

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

September 12, 2014

Commissioners Present: Ida C. Hall (VA) – Chairman, Thomas J. O’Connell (MD) – Vice-Chairman, William L. Rice, Sr. (MD) – Secretary, John M.R. Bull (VA), Dennis C. Fleming (MD), S. Lynn Haynie (VA), Phil L. Langley (MD) and A. J. Erskine (VA).

Officers Present: Martin L. Gary – Executive Secretary, Ellen B. Cosby – Assistant Executive Secretary and Michael C. Mayo – Legal Officer.

Others Present: Lt. Shawn Garren – MDDNR Law Enforcement; Capt. James Rose, 1st Sgt. Herbert Bell and Ofc. Mike Simms – VMRC Law Enforcement; Dr. Troy Tuckey – VIMS; Paul Springer – Oyster/Clam Advisory Committee; Elgin Nininger and John Morris – PRFC Crab Advisory Committee; John Dean, John Hartline, Sam Dorough, Bill Kilinski and several others who did not sign the guest register.

Press: None

Chairman Hall called the meeting to order at 9:03 a.m. She welcomed everyone in attendance and advised everyone to silence their cell phones for today’s meeting. Commissioner Haynie led the Pledge of Allegiance, and Commissioner Erskine provided the invocation.

Consideration of Minutes

A motion was made by Commissioner Fleming, seconded by Commissioner Rice and passed to adopt the minutes of June 12, 2014 as presented.

Violation Hearing

Sammie Dean Dorough

Mr. Gary advised that there are two violation hearings scheduled for today, Sammie Dorough and Nathan Gaines. A supplement packet was handed out to the Commissioners concerning these two cases. As part of the packet, a chronological timeline of events was provided to help everyone understand what’s taken place up to this point. Mr. Gary called Mr. Dorough to the stand, and then reviewed the timeline of events for Mr. Dorough as follows:

- 1) Mr. Dorough was called to come before the PRFC at its December, 2013 meeting for submitting late crabbing reports in 2013. Mr. Dorough failed to appear at the December, 2013 Commission meeting and as a result, all of his licenses were immediately suspended (crab and eel pot) until he appears before the Commission.

- 2) Mr. Dorough appeared before the Commission at the March, 2014 meeting of the Commission. The Commission suspended his crabbing license for one week (first week of June, 2014) and assigned him one year of probation.
- 3) Mr. Dorough started the 2014 crabbing season in April, and from the onset had multiple irregularities with his reports, including late reports, an early report (which reported for days that had not occurred), inaccurate ports of landing, inaccurate location of crabbing activity, and unrealistic crab catches.
- 4) Mr. Dorough left his crab pots in the water during the first week of June (by policy, PRFC requested all gear be removed from the water during the suspension time frame). Freshly baited pots were found off the Dahlgren shoreline, and Mr. Dorough was cited for crabbing without a license by VMRC law enforcement (Officer Simms).
- 5) In late June, after Cathy Friend indicated Mr. Dorough's last reports were turned in late May, Mr. Gary attempted to contact Mr. Dorough in order to discuss his reporting irregularities. After several missed calls and voice mails, Mr. Gary was able to contact Mr. Dorough and instructed him to come into the PRFC office to "fix" his reports (accuracy). Mr. Gary gave Mr. Dorough a deadline of 4:30 PM on 7/8/2014. Mr. Dorough complied, came to the PRFC office, and corrected his reports on 7/8/2014. Mr. Gary mentioned to Mr. Dorough that due to reports being submitted late while on probation, he would be summoned to the Commission meeting in September.
- 6) Mr. Dorough was assigned a court date of July 9th to appear in King George District Court for the citation he was issued for crabbing without a license (he had been suspended by the Commission during the first week of June). He requested and was granted a continuance until a later date because he told the District Court he could not get out of work that day. ***Note: Mr. Dorough met Mr. Gary on the Day he told the District Court he could not get out of work (next point).**
- 7) Mr. Gary met Mr. Dorough to discuss his concerns and observe his catch on July 9th. This is the day Mr. Dorough was originally scheduled to appear in King George District Court. (Mr. Gary found out about this later in the day). Mr. Gary spoke to Mr. Dorough for approximately one hour dockside at Aqualand Marina, in Charles County, MD. Mr. Dorough showed Mr. Gary his catch (~7 bushels #1 males, >2 bushels #2 males, >1 bushel of females). Mr. Gary and Mr. Dorough spent the remaining time in discussion, with Mr. Dorough explaining several of his concerns which included dissatisfaction with the current size limits for crabs, crab pot decals and tags, crab pot limits, blue catfish and other issues. Mr. Gary listened to his concerns and informed him that he would be willing to discuss these issues as part of the PRFC process. Mr. Gary informed Mr. Dorough that he would do this, but could not guarantee when this would occur. Mr. Gary then explained the importance of Mr. Dorough and all commercial watermen reporting accurately and on time as it relates to the management process. Mr. Dorough and Mr. Gary left this conversation with the understanding of what PRFC requires, and clarity of what Mr. Dorough's major concerns were. It was clear to Mr. Gary, that Mr. Dorough should have left this conversation understanding what was required of him going forward. Lastly, Mr. Gary reminded Mr. Dorough that due to violation of the probation requirements, he would be called to the September meeting.
- 8) On July 21, 2014 Mr. Dorough visited the PRFC office to deliver catch reports and indicated at this time that he was "Done for the season". Under this scenario, Mr. Dorough is no longer required to submit reports (unless he resumes crabbing).
- 9) On August 6, 2014 Mr. Dorough appeared in King George District Court to address his citation for crabbing without a license. He was found guilty and fined \$300, of which all but \$150 was suspended.
- 10) On August 29, 2014 Mr. Dorough visited the PRFC office to submit reports and indicated he had resumed crabbing. Since this time, he has submitted timely and accurate reports.
- 11) Mr. Dorough has been summoned to the September 12, 2014 meeting of the Commission for violation of his probation.

Mr. Gary stated he has spoken with Mr. Dorough several times about his concerns and he understands where he's coming from. Some of the parameters we have at the PRFC are labor intensive and require a lot of work and he understands why Mr. Dorough is concerned with the

issues he has expressed. With that being said, the crab fishery is stressed and depleted, and the Commission is making every effort to restore the resource. While Mr. Gary has worked with Mr. Dorough, he has also made him understand that we all have to make sacrifices at this time. Mr. Gary explained when someone is called to a hearing, it is normally for late reporting, in this case, Mr. Dorough is coming before the Commission for blatantly opposing the regulation parameters in place for crabs and reporting. Mr. Gary feels he is doing it because he is angry at the system that's in place that is constraining him with hardships, and Mr. Gary respects that. He feels Mr. Dorough is a hard working individual and a very good crabber. He possesses institutional knowledge that if it were channeled in the proper way, could benefit the Commission and the community at large. Currently, Mr. Dorough is not adhering to what all the other crabbers are adhering to. We have approximately 440 licensed crabbers and he's the only one behaving in this manner. Mr. Gary has made his best attempt to work with Mr. Dorough and he still thinks we can work with Mr. Dorough, but that's up to him if he wants to work with the Commission.

Mr. Gary provided a staff recommendation to suspend Mr. Dorough's crabbing privileges for the remainder of the 2014 season and add an additional one year of probation that would extend through the entire 2015 crab season. He encouraged the Commission to ask Mr. Dorough what he thinks about our crab management, and the importance of timely and accurate reporting. Mr. Gary would also like to know his position on the future of the crab resource and the future of crabbers who have yet to come along.

Chairman Hall stated the Commission would like to hear what Mr. Dorough has to say about these charges and if he is concerned about the future of crabbing or just his own crabbing.

Mr. Dorough stated when you are placed on probation, you don't get any late notices in the mail. He stated Cathy has been hard on him for a right good while and he doesn't understand why. Mr. Dorough stated he is aggravated because reductions are being placed on the crabbers. He said you could take 60 days and it's not going to bring the crab population back. The good Lord will bring it back. He said something needs to be done with catfish because they are eating all the crabs. These 8" crabs that AC Carpenter was so proud to produce, we can't sell because they are \$50 to \$70 a dozen in the restaurants and the buyers want to cut the price on crabbers. We can't sell an 8" crab. He has been arguing with the Commission about this since the size limit change went into effect. All three jurisdictions have different size limits and he would like to see it changed back to a 5" size limit like it use to be. Give us a chance to catch some crabs. If these crabs get eaten up by catfish, they are never going to make your reports. They are not in the data and if we don't stop the catfish, we are not going to have any crabs anyway. It doesn't matter what we do. You can shut the female harvest down for the entire season and it won't make a difference.

