moratorium for rockfish, we
20 have got struggles saying the oyster bars are depleted around
21 the State, and I think that this is not a good project and I
22 am against it. Thank you.

23 (Applause)

24 MR. DaVIA: Thank you, Mr. Kucharski. Next is Blair
25 Baltus, and on deck is David Bleakney.

1 MR. BALTUS: Ladies and gentlemen. My name is Blair
2 Baltus. I am the president of the Baltimore County Watermen's
3 Association. I have one word for this project: No. Man O'
4 War Shoal is the only natural oyster bar that we have in
5 Baltimore County, and it is vitally important to the watermen,
6 sport fishermen, boaters, businesses and the citizens of
7 Baltimore County and Maryland.

8 Sport fishermen love this area, which is excellent
9 for large white perch, rockfish, Norfolk spot and hardhead
10 croakers. Some of the first fish I caught in my life came
11 from Man O' War Shoal with my father and grandfather. The
12 area around the bar is vital crabbing area for the watermen
13 from Baltimore, Kent and Anne Arundel counties.

14 I personally love to crab above and below the bar,
15 which during the months of August, September and October,
16 sometimes provide me with 100 percent of my catch each day.

17 In the spring, the area below the bar to the ---
18 channel is excellent in May and June when the crabs over the
19 winter pop out of the mud. I guess if the dredging occurs
20 during the winter months, the sediment plumes from the
21 dredging won't smother the buried crabs. I say this
22 sarcastically.

23 For close to 30 years, we tolerated barge traffic to
24 the Hart-Miller Island dike. We lost a lot of crabbing ground
25 along with a lot of our gear. Now we will be asked to give up

1 | more bottom forever. In 2013, the Baltimore County Watermen's
2 | Association planted 43 million spat on shell. And in 2015,
3 | 9.5 million spat on shell on Man O' War Shoal.

4 | This bar is a living, viable area. If this plan
5 | goes through and 30 million bushel of shell is eventually
6 | dredged from Man O' War Shoal, all we will be left with is a
7 | destroyed natural bar and silt-filled holes.

8 | This plan was turned down in the past, and it needs
9 | to be turned down again. We have areas in this great bay that
10 | are not thriving. Why destroy one that is supporting
11 | watermen, sport fishermen, businesses and the rest of the
12 | citizens of the State of Maryland? Thank you.

13 | (Applause)

14 | MR. DaVIA: Thank you, Mr. Baltus. Next is David
15 | Bleakney and on deck is Mr. Robert T. Brown.

16 | MR. BLEAKNEY: I have a few remarks I would like to
17 | make. My name is David Bleakney. I am from Aberdeen,
18 | Maryland. I am going to approach this subject from a
19 | different perspective. I would like the decision makers to
20 | contemplate these questions before they go ahead and make
21 | their decision.

22 | And bear in mind that the Department of Natural
23 | Resources' mission statement is the Department of Natural
24 | Resources leads Maryland in securing a sustainable future for
25 | our environment, society and economy by preserving,

1 | protecting, restoring and enhancing the State's natural
2 | resources.

3 | How does a State agency preserve, protect, restore
4 | and enhance the State's natural resources by dredging a live,
5 | viable oyster bed? Are oyster beds not natural resources?
6 | Are they not a resource to nurture growth and sustainment of
7 | wildlife? How does destruction of a naturally created
8 | environment enhance anything?

9 | Does this action serve the goals of the Department
10 | of Natural Resources' mission statement? Consider the intent.
11 | Is the agency fully, truly serving the sustainable future of
12 | the environment? Is the cost of destroying a viable oyster
13 | bed for its natural material worth the risk? Consider
14 | building a new one with artificial structure elsewhere.

15 | Are we promulgating a barren environment? Let your
16 | answers and conscience guide your irretrievable actions.
17 | Thank you.

18 | (Applause)

19 | MR. DaVIA: Thank you, Mr. Bleakney. Next is
20 | Mr. Robert Brown and on deck is Mr. Trent Zivkovich.

