

**Minutes of the Regular Meeting  
Potomac River Fisheries Commission  
Colonial Beach, Virginia**

**March 10, 2005**

**Commissioners Present:** Kenny Keen – Vice-chairman, Ida C. Hall (VA) – Secretary, William L. Rice, Sr. (MD), William A. Pruitt (VA), Howard ‘Bip’ Kimball (MD), J.T. Holland (VA), Robert H. Bowes (MD) and Kyle J. Schick (VA).

**Officers Present:** Kirby A. Carpenter – Executive Secretary and J. Clifford Hutt – Legal Counsel.

**Others Present:** Ellen Cosby – VMRC; Capt. William Bates – MdDNR Police; Lt. Col. Lewis Jones and Capt. M. Ray Jewell – VMRC Law Enforcement; John F. Tucker Brown – Oyster/Clam Advisory Committee; Herman Delvo, Elgin Nininger, and Robert Boarman – Crab Advisory Committee; Bill Bartlett, Richard Daiger, Jim Jones, Rocky Rice, Bob Holden, Randy Ragusa, Scott Smith, Earlene Smith, Phill Hayden, Robert Lumpkins, Doug Jenkins, Dennis Roth, and several others who did not sign the guest register.

Vice-chairman Keen called the meeting to order at 2:07 p.m.

**Consideration of Minutes**

Commissioner Bowes requested the December 2<sup>nd</sup> minutes reflect a change with regard to the exemption of charter boat logbooks. The Potomac River has an agreement with MdDNR that the Maryland logbooks will be adjusted to include a Potomac River code so that Maryland will be able to keep records of the Maryland licensed charter boats fishing in the river.

*A motion was made by Commissioner Holland; seconded by Commissioner Hall to approve the minutes of December 2, 2004, with the changes presented today.* The motion was approved.

**Crab Harvest Report**

A report of the 2004 crab harvest landings for April through November was presented. It showed a harvest of 73,247 bushels of hard crabs, 27,730 pounds of peelers and 1,400 pounds of soft crabs compared to 49,379 bushels of hard crabs, 30,116 pounds of peelers and 1,749 pounds of soft crabs for the same period as last year. He noted the harvest was still well below the long term average of 124,098 bushels of hard crabs, 59,865 pounds of peelers and 3,558 pounds of soft crabs. It does appear the fishery has stabilized. Last fall the Commission did not advertise any proposals for changes to the crab regulations for 2005; therefore, the season, size and pot limits will be the same as 2004.

**Finfish Harvest Report**

Preliminary data was presented for the 2004 commercial finfish landings. Croaker topped the list at 1,631,596 pounds this year, compared to 1,128,003 pounds last year. Menhaden landings of 5,411,043 were also up compared to 2,438,790 pounds for the previous year. A total of 3,128,373 pounds of food fish were harvested and 5,411,043 pounds of menhaden were harvested for a total of 8,539,416 pounds of harvested finfish. Striped bass landings were also up compared to 2003, mainly because last spring the gill net quota was exceeded, but the other gear types were under their quota; therefore, the river-wide quota was not exceeded. Mr. Carpenter noted this is the best year, in almost a decade, for the menhaden landings.

**Order 2005-02 – 2005 Recreational and Charter Fishing Season, Size and Catch Limits**

Mr. Carpenter presented some information with regard to what Virginia and Maryland have chosen for their 2005 recreational seasons for summer flounder and black sea bass. He explained the Atlantic States Marine Fisheries Commission and the Mid-Atlantic Fisheries Council jointly regulate these two species. Based on the information provided, he stated staff would support a black sea bass season of Jan. 1 through Nov. 30, a minimum size limit of 12" and a creel limit of 25 per person.

There are four options for summer flounder. Maryland and Virginia have adopted different seasons, size and creel limits, which Mr. Carpenter reviewed as well at the four options the Commission has to choose from today to set the recreational measures for 2005. He noted the Finfish Advisory Committee was unable to meet to discuss these options based on the timeframe of receiving the state's final action. Staff's recommendation is to be consistent with either state and based on the options, staff would recommend the Maryland Chesapeake Bay season.

Bob Holden would like the summer flounder regulations to be the same in all three jurisdictions.

Commissioner Rice felt if the size limit was too large, then the creel limit really doesn't matter if you can't catch the fish. He would want to be able to keep two fish that are legal than not be able to keep any because of a larger size limit.

***A motion was made by Commissioner Rice, seconded by Commissioner Holland to adopt a summer flounder recreational season of Jan. 1 through Dec. 31, 15" minimum size limit and a 2 per person creel limit and to so amend Order 2005-02. The motion was approved.***

***A motion was made by Commissioner Holland, seconded by Commissioner Hall to adopt a black sea bass recreational season of Jan. 1 through Nov. 30, 12" minimum size limit and a 25 per person creel limit and to so amend Order 2005-02. The motion was approved.***

**O R D E R #2005-02**  
(replaces #2004-08)

**2005 RECREATIONAL and CHARTER  
FISHING SEASON, SIZE AND CATCH LIMITS**

**THE POTOMAC RIVER FISHERIES COMMISSION**, having found it necessary to comply with certain provisions of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) and the provisions of Regulation III, Sections 9, 10, 11, and 13(b), **HEREBY DECLARES AND ORDERS:** recreational and charter seasons, size limits, and catch limits provided for in Regulation III, Section 9, 10, and 11 shall be for the species named therein as follows:

