

## MINUTES

**Commission Meeting**

**May 27, 2003**  
**Newport News, Virginia**

The May 27, 2003 meeting of the Marine Resources Commission was held with the following present:

William A. Pruitt )	Commissioner
Chadwick Ballard, Jr. )	
Gordon M. Birkett )	
Russell Garrison )	Members of the Commission
Laura Belle Gordy )	
F. Wayne McLeskey )	
K. Wayne Williams )	
S. Lake Cowart, Jr. )	
Cynthia Jones )	
Carl Josephson	Assistant Attorney General
Wilford Kale	Senior Staff Advisor
Katherine V. Leonard	Recording Secretary
Andy McNeil	Programmer Analyst Sr.
Bob Craft	Chief, Admin-Finance Div.
Jack Travelstead	Chief, Fisheries Management
Rob O'Reilly	Deputy Chief, Fisheries Management
Chad Boyce	Fisheries Management Specialist
Roy Insley	Head-Plans and Statistics Dept.
Cory Routh	Coordinator-Saltwater Recreational Fishing Development Fund
Lewis Gillingham	Fisheries Management Specialist
Lt. Col. Lewis Jones	Deputy Chief, Law Enforcement
Capt. Warner Rhodes	Supervisor, Middle Area
Capt. Ray Jewell	Supervisor, Northern Area
Capt. Randy Widgeon	Supervisor, Eastern Shore Area
Capt. Kenny Oliver	Supervisor, Southern Area
MPO Paul Newman	Marine Police Officer
Jeff Copperthite	Marine Police Officer

Bob Grabb	Chief, Habitat Management
Tony Watkinson	Deputy Chief, Habitat Management
Chip Neikirk	Environmental Engineer Sr.
Hank Badger	Environmental Engineer Sr.
Kevin Curling	Environmental Engineer Sr.
Mark Eversole	Environmental Engineer Sr.
Jeff Madden	Environmental Engineer Sr.
Randy Owen	Environmental Engineer Sr.
Jay Woodward	Environmental Engineer Sr.
Benny Stagg	Environmental Engineer Sr.
Tracy West	Environmental Engineer Sr.

**Virginia Institute of Marine Science (VIMS)**

Lyle Varnell  
Tom Barnard

**Virginia Department of Health, Division of Shellfish Sanitation**

Robert E. Croonenbergh

Other present included:

Don Caskie	William Judy	Mable Cosby
Eston Cosby	Shawn Heselton	Jack Dozier
Bob Wallace	Craig Dozier	Carter Teague
Gary Woodson	Edward Walcott	Jim Guane
Tom Langley	John Damin	Craig Palubinski
Bill Davidson	Thad Lyman	Alor Grantham Traywick
J. E. Rogers	Lynne Fogerty	Gary Bunt
Upshur J. Taylor	Robert Jensen	Jeffrey Crockett
Chuck Dyor	Tom Powers	Douglas F. Jenkins, Sr.
Susan Gaston	Kelly Place	Frances Porter

and others.

\* \* \* \* \*

Commissioner Pruitt called the meeting to order at 9:30 a.m.

\* \* \* \* \*

Associate Member Williams gave the invocation and Commissioner Pruitt led the pledge of allegiance to the flag.

\* \* \* \* \*

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

\* \* \* \* \*

Tony Watkinson, Acting Chief-Habitat Management, gave the presentation on Page two items A through I and his comments are a part of the verbatim record. Page two items are projects that cost \$50,000 or more with staff recommendation for approval.

There were no comments from the public either pro or con.

**After some discussion, Associate Member Garrison moved to approve Page 2 projects, A through I, as presented by staff. Associate Member Gordy seconded the motion. The motion carried, 8-0.**

**2A. CITY OF SUFFOLK, #00-0893**, requested authorization to modify their existing permit for authorization to construct approximately 960 linear feet of steel sheetpile bulkhead up to two (2) feet channelward of a previously permitted and failing concrete bulkhead at the applicants' Constants Wharf property situated along the Nansemond River. Approval of permit conditioned upon expiration of the public comment period and no protests being received.

Fees not applicable.

**2B. RICHMOND DEPARTMENT OF PUBLIC UTILITIES, #02-1288**, requested authorization to modify their existing permit, which would authorize the installation of a 36-inch water transmission main a distance of 857 linear feet, to include construction of a temporary causeway, within the James River, which allowed in stream work from July through November. The applicant was seeking to modify the in stream work condition to allow work from July through January.

Fees not applicable.

**2C. NORTHWEST BRANCH OF TANNERS CREEK, LLC, #02-0089**, requested a modification to an existing permit to allow the dredging of an additional 934 cubic yards of

**Commission Meeting**

subaqueous material in three (3) ancillary channels to provide depths of minus four (-4) feet at mean low water in the Northwest Branch of Tanners Creek in Norfolk. The material will be disposed of at Craney Island. Recommend approval with all terms and conditions of the previous permit to remain in effect and an additional royalty in the amount of \$420.30 for the new dredging at a rate of \$0.45 per cubic yard.

Royalty Fee (934 cu. yds. @\$0.45/cu. yd.).....\$420.30

**2D. CITY OF VIRGINIA BEACH, #96-0083**, requested authorization to modify their exiting dredge permit to include the use of mechanical dredging along with the previous authorization to annually dredge, by hydraulic method, up to 4,000 cubic yards of subaqueous bottom material to maintain maximum depths of minus six (-6) feet at mean low water at the Lynnhaven Boat Ramp and Beach Facility situated along Crab Creek in Virginia Beach. Additionally, the City has requested a one-time extension of their current time-of-year dredging restriction to allow for maintenance dredging of the channel through July 31,2003. The current permit precludes dredging during the period of March 1 through September 30 to protect shellfish spawning periods and juvenile summer flounder recruitment.

Fees not applicable.

**2E. CITY OF VIRGINIA BEACH, #00-0057**, requested reactivation and a five-year extension of their permit to maintenance dredge approximately 20,000 cubic yards of subaqueous material on an as-needed basis annually from the Long Creek Municipal Channel to restore maximum project depths of minus eight (-8) feet at mean low water.

Fees not applicable.

**2F. CAROL ANNE PROPERTIES, #02-0536**, requested authorization to hydraulically dredge approximately 16,121 cubic yards of State-owned subaqueous bottom material, of which 13,397 was new dredging, to provide navigable channels and boat basins possessing maximum project depths of minus five (-6) feet at mean low water with a six-inch over dredge tolerance to facilitate navigational access to the Lynnhaven River in Virginia Beach. Recommend approval with all standard dredge conditions, an allowable annual maintenance dredging provision of 5,000 cubic yards, a March 1 through September 30 time-of-year dredge restriction to protect shellfish spawning periods and juvenile summer flounder recruitment, and a royalty in the amount of \$6,028.65 for the dredging of approximately 13,397 cubic yards of new material at a rate of \$0.45 per cubic yard. Additionally, the applicant had agreed to remove all oyster shell from the spoil material and shell 5,225 square feet of intertidal bottom to a depth of 12 inches (minimum 3,000 Virginia bushels).

