

MINUTES

NOVEMBER 15, 2000
NEWPORT NEWS, VIRGINIA 23607

The regular monthly meeting of the Marine Resources Commission was held in Newport News on the above date with the following present:

William A. Pruitt)	Commissioner
C. Chadwick Ballard)	
Gordon M. Birkett)	
Laura Belle Gordy)	
Henry Lane Hull)	Members of the Commission
F. Wayne McLeskey)	
Kenneth W. Williams)	
Carl Josephson		Assistant Attorney General
Wilford Kale		Sr. Staff Adviser
Erik Barth		Head-MIS
LaVerne Lewis		Commission Secretary
Bob Craft		Chief-Finance & Administration
Jane McCroskey		Deputy Chief-Finance & Administration
Debbie Brooks		Executive Secretary
Steven Bowman		Chief-Law Enforcement
Lewis Jones		Deputy Chief-Law Enforcement
Warner Rhodes		Middle Area Supervisor
Benjamin Major, III		First Sergeant
Randy Widgeon		Eastern Shore Area Supervisor
Ray Jewell		Northern Area Shore Supervisor
Richard Haynes		Marine Patrol Officer
Michael Dobson		Marine Patrol Officer

VIRGINIA INSTITUTE OF MARINE SCIENCE STAFF

Walter Priest
Lyle Varnell

Jack Travelstead	Chief-Fisheries Management
Rob O'Reilly	Assistant-Chief Fisheries Management

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Roy Insley
Tina Hutcheson
Ellen Cosby
Lewis Gillingham
Chad Boyce

Head-Plans and Statistics
Fisheries Management Specialist
Fisheries Management Specialist
Fisheries Management Specialist
Fisheries Management Specialist

Bob Grabb
Tony Watkinson
Chip Neikirk
Randy Owen
Traycie West
Heather Wood
Ben Stagg
Jeff Madden
Mark Eversole
Jay Woodward

Chief-Habitat Management
Assistant Chief-Habitat Management
Environmental Engineer
Environmental Engineer

Gerry Showalter

Head-Engineering & Surveying

others present:

James R. Cavalet
Rebecca Francese
Stephen W. Bezch
Bud West, Jr.
R. Welton

Bruce Mills
Jeannie Butler
Mike Shackelford
Rich Robins

Commissioner Pruitt opened the November meeting at 9:30 a.m. Members present were

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Associate Members Birkett, Gordy, Hull, McLeskey, and Williams. Commissioner Pruitt indicated that Associate Members Cowart and White would not be attending the meeting and Associate Member Ballard would be arriving later. Mr. Pruitt then established a quorum. Associate Member Gordy gave the invocation and led the Pledge of Allegiance.

1. MINUTES of previous meeting.

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

****APPROVAL OF AGENDA**

Mr. Grabb indicated that he would like to add a page two item, BP Amoco, #00-1483, which would become item 2C. Associate Member Hull moved to approve the agenda as amended. Motion seconded by Associate Member Williams. 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 three page two items for projects that were over \$50,000 and not contested.

2A. NORFOLK NAVAL SHIPYARD, #00-1505, requests authorization to extend, by two (2) feet, an existing stormwater outfall and to construct a 198 linear foot concrete replacement bulkhead and a 15-pile timber mooring dolphin at Berth 13 at their facility situated along the Southern Branch of the Elizabeth River in the City of Portsmouth.

Permit Fee.....\$100.00

2B. VIRGINIA DEPARTMENT OF TRANSPORTATION, #00-0899, requests authorization to transplant 3,000 shoots of eelgrass (*Zostera marina*) from a submerged aquatic vegetation (SAV) bed in Back River south of the Plum Tree Island National Wildlife Refuge in Poquoson, and 1,000 shoots of eelgrass from a SAV bed in the Chesapeake Bay off of Dameron Marsh in Northumberland County, and plant 1,632 shoots of nursery-grown widgeon grass (*Ruppia maritima*) to three (3) sites in Northumberland County (Yeocomico River, Judith Sound and Kingscote

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Creek) as part of SAV mitigation for the Woodrow Wilson Bridge replacement project in the City of Alexandria. Half of the shoots at each site will be placed in protective cages measuring 30 feet long by 20 feet wide which will extend no more than one (1) foot above mean high water to test predation survival. The project will be conducted in accordance with the Commission's recently adopted SAV Transplantation Guidelines.

