

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

March 15, 2012

Commissioners Present: Thomas J. O'Connell (MD) – Chairman, Dennis C. Fleming (MD) - Secretary, Ida C. Hall (VA), William L. Rice, Sr. (MD), Joseph C. Palmer, Jr. (VA), Robert H. Bowes (MD) and Kyle J. Schick (VA). Steven G. Bowman (VA) – Vice-Chairman, was unable to attend the meeting.

Officers Present: Kirby A. Carpenter – Executive Secretary, Ellen B. Cosby – Assistant Executive Secretary and Michael C. Mayo – Legal Officer.

Others Present: Act. Capt. Chip Vernon and Act. Lt. Frank Ditmars – MdDNR Law Enforcement; Capt. James Rose and 1st Sgt. Adam Friend – VMRC Law Enforcement; Michael Luisi, MdDNR; Joe Grist – VMRC; John Morris and Bobby Boarman – Crab Advisory Committee; Robert T. Brown – Finfish Advisory Committee; John F. Tucker Brown and Paul Springer – Oyster/Clam Advisory Committee; John Morris, III, Ray Gaskill, Jerry Decatur, Sr., Frank Swann, Reid Franklin, David Franklin, Randy Ragusa, Harry Boyden, Jerry Decatur, Jr. and several others who did not sign the guest register.

Chairman O'Connell called the meeting to order at 9:05 a.m. Mr. Mayo led the Pledge of Allegiance and Commissioner Schick provided the invocation.

Consideration of Minutes

A motion was made by Commissioner Hall, seconded by Commissioner Rice and unanimously passed to approve the minutes of December 2, 2011 as presented.

Mr Carpenter advised after the passing of Mr. Hutt, the Commission did send flowers and a sympathy card. The office received a thank you card and it was passed around for the Commission to read.

Oyster Harvest Report

Mrs. Cosby presented the oyster harvest report for the 2011-2012 season. There were 10 personal and 6 vessel hand scrape licenses sold to date. There have been no tong licenses issued this season. There has been \$321.50 collected in taxes and 320 bushels of oysters harvested. She noted the specific oyster bars, where the oysters were harvested, were located on the back page of the report. Oyster harvested by hand tong were for household use.

Blue Ribbon Oyster Panel Report

Mrs. Cosby stated the panel met on March 1st and it was a joint meeting with the Oyster/Clam Advisory Committee, as requested by the Commission. The meeting convened to address low participation on the Oyster Management Reserve Program, to address questions from industry and to discuss potential sources of seed. Mr. O'Connell asked the industry representatives why there was such a low number of people signed up for the program. Responses included: people were trying to raise the money; some confusion about the program; concerns about refunds; and some were waiting for the Commission to work out additional details. Some questions the panel addressed were 1) Can a boat captain purchase hand scrape licenses for one or two mates for the boat without naming the crew? 2) If license "rights" could be sold? 3) How will medical hardships be handled? 4) If investors were allowed to be in the program, should they be required to be aboard the boat? The panel discussed all these items. Dr. James Wesson suggested the panel may want to restructure the program, as it should be thought about in terms of shares, and not deal with any licenses. Mrs. Cosby explained that it would take regulatory action by the Commission to restructure the program in such a way. With regard to issuing licenses to unnamed crew members, it would also require a regulation change because licenses are issued to a natural person.

Dr. Wesson cautioned that there is a serious problem with water quality that the oyster hatcheries are dealing with this year. We may have a problem getting enough spat on shell to plant because there is a backlog of orders for larvae and we have low salinity conditions. Mrs. Cosby checked with some of the hatcheries and they seemed to be optimistic about being able to produce triploid seed for this year.

The panel also discussed proceeding with the management reserve program and, if needed, scaling back on the amount of seed plantings if there are not enough people signed up by the deadline, which is March 31, 2012. Currently there are 10 people in the program. If the Commission scaled back the management reserve program to five acres, we would have to be cautious on the number of people allowed in the program. The Commission needs to consider these ideas and if they want to proceed with the program or make changes to the program, they may want to review these changes and advertise for public hearing after the Blue Ribbon Oyster Panel and the Oyster/Clam Advisory Committee meet again to work out details on regulation changes. The surcharge fees could be refunded if the Commission so desires, if the program is canceled. The program could also be delayed a year if the Commission wants to wait to see if more people come forward. Staff would suggest extending the deadline to May 1st. Extending the deadline to September 30th would delay the process for one year. Staff discussed these results from the panel meeting and thought if there were interest from the industry, we should see more participation at this point. There are a couple of options that could be considered today; 1) extend the deadline to May 1st; or 2) cancel the program altogether.

Chairman O'Connell stated the main question is how do we want to proceed with this program. We have invested a lot of time and effort into developing this program and it does provide a great opportunity to establish some cooperative effort in the Potomac River to see if a sustainable public oyster fishery could be developed. If successful, this may yield to the expansion of the program or potentially aquaculture at some point. There has been a low participation rate so far.

The model indicates that the program requires 35 people, based on the goal of economic sustainability, and currently there are only 10 people signed up. Based on the Blue Ribbon Panel discussions, it seems like some of the issues that would increase participation would require regulatory changes. That may not take place until the June or September Commission meeting. If we are looking for a program in 2012, we're looking at keeping the March 31st deadline or extending it to May 1st. There are probably not going to be many changes that would influence people that haven't already signed up for the program. If the program is going to go forward this year, it's more than likely going to be scaled back. The other option is to continue working on this issue, see if we can work on regulations that may influence participation, and that may result in a delay of the program until 2013.

Commissioner Schick stated in light of the situation of obtaining seed that might be the determining factor of this program, we might be better off in delaying the project a year and work on straightening out some of these issues to get more participation. We really need a model showing that you can have a modest to large amount of people operating under this program. He would hate to go forward with a smaller program and not be able to get seed. He felt you could still allow people to enter three out of the four years and allow the first group to skip a year of paying into the program and move it to next year. This way the issue of obtaining seed could be addressed. At this meeting, the decision could be made if refunds of the surcharge should be issued if the program is canceled.

