

MINUTES

MAY 28, 2002
NEWPORT NEWS, VA 23607

The regular Monthly meeting of the Marine Resources Commission was held on May 28, 2002 with the following present:

William A. Pruitt)	Commissioner
Chadwick Ballard, Jr.)	
Gordon M. Birkett)	
S. Lake Cowart, Jr.)	
Laura Belle Gordy)	Members of the Commission
Henry Lane Hull)	
F. Wayne McLeskey)	
John W. White)	
Kenneth W. Williams)	
Carl Josephson	Assistant Attorney General
Wilford Kale	Senior Staff Adviser
Stephanie Montgomery CPS	Recording Secretary
Bob Craft	Chief-Finance & Administration
Jane McCroskey	Deputy Chief-Finance & Administration
Dr. Erik Barth	Head-Management Information Systems
Andy McNeil	Programmer Analyst Sr.
Col. Steve Bowman	Chief-Law Enforcement
Lt. Col. Lewis Jones	Deputy Chief-Law Enforcement
Capt. Warner Rhodes	Middle Area Supervisor
Capt. M. Ray Jewell	Northern Area Supervisor
1 st Sgt. Bruce Ballard	Eastern Shore Area
1 st Sgt. Benjamin Major	Southern Area
M.P.O. Charles Clifton	Marine Patrol Officer
M.P.O. Howard Goode, Jr.	Marine Patrol Officer

Virginia Institute of Marine Science:

Dr. Eugene Burreson	Dr. Rom Lipcius
Dr. Bob Orth	Walter Priest
William Stockhauser	Lyle Varnell

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Jack Travelstead
 Rob O'Reilly
 Dr. James Wesson
 Roy Insley
 Chad Boyce
 Ellen Cosby
 Lewis Gillingham
 Cory Routh

Chief-Fisheries Management
 Deputy Chief-Fisheries Management
 Head-Conservation & Replenishment
 Head-Plans and Statistics
 Fisheries Management Specialist
 Fisheries Management Specialist
 Fisheries Management Specialist
 Fisheries Management Specialist Sr.

Tony Watkinson
 Gerry Showalter
 Hank Badger
 Kevin Curling
 Mark Eversole
 Jeff Madden
 Chip Neikirk
 Randy Owen
 Ben Stagg
 Traycie West
 Jay Woodward

Acting Chief-Habitat Management
 Head-Engineering/Surveying
 Environmental Engineer Sr.
 Environmental Engineer Sr.
 Environmental Engineer Sr.
 Environmental Engineer Sr.
 Environmental Engineer Sr.
 Environmental Engineer Sr.
 Environmental Engineer Sr.
 Environmental Engineer Sr.
 Environmental Engineer Sr.

Nate Custer
 Sherry Hamilton
 Scott Harper
 Terry Scanlon
 Kara Urbanski

WTKR-TV
 Gloucester-Mathews Gazette Journal
 Virginian Pilot
 The Daily Press
 The Daily Press

others present included:

Chris Hornung
 Gordon Shelton
 Roger Gardner
 Bill Blatter
 George Boyer
 Steve Bulleigh
 Susan Gaston
 Roger Pruhs
 Robert Pruhs
 Laura McKay
 W. C. Tice
 James Riggins
 Linda Riggins
 Bob Allen

Jud Honaker
 George Washington
 Mike Kelly
 James MacReynolds
 Dennis Smith
 Karl Mentig
 Betty Grey Waring
 Kelly Place
 John Gill
 Virginia Witmer
 Bob Pride
 Bill Formichelli
 Irvin Fenton
 Don Trotta

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Jeffrey Crockett
 Gerald Dalles
 Jim Hayden
 Billy Bonnaville
 Michael Chenoweth
 E. W. Christopher and others.

William Arndt
 Tim O'Brien
 Peter Nixon
 Steve Wray
 Pat Chenoweth

Commissioner Pruitt called the May 28, 2002 meeting to order at 9:30 a.m. Associate Members present were: Ballard, Birkett, Cowart, Gordy, Hull, McLeskey, White and Williams.

Associate Member Williams gave the Invocation and Associate Member Hull led the Pledge of Allegiance. Commissioner Pruitt swore in the staff and those representatives of the Virginia Institute of Marine Science (VIMS) who were expected to testify at the meeting.

**** APPROVAL OF AGENDA**

Tony Watkinson, Acting Chief-Habitat Management, noted a deletion from the Tentative Agenda in finalizing the Agenda for today's meeting. **Associate Member White moved to approve the Agenda as distributed. Associate Member Hull seconded the motion; the motion carried, 7-0.** Associate Member Cowart was not present for the vote.

1. APPROVAL OF MINUTES – April 23, 2002

Associate Member White moved to approve the Minutes of the April 23, 2002 Commission Meeting as distributed. Associate Member Hull seconded the motion; the motion carried, 7-0. Associate Member Cowart was not present for the vote.

2. PERMITS (Projects over \$50,000.00 with no objections and with staff recommendation for approval).

Mr. Tony Watkinson, Acting Chief-Habitat Management, briefed the Commission on the following Page Two items:

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2A. CITY OF LEXINGTON, #02-0584, requests authorization to construct a 250-foot long by 12-foot wide open-pile pedestrian bridge over the Maury River to connect two nature trails. Recommend standard instream construction conditions.

PERMIT FEE.....\$100.00
ROYALTIES.....N/A

2B. NORFOLK SHIPBUILDING AND DRYDOCK CORPORATION, #02-0427, requests authorization to dredge 42,000 cubic yards of new material and 20,000 cubic yards of maintenance to create a 670-foot long by 150-foot wide berthing area with maximum depths of -52 feet below mean low water adjacent to their property situated along the Southern Branch of the Elizabeth River in the City of Norfolk. Recommend a royalty of \$18,900.00 for the dredging of 42,000 cubic yards at a rate of \$0.45 per cubic yard.

PERMIT FEE.....\$100.00
ROYALTIES.....\$18,900.00

2C. MARINE RESOURCES COMMISSION, #02-0423. The Fisheries Management Division requests authorization to construct two (2) oyster reef sanctuaries, each measuring 300 feet long by 60 feet wide with maximum heights of approximately five (5) feet off the bottom, constructed of oyster and clam shell, and centered at 36° 46' 35" N Latitude, 76° 18' 10" W Longitude and at 36° 45' 26" N Latitude and 76° 17' 53" W Longitude. Both are located in the Southern Branch of the Elizabeth River in the City of Chesapeake. The proposed reefs are to be marked in accordance with U.S. Coast Guard requirements.

PERMIT FEE.....N/A
ROYALTIES.....N/A

2D. CAMP PEARY, #02-0520, requests authorization to repair an existing road crossing by installing 90 linear feet of riprap on the southern bank, 64 linear feet of riprap on the northern bank, two (2) 45-foot long culverts, and a 35-foot long by 14-foot wide splash apron at the downstream end of the culverts adjacent to property located at the confluence of Queen's and Herring Creeks in York County.

PERMIT FEE.....\$100.00
ROYALTIES.....N/A

Commissioner Pruitt asked for comments from the audience, pro or con, on the proposed Page Two items. There being no comments offered, Commissioner Pruitt placed the items before the Commission for consideration.