Permit fee.....\$100.00

- 2C. BP AMOCO, #00-1483. requests authorization to maintenance dredge, by hydraulic method, 35,000 cubic yards of State-owned subaqueous bottom material to maintain maximum depths of minus forty (-40) feet at mean low water adjacent to their facility situated along the York River in York County. The dredged material will be pumped directly into an adjacent approved upland disposal area.

Permit fee.....\$100.00

There being no comments, pro or con, the Commissioner placed the page two items before the Commission. Associate Member Williams moved to accept the page two items as presented. Associate Member Birkett seconded the motion. Motion carried unanimously.

- 3. EXECUTIVE SESSION (if necessary). No session was necessary.

- 4. BRUCE B. MILLS, #00-1488. Commission review on appeal of the October 16, 2000, decision by the Virginia Beach Wetlands Board to deny a permit to construct a single family residence with an elevated timber walkway, bridge and steps, with sewer, water and other utilities involving a beach and coastal primary sand dune in Virginia Beach.

- 5. MAGGIE G. RABEY, #00-1489. Commission review on appeal of the October 16, 2000, decision by the Virginia Beach Wetlands Board to deny a permit to construct a single family residence with an elevated timber walkway, bridge and steps, with sewer, water and other utilities involving a beach and coastal primary sand dune in Virginia Beach.

Randy Owen, Environmental Engineer, explained to the Commission that he would like to brief the Mills and Rabey cases simultaneously because they were essentially mirror images of each

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other, being adjacent properties, and both projects had similar proposed structures. Mr. Owen stated that the Wetlands Board had heard them simultaneously, but acted on them under separate motion.

The Commissioner concurred with counsel's opinion that the Commission could hear the cases simultaneously as long as the projects were voted on separately.

Mr. Owen then briefed the Commission on the October 16, 2000, decision by the Virginia Beach Wetlands Board to deny Mr. Bruce Mills and the estate of Maggie D. Rabey permits to construct on each of their properties a single family residence with a shared timber walkway bridge and steps, which involved a beach and coastal primary sand dune in Virginia Beach. Mr. Owen presented slides and briefed the Commission on the location and description of the proposed project. Comments are a part of the verbatim record.

Mr. Owen said that, according to the Virginia Institute of Marine Science (VIMS), the proposed resident walkway would tend to destabilize the dune by shading the existing dune vegetation and/or increasing the scour of the dune due to the wind that would pass below the structures in the pilings. Mr. Owen also indicated that Mr. Mills felt that both of the proposals should be granted based on their Constitutional right to develop their properties.

Mr. Owen stated that Mr. Mills had contacted Dr. George Oertel, of Old Dominion University, to offer any measures that could be employed to minimize impacts to the dune. However, Dr. Oertel agreed with VIMS' comments and reemphasized the importance that vegetation played in stabilizing the dune. Dr. Oertel further looked at some other measures that could minimize the impacts to the dune. These included decreasing the footprint of the structure, decreasing the number of piling needed to support the structure which would cut down on the wind scour, and elevating the entire project as high or at the maximum extent practical to reduce shading.

Mr. Owen stated that there were five people that spoke in opposition to the projects at the hearing. He said the opponents expressed concerns that both projects would damage or destroy the dune and beach, similar to what had been witnessed at the homes located immediately east of the Chesapeake Bay Bridge Tunnel. Mr. Owen said one of the speakers indicated that the Chesapeake Beach Civic League remained in opposition to the project even as modified. The Chairman of the Wetlands Board also read three letters of opposition into the record.

