

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

September 13, 2007

Commissioners Present: William L. Rice, Sr. (MD) – Chairman, J. T. Holland (VA) – Vice-chairman, Kyle J. Schick (VA) – Secretary, Ida C. Hall (VA), Robert H. Bowes (MD), Steve Bowman (VA), Howard J. King (MD) and Dennis Fleming (MD).

Officers Present: Kirby A. Carpenter – Executive Secretary, Michael C. Mayo – Legal Counsel and J. Clifford Hutt – Senior Advisor.

Others Present: Del. Peter Murphy – Southern Maryland District 28; Cpl. Charles Sauter and Capt. Wayne Jones – MdDNR Law Enforcement; Capt. M. Ray Jewell – VMRC Law Enforcement; Joe Grist – VMRC; Mark Gares, John Dean, Kenneth Wicker, Phil Angle, Thomas Lewis and Robert T. Brown – Finfish Advisory Committee; John Morris and Herman Delvo – Crab Advisory Committee; Doug Jenkins, Robin Wicker, Truitt Shook and several others who did not sign the guest register.

Chairman Rice called the meeting to order at 2:03 p.m. and asked Commissioner Bowman to please provide the invocation and lead the Pledge of Allegiance.

Introductions

Chairman Rice recognized and welcomed a good friend of the people of southern Maryland, Delegate Peter Murphy, stating it was good to see Del. Murphy attend the meeting and to be interested in what the Commission is doing.

Lt. Charles Sauter introduced Capt. Wayne Jones as the new Captain for the Southern Maryland Region who has been with the Maryland Department of Natural Resources Police for many years and will now be working in the area.

Governors Proclamation

Commissioner Bowman recalled that the PRFC requested a change to the Potomac River Compact that requires a proclamation issued by the Governors of Maryland and Virginia. He presented the Commission with the following certificate of recognition.

**Potomac River Fisheries Commission
Compensation**

WHEREAS, Chapter 885 of the 2007 Acts of the Virginia General Assembly amending the Potomac River Compact, (§§ 28.2-1001 of the *Code of Virginia*) requires that I issue a proclamation as one of the preconditions for amendments made by this legislation to become effective; and

WHEREAS, said Chapter 885 has amended § 28.2-1001 and in particular Article I § 5 thereof to increase the compensation of Commissioners from twenty-five dollars (\$25) per day to two hundred fifty (\$250) dollars per day with a maximum of one thousand five hundred (\$1,500) dollars per year; and

WHEREAS, Chapter 144 of the 2007 Acts of the Maryland General Assembly adopted the same amendment;

NOW, THEREFORE, I, Timothy M. Kaine, Governor of Virginia, in accordance with the provisions of Chapter 885 of the 2007 Acts of the Virginia General Assembly, do hereby proclaim that the foregoing provision of that Chapter will be effective upon issuance by the Governor of Maryland of a proclamation declaring the provision of said Chapter 144 to be effective.

Given under my hand and the lesser seal of the Commonwealth, at Richmond, this Seventh day of September, in the year of our Lord, two thousand and seven and in the two hundred and thirty-second year of the Commonwealth.

Consideration of Minutes

A motion was made by Commissioner Bowman, seconded by Commissioner Holland to approve the minutes of June 15, 2007 as presented today. Commissioner Hall asked for clarification on the pre-payable fine schedule in regards to Reg. I, Sec. 3(e) – Altering/Modifying Striped Bass ID Tags. She was under the assumption the fine should read \$250 per tag and would like to know what is correct. Mr. Carpenter advised that should be \$250 per tag and was a typographical error that will be corrected. **The motion was approved with the clarification.** *Note for the record – See Minutes of November 30, 2007 meeting.*

Open Public Hearing 2:10 p.m.

Chairman Rice opened the public hearing and asked Mr. Carpenter to provide a brief synopsis of each regulation and the proposed changes.

Mr. Carpenter stated there were four subjects to deal with, however, each subject will affect several regulations. He suggested dealing with the subjects rather than the regulations. The first subject is to change the gill net season from a calendar year to a fiscal year and add the month of November as part of the renewal period for gill nets only. The regulations to be affected by this subject are Reg. I, Sec. 1(a), 1(c), 2(n)(4) and Reg. III, Sec. 13(d). Chairman Rice stated he would like to take public comment separately for each subject.

Kenneth Wicker, a member of the Finfish Advisory Committee, said there was not a lot of discussion on the opening date for the gill net season. Traditionally, the gill net season starts on November 1st. He would like to have the season start a week or two earlier in October if possible. This would allow the watermen to harvest smaller fish for a higher price and take the pressure off the crab industry. On the renewal of the license, he suggested being able to renew the licenses anytime during the summer since you can't fish the license until the season comes in. His main concern is having the season start at least on November 1st.

