

**MINUTES**

**JULY 25, 2000**  
**NEWPORT NEWS, VIRGINIA 23607**

The regular monthly meeting of the Marine Resources Commission was held on July 25, 2000 with the following present.

William A. Pruitt	)	Commissioner
C. Chadwick Ballard	)	
Gordon M. Birkett	)	
Lake Cowart, Jr.	)	
Laura Belle Gordy	)	Members of the Commission
Henry Lane Hull	)	
John W. White	)	
Kenneth W. Williams	)	
Carl Josephson		Assistant Attorney General
Wilford Kale		Sr. Staff Adviser
Erik Barth		Head - MIS
Andy McNeil		Application Specialist
LaVerne Lewis		Commission Secretary
Bob Craft		Chief-Finance & Administration
Debbie Brooks		Executive Secretary
Steven G. Bowman		Chief-Law Enforcement
Lewis Jones		Deputy Chief-Law Enforcement
Warner Rhodes		Middle Area Supervisor
Kenny Oliver		Southern Area Supervisor
Randy Widgeon		Eastern Shore Supervisor
Ray Jewell		Northern Area Supervisor
Carl Dize		Marine Patrol Officer
D. Keith Nuttall		Marine Patrol Officer

Virginia Institute of Marine Science Staff

Dr. Eugene Bureson  
Tom Barnard  
Lyle Varnell

**Commission Meeting****July 25, 2000**

Jack Travelstead	Chief Fisheries Management
Rob O'Reilly	Assistant Chief-Fisheries Management
Roy Insley	Head Plans and Statistics
Lewis Gillingham	Fisheries Management Specialist
Mike Meier	Fisheries Management Specialist
Chad Boyce	Fisheries Management Specialist
Bob Grabb	Chief-Habitat Management
Tony Watkinson	Assistant Chief-Habitat Management
Chip Neikirk	Environmental Engineer
Jay Woodward	Environmental Engineer
Randy Owen	Environmental Engineer
Tracy West	Environmental Engineer
Heather Wood	Environmental Engineer
Ben Stagg	Environmental Engineer
Hank Badger	Environmental Engineer
Jeff Madden	Environmental Engineer
Gerry Showalter	Head-Engineering and Surveying
Carol Collier	M. A. Cheatham
Page Melton	Becky Melton
Louis Ferguson	Stewart Lassiter
Jan Taliaferro	C. J. Lindemann
Ken Mebane	Michelle Walters
B. Higginbotham	Odis Cockran
Ford Kethy	Marie Fox
David Fluhart	George Ward
Preston Smith	Anne Smith
Russell Thorne	Kenneth Moor
James Fishman	Marshall B. Cox, Jr.
Paul H. Herrick	Larry Snider
Rick Stilwagen	Rick Robbins
Bernie Rolley	Bob Fisher
David Hayslett	Sally Mills

**11260**

**Commission Meeting**

**July 25, 2000**

Harrison Bresee

Charles Williams

and others.

**Commission Meeting**

**July 25, 2000**

Commissioner Pruitt opened the July meeting at 9:30 a.m. Members present were Associate Members Ballard, Birkett, Gordy, Hull, White, and Williams. Associate Member Cowart was absent. Associate Member Hull gave the invocation and Associate Member White led the Pledge of Allegiance. Commissioner Pruitt established that there was a quorum.

**1. MINUTES** of previous meeting.

Associate Member Ballard gave the following corrections: Page 11236 change "with" to "which" and "bases" to "basis"; on page 11152 change "small horseshoe crab" to "conch;" page one change "Tom" to "Rom."

Associate Member White moved to approve the Minutes with the corrections. Motion was seconded by Associate Member Hull and adopted unanimously.

**\*\* APPROVAL OF AGENDA**

Associate Member Williams moved to approve the agenda as presented. Motion was seconded by Associate Member Gordy. Motion carried unanimously.

\*\*\*\*\*

**2. PERMITS** (Projects over \$50,000 with no objections and with staff recommendation for approval).

Mr. Bob Grabb, Chief-Habitat Management Division, briefed the Commission on the following six, page two items for projects that were over \$50,000 and not contested.