Mr. Owen stated that after the public testimony was concluded, a motion was made and seconded to deny the applications because the anticipated public and private detriments of the proposed activity exceeded their anticipated public and private benefits. In addition, the motion stated that the proposed activity did not conform with the standards and guidelines promulgated by VMRC and that they violated the purposes and intent of the Coastal Primary Sand Dune Act. Mr. Owen also stated that both motions were considered separately to deny the

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projects for the estate of Maggie G. Rabey and Mr. Mills and those motions passed by a unanimous vote.

Mr. Owen mentioned that Mr. Mills' letter of appeal was received within the 10 day period required by Code. As a result, staff had considered both appeals to be timely. Mr. Owen stated that Mr. Mills based his appeal on the criteria as set forth in Section 28.2-1413 (2) of the Code, which are that the substantial rights of the applicant were prejudiced because the findings, conclusions, and decisions of the Board were in violation of their Constitutional provisions, were in excess of statutory authority or jurisdiction were made upon unlawful procedure or affected by other areas of law, were unsupported by the evidence on the record considered as a whole, and were arbitrary, capricious, or constituted an abuse of discretion. However, Mr. Mills' in his letter did not provide any specifics or rationale to support these allegations.

Mr. Owen said that based on staff's review of the record and his attendance at the hearing, he was unable to conclude that the Board had erred procedurally or that the substantial rights of the applicants had been prejudiced by the Wetland Board's decisions. Mr. Owen said that the Board understood that the project, by its design, was inconsistent with the policy, standards and guidelines of the Coastal Primary Sand Dune Act. He said the project would have significant adverse impacts on the dune and beach system. He also stated that the projects were denied based on the comments provided by VIMS, the Planning Department and the five individuals who spoke in opposition, and that the ultimate public and private detriments associated with the project exceeded the public and private benefits. Mr. Owen said staff concurred with the City of Virginia Beach Wetland Board's findings and recommended that both decisions rendered by the Board on October 16, 2000, to deny these projects, be upheld.

Commissioner Pruitt placed the first project before the Commission. There being no comments from the Commission, Mr. Pruitt opened the meeting for comments from the public.

Bruce Mills, the applicant, addressed the Commission on both Mr. Rabey's and his behalf. He presented three exhibits that were shown at the Wetland Board's hearing. He provided background information on a gazebo-type structure that had been previously approved by both the Commission and the Wetland Board which included approximately 80 pilings located in the sand dune area and on beach property. Mr. Mills also explained that his structure would have a first floor elevation of approximately 17 feet, and would be placed 140 feet back from the mean high water shoreline. Mr. Mills also provided information on the proposed application and his opinion as follows: there would be no damage to the sand dune area and no vehicle access across the sand dune (everything would be elevated above the crest of the dune), they voluntarily agreed to reduce the size of the proposed structure from 3,000 square feet to 1,500 feet, the proposal was changed from a duplex to a single family dwelling, and they also offered to dedicate whatever easement the City wanted in front of their structures. He said the property was 250 feet in depth and that they paid city taxes on the property. They were also willing to pay for beach replenishment. Mr. Mills also felt that his Constitutional rights were violated

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because the use of their land was being limited. He then provided comments regarding what he felt his Constitutional rights were regarding the use of his land. Comments are a part of the verbatim record. Mr. Mills also indicated that he had made several suggestions to change the proposed structure and had requested assistance from the Wetland Board's on how to improve the proposed project. He said he had not received any assistance even after several attempts to meet with the Board. Mr. Mills then requested that the Commission reverse or remand the decision back to the Wetlands Board for further consideration.

Commissioner Pruitt asked Mr. Mills how he had addressed the Wetland Board's question regarding onsite parking? Mr. Mills stated that he planned to park offsite. He said that it was not an environmental issue but he could work it out with the City. (Mr. Mills then pointed out on the map the proposed site for his offsite parking). A discussion between various Commission members and Mr. Mills followed. Comments are a part of the verbatim record.