Doug Jenkins, representing Twin Rivers Watermen's Association, felt since it's been the Commission's policy in the past to protect the larger fish, then the season should start on November 1st if not sooner. That time of the year the water is cooler and due to weather and the movement of fish, the watermen may not get a chance to use all their tags.

Robert T. Brown, representing St. Mary's County Watermen's Association, agrees with the other comments. Have the gill net licenses renewed during the summer months so that the gill net season could start on November 1st or sooner.

Mr. Carpenter explained the second subject deals with creating a definition for high-grading and to determine when it is unlawful. This item would affect Reg. VI, Sec. 1(g) and 5(f). There were no comments from the public on this subject.

Mr. Carpenter explained the third subject deals with outlawing the use of a gaff or spear when fishing for striped bass. This item affects Reg. III, sec. 6(a), (b), (c) and will repeal Reg. III, Sec. 7 and readopt it as Reg. III, 6(b) unchanged. There were no comments from the public on this subject.

Mr. Carpenter explained the fourth subject was a general advertisement for increasing all of the commercial license fees. The increase is about 50% since there has not been an increase in licenses within the past ten years. This was a recommendation presented to the Commission by the budget committee at the last Commission meeting, when the current budget was presented. There was a fair amount of analysis done by the budget committee to arrive at the proposed license increase amounts.

Chairman Rice asked Mr. Carpenter to explain how the budget committee arrived at the numbers presented today. Mr. Carpenter explained that committee went to the U.S. Department of Commerce website and used the inflation calculator to determine what each license, adjusted for inflation since its last change, should cost. The numbers were then rounded to even dollar amounts.

Commissioner Hall questioned why all of the licenses have been increased except for the fish trot line license, which is proposed to decrease. Mr. Carpenter noted the license fee for the fish trot line was mistakenly reported at \$25 with an inflation to \$40, when in fact the current license fee is \$50. Therefore, staff's recommendation would be to exclude the fish trot line from any motion or change and have it remain constant as it is.

John Dean stated he is against any increase in license fees. He felt the pound netters took the biggest hit when the licenses were raised last time. His problem with this issue is the Potomac River does not have the best water quality to support an increase in license fees. All of the harvest is down river-wide and this is not the time to increase the license fees. He would like to see something done about the water quality.

Robert T. Brown stated the St. Mary's County Watermen's Association is against a license increase. He agreed with Mr. Dean stating it's a water quality issue and it needs to be addressed. It's time to draw the line on funding with several projects and devote those funds to water quality.

Doug Jenkins representing the Twin River's Watermen's Association questioned if the Commission needs the extra funds at this time. He knows the conditions of the watermen and they're suffering big time. It's a bad time to increase license fees.

Close Public Hearing 2:33 p.m.

Chairman Rice asked Mr. Carpenter to provide staff's recommendation on the first subject and the Commission can discuss it further. Mr. Carpenter stated with regard to changing the gill net season, staff recommends that the season be switched from a calendar year to a fiscal year. The gill net renewal period would start on November 1st. Generally the renewal period for fixed devices is two months and if you don't renew during the renewal period, there are consequences for not renewing on time. Staff added November to the renewal for gill nets to accommodate the change. The Finfish Advisory Committee endorsed this change.

A motion was made by Commissioner Holland, seconded by Commissioner Bowman and unanimously passed to adopt Reg. I, Sections 1(a) and 2(n)(4) and Reg. III, Section 13(d) as follows:

Reg. I, Sec. 1(a) Application/Eligibility for License

Commercial licenses, as herein defined, shall only be issued to persons who are at least fourteen (14) years of age at the time of issuance of such license. Any citizen of the States of Maryland or Virginia, who has resided in either or both said states for at least twelve (12) months immediately preceding their application, and desiring to commercially take and catch oysters and or clams; or any citizen of the United States desiring to operate any vessel for the purpose of carrying fee paying persons to catch or attempt to catch fish, crabs, clams or oysters in the waters of the Potomac River, as defined and provided for in the Potomac River Compact of 1958, shall first apply for and obtain a numbered license from the Potomac River Fisheries Commission, or from an officer or agent duly designated by the said Commission to issue same. Each said license shall be good for the licensing year January 1st through December 31st, except gill nets and the licensing for the taking and dealing in oysters, which shall be issued for a licensing year from July 1st through June 30th of each year. No license issued under the authority of the Potomac River Fisheries Commission shall be transferable in any manner.