**2A. CITY OF SALEM, #98-1992**, requests authorization to construct a new raw water intake structure which will extend approximately five (5) feet below ordinary high water adjacent to their property situated near the 4th Street Water Treatment Plant situated along the Roanoke River. Recommend a time of year restriction from March 15 - June 30 to protect the Roanoke logperch and our standard instream construction conditions.

Permit Fee.....\$100.00

**2B. TRANSCONTINENTAL GAS PIPELINE CORP., #00-0730**, requests authorization to conduct routine maintenance, anomaly digs and repair of an 80-mile section of existing

**Commission Meeting****July 25, 2000**

gas pipeline right-of-way (Main line A) that involves the use of a "smart pig" diagnostic device to identify problem sections which may require immediate excavation, exposure and replacement of the gas pipeline. These repairs may potentially impact multiple stream crossings along the line route in Pittsylvania, Appomattox, Campbell and Buckingham Counties. Staff recommends approval of the project with our standard instream construction conditions and prior notification to DGIF of any excavation required.

Permit fee not applicable

**2C. VIRGINIA MARINE RESOURCES COMMISSION, Artificial Reef Program, #94-0520**, requests authorization for a three-year extension and modification of their existing permit to deploy steel hulled vessels in addition to pre-fabricated reef structures within the confines of the existing reef site. All additional material deployed will maintain the current 20-foot clearance requirement at the Northern Neck Reef located approximately seven (7) nautical miles east of the Great Wicomico Light in the Chesapeake Bay.

Permit fee not applicable

**2D. NORFOLK SHIPBUILDING AND DRY DOCK CORP., #99-1879**, requests authorization to modify a previously issued permit to include the installation of 95 linear feet of riprap scour protection adjacent to an existing steel sheetpile bulkhead at Pier #1 at their facility situated along the Southern Branch of the Elizabeth River in the City of Norfolk.

Modification - permit fee not applicable

**2E. COLONNA YACHTS, #98-1985**, requests a modification to an existing permit to construct and relocate a 165-foot long by 22-foot wide, concrete, travel-lift pier and a 150-foot long by 22-foot wide travel lift pier in lieu of two (2) 150-foot long by 15-foot wide travel lift piers previously authorized adjacent to their facility situated along the Eastern Branch of the Elizabeth River in Norfolk. Recommend an additional annual royalty of \$228.00 for the additional encroachment over 2,280 square feet of State-owned subaqueous bottom at a rate of \$0.10 per square foot.

Encroachment of 2,280 sq. ft.

Commission Meeting

July 25, 2000

@\$0.10 sq. ft (annually).....\$ 228.00

2F. TOLL ROAD INVESTOR PARTNERSHIP II, L.P., #00-0940, requests authorization to construct a roadway bridge widening over Broad Run, a tributary to the Potomac River, being part of the Dulles Greenway Toll Road widening project in Loudon County. Recommend approval pending expiration of public comment with our standard intream construction conditions.

Fill 6,480 sq. ft.

@\$0.10sq. ft. (annually).....\$ 648.00

There being no comments from the audience, pro or con, Commissioner Pruitt placed the matter before the Commission. Associate Member Gordy moved to approve the page two items. Motion was seconded by Associate Member Hull. Motion carried unanimously.

\*\*\*\*\*

3. EXECUTIVE SESSION

Associate Commission Member Ballard moved that the meeting be recessed and that the Commission immediately be reconvened in executive session for the purpose of consultation with legal counsel and briefings by staff pertaining to actual or probable litigation, or other specific legal matters requiring legal advice by counsel as permitted by subsection (A), Paragraph (7) of Section 2.1-344 of the Code of Virginia, pertaining to legal issues related to Items 10, 11, 12 and the cases of O'Bier vs VMRC and Fairhurst vs VMRC. The motion was seconded by Associate Commission Member White and adopted unanimously.

When the regular session was restarted, Mr. Ballard moved:

WHEREAS, the Commission has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, §2.1-344.1 of the Code of Virginia requires a certification by this Commission that such executive meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Commission hereby certifies, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open

**Commission Meeting****July 25, 2000**

meeting requirements by Virginia Law were discussed in the executive meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Commission.

The motion was seconded by Associate Commission Member Birkett and adopted unanimously.

