

MINUTES

COMMISSION MEETING

June 23, 2020

****In consideration of Governor Northam's Executive Order 55 and public safety, the June 23, 2020 Commission meeting of the Marine Resources Commission was held electronically at 9:32 AM at the Marine Resources Commission main office at 380 Fenwick Road, Fort Monroe, Virginia. As required by law, all interested persons was provided an opportunity to be heard on this matter as part of the electronic meeting as follows:**

1. Any interested party was invited to visit the agency web calendar at <https://mrc.virginia.gov/calendar.shtm> and look for the 6/23/2020 meeting date to see web links to the draft proposed regulation, instructions for meeting participation, public call-in information, and the meeting Webex livestream web link. Participants was instructed to join the livestream and public conference call starting at approximately 9:00AM since the meeting will begin at 9:30AM.
2. All persons interested in commenting were highly encouraged to submit written comments prior to the meeting. Comments sent by mail were to be sent to 380 Fenwick Rd, Ft. Monroe, VA 23561 and should be received by 6/18/2020. Comments could have also have been emailed to fisheries@mrc.virginia.gov and were accepted until NOON on 6/22/2020.
3. Any individuals interested in providing spoken testimony via the public conference call-in line during the public hearing held on the day of the meeting were instructed to email their name, hometown, and for or against regulation to fisheries@mrc.virginia.gov by 5PM on 6/22/2020.

The online meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 380 Fenwick Road, Fort Monroe, Virginia with the following present:

Steven G. Bowman

Commissioner, present in room

John Tankard III

John Zydron Sr.

Ken Neill, III

Heather Lusk

Christina Everett

Associate Members

Present via conference call

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James E. Minor III Chad Ballard	Associate Members Present via conference call
Kelci Block	Assistant Attorney General, Present via conference call
Ellen Bolen	Deputy Commissioner Present via conference call
Erik Barth	Bs. Systems Manager, Present via conference call
Dave Lego	Bs. Systems Specialist Present via conference call
Todd Sperling	Bs. Systems Manager Present via conference call
Pat Geer	Chief, Fisheries Mgmt.; Present via conference call
Adam Kenyon	Deputy Chief, Fisheries Mgmt., Present via conference call
Shanna Madsen	Deputy Chief, Fisheries Mgmt., Present, in room
Somers Smott	Fisheries Mgmt. Specialist, Present, in room
Jill Ramsey	Fisheries Mgmt. Specialist Present via conference call
Alicia Nelson	Coordinator, RFAB/CFAB Present via conference call
Lewis Gillingham	Director, SWFT Present via conference call
Alexa Kretsch	Fisheries Mgmt. Specialist Present via conference call
Jennifer Farmer	Regulatory Coordinator Present via conference call
Olivia Phillips	Fisheries Mgmt. Specialist Present via conference call

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Tony Watkinson	Chief, Habitat Management Present via conference call
Randy Owen	Deputy Chief, Habitat Management Present, in room
Mark Eversole	Environmental Engineer, Sr. Present via conference call
Rachael Peabody	Environmental Engineer, Sr. Present via conference call
Jay Woodward	Environmental Engineer, Sr. Present via conference call
Justin Worrell	Environmental Engineer, Sr. Present via conference call
Hank Badger	Environmental Engineer, Sr. Present via conference call
Allison Lay	Environmental Engineer, Sr. Present via conference call
Ben Stagg	Dir., Shellfish Aquaculture, Leasing and Mapping Present via conference call

Virginia Institute of Marine Science (VIMS): Present via conference call

Lyle Varnell	Emily Hein	Mark Luckenbach
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Others present via conference line

Ronald Edwards	Corey Gray	Todd Waldman
Jennifer Johnson	Jeff Dameron	James Rowland
Alicia Barrette	Phillip Burress	S. McCarthy
Samantha Davidson	Adrienne Kotula	Mark Hiltke
Richard Klein	Mark Sanford	Chris Moore
Shane Overbay	Nick Warden	Jim Cahoon
Christine Early	Michael Quinan	Lance Gilbert
Kimberly Koelsch	and others.	

