

**MINUTES****Commission Meeting****September 23, 2014**

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 2600 Washington Avenue, Newport News, Virginia with the following present:

John M. R. Bull	Commissioner
Chad Ballard, III	
Robert G. Beck	
A. J. Erskine	
S. Lynn Haynie	Associate Members
Ken Neill, III	
Whitt G. Sessoms, III	
John E. Zydron	
Matthew R. Hull	Assistant Attorney General
Laurie Naismith	Director, Public Relations
Katherine Leonard	Recording Secretary
Jane McCroskey	Chief, Admin-Finance
Dave Lego	Bs. System Specialist
Robert O'Reilly	Chief, Fisheries Mgmt.
Joe Cimino	Fisheries Mgmt. Manager, Sr.
Stephanie Iverson	Fisheries Mgmt. Manager
Lewis Gillingham	Director, SWFT
Samantha Hoover	Fisheries Mgmt. Specialist
Sally Roman	Fisheries Mgmt. Specialist
Adam Kenyon	Biological Sampling Supervisor
Laurie Williams	Fisheries Mgmt. Specialist
Rachael Maulorico	Fisheries Mgmt. Planner
Ande Ehlen	Fisheries Mgmt. Specialist
Kelsey Rooks	Fisheries Management Tech.
Rick Lauderman	Chief, Law Enforcement
Warner Rhodes	Deputy Chief, Law Enforcement
Jamie Green	Captain, Middle Area Supervisor
James Rose	Captain, Northern Area Supervisor
Bruce Ballard	Captain, Eastern Shore Supervisor
Casey Springfield	Marine Police Officer
Patrick Turpin	Marine Police Officer

Tony Watkinson	Chief, Habitat Management
Chip Neikirk	Deputy Chief, Habitat Management
Jeff Madden	Environmental Engineer, Sr.
Jay Woodward	Environmental Engineer, Sr.
Hank Badger	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Randy Owen	Environmental Engineer, Sr.
Ben Stagg	Environmental Engineer, Sr.
Justin Worrell	Environmental Engineer, Sr.
Justine Woodward	Environmental Engineer, Sr.
Mark Eversole	Environmental Engineer, Sr.
Brad Reamy	Program Support Technician

Virginia Institute of Marine Science (VIMS):

Lyle Varnell	Emily Hein
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Others present:

David Kwasniewski	Dan Hill	Toni Reed
Charles Rickman	James Ajanta	Monica Yurkovic
Vic Yurkovic	Pat East	Catherine McCoy
Charlene Brassington	Glen East	Adam Melita
Ken Paulson	M. G. Thurgm	Cathy Ford
William Stiles	Ted Drake	Thelma Drake
Jim Speegle	Cindy Speegle	Oula Shehab-Dandan
Ellis W. James	Rebecca Francese	J. Kelly
M. Pocta	Max Jacobs	Mohammad Shar
Joan Singletary	Jennifer B. Johnson	David Singletary
William Brown	Randy Harding	Christopher Nelson
Charles DeMarino	Kate DeMarino	Brooks Pruitt
Kim Huskey	Lisa Rose	Lacy Rose
Daniel Tittermary	Glen Harding	Greg Brown
Andy Lacatell		

and others.

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Commissioner Bull called the meeting to order at approximately 9:38 a.m. Associate Member Close was absent. Associate Member Beck left the meeting about mid-day. There was a quorum present so the meeting moved forward.

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At the request of Commissioner Bull, Associate Member Erskine gave the invocation; and Tony Watkinson, Chief of Habitat Management led the pledge of allegiance.

Mr. Watkinson introduced a new staff member in Habitat Management. His name was Mark Eversole and he was hired as an Environmental Engineer, Sr. Mr. Watkinson noted that Mr. Eversole had previously worked with the VMRC in the same position.

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**APPROVAL OF AGENDA:** Commissioner Bull asked if there were any changes from the Board members or staff.

Tony Watkinson, Chief, Habitat Management stated that there was again a request to continue the Item 5 Wetlands Appeal by the applicant. He suggested hearing from the representative for the City of Norfolk and those of the public who wish to comment. It was agreed to hear it as scheduled to discuss the request for continuance.

Commissioner Bull asked for a motion.