Reg. I, Sec. 1(c) Limited Entry Fisheries

A limited entry fishery is a fishery where the number of licenses available is limited by regulation or order of the Commission. Such limited entry fishery licenses are renewable annually to the licensee subject to the following conditions for each such fishery license:

- (i) Applicants who submit applications by mail assume the risk of delay on the part of the postal service.
- (ii) Applications for renewal of such gill net licenses must be submitted only during November, December or January of the license year for which the license is intended.
- (iii) Applications for renewal of all other such licenses must be submitted only during December preceding the year for which the license is intended or during January of the year for which the license is intended.
- (iv) Any such license, not renewed on or before the last day of January, which is not a Saturday, Sunday or legal holiday, may be renewed by the licensee only, upon the payment of twice the license fee or \$100.00 whichever amount shall be the greater, in addition to the published fees, on or before the last day of April, which is not a Saturday, Sunday or legal holiday at the principal office of the Commission. Any license renewed under this sub-section (iii) and then surrendered under Regulation I, Section 1(e), or any such license not renewed by such time shall become non-renewable and available under Regulation I, Section 1(d).

Reg. I, Sec. 2(n)(4) Time and Place for Submitting and Issuing Renewal Licenses

Applicants who submit applications by mail assume the risk of delay on the part of the postal service.

- (i) Application for renewal of a gill net license under (n)(1) at a currently licensed location may be submitted only during November, December or January of the year for which the license is intended. Any gill net license location for which a renewal license has not been issued on or before the last day in January which is not a Saturday, Sunday or legal holiday, shall become vacant and unlicensed with no outstanding renewal rights for that location as of the end of that day.
- (ii) Application for renewal of a pound net or fyke net license under (n)(1) at a currently licensed location may be submitted only during December preceding the year for which the license is intended or during

January of the year for which the license is intended. Any pound net or fyke net license location for which a renewal license has not been issued on or before the last day in January which is not a Saturday, Sunday or legal holiday, shall become vacant and unlicensed with no outstanding renewal rights for that location as of the end of that day.

- (iii) If the maximum number of licenses had been issued the previous year for the fishery, any non-renewed licenses shall become available under Regulation I, Section 1(c). Otherwise, any applicant may submit an application for that location on or after the first day in February, which is not a Saturday, Sunday or legal holiday. On the first day of February which is not a Saturday, Sunday or legal holiday, licenses for a fixed location will be issued in person only at the principal office of the Commission.

Reg. III, Sec. 13(d) Individual Striped Bass Allocation Transfer from Gill Net to Commercial Hook and Line

Any person meeting the qualifying conditions listed below may surrender one or more gill net license(s) for the purpose of being able to obtain a commercial hook and line license and take his striped bass allocation with that gear. To qualify a person must:

1. Have a valid Potomac River gill net license;
2. Must declare his intent during the gill net renewal period;
3. Surrender the gill net stand license(s) and its (their) associated rights and privileges; and
4. Purchase a commercial hook and line license, valid for the next year, at next year's license fee plus next year's license fee for each gill net stand surrendered in excess of the first stand.

Any hook and line license obtained in this manner will carry all rights and privileges associated with such license providing the gill net license privileges and rights are surrendered and forfeited.

Any gill net license(s) surrendered under this option will thereafter remain as a hook and line license. Thereby, permanently reallocating striped bass identification tags from the gill net fishery to the hook and line fishery, increasing the hook and line quota and increasing the maximum number of licenses within that limited entry fishery and reducing the gill net quota and the maximum number of gill net stands available within that limited entry fishery in the Potomac, as provided in the appropriate Commission Order pertaining to commercial hook and line and gill net limited entry.

Commissioner Bowman stated regulations dealing high-grading and gaffing keep things consistent with the Commonwealth of Virginia and the state of Maryland and it is good for the preservation of the resource.

A motion was made by Commissioner Bowman and seconded by Commissioner Holland to adopt the Reg. VI, Sections 1(g) and 5(f) as presented.

Commissioner Fleming noted that Reg. VI, Sec. 5(f) states "Except large mouth bass..." and is aware that this practice is taking place in catfish tournaments and would like to have that species added to this regulation.

Commissioner Bowman thanked his colleague for his observation and he amended the motion to include blue catfish. Commissioner Holland accepted the amendment as well.

Commissioner Bowes suggested that wording be added to explain that these are regulated fish in terms of size and creel limits, spot for example. Mr. Carpenter referred this concern to law enforcement for comment; however, Mr. Carpenter suggested using catfish instead of blue catfish because of identification issues. He asked for law enforcement to comment of both issues.

Lt. Charles Sauter of the MdDNR Marine Police advised there is no limit on spot so that species would not be an issue. This is something that deals with catching fish and returning them to the water for larger fish. Mr. Carpenter stated this is designed to educate and encourage a practice as much as it is to try to enforce it, therefore, he suggested adopting it with the suggested amendments.