Royalty Fees (13,397 cu. yds. @\$0.45/cu. yd.).....	\$6,028.65
Permit Fee.....	\$100.00
Total Fees.....	\$6,128.65

**2G. ARMY CORPS OF ENGINEERS, #95-0645**, requested reactivation and an extension until December 17, 2006, of a previously issued permit to hydraulically place up to 40,000 cubic yards of dredged material from the maintenance of the Parkers Creek Federal Project Channel, in a previously used overboard site along the Oceanside of Metompkin Island in Accomack County. No dredge material would be placed in the surf zone between April 1 and September 1 to avoid impacts to sensitive bird species in the area during this period.

Permit Fee.....	\$100.00
-----------------	----------

**2H. FAIRFAX COUNTY DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES, #02-2187**, requested authorization to install, in four locations, by the open cut method, a 60-inch diameter sanitary sewer trunk line a minimum of two and a half (2½) feet beneath four sections of Pohick Creek, totaling approximately 200 linear feet. The trunk line was proposed to parallel the existing 60-inch diameter Pohick Trunk Line in Fairfax County.

Permit Fee.....	\$100.00
-----------------	----------

**2I. COUNTY OF GOOCHLAND, #03-0177**, requested authorization to construct a 40-foot submerged utility crossing to install a 24-inch diameter waterline by directional drill method beneath Tuckahoe Creek in Goochland County.

Permit Fee.....	\$100.00
-----------------	----------

\* \* \* \* \*

**EXECUTIVE SESSION:**

**Associate Member Ballard moved that the meeting be recessed and the Commission immediately reconvene in closed meeting for the purpose 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:**

**CITY OF NEWPORT NEWS, #93-0902.** On behalf of the Regional Raw Water Study Group, the City requests authorization to construct a 75-million gallon per day (mgd) raw water intake structure in the Mattaponi River at Scotland Landing, and a raw water distribution line under Cohoke Creek in King William County and the Pamunkey River

between King William and New Kent Counties, as well as a water discharge structure in Beaverdam Creek, a tributary to Diascund Reservoir in New Kent County, in association with the City's proposed King William Reservoir Project.

**The motion was seconded by Associate Member Gordy and carried unanimously, 8-0.**

**Associate Member Ballard moved for the following:**

**CERTIFICATION OF CLOSED MEETING  
OF THE VIRGINIA MARINE RESOURCES COMMISSION**

**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 Cowart seconded the motion. Commissioner Pruitt held a Roll Call vote:**

**AYES: Ballard, Birkett, Pruitt, Garrison, Cowart, Williams, Gordy, Jones, and McLeskey.**

**NAYS: None**

**ABSENT DURING VOTE: None**

**ABSENT DURING ALL OR PART OF CLOSED MEETING: None**

**The motion carried unanimously, 9-0.**

---

Clerk/Secretary  
Virginia Marine Resources Commission

\* \* \* \* \*

**John Daniel**, representing the City of Newport News, was present and requested time for Mayor Joe Frank to address the Commission regarding the King William County Reservoir project.

Commissioner Pruitt explained that they would be allowed time during the Public Comment period.

\* \* \* \* \*

**4. REGATTA POINT YACHT CLUB, #02-2375**, requested authorization to dredge 15,760 cubic yards of subaqueous bottom material to a depth of minus seven (-7) feet at mean low water and to maintenance dredge 4,000 cubic yards subaqueous material, construct approximately 175 linear feet of riprap marsh toe sill, 723 linear feet of open-pile pier and 435 linear feet of floating pier and wave screen with finger piers and mooring piles to create 51 new open wetslips, a 176-foot long boathouse to create 9 new covered slips, a 90-foot by 70-foot addition to an existing boathouse to cover four (4) existing slips, install two mooring piles adjacent to an existing pier and boathouse, and construct a 2,074 square foot fuel service pier at their marina situated along Broad Creek in Middlesex County. Several nearby property owners protested the project.

Chip Neikirk, Environmental Engineer, gave the presentation with slides. Mr. Neikirk gave Commissioner Pruitt a letter of comment from the protestant, who was unable to attend the meeting.

Mr. Neikirk explained that the principal owner of the Yacht Club is Mr. Jack Dozier. It is located near the mouth of Broad Creek, along the southeast shore. Walden Brothers Marina is located across the creek to the northwest and Norview Marina was located across a small prong of the creek to the south. The White Point subdivision is located across from the marina along the eastern branch of Broad Creek. The facility currently has 23 wetslips which were constructed under VMRC permit # 96-0467. Fifty-one (51) new open slips and 9 new covered slips are proposed.

Mr. Neikirk said that the Broad Creek entrance channel was a federal project channel maintained at a depth of minus seven (-7) feet at mean low water with a width of 100 feet. Mr. Neikirk explained that the channel turned sharply to the west at red daymarker # 10 as

one enters the creek. The majority of the project was located on and adjacent to a shoal on the southeast side of the channel. Water depths within the boundary of the proposed piers currently range from about minus two (-2) to minus five (-5) feet at mean low water. The shoreline along Broad Creek was heavily developed with a mixture of residential properties and commercial marinas and boatyards.

Mr. Neikirk said that to facilitate the expansion of the facility, Mr. Dozier proposed to dredge 15,760 cubic yards of subaqueous bottom material and maintenance dredge 4,000 cubic yards of material to a depth of minus seven (-7) feet at mean low water. Two disposal sites were proposed to contain the dredged material. One site was located on the property and the second, a previously used disposal site, was located across Route 33, adjacent to the Middlesex County disposal site for the Broad Creek channel project.

Mr. Neikirk said that a 723 linear foot open-pile marginal wharf was proposed with finger piers and mooring piles to create 34 uncovered boat slips oriented perpendicular to the wharf. Approximately 175 linear feet of riprap marsh toe sill was proposed landward of a portion of the marginal wharf to provide protection to wetland fringe marsh. A 435 foot long floating concrete pier and wave screen were proposed to extend from a previously authorized concrete pier and wave screen. The concrete pier was designed to be parallel to, and approximately 180 feet channelward of, a portion of the marginal wharf. It was proposed with finger piers to provide an additional 17 uncovered boat slips. A fuel service pier was also proposed along the marginal wharf and an alternate location for the fuel pumps is depicted on the previously authorized concrete floating pier.

Mr. Neikirk stated that a 176 foot long partially enclosed boathouse, with a width ranging from 35 feet to 55 feet is proposed along an existing pier and was designed to provide nine (9) covered slips. A 90-foot by 70-foot expansion of an existing boathouse was designed to provide four (4) additional covered slips. Two (2) mooring piles are proposed adjacent to an existing boathouse and pier to provide temporary mooring.

