

**Virginia Marine Resources Commission  
Crab Management Advisory Committee Meeting  
VMRC Conference Room**

**January 26, 2009**

**Members Present**

Hon. Rick Robins  
H. M. Arnold  
Marshall B. Cox, Sr.  
Jeff Crocket  
Daniel Dise (conference line)  
Johnny Graham  
Paige W. Hogge  
Douglas Jenkins, Sr.  
Ronald L. Jett  
Chris Moore  
Peter Nixon  
Joe Palmer  
Tom Powers  
Ken Smith for Louis Whittaker

**VMRC Staff**

Jack Travelstead  
Rob O'Reilly  
Joe Grist  
Laura M. Lee  
Alicia Nelson  
Stephanie Iverson

**Members Absent**

John W. Freeman, Sr.  
Jim Casey  
Hon. John R. McConaugha

**Others Present**

Rom Lipcius  
Mark West  
David Bradshaw  
George W. Smith  
Dennis Dowhan  
Vernon Won  
John C. Ludford  
J. Jacobin Jr.  
Ken Diggs, Jr.  
Beverly Ludford  
Roger Parks  
Russell Gaskins  
Mark Wallace

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**I. Introductions/Announcements**

Mr. Robins asked for approval of the minutes from the November 12, 2008 meeting. The minutes were approved.

**II. Old Business**

**a. Use of Agents**

Mr. Travelstead began the presentation on regulation 4 VAC 20-610-10 et seq. "Pertaining to Commercial Fishing and Mandatory Harvest Reporting". This regulation

had been approved by this Committee, and some members wanted to eliminate the use of agents all together. There has been some public comment from individuals who are happy with the agent process as it works now (with registration). Of the 104 registered agents in 2008, almost all were registered for a hard crab pot license. Only 14 of those serving as agents were registered watermen (they did not personally hold a license). Most of the 14 licensed watermen serving as agents in the crab fishery held either an oyster or clam license, and a few had licenses in the haul seine or gill net fisheries.

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Mr. Robins asked about law enforcement's ability to handle the new changes. Mr. Nixon mentioned two instances where law enforcement had issues with agent use.

Mr. Robins said that last year the committee prevented the most excessive use of agents (license stacking), and now, this discussion was to see if the committee wanted to make any additional changes.

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Mr. Powers was bothered by illegal activity by agents because there was no penalty for misdoings of agents.

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Mr. Robins said that this issue may have to be revisited after the results of the winter dredge survey have arrived. He did not see any reason to change the policy on this issue this evening.

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Mr. Nixon asked if the card holder/license holder could be made responsible for any violations made while the agent was using his or her card. He related it to someone driving another person's vehicle.

Mr. Travelstead said that the violations were misdemeanors, and the violation had to be in the officer's presence. If there were multiple violations, the owner may have to come to the Commission for a hearing.

Mr. Nixon felt that agents had no responsibility to the boats, the other watermen, or the boat owner. He felt that they had nothing to lose.

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Mr. Robins felt that that question should be run by council to see what options would be available. Mr. Nixon asked that the issue (of responsibility of the card holder) be placed on the next meeting agenda.

## **b. 2009 Measures**

### **i. Bushel Limits**

Mr. Travelstead introduced the bushel limit item. The committee has shown preference toward a bushel limit instead of an early season closure. He reminded the committee that any bushel limit would have to amount to the 6% reduction needed for this year (2009). Mr. Grist gave a presentation on the bushel limit data. He first reviewed the frequency distribution of trips harvesting female crabs. Mr. Grist said that individuals with a license for up to 100 or less crab pots reported just over 44,000 trips between 2004 and 2007 that harvested fewer than 10 bushels of female crabs per trip. This accounted for almost 94%

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of the trips harvesting female crabs in this license category. For individuals with a license for over 300 but not more than 500 crab pots, about 41% of trips harvested fewer than 10 bushels of female crabs per trips. Almost all (99.9%) of the trips reported by peeler pot licensees reported less than 10 bushels per trip of female crabs. Mr. Grist also explained the estimated average reductions that could be achieved under different bushel limits.

