

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

August 25, 2008

ATTENDANCE

Members Present

Hon. Rick Robbins
Doug Jenkins
Ronald L. Jett
Dr. John McConaugha
Peter Nixon
Joe Palmer
Tom Powers

Members Absent

H. M. Arnold
Jim Casey
Marshall Cox, Sr.
Jeff Crockett
Pete Freeman
Johnny Graham
Paige Hogge
Chris Moore
Louis Whittaker

VMRC Staff

Jack Travelstead
Rob O'Reilly
Joe Grist
Mike Johnson
Laura M. Lee
Alicia Nelson
MPO Bennison
MPO

Others Present

Ken Diggs
Ty Farrington
C.D. Hancock
Tom Leggett
Ken Smith
Ray Watson
Robert T. Weagley

MINUTES

I. Introductions/Announcements

The meeting began at 6:29 p.m.

II. Approval of Minutes from the July 21, 2008 Meeting

III. Old Business

A. Crab Pot and Peeler Pot Tagging, Latent Effort Reductions, and Effort Transfer Program—Final Recommendations

Mr. Robbins mentioned that the Commission would consider a number of items about the pot tagging system and latent effort controls based on this issue.

Mr. Travelstead provided an update of monetary issues. He said that the materials mailed out to members were the latest version at that time. He mentioned some of the latest changes including the committee's concern regarding the requirement that the watermen pay for the cost of the tags in year one of the crab pot tagging program. This would cost 40 to 200 dollars per crabber depending on the number of pots fished. Around December 1, crabbers would have to declare the number of tags needed and would have to pay at that time. The VMRC does not have the funds to cover the cost of the tags, and state agencies are not allowed to obtain debt that they can not pay. Mr. Travelstead said that during the last week or so, staff was made aware that there have been some significant budget cuts in the state budget, and there will be virtually no chance that the Governor's budget will include funds for the crab pot tagging program; there would be no relief for the costs of the program. It is the opinion of the Commissioner and Mr. Travelstead that we cannot go forward with crab pot tagging at this point. The VMRC has the basis for a solid program to move forward with in the future, but he was reluctant to tell the harvesters that they must bear the costs of the program now and in the future, since the VMRC can not guarantee funds from the general assembly in the future. Staff does not know the state of the budget currently, but staff was told to expect substantial cuts in the future. Beyond that, the VMRC may be in a position that necessitates cutting staff. Mr. Travelstead said he would report the same information to the Commission. The VMRC was going to ask for public hearings throughout the state to solicit public comments on the issue. The good news is that this allows more time to tweak what is in the proposed packages. Some things can still be done. For instance, measures relating to latent effort and the use of agents can still go forward. Moving forward with effort transfers will not be likely until a tagging system is in place to back it up. The committee may need to discuss a moratorium on transfers until a tagging system is established. The committee has suggested additions to the proposed measures, which staff has not had time to investigate; staff may have more time now to look into these ideas.

One of proposed additional measures is the development of a waiting list for inactive crabbers. Previous plans considered fishermen latent if they had not harvested at least one pound of crabs from 2004 through 2007—about 500 individuals. Staff has also looked at those individual's participation in other fisheries. Some members feel that full time watermen should be allowed to remain in the fishery. Watermen that have had no effort in any fishery should be placed on a waiting list. Staff has not had a chance to evaluate these considerations, but will.

Another issue brought up at the last meeting was what would be printed on the tag itself in terms of identification. Staff proposed a serial number. Some members proposed the waterman's ID number instead. The tagging company stated that that printing the serial number or the waterman's ID number would have the same cost (in addition to the base cost of the tag).

The discussion moved on to the crab pot effort transfer program. Mr. Travelstead referenced page 6 and Figure 7 in the hand-out. He indicated that a situation in which a crabber who is only active a week out of the year transfers their pots to someone who is

active full time should be avoided. The desire was to limit the amount of pots that could be transferred based on the amount of use. If an individual uses their pots 10% of the time, then that individual should only be allowed to transfer 10% of his pots. A temporary transfer provision, in which someone could transfer pots for one year, and could only transfer that percentage, should be considered. At the end of the year, the owner would get the entire amount back again (transfer 10% temporarily, but regain 100% for personal use after the year is over). Mr. Travelstead addressed the issue regarding some areas that have shorter seasons than others (say a 90 day = full time category). Where the categories are set are up for debate. Staff's opinion is that licensees who have used their pots minimally should not be permitted to transfer all of their pots. The whole idea behind this entire program is to set up the regulation so that the number of pots can be changed when a change is needed instead of regulating through seasons, areas, or cull rings. Based on estimates from the winter dredge survey, the number of pots could be increased or decreased from year to year. Without a tagging program, regulating the number of pots in this way would be a waste of time. The trade off until we do have one, we are limited to using regulations about closing seasons and cull rings.