<u>Species</u>	<u>Season</u>	<u>Size Limit</u>	<u>Catch Limit</u>
American Eel	Jan. 1 - Dec. 31	6" min.	50 per person
Atlantic Croaker	Jan. 1 - Dec. 31	No limit	25 per person
Black Bass (Large or Small Mouth)	March 1 - June 15	15" min.	5 per person
	All other times	12" min.	5 per person
Black Drum	Jan. 1 - Dec. 31	16" min.	1 per person
Black Sea Bass	Jan. 1 - Nov. 30	12" min.	25 per person
Bluefish	Jan. 1 - Dec. 31	No limit	10 per person
Catfish: Bullhead	Jan. 1 - Dec. 31	6" min.	No limit
Channel	Jan. 1 - Dec. 31	8" min.	No limit
White	Jan. 1 - Dec. 31	10" min.	No limit
Blue	Jan. 1 - Dec. 31	No limit	No limit
Pike or Chain Pickerel	Jan. 1 - Dec. 31	14" min.	No limit
Red Drum	Jan. 1 - Dec. 31	18" min. - 25" max.	5 per person
Shad (American or Hickory)	.....	C L O S E D .....	.....
Spanish Mackerel	Jan. 1 - Dec. 31	14" min.	15 per person
Spot	Jan. 1 - Dec. 31	No limit	No limit
Spotted Sea Trout	Jan. 1 - Dec. 31	14" min.	10 per person
Striped Bass	.....	P U B L I S H E D S E P A R A T E L Y .....	.....
Sturgeon (Atlantic or Shortnose)	.....	C L O S E D .....	.....
Summer flounder	Jan. 1 - Dec. 31	15" min.	2 per person
Tautog	Jan. 1 - Dec. 31	14" min.	No Limit
Weakfish	Jan. 1 - Dec. 31	12" min.	7 per person
White perch	Jan. 1 - Dec. 31	6" min.	No limit
Yellow perch	Jan. 1 - Dec. 31	9" min.	5 per person

**AND IT IS FURTHER DECLARED AND ORDERED:** this amended Order #2005-02 shall become effective March 20, 2005, and remain in effect until further notice.

**Order 2005-06 – 2005 Commercial Fishing Season, Size and Catch Limits**

Mr. Carpenter explained this order is to update the summer flounder and black sea bass for the commercial fishery. There is a quota limit set for the black sea bass with the understanding that if Maryland and Virginia reach their quotas and close the fishery, the Potomac River will do the same. As for summer flounder, there is also a quota set between the three jurisdictions and a certain portion of the statewide commercial quotas is sub-allocated for the Potomac River. The quota of 70,870 pounds presented today is based on the quotas originally assigned to each state. However, ASMFC has just amended those quotas and there will be a quota transfer from several states to other states, therefore, the PRFC quota will need to be adjusted to reflect those changes at the next Commission meeting.

*A motion was made by Commissioner Holland, seconded by Commissioner Schick to amend Order 2005-06 as follows. The motion was approved.*

**O R D E R #2005-06**  
(replaces #2004-09)

**2005 COMMERCIAL  
FISHING SEASON, SIZE AND CATCH LIMITS**

**THE POTOMAC RIVER FISHERIES COMMISSION**, having found it necessary to comply with certain provisions of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) and the provisions of Regulation III, Sections 9, 10, 11, and 13(b); **HEREBY DECLARES AND ORDERS:** that commercial seasons, size limits, and catch limits provided for in Regulation III, Section 9, 10, and 11 shall be for the species named therein as follows:

<u>Species</u>	<u>Season</u>	<u>Size Limit</u>	<u>Catch Limit</u>
American Eel	Jan. 1 - Dec. 31	6" min.	No limit
Atlantic Croaker	Jan. 1 - Dec. 31	None	No limit
Black Bass (Large or Small Mouth)	C L O S E D		
Black Drum	Jan. 1 - Dec. 31	16" min.	1 fish
Black Sea Bass*	Jan. 1 - Dec. 31	11" min.	No limit*
Bluefish*	Jan. 1 - Dec. 31	None	No limit*
Catfish: Bullhead	Jan. 1 - Dec. 31	6" min.	No limit
Channel	Jan. 1 - Dec. 31	8" min.	No limit
White	Jan. 1 - Dec. 31	10" min.	No limit
Blue	Jan. 1 - Dec. 31	None	No limit
Pike or Chain Pickerel	Jan. 1 - Dec. 31	14" min.	No limit
Red Drum	Jan. 1 - Dec. 31	18" min. - 25" max.	5 fish
Shad (American or Hickory)	C L O S E D		
Spanish Mackerel*	Jan. 1 - Dec. 31	14" min.	No limit*
Spot	Jan. 1 - Dec. 31	No limit	No limit
Spotted Sea Trout	Jan. 1 - Dec. 31	14" min.	No limit
Striped Bass	P U B L I S H E D S E P A R A T E L Y		
Sturgeon (Atlantic or Shortnose)	C L O S E D		
Summer flounder**	Jan. 1 - Dec. 31	14" min.	70,870**
Tautog	Jan. 1 - Dec. 31	14" min.	No limit
Weakfish***	July 28 - Dec. 31	12" min.	No limit***
White perch	Jan. 1 - Dec. 31	6" min.	No limit
Yellow perch	Jan. 1 - Dec. 31	9" min.	No limit