Commissioner Fleming questioned what are some of the proposed changes that were recommended to make this program more attractive. Chairman O'Connell explained a refund of the surcharge fee, extending the deadline to May 1st, allowing people to purchase additional licenses for crew members who have yet to be identified knowing that they will not start working for three to four years down the road, and the idea that maybe a person can purchase additional authorizations but not have to have them assigned to a crew member. There still seems to be some confusion as to what you have to pay to enter the program. There's still a desire for some greater level of detail as to what the program will look like.

Commissioner Rice questioned Mr. Carpenter if the management reserve program does not get off the ground, what direction should the Commission move toward with its own replenishment program and how much money is available for seed. Mr. Carpenter stated everyone is aware that the Commission has set aside money to help get the program started. If the Commission were to decide the level of participation was not adequate to continue, a couple of options could be considered. If the program is discontinued, the Commission should seriously consider using the money set aside to begin planting natural seed this spring. Seed plantings should be primarily in the middle and upper parts of the river on bars such as Cedar Point and Swan Point, to try to re-establish a native oyster population in those areas that are less prone to disease and hopefully far enough downriver that the risk of freshet is reduced as well. Mr. Carpenter based this recommendation on what the Commission did after Agnes in 1972, when 70% of the oysters in the river were killed by the fresh water runoff. The Commission closed the areas that were impacted the most and started planting shells in the lower river, where natural sets were occurring. As the lower river produced oysters, we began to repopulate the mid and upper river. He recommended launching a seed planting program in the middle and upper river as soon as possible to try and reestablish a sizable enough population, that when and if conditions for a

natural spat set occur, we may be in a position to take advantage of it. Currently \$200,000 is available for oyster replenishment, plus \$33,000 was raised this year from the commercial license registration, which is supposed to be dedicated to oyster funds. Next year's budget has not been developed, so we have to wait to see how much money would be available then.

Chairman O'Connell stated it is his perspective if the Commission was going to go down this pathway, then the Commission should still strive to maintain the goal of economic sustainability, and have some target objective that the Blue Ribbon Oyster Panel could evaluate and see if we could achieve that with the type of program that Mr. Carpenter described. Also some disease management issues would need to be considered, given that the disease experts have cautioned about moving seed from higher salinity waters into lower salinity waters.

Commissioner Palmer stated where he works, when aquaculture was first opened up, there were very few participants. Once the original participants started making money, there was a rush of people who wanted into the system. He would like to see the program go forward as soon as possible, even if it's with a few people. If they are successful, there will be a larger group following them.

Chairman O'Connell agreed with Mr. Palmer's statements. Mrs. Cosby stated if it pleased the Commission, she had a few model simulations that she reviewed with just ten people in the fishery and the area planted scaled back to five or six acres. Chairman O'Connell asked what the bottom line would be with that model simulation. Mrs. Cosby handed out two simulations for review and said she wasn't sure how self-sustaining the program would be at this low level. The first simulation was with ten people on a five acre area and the second was with a six acre area and the program models "crashed" using six acres. The model is very sensitive to the number of people on a small amount of area. She stated she had the computer model available if the Commission would like to review any other scenarios.

Chairman O'Connell noted that the first simulation showed an early year drop in the Commission's funds to manage the program and it does stabilize. He questioned the lower graph that shows the program starting out with ten participants and adding more people over time. Mrs. Cosby stated that is correct with adding two boats per year. Chairman O'Connell stated if the program did not obtain these two participants per year, then the growth would stay flat and would show a different projection in terms of economic sustainability. Mrs. Cosby agreed and stated it would crash.

Mr. Carpenter stated the program would stabilize but starting in 2013, if you were to run this model out three or four more years, it would collapse of its own weight even with the now 25 people required to be in it. Every year you are losing money in the program, you're just not losing as much as fast.

John F. Tucker Brown, member of the Blue Ribbon Oyster Panel and Chairman of the Oyster/Clam Advisory Committee felt this program would work using ten acres, with five acres on one area and five acres on the other area. If we need to extend the program for up to a year, that would be better than killing the program. The sooner we can get the program started, the better for everyone. Do not let this program die. There has been a lot of effort put into this

management reserve program and the future is changing for the water industry and we need for the Potomac to go along and change with it. It's not going to stay the same. There has been an excellent group of people working on this program. Please advise us today of the cut off date and you'll find out how the people will step up. If they don't step up then the Commission will have to come up with another plan. Let the industry make the choice and see what happens. This river can be built back but it can't be done on it's own. He feels if we have to go back to the 35 people and one license per person, then that's what we have to do. If they don't step forward by May 1st, then they aren't going to step forward, but he feels the Commission will get its 35 people.

Paul Springer, member of the Blue Ribbon Oyster Panel and member of the Oyster/Clam Advisory Committee spoke next. A few comments that he's heard from the Commission today sound very good to him. He liked the words "get it started" and "they will come" and he believes they will. It will sustain itself but you have to get it started. What's it going to take to get it started will be up to us to spread the information and get the program going. He is committed and has signed up for the program. Once you attract the watermen to go to work, they will sustain the river. Mr. Carpenter stated if you take the program out to 2018, the program will collapse. That is based on no future participation and if corporate entities become involved the program should continue. If the Commission would extend the deadline for a few more months or another year, allow us to see what we can do to educate the public and generate interest. This will be the best thing we can do for the Potomac River.

Chairman O'Connell thanked Mr. Springer and Mr. Brown for their time spent coming to the meetings and talking to the industry on this program.

Commissioner Rice asked if the Commission needs to act on the refund issue today. Mr. Carpenter stated that all of the people that have signed up for the program did sign a contract and did agree that there was no refund. One of the options the Blue Ribbon Panel looked at was refunding the \$300 surcharge if the program did not go forward. Commissioner Rice then questioned how far we can extend the program in order to have it start this year. Mr. Carpenter thought May 1st would be the cut off date for entering the program. That puts us in position to know how much money we have available and can start negotiations for purchasing seed to get the program started this year. Commissioner Rice thought that if the industry knew a partial refund were available, there should be immediate response into the program because it takes some of the risk out of the program. Mr. Carpenter stated the total cost to get into the program is \$505, and \$300 of which they could get back if the program does not go forward.

Chairman O'Connell questioned what would trigger the refund process. Mr. Carpenter suggested the number of people signed up by May 1st would trigger the refunds. Chairman O'Connell explained that once the Commission goes forward with a full or scaled back program and as soon as we start purchasing seed, that refund is null and void.