Commissioner Bowman explained there is a letter of the law and a spirit of the law. The spirit of the law is articulated very well as to what is intended to be done. Both sides of law enforcement are intelligent enough to know what the intent and the spirit of the law is. He restated his motion and Commissioner Holland seconded it as follows:

To adopt Regulation V, Section 1(g) as presented and to include the words “and catfish” after the word “bass” in Reg. VI, Sec. 5(f). The motion passed unanimously.

Reg. VI, Sec. 1 (g) High-grading

The practice of selecting only the most desirable (e.g. largest, valuable) individuals when harvesting a natural resource.

Note: Existing Reg. VI, Section 1 (g) though (l) become (h) through (m) unchanged

Reg. VI, Sec. 5(f) High-grading prohibited

Except large mouth bass and catfish, it shall be unlawful to return fish to the water after it is placed into a cooler, bucket or other storage container or area.

A motion was made by Commissioner Hall, seconded by Commissioner Schick and unanimously passed to adopt Regulation III, Sections 6 and 7 as presented and as follows:

Regulation III

Sec. 6 Unlawful Activity

Sec. 6(a) Dynamiting Unlawful

No person shall place, throw or make use of dynamite or other explosive substance so as to kill fish and seafood in the Potomac River, except for bona fide engineering, scientific, or mining purposes, for which purposes a permit must be secured from the Potomac River Fisheries Commission.

Sec. 6 (b) Thrashing Unlawful

It shall be unlawful for any person to whip or beat any of the waters of the Potomac River with poles, sticks, or any other thing, for the purpose of driving fish into nets, seines, or any other contrivance for catching fish.

Sec. 6 (c) Gaffing Unlawful

It shall be unlawful for any person to spear or gaff, or attempt to spear or gaff any striped bass at any time.

Section 7 Thrashing Unlawful

Repealed and reenacted as Reg. III, Section 6 (b) unchanged.

Mr. Carpenter commented that Mr. Dean was correct when he stated pound netters took a substantial hit the last time licenses were increased. At the same time, other licenses also increased by the same amount. It was a general increase across the board and the increase occurred in 1998. The crab pot licenses were not increased at that time because they were increased in 1996. Staff supports the advertised increases with the exception of the fish trot line and recommend eliminating that from the issue. All costs associated with the Commission have increased and waiting any longer will make it more difficult on everyone involved. The Commission requested that this be done every five years so there would not be a significant increase. Five years ago it was presented and the Commission passed over the issue and moved on.

A motion was made by Commissioner Holland, seconded by Commissioner Schick to adopt the proposed license fee increase as presented by staff with the exception of the fish trot line license fee, which would remain \$50.00.

Commissioner Hall stated on paper these license fee increases look really good, however we're not dealing with papers and numbers, we're dealing with people. People who are trying to make a living and at this time it's not a good idea to raise license fees. The seafood industry is struggling to survive as it is. She felt to further burden the industry with another expense, particularly the oyster industry, which is virtually non-existent, is not acceptable at this time. As Commissioners, it's our responsibility to conserve and improve the fishery resources. If the Commission approves any commercial license fee increase, it would be doing more harm than good. Increased license fees would make licenses available to only large corporations and not by natural persons. Commercial watermen do not receive funding due to bad weather like farmers do, therefore they have to take the brunt of their expenses. She cannot vote in favor of increasing commercial license fees knowing that it might jeopardize someone else's livelihood.

Commissioner Fleming questioned if the budget for 2007-2008 included the revenue for this license increase. Mr. Carpenter stated that it did.

Commissioner Hall explained that she brought up that issue at the last meeting by questioning how the Commission could adopt the budget before approving a license increase. The budget committee, at that time, stated it was a work in progress and would have to be reworked if the license fee increases were not approved.

Commissioner King stated the license fee increases attribute a substantial amount of dollars in revenue. He asked if the license fees were not approved, what would have to be eliminated from the budget. Mr. Carpenter said the budget committee would have to meet, go through the budget and present an amended budget at the next Commission meeting. Mr. Carpenter was not sure where the budget committee might look to cut some of the extra expenditures.

Commissioner Fleming questioned Chairman Rice, as a watermen, in regard to his license fee. What percentage is your license fee of your total operating cost per year? Chairman Rice stated he knows roughly what it costs him each year to crab. The license fee would be about 2½ % of my operating costs each year. Commissioner Fleming asked Commissioner Bowes the same questions as a charter boat captain. Commissioner Bowes stated his would be "peanuts"

compared to fuel and everything else, however his revenue is down just like everyone else. He personally attributes low harvest to bad water quality. Commissioner Bowes said Commissioner Fleming needed to rephrase his question to be what percentage is coming off money you are not making anymore.