Chairman Hall stated Mr. Dorough was exactly right and that predation is a big factor, but we are aware of this and we are trying to develop markets and a processing plant for this. However, she asked Mr. Dorough if this gave him the right to be the crabber he is, and ignore the regulations that we are all governed under. Mr. Dorough stated he doesn't feel he is ignoring the regulations. He stated he fills out the reports and turns them in. He does his job the best he can. He has concerns with the female harvest and what the Commission is trying to do to restore the population. He doesn't agree with cutting the watermen because it's not going to achieve the end

goal. He feels like he's being targeted because he knows how to crab.

Chairman Hall explained to Mr. Dorough that no one is jumping on him. He was called before the Commission because he did not turn in reports on time and had crab pots in the water during his suspension, which is a violation of probation. We need to understand why he did that and if Mr. Dorough has learned to respect the regulations and respect the reason why all the other crabbers are under the same management regulations. Chairman Hall agrees with Mr. Gary stating that Mr. Dorough has great knowledge when it comes to crabbing and if it could be channeled in a positive way, it could benefit the management resources. However if you continue to ignore the regulations, that does not set a good example for the rest of the watermen.

Commissioner O'Connell acknowledged that Mr. Dorough is a hard worker. What he is interested in is Mr. Dorough's explanation for the behavior concerning late reports and inaccurate reports. As we deliberate the action we are going to take today, we are trying to understand your explanation for those repeated violations and how do you foresee this Commission reacting to your situation. Commissioner O'Connell verified that there were a total of nine reports that were turned in late and at least one report that was submitted with harvest on a day that hadn't even occurred yet. Mr. Dorough stated he can't send them in every week. He explained he has to work and has a family he needs to support. He tries to keep up the best he can but nobody is perfect and we are all human. Commissioner O'Connell stated he understood supporting his family, but the Commission also requests the same level of reporting as the other 400 crabbers abide by. Mr. Dorough needs to decide if he is going to make the commitment going forward to follow the Commission's rules or not, because that will have an impact on the decisions made here today.

Commissioner Bull asked for an explanation from Mr. Dorough as to during the time of his suspension for only a week, his pots were out there baited and he was convicted for fishing without a license. Mr. Dorough stated he was not convicted for fishing crab pots. He stated 31 crab pots were found in the river, but law enforcement did not see Mr. Dorough fishing any crab pots. He stated it looks good on paper and makes him look like a criminal. He was sited while sitting on his pier. Ofc. Simms stated he did not see Mr. Dorough fishing the pots.

Chairman Hall asked Mr. Gary to clarify what the probation requires of the individual. Mr. Gary explained what Mr. Dorough is being called for today is violation of the probation and not the suspension. We are bringing the suspension up in a greater context of behavior, and what we're dealing with here. The violation of probation in this case is two late reports and he's well beyond that.

Chairman Hall verified that during the week of his suspension, Mr. Dorough should not have had any gear in the water and he was cited for that. Mr. Gary explained the PRFC by policy sends a letter to the individual who's on suspension requesting that all gear be removed from the water and Mr. Dorough was sent a letter stating that. Mr. Gary asked Ofc. Simms to clarify the charge. It is written as crabbing without a license because Mr. Dorough's license was suspended, therefore he does not have the crabbing privileges. Ofc. Simms stated that was correct.

A motion was made by Commissioner Fleming, seconded by Commissioner O'Connell to accept staff's recommendation for the suspension for the remainder of 2014 and probation for 2015.

Commissioner O'Connell asked Mr. Gary if Mr. Dorough would be able to crab on the water for the remainder of the 2014 season. Commissioner O'Connell understands there is a partnership with another crabber and he's trying to understand that situation a little better. Mr. Gary explained to the best of his understanding, based on the motion that was made, Mr. Dorough's license would be suspended for the remainder of the 2014 season, but that would not prohibit him from going out and assisting another waterman.

Commissioner O'Connell felt not having heard the next hearing it seems to be some relation to Mr. Dorough, should we consider covering that hearing before we take final action on this motion. Mr. Gary explained if the concern is Mr. Dorough's concern for the existing regulations on crabbing in the Potomac River, the Commission may want to amend the motion so that Mr. Dorough is unable to participate in harvesting and engaging in activities of harvesting crabs on the river during the suspension time. He also pointed out that later in the meeting a crab harvest activity report will be presented, and that report has not segregated Mr. Dorough's or Mr. Gaine's catch. He wants to make it known that he believes that their harvest data is strongly skewing the data in a direction that in a whole is biased. Again, he can not confirm or deny what Mr. Dorough is reporting to be accurate. He believes the reports are artificially high in catch and may impact the rest of the crabbing community.

Commissioner O'Connell stated this is a difficult situation. The fact is that if this motion is adopted, it would have a significant impact on Mr. Dorough for the remainder of the season. What he struggles with is hearing that commitment from Mr. Dorough that he recognizes the importance even though he may not agree with the policies the Commission decides, but the importance to follow them as most other crabbers do in the Potomac River. He's still looking for that and he's not sure that anything Mr. Dorough says today will convince him of that, but he would afford Mr. Dorough that opportunity.

Mr. Dorough stated he was sorry that he had 31 crab pots overboard and when you pile pots up in a row it's hard to find them. He stated he was guilty of that and he is only human. He went out and picked the pots up and put them on the shore and he was done. He stated everyone knew him around the area and he's been here at the Commission a lot and that's because AC Carpenter did him wrong when it comes to the two licenses on one boat permit. He was forced to take a crab pot license out of his business name and put it into a 16 year old boy's name to obtain the permit. It upsets him that he has no legal standing to stop that boy from transferring that license out of his name, if that's what he chooses to do. He stated he will do the best he can do, but the Commission needs to make some changes and get these 5 1/4" crabs back and don't tell him that he has to go through a bunch of committees to get it done. Chairman Hall suggested that Mr. Dorough bring his concerns up during new business later on in the meeting.

Mrs. Cosby advised that Mr. Dorough did make an effort to correct his reports and by listing outer space on them was a way to get the Commission's attention. Mr. Dorough stated that was correct and felt that the Commission gets some of their ideas from outer space. Mrs. Cosby felt

that Mr. Dorough may not have understood while he was on probation that he couldn't have any late reports.

Commissioner Fleming tabled the motion until the Commission hears the facts on the related case of Nathan Gaines.

Chairman Hall stated the Commission appreciated everything Mr. Dorough has said and understands the hardships the watermen have to face. Mr. Dorough made some wonderful suggestions and she reiterated to Mr. Dorough to channel his ideas into something constructive through the Crab Advisory Committee. She knows there is a long process, but that is in place for a reason so that the decisions are fair. We try to manage the resource not just for you Mr. Dorough, but for all the watermen both commercial and recreational and not just for today, but we have to look long-term. Everyone is doing that when we talk about saving the peelers and the female crabs and there is so much that needs to be done. When you're talking about saving these crabs and Mr. Dorough is not doing his part to make accurate reports, that doesn't help the situation. She pressed upon him that sometimes people make mistakes, but it seems like Mr. Dorough did some of this deliberately or without understanding. She stated the Commission is trying to work with Mr. Dorough, so Mr. Dorough needs to learn to work with the Commission.

Commissioner Bull asked Mr. Gary if Mr. Dorough possesses any other commercial licenses besides a crab pot license. Mr. Gary responded an eel pot license only. Chairman Hall stated if there were no other questions from the Commission, they would move to the hearing for Nathan Gaines.

Nathan Alan Gaines

Sammie Dorough is in attendance on behalf of Nathan Gaines and will be representing him today. Mr. Gary presented the following background information, similar to what he did for Mr. Dorough.

- 1) Mr. Gaines was called to come before the PRFC at its December, 2013 meeting for submitting late crabbing reports in 2013. Mr. Gaines failed to appear at the December, 2013 Commission meeting, and as a result, all of his licenses were immediately suspended (crab pot) until he appears before the Commission.
- 2) Mr. Sammie Dorough appeared on behalf of Mr. Gaines before the Commission at the March, 2014 meeting of the Commission. The Commission suspended his crabbing license for one week (first week of June, 2014) and assigned him one year of probation.
- 3) Mr. Gaines started the 2014 crabbing season in April, and from the onset had multiple irregularities with his reports, including late reports, an early report, inaccurate port of landing, inaccurate location of crabbing activity, and unrealistic crab catches.
- 4) On August 26, 2014, PRFC received a Commercial Activity Report from MD DNR Officer Wooddell, indicating Mr. Gaines was actively crabbing and landed crabs at Malloys Bay, Charles County, MD on July 26, 2014. After discussing the activity report with Officer Wooddell by phone on September 10, 2014, Ofc. Wooddell also advised that Mr. Gaines was on Mr. Sammie Dorough's vessel (not an authorized vessel for Mr. Gaines). Mr. Gaines was not cited for this violation by Officer Wooddell. This contrasts with Mr. Gaines crab harvest report for the weekending of July 26th, 2014 which indicated that Mr. Gaines was not crabbing, but only setting pots. Therefore his reports are inaccurate for this day.