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Mr. Grist discussed recoupment and who would benefit the most. He said that bushel limits would impact the best crabbers and make more crabs available to the least efficient crabbers. According to the watermen at the Potomac River Fisheries Commission (PRFC), reduced amounts of gear made crabbing better.

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Mr. Robins asked about adjusting the data for noncompliance and underreporting and if the savings could potentially be greater. Mr. Grist said that along with recoupment, that was a valid issue.

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Mr. Arnold asked if crabbers were more likely over-reporting or under-reporting. Mr. Travelstead said that his impression by some is that there is under-reporting. He said the only thing known for sure is differences between reporting and dealer auditing. He said there has also been history where over-reporting has occurred. Mr. Marshall asked if it was factored in, and Mr. Travelstead replied that was a question for the committee—if that needed to be factored in (along with recruitment).

Mr. Travelstead said the guys who have been catching more per trip are going to suffer, and the guys who were harvesting smaller amounts would benefit. Mr. Arnold asked about the extension of the current season, and Mr. Grist said this would take into account alternative seasons.

Paige Hogge asked about female peeler crab distinction. Mr. Grist said that a ratio of 50:50 of males to females was assumed for the peeler crabs at this point because sex information is not reported. She mentioned that during some periods, the harvest was all female and that she felt the ratio would not apply. Mr. Grist said if the harvest was all female during parts of the year, then the harvest numbers computed here were probably low estimates.

Mr. Robins wanted to know why peelers were considered because this proposal was about the substitution with Maryland. If looking at an equivalency, why would we equate that on the peelers as well? Mr. Grist said that they were providing information across the board on all gear.

Mr. Jenkins said that the percentages of males to females in the catch depended entirely on locality. Mr. Robins said that Mr. Grist's analysis on hard pots was based on reported sex.

Mr. Powers said that the closed season was a one-year regulation and asked what biomass will be required for the month to come back into play. With the past years' changes and closures, he hopes that the biomass will come back higher.

Mr. Travelstead said that for the purposes of this meeting, staff was operating on the assumption that the levels were status quo. He said that the dredge survey results would be in during the 1<sup>st</sup> week in April.

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Mr. Powers also said that he felt that a bushel limit would more negatively impact the peeler fishery because the harvest comes in bulk during certain times of the season.

Mr. Robins clarified that the 6% reduction would be in lieu of the early season closure that was put into place in 2008 only if there was a status quo with the biomass of 2008. For example, the length of the season, which coincides with Maryland, may be something that could be altered for next year. We may have to be prepared for some of these tradeoffs, so it's important for this committee to be prepared for decision making.

Mr. Arnold felt that we were jumping the gun. He predicted that the market would be flooded in two weeks. He said that when the market crashes, the harvesters slow, and the numbers don't come in. He felt that the committee should wait to see the effects of what the crab dredge closure has done.

Mr. Robins said that this discussion was just to talk about bushel limits in preparation for the results of the winter dredge survey.

Mr. Powers asked if it would be possible to have the data granulated by week in the spring, because of the fluctuation of peeler crab landings due to moon phase and spring shed, to see if limiting the peeler fishery to 3 bushels would be unfair.

Ms. Hogge said that the peak season doesn't happen the same time every year. She agreed with Mr. Cox and did not want this meeting's discussion to be taken as the crab committee's decision to the Commission in several months.

Mr. Travelstead reminded the committee to keep in mind that the results of the winter dredge survey would be available in April. The idea is to be prepared so that the committee would not have to immediately make a decision [after the survey results are in]. If the committee decided to not close in October and November and have a bushel limit instead, changes must be made in April.

Mr. Robins added that rulemaking on this proposal was not suggested until the results of the winter dredge survey were available.

Mr. Nixon asked if the new gear reductions for 2009 could be worked in with the reductions. Mr. Grist said that staff would take it into consideration, but didn't know what action would be taken at this time.

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Mr. Grist presented some of Maryland's options for 2009, which include closures and varying bushel limits (from 2 to 50). Maryland has also developed tiered bushel limits.

Mr. Arnold asked about the sex percentages of the total catch between Virginia and Maryland. Staff answered that Virginia harvested about 70% female of total crabs. Mr. Grist said that there was also discussion about protecting the males as well.