\*\*\*\*\*

4. **DR. AND MRS. ALEXANDER J. PAPPAS, #99-1829.** Commission review on appeal of the May 25, 2000, decision of the Accomack County Wetlands Board to approve in modified form a request to construct and backfill 102 linear feet of timber bulkhead, impacting 950 square feet of wetlands at their property situated along the Chincoteague Bay.

Mr. Hank Badger, Environmental Engineer, briefed the Commission on the appeal and requested permission to show three slides that were not part of the record, but would be useful in providing the Commission with an orientation to the project. The Commissioners agreed to see the slides. Mr. Badger explained the applicant was interested in placing the proposed bulkhead at mean low water, but the wetlands board had voted to authorize placement at mean high water after discussion about building setbacks and the number of houses that could potentially be placed on the applicant's lots. Mr. Badger mentioned that the VIMS' opinion had been that the additional encroachment requested by the applicant was not desirable. He also reviewed the chronology and actions of the wetlands board for the case.

Mr. Badger stated that it was the staff's opinion that the Accomack County Wetlands Board did not err in their decision and that their action was consistent with local ordinances, as well as the wetlands guidelines and BMPs. Comments are a part of the verbatim record.

The applicant was not present.

Several Accomack County Wetlands Board members were present as well as and Mr. David Fluhart, Secretary to the Board. Mr. Fluhart testified that the board had considered the case at three lengthy public hearings and had thoroughly considered the case. Comments are a part of the verbatim record.

Associate Commission Member Gordy made a motion to uphold the Accomack County Wetlands Board decision. The motion was seconded by Mr. White and adopted unanimously.

## Commission Meeting

July 25, 2000

\*\*\*\*\*

5. **MR. AND MRS. W. L. FERGUSON, #00-0224**, request authorization to construct a second private pier extending from their property situated along Montgomery Cove and the Rappahannock River in Middlesex County. The project is protested by several nearby property owners.

Mr. Chip Neikirk, Environmental Engineer, briefed the Commission and presented slides of the project. He said the applicant was interested in building a second 82 foot long pier on his property. He showed the location of the proposed pier in relation to the existing pier and ramp. He mentioned that the proposed pier was in shallow water, only one foot at MLW at pier end, but that it ended in close proximity to the channel. He said the applicant intended to use the pier primarily for striped bass fishing. Mr. Neikirk said there was no encroachment on oyster grounds. No comments on the project had been received from other state agencies, and that a Corps of Engineers regional permit had been issued, with the latter indicating that navigation was not a concern. He said that there had been some concern expressed by nearby landowners about navigation into and out of the cove. Mr. Neikirk stated that since the proposed pier was open-pile and should have a minimal effect on aesthetics, staff recommended approval of the project.

The applicant, Mr. Ferguson, and his agent, Ms. Carol Collier, were both present. Ms. Collier stated that Mr. Ferguson currently climbed over large riprap along his shoreline in order to wade out and go fishing. She indicated that he wanted to build the pier, since he was getting older and would like a more convenient access for fishing. Mr. Ferguson stated that he was willing to move the location of the pier and remove the proposed mooring piles, if necessary, to satisfy any navigational concerns. Comments are a part of the verbatim record.

Mr. Page Melton, adjacent landowner, stated that he was concerned about the project because boats had to enter the cove up on a plane at MLW and the resulting wake could be damaging to boats moored at the proposed pier. Comments are a part of the verbatim record.

There was a discussion between the Commissioners, Mr. Melton, and the applicant verifying that the primary issue was the mooring of boats at the pier, and that Mr. Ferguson intended to use the pier for fishing and was willing to drop the mooring piles from the project. Furthermore, he agreed to not moor boats at the new pier. Comments are a part of the verbatim record.

**Commission Meeting****July 25, 2000**

Mr. Marion Cheatham, a resident on the cove for 39 years, questioned whether the proposed pier would encourage sand deposition in the channel leading into the cove. Mr. Neikirk stated that the open-pile structure should not have an impact on sand movement and should not interfere with navigable depths.

Associate Commission Member White made a motion to approve the project with the stipulations that the mooring piles be removed from the project and that boats not be moored at the pier. The motion was seconded by Associate Commission Member Gordy and adopted unanimously.