Commissioner Fleming questioned if the Commission was proposing to increase license fees for recreational licenses. Mr. Carpenter stated it had not been considered at this time.

Chairman Rice stated as a commercial fishermen there are a few licenses that are limited entry licenses and they have to be renewed if you use them or not. Otherwise, you would lose the license. As a commercial fisherman, he can justify raising the cost of crab pot licenses but not gill net licenses, because you are limited to catching striped bass with a limited amount of tags.

Chairman Rice called for any other comments and hearing none he called the question for the motion. With a vote of 4 in favor and 3 opposed, the motion failed.

Commissioner King stated he would like to explain why he voted against the motion. He understands that the budget includes federal funds that are restricted. The states of Maryland and Virginia are making their contributions, which probably cover the utilities. The license fees are probably used for administering to and servicing the fisheries themselves. He felt a fee that is commensured with the cost is justified. He doesn't feel he's been provided with enough information to determine what that fee should be. He does feel the watermen should have to pay the cost of managing and servicing the fisheries.

Chairman Rice understood everyone's concerns and asked Mr. Carpenter if it is possible to have a committee of Commissioners and staff look into this issue and provide some concrete numbers and figures at the next meeting. Chairman Rice also questioned if the Commission would have to re-advertise and hold another public hearing. Mr. Hutt, senior advisor, suggested having the last motion rescind and table this issue until the next meeting. That would give everyone the opportunity to examine the license fees.

A motion was made by Commissioner King, seconded by Commissioner Holland and passed to rescind the previous motion and have the issue of license fee increases tabled until the next meeting

Commissioner Holland stated the budget committee could also present recommendations of how the budget could be revised if necessary.

Chairman Rice felt he didn't mind raising license fees if it's necessary in order to keep the fishing business going. He agreed with Commissioner King's statement as to why he could not vote in favor of increasing license fees at this time.

Commissioner Bowman explained he had just gone through a license increase in Virginia. An assessment was conducted to determine what it costs to do business. It's obvious that the costs have increased, however there has not been enough information provided today.

Commissioner Schick agreed with Commissioner Bowman's statement.

Chairman Rice asked Mr. Carpenter along with Mr. Mayo and the budget committee, Commissioners Holland and Bowes to develop further information to present at the next Commission meeting.

Oyster/Clam Advisory Committee Report

Mr. Carpenter advised that, Tucker Brown, chairman of the Oyster/Clam Advisory Committee was not available to provide the report. Mr. Carpenter proceeded to give the report. He stated the committee had one item on their agenda, which was to make a recommendation for the 2007-2008 oyster season, dates, days and time limits. The committee chose to operate by a mail ballot as they have in past years with such a limited agenda. They also elected the Chairman and Vice-chairman. The committee recommendation is to keep the 2007-2008 oyster season, dates, days and time limits the same as last year. A draft order has been prepared, which would establish the 2007-2008 oyster season. Staff recommended the adoption of the order.

A motion was made by Commissioner Hall, seconded by Commissioner Schick and passed to adopt Order 2007-10 as presented.

O R D E R #2007-10
(replaces #2006-09)

2007-2008 OYSTER SEASON DATES, DAYS AND TIME LIMITS

THE POTOMAC RIVER FISHERIES COMMISSION, having considered the protection, promotion, growth and conservation of the oyster resources and pursuant to its authority under Regulation II, Section 2(b) and Regulation I, Section 7(a)(1), **HEREBY DECLARES AND ORDERS:** The 2007-2008 oyster season dates, days and time limits shall be as follows:

<u>Gear</u>	<u>Season</u>	<u>Days</u>	<u>Hours</u>
Hand Tonging	Oct. 1 thru Dec. 31, 2007 Jan. 1 thru Mar. 31, 2008	Monday thru Friday Monday thru Friday	Sunrise to 1:00 p.m. Sunrise to 3:00 p.m.
Hand Scraping	Nov. 1, 2007 thru Mar. 31, 2008	Monday thru Friday	8:00 a.m. to 1:00 p.m.

BE IT FUTHER DECLARED AND ORDERED: Possession of a hand scrape shall be permitted during the aforesaid times and from one hour before and for two hours after such times. The use or possession of any hand scrape at any other time is unlawful.

AND, IT IS FURTHER DECLARED AND ORDERED: That this Order #2007-10 shall become effective September 30, 2007 and remain in effect through March 31, 2008.

Leasing Legislation Update

Chairman Rice asked Mr. Carpenter to bring the Commission up-to-date on the legislation package on leasing. Mr. Carpenter stated Commission King is prepared to give the Commission a report on this issue. Mr. Carpenter did explain a year ago the Commission voted to request leasing authority from the two states. Virginia did pass authority and the bill was introduced in Maryland but was withdrawn after some objections were raised.