Commissioner Rice questioned if the Commission would consider a lesser amount of people and scale back the program. Mr. Carpenter explained when the models were developed, it was decided that 35 was the number of people needed to meet the criteria of being financially self-sustainable. If the Commission wants to start with a smaller program and fewer people, the

model simulations that were ran do not support a smaller program becoming self-sustainable. It's very sensitive to large numbers of participants in the first year to build the bank. You have to have the money up front. He strongly suggested going with the 35 people. If we don't get the 35 participants, the Commission meets in June and a decision can be made at that time.

A motion was made by Commissioner Schick, seconded by Commissioner Palmer to extend the sign up deadline to May 1st and strive for the 35 people to be involved and allow a refund of the surcharge based on the program being cancelled before seed is planted.

Commissioner Hall questioned if the Commission would be in a position to plant seed if the program does not go forward. Mr. Carpenter felt if there was not enough participation, the Commission has a couple of options to consider at the June meeting. If the 35 people come forward and sign up for the program, then it will be off and running. If we don't have 35 people entering the program, there are additional items that can be considered for public hearing such as delaying the start of the program by a year. At the same time, we could try to purchase natural seed from various sources and begin planting that on other bars. He felt that the Commission may want to consider that as well in addition to the management reserve program. Chairman O'Connell stated the third option would be to scale back the program.

Commissioner Bowes asked if the Commission had a guarantee on the availability of seed, Mr. Carpenter replied no. He noted there is a possibility that the 35 people will sign up and seed may or may not be available. Mrs. Cosby has spoken with a couple of hatcheries and they seem to be encouraged, but there are no guarantees in this world and when it comes to oysters, there are even fewer.

Chairman O'Connell advised that last year the hatcheries had a water quality problem with producing triploid oysters, which has created a backlog for demand this year. They are working hard to address these issues in order to improve production rates.

Commissioner Bowes stated we need to keep moving even if it takes a year to get moving. Chairman O'Connell felt the Commission is making progress and we need to keep moving this program forward and try to get something in the water to demonstrate it's ability to sustain this fishery.

Commissioner Rice questioned if the triploid seed is not available, are we limited to that type of seed or can we go with another type of seed. Chairman O'Connell responded that may be an option, but if triploid seed is not available, he suggested going back and looking at Dr. Miller's model with disease resistant strains.

Chairman O'Connell called for a vote on the motion, and it passed unanimously.

Commissioner Bowes wanted to verify that it was estimated to cost \$20,000 per acre to plant seed. Mr. Carpenter replied it was estimated at \$10,000 per acre. The initial plan was to plant 10 acres at a cost of \$100,000.

Commissioner Schick charged the Blue Ribbon Oyster Panel and the Oyster/Clam Advisory Committee to reconvene and come up with specific wording for regulation changes to be considered at the June Commission meeting for a possible September public hearing.

Chairman O'Connell stated the idea here would be to have the panel work on these other issues that the industry has raised that may influence greater participation rates to be presented at the June meeting. There was no objection from the Commission.

Crab Harvest Report

Chairman O'Connell stated the harvest was up at the beginning of the season but dropped off, which could be attributed to some of the summer storms and recognizing that the winter dredge survey results from this winter showed that the population had declined. Therefore, it was expected that the harvest would drop off once the season progressed. For the 2011 season there were 86,650 bushels of hard crabs harvested, 17,216 pounds of peelers harvested and 1,554 pounds of soft crabs harvested.

Crab Advisory Committee Report

Chairman Robert Boarman was present to provide the report to the Commission. He stated all committee member were present for the meeting as well as two Commissioners. The committee first received updates on the crab harvest report and the crab pot ID tagging program. Dr. Tom Miller gave a presentation on the crab stock assessment, but did not report on the 2011 winter crab dredge survey because it was not complete. Mr. Steve Early and Ms. Brenda Davis from Maryland Department of Natural Resources presented an overview on Maryland's Crab Vision Program. Mr. Early focused on the pilot electronic reporting program during his presentation. The committee discussed the 2012 crab season, which included upcoming female closures for the season. **The Committee recommended to the Commission to leave the female season closures as they were in 2011.**

There were four members' whose terms were due to expire in March 2012. All four committee members agreed to serve another term if appointed by the Commission. Under new business, there was a discussion about the depth of water allowed for crab pot long lines. **After a brief discussion the committee recommended changing the MLW restriction from 20' to 10' for a one year trial.** The committee then discussed doing away with Order 2011-06, Two Crab Pot Licenses on One Boat. There were mixed feeling in the room as to what to do with this Order. Half of the people wanted to keep the Order and half were in favor of doing away with it. **The committee recommended leaving the Order in effect for one more year, grandfathering 2011 permit holders and then phasing it out after that.** The meeting adjourned at 8:00 p.m.

Crab Pot ID Tagging Update

Mrs. Cosby stated all the tags and decals have been ordered and have been received. Those who paid shipping and handling were shipped their tags or decals this week and they should be delivered shortly. The tags and decals that are to be picked are ready to be picked up anytime during normal business hours. Mr. Carpenter added that there have been a few people that have

signed up since the last update and currently there are 334 active crabbers in the system. It was pretty evenly split between the people that wanted tags and the people that wanted decals. We expressed that this was an experiment this year to decide which type works the best and how it's going to work for the industry. We plan to evaluate the program as we go through the season to find out how well they are holding up.

Order 2012-06 – Crab Season

Chairman O'Connell stated the Crab Advisory Committee recommend status quo management for this order and noted the draft order was presented in the packet.

A motion was made by Commissioner Schick, seconded by Commissioner Hall and unanimously passed to adopt Order 2012-06 as presented.

ORDER #2012-06 (replaces 2011-07)

CRAB SEASON

THE POTOMAC RIVER FISHERIES COMMISSION, having found it necessary for the preservation of the crab population, having considered the protection, promotion, growth and conservation of the crab resources, and pursuant to its authority under Regulation I, Section 7(a) and Regulation VII, Section 4.

