

# SUBMERGED AQUATIC VEGETATION ON THE SEASIDE OF VIRGINIA'S EASTERN SHORE: RESTORATION GOAL DEVELOPMENT & MANAGEMENT REPORT

*May 2015*

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## EXECUTIVE SUMMARY

The natural resources of the Seaside of Virginia's Eastern Shore provide for economically important clam and oyster aquaculture industries, the wild harvest of clams and oysters, and traditional recreational activities while allowing for the development of a viable and potentially commercially productive bay scallop population.

Submerged aquatic vegetation (SAV) provides for water quality and natural habitat critical to each of these marine uses. SAV was highly abundant on the Seaside before being decimated by storms and disease during the early to mid 20th Century. In an attempt to reestablish SAV restoration efforts have been under way since 1997 with funding from the Virginia Coastal Zone Management (VA CZM) Program. As a result of the restoration and natural expansion, SAV occupied approximately 7,174 acres in 2012 within the coastal bays of the Seaside of Virginia's Eastern Shore. This SAV restoration has, however, resulted in some concern that further expansion could limit the growth of the aquaculture industry on the Seaside. In response, the VA CZM Program and the Accomack-Northampton Planning District (A-NPDC) coordinated a multiyear and interagency endeavor with the agency staff of the Virginia Marine Resources Commission, Virginia Institute of Marine Science (VIMS), and VA CZM Program to determine how much and where SAV could exist on the Seaside based off current environmental conditions and identify policy options that could directly augment SAV restoration in a manner that minimizes conflicts with other marine uses.

The project team reviewed current Virginia regulations regarding SAV and aquaculture, reviewed SAV restoration activities in other states, and conducted an assessment of current environmental conditions to identify the extent of potential SAV restoration within the coastal bays on the Seaside. The VA CZM Program's GIS Coordinator created maps depicting existing and potential conditions and GIS analysis to create tables of acreage of water use.

The project team assessed current SAV coverage data and its location relative to existing Baylor Grounds and privately leased bottomland. The assessment of the Seaside including Dr. Orth's scientific expertise on the bio-geophysical potential of eelgrass to expand determined that 9.7% of all areas either currently have or were suitable for SAV growth. Furthermore, 80% of the areas suitable for SAV growth exist within Spidercrab/Cobb Bays and South Bay. Dr. Orth reported their findings to the full Commission (the Commissioner and eight additional members appointed by the Governor) in January, 2014 and was directed to return with recommendations for new SAV restoration set-aside areas in addition to those previously designated for the Commission's consideration.

Spidercrab/Cobb and South Bays were evaluated and four specific areas were identified that were currently unassigned (i.e. not within Baylor grounds or privately leased bottomland); classified as having a low shellfish density; not classified as a dominant recreational use area; and either has existing SAV or is directly adjacent to existing SAV. The Commission reviewed a request from the project team in January, 2015 and approved two of the four areas. To address concerns from the aquaculture industry, the areas were approved for five years and require an annual report from VIMS regarding the status of SAV in the areas. While concerns about the approved SAV management approach remain within the aquaculture industry, the set-aside areas will allow for natural expansion and restoration of SAV in a manner intended to mitigate and reduce conflicts with marine uses while augmenting water quality and habitat. These additional set-aside areas constitute enforceable policies developed under the Seaside Special Area Management Plan to develop a more dynamic management system that matches the dynamic nature of the Seaside's barrier island-lagoon ecosystem.

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## *Introduction*

The Virginia Coastal Zone Management (VA CZM) Program and the Accomack-Northampton Planning District Commission (A-NPDC) coordinated a multiyear and interagency endeavor from 2013-2015 to identify and establish an appropriate restoration goal for submerged aquatic vegetation (SAV) for the Seaside on Virginia's Eastern Shore and identify policy options that could directly augment SAV restoration in a manner that minimizes conflicts with other marine uses. Specific consideration was needed and given to the continued development of ongoing and economically important clam and oyster aquaculture, the wild harvest of clams and oysters, and traditional recreational activities while allowing for the development of a viable and potentially commercially productive bay scallop population.

A project team consisting of representatives from the Virginia Marine Resources Commission (VMRC), and the Virginia Institute of Marine Science (VIMS) was established and began meeting on August 6, 2013 to accomplish the following:

1. Review current spatial data for existing SAV areas,
2. Discuss and identify potential future SAV set-aside areas,
3. Identify knowledge or research needs for understanding bay scallop acreage requirements for SAV, and
4. Identify and recommend options for VMRC policy changes that would specifically support and enhance efforts for restoring SAV and bay scallop populations.

The following report summarizes all project outcomes and is intended to serve as a guide for SAV restoration management on the Seaside that will help maximize environmental quality and economic prosperity while minimizing potential marine-use conflicts.

