

**Minutes of the Regular Meeting  
Potomac River Fisheries Commission  
Colonial Beach, Virginia**

**March 29, 2001**

**Commissioners Present:** William L. Rice, Sr. (MD) – Chairman, Kenneth W. Williams. Sr. (VA) – Vice Chairman, John T. Parran (MD) – Secretary, Paul H. Kellam, III (MD), William A. Pruitt (VA), John W. White (VA), and Sarah Taylor-Rogers (MD).

**Officers Present:** Kirby A. Carpenter – Executive Secretary, J. Clifford Hutt and Michael C. Mayo – Legal Counsel

**Press Present:** Lawrence Latane – Richmond Times Dispatch, Frank Delano – Free Lance Star.

**Others Present:** Lt. William Bates, David Larsen, and Mark Sanders, Md DNR, Rob O'Reilly and Lewis Jones, VMRC, Capt. M. Ray Jewell, VMRCP, Tucker Brown, Larry Thrift, Louis Whittaker, George Bowie, Bill Bartlett, Richard Daiger, Jim Drummond, Wayne France, George Hundley, John R. Scott, Sr., Joseph Hawkins, Jim Berthe, Dean Bowie, Roland Bowie, John Morris, III, James Bowling, Gregory Klaas, George Moon, William Webb, Bobby Boarman, Robert T. Brown, Sr., John Morris, Jr., Jerry Decatur, Jason Decatur, Paul Springer, Patrick O'Connor, Bob Clements, Tim Dean, Dennis Edwards, George Smith, Elgin Nininger, Dan McDougal, Charles Thompson, William Sandy, Charles Clift, Glenn Mullen, Wayne Morgan, Jr., George Bean, James Messick, B. J. Symansky, Donald C. Davis, Donald E. Davis, John Dean, Charles Wolf, Ray Stine, Craig Kelly, Gregory N. Modjeski, Betty Duty, Walter Maddox, Herman Delvo, William Jett, Jimmy Copsey, Roy Vermillion, Roger Hill, Roy Litz, John Boswell, Walley Owens, William Swann, William Green, Robert F. Stoner, Gary Bowie, Harry Thompson, Jr., Willy Rawlings, Herman Yates, Jimmy Farrell, Robert Lumpkins, Stephen Norris, Roger Norris, Dennis Fleming, Rocky Rice, and several others that did not sign the guest register.

Chairman William L. Rice, Sr. called the meeting to order at 1:00 p.m. and Commissioner White provided an invocation.

**Approval of Agenda**

*A motion was made by John T. Parran, seconded by Gordon Birkett, and passed unanimously to approve the agenda as written.*

**Meeting recesses at 1:02 p. m.**

*A motion was made by William A. Pruitt to recess the meeting for the purpose of an executive session to discuss legal matters, seconded by John T. Parran, and passed unanimously.*

**Meeting reconvenes at 1:10 p. m.**

Mr. J. Clifford Hutt, Legal Counsel announced that today's meeting was scheduled as a public hearing on proposed crabbing regulations. The compact under which the Commission operates requires that the Commission advertise in a newspaper of general circulation in each county and city which abuts on the Potomac River for three (3) consecutive weeks. The Northumberland Echo, through no fault of the PRFC staff, failed to run the ad for all three weeks. Because of this error, the proposed regulation changes could not be acted on as regulations as originally scheduled. However, the issues and their timing before the Commission today, are of such a nature that, failure to act today could be deemed an emergency situation. Under an emergency the Commission does have the authority to issue Orders that specify what is required and/or prohibited and an Order has the effect of the law but only for some limited time basis.

**Consideration of Minutes**

*A motion to approve the minutes of the February 15, 2001 meeting as written and distributed was made by John White, seconded by William A. Pruitt. The motion passed, with Kenneth W. Williams abstaining, siting his absence at the last meeting as reason.*

**Open Public Hearing at 1:20 p.m.**

Chairman Rice then explained the procedure to be used for conducting the public hearing today and he opened the hearing at 1:20 p.m. He noted that the list of possible regulatory items advertised was long, due in large part, to there having been 16 different Commission and Advisory Committee meetings and a workshop since August of 1998 where crab issues have been discussed and debated. He asked everyone present to bear in mind that the items were advertised as the most restrictive actions that could be taken at today's meeting. The Commission can adopt rules that are less restrictive than advertised, but not more so.