**\*BE IT FURTHER DECLARED AND ORDERED:** the commercial fisheries for black sea bass, bluefish, and/or Spanish mackerel, have daily catch limits (landing limits) imposed subject to ASMFC notification and may be closed immediately by Order of the Commission upon notification by both Maryland and Virginia that the ASMFC/MAFMC established commercial harvest quota for such species has been landed and the state waters are closed for the harvest of such species.

**\*\*BE IT FURTHER DECLARED AND ORDERED:** that when the PRFC summer flounder quota, based on the ASMFC quota as established by the MD/VA/PRFC In State Commercial Summer Flounder Landings Memorandum of Understanding, is reached the fishery shall be closed. Providing that daily landing limits may be imposed when 80% of the quota is projected to be landed.

**\*\*\*BE IT FURTHER DECLARED AND ORDERED:** that subject to the provisions of Regulation III, Section 11(c)(3) and the ASMFC Weakfish Management Plan qualified pound netters are permitted to possess no more than 300lbs. (6 bushels) of legal size weakfish from January 1<sup>st</sup> through July 27<sup>th</sup>. The allowance must be less than or equal to the poundage of other lawfully harvested species not to exceed 300 lbs.

**AND IT IS FURTHER DECLARED AND ORDERED:** this amended Order #2005-06 shall become effective March 20, 2005, and remain in effect until further notice.

**2004 Updated Fall Oyster Survey**

Mr. Carpenter said at the December Commission meeting, Chris Judy from MdDNR, presented the 2004 fall oyster survey. At that time the information on the status of disease was not available, therefore, staff has presented an updated survey for review. Mr. Carpenter noted that there were three oyster bars tested for disease: Cornfield Harbor, Ragged Point and Lower Cedar Point. Due to the amount of rainfall and the lower salinity, the prevalence and intensity of dermo is down and no MSX was seen. The good news is that whatever oysters are alive in the lower river stand a good chance of survival. The bad news is because of the low salinity the upper river oysters are at risk and there has been no spat set in the river, which means fewer oysters for the future years. Vice-chairman Keen noted that Maryland would not have a repletion program this year because of low spat counts.

**Oyster Harvest Report**

Mr. Carpenter presented the oyster harvest report stating there has been 188 bushels of oysters harvested to date compared to 153 for the same period last year. The harvest was caught from Cornfield Harbor (103 bushels), Kitts Point (59 bushels), Piney Point (1 bushel) and St. Georges (25 bushels).

**Oyster/Clam Advisory Committee Report**

John F. Tucker Brown, Chairman of the Oyster/Clam Advisory Committee, presented the report to the Commission. He stated the committee received a review of the 2004 oyster harvest report and fall oyster survey. The committee voted to recommend the opening of Jones Shore permanently to power hand scraping and to classify Heron Island as an “oyster reserve” and Huggins as an “oyster sanctuary”. The committee understood that Jones Shore is considered to be a seed area, however, the bar needs to be worked in order to keep the bar from silting over. The reclassification of Heron Island was passed to have the option to open or close the oyster bar and to have the ability to work the area. The committee felt that once an oyster bar is designated as a sanctuary, it would never be reopened again. The committee felt Huggins is a better oyster bar to designate as an oyster sanctuary based on the boat traffic in that area. Heron Island is a very valuable oyster bar and the committee felt there would be an opportunity of harvesting oysters from that oyster bar.

The Committee reviewed the \$3,000 donation made by the St. Mary's County Watermen's Association for purchasing seed oysters to plant in the Potomac River. Due to the difficulty of purchasing seed, staff recommended that the Committee ask the Association to allow the funds to be used to support the research needed to complete the EIS. However, after speaking with the St. Mary's County Watermen's Association, they are unwilling to use the funds for the study, and suggested the Commission hold the funds until seed can be purchased at a later time to be planted on Ragged Point. Mr. Brown explained, on behalf of the St. Mary's County Watermen's Association, they intend to do their part to help the Commission's efforts to rebuild the river through donations and fund raising.

Discussion on Jones Shore

Commissioner Hall questioned, "When was the last time Jones Shore had been worked?" Mr. Carpenter stated he could provide the Commission with that information, and he excused himself to gather that data.

Mr. Brown felt the watermen are just trying to make a living. He believes whatever equipment is permitted to harvest oysters will not result in the last oyster being harvested from the river but felt something needs to be done to improve the situation of the oyster bars. Commissioner Bowes asked Mr. Brown what, if any, restrictions should be placed on Jones Shore as far as maintaining the area should there be a strike. Mr. Brown stated if there was a spat set then it should go back to a seed area. Commissioner Bowes felt the Commission should maintain some sort to brood stock. Vice-chairman Keen reminded the audience that when power dredging was opened in the Potomac River, Jones Shore was specifically set aside as a test area for five years (until April 2009) to survey the effects, if any, of power dredging. He stated Maryland is expanding power dredging in certain areas, not the entire Chesapeake Bay, just areas that have a past history of good reproduction. Maryland is doing this to try to improve the reproduction and because some the oyster bars are sinking and becoming covered with a dark slime. Commissioner Pruitt commented some areas in Virginia have improved from the same situation.