Mr. Neikirk explained that the Commission had received 13 letters expressing opposition to the project. The majority of the letters were from residents of the White Cove subdivision located across from the marina along the eastern branch of Broad Creek. Most of the concerns expressed were related to pollution and additional congestion associated with more boats moored on the creek. Some were especially concerned with the pier and slips proposed along the eastern branch of Broad Creek. Some of the letters also expressed concern over the noise, aesthetics, and additional traffic associated with the expansion of the facility. At least one property owner expressed a concern regarding the impact the project may have on the availability of ground water. Mr. Randy Stephens, General Manager of Norview Marina, which is located adjacent to Regatta Point Yacht Club, stated that although the area to be developed is currently shallow and outside the limits of most boating activity, he believes the additional piers and slips will give the appearance of a more restricted waterway.



Mr. Neikirk said that the Virginia Institute of Marine Science stated that the impacts associated with the dredging should be temporary and they believed the marsh toe sill would help to protect an existing fringe marsh. They also stated that the secondary impacts associated with the new and expanded marina operations, such as shoreline erosion, fuel spills, sewage discharges and non-sewage pollution, could be minimized through the development of a comprehensive marina management plan including an oil and fuel spill contingency plan.

Mr. Neikirk explained that the Health Department had approved a plan for sanitary facilities and had expressed no objection to the project. The waters in the vicinity of the project are currently condemned for the direct marketing of shellfish.

Mr. Neikirk said that the Department of Environmental Quality stated the project was acceptable and had determined that a Virginia Water Protection Permit would not be required for the project.

Mr. Neikirk said that the County of Middlesex had approved the site plan for the proposed expansion at their May meeting.

Mr. Neikirk stated that according to our Marina Siting Criteria, most aspects of the project are categorized as desirable. The exceptions were the close proximity of leased shellfish ground and potential wave heights in excess of one foot. The proposed floating concrete wave screen should minimize the adverse impacts associated with the wave energy.

Mr. Neikirk explained that Broad Creek was a heavily utilized waterway and this project would add sixty additional wet slips to the creek. Staff believe the impact on boat congestion would be mitigated to some degree since the facility is located near the mouth of the creek, which would minimize the need for vessels to regularly traverse up the creek. The proposed piers are also located on an existing shoal, outside of the area typically used by most boaters.

Mr. Neikirk said that staff believed the proposed location and activities associated with the fuel service pier may add to congestion along the eastern branch of Broad Creek and recommended the fuel facilities be located in the alternate location on the previously authorized floating pier near the center of the property. Relocating the fuel facility would also allow at least one of the easternmost slips to be relocated to provide an additional setback off the property line shared with Ms. Bowe.

Mr. Neikirk said that there were significant economic benefits associated with further development of the facility. In addition, our Marina Siting Criteria recognizes the benefits associated with concentrating new wet slips at existing marinas, and within already developed waterways to prevent disturbance along less developed shorelines. Accordingly, staff recommends approval of the project with the following special conditions:

**Commission Meeting**

1. Other than boats awaiting fueling, there shall be no mooring of vessels on the channelward side of the floating pier.
2. The proposed service pier shall be deleted and fueling facilities relocated to the alternate location. At least one of the easternmost slips to be occupied by the service pier shall be relocated.
3. The applicant shall provide a comprehensive marina management plan to staff for evaluation and approval prior to permit issuance.
4. Our standard dredging conditions that require a pre-dredging conference, post-dredging bathymetric survey, and an observer at the disposal site during the dredging shall be included in the permit.

Finally, Mr. Neikirk said that staff recommends a royalty of \$0.60 per cubic yard for the new dredging and an annual royalty of \$0.05 per square foot for the encroachment of the piers and boathouses over State-owned submerged land.

Donald F. Caskie, applicant representative, was present and his comments are a part of the verbatim record. Mr. Caskie presented a map similar to staff, but White Point was shown more significantly. He explained that the slip lease included a discharge prohibition condition. He said that the congestion was a zoning issue and the zoning board had approved the site plan with new slips and dredging.

Commissioner Pruitt explained that the Commission was responsible for the impact on navigation. He said he wanted the record to show that the Commission considered navigation and all Virginians' right to access the creek.

Commissioner Pruitt said that he thought it was all done and asked if this was a new project or an addition? And if this is this new property? Mr. Dozier responded yes.

Associate Member Garrison asked if the Commission could approve this now and approve changes later, administratively, if there are no objections? Carl Josephson responded yes.

Jack Dozier, applicant and owner of the Regatta Point Yacht Club, was present and his comments are a part of the verbatim record. Mr. Dozier explained that the project was 75 feet outside of the Federal Channel and he would dredge 170' and increase navigation access. He said the docks were needed. He also explained that there was 15-20 feet of navigable waters behind their dock.

Commissioner Pruitt said that sounded good and asked if the applicant concurred with staff recommendations. Mr. Dozier responded yes, he was just trying to be a good neighbor and to improve the Broad Creek entrance.

No one was present in opposition to the project.

**Associate Member Williams moved to approve the project with the conditions recommended by staff. Associate Member Gordy seconded the motion. The motion carried, 7-0-1. Associate Member Garrison abstained from voting.**

Royalty Fee (15,760 cu yds. @ \$0.60/cu. yd.).....	\$9,456.00
Annual Encroachment Fee (28,962 sq. ft. @ \$0.05/sq. ft.).....	\$1,448.10
Permit Fee.....	\$100.00
Total Fees.....	\$11,004.10

\* \* \* \* \*

**5. GREENVALE CREEK MARINA, #02-2377**, requested authorization to construct 327 linear feet of vinyl replacement bulkhead, extend an existing pier, replace a second existing pier, and replace six (6) wet slips to improve docking and provide fueling and sewage pump out services at their facility along Greenvale Creek in Lancaster County. Several area residents protested the project.

Mr. Woodward said that the Greenvale Creek Marina is owned by William and Nina Davidson and is located on approximately 2.1 acres of land, 2,000 feet upstream of the confluence of Greenvale Creek and the Rappahannock River, five miles southwest of the Town of Lancaster in Lancaster County. Greenvale has a federally maintained navigation channel. The facility, which has been in existence for over 40 years, is situated on a point of land within the creek that borders an unnamed cove. The marine currently consists of 51 covered wet slips in five (5) separate boathouses, a concrete boat ramp with an adjacent tending pier, and various repair and sales buildings. The current proposal is to repair a failing bulkhead, to extend an existing pier to allow for pump out and fueling service, to add a walkway on the outside of one of the boathouses, to replace the boat ramp tending pier, and to add six (6) open slips at this new pier. Three of the boathouses are to be reconfigured by removing mooring piles and catwalks to make eleven small covered slips into five larger slips. Therefore, there will be no net increase in the number of slips at the marina. The application includes plans for Marine Operational Procedures to address fuel spills, sanitary facilities, litter and trash control, fire safety, and emergency contacts.