**Associate Member Erskine moved to approve the agenda, as written. Associate Member Sessoms seconded the motion. The motion carried, 8-0.**

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**MINUTES:** Commissioner Bull asked if there were any changes or corrections to be made to the August 26, 2014 Commission meeting minutes.

As there were no corrections or changes, Commissioner Bull announced the minutes were approved by a consensus of the board members.

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Commissioner Bull swore in the VMRC staff and VIMS staff that would be speaking or presenting testimony during the meeting.

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**2. PERMITS** (Projects over \$500,000 with no objections and with staff recommendation for approval).

Tony Watkinson, Chief, Habitat Management, informed the Commission that there were four page two items to be heard. He reviewed the items A through D for the Board. His comments are a part of the verbatim record.

Commissioner Bull asked for public comments. There were none. He stated the matter was before the Commission.

**Associate Member Beck moved to approve the page two items, 2A through 2D, as submitted. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.**

**2A. DOMINION TERMINAL ASSOCIATES, LLP, #14-1144,** requests authorization to hydraulically or mechanically dredge up to 166,750 cubic yards of State-owned subaqueous material, and to subsequently maintenance dredge up to 80,000 cubic yards per two-year dredging cycle, to attain and maintain depths of 57 feet at mean low water adjacent to the Dominion Terminals Associates Pier 11 facility located along the James River at 600 Harbor Road in the City of Newport News. All dredge material will be placed in the Corps of Engineers Craney Island Dredged Material Management Area. Staff recommends approval of the project with a royalty assessment of \$75,037.50 for the dredging of 166,750 cubic yards of State-owned subaqueous material at a rate of \$0.45 per cubic yard.

Royalty Fees (dredge 166,750 cu. yds. @ \$0.45/cu. yd.	\$75,037.56
Permit Fee	\$ 100.00
Total Fees	\$75,137.56

**2B. NEWPORT NEWS DEPARTMENT OF ENGINEERING, #14-0130,** requests authorization to modify an existing permit to replace the James River Fishing Pier by extending the length of the proposed pier by an additional 1,713 linear feet over what was previously authorized. The total length of the proposed pier is now 2,969 linear feet, of which 2,903 feet will be channelward of mean low water, along the James River immediately upstream of the Route 17 James River Bridge in the City of Newport News.

No applicable fees – Permit Modification

**2C. AMERICAN INFRASTRUCTURE-VA, INC., #14-1195,** requests authorization to construct a 78-foot wide by 85-foot long 4-lane clear span bridge across Flatlick Branch, with 169 linear feet of riprap scour protection, to facilitate construction of the Walney Road Bridge Replacement and Road Widening Project in the Chantilly area of Fairfax County. Permittee shall execute a transfer of this permit to the Virginia Department of Transportation upon their acceptance of the structure(s) authorized herein.

Permit Fee	\$100.00
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**2D. CHERRY POINT PROPERTY OWNERS, ET AL, #14-0111,** requests authorization to install a precast concrete bio-engineered artificial reef extending 100 feet channelward of mean low water along the Piankatank River adjacent to Lot 7A1 on Old Cherry Point Road in Mathews County. The proposed artificial reef is located on Additional Public Ground defined in §28.2-643 of the Virginia Code.

Permit Fee	\$25.00
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**3. CONSENT AGENDA ITEMS.** None

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**4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.** When asked, Matthew Hull, Assistant Attorney General and VMRC Counsel indicated that a closed meeting was necessary to discuss current litigation matters.

Associate Member Sessoms moved that the meeting be recessed and the Commission immediately reconvene in closed meeting for the purposes of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, or other specific legal matters requiring legal advice by counsel as permitted by Subsection (A), Paragraph (7) of § 2.2-3711 of the Code of Virginia, pertaining to items:

**Update for ongoing litigation matters.**

Associate Member Neill seconded the motion. The motion carried, 8-0. The Chair voted yes.

Associate Member Sessoms moved for the following:

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

**WHEREAS,** § 2.2-3712.D of the Code of Virginia requires a certification by this Commission that such closed meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE,** the Commission hereby certifies that, to the best of each member's knowledge,

- (i) only public business matters lawfully exempted from open meeting requirements under Virginia law, and
- (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting by the Commission.