Mr. Carpenter returned with the harvest records for Jones Shore. He stated that Jones Shore has never been closed; it has always been open to hand tonging. When the Potomac River lost most of its oysters after Hurricane Agnes, there were large shell plantings on Jones Shore and several other places to try to improve production in the lower river and to use Jones Shore as a seed area for the rest of the river. Through the 1970's the annual harvest numbers range from 5,000 to 38,000 bushels harvested. They began to decline in the late 1980's and Jones Shore has had no harvest since the early 1990's. This is when the disease began to impact the lower river. At the same time, the spat sets started failing in the lower river and the Commission was forced to stop moving seed off of Jones Shore. During the annual fall surveys at that time, it showed a population building on the bar and during the '96 – '97 oyster season it was opened for hand scraping for the month of March with 7,000 bushels being harvested. In the '97 – '98 season there was 27,000 bushels harvested. The third year there were 3,000 bushels harvested. Since then there had been no harvest and in '03 – '04 it was set-aside as a test area to see the benefits of dredging in other areas of the river.

The regulation adopted in 2003 specifically provided that the areas that were opened for power dredging would remain open until April 1, 2009, when a survey could evaluate the effectiveness of power dredging, and that regulations would revert to then existing regulations unless the Commission takes further action. In order to open Jones Shore to power dredging, it would require a public hearing to change several regulations. If it were opened, we would no longer have the 'control' area to evaluate the changes associated with power dredging.

Doug Jenkins of the Twin River Watermen's Association asked if the Commission had applied for any funding or grants to restock the river with oysters. He felt there is very little effort put forth to produce or buy hatchery seed. He asked for a report of the PRFC budget to show how the money is being spent. Vice-chairman Keen stated there is a financial report later in the

meeting. He explained with regard to Maryland hatchery seed, that it is very limited, extremely expensive, and hard to obtain. Mr. Jenkins agreed that Jones Shore should be opened.

Commissioner Hall stated she fully supported Mr. Jenkins comments and would like to see the Commission use more money towards oyster replenishment and towards all the resources available for the river. She feels this is the reason the Commission exists to bring back the river for the recreational and commercial watermen. She asked how efficient hand scraping is in bringing up oyster shells from the bottom of the river as opposed to power dredging. Vice-chairman Keen explained that hand scraping is limited by weight, size and small dredge you can use versus power dredging. With power dredging, you can use a larger dredge to penetrate the river bottom and bring the shells up. Mr. Carpenter reminded the Commissioners that when they adopted the power dredging regulations for the Potomac River they kept the same hand scrape size limit in place. The regulation limits it to a 22" dredge that can be pulled by power. He reiterated the reason Jones Shore was closed was because the Commission was advised that dredging would improve the bottom, increase the harvest and spat set. Since it would take about three years to produce a market size oyster, the area was set aside for a five year experiment to see if dredging worked on Cornfield Harbor, Kitts Point and all of the other areas before the Commission would evaluate if power dredging was the answer to producing more oysters. He advised any change during this time period would not allow the Commission to compare the differences in the future.

Vice-chairman Keen explained that 'divers' are allowed on the hand scrape in the Potomac River, which helps to hold the dredge down.

Commissioner Holland asked for staff's recommendation on the issue. Mr. Carpenter explained that staff's recommendation would be to maintain Jones Shore as a test area for the five-year experiment, evaluate the conditions of the adjacent oyster bars, and then make a determination if dredging is beneficial to the river bottom. The Commission could then decide if it would like to proceed at that time.

Commissioner Rice stated this issue is because there has been no spat sets in years. Mr. Carpenter reviewed the 2004 fall oyster survey for the Commissioners. He stated Jones Shore has plenty of shell and in some places it's very thick. The only area in the Potomac River that has produced as many oysters after Hurricane Agnes as it had produced before Hurricane Agnes was the area above the 301 Bridge. This is where oyster bars are subject to the heaviest silt load; it was closed to harvest and only very limited seed plantings were done. The Potomac River has had a history documented back to the 1880's that states there is a river-wide set only once every 12 to 15 years. Since MSX and Dermo have impacted the river, that's what has caused the population to diminish. Mr. Carpenter asked if the Commission would like a presentation to show what happened during the late 1970's when the Commission opened the lower river to hand scraping. Doug Jenkins felt comparing upper river oyster bars to lower river oyster bars was not reasonable. Upper river oyster bars are generally 4 feet above the river bottom. Jones Shore did not have shells until they were planted and it was very few. That area of the river is 8 to 10 miles wide and bad weather, such as a hurricane, will cause the oyster bars in the lower river to sand and silt.

