

**VIRGINIA MARINE RESOURCES COMMISSION  
FINFISH MANAGEMENT ADVISORY COMMITTEE  
2600 WASHINGTON AVENUE, NEWPORT NEWS, VA  
VMRC COMMISSION ROOM, 4<sup>TH</sup> FLOOR  
MONDAY, AUGUST 24, 2009–6:00 P.M.**

**ATTENDANCE**

Members Present

Hon. Ernest Bowden, Jr.  
David Agee for Ken Neill  
Jeff Deem  
Russell Gaskins  
Wynston Holbrook  
Doug Jenkins  
Hon. William Laine  
Scott MacDonald for Pete Nixon  
Sam Swift  
Robert Weagley

VMRC Staff

Jack Travelstead  
Rob O'Reilly  
Joe Cimino  
Laura M. Lee  
Alicia Nelson  
Mike Johnson

Members Absent

Andy Hall  
Chris Vaughn  
Tom Powers  
Walter Rogers

Others Present

Robert Allen  
G. G. Crump  
Dr. Chris Hager  
David Adams

A quorum was present, with 10 members in attendance.  
Minutes were recorded by Alicia Nelson.

**SUMMARY**

**I. Introductions; Announcements**

There were no introductions or announcements.

**II. Approval of minutes from May 12, 2009 meeting**

Mr. Swift motioned to accept the minutes from the July 16, 2009 meeting, and Mr. Deem seconded the motion. The motion passed unanimously.

**III. Old Business**

**a. River Herring Information Meeting Update**

Mr. Travelstead updated the committee on the recent river herring meetings. He explained that the river herring population started to crash in the 1980s and continued at a low level to the present time. Part of this decrease in harvest is due to effort. The ASMFC is planning an update for a stock assessment for 2012; however, there is currently not enough information for a stock assessment. On Jan 1, 2012, there will be a moratorium on river herring harvest in every state, unless the state can show that the harvest is sustainable and will not affect future stock in that state. Very few states will have the information needed to prove the fishery is sustainable, and New York may try to qualify.

If we do nothing, our fishery will close on Jan 1, 2012. If we develop a plan for sustainability, the ASMFC will decide if we will have a fishery. In order to prove sustainability, the absolute minimum data needed are estimates of annual juvenile and adult abundance and spawning stock biomass (SSB). A good example of SSB data is Connecticut's program, in which they count every fish that goes through a fish ladder set up along the spawning route.

In Virginia, we have limited data, and many of the available data sets are highly variable. The time series is short for most of the data sets (generally from 1980 to present), and we would need information dating back to the 1970s, since the data do not capture the previous time periods when the stock was healthy. Because of data limitations, we do not have a high probability of success in this effort. He said the landings data we have prior to 1993 is from voluntary reporting. Since 1993, it is from the mandatory reporting program. Based on this information, a lot of the harvest is bycatch. Species identification in the databases is also a problem because harvesters would use the general term "menhaden" to report river herring, let alone report specific to river herring.

At the August Upriver Watermen's Association meeting, where members of VMRC and ASMFC staff were present, association members came up with some solutions. First, anyone catching river herring (commercially or recreationally) would be required to obtain a specific permit, and be required to report catch (in addition to current reporting systems). Recreational harvesters would be limited to one 5-gallon bucket of fish per person per day. For commercial harvesters, there would be no fishing on the weekends in the spawning grounds. Also, they mentioned adding a level of bycatch to the harvest and limiting gill netters and pound netters to a certain number of fish per trip. There would be no directed fishery.

Mr. Travelstead also mentioned that a moratorium would be very difficult for pound netters because it would be difficult to cull through the catch to remove all of the river herring. The river herring fishery still means a lot to some people. There are businesses that cater to recreational fishermen, and the loss of the fishery in 2012 would be a significant loss of their business. There will be people who will be negatively affected by this. The ASMFC will likely make it very difficult for states to prove sustainability and avoid the moratorium.

Mr. Agee asked how many commercial river herring fishermen there were, and Mr. Travelstead replied that river herring fishermen were rare, and some are fishing for bait while others are fishing for roe. It is mostly a recreational fishery.

Mr. Deem asked how long river herring live, and Mr. Travelstead said they reach 9 years. They are anadromous and generally return to fresh water at age 4, sometimes age 3.