Kay Wilson, Assistant City Attorney with the City of Virginia Beach, they addressed the Commission. Ms. Wilson said that the previous application as submitted by the applicants consisted of building a road and required extensive bulkheading of the beach area. that was denied by the Virginia Beach Wetlands Board and upheld by the Virginia Marine Resources Commission on appeal. She said that while the current application was an improvement over the previous application, the Wetlands Board voted unanimously to deny this application because the public and private detriments clearly outweighed the benefits. She also said that the project did not comply with the standards of the Coastal Primary Sand Dune Zoning Ordinance or Guidelines, and that the project violated the purposes and intents of the Coastal Primary Sand Dune Ordinance. Ms. Wilson said that Virginia Code Section 28.2-1413 empowered VMRC to modify, remand, or reverse the decision of the Wetlands Board, if the Board failed to fulfill its obligations under the Primary Coastal Sand Dune Ordinance; or if the substantial rights of the applicant had been prejudiced because the decisions of the Board were in violation of the Constitution in excess of the statutory authority, if unlawful procedures were affected by other areas of the law or were unsupported by the record, or were arbitrary or capricious or abuse of discretion.

Ms. Wilson also indicated that the Wetlands Board also considered the economic and aesthetic issues at the hearing. She said the Board also considered staff's recommendations, and the arguments of the applicants and those who appeared in opposition. She said that staff from both VIMS and the Planning Department viewed this project as a clear detriment to the natural function of the dune system as it now exists. She also mentioned how VIMS said the dune system was functioning as it should and was providing all of the attributes expected from a well-vegetated dune system. She indicated that the Board was not willing to explore "endless what ifs" with the applicant because she felt this was not their job or expertise. It was not up to them to tell Mr. Mills how to build his house and his walkway. Ms. Wilson also talked about the August 16 letter received from Mr. Couch of the waterfront operations division which told

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Mr. Mills that many agencies had problems with his application and that perhaps his application was premature. She also pointed out that there would have to be parking variances, and variances to hang the water and sewage lines from the walkway. She said Dr. Oertel's suggestions were not examined nor were the concrete pilings examined by the Wetlands Board.

Ms. Wilson stated that the Wetlands Board had fulfilled their obligations under the Coastal Primary Sand Dune Ordinance and that the substantial rights of the applicant were not prejudiced and they were not in violation of the Constitutional provisions. Ms. Wilson said the Board's decision was supported by the record considered as a whole and was not arbitrary or capricious. Their decision was decided on a case-by-case basis. Therefore, the Board denied the application. Ms. Wilson then requested that the Commission uphold the Board's carefully, thought-out, and reasoned decision to deny the application.

Assistant Attorney General Josephson then asked Ms. Wilson if she was prepared to respond to Mr. Mills' Constitutional deprivation argument, specifically, to the takings issue. Ms. Wilson responded that the decision was not left to the Wetlands Board to decide how the applicants should build on their property. She then pointed out to counsel that the Commission's motion in the previous case specifically acknowledged that this Commission was not an appropriate forum for determining the Constitutionality of Chapter 660 Acts of Assembly 1980 that was passed by the General Assembly.

Commissioner Pruitt made a statement regarding the balancing and the Commission's responsibility in making a decision according to the Code of Virginia. Comments are a part of the verbatim record. Mr. Pruitt then placed the matter before the Commission.