Commissioner Holland stated his recommendation would be to stick with what the Commission is doing and support staff's recommendation. **The Commission took no action with regard to Jones Shore.**

#### Reclassification of Heron Island

Commissioner Holland asked what staff's recommendation was on this issue. Mr. Carpenter advised trading Heron Island for Huggins Point is simply trading one spot for another. Huggins Point was originally not chosen because it is a contiguous oyster bar that goes into the state of Maryland. Heron Island is a separate and distinct oyster bar separated by deep water on three sides and a sand bar on the fourth side so that it was a natural oyster bar that did not require it to be buoyed off. From a law enforcement perspective, Heron Island was an easier oyster bar to monitor and protect. Currently Heron Island is opened to hand tonging. It is not a true sanctuary in the sense that some limited harvest is allowed from that oyster bar. It is limited to oyster tongs of 18 feet in length. Mr. Carpenter does not see the need in changing one oyster bar for another. He explained that he asked the Oyster/Clam Advisory Committee if their idea of an "oyster reserve" as a management tool is similar to what the state of Maryland is using. If the Commission would like to establish and manage an "oyster reserve", Huggins, Sheepshead or Cobb Bar could work just as well as an "oyster reserve." There are many oyster bars that could be set up and managed as "oyster reserves." The problem, Mr. Carpenter explained, with "oyster reserves" from the Commission's standpoint is there needs to be resources, which are very limited, to plant seed and/or shells on the "oyster reserve." There also needs to be the cooperation from law enforcement to monitor the "oyster reserve," and when it's opened to inspect the harvest.

Commissioner Kimball noted the fall oyster survey and asked why this issue was presented to the Oyster/Clam Advisory Committee if Huggins and Heron Island are reporting no harvest and no spat set. He wanted to know why there is a request for a change. Doug Jenkins explained that a sanctuary is off limits and there can be no harvest taken from an oyster sanctuary. Mr. Brown, as well as others, are concerned if the oyster population rebounds that the oyster bars classified as sanctuaries will not be opened to harvest.

Commissioner Pruitt stated there are three new members that do not have the historical information on what has taken place, and he felt the Commission should not make a decision based on that concern. **The Commission took no action with regard to Heron Island.**

#### Recommendations for Oyster Seed

Mr. Carpenter explained that the Oyster/Clam committee voted to ask the St. Mary's Watermen's Association to add their \$3,000 donation to the Commission's funds for the *Ariakensis Oyster* research study. Based on conversations with the Association, they would like the Commission to hold the donation for a year in the hope that *Ariakensis* seed might be available to purchase. He advised the Commission there's nothing in the by-laws or the compact that would prohibit the Commission from holding the money until next year. Vice-chairman Keen notified everyone that the Commission is going to bank the St. Mary's County Watermen's Association grant and wait until next year to decide if and where seed should be planted.



Commissioner Bowes questioned if the Oyster/Clam Advisory Committee recommended these items to be sent to a public hearing. Vice-chairman Keen stated it's up to the Commission to decide if the items should be sent to a public hearing. Commissioner Pruitt felt that based on the concerns of the newly appointed Commissioners, he would suggest more information to be presented before these items are sent to a public hearing. Vice-chairman Keen agreed to table these issues for now until more information can be presented to the Commission.

### **ASMFC Issues**

Included in the Commissioners' packets was the ASMFC February 2005 meeting summary. It is a brief summary, and Mr. Carpenter said he would answer any questions.

Commissioner Pruitt asked for Mr. Carpenter to clarify conflicting reports with regard to Atlantic menhaden. Commissioner Pruitt advised the audience that ASMFC has taken the idea of a quota system to public hearing for public comment. Mr. Carpenter explained that ASMFC works similar to this Commission with regard to many issues. Before an item is sent to public hearing, there is an information document developed and approved by the species Board before public hearings are held. Then they act on the proposed item at a further public meeting. It's a process that can take six months to several years to complete. The action that the board debated was a motion to initiate an addendum. This is only to start the process. It will initiate the steps necessary to consider an addendum to the Atlantic Menhaden Management Plan, that under its adaptive management provisions, that would limit the catch of menhaden in the Chesapeake Bay by purse seines to no more than 110,400 metric tons annually for a two year period (2006 and 2007) in order to conserve the species while more comprehensive and complete population information is obtained and to assess whether localized completion is occurring in the Chesapeake Bay.

Vice-chairman Keen explained there is not a cap on the menhaden fishery right now. It's a misconception that ASMFC placed a cap on the fishery as its last meeting and that's simply not true. Commissioner Pruitt wanted the Commission to understand his concerns and stated there is incorrect information leading people to believe that it has already taken place. He noted the process has not ended.

Mr. Carpenter reported his vote at the ASMFC meeting was against the motion. He opposed the motion because ASMFC had last year held a three-day workshop consisting of scientists who developed a list of research that needs to be completed, before the question of localized depletion can be answered. He felt that the process that was in place was the correct course of action that should be followed. He felt there was no correlation between the purse seine fishery operating on older fish and the lack of younger fish in the Maryland and Potomac portions of the Chesapeake Bay. He wanted to obtain the science documentation before there was a reaction to accommodate the pressures from some coastal northern states.

Commissioner Pruitt added this shows that the Commission is a separate entity even though the Commissioners are from Maryland and Virginia, we still come together and meet as the PRFC. Vice-chairman Keen stated that he and Mr. Carpenter discussed the issue at the ASMFC meeting and they both came to the same conclusion.