**Associate Member Haynie seconded the motion. Commissioner Bull held a Roll Call vote:**

**AYES: Ballard, Beck, Bull, Erskine, Haynie, Neill, Sessoms, and Zydron**

**NAYS: NONE**

**ABSENT DURING VOTE: Close**

**ABSENT DURING ALL OR PART OF CLOSED MEETING: Close**

**Motion carried, 8-0.**

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**Katherine Leonard, Recording Secretary**

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- 5. COTTAGE LINE CIVIC LEAGUE, #13-1899-D, NICHOLAS VANDERGRIFT, #13-1809-D, JUDITH SWYSTUN ET AL., #13-1808-D, CATHERINE McCOY, #13-1803-D, CATHERINE McCOY, #13-1804-D, THOMAS AND THELMA DRAKE, #13-1799-D.** Commission review on appeal by 52 freeholders of the June 11, 2014, decision by the Norfolk Wetlands Board to approve the above-referenced applications in modified form with special conditions, to include excavating sand from the dune as proposed or to a minimum height of 14 feet, and relocating the excavated sand channelward of the existing dune face along the Ocean View shoreline adjacent to the Chesapeake Bay. Continued from the July 22, 2014, Commission meeting.

Tony Watkinson, Chief, Habitat Management, gave an overview of the request for a continuance of this case by the applicants and his comments are a part of the verbatim record. Mr. Watkinson suggested the applicant who made the request for a continuance, the appellants, and City representative all be allowed to comment. He noted that staff suggested the hearing come up at the January 2015 Commission meeting.

Vic Yurkovic, representing the Civic League, was present and his comments are a part of the verbatim record. Mr. Yurkovic stated the applicant was requesting a continuance until January 2015 in order to work out an agreement to resolve the issue.

William A. Stiles, Jr. was present and his comments are a part of the verbatim record. Mr. Stiles stated he preferred an agreement be made to resolve the issue and to hear the matter in January 2015.

Adam Malito, City Attorney representing the Wetlands Board was present and his comments are a part of the verbatim record. Mr. Malito stated they were in agreement to hear the matter in January 2015.

**Associate Member Sessoms stated he would like to see an agreement worked out and moved to grant the continuance until the January 2015 Commission meeting. Associate Member Zydron seconded the motion. The motion carried, 8-0. Chair voted yes.**

No applicable fees – Wetlands Appeal

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- 6. **VIRGINIA ELECTRIC AND POWER CO., #14-0760**, requests authorization to conduct a shoreline stabilization project in Priority Areas 2 and 3 and the South Dike Area adjacent to their facility at 2701 Vepco Street situated along the Southern Branch of the Elizabeth River in the City of Chesapeake. The project requires a Wetlands permit.

Justine Woodward, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation. Her comments are a part of the verbatim record.

A public hearing for the proposed project was held by VMRC Habitat Management Division at the main office on September 11, 2014. In addition to VMRC staff, the hearing was attended by Ms. Jessica Kelly with MAP Environmental and Ms. Oula Shehab-Dandan with Dominion. No concerns were raised at the public hearing or as a result of the public interest review.

In light of the VIMS comments, staff believed sprigging the areas where the existing grade will be re-established between mean low water and the upper limits of jurisdictional tidal wetlands in Priority 3 Area will help to expedite the natural process of re-vegetation. Since Dominion will be satisfying the compensation requirements through the purchase of tidal wetland credits from Libertyville Mitigation Bank, staff did not recommend any long-term monitoring requirements for the plantings.

In summary, Dominion had minimized tidal wetland impacts to the greatest extent practicable at each of the three locations, and compensation for impacts to 4,190 square feet of vegetated wetlands would be achieved through the purchase of credits from Libertyville Mitigation Bank. Staff believed the project was warranted and consistent with the previously authorized shoreline stabilization project permitted earlier this year. Accordingly, staff recommended approval of the project conditioned upon the wetland planting and the purchase of 4,190 square feet of wetlands credits from the Libertyville Mitigation Bank.

Commissioner Bull asked for comments from the applicant’s representative. The representative indicated that they did not have any comments. He stated the matter was before the Commission.