HEREBY DECLARES AND ORDERS: it shall be unlawful for any person to take or catch, or attempt to take or catch any crabs by any means in the Potomac River during the closed season(s) as follows:

- (1) Hard crabs:
 - i) Males and immature females – December 1 through March 31 next succeeding.
 - ii) Mature females –
 - a) Above St. Clements Island / Hollis Marsh from 9/20/2012 to 9/30/2012
 - b) Below St. Clements Island / Hollis Marsh from 10/4/2012 to 10/14/2012
- (2) Soft crabs – October 31 through April 30 next succeeding.
- (3) Peeler crabs – October 31 through April 30 next succeeding.

IT IS FURTHER DECLARED AND ORDERED: it shall be unlawful to set, fish or use in the Potomac River any:

- (1) Crab pots – December 1 through March 31 next succeeding.
- (2) Trotlines and dip nets – December 1 through March 31 next succeeding.
- (3) Peeler traps – July 1 through April 30 next succeeding.

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2012-06 shall become effective April 1, 2012 and remain in effect until further notice.

Consideration of Advertising for Public Hearing for Regulation Change

Reg. VII, Sec. 5(d) – Crab Pot Longlines Chairman O'Connell stated this request is to change the depth restriction from 20' to 10' MLW for one year as a pilot program. He questioned staff if there was any major conflict with this request. Mr. Carpenter explained when the regulation was

originally adopted, it was 30' MLW or greater and was restricted to April and May and October and November. Over time, the regulation has been modified so that it can be used for the entire season in 20' MLW. Now the request is for 10' MLW. Chairman O'Connell felt if the Commission was to go forward with a public hearing, there would be an opportunity to hear about user conflicts at that time.

Commissioner Bowes stated last year the request was for 12' MLW and the 20' MLW came as a compromise, so there would not be a conflict between the crabbing industry and the shallow water fishing industry.

Chairman O'Connell asked if there were comments as to how opening this additional area may influence the catch, recognizing that we are trying to stay below the harvest target. Mr. Carpenter stated that the longline operation is more efficient, but the number of pots set is still the same. He was not able to comment on the economic aspect.

Commissioner Bowes stated what came out of the advisory committee was that it wasn't a request for the lower river, but it was a request for the upper river.

A motion was made by Commissioner Rice, seconded by Commissioner Hall and unanimously passed that due to the cost of public hearings, this item should be tabled until there are additional public hearing items to be advertised.

Order 2012-07 – Two Crab Pot Licenses on One Boat

Chairman O'Connell stated the Crab Advisory Committee recommend for this Order to continue for one more year and phase it out.

Commissioner Rice felt it would be wise to take public comment before the Commission discusses this issue because it will provide us the information we need to hear from the public before we make a decision.

Robert T. Brown, Chairman of the St. Mary's Watermen's Association felt the Commission should keep this Order in place because they would like to see two people working from a boat. As you know, we are not getting any younger and having two people work together is a good idea. The price of gas was the original reason for this Order, but we need this Order in place for safety reasons too. It doesn't impact the amount of pots that are allowed to be set and the Commission should also consider allowing two crabbers to work together, similar to gill netting.

Harry Boyden agreed with Mr. Brown and felt the watermen are getting older and he would like the opportunity to use this permit in the future. He supports keeping this Order in place.

Samuel Frank Swann, III utilizes this permit and agreed with the other comments and supports keeping the Order in place. He crabs with his son and just because the fuel costs have stabilized, doesn't mean they still aren't high. Obviously if we had to crab separately, it would cause us to hire help and would increase expenses. He felt in some instances crabbing together could reduce the number of pots set in the river. He also felt it was not fair to limit to the five permits that

were issued last year. He would like to see more people take advantage of this permit. David Franklin stated he has not been able to utilize this permit because his son will not qualify until this season. He had a new boat built so they could work together. It will make things easier all the way around. As it's proposed now, he would not get the opportunity to use the permit this year if only last year's participants are granted. He would like to keep the permit in place and that the opportunity to take advantage of it. As for people abusing the permit, he felt like the crab pot ID tagging system should help with that situation.

John Morris, III agrees with everyone's previous comments. He explained he and his father use the permit and gas is not the only issue when it comes to this permit. As a waterman, the price of everything we use has gone up in a year. We are trying to make our business more profitable and with the prices going up, it would greatly benefit the people to take advantage of this permit. He doesn't feel that it's hurting the industry. It's a tool that allows us to better ourselves. He asked the Commission to reconsider and continue the permit.

Paul Springer felt he played a large part in getting this Order implemented. He was involved because he wanted to crab with his son and we thought it was the right thing to do. He explained the vast majority of people who attended the Crab Advisory Committee meeting were in favor of keeping the Order in place. Today's commits are also in favor of keeping it. With regards to abuse, there has been no abuse that he's aware of. Most people who take advantage of it are family members working together. He urged the Commission to keep the Order in place and allow the watermen to work together.

John Morris added that this practice is allowed in Maryland and he feels it doesn't hurt anyone or the resource by working together. He then asked the Commission to see about allowing replacement ID tags to be ordered over the phone. By doing this it will cut down on time, expenses and a days work. Chairman O'Connell suggested following up with Mr. Carpenter after the meeting about this issue.

Chairman O'Connell stated everyone that spoke was in favor of keeping the Order in place based on economical efficiencies, business costs and increase in gas, reduction of crew members that are needed, the age of watermen and an interest to fish with family members. The thing he struggles with is that this may be getting abused and he doesn't understand what those abuses are and how can we address them. He asked Mr. Carpenter or the Commission to advise what the abuse is and is there is any remedy for that abuse.

Mr. Carpenter stated he would not speak to the abuse issue because he feels that's something you have to witness while you're out there working. This Order is an exemption to the existing regulations that the Commission went through a deliberate process to develop a number of years ago. They required single, individual persons owning licenses and the essence of the regulation is one person, one boat, one license. That was the will of the industry at the time. This has become a subject that was created when Katrina hit in 2005 and fuel prices spiked. The Commission enacted it as an emergency Order for the balance of the crab season. It's been renewed every year since then with the conditions and criteria changing a number of times to accommodate the growth of the Order. If the Commission wants to keep this Order in place you simply take no action today and it continues as it was last year and into the future.

Chairman O'Connell stated it's clearly an Order that exempts the regulation. Another option would be to make this a regulation and stop dealing with this issue every year.