Associate Member Hull moved for approval of the Page 2 Items -- (2A.) City of Lexington, #02-0584, (2B.) Norfolk Shipbuilding and Drydock Corporation, #02-0427, (2C.) Marine Resources Commission, #02-0423, and (2D.) Camp Peary, #02-0520 -- as recommended by staff. Associate Member Birkett seconded the motion; the motion carried, 7-0. Associate Member Cowart was not present for the vote.

3. **SILVER COMPANIES ENTITIES, #00-1816**, requests authorization to construct an aerial gondola crossing over the Rappahannock River, approximately one (1) mile west of the Interstate 95 bridge, in Stafford County and the City of Fredericksburg. The gondola is associated with the "Celebrate Virginia" planned community and is proposed as a means of access to the community from areas south of the Rappahannock River. The project is protested by several residents of the Fredericksburg area.

Mr. Mark Eversole, Environmental Engineer Sr., distributed correspondence received from the Mayor of the City of Fredericksburg and endorsed by three new Councilmen-Elect requesting a postponement of this matter; and, correspondence received from Silver Companies, requesting that consideration of the project move forward as scheduled. (Copies of the correspondence are filed with the permanent record of this meeting.) Mr. Eversole requested the Commission's direction on whether to move forward with consideration of the project. Upon consultation with Counsel, Commissioner Pruitt recommended that the Commission move forward in this matter. **Associate Member White moved to hear Silver Companies Entities, #00-1816, as scheduled. Associate Member Gordy seconded the motion; the motion carried unanimously, 8-0.**

Mr. Eversole then provided a computer-generated overview of the project consisting of drawings and photos. He stated that "Celebrate Virginia" is a proposed master-planned community to be situated on 1,642 acres in Stafford County. The project consists of three primary components: an 85-acre commercial development along State Route 17, an 830-acre corporate office facility, and a resort featuring three 18-hole golf courses, on 650 acres along the Rappahannock River.

The Gondola crossing is proposed as an alternate means to gain access to the golf resort, as well as retail and commercial establishments, from areas south of the Rappahannock River. Currently, there are bridge crossings in the town of Fredericksburg, east of I-95, and the Route 17 crossing several miles west of I-95, in addition to the I-95 crossing itself.

Mr. Eversole reported that a Joint Permit Application (JPA) was received September 28, 2000, and following requests for additional information and revisions by the applicant, the application was deemed complete in January of 2001.

Adjacent property owners were contacted and an advertisement was placed in the "Free Lance Star," a paper having general circulation in the Fredericksburg area. No objections were registered by adjacent property owners, however, letters of objection were received from the public. The primary objections to the gondola crossing center on its visual impact to this portion of the Rappahannock River, which has been designated as a Scenic River by the Virginia General Assembly.

Mr. Eversole noted that the Departments of Conservation and Recreation and Game and Inland Fisheries both included in their comments that approval by the Rappahannock Scenic River Advisory Board (SRAB) would be required before the agencies could support the proposal.

The SRAB met with the applicant and their agent, Williamsburg Environmental Group, on February 20, 2002, to consider the gondola crossing. By letter, dated March 7, 2002, the SRAB adopted the following position: *"It was determined that the gondola crossing will have an impact on the river. The SRAB indicated support for the proposal if the Marine Resources Commission permit is conditioned with mitigation for offsetting the impacts to the river and associated corridor."*

The Department of Environmental Quality issued its Water Protection Permit on July 20, 2001 for upland impacts associated with the golf course and commercial construction. They had no objections to the gondola crossing.

Mr. Eversole stated that when reviewing proposals for activities involving state-owned submerged land, consideration must be given to, among other things, the effect of the proposed project upon: other reasonable and permissible uses of State waters and State-owned bottom lands; fisheries resources, wetlands, adjacent or nearby properties; anticipated public and private benefits; and water quality standards. Also the water dependency of the project and alternatives for reducing any anticipated adverse impacts must be considered.

He stated that it appears the concept of a gondola system, as compared with a pedestrian bridge for example, maximizes the desired use for the applicant, while minimizing the impacts on fisheries, wetlands, and water quality. Also, the gondola's design as a clear span structure with support towers constructed well above the river, minimizes encroachment into the waterway. Mr. Eversole stated that staff recommends approval of this application, to include conditions recommended by the Rappahannock Scenic River Advisory Board.

Mr. Eversole noted that any permit condition regarding the collection of a surcharge as recommended by the SRAB shall be the responsibility of the applicant, based on any necessary agreement with the Department of Conservation and Recreation. He stated that staff further recommends a royalty of \$1.00 per linear foot for the encroachment over State-owned subaqueous bottom.

Commissioner Pruitt called for questions from the Commission. There being none, the Commissioner swore in those individuals wishing to speak to this matter and whose remarks are recorded verbatim on the permanent record of this meeting. **Mr. Chris Hornung, P.E.**, Project Manager for Silver Companies, presented an extensive overview of Silver Companies and the proposed project including a Power Point presentation illustrating the location of the three aforesaid primary components. Mr. Hornung also presented a video focusing on historical and educational information about the Rappahannock River which would be of interest to those visiting the area and crossing the river via the gondola. Mr. Hornung completed his presentation by reviewing in-depth the aerial gondola system.

Mr. Roger Gardner, Leitner-Pomo, spoke to the Commission with regard to installation of the gondola. He stated that he has been working with Silver Companies for the past three years in developing the system for crossing the river. Mr. Gardner noted that the system is the most cost-effective, physically safe, and environmentally friendly method for transporting people in a setting such as this. In response to Associate Member White's inquiry, Mr. Gardner stated that the cable loop would be three miles long; an average length installed by the company.

Mr. Gordon Shelton, Vice Mayor of the City of Fredericksburg, spoke in support of the project. He added that the majority of the Fredericksburg City Council members are in support of the "Celebrate Virginia" project and the aerial gondola system.

Mr. Michael Kelly, Vice President of the Williamsburg Environmental Group, addressed the Commission in support of the efforts being made to protect the environment of the project area by the developer, Silver Companies.

Mr. John Mitchell, Chairman of the Rappahannock River Advisory Board and President of Central Virginia Battlefields Trust, voiced his support of the project in light of the fact that the proceeds of the gondola surcharges are to be forwarded to the Department of Conservation and Recreation to be administered to the 19 scenic rivers in the State of Virginia.

Mr. Ferris Bellman, resident of Stafford County and former City Council member of the City of Fredericksburg, spoke in favor of the project. He noted that the SRAB has gone on record to vote in favor of the project.

Mr. C. M. Williams, Stafford County Administrator, urged the Commission to move forward in support of the project.

Mr. Hornung noted that there is additional time for the City of Fredericksburg to consider this issue as an easement agreement with the City is required to move forward.

Commissioner Pruitt called for comments in opposition to the project. With no comments offered, the matter was placed before the Commission for action. **Associate Member White moved to approve the application of Silver Companies Entities, #00-1816, as recommended by staff. Associate Member Gordy seconded the motion; the motion carried unanimously, 8-0.**

4. **DENNIS W. SMITH, #02-0295**, requests authorization to construct a 32-foot by 30-foot enclosed boathouse which includes a 10-foot by 12-foot storage shed at the channelward end of a proposed 107-foot long private pier adjacent to his property situated along the Rappahannock River in Middlesex County.

Chip Neikirk, Environmental Engineer Sr., provided a computer-generated overview of the project consisting of drawings and photos. He stated that Mr. Smith's property is located in the Windward Watch subdivision along the Rappahannock River near Christ Church in Middlesex County. The Rappahannock River is approximately two and one-half miles wide at the project site. The water is approximately two and one-half feet deep at mean low water near the channelward end of the proposed pier. There are other piers with open-sided boathouses visible from the project site.