### *I. Background*

#### *a. Historic Seaside Planning Efforts*

In 1990, the VA CZM Program initiated a Northampton County Special Area Management Plan (SAMP). While much was accomplished, zoning to protect sensitive natural areas was never adopted. In 2002, the VA CZM Program initiated the Virginia Seaside Heritage Program to restore the coastal habitats of the Seaside of Virginia's Eastern Shore and to promote economic activities such as ecotourism and aquaculture in a sustainable manner. The Seaside Heritage Program was funded through Section 306/306A of the Coastal Zone Management Act.

As the VA CZM Program moved beyond habitat restoration, ecotourism and aquaculture into a management plan for the seaside, the Seaside Heritage Program activities were expanded into traditional SAMP activities; i.e. the development of new enforceable policies that would serve to protect the program's investments on the Seaside.

The goals of the Seaside SAMP are to:

1. Map, analyze, and interpret the current status and trends in uses, economic values, and beneficial ecosystem functions associated with state-owned and other habitats in the seaside bays,
2. Re-evaluate these uses in light of current and projected conditions, and
3. Recommend guidelines for the allocation of resources in a manner that optimizes the environmental and socioeconomic benefits derived.

Using existing GIS data, stakeholder and user information, management agency input, and the additional field-collected data, the effectiveness of use-allocation patterns such as state oyster grounds were being examined in the context of current stakeholder uses and needs, eelgrass and oyster restoration potential, clam farming, and current ecological conditions, including bird distribution and uses, and ecotourism and recreational needs. The Seaside SAMP has also initiated a consensus building-process that will result in recommendations that encompass planning, regulatory, and other guidelines to increase economic productivity, enhance ecosystem health, and resolve potential conflicts.

Data collected and housed in the Virginia Coastal Geospatial and Educational Mapping System (Coastal GEMS) has been used to inform policy management and regulatory recommendations and guidelines, as well as provide visual aids for all public input processes. Coastal and marine spatial planning exercises exploring possible resource allocation scenarios were utilized to support the development of recommendations for statutory, regulatory, or other changes, as needed.

In 2013, the current project commenced to develop information and make recommendations for coastal and marine spatial planning efforts associated with the Seaside SAMP.

In addition, the project attempted to leverage knowledge and understanding from the experiences from other states that have undertaken similar efforts to establish appropriate SAV restoration goals, such as New York, Massachusetts, North Carolina, and Florida. The efforts in other states have resulted in positive outcomes including the restoration and protection of adequate acreage to support the development of new industries and sustainability of existing industries.

#### *b. Commonwealth Authority for SAV Protection and Restoration Relative to Aquaculture Activities*

Virginia's jurisdiction over its coastal waters and bottomlands (or submerged lands) extends from the mean low water shoreline three nautical miles seaward (Submerged Lands Act of 1953, 43 U.S.C. §§1301–1315). The Commission has jurisdiction over the Commonwealth's bottomlands and manages these lands in public trust (Chapter 12 of Title 28.2 of the Code of Virginia). Pursuant to Code Section 28.2-1205 the Commission must

consider the effect of an activity on SAV when making any permit decision for the use of State-owned bottomlands. Furthermore, pursuant to Chapter 6 of Title 28.2 of the Code the Commission is authorized to issue leases of bottomlands, other than those designated as public oyster grounds, for planting and propagating oysters and clams.

In January 1998, the Commission adopted regulations for aquaculture structures that may be placed on and immediately above privately leased shellfish grounds (*4VAC 20-335-10 et seq.*) Specifically, this regulation requires that “No new structures shall be placed on existing stands of submerged aquatic vegetation”. In December 2007, legislation was passed establishing a general permit authorizing the use of temporary protective enclosures to grow shellfish on leased grounds (*4VAC20-1130-10 et seq.*). This regulation included more inclusive protections for SAV including “No temporary protective enclosure shall be placed in or upon submerged aquatic vegetation beds, and consideration, by the Commissioner, for authorizing the placement of protective enclosures in currently un-vegetated areas that are documented as historically supporting SAV beds, shall include consultation with the Virginia Institute of Marine Science, in order to determine the potential for impacts on SAV, within the term of the prospective lease. If SAV colonizes within the boundaries of the area designated for the temporary protective enclosures, the authorization for those structures under this general permit shall remain in effect only for the remainder of the term of the lease. The general permit shall be renewed only upon a finding by the Commissioner that the placement of the temporary protective enclosures, within the lease, will not significantly interfere with the continued vitality of the SAV.”

In November 2000, SAV restoration guidelines were adopted (*4VAC 20-337-10 et seq., SAV Transplantation Guidelines*) that acknowledge the ecological and economic benefits of SAV and measures intended to mitigate unavoidable impacts of permitted activities on SAV and assist interested parties in designing SAV restoration projects. Subsequent milestones included the Commission’s establishment of a 400-acre SAV restoration set-aside area in South Bay (2000), another 500-acre area near High Shoal Marsh in Hog Island Bay (2006), and an addition of 366 acres to the South Bay area (2006). These existing set-aside areas are permitted for five years before coming before the Commission for consideration and prohibit uses detrimental to SAV beds such as dredging. These areas were selected in much the same manner as the current project.