5) Mr. Gaines has been summoned to the September 12, 2014 meeting of the Commission for violation of his probation.

Mr. Gary explained that Mr. Dorough and Mr. Gaines crab together. Mr. Gaines is a young man who is 16 years of age. He has a lot of empathy for a young man in the developmental process and trying to figure his life out. In sorting this out and trying provide the Commission with a staff recommendation, it's challenging for everyone involved. Mr. Gary stated staff's recommendation would be a two week suspension and an additional year of probation for the entire 2015 crabbing season. He advised this is not to penalize Mr. Gaines, but to make sure that Mr. Dorough is not influential in this process. If Mr. Gaines is going to crab, it should be Mr. Gains that works. Mr. Gary encouraged the Commission to in any motion that's made to assure that Mr. Gaines is affected and Mr. Dorough is segregated from that crabbing activity. He also suggested that the suspension be in place for the last two weeks of the crabbing season.

Commissioner O'Connell asked why Mr. Gary suggested the last two weeks of the crabbing season for the suspension. Mr. Gary explained that the activity during that time is not significant and he does not want to impact Mr. Gaines. He wants to give Mr. Gaines an additional opportunity and it appears that the best opportunity for economic return is right now. If the Commission chooses to impact Mr. Gaines more significantly, the period of time would be before the end of October.

Commissioner O'Connell stated if the Commission were to suspend Mr. Dorough's ability to not only crab under his license, but his ability to work on the water this fall, he would like to know how that would affect Mr. Gaines. Will he be able to crab the remainder of the season if Mr. Dorough can not be aboard the boat with him? Mr. Dorough explained he would not be able to work and he would be done for the season. He's 16 years old and he's not comfortable letting him go alone. We crab from two separate boats and it's a pain, but we do what we have to do.

Chairman Hall questioned who fills out Mr. Gaines's harvest reports. Mr. Dorough stated he fills out all the reports. She noted they were very similar.

Mr. Gary noted the incident that occurred at Mallow's Bay, when Mr. Gaines was crabbing by himself. He had others with him, but it was not Mr. Dorough and he was on his own. Mr. Dorough stated he is always with Mr. Gaines and feels the Maryland Law Officer is lying about that. The activity reports state something different.

Commissioner Erskine stated he's listened to everything Mr. Dorough has said on his behalf as well as Mr. Gaines's behalf, but it seems to be that Mr. Gaines is young and impressionable and he is taking his lead and what his activity is from Mr. Dorough. You're filing late reports that may or may not be inaccurate and here Mr. Gaines is doing exactly the same thing. He feels Mr. Dorough has an opportunity to say to Mr. Gaines that we need to do better and it's an opportunity for Mr. Dorough to be impactful in Mr. Gaines life and point him in the right direction. Commissioner Erskine agrees with Mr. Gary with regards to having a less economic impact on Mr. Gaines's life and give him an opportunity to do better. He feels that both Mr. Dorough and Mr. Gaines have quite a bit of knowledge and recognize it's a privilege to be on the water and not a right. There is a responsibility with that license to file those reports. The knowledge that Mr. Dorough has in this fishery is extremely valuable, but right now it's negative knowledge going in

the wrong direction. If you provide that knowledge in a positive way, maybe changes can be made that are suggested. Right now the Commission wants Mr. Dorough to abide by the Regulations as other crabbers do.

Mr. Dorough stated all he can do is try to do better next time. He stated he will do the best he can on the reports if that makes the Commission happy.

A motion was made by Commissioner Fleming, seconded by Commissioner Erskine and passed with 7 in favor and 1 abstention to accept staff's recommendation for a two week suspension for Mr. Gaines at the end of the 2014 crabbing season with probation for the remainder of 2015.

Commissioner Fleming stated he made a motion earlier and then tabled it. The question we wanted to answer by going to Mr. Gaines was how will this impact his ability to work under what was proposed as a suspension for the remainder of 2014. Does it still allow Mr. Dorough to crab from someone else's boat? Chairman Hall stated yes it does. Commissioner Fleming stated there's a loophole and does it mean anything at all if he can work and not be impacted by this other than having to keep his nose clean for the 2015 season. Chairman Hall stated her understanding is it doesn't and there is a loophole.

Mrs. Cosby stated if you are suspending Mr. Dorough's license, you are suspending his ability to fish his crab pots. He has a 500 pot license. Mr. Gaines holds a 300 pot license and would only be fishing 300 pots as opposed to 800 pots and it would certainly impact them economically.

Commissioner O'Connell stated from what he's heard today that Mr. Dorough needs to understand that this is a business and it's a privilege. The Commission expects those who have this privilege to treat it as a business and you shouldn't have to rely upon a late notice. You should recognize the responsibility that comes with this privilege. Commissioner O'Connell also heard that Mr. Dorough would try to improve if the rules changed. It was encouraging to know that Mr. Dorough will try to improve with what he's doing. The Commission has taken over an hour of today's time dealing with this and it comes back to Mr. Dorough's responsibilities with what he's doing. Commissioner O'Connell would like to give Mr. Dorough the opportunity to fish with Mr. Gaines and give him the opportunity to have a more positive impression on him as he continues to crab this season. However, the motion to suspend Mr. Dorough's crabbing license with probation for 2015 is appropriate. We will give you the opportunity next season to see if you will abide by the rules and if not the penalty will get much more severe very quickly.

Chairman Hall noted that he has turned in all of his reports and is trying to work with the Commission.

A motion was made by Commissioner Fleming, seconded by Commissioner O'Connell and passed with 7 in favor and 1 opposition to suspend Mr. Dorough's license for the remainder of 2014 effective September 20th and put him on probation for the entire 2015 season.

Commissioner Bull stated what we have dealt with here is significant and we expect some compliance with reports on time and accurate. He agreed with Commissioner O'Connell and

noted that he fully supports taking stronger action if Mr. Dorough does not abide by the rules.

Mr. Dorough stated what the Commission has done to him has been terrible over the years and it's gotten out of hand. He asked if he could appeal the decision made by the Commission today. Mr. Mayo stated there is a provision in the Regulation Book and Mr. Dorough will need legal council to assist with that.

Oyster Management Reserve Program Meeting and Update – August 19, 2014

Mrs. Cosby presented a slideshow of pictures that were taken on the opening day of the oyster management reserve on September 2nd. She stated there were seven boats working the four-acre area with 13 of the 14 participants on the boats. The oysters were as big as your hand and were beautiful. The baskets were tagged and covered with burlap sacks to keep them cool. They harvested 158.5 bushels that day. They will continue to harvest until the catch dwindles down and then the area will be closed. This was the first year for harvest that was from the 2012 planting. The participants feel it was a successful program, and most recovered their costs. Everyone seemed to be pleased and the program will continue with a 12-acre planting, once we receive the larvae this year.

Commissioner Erskine questioned what the total harvest was thus far. Mrs. Cosby stated she has not received all the reports and was only out there the first day, so she only knows what was harvested the first day. He verified that there were 2,000 bushels planted and based off of that planting, it seemed to be a low level of return. He questioned if there was a theory as to why that occurred. Mrs. Cosby explained the count was low for the first planting, but we still anticipated it would be successful. We haven't seen any signs of predation when checked during the survey. It was thought that when the planting took place that they were spread out so it was a little more difficult to harvest.

Commissioner Fleming questioned what the program was expecting in terms of yield. Mrs. Cosby stated they hoped for a one for one recovery or a harvest of 2,000 bushels. It's always a risk, questions and Mother Nature that play into this. In order for it to be successful, she feels the watermen had to recover their costs of what they have invested into the program so far and she believes they have done that. She is unsure if they turned as much profit as they were hoping for, but believes they made a profit and that's on the positive side. Mrs. Cosby stated she will report a summary of the program at the next meeting. She advised that the 2013 planting had a much higher count and the yield for the harvest should be higher as well.

Commissioner O'Connell stated it's not only important to look at the return on the industry's investment, but the return on the industry and the Commission's investment to get this project going. He would like to know what the total cost of the project was versus what the return of harvest was so we can look at those parameters to see if this is a viable program. If the numbers are close or slightly short then we may need to look at better markets, but we need to take a look at that comprehensively.