Mr. Smith's boathouse is proposed to cover a boatlift for a boat, which has not yet been purchased, and to cover lifts for personal watercraft. The proposed boathouse also includes a 10-foot by 12-foot enclosed storage room near the landward side of the boathouse and over 365 square feet of covered pier.

Mr. Neikirk noted that Mr. Smith has stated that the enclosed storage shed will be in an area which is already proposed to be covered by the boathouse roof. Mr. Smith believes the storage shed will provide better protection for his boating and fishing supplies and will help prevent them from being blown into the water during storms.

The project was originally protested by a neighbor. That protest was resolved, however, when the subdivision's architectural review committee approved the boathouse plans. No State agencies have commented on the proposal. The project does not encroach over any public or privately leased oyster-planting ground.

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Mr. Neikirk stated that when reviewing proposals to build over State-owned submerged lands

the Commission's Subaqueous Guidelines direct staff to consider, among other things, the water dependency and the necessity for the proposed structure. Furthermore, when considering authorization for such structures for private use, § 28.2-1205 of the Code of Virginia stipulates that: *"In addition to other factors, the Commission shall also consider the public and private benefits of the proposed project and shall exercise its authority under this section consistent with the public trust doctrine as defined by the common law of the Commonwealth adopted pursuant to § 1-10 in order to protect and safeguard the public right to the use and enjoyment of the subaqueous lands of the Commonwealth held in trust by it for the benefit of the people as conferred by the public trust doctrine and the Constitution of Virginia."*

The pier is clearly water dependent and is statutorily authorized. If the boathouse were less than 700 square feet and open-sided, it would also be statutorily authorized since the adjoining property owners do no object to the plans.

Mr. Neikirk noted that although the storage building is not protested and the environmental impacts associated with it may be minimal, staff does not consider it to be water dependent. Staff believes it would be more appropriate for Mr. Smith to store his boating and fishing supplies on his upland property. In addition, staff believes the structure is larger than necessary to cover a boatlift and four personal watercraft lifts. In fact, of the 960 square feet of area covered by the roof, less than half is designed to cover the lift areas. Approximately 530 square feet of the covered area is deck and storage area.

Mr. Neikirk stated that in addition to limiting the encroachment over State-owned submerged land, locating the structure on the upland and reducing its size minimizes the potential for the building materials to enter the waterway during storm events or if the structure falls into a state of disrepair. Accordingly, staff recommends approval of the project conditioned upon the deletion of the 10-foot by 12-foot storage shed. Furthermore, staff recommends that the boathouse be redesigned so that the square footage of the roof does not exceed 800 square feet.

In the brief absence of the Commissioner, Associate Member White called for questions of the Commission in this matter. Associate Member Ballard asked for a delineation of the referenced 800 square feet pertaining to the boathouse. Mr. Neikirk stated that 700 square feet is statutorily authorized and the additional 100 square feet would house personal watercraft. Mr. Ballard asked if the staff recommendation includes that the structure be open-sided; Mr. Neikirk stated that it does not. Associate Member Birkett inquired as to what the adjusted roof dimensions would be. Mr. Neikirk stated that the new design/dimensions would be up to the applicant.

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Associate Member White swore in **Mr. Dennis W. Smith** whose remarks are recorded verbatim on the permanent record of this meeting. Mr. Smith explained that the purpose of

his original design was to be able to retrieve and launch the watercraft directly from the pier rather than the water. Associate Member Birkett inquired as to what size boat Mr. Smith intends to purchase; Mr. Smith stated that it would be about 20 feet. A discussion ensued regarding the utilization of the submitted design.

There being no further comments in this regard, Associate Member White placed the matter before the Commission for action. Associate Member Ballard noted his concern as to whether the project application is complete at this time. Mr. Neikirk noted that changes were made just prior to the meeting, and he requested that the Commission consider taking action on the project concept as staff would work with the applicant on a new design.

Associate Member Birkett moved to approve the application of Dennis W. Smith, #02-0295, with staff's recommendation of no more than 800 square feet, inclusive of the storage shed. Associate Member Gordy seconded the motion. Associate Member Birkett stressed the need to erect a sound structure in this matter, as with all matters of construction along the waterways. Associate Member Ballard noted his concern for converting public trust lands for private use, stating that the public trust doctrine requires the Commission look to the future when considering such actions. He added that efforts should be made to minimize the encroachment onto State-owned bottomlands. Associate Member Williams stated his concern for the storage area and noted that he could not support the motion as presented. Associate Member Hull stated his agreement with Mr. Ballard's comments. **With a vote by show of hands, the motion was denied, 2-5.**

Associate Member Williams moved to approve the application of Dennis W. Smith, #02-0295, with staff's recommendation of no more than 800 square feet, and without inclusion of the storage shed. Associate Member Cowart seconded the motion; the motion carried, 7-0.

5. **DEPARTMENT OF THE NAVY, #02-0572**, requests authorization to temporarily install one 20-foot high timber pile with reflector targets on Dawson Shoals and one 20-foot high timber pile with reflector targets on the north end of Parramore Island in Accomack. A Coastal Primary Sand Dunes/Beach permit is required.

Hank Badger, Environmental Engineer Sr., provided a computer-generated overview of the project consisting of drawings and photos. He stated that Parramore Island is one of the 13 barrier islands situated along Virginia's portion of the Delmarva Peninsula. The project site is located at the northern end of Parramore Island and Dawson Shoals. Wachapreague Inlet separates northern Parramore Island and southern Cedar Island.

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Mr. Badger stated that the two timber piles would be placed on the beach, above the mean high water mark. The proposed structures would be used during a three-year experiment that is linked with the Wallops Island facilities and the next generation Navy radar (Aegis

replacement). Measurements of rough sea surface conditions and the impact on radar/tracking methods are to be examined. The project is associated with national defense.

Accomack County has not yet adopted the model Coastal Primary Sand Dune Zoning Ordinance. As a result, the Commission is charged with reviewing the dune/beach impacts associated with the structures on Parramore Island and Dawson Shoals

Mr. Badger reported that a public hearing was held in the Accomack County Board of Supervisors Chambers on May 9, 2002 with five people in attendance. There was no public comment against the application.

VIMS indicates the adverse impacts associated with the proposal are expected to be minimal. No State agency has expressed any opposition to the project.

Mr. Badger stated that it is anticipated that little to no disturbance will occur to Dawson Shoals or Parramore Island by the single-pile structures. Therefore, staff recommends approval of the project, with the stipulation that the pilings would be completely removed and the areas would be restored to their pre-existing conditions after the experiment, early in the spring of 2005.

The Commissioner asked if anyone in attendance wished to speak to this matter, pro or con. Commissioner Pruitt noted that there was no one present in opposition of the project. The Commissioner then placed the matter before the Commission for action. **Associate Member Gordy moved to approve the application of the Department of the Navy, #02-0572, in accordance with staff's recommendations. Associate Member Hull seconded the motion; the motion carried unanimously, 8-0.**

6. **ARMY CORPS OF ENGINEERS, 01-1986**, requests authorization to place up to 100,000 cubic yards of dredged material from the maintenance of the Chesapeake Bay to Magothy Bay portion of the (WCV) Federal Project Channel in Northampton County upon two previously used spoil sites, adjacent to Holly Bluff Island and Public Ground #18 in Magothy Bay. Wetlands and Subaqueous permits are required.

