

**Virginia Marine Resources Commission
Blue Crab Management Advisory Committee Meeting
VMRC Commission Room**

March 17, 2009

Members Present

Hon. Rick Robins
Pete Nixon
Dr. John McConaugha
Pete Freeman
Chris Moore
H. M. Arnold
Joe Palmer
Ken Smith for Louis Whittaker
Ronald L. Jett
Doug Jenkins
Marshal Cox, Sr.

VMRC Staff

Rob O'Reilly
Laura M. Lee
Alicia Nelson
Mike Johnson
Joe Cimino
Stephanie Iverson

Members Absent

Paige Hogge
Johnny Graham
Jim Casey
Daniel Dise
Tom Powers

Others Present

Rom Lipcius (VIMS)
D. Tulipani (VIMS)
Megan Rook (VIMS)
Charles Jones
Mark Wallace
John C. Ludford
Tommy Leggett
D. Dalhein
Ken Diggs, Jr.

I. Introductions/Announcements

The meeting began at 6:01

II. Approval of minutes from the February 23, 2009 meeting

II. Old Business

Mr. O'Reilly introduced many of the items for the meeting. At the upcoming March Commission meeting, staff will ask to advertise for all options for a public hearing in April. What we have looked at so far, is everything from keeping the fall season closed for female crabs, to bushel limits. Keep in mind that the commission reinstated the dates for the taking of females, as in 2007, for 2009. That doesn't mean that the things that will be advertised won't include seasonal closures. This committee has shown no favor for the closed season that occurred last year.

Mr. O'Reilly said that the governor will sign the bill on the old sanctuary on the 24th of this month. The Commission will probably establish the closure dates of the old sanctuary to correspond with the dates for the newer sanctuary.

Also, he mentioned that staff is still working on the bushel limit issue. He reminded the committee that it was very complicated to predict what will happen in 2009. The most conservative approach is to assume everyone who harvested during those four years will harvest in 2009, based on four years of prior data. The 37% reduction that Mr. Travelstead presented to you at the last meeting is accurate, but it is a give and take between old data, which has been adding up, and new data coming in. Much of the new data coming in, which is complicating the analysis, is from waiting list people bringing in delinquent data. Close to 300 people have come off of the waiting list during appeal process for data issues and medical reasons.

On pot reductions, Mr. O'Reilly said that it is difficult to understand the amount of pots versus the amount of harvest without effort data—which we do not have without a pot tagging program. Because of this, we don't know how many pots each person sets overall.

The closed season will be advertised for public hearing. He explained that this doesn't mean there has to be a closed season. The dates may change after we have information from the winter dredge survey. Last year, there were 120 million age 1+ crabs, and 200 million is our goal. He asked the committee to remember that according to the regulations, it takes 3 years of 200 million age 1+ crabs before we can address pulling people off of the waiting lists.

Last month, staff was asked about agent culpability. Mr. O'Reilly went over the summonses and said 5.5% of the reported crab related summonses involved agents. Across the board, there seems to be a similar amount of transgressions, whether it's the agents or everyone else out there fishing. This will go to the commission as part of the advertisement (not only involving the agent, but the license holder) and will be addressed through the public hearing process.

Mr. O'Reilly said another thing to remember about the associated reductions is that everything is intertwined. Between the cull rings, the sanctuary, and the peeler size limits, there was an 11 % reduction. You can't take away one item without affecting the other two. For the 1942 sanctuary, we've had two estimates so far, and they are both relatively small (under a percentage point reduction) for May. Again, the analysis is difficult because the reporting areas split the main stem bay into quadrants. For the sanctuary area, we have to calculate how much of the area in the quadrant is part of the sanctuary (such as 70%) and use that percentage of harvests. There may be problems with that because the reports change year to year. The strongest reports were in the lower western and eastern bay. Since the entire sanctuary covers the bay, and the reports change by area, then the different activity by year will change the reduction by year. We hope to have a chart with the 2008 measures and the 2009 measures by the next committee meeting. We may have the winter dredge survey at that time as well.