Mr. Powers recalled that earlier someone said that crabbers could get back the number of pots they fished before the effort reduction through partial transfers. Perhaps watermen could build back up their rig to some maximum limit through partial transfers of twenty or thirty pots at a time.

Mr. Robbins said the committee needed to discuss the use of agents. The transfer system would eliminate the use of agents. The tagging program and transfers would have solved the issue of agents, but the tagging and transfers are no longer an option at this point.

Mr. Palmer asked how many agents we had this year. Mr. Travelstead said he wasn't sure, but it was over 100.

Mr. Nixon said that a patrol officer mentioned that there were a lot of pots per number of buoys on the water. It is someone who uses pots and fished as an agent. How would the agency issue be managed? Mr. Travelstead said that the current measures under consideration do not contain regulations for agents. Mr. Nixon wanted to know about how it would be regulated when geographically separated.

Mr. Travelstead inquired whether one agent could fish with two waterman's licenses? Staff replied that it was a violation. Mr. Nixon added that this year's regulations regarding agents were too vague.

Mr. Palmer mentioned a waterman that was fishing multiple sets of pots with one license.

Mr. Robbins said that there are a couple of things to keep in mind for next year. One of those things is scheduled regulatory changes. The fall season closure is set to sunset next year. The length of the season will revert to March 17 through November 30. The sunset date on the closure was established with the assumption that an effort control system would be in place by the sunset date. The system would have been effective in

constraining effort so that the full length of the season could be regained. One of the goals is to restore the length of the season. If there is not a system in place for insurance on the level of effort and fishing mortality, we will have to go full circle with regulations (bushel limits and such). Another consideration is the 30% reduction in gear. If no regulatory changes are made, the current regulation calls for this 30% gear reduction. When the Commission voted on this gear reduction, there was an assumption that an effort control and transfer system would be in place. Cuts could have been mitigated through transfers. Could the effort control/tagging system stand on its own two feet without funding? Last month, this committee discussed the cost of tags—about fifty cents per tag. A 300-pot license holder could fish 210 pots without the ability to transfer. With a tagging program, one could spend 150 dollars in tags and regain the other ninety pots through transfers. If those pots made one dollar a day per pot, the cost of the tags would be recouped in two days of fishing with those additional pots. The benefits are quite good. The problem this year is that the proposed tagging program comes at a very difficult time economically—right after a fall closure and a closure of the dredge fishery. The timing is very difficult. Mr. Robbins encouraged members to consider the costs and benefits of the system. If the system is delayed, then a number of things that were wrapped up in the issue must be considered: agency, latent effort licenses, and transferability. If the implementation of the tagging system is going to be delayed, these issues need to be discussed and dealt with separately. These issues may bear on the length of the season.

The idea of latent effort licenses is part of the staff proposal for tonight.

Mr. Nixon stated that, from the outset of this, some members were lead to believe that regaining the last month of the season was dependant on the state of the stock, not the other controls. Mr. Travelstead replied that Mr. Nixon was correct; if the winter dredge survey came back with significantly large estimates, the season could open. If the effort control system is in place when, and if, that happens, the next time the winter dredge survey estimates dropped, management could control the pots instead of shortening the season.

Mr. Powers said that the biggest problem with the tagging program was that someone who wanted to transfer tags in April would have to decide and pay in November. He asked if the proposed measures included an option to contract out tags with extras in the future. Mr. Travelstead replied that the VMRC could not solicit a bid until the funds to pay for it are available. Mr. Powers indicated that such an option should be included. Staff said that state laws require that the VMRC have the money in hand before initiating the bid process.

Mr. Jenkins said that it seemed like so much of the issue depends on the crab dredge survey. He asked if it would be out of order to ask for a revamp of the survey. He mentioned that there have been a lot of dead zone changes since the start of the winter dredge survey, twenty-five to thirty years ago. Mr. Jenkins added that he is worried that the dredge survey is not effectively sampling the crabs. He is concerned that the estimates will never reach two million crabs unless the survey samples the hot spots.