Commissioner Hall stated when this Order was drafted a lot of time was put into it. There was a lot of emphasis on keeping the fishery a traditional fishery and that was why we address the licensees to be natural persons (individuals). She doesn't see where that would be an issue and as for the abuses she would hope that the accountability with the tagging system would reduce that problem. She supports this Order based on all the comments received today and would like to see it stay in place.

Commissioner Schick stated he has heard about possible abuses with this system. He feels the same conditions exist today that existed back when this started. Even more so with the price of everything going up. He stated the Commission is still keeping the spirit of that traditional waterman concept even if they are on the same boat or separate boats. The independent watermen is still working the water. He suggested not taking any action today and adding this item to be considered for a future public hearing and making it a regulation.

Dennis Fleming confirmed that Mr. Boarman reported that there were mixed feelings as to what to do with this Order from people who attended the Crab Advisory Committee meeting, yet everyone here today has spoken in favor of the Order. Mr. Boarman stated he cannot speak for the ones who are not in favor of it. Commissioner Fleming stated Mr. Boarman also stated he received numerous calls about abuses taking place with this Order. Mr. Boarman explained he wished some of these people who attend the advisory committee meetings and become involved in making these tough decisions. The biggest problem with the abuse is you have people using the system, two licenses on one boat, but they are also using another boat. They use one boat with the permit, and then use other boats to crab as well. They are being seen out there crabbing in other boats. Chairman O'Connell questioned what the concern is about that. Mr. Boarman explained once you get the permit, they are not allowed to work from any other boats or they are in violation of the permit. He's not sure if it's being done but it's what is being expressed to him. Chairman O'Connell asked if Mr. Boarman knew of a solution to rectify the situation. Mr. Boarman stated he didn't know and suggested staff to check into it.

Commissioner Fleming referred back to the Crab Advisory Committee meeting in February and asked for Mr. Carpenter to explain his reasoning behind corporate ownership and what that has to do with two licenses on one boat. Mr. Carpenter explained the idea of the corporate ownership came up a few years ago when one particular crab buyer controlled 3 or 4 different licenses. This is a model that is done in other parts of the world where the buyer controls the license, owns the boat and the gear. He has all the capital investment and hires crew members to work. That is what prompted the Commission to enact the one license, one person, one boat concept, as way to discourage corporate or a buyer dominated industry.

Commissioner Palmer stated when you look at the public, they don't realize how much it costs to work on the water. It's a business and it's about profitability. When you look at major corporations, when they look at rising costs, they have the opportunity to outsource. They go somewhere else where it's cheaper. The watermen here can't do that, we have to work for

ourselves. Two men and one boat equal less expenses. He doesn't see a problem with keeping the Order in place.

Commissioner Rice felt the possible abuse situation was a law enforcement issue. If there is any abuse at all would certainly be an isolated case and suggested to the people that think the abuse is occurring, to contact the proper authorities and let them take action. That's what we have law enforcement for and they do an excellent job. This whole situation is very similar to the oyster management program we are trying to institute. There may not be much participation now, but as time goes on the participation will increase due to the fact that crabbers are getting older. He is part of the Blue Crab Design Team in Maryland and one of the major things they are working on is flexibility within the fishery and this demonstrates exactly that. It's been stated that it may eliminate gear from the water. Hearing support from most of the Commission members if not all, he suggested moving forward and keep this Order in place. He suggested to consider this item for advertisement as a regulation change to make it a permanent structure. There has been a lot of changes since 2005 and we have to provide a certain amount of tools for a waterman to work by and this is just one that a lot of people will utilize in the future.

The Commission took no action on Order 2012-07, which will keep Order 2011-06 active until further notice.

A motion was made by Commissioner Rice, seconded by Commissioner Bowes and unanimously passed to move forward with a regulatory hearing on this matter.

Commissioner Bowes stated there was no rush to advertise and we should not do so until there are enough items to go to public hearing with.

Chairman O'Connell stated he was trying to see if there was a remedy to the potential abuse that may be taking place. He suggested staff and the Crab Advisory Committee address this issue. Mr. Carpenter suggested law enforcement to work with us as well.

Chairman O'Connell questioned if Mr. Morris's issue could be followed up outside of the meeting. Mr. Carpenter stated the Commission does not take credit or debit cards but would consider allowing someone to mail a check with the amount of replacements requested. If the Crab Pot Loss Incident Report Form is required, that is available to print out from the PRFC website and can be mailed in as well. He felt the office could handle this situation.

Commissioner Bowes stated he had another issue he would like to address and that is why the replacement decals are \$1.00 when the original order was .10¢ per tag/decals. Mr. Carpenter stated that's what the regulation stipulated when it was adopted. Chairman O'Connell stated there's an incentive not to lose those tags/decals and there is a higher cost to replace them.

2011 Finfish Harvest Report

Mrs. Cosby noted that the 2011 Finfish Harvest Report was included in the packets. The report showed that striped bass ranked first on pounds harvested as well as dockside value. It was followed by catfish and is a repeat from last year's rankings and values for the top two.

Historical data was provided for comparison with minimum and maximum years identified for each species. An average of all the years was computed. The menhaden landings of 2,901,197 pounds exceeded the total food fish landings of 1,638,605 pounds. There were no questions from the Commission concerning the report.

Finfish Advisory Committee Report

Robert. T. Brown, Chairman of the Finfish Advisory Committee, gave the Finfish Advisory Committee report to the Commission. He stated the committee reviewed Order 2012-03 with regard to season, size and creel limits for recreational summer flounder and black sea bass. The committee was charged with deciding which size limit to go with from options provided from Maryland and Virginia. After discussions on both species, the committee recommended Virginia's option C for an open season all year, 17" minimum size limit and a four fish creel limit for summer flounder. For black sea bass they recommended a season of May 19th to Oct. 14th and Nov. 1st to Dec. 31st with a 12 ½" minimum size limit and a 25 per person creel limit.

The committee reviewed Order 2012-04, which updated several items dealing with commercial black sea bass, red drum, river herring and summer flounder for the commercial fishery. The only change by the committee is to recommend the pike or chain pickerel commercial fishing season size and catch limit stay status quo. It had been drafted to limit the commercial fishery to one fish a day.

The committee was informed that staff went before the ASMFC's Shad and River Herring technical committee and management board to request the approval for an increase of shad by-catch for pound nets and gill nets. The PRFC request was approved by ASMFC and was reflected in Order 2012-05.