**Associate Member Erskine moved to accept the staff recommendations. Associate Member Beck seconded the motion. The motion carried, 8-0. Chair voted yes.**

Permit Fee	\$300.00
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- 7. **VIRGINIA ELECTRIC AND POWER CO., #14-1019**, requests authorization to conduct upgrades to existing transmission lines, to include the installation of new steel pole support structures along Lines 46 and 74, in the vicinity of 2701 Vepco Street situated along a canal to Deep Creek in the City of Chesapeake. The project requires a Wetlands permit.

Justine Woodward, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation. Her comments are a part of the verbatim record.

A public hearing for the proposed project was held by VMRC Habitat Management Division at our main office on September 11, 2014. In addition to VMRC Staff, the hearing was attended by Ms. Christine Conrad and Ms. Johnson, with Stantec. No concerns were raised at the public hearing or as a result of the public interest review.

Due to the necessity of the transmission line upgrades, staff believed the project was warranted and reasonable. Furthermore, compensation for impacts to 568 square feet of vegetated wetlands had been achieved through the purchase of credits from Libertyville Mitigation Bank in Chesapeake. Accordingly, staff recommended approval of the project, as proposed.

Commissioner Bull asked for comments from the applicant’s representative. The representative indicated that they did not have any comments.

Commissioner Bull stated the matter was before the Commission.



Associate Member Beck moved to accept the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.

Permit Fee	\$300.00
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8. **JAMES W. SPEEGLE, JR., #14-0997**, requests authorization to construct a 512 square foot open-sided boathouse adjacent to an existing private pier at his property at 1118 Wormley Creek Drive, situated along the West Branch of Wormley Creek in York County. The project is protested by an adjacent property owner.

Randy Owen, Environmental Engineer, Sr., gave the briefing on the information provided in the staff' evaluation. His comments are a part of the verbatim record.

If the boathouse proposal not been protested by the adjoining property owner, staff would have considered it statutorily authorized. In this case, staff believed the open-sided design only minimally added to the visual obstruction already presented by the existing pier. While staff was sensitive to the concerns raised by the Cortrights, staff noted that the next three lots downstream of the Seegle's property all had private piers with open-sided boathouses. After evaluating the merits of the project against the concerns expressed by those in opposition to the project and after considering all of the factors contained in §28.2-1205 of the Code of Virginia, staff recommended approval of the project, as proposed.

Commissioner Bull asked if the applicant wished to comment.

James Speegle, applicant was sworn in and his comments are a part of the verbatim record. Mr. Speegle stated that staff's presentation was very thorough and he would answer questions. There were no questions.

Commissioner Bull noted that the protesters were not at the hearing. There were no other public comments, pro or con.

Associate Member Neill stated he was familiar with the area and this was a normal thing to happen in the creek and once the lot was sold he felt sure there would be a pier and/or boathouse added at that time.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Neill moved to approve the project, as proposed. Associate Member Beck seconded the motion. The motion carried, 8-0. Chair voted yes.**

Permit Fee	\$100.00
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**9. PUBLIC COMMENT:**

Ellis W. James, resident in the City of Norfolk and member of the Sierra Club addressed the Commission regarding a concern over sand dune alterations and erosion in the wake of rising sea levels.

Robert O'Reilly, Chief, Fisheries Management, gave a briefing on the procedures to be followed for the repeat offenders item. His comments are a part of the verbatim record.

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**15. REQUEST FOR PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-1090-10- et seq., "Pertaining to Licensing Requirements and License Fees," to increase saltwater recreational license fees to ensure continuation of core recreational programs.

Robert O'Reilly, Chief, Fisheries Management, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

The § 28.2-201.4 of the Code of Virginia provides the Commission the authority to increase tidal fisheries license fees every three years. The VMRC focuses budgeting efforts on maintaining core programs and services. In order to preserve those core services to Virginia's recreational anglers, a recreational license fee increase, effective January 1, 2015, is warranted. Staff recommended advertising, for an October 28, 2014 public hearing, amendments to Chapter 4 VAC 20-1090-10 et seq. "Pertaining to Licensing Requirements and License Fees" to raise recreational license fees.

After some discussion, Commissioner Bull stated the matter was before the Commission.

**Associate Member Neill moved to approve the staff recommendation for a public hearing at the October meeting. Associate Member Haynie seconded the motion. The motion carried, 8-0. Chair voted yes.**

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- 14. **REQUEST FOR PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-910-10 et seq. "Pertaining to Scup (Porgy)," to increase the possession limit for scup, during the Winter II Period (November 1 through December 31), from 8,000 pounds to 18,000 pounds.