Commissioner King reported that a meeting was held in Annapolis to revisit the idea of reintroducing legislation to allow leasing in the Potomac River. In Maryland, the Secretary of the Maryland Department of Natural Resources would have considerable influence in the General Assembly in Maryland. MdDNR was not on board with this issue because there were some serious concerns on the part of the Attorney General and the Special Council to the Secretary. At the last meeting, MdDNR agreed that aquaculture would be more prominent in the future and that leasing in the Potomac River was likely. However, MdDNR wanted more information to present to the General Assembly to be able to better describe what this leasing would entail rather than having an open-ended issue. Currently, leasing that would occur in the Potomac River would be far outside the bounds of what would be permitted in Maryland waters. He feels some common ground will be met on leasing in the Potomac River but at this point MdDNR is asking for more information from the Commission.

Mr. Carpenter stated this update was brought to the Commission because there will be a lot of staff time involved in developing a draft management plan for leasing. He felt confident that he would be able to present a draft plan to the Commission at the November meeting with some of the key components of whatever program may be developed.

Chairman Rice recommended having the chairman of the Oyster/Clam Advisory Committee, Tucker Brown, become involved in the process. Mr. Carpenter stated staff would develop an outline of common characteristics of neighboring states and jurisdictions with leasing programs and present that to the Oyster/Clam Advisory Committee to review before it is presented to the Commission. From the Commission it would go to MdDNR to review.

Order 2007-11 – Commercial Hook & Line and Gill Net Limited Entry

Mr. Carpenter advised the Commission that there are regulations that provide for the transfer of a gill net license to the hook and line fishery and with that change the license takes whatever tags had been allocated from one fishery to the other. The combined number of gill net and hook and line licenses does not change. This order has not been updated since 2004 and this is an attempt to keep the records up to date and know that the 915 licenses are still in order.

A motion was made by Commissioner Schick, seconded by Commissioner King and unanimously passed to adopt Order 2007-11 as follows:

ORDER #2007-11
(replaces #2004-05)

COMMERCIAL HOOK AND LINE AND GILL NET LIMITED ENTRY

THE POTOMAC RIVER FISHERIES COMMISSION, having found it necessary for the preservation of the striped bass (rockfish) population to impose restrictions on fishing for striped bass and pursuant to its authority under Regulation I, Sections 2(i)(1) and 2(l)(2):

HEREBY DECLARES AND ORDERS: the maximum number of commercial hook and line licenses shall be one hundred and seventy four (174), and the maximum number of gill net stands shall be seven hundred and forty one (741).

BE IT FURTHER DECLARED AND ORDERED: the provisions of Regulation III, Sec. 13(d) entitled "Individual Striped Bass Allocation Transfer from Gill Net to Commercial Hook and Line" shall be allowed provided the sum total of gill nets and commercial hook and line licenses do not exceed nine hundred and fifteen (915).

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2007-11 will become effective November 1, 2007, shall supersede and repeal Order #2004-05, and remain in effect until further notice.

**Order 2007-12 – 2007-2008 Gill Net Season & Restrictions &
Commercial Striped Bass Catch and Size Limit**

Mr. Carpenter explained this order is a combination of several orders that were traditionally passed in December establishing the seasons, size, creel limits and other conditions for the fisheries each year. Since the Commission has adopted a fiscal year gill net season, staff has developed an order that contains all the gill net related issues into one order so that it establishes a season, number of permitted nets, other conditions, the quota and the striped bass size limits. The changes are that the gill net season will start on November 15th and continue through March 25, 2008. The number of gill nets stands that are allowed to be set remains unchanged. The quota is the same as 2007 because staff is unaware that the quota is going to change for 2008. The size limits are consistent with last year's sizes. This is a compilation of three different orders combined so that all the gill net information is in one order. Staff would recommend the adoption of this order.

Mr. Carpenter also reminded the Commission that during the public hearing there were some comments about a different season and possible earlier start. Staff recommended starting the gill net season on November 15th, particularly this year, based on a lower quota. There will be fewer tags issued this year than in prior years with 80 tags being issued to each gill net license. This is a transition year and there are a number of 2007 gill net striped bass tags left outstanding. Staff anticipates that some of the 2007 tags will be used this fall in addition to the 2007-2008 striped bass tags. There is the potential to come close or possibly exceed the quota with the transition year the Commission is about to introduce. Staff would not support any change in starting the gill net season any earlier than November 15th.