Hank Badger, Environmental Engineer Sr., provided a computer-generated overview of the project consisting of drawings and photos. He stated that the Chesapeake Bay to Magothy Bay, and Magothy Bay Channels are part of the Waterway on the Coast of Virginia (WVC) and require maintenance dredging approximately every four to six years. These particular

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channels were last dredged in 1993 and 1999 respectively, when a total of 85,800 cubic yards of dredged material was placed overboard. As a result of the overboard disposal, the site near and within Public Ground No. 18 has become partially intertidal.

In the fall of 2002, the Corps intends to place approximately 30,000 cubic yards of maintenance dredged material adjacent to Holly Bluff and 70,000 cubic yards near and within Public Ground No. 18. The elevation of the spoil area will be raised no higher than two feet above mean low water.

Mr. Badger stated that while the actual dredging of the federal project channel is authorized by statute, the placement of the dredge material in the proposed site is not exempt and, therefore, requires a permit. Permits for this project were issued by the Commission in 1987, (which expired in 1990) and 1992 which will expire on August 25, 2002. Since a portion of the non-vegetated wetlands involved in the project is State-owned, the Commission, rather than the Northampton County Wetlands Board must issue a permit for their use pursuant to Section 28.2-1306 of the Code of Virginia.

VMRC held a public hearing in the Northampton County Administration Building, Convention Room on Thursday May 9, 2002, to accept public comments on the project. After discussing the disposal sites, the need for the dredging project and possible turbidity carried over active clam ground resulting in smothering of the shellfish, a time of year restriction was agreed to by both sides. As such, the overboard placement of the dredged material would be confined to the months of November through March.

Mr. Badger stated that on May 15, 2002, Northampton County Wetlands Board held a Public Hearing approving the placement of the portion of dredged material adjacent to Holly Bluff that fell within the Board's jurisdiction, with the condition that the overboard placement of dredged material be confined to the months of November through March and that the Holly Bluff site be the first of the two spoil sites used. The Board was concerned that the windy conditions in later March, would create a problem if the turbidity is carried over active clam grounds. No other public comments have been received on this project to date.

VIMS has indicated that the individual and cumulative adverse environmental impacts resulting from the overboard disposal of the dredge material may not be localized, depending on tides and currents. VIMS also indicated, submerged aquatic vegetation, (SAV) does not appear to be present in any of the subject areas. No State agency has expressed any opposition to the project.

Mr. Badger stated that since the proposed sites have been used in the past and a consensus has been reached between the leaseholders and the Corps and the time of year restriction should minimize impacts to shellfish resources, it does not appear that the continued use of the sites will result in any significant impacts. Accordingly, staff recommends approval of

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the project with a condition that the applicant be required to submit post-dredging material bathymetric and cross-sectional surveys, and that the overboard placement of the dredged material be confined to the months of November through March to ensure the protection of the clam resource in the area.

The Commissioner asked if anyone in attendance wished to speak to this matter, pro or con. There being no comments offered in this regard, Commissioner Pruitt placed the matter before the Commission for action. **Associate Member White moved to approve the application of the Army Corps of Engineers, #01-1986, in accordance with staff recommendations. Associate Member Gordy seconded the motion; the motion carried unanimously, 8-0.**

7. **ARMY CORPS OF ENGINEERS, 01-2103**, requests authorization to place up to 45,000 cubic yards of dredged material from the dredging of the Bradford Bay Channel in Accomack County, adjacent to State-owned marsh over a section of non-vegetated wetlands (mud and sand flat) along the northern end of Bradford Bay near the Haul Over. Wetlands and Subaqueous permits are required.

Hank Badger, Environmental Engineer Sr., provided a computer-generated overview of the project consisting of drawings and photos. He stated that the Bradford Bay Channel near Wachapreague is part of the Waterway on the Coast of Virginia (WVC) and requires maintenance dredging approximately every five years. The channel was last dredged in 1996, and the material was placed adjacent to the marsh at the north end of Bradford Bay in the vicinity of the proposed overboard site.

While the actual dredging of the federal project channel is authorized by statute, the placement of the dredge material in the proposed site is not exempt and, therefore, requires a permit. A permit for this project was issued by the Commission in 1983, and was later modified and extended but expired in 1996.

Mr. Badger added that since the non-vegetated wetlands involved in the project are State-owned, the Commission, rather than the Accomack County Wetlands Board, must issue a permit for their use pursuant to Section 28.2-1306 of the Code of Virginia.

VMRC held a public hearing in the Accomack County Administration Building, Board of Supervisors Chambers on Thursday May 9, 2002, to accept public comments on the project. No one attended the hearing, and no public opposition has been received on this project to date.

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VIMS has indicated that the individual and cumulative adverse environmental impacts resulting from this activity will be short term and localized. The proposed plan is acceptable if the project is otherwise justified. No State agencies have expressed any opposition to the project.

Mr. Badger stated that since the proposed site has been used in the past and since it does not

appear that the continued use of the site will result in any significant impacts, staff recommends approval of the project. Staff further recommends that the applicant be required to submit post-dredging bathymetric and cross-sectional surveys and that the elevation of the dredged material not exceed that of the adjacent marsh.

The Commissioner asked if anyone in attendance wished to speak to this matter, pro or con. There being no comments offered in this regard, Commissioner Pruitt placed the matter before the Commission for action.

Associate Member Gordy moved to approve the application of the Army Corps of Engineers, #01-2103, in accordance with staff recommendations. Associate Member White seconded the motion; the motion carried unanimously, 8-0.

The Commission recessed for lunch at 11:45 a.m. Commissioner Pruitt reconvened the meeting at 12:25 p.m.

8. PUBLIC COMMENTS

Commissioner Pruitt opened the floor for public comments. Associate Member Hull noted that Mr. Michael Chenoweth would like to address the Commission upon his arrival later in the day.

There being no further comments, Commissioner Pruitt closed the Public Comment portion of the meeting.

9. PUBLIC HEARING: For the adjustment of the summer period (May 1 – October 31) commercial scup quota, from 2,774 pounds to 4,987 pounds.

Mr. Chad Boyce, Fisheries Management Specialist, stated that Addendum 1 to the Fishery Management Plan for Scup provides that the annual coast-wide quota is divided among three periods. The Winter I period runs from 1 January through April 30, the Summer period runs

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from 1 May through October 31, and the Winter II period runs from 1 November through December 31. Mr. Boyce reviewed the following Table 1 summarizing the allocation of scup to the commercial quota periods. During the winter periods, the quota is available coast-wide and is controlled through trip limits.

Table 1. Allocation of Commercial Quota By Period.

Quota Period	% of Commercial Allocation
Winter I	45.11%
Summer	38.95%
Winter II	15.94%

Mr. Boyce stated that the ASMFC's plan for the summer period is based on a state-by-state quota system. Each state's share is a percentage of their commercial landings for the reference period of May through October, 1983-1992. He then briefly reviewed Table 2:

Table 2. Summer Period Quota Allocation for Year 2002

STATE	% of Summer Quota-Based on Reference Period Landings	Summer 2002 Quota (Pounds)
Maine	0.1210%	3,657
New Hampshire	0.0000%	0
Massachusetts	21.5853%	610,116
Rhode Island	56.1894%	1,698,336
Connecticut	3.1537%	95,321
New York	15.8232%	477,982
New Jersey	2.9164%	88,148
Delaware	0.0000%	0
Maryland	0.0119%	359
Virginia	0.1650%	4,987
North Carolina	0.0249%	752
Total	100.0000%	3,022,520

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Mr. Boyce noted that all states included in the Fishery Management Plan for Scup will be required to implement the provisions established in Addendum V to the scup management plan. These provisions include requiring each state to close its commercial scup fisheries when its landings have reached the quota.