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Commissioner Bowman called the meeting to order at approximately 9:32 a.m.

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Associate Member Tankard said the invocation by the request of Commissioner Bowman.

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APPROVAL OF AGENDA. – Commissioner Bowman asked if there were any changes from the Board members or staff.

Associate Member Minor moved to approve the agenda as presented. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.

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MINUTES: Commissioner Bowman asked if there were any changes or corrections to be made to the May 26, 2020 Commission meeting minutes.

Associate Member Zydron moved to approve the minutes as presented. Associate Member Minor seconded the motion. The motion carried, 8-0. Chair voted yes.

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Commissioner Bowman swore in the VMRC staff, VIMS staff and others that would be speaking or presenting testimony during the meeting prior to each item.

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- 2. **PERMITS** (Projects over \$500,000.00 with no objections and with staff recommendation for approval).

Tony Watkinson, Chief, Habitat Management, reviewed the two (2) page 2 Items A and B for the Associate Members. Mr. Watkinson’s comments are a part of the verbatim record.

- 2A. **HUNTINGTON INGALLS INC – NEWPORT NEWS SHIPBUILDING, #20-0133**, requests authorization to mechanically maintenance dredge up to 300,000 cubic yards a year of State-owned submerged land to maintain depths

of -30 feet below mean low water adjacent to Pier 8, Pier 9, Dry Dock 3, and Dry Dock 12; depths of -40 feet below mean low water adjacent to Pier 5, Pier 6, Dry Dock 1, Dry Dock 2, Dry Dock 4, and Dry Dock 12; depths of -50 feet below mean low water adjacent to Pier 2, Pier 3, Dry Dock 10, Dry Dock 11, and Outfitting Berth 1; depths of -72 feet below mean low water adjacent to Floating Dry Dock Basin at Huntington Ingalls Newport News Shipyard adjacent to the James River in the City of Newport News. Staff recommends approval with adherence to the permit conditions listed in the previously authorized permit VMRC #10-0518.

Permit Fee:	\$ 100.00
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2B. VIRGINIA ELECTRIC AND POWER COMPANY, #18-1496, requests authorization to modify their existing permit, temporarily impacting an additional 184 linear feet of State-owned subaqueous bottom, to facilitate alternative construction access to transmission line support structures 224/180-224/182 in support of the Line 224 Mattaponi River Rebuild Project in King and Queen County.

No one spoke in support or opposition of the projects.

The matter was before the Commission for discussion and action.

Associate Member Tankard moved to approve the two (2) page 2 Items A and B as presented. Associate Member Neill seconded the motion. The motion carried 7-0. Chair voted yes. Associate Member Minor was not present during vote.

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3. CONSENT AGENDA ITEMS. No consent agenda items.

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4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL – No closed meeting needed.

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5. **BRUCE R. LEE, #20-0357**, requests authorization to construct two (2) 48-foot long timber jetties alongside an existing private boat ramp at property at 19507 Ware Creek Road, situated along the Rappahannock River in Caroline County. The project requires a wetlands and subaqueous permit.

Randy Owen, Deputy Chief, Habitat Management, presented the information provided in the staff's evaluation, with PowerPoint slides. Mr. Owen's comments are a part of the verbatim record.

Mr. Owen explained that the project is located approximately 16 miles upstream of the Town of Port Royal and the Route 301 bridge crossing of the Rappahannock River in Caroline County. The shoreline along this section of the Rappahannock is a mix of forested, agricultural and residential properties. The river at Mr. Lee's property is approximately 600 feet wide. A tidal freshwater fringing wetland is present along the shoreline on either side of the existing pier and boat ramp.