\*\*\*\*\*

6. **FORD KELLY, #99-2210**, requests authorization to construct an 80-foot long by 8-foot wide, open-pile, timber, commercial pier with 816 square feet of service decking surrounding a 50-foot long by 29-foot wide, enclosed, commercial boathouse, which will rise approximately 27 feet above mean low water, adjacent to his property situated along Cockrell Creek in Northumberland County. The project is protested by the adjacent property owner.

Mr. Jeff Madden, Environmental Engineer, briefed the Commission and showed slides of the proposed pier and commercial boathouse. He said that the project was opposed by Mr. Humphreys, the owner of the adjacent properties on both sides of the applicant's property. He said Mr. Humphreys thought the project would obstruct his views and serve to devalue his property. Mr. Madden stated that the applicant had obtained a variance from the county to build a residence on the property even though it was zoned industrial, and that the applicant wanted to build the proposed boathouse to support a boat renovation interest. Mr. Madden said the applicant had complied with all county ordinances, had secured the necessary permits, was willing to comply with the VDH requirement for a sewage handling facility and the VIMS recommendation that there be an upland shed for chemical storage. He said staff felt that the anticipated environmental impacts were minimal, and recommended approval of the project. Comments are a part of the verbatim record.

Associate Commission Member Ballard asked why the proposed boathouse had to be enclosed. Mr. Madden responded that the applicant had said it was necessary to protect the wooden hulls of boats while undergoing renovation. Mr. Ballard asked why there was no door on the creekside of the proposed boat house. Mr. Ford, the applicant, and Mr. Odis Cockrell, the agent and contractor for the applicant, responded that a creekside door was not typical and that boats being worked on would be far enough in to be protected from the weather. Comments are

**Commission Meeting**

**July 25, 2000**

a part of the verbatim record.  
The protestant was not present.

Associate Commission Member Hull stated that he was familiar with Mr. Ford's work, had been to the site, and did not think it would impinge on Mr. Humpreys' view. He moved to approve the project as proposed with the appropriate conditions ( i. e. , upland chemical storage shed, sewage handling facility, and spill contingency plan). The motion was seconded by Associate Commission Member Gordy and adopted unanimously.

Encroachment of 1,632 sq. ft	
@\$.50 sq. ft.....	\$ 816.00
Permit fee.....	<u>25.00</u>
Total	\$ 841.00

\*\*\*\*\*

- 7. **BARBARA HIGGINBOTHAM, #99-0842.** Failure to comply with design condition of permit to remove and reconstruct a commercial pier adjacent to her property situated along Back Creek in York County.

Ms. Traycie West, Environmental Engineer, briefed the Commission and presented slides. She stated that the applicant had submitted an application to rebuild the pier facility for insurance purposes. The application as submitted was to replace the existing failing structure with no additional encroachment authorized. Ms. West said that in May of 2000, the applicant changed contractors; the new contractor asked staff to visit the site before he continued with the construction. A staff visit was made and additional unauthorized encroachment was found based on a comparison of the new structure to aerial pictures from 1989. Ms. West speculated that the applicant and former contractor may have confused former mooring piles as potential pilings to support the new decking. Ms. West indicated that the additional decking was in excess of what was authorized by the permit and said that staff recommended removal of the unauthorized structure within 60 days. Comments are a part of the verbatim record.

Associate Commission Member Ballard asked what business was intended for the new structure. Ms. West responded that the applicant intended to use the facility to host weddings and receptions, but that it may also be used for commercial seafood offloadings during the week. She also mentioned that the applicant had a pending application for a gazebo at the facility. Comments are a part of the verbatim record.

**Commission Meeting****July 25, 2000**

Mrs. Higginbotham, applicant, testified that when she bought the property she was told that she had to maintain the pier. She distributed some color copies of aerial pictures of the site when it was a commercial crab house. Associate Commission Member White asked if her contractor had connected new stringers and decking to what may have been mooring piles. Mrs. Higginbotham said that they had attached the new structure to former boiler chimneys that she considered part of the former pier facility. Comments are a part of the verbatim record.

Associate Commission Member Hull asked how long she had owned the property. The applicant responded that she had owned it for one and a half years.