Next the committee had a lengthy discussion on restricting pound net license transfers during the open season. There were many who felt this issue could not be decided today and the committee developed a pound net sub-committee consisting of staff, committee members and law enforcement to present recommendations at the next Commission meeting.

Under new business, the committee was told that Atlantic sturgeon had been placed on the endangered species list and petitions had been filed to place river herring and American eel on the endangered species list as well. It was noted there would be ASMFC public hearings on Atlantic menhaden to seek input as to how it should be managed in the future. Elgin Nininger wanted to discuss the Commission's decision to enforce Order 2011-02 as written, which resulted in some watermen being denied striped bass tags for miscellaneous gears. After an explanation from staff, Chairman Brown requested that this issue be placed on the agenda for the next Finfish Advisory meeting. The meeting adjourned at 8:00 p.m.

Order 2012-03 – 2012 Recreational and Charter Fishing Season, Size and Catch Limits

A motion was made by Commissioner Schick, seconded by Commissioner Bowes to establish the Black Sea Bass as presented and Summer Flounder would mirror Virginia's option D (open season, 16 ½" size limit and a 4 fish creel limit).

Chairman O'Connell stated Maryland is looking at a 17" size limit, a 3 fish creel limit and a season of April 14th through December 15th for summer flounder. Mr. Carpenter advised that there was some concern at the Finfish Advisory Committee about being more conservative than the absolute minimum that we could be in order to protect some fish. There was some feeling that 17" was a reasonable number. He has since talked to one of the committee members and after learning what Virginia's option was, he suggested going with a 17" size limit and a 3 fish creel limit to choose one option from each state.

Commissioner Fleming stated that if someone were to catch a 16 ½" summer flounder in the Potomac River, they should be able to keep it.

Chairman O'Connell called for the vote of the motion and with 6 in favor and 1 opposition, the motion passed as follows:

O R D E R #2012-03
(replaces 2011-03 "Revised")

**2012 RECREATIONAL and CHARTER
FISHING SEASON, SIZE AND CATCH LIMITS**

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

<u>Species</u>	<u>Season</u>	<u>Size Limit</u>	<u>Catch Limit</u>
American Eel	Jan. 1 - Dec. 31	6" min.	50 per person
Atlantic Croaker	Jan. 1 - Dec. 31	No limit	25 per person
Black Bass (Large or Small Mouth)	March 1 - June 15	15" min.	5 per person
	All other times	12" min.	5 per person
Black Drum	Jan. 1 - Dec. 31	16" min.	1 per person
Black Sea Bass ⁽¹⁾	May 19 – Oct. 14 and Nov. 1 to Dec. 31	12 ½" min.	25 per person
Bluefish	Jan. 1 - Dec. 31	No limit	10 per person
Catfish: Bullhead	Jan. 1 - Dec. 31	6" min.	No limit
Channel	Jan. 1 - Dec. 31	8" min.	No limit
White	Jan. 1 - Dec. 31	10" min.	No limit
Blue	Jan. 1 - Dec. 31	No limit	No limit
Pike or Chain Pickerel	Jan. 1 - Dec. 31	14" min.	No limit
Red Drum	Jan. 1 - Dec. 31	18" min. – 25" max.	5 per person
River HerringC L O S E D		
Shad (American or Hickory)C L O S E D		
Snakehead ⁽²⁾	Jan. 1 – Dec. 31	No limit	No limit
Spanish Mackerel	Jan. 1 - Dec. 31	14" min.	15 per person
Spot	Jan. 1 - Dec. 31	No limit	No limit
Spotted Sea Trout	Jan. 1 - Dec. 31	14" min.	10 per person
Striped BassP U B L I S H E D S E P A R A T E L Y		
Sturgeon (Atlantic or Shortnose)C L O S E D		
Summer flounder	Jan. 1 - Dec. 31	16 ½" min.	4 per person
Tautog	Jan. 1 - Dec. 31	14" min.	No Limit

Weakfish	Jan. 1 - Dec. 31	12" min.	1 per person
White perch	Jan. 1 - Dec. 31	6" min.	No limit
Yellow perch	Jan. 1 - Dec. 31	9" min.	5 per person

(1) – **Black Sea Bass** – The tail filament is not to be included in the total length of the fish.

(2) – **Snakehead** – It shall be unlawful to possess a live snakehead fish (of the family *Channidae*) only so long as necessary to **kill the fish** as specified in Order 2010-06.

AND, IT IS FURTHER DECLARED AND ORDERED: this Order #2012-03 shall become effective March 25, 2012, shall supersede and repeal Order #2011-03 “Revised” and remain in effect until further notice.

Order 2012-04 – 2012 Commercial Fishing Season, Size and Catch Limits

Chairman O’Connell stated this Order addresses the size and creel limits for black sea bass, pike or chain pickerel, summer flounder, as well as, the possible closure for river herring.

Commissioner Rice questioned why the pike or chain pickerel catch limit went from no limit to one fish, so would that be considered a by-catch? Mr. Carpenter stated yes, that’s what the proposal called for. Commissioner Rice felt that was low for a by-catch when handling a lot of fish. He felt since there was no limit for recreational fishermen, the commercial limit should be a five fish creel limit instead of a one fish creel limit.

A motion was made by Commissioner Rice, seconded by Commissioner Schick to adopt Order 2012-04 as presented with the exception of changing the Pike or Chain Pickerel catch limit to five fish.

Chairman O’Connell asked what the Finfish Advisory Committee recommended for this issue. Mr. Brown stated no change to the catch limit, which would be to leave it at no limit.

Commissioner Fleming asked what the harvest records show for pike or chain pickerel. Mr. Carpenter stated there are no records for any commercial harvest of pike or chain pickerel.

Chairman O’Connell questioned if there was a new market developing. Mr. Carpenter stated that is a recreational hook and release fishery using light tackle that is developing in the winter months. This is the reason it was brought to the Finfish Advisory Committee. Chairman O’Connell verified that there is no new commercial market developing. Mr. Carpenter stated he did not know of any.

Chairman Bowes stated if they aren’t being caught, then why worry about them.

Chairman O’Connell called for the vote and with 4 in favor and 3 oppositions, the motion failed.

