

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

**June 10, 2010**

**Commissioners Present:**

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

**Others Present:** Capt. William Bates – MdDNR Law Enforcement; Capt. James Rose – VMRC Law Enforcement; Dr. Tom Miller – CBL; Joe Grist – VMRC; Rob Aguilar and Eric Johnson – Smithsonian Environmental Research Center (SERC); Herman Delvo, John Morris and Jim Berthe – Crab Advisory Committee; John F. Tucker Brown – Oyster/Clam Advisory Committee; Bill Whisenant, John Cameron, Jr., Joseph Thompson, Sr., Walter Maddox, Jr., Roger Hill, Maurice Bosse, Kim Wood for Michael Wood and several others who did not sign the guest register.

Chairman Bowes called the meeting to order at 2:00 p.m. Commissioner Schick provided the invocation and Commissioner Bowman led the pledge of allegiance.

**Introductions**

Chairman Bowes introduced Mr. Tom O’Connell from MdDNR as the Secretary’s designee to the Potomac River Fisheries Commission.

Commissioner Steve Bowman stated after many years of dedicated service Capt. M. Ray Jewell has retired and Capt. James Rose has accepted his position.

**Consideration of Minutes**

*A motion was made by Commissioner Holland, seconded by Commissioner Hall to approve the minutes of March 6, 2009 as presented. Commissioner Bowman abstained from the vote because he was not present for the March 6, 2009 Commission meeting.*

**Crab Harvest Report**

Mr. Carpenter presented the preliminary crab harvest report for the early 2009 crab season. It shows 4,854 bushels of hard crabs harvested, the peeler crab harvest was 3,008 pounds and a soft crab harvest of 147 pounds were all of which are down compared to last year. He noted the April catch is the highest recorded in terms of the CPUE (1.76) in a number of years. CPUE’s for April and May were higher than the long term average.

**Smithsonian Potomac River Crab Tagging Study**

Mr. Carpenter introduced Mr. Rob Aguilar and Eric Johnson from the Smithsonian Environmental Research Center (SERC). They performed a crab tagging study in September 2007. They were invited to speak at the last Crab Advisory Committee meeting where they presented the results of the study, and they have been invited to give the same presentation today.

Mr. Aguilar spoke on behalf of SERC. The study was designed to follow the migration of mature female blue crabs from the Potomac River to the mouth of the Chesapeake Bay. On September 26, 2007, mature female blue crabs (271) were tagged and released by SERC along the eastern side of the mouth of Upper Machodoc Creek in the Potomac River.

The reporting rate was estimated at 100% with 69 recovery events to date. Crab recoveries were mostly located downriver of the release location. Within the Potomac River proper, recovery locations were fairly well distributed through most the river. Over 96% of the recoveries were from the commercial sector. Although all crabs were released on the southern side of the Potomac River, migrating crabs were recovered along both sides of the river with the number of northern side recoveries was much greater at downriver sites. The mean recapture depth of migrating crabs within the Potomac River varied from 8.0 to 55.0 feet. Initially, crabs were recovered in the shallow areas near the release site. As crabs began to move downriver, recovery depths increased with the deepest recoveries near the river mouth. With limited number of recoveries, it is difficult to fully elucidate crab migration patterns in the Potomac River, but several of the migrating crabs appeared to using “shoulder” areas along the main channel. This is a pattern they have noted in the Bay main stem.

Commissioner Fleming questioned if the tag itself contained the numerical designation of what the value would be if reported. Mr. Aguilar stated the tags of higher value actually state \$50.00, however the tags worth \$5.00 simply say “reward”. Commissioner Fleming wondered if this had an effect on the return rate. Mr. Aguilar felt it had no effect because most of the areas generated a high return rate.

Chairman Bowes questioned if the Chesapeake Bay releases were both male and female. Mr. Aguilar stated bay-wide releases in the Chesapeake Bay were males and females. Chairman Bowes asked Mr. Aguilar if he had any correlation between the releases in the Chesapeake Bay and the Potomac River in regard to the females and their movement patterns. Mr. Aguilar explained both areas show the crabs move in the fall. Chairman Bowes asked about water depths. Mr. Aguilar stated the crabs tend to go deeper in the fall but not at the greatest depths.

Mr. Carpenter explained to the Commission that Mr. Aguilar has a proposal to repeat this tagging study by tripling the size of the sample that they will be tagging and releasing. Mr. Carpenter noted more information will be provided on this issue under new business later in the meeting.

**Winter Crab Dredge Survey Results – Dr. Tom Miller**

Dr. Tom Miller from the Chesapeake Biological Laboratory (CBL) gave a presentation on the winter crab dredge survey. He also had presented this information to the Crab Advisory Committee at its last meeting. He began with a review of the control rule used to establish the target harvest. Mr. Bob Bowes asked Dr. Miller if there is any significance of the star being placed at 46%. Dr. Miller explained the assumption of that figure is based on the conservation measures that each jurisdiction imposed resulted in 46% of those crabs being harvested. He cautioned, what might happen is conservation may not be as effective this year and a higher fraction of crabs may be harvested, which would raise the percentage of crabs harvested.

Dr. Miller continued with the results of the winter crab dredge survey, including a brief background of how the survey is conducted. The survey has been conducted annually since 1990 and is a very intensive survey of the Chesapeake Bay. There are 1500 stations (150 fixed sites). Chairman Boarman questioned if the same boats conduct the survey year to year. Dr. Miller explained there is a boat in Virginia that has remained constant since the survey started, but the boat is different from year to year in Maryland, because it is contracted based on an open bidding process.