There was a discussion between the Commissioners and the applicant involving what structures had been there formerly and how the new structures had been constructed outside of the authorized area as depicted on the permit drawings. Comments are a part of the verbatim record.

Commissioner Pruitt indicated that the Commission had two choices: pursue the matter as an after-the-fact permit or take action immediately. Mr. Ballard stated that he felt an after-the-fact review was necessary. He made a motion to find that the applicant had encroached on subaqueous bottom beyond that authorized by permit and directing that the unauthorized portion be removed within 60 days. As part of the motion, the removal order would be stayed, pending completion of the permit review, if an after-the-fact application was submitted within the 60 day period. The motion was seconded by Associate Commission Member White and adopted unanimously.

Permit fee not applicable

\*\*\*\*\*

- 8. COLONNA'S SHIPYARD, INC., #99-1636.** Show Cause Hearing to determine Colonna's Shipyard, Inc. and Norfolk Dredging Company's responsibility for over dredging conducted at Dry Dock #2 between January 23, 2000, and January 30, 2000, at the shipyard situated along the Eastern Branch of the Elizabeth River and Pescara Creek in the City of Norfolk.

Ms. Heather Wood, Environmental Engineer, briefed the Commission and presented slides. She explained that the shipyard had obtained a permit in January 2000 to dredge Dry Dock #2 after-the-fact, but that a post-dredge survey in February 2000 indicated that the area had been overdredged to 36-41 feet. When staff had asked the shipyard about the difference, the agent,

**Commission Meeting**

**July 25, 2000**

Mr. C.J. Lindemann, had told her that they had used a modified box cut to protect some mooring dolphins and that they thought when the box cut walls were removed the sides of the area dredged would slump and fill the area back in to an average of 34 feet. Ms. Wood said the permit did not indicate that they would be using a box cut technique. She said staff recommended finding Colonna in violation and an assessment of a civil penalty charge with triple royalties. She added that VIMS had commented that there was little additional environmental impact. Comments are a part of the verbatim record.

Mr. Ken Mebane, project manager at Colonna Shipyard, said that they had thought that the conditions of the permits had been followed by their dredging contractor, and he had not been aware of the overdredging until Ms. Wood had contacted him. He said he had several meetings with his staff and the contractor to try to determine how the problem had occurred, and had determined that basically the contractor had made a mistake digging. Comments are a part of the verbatim record.

Associate Commission Member Ballard made a motion finding the shipyard in violation of Section 28.2-1203, and in consideration of the minimal environmental impact and moderate degree of non-compliance, imposing a \$1200 civil charge with triple royalties. The motion was seconded by Associate Commission Member Birkett and adopted unanimously.

Civil charge.....	\$	1200.00
Dredge 92 sq. yds.		
@ \$1.80 sq. yds. (triple fee).....	\$	<u>165.60</u>
Total		1365.60

- 9. **DISCUSSION:** Commission consideration of guidance criteria regarding the removal and transplantation of submerged aquatic vegetation (SAV) from beds in Virginia’s tidal waters to both in-state and out-of-state locations for mitigation of project impacts and/or as habitat enhancement.

Mr. Jay Woodward, Environmental Engineer, briefed the Commission. He said the Commission had, at a previous meeting, requested that staff develop guidelines for those projects requesting removal, transplantation and mitigation activities involving submerged aquatic vegetation. He said staff had worked with VIMS to draft guidelines and were seeking Commission approval to take the draft guidelines to the Habitat Management Advisory Committee for review. He explained that after the HMAC review, the proposed guidelines would come back before the Commission for a public hearing. He said that VIMS and staff were available for questions. Comments are a part of the verbatim record.

**Commission Meeting****July 25, 2000**

Mr. Carl Josephson, Assistant Attorney General, commented that Section 3 of the proposed guidelines suggested assessing royalties on a per plant basis. He said he thought the Code only authorized the assessment of royalties on a cubic yard basis. Comments are a part of the verbatim record.

Commissioner Pruitt asked if Mr. Ballard would be willing to serve and chair the HMAC Committee. Mr. Ballard agreed. Comments are a part of the verbatim record.