Mr. Deem asked if herring in Virginia waters are always from Virginia stocks, and Mr. Travelstead answered that there is a lot of information showing that they are.

Mr. Weagley asked about the possibility of us getting a bycatch fishery. Mr. Travelstead replied that he didn't know. The ASMFC seems to be headed toward serious action on things like river herring. At last week's Management Board meeting, they approved an almost identical plan on American shad. It doesn't affect us because we already have a moratorium, but it affects other states.

Mr. Deem asked if we had any idea where the river herring are going or what happened to them. Mr. Travelstead said that loss of spawning habitat, for the past 100 years, has had an impact. There are thousands of dams up and down the coastline, and there is evidence to show that concrete culverts and overpasses have an impact on migration to spawning grounds(the shadowing may keep the river herring from going through). The other big issue is bycatch of river herring in the ocean fisheries. The federal agencies are looking into that as well.

Audience member David Adams commented on the river herring item. The owner of Adams Sports Mart in Providence Forge, Mr. Adams said that in April, late March, and early May, herring fishermen make up 25 to 50 percent of his business. He mentioned the large quantities of blue catfish in the river and the large striped bass population. He said that the river herring fishery meant a lot to the people in the area, and that people come from all over the state to fish for river herring, and a lot of kids have learned to fish at Walker's Dam, while fishing for river herring. If we lose our season, we are going to lose it so that the trawlers offshore can catch them. He said that the group chose a 5-gallon bucket so that it would be easy to enforce and that he was in favor of a river herring license. He mentioned that duck hunters have to call in to the harvest information program. A similar program for herring might be a big help.

Mr. Laine asked if the fish could get above Walkers Dam. Mr. Adams responded that there is a fish ladder, and there used to be a lock there as well.

Mr. Bowden asked what was needed from the committee, at this time, and Mr. Travelstead said that the committee needed to comment on the recommendations, endorse these options, or add to them.

Mr. Gaskins said that it's a very limited season (short season). A bycatch is necessary because they can't come into the dock and get a ticket for having one fish.

Mr. Jenkins suggested a percentage instead of poundage for the bycatch allowance, and Mr. Gaskins said the fishermen need several hundred pounds in their 20,000-pound catches. Mr. Bowden suggested starting at 10% and asked if everyone was in agreement.

Mr. O'Reilly said that we should look at the pound net information on a trip basis. Apparently, at times when the roe was the main product, the carcass weight didn't get reported. He was not sure that the data will back up a 200 pound-per-trip bycatch. The data will show smaller bycatch because the carcass weight wasn't always included. If we came up with a bycatch amount, the ASMFC would want to put it in context of what was harvested in the past.

Mr. Bowden asked if the committee preferred a poundage or percentage for the bycatch allowance and mentioned that we aren't going to get a lot of help out of the mandatory reporting system. The committee agreed on a percentage.

Mr. Weagley motioned to go with the public recommendations made at the August Upriver Watermen's Association meeting, as presented by Mr. Travelstead, and add a 10% bycatch clause for the commercial fishery. After some discussion, there was consent on the motion, and everyone was in agreement that the bycatch should be 10% of the aggregate harvest or 200 pounds, whichever is greater. This protects both the drift net and pound net fishermen.

**b. HB 2256: Discussion of distance between nets and fixed fishing devices**

Mr. Travelstead said that recently, there was legislation passed at the last session of the General Assembly for VMRC to set the distance between any fixed fishing device or any other net. Right now, that distance is 300 yards. This stemmed from a complaint from a pound netter in the northern neck who had another fishermen set a net exactly 300 yards from his net. He felt this net would affect his catch. He went to Delegate Pollard to increase the distance, and Delegate Pollard sent him to VMRC to address the problem.

He said that at the Commission meeting tomorrow, we will recommend that the distance stay at 300 yards, but any fisherman who is aggrieved by that can petition the Commissioner to grant a variance to increase the distance on that specific location. It can not be decreased state-wide because we have so many nets already in place that are set 300 feet apart. If we change it now, it would make all of those nets illegal.

Mr Jenkins didn't think it was necessary for this Committee or the Commission to act on something like this. It would be changing the rules to suit one person.

Mr. Jenkins also worried that there would be problems with the Commission granting an exception one time, and not the next. Mr. Bowden agreed that it would open a door. If you give one man 400 yards, then someone else would want 400 yards. He felt that this particular issue was a personal problem.