Mr. Gary expressed that there is a high level of energy in the community regarding the potential of this project. There is always a risk, but he is unsure how to address those risks. He has

spoken with folks who are watching the program and is hearing that the area is highly vulnerable and the temptation is there for poaching. He also heard that watermen would not steal from each other so there are opposing comments, but all in all this program is a good thing and he doesn't want to see it compromised. The infrastructure for production is relatively limited and there are not a lot of choices for triploid larvae. There is also limited number of people that possess the expertise to develop it. He is concerned and seeking comments from the Commission on these concerns.

Commissioner Erskine stated that 2014 demonstrated that the industry can be fragile when you lose a facility such as Gwynn's Island that is one of the largest in the state. He thinks there are limited personnel that can produce larvae in Maryland and Virginia. It's more dependent on the water chemistry and water quality than the personnel. It really relies on the location of where you are in water chemistry particularly. He said there is an opportunity to see about working with the University of Maryland and see about using diploid spat on shell versus triploid. There are advantages and disadvantages to using diploid oysters, but they have a wider range of tolerance to certain water chemistry issues. The other important value of diploid oysters is you stand the possibility of reproduction. If we can identify some of the areas that have the potential for spawning and invest in planting and making them workable areas, you would get possibly get a chance at a few years of reproduction. Triploids are strictly a put and take fishery, but they are difficult to reproduce and hard to come by. We should expect a bushel and a half to 2 bushels harvest for every bushel planted, that is a success.

Mr. Gary took a moment to complement Mrs. Cosby on her hard work and dedication to this program.

Commissioner Rice stated he knows a lot of watermen that buy into this program and some not by choice, because of the \$300 oyster surcharge fee. He feels the Commission should look into switching to the diploid oyster, because there is no method of harvest that will take the last oyster. It's not possible. If we switch over to a diploid oyster, there may be a chance for a few more oysters because we all want more oysters in the river.

Mrs. Cosby explained that Commissioner O'Connell was one of the chairmen of the Blue Ribbon Oyster Panel and the panel designed this program using triploid oysters on the advice of the scientific community that was involved with the panel. The idea was to get them to grow as fast as they could, to avoid disease and to have the oysters available for them to harvest at any time during the year, so they would not be in competition with natural oysters.

Commissioner Erskine commended everyone involved in the program stating this is a progressive plan putting triploid oysters in the river in a large volume for harvest and to jumpstart productivity. He wasn't advocating for one or the other and simply stated diploid larvae are more readily available since there was an indication of a shortage of triploid larvae.

Mrs. Cosby commended the participants from both states for working together side by side.

Oyster/Clam Advisory Committee Report – August 25, 2014

Tucker Brown, Chairman of the Oyster/Clam Advisory Committee added a few comments regarding the Oyster Management Reserve Program. He welcomed A.J. Erskine and said he is a very talented man and we all have a lot of respect for him and what he's done. The OMR program's first harvest was not as great as he would have liked it to be. However, it was a success, maybe not financially, but where else have we had watermen from two states come together and work together to build something. We know if we don't try, our livelihoods are lost here in this river too. He thinks the Commission should send forth to the state of Maryland to try and find some private hatcheries that specialize in triploid oysters, because this will have a large effect concerning leased bottom. We need to keep in mind the disease that we have and triploid oysters are showing resistance to that and they are always fat. One thing we need to keep in mind is that when this program started we knew it was going to be a very light set. They were beautiful oysters we harvested and we are looking forward to continuing the program.

Mr. Brown stated the Oyster/Clam Advisory Committee met on August 25, 2014 and discussed the following issues:

Oyster/Clam Advisory Committee Prioritization Exercise (1-5 year planned horizon) – The Committee members each listed their top five priorities that they would like the PRFC to focus their resources on for the next three years. A list was compiled by staff and was presented later in the meeting. The results will be presented to the Commission for their review at a later time.

Swan Point Development Company Proposed Marina – Mr. Gary advised the committee that staff recommended backing off opposing the project and to reach out to the developer to see if they would like to continue to help in some capacity with oyster restoration. The Commission agreed with staff's recommendation and will make contact with the developer by letter.

Rotational Natural Oyster Harvest Plan (RNOHP) – The committee received an update from Mrs. Cosby on the Lower Cedar Point planting in 2013 and the most recent planting on Pascannah in April of this year. The remaining oyster bars in the program to be planted are Swan Point and Gum Bar. The fifth oyster bar will be decided at a later time. There were concerns about funding the program and specifically with money from the commercial license registration fee (CLR). Mr. Gary explained it was decided that a bank depository of funds from the CLR would be kept to help subsidize the program. Once a base line is created, all the banked money will be tapped into and used for future plantings.

NSSP Model Ordinance Update – Order 2014-09 – Mr. Gary presented this Order to the committee to advise them the Commission was now in compliance with the National Shellfish Sanitation Program Guide for the control of molluscan shellfish.

Bushel Tags Update – Mrs. Cosby advised that the oyster tags for the public and OMR program have been ordered and received. Costs for the OMR tags will be \$2.00 each and \$.50 each for the public fishery. The oyster tax will increase from \$1.00 to \$2.00 and there is a fee of \$50.00 to become a registered buyer and that money will be going back into the program as well.

Order 2014-10 – 2014-2015 Oyster Season Dates, Days and Time Limits – The committee approved the recommendation to the Commission for the upcoming oyster season. There were no changes from last year's season, only calendar changes.

Sanctuary Mapping Exercise – Mr. Gary advised VIMS used a remotely operated vehicle (ROV) on each sanctuary in the Potomac River to get a sense of what was going on. The results indicated that there were very low levels of biomass on each sanctuary. This was done in an effort to figure out what the next step is for sanctuaries and how to move forward. The NOAA Chesapeake Bay Program has offered to conduct a survey to map out several oyster bars for the Commission. The Commission will provide a list of oyster bars to be surveyed and the results will be provided once the survey has taken place.

Jones Shore – Mr. Gary advised that two surveys were conducted on Jones Shore in effort to determine if the Commission should consider opening Jones Shore for dredging. The first survey was done with a patent tong and it was determined that the amount of surface shell was rather low and there were modest quantities of subsurface shell. The three areas surveyed all had hard packed sand. The second survey was done with a dredge by Captain Craig Kelley. Comparing these tows with the patent tong samples taken in the first survey indicated much higher abundance estimates from the dredge samples. Mr. Gary stated the scientific advisors have suggested, based on the differences in the two surveys, that another dredge-based survey be done on Jones Shore prior to deciding whether or not to open it for harvesting. The committee was reluctant, but agreed.

Oyster Management Reserve (OMR) Update – Mrs. Cosby advised the committee of the 2014 plantings that took place on Ragged Point. She stated 2,420 bags of spat on shell were planted today, using two boats. We are two-thirds of the way to our goal this year.

Chairman Hall thanked Mr. Brown for his report and for his enthusiasm, passion and knowledge for the river. She said he was a tremendous asset to the oyster restoration. She thanked him personally and felt the Commission does as well for all that you do. Mr. Gary seconded those thoughts and said he's been a champion with getting the word out there and playing an instrumental part in these oyster programs.

Elgin Nininger stated he's so glad things are starting to happen with the oysters. It's been a long time since we've received any help for the river. He stated most of the oyster bars would sustain an oyster population if we had the diploid oysters. He asked if there was any way the Commission could come up with some oysters for the smaller oyster bars that eventually that will help out everyone involved. Chairman Hall responded it takes money and oysters.

Order 2014-10 – 2014-2015 Oyster Season Dates, Days and Time Limits

Commissioner Rice took a moment to thank Mr. Brown and noted that he's had his heart and soul into these programs and he hopes and prays that he has his enthusiasm when his gets to be his age.

A motion was made by Commissioner Rice, seconded by Commissioner Haynie and unanimously passed to adopt Order 2014-10 as presented.

ORDER #2014-10

(replaces #2013-10)

2014-2015 OYSTER SEASON DATES, DAYS, AND TIME LIMITS

THE POTOMAC RIVER FISHERIES COMMISSION, having considered the protection, promotion, growth and conservation of the oyster resources and pursuant to its authority under Regulation II, Section 2(b) and Regulation I, Section 7(a)(1), **HEREBY DECLARES AND ORDERS:** The 2014-2015 oyster season dates, days and time limits shall be as follows:

<u>Gear</u>	<u>Season</u>	<u>Days</u>	<u>Hours</u>
Hand Tonging	Oct. 1 thru Dec. 31, 2014	Monday thru Friday	Sunrise to 1:00 p.m.
	Jan. 1 thru Mar. 31, 2015	Monday thru Friday	Sunrise to 3:00 p.m.
Hand Scraping	Nov.1, 2014 thru Mar.31, 2015	Monday thru Friday	8:00 a.m. to 1:00 p.m.