Mr. Robins welcomed committee and members of the public. He said that Mr. O'Reilly described a two-step process in which options would be advertised at the March meeting, and then, when we have the dredge results, we would have the next committee meeting in April to decide on recommendations. He asked Mr. O'Reilly about what specifics needed to be decided at the current meeting, and Mr. O'Reilly answered that there was little need to deliberate on much at the present time. We will advertise a combination of bushel limits and closed seasons. He said to keep in mind, that once we have the winter dredge survey and the 2008 versus 2009 table, we will better be able to see what is needed. At this time, staff's plan is to maintain the 34 % reduction.

a. Continued discussion of management alternatives

Mr. Moore asked Mr. O'Reilly to repeat the agent information again, and Mr. O'Reilly responded that approximately 7 or less individuals who were agents received summonses and were found guilty in court.

Mr. Smith asked when measuring agents, was it against card holders or gear licenses? Mr. O'Reilly responded that it was measured against all agents.

Mr. Cox asked if the staff would ask the Commission to advertise bushel limits at the upcoming meeting. Mr. O'Reilly responded that we would advertise the plan, which can be modified by all of these options. One option will be the two cull rings and the amount of savings; another will be the 1942 sanctuary closure. We will also plan to discuss the winter dredge survey results at the following meeting, what this committee recommends, and staff's recommendations.

Mr. Cox wanted to know why we would advertise before getting the survey results, and Mr. O'Reilly responded that the problem was the timing. Many of the regulations are designed to start on May 1. If we wait longer, then changes would have to be made through emergency regulations, or waiting additional months.

Dr. McConaugha asked for clarification on the signing of the sanctuary bill. Mr. O'Reilly said that the bill will go into effect on the 24th of March, and it will transfer the control of the sanctuary to VMRC at that point.

Mr. Smith was concerned about closing the 1942 sanctuary year-round because he felt that crab dredging could never be reinstated. Mr. O'Reilly responded that currently, the bill is written and will go through as a closure, and the Commission can make changes to that.

Mr. Smith asked what Maryland is doing with sanctuaries. Mr. O'Reilly said the original sanctuary proposal did have corridors that extended throughout the bay.

Mr. Smith also asked about Maryland's pot reductions. Maryland crabbers can have 900 pots and he can only have 210. Virginia's crabbers have been reduced and Maryland crabbers can still hold that amount. Mr. O'Reilly said as a committee, you can have

suggestions about the pot limits. Originally the pot limits were in response to the amount of effort in the fishery. The waiting list was part of that as well, and another would be the disaster relief buy out program.

Mr. Nixon asked Mr. O'Reilly if staff is making a recommendation on agent culpability, and was answered that we will advertise for both the license holder and agent to assume responsibility. Mr. Travelstead mentioned getting the assistant attorney general's advice at the last meeting.

Mr. Robins suggested that we go through the options one by one and discuss any recommendations. It is the committee's opportunity to weigh in on options that will be advertised.

Mr. Smith brought up an additional issue. He said that about one third of the licensees on the waiting list were granted exceptions. He suggested that harvesters would report crabs just to get off the waiting list. He thinks that there will be over reporting which will hurt the harvesters who actually crabbed.

Mr. O'Reilly responded that it has probably happened. He described data in 2008 that shows 25 people who suddenly reported harvest (but not a lot of usage) but didn't report in earlier years.

Mr. Robins said if you feel strongly about that point, it may be appropriate for this committee to make a suggestion to the Commission. He said it is something that we have looked at in the past and should be looked at by the Commission. We need a snapshot of some of that audited data.

Mr. O'Reilly said that 2004 through 2007 data will be settled after the next meeting. We may be able to tell you about suspicions we have about the 2008 data. If you audit and suspect a problem, you have to talk to that person individually. In Maryland, it was the lower level licenses, the ones who hadn't reported much harvest at all, that caused a problem. They were on a yearly basis of reporting for their activities, and numerous reports came in from these harvesters suddenly that showed harvests of 60 bushels a day.

Mr. Robins said he would raise the issue with the Commission at the next meeting. Staff has put forward a number of items for the Commission to advertise.

Mr. Robbins asked if there is support for the Commission to advertise for closed seasons and asked for discussion.

Mr. Nixon asked if there was additional need for a fall closure. He preferred any other option to avoid an additional fall closure and dredge closure.

Mr. O'Reilly said that we still have to continue as if we are status quo until the dredge results are available. So, we can assume that we are going for another 34% reduction for 2009, and the bay wide winter dredge survey will modify that one way or the other.

Mr. Robins said we talked about moving forward as a committee about maintaining conservation neutrality. We talked about gaining additional savings for the cull rings and sanctuary. At that point, we may only need one or two percentage points. Bushel limits may achieve that. He asked again if there was any support to advertise for closed seasons.

