



From the Desk of Commissioner Fithian
Ronald H. Fithian, President | The County Commissioners of Kent County

January 8, 2024

Dear Members of the Oyster Substrate Committee:

First, I would like to respond to a statement provided to the committee at the last meeting by Ms. Allison Colden. She states that the State seed and shell program of 46 years was reported to be a waste of money. However, there was no copy of such a report or any facts to back up her statement. If this committee expects to be able to submit any productive suggestions to our Secretary, and then to the Governor concerning the future of the oyster industry, I suggest we refrain from making comments in the future without the facts to back them up. I have served on the Oyster Advisory Committee since its conception with some of the same members and witnessed the same conversations. We all spent an enormous amount of time going to and from these meetings and accomplished absolutely nothing. More time was spent worrying about how many votes were needed to prevent a motion from moving forward than they did talking about suggestions for growing oysters. Some of these same conversations were discussed at our last meeting. I certainly hope that this time it turns out better.

As far as the seed and shell program goes, Ms. Colden would like this committee to believe that the State of Maryland and DNR spent 46 years on a program that was a waste. And evidently, the State of Virginia still hasn't figured it out because they are still using the same program and the very same dredge! It is simply amazing to me that many people in two states who devote their entire lives to overseeing the oyster industry would continue to do the same thing year in and year out and not figure out that they are simply doing it wrong. Here are a few facts. During those 46 years in Maryland, the state spent 48 million dollars and planted 192 million bushels of shell which averages out to about 4.2 million bushels a year. During that same period, Maryland harvested 60.1 million bushels of oysters with an estimated dockside value of between \$400 million and 1.2 billion dollars. Another part of this program that is always left out by the critics is that there was a \$1.00 tax per bushel of oysters harvested, to be collected by the State to help fund the program. I will be the first to say that the tax has remained the same for far too long and should be increased. This program doesn't seem to have been much of a waste to me. Now let's compare that with what has taken place since the program ended in 2007. From 2007 through 2013 there was no shell planted. From 2014 through 2023 the State has planted an average of 165,000 bushels of fresh shell per year. This shows that in one year of the shell planting program, the State planted over twice as much substrate in one year than has been planted in the last 16 years. If we agree substrate is important to grow oysters, I would think that fact should alarm us! And that is the reason we are here. As I read the executive order, we are here to find an abundance of suitable substrate for the least amount of money. Some groups have deliberately attempted to convince the public and State officials that we have run out of shells and must use alternative substrate. The facts prove that to be untrue. The Chesapeake Bay is loaded with oyster shells from one end to the other. What you look for is an area that has an abundance of shells but is not regularly producing oysters anymore, so that the shell

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can be used to better support the needs of the areas that are. For example, in one well-known area just north of the entrance to Baltimore Harbor is a place called "Man o War" Shoal. This area alone has proven to have a 25 to 30-year supply of shells available, even if we were to go back to planting shells at 4 million bushels a year. This shell can be purchased and planted for \$2.00 to \$4.00 a bushel, depending on how far they have to be transported. Not only does it exist, but in 2006 the legislature ordered DNR to get the area approved for dredging. DNR made an application for the dredging and received approval from every agency except for the final vote from the Board of Public Works. Due to the pressure from certain environmental groups, that vote never took place. These same environmental groups that opposed the dredging are the same groups that will argue about how important the oyster is to the health of the Chesapeake Bay while standing directly in the way of a solution.