**Financial Reports**

A report of the second quarter (October – December) operations budget disbursements was presented, by budget item, totaling \$129,502; and a report of the capital improvements budget disbursements totaling \$49,050. No unusual disbursements were noted.

Mr. Carpenter addressed the concerns presented earlier with regards to purchasing oyster seed. He explained that last year the Commission's budget contained \$100,000 in the development and repletion funds. This is money that is normally used for purchasing seed and shell. This year in that portion of the budget there is \$47,000 available. The Commission committed those funds to help support the EIS (Environmental Impact Statement) on the *Ariakensis Oyster* recognizing the investments the Commission has made over the past decade in seed and shell has not supported or provided any financial return to the industry or the resource. The Commission chose not to plant any seed or purchase any shells for the past two years. Rather to use the funds to further the research needed to evaluate whether or not there is an acceptable alternate oyster species that can live in the face of the diseases and predators in the Bay and can rebuild the industry.

Commissioner Hall questioned how the funds are spent from the Atlantic Coastal Fisheries Cooperative Management Act, which is a special grant. Mr. Carpenter stated the funds are approximately \$100,000 a year and are dedicated funds under the terms of the grant. It is primarily designed for support of the data needs for the management plans of the ASMFC. Such things as publishing the season, size and creel limits for the sports fishermen, the regulation book is in the process of being redesigned. These things that are considered public education under this special grant. The majority of the grant goes towards supplementing the NMFS survey to determine the recreational harvest and the annual eel YOY survey.

Commissioner Hall asked if this was the only grant the Commission receives. Mr. Carpenter stated it was the only federal funds the Commission receives. She then verified the Commission still receives appropriations from Maryland and Virginia and asked if there are any other grants the Commission could apply for to help fund the watermen's concerns and needs. Mr. Carpenter explained the Commission has several sources of revenue. Some of them are the state appropriations, the license revenues, oyster inspection tax, which use to fund the oyster repletion program and the Atlantic Coastal Act. He advised the Commission that it takes a lot of time and personnel to apply for grants, and the Commission does not have the staff to accommodate that.

Vice-chairman Keen agreed with the comments about having enough staff to apply for grants. At the MdDNR Fisheries Division there are four people who do nothing but research and apply for grants. Commissioner Pruitt stated many grants require there to be a match by the receiver and the Commission does not a lot of income or availability to match some grants that are out there. Commissioner Schick commented that most of the grants available are for scientific study, they are not really grants that directly help the fisheries.

***A motion was made by Commissioner Holland, seconded by Commissioner Pruitt and unanimously passed to approve the second quarter disbursements as presented.***

**Surplus Items**

Mr. Carpenter reported three pieces of equipment were old and not repairable and he would like to declare the items as surplus. They are: a Bar Code Scanner purchased 7-28-97, a HP Office Jet R80 Printer purchased 7-14-99 and a Percon Snapshot Bar Code Scanner purchased 2-12-01.

*A motion was made by Commissioner Pruitt, seconded by Commissioner Rice that the listed items be declared surplus and be disposed of accordingly.* The motion was approved.

**Nominating Committee Report**

Commissioner Rice presented the Nominating Committee's report, nominating, Commissioner Keen as Chairman, Commissioner Pruitt as Vice-chairman and Commissioner Hall as Secretary for 2005.

Commissioner Schick made the following motion for the committee: **To elect Mr. Keen as Chairman, Mr. Pruitt as Vice-chairman and Ms. Hall as Secretary.** The motion was passed by acclamation.

**Cownose Ray Study**

Mr. Carpenter gave an oral report on the Cownose Ray study. He explained there had been some concerns expressed by Mr. Tucker Brown about the impact of Cownose Rays' on the oyster population. The Commission decided to host a meeting between Maryland, Virginia and the PRFC to see what information existed and what could be beneficial in terms of helping the oyster situation. Mr. Keen and Dr. Mark Homer represented MdDNR, Dr. Bob Fisher represented VIMS, Ms. Margaret Ransone represented Bevans Oyster Co., Mr. Bill Pruitt represented VMRC and Mr. Carpenter represented the PRFC. The meeting was held on December 15, 2004 and a lot of knowledge was gathered with regards to the pattern of Cownose Rays. The species does travel into the Bay and its tributaries to use this area as a spawning ground. Ms. Ransone with Bevans Oyster Co. is working to develop a market for Cownose Rays as bait. They have conducted some test marketing in the south and have noticed that the bait holds up well in warm weather. The Commission agreed to work with Bevans Oyster Co. to assist in any way with regards to issuing collection permits or spreading the word that there may be a market for this species. Based on the migration of the Cownose Rays, the lower portion of the Chesapeake Bay would be a better location to attempt to harvest the species.

Commissioner Pruitt stated there has been several follow up meetings with Bevans Oyster Co. and they are very interested in working on this issue. VIMS and VMRC are working with some people in the lower Bay to develop a way to catch these rays before they brake up because they do travel in large schools. He stated using the species as bait has been working very well. It can be used for crab bait as well as other things. The problem is finding a machine that will cut it and that is currently in development as well. Using the Cownose Ray for food has not worked well. He asked Doug Jenkins to comment on his findings.