Mr. Woodward explained that three nearby property owners on the cove protested the application. Mr. Milton Conrad, one of the protestors, owns a seafood business and restaurant at the mouth of Greenvale Creek and holds approximately 15.4 acres of leased oyster ground in the creek and Rappahannock River. The protestors were concerned that the facility was already overbuilt and the replacement pier and walkway would cause navigation problems in the cove. The improvement to the bulkhead and addition of the fuel and pump out pier do not appear to be contested.

Mr. Woodward stated that after reviewing the letters of opposition, the applicants revised their plans by reducing the length of the contested structures and eliminating any increase in the total number of slips. The applicant shared drawings of the area, including soundings and photographs, with the protestors at the local wetlands board hearing on February 13, 2003 and current revisions were forwarded to the protestors. However, the protests have not been withdrawn.

Mr. Woodward said that the Virginia Institute of Marine Science stated that the impacts resulting from the replacement bulkhead should be minimal, and the secondary impacts associated with the use of the facility is directly related to the care and concern practiced by the marina operator and boat owners. They also believe the inclusion of the marina operational plans submitted with the application are important for reducing the threat of marina related pollution.

Mr. Woodward said that the Environmental Quality stated that since the impacts from the proposal will be minimal, they have waived their requirement for an individual Water Protection Permit.

Mr. Woodward explained that the Virginia Department of Health, Division of Waste Engineering stated that the project is in conformance with the Marina Rules and Regulations. The marina is located in an area presently condemned for the direct marketing of shellfish, and the Virginia Department of Health, Division of Shellfish Sanitation initially stated that the proposed addition of 8 slips would lead to an additional seasonal closure of 1.3 acres at the mouth of Greenvale Creek. However, with the revisions proposed which will keep the total number of slips to 51, VDH-DSS now indicates there will be no increase in the size of the seasonal condemnation zone resulting from the proposed improvements.

Mr. Woodward stated that the Lancaster County Wetlands Board approved the portions of the project under their jurisdiction at their February 13, 2003 meeting. The U. S. Army Corps of Engineers issued a Regional Permit (97-RP-19) for the project on February 13, 2003.

Mr. Woodward explained that generally the staff encourages the redevelopment of existing marina facilities in lieu of construction of new facilities in more pristine areas to serve the needs of boaters. Additionally, by improving older facilities and expanding the services offered to the public, it is possible to minimize additional impacts while actually improving water quality through the use of approved sewage pump out and on-shore sanitary facilities and Best Management Practices (BMPs) to address solid waste disposal, storm water runoff and fuel spills.

Mr. Woodward stated that the location of the existing marina is generally consistent with the desirable factors identified in our Marine Siting Criteria. While the original proposal for 8 additional slips would have resulted in an expansion of the existing seasonal condemnation

zone, the applicant has modified his plans so that there will not be any additional slips added. The applicant has attempted to address the navigation concerns raised by the protestants by reducing the encroachment of the replacement pier and redesigning the L-head pier to a 5-foot wide walkway at the end of the existing boathouse. The soundings submitted by the agent indicate that there should be adequate room to navigate small boats in the cove. This is supported by the fact that the Corps of Engineers, who is also charged with reviewing navigation, has approved the project.

Mr. Woodward said that accordingly, staff recommends approval of the revised project with a special condition requiring the marina to be inspected by Commission staff upon completion of construction and prior to operation of the fueling or pump out facilities to insure compliance with the fuel spill plan and Marina Operational Procedures. Staff also recommends a royalty in the amount of \$1,496.00 for the encroachment of the piers over 1,992 square feet of State-owned subaqueous bottom at a rate of \$0.50 per square foot, and for the filling of 500 square feet of State bottom related to the new bulkhead and associated backfill at a rate of \$1.00 per square foot.

Commissioner Pruitt asked staff about Conrad's concerns. Mr. Woodward said he had been in touch with Mr. Conrad and he felt Mr. Conrad still wasn't happy with the project even with the modification. He said Mr. Conrad was unable to attend the hearing, as he was busy with his crab shedding operation.

Craig Palubinski, Project Designer, was present and his comments are a part of the verbatim record. He stated that the applicant accepted the staff's recommendations.

William A. Davidson, applicant and owner of Greenvale Creek Marina, was present and his comments are a part of the verbatim record.

No one was present in opposition to the project.

**Associate Member Williams moved to approve the project with staff recommendations. Associate Member Garrison seconded the motion. The motion carried, 7-0-1. Associate Member Cowart abstained from voting.**

Encroachment Fee (1,992 sq.ft. @ \$0.50/sq. ft.).....	\$996.00
Filling Fee (500 sq. ft. @\$1.00/sq. ft.).....	\$500.00
Permit Fee.....	\$100.00
Total Fees.....	\$1,596.00

\* \* \* \* \*

6. **JACK T. STILLMAN, #02-1978**, requests authorization to construct a 20' x 40' enclosed boathouse on floats adjacent to an existing private, non-commercial, open-pile pier at his property situated along Woodas Creek in Mathews County. A nearby property owner protested the project.

Kevin Curling, Environmental Engineer, was present and gave the presentation with slides. Mr. Curling explained that the protestant Mr. Dutton was present for the hearing.

Mr. Curling said that Woodas Creek is located along the East River in Mathews County. The creek was about 300 feet wide at Mr. Stillman's property.

Mr. Curling stated that Mr. Stillman had received a permit for a 20-foot by 40-foot enclosed boathouse in 1990, but prior to construction of the boathouse the permit had expired on February 28, 1993. In September 2002, staff was notified of construction activities at the Stillman property. Both the applicant and contractor were present during an unannounced site visit. Mr. Stillman was advised that because his permit had expired a new application and permit would be required.

Mr. Curling explained that the floating pier sections, as installed, would be considered part of the pier and would be allowable under Section 28.2-1203.A.5 of the Code of Virginia. The size of the proposed boathouse was 800 square feet and even if the sides were removed, it would not meet the statutory authorization for open-sided boathouses measuring less than 700 square feet.

Mr. Curling stated that Mr. John Dutton, the resident across the creek from Mr. Stillman, protested the project. Although Mr. Dutton had an enclosed boathouse, he was still concerned with the visual impacts to the creek. Mr. Dutton also had expressed concern regarding the precedent of more structures being allowed along the creek and the possible devaluation of his property.

Mr. Curling said that the Commission, in reviewing permits for encroachments over State-owned submerged land, strives to minimize interference with the rights of adjacent property owners and other permissible uses. We also carefully considered the necessity and water-dependency of a project, as well as, any viable alternatives to reduce the impacts of the project.

Mr. Curling said that Mr. Stillman proposed to use the boathouse to protect his wooden boat. While removing the sides of the structure may reduce some of the visual impacts associated with it, a wooden boat would need more protection than a fiberglass boat. In this instance, a fully enclosed structure appeared to be warranted. Additionally, by placing the structure on floats, the height of the structure was the minimum required to cover the boat, since the

height of the structure does not need to be designed to allow for the tide range.