The proposed jetties will impact approximately nine (9) square feet of non-vegetated wetlands and 28 square feet of State-owned subaqueous land. The project requires a VMRC subaqueous and wetlands permit because Caroline County has not adopted the Wetlands Zoning Ordinance provided for in §28.2-1302 of the Code of Virginia. Staff has not received any public comment or objections pursuant to our public interest review conducted for the application.

The proposed timber jetties are aligned to avoid impacts to the existing tidal freshwater vegetated wetlands. Once constructed, the jetties should reduce the rate of muddy sediments depositing on the ramp and the need to remove the material from the ramp surface. This in turn will limit the frequency of disturbance of the nearshore bottom and the increased turbidity loads associated with the ramp's maintenance.

The project will result in impacts to approximately nine (9) square feet of non-vegetated wetlands. Compensation for these impacts is not deemed necessary based on VMRC's Wetlands Mitigation-Compensation Policy and Supplemental Guidelines. Accordingly, after evaluating the merits of the project and considering all of the factors contained in §28.2-1302(10)(B) of the Code of Virginia and the Wetlands Mitigation-Compensation Policy and Supplemental Guidelines, staff recommends approval of the project as proposed. Staff additionally recommends a royalty of \$28.00 for the encroachment over 28 square feet of State-owned subaqueous land assessed at a rate of \$1.00 per square foot.

No one spoke in support or opposition of the project.

The matter was before the Commission for discussion and action.

Associate Member Zydron made a motion to approve staff recommendation. Associate Member Minor seconded the motion. The motion carried, 8-0. Chair voted yes.

Royalties: (14 SF @ \$1.00 /SF):	\$ 14.00
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- 6. BRYAN’S COVE DEVELOPERS, LLC, #20-0256,** requests authorization to construct five (5) riprap outfalls, three (3) of which are after-the-fact, approximately 240 linear feet of after-the fact riprap revetment, and an 8-foot wide by 45-foot long pier with a 36-foot by 36-foot covered pavilion at property (808 Centurion Circle) along a man-made cove of Deep Creek in the City of Chesapeake. This project requires a tidal wetlands permit..

Allison Lay, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Ms. Lay’s comments are a part of the verbatim record.

Ms. Lay explained that the project is located in the City of Chesapeake, along a man-made cove off Deep Creek, a tributary of the Southern Branch of the Elizabeth River. The site consists of a recently constructed residential subdivision and associated infrastructure on the edges of the cove. The applicant is requesting authorization for a total of five (5) riprap outfalls, three of which are after-the-fact, approximately 240 linear feet of after-the-fact riprap revetment, and a pier and pavilion that will be constructed over tidal wetlands.

The first outfall will impact 162 square feet of vegetated tidal wetlands. The second outfall is currently impacting 150 square feet of vegetated tidal wetlands and an additional 327 square feet of vegetated tidal wetlands will be impacted upon completion. The third outfall is currently impacting 51 square feet of non-vegetated tidal wetlands and an additional 199 square feet of non-vegetated tidal wetlands will be impacted upon completion. The fourth outfall is currently impacting 164 square feet of non-vegetated

tidal wetlands. The fifth and last outfall will impact 182 square feet of non-vegetated tidal wetlands and 10 square feet of vegetated tidal wetlands. The riprap revetment is currently impacting approximately 265 square feet of non-vegetated tidal wetlands.

In addition to the riprap, an 8-foot wide by 45-foot long open-pile pier with a 36-foot by 36-foot covered pavilion will be constructed. The pier will cross 187 square feet of vegetated tidal wetlands and will be a minimum of 4 feet above the wetland substrate. The covered pavilion will be constructed in the man-made cove, and therefore does not require a permit from the Marine Resources Commission.

The applicant is requesting after-the-fact authorization for three riprap outfalls, and a riprap revetment placed in tidal wetlands. Additionally, they are requesting authorization for the extension of two additional riprap outfalls into tidal wetlands, and a pier over tidal wetlands leading to a covered pavilion in a man-made cove off Deep Creek in Chesapeake.