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

AND, IT IS FURTHER DECLARED AND ORDERED: That this Order #2014-10 shall become effective September 30, 2014 and remain in effect through March 31, 2015.

Jones Shore Update

Mr. Gary stated there is information provided in the packet that was sent out earlier for review. There have been two surveys, one a formal survey using MD DNR's Shellfish Division staff who conducted a patent tong survey. In that survey they broke down Jones Shore into three sections and when moving north-west to the south-east the amount of markets, surface shell and subsurface shell decreases. This survey found low levels of biomass, surface shell and subsurface shell and that was contrary to what the advocates for opening Jones Shore even on a limited basis were saying. The idea was to work the area and bring up the shell with the incentive being able to keep the market size oysters. The patent tong survey did not find quantities of any of that. However the goal is to bring the oyster bar back to a more productive bar and ideally back to a seed bar. In talking to the scientists and given the findings of the patent survey, they thought there was promise there. Craig Kelley was asked to conduct another survey or an exploratory exercise using a handscrape. Two locations were dredged in the upper area. The tows were timed and distance was measured. Mr. Kelley was able to demonstrate that there are market oysters. He was also able to bring up subsurface shell by using the standard handscrape.

Mr. Gary advised that after speaking with Jim Wesson and Mitch Tarnowsky, it was decided that given the disparity in the results of the two surveys, it was still worth while to take another look. Dr. Wesson agreed that he may have the time to conduct an enhanced handscrape survey on Jones Shore. He thinks he can have it done before the fall oyster survey begins in October. Mr. Gary recommended Dr. Wesson conduct the survey and review the results. If there are enough market size oysters there to sustain some work there without wiping it out and at the same time being able to reclaim some of that subsurface shell, then the idea would be for the Commission to potentially, given the results of the survey, because there are a lot of contingencies here, bring this to a hearing in December. That would require getting the Commissioners the results of the

survey, have the Commission discuss it, vote on it and advance a hearing which we would require advertisement given the timeframe for advertising. It would still be up to the Commission to decide to move forward with it, but then the thought would be to advance it to a potentially limited opening in March and/or April of 2015. Then we would theoretically be able to follow behind that to see what kind of recruitment we got and what the bottom looks like compared to say a control area. So, another survey, results analyzed, if it's endorsed, proposal for a plan, then a public hearing and then a potential opening. That's a very rushed abbreviated version of what could transpire, but in order to try to give the folks who that are advocating and think that this may be worth while and to give them a fair chance at this, Mr. Gary thinks this is something we could entertain. The other thing he wanted to let the Commission know is further down the shore line is Cornfield Harbor to the southeast and further to the northwest along that same shoreline is Kitts Point and then ultimately you get to St. Georges Island. One of the questions that popped up in his mind, is all the other oyster bars are opened to hand scraping but Jones Shore is not, and yet those are the bars that are "productive". He questioned why is Jones Shore closed and the others are open and they are adjacent to it. What is so unique about it? He knows it used to be a seed area and he is not trying to dismiss the idea that it's valuable and that there's obviously some biomass there. He hasn't heard anybody anywhere in any capacity, including his predecessor say what is so unique about it. Now handscrape is a more efficient gear, and there is obviously the concern that they could go in and clear them out, but you could argue the same case for Cornfield Harbor and Kitts Point and St. Georges Island as well. So he just wanted to put that out there for you. In summary, would the Commission support the enhanced handscrape survey on Jones Shore that Dr. Wesson would do if he can fit it into his schedule before October.

Commissioner Rice stated he has been a long time advocate to opening Jones Shore for some type of more efficient harvest in hopes to bring some oysters to the market as well as bring some shell up from the bottom and get this bar active again. He strongly encouraged the Commission to move forward on Tucker Brown's fast track and try to have a public hearing at the December Commission meeting so we can rationally discuss how we can open this area. He feels gridding it off into three areas is a great opportunity to prove our point just like Mr. Kelley did. This is a place that is suitable for handscrapes. He commended Mr. Gary for going the extra mile and it would behoove us to move forward in whatever direction we see possible that might satisfy the industry and the scientific community. He feels Jones Shore is an area in the Potomac River that would strike, but we have to build it back up. We have to cultivate it in a sensible manner and it should grow a product and this is what we need to look at.

Commissioner O'Connell echoed Mr. Gary's efforts to bring this back to the Commission to talk about this. He is looking for some knowledge on the history of management. He questioned how long Jones Shore had been closed to handscrapes. He also questioned how long Cornfield Harbor had been opened to handscrapes. Mr. Gary stated he did not know the answers to those questions right off hand. He stated Cornfield Harbor has been opened for a while, but could not provide a date. Commission O'Connell stated he's not saying he is opposed to exploring the idea of more surveying. He reviewed some data of spat sets over the years in that area and the highest spat counts all occurred before 1991. He stated while we have some good information on Jones Shore in regards to the amount of surface and subsurface shell, have we looked for that same data for Cornfield Harbor which is a site that has been worked for a number of years to see if

there is truly a difference. Based on spat set history, it doesn't appear that there is a difference in performance of the two bars. He is willing to see what the additional survey says.

Commissioner Rice explained that Cornfield Harbor never seems to attract the spat set that we used to get on Jones Shore. We only tend to get a decent spat set in the Potomac River about once every ten to twelve years. We are trying to improve water quality and working towards restoring the oyster population. It takes oysters to make oysters.

Mrs. Cosby noted that Jones Shore was opened in 1997 and the handscape line was moved up to St. Clements/Hollis Marsh at that time. In 2003, the handscape line was moved to Neale Sound and Jones Shore was reclosed and hasn't been reopened since.

Mr. Gary felt that everyone was being cooperative with their time and effort and felt this was worth taking another look at, particularly since we have invested the time and resources that we have so far.

Commissioner Erskine thanked Commissioner Bull for allowing Dr. Wesson the opportunity to possibly do another survey. He feels we would be a little foolish as a Commission if we don't allow for that to take place. He is in strong support of going and doing this handscape survey that Dr. Wesson wants to conduct. He understands what Commissioner O'Connell is saying, but he doesn't think based on the data that just because there's not a large harvest or spat set, that it's a good reason to leave it alone and not do anything. That would be a shame on this Commission to leave it that way and not do any of this work. He agrees that the hypothesis needs to be tested about cleaning the area up and it may be very different than the areas to the north and the south. Until we actually test the hypothesis, we are doing ourselves a disservice.

Commissioner Rice advised that if the Commission does advertise this for a public hearing that we advertise with the flexibility we need to do what we want.

It was the Commission's consensus to move forward.

NOAA Oyster Bar Surveys

Mr. Gary reminded the Commission at its June meeting the issue of oyster sanctuaries was discussed. It was learned from the fall survey that there are some areas that are not providing ecological services. They are designed as oyster sanctuaries and it's up to the Commission to decide if they should be left that way or declassified. The Commission also decided to move forward to investigate where we might have alternate sanctuaries. In previous discussions, sanctuaries were identified as part of the model for oyster management and restoration. Discussions took place with NOAA, VMRC and MD DNR technical staff to identify areas that we may look to site oyster sanctuaries in the future. The NOAA office offered their services to conduct sonar scanning of existing oyster bars in the river. At this point it's up to the Commission to decide what oyster bars to scan and where we go from here. In talking to technical staff, Mr. Gary understands that the areas should be in the higher salinity regime of the river, which would be the lower third of the river. He presented a list of oyster bars to the Commission as a staff recommendation. After consulting with oyster scientists in Maryland and

Virginia, receiving input from knowledgeable watermen and fishermen and NOAA, and considering supporting metrics, it was recommended that any new oyster sanctuaries should be in the higher salinity zone of the lower Potomac River. Specifically, from Ragged Point to the mouth of the river. The following are a suite of possible candidate oyster bars that could be considered for survey and mapping exercises as a precursor to evaluation and possible designation as oyster sanctuaries as part of PRFC oyster management framework. The bars for consideration are:

Hog Island	Cornfield Harbor	St. George's Island
Bonums	Piney Point Hollow	Jones Shore & Addition
Kitts Point	Swan Point	

Mr. Gary asked for Swan Point to be added to the oyster bars to be surveyed in light of the developments that have occurred with the Swan Point Development Company. If nothing else, it would be great to have some preconstruction information for future reference.