Mr. Jenkins explained he has developed a floating pound net so it can be taken to the area where the rays are concentrating. The net has flags and buoys to identify it and is usually set during the

summertime. He feels if a market can be established, then this pound net technique could harvest them.

### **Review of Commercial Senior License Structure**

Mr. Carpenter explained staff had received a complaint with regard to the structure and the way the senior license exemption is set up for the Potomac River. The Commission is selling senior licenses for gears that require more than one person to work. The senior license is limited to the “exclusive use of the licensee.” After reviewing the complaint, staff recommends to eliminate the senior license exemption altogether for all gears. This would require a public hearing before the Commission could vote on this issue.

*A motion was made by Commissioner Pruitt, seconded by Commissioner Holland to send this issue to public hearing.* The motion was approved.

### **Budget Committee**

Chairman Keen appointed Commissioner Schick and Commissioner Rice as the Budget Committee.

### **Robert S. Smith’s Appeal of License Renewal Procedure**

Chairman Keen asked Mr. Smith to come forward and state his case. Mr. Smith explained he had been denied a crab pot license he has held for 25 years with the exception of 4 years while he was in the service because he missed the renewal time period. His objection is that if he renews late, he is penalized because he had a 500 pot license and it reverts to 300 pot license. He feels it’s not right that only 400 and 500 pot licensees are penalized if renewed late. He asked if the Commission would grant him his original 500 pot license.

Commissioner Pruitt asked what the circumstances were for Mr. Smith filing late. Mr. Smith said it was a simple human error.

Legal Officer, Mr. Hutt, read Regulation I, Sec. 1(c) to the Commission which states “...In no event shall any crab pot license renewed under this sub-section (iii) be for more than 300 pots.” He stated this regulation provides for the issue of a license when someone renews late. He advised the Commission is dealing with a regulation and if changes are made the Commission would have to work around that regulation or violate the existing regulation in place. He said this issue has been before the Commission several times and everyone has a story as to why their late, however the Commission made this regulation and it’s up to the Commission what they would like to do with it.

Commissioner Rice agreed stating this is segregating licenses, treating one license differently from another. He also agreed with Mr. Hutt, that we are dealing with a regulation and can’t do anything at this time. However, that does not mean that the regulation should not be reviewed and to determine if changes should be made. Commissioner Rice requested the following item be added to the next public hearing.

1. To review Reg. I, Sec. 1(c) to discuss if the regulation stands or should be modified, and if modified by the Commission, he recommended the three fishermen affected by this regulation be grand fathered so they receive their 500 pot license. He requested that be added to the minutes to protect the interest of the three watermen affected by this issue.

Mr. Carpenter advised that when he spoke to Mr. Smith, he explained to Mr. Smith that he could obtain a 300 pot license by paying the late penalty because of renewing late. When the pot limit regulation was adopted, it was designed so everybody would have a 300 pot license. Those with 400 or 500 pot licenses, who transfer them, are subject to the same regulation and the transferred license reverts to a 300 pot license.

Mr. Hutt explained in the formulation of this regulation, there was a serious consideration in regards to the repletion of the crab population and the Commission determined that it would be the best interest of the river if the Commission could hold a licensee to a 300 pot license. Commissioner Pruitt questioned what the percentages were for 400 and 500 pot licenses. Mr. Carpenter stated there are about 518 licenses on the books and asked to be excused to retrieve the individual numbers for 300, 400 and 500 pot licenses.

Commissioner Rice stated he believed in public hearings and what the public wants to say. He felt there have been some issues discussed concerning crabs and there has not been a satisfactory answer provided for some of the issues. As a crabber, he would not want to be penalized by being reduced to a 300 pot license if the situation ever occurred. He could not make a living with a 300 pot license. A lot has changed since this regulation was adopted. The Commission was concerned with the crab population and still is, but the regulation should be reviewed. He requested to add two other items to the public hearing.

2. To review the policy of a transfer with regards to a 400 or 500 pot license.
3. To review the idea of surrendering two 300 crab pot licenses for one 500 pot license.

Commissioner Pruitt stated the regulations should be revisited from time to time.

Mr. Carpenter responded to questions asked earlier about the amount of 300/400/500 crab pot licenses sold. In 2004 there were a total of 517 licenses sold: 78 for 500 pots, 24 for 400 pots and 415 for 300 pots. This year there are 77 for 500 pots with only the one in question is Mr. Smith.

***A motion was made by Commissioner Rice, seconded by Commissioner Schick to include the following items for public hearing.***

1. To review Reg. I, Sec. 1(c) to discuss if the regulation stands or should be modified and if modified, he recommended the three fishermen affected by this regulation, be grand fathered so that they receive their 500 pot license if this regulation is modified to allow such by the Commission.
2. To review the policy of a transfer with regards to a 400 or 500 pot license.
3. To review the idea of surrendering two 300 pot licenses for one 500 pot license.

Commissioner Hall stated her concern is with the number of citations and warnings that Mr. Smith has received. Mr. Smith felt the citations and warnings he has received has been over a twenty year period, and he considers them to be four small tickets. He felt that was a good record for any crabber.