Mr. Boyce stated that in order to maintain compliance with the ASMFC Scup Management Plan, staff recommends adoption of amended regulation 4VAC 20-910-10 et seq., with the

amended summer commercial scup quota as 4,987 pounds.

Commissioner Pruitt opened the Public Hearing on the matter. With no comments offered, the Commissioner closed the Public hearing and placed the matter before the Commission for discussion and action.

Associate Member Cowart moved for adoption of amended Regulation 4 VAC 20-910-10 et seq., with the amended summer commercial scup quota as 4,987 pounds, thereby maintaining compliance with the ASMFC Scup Management Plan. Associate Member Hull seconded the motion; motion carried unanimously, 8-0.

10. RECOMMENDATIONS OF THE RECREATIONAL FISHING ADVISORY BOARD

Mr. Cory Routh, Fisheries Management Specialist, stated that the Recreational Fishing Advisory Board (RFAB) has completed its five-month review of pending applications and on May 13, 2002 developed its final recommendations for funding. Each of the projects submitted during this review cycle has been subjected to a staff review, a professional peer review, and public hearing. Funding for projects recommended for funding by the RFAB will not be available until September, 2002. Funding for boating/fishing access facilities is contingent upon the applicant securing the appropriate habitat permits from the VMRC.

Mr. Routh reported that the following projects were **recommended for funding**:

- 1A. Development of a Website Marketing system for Virginia's Outdoor Recreation Industry
Jerry Fousse and Claude Bain
\$10,000.00 – Voted unanimously to recommend funding.
- 1B. Allocation of support funds to reinstate the Virginia Coast Watch program
VMRC
\$10,000.00 – Voted unanimously to recommend funding.

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- A. Estimating Relative Juvenile Abundance of Recreationally Important Finfish in the Virginia Portion of the Chesapeake Bay
VIMS – Herb Austin
\$184,169.00 – Voted 5 to 3 to recommend funding.
- B. Support of Finfish Aging for Virginia Catches and Application of Virtual Population Analysis to Provide Management Advice
ODU – Dr. Cynthia Jones

\$240,477.00 – Voted 5 to 3 to recommend funding.

- C. Boat Scarring Effects on Submerged Aquatic Vegetation in Virginia. (Year 3)
VIMS – Robert Orth
\$12,889.00 – Voted unanimously to recommend funding.
- D. Enhancing Submerged Aquatic Vegetation (SAV) Habitat: Research and Education for Restoration
VIMS – Robert Orth
\$105,598.00 – Voted unanimously to recommend funding.
- E. Develop Specifications of Virginia Recreational Saltwater License Purchases and Renewals
eBusiness solutions – Bob Pride
\$4,800.00 – Voted unanimously to recommend funding.
- J. Kiwanis Club Kids Fishing Tournament (August 2002)
Capital District Kiwanis Club – James Brown
\$4,369.00 – Voted unanimously to recommend funding.
- K. Early Summer Children’s Fishing Program.
Northampton County Anglers Club – Melvin Dudley
\$790.00 – Voted unanimously to recommend funding.
- L. Law Enforcement Vessels for Virginia Marine Patrol
VMRC – Colonel Steve Bowman
\$134,200.00 – Voted unanimously to recommend funding.
- M. Sport Utility 4-Wheel Drive Vehicles for Law Enforcement Use
VMRC – Colonel Steve Bowman
\$62,000.00 – Voted unanimously to recommend funding.

Mr. Routh reported that the following projects were **recommended, but have pending habitat permits**:

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- F. Elizabeth River Park (Fishing Pier and Rip Rap Placement)
City of Chesapeake – Robert Clifton
\$129,000.00 – Voted 7 to 1 to recommend funding.
- H. Glebe Point Fishing Pier Extension
County of Northumberland – Lutrell Tadlock
\$8,500.00 – Voted unanimously to recommend funding.
- I. Improvements to Ramp at Cranes Landing Public Boat Landing

County of Northumberland – Lutrell Tadlock
\$7,000.00 – Voted unanimously to recommend funding.

- N. Messick Point Boat Launching Facility Improvements
 City of Poquoson – John Gill
\$413,970.00 – Voted unanimously to recommend funding.

Mr. Routh reported that the following project was **not recommended for funding**:

- G. A Professional Development Course for Science Teachers
 VIMS – Susan Haynes and Vicki Clark
\$20,295.00 – Voted unanimously not to recommend funding.

Associate Member Cowart inquired as to whether any problems are anticipated with the proposed Northumberland County projects. Mr. Routh stated that permit applications for those projects have just been completed and the process is to approve the funding once the permits are approved; no problems are anticipated at this time.

Associate Member Ballard stated that he was concerned over the way Project E. (Develop Specifications of Virginia Recreational Saltwater License Purchases and Renewals) was developed, noting that a precedent may be set to allow private businesses to submit projects they see as a concern to the Commission solely from the standpoint of trying to obtain funding without going through the normal procedures. Upon inquiry by the Commissioner, Mr. Routh stated that the project was submitted without solicitation by any member of the RAFB. He stated that the specifications for the project would become the property of the RAFB and would be available to any company wishing to submit a bid for building the system.

Commissioner Pruitt called for public comments, pro or con, on the recommended projects. In response to Mr. Ballard's concern, **Mr. Bob Pride**, eBusiness, stated that Project E. would develop specifications in conjunction with the VMRC staff. Following completion, VMRC could then solicit public bids to develop and/or operate the website. VMRC could also consider availing the software to all dealers wishing to use it.

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There being no further comments, Commissioner Pruitt placed the matter before the Commission for action. **Associate Member Gordy moved for approval of the following projects as recommended by the Recreational Fishing Advisory Board:**

- 1A. Development of a Website Marketing system for Virginia's Outdoor Recreation Industry**
Jerry Fousse and Claude Bain -- \$10,000.00
- 1B. Allocation of support funds to reinstate the Virginia Coast Watch program**
VMRC -- \$10,000.00

- A. **Estimating Relative Juvenile Abundance of Recreationally Important Finfish in the Virginia Portion of the Chesapeake Bay**
VIMS – Herb Austin -- \$184,169.00
- B. **Support of Finfish Aging for Virginia Catches and Application of Virtual Population Analysis to Provide Management Advice**
ODU – Dr. Cynthia Jones -- \$240,477.00
- C. **Boat Scarring Effects on Submerged Aquatic Vegetation in Virginia. (Year 3)**
VIMS – Robert Orth -- \$12,889.00
- D. **Enhancing Submerged Aquatic Vegetation (SAV) Habitat: Research and Education for Restoration**
VIMS – Robert Orth -- \$105,598.00
- E. **Develop Specifications of Virginia Recreational Saltwater License Purchases and Renewals**
eBusiness solutions – Bob Pride -- \$4,800.00
- J. **Kiwanis Club Kids Fishing Tournament (August 2002)**
Capital District Kiwanis Club – James Brown -- \$4,369.00
- K. **Early Summer Children’s Fishing Program.**
Northampton County Anglers Club – Melvin Dudley -- \$790.00
- L. **Law Enforcement Vessels for Virginia Marine Patrol**
VMRC – Colonel Steve Bowman -- \$134,200.00
- M. **Sport Utility 4-Wheel Drive Vehicles for Law Enforcement Use**
VMRC – Colonel Steve Bowman -- \$62,000.00

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Associate Member Williams seconded the motion; motion carried unanimously, 8-0.