Commissioner O'Connell thanked everyone for their work on this and stated that sanctuaries are part of the Blue Ribbon Oyster Panels recommendations. He supports this approach and when you're dealing with natural resources, you try to protect the best of the best. He believes that oysters can survive without being worked. They did hundreds of years ago before harvesting occurred. This is going to benefit everyone and the focus is in the right areas and will hopefully form a good foundation for the Commission to explore this further.

Mr. Gary stated he is looking for an endorsement from the Commission that these are the appropriate sites for NOAA to survey and also to include Swan Point if possible. Commissioner Fleming stated he is supportive as he assumes all others are. Mr. Gary stated NOAA would come in before the end of the year to conduct the survey, and then analyze the data. There is no timeframe of when we will receive that data back. This is the first step to this process. Once we receive the data, we will consolidate that and prepare for a more in depth discussion on siting these sanctuaries. He added for thought that the Commission is investing capital to a couple of oyster projects that are by-products of the Blue Ribbon Oyster Panel plan. If we do pursue this, we may consider appropriating funding for shell plantings and jump start some of these areas as we designate them, if and when the other programs become self-sustaining.

Chairman Hall stated the Commission agrees and Mr. Gary will work with NOAA on the surveys and report back to the Commission once they are complete.

Swan Point Development Update

Mr. Gary stated at the last Finfish Advisory Committee there was a large group that attended the meeting and were advised that the Commission allowed the permit to go to Public Works and the Commission is respectful of the process. However, the Commission made it known that we are all neighbors in this watershed and we all care about the outcome of the future of the river and the quality of the water and its resources. The Commission will be working with Swan Point Development and we will continue future talks.

Meeting Recess – 11:55 a.m.
Meeting Reconvene – 12:05 p.m.

Crab Harvest Report

Mr. Gary advised that the crab harvest report is a preliminary report for April through August. To date there have been 19,150 bushels of hard crabs harvested, 9,724 pounds of peelers harvested and 763 pounds of soft crabs harvested. The harvest is low compared to the historical average. Effort is also low and they are fishing more crab pots and catching fewer crabs. He noted the data presented today did not segregate the catch for Mr. Dorough and Mr. Gaines. To give you a sense of the magnitude of the impact, April's harvest consist of 178 bushels of which 99 bushels or 56% were reported caught by Mr. Dorough and Mr. Gaines. Commissioner Fleming noted that crab harvest is one-third of the historical catch in the Potomac River and that is alarming.

Crab Advisory Committee Report

Mr. Gary presented the report for Robert Boarman, Chairman of the Crab Advisory Committee, who was unable to attend the meeting. Mr. Gary noted the following items were discussed.

PRFC Crab Advisory Committee Prioritization Exercise (1-5year planning horizon) – The Committee members listed their top five priorities that they would like the PRFC to focus their resources on for the next three years. A list was compiled by staff and was presented later in the meeting. The results will be presented to the Commission for their review at a later time.

Female Harvest Reductions – Mr. Gary advised the committee that the recommendation to close additional days to mature female harvest would result in an 8.1 percent reduction. This leaves a balance of 1.9 percent to make up. He noted the management time frame for the three Chesapeake Bay jurisdictions has changed. The new timeframe will now run from July 1st of each year through the following June 30th. The committee will look at the percentages and make necessary reductions if needed during the spring of 2015. A motion was made to look into a bushel limit reduction for the spring of 2015 to achieve the final 1.9 percent female harvest reductions, and explore credit for decreased effort this season, and all other options. The vote was unanimous in favor.

New Business – The committee discussed the harvest of sponge crabs in Virginia, the process of transferring crab pot licenses to family members and tabled a discussion on keeping the crab minimum size limit at 5 ¼" all season.

Update on Female Harvest Reduction – Harvest Reduction Options for 2014-2015

Mr. Gary provided this report under the Crab Advisory Committee report. Chairman Hall agreed and they continued with the meeting.

John Morris asked the Commission what the value is for a sponge crab. He stated when it goes to a picking house it's valued at about \$20 a bushel. He said he's asked Dr. Miller how many

crabs a sponge crab would put back into the system to harvest, but no one can give him an answer. Commissioner Bull stated he honestly doesn't know the answer because he's not a crab biologist. He said if you're talking about spawning potential, every female crab has the same spawning potential. Mr. Morris stated Virginia needs to take this into consideration with its sponge crab harvest. Commissioner Bull acknowledges there are concerns and interests about sponge crabs throughout the entire Bay jurisdictions. This is something Virginia does address and it does understand that this is a concern by many people. Mr. Morris stated what we've been doing doesn't seem to be working.

Mr. Dorough stated he hasn't heard the Commission discuss the 5 ¼" crab size limit. Chairman Hall stated that was brought up in the Crab Advisory Committee report. He asked if it was going to be discussed and that something needs to be done to account for the crabs that are being eaten by the catfish. The watermen are taking the reductions and pretty soon the entire female crab harvest is going to be shut down. Mrs. Cosby advised that the crab size limit topic at the Crab Advisory meeting was tabled until next spring. Mr. Dorough questioned why it keeps getting tabled. Mrs. Cosby explained the Chairman of the committee stated it would be discussed at the next meeting. Mr. Dorough stated this is why he keeps getting frustrated because it will take another year to make any changes.

American Eel YOY Survey – Dr. Troy Tuckey (VIMS)

Dr. Troy Tuckey (VIMS) presented the American Eel YOY survey. Glass eels were sampled from the Potomac River at Gardy's Millpond and Clark's Millpond between March 10 and June 13, 2014; the study period encompassed 95 days. Glass eel sampling at Clark's Millpond in 2014 resulted in the collection of a single individual. Glass eel recruitment at Gardy's Millpond, however, resulted in the collection of 243 glass eels in 2014. Glass eels first arrived in early April at Gardy's Millpond. Only one pulse of glass eels occurred at Gardy's Millpond in contrast with previous years when multiple pulses were observed. The glass eel index of abundance was above average at Gardy's Millpond in 2014 and below average at Clark's Millpond. The 14-year average for both sites combined is nearly the same at about 200 eels per year.

It is unclear why so few elvers and glass eels were observed at Clark's Millpond in 2014. The flow of water out of the millpond was steady and no apparent changes within the vicinity of the trap were evident. It is possible that the connection of the millpond stream with the Coan River may have altered in some way (e.g., silting in, or change in flow) that affected recruitment to the area. Another possibility is poaching, however, most glass eels collected at Potomac River sites are pigmented and poachers typically target non-pigmented eels.

It is recommended to continue sampling of glass eels from the Potomac River sites because recruitment estimates from Clark's and Gardy's Millponds display consistency (low variation) through time, a characteristic that will enhance detection of change. Time series of glass eel abundances from the James, York, and Rappahannock rivers are more variable (more noise in the data) and are less likely to provide early and definitive signals of change.

Commissioner Fleming questioned in the absence of the Embury Dam, have there been any significant changes in the Rappahannock River. Dr. Tuckey stated there has been an increase in

yellow eels above the dam and data showed no changes in yellow eels below the dam.

Commissioner Langley asked the age of a spawning eel and what their life expectancy is. Dr. Tuckey stated the age varies, but in the Chesapeake Bay it's about seven years on average and eels can live up to 25 or 30 years. They are all immature in freshwater until they reach sexual maturity.

Commissioner Erskine questioned if the lack of eels at Clark's Millpond was due to mortality and/or predation. Dr. Tuckey stated he didn't think so because of the placement of the trap.

Commissioner O'Connell stated one of the things the technical committee has to look at is a possible reduction in the glass and yellow eel fisheries. Where the states seem to be is with Maine making an argument that they should maintain status quo from last year's levels, which is double what the technical committee is recommending. It is recommended that yellow eels should take a reduction and they are most important in the Chesapeake Bay region. He asked Dr. Tuckey what his perspective was on giving less protection on the glass eels versus the yellow eels. Dr. Tuckey stated he struggled with that and noted that every glass is needed because it is a depleted stock.

Mr. Gary advised that our NOAA grant, which is tied in with ASMFC compliance, goes towards the YOY survey. He asked Dr. Tuckey in a general sense, what he is seeing and is there a possible comeback of the eel fishery. Dr. Tuckey showed some slides of various surveys and noted there is a huge reduction in abundance.