Mr. O'Reilly said that Maryland indicated, for each month, their bushel limits would represent a six percent reduction in September and October harvest. He said that there was indication that it was unusual to see trips of 90 bushels or more of sooks during that time. Maryland is currently trying to mix bushel limits and seasons.

Mr. Robins said the committee was very well aware that a female-centric conservation strategy was at the expense of Virginia. He said there was no indication that there was sperm limitation from the scientific community.

Mr. Arnold asked if multiple licenses were allowed in Maryland, and Mr. O'Reilly said yes, there are options with up to 900 pots per boat.

Mr. Nixon said that there was no attempt in Maryland to have any gear reductions. Mr. Travelstead said the only thing proposed is to get rid of latent licenses. There were rumors of several thousand latent licenses.

Mr. Smith felt as though the crabs will take care of themselves. He said that the bushel limit punished the good crabber.

Mr. Graham asked what if the market gets saturated in 2 days, instead of 2 weeks. Where does the math for recruitment come in for the savings for the crabs that were left in the water due to market failure? He felt that bushel limits would push crabbers out of business. He did not feel like limits were right for the current situation (there are plenty of crabs in the water). He said that it made people turn into crooks. How do you measure how many crabs remain in the water? Mr. Travelstead said that it was the dredge survey. He said you were looking for the size of the population (dredge survey) and what percentage of that population was harvested (reported). In April, staff will know what is out there, and can compare that to harvest in 2008.

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Mr. Powers felt that staff should look at reduction in bushels landed during the summer on a weekly basis between 2008, 2007, and 2006, to compare the market between years.

Mr. Nixon questioned the credibility of the dredge survey. Mr. Travelstead said the scientists who designed this survey tell us there is a very good correlation between the abundance of crab in the survey and the following year's harvest.

Mr. Nixon agreed with Mr. Graham's comment about artificially low harvest based on poor market conditions.

Mr. Robins told the committee that everyone at the commission level understood what happened with the market (conservation effect—not by regulation but by economics).

| Dr. Rom Lipcius, of the Virginia Institute of Marine Science, commented on the winter dredge survey. He said that the senior staff and captain on *BAY EAGLE* have not changed since 1989. Every year, they estimate and compare gear efficiency between the two vessels participating in the survey to account for differences. They are very comfortable on the VA portion of the survey, and he believes that Maryland feels the same way about their survey.

| Mr. Robins felt there was no reason to get ahead of the management process to pursue bushel limits at this time.

## ii. Sanctuaries

Mr. Travelstead said that staff was asked to look at new sanctuaries for male crabs only.

| He said staff has no way of judging the effectiveness and benefits of a male only sanctuary. Mr. Nixon suggested up-river sanctuaries in his area. On that concept, it would have to be done on an experimental basis with study before we applied that to the entire bay.

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| Mr. Robins asked if the Commission or VIMS have resources available to do an experimental survey of that nature.

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Mr. Travelstead said he did not know at this time unless we were to redirect some of the disaster fund benefits.

Mr. Nixon said that this item was discussed at the last work meeting. Harvesters had noticed that watermen, trying to seek more desirable jimmies, have gone further into the upper reaches of some creeks. His thought was to have sanctuaries during the same period as the old bay sanctuaries. This would give the crabs a few weeks to mate without fishing pressure. He said this would be determined by those that work in the particular area (with the most benefit and less detriment).

He pointed out Broad Creek on the map and said that the water there is only about a foot deep. During the summer, the area is completely covered with crab pots, and the crabs don't get a break. He suggested Broad Creek as an experimental area. He said it would displace one crabber for the whole season and a few crabbers for part of the season.

Mr. Graham added that everyone knows that the dynamics of the fishery have changed, in that harvesters can move into more shallow water (with the aide of navigation equipment). We've seen a shift in effort and in gear. He asked if the crab population survives all the changes in pressure. If there are any monies at all (disaster relief funds, etc), it would be well worth it to do some studies in these areas. He mentioned shallow area restrictions.

Mr. Jenkins said that there more crabs than could be sold. He said that many fewer males are needed to fertilize many females and compared it to the game department restricting the hunting of does at first. He does not want the disaster fund to be spent in this way.