Finally, in recent years the Commission has employed a policy of not leasing areas with existing SAV. For example, in some instances where there is a documented history of SAV presence within a lease area, the Commission has coordinated with VIMS to address potential for future SAV growth to avoid possible conflicts with any aquaculture use.

### *c. SAV Restoration Efforts and Outcomes in Other States*

#### *Nantucket, Massachusetts*

Nantucket's largest commercial shellfishery is the harvest of bay scallops. The island hosts one of the last wild-harvest bay scallop fisheries in the nation. In 2012, the [Nantucket Shellfish Management Plan](#) was published and serves as the first official management plan for commercially and recreationally harvested shellfish in Nantucket waters. The document was developed by and for local stakeholders with specific attention paid to the biology of the shellfish resources, the interactions within the surrounding ecosystem, the needs and interests of the shellfishing industry, and the cultural and economic attributes of Nantucket.

The Plan established general goals for the local industry including maintaining or improving habitats associated with a healthy shellfish fishery and maintaining or enhancing the populations and health of shellfish of commercial and/or recreational importance in Nantucket waters. The Plan provides a baseline for pertinent local background information and maintains a flexible format that can provide for regular edits and adaptation on an as-needed basis. All background information is then used to make recommendations, determine adaptation processes, and identify research/information needs that comprise the actions needed to be taken to achieve the Plan's goals. The Plan also establishes an as needed, but no longer than 3-year updating process to allow for new information to be incorporated in an efficient and effective manner.

Recommendations were developed for Habitat Management, Shellfish Resources, Regulations, Management Implementation, Education, Harvest Documentation, Support of the Commercial Fishery, and Adaptation of the Plan. A matrix of recommendations from the Plan is included in **Appendix A**.

#### *North Carolina*

In 2007, the North Carolina Department of Environment and Natural Resources Division of Marine Fisheries under the direction of the North Carolina Marine Fisheries Commission with advice from a state Bay Scallop Advisory Committee produced the [North Carolina Bay Scallop Fishery Management Plan](#). The planning effort engaged key stakeholders to establish a consensus management plan for the restoration, sustainability, maximization of the social and economic value, and initiate studies of the bay scallop population in North Carolina. The commercial supply of bay scallops in North Carolina has never been able to keep up with increasing demand and the supply is limited to Bogue and Core sounds making it vulnerable to environmental factors such as algal blooms, hurricanes, and predators. The limited areas that bay scallops are available make limitations on harvests very impactful to the local watermen.

The Plan considered management strategies regarding area and seasonal closures, size and trap limits, gear restrictions, and prohibited takes while identifying key research needs to enhance overall management of the population.

Specific recommendations and implementation measures were developed concerning four general categories: insufficient data, environmental concerns, harvest concerns, and stock enhancement.

Recommendations to provide for more sufficient data included establishing a long-term fishery monitoring program including recreational and commercial harvest data and socioeconomic surveys commercial and recreational stakeholders.

To address the need for enhanced understanding of the environmental impacts from bottom-disturbing harvest techniques. Once accomplished, the Plan calls for the establishment of protective buffers and further restrictions on mechanical shellfish harvesting.

To address harvest concerns such as algal blooms, hurricanes, and predators; the Plan proposes considering regulating the harvest of scallops from polluted areas and the prohibition of soaking scallop meats.

### *Florida*

The Florida Bay Scallop population and SAV has experienced a similar decline to other areas along the Atlantic Coast as result of ongoing threats including overpopulation and consequent commercial development and recreation. A management planning effort such as those developed and described above for Nantucket Bay and North Carolina has not been developed to date. The fishery has historically been managed by a number of federal and state laws and regulations; however, to date the regulatory actions have accomplished little to slow the decline of SAV habitat.

Additionally, restorative measures for SAV have not produced desired results and the South Atlantic Fishery Management Council recently expressed the need to focus on protecting existing SAV areas. The Council further recommended that additional studies be performed to supplement a comprehensive strategy for addressing the disturbing decline in SAV in the South Atlantic region.

## *II. Spatial Analysis and Methods*

The project team met on August 6, 2013 to review current spatial data for SAV coverage and its location relative to existing Baylor Grounds and areas of bottomland with established private leases. The project team then used this information to discuss and identify potential future SAV set-aside areas.

The following sections describe the project team's findings.