Chairman Keen reviewed Mr. Smith's activity record stating that Mr. Smith did not work at all from 2002 to 2004. Mr. Carpenter stated this information is based on the harvest reports submitted by Mr. Smith and that he reported he did not work for the past three years. Mr. Carpenter asked Mr. Smith about reporting he was finished for the season in 1999 on September 4<sup>th</sup>, yet in November of that same year, he prepaid a fine for 16 crab pots with improper cull rings. This shows that Mr. Smith reported finished for the season but continued to work in the river and did not send in reports of his harvest for that fall. Mr. Smith stated in 2004 he worked in the state of Maryland and not in the Potomac River. He holds a CB-9 (MD 900 crab pot license).

Chairman Keen stated until the regulations are reviewed, the Commission would not take any action concerning Mr. Smith.

Commissioner Kimball asked when the next public hearing is scheduled. Commissioner Rice stated it would be at the next Commission meeting scheduled for June 16, 2005. Mr. Carpenter stated the Crab Advisory Committee would want the opportunity to review what has been proposed. He felt that there was no need to rush into a public hearing seeing that the Commission would change the regulations for the 2006 crab season. Mr. Smith has the ability to purchase the 300 pot license for the 2005 season and work in the Potomac River. He also holds a 900 pot license for the state of Maryland. He did not work the last three years in the Potomac, so it's not his only source of income. Mr. Carpenter felt this issue is much larger than Mr. Smith and there are many ideas and issues that have to be discussed. He asked that the items that have been motioned for a public hearing be sent to the Crab Advisory Committee and let them present a report with recommendations in June. The Commission can review the report and schedule a public hearing in September and any changes that take place can be incorporated for 2006.

Commissioner Kimball agreed that the items should go before the Crab Advisory Committee to develop recommendations to present to the Commission. Commissioner Rice withdrew his motion.

*A motion was made by Commissioner Schick, seconded by Commissioner Holland and unanimously passed to forward the items to the Crab Advisory Committee to present a report to the Commission in June.*

#### **Summer Small Mesh Gill Net Fishery**

Doug Jenkins asked for an update of the survey taken for the summer small mesh gill net fishery. Mr. Carpenter explained Dr. Herb Austin and Mr. Kenneth Wicker did not have enough opportunity to do gather sufficient sampling to conclude the study. They both have agreed to start again this summer as soon as conditions were favorable. Chairman Keen asked that Dr. Austin present an update at the next Commission meeting.

**2005 Gill Net Season**

Elgin Nininger is concerned with the gill net season. He understands that the Commission cannot adjust the season but requested that the Commission adjust its regulation for the amount of nets allowed to be set through March 25, 2005 in order to catch some Striped Bass.

Commissioner Rice agreed stating this season has had far from ideal weather conditions, which has limited the amount of Striped Bass harvested. He asked Mr. Carpenter what the implications would be if the Commission were to extend the gill net season. Mr. Carpenter explained the Commission would be found out of compliance with ASMFC and the Commission would risk having the fishery closed down or a penalty assessed for next year. Staff recommended that the Commission should not take that course of action and suggested modifying Commission Order 2005-04 dealing with the number of stands that are allowed to be set.

*A motion was made by Commissioner Rice, seconded by Commissioner Pruitt to adopt an emergency order based on having unusual weather patters that resulted in extremely cold water temperatures that delayed the migration of the rock fish in the Potomac River and having determined an emergency exists under Regulation I, Sec. 8(a) the following Order # 2005-07 shall become effective on March 15,2005.* The motion was passed.

**ORDER #2005-07**  
**(replaces #2005-04)**

**GILL NET FISHERY**

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**THE POTOMAC RIVER FISHERIES COMMISSION**, having found it necessary for the preservation of the striped bass (rockfish) population, and pursuant to its authority under Regulation III, Section 13(b); and having unusual weather patters that resulted in extremely cold water temperatures that delayed the migration of the rock fish in the Potomac River and therefore, having determined an emergency exists under Regulation I, Sec. 8(a): **HEREBY DECLARES AND ORDERS:** the gill net fishery shall be allowed under the following conditions and limitations:

- a) Each individual's striped bass quota will be proportional to the number of gill net licenses held by that individual and will be represented by a number of striped bass identification tags issued to that individual.
- b) Each licensee, shall be permitted to set and fish a single properly identified net, in the number of his licensed locations (stands) as follows:
  - i) January 1<sup>st</sup> through March 15<sup>th</sup> - all stands, and;
  - ii) from March 16<sup>th</sup> through March 25<sup>th</sup> – all stands, and;
  - iii) Fall season, if any, will be determined at the September Commission Meeting
- c) Two or more licensees may, and are encouraged to, jointly fish lawfully licensed and set nets belonging to one or more of the individuals.

**AND IT IS FURTHER DECLARED AND ORDERED:** this Order #2005-07 shall become effective March 15, 2005, shall supersede and repeal Order #2005-04 and remain in effect for no more than 180 days.

**Date and Place of Next Meeting**

The next meeting is scheduled for Thursday, June 16, 2005 at 2:00 p.m. in the John T. Parran Hearing Room of the Potomac River Fisheries Commission Building.

**Adjourn**

The meeting adjourned at 4:55 p.m.

Respectfully submitted,

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Kenneth C. Keen, Chairman

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Ida C. Hall, Secretary