Mr. Moore asked if they could make a sanctuary like this without making new regulations.

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Mr. Palmer mentioned that Virginia Beach had a few examples. He mentioned that in some places, the water is shallow, and the only area with 3 to 4 feet of water is the channel.

Dr. Lipcius commented on sanctuaries for males. He said the strategy is to figure out if there are ways to set up sanctuaries for mating while allowing a catch. That was the strategy for the center of the bay sanctuaries as well. For males, we would want to protect them for the peeler run. They would be protected during mating, then available later for harvest. There are other places that naturally protect them (such as military installations), and that is where a lot of this work is done.

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Mr. Robins said that in order to study the possibilities of these sanctuaries, we would need a more specific proposal.

### iii. Cull Rings

Mr. Robins said that it was a hardship on crabbers to impose cull ring changes after the season starts and wanted to clarify and streamline the rules before the season starts. He suggested two rings at 2-3/8 inches.

Mr. Travelstead said that a change to two rings at 2-3/8 inches (while pots with currently required 4 rings would still be legal) is what staff had in mind. He mentioned one of the crab disaster projects is to continue to study the effects on cull rings, so regulations could be changed in the future based on the study.

Mr. Robins said at the last meeting, Mr. Jenkins pointed out that more study should be done, and it seems like that is happening. The issue is the 2009 fishing season, and it needs to be decided so that people know what to expect for the fishing season.

Mr. Powers asked if it could be requested for a public hearing in February so that it could be decided quickly.

Mr. Smith felt that cull rings were first initiated by the crabbers to make culling easier. He felt that some cull ring regulations were circumventing statutes that regulate the size of a crab (which VMRC can only change for 60 days). He felt that 90% of the crabbers are suffering for the 10% who are doing things wrong.

Mr. Jenkins asked if the 2-3/8 inch requirement would be state-wide or regional, and Mr. Robins said that it would be 2-3/8 inches in the same areas where they are currently required.

Mr. Graham clarified that if there is no additional debate, there would be 4 cull rings for next year. Mr. Robins answered that there would be only two of the larger size required if we cleaned up the policy.

Mr. Nixon said that the study was done for only two rings per pot, so there was no 4 ring comparison anyway.

Joe Palmer felt that if a crab could not escape from larger cull rings, the additional, smaller cull rings didn't matter.

Mr. Graham motioned to request for the Commission to request a public hearing to reduce the cull ring requirement to two rings of 2-3/8 inches. The motion was seconded by Mr. Nixon.

Mr. Jenkins commented that a female crab is shaped differently than a male crab and said that the 2-3/8 inch ring lets small females go through, but large male crabs fit through as well. Watermen in his area struggled with the larger cull rings. He also mentioned that crabs in freshwater grow more with each shed due to slower hardening.

The motion passed with 8 in support and 4 in opposition.

#### **iv. License Stacking**

Mr. Robins introduced the license stacking issue and mentioned there is not adequate funding and industry support for pot tagging, so we no longer have the option. Now, we need to develop other tools to mitigate the lack of pot tagging. One option would be to allow stacking or leasing of a permit from one pot licensee to another, provided that that license would be in the pool of licenses and provided the level of activity of that license. This would mitigate the effects of the gear reduction for watermen. He said this raises some issues pertaining to agency. However, the harvesters using this option would be full-time working watermen who already have licenses.

Mr. Palmer questioned the original idea of pot tagging and individual transferable quotas. He did not want to penalize the watermen by making them buy their own tags. He suggested using some of the money from the disaster relief fund.

Mr. Robins said that it may be possible if we had access to the funding immediately; however, the date for the 2009 season has passed. There also may be some concern about a pot of federal money as a one time source of federal money.

Mr. Powers felt if any stacking is allowed, it should go back to the number of days that anyone has worked on the water over the past year or several years. He wanted to make sure the existing, full-time watermen were the ones who benefited from any new options.

Mr. Graham mentioned that harvesters in Maryland can pay extra to be allowed more pots. Mr. Robins responded that the state would have to administer it, but it would be a transfer between two licensed watermen.