Associate Member Birkett commented that he was very perplexed by all the particulars in this application. He said he could see, where in some instances, that Mr. Mills and the other party's rights were being limited. Mr. Birkett also pointed out that he thought the Wetlands Board and the two parties could come to an agreement. He said it appeared to him that the Board did not want to modify the applicant's plan themselves. Therefore, in that case, it would be up to the applicant to submit a modification that would eventually, at some point, meet with an approval of the Board. Mr. Birkett said he thought a beginning for that process would be for the Board and Mr. Mills, along with the other party, to resubmit the application and to put the walkway and house in front of dune and then they would see what the Board's reaction to that plan would be. Mr. Birkett also felt that there appeared to be certain parties that just did not want the parties to build there. He said he always carefully considered the property rights of others. However, the people immediately behind the applicants' property were using the dunes for their front yards. He said in one of the slides it looked like they had developed manicured lawn, as well as putting plants on top of the dunes. Mr. Birkett said he thought if those property owners had the right to alter the dunes without any ramification from anyone, Mr. Mills and the other party had the right to develop their property by building on it and providing access to it. Associate Member Birkett then made a motion to remand the matter back to the Wetlands

Board. Motion was seconded by Associate Member Gordy .

Associate Member Williams commented that he agreed with Mr. Birkett. Mr. Williams also commented that he knew it was the Wetland Board's responsibility to protect the Wetlands, but in reading the transcript, the Wetlands Board had incorporated parking, fire protection, and utilities, which were more related to other Codes in the City of Virginia Beach. He said it seemed that the Board might be using those issues as a crutch or excuse to deny the man's permit. Mr. Williams said he did not think the Wetlands Board duties had anything to do with parking and fire protection, etc.

Associate Member Hull also expressed support for Associate Member Birkett's motion. He stated that he was also very leery about infringing on people's property rights, but he felt the complexity of the issues here were best addressed through Mr. Birkett's solution which he thought was the best way to approach the situation.

Commissioner Pruitt then called for the vote. The motion to remand the matter back to the Wetlands Board carried 5 to 1, with Associate Member Ballard abstaining.

For the Record: Associate Member Ballard abstained because he only arrived during the discussion.

Commission Pruitt placed the second matter, the Rabey application, with the same briefing package, before the Commission for a motion.

Associate Member Birkett moved that the application for Mrs. Rabey be remanded back to Wetlands Board for reconsideration. Associate Member Gordy seconded the motion. Motion carried 5 to 1, with Associate Member Ballard again abstaining.

6. **PUBLIC HEARING:** Proposed amendments to Regulation 4 VAC 20-900-10 et. seq., "Pertaining to Horseshoe Crab" to establish a revised commercial harvest quota previously enacted as an emergency regulation on October 20, 2000.

Mr. Jack G. Travelstead, Chief-Fisheries Management, briefed the Commission. He explained that this was a public hearing to make the emergency regulation adopted in October permanent. He said that he did not plan to go into detail, since the item had just been discussed the previous month. He indicated that the annual landings quota for horseshoe crabs would be 152,495 crabs and that Virginia had always been willing to accept a lower landings quota from the ASMFC process if transfer of quotas between states were allowed. He said that after a ten-month process the ASMFC had agreed to set up a process to allow quota transfers between

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states. Comments are part of the verbatim record.

Mr. Pruitt opened the public hearing. There were no public comments.

The hearing was closed. Associate Commission Member Hull made a motion to make the provisions of the emergency regulation part of the permanent regulation. The motion was seconded by Associate Commission Member Ballard and adopted unanimously.

7. **PUBLIC HEARING:** Proposed amendments to Regulation 4 VAC 20-560-10 et. seq., "Pertaining to Shellfish Management Areas," to revise harvest seasons and time of day limits.

Mr. Roy Insley, Head-Plans and Statistics Department briefed the Commission. He reviewed the regulation of the clam management areas and showed graphs of how fishing effort moved between the areas during the different seasons. He said staff had no problems with the season changes being proposed by industry; he said he thought the proposals would disperse effort seasonally and geographically. Comments are part of the verbatim record.

Mr. Pruitt opened the public hearing.