He continued explaining about the survey, and stated there was a substantial increase in adult abundance from 2008 to 2009. He reported that findings from the 2009 survey indicate the female population increased by 70% due to the conservation measures that were in place by Maryland, Virginia and PRFC. This is the first time the survey shows the target abundance being above the interim target since 1991. The consistent sequence of below target abundances over the past number of years seems to have been broken as a result of the conservation measures and there is a substantial increase. Adult females had a 70% increase in abundance, where adult males show almost no change at all. It was the adult females that were the definite focus of the conservation effort that have increased substantially.

He stressed the issue now is that the crabs that were conserved in the winter have not yet produced the next generation. No one will know the success of these measures until next winter, when the young crab abundance is determined. There should be a substantial increase in new young crabs next year as long as Mother Nature works with us. Another point he made was there are about 3 females for every male crab. If that pattern were to continue, it might be cause for concern. The expectation is when the new crabs come in, the sex ratio should even out closer to 50-50. That increase in female crabs is really the benefit of what everyone gave up last fall.

**Crab Advisory Committee Report**

James Berthe a member of the Crab Advisory Committee presented the report on behalf of the committee. He stated the committee received the same presentations from Mr. Aguilar and Dr. Miller. The committee reviewed the crab harvest report. Staff advised the committee that the female harvest target would increase for 2009, and presented a table with three options to consider. The first two would be rolling closures, by area, and the third option would be a total closure river-wide. The committee had a brief discussion and Mr. Berthe, himself made a motion, which was seconded by George Smith and passed to recommend option 1 to achieve the 2009 female harvest reduction.

Mr. Berthe went on to say that they chose option 1 because he felt it would work for everyone. He stated Mr. Carpenter provided a graph that showed the historical catch throughout the years. He thought it made sense to let the female harvest go when the demand is at its lowest and the catch is at its highest. This would allow a lot of female crabs escape to the Chesapeake Bay and would have the least economic impact on the watermen. Mr. Berthe stated there were also some law enforcement concerns on how to deal with overlapping closed areas.

Mr. Carpenter showed the Commission the table Mr. Berthe referred to when the Crab Advisory Committee was making their recommendation on how to handle the female crab harvest. Mr. Carpenter stated each option is mathematically equivalent. The real world may operate a little differently but theoretically these all should have the same impact.

### **Open Public Hearing – 2:40 p.m.**

Chairman Bowes opened the public hearing and verified with Mr. Carpenter that the Commission has duly advertised the public hearing and all certifications have been received. The Commission is in a position to proceed with the public hearing at this time. The following items were considered for this public hearing:

1. To amend **Reg. VII, Sec. 5(e)** Crab Pot Depth Restrictions to change: a) the closed season dates, b) the depth of water restriction, or c) to repeal this regulation.
2. To amend **Reg. VII, Sec. 1(d)** Peeler Trap or Crab Pound to specify and clarify when peeler traps or crab pounds must be removed from the river.
3. To amend **Reg. I, Sec. 2(m)(3)** Fish Pot to increase the length of a fish pot from 10 ft. to 18 ft. and clarify the definition of a fish pot.

Chairman Bowes stated he would take public comment on each issue one at a time and he started with item #1.

#### **Reg. VII, Sec. 5(e) Crab Pot Depth Restrictions**

James Berthe stated there have been discussions in prior meetings and he would like to see this issue taken care of today. He felt female crabs are typically caught in shallower water and on harder bottom. If you want to get away from that, you need to go to deeper water and harvest male crabs. Last crab season the lower river was limited to what they could catch because of the depth restrictions and the female bushel limits. He felt if the Commission is trying to protect the female crabs, it would be counter productive not to allow the crabbers to crab in deeper waters.

John Morris agreed with Mr. Berthe and stated if he wants to target female crabs he goes to shallower water and goes to deeper waters for male harvest. He would like to have this Regulation repealed by the Commission.

#### **Reg. VII, Sec. 1(d) Peeler Trap or Crab Pound**

Mr. Carpenter explained this is a regulation that needs clarification between the date for removing stakes and the season closure date. This would make the regulation match the Order for the season closure date; therefore, the stakes would have to be removed from the river on the last day of fishing activity or the last day of the season, whichever comes first. *There was no public comment received on this issue.*

**Reg. I, Sec. 2(m)(3) Definitions – (i) Fish Pot**

Mr. Carpenter explained this item was brought to the Commission by a gentleman who fishes in the upper river for catfish. He has a market for live catfish and requested the Commission increase the size of the fish pot from 10 feet to 18 feet in overall length. He stated the fish would have more room in the pot and would not cause injury to them and could be sold to a higher value market. *There was no public comment received on this issue.*

Chairman Bowes stated before the public hearing is closed he would like to have comments from the scientific community on the crab pot depth restriction issue.

Dr. Tom Miller from the CBL advised the data available suggests there probably isn't a great risk in removing the depth restriction. In the summertime nature itself limits where crabs are going to be because of low oxygen content and if the goal of management is to try and protect the females, then putting in a depth restriction that tends to make watermen focus on females would seem to be counter productive.

Eric Johnson agrees with Dr. Miller's comments. It does appear from data available that during the time period when the closure is in effect, most of the female crabs are in depths shallower than 30 ft. They do tend to move into deeper waters closer to winter as they begin to bed down.

Chairman Bowes questioned Mr. Johnson, based on the migration work that's been completed, is the crab pot depth restriction regulation doing any good. Mr. Johnson stated the regulation is not protecting the majority of the females. His data shows that the female crabs are in waters shallower than 30 ft. at that time of year.

**Close Public Hearing – 2:50 p.m.****Regulation VII, Sec. 5(e) – Crab Pot Depth Restrictions**

Commissioner Bowman stated there seems to be an agreement between the watermen, scientific community and staff on this issue.