21 | MR. BROWN: Good evening. My name is Robert T.
22 | Brown. I am president of the Maryland Watermen's Association.
23 | And we are opposed to the dredging of Man O' War Shoal.

24 | In 2013 and 2015, there has been spat on shell
25 | planted on this bar to help make it active. We need to get

1 the upper part of the bay active again because the lower part
2 of the bay, with the salinity, and if it gets higher, and if
3 we have disease come back in, we need to the upper part of the
4 bay so we will have a place that the oystermen can work.

5 Also this is a bad deal when you don't even know
6 what percentage of the shells will go to the sanctuaries, to
7 aquaculture and to the public fishery. And that is -- how do
8 you give somebody a permit when you don't know who is going to
9 get what out of it? I mean, it is like putting the cart
10 before the horse.

11 The Maryland Watermen's Association is opposed to
12 this, and we think there are more alternative things that we
13 could turn to. Thank you.

14 (Applause)

15 MR. DaVIA: Thank you, Mr. Brown. Mr. Zivkovich,
16 and on deck is David Zadano, is it?

17 MR. ZIVKOVICH: Good evening, everyone. My name is
18 Trent Zivkovich, Baltimore, Maryland, speaking tonight and
19 providing a statement on behalf of CCA Maryland.

20 I am member of its Government Relations Committee.
21 We will be providing for the record a detailed written comment
22 at a later date.

23 Without a clear demonstration and legally binding
24 commitment with the greater goal of restoring the sustainable
25 oyster population bay-wide, would be served by such a severe

1 and drastic action, CCA Maryland cannot support or condone any
2 dredging whatsoever of Man O' War Shoal or any historic bar in
3 a similar manner.

4 The misplaced strategy, improper reliance on
5 dredging of an historic shoal, is simply something that would
6 result in the loss of significant fish habitat, flattening of
7 the bay's bottom, and the loss of so many natural ecosystems
8 such as the bar. Man O' War Shoal is a relic of time's past,
9 simple as that. It is stated by DNR in its own description of
10 the project.

11 The Corps of Engineers expressed concern that viable
12 options in 2012 existed for the permit. So the U.S. Army
13 Corps of Engineers requested an alternative material analysis.

14 Hence the permit application was put on hold. This
15 is from the DNR's own materials. As a result of this, 2012,
16 DNR and the fishery industry reclaimed approximately 413,000
17 bushels of previously planted oyster shell. These were
18 planted on active oyster bars.

19 At the completion of that effort, it became clear
20 that options for accessing additional cost-effective substrate
21 for industry bottom were exhausted. Therefore, DNR determined
22 that the purpose and need for dredging Man O' War Shoal could
23 clearly be demonstrated and they proceeded to submit the
24 permit application.

25 So according to DNR's own words, the purpose of the

1 shell would be to plant on oyster habitat. That 413,000
2 bushels were not enough. They went through it in no time at
3 all, and now we are at the next place.

4 If not Man O' War, what is next? What comes after
5 that? Well, folks in the northern bay know the answer because
6 they have seen the results. Just based on a snapshot of
7 comments tonight, you have heard tonight, there is nothing but
8 adverse effect. There are more than enough cumulative
9 impacts. There is little, I haven't heard any, public
10 interest.

11 And frankly more than enough likely detriment from
12 this action, from this nebulous application that is supported
13 by few to none. The bottom line is CCA Maryland understands
14 and acknowledges that there is a limited source of shell for
15 the oyster industry, for both the aquaculture industry and the
16 public fishery.

17 We understand that but there are better ways, there
18 are alternative materials, differing strategies. This
19 application must be denied. Thank you.

20 (Applause)

21 MR. DaVIA: Thank you, Mr. Zivkovich. Next is
22 Mr. David Zadano, and on deck is Kathy Labuda.

23 MR. ZADANO: Thank you. Good evening. My name is
24 Dr. David Zadano. I am a resident of Baltimore County since
25 1973, currently residing in Phoenix, Maryland.