Mr. Travelstead stated that most of the dead zones occur in the summer, and the survey is conducted in the winter. There are 1,500 sampling stations throughout the bay—some permanent, some temporary. Dr. McConaugha added that the anoxic zones weren't present during the winter.

Mr. Robbins remarked that a great example of a survey that cooperates with watermen is the NEAMAP (Northeast Area Monitoring and Assessment Program) survey. The program does a lot of outreach with groups of watermen and rule makers. Mr. Robbins said that it was a great example of a collaborative effort as well as an example of how fishermen and scientists could work together. Regarding the winter dredge survey, Mr. Robbins indicated that there has been a lot of debate and skepticism regarding the survey methods and sampling locations. Mr. Robbins asked Mr. Jenkins if he was asking whether he was requesting that the survey be pushed up or moved up.

Mr. Robbins stated that one of the issues is whether data from earlier in the year could be used as a predictor for the end result. He asked how much of an indicator would that be and would it be useful for decision making. Staff replied that they are looking into it, so that we would not have to wait until April for the final number.

Mr. O'Reilly mentioned that one of the charges from CBSAC is to perform more comparisons with Maryland and Virginia this time around by conducting some side by side surveys and working on efficiency.

Mr. Robbins verified that Mr. Travelstead developed draft measures for the latent effort control system. Mr. Robbins questioned how to identify full time watermen. Mr. Robbins asked Mr. Travelstead for a summary and about timing. Mr. Travelstead indicated that it is something that can be moved forward. Staff is not prepared to discuss it in the very short term, but it is something that could happen before next year.

Regarding the classification of full time watermen, the staff's recommendation was to consider licensees who have reported no harvest of crabs from 2004 to 2007 (reference Figure 1 in hand-out). The intent is not to permanently prohibit inactive license holders, but to place those license holders on a waiting list until the winter dredge survey estimates are healthy for three years. When that happens, a determination can be made as to how many of the wait-listed individuals can return to the fishery and at what level. Mr. Jett asked how the VMRC can go back and change regulations.

Mr. Powers said that, in the past, one had the choice to buy a license and not fish. The proposed measures do not change that, except that one doesn't have to spend money to but the license. Mr. Jett commented that if he had bought a license every year, it would have been latent effort.

Mr. Robbins said the control date was set up to base changes against the 2004–2007 time period.

Mr. Powers asked what will happen to 2008 transfers. Mr. Robbins replied that it will be up to Commission.

Mr. Nixon asked if licensees were aware of the risk. Mr. Travelstead replied that they were aware of the control date.

Mr. O'Reilly said that a waterman can buy a license in one year and not harvest. The emphasis is on the lack of harvest.

Mr. Leggett asked how many licensees have been inactive.

Mr. Travelstead indicated that staff will follow up on suggestions from committee to ascertain whether watermen with inactive crab licenses are involved in other fisheries. The committee suggested that the "share" of such watermen should be preserved.

Mr. Leggett expressed his concern that some fishermen may fall through cracks, especially fishermen involved in oyster aquaculture on private leases.

Mr. Travelstead asked if Mr. Leggett was suggesting that aquaculture be considered as one of the other activities that allow a licensee to preserve their share.

Mr. Robbins explained again that the proposed latent effort regulations are not intended as a permanent prohibition. Some watermen will be put on a waiting list or could opt to purchase in.

Mr. Travelstead referred members to Table 4 in the hand-out. This table shows the number of watermen holding crab licenses that hold licenses to participate in other fisheries. There are some watermen with inactive crab licenses that are full-timers in other fisheries. Members felt that the eligibility of these watermen should be preserved.

Mr. Jenkins asked those who left crabbing because they couldn't make ends meet and so took another job with plans to get back into fishery in the future. He said these individuals would be denied. Mr. Jenkins also stated that a licensee that is reduced to 210 pots would have to buy shares in order to acquire the 300 pots he was permitted before these regulations. Mr. Jenkins stressed that more restrictions will cost watermen more money and watermen have been through enough.

Mr. Robbins asked Mr. Travelstead when staff could have the next draft of the proposed management measures. Mr. Travelstead replied that staff would need time to do the analyses. He also indicated that watermen should be given as much lead time as possible in order to be ready for 2009 season. Mr. Travelstead said he is looking to schedule a public hearing on the proposed latent effort measures sometime in October or November.

IV. New Business

A. Use of Agents

Mr. Robbins asked if members sought modifications or status quo with regard to the use of agents for the 2009 season. He suggested that they could wait and see how the tagging system works out and if the new tagging regulations capture agency issues.