### *a. Current Situation*

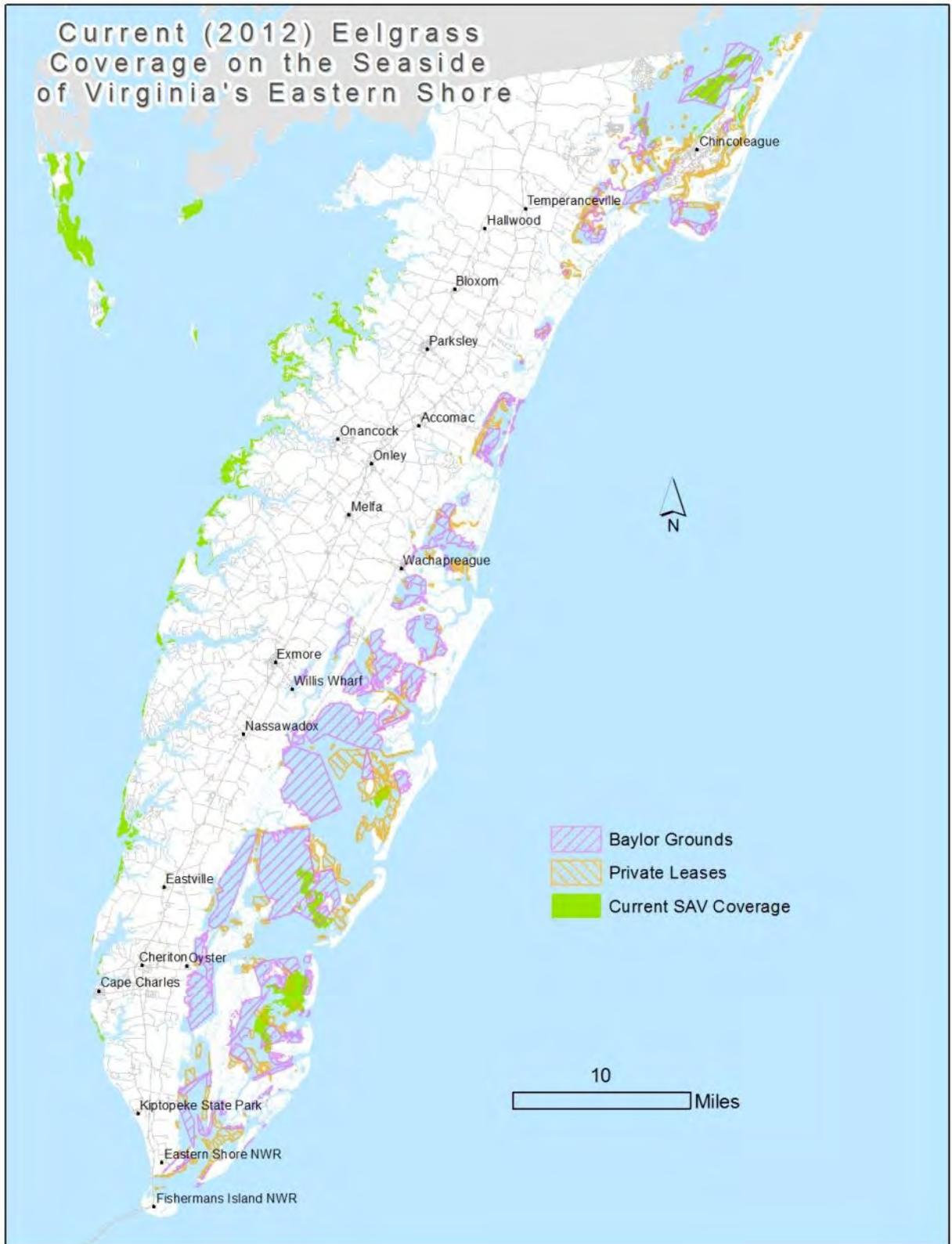
The spatial data utilized by the project team showing the current spatial data for SAV coverage and its location relative to Baylor Grounds and private leases is included in **Figure 1**.

Current SAV coverage exists in concentrated areas on subtidal bottomlands within the back-barrier lagoons on the Seaside. Since SAV restoration is only possible in subtidal areas, the map in **Figure 1** was developed by clipping the Baylor Grounds and private oyster lease datasets by water coverage within the Seaside Bays.

SAV preferentially grows in locations that experience a relatively high amount of water temperature change. On the Seaside, these are typically relatively shallow water adjacent to tidal inlets.

SAV currently exists over unassigned bottomlands, private leases, and Baylor Grounds. Recent SAV restoration efforts adjacent to locations with existing SAV coverage have shown that some locations are more ideally suited for targeted SAV restoration than others.

*Figure 1*



### *b. Future Areas Suitable for SAV Restoration*

After determining the areas with greater concentrations of SAV coverage, the project team attempted to identify by consensus the areas with the greatest potential concentration of acreage suitable for SAV restoration. For this process, the project team considered the following criteria for identifying priority areas suitable for SAV restoration:

1. Proximity to concentration of existing and thriving SAV beds;
2. Amount of suitable SAV locations within areas that had minimum acreage held in private oyster leases; and
3. Amount of suitable SAV locations within areas that have abundance of acreage of Baylor Grounds or unassigned bottomlands.