1 I am a recreational fishermen and enjoy taking my
2 grandchildren out on Man O' War Shoal, among other things.
3 Also I have been an active member of -- volunteer with the
4 MARI Reef Survey Program for the past three years, and they
5 have been using the Man O' War Shoal for comparative studies
6 with Memorial Stadium both in 2013 and 2014.

7 I am against this proposal. Governor Hogan stated
8 when he came into office that he wants to run the state of
9 Maryland as though it were business. So let's look at this
10 proposal to dredge oyster shell from the perspective of a
11 business venture.

12 The goal of the project is to strip mine. And if
13 you watch the Discovery Channel gold mining shows on Friday
14 evening you know exactly how the process is done. Up to 30
15 million bushels of fossil oyster shell from the last
16 unmolested natural shell structure in the northern bay.

17 And to restore oyster habitat, and to restore oyster
18 populations. Financially, the price of this venture is
19 unknown. The price is unknown to dredge the shell, to store
20 the shell or to deploy the shell. The funding is unclear.
21 There are no federal or other co-funding sources that have
22 been identified.

23 The shell is to be planted on sanctuary bars for
24 ecological restoration. It is to be deployed at aquaculture
25 sites and harvest reserves, and it is to be planted in

1 open-harvest areas.

2 Historically open-harvest area plantings of dredged
3 fossil shell have shown a very poor return on investment. It
4 is also not a permanent solution. Using shell for restoring
5 habitat and/or oyster populations is a temporary solution as
6 the shells degrades in three to six years or less.

7 The particular allocation of shell for open-oyster
8 harvest also would only potentially benefit a very small
9 number of commercial oystermen in southern Maryland. Using
10 resources that belong to everyone in the State, in a project
11 funded by all State taxpayers, to the benefit of a very small
12 number of private entrepreneurs is fiscally irresponsible and
13 inappropriate.

14 The allocation formula for each of these uses is,
15 proposed shell use, has not been set. The allocation of the
16 portion of dredged shell that would go to the dredging company
17 is not specified either, and in the past Langenfelder, the
18 company that has done all the dredging, has taken a portion of
19 that shell for their own use.

20 Stipulations on how the shell may or may not be
21 utilized are not clear. There are suitable, effective
22 substrates for fossil shell available for oyster restoration.

23 Now the environmental concerns: The environmental
24 price to be paid is also unknown. The size of the dredge cuts
25 for the initial phase is limited. However, the number of cuts

1 for this proposal is not limited. The cuts will be made until
2 two million bushels of oyster shell are harvested.

3 Approximately half of the depth of the cuts will be
4 backfilled with dredge finds. The effects of the dredging
5 operations will be monitored, and a report issued after four
6 years.

7 And although it is stipulated that the dredging of
8 an additional three million bushels would not proceed if
9 significant adverse effects were produced, there is no
10 definition of the stipulation as to what is considered a
11 significant adverse effect. The methodology proposed is one
12 in which a negative environmental impact would be identified
13 only after the deed was done.

14 And despite the fact that the recreational catch
15 data from the MARI reef surveys in 2014 exist for Man O' War
16 Shoal, there is no plan to use that data in assessing the
17 impact of the dredging on the recreational fishing on Man O'
18 War Shoal nor has any catch data ever been used to assess the
19 effects of this dredging. Thank you very much.

20 (Applause)

21 MR. DaVIA: Thank you, Mr. Zadano. Next is
22 Kathy --

23 MS. LABUDA: Labuda.

24 MR. DaVIA: Labuda, and on deck is S. Pappas.

25 MS. LABUDA: Hi, everyone. Thank you for being

1 here. My name is Kathy Labuda. I am secretary treasurer for
2 the Ft. Howard Community Association. I am a lifetime
3 resident of the Ft. Howard community.

4 At the southernmost tip of Baltimore County, at the
5 intersection of the Chesapeake Bay and the Patapsco River, you
6 will find our community. You may not have heard of it but we
7 are Ft. Howard, Maryland 21052, and we do have a voice.