Commissioner Bowes stated he voted against the motion because he feels the catch limit for pike or chain pickerel should be left alone. Commissioner Hall agreed with his comment. She feels it’s a moot point and the idea of making it a game fish is something this Commission should not

get involved with. We manage the fisheries for all users in the river. If this was a fish that needed to be managed because of over harvesting, then it should be addressed.

Commissioner Rice stated the reason he changed the catch limit from one to five fish, was in the spirit of cooperation and setting the number to be considered a reasonable by-catch. He supports Commissioner Bowes and Commissioner Hall's previous comments.

Commissioner Fleming stated this is a non-issue, but when the majority of the funding comes from recreational fishing licenses, we should recognize their contribution and come out looking more recreationally friendly. The Commission will sell more licenses and revenue is going to become a bigger issue in the future. In essence, whatever we do here today, makes no difference because there is no known pike or chain pickerel harvest.

Chairman O'Connell explained the reason he supported the motion was recognizing the value of this current recreational fishery, it doesn't sound like there's a commercial market developing. Allowing five fish does compensate for a by-catch, but keeps it in a balance before a fishery develops and then it's harder to deal with these issues later down the road.

A motion was made by Commissioner Bowes, seconded by Commissioner Hall to adopt Order 2012-04 as presented with the exception of changing the catch limit for Pike or Chain Pickerel to no limit as it previously was. The motion passed with 6 in favor and 1 opposition.

O R D E R #2012-04
(replaces 2011-04 "Revised")

**2012 COMMERCIAL
FISHING SEASON, SIZE AND CATCH LIMITS**

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

<u>Species</u>	<u>Season</u>	<u>Size Limit</u>	<u>Catch Limit</u>
American Eel	Jan. 1 - Dec. 31	6" min.	No limit
Atlantic Croaker	Jan. 1 - Dec. 31	No limit	No limit
Black Bass (Large or Small Mouth)		C L O S E D	
Black Drum	Jan. 1 - Dec. 31	16" min.	1 fish
Black Sea Bass*	Jan. 1 - Dec. 31	11" min. ⁽¹⁾	No limit*
Bluefish*	Jan. 1 - Dec. 31	No limit	No limit*
Catfish: Bullhead	Jan. 1 - Dec. 31	6" min.	No limit
Channel	Jan. 1 - Dec. 31	8" min.	No limit
White	Jan. 1 - Dec. 31	10" min.	No limit
Blue	Jan. 1 - Dec. 31	No limit	No limit
Pike or Chain Pickerel	Jan. 1 - Dec. 31	14" min.	No limit
Red Drum	Jan. 1 - Dec. 31	18" min. - 25" max.	5 fish
River Herring		C L O S E D	
Shad (American or Hickory)		C L O S E D	
Snakehead	Jan. 1 - Dec. 31	No limit ⁽²⁾	No limit
Spanish Mackerel*	Jan. 1 - Dec. 31	14" min.	No limit*
Spot	Jan. 1 - Dec. 31	No limit	No limit
Spotted Sea Trout	Jan. 1 - Dec. 31	14" min.	No limit
Striped Bass		P U B L I S H E D S E P A R A T E L Y	

Sturgeon (Atlantic or Shortnose)	C L O S E D	
Summer flounder**	Jan. 1 - Dec. 31	14" min.	41,843**
Tautog	Jan. 1 - Dec. 31	14" min.	No limit
Weakfish***	July 28 - Dec. 31	12" min.	50 lbs / day***
White perch	Jan. 1 - Dec. 31	6" min.	No limit
Yellow perch	Jan. 1 - Dec. 31	9" min.	No limit

(1) – **Black Sea Bass** – The tail filament is not to be included in the total length of the fish.

(2) – **Snakehead** – It shall be unlawful to possess a live snakehead fish, (of the family *Channidae*) only so long as necessary to **kill the fish** as specified in Order 2010-06.

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

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

*****BE IT FURTHER DECLARED AND ORDERED:** that subject to the provisions of the ASMFC Weakfish Management Plan pound netters are permitted to possess no more than 50 lbs. (1 bushels) of legal size weakfish from February 15th through July 27th. The allowance must be less than or equal to the poundage of other lawfully harvested species.

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2012-04 shall become effective March 25, 2012, shall supersede and repeal Order #2012-04 and remain in effect until further notice.

Order 2012-05 – American Shad By-Catch Provision

Chairman O’Connell stated ASMFC gave the approval to the Commission to increase the by-catch of American shad for gill nets and pound nets from one standard bushel to two standard bushels.

Mr. Carpenter noted that the effective date on this Order is March 26, 2012, thus it would not be in effect the gill netters this season, but would be in place for the pound netters.

A motion was made by Commissioner Rice, seconded by Commissioner Hall and passed with 6 in favor and 1 in opposition as presented.

O R D E R # 2012– 05

AMERICAN SHAD BY-CATCH PROVISION

THE POTOMAC RIVER FISHERIES COMMISSION, having considered the protection, promotion, growth and conservation of the American shad resources; and pursuant to its authority under Regulation I, Section 7(a) (2); and subject to approval of the PRFC’s Request for an Increase in the Limited Commercial By-catch Allowance granted by the ASMFC on February 7, 2012; **HEREBY DECLARES AND ORDERS:**

- a) That the tolerance specified in Regulation III, Section 11 (c) (2) for pound nets shall be 2% by volume of the total catch in possession, not to exceed two (2) standard bushels per licensee, of American or hickory shad shall be allowed.

- b) That the tolerance specified in Regulation III, Section 11 (c) (3) for gill nets shall be two (2) standard bushels per licensee, of American or hickory shad shall be allowed.

AND IT IS FURTHER DECLARED AND ORDERED: this Order 2012-05 shall become effective March 26, 2012, and remain in effect until 12/31/2012.

Summary of the ASMFC Annual Meeting

Chairman O'Connell noted there was a handout of the minutes from the ASMFC annual meeting in the packets. He asked if there were any questions related to the last meeting and what's forthcoming at the spring meeting.

Mr. Carpenter asked the Commissioner if they were receiving ASMFC's newsletters that announce the meetings and where they take place. Commissioner Palmer stated he wasn't and Mr. Carpenter advised he would be added.