The project team determined that two general areas, Spidercrab/Cobb Bays and South Bay, most appropriately met these criteria (see **Figure 2**).

The project team then utilized GIS to determine the exact amount of potential acreage suitable for expansion of SAV and the breakdown of acreage established as Baylor Grounds, private oyster leases, and unassigned bottomland clipped by water coverage within the seaside bays. **Table 1** summarizes the outcomes of this assessment.

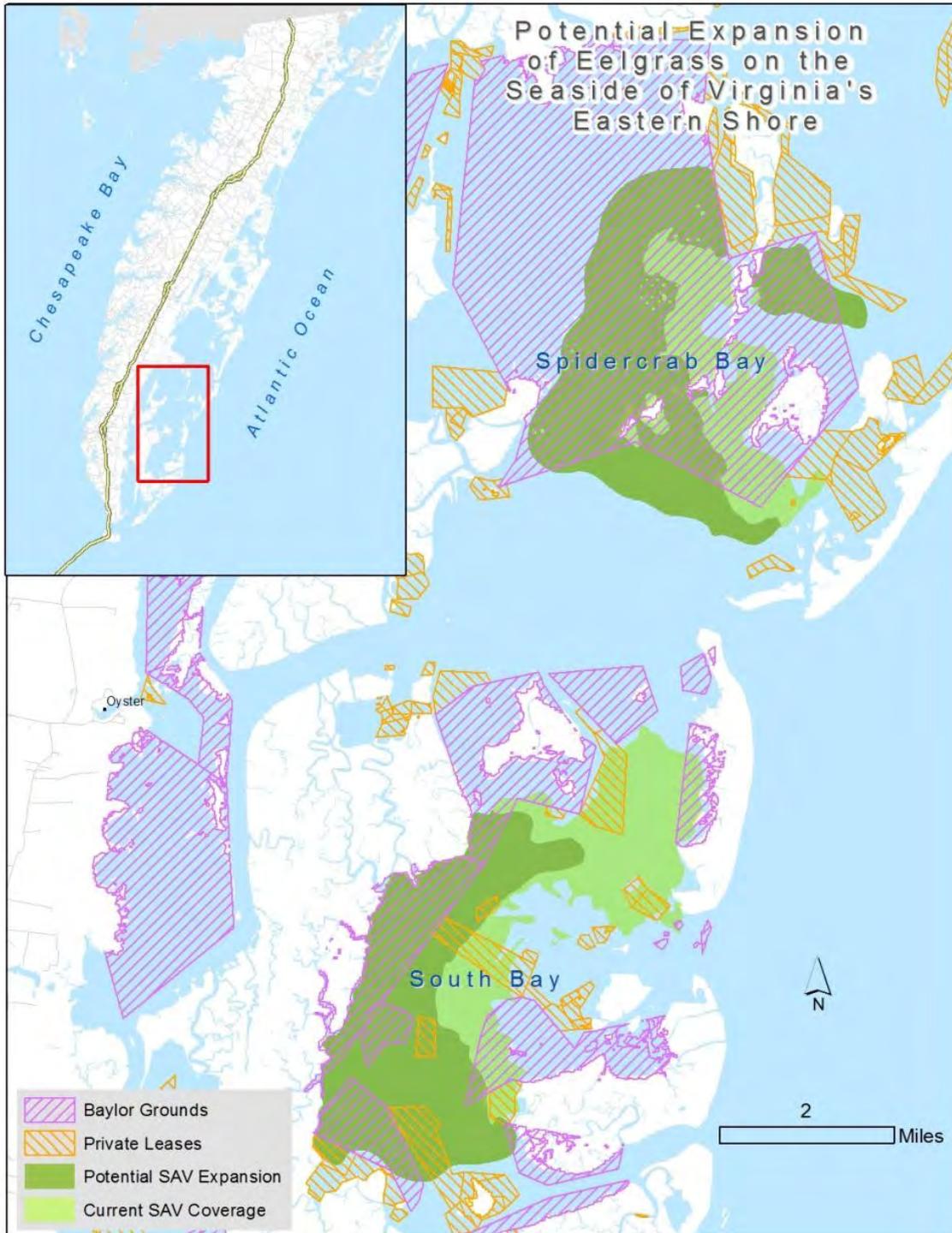
The assessment in **Table 1** indicates that in 2012 there were 7,174 acres of SAV coverage on the Seaside. 4,190 Acres, or 58%, of all SAV coverage on the Seaside exists within Spidercrab/Cobb Bays and South Bay. This was one factor for the project team's decision to identify these bays as the most suitable area for SAV restoration activities. In addition to the 4,190 acres currently in Spidercrab/Cobb Bays and South Bay, the project team identified an additional 7,712 acres suitable for SAV growth.