Mr. Steven Balch, Clam Advisory Committee member, spoke in support of the proposed measures. He said Mr. Insley had done an outstanding job in covering everything the Clam Committee had requested except for changing the dates for the management area in the York River and Poquoson River. He said some of the watermen had indicated that the shells were sinking in those areas from a lack of use and the bottom needed to be turned over to prevent the silting of the area. Therefore, the committee proposed changing the times from August 15 to November 30, in the York River and March 15 to May 1 in the Poquoson River. Mr. Pruitt asked if he agreed with the staff's recommendation. Mr. Balch said they were in agreement. Comments are part of the verbatim record.

The hearing was closed. Associate Commission Member Williams made a motion to approve the proposed changes as recommended by staff. The motion was seconded by Mr. Birkett and adopted unanimously.

8. **DISCUSSION:** Establishment of provisions to improve the monitoring and enforcement of horseshoe crab quotas. Request for public hearing.

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Lewis Gillingham, Fisheries Management Specialist, briefed the Commission on the Emergency Regulation that was adopted last month on the specified quota of 152,495 horseshoe crabs. Mr. Gillingham said staff immediately notified the fishermen and industry that the horseshoe crab fishery was closed for this year. Mr. Gillingham also indicated that there was a possibility that some vessels could land as much as 60,000 horseshoe crabs in one trip. Therefore, this was a concern for the horseshoe crab industry because the ASFMC Horseshoe Management Plan specified that any quota overages would be subtracted from the following year or years. He said it was important that substantial provisions were in place to control landings and to monitor the progress towards the quota. Mr. Gillingham then presented the six recommendations by staff to ensure that the horseshoe crab quota was accurate and monitored in a timely manner as follows:

1. Establish a Horseshoe Crab Endorsement License (HCEL) required for the landing or possession of horseshoe crabs in excess of the bycatch limit (50 to 100 crabs). The HCEL would be limited to those vessels able to document the landing of at least 500 crabs in 1998, 1999, or 2000.
2. Establish a possession limit of 2000 to 5000 horseshoe crabs for HCEL holders. The possession limit would be reduced by 50 percent at such time as 50 percent of the HCEL quota is projected to be landed.
3. Allocate of 85% (129,621 crabs) of Virginia's annual quota to those who hold valid HCEL and allocate the remaining of 15% (22,787 crabs) of Virginia's annual quota to by-catch fisheries providing the owner hold a valid Virginia gear license of Virginia Landing License.
4. Require call-in to the NMFS Interactive-Voice-Response (IVR) System within 24 hours of landing with no offloading between the hours of 10 PM and 7 AM or require call-in to the IVR system prior to offloading but allow 24-hour offloading.
5. Require HCEL holders to sell to a Virginia licensed seafood buyer who has registered with the NMFS Interactive-Voice-Response System.
6. Establish a possession limit of 50 to 100 horseshoe crabs for those fishermen who do not qualify for a HCEL.

Mr. Gillingham then requested the Commission advertise for public hearing the above items.

Rick Robins, addressed the Commission and pointed out that if there was no trip limit in place, an out-of-state trawler could come in and land a very large quantity of crabs at one time, and as the per trip landings increased, the likelihood that the crabs could leave the State increased. He felt that a 4000 to 5000 pound trip limit would be economically viable for trawl boat owners, which he thought Virginia's industry would have fair allotment of crab landing in

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Virginia. Mr. Robins also mentioned that he thought the annual harvest quota should be cut in half, (half landed in the first six months, and the other half of the quota landed in the later six months).

Commissioner Pruitt indicated that he would add that issue as a seventh point to go to public hearing.

Commissioner Pruitt also complimented Mr. Robins for his assistance in Alexandria and Clearwater, Florida. He said they would not have worked out the resolution to the horseshoe crab issue without his involvement. Other comments are a part of the verbatim record.

Commissioner Pruitt then placed the matter before the Commission.

Associate Member Hull moved to go to public hearing with the amendments to Regulation 4 VAC 20-900-10 et. seq., pertaining to horseshoe crabs, including the seventh point mentioned by Mr. Robins. Motion was seconded by Associate Member Williams. Motion carried unanimously.