Chairman O'Connell stated the only thing he would point out is that Atlantic menhaden is a topic of interest for ASMFC right now. There are public hearing meetings being scheduled for both Maryland and Virginia in the coming weeks.

Commissioner Fleming stated in light of what's taken place with sturgeon, are there going to be implications to our gill net and pound net fisheries as a result. Mr. Carpenter stated as soon as we found out about the Federal actions, staff mailed notices to all licensed gill netters and pound netters advising them that sturgeon have been placed on the endangered species list and they are not allowed to keep any and must immediately release them unharmed. The reward program that had been in place has been discontinued.

Chairman O'Connell stated he could add a little more detail stating there are a lot of questions being sent to the NMFS from ASMFC. This listing becomes effective April 26, 2012 and after that point if you are in possession of a sturgeon, you are in violation of the Endangered Species Act. Questions regarding how the states will apply for a Section 10, Incidental Take Permits have risen, and it has been known to take two to five years to obtain this permit. What's going to happen in the interim, there's a meeting next week to allow the states to have a conversation with the NMFS to address their questions. The states are advocating for a delay in implementation to give the states time to address these section 10 Incidental Take Permits.

Mr. Carpenter added that there has also been a petition to list river herring and American eel on the endangered list as well. As for American eel, he noted that 2012 is going to be a record YOY event and it's not just here, it's broadly based along the coast. This is from some very early preliminary results.

Second Quarter Disbursements and Cash on Hand

A report of the second quarter disbursements (October through December) for the operational budget was presented, by budget item, totaling \$147,342. A report of the cash-on-hand was presented showing \$570,419.19 as of March 12, 2012. There were no unusual items to note at this time.

A motion was made by Commissioner Rice, seconded by Commissioner Schick and unanimously passed to adopt the second quarter disbursements and cash-on-hand as presented.

Delinquent Seafood Catch Report Hearing

Kevin R. Bowen – Absent – Mrs. Cosby stated Mr. Bowen provided a letter stating he could not be in attendance today. This is Mr. Bowen's first offence and his catch reports were filed one week prior to today's hearing. Staff recommendation would be one year of probation. Mrs. Cosby also noted that Mr. Bowen has not renewed his crab pot license for 2012, but does have until April 30th to renew with late penalties.

A motion was made by Commissioner Schick, seconded by Commissioner Rice and unanimously passed to place Mr. Bowen on probation for one year..

Ray E. Gaskill, III – Mrs. Cosby stated this is Mr. Gaskill's first offence and his reports were filed one week prior to today's meeting. Staff recommendation would be one year of probation. Mr. Gaskill has not renewed his crab pot license for 2012.

Mr. Gaskill stated he didn't crab last year and he mailed in a report stating so and the Commission did not receive it. He was receiving the notices but ignored them because he thought everything was taken care of. Mr. Carpenter asked why he didn't call if he was receiving all the late notices. Mr. Gaskill felt he had done what he was suppose to do and thought no more about it.

A motion was made by Commissioner Schick, seconded by Commissioner Palmer and unanimously passed to place Mr. Gaskill on probation for one year.

Report of the Nominating Committee

Commissioner Schick presented the Nominating Committee's report, nominating Commissioner Palmer as Chairman, Commissioner Fleming as Vice-chairman and Commissioner Hall as Secretary for 2012.

A motion was made by Commissioner Schick, seconded by Commissioner Rice and unanimously passed to close nominations and cast a single vote for the committee's nominations.

Chairman Palmer asked Commissioner O'Connell to finish the rest of today's meeting.

Advisory Committee Vacancies

Mr. Carpenter advised this is a list of vacancies that are due for renewal. We are seeking nominations for additional consideration. All members on the list have agreed to serve another term. The incoming Chairman will review the nominations and appointments will be made at a later time.

Appointment of the FY 2012-2013 Budget Committee

Commissioner Fleming and Commissioner Hall volunteered to be on the Budget Committee. Chairman Palmer stated he was in full support of that.

Date and Place of Next Meeting

The next Commission meeting is scheduled for Thursday, June 7, 2012 at 9:00 a.m.

Executive Session – 11:20 a.m.

A motion was made by Commissioner Schick, seconded by Commissioner Bowes and passed to immediately recess into closed session to discuss legal matters.

Reconvene – 11:58 a.m.

A motion was made by Commissioner Schick, seconded by Commissioner Hall that only legal matters were discussed during Executive Session. A roll call vote was taken and each Commissioner agreed.

Jerry L. Decatur, Sr.

Mr. Mayo asked Mr. Decatur why he was here today. Mr. Decatur stated he was before the Commission in effort to try and get his license(s) back. Mr. Mayo stated there is pending litigation, which your attorney filed and until that is resolved; the Commission can not have a hearing on this matter. Mr. Decatur stated that he doesn't know what's going on with the lawsuit. He stated he hasn't talked to a lawyer in fourteen months.

Mr. Decatur, Sr. asked the Commission if he could have a copy of the lawsuit, stating that he didn't have anything and doesn't know anything about a law suit. Mr. Mayo stated he would provide a copy of the law suit to Mr. Decatur by mail.

Jerry L. Decatur, Jr.

Mr. Mayo stated the same thing to Mr. Decatur, Jr., that until pending litigation is completed; the Commission can not hear these matters. Mr. Mayo also stated that by Mr. Decatur, Jr. not appearing at the show cause hearing, that offered him the opportunity to present a defense, he waived coming before the Commission at a later time. The Commission is not going to hear this again.

Mr. Decatur, Jr. stated he is here to see about getting his licenses back to fish and crab in the Potomac River. Mr. Mayo stated the same elements, we can't make that determination here today at all. There are pending law suits and also you waived your opportunity by not appearing at the show cause hearing.

Mr. Decatur, Jr. apologized to the Commission and stated that he has worked with his father his entire life. He understands that it's his responsibility and his licenses, but his father was the one who kept up with his licenses. Mr. Mayo interrupted and stated that the Commission was not going to proceed today.

Commissioner O'Connell stated because of the pending law suites, the Commission is not going to take any public comment on this matter. The Commission is not in a position to hear public comment at this time.

Adjourn

The meeting adjourned at 12:03 p.m.

Respectfully submitted,

Joseph C. Palmer, Jr., Chairman

Ida C. Hall, Secretary