8 Let it be known that Ft. Howard stands with Mother
9 Nature. Man O' War Shoal has existed in peace for an eternity
10 and should be left alone. This historic shoal probably helped
11 support the Native Indian population that summered on our
12 shoreline. Our community uses our waterways for recreation,
13 fishing, crabbing and water sports of all kinds.

14 We also have watermen who make their living on the
15 bay. Our watermen, by not overharvesting its bounty,
16 respected the bay and the quality of life that it affords all
17 of us.

18 You said that this project, in this project, the
19 proposed work, that it was a comprehensive research and
20 development effort to monitor the consequence of removing the
21 shells. It is a fact that there is no consequence if shells
22 are left alone as they are. We in Ft. Howard are not willing
23 to take that chance, and we stand with our watermen.

24 And I, like so many of you I have heard before me, I
25 have a two-page history of the lies that have been told and

1 | what we have gone through with the Bethlehem Steel and the
2 | port. And this is not a good project. We do not agree with
3 | it.

4 | In the lower bay, without dealing with the pollution
5 | that is causing the -- dealing with what is causing the
6 | pollution in the lower bay, I don't care how many times you
7 | try to plant seeds for these oysters, it is going to be
8 | impossible to re-establish an abundant self-sustaining oyster
9 | population.

10 | It is what it is. It is a study, and it more than
11 | likely will not be successful. It is a waste of our tax
12 | dollars. Nothing that has gone on in our bay has come back to
13 | the community in the form of tax relief. The port has not
14 | contributed anything to the maintenance of HMI.

15 | It is all our tax dollars that are supporting these
16 | projects. So we in the Ft. Howard community say it is not
17 | nice to mess with Mother Nature. Leave Man O' War Shoal
18 | alone.

19 | (Applause)

20 | MR. DaVIA: Thank you. Next is S. Pappas, and on
21 | deck is Sarah Sheppard.

22 | MR. PAPPAS: Good evening. My name is Scott Pappas.
23 | Last year I served as the vice president of the North Point
24 | Peninsula Community Council and this year I am serving as the
25 | vice president of the Ft. Howard Community Association, whose

1 mission is to preserve, enhance and maintain the rural,
2 historic Chesapeake Bay quality and character of Ft. Howard,
3 Maryland.

4 Tonight I speak at the request of our membership in
5 Ft. Howard, Maryland, of which also includes the esteemed
6 Mr. Russell Spangler, who is sitting in the front here. We
7 just want to simply state categorically for the record that we
8 most vehemently oppose any dredging at the Man O' War Shoal.
9 Thank you very much.

10 (Applause)

11 MR. DaVIA: Thank you, Mr. Pappas. Next is Sarah
12 Sheppard, and on deck is Nick Wallace.

13 MS. SHEPPARD: Sarah Sheppard on behalf of the Clean
14 Chesapeake Coalition. The CCC supports the issuance of a
15 permit to DNR to dredge natural oyster shell from Man O' War
16 Shoal in the upper bay with the understanding that no dredging
17 will occur in the vicinity of the portion of this natural
18 oyster bar where the Baltimore County Watermen's Association
19 has been engaged in restoration efforts.

20 In raising awareness and advocating for the most
21 cost-effective ways to improve water quality and meet bay TMDL
22 goals, CCC counties share the common goal of increasing
23 bay-wide the population of oysters for their undisputed
24 ecological value as natural filters and the economic impact of
25 a prudently managed fishery.

1 Oyster larvae needs a clean, hard surface on which
2 to strike after they have been spawned. Indigenous Chesapeake
3 Bay oyster shell is the absolute best surface upon which
4 oyster's larvae can and will most successfully strike after
5 spawning.

6 If such shell is properly seeded and distributed to
7 natural oyster bars that have been cleaned, it will serve as a
8 catalyst for the restoration of such natural oyster bars.

9 DNR records evidence that the natural oyster bars in
10 the Maryland portion of the bay that were planted with seed
11 and shell harvested from other natural oyster bars proved to
12 be the most productive and healthy in the aftermath of
13 Hurricane Agnes.