Mr. Cox asked if this committee decides that we aren't interested in bushel limits, will staff still recommend them to the Commission. Mr. O'Reilly said yes, it would be advertised as an option. Mr. O'Reilly explained that this committee is an advisory group to the Commission, and staff is also an advisory group. It is good if both advisors agree, but staff's charge is to make sure things are in place if the dredge survey doesn't come back with high numbers.

Dr. McConaugha told Mr. Cox, that when we advertise, it just leaves us options. On the 21st, we could need at 34% reduction, and we could take a certain percentage from bushel limits and a certain percentage from closures. Just because it's an option, doesn't mean it has to happen.

Mr. Robins reminded the Committee that we will have an opportunity to come back with detailed recommendation. The committee has not supported a seasonal closure in the past. We can get information tonight on what to advertise. He said that he did not see any support from this committee on closed seasons

Mr. Jenkins asked if it was correct that we went beyond 34% reduction last year (to 37%). Mr. O'Reilly said that that is correct, to date, but there is new data that still needs to be added.

Mr. Jenkins said that last year, we were 3 % over the target, and we didn't have the 2 3/8 cull rings in until July 1. He said that should get us more percentage, and this year we should get another 15% reduction in crab pots. He said that he could come up with a 34% reduction without a closed season.

Mr. Robins responded that we have a 30% reduction in gear which was a decision that was made anticipating a tagging program in place. That would have allowed for a better idea of effort and for transferability. I would encourage committee to ask commission to amend that reduction from 30% or 15%, as it was in 2008.

Mr. O'Reilly said of April 21st, staff would like to be in perfect alignment with CMAC; however, we have a duty to advertise options as if the dredge survey does not have good results. The committee told us that we have to be careful at looking at this reduction overall because the market was a big player in the reductions in 2008. We have to hold onto that, rather than grabbing at percentages. We knew that the harvest reduction was more than just regulations. The regulatory review committee couldn't pinpoint which regulations had the most impact but agreed that without the regulations, the blue crab fishery would be in worse shape. As for advertising, we would advertise something general about reductions in the number of crab pots per license.

Mr. Smith motioned to ask the Commission to restore the gear to the 2008 levels (i.e. not having the additional 15% pot reduction). The motion was seconded by Mr. Palmer.

Mr. Jett felt that we needed specifics in the advertisement, so that people would understand. He felt that this was advertising a blank check.

The motion had no opposition and was approved by consent.

Mr. Freeman requested to add the black sponge crab issue to the agenda for the next month's meeting. This would include a discussion at the April meeting before the Commission meets in May.

I. Bushel Limits

Mr. Smith said that he couldn't figure out a fair way to come up with bushel limits. He was concerned with variability between areas. He was also concerned with variability between seasons with year-constant bushel limits (For example, a harvester would not catch his limit in June and July, but would go over later in the year).

Mr. Robins said that staff is just advertising bushel limits. There are a lot of options, and if we have a lot of reductions from the cull ring, then we may only need a few percentage points of reduction.

Mr. Cox said you have to remember we have states to the north and states to the south that don't have bushel limits.

Mr. O'Reilly said if there needs to be a one or two percent reduction, what other methods would we want to think about. Do we want the Commission to include any finer points if it adopts staff's recommendation for bushel limits?

Mr. Cox said that we have an existing bushel limit in the spring (51 bushels). We could deal with a spring bushel limit more so than any other time of the year.

Mr. Robins said the best thing to do as a committee is to look at the data by month and gear, for the next meeting. He asked Mr. O'Reilly about this option.

Mr. O'Reilly responded that the problem will be the enforcement of so much variety. In the past, that was the reason that we went across all gear types, and they weren't put in place because of that issue. Mr. Robins asked if we can look at spring limits and fall limits, and Mr. O'Reilly said that we could. Mr. Robins said to compare those limits to achieve a one, two and three percent reduction, and asked if it could be available prior to the next meeting.

Mr. O'Reilly said that eventually, bushel limits might be something we can do on that timeframe. The spring would be cut into a very small amount because the season has already started. We could certainly look at the fall and maybe June through November.

Mr. Palmer commented that he would rather catch a few less crabs in June, July, and August, in order for the season to go longer in to the year.