Now, let's look at what has been done since the state discontinued the seed and shell program. The same groups that worked to get rid of the seed and shell program supported taking 25% of the most productive oyster bottom away from the commercial fishery. They did this and called them sanctuaries. The waterman were told that after making these area's sanctuaries they would soon see that these areas would grow lots of oysters and replenish all the other oyster bars around them and that the waterman would be begging for more sanctuaries. They seem to think that by allowing an oyster bar to sit undisturbed it will just flourish, and the oysters will grow in abundance. Yet, the facts will show that these same areas have far fewer oysters after 14 years of closure than they had the day they were closed. Everyone knows that an oyster larva needs a clean shell to attach itself to. That is why the areas still being harvested will generally have a higher spat count every year than the closed areas. Working these areas helps to keep the substrate clean. The oysters that naturally grew in these areas have died of old age after 14 years, and the substrate in those areas is now covered with sediment, preventing any spat catch. This has ended up being a total failure! Now let's talk about Harris' Creek. Harris' Creek was a very popular seed area and natural oyster hatchery. Year after year the State would plant it with a dredge shell and Mother Nature would provide it with the oyster larva. Free of Charge! No hatchery seeds were necessary. There would be years that when sampled, they would see spat counts of 800 to 2,000 count per bushel. They wouldn't even move them unless it counted a minimum of at least 600 per bushel. They would allow them to sit until they would range from the size of your thumbnail to the size of a quarter so that they could stand being transported and would then have a survival rate of appr. 97 percent. They took this area away because of it being a natural hatchery. They took this area because they were determined to prove they knew what they were doing and by using an area that was already known for its success; how could they fail? Well, they have failed and will continue to fail. First, they used an alternative substrate of stone. They didn't put it down properly and 10 or 12 boats had to be repaired because they ran aground on the piles of stone. The spat count that has been recorded over the 14 years has been poor at best and was less than 100 this year. I predict further decline as the years go by because the longer those stones sit untouched, the dirtier they will become, and we all know that spat "once again" needs to attach to CLEAN shells! Remember, when it was built with a dredge shell, we had counts ranging from 800 counts per bushel to 2000 counts per bushel. This should provide us with evidence proving that the use of the proper substrate does matter! This natural oyster hatchery has now been covered with tons of stone, destroying it forever. Now to add insult to injury, the cost of this failure to the taxpayers was around \$35,000,000. Ms. Colden stated that the seed and shell program was a waste of money. Her organization supported the spending of \$35,000,000 and participated in taking one of the greatest natural oyster hatcheries on the bay and ruining it so it could never be used as a hatchery again. Now I ask you,

"Who is wasting what?" The \$48,000,000 the State spent on the seed area helped to produce 60 million bushels of oysters, producing a dockside value too large to even mention. There has been \$35,000,000.00 spent on just the Harris' Creek project alone and besides destroying a very valuable area that can never be used again, will not produce one penny of revenue, and will never even be known as a productive sanctuary. But creating sanctuaries is nothing new. During the years of the seed and shell program, using shell, the State planted areas such as Poplar Island, Old Rock, and Coopers Hollow. These areas produced mountains of oysters. Now back then, they would close these areas to harvest for 3 to 4 years before opening them up. It was amazing how many oysters grew in these areas. I mention this to show sanctuaries can work and can be productive if they are simply built right and with the correct substrate.

Now, you would think that maybe these groups had learned a lesson. Maybe they would use the proper substrate and place it down properly. Wrong! They took their same theory to Virginia and tried it again. The Chesapeake Bay Foundation applied for a permit to create 3 new oyster reefs in the Lynnhaven River. Shortly after work began, waterfront residents reported wire, brick, plastic, paper waste, rebar, and asphalt atop the reefs. The Virginia Institute of Marine Science tested and found toxic polyaromatic hydrocarbons in asphalt retrieved from the reefs which happen to be bad for people's health. After further inspections, it was determined that they had even dumped this type of material on parts of VMRC's twenty-five-year-old broodstock sanctuary reef which is outside the permitted area. Once again, the project is a failure! The Chesapeake Bay Foundation was then ordered to remove all the junk from the bottom.

Ladies and gentlemen, someone needs to explain to these non-governmental organizations that the Chesapeake Bay is not a landfill. Not a junkyard! But instead, it is by far the greatest natural resource this State has and should be treated as such. Let's stop spreading falsehoods about the lack of natural shell and start allowing the DNR to do what it has proven it knows how to do successfully, without incident, for over 46 years. Open up Man O War Shoal, which will provide ample amounts of the proper substrate needed for the good of aquaculture, the public oyster industry, and restoration. Let's stop experimenting with these far-fetched ideas which continue to fail time and time again. Thank you for your time.


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References:

[Asphalt-tainted Oyster Reefs in Virginia to be Removed - Bay Journal](#)

[Chesapeake Bay Foundation Ordered to Stop Work at 3 Virginia Beach Reefs - 13 News Now](#)

DNR Historic Repletion Program - Presented by Chris Judy (Nov. 27, 2023)