- 11. **Update on ASMFC’s review of Virginia’s coastal summer flounder regulations. Request for Emergency Regulations to modify the recreational summer flounder harvest limits.**

Mr. Rob O’Reilly, Deputy Chief-Fisheries Management, distributed to the Commission copies of a *Notice for Public Hearing* to amend Regulation 4 VAC 20-620-10 et seq., “Pertaining to Summer Flounder,” and a packet of additional comments received from

individuals wishing to express their opinion in this matter. (Copies of all documents are filed with the permanent record of this meeting.) Mr. O'Reilly reviewed the following option considered at the February 25, 2002 Public Hearing:

- 1) A statewide minimum size limit of 17 ½ inches, with an 8-fish possession limit and closed seasons from January 1 through March 28, 2002.
- 2) A statewide minimum size limit of 17 inches, with an 8-fish possession limit and closed seasons from January 1 through March 28, 2002 and July 22 through August 9, 2002.
- 3) Coastal: A minimum size limit of 16 inches, with a 5-fish possession limit and closed seasons from January 1 through March 28, 2002 and July 22 through August 5, 2002 **AND Bay**: a minimum size limit of 17 inches, with an 8-fish possession limit and closed seasons from January 1 through March 28, 2002 and July 22 through August 15, 2002.
- 4) Coastal: A minimum size limit of 15 1/2 inches, with a 5-fish possession limit and closed seasons from January 1 through March 28, 2002 and July 22 through August 5, 2002 **AND Bay**: a minimum size limit of 17 inches, with an 8-fish possession limit and closed seasons from January 1 through March 28, 2002 and July 22 through August 16, 2002.

Mr. O'Reilly stated that of these four options, approximately 50%+ of those attending the hearing were in favor of the size limit of 17 ½ inches and no closed summer season; 40% for 17 inches with a summer closure. The latest comments distributed demonstrate a majority for the 17 ½ inches.

Mr. O'Reilly noted that the Commission's approved alternative management option of February had not been reviewed by the ASMFC in February. Since the February Commission meeting, staff had learned that it had misinterpreted the data underlying the reduction calculations. New split-area options needed to be calculated in order to satisfy the ASMFC requirements. On April 25, 2002, the ASMFC's Scup, Black Sea Bass and Summer

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Flounder Technical Committee reviewed the following split-area options:

- A) Coastal: A minimum size limit of 15 1/2 inches, with a 5-fish possession limit and closed seasons from January 1 through March 28, 2002 and June 8 through July 3, 2002 **AND Bay**: a minimum size limit of 17 ½ inches, with an 8-fish possession limit and closed seasons from January 1 through March 28, 2002 and July 22 through July 28, 2002.
- B) Coastal: A minimum size limit of 15 1/2 inches, with a 5-fish possession limit and closed seasons from January 1 through March 28, 2002 and June 27 through December 31, 2002 **AND Bay**: a minimum size limit of 17 ½ inches, with an 8-fish possession limit and closed seasons from January 1 through March 28, 2002 and July 22 through

July 28, 2002.

Mr. O'Reilly briefly reviewed the process for developing the proposed options to date. He stated the ASMFC has approved all four options, but the options are not truly conservational equivalents. ASMFC contends that when the statewide data is divided into components, the results are less reliable and the risk of exceeding the 2002 target of 734,000 fish is increased. Additionally, the case for the current split-area options A) and B) rely on the Chesapeake Bay system fishermen to reduce landings by 54.65%. Each area (coastal and Chesapeake) is held to a 43.8% reduction.

Mr. O'Reilly stated that staff is recommending adoption of the 17 ½-inch minimum size limit, 8-fish possession limit, with no closed summer season on a statewide basis and as Emergency Regulation 4 VAC 20-620-10 et seq., effective June 1, 2002. Staff also requests that the Commission hold a June 18, 2002 Public Hearing on this issue.

Associate Member Gordy inquired as to the procedure to be followed by enacting an Emergency Regulation at this time. Mr. O'Reilly stated that the Emergency Regulation would go into effect June 1, 2002. Following the Public Hearing on June 18, 2002, the Emergency Regulation would be amended and/or finalized in accordance with any changes mandated by the Commission.

In the brief absence of the Commissioner, Associate Member White called for comments from the audience, pro or con, on this issue. The following individuals presented their concerns to the Commission and are recorded verbatim as part of the permanent record of this meeting:

Mr. Robert Allen, Peninsula Salt Water Sport Fishing Association, distributed copies of a prepared statement in which he asks that the Commission "*correct the current discrimination against the Chesapeake Bay Flounder fishermen*" by enacting Option 1 as approved by the ASMFC. Mr. Allen also distributed copies of a chart he developed which

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depicts the 2001 Flounder Harvest. (Copies are attached to the permanent record of this meeting.)

Associate Member Gordy noted that more citations were given on the bayside than the seaside and this information was utilized in determining the best decision to make at the time. Mr. Allen added that the Eastern Shore fishermen have raised concerns for a declining fishery while continuing to achieve sufficient landings.

Mr. Donald Trotta, resident of Northampton County, stated support for Option 1.

With no further comments offered, Associate Member White placed the matter before the Commission for action. **Associate Member Ballard moved to adopt staff's recommendation for Emergency Regulation 4 VAC 20-620-10 et seq., "Pertaining to**

Summer Flounder,” effective immediately, establishing a 17 ½ -inch minimum size limit, an 8-summer flounder possession, and with no further closing of the summer season. Associate Member Cowart seconded the motion; motion carried unanimously, 8-0.

Associate Member Cowart moved to advertise for a Public Hearing in the matter of Emergency Regulation 4 VAC 20-620-10 et seq., “Pertaining to Summer Flounder,” to be held June 18, 2002. Associate Member Hull seconded the motion; motion carried unanimously, 8-0.

12. Update on ASMFC’s review of Virginia’s coastal striped bass harvest. Request for Public Hearing to modify commercial harvest restrictions.

Mr. Jack Travelstead, Chief-Fisheries Management, reported that the ASMFC met last week to make its final decision on the matter. He noted the *Atlantic Striped Bass Plan Review Team Report* distributed to the Commission. The Plan Review Team evaluated the following four options to determine the effects on landings from the coastal fishery:

1. Implement a 98,000-pound quota for the coastal fishery.
2. Implement a multiple-tagging requirement; two tags for fish greater than or equal to 34 inches and three tags for fish greater than or equal to 40 inches.
3. Closure of the coastal fishery south of Cape Charles, and
4. A seven-inch maximum gill net requirement in lower Chesapeake Bay.

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Mr. Travelstead stated that ASMFC voted to require Virginia to immediately return to a two separate quota system: one for the Chesapeake Bay and its tributaries; one for the coastal waters. The quota for the coastal waters would be 98,000 pounds.

Mr. Travelstead added that in order to comply with the ASMFC provision, staff is requesting that the Commission adopt Emergency Regulation 4 VAC 20-252-10 et seq., “Pertaining to the Taking of Striped Bass.” He noted that the Fisheries Management Division would devise a system to more fairly distribute the 98,000 pounds between the bay and ocean fishermen. Adoption of new regulations and a program for this distribution will be presented to the Commission before year-end.