A motion was made by Commissioner Holland, seconded by Commissioner Bowes and passed to adopt Order 2007-12 as follows:

O R D E R #2007-12
(replaces #2007-04)

**2007-2008 GILL NET SEASON AND RESTRICTIONS
& COMMERCIAL STRIPED BASS CATCH AND SIZE LIMIT**

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 I, Section 8 and Regulation III, Sections 9(a), (b) and 10(a): **HEREBY DECLARES AND ORDERS:** the gill net fishery shall be allowed under the following conditions and limitations:

- a) **Season** - The gill net season shall be from November 15, 2007 to March 25, 2008.

b) **Permitted Nets** - 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) November 15th through February 29th – all stands, and;
- ii) from March 1st through March 15th – 4 stands, and;
- iii) from March 16th through March 25th – 2 stands.

c) **Other Conditions** – Once renewed no change of the ownership of any gill net licenses will be allowed during the remainder of the open gill net season. Two or more licensees may, and are encouraged to, jointly fish lawfully licensed and set nets belonging to one or more of the individuals.

d) **Quota** – The gill net striped bass quota shall be 482,431 pounds (59,280 ID Tags) total for all licensees, less any taken with a hook and line as may be allowed under Regulation III, Sec. 13(d). 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.

e) **Striped Bass Size Limit**

November 15 through February 14, 2008
February 15 through March 25, 2008

18" Min.
18" Min. / 36" Max.

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2007-12 shall become effective November 1, 2007, shall supersede and repeal Order #2007-04 and remain in effect for the year 2007-2008 or until such time the Commission has taken further action.

Chairman Rice advised the audience to notify the watermen that the 2007-2008 gill net season will start out using the 2007 striped bass tags. Those tags can be used until December 31, 2007. If a waterman tags out before December 31st and has satisfied all reports with the Commission, 2007-2008 striped bass tags will be issued and the waterman can continue fishing without pulling up their nets.

American Shad Presentation

Mr. Carpenter gave a brief presentation on the status of the American shad. He noted a substantial amount of work was gone over the last few years to compile the data and have it incorporated in the ASMFC coast-wide American shad stock assessment. That assessment is completed and peer reviewed. The good news is that her Potomac is listed as one of the only East Coast Rivers with an upward trend in rebuilding the stock.

Historically shad landing from the Potomac exceeded 100,000,000 pounds in the early 1800's, declined to the 2 to 3 million pounds by the turn of the century and declined further throughout that period, until the directed fishery was closed in 1982. Since then a limited by-catch fisher has continued to provide some useable fishery dependent data. In addition, fishery independent data from the MD YOY, the striped bass spawning stock survey data, the hatchery brood stock catch effort data and the numbers of stocked fingerlings were included in the analysis of the Potomac River stock.

The most important outcome of the assessment was the development of pound net index to measure the progress toward rebuilding the stock. That restoration target is based on historical pound net catches from the 1940's and 50's and shows we are making substantial progress toward that goal.

American Eel YOY Survey

Mr. Hank Brooks from VIMS presented the American eel 2007 report on glass eels and elvers in the Potomac River tributaries. Generally the glass eels increased over 2006 while the elvers decrease, and the peak run did not occur until June this year. They are continuing evaluate their method and data to be able to provide a more reliable abundance estimate in the future. Copies of the report are kept on file hear as well as VIMS.

Guide/Charter Boat Guidelines

Mr. Carpenter noted the information provided in the packet is a compilation of the licensing requirements for charter boat captains and/or fishing guides who operate on the Potomac River. It was brought to the Commission that there is a lot of confusion as to what licenses are needed in what body of water. Staff compiled this informational document to show what the requirements are. The document has been submitted to the District of Columbia, Maryland and Virginia for their review and approval. The office received their acceptance last week and the document has been published on the Commission's website and has been distributed throughout the region.

Crab Harvest Report

Mr. Carpenter presented a report of the 2007 crab harvest landing for April through July. He noted the harvest is similar to 2004 harvest records and has been a very slow season for all parts of the river.

The report showed a harvest of 20,405 bushels of hard crabs, 19,110 pounds of peelers and 834 pounds of soft crabs compared to 24,560 bushels of hard crabs, 17,675 pounds of peelers and 930 pounds of soft crabs for the same period last year.

Crab Committee Report

Commissioner Hall presented the Commission with the crab committee report. She stated herself, Commissioner Bowes, Mr. Carpenter and Mr. Mayo met in June to develop some revisions to Order 2007-08 – Two Crab Pot Licenses on One Boat. She explained the changes to the order and asked if the Commission had any questions.