Therefore, Mr. Curling explained that the staff recommended approval of the boathouse provided it was built according to the engineered design, and that the amount of floatation was sufficient to support the weight of the structure. Given the mobile nature of the structure, staff also recommended the following conditions:

1. Yearly notification that the structure is to remain deployed.
2. The structure must be removed immediately from State waters or repaired upon float failure or damage to the structure.
3. The structure is only authorized at the specified location adjacent to the Permittee's pier.
4. The structure shall be removed if the present boat no longer exists.
5. Sale or transfer of the boathouse to another owner or relocation of the boathouse would void this permit.
6. The outside of the structure shall be clearly marked with "VMRC 02-1978" for identification purposes.

Gary Bunt, Marine Contractor for the applicant, was present and his comments are a part of the verbatim record. He explained that the boathouse was on floats to be low profile and for the protection of an antique boat.

John Dutton, protestant, was present and his comments are a part of the verbatim record. He explained that he was surprised that the boathouse had sides. He said the boathouse affected the view from his home. He stated he was strongly opposed to the boathouse. He further said that he felt the boathouse would affect the value of his property. He said that his boathouse was already present when he purchased the property.

**After further discussion and questions, Associate Member Garrison moved to approve the project with staff recommendations. Associate Member Birkett seconded the motion. The motion carried, 5 - 4 . Commissioner Pruitt voted because of the tie vote. Associate Members Ballard, McLeskey, Jones, and Cowart all voted no.**

Permit Fee.....\$100.00

\*\*\*\*\*

**7. ESTON COSBY, #02-1773**, requests authorization to construct an 18-foot by 26-foot open-sided boathouse at the channelward end of a 130-foot long private pier and to construct a 30-foot long riprap groin and extend a second riprap groin 10 feet to a total length of 40 feet adjacent to his property situated along Mill Creek and the Rappahannock River in Middlesex

County. An adjoining property owner protested the project.

Chip Neikirk, Environmental Engineer explained that the protestant had called and advised them that he was unable to attend. He said the protestant said that his letter of notification had been mailed to the wrong address and he had just received it. Mr. Neikirk said he suggested going ahead with the public hearing and continuing the matter at the next meeting, but the applicant requested the Commission table the matter until the next meeting.

**Associate Member Williams moved to table the case until the June meeting. Associate Member Birkett seconded the motion. The motion carried, 8-0.**

\* \* \* \* \*

**8. THOMAS KELLAM, #02-2349**, requests authorization to install a freestanding piling for an osprey roost 200 feet channelward of mean high water, adjacent to his property situated along the Rappahannock River in Richmond County. An adjacent property owner protested the project.

Mark Eversole, Environmental Engineer, was present and gave the presentation with slides. Mr. Eversole stated that the applicant, his agent, nor the protestant were present at the hearing.

Mr. Eversole stated that the project site was located approximately one-quarter mile downriver of Farnham Creek in the area known as "Little Florida" and approximately ten miles southeast of the Town of Warsaw, on the northern bank of the Rappahannock River. The area can best be described as a predominantly agricultural area, where the waterfront parcels are being subdivided and developed as the Northern Neck continues to experience rapid residential growth and development.

Mr. Eversole said that Mr. Kellam proposed to install a single piling approximately 200 feet channelward of his property designed to support an osprey-nesting platform. The proposed location is approximately 65 feet from the property line shared by Mr. Kellam and the protestant, Mr. Charles Reed. A freestanding piling and mooring trolley system, which had originally been proposed, has been withdrawn from this application.

Mr. Eversole explained that VMRC previously determined that Mr. Kellam's proposed pier (VMRC #02-1409) qualified for the private pier exemption provided by §28.2-1203(A)(5) of the Virginia Code. An osprey pole is not exempt, however, and therefore requires a VMRC permit.

Mr. Eversole said that Mr. Charles Reed, Mr. Kellam's neighbor to the west, protested the



project. Mr. Reed had stated that he had had problems in the past with ospreys attempting to nest on his chimney as well as "decorating his roof" and therefore was not interested in promoting their nesting sites close to his property. In his letter of opposition, Mr. Reed stated that he would not object to the osprey pole, if it was relocated more in the center of Mr. Kellam's property, 150 to 200 feet from their shared property line, and no more than 150 feet channelward of MHW.

Mr. Eversole said that Mr. Reed was also concerned with the trolley mooring system, citing safety issues, since there are no other trolley lines in the vicinity, and the area had a large amount of boat traffic. Both the applicant and agent were made aware of Mr. Reed's objections, and although the mooring system had been withdrawn, Mr. Kellam had indicated that he would like the osprey pole to remain in the proposed location.

Mr. Eversole stated that no State agencies had expressed any opposition to the project.

Mr. Eversole said that when reviewing proposals to build over State-owned submerged land, staff considered among other things, the water dependency and the necessity of the proposed structure. In this case, the proposal appeared to be more of an amenity than a structure necessary for navigation or other traditional use of the applicant's riparian area. Although the environmental impacts associated with the structure were minimal, there may be some impacts on navigation and adjacent properties, as evidenced by Mr. Reed's objection.

Mr. Eversole said that since Mr. Kellam had expressed an unwillingness to relocate the proposed osprey pole, staff was compelled to recommend denial of the project based on the non-water dependent nature of the structure and the potential adverse impacts to adjoining properties, as well as other reasonable and permissible uses of State waters and bottomlands.

Associate Member Birkett asked if there were any questions for staff and he asked if anyone was present for or in opposition to the project. There being no questions and no one present to make further comments from the public, he asked for a motion.

**Associate Member Cowart moved to deny the application for permit as recommended by staff. Associate Member McLeskey seconded the motion. The motion carried, 7-0.**

Fees not applicable.

\* \* \* \* \*

**9. UPSHUR J. TAYLOR, #03-0157**, requests authorization to relocate an existing drainage ditch and install an 80-foot long drainage pipe on his property along Pocomoke Sound in the Town of Saxis, Accomack County. A Coastal Primary Sand Dunes / Beach permit was required.

Hank Badger, Environmental Engineer, was present and he gave the presentation with slides.

Mr. Badger explained that the Town of Saxis was a small bayside fishing community located in upper Accomack, one mile south of the Virginia/Maryland State line. The community's western boundary along Pocomoke Sound was experiencing severe erosion and the Saxis shoreline had a narrow beach with sparse dunes.

Mr. Badger said that Mr. Taylor proposed to relocate an existing Virginia Department of Transportation (VDOT) easement, which ran through his property, to a new location adjacent and parallel to his southwest property line. The existing ditch and pipe continue to clog from sand migration along the beach.