9. DISCUSSION: Revisions to the commercial flounder harvest rules for 2001. Request for public hearing.

Lewis Gillingham, Fisheries Management Specialist, briefed the Commission on North Carolina's scenario regarding Commercial flounder harvest. (A copy of the proclamation from North Carolina was included in the Commissioners packages). Mr. Gillingham also mentioned the Commission's direction given to staff that they should meet with industry and discuss the proposal and bring it before the Commission this month. Mr. Gillingham said the meeting was not well attended but he did speak to several industry persons by telephone, and they were coming close to a consensus for the first quarter. Mr. Gillingham said that allowing a certain amount of flounder to be landed within a generous window of time would allow the crew additional time for rest, refueling and the fishermen could pick the best time for them to land their 10,000 pounds of flounder. He said another consideration was bad weather or engine problems that could occur, and the ten-day window would allow for that type of situation. He said staff recommended that the amendment be adopted to allow a vessel to land up to 10,000 pounds cumulative possession limit or up to two landings of 5,000 pounds each within a 10-day period.

Mr. Gillingham stated that during a discussion regarding the flounder season with Law Enforcement officers, they requested that dealers be required to call VMRC's Operations Center with the weight of summer flounder landed by a vessel once offloading had been completed. He

said this procedure would not require a marine patrol officer to remain on site during the entire landing of the offloading and weighing process. Mr. Gillingham also indicated that to avoid the ongoing scheduling conflicts as to when the season would start, staff suggested that the first quarter be opened on the first Monday following January 1.

There being no comments, pro or con, Commissioner Pruitt placed the matter before the Commission.

Associate Member Ballard moved to hold a public hearing regarding the three items presented by staff pertaining to summer flounder. Motion was seconded by Associate Member Birkett. Motion carried.

10. RECOMMENDATIONS of the Recreational Fishing Advisory Board.

Jack Travelstead, Chief-Fisheries Management, briefed the Commission on the projects for consideration. He said the RFAB met on Monday and the following eight projects were recommended for approval by the Advisory Board. Mr. Travelstead mentioned the restrictions placed on project B, Viking Hook-Up (after school fishing program), which was contingent upon the applicant preparing a description of the program that might serve as a model for other school systems interested in having a similar program. Project G, the Lynnhaven Boat Ramp, city of Virginia Beach was recommended for approval with all of the previous contract conditions applying to the six conditions in the contract. Mr. Travelstead also indicated that when the contracts were presented in July additional discussion was held. As a result, a change in one of the contract provisions that dealt with additional fees for holders of Virginia Recreational Salt Water fishing license be change to a 50 percent discount fee.

Multi-year projects for renewal:

- A. Oyster Reef Restoration in the Lower Rappahannock River: Recreational Fishing Support for the Virginia Oyster Heritage Program, CCA of Virginia and VMRC; Richard Welton and James Wesson - \$100,000.
- C. 2001 Children's Fishing Clinic, Denbigh Rotary Club and Coastal Conservation Association; Rob Cowling. \$6000.
- D. Hampton Roads Kids Fishing Day, Coastal Conservation Association/VA Tidewater Chapter; Bill Dieffenbach. \$6,000.
- E. Virginia Game Fish Tagging Program; VIMS, VMRC - John Lucy and

Claude Bain. \$45,040.

New Projects:

- B. The Viking Hook-Up (After School fishing program). Huntington Middle School-Wendy Harvey; \$3,198.75.
- F. Pinpointing the Seagrass Habitat that Optimizes Survival for Spotted Seatrout, *Cynoscion mebulosus*, in Virginia. C. M. Jones and S. R. Thorrold (ODU) and J. van Montfrans and R. J. Orth (VIMS); \$81,123.
- G. Lynnhaven Boat Ramp, city of Virginia Beach; J. Barry Frankenfield-\$288,371.
- H. Deployments to Chesapeake Bay Artificial Reefs, VMRC; Mike Meier-\$150,000.