Multiple licensees are permitted aboard a boat. A licensed crabber can not be an agent for someone else.

Mr. Nixon suggested that transfers should last a period of time, such as two to three years. This would make licensees consider who they are transferring their license to and so would be less likely to take risks.

Mr. Robbins added that another option would be to prohibit transfers until the tagging system is developed or until the fishery achieves its target.

Mr. Powers asked what happened to the concept of agents for medical emergencies only. Mr. Travelstead replied that the use of medical emergency only-type agents would be a consideration for the future.

Mr. Nixon expressed his concern that the abuse of agents was the cause of the current situation in the crab fishery, specifically via the peeler pot fishery;

Mr. Powers said that agency seems to be present in about 15 % of the peeler pot fishery.

Mr. Travelstead agreed that there were a lot of agents in the fishery.

Mr. Powers asked about the breakdown of registered agents by gear type. He suggested this would give an indication as to the fisheries in which agency is a big problem.

B. Control of Neglected Pots

Committee members discussed various situations that result in neglected pots.

Mr. Travelstead said there was a regulation for gill nets regarding neglect.

Mr. Robbins stated that regulations would have to distinguish between abandoned pots and lost pots.

Lost pots would have to be reported so it is not assumed that they were abandoned.

Mr. Nixon asked if a warning letter could be sent to owners of possibly abandoned pots stating that they have X number of days to retrieve their abandoned pot(s).

A MPO indicated that he could see a lot of abuse using such a system. In response to how often abandoned pots are encountered, the MPO responded that more abandoned pots are encountered in the Back Bay than anywhere else.

C. Other New Business

Mr. Robbins asked members if there was any other new business to discuss.

Mr. Smith mentioned that Virginia crabbers with a 300-pot Maryland license had their Maryland license fee raised from \$660 to \$860.

Mr. O'Reilly added that Maryland crabbers pay a fee in addition to the gear license fee.

Mr. Smith said that there is an issue that would result in losing Maryland license all together. He asked if staff could look the number of reported crabs on a given date for last five, six, or ten years and compute what percent of crabs were caught by that date. He also asked if the percent caught by the specified data in those past years could be compared to the winter dredge survey estimate for the relevant years. That is, if there is evidence that Virginia crabbers have already taken the required 34% percent reduction, can the season be opened.

Mr. Travelstead indicated that catch for this year (2008) are currently available only for the months of January through May. The staff can make comparisons with past years up to a certain date this year. Mr. Travelstead added that the rate at which watermen report harvest varies from year to year.

Mr. Nixon stated that Mr. Smith is looking for a way to demonstrate that Virginia crabbers have exceeded the required 34% reduction.

Mr. Smith asked if Virginia crabbers could get September back.

Mr. Powers asked what data will be available for analysis by October 1. Mr. Travelstead replied that data through June or July should be available. Mr. O'Reilly added that, in October, we won't yet know the results of the 2009 winter dredge survey. Staff can make these comparisons, but the evaluation will not provide a direct estimate of the amount of reduction achieved to date. The data are very variable. While Mr. Smith's suggested approach sounds straightforward, it is not a straightforward request. The required 34% reduction applies to the entire bay and so must account for Maryland.

Mr. Smith commented that Maryland watermen got \$3 million to get through this year, while Virginia watermen did not get financial aid. Mr. Smith expressed that he wanted to submit a request for compensation for Virginia crabbers.

Mr. Robbins remarked that Congress is currently reviewing a proposal through the NOAA that would provide \$20 million in compensation for Maryland and Virginia crabbers.

Mr. O'Reilly explained that the NMFS has three questions for the current version of the draft proposal: (1) abundance estimates, (2) harvest trends / environmental problems; and (3) economics. The NMFS is interested in knowing economic impact. In the first draft, it the economic impact in Virginia was demonstrated, but it was not clear whether there was an economic impact in Maryland. More information on economic impact is being compiled for the second draft of the proposal. At least 30% negative economic impact must be demonstrated to the NMFS in order to qualify for some kind of relief, and, even at that level, relief is not guaranteed. From 1990 through 1997, estimates from the winter dredge survey values bounced around. Since 1997, estimates have been low with no indication of bouncing back.

V. Next Meeting Date

The next CMAC meeting is planned to be held October 13, 2008.

VI. Adjournment

The meeting adjourned at approximately 8:22 p.m.