The entire project will result in impacts to 649 square feet of vegetated tidal wetlands and 871 square feet of non-vegetated tidal wetlands. The 649 square feet of vegetated wetlands will be compensated for at the New Mill Creek tidal wetlands mitigation bank in the City of Chesapeake.

Ms. Lay state staff understands that the subdivision has been constructed with the current outfall locations, and therefore they would be difficult to move to avoid vegetated tidal wetland impacts. We believe that the applicant should have submitted a joint permit application before starting construction so that the site could have been properly assessed by staff for potential impacts. Staff believes that the payment of civil charges and purchase of mitigation credits is appropriate to compensate for the impacts to tidal wetlands.

Therefore, after evaluating the merits of the project and considering all of the factors contained in §28.2-1302(10)(B) of the Code of Virginia and the Wetlands Mitigation-Compensation Policy and Supplemental Guidelines, staff recommends approval of the project as proposed conditioned upon the purchase of wetland credits at the New Mill Creek Tidal Mitigation Bank necessary to replace the loss of 649 square feet of tidal vegetated wetlands.

Staff additionally recommends that the Commission assess a total civil charge of \$37,000.00 for the four (4) unauthorized impacts to tidal wetlands. If the applicant

does not agree to pay the civil charge amount the Commission decides to assess, or fails to pay it within 30 days of the date of this meeting, then staff recommends referral of this matter to the Office of the Attorney General to seek civil penalties pursuant to §28.2-1213 of the Code of Virginia.

Christine Early, representative for the developer, spoke in favor of the project. Her comments are a part of the verbatim record.

Ms. Early explained the project further and their intentions. Rip rap failing due to erosion and waves. The project was designed properly as per the developer and she had no idea that erosion was so bad at that location.

Jim Cahoon, Bay Environmental, spoke in favor the project. His comments are a part of the verbatim record.

No one spoke in opposition of the project.

The matter was before the Commission for discussion and action.

Associate Member Tankard made a motion to approve staff recommendation with the proposed conditions and civil charge. Associate Member Neill seconded the motion. The motion carried, 5-2-1. Chair voted no. Associate Member Zydron voted no. Associate Member Everett abstained.

Kelci Block, Assistant Attorney General, explained if it is to be a consent order, it has to have the consent of the person that committed the violations. If the person does not consent then this proposed agreement fails. The Commissions options are to take company to court and the company could be subject to civil penalty not to exceed \$25,000 per day/per violation AND the Commission could seek an injunction to direct them to remove, tear down or to take other steps as are necessary.

Commissioner Bowman asked the applicant if they agreed to the Civil Charge and proposed conditions that were approved by the Commission. Ms. Early, on behalf of the applicant, agreed to the Civil Charge and proposed conditions.

Civil Charge:	\$ 37,000.00
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- 7. ROGUE OYSTERS, Oyster Planting Ground Application #2018-157,** requests authorization to lease approximately 2.20 acres within Greenvale Creek in Lancaster County. The application is protested by a nearby property owner.

Ben Stagg, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Stagg's comments are a part of the verbatim record.

Mr. Stagg explained that an application from Rogue Oysters, LLC, requesting to lease approximately 2.20 acres of oyster planting ground within Greenvale Creek in Lancaster County, was received by the Engineering/Surveying Department on November 26, 2018. The application was subject to the normal public interest review process.

The applicant indicated on the use plan questionnaire that the proposed use will be traditional on bottom planting and harvest and proposes to place on bottom cages no greater than 12 inches above the substrate. The requested application area does not contain any submerged aquatic vegetation (SAV). It is staff's understanding that the owners of Rogue Oysters, LLC, own property immediately adjacent to the subject application area.

Staff received objections from a nearby highland property owner Mr. Ron Edwards, who owns property and a marina south of the application area at the mouth of Greenvale Creek. Mr. Edwards indicated his belief that the area of the application was part of a King's Grant of the creek. While in his email he stated he was including some documentation, none was initially received. Nor was any such information received after staff requested, by letter dated November 15, 2019, a precise list of information needed for staff to forward to the Office of the Attorney General for a King's Grant claim review. As of the date of this evaluation, no such information has been received from Mr. Edwards.