Mr. Badger said that the existing easement was purchased by VDOT in the early 1970's and crosses an area where Mr. Taylor would like to construct a new home. As part of the relocation, the applicant proposes to bury an 80-foot long drainage pipe under the small dune and beach area, with the end of the pipe exposed landward of mean low water, impacting 150 square feet of beach and dune. Only the portion of the project impacting the beach and dune area falls within VMRC's jurisdiction. Mr. Taylor will incur all expenses for the project.

Mr. Badger explained that the County of Accomack had not adopted the model Coastal Primary Sand Dune and Beach ordinance and as a result, the Commission was responsible for administering the provisions of the ordinance within that locality.

Mr. Badger stated that the Commission's staff held a public hearing in the Accomack County Administration Building, Board of Supervisors' Chambers on Wednesday, May 7, 2003, to accept public comments on the project. No one attended the hearing, and no public opposition had been received.

Mr. Badger explained that the Virginia Department of Transportation had indicated a transfer of easements should be accomplished within 90 to 120 days. The easement would provide the same drainage as the original easement and ditch. The Town of Saxis had stated the project would be an asset to the Town and would be grateful for the project to be completed.

Mr. Badger said that VIMS had reviewed the project and stated that from a marine environmental viewpoint, the individual and cumulative adverse impacts would be temporary in character and minimal.

Mr. Badger said that the U.S. Army Corps of Engineers had reviewed the project and found it satisfied the criteria contained in their Nationwide Permit numbers 18 and 19. No other State agencies have commented on the proposal.

Mr. Badger explained that our Coastal Primary Sand Dunes/Beaches Guidelines, Section IV,

state, "No permanent alteration or construction upon any coastal primary sand dune shall take place which would, impair the natural functions of the dune, physically alter the contour of the dune or destroy vegetation growing on the dune. Activities contrary to these standards will be permitted only if the Commission finds that there will be no significant adverse ecological impact from the proposal, or the granting a permit for the proposal is clearly necessary and consistent with the public interest.

Mr. Badger said that since a drainage easement was clearly necessary, as shown by the VDOT drainage easement already running through Mr. Taylor's property, and the anticipated impacts to relocate the ditch and pipe would be temporary with minimal impacts, staff recommended approval of the proposed project. Staff recommended the permit be conditioned to require the applicant to immediately restore all impacted areas to their pre-construction contours and to stabilize all areas through the planting of appropriate dunes vegetation. Mr. Taylor had indicated that he was willing to comply.

Upshur Taylor, applicant, was present and his comments are a part of the verbatim record. Mr. Taylor stated that he was satisfied with the staff's presentation.

Associate Member Birkett ask if there was anyone present to comment from the public. No one else was present to comment either for or against the project, therefore, he asked for a motion.

**Associate Member Gordy moved for approval of the project with staff recommendations. Associate Member Jones seconded the motion. The motion carried, 7-0.**

Permit Fees not applicable.

\* \* \* \* \*

**10. BARNEY McLAUGHLIN, #03-0194**, requests authorization to place up to 100 linear feet of riprap revetment within the intertidal area of his property situated along Wathall Channel of the Appomattox River in Chesterfield County. A tidal wetlands permit was required.

Benny Stagg, Environmental Engineer, was present and gave the presentation . Mr. Stagg explained that Mr. Barney McLaughlin, the applicant, was not present. He also said that Mr. McLaughlin's brother who had been acting on Mr. Barney McLaughlin's behalf, was also unable to attend the hearing. He also stated that no one in opposition was present.

Mr. Stagg explained that the proposed project was located along Wathall Channel of the Appomattox River in the Enon Church Area of the Bermuda District within Chesterfield

County.

Mr. Stagg stated that the proposed riprap was to be placed landward of mean low water along an eroding scarp at the applicants property. This segment of the shoreline consisted of nonvegetated sand and mud type wetlands with a predominance of large rock and gravel on the surface. Considerable boat traffic along Wathall Channel had resulted in erosion along this reach of shoreline.

Mr. Stagg said that Chesterfield County had not yet adopted the Model Wetland Ordinance, therefore, the Commission was charged with reviewing the wetlands impacts associated with this project.

Mr. Stagg explained that the Commission's staff had held a public hearing at the Chesterfield County Administration Building on May 12, 2003, to accept comments on this project. Mr. Barney McLaughlin's brother attended the hearing. No one else was in attendance.

Mr. Stagg stated that VIMS in their Shoreline Permit Report had stated that the proposed riprap revetment would not be significantly different habitat from that which presently characterized the shoreline. They further stated that the project should result in minimal environmental individual and cumulative adverse impacts and have no measurable impacts on the local aquatic system.

Mr. Stagg stated that no other agencies had commented.

Mr. Stagg explained that since the applicant's property was experiencing erosion and the project should have minimal impacts on the wetlands at the site, staff recommended approval of the project with a condition that the project be revised to include a buried toe, filter cloth, and a minimum of Class I Stone for the revetment.

Commissioner Pruitt asked if anyone was present to comment on the project. No one was present either for or against the project.

**Associate Member Williams moved to approve the project with staff recommendations. Associate Member Jones seconded the motion. The motion carried, 8-0.**

Wetlands Permit Fee.....\$10.00

\*\*\*\*\*

**11. PUBLIC COMMENT**

**Mayor Joe Frank of the City of Newport News** was present and his comments are a part of the verbatim record. Mayor Frank requested that the Commission make a motion to reconsider the matter of the King William County Reservoir project which was denied by the Commission at its meeting on May 14, 2003. After telephone conversations with members of the Commission, he said he felt that they needed this motion in order to provide information and a model for the intake that the members had said was missing in the previous hearing. He explained that they were not looking to have the permit approved now, but at a subsequent meeting, and at that time others can make comments. He said that the City Attorney had prepared a motion.

John Daniel, Attorney for the City of Newport News, was present and his comments are a part of the verbatim record. Mr. Daniel explained that he understood that the Commission followed Robert's Rules for the hearing and, therefore, no prior notice would be necessary to make the requested motion. He stated that they were not trying to change anyone's vote, but to just be allowed to provide greater information. He said that the city should be given the opportunity.

J. E. Ryan, Jr., Attorney for the City of Newport News, was present and his comments are a part of the verbatim record. Mr. Ryan stated this was just an informal fact finding and did not need public input for procedural decisions.

Commissioner Pruitt asked if the City had additional information or were just working on it? Mayor Frank said they needed directions on what was needed to provide a model for the intake.

Carl Josephson, VMRC Counsel, was present and his comments are a part of the verbatim record. He explained that there was no legal requirement of Robert's Rule and that it was up to the Commission, if a majority agreed, on how the matter would be handled. He further stated that the motion would not have to be voted on today, but can be done at the next meeting. He said the usual next step was to appeal to the courts and he did not know of any other case where the Commission had reconsidered a decision.

**Commissioner Pruitt asked for comments or a motion from the Commission. He repeated his request 3 times and there were no comments or motion made by the board.**

\* \* \* \* \*

**12. Request for public hearing** to establish new regulations for the haul seine fishery in response to HB2239 which modified the definition of a haul seine.