Chairman Rice then called the first speaker.

Tucker Brown – Mr. Brown expressed his opinion saying that the crab issue is a political ball of fire. Everyone makes mistakes trying to stay afloat. Nobody wants change but we are all under the gun. He was opposed to these regulation changes, because he feels they are not the right things to do. He feels like the impacts of water quality and other predators of the sea have on the crab population should be studied more before crabbing regulations are changed. He was especially opposed to a time limit as he feels part-time crabbers would not survive.

Jim Berthe – Lower River Crabber – Mr. Berthe expressed his objection to shortening the season. He feels that cutting out the month of April would reduce the harvest by only 1.5%, but would reduce his revenue by a whole lot more since April crabs are high priced crabs. He is opposed to taking any time off the end of the season because that is the best crabbing time in his area and this would force him to become an upper river crabber. He also stated that shortening the season on either end not only hurts the crabber, but also the buyer, the retailer, the people they buy the bait from, the whole industry loses.

James Bowling – Mr. Bowling stated he agreed with most of what Tucker Brown said. He talked about the number of fish out in the river that are eating the crabs and the water quality. He would like to see the reduction come in the form of bushel limits as he feels this would stop the taking of "junk" crabs and would give them a chance to sell a better quality crab. He is opposed to time limits because he feels this is unfair to the part-time crabbers. Also that this would actually increase crabbing pressures because part-timers would be selling their licenses to more full-timers, who would be able to fish more pots. He would like to see some type of regulation for the preservation of the female crab.

Bobby Boarman – Charles County Watermans Association – Mr. Boarman presented a plan that the association had endorsed. They would like to see the Commission act now to get the 15% reduction that is needed and phase it in over the next 3 years. They proposed: a 10% reduction in pots the 1<sup>st</sup> year, which would yield a 3% reduction in the crab harvest; close the season October 31<sup>st</sup> with a grace period of 5 days to remove their pots, which would yield a 2.5% reduction in the harvest, for a total of 5.5% reduction the 1<sup>st</sup> year. The second year they propose another 10% reduction in pots, shorten the season by another week with a 5-day grace period for a 3.7% reduction. This would bring the 2 year total reduction to 12.2%. In the third year, if needed, they propose a Sunday closure for another 3-4% reduction. This would bring the total 3 year reduction to 15+%. They would also like to see cull rings for all user groups be open at all times. In addition, would like to see the month of May closed for all peeler harvest by any user group.

Robert T. Brown – St. Mary's County Watermans Association – Mr. Brown stated his concern over the fact that a number of St. Mary's county crabbers have gone out of business in the past year because of the poor harvest and crabbers that only crabbed 2 or 3 days a week due to poor harvest. He stated he felt that crabbers are a dying breed. He is in favor of all cull rings being open at all times, and closing one day a week. He is not in favor of pot reduction, or closing the first part of the season. He also stated that if the Commission closes the season early it would only make down river crabber's crab up the river.

John Morris, Jr. – St. Mary's County – He would like to see the season coincide with Maryland and Virginia. He feels with the lower part of the river being closed until May 1<sup>st</sup> they will still come up and be caught so he does not see how this will help. He believes that they should be allowed to close cull rings in hard crab pots. He feels if peeler potters are fishing 1" wire then they should be able to fish 1½" wire. He is opposed to bushel limits. He does not like the 7 hour workday, but would choose this over other restrictions.

Dennis Edwards – Mr. Edwards stated that he agreed with the feelings of John Morris and Robert T. Brown.

Elgin Nininger – Mr. Nininger first thanked the Commission for removing the maximum size limit on striped bass for the last 8 days of the season, after the ASMFC Plan was modified. He said the crab fishery in the Potomac needs to be protected from being over worked. He feels the Commission does not need to be concerned with what Maryland and Virginia are or are not doing this year, but instead to take care of the place we, the Potomac crabbers, work and make our living.