14 A similarly successfully seed and shell relocation
15 program is again possible with natural shell harvested from
16 Man O' War Shoal. The scarcity of natural oyster shell for
17 use in large-scale oyster restoration and propagation is a
18 self-imposed shortage at the behest of NGOs for spurious
19 reasons while promoting the use of alternative substrate.

20 There would be much less controversy, fewer
21 unanswered questions and significantly reduced cost if
22 indigenous natural shell had been used in the Harris Creek,
23 Little Choptank and Tred Avon oyster restoration projects.

24 Per the Corps metrics, the lowest cost substrate for
25 constructing oyster bars is shell. The availability of

1 natural bay shell for use in oyster restoration will avoid a
2 repeat of the damaging plumes of foreign sediments dispersed
3 over some of the most naturally productive mid-bay oyster bars
4 when Florida's slurry was permitted as an alternative
5 substrate and dumped unwashed and untested throughout the
6 Choptank River complex.

7 No new pollution, pathogens or toxins will be
8 introduced into the bay by the permitted activity requested by
9 DNR. Man O' War Shoal is a relatively isolated natural oyster
10 bar located just north of the navigable channel to the ports
11 of the Patapsco River around Baltimore.

12 The vast majority of sediments dislodged during the
13 shell dredging process will settle out in the navigable
14 channels and will be dredged by the Corps and MPA in the
15 course of their channel maintenance program.

16 The long-term benefits to the natural environment of
17 properly seeded and well-placed indigenous shell obtained from
18 Man O' War Shoal will be much greater than any temporary
19 unsettling of the natural environment caused by the
20 shell-dredging process.

21 Consistent with the spirit and intent of adaptive
22 management, it is time to acknowledge the downsides of using
23 alternative substrate to restore oysters and return our
24 efforts and resources to the undisputable fact that natural
25 shell is the best substrate, as Mother Nature designed.

1 CCC wholeheartedly supports the issuance of the
2 permit requested by DNR with the condition that all dredging
3 for shell will be a safe minimum distance from the area where
4 the Baltimore County Watermen's Association has been
5 cultivating and seeding in an attempt to restore a portion of
6 the Man O' War Shoal.

7 We will also be providing detailed written comment
8 as well. Thank you.

9 (Applause)

10 MR. DaVIA: Thank you, Ms. Sheppard. Next is Nick
11 Wallace, and on deck is Mr. Don Burke. Is Nick Wallace here?

12 (No response)

13 MR. DaVIA: Mr. Don Burke.

14 (No response)

15 MR. DaVIA: And Nick Nicosin. I wasn't sure, did
16 you want to give a statement? I wasn't sure. Is Nick here?
17 Nick Nicosin. Okay. Mr. Huppert -- you wanted one more
18 minute, sir?

19 MR. HUPPERT: First, I want to apologize. I did not
20 give my name and address as I was supposed to do. Secondly I
21 got carried away on the history, and thirdly I forgot to give
22 you what accomplishments I have done in the upper bay. And
23 they are quite lengthy.

24 The Memorial Stadium Reef, I put nearly 2,000 reef
25 balls on that reef out there where you can take your kids out

1 | there fishing and catch tons of fish anywhere from July to
2 | through August, September, sometimes a little later.

3 | I serve on the Maryland Artificial Reef Initiative
4 | Committee, and I have been on that a long time and I have done
5 | a lot more things with DNR including distributing catfish to
6 | ponds 20-something years ago, among other things in my
7 | retirement years.

8 | And I am very pleased with all the things I have
9 | done and accomplished, and I guess best of all I love the
10 | Chesapeake Bay. Someday I will be in the Chesapeake Bay and
11 | my last words will say, he loved his family; he loved the bay.
12 | Thank you.

13 | (Applause)

14 | MR. DaVIA: Thank you for your comments. Well, that
15 | is everyone we had on the list. Would anyone else who didn't
16 | sign up like to comment? Any other -- yes, sir. Please step
17 | up. If you could state your name, address.