Chad Boyce, Fisheries Management Specialist, was present and he gave the presentation. Mr. Boyce stated the General Assembly had changed the definition of a haul seine with the passage of HB 2239. He said the new definition only defined the gear, not the operation or working of the gear. He stated that staff was requesting approval to hold a public hearing in June, since the new definition would become effective July 1, 2003. He explained that there were meetings scheduled in early June with recreational fishermen and the haul seiners. He explained that the most stringent restrictions would be advertised to allow more latitude for the Commission in making a decision. His comments are a part of the verbatim record.

Joseph Hicks was present and his comments are a part of the verbatim record. He stated that there were only 2 pound netters left and the test areas for eelgrasses would determine whether the haul seiner could exist. He explained that it shouldn't be a fight between recreational and commercial fishermen. He asked that the Commission listen to the haul seiners about where they fish and where there the eelgrasses are located.

**After further discussion and questions, Associate Member Gordy moved to hold the public hearing in June. Associate Member Ballard seconded the motion. The motion carried, 8-0.**

\* \* \* \* \*

**13. Request for public hearing** to amend Regulation 4VAC20-950-10 et seq., "Pertaining to Black Sea Bass", to modify the directed fishery and by catch fishery harvest quotas.

Chad Boyce, Fisheries Management Specialist, was present and gave the presentation. He explained the section of the Regulation that dealt with the proposed quotas. He explained that the direct fishery quota was 558,334 pounds and the by-catch fishery quota was 42,073 pounds. His comments are a part of the verbatim record.

Associate Member Birkett asked if there were any questions or comments?

**There being no questions or further comments, Associate Member Ballard moved to hold a public hearing on the matter at the June 24<sup>th</sup> meeting. Associate Member Jones seconded the motion. The motion carried, 7-0.**

\* \* \* \* \*

**14. Request for public hearing** to amend Regulation 4VAC20-910-10 et seq., "Pertaining to Scup", to modify the summer period harvest quota.

**Commission Meeting**

Chad Boyce, Fisheries Management Specialist, was present and gave the presentation. He explained that this was a request for a public hearing to discuss modifying the summer harvest quota for Scup.

Associate Member Birkett asked if there were any questions or comments?

**There being no questions or further comments, Associate Member Gordy moved to hold the public hearing in June. Associate Member Ballard seconded the motion. The motion carried, 7-0.**

\* \* \* \* \*

**15. PUBLIC HEARING:**Consideration of proposed amendments to Regulation 4VAC20-490-10 et seq. Pertaining to Sharks” to establish new rules for spiny dogfish.

Lewis Gillingham, Fisheries Management Specialist, was present and gave the presentation. He explained that there was a problem with the Federal plan that the ASMFC plan to attempt to allocate. He said that under the Federal plan some states were able to catch the entire quota before some states had an opportunity to fish. He explained that in February 2003, the ASMFC adopted a total quota of 8.8 million pounds, but subdivided the total quota into northern and southern regions. He explained that the Federal plan was for 4 million pounds but both plans to adhere to a fishing mortality rate of 0.03. He stated that there were several changes proposed for the regulation to make adjustments for the ASMFC and Federal requirements. He said that written comments had been received from Red McDonald regarding this matter. He stated that staff recommended that the Commission hold off until the June meeting to see the results of a scheduled ASMFC meeting.

Commissioner Pruitt opened the public hearing. There were no public comments. **He suggested that the matter be continued as staff recommended. No motion was made on this matter.**

\* \* \* \* \*

**16. Recommendations** of the Recreational Fishing Advisory Board and Commercial Fishing Advisory Board. Associate Member Jones said she would excuse herself from this matter and abstain from voting as funding was proposed for approval for the laboratories at ODU of which she was involved.

Cory Routh, Coordinator-Saltwater Recreational Fishing Development Fund, was present and he gave the presentation. He explained that staff recommendation was to approve proposal A through K, M, O, and Q through W and to deny proposals L, N, and P.

The following projects were approved by the RFAB.

- A. Estimating Relative Juvenile Abundance of Recreationally Important Finfish in the Virginia Portion of the Chesapeake Bay. (Year 3) Dr. Herb Austin, VIMS. \$49,270.00. Vote: Unanimous (Originally \$295,618.00; the majority of this project will now be funded by NOAA Funds.)
- B. Support of Finfish Ageing for Virginia Catches and Application of Virtual Population Analysis to Provide Management Advice. Dr. Cynthia Jones, ODU. \$62,080.00. Vote: Unanimous (Originally \$248,320.00; the majority of this project will now receive Wallop-Breaux funding.)
- C. Boat Scarring Effects on Submerged Aquatic Vegetation in Virginia. (Year 4) Dr. Robert Orth, VIMS. \$13,105.00 Vote: Unanimous
- D. Enhancing Submerged Aquatic Vegetation (SAV) Habitat: Research and Education for Restoration. (Year 9) Dr. Robert Orth, VIMS. \$95,116.00 Vote: Unanimous
- E. Monitoring Relative Abundance of Young-of-Year American Eel, in the Virginia Tributaries of the Chesapeake Bay. (Year 2) Marcel M. Montane, VIMS. \$11,746.00 Vote: Unanimous (Originally \$23,492.00; this project will be funded half by the Saltwater Recreational Fishing Development Fund and half by the Marine Improvement Fund.)
- F. 2003 Wallop-Breaux Match. Jack Travelstead, VMRC. \$71,527.00 Vote: Unanimous (Originally \$104,869.25; the amount requested from the SRFDF was reduced, with the balance of \$33,342.00 being funded from the MIF).
- G. Capital District Kiwanis Club Children's Fishing Clinic 2003. (Year 2) Wesley Brown. \$5,557.50 Vote: unanimous
- H. Sunshine Program Children's Day Challenge 2003. (Year 2) Portsmouth Anglers Club. Denny Dobbins. \$3,954.00 Vote: unanimous
- I. Morley's Wharf Youth Fishing Tournament 2003. (Year 2) Eastern Shore Angler's Club. Allen Evans. \$800.00 Vote: unanimous
- J. Saxis Fishing Pier Youth Fishing Tournament 2003 (Year 2) Eastern Shore Angler's Club. Allen Evans \$800.00 Vote: unanimous