Mr. Travelstead agreed that it sounded like a personal problem and said that it would be difficult for a fisherman to demonstrate a decreased catch. However, we wanted to provide this to the Commission if they wanted to go through with it.

Mr. Bowden agreed that it would be difficult to demonstrate the loss of catch because the catches would be highly variable.

Mr. Gaskins said that 900 feet (300 yards) was a long distance on land, but was a lot closer when you consider being on the water, and Mr. Bowden mentioned that the rule had been 300 yards for over 50 years.

Mr. Weagley said that when several pound nets are lined up, the ones in the middle could catch as many as the ones on the ends.

There was consensus in the committee to not recommend moving forward on providing for a variance procedure at the Commission level.

#### **IV. New Business**

##### **a. Report and recommendations of the Gill Net Sub-Committee for gill net limited entry and spiny dogfish limited entry.**

Mr. Travelstead explained that the Commission has already set a control date of December 2005 for the gillnet fishery, putting people on notice that if you entered the fishery after that date, you may not be entitled to continue in the fishery in the future. It is an indication the Commission is concerned about the status of the gillnet fishery and may limit entry at some point. With that in mind, a gillnet subcommittee was formed and met three times over the past few months.

Both a gillnet limited entry and spiny dogfish limited entry were addressed. There has been concern about increased activity in the gillnet fishery. Croaker are showing some preliminary signs of decline. We haven't seen it here, but North Carolina and the Potomac River have seen reductions in catch. We are in a position to take action early and head off some problems which may be coming down the road. There is also the concern with out of state individuals entering the fishery.

On the spiny dogfish end, the quotas are improving, but they are still small. The ASMFC has divided the quota north to south. Right now, we share a quota from New York to Virginia. Eventually, that will be broken down into state-by-state quotas. New Jersey is just starting to build a fishery, and if that gets going, they are going to push for state-by-state quotas. If that happens, we are going to get a small quota, and it will not be enough to sustain all of the gillnetters.

There was agreement about the gillnet fishery to prevent elimination of those who have been in the fishery for the longest amount of time. If you have to push anyone out, it would be those that have entered the fishery in the last three years. The proposal would

create two classes of gillnet licenses: a class A and a class B. In this case, class A would entitle the holder to fish up to ten nets (up to 1200 feet). To qualify for class A, a fisherman must have had a gillnet license prior to the control date, or a recent entrant to the fishery must have gillnet activity for at least 100 days in any one year from 2006-2008. The guys that gillnetted two weeks to four weeks that compete with the full timers would be excluded from the class A license. Guys who had harvested for at least 60 days in any two years from 2006-2008 would also qualify. He also presented the numbers of harvesters who would qualify for each license.

Mr. Bowden said if you are a gillnetter, you will not be knocked out of the fishery but will not be allowed to fish as many nets as those with class A licenses.

Mr. Travelstead explained that within the class A license, there would be a resident and non-resident category. A resident could only transfer to another resident and a non-resident to a non-resident. For the class B license, available to anyone who couldn't qualify for a class A license, the licensee will be limited to 5 600-foot gillnets. New entrants into the fishery would enter as a class B, or buy a license from a class A holder. Individuals would not be allowed to possess both licenses, and partial license sales would not be allowed.

He said that because the spiny dogfish quotas are small, we can't open it up to every gillnetter. However, we must do something to protect those who are in the fishery for the long haul. This option was designed to include gillnetters who had been in the fishery for a long time and those who had entered and harvested a large amount. To qualify for the limited spiny dogfish fishery, a harvester would have to average 60 days of harvest by gillnet from 2006 through 2008 and had at least one pound of spiny dogfish or have documented harvest of more than 10,000 pounds of spiny dogfish in any one year, from 2006 through 2008.

Mr. Deem asked if someone sells his class A license, could he turn around and buy a class B? Mr. Travelstead answered that they could; however, most full time gillnetters fish more than five nets (up to 600 feet) unless they are in the rivers.

Mr. Bowden said that we don't know where we are going with these fisheries. Virginia has kept a stable croaker fishery, but North Carolina has had a drop-off, and the South Atlantic has had a terrible time. He thanked the staff for getting the group a lot of information in a short period of time. Everyone at the meetings was agreeable with the options. We didn't want to eliminate anyone from Virginia, but there were individuals who had 21 sets of licenses, and that's a little much. That person was from out of the state.