18 | MR. SPANGLER: I am Russ Spangler from Ft. Howard,
19 | 7821 Denton Avenue. It has already been said everything that
20 | I thought ahead of time of saying pretty much. But I do have
21 | a couple of things to add.

22 | One thing is that we have heard many references back
23 | to the mid-80s, 1985 I think it was, when the --- in the lower
24 | bay, because of MSX and dermo were having a terrible time.

25 | And because our water isn't as salty as lower bay,

1 | our oyster beds weren't affected the way they were down there.
2 | So we had oystermen from Smith Island, Somerset County,
3 | Dorchester -- the whole Eastern Shore was up here when our,
4 | not just Man O' War Shoal but Swan Point but all of our upper
5 | bay bars.

6 | It was ironic. I always thought that we had to
7 | defend that bar. We had to defeat the bill that was forward
8 | that year to dredge the shells from Man O' War. We had to
9 | defend it against the DNR, which is supposed to be the
10 | Department of Natural Resources and they are supposed to be
11 | defending it that we don't have to.

12 | But one other little thing that comes to my mind
13 | about Man O' War. At my age, I am 77, I don't go out and work
14 | every day. I maybe work -- it depends on how the crabs are
15 | running. I might work two or three days a week. The other
16 | thing I like to do is go fishing myself, pleasure fishing.

17 | And I like to take kids, taking the North Point
18 | State Park summer camp kids for 9 or 10 years. I did that
19 | until they stopped it. They didn't just stop my part of it.
20 | They discontinued the summer program for some reason.

21 | And also our Christian School, Calvary Baptist, I
22 | take their classes out. I have been doing that for six or
23 | eight years. But when I drift across -- I usually go either
24 | Man O' War Shoal or Seven Foot Knoll. And when I drift across
25 | that bar, and the kids -- well, the church sends rods with the

1 kids but I end up letting them use a lot of my equipment with
2 two rigged-up -- it is two hooks and --

3 Seeing the smiles on those kids when they pull up
4 two perch at a time, that is priceless. And I would hate to
5 see anything detrimental happen to that bar because -- I
6 should have mentioned in the beginning I also, in addition to
7 the Maryland Watermen's Association, I am on that board and I
8 am the vice president of Baltimore County.

9 But I am on the board of directors of the Edgemere
10 Millers Island Businessmen's Association. And they also, they
11 haven't had a representative here. We discussed it at both
12 the board and general meetings, and they are opposed to it
13 officially also. That is about it. Thank you.

14 (Applause)

15 MR. DaVIA: Thank you, Mr. Spangler. Again thank
16 you for your comments. Would anyone else like to comment?
17 Yes, sir? State your name, please?

18 MR. FANTOM: Yes, it is Robert Fantom again from
19 Parkville. Just need to reiterate that a half-century of
20 fossil shell dredging hasn't restored oysters. Low-relief
21 reefs don't provide permanent oyster habitat. The
22 sedimentation process on the bay kills oysters on the bottom.

23 High-relief reefs provide substrate for every living
24 organism that grows in the bay without having to have shell
25 there. All you have to do is get them off the bottom, like

1 Mr. Huppert's reef balls, and the stuff grows like crazy. It
2 is just following the science.

3 2009 was the third annual Bay in Crisis Symposium at
4 the University of Baltimore. The guy from Virginia Marine
5 Science -- and I am here to tell you right here, right now,
6 everything we have done for the last 50 years has been all
7 wrong. And his whole talk was about high-relief reefs.

8 So all you have to do is go look at the Maryland
9 Artificial Reef Initiative and you can National Geographic's
10 underwater photography, in a year and a half what can grow at
11 the bottom of our bay, and then when he pans the camera away
12 from the reef to the bottom, there is nothing but mud. There
13 isn't a blade of grass or anything alive. Thank you very
14 much.

15 (Applause)

16 MR. DaVIA: Okay, thank you again Mr. Fantom. Going
17 twice, would anyone else like to comment? Yes, sir? If you
18 could state your name and address, please?