- K. Pamunkey Tribal Shad Restoration Program. G. Warren Cook. \$10,000.00 (This project will be funded 100% by MIF Funds, this expenditure was approved by the CFAB.)
- M. Determining Stock Status of Tautog in Virginia's Waters Using Data from Virginia's Fishery. Dr. John Hoenig, VIMS. \$23,555.00 Vote: unanimous (Originally \$25,679.00 the computer was removed from the proposal by the RFAB.)
- O. Establishment of a Chesapeake Bay Trophic Interaction Laboratory Services Program. Christopher Bonzek, VIMS. \$89,475.00 Vote: unanimous
- Q. Chincoteague Curtis Merrit Harbor and Launch Facility Improvements. James West, Town of Chincoteague. \$145,000.00 Vote: unanimous
- R. Development of Molecular Tools for *in situ* Hybridization Studies of Mycobacteriosis in the Striped Bass. Dr. Wolfgang Vogelbein, VIMS \$96,567.00 Vote: unanimous
- S. Little Island Fishing Pier Improvements. Brian Solis, City of Virginia Beach. Originally \$291,000.00, the RFAB reduced the amount to \$36,000.00. Vote: unanimous
- T. Age-Specific Fecundity of Bluefish in the Mid-Atlantic Bight. Dr. Steve Bobko, ODU. \$13,750.00 Vote: unanimous
- U. Law Enforcement Vessels for the Virginia Marine Police. \$27,648.00 Vote: unanimous
- V. Gloucester Point Boating Access Improvements. Carol Steele. Gloucester County. \$150,000.00. Vote: unanimous
- W. Emergency Request for supplemental funding for "Exploratory Study of circle and J-shaped Hooks on Release Mortality in Adult Spotted Trout. \$20,141.00 Vote: (7 to 1)

**The following projects were not recommended by the RFAB**

- L. Human Health Issues Related to Mycobacteriosis in Striped Bass of the Chesapeake Bay. Martha Rhodes, VIMS. \$40,099.00 Vote: 6 to 2

**Commission Meeting**

- N. Genetic Analysis of Population Structuring within Cobia. John Graves, VIMS. \$46,584.00 Vote: unanimous
- P. Daily Movements of Age Two Striped Bass in the Poropotank River. Patrick McGrath, VIMS \$24,216.00 Vote: unanimous

**Associate Member Garrison moved for approval of staff recommendations. Associate Member Gordy seconded the motion. The motion carried, 7-0-1. Associate Member Jones abstained from voting.**

\* \* \* \* \*

**17. Discussion:** Federal Blue Crab Fishery Disaster Relief Funds, potential uses

Jack Travelstead, Chief, Fisheries Management, was present and gave the presentation. He explained that there was a June 2<sup>nd</sup> proposal deadline to get back to NMFS. He said that Chris Ludford and Frances Porter were present. He explained that there had been a meeting with the Watermen Associations and only 5 presidents were able to attend the meeting. He explained that the watermen's group had suggested that all money be allocated to the crabbers as they had suffered the most with the decline in the resource. He said that this watermen's group said that anyone who held a crab license this year and could show harvest for 2 of the last 3 years should be considered for relief. He further explained that the watermen's group wanted to give the crabbers the same dollar amount so each waterman would be given \$600 to \$700. He explained that Joseph Hicks concurred with the Watermen Association meeting recommendations. He said that George Flick had other possible proposals. He stated that Dr. Lipcius of VIMS was offering a proposal for shallow water crab sanctuaries. He also explained that the Commissioner and the Secretary of Natural Resources would make all final decisions.

Frances Porter, Virginia Seafood Council representative, was present and her comments are a part of the verbatim record. She explained that at a VSC meeting, several recommendations were offered:

1. Crab harvesters suffered the most and should benefit if they purchased crab licenses and actually harvested during the hard times;
2. Market study;
3. Restoration of the resource;
4. Restrict shallow water and pay crabbers not to harvest in shallow water;
5. Apprentice program for new entries into the fishery; and
6. Support George Flick/Virginia Tech proposals.

George Flick, representative of Virginia Tech, was present and his comments are a part of

**Commission Meeting**

the verbatim record. He had the following proposals:

1. Market restructuring;
2. Study how high hydrostatic pressures eliminate spoilage and pathogens and extend the shelf life by 6 to 8 weeks of the crab;
3. Study sugar separation since sugar increases spoilage and there was a need to control spoilage and pathogens and also removal of shells; and
4. Need of means to reduce waste of crab meat since scraps of the meat were disposed of in the water.

Douglas Jenkins, Sr., Twin Rivers Watermen Association President, was present and his comments are a part of the verbatim record. He read a written statement into the record. He said the funds needed to be used to relieve distressed watermen. He explained that the funds were intended for disaster relief. He said that studies are fine, but it was taking away from the watermen. He explained that this year had been bad, because of weather conditions.

Commissioner Pruitt explained that A. C. Carpenter of the Potomac River Fisheries Commission was requesting that Virginia and Maryland contribute \$100,000 each for the Potomac crabbers.

Tom Powers, representative of the CCA of Virginia, was present and his comments are a part of the verbatim record. He suggested the following:

1. Set up a money buy-out program to reduce effort and reduce licenses;
2. Subsidize watermen who have reduced earning in recent years. He said it should be pro-rated based upon documented record, not lack of income and not a blanket payment; and,
3. There should not be an expansion of the fishery until stocks have fully recovered.

Jeffrey Crockett, Tangier Watermen's Association President, was present and his comments are a part of the verbatim record. He said that he agreed with Doug Jenkins for the most part. He said he had one additional proposal to suggest. He suggested that funds be given to the Associations to hire lobbyists to represent associations at the General Assembly and elsewhere when needed. He said it would be less complicated to give the funds to established associations.

Kelly Place, waterman, was present and his comments are a part of the verbatim record. He had several suggestions:

1. Get those funds to most deserving;
2. Fund Dr. Lipcius' of VIMS proposal for crab sanctuaries;
3. Use some funds for compensation of the displaced crabbers;

- 4. Fund George Flick/Virginia Tech proposals; and
- 5. Provide a share for the Potomac River, but to watch out for double dipping.

Russell Gaskins, waterman, was present and his comments are a part of the verbatim record. He stated that a lot of Virginians fish in the Potomac River.

Associate Member Garrison explained that in his day there was no welfare and he didn't like giving somebody something for nothing.

Associate Member Gordy explained that she got her packet on Saturday. She said she felt the monies were due to the crabbers and watermen. She said that she resented all the other requests for funds. She said the crabbers deserved this money. She explained that if she had not gotten her packet late, she could have gotten more watermen to attend the hearing.

Associate Member Cowart explained that he trusted the Commissioner and Secretary of Natural Resources to make the right decisions. He stated that Kelly Place had some good suggestions. He said that future needs should be considered. He suggested the Watermen Associations could help to give to those most deserving.

Associate Member Ballard stated that the Commission and Secretary of Natural Resources needed to consider the matter in personal terms and to consider investing in some of the suggestions presented.

Associate Member Williams explained that these funds were provided for disaster relief. He said it is not necessary to market the crab, that it would sell itself. He said the watermen need something.

**No motion was made on this matter.**

\* \* \* \* \*

The meeting adjourned at 2:29 p.m. The next regular meeting will be June 24, 2003.

\* \* \* \* \*

---

William A. Pruitt, Commissioner

---

Katherine V. Leonard, Recording Secretary