Associate Member Ballard asked if the City of Virginia Beach and the Advisory Board agreed on 50 percent. Mr. Travelstead responded yes. Mr. Ballard also asked if the City had executed the contract. Mr. Travelstead respond no. However, the contract for the first project (\$331,000) had not been signed yet, staff held off because of the additional funding requested. He said the attorneys on both sides had looked at the contract and agreed with it.

Associate Member Williams asked where in the Lower Rappahannock River would the oyster reef be built, and he wanted to make sure that it was not built on the Baylor Working Ground. Mr. Travelstead said that the Commission would have the final say as to the location of the oyster reef. The Recreational Advisory Board was only agreeing to be a part of the Oyster Heritage Program by contributing their funds to the program.

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

For the record: Commissioner Pruitt stated that there would be no monies incumbent unless it was collected. Mr. Jack Travelstead respond that no contracts would be let until December and at that point there would be more than enough money to cover all of the projects.

Associate Member Birkett moved to accept the recommendations from the Recreational Fishery Advisory Board, items A-H. Motion was seconded by Associate Member Williams. Motion carried unanimously.

11. DISCUSSION: Revisions to the rules governing the marking of commercial fishing gear used recreational. Request for public hearing.

Rob O'Reilly, Deputy Chief-Fisheries Management, indicated that staff was requesting a public hearing on marking of commercial fishing gear used recreationally. Mr. O'Reilly said that Administration and Finance, Law Enforcement and Fisheries Management had a meeting regarding eliminating the license tag requirement for commercial fishing gear used for recreational crab pots, gill nets, crab trap and crab trot line. Comments are a part of the verbatim record.

There being no comments, pro or con, Commissioner Pruitt placed the matter before the Commission.

Associate Member Ballard moved to take the matters as presented pertaining to gear licenses to public hearing. Motion was seconded by Associate Member McLeskey. Motion carried unanimously.

12. PUBLIC COMMENTS.

Pete Nixon, speaking in his own behalf, addressed the Commission. Mr. Nixon requested that he be allowed to transfer his crab dredge license to Mr. John W. Freeman. He said he sold his boat a couple of years ago, but still had the license and equipment. Mr. Nixon said he was a member of the Crab Dredge Committee, and according to the regulation he could not sell his license without the boat.

Commissioner Pruitt commented that the intent of the regulation was written so as not to exceed a certain number of licenses. Mr. O'Reilly stated that he thought the intent of the regulation was met. However, this matter was brought before the Commission because the regulation mentioned a boat along with the licenses could be transferred. A discussion followed. Comments are a part of the verbatim record.

Associate Member Hull moved to approved Mr. Nixon's request to transfer his license and rig to Mr. John Freeman. Motion was seconded by Associate Member Williams. Motion carried unanimously.

Mike Shakelford said he was before the Commission for his crab dredge permit. He said he put his dredge on last year, but did not catch enough crabs to eat. However, he did call down to the Commission and reported his catch. He then requested that the Commission allow him to

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hold on to his permit.

Associate Member Williams said he knew Mr. Shackelford was telling the truth because he passed by him the day he out was working.

Jack Travelstead advised the Commission that the situation would normally come before the Crab Dredge Committee, but that was held in October. However, the Commission did have the authority to review their decision.

Commissioner Pruitt placed the matter before the Commission.

A discussion followed between Mr. Shackelford and the Commission regarding the day he crab dredged, the type of rig used and the mandatory reporting process. Comments are part of the verbatim record.

Associate Member Williams moved to reinstate Mr. Shackelford's crab dredge permit. Motion was seconded by Associate Member McLeskey. Motion carried unanimously.

Commissioner Pruitt reminded members that the December Commission meeting would be held on December 19, at 9:30 a.m. The regular scheduled January meeting would be held on January 23, 2001.

There being no further business before the Commission, the meeting adjourned at 1:12 p.m.

William A. Pruitt, Commissioner

LaVerne Lewis, Commission Secretary