Mr. Travelstead said that we planned take this to the Commission at the September meeting. We don't have to act on it today, and we can put it on the September agenda.

#### **b. Bycatch in Pound Nets**

Mr. O'Reilly said that, recently, there have been several calls about pound net waste, specifically about the dumping of pinheads and small trout. There were reports of 10 boxes (1,000 pounds) being dumped for the sake of some butterfish. We do not normally get calls like this. The individuals who called in about this issue were informed that this was on the FMAC agenda tonight.

For croaker, there is concern about our harvest. The peak was a few years ago, and there have been some decreases, but we are still in a lot better shape than North Carolina. There is the idea that croaker have been in good abundance for about 13 years. If there is depletion occurring, we haven't seen it here yet, and the VIMS juvenile index looks pretty good for 2008. The two callers didn't like seeing dumping of small croaker and small weakfish. Weakfish are becoming more of an issue because at the November ASMFC meeting, they will call for either a moratorium or bycatch allowances in commercial fisheries, and the recreational fishery would drop to one or two weakfish. It's hard to say what will happen in November, and most of the states weren't quite ready to vote for a moratorium.

He said this is relevant to pound nets because they catch a lot of small fish. Currently, there are 59 active pound nets (set and fishing). Our cap is 161 pound nets, so it will remain a small fishery. There will be some focus on pound nets because most have an exemption from the weakfish closed season and there is also no size limit for them on weakfish. The other issue with small fish is that often they are called "bait" on mandatory reporting. Sometimes, what is reported as bait includes croaker or small trout. Chris Hager, from VIMS, has done some work on escapement panels. The VMRC has studied them on the Eastern Shore previously, and Chris has a more modern approach. This is an introduction into what the pound net fishery might be facing in the future to stay out of harms way. There is nothing breaking on this issue right now, but it is important that we all start to think about the possibility of escape panels.

Dr. Hager, from VIMS, passed around a plastic resin model escapement panel that was developed in response to a weakfish bycatch and under-sized flounder no-tolerance bycatch in the Potomac River. Dr. Hager gave a presentation about the history of the herring fishery and the development of the escapement panels in the Potomac River. Dr. Hager outlined the importance of location of the panels in the head of the net, in terms of release of small or sublegal fish. Dr. Hager showed that the escapement of summer flounder and river herring was tied to the size of the escape panels. He indicated that the escape panels were effective in releasing river herring were also effective for small croaker.

Mr. O'Reilly said that he thinks the complications are coming our way. For pounds nets, in 1995, it's really remarkable that ASMFC could be convinced to let the pound net fishermen lay away licenses instead of having a closed season. He wasn't sure what to expect in the future. For the pound net fishery, we are also in a difficult position because we aren't sure what is included in the bait. He also said that some pound net fishermen may think that it would be harmful to know exactly what is included in the bait; however,

it's actually the opposite. It is much better for modeling to know what is included in the bait.

### **c. Other**

Mr. Holbrook asked if there had ever been consideration for recreational rock fish season in the bay to trade October days for extending into January days, or is it a possibility.

Mr. Travelstead said that it's something that you would have to get approval from ASMFC to do. One of the concerns would be that there is no estimation of harvest – no MRFSS survey during wave one (January and February). Under the new system that will be in place, we are hoping that they will be sampling during January and February.

Mr. Holbrook asked how much bigger the recreational bay fishery is than the ocean fishery.

Mr. O'Reilly said December and parts of November include about 85 to 82% of the entire harvest. This year, we were a little bit under the quota, but in the past, since we've had the quota in 1997, we've had large overages. The years that we have been over, they have been pretty massive. This next year, we want to watch and see how we do. The 2008 December number was really low.

Mr. Weagley asked if anything was definite on roll over on striped bass quota.

Mr. Travelstead said not yet, it will be going to public hearing. We might get something out of it. It scares me when you roll over underages of quota. They are talking about allowing percentages. What is really upsetting is that if Virginia doesn't use its entire quota, we may have to give our quota to someone else.

Mr. Travelstead also mentioned the current projections on recreational harvest of black sea bass. By the end of the year, we will have tripled the coast-wide quota. We will be asking the Commission tomorrow to begin the public hearing process for closing the season.

### **V. Next Meeting**

The next meeting date was set for September 21, 2009.

### **VI. Adjournment**

The meeting adjourned at 8:13 p.m.