Associate Member Ballard noted his concern for the resulting implications of tag distribution in reducing the coastal fishery at this time. Mr. Travelstead stated that this issue would be addressed by VMRC.

Commissioner Pruitt called for comments, pro or con, from those in attendance. There being no comments offered, the Commissioner placed the matter before the Commission for action. **Associate Member Hull moved to adopt staff's recommendation for Emergency Regulation 4 VAC 20-252-10 et seq., "Pertaining to the Taking of Striped Bass," effective immediately, to establish a 98,000 pound commercial harvest quota for coastal areas; and to advertise for a Public Hearing to be held on June 18, 2002, in this matter. Associate Member Birkett seconded the motion; motion carried, 7-1.**

13. PRESENTATION: The Effects of Boat Scarring on Submerged Aquatic Vegetation

Dr. Bob Orth, VIMS, stated that each year VIMS conducts a survey for the distribution and abundance of SAV's which is reported on the institute's website. One area that has raised serious concern is propeller scarring. This scarring is caused by boats navigating through grass beds, cutting the vegetation, and leaving scars on the bottomland.

With the aid of a computer-generated presentation, Dr. Orth illustrated the first-year findings of the VMRC-funded study on the effects of boat scarring on SAV beds. He stated that substantial evidence has been developed implicating haul seine fishery as the major contributor to damages in the beds. He added that the second year of the study, now underway, focuses on the recovery rates of the scarred sites. Associate Members White, Ballard and Williams noted their concerns for the sites experiencing boat scarring damage and the types of vessels responsible. A discussion ensued in which Dr. Orth stated that 25% - 30% of the Chesapeake Bay contains scarred areas, primarily due to haul seining vessels.

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Commissioner Pruitt invited comments from those in attendance. The following individuals presented their concerns to the Commission and are recorded verbatim as part of the permanent record of this meeting:

Mr. George Boyer stated that the scientific target of Dr. Orth's presentation is haul seining, yet, every boat he has seen tangled in grass beds has been recreational. He has never seen a commercial boat stuck in the grass beds.

Mr. Kelly Place inquired of Dr. Orth whether or not he had quantified the acreage. Dr. Orth stated every scar has a discrete area and that doing so would take a lot of extra effort. An outline of the areas that are scarred is being developed through the ongoing study program. Mr. Place also inquired as to whether any study has been made to mitigate any of the damage. Dr. Orth stated that such a study is not a part of the current program. Mr. Place noted that different grass beds have different recovery rates and he suggested a rotating marine reserve should be considered for the recovery process.

Dr. Orth noted that the VMRC staff would be needed to examine ways in which to restore the damaged areas. Associate Member McLeskey suggested that the Agency look into tunnel stern boats that completely encase the propellers to prevent such damages. Commissioner Pruitt thanked Dr. Orth for his presentation.

- 14. DISCUSSION:** Request for Public Hearing to consider amendments to Regulation 4 VAC 20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting"

Ms. Ellen Cosby, Fisheries Management Specialist, presented a request for Public Hearing to consider amendments to Regulation 4 VAC 20-610-10 et seq., to require the submission of Captain's Daily Fishing Reports by all purse seine and snapper rig vessels landing in Virginia. She stated that Amendment 1 to the Interstate Fishery Management Plan of the ASMFC for Atlantic Menhaden states that all menhaden purse seine and bait seine vessels (snapper rigs) shall be required to submit the report on their harvest. Implementation of this measure should be a compliance criterion in the amendment.

Commissioner Pruitt called for comments, pro or con, from those in attendance. There being no comments offered, the Commissioner placed the matter before the Commission for action. **Associate Member Hull moved to hold a Public Hearing to consider amendments to Regulation 4 VAC 20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting," as recommended by staff. Associate Member White seconded the motion; the motion carried, 7-0.**

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- 15. ADDITIONAL PUBLIC COMMENTS**

Commissioner Pruitt allowed for public comments from **Mr. Michael Chenoweth** whose comments are recorded verbatim as part of the permanent record of this meeting. Mr. Chenoweth requested that the Commission consider permitting the activity of recreational gold prospecting in the Commonwealth of Virginia waters. He stated that this activity is a hobby and currently there is no permit application that is relevant to the same. Mr. Chenoweth distributed a picture of the equipment he would use for prospecting, a copy of which is filed with the meeting's permanent record. He also exhibited a gold sample he recently retrieved in North Carolina waters. Commissioner Pruitt instructed the Habitat Management Division to work with Mr. Chenoweth in making application for a permit.

- 16. PUBLIC HEARING:** Proposed regulations pertaining to the establishment of blue crab sanctuaries and management and enhancement areas and prohibitions on the harvest of sponge crabs.

Mr. Jack Travelstead, Chief-Fisheries Management Division, stated that the Commission is being asked to consider two options for expanding the blue crab sanctuaries, and protection for the sponge crabs. He noted that the options for the sponge crabs remain as follows:

OPTION 1: A ban on the harvest of sponge crabs from Virginia waters during the third week of July.

OPTION 2: An 8-bushel daily harvest limit on sponge crabs from July 1 through July 31.

Mr. Rob O'Reilly, Deputy Chief-Fisheries Management Division, reviewed with the Commission graphs and statistics demonstrating the current stock assessments for the blue crab. He stressed that all indications are that harvests are low for all sizes of crabs.

Dr. Rom Lipcius, VIMS, presented graphs illustrating the proposed expansions of the blue crab sanctuaries as follows:

OPTION 1: A 286 square mile expansion of the existing 661 square mile-Virginia Blue Crab Sanctuary that would be closed to all crabbing June 1 through September 15.

OPTION 2: A reduced expansion of the existing Virginia Blue Crab Sanctuary with 4 to 5 shallow water extensions and management and enhancement areas (MEA). The MEA's are proposed to be closed year-round to all crabbing and are located:

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- a. in the area surrounding Goodwin Islands near the mouth of the York River,
- b. in the Mobjack Bay in the stretch of water between Pepper Creek and New Point Comfort,
- c. at the mouth of the Great Wicomico River and surrounding Dameron Marsh,
- d. the waters surrounding Watts Island near Tangier, and
- e. the waters of the Gulf on the Eastern Shore.

Dr. Lipcius stated that Option 2 is strongly recommended due to the fact that it protects the full life cycle and not just the spawning female crabs. He noted that in its approach to developing crab management, VIMS has involved watermen, crabbers, students, and scientists. VIMS recognizes that local crabbers in the expanded areas will be affected by these actions and, therefore, it is recommended that a partnership be formed with the crabbers to pay them to work with VIMS in collecting data for the enhancement of the spawning stock. VIMS has also submitted a major proposal to NOAA for receipt of extensive funding in the proposed regions to pay for involving high school students and local crabbers in gathering scientific information. Dr. Lipcius stated that there are a large range of

opportunities to work within the management enhancement areas for the benefit of the fishery and those associated with it.