**A motion was made by Commissioner Bowman, seconded by Commissioner Holland to repeal Regulation VII, Sec. 5(e).**

Mr. Carpenter stated he received several phone calls stating while they had opposed this Regulation, last year, based on their experiences this spring with increased harvest and value, they thought this restriction should be kept in place. This restriction may not protect the females, but it did protect a number of the male crabs and several watermen thought it was worth saving.

Commissioner Rice stated he would like to see what's going to be done with the female crabs and work these two items together, but that doesn't seem possible at the moment.

Commissioner O'Connell asked Mr. Carpenter what his thought was on the depth restriction and if it played a part along with the harvest reductions last year and should it continue for this upcoming season. Mr. Carpenter explained the depth restriction was not used to calculate any

potential savings or benefit, because there were no data to support that theory. The depth restriction was initially proposed to mirror what the deep water sanctuary done in Virginia. The Commission did not have the benefit of Mr. Aguilar's scientific information prior to adopting this regulation.

Commissioner Rice stated there's going to be a closure for females one way or another. Options A and B give the watermen the opportunity to move to a different area. If the season closes then reopens for females, he doesn't think anyone would move back to an area just to catch females when you're already catching males.

Chairman Bowes called for the question. **The motion passed unanimously.**

#### **Reg. VII, Sec. 1(d) – Peeler Trap or Crab Pound**

*A motion was made by Commissioner Rice, seconded by Commissioner Hall and unanimously passed to adopt Reg. VII, Sec. 1(d) as presented.*

##### **Regulation VII, Sec. 1(d) Peeler Trap or Crab Pound**

A device used to catch peeler crabs consisting of an enclosure or retention box no larger than four feet by four feet (4' x 4') and a single row of hedging no more than seventy-five feet (75') in length. The retention box must have a mesh size not less than one inch (1") measured along its longest axis. There must be twelve inches (12") of air space between the surface of the water at mean high tide and the top of the trap. The licensee must remove all stakes or poles within thirty (30) days of either: (a) the last day of fishing activity, or (b) the last day of the season, whichever come first.

#### **Reg. I, Sec. 2(m)(3) – Definitions – (i) Fish Pot**

*A motion was made by Commissioner Hall, seconded by Commissioner Rice and unanimously passed to adopt Reg. I, Sec. 2(m)(3) as presented.*

##### **Reg. I, Sec. 2(m)(3) Definitions**

- (i) Fish Pot – a finfish entrapment device with no wings or leader, with or without hoops, with a single entrance funnel. No fish pot shall exceed eighteen (18) feet in overall length or have a mesh size which is less than two (2) inches measured at its longest axis.

Commissioner Rice stated he was sorry that the gentlemen who requested this regulation change could not be here today. He also felt this was a demonstration from a commercial fisherman who is trying to work within the system and took the appropriate measures make this happen.

#### **Order 2009-07 – Crab Season**

Mr. Carpenter stated the proposed language presented is based on the Crab Advisory Committee's recommendation. He called the Commission's attention back to the table that included the three options for female closure dates. From a conservation standpoint, Mr. Carpenter felt option 3, which is the early season closure, reduces the possibility of recoupment within the river. He thought law enforcement may have an opinion on this issue. He explained the other two options are variations on the theme and the Crab Advisory Committee chose option 1, which is the earlier closure. That recommendation is what is reflected in the potential draft Order presented. Under any of these options there is no bushel limit needed for females this fall.

Commissioner Holland asked Mr. Carpenter what his recommendation is. Mr. Carpenter stated staff presented information that stated mathematically all three of these options are equal on paper. There is a concern that female crabs left alone in area 3 during its closed period would then get harvested in areas 2 and 1 at a later time in the season during their open season. Option 3 closes all areas at the same time from October 22<sup>nd</sup> through November 30<sup>th</sup> and there would be no recoupment during that time. He felt option 3 would protect the maximum number of females to the greatest extent. Option #1 is more of an experiment but there is a proposal before the Commission today to study the migration and recapture of crabs that may help determine if this is a viable option to consider.

Commissioner O'Connell questioned Mr. Carpenter if options 1 and 2 account for any recoupment or is that assuming that there's no recoupment and that they are equal. Mr. Carpenter stated staff did not have a way to calculate recoupment at this point.

Commissioner Hall asked what Maryland has done in regard to protecting female harvest. She stated Virginia has done away with crab dredging and has shortened the season by 10 days. Commissioner O'Connell responded, last year Maryland imposed a late season closure from October 22<sup>nd</sup> to the end of the season. It had a significant impact to one area of the state. This year, MdDNR worked with the industry and they are implementing different bushel limits for different gear types. There are also seasonal closures throughout the season including: June 1<sup>st</sup> to June 15<sup>th</sup>, September 26<sup>th</sup> to October 4<sup>th</sup> and the season closes on November 11<sup>th</sup> through the end of the season. Maryland accounted for a 50% recoupment for these multiple season closures to ensure the state stayed within the harvest target.

James Berthe agreed with Commissioner O'Connell's statement about there being a significant impact on the lower Chesapeake Bay, which is why he would not like to see option 3 adopted by the Commission. It would also cause a significant impact on the lower Potomac River. The lower river suffered a great deal last year and he would like to see option 1 adopted.

Chairman Bowes asked if law enforcement had any comment on this issue. Captain William Bates from Maryland Natural Resources Marine Police stated that option 3 was the most enforceable. Trying to figure out zones and where everyone is at a particular time is going to be most difficult to enforce.

Commissioner Rice asked Mr. Carpenter if there was a generic version of option 1 that might coincide with Maryland's closures that may get the Commission through this situation. He explained he liked option 1 because of it's fairness to the fishermen. He stated there are some questions out there if option 1 would get the job done. This is why the Commission takes comments from the public. However, it might behoove the Commission to look at a total river closure for a period of time (ex. September 22<sup>nd</sup> to the first week in October) that is enforceable. Then reopen the river after the crabs have had time to migrate down river, then close with Maryland's season.