II. Pot Reductions

Pot reductions were discussed under old business.

III. Closed Seasons

Closed seasons were discussed under old business.

IV. Agent Culpability

Mr. Robins reviewed last meeting's discussion on agents and asked Mr. O'Reilly if that was what staff planned to advertise. Mr. O'Reilly answered yes, and we have worked with Assistant Attorney General Josephson for the wording of the advertisement. Mr. Nixon agreed that it was the appropriate thing to do to make the agent just as culpable as the permit holder.

V. crab sanctuary closure May 1 – September 15

Mr. O'Reilly said that last year, the Commission tried to establish a May 1 through September 15 closure. After the bill is signed, the Commission would have to open the 1942 area from March 24th to April 30th, then vote to have that area close from May 1st through Sept 15th to coordinate with the rest of the sanctuary closures.

Mr. Palmer asked if we have any data on catch in the 1942 closure area in March. Mr. O'Reilly said that he would look into it.

Dr. McConaugha mentioned that the earlier estimation was that closure in May would be a less than 1 % reduction.

Mr. O'Reilly said that right now we have two estimates; one is about 0.8% the other is 0.31 %. This information is also based on the approximate area the sanctuary covers.

VI. measures of percent reduction in harvest - 2009

Mr. Smith suggested that the Commission has an opportunity to avoid complicated regimes and bushel limits. If the arithmetic works out, it may be beneficial to leave this area closed. We could possibly gain enough percentage to avoid having a closed season in the fall. It will create a hardship on some degree, in the spring, but mostly I am trying to avoid an old problem of out-of-state boats coming down and crabbing in and around that sanctuary in the spring. He listed four things he hoped would benefit from this: 1) bushel limits, 2) avoid fall closure for good, 3) potentially gain enough benefit to reestablish dredging other than in this area, 4) be able to do away with throwing away black sponge crabs. He felt it would benefit everyone.

Mr. Robins asked Mr. O'Reilly to comment on how that might fit into staff's analysis of harvest. Can you tell us at the Commission meeting what the effect of that would be? Mr.

O'Reilly answered that staff has already looked at some of it (June 1 through September 15 is missing). We can look at it, and that will determine how much savings might be there. He said that there are other productive areas, during the spring, before the entire sanctuary is closed on May 1. Just like all of these measures, there is the ability for some crabbers to move around and recoup some of the reduction.

Mr. Robins said that he would ask the Commission to consider emergency rule making at the next meeting.

Mr. Palmer said he had the opposite view of Mr. Smith. The reason he asked about the crabs caught during month of March is because he doesn't think there are any crabs caught until April. I hope the sanctuary would be open from April 1 through May 15 which may take some of the burden off of some of the watermen. He said that Maryland boats come down, but don't follow the same rules that Virginia boats do.

Mr. Robins said if they are using additional gear, then they are not legal, and we can pass that concern to the Commission.

Mr. Nixon said this would be the first time that we've actually had a real sanctuary, if it is closed, because the area has always been heavily worked in the winter and the spring. So, we've had potential to catch half of what was in that area early and late in the season.

Dr. McConaugha asked Mr. Lipcius if there were enough stations in the sanctuary area without the dredge fishery to see if there was an increase of crabs in that area?

Mr. Lipcius replied that actually we have, and we have been able to survey about 55 stations every month. Over the years, we can track loss in the dredge fishery area; we have numbers already, and we have seen an increase.

Dr. McConaugha asked if, in April, we would have some numbers on the effects of the 1942 closed sanctuary area. Mr. Lipcius said that we have some numbers relating what we've seen compared to years before. There are a couple of ways to look at this to see what is going on. We need to make sure that a decrease in dredge will mean an increase in spawning stock and make sure we don't have other recoupment in other fisheries. The idea is to save the spawning stock, then capture those crabs in the fall. He said that he was much more hesitant about opening up fishing effort in the spring than in the fall after they have spawned.

Mr. Moore said it was an interesting idea to keep this area closed year round and mentioned how this would look as far as conservation benefits.

Mr. O'Reilly said that a lot of the discussion from the jurisdictions last year was to protect the cohort of female crabs that had not yet spawned and try to protect them until they do spawn. Maybe Mr. Lipcius has ideas about the concentrations about crabs in the 1942 sanctuary in the spring as opposed to areas in the north.