Associate Member Ballard noted that the Commission should decide whether recreational crabbing would be covered in the MEA's and corridors. He also inquired as to how crabbers would know the sanctuary locations. Dr. Lipcius stated that either channel markers or distinct, solid markers would be placed in the areas. Associate Member Gordy inquired as to whether VIMS has the money for the partnership program with the crabbers and for the needed markers. Dr. Lipcius stated that the funding is in place for the crabbers. VIMS will use existing markers wherever applicable and funds for additional markers will be made available as needed. Associate Member Hull inquired as to how many crabbers VIMS expects to utilize in the program. Dr. Lipcius stated that at least one or two would be used in each of the areas, depending on how the watermen's associations want to handle it. Mr. Hull asked how much money has been allocated. Dr. Lipcius stated that \$3,000.00 for each location and have applied for an additional \$3,000.00 per location through grant application.

Commissioner Pruitt opened the Public Hearing. The following individuals presented their concerns to the Commission and are recorded verbatim as part of the permanent record of this meeting:

Mr. George Boyer, Virginia Watermen's Association, spoke in opposition of expanding the crab sanctuaries at Dameron Marsh.

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Mr. James Riggins, spoke in opposition of expanding the crab sanctuaries at Goodwin Islands. Mr. Riggins distributed his written comments to the Commission, a copy of which is filed with the meeting's permanent record.

Mr. James MacReynolds, County of York Administrator, spoke on behalf of the Board of Supervisors in opposition of expanding the sanctuaries at Goodwin Islands.

Mr. George Washington, Virginia Watermen's Association, spoke in opposition of expanding the sanctuaries until the data has been clarified and confirmed with regard to the need for additional regulations.

Mr. H. M. Arnold, Working Watermen's Association of the Eastern Shore, stated that the watermen oppose expanding the sanctuaries. The watermen are willing to assist VIMS while working experiments without closing the crabbing areas.

Mr. Kelly Place noted that the research performed by the VIMS staff has been handled in the most honorable way and he commended VIMS for its efforts to involve and compensate the watermen as the research continues. Mr. Place stated that the Commission faces difficult decisions in this matter; he expressed good luck to the Commission in the process.

Mr. Peter Nixon, Lower Chesapeake Watermen's Association, spoke in opposition to expanding the sanctuaries. He noted that these issues before the Commission are a result of the introduction of legislation in 2001 to eliminate catching female sponge crabs.

Mr. Ronnie Jett, Northumberland County Board of Supervisors, spoke in opposition to expanding the sanctuaries during the middle of the crabbing season.

Mr. Jeff Crockett, Tangier Watermen's Association, stated that the watermen are in support of expanding the crab sanctuaries around Watts Island. He noted that the watermen would not support any other expansions.

Mrs. Linda Riggins addressed the benefits and pleasures experienced by families who live and crab in the waters of York County. She noted that the Commission's decisions greatly affect the livelihood of the watermen and their families.

With no further comments offered, Commissioner Pruitt closed the Public Hearing.

Mr. Travelstead stated that the VMRC, the Maryland Department of Natural Resources, and the Potomac River Fisheries Commission mutually agreed to achieve a 15% reduction in harvest over a three-year period that started last year. Now in its second year, the fishery has achieved an approximate 8%-9%. The fishery is behind schedule where as Maryland and the

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Potomac River Fisheries have enacted regulations to achieve 15% at this point in time. Mr. Travelstead noted his concerns for the lack of comments from the public and the environmental community with regard to the Public Hearings in this matter.

Associate Member Williams inquired as to what percentage the fishery ended with at the close of the 2001 season. Mr. O'Reilly stated that the percentage was 5.88%. A discussion ensued concerning the changes in regulations for the 2002 season and their impact on the agreed reduction percentages. Associate Member Cowart referenced the percentages assigned to the deepwater sanctuaries and the increase in those sanctuaries. Mr. O'Reilly noted the need to meet with Dr. Lipcius to confirm the percentages. Mr. Cowart added that he felt it would be very detrimental to most of the bay community and the lower bay to ban sponge crabs in Virginia. Mr. Cowart also noted the efforts made by Dr. Lipcius and the VIMS staff in attempting to preserve the stock while providing for crabbing during the season.

Associate Member Cowart moved to expand the crab sanctuary to the 30-foot contour, but not close the season during the week of July. The motion failed for lack of a second.

Associate Member Hull inquired as to whether the initial plan was to achieve a 5% reduction

each year for three years. Mr. Travelstead stated that this was correct. Mr. Hull noted that 5.88% was achieved in the first year. Mr. O'Reilly stated that the percentage is approximate as it depends on what is excluded that could be contributed to the sanctuary that exists. Mr. Hull stated that excluding the sanctuary, the percentage for the second year is up to 8.75%; Mr. O'Reilly stated that is correct. Mr. Hull then stated that at this point in time, Virginia's percentages exceed 10% for the first two years. Mr. Hull also inquired as to how many watermen work in the proposed 286-mile sanctuary expansion. Mr. O'Reilly stated that an estimate is not available as to the number of watermen.

Associate Member Williams asked what percentage is achieved if the sponge crabs are eliminated. Mr. O'Reilly stated that it would be .75%. Associate Member Gordy expressed her concerns for enacting new regulations in the middle of the crabbing season, and suggested that a decision be deferred until all percentages can be confirmed.

Associate Member Cowart moved to increase the sanctuary size to the 30-foot contour, and, at the same time, request that the Technical Committee review the crab harvest reduction percentages in order to accurately credit the Virginia fishery as it strives to achieve the agreed upon 15% reduction. Should the Technical Committee decline to credit the Virginia fishery appropriately, the Commission would then act at its July 23, 2002 meeting to rescind the expanded sanctuary area back to a 35-foot contour. Motion failed for lack of a second.

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Associate Member Ballard inquired of Mr. O'Reilly as to whether or not it was up to the individual jurisdictions to determine if their reduction percentages are correct. In response, Commissioner Pruitt stated that this condition was prior to Dr. Lipcius conducting and reporting his research.

Associate Member Cowart moved to adopt the 30-foot contour and increase the bay-wide sanctuary from June 1 to September 15, 2002, thereby achieving a 15% reduction in the crab harvest. Associate Member White seconded the motion; the motion carried, 7-1.

Mr. Peter Nixon, Lower Chesapeake Watermen's Association, reported the dissatisfaction that many crabbers are experiencing with the eight-hour workday regulation. The watermen feel that the time constraint of the regulation is counter-productive and this has led to increased crab pots in the waters, resulting in complaints by recreational boaters and fishermen. Mr. Nixon requested that this matter be referred back to the Crab Management Advisory Committee for discussion and review. In granting Mr. Nixon's request, Commissioner Pruitt noted that attendance for Public Hearings in this matter has been very low and that it would be difficult to change the existing regulation in the middle of the season.

Mr. George Boyer, expressed his concern for the fact that the existing eight-hour workday regulation requires older watermen to work in the heat of the day rather than working in the morning, breaking in the afternoon and completing their tasks at the end of the day. He asked that the Crab Management Advisory Committee consider these circumstances.

**** FOR THE GOOD OF THE ORDER**

At the request of Associate Member Hull, Commissioner Pruitt passed the gavel to Associate Member White. **Associate Member Hull moved to congratulate the citizens of the Commonwealth of Virginia on the great good fortune that has been visited upon them in the reappointment of the Honorable William A. Pruitt as Commissioner of the Marine Resources. Associate Member Cowart seconded the motion; motion carried unanimously, 7-0.**

**** DATE OF NEXT COMMISSION MEETING: JUNE 18, 2002**

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**** ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 4:45 p.m.

William A. Pruitt, Commissioner

Stephanie Montgomery CPS, Recording Secretary