Commissioner Hall stated she agreed with Commission Rice's theory. She felt it would make it easier on law enforcement as well as helping to conserve the resource without impacting one segment of the crab industry or one portion of the crab population more significantly than another.

Commissioner Fleming stated he attended the Crab Advisory Committee meeting and the Chairman of that committee made a motion to recommend option 3 for the sake of simplicity. He commended staff for the idea of options 1 and 2 but the concept of clearing a path for the crabs to migrate down river is based on astrological, weather and biological events that are not guaranteed. For the sake of simplicity from a law enforcement stand point trying to enforce zones may be very difficult. He felt option 3 is the answer to this issue.

Chairman Bowes stated that Dr. Miller's data showed that the Commission has made a positive step in the right direction, but it is a single data point and there are not trends established yet in the YOY index and the male population. He felt the Commission may be too hasty to back off too soon until we see positive trends in these recoveries. A minor reversal has been established and he felt the Commission should do something similar to last year. He strongly suggested backing off a little bit and approach this a little more slowly than the Commission is doing right now.

Commissioner Hall shared Chairman Bowes concerns but thought there are other measures that the Commission has no control over that also impact the fishery.

***A motion was made by Commissioner Holland, seconded by Commissioner O'Connell to adopt option 3 a season closure to mature female crabs from October 22<sup>nd</sup> to November 30<sup>th</sup> as recommended by staff. The motion failed with 5 in favor and 3 opposed.***

Commissioner O'Connell stated he seconded the motion recognizing the stock has improved and he also shares the Chairman's concerns with moving forward too hastily. However, he struggled with adopting something other than option 3, simply because of not having an evaluation that looks at some level of recoupment to get a better sense of what option 2 could amount to or if there was a modification of option 3 that would give something back but still keep the Commission within the target. Without that evaluation, he is reluctant to support anything else at this time.

Mr. Carpenter advised that motion failed, therefore the Commission needs to come up with another motion.

Commissioner Rice asked Mr. Carpenter if it was possible to work up different numbers and come up with an evaluation that would suite Commissioner O'Connell and himself. Mr. Carpenter explained in theory anything is possible. He felt the Commission would need some closure that would run from about the 28<sup>th</sup> of September through about the 12<sup>th</sup> of October. Then have the season reclose November 11<sup>th</sup> the match Maryland. He felt that would achieve what needs to be done but without time to work the tables, he cannot for sure. He did advise that adopting that would not treat all three areas equally in terms of impact.

Commissioner Rice thought that would impact the upper river more than the lower river and asked for Mr. Carpenter's estimation. Mr. Carpenter stated it would probably impact the upper river more, but reminded the Commission that 85% of the females are harvested from the lower river. If you want to save the female crabs, it's going to impact the lower river more. Not having the numbers available, it's hard to tell. Mr. Carpenter then explained the Commission doesn't



meet again until September and it takes ten days to make an Order effective, which would delay the closing until September 20<sup>th</sup>. If the Commission chooses to delay until that time, it would give staff the ability to look at a November 11<sup>th</sup> closure that would match Maryland then some period with all three areas closed to address law enforcements concern. Staff could then present some numbers that may come close to achieving the target. It's not something that could be done today. Commissioner Rice thanked Mr. Carpenter for his explanation.

Commissioner Rice explained with law enforcement issues, such as options 1 and 2 he suggested there would be similarities with the tributaries of Maryland, Virginia and the PRFC having three different cull sizes. That is enforced by a transporting law that states if crabs are caught in Maryland or Virginia you are allowed to transport your catch across the Potomac River but can not stop and engage in crabbing activities. He felt the same law enforcement issue would apply to either one of these options.

There was a brief conversation among the Commission and legal council as to how Regulations and Orders become effective.

Commissioner Rice verified that the next Commission meeting is scheduled for September 10<sup>th</sup>. He felt it is the Commission's responsibility to conserve female crabs and be conscious of the industry. He also felt the Commission should leave here today with some type of conservation measure. He questioned if there would be anything wrong with adopting either option 1 or 2 and reviewing it at the next meeting to see what staff can produce in terms of numbers. Commissioner Rice stated he does not like bushel limits, but he is not in support of closing the season throughout the river.

Mr. Carpenter asked Commissioner O'Connell to repeat the closure dates that Maryland is proposing. Commissioner O'Connell stated for the record that these closure dates are not proposed they are set in place as follows: June 1<sup>st</sup> through June 15<sup>th</sup>, September 26<sup>th</sup> through October 4<sup>th</sup> and November 11<sup>th</sup> through December 15<sup>th</sup>.

Mr. Mayo asked Commissioner Rice if he would prefer, since he voted against the original motion, to have the Commission reconsider option #3.

Commissioner O'Connell spoke about Commissioner Rice's request to adopt another option and review it at the next Commission meeting. He felt he could support moving forward with option #3, a strategy the Commission knows will work, looking at an evaluation this summer, and if necessary make an alteration at the September meeting. Commissioner Rice stated he could support that idea as well.

Mr. Carpenter explained he is very apprehensive about adopting anything today and reviewing it in September. The reason he felt that way is because whatever the Commission adopts today will have to be published. There will be a certain mindset that will be associated with that on the part of law enforcement and the crabbing industry. If the Commission changes the Order that will leave a very short amount of time to notify everyone. Mr. Carpenter suggested if the Commission waited until the September meeting, law enforcement and the industry would have to adapt as quickly as possible knowing that something is going to happen but not knowing exactly what. Commissioner Rice agreed.

Commissioner Hall questioned if the meeting date could be moved up a couple weeks. Mr. Carpenter advised the meeting date could be moved to any date needed as long as it's within the quarter.