Striped Bass Allocation Report – July 29, 2014

Mr. Gary advised that the Finfish Advisory Committee (FAC) has discussed this issue and a couple of things emerged in terms of performance of the fisheries. A sub-committee was created from the FAC to discuss striped bass allocation in greater detail. The sub-committee met on July 29, 2014. There was no vote on any particular issue, but there were two areas identified that need to be addressed. One is the under performance of the hook and line fishery, which in the last decade or so, leaves about 60,000 pounds of fish on the table and some years as high as 90,000 pounds. With reductions coming in 2015, every pound out there needs to be used appropriately. When it was discussed, the sub-committee was not opposed to discussing this at the Commission level and trying to address it. They don't have a recommendation for you, but the hang up is if you take poundage out of that sector and move it into another gear type, the ones who use their hook and line tags will be penalized because their quota will be reduced and less tags will be issued.

The second issue is we have a miscellaneous category that has four different gear types that receive an allocation of tags (fyke net, fish pot, fish trot line and haul seine). Mr. Gary has questioned the viability of fish pots and fish trot lines catching striped bass, even in terms of a by-catch. The committee felt these two gear types should not receive striped bass tags and that allocation should be appropriated somewhere else. Commissioner Rice stated he fishes fish trot lines and the only thing he's caught are catfish. He's never had a by-catch of any other species of fish. With fish pots you may catch carp or mud shad, but they are few and far between.

Commissioner Fleming questioned if staff was receiving harvest reports of striped bass being caught in fish pots or on fish trot lines. Mr. Gary stated he would have to refer to Cathy for that answer, but if you look at the usage of quota, 25 percent of the miscellaneous quota is being used. The concern he has is fish that may be reported as coming from fish pots or fish trot lines, but actually are caught by other gear. He believes the tags that are being reported are being used are with a different gear than what they are intended for. Coming from the FAC and the sub-committee, we need to see if the Commission wants to address these two items. It seems the support is there to support the elimination of tags being issue to fish pots and fish trot lines and reallocating those tags. They specifically want to reallocate them into the two user groups that are using their tags consistently and that would be an equal split between gill net and pound net. If the Commission agrees, an Order for consideration would be presented at the December meeting. The other issue is how the Commission deals with the left over poundage not being used by the hook and line fishery, which will be all the more valuable as time goes forward.

Commissioner Rice stated he wouldn't have a problem shifting those tags as long as they remain in the commercial fishery that's actually going to utilize the tags. The hook and line issue is rather complicated because of the ones who are using the quota. We don't want to leave quota on the table.

Chairman Hall questioned if this issue was going to go back to the FAC. Mr. Gary stated he is expecting after the Striped Bass Addendum Hearing occurs towards the end of September that the FAC will have to discuss those options in a meeting. He hopes to come back at the December meeting with some options. In the meantime please give it some thought. Commissioner Rice stated he would be glad to meet with Marty and try to figure something out.

Commissioner Fleming stated the question still stands, why can't the hook and line fishery fill it's quota on the Potomac River, but it gets closed within days or hours in the Chesapeake Bay. Commissioner Rice stated this is his opinion and he thinks the Potomac River has few real hook and line fishermen. Most licensees are simply holding the licenses for various reasons. Now that Maryland has gone to an ITQ system, it allows the fish to be caught and the quota to be utilized. Commissioner O'Connell asked if the Potomac River was under an ITQ system for its striped bass tags. Mrs. Cosby stated no, we do not allow the transfer of any striped bass tags. Commissioner O'Connell stated that may be one option to explore. He explained if that option is taken, at MD DNR we allow the licensee to notify the office that they are willing to sell their tags and they can be put into contact with others who are looking to purchase them, it helps facilitate that transaction. Commissioner Bull stated Virginia does as well.

Commissioner Langley concurs with Commissioner O'Connell. He thinks what's happening is that there's not as many people pursuing the fishery and what's also happening is some of the people are waiting for the bigger fish. Mrs. Cosby advised on Commissioner O'Connell's ITQ theory, she felt another staff person would need to be hired to accommodate the work involved with this. She handled the transfer of tags at VMRC and it was almost a full-time job.

Chairman Hall asked if there was consensus among the Commission to have staff proceed with the Order to address the miscellaneous gear issue. The Commission agreed.

Finfish Advisory Committee Report

Mr. Gary presented the report on behalf of FAC Chairman Brown. The Committee met on August 19, 2014.

PRFC Finfish Advisory Committee Prioritization Exercise (1-5year planning horizon) – The Committee members listed their top five priorities that they would like the PRFC to focus their resources on for the next three years. A list was compiled by staff and was presented later in the meeting. The results will be presented to the Commission for their review at a later time.

Striped Bass – Mr. Gary briefed the committee of the ASMFC summer meeting and updated them on the issues involving Striped Bass and the Draft Addendum IV dealing with the reduction in quota. He then gave the update from the Striped Bass Allocation Review Work Group meeting dealing with allocation of striped bass tags. The committee also made a motion to recommend the adoption of Order 2014-11 for the upcoming 2014-2015 Gill Net Season and Restrictions & Commercial Striped Bass Catch and Size Limits.

Report on Menhaden Quota – Mrs. Cosby advised all fisheries for menhaden will shut down on August 27th when 90 percent of the quota is projected to be reached and the 6,000 daily by-catch for pound netters will go into effect.

Update on the Artificial Reef Activity in the Potomac River – Mr. Gary advised 14 barge loads of concrete were dumped at Kitts Point. The budget was \$50,000 and we have spent about \$42,000 of that. The remaining funds were to be reallocated back into that program for future use.

New Business – The committee received several updates from Mr. Gary on blue catfish, sport fishing license fee increases, water quality information, impacts of sewage treatment plants, on-line reporting and a request for a nursery permit for oyster from J. D. Blackwell.

Consideration of Changing Miscellaneous Striped Bass Tag Allocation

Mrs. Cosby presented a table showing the PRFC Striped Bass Historical Quota Allocation. She explained this is how the percentages are calculated for the different gear types. If the Commission eliminates fish pot and fish trot line quota and reallocates that to pound net and gill net, it would be 0.6 percent of the miscellaneous quota. Consequently, 0.3 percent would go to pound net (22.30 percent) and to gill net/hook & line (75.30 percent), and further reduced to gill net (81 percent) and hook and line (19 percent).

Order 2014-11 – 2014-2015 Gill Net Season & Restrictions & Commercial Striped Bass Catch and Size Limit

Mrs. Cosby advised the calendar dates were updated with the season starting on November 10th. The quota is yet to be determined because ASMFC will not meet until the end of October.

Commissioner O'Connell mentioned that it's very likely that the recreational size limit will be increased to 20" or 21" in the Chesapeake Bay. Some feel that will be a use conflict between commercial hook and liners and charter boat captains. One option is to allow the size limits between recreational and commercial to be different or to require that they be consistent. The FAC may want to discuss this issue to see if there may be concern in the Potomac River. The other issue is the inconsistency of size limits between the three jurisdictions. We had those conversations before about some of the species and with the focus from ASMFC to protect female fish and increase spawning stock biomass. He was curious to there not being any maximum size limit from the start of the season through the middle of February the following year. There are differences between the jurisdictions and this may be the opportunity to have some consistency and provides the protection, which is the goal of ASMFC.

Commissioner Rice explained it was considered that we were fishing on resident fish up until the 15th of February and the few larger fish that were caught were stressed and we felt it was a waste not to utilize the resource. Normally they are long skinny fish and don't have a lot of potential. Migratory fish are not here until the middle of February.

Commissioner O'Connell stated he hears from fishermen that there is an influx of fish that migrate down the coast that come into the Chesapeake Bay in late October/November and he has a concern of the possible interaction of migratory fish.

Mrs. Cosby advised the summer flounder is a species in the Potomac River that has different size limits for commercial and recreational. Commissioner O'Connell stated he fully supports keeping them separate, but he wanted to make people aware that there may be a requirement to make them the same.

Commissioner Fleming felt with most of the striped bass being harvested by gill net and pound net, aren't they typically larger than 22" anyhow? Commissioner Rice stated that would be for gill nets only, based on the mesh size. Generally speaking, most gill netters try to target a five to eight pound fish, so you would be over the 22" size.

Mr. Gary stated that the Commission does have fishery dependent sampling that is available to compare to the other jurisdictions. Also, in the gill net fishery, there is a 5" to 7" mesh size used and he believes that also exists in the Maryland drift gill net commercial fishery and that is very size selective.

Commissioner O'Connell stated the Commission should probably go ahead and approve this Order but recognize that there are some actions that may be taken at the ASMFC meeting that may require the Commission to come back and revisit this Order.

A motion was made by Commissioner Fleming, seconded by Commissioner Bull and unanimously passed to adopt Order 2014-11 as written noting that there will be changes potentially after the fall ASMFC meeting.