Mr. Edwards made a claim of a King's Grant, however, he did not provide any specific information of such a grant. Also, other than the grant claim, he provided no other specific objections to the proposed lease application. Staff believes this area of the creek is State-owned subaqueous bottomlands and the area of the application is currently classified as conditionally approved waters by the Virginia Department of Health Shellfish Safety Division. Therefore, after reviewing the protestant's objections, and considering all factors in §28.2.607 and §28.2-1205A of the Code of Virginia, staff recommends approval of leasing 2.09 acres of bottom grounds to Rogue Oysters, LLC,

as depicted on the survey plat dated October 23, 2019.

James Rowland, Rogue Oysters spoke on behalf of his application. His comments are a part of the verbatim record.

Ron Edwards spoke in opposition of the application. His comments are a part of the verbatim record.

Tina Phillips spoke in opposition of the application. Her comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Ballard made a motion to approve staff recommendation. Associate Member Lusk seconded the motion. The motion carried, 7-0-1. Chair voted yes. Associate Member Everett abstained.

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8. DISCUSSION: The U.S. Army Corps of Engineers, Norfolk District, requests acceptance of a Memorandum of Agreement (MOU) to protect subaqueous ecosystem restoration project sites on State-owned submerged lands within the Lynnhaven River Watershed. Tabled from the January 2020 meeting.

Tony Watkinson, Chief, Habitat Management, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Watkinson's comments are a part of the verbatim record.

Mr. Watkinson explained that following consideration of this agenda item at the Commission's January 2020 meeting, Commissioner Bowman appointed a subcommittee consisting of Associate Member Ballard and Associate Member Zydron to meet with staff and Corps' representatives to evaluate the MOU and determine if any changes were appropriate. A conference call was held on February 6, 2020.

As a result of the conference call, the Corps agreed to provide a revised MOU regarding the elements related to the Commission's authority that would recognize the Corps' own responsibilities to approve any project that could have some impact on the ecosystem restoration projects in the Lynnhaven River. The following stipulations are now included

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relative to the Commission:

1. Agree to renew any oyster leases used for the Project in accordance with applicable laws;
2. Review the Joint Permit Application in accordance with applicable laws;
3. Notify the City and USACE upon receiving a permit application that is within 100 feet of the Project and provide the USACE and City an opportunity to provide comments; and
4. Not approve new permits that are reasonably expected to alter, occupy, or otherwise adversely affect the Project unless the Norfolk District has approved the subject action, if required, pursuant to 33 U.S.C. § 408.

Based on these changes, if an activity that would affect an ecosystem restoration Project is not approved by the Corps through their review under 33 U.S.C. § 408, there would be no need for any further consideration by the Commission.

Both Associate Member Ballard and Zydron agreed these changes were acceptable. As such, Commission Staff recommends the acceptance of the revised MOU and that the Commission authorize the Commissioner to sign the MOU.

Ms. Kimberly Koelsch, project manager for Army Corp. of Engineers spoke on behalf of the MOU. Ms. Koelsch's comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Neill made a motion to approve staff recommendation. Associate Member Tankard seconded the motion. The motion carried, 8-0. Chair voted yes.

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9. PUBLIC COMMENTS:

Phillip Burress:

Mr. Burress requested that the Commission over-turn his ineligibility to obtain a Recreational Cobia Permit for 2020.

The matter was before the Commission for discussion and action.

There was no vote from the Commission. The request was denied.

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- 10. RECOMMENDATION:** Funding river herring sampling and boat scarring projects from the Virginia Marine Fishing Improvement Fund (MFIF) and the Virginia Saltwater Recreational Fishing Improvement Fund (VSRFDF).