On the entire Seaside, the project team identified a maximum of 14,886 acres that currently have SAV or are suitable for SAV growth. 11,902, or 80%, of the areas suitable for SAV growth on the Seaside exist within Spidercrab/Cobb Bays and South Bay.

There are currently 8,216 acres of current and potential SAV growth areas within Baylor Grounds constituting 16.3% of the entire Seaside. The 8,216 acres within Baylor Grounds are currently not suitable for oyster growth and could be used in a manner that is more beneficial in terms of water quality and habitat, such as SAV restoration.

Finally, private oyster leases exist on 17,386 acres, or 11.4%, of open water on the Seaside. Within the 17,386 acres of private oyster lease areas, only 1,187 acres, or 6.8% are currently in or are suitable for SAV growth. This means that over 93% of open water acreage on the Seaside is not suitable for and therefore could not be impacted by SAV restoration activities.

**Figure 2**



# Table 1

## SAV Coverage on the Seaside of Virginia's Eastern Shore

### Spidercrab/Cobb Bay and South Bay

	*Total Baylor (acres)	*Total POL (acres)	Current Eelgrass Coverage			Total Current SAV (acres)	Potential Expansion of Eelgrass			Total Potential SAV (acres)	Current + Potential TOTAL (acres)
			Baylor (acres)	Private Lease (acres)	Unassigned Bottom (acres)		Baylor (acres)	Private Lease (acres)	Unassigned Bottom (acres)		
<b>Spidercrab/Cobb Bays</b>	10,045	2,446	1,350	9	194	1,553	3,158	0	770	3,928	5,481
<b>South Bay</b>	4,683	1,867	372	471	1,794	2,637	1,556	391	1,837	3,784	6,421
<b>Total</b>	14,728	4,313	1722	480	1,988	<b>4,190</b>	4,714	391	2,607	<b>7,712</b>	11,902

### Entire Seaside

	<u>Acreage</u>	<u>% of Open Water</u>	<i>Baylor &amp; Private Oyster Leases were clipped by water coverage within the seaside bays:</i> - 557 acres of Seaside private leases not included because they are covered by marsh and - 11,305 acres of Seaside Baylor not included because they are covered by marsh or in the Atlantic
Open Water	15,3176	100%	
*Private Leases	17,386	11.4%	
*Baylor	50,256	32.8%	
Unassigned Bottom	85,534	55.8%	
Current SAV	7,174	4.7%	
Current + Potential SAV	14,886	9.7%	<i>Note: 14,886/153,176 = 9.7% max (current + potential) SAV in Seaside waters</i>

	<u>Acreage</u>	<u>% of SAV in Baylor</u>
<b>Current SAV in Baylor</b>	3,502	7.0%
<b>Potential SAV in Baylor</b>	4,714	9.4%
<b>Total Current + Potential</b>	8,216	16.3%

	<u>Acreage</u>	<u>% of SAV in POL</u>
<b>Current SAV in POL</b>	796	4.6%
<b>Potential SAV in POL</b>	391	2.2%
<b>Total Current + Potential</b>	1,187	6.8%

	<u>Acreage</u>	<u>% SAV Coverage of Total Seaside</u>
<b>SAV Coverage (2007)</b>	3,863	2.5%
<b>SAV Coverage (2012)</b>	7,174	4.7%

### *c. Knowledge and Research Needs*

The project team identified several items that would further refine the future assessments of potential SAV growth areas on the Seaside, these are listed as follows:

4. Sediment distribution data – considering SAV and Bay Scallops preferentially grow in specific sediment types, it was recommended that a comprehensive dataset be developed for the bottomlands of the entire Seaside;
5. Water temperature data – considering SAV and Bay Scallops preferentially grow in specific water temperatures, it was recommended that a more comprehensive dataset be developed for water temperature conditions within the water bodies of the Seaside; and
6. Bathymetric data – a comprehensive high resolution bathymetric survey of all Seaside water bodies was recommended in order to enhance the selection and prioritization of SAV restoration areas.

## *III. Policy Recommendations and Implementation*

### *a. Proposed SAV Set-Aside Area Selection Methodology*

After determining that Spidercrab/Cobb and South Bays were the most suitable areas for SAV restoration activities, the project team attempted to identify specific areas within these bays that could be presented to the Commission for consideration as new SAV restoration set-aside areas on the Seaside of the Eastern Shore. The areas within the potential SAV expansion areas were selected using the following criteria:

7. The area must be currently unassigned sub-bottom land i.e. the area could not overlap with existing Baylor grounds and the area could not overlap with existing tracts of privately leased sub-bottom land;
8. The area needed to be classified as having a low-density of existing oyster grounds according to previous VIMS' research;
9. The area must not be classified as being a dominant recreational use area according to previous A-NPDC/ VA CZM Program research; and
10. The area must either have existing SAV or be directly adjacent to existing SAV.