Dan McDougal – Peeler potter – Mr. McDougal opened by saying he feels that some of the proposals as written are a suicide pact. He feels that time limits, without provisions made for the afternoon crabber, would put those crabbers out of business. His concerns for season closures are that they are for real, you cannot recoup lost days, under proposals the season would be shortened by 100 days (76 days in a row plus 24 Sundays). You get the whole 15%, but the price paid by the crabbers is just too high. The peeler industry, he states, has other problems in association with season closures, and again the price is too high. He feels this option should not be considered. As for bushel limits, he feels there are many problems with this option and it should not be considered. He feels that, after many conversations with many crabbers that the most acceptable proposal would be a closure on Sundays or Mondays or both. He felt that if we take a 10-12 % reduction in the first year, we might not need the full 15% reduction later. However, he does not want to see it put anyone out of business. Taking a day of the week off is the answer. He then questioned why the 1½" peeler pot wire proposal was on the list again. He feels it has nothing to do with the crab reduction proposals. He built some 1½" wire pots in order to test them before this type of proposal puts him out of business. He will provide the Commission with the results of his test. In closing, he asked that the Commission give careful consideration to taking Mondays off, since he feels this would be the best for all user groups.

Wayne Morgan, Jr. – Said he agrees with those that spoke before him.

Mr. Carpenter read a letter received from Harry Boyden of Bel Alton, MD, dated March 27, 2001 in which Mr. Boyden said he realizes something needs to be done and he hopes the Commission will be fair to all groups.

Rocky Rice – Newburg, MD – Mr. Rice stated that a lot of what he feels has already been said. He is opposed to time limits since he feels that it picks on a very small group of people. As far as closing a day of the week he feels that the weather dictates that for crabbers. Taking a day a week amounts to about 30 days and he would rather see that taken at the end of the season when they are practically giving crabs away. By closing early, they can save those crabs for the spring market, when the crabbers can make more money for the same crabs. He feels that what Maryland and Virginia do does not affect him since he works in the Potomac. He wants to be able to crab in the future – 20 or 30 years from now. He wants to see the Commission do what is best for all. If everybody gives a little we save a lot.

Bob Clements – He is opposed to time limits for the recreational crabber. He used an example of a kid who wants to crab after school and how such a time limit would make it impossible for this type of recreational activity.

Bill Bartlett – Valley Lee, MD – He feels that all the proposed regulation changes are directed at the crabbers and does not see anything directed at the crabs. He feels the size should be raised to 5½" and that some regulations are needed to protect the females. He would also like to see steps towards improving the water quality and grasses.

Louis Whittaker – Reedville – Mr. Whittaker has studied the crab issue for about 6 months, and realizes that trying to find answers is not easy. While he feels that looking out for the crab is important he would like to see more emphasis put on improving the water quality. He tells of crab pots with dead crabs. He feels that the excessive rain of 30" last summer contributed to the

low harvest and asked the Commission not to jump too fast. One of the problems today is too many fish with fishermen being locked into a particular fishery. Too many rockfish eating too many crabs. Mother Nature will out do any and all regulations. Virginia scientist have reported 20" rockfish being caught with up to 113 baby crabs in their belly. He feels the watermen are only one element of the problem. Peeler potters cannot survive with 1½" mesh wire, and they are only 5% of the crab harvest anyway. Losing May would mean they would not survive, and time limits are not fair to part timers.

Willie Rawlings – Newburg - He is opposed to time limits. He spoke of his two sons who crab after school and on weekends, if the Commission limits the day to 7 hours this would mean that his sons can no longer crab. He asked that they consider them when making their decisions. He would also like to see some regulation of female crabs.

Robert Lumpkins – Piney Point – Mr. Lumpkins feels that there is friction between upper and lower river crabbers. He feels regulation of the female crab is needed. There are more fish right now than crabs and it will change again as it has in the past. Further, he wants to see the Commission make gradual changes rather than drastic ones.