19 MR. PISTORIO: Thank you very much. My name is
20 Larry Pistorio. I am from Harford County. As everybody here
21 has seen, 95 percent of everybody is against this, okay. Now
22 politicians, they are against this. So how could this bill
23 pass? If this bill passes, we must hold people accountable.
24 And that means our politicians.

25 Although they sit here and state that they are for

1 us, we must stick together and we must tell everyone that we
2 are not going to stand for this. We must hold the elected
3 officials accountable. That is all I have to say. Thank you.

4 (Applause)

5 MR. DaVIA: Thank you, sir. Would anyone else like
6 to comment? Yes, sir. If you could just state your name and
7 address for the record? Thank you.

8 MR. NEUKAM: John Neukam, 1213 Engleberth Road,
9 Essex, Maryland. We can defeat this. Does anybody here
10 remember when they wanted to build another dike out off of
11 Pooles Island? Can anybody raise their hand who remembers
12 that?

13 We defeated that. We showed up and we defeated
14 that. How much do they think this bay can take with all this
15 crap they want to do to it? We built that dike out there.
16 That was almost defeated. Now we got all the spoil on that
17 dike that nobody else wanted.

18 We can defeat this bill if we stick together. We
19 got to stick together and defeat this bill. Thank you.

20 (Applause)

21 MR. DaVIA: Thank you, sir. Would anyone else like
22 to comment? If you could state your name and address, please,
23 sir?

24 MR. WILHELM: I am John Ryan Wilhelm Jr., Warren
25 Road, Cockeysville, Maryland, lifelong citizen here. Two

1 things: I am -- I stood up, not intending to speak tonight,
2 but two things that came to mind. One, January 2015, the
3 federal government made an official announcement that the
4 datum of sea level will rise several feet in this area,
5 putting whole towns under water.

6 Consistent with what was mentioned tonight in regard
7 to the DNR responsibility and mission, I would suggest that
8 they save their money for more important issues of protecting
9 our people.

10 The other thing: My father is buried on the
11 Chesapeake Bay. I would rather you leave his remains alone
12 until you have scientific proof that this is going to be
13 beneficial. Thank you.

14 (Applause)

15 MR. DaVIA: Thank you, sir. Would anyone else like
16 to comment? Yes, sir? If you could state your name and
17 address for the record?

18 MR. DiCOSIA: My name Nick DiCosia, and I am the MSA
19 representative for the North Point Yacht Club, and I live up
20 in Harford County in Joppatowne on the water of Gunpowder
21 River.

22 We used to fish on Pooles Island a lot years ago,
23 and ever since they shaved the tops of those oyster beds off
24 the other side, the fish just never were there like they used
25 to be, and we know that was the problem.

1 This is supposed to be a long-term project out
2 there, and shaving millions of bushels of oysters is really a
3 lot to shave off of that. And this is really an ancient
4 oyster bar. So shaving that many oysters is very aggressive.

5 And I thank all you political people for coming by
6 and sticking up for us. It is something that we all here know
7 and I think realize by now that it shouldn't be done. And we
8 also have a lot of other problems here in the bay. We have
9 the MSX. We have the dermo and we have pollution.

10 And until we address all these problems, it just
11 isn't going to be a good long-term fix until we fix these
12 other things first. Thank you.

13 (Applause)

14 MR. DaVIA: Thank you, sir. Would anyone else like
15 to comment? The mike is open. Anyone want to comment?

16 (No response)

17 MR. DaVIA: Okay. As a reminder, there is a second
18 Corps/MDE public hearing on the Man O' War Shoal dredging
19 project scheduled for tomorrow night, Wednesday, February 3,
20 at 6:00 p.m. for the poster session followed by the public
21 hearing at 7:00 p.m. The second hearing location is at the
22 Governor Hall at Sail Winds Park in Cambridge, Maryland.

23 Again, the public comment period for this
24 application extends to February 18, 2016. The Corps and MDE
25 personally thank you for attending this public hearing and for

1 | your attention. This public hearing is adjourned.

2 | (Whereupon, the hearing adjourned at 8:35 p.m.)

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