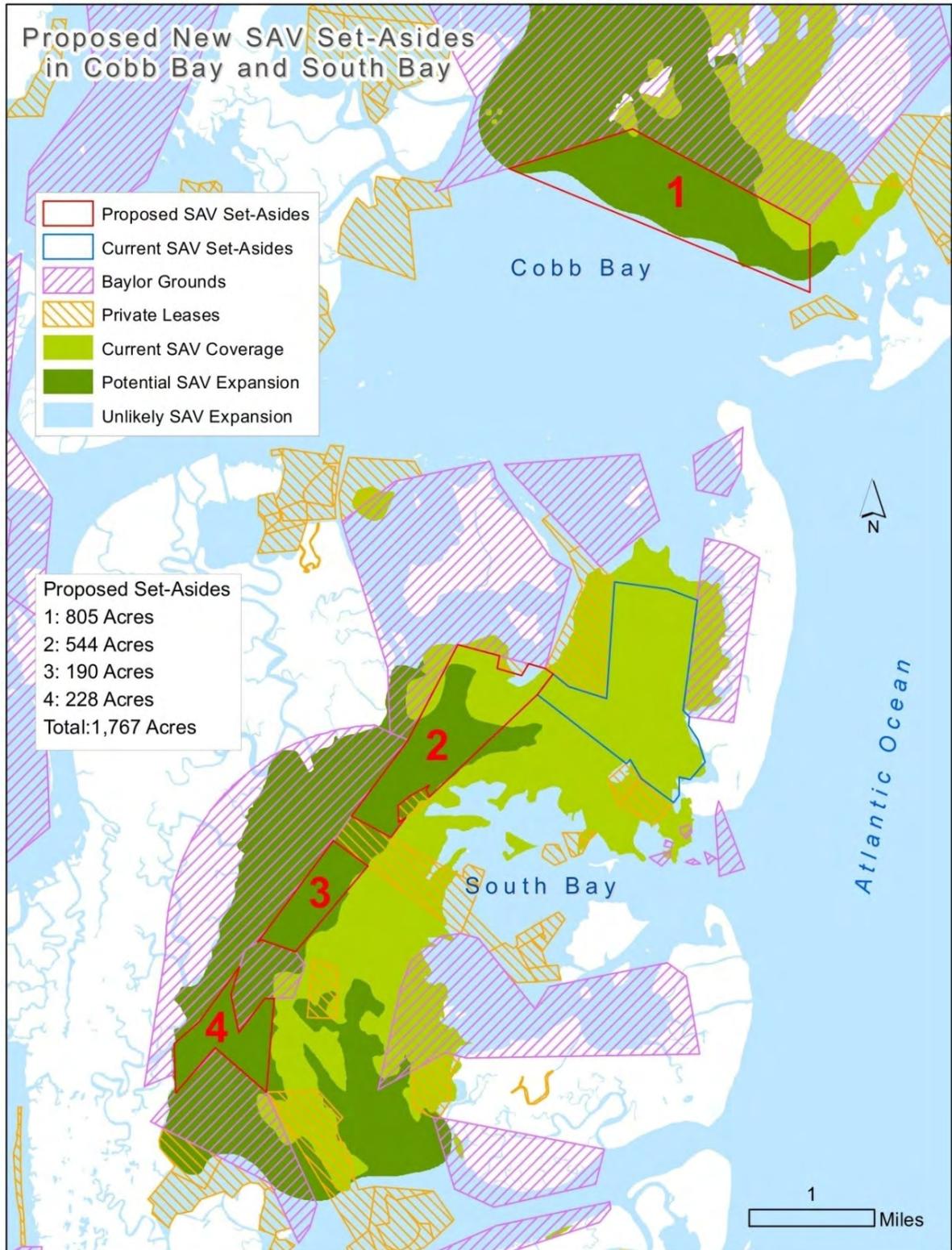
*b. Proposed SAV Set-Aside Area Description*

**Figures 3, 4, and 5** summarize the outcomes of the assessment. Four specific areas were identified as meeting the necessary criteria. Area #1 consisted of 805 acres in northern Cobb Bay. Areas #2, #3, and #4 consisted of 544, 190, and 228 acres, respectively, in South Bay. In total, 1,767 acres of currently unassigned sub-aqueous land was identified meeting all necessary criteria. The following table summarizes the characteristics of each proposed SAV set-aside area.