Kenny Pearson – King George – Mr. Pearson feels that law enforcement on the river is part of the problem. He states that there are some laws on the books now that are not being enforced. One of the biggest being crabbers fishing a thousand pots on a 500 pot license. He asked law enforcement what would make it easier for them to do their job. They indicated they would like to see uniform markings of corks and a time limit. He suggested splitting the time limit between morning and afternoon which would allow part timers the opportunity to continue and would also aid law enforcement by knowing what hours to heighten patrol.

#### Close Public Hearing

Chairman Rice closed the public hearing at 2:13 p.m.

#### Meeting recesses

Chairman Rice recessed the meeting at 2:13 p.m.

#### Meeting reconvenes

Chairman Rice reconvened the meeting at 2:29 p.m.

Commissioner John T. Parran complemented the speakers and those present on the dignity, thoughtfulness and sincerity of the comments during the public hearing. He stated that he has never, in all the meetings he has attended both here and elsewhere, been more impressed.

#### Consideration of Regulation Changes

Mr. Hutt reminded the Commission that although they were unable to adopt 'regulation changes' due to the error on the part of the Northumberland Echo, they could adopt emergency orders.

Dr. Sarah J. Taylor-Rogers stated the difficulty of the task before them. She assured those present that the Commission was concerned for the resource and all user groups. Much thought has been given over the years to the management of the Chesapeake Bay Blue Crab. She felt this Commission could not leave today without acting, by emergency order if necessary, to tide us over as a body that has long given care to the Potomac River. She then offered the following motion:

***To adopt an emergency order to establish the Potomac River hard crab and soft crab season of April 1<sup>st</sup> through October 31, 2001 with a 5 day grace period for the removal of pots and that during this grace period no bait could be on board and once pulled no crab pot could be reset. The motion was seconded by John T. Parran.***

Mr. Kellam expressed the desire to hear any other items that might be considered for actions today before voting on this motion. The Chairman asked Dr. Rogers if she was agreeable to listing all intended motions, before calling for the vote on this motion. She agreed and then presents a series of proposed motions as follows:

*Motion #1 as moved above;*

*Motion #2 Move to adopt an emergency order to establish the Potomac River peeler season of May 20<sup>th</sup> through October 31, 2001 with a 5 day grace period and conditions for removing gear beyond that date would be allowed the same as that adopted for hard crabs;*

*Motion #3 Move to adopt an emergency order to reduce the maximum number of crab pots allowed per boat from 300 to 270, from 400 to 360 and from 500 to 450 in 2001;*

*Motion #4 Move to adopt an emergency order to lower the daily recreational catch limits for unlicensed crabbers to 4 dozen hard crabs and 2 dozen soft or peeler crabs per person per day not to exceed 1 bushel of hard crabs and 3 dozen soft or peeler crabs per boat per day;*

*Motion #5 Move to adopt an emergency order to lower the daily recreational catch limits for licensed crabbers to 1 bushel of hard crabs and 2 dozen soft or peeler crabs per person per day, not to exceed 2 bushels of hard crabs per boat per day;*

*Motion #6 Move to adopt an emergency order to require that all hard crab pot cull rings be open at all times during the 2001 season;*

*Motion #7 Move to adopt an emergency order to require peeler pots made of 1" mesh to have four (4) 1½" cull rings. Two in the upper and 2 in the lower chambers during the 2001 season; and,*

*Motion #8 Move to adopt an emergency order that these crab limitations in whatever form they are adopted would become effective as of April 1, 2001.*

After a brief discussion of the entire package and deciding to vote on each item separately, Chairman Rice called for consideration of the original motion. Dr. Rogers repeated it, Mr. Parran repeated his second and the Chairman asks Mr. Carpenter to call the roll, in order of seniority, for the vote.

*Motion #1 passed unanimously.*

*Motion #2 was re-read, seconded by John T. Parran and passed with six ayes and two nays.*

*Motion #3 was re-read, seconded by John T. Parran and passed unanimously.*

*Motion #4 was re-read, seconded by John T. Parran and passed unanimously.*

*Motion #5 was re-read, seconded by John T. Parran and passed unanimously.*

A request was made of Dr. Taylor-Rogers to combine motions # 6 and #7. Dr. Taylor-Rogers agreed, and the Chairman called for consideration.