Mr. Pruitt asked staff about the time frame for the review of the guidelines. Mr. Woodward said there was no firm time frame. Mr. Grabb asked if staff could continue the interim policy of refusing applications for SAV transplant projects pending adoption of the guidelines.

Associate Commission Member Ballard made a motion to refer the draft guidelines to HMAC for review, and to reaffirm the interim policy of refusing applications for SAV transplantations until the guidelines were completed. The motion was seconded by Mr. Williams and adopted unanimously.

\*\*\*\*\*

**10. DISCUSSION:** Alternate methods of measuring minimum size limits of channeled whelk;  
Report of Conch Committee.

Mr. Rob O'Reilly, Assistant Chief-Fisheries Management, indicated that the Commission gave directions to staff last month to establish a conch committee. He said the committee had met the night before and discussed the following conch issues: (1) shell tips being broken during the processing stage from handler to buyer causing problems enforcing the size limit (seeking alternative means of measuring the conch length); (2) allowing conch pot fishing in the tributaries since 1991, conch potting in the tributaries had not been allowed because of the concerns regarding extra boats, gear and fishing effort on the conch population. The tributaries were also considered a seeding area with smaller conchs migrating into the mainstem of the Bay; and (3) using bait bags in the conch pot fishery as a mechanism to cut back on the amount of horseshoe crab bait used in the fishery.

Mr. O'Reilly said staff visited Bernie Rolley's facility and measured several hundred channeled whelks, but a good length measurement could not be obtained because many of the tips were broken. However, a good diameter measurement was available. He said after talking over the different length alternatives, the recommendation was a 2.75 inch diameter measurement or

**Commission Meeting****July 25, 2000**

width as a starting point. He said the Committee felt that harvest could be allowed in the tributaries since limited entry was in effect and because there would be very limited activity in the tributaries. He said the Committee also endorsed the use of bait bags and that Mr. Travelstead would have more comments on the use of bait bags in the next agenda item. Comments are part of the verbatim record.

After a brief discussion on all the issues, Mr. Hull moved that the three issues be advertised for public hearing at the August 29, 2000 meeting. Motion was seconded by Associate Member White. Motion carried unanimously.

\*\*\*\*\*

**11. PUBLIC HEARING:** Consideration of proposed amendments to Regulation 2-890-10 et. seq., "Pertaining to channeled whelk" requiring the use of bait containers and limited quantities of bait.

Mr. Jack Travelstead, Chief-Fisheries Management, indicated that at last month's meeting Mr. Bob Fisher from VIMS gave a very detailed description of work he had done over the past several months regarding use of bait bags to reduce the bait requirements in the channeled whelk fishery. He said Mr. Fisher also looked at alternative bait uses and other means to reduce Virginia's dependency on the horseshoe crab. He said the VIMS experiment provided information supporting limiting the amount of horseshoe crab bait in each pot to no more than 1/2 female horseshoe crab or two halves of male horseshoe crabs which they believed would not affect the harvest in the conch fishery. Mr. Travelstead said that under Section 4 VAC 28.2-203 of the Code of Virginia there were provisions within the Virginia's fishery management policy that required management measures to promote efficiency in the utilization of fishery resources. He said the bait bag was a good example of one of those measures that could promote efficiency in the conch pot fishery. Mr. Travelstead also pointed out that industry had expressed two concerns regarding the use of bait bags in the conch pots: (1) industry suggested that they not be required to use only the type of bait bag VIMS used in their experiment, but could use other configurations to hold the horseshoe crab bait; and (2) industry members requested that they not be required to use bait bags if they used bait other than horseshoe crab. Mr. Travelstead said to enforce this provision and to avoid any loopholes, staff recommended an additional requirement that the possession of any quantity of horseshoe crabs on board any vessel or the presence of any quantity of horseshoe crab in any conch pot not equipped with a bait bag or container would constitute prima facie evidence of violation of the regulation. Mr. Travelstead then indicated that staff had no objection to those two suggestions offered by industry. Mr. Travelstead also stated that the proposed rules would apply to all fishermen that

**Commission Meeting****July 25, 2000**

were licensed to land conch in Virginia regardless of where the pots were set.