Alicia Nelson, Coordinator, RFAB/CFAB, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Ms. Nelson's comments are a part of the verbatim record.

Ms. Nelson explained that during the office closures due to the COVID-19 pandemic, two funding requests have been delayed from being brought before the Commission. Both of these are reoccurring expenditures to the commercial and recreational license funds, and project work is ongoing to the maximum extent possible during the closures.

Biological Monitoring of River Herring in Virginia:

River herring monitoring in Virginia is accomplished as part of a larger, federal-funded Sportfish Restoration project for American shad and river herring that has been conducted by VIMS since 1998. River herring monitoring was added to the program in 2014 with funding provided from the Marine Fishing Improvement Fund (MFIF) to account for additional staff time and increased sampling efforts. This additional support allows the VMRC and VIMS to better meet the ASMFC mandates and enhance the exiting monitoring program for river herring. In some years, funding for this additional work was included in the larger federal program; however, because Sportfish Restoration funds have been drastically reduced, this portion of the program has not been funded through the Sportfish Restoration program since 2018. Requests for the additional funding of \$40,000 from the MFIF for the river herring monitoring is generally made to the Commission in the spring. It was not brought before the Commission in 2020 due to COVID-19 closures.

Boat Scarring:

Dr. Orth of VIMS has multiple long-term research and monitoring programs focused on submerged aquatic vegetation (SAV) in our region. In addition to an extensive planting and bed monitoring program, there is also a boat scar monitoring program to prevent extensive SAV damage from boater activities. Each year, Dr. Orth briefs the Commission on the past year's efforts in late winter or early spring. At the end of the

briefing, he requests \$22,000 for the next year’s boat scarring efforts, which are split-funded between the commercial (MFIF) and recreational (VSRFDF) license funds. Due to the COVID-19 closures, Dr. Orth has not been able to present his 2019 SAV results to the Commission yet this year. However, the program has continued to the maximum extent possible during this time and Dr. Orth plans to update the Commission on the 2019 SAV efforts when regular Commission meetings commence.

The projected estimate for funding is approximately \$640,000 from the MFIF (commercial license fund) and \$2.2 million from the VSRFDF (recreational license fund). Project work for both projects is ongoing to the maximum extent possible given the circumstances associated with the COVID-19 pandemic.

Staff recommends approving expenditures totaling \$51,000 from the MFIF and \$11,000 from the VSRFDF.

The matter was before the Commission for discussion and action.

Associate Member Neill made a motion to approve staff recommendation. Associate Member Tankard seconded the motion. The motion carried, 8-0. Chair voted yes.

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11. **PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-270-10 et seq., “Pertaining to Blue Crab Fishery” to establish management measures, including season and bushel limits, for the 2020-2021 commercial crab fishery.

12. **PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-1140-10 et seq., “Prohibition of Crab Dredging in Virginia Waters” to close the December 1, 2020 through March 31, 2021 winter commercial crab dredge fishing season, in accordance with the provisions of Section 28.2-707 of the Code of Virginia.

Items #11 & # 12 were presented together but each item was voted on separately.

Alexa Kretsch, Fisheries Mgmt. Specialist, presented the information provided in the staff’s evaluation, with PowerPoint slides. Ms. Kretsch’s comments are a part of the verbatim record

Ms. Kretsch explained that last month, staff briefed the Commission on results of the 2019/2020 Bay-wide Winter Dredge Survey. Results from that survey, as well as harvest results from the 2019 fisheries, indicate the Chesapeake Bay blue crab stock is currently not overfished and overfishing is not occurring, although total abundance and juvenile abundance did decline.

Management of blue crabs is updated on an annual basis, where bushel limits are effective from July 5th of one year to July 4th of the next and an evaluation of the winter dredge season is conducted annually. This allows managers to respond, if necessary, to the most recent dredge survey results, which are usually released in May.