ORDER #2014-11
(replaces #2013-11 "Revised")

**2014-2015 GILL NET SEASON AND RESTRICTIONS
& COMMERCIAL STRIPED BASS CATCH AND SIZE LIMIT**

THE POTOMAC RIVER FISHERIES COMMISSION, having found it necessary for the preservation of the striped bass (rockfish) population, and pursuant to its authority under Regulation I, Section 8 and Regulation III, Sections 9(a), (b) and 10(a): **HEREBY DECLARES AND ORDERS:** the gill net fishery shall be allowed under the following conditions and limitations:

- a) **Season** - The gill net season shall be from November 10, 2014 through March 25, 2015.
- b) **Permitted Nets** - Each licensee, shall be permitted to set and fish a single properly identified net, in the number of his licensed locations (stands) as follows:
 - i) November 10th through February 28th – all stands, and;
 - ii) from March 1st through March 15th – 4 stands, and;
 - iii) from March 16th through March 25th – 3 stands.
- c) **Other Conditions** – Once renewed no change of the ownership of any gill net licenses will be allowed during the remainder of the open gill net season. Two or more licensees may, and are encouraged to, jointly fish lawfully licensed and set nets belonging to one or more of the individuals.
- d) **Quota** – The gill net striped bass quota shall be (Determined by ASMFC in October 2014) total for all licensees, less any taken with a hook and line as may be allowed under Regulation III, Sec. 13(d). Each individual's striped bass quota will be proportional to the number of gill net licenses held by that individual and will be represented by a number of striped bass identification tags issued to that individual.
- e) **Striped Bass Size Limit**

November 10, 2014 through February 14, 2015
February 15, 2015 through March 25, 2015

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

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2014-11 shall become effective November 1, 2014, shall supersede and repeal Order #2013-11 "Revised" and remain in effect for the 2014-2015 season or until such time the Commission has taken further action.

Status of Potomac River Atlantic Menhaden Harvest

Mrs. Cosby presented a chart to show the tracking process for the menhaden landings this year. Seventy percent of the catch limit was reached on July 22nd and it was projected that 90 percent would be reached on August 27th based on the reports being received. On July 27th the weekly call-in program was initiated with the pound netters. Even though they are required to call in, written reports are still submitted for record keeping. Based on the lag time of receiving harvest reports, it was determined that 90 percent of the harvest was reached on September 1st. On August 28th all fisheries were closed to the harvest of menhaden with the 6,000 pounds of by-catch allowed for pound nets in effect.

Sportfish License Fee Change Briefing

Mr. Gary reminded the Commission of the changes that were made with the sport licenses. Currently there are three licenses available and beginning in 2015 there will be six licenses. They are as follows:

Senior License - \$5.00

Ten (10) Day Short Term - \$10.00

MD/VA Resident - \$15.00

Non MD/VA Resident - \$22.50

Pleasure Boat MD/VA Resident - \$48.00

Pleasure Boat Non MD/VA Resident - \$50.00

Mr. Gary stated there is an issue with the agents and how we deal with the transactions monetarily. In the past, they simply purchased the licenses at face value. However, with the difference in licenses and fees, this poses a challenge for the sale of the licenses to the agents. Currently we are working with Ray Draper (computer analyst) to work out a plan and we feel we will come to a fair compromise for the Commission and the agents.

Commissioner Fleming suggested going out of the box for a minute and the Commission discontinue the sale of sport fishing licenses. The Maryland and Virginia sport fishing licenses are reciprocal and those two states could restore the funding that we would lose from the traditional license sales (roughly \$90,000 a year).

Commissioner O'Connell stated that may be something to explore, but he wouldn't know what the impact would be. He brought up the issue of having the licenses be valid for one year from the date of purchase. Currently this is how Virginia does it. Maryland has done some research and some states that have made that transition have found that their revenue was positively impacted. Maryland has discussed moving to a 365-day license and will pursue it during the 2015 General Assembly. He suggested that the Commission look at a 365-day license as well. Commissioner O'Connell stated that Maryland has the authority to issue fishing licenses on a daily basis to non-profit organizations who take people who are mentally and physically disabled. They also grant annual exemptions to non-profit organizations to take people who have mental or physical disabilities who have served or are serving in the armed forces. It's been a rewarding experience and Maryland has the authority to issue these exemptions for Maryland's tidal and non-tidal waters. He suggested the Commission take a look at this and see what the process would be to issue them. He stated MD DNR gets requests for the Potomac River and they have been granting them and advising marine police to be aware of that. This is an extension of MD DNR's authority, however Commissioner O'Connell is uncomfortable continuing and it could be resolved at the Commission's level.

Commissioner Bull stated Virginia also has similar exemptions and they are not issued for a season, but for a limited time or an outing.

Commissioner Fleming stated that when license fees increase, he's not so sure the Commission will sell the same amount of licenses in the future as we have in the past. All the more reason to have the states each give \$45,000 to compensate the difference.

Commissioner Bull stated he would consider that as soon as he no longer has budget cuts to deal with.

Commissioner O'Connell stated the license fee revenue for the Commission is around \$150,000 and if the states restored their appropriations back to the \$175,000 that would bring in an additional \$65,000 leaving a gap in funding. With the current budget cuts in each state, it would be difficult to make up that difference, but may be something to explore to see how these new license systems impact the revenue. If the licenses sales become more problematic and the state's budget situation improves, we may need to have more conversations about this.

Mr. Gary stated that was an interesting thought from Commissioner Fleming. He has had discussions with Commissioners O'Connell and Bull and he understands their perspectives. In a general sense, the amount of time that is spent and the changes that are occurring, it may be something to consider and think about in the future.

Commissioner O'Connell stated that the agents that currently sell for PRFC may or may not sell for Virginia and/or Maryland and if they are not willing to invest in new infrastructure they may lose a customer base that is invaluable to them. Mr. Gary stated some agents do and some don't and some have expressed that they don't want to sell for the states. It's clear they value the customers that come into their stores.

ASMFC Issues

Summary of August ASMFC Meeting – Mr. Gary stated the Commission has talked about most of what took place at the meeting earlier and striped bass and American eel are ongoing.

Commissioner O'Connell stated in regards to striped bass, there is an up swelling in New England to take the most conservative action of a 25 percent reduction, which would put our recreational fishery at a 21" in the summer/fall season and a 36" in the spring, and will have a huge impact on the commercial fishery. It's being pitched as a one year plan, but the reality is it will be in place for at least two to three years because there's no assessment to reevaluate. He encouraged everyone to reach out to their constituents and keep them informed of the public hearings and for everyone to weigh in and speak up. This is a big deal.

Announcement of ASMFC's 73rd Annual Meeting – Mr. Gary advised the annual meeting will take place the week of October 27th in Mystic, CT. Any Commissioners who would like to attend will need to make the appropriate arrangements.

Executive Session – 1:45 p.m.

Chairman Hall advised that the Commission would break to go into Executive Session to discuss legal and personnel matters.

Reconvene – 1:50 p.m.

A roll call vote was taken to confirm that only legal and personnel matters were discussed in Executive Session. All Commissioners agreed.

Fourth Quarter Disbursements and Cash on Hand

Mr. Gary presented a report of the fourth quarter disbursements (April through June) for the operational budget totaling \$254,536.00. A report of the cash-on-hand was presented showing \$763,659.75 as of September 9, 2014. He reviewed some of the line items that may be of concern, but were not an issue.

A motion was made by Commissioner Fleming, seconded by Commissioner Bull and unanimously passed to adopt the fourth quarter disbursements and cash-on-hand as presented.

New Business

Mr. Gary advised that he will have more information on largemouth bass and will provide that via e-mail, but wanted to note that over the last month or so he has had several people express concerns for the resource. We are in the planning phase and hope that staff from MD DNR will present some information including a survey that was conducted. It's a starting point for some discussions and PRFC staff will update more at the December meeting.

Commissioner O'Connell stated he is looking forward to these discussions and MD DNR is looking at some regulatory changes in 2015.

Commissioner Fleming stated PRFC has taken some heat in the press on this issue and he replied back to the editor that tournaments are held in the states and PRFC does not have anything to do with them and suggested that people attend the Commission meetings to see what our role is or isn't in fisheries management.

Date and Place of Next Meeting

The next Commission meeting is scheduled for Friday, December 5, 2014 at 9:00 a.m. in the John Thomas Parran hearing room in Colonial Beach, Virginia.

Adjourn

The meeting adjourned at 2:05 p.m.

Respectfully submitted,

Ida C. Hall, Chairman

William L. Rice, Sr., Secretary