***A motion was made by Commissioner Bowman, seconded by Commissioner Hall and passed that the next PRFC Commission meeting be scheduled for Thursday, September 3, 2009 at 2:00 p.m. here at the PRFC office.***

Dr. Miller addressed the Commission that fishery science is called an imprecise science. The most imprecise part of it, is that we don't understand how the fishermen are going to respond to the changes and rules that are put into place. One of the biggest concerns with these rolling closures is an understanding of how the effort that you have taken out of the fishery during that period will be moved. He cautioned the Commission as they began to think about this, that both of those options (1 and 2) are considerably more uncertain than option 3. They certainly have their benefits from an economic point of view but they both have considerable risks from a conservation point of view.

Mr. Carpenter verified that a new meeting date has been set but the Commission has yet to adopt or do anything with crab. He questioned if the Commission is going to postpone the decision on the crab regulations until September. If that's where it stands, the Commission does need to deal with the second Order in the packet, which will start a bushel limit on September 1<sup>st</sup> if the Commission does nothing today.

Mr. Carpenter went on to explain that staff proposed closure dates that would not have bushel limits. The wording on Order 2008-10 states the Order shall become effective July 1, 2008 and remain in effect until further notice. Therefore, that Order would start a bushel limit on September 1<sup>st</sup>. He advised that the Commission needs to at least repeal this Order before moving forward.

Commissioner Schick stated he was still stuck on the last issue and doesn't see where waiting will do any good. He doesn't feel that there will much more information in September than what the Commission has now. He felt the recoupment factor will not be able to be calculated and is considered and estimate in Maryland just based on 50%. Seeing that this issue is still in front of us he suggested trying option 3 and repealing Order 2008-10. Without doing anything today, he felt Order 2008-10 should be left in place. He stated he didn't like bushel limits either and felt the entire situation is a problem but it should be resolved.

Commissioner Rice stated he does not like bushel limits and felt it's obvious based on the comments from the scientific community and the industry that there are obligations that need to be met.

Commissioner Bowman withdrew his motion to change the meeting date to September 3<sup>rd</sup>. The Commission agreed the next meeting would be Thursday, September 10, 2009 at 2:00 p.m.

***A motion was made by Commissioner Rice, seconded by Commissioner Schick and passed with 7 in favor and 1 against to adopt option #3, which is a complete Potomac River closure for mature female crabs from October 22<sup>nd</sup> through November 30<sup>th</sup>.***

Commissioner Rice stated after everything the Commission just went through he didn't want to hear anyone say that anybody meets the day before the meeting to decide anything.

***A motion was made by Commissioner Rice, seconded by Commissioner Hall and unanimously passed to revoke Order 2008-10 2008 Female Crab Harvest Limits.***

### **Oyster Harvest Report**

Mr. Carpenter presented the oyster harvest report for the 2008-2009 season. He reported 525 bushels were harvested. There were 30 people who purchased licenses for the year. The dockside value was \$15,877.50, which divided by the number of licensees indicate that the average licensee made \$529.00 and that's before he paid license fees and expenses.

### **Update of the EIS Report**

Mr. Carpenter reported that the EIS was a very expensive five year process. The final record of decision limits Maryland, Virginia and us to native oyster only restoration efforts in the future. There will be no introduction of any non-native oyster species in the Chesapeake Bay system. As a consequence, in reviewing the document, the only findings of the EIS that apply to the Potomac River, deal with aquaculture and the possibility of using triploid *Virginica* for aquaculture in the future. However, aquaculture is not an option to the Commission at this time, because the state of Maryland has not yet given the Commission authority to lease the river bottom. He stated that he doesn't see anything in the EIS that will directly help the Commission in trying to decide how we are going to restore oysters in the Potomac River and more specifically how we are going to do anything with a public fishery. Mr. Carpenter advised the Commission to continue placement of repletion funds into the long-term oyster reserve account. Save that money for the day when Maryland or Virginia figure out how to restore native oysters and can do something that would apply to the main stem of the Chesapeake Bay or the main stem of the Potomac River.

Chairman Bowes asked if the Commission has the ability to add funds to the repletion fund. Mr. Carpenter stated it's incorporated into the budget and the Commission should see that later in the meeting.

Commissioner O'Connell commented in regard to obtaining Maryland's authority to facilitate aquaculture development in the Potomac River. He advised the Maryland administration is interested in sitting down with the Commission and trying to explore alternatives so it can move forward. He stated Governor O'Malley is really strong in promoting aquaculture development. Mr. Carpenter said, with that invitation, the staff and a couple of Commissioners will meet with the Department to see if something can be presented for this upcoming legislation session. The Commission already has approval from Virginia.

### **Oyster Regulations and Orders**

Mr. Carpenter reminded the Commissioners that at the March meeting, staff presented a number of oyster regulations that were adopted five years ago when the Commission authorized power hand scraping that have sunset clauses, effective this year, such that they will revert back to

prohibiting the use of power winders and Jones Shore would re-open to hand scraping, without Commission action. In March, staff recommended re-opening Jones Shore. At this time, the Commission needs to consider the future of oystering in the Potomac River. Mr. Carpenter noted the Commission had waited on the EIS in hopes of receiving some guidance, but that guidance did not happen. He stated there were three possible options before the Commission: 1) a total closure of the Potomac River is not unreasonable, 2) allowing the power dredging everywhere in the Potomac River except above the bridge, and 3) to reinstitute the slot limit concept that was in place for a number of years. To advertise a minimum size limit 2 ¾" instead of 2 ½" and there would be a zero tolerance on oysters over 4". This is in hope that the 4" oysters are resistant to the diseases and are more valuable left in the Potomac River. He advised authorization is needed from the Commission to advertise for a public hearing.