Because of the decrease in total blue crab abundance (32%) and the decrease in juvenile abundance (43%), staff does not recommend any liberalization this year. However, with overfishing not occurring, the stock not being overfished, and 2019's low exploitation rate, staff also does not recommend any further restrictions. Status quo for 2020/2021 regulations would keep all regulations the same as they were from July 5, 2019 to July 4, 2020, including the November bushel limit increase.

At the May 21, 2020 meeting of the Crab Management Advisory Committee, the members voted unanimously to support maintaining status quo for 2020/2021, with the option of revisiting this recommendation at a subsequent fall meeting due to harvest uncertainty surrounding COVID-19.

Since 2008, when Virginia effected a large decrease in harvest to conserve a consistently low blue crab population, the winter crab dredge fishery season has remained closed. The winter crab dredge fishery season was from December 1 to the following March 31. During these months, most of the crabs available for harvest matured from the juvenile stage in the previous winter. The majority of the overwintering female crabs are pre-spawners, and studies have shown that the dredge fishery harvested mostly (95%) female crabs. Juvenile abundance in the 2020 winter dredge survey was estimated at 185 million crabs. This value is below average and ranks 19th out of the 31 years of the winter dredge survey. Blue crab abundance, especially in juveniles, experiences strong inter-annual variability due to natural processes. A winter dredge fishery season, especially when juvenile abundance is low, could negatively affect subsequent spawning events and crab pot harvest. For these reasons, staff recommends closing the upcoming 2020/2021 winter crab dredge fishery.

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A decision needs to be rendered each year by the Commission on whether to continue to close this fishery or to allow it to open. The Commission will need to decide whether to close the 2020/2021 winter crab dredge season.

A public notice that advertised these proposed amendments is attached to this evaluation. Staff has received no public comment on these issues, at this time.

Staff recommends the Commission approve these amendments to Chapters 4 VAC 20-270-10 et seq., "Pertaining to Blue Crab Fishery," and 4 VAC 20-1140-10 et seq., "Prohibition of Crab Dredging in Virginia Waters," to establish management provisions for the July 5, 2020 through July 4, 2021 blue crab fisheries.

The matter was before the Commission for discussion and action.

Item #11:

Associate Member Tankard made a motion to approve staff recommendation. Associate Member Ballard seconded the motion. The motion carried, 8-0. Chair voted yes.

Jeffery Dameron, commercial waterman, stated that he spoke on behalf of the crabbers. He is requesting that the crab dredging season open for the 2020 season. His comments are a part of the verbatim record.

Item #12:

Associate Member Tankard made a motion to approve staff recommendation. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.

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13. **PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-450-10 et seq., "Pertaining to the Taking of Bluefish" to establish the commercial bluefish annual quota for 2020.

Olivia Phillips, Fisheries Mgmt. Specialist, presented the information provided in the staff's evaluation, with PowerPoint slides. Ms. Phillip's comments are a part of the verbatim record.

Ms. Phillips explained that the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fisheries Management Council (MAFMC) met jointly on October 11, 2019 to specify the coastwide commercial quota for bluefish. Fishery specifications were established for 2020 through 2021. The coastwide commercial bluefish quota in 2020 decreased by 64%, as compared to the 2019 quota of 7.71 million pounds. On Monday, May 11, 2020, NOAA released the 2020 proposed commercial bluefish quota of 2.77 million pounds coastwide for public comment. When NOAA publishes their final rule, Virginia will receive 11.8795% of the coastwide quota or 328,682 pounds.

Staff recommends the Commission amend Chapter 4 VAC 20-450-10 et seq., "Pertaining to the Taking of Bluefish," to establish the commercial bluefish quota for 2020, using Virginia's percent allocation (11.8795%) of the coastwide commercial bluefish quota.

No one spoke in support or opposition of the recommendation.

The matter was before the Commission for discussion and action.

Associate Member Neill made a motion to approve staff recommendation. Associate Member Tankard seconded the motion. The motion carried, 8-0. Chair voted yes.