Sally Roman, Fisheries Management Planner, gave the briefing on the information provided in the staff's evaluation. Her comments are a part of the verbatim record.

Based on the best available landings information from the NMFS, 3,734,116 pounds of the Winter I period quota remains and needs to be harvested. This remaining quota needs to be rolled over to the Winter II period quota. Virginia's commercial possession limit will need to be modified to reflect the rollover between the two periods. The current possession limit is 8,000 pounds. The possession limit will need to be increased to 18,000 pounds. Staff recommended advertising for an October 28, 2014 public hearing to increase the possession limit for scup, during the Winter II period (November 1 through December 31), from 8,000 pounds to 18,000 pounds.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Haynie moved to approve the staff recommendation for a public hearing at the Commission's October meeting. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.**

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**10. REPEAT OFFENDERS:**

**Darwin R. Harding** - was present and sworn in.

Captain James Rose, Supervisor for the Southern Area, gave the briefing on the information provided in the staff's evaluation regarding the violation. His comments are a part of the verbatim record.

Transporting oysters without approved temperature controlled storage (Section 28.201, 4VAC20-1230-31 (Class 3 Misdemeanor), summons issued on 05/29/2014; convicted in the Northumberland County Circuit Court on 06/16/2014, Fine \$100.00, Court Cost \$86.00; appealed to Northumberland County Circuit Court on 07/08/2014, Fine of \$50 was suspended conditioned on no other oysters violations would be committed for one year.

Robert O'Reilly, Chief, Fisheries Management read the staff's recommendation:

This violation took place after the Commission's guidelines were adopted on August 27, 2013. According to the guidelines, the conviction of a warm water violation would

require one conviction within a 12-month period resulting in a staff recommendation of one year revocation. In accordance with Section 28.2-232 of the Code of Virginia, staff recommended the Commission to revoke all of Mr. Harding's fishing privileges within the Commonwealth's tidal waters; and to revoke all of Mr. Harding's licenses to take or catch fish, shellfish, or marine organisms for a period of one year from the date of this Commission meeting, September 23, 2014, ending September 22, 2015.

Mr. Harding explained that this was the coolest day in May and Mr. Cockrell asked for them he told him that they were going to go back overboard like they were seed oysters. He stated that he did not know they were supposed to be iced if being replanted. He felt that if they were iced this would have been a shock to the oysters when they were put back overboard. He said they were bagged as requested, but not washed and made ready for market.

**After much discussion, Associate Member Zydron moved to accept the staff recommendation for a one year revocation of all licenses and all fishing privileges, starting 09/23/2014 and ending 09/22/15. Associate Member Ballard seconded the motion. The motion carried, 7-0. Chair voted yes. Associate Member Beck had left the meeting for the rest of the day.**

**Charles A. DeMarino** – was present and sworn in.

Captain Bruce Ballard, Supervisor for the Eastern Shore Area, gave the briefing on the information provided in the staff's evaluation for the conviction. His comments are a part of the verbatim record.

No shading on oysters – 4VAC20-1230-30, Section 28.2-201 of the Code of Virginia, summons issued on 05/05/2014; convicted in Northampton County General District Court on 06/24/2014; fined \$75.00, Court Cost \$121.00; appealed to Northampton County Circuit Court on 09/08/2014, fined \$100.00.

Robert O'Reilly, Chief, Fisheries Management read the staff's recommendation:

This violation took place after the Commission adopted the guidelines set forth by the report of the Law Enforcement subcommittee, adopted August 27, 2013. According to the guidelines, the conviction of a warm water violation would require one conviction within a 12-month period resulting in a staff recommendation of one year revocation. In accordance with Section 28.2-232 of the Code of Virginia, staff recommended the Commission to revoke all of Mr. DeMarino's fishing privileges within the Commonwealth's tidal waters; and to revoke all of Mr. DeMarino's licenses to take or catch fish, shellfish, or marine organisms for a period of one year from the date of this Commission meeting, September 23, 2014, ending September 22, 2015.