Mr. Lipcius replied that those data can be provided, and the dredge survey could give staff that exact information as to what fraction of mature females are in that specific area.

b. Winter Crab Dredge Survey—How it works—Rom Lipcius

Mr. Lipcius introduced Mike Sebo who manages the winter dredge survey. This year, we had a film crew film every step of the process in the dredge survey. They filmed where we caught crabs and where we didn't. At the next meeting, we would like to present this 20 minute film.

Mr. Robins asked for a summary of the survey design at the next meeting as well.

Mr. Smith asked about warming temperatures and the movement of crabs southward. Mr. Lipcius said that he could address that at the following meeting. Dr. McConaugha mentioned that during a tagging study, his team saw crabs as far south as Beaufort, NC. They have always gone offshore, but that doesn't necessarily show a sign of changing patterns.

Mr. Nixon also mentioned that in early 1980's one concern about closing trawling in state waters was not about fluke, but catching crabs.

c. Diamondback Terrapin Bycatch

Ms. Nelson presented information on terrapin rules and regulations coast-wide. She mentioned the large differences in how states view terrapins. In some states there are commercial fisheries, while in others there are lengthy rules and regulations protecting them. Three states, Maryland, New Jersey, and Delaware required bycatch reduction devices (BRD's) on crab pots to limit terrapin bycatch.

Mr. Robins asked for recommendations.

Mr. O'Reilly said that we don't feel there is enough to continue with a regulation, at this time. It's our hope, that once VIMS compiles additional results, we can move from there.

Mr. Robins asked Mr. Lipcius and Ms. Rook do we have data on terrapin distribution that would allow us to take a hot spot approach, since some of the other states' regulations require BRD's in discrete areas.

Ms. Rook said it depends on the time of the year. Out in open water, during the spring, terrapins move into the marsh, and females come on land to lay eggs.

Mr. Robins asked if they are found state-wide or in certain salinity ranges. Ms. Rook explained that if you have a marsh which is decently salty, you will probably find terrapins there. We found a few places on the James River where there were no terrapins where they were expected. Some populations have been found entirely in fresh water, as well.

Mr. Lipcius recommended for staff to fund a survey with disaster relief money on terrapin bycatch. Also, he recommended starting an educational campaign to voluntarily place the BRD's on recreational crab pots.

Mr. Robbins said that communication is going to be a challenge. Right now, two crab pots are allowed per household resident, so if we have an education campaign, it would be hard to get a list of participants.

Mr. Cox believed that some brochures should be made up and that no one wants to catch these turtles.

Mr. Lipcius said to have the brochures and the BRD's to be where the crab pots would be sold is a start.

Mr. O'Reilly said that even though we do not have an additional recreational license until we see 200 million age 1+ crabs, we do have names and addresses for those who had the license previously. That's about 580 people, and we could use that list for a mailer. Also, in 2001, Old Dominion University did a study for us on recreational crabbing, and Virginia Commonwealth University handled the telephone survey part of that study.

Dr. McConaughy said that it would be simple to put something on VMRC's webpage about the turtles and where to get the excluder devices.

Mr. Robins said that his sense, from the committee, was to move forward with a recreational strategy. He asked Mr. Lipcius and Ms. Rook for an update when the project nears completion.

III. New Business

Mr. Smith thought that we should do away with the 2 pot statutory allowance and bring back the 5 pot recreational license. Mr. Robins said the time frame for that kind of action would be in the fall.

Mr. Cox asked if Maryland boats can stack licenses in Virginia. Mr. O'Reilly answered no, because they would need a Virginia license, so they would be subject to the change in the 300 pot limit in the tributaries and a 500 pot limit in the main stem bay.

Mr. O'Reilly said last month, we reintroduced how many days each crabber had per season. This was designed to get some type of direction on being able to build up your rig. Mr. Robbins said it was determined this was risk prone and was dropped.

Mr. Nixon commented that legislation to increase out-of-state license fees failed. Mr. Smith said that Maryland has it set up so that their fees already go with the other states. So if we raised our fees to \$800, theirs may raise to \$1,500 for a Virginian to work in Maryland. If that had gone ahead, we were going to ask for the bill to be amended that if

there were anything that wasn't reciprocated with states, we could fail to reciprocate with them. That might be able to be put forward next year.

IV. Next Meeting Date

No date for the next CMAC meeting was set.

V. Adjournment

Meeting adjourned at 7:53 pm.