Mr. Travelstead said the decision of the conch committee was unanimous to endorse the proposed regulation. However, the committee requested that the requirement for the mesh used for the bait bag to be one quarter of an inch or less be taken out of the regulation. He said staff recommended that the proposed regulation 890 be adopted using 1/2 female horseshoe crab or 2 halves of the male horseshoe crabs. The effective date of the regulation would be October 1, 2000.

Commissioner Pruitt opened the public hearing.

Mr. Rick Robbins, representing Chesapeake Bay Packing, addressed the Commission. He gave his support for Mr. Fisher's study regarding conserving the conch industry by the use of bait bags. Mr. Robbins also stated that the use of bait bags would conserve over 700,000 horseshoe crabs per year. Other comments are a part of the verbatim record.

There being no further public comments, Commissioner Pruitt closed the public hearing. Mr. Pruitt then stated that the recently established Conch Committee would remain a standing committee.

Associate Member Gordy asked what was the average cost of the bait bags. Mr. Robbins responded that the estimated average cost was \$1.00 per bag.

Commissioner Pruitt placed the matter before the Commission.

Associate Member Hull then moved to adopt regulation 4 VAC 20-890-10 et. seq., "Pertaining to Channeled Whelk." Motion was seconded by Associate Member White. Motion carried 6-0.

\*\*\*\*\*

**12. DISCUSSION:** Consideration of Emergency Regulation to reduce the horseshoe crab quota from 710,000 crabs to 355,000 crabs.

Mr. Jack Travelstead, Chief-Fisheries Management, stated that the Commission had approved the use of bait bags, which would reduce the bait needs for horseshoe crabs by 50 per cent. This, in turn, would reduce the horseshoe crab quota by 50 percent. Mr. Travelstead then provided background information on the history of the horseshoe crab quota in Virginia. He

**Commission Meeting****July 25, 2000**

said that Virginia's industry had indicated last year that their annual requirement for horseshoe crabs would be approximately 1.4 million crabs. Industry members indicated that they thought they could purchase half of that amount from other states, and the other half (710,000) could be harvested within the State or by landings made in the State. He said the Commission then established that the annual landings quota requirement in Virginia would be 710,000 horseshoe crabs. Mr. Travelstead stated that through the use of bait bags, industry no longer would need the 1.4 million crabs, but could utilize half that amount of crabs without any impact. Mr. Travelstead then requested that the Commission adopt a modified regulation, through emergency action, to establish a new annual horseshoe crab quota of 355,000.

There being no public comment, Commissioner Pruitt placed the matter before the Commission.

Associate Member Hull moved to adopt emergency regulation 4 VAC 20-900-10 et. seq., Pertaining to Horseshoe Crabs. Motion was seconded by Associate Member White. Motion carried unanimously.

\*\*\*\*\*

Mr. Wilford Kale, Senior Staff Adviser, addressed the Commission. He showed a video made by WTKR television station regarding the crab sanctuary. Comments are a part of the verbatim record.

\*\*\*\*\*

**13. PUBLIC COMMENTS**

Mr. Rick Stilwagen, Virginia Watermen's Association, addressed the Commission. He commented that the 2 5/16-inch cull ring was allowed to be closed in areas where crab dredging was permitted. He said he felt that was unfair to those that fish in rivers where dredging was not permitted. He then requested the Commission to reconsider the regulation by making it the same for everybody.

Jack Travelstead, Chief-Fishery Management, responded that this issue was brought up last month and the Commission had referred it to the Crab Committee.

\*\*\*\*\*

Marshall Cox, President of the Lower River Watermen's Association, addressed the

**Commission Meeting****July 25, 2000**

Commission. He gave complimentary remarks regarding how well the processors, watermen, and buyers worked so well together at the Conch Committee meeting. He also felt that the conch fishery was taking some of the impact off the crab industry. Mr. Cox stated that he hoped the ASMFC could see how Virginia cut their horseshoe crab bait requirement by 50 percent.

Roy Insley, Head-Plans and Statistics, introduced a new staff member, Chad Boyce, who would be working in the area of mandatory reporting.

There being no further business to come before the Commission, the meeting adjourned at 1:35 p.m.

---

William A. Pruitt, Commissioner

---

LaVerne Lewis, Commission Secretary