*Motions #6 and #7 were re-read as a single motion, seconded by Mr. Parran and failed with 3 ayes and 5 nays.*

*Motion #8 was re-read, seconded by John T. Parran and passed unanimously*

*A motion was then made by Commissioner Rogers to combine those items that passed into a single ORDER # 2001-07. It was seconded by John White and passed unanimously.*

## ORDER #2001-07

### EMERGENCY CRAB FISHERY LIMITATIONS

**THE POTOMAC RIVER FISHERIES COMMISSION**, having found it necessary for the preservation of the blue crab population, having considered the protection, promotion, growth and conservation of the crab resources, the provisions of the Chesapeake Bay Commission Bi-State Blue Crab Advisory Committee's mandate to reduce the crab fishing mortality rate, the impending start of the crabbing season, and the provisions of the Maryland-Virginia Potomac River Compact of 1958; **HEREBY DECLARES AND ORDERS:**

1. The Potomac River hard crab and soft crab season for 2001 shall be April 1 through October 31. Further, a five (5) day grace period beyond the closing date be allowed for the removal of all crab pots, and during the grace period, no bait may be aboard any boat and once pulled, no crab pot may be re-set.
2. The Potomac River peeler crab season for 2001 shall be May 20 through October 31. Further, a five (5) day grace period beyond the closing date be allowed for the removal of all crab pots, and during the grace period, no bait may be aboard any boat and once pulled, no crab pot may be re-set.
3. The maximum number of crab pots allowed per licensed boat shall be reduced for the 2001 season from 300, 400, or 500 to 270, 360, and 450 respectively.
4. The daily recreational catch limits for unlicensed crabbers shall be 4 dozen hard crabs and 2 dozen soft or peeler crabs per person per day, not to exceed 1 bushel of hard crabs and 3 dozen soft or peeler crabs per boat per day.
5. The daily recreational catch limits for licensed crabbers shall be 1 bushel of hard crabs and 2 dozen soft or peeler crabs per person per day, not to exceed 2 bushels of hard crabs and 4 dozen soft or peeler crabs per boat per day.

***AND IT IS FURTHER DECLARED AND ORDERED: having determined an emergency exists, this Order #2001-07 shall become effective April 1, 2001 and remain in effect for the year 2001 or until such time as the Commission has taken further action.***

Mr. Carpenter asks if the Commission wished to re-advertise all 16 items for the next public hearing.

***A motion was made by William Pruitt to re-advertise for public hearing only those items included in the previous motion. Second by John White, passed unanimously.***

Commissioner Kellam believes that if something is not done to increase the minimum legal size of the peeler crab, we will not be able to continue a viable crab industry. The hard crabbers have been the target of most of the recent more restrictive regulations.

### **Oyster Harvest Report**

Mr. Carpenter presented the report showing 99 hand tonging and 6 hand scrape licenses sold this season compared to 153 and 46 last season. The reported harvest so far this season was 5,422 bushels, with Swan Point and Pascahanna contributing well over half of the total harvest. Both areas received hatchery seed plantings a few years ago through the cooperative efforts of MDDNR, PEPCO, local watermen and the PRFC.

### **Oyster Repletion Program**

The staff committee members met on March 8<sup>th</sup> and reviewed funding available for this year's program, discussed the resources available through the Maryland and Virginia programs, reviewed the most recent oyster survey data and the recent harvest reports. A set of recommendations was developed and submitted to the Oyster/Clam Advisory Committee for their consideration at a March 15<sup>th</sup> meeting. A summary of the staff and committee recommendations was presented.