Chairman Bowes felt the first two options were irresponsible and a sign of frustration that the Commission is giving up. He felt other options should be advertised and asked for the audience and Commissions input.

John F. Tucker Brown stated he is the Chairman of the Oyster/Clam Advisory Committee. He does not support a total closure to oystering in the Potomac River. He wants to keep an industry thriving and to do that, changes need to be made. He feels very confident that everyone involved in this situation will try to make it work.

Commissioner O'Connell thanked Mr. Brown for his comments. He provided a couple of thoughts by stating he remains committed to the native oyster and doesn't oppose immediate strategies on how to move forward. Virginia and Maryland have expressed strong interest in aquaculture. Although we need to figure out how to move forward with ecological restoration, it's going to require some changes in Maryland. He noted that Maryland remains committed to ensuring that there's an industry out there and it is of significant socio-economic importance to the state of Maryland. But the industry is going to have to transition to something that's both biologically and economically sustainable and aquaculture is going to serve a large role in that. In Maryland, some of the limitations to aquaculture have been lack of hatchery seed, triploid oysters, disease resistant strains, funds to get started, finding bottom to get started and making sure the oysters don't get stolen by someone else. The state of Maryland is fortunate to have some federal blue crab disaster funding to use toward providing some diversification to the crabbing industry. Commissioner O'Connell stated he would be very interested in working with Mr. Carpenter to see if some of that funding could be put toward starting aquaculture in the Potomac River, once all the legalities are worked out.

Commissioner Fleming found it hard to believe the Commission would discuss how to harvest the last remaining oysters in the Potomac River. If the Commission is going to move forward in the direction that Mr. Brown and Commissioner O'Connell stated, it seem like the Commission has no choice but to put a moratorium on the oyster fishery until the issue of aquaculture can be resolved.

Commissioner Schick stated he would like to see the public hearing take on the perspective of all extremes. The EIS basically just signed a death warrant on the conventional production of oysters. Until the federal and state governments come together and devise where the funding is

going to come from to stop storm water runoff from coming into the Chesapeake Bay, this animal will not live. We can grow it as much as we want and have little successes along the way, but this native oyster option is the death warrant for the traditional oyster industry. Aquaculture is the only future, but freshets and diseases are still a huge deterrent to people investing money in aquaculture, especially in this area. He stressed he does not want to see the death of an industry.

Commissioner Rice stated you can still go out in the Potomac River and catch some oysters. There are live oyster on the river bottom that are spread throughout the river so all is not lost.

Commissioner O'Connell asked if there was a reason why the Commission has to look at changes today on these oyster regulations. If it's because the final report is out from the EIS and now is a good time to look toward the future, maybe the Commission should consider spending some time developing a plan for the future before we start making modifications. He felt the Commission should not relax the harvest restrictions and should spend time planning the future before any decisions are made. Supporting a complete moratorium will not provide any immediate solutions to the problems and because of the social, economic and cultural importance of the industry, he thinks there's time to look at new approaches for long-term solutions.

Mr. Carpenter explained that if the Commission does nothing today, the season will open October 1<sup>st</sup> and the power winders will need to be removed from the boats. Jones Shore will be reopened to hand scraping and there will be no other areas added as oyster sanctuaries. Mr. Carpenter then suggested advertising the option of a moratorium, status quo and re-imposing the maximum size limit on oysters as a conservation measure. Commissioner Schick suggested adding the option of taking no action to the list allowing the sunsets to occur on those regulations.

Commissioner Rice suggested adding allowing power dredging on the list for the entire Potomac River. At this time, he did not say if he was for it or against it but would like to hear public comments on the issue.

***A motion was made by Commissioner Rice, seconded by Commissioner Bowman and passed to advertise for a pubic hearing for the next Commission meeting and allow staff to develop proper language for the advertisement.***

Mr. Carpenter advised the Commission that he would advertise a complete range of options for the public hearing and that he would work with Mr. Brown to set up an Oyster/Clam Advisory Committee meeting prior to the Commission meeting so that their recommendations will be presented at the next meeting.

### **Winter Striped Bass Harvest**

Mr. Carpenter stated this is an informational document that requires no action. He explained this was the first full year for a gill-net season since switching the season dates. The total gill net harvest was 447,655 pounds harvested with 51,568 tags being used. The report also included the other gears whose seasons opened in February and March.

**Summary of the 2009 ASMFC Spring Meeting**

Mr. Carpenter stated the ASMFC 2009 spring meeting summary is include in the packet and it also contains the actions that were taken.

**ASMFC 2008 Annual Fisheries Reports**

Mr. Carpenter explained the annual species reports for 2008 have been submitted to ASMFC for all of the managed species. He noted there is a sign up sheet if anyone in the audience would like to receive copies of the reports. Mr. Carpenter also announced that the upcoming ASMFC annual meeting is scheduled to be in Rhode Island in November of this year.

**Financial Reports**

Mr. Carpenter presented a report of the third quarter disbursements (January through March) for the operational budget. It was presented by budget line totaling \$129,923. A report of the cash-on-hand was also presented totaling \$214,588.60, as of June 10, 2009.

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

Mr. Carpenter advised the Commission that each one of them should have received a copy of the Joint VA/MD Audit Report for FY '07-'08. There were no finding and no management recommendations from this audit. The Commissioners acknowledged they had received their copies.

**Budget Committee Report**

Commissioner Schick stated the budget committee met and the proposed budget for FY '09-'10 is presented in the Commission packet. There were no unexpected issues that needed to be noted in the budget. He recognized there were some things that needed to be mentioned and asked Mr. Carpenter to go over them.