Mr. DeMarino explained that he had been conching earlier and on the way back to shore he decided to pick up about a 100 oysters, which he put in a basket. Officer Dunton approached him when he was offloading and asked to look at what he had harvested. He said he showed him what he had including the oysters which he had gotten for his personal use and not to be sold. He said he was then given tickets for not having the shading over the oysters.

After much discussion, Commissioner Bull stated the matter was before the Commission.

**Associate Member Erskine explained that there needed to be shading over the oysters as there was a public health concern and the industry could be impacted. He moved for six months revocation of all of Mr. DeMarino's licenses and fishing privileges starting as of the date of this Commission meeting, 09/23/2014 and ending 03/22/2015. Associate Member Zydron seconded the motion. The motion carried, 7-0. Chair voted yes.**

**Brooks Dale Pruitt** – was present and sworn in.

Captain Bruce Ballard, Supervisor for Eastern Shore area, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Possession of unculled crabs – 4VAC20-370-10, Section 28.2-708 of the Code of Virginia, summons issued 10/21/2013, convicted in the Accomack County General District Court on 11/13/2013, fine \$100.00, Court Cost, \$116.00

Possession of unculled oysters – 4VAC20-260-30, Section 28.2-201 of the Code of Virginia, summons issued 02/03/2014; convicted in Gloucester County General District Court on 03/12/2014, fine \$100.00, Court cost \$81.00.

Possession of hard crabs on a crab scrape boat, Section 28.2-706(4) of the Code of Virginia, summons on 06/17/2014; convicted in Accomack County General District Court on 07/09/2014, fine \$75.00, Court cost \$86.00.

Robert O'Reilly, Chief, Fisheries Management read the staff recommendation:

This violation took place after the Commission adopted the guidelines set forth by the report of the Law Enforcement Subcommittee, adopted August 27, 2013. According to the guidelines, a first appearance before the Commission of a three times offender should result in one year probation. In accordance with Section 28.2-232 of the Code of Virginia, staff recommended the Commission to place Mr. Pruitt on one year probation, starting September 23, 2014, ending September 22, 2015. Any failure on Mr. Pruitt's part to obey any of the laws or regulations relating to the Marine Resources of the

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Commonwealth during the one year probation would result in Mr. Pruitt appearing before the Commission board for a hearing on license revocation.

Mr. Pruitt said that the last time he worked he was crab scraping and he had not been able to work because of medical problems, so when he returned to work he did not know he could not keep the crabs.

After much discussion about the number of current offenses and past offenses, it was felt by some members of the board that one year probation was not enough. Associate Member Erskine moved for two year probation, starting 09/23/2014. Associate Member Zydron said that just probation was not enough when you look at Mr. Pruitt's record, and to be consistent with the Commission past actions, he suggested six months revocation to be followed by one year probation. Commissioner Bull stated he agreed with Associate Member Zydron. Associate Member Erskine rescinded his motion.

**Associate Member Zydron moved for six months revocation of all licenses and fishing privileges starting 09/23/2014 and ending 03/22/2015 followed by one year probation, starting 03/23/2015 and ending 03/22/2016. Associate Member Neill seconded the motion. The motion carried 7-0. Chair voted yes.**

**Christopher Nelson** - was present and sworn in.

Captain Jamie Green, Supervisor for the Middle Area, gave the briefing of the information provided in the staff's evaluation for the convictions. His comments are a part of the verbatim record.

Commercially fish striped bass without a permit (12-fish, 22-carcasses)—4VAC20-252-10, Section 28.2-201 of the Code of Virginia. Summons issued on 04/10/2014; convicted in Middlesex County General District Court on 05/19/2014, Fine \$250.00, Court cost \$86.00.

Fail to properly display license tag—Section 28.2-234 of the Code of Virginia. Summons issued on 04/10/2014; convicted in Middlesex County General District Court on 05/19/2014, Fine \$35.00, Court Cost \$25.00.

Improperly marked gill net—4VAC20-430-10, Section 28.2-201 of the Code of Virginia. Summons issued on 04/10/2014; convicted in Middlesex County General District Court on 05/19/2014, Fine \$35.00, Court Cost \$25.00.

Robert O'Reilly, Chief, Fisheries Management read the staff recommendation.