A motion was made by Commissioner Bowman, seconded by Commissioner Schick and passed to adopt Order 2007-13 as follows:

ORDER #2007-13**TWO CRAB POT LICENSES ON ONE BOAT**

THE POTOMAC RIVER FISHERIES COMMISSION, having determined it is desirable to allow certain exemptions to the single license per boat requirement of Reg. I, Sec. 2(d)(1); and pursuant to its authority under Regulation I, Section 7(a).

HEREBY DECLARES AND ORDERS: the criteria for crab pot licensees wishing to file for an exemption from the provisions of Regulation I, Section 2(d)(1) shall be as follows:

- a) Both licensees must have actively crabbed in the Potomac River for least 30 days in each of the last 2 years.
- b) Both licensees have all seafood harvest reports filed at the time of their application. Neither licensee has had any PRFC license revoked or suspended by Commission action within the last 2 years.
- c) Neither licensee has any PRFC violations of Reg. VII within 2 years immediately prior to the date of their application for the exemption.
- d) No more than two licensees can file for a single permit.
- e) Both licensees have to be natural persons.

BE IT FURTHER DECLARED AND ORDERED: the conditions of the permit shall be as follows:

- a) Only one exemption per licensee per year will be granted.
- b) Both licensees, both crab pot decals and both sample buoys must be aboard the boat when both sets of the pots are set, pulled or fished. If only one (1) licensee is present, then only the pots licensed in his/her name can be set, pulled or fished. Setting, pulling or fishing the other person's pots will be a violation of this Order, and result in the immediate revocation of the exemption.
- c) The idle boat may not be used for crabbing in the Potomac River while the permit is valid.
- d) Each licensee must file his own separate weekly seafood catch reports – no combined reports.
- e) All pots set and/or used with this exemption must have a PRFC issued, numbered decal/tag attached to each buoy.
- f) An application for such exemption must be filed with the Commission together with a \$50.00 fee.

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2007-13 shall become effective September 25, 2007 and remain in effect until November 30, 2008.

Summary of the August ASMFC Meeting

Mr. Carpenter noted the summary from the August ASMFC meeting was included in the packets and was for informational purposes. Chairman Rice noted that the ASMFC 66th annual meeting would be held October 28th through November 1st in Annapolis, Maryland. Mr. Carpenter encouraged any of the Commissioners to attend the meetings and Commissioner King would be the host of the events.

Delinquent Seafood Catch Report Hearing

Mr. Carpenter called the following people before the Commission for failure to file timely seafood harvest reports.

Mr. Kenneth Wayne Jenkins - Mr. Jenkins was called to the last hearing of the Commission and was absent at that meeting. By direction of the Commission a notice calling Mr. Jenkins to a hearing was hand delivered by law enforcement. Therefore, he received the notice and was aware that he was to appear before the Commission. ***A motion was made by Commissioner Bowman, seconded by Commissioner Holland and passed to suspend Mr. Jenkins's licenses until he appears before the Commission.***

Mr. Scott Lee Dent – Mr. Dent was also called to the last hearing and has received a hand delivered notice stating he was to appear today. ***A motion was made by Commissioner Bowman, seconded by Commissioner Holland and passed to suspend Mr. Dent's licenses until he appears before the Commission.***

Mr. William Allen Dent, III – Mr. Dent was also called to the last hearing and law enforcement has been unable to locate Mr. Dent. The Commission believes to have a valid address for Mr. Dent and mailed a certified notice of this hearing to him and it is in the process of being returned unclaimed. ***A motion was made by Commissioner Bowman, seconded by Commissioner Holland and passed to suspend Mr. Dent's licenses until he appears before the Commission.***

A&G Crab Shack & Deli, Inc. – This is a corporation that was issued a license and Dallas Gordon Jett and Andy Costa are partners in this business. Neither person appeared before the Commission. The Commission has been advised that the business is no longer incorporated. ***A motion was made by Commissioner Bowman, seconded by Commissioner Holland and passed to suspend A&G Crab Shack & Deli, Inc. licenses until either partner appears before the Commission.***

Fourth Quarter Disbursements

A report of the fourth quarter disbursements (April through June) for the operational budget was presented, by budget item, totaling \$197,269. A report of the cash-on-hand was presented totaling \$247,061.87 as of September 11, 2007. There were no unusual disbursements to note.

Mr. Carpenter noted the loan for the building has been paid off and all releases have been made.

A motion was made by Commissioner Holland, seconded by Commissioner Schick and passed to accept the second quarter disbursements as presented.

Date and Place of the Next Meeting

The next meeting is scheduled for Friday, November 30, 2007 at 9:30 a.m. in the John T. Parran Hearing Room of the Potomac River Fisheries Commission Building.

Adjourn

The meeting adjourned at 4:20 p.m.

Respectfully submitted,

William L. Rice, Sr., Chairman

Kyle J. Schick, Secretary