Mr. Carpenter stated both Maryland and Virginia have committed to \$175,000 from each state for funding the PRFC and it is very appreciated during these tough economic times. He noted there are no cost of living or merit increases for any employee this year.

Commissioner Fleming questioned if the sale of licenses is on target during this economic downturn. Mr. Carpenter explained there was in increase in license fees last year and that increased revenue is projected in the budget to continue at near level funding. With sport fishing licenses there has been an increase in sales and it is expected to remain constant. He stated sport licenses revenue has been a growing revenue source the Commission in recent years.

*A motion was made by Commissioner Schick, seconded by Commissioner Holland and unanimously passed to adopt the FY '09 – '10 budget as presented by the budget committee.*

POTOMAC RIVER FISHERIES COMMISSION  
2009-2010 DISBURSEMENTS BUDGET

	<u>2009-2010</u> <u>BUDGET</u>
<u>PERSONAL SERVICES:</u>	
101-109 Compensation of Commissioners & Salaries	\$274,794
<u>CONTRACTUAL SERVICES</u>	
201 Advertising	6,500
201 Agent Fees	3,000
204 Postage	10,000
205 Telephone	4,000
206 800 Line	800
207 Internet Service	800
208 Electric Current	5,000
209 Freight Expenses	1,000
212 Lease of Equipment	4,500
214 Membership Dues & Subscriptions	300
216 Printing Regulations*	2,700
220 Travel Expenses	12,000
221 Water Expenses	720
224 Photographic Services-Charts	600
230 Computer Support	10,000
270 Repairs to Equipment	1,200
275 Building Maintenance	3,500
280 Interest Expense	0
281 Bank Charges	400
290 ACFCMA**	96,000
299 Other Contractual Services	<u>25,000</u>
	188,020
<u>MATERIALS &amp; SUPPLIES</u>	
301 Automotive Expenses	3,200
313 Office Supplies	12,000
330 Household Furnishings & Supplies	1,500
332 Licenses, Tags, Report Books	32,000
400 Resale Supplies	<u>2,521</u>
	51,221
<u>CURRENT CHARGES &amp; OBLIGATIONS:</u>	
240 Insurance - surety bonds, fire auto liability, workmen's comp.	7,000
085 Loans Payable	<u>0</u>
	7,000

PENSION AND OTHER CONTRIBUTIONS:

510 Retirement	12,265
511 Group Life Insurance	1,950
512 Group Health Insurance	54,250
513 Employer's FICA	16,000
513 Employer's Medicare	3,800
514 Deferred Compensation Match	<u>3,000</u>
	91,265

CAPITAL OUTLAY:

801 Office & Other Equipment	5,000
801 Furniture & Fixtures	3,500
803 Auto	<u>0</u>
	8,500

DEVELOPMENT & REPLETION EXPENSES:

331, 333 & 335 Seed Oysters and/or Shell	0
337 Oyster Research	0
339 Artificial Reef Construction/Transportation	0

CAPITAL RESERVES

98 Reserve - future oyster work/hatchery	100,000
99 Reserve - future retiree health insurance	50,000

UNEXPENDED CASH BALANCE: (contingency fund)

	<u>40,000</u>
<b>TOTAL</b>	<b>\$810,800</b>

\*Partially supported by ACFCMA (Atlantic Coastal Fisheries Cooperative Management Act) funds

\*\*Fully supported by ACFCMA



POTOMAC RIVER FISHERIES COMMISSION  
2009-2010 BUDGET

RECEIPTS

	<u>2009-2010 BUDGET</u>
UNEXPENDED CASH BALANCE FORWARD: ( AS OF 7/1/09)	105,000
SALE OF LICENSES:	
Fish	75,000
Oyster	5,000
Crab	73,500
Clam	250
Fish – Recreational	95,000
Crab – Recreational	1,200
OYSTER BUSHEL INSPECTION TAX:	500
APPROPRIATIONS BY STATE:	
Maryland	175,000
Virginia	175,000
SPECIAL GRANTS:	
Atlantic Coastal Fisheries Cooperative Management Act	97,850
INTEREST ON SAVINGS (C/D's)	2,200
RESALE SUPPLIES:	1,800
MISCELLANEOUS: Limited entry license drawing	2,500
Confiscated Property, Sale of Tags, Etc.	<u>1,000</u>
TOTAL	810,800

**Delinquent Seafood Catch Report Hearing**

Maurice Leon George Bosse – Absent – Mrs. Cosby stated Mr. Bosse was here to attend the hearing, however he could not stay any longer. He sent his apologies to the Commission but had to leave to pick up crabs in Baltimore, Maryland. Mrs. Cosby verified that Mr. Bosse turned in his reports today. Mr. Carpenter stated staff's recommendation is a one week suspension during the first week of gill net season and one year probation.

***A motion was made by Commissioner Holland, seconded by Commissioner Hall and passed to accept staff's recommendation of one week suspension during the first week of gill net season and one year probation. .***

John Ridgely Cameron, Jr. – Mr. Carpenter stated Mr. Cameron was called to the hearing for failing to file of his hook & line catch reports. He has since filed his reports one week prior to being called to the hearing and its Mr. Cameron's first offence. Staff's recommendation is probation for one year.

Mr. Cameron stated he was not fishing because he had his hand surgery and he stated he was delinquent in sending in the reports. He verified that everything is up-to-date.

***A motion was made by Commissioner Rice, seconded by Commissioner Hall and passed to accept staff's recommendation of probation for one year.***

Walter Irving Maddox, Jr. – Mr. Carpenter explained this is Mr. Maddox's first offense for his eel pot license and his reports were filed one week prior to the hearing today. Staff's recommendation is probation for one year.