In accordance with Section 28.2-232 of the Code of Virginia, staff recommended the Commission to place Mr. Nelson on one year probation, starting September 23, 2014, ending September 22, 2015. Any failure on Mr. Nelson's part to obey any of the

laws or regulations relating to the Marine Resources of the Commonwealth during the one year probation would result in Mr. Nelson appearing before the Commission board for a hearing on license revocation.

Mr. Nelson stated he was wrong but he had nothing to attach the tag with it and he was not aware of all of the requirements. He said he was asking for mercy and promised he would do better.

**After further discussion, Associate Member Zydron stated he did not agree with probation and moved to revoke all of Mr. Nelson's licenses and all of his fishing privileges for one year, starting 09/23/2014 and ending 09/22/2015, followed by one year probation, starting 09/23/2015 and ending 09/22/2016. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.**

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- 11. FAILURE TO REPORT:** Cases involving failure to report commercial harvests, in accordance with Chapter 4 VAC 20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting."

Stephanie Iverson, Fisheries Management Manager, gave the briefing of the information provided in the staff's evaluation. Her comments are a part of the verbatim record.

**Phillip B. Brown** – was not present.

Ms. Iverson explained that Mr. Brown had been notified of his hearing originally scheduled for the June 2014 meeting, then rescheduled for July 2014 and again for August 2014. He finally responded to staff's call after the August notice and was told what was needed from him as far as his reporting. He did not appear at the August meeting. She noted that again he was not present at this hearing and that he had been informed of his license suspension until he appeared before the Commission. No further action was taken at this meeting.

**Lacy C. Rose** – was present and sworn in.

Ms. Iverson explained that Mr. Rose had received all appropriate notices and also calls and originally he had failed to report his harvest for January 2014 and now he was missing the months of May, June, and July. This case was originally scheduled for the August 26, 2014 meeting but due to extenuating circumstances he was not able to attend and his hearing was rescheduled for the September 23, 2014 meeting. He has turned in the January 2014 harvest report and the other missing months were reported, as no activity.

Staff recommended Lacy C. Rose be placed on probation for a period of two years

ending on September 22, 2016. During which time, any violation of Chapter 4 VAC 20-610-10 et seq. or any of the laws relating to the Marine Resources of the Commonwealth and corresponding regulations will result in Mr. Rose appearing before a hearing of the Commission on license(s) suspension.

Mr. Rose explained that his son's wife usually filled out the reports with his MRC ID number.

**After further discussion, Associate Member Zydron moved to place Mr. Rose on two year probation, as recommended by staff. Associate Member Haynie stated that he had no prior record and she recommended one year probation. Associate Member Zydron agreed to amend the motion for one year probation, starting 09/23/2014 and ending 09/22/2015. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.**

**Joseph D. Tittermary** – was present and sworn in.

Ms. Iverson explained Mr. Tittermary was sent all appropriate notices and also called. She said his certified notice was originally returned because it was not claimed and he finally received his notice when the service letter was given to him by a Marine Police Officer. He was originally missing his February 2014 harvest report and then he was missing his March through August 2014 reports, but now he was up-to-date.

Mr. Tittermary explained that he had a new address and he had met with the Marine Police Officer at the Belle Haven field office to accept his notice.

Staff recommended Mr. Joseph D. Tittermary be placed on probation for a period of two years, ending on September 22, 2016. During which time, any violation of Chapter 4 VAC 20-610-10 et seq. or any of the laws relating to the Marine Resources of the Commonwealth and corresponding regulations would result in Mr. Tittermary appearing before a hearing of the Commission on license(s) suspension.

After further discussion, Commissioner Bull stated the matter was before the Commission.

Associate Member Haynie asked if there was any history of not reporting. Ms. Iverson responded no. **Associate Member Haynie moved to place Mr. Tittermary on one year probation, starting 09/23/2014 and ending 09/22/2015. Associate Member Zydron seconded the motion. The motion carried, 7-0. Chair voted yes.**



**Hayes L. Angle** – was not present.

Ms. Iverson explained that Mr. Angle had been in a serious accident with major health issues and was unable to attend. She stated it was up to the Commission Board, whether to go ahead with the hearing today or continue the matter until a later date.

**After some discussion, Associate Member Zydron moved to continue this matter until the January 2015 Commission meeting. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.**

Associate Member Sessoms chaired the meeting for Commissioner Bull in his absence during the next two hearings.