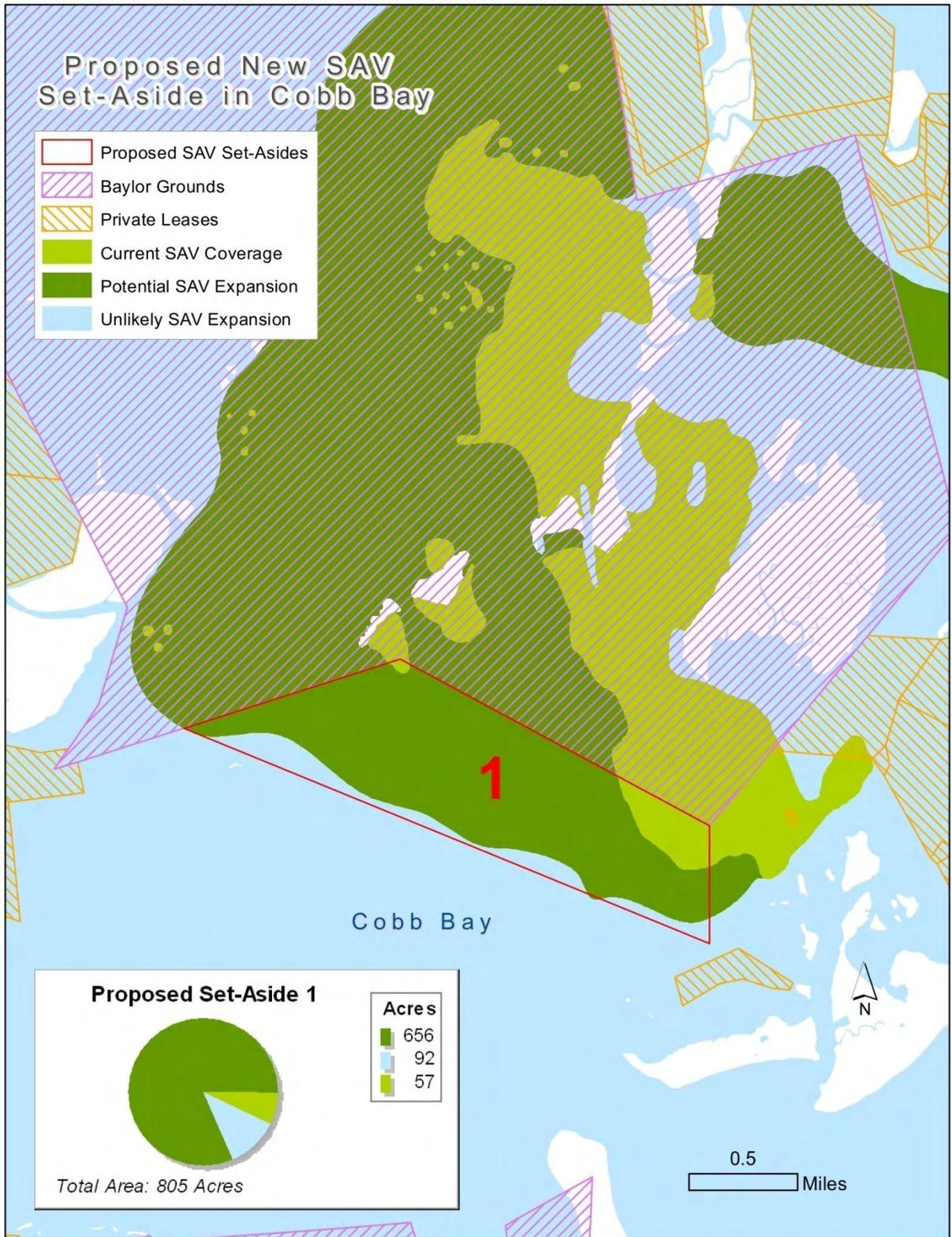
<b>Table 2</b>					
<b>Proposed SAV Set-Aside Area Summary</b>					
<b>Area</b>	<b>Location</b>	<b>Total Acres</b>	<b>Acres of Potential SAV Expansion</b>	<b>Acres of Current SAV Coverage</b>	<b>Acres of Unlikely SAV Expansion</b>
<b>1</b>	<b>Northern Cobb Bay</b>	<b>805</b>	<b>656 (82%)</b>	<b>92 (11%)</b>	<b>57 (7%)</b>
<b>2</b>	<b>Northern South Bay</b>	<b>544</b>	<b>355 (65%)</b>	<b>173 (32%)</b>	<b>16 (3%)</b>
<b>3</b>	<b>Central South Bay</b>	<b>190</b>	<b>188 (99%)</b>	<b>2 (1%)</b>	<b>0</b>
<b>4</b>	<b>Southern South Bay</b>	<b>228</b>	<b>228 (100%)</b>	<b>0</b>	<b>0</b>
<b>Total</b>		<b>1,767</b>	<b>1,427 (81%)</b>	<b>265 (15%)</b>	<b>73 (4%)</b>

In summary, the four SAV set-aside areas were selected to be presented to the Commission for consideration because it was expected that these could be established with the least amount of conflict with existing marine uses. Specific consideration was given to the continued development of ongoing and economically important clam and oyster aquaculture, the wild harvest of clams and oysters, and traditional recreational activities. It is further expected that these areas hold potential for allowing for the development of a viable and potentially commercially productive bay scallop population.