***A motion was made by Commissioner Bowman, seconded by Commissioner Rice and passed to accept staff's recommendation of probation for one year.***

Joseph Donald Thompson, Sr. – Mr. Carpenter stated this is Mr. Thompson's first offense for his eel pot license and his reports were filed one week prior to the hearing today. Staff's recommendation is probation for one year.

***A motion was made by Commissioner Rice, seconded by Commissioner Holland and passed to accept staff's recommendation of probation for one year.***

Michael Eugene Wood – Mr. Carpenter explained this is Mr. Wood's second offense for failure to file seafood catch reports for his hook and line license. As of today's meeting, Mr. Wood has not filed his reports. Staff's recommendation is revocation of all licenses. Mrs. Kim Wood attended the hearing on behalf of her husband who was called into work. Mrs. Wood stated all of the reports have been turned in today and he neglected to notify the office when he renewed his license that he would not be fishing until May.

Mr. Carpenter explained his first offense was in 2006 and he received a one week suspension on his hook and line license. Mrs. Wood said he's never used a striped bass tag or broken the laws. Chairman Bowes verified that all the reports have been received by fax today. Mr. Carpenter said, given that Mr. Wood is represented by his wife and all the reports have now been filed, staff's recommendation is changed to a two week suspension from July 1<sup>st</sup> to July 14<sup>th</sup> and probation for one year.

***A motion was made by Commissioner Bowman, seconded by Commissioner Schick and passed to accept staff's recommendation of a two week suspension from July 1<sup>st</sup> to July 14<sup>th</sup> and probation for one year.***

**Consideration of 2009 Female Crab Tagging Study**

Mr. Carpenter advised the Commission that the office has received a proposal from the Smithsonian Environmental Research Center to repeat the tagging study in the Potomac River again this year. The estimated budget for this project would be about \$13,000. The funds were not specifically budgeted for, but the Commission has a category called other contractual services that has the funds to cover the expenses. He felt the study is a valuable piece of information in dealing with the timing of the fall migration, and of recoupment for the rolling area closure strategy and staff would support the Commission approving this expenditure.

***A motion was made by Commissioner Rice, seconded by Commissioner Hall and passed with one abstention to move forward with this program, seeing that it's within the constraints of the budget.***

Mr. Carpenter questioned if the crabs were to be donated, would it reduce the cost of the project. He also questioned what happens to the reward money that doesn't get paid out during the one year project. Eric Johnson from the Smithsonian Environmental Research Center explained that that any money not used in the reward process could be returned to the Commission.

Commissioner Rice stated he abstained from the motion because he has participated in the program in previous years.

**Review of the Pre-payable Fine Schedule**

Capt. William Bates from the Maryland Department of Natural Resources Marine Police requested that the Commission review the pre-payable fine schedule. He has encountered several situations where some offences do not have pre-payable fines associated with them.

Mr. Carpenter stated the Commission has not reviewed the fine schedule since 2007. He suggested that the Commission give staff the authority to meet with law enforcement and legal council to go over the list and present a revised fine schedule at the next Commission meeting.

Chairman Bowes directed staff to move forward with that request.

**Executive Session – 4:45 p.m.**

Mr. Mayo asked for a motion to move into executive session to discuss legal matters. ***A motion was made by Commissioner Rice, seconded by Commissioner Schick and passed to move into executive session.***

**Reconvene – 5:00 p.m.**

***A roll call vote was taken and all Commissioners agreed that only legal matters were discussed during Executive Session.***

**Crab Pot Buy Back Program**

Mr. Carpenter explained that he and Commissioner Rice attended a meeting with some representatives from Maryland and Virginia and the subject of the meeting was the federal crab disaster funds. The PRFC did not receive any direct funding from that program. Mr. Carpenter thought the Commission should request funding from the two states, and funnel the money to the PRFC to institute a crab license buy back program. The initial plan would be to conduct a reverse auction then develop a counter offer on bids that were submitted. He advised staff would like the Commission's authority to request funds from the two states to conduct such a buy back program.

Commissioner Hall asked how much money is the Commission going to request from the two states. Mr. Carpenter recommended requesting \$100,000 from each state.

Commissioner Bowman stated he was a little uncomfortable as a Commissioner from the state of Virginia going down that road, because the grant application did not specify that would be something VMRC would undertake. He has no problem with the principal behind the plan, but is reluctant to approve the request without verifying from the federal government that it can be done.

Commissioner O'Connell agreed with Commissioner Bowman. He felt the necessary process would be to follow up with the National Marine Fisheries Service to see if this is an option within the congressional authorization of that funding. He thought it would be consistent with the intent of that money and would be optimistic that NMFS would support moving forward with that request.

Mr. Carpenter suggested the Commission submit a letter to each state requesting the money as the basis for requesting a clarification. Commissioner Bowman recommend including three items in the request letter, 1.) the Commission's intent, 2.) amount requested and 3.) asking for clarification if that's an allowable direction for Virginia and Maryland to go.

Commissioner Rice stated this happened several years ago when funding was given to the states, but watermen in the Potomac did not receive money from that previous program.

Commissioner O'Connell stated that when dealing with a reverse auction, use an economic analysis to determine what the value of that license may be. Then the agency who is conducting the auction can use that information as a threshold for which to buy licenses back.

**Date and Place of Next Meeting**

The next meeting is scheduled for Thursday, September 10, 2009 at 2:00 p.m. in the John T. Parran Hearing Room of the Potomac River Fisheries Commission Building.

**Art Display**

Mr. Carpenter announced the art show display is by three artists and does contain some childrens' work. He also advised the Commission that the Colonial Beach Elementary Art Club donated a piece of artwork that illustrated examples of fish from some ASMFC information, provided by the Commission.

**Adjourn**

The meeting adjourned at 5:08 p.m.

Respectfully submitted,

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Robert H. Bowes, Chairman

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Steven G. Bowman, Secretary