**William E. Brown, Jr.** – was present and sworn in.

Ms. Iverson explained that Mr. Brown had been sent all appropriate notices and also called. He was missing February 2014 originally and then he was missing March, June, July, and August. She noted he had submitted all of his missing reports as of this date for 2014. She also noted that he does have a history of not turning in his reports in the past.

Ms. Iverson explained that staff recommended Mr. William E. Brown Jr. be placed on probation for a period of two years ending on September 22, 2016. During which time, any violation of Chapter 4 VAC 20-610-10 et seq. or any of the laws relating to the Marine Resources of the Commonwealth and corresponding regulations will result in Mr. Brown appearing before a hearing of the Commission on license(s) suspension.

When asked about his missing past reports and why he did not at least call in, Mr. Brown stated he had been working on a tug from 2005 through 2012 and had no harvest activity to report. He said he just had not reported.

**Associate Member Haynie moved to accept the staff recommendation for two years probation, starting 09/23/2014 and ending 09/22/2016. Associate Member Zydron seconded the motion. The motion carried, 6-0-1. Commissioner Bull was absent from hearing and abstained.**

**Jennifer W. Hume** – was not present.

Ms. Iverson said that Ms. Hume was not present. She explained that she had been sent all appropriate notices and also called. She said that no reports had been turned in since January 2014 and Ms. Hume had not made any effort to respond to the notices or staff's calls. She stated staff recommended suspension of all licenses until Ms. Hume appears before the Board.

**Associate Member Zydron moved to suspend all of Ms. Hume’s licenses until she appeared before the Commission. Associate Member Erskine seconded the motion. The motion carried, 6-0-1. Commissioner Bull was absent from the hearing and abstained.**

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Commissioner Bull returned to the meeting.

- 12. PUBLIC HEARING:** Proposed adoption of previous emergency amendments to Chapter 4 VAC 20-751-10 et seq., “Pertaining to the Setting and Mesh Size of Gill Nets” modifying gill net tending requirements on the ocean side of Accomack and Northampton Counties and restricting the use of agents in the Assateague Island Small-Mesh Gill Net Area.

Joe Cimino, Fisheries Management Manager, Sr., gave the briefing on the information provided in the staff’s evaluation with slides. His comments are a part of the verbatim record.

Mr. Cimino explained that staff recommended establishing the emergency amendments as permanent parts of Chapter 4 VAC 20-751-10 et seq., to remove tending requirements for small-mesh gill nets from August 15 through October 15 on the ocean of Northampton and Accomack counties, to prohibit the use of agents within the Assateague Island Small-Mesh Gill Net Area, and a provision to allow the Commissioner discretionary authority to permit the use of an agent in the Assateague Island Small-Mesh Gill Net Area, to become effective September 25, 2014.

This proposal had been advertised, in accordance with §28.2-209 of the Code of Virginia, for a public hearing today. Staff had received no public comment to date.

The public hearing was opened and there were no public comments, pro or con. Commissioner Bull stated the matter was before the Commission.

**Associate Member Neill moved to accept the staff recommendation. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.**

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- 13. PUBLIC HEARING:** Amendments Chapter 4 VAC 20-490-10 et seq., “Pertaining to Sharks” to raise spiny dogfish trip limits and modify the definition of small mesh gill nets and large mesh gill nets.

Robert O’Reilly, Chief, Fisheries Management, gave the briefing of the information provided in the staff’s evaluation with slides. His comments are a part of the verbatim record.

Mr. O'Reilly explained that staff recommended adopting the amendments to Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks" to raise spiny dogfish daily vessel possession limit from 4,000 to 5,000 pounds; and modify the definition of small mesh gill nets to any gill net with a stretched mesh of equal to or less than five inches and large mesh gill nets to any gill net with a stretched mesh of greater than five inches.

This proposal had been advertised, in accordance with §28.2-209 of the Code of Virginia, for a public hearing today. Staff had received no public comment to date. The public hearing was opened and there were no public comments, pro or con. Commissioner Bull stated the matter was before the Commission.

**Associate Member Neill moved to accept the staff recommendation. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.**

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There being no further business, the meeting was adjourned at approximately 3:45 p.m. The next regular Commission meeting will be Tuesday, October 28, 2014.

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John M. R. Bull, Commissioner

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Katherine Leonard, Recording Secretary