Mr. Travelstead said that the data could be pulled out for the next meeting. The concept is that ~~they~~ don't want to add more effort and more pots into the system. Currently, they can

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upgrade, but it would require them to forfeit their 100 pot license and upgrade to the 300 pot license. This option would include someone with a 100 pot license acquiring another person's 100 pot license. He said that he didn't see hundreds of crabbers making use of it, but he could see several people working with this.

Mr. Robins mentioned that any option had to be conservation neutral and asked if there was any opposition.

Mr. Moore didn't think there was any opposition.

Mr. Nixon asked if this would exacerbate the problem by pushing effort higher in some areas. Would it maintain the number of the allowable pots at the maximum allowable licenses in the tributaries?

Mr. Travelstead said it would also be an enforcement issue because of lack of tags.

Mr. O'Reilly said that the data are not straightforward because you really have to go beyond 100 days to get clear data, and not many crabbers worked more than 100 days. We have to make sure that the amount of effort does not increase.

Mr. Nixon hoped that we could use the additional reduction in hard crab pots to go against bushel limits and fall closures. He doesn't want anything in localized areas to ruin the potential for those reductions affecting bushel limits and closed seasons.

Mr. Robins suggested that we look back over previous years of data and develop a conversion factor for a transfer.

Mr. O'Reilly answered the questions about the gear reduction and said the answer is probably too intractable to figure out. We don't have another year to look at to determine if the reduction in harvest has anything to do with the reductions in pots. We may be able to simulate how much of the harvest reduction is due to cull rings and pots.

Mr. Nixon asked about the reduction percentage gained for the 15% gear reduction from 2008. Mr. O'Reilly answered that it was factored in indirectly because of the 1940 sanctuary that remained open until May. It was the Commission's feeling that the pot reduction and the cull rings would mitigate for that opening. On two different occasions, the Commission was notified that that measure was an overall reduction.

Mr. Ken Diggs, Jr. suggested a high cost of the transfer, so that only full-time crabbers would be interested. He said only a small percentage would be interested anyway and that would allow them to have more pots without really adding that many pots to the fishery.

Mr. Robins asked for any opposition to refer this issue to staff for analysis and was approved by consent. He asked Mr. Travelstead to send out the information prior to the next meeting.

### c. Blue Crab Disaster Relief: Update

Mr. Travelstead said that the draft packet proposal was sent out last week. The NMFS had a number of comments, and the package has been rewritten and will be sent back to NMFS later this week. According to NMFS, we can anticipate relatively quick approval of off the water measures—those projects such as license buy-backs and such. The NMFS has already approved ~~off-the-water~~ projects for Maryland. ~~On-the-water~~ projects require a NEPA review for both Maryland and Virginia.

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The package consists of several projects including the pot removal project, which used state funds that will hopefully be reimbursed. Currently, there are ~~57~~ people in the project. A 3-4 million dollar ~~buy-back~~ program will also be included. Of those funds, half (50%) will be used to buy the most active licenses, 30% for lesser active, and 20% for individuals on the waiting list. Buy-backs will be based on the bid that the individual fisherman sends to us—the crabber himself will put a price on the license. They will start with the lowest bid and buy that crabber's license first. When bought out, that license would be permanently eliminated from the fishery. ~~Staff~~ anticipates ~~the~~ process would go on for this calendar year, for 2010, and beyond.

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Mr. Jenkins asked if the 500+ individuals recently put on the waiting list are eligible. Mr. Travelstead replied yes, they are still in the fishery and deserve the right to be bought back. Mr. Jenkins did not think they should be helped by the relief fund because they weren't suffering during the past crab season. He felt like the relief fund should be for those who had monetary loss during recent seasons.

Mr. Travelstead said none of the money is going to be used to write checks directly to crabbers to cover losses; instead, there will be projects that would provide additional employment. A portion will be used to provide opportunity for crabbers to get into shellfish aquaculture. Mr. Jenkins asked if those benefits would be offered to crabbers only, and Mr. Travelstead said that it was only for crabbers. Mr. Jenkins asked if those who don't have oyster grounds be considered, and Mr. Travelstead replied no, they will have to find grounds. ~~Staff~~ will work with them to try to help them find an opportunity to sub-lease ground.