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- 14. PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks" to establish the commercial spiny dogfish annual quota for the 2020/2021 fishing year and to require the use of non-offset, non-stainless steel circle hooks when fishing for sharks recreationally, except when fishing with flies or artificial lures.

Shanna Madsen, Deputy Chief, Fisheries Mgmt., presented the information provided in the staff's evaluation, with PowerPoint slides. Ms. Madsen's comments are a part of the verbatim record.

Ms. Madsen explained that on October 25, 2018, the Atlantic States Marine Fisheries Commission (ASMFC) established the 2019/2021 fishing years (May 1 of the first calendar year through April 30 of the following calendar year) specifications for spiny dogfish. On May 15, 2019, NOAA issued the final rule specifications for the 2019

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fishing year, and projected specifications for fishing years 2020 and 2021. The ASMFC Spiny Dogfish Management Board approved a coastwide commercial quota of 23,194,835 pounds for the 2020 fishing year, of which Virginia receives 10.795%. For the 2020 fishing year, Virginia receives 2,503,932 pounds, which is a 13% increase from the 2019 fishing year quota.

The ASMFC Coastal Sharks Management Board added language to the Coastal Sharks Interstate Fisheries Management Plan that requires anglers use of non-offset, non-stainless steel circle hooks when fishing for sharks recreationally, except when fishing with flies or artificial lures and established a compliance date of July 1, 2020. These measures are consistent with those already required for federal highly migratory species (HMS) permit holders under HMS Amendment 11.

Staff recommends the Commission approve amendments to Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks," to establish the commercial spiny dogfish annual quota for the 2020 fishing year using Virginia's percent allocation (10.795%) of the coastwide commercial spiny dogfish quota and to require the use of non-offset, non-stainless steel circle hooks when fishing for sharks recreationally, except when fishing with flies or artificial lures.

No one spoke in support or opposition of the recommendation.

The matter was before the Commission for discussion and action.

Associate Member Neill made a motion to approve staff recommendation. Associate Member Zydron seconded the motion. The motion carried, 8-0. Chair voted yes.

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- 15. **PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-910-10 et seq., "Pertaining to Scup (Porgy)" to establish the commercial scup Summer period fishery quota for 2020 and to modify language for the commercial scup Winter II period per trip landing limits.

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**18575
June 23, 2020**

Jill Ramsey, Fisheries Mgmt. Specialist, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Ms. Ramsey's comments are a part of the verbatim record.

Ms. Ramsey explained that the Mid-Atlantic Fishery Management Council (MAFMC) and Atlantic States Marine Fisheries Commission (ASMFC) met jointly on October 11, 2019 to specify the coast wide commercial quotas for summer flounder, scup and black sea bass. Fishery specifications were established for 2020 through 2021. The coast wide commercial scup quota in 2020 decreased by 7%, as compared to the 2019 quota. On Friday, May 15, 2020, NOAA published the final rule announcing the 2020 commercial scup quota of 22.22 million pounds coast wide. From the total coast wide quota, the Summer period (May 1-September 30) receives 8.6 million pounds. Virginia will receive 0.165% of the coast wide Summer period quota or 14,287 pounds.

Staff recommends the Commission amend Chapter 4 VAC 20-910-10 et seq. "Pertaining to Scup (Porgy)," to establish the commercial scup Summer period fishery quota for 2020, using Virginia's allocation (0.165%) of the coast wide commercial scup Summer period quota. Staff also recommends modifying language for the commercial scup Winter II period per trip possession limits to reflect the limits announced by NMFS.

No one spoke in support or opposition of the recommendation.

The matter was before the Commission for discussion and action.

Associate Member Neill made a motion to approve staff recommendation. Associate Member Ballard seconded the motion. The motion carried, 8-0. Chair voted yes.

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There being no further business, the meeting was adjourned at approximately 12:15 p.m.

Steven G. Bowman, Commissioner

Jamie Hogge, Recording Secretary