***A motion was made by William Pruitt to table consideration of item # 5 (the designation of an oyster sanctuary) until the next meeting; to approve and authorize item #1 planting 10,000 – 15,000 bushels of seed being made available by VMRC on Gum Bar at a cost of approximately \$4.00 per bushel; plant 20,000 bushels of fresh shell on Tall Timbers in mounds and sprinkle plant 20,000 bushels of fresh shell on Bonums; and, carry over the balance of funds for next year's program. The motion was seconded by Paul Kellam and passed unanimously.***

**Finfish Harvest Report**

Mr. Carpenter noted this was an information report only. It compares the finfish harvest for 2000 with the prior year. Excluding menhaden, when ranked by dockside value, striped bass, croaker and eel topped the list, when ranked by pounds landed, croaker out ranked striped bass. This year's list includes menhaden plus twenty-three eatable species of finfish harvested from the Potomac totaling 8.4 million pounds valued at 2.5 million dollars.

*A motion to accept the report was made by William Pruitt, seconded by Paul Kellam and unanimously passed.*

**ASMFC Issues***Summer Flounder –*

Mr. Carpenter reported that the summer flounder recreational limits adopted by the Commission at the last meeting were the same as what Maryland had adopted for their portion of the Chesapeake Bay. Virginia is planning to adopt language to have the Virginia creeks and tributaries of the Potomac the same as the River. He advised the Commission that there had been a suit filed in Federal District Court in Norfolk, Virginia by a North Carolina commercial fishermen's group, charging that the total allowable landings (TAL) overages during the past few years have been a result of the unlimited recreational landings, while the commercial landings had been controlled by a quota system. An environmental group has also sued in the Federal District Court in Washington, DC charging that the National Marine Fisheries Service has not protected the species. He advised the Commission, in closing that when they come back to the June meeting they may well be looking at amending the summer flounder regulations. There was no further comment on this.

**Committee Appointments**

Chairman Rice reviewed the nominations to fill the Advisory Committees Memberships positions that would expire this year. He then appointed the following persons:

Crab Committee Mr. Dean Bowie – Upper River Hard Crab Potter; Mr. John B. Morris, Jr. – Maryland Crabber-At-Large and Mr. George W. Smith – Upper River Hard Crab Potter.

Finfish Committee Mr. Harry Boyden – Charles County Waterman's Association; Mr. Charles E. Davis, Jr. – Maryland Charter Boat Captain; Mr. David Bradley – Northumberland County Commercial Fisherman; and Mr. Robert F. Stoner – Virginia Charter Boat Captain.

Oyster/Clam Committee Mr. Paul Springer, Jr. – Charles County Tonger's Association.

There was one other opening on the Oyster/Clam Advisory Committee due to the resignation of David M. Rowe, Virginia Commercial Oysterman. Chairman Rice called for nominations. None were forthcoming at this time.

Mr. Jim Drummond requested that the Finfish Advisory Committee membership be increased by two, and that they be designated as recreational members at-large to the Committee, one from each state.

*A motion to add one at-large recreational fishermen from each state to the Finish Advisory Committee membership was made by William Pruitt, seconded by John White and passed unanimously.*

**Striped Bass**

Mr. Robert F. Stoner said he has been a charter boat captain since 1971. He asked the Commission to increase the creel limit of rockfish for charter boat patrons. Charter boats only harvest about 10% of their allowable quota from the Potomac. Mr. Carpenter confirmed the 10% estimate, but noted there is an understanding among Maryland, Virginia and the Commission that our recreational and charter boat creel limits would all be the same. All three jurisdictions currently have the same 2-fish creel limit on recreational anglers and charter boat patrons. Since we are part of an overall Bay-wide quota and management system, he recommended staying with the existing Bay-wide limits on this species.

Mr. Rob O'Reilly gave a couple of practical things to consider. ASMFC is currently developing Amendment VI to the Striped Bass Plan, to be effective January 1, 2003. In the meantime this year and through 2002 there will be an allocation battle among the states. Many other states would like to see our Bay-wide quota reduced substantially. It is very likely the fishing mortality rate, for last year, will be well over the target, mainly because the coast wide recreational harvest increased 40% in 2000.

**Date and Place of Next Meeting**

The next meeting will be held in the Commission Office in Colonial Beach, Virginia on Friday, June 15, 2001 at 9:30 a.m. It will include a Public Hearing.

**Adjourn**

The meeting adjourned at 4:00 p.m.

Respectfully submitted:

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William L. Rice, Sr., Chairman

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John T. Parran, Secretary