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Mr. Robins asked about the draft proposal for the cull ring study. Mr. Travelstead said it is still in development and added that we are somewhat limited by our own staff.

Mr. Robins discussed calls about the ghost pot program waiting list and availability. He asked if that program would be open to additional applicants next year. Mr. Travelstead said that ~~there are 57~~ people in the program, and it costs about 1.3 million dollars per year. We may be able to have a small number of additional participants, but it will not double. We have had a few people drop out, which allows new people to come in. However, most of the individuals participating in the program are happy with it.

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Ms. Hogge asked for clarification about the programs and how the money would be spent. She specifically asked about the percentage of the funds going to administrative

costs. Mr. Travelstead said that administration fees were not included in the proposals, only the cost of mail-out notices. No portion of any VMRC employee's salary will be paid from these funds.

Ms. Hogge asked if subsidies were considered for the fishermen. Mr. Travelstead said they were discussed, but the clear message from the legislature was to use the funds in other ways.

Mr. Powers voiced concern about a bidding process. What if someone offered an extremely high bid? He asked if it would be possible for the Commission to meet in a closed session to determine what to do about high bidders? He asked if there were any maximum bids discussed. Mr. Travelstead said that there were no maximum bids.

### III. New Business

Mr. Smith asked if staff could put together a package of environmental impacts on the blue crab and what things are being done to enhance the crab habitat and reverse any deterioration and come back with suggestions with how that could be addressed.

Dr. Lipcius replied that we have formed ecosystem-based crab management teams, and hopefully, later this year, we will have the ecosystem-based plan. A major part of that would be the habitat reference points. He said that the two reference points were stock abundance and exploitation rate. This team is also adding habitat and food web reference points, which include invasive species such as the blue catfish.

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Mr. Robins asked when to expect a report, and Dr. Lipcius responded that they could easily give an update from the biological team in about 3 months. Mr. Robins asked for that to be put on the calendar.

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Mr. Robins asked for comments from the audience.

Mr. Denis Dowhan said that he had talked to VIMS about the importance of the dredge survey and asked if anyone on the board had been a witness to the dredge survey. He was not impressed with the survey, particularly with the amount of pre-chosen reference points and 1-minute drag times.

Mr. Robins said the issue has been discussed during the past year about increasing the dialogue with VIMS and the fishermen related to the dredge survey. We have discussed gear efficiency. He suggested that Dr. Rom Lipcius offer comments on the survey.

Mr. Dowhan asked about how sure the board was about the survey, and Mr. Robins replied that statistically, the confidence in the survey was quite high. He said that Mr. Dowhan could be part of the dialogue between VIMS and the fishermen.

Dr. Lipcius said that they are trying to set up time for some of the board to come out and see what happens. During the survey, a total of 1,500 stations throughout the bay are

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sampled. It's not unlike the US census. They are trying to set up opportunities for harvesters to come out.

Mr. Jett asked if Virginia performs the survey in the same way as Maryland. Dr. Lipcius said we use GPS to go out and sample and report the numbers in 10,000 or 1,000 square meters. We use the same system as Maryland. That's why we sometimes go places where we don't expect crabs (randomly selected locations).

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Mr. Jenkins brought up dead zones in the bay. He reported that he had questioned Lynn Fegley (MDDNR) about dead zones in the bay and disagreed with her opinion of the importance of dead zones.

Mr. Graham suggested closing the sanctuary year round instead of having bushel limits and November closures. Mr. Travelstead said that that would have huge impacts on watermen from Tangier. Mr. Dise said that he would certainly be opposed to that because they don't have rivers to fish in.

Mr. Robins said that the other issue was logistical because of the timing of the results of the winter dredge survey.

Dr. Lipcius answered the concerns about low dissolved oxygen (DO). He said that DO is measured during the survey, and during the time of year that the dredge survey occurs, the low DO events are not occurring.

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Mr. Ludford asked if the relief measures would benefit Virginia residents only, or if it would benefit Maryland residents that hold Virginia registration cards as well. He wanted the group to think about this as they were making decisions.

#### **IV. Next Meeting Date**

The next meeting date was tentatively set for February 23, 2009.

#### **V. Adjournment**

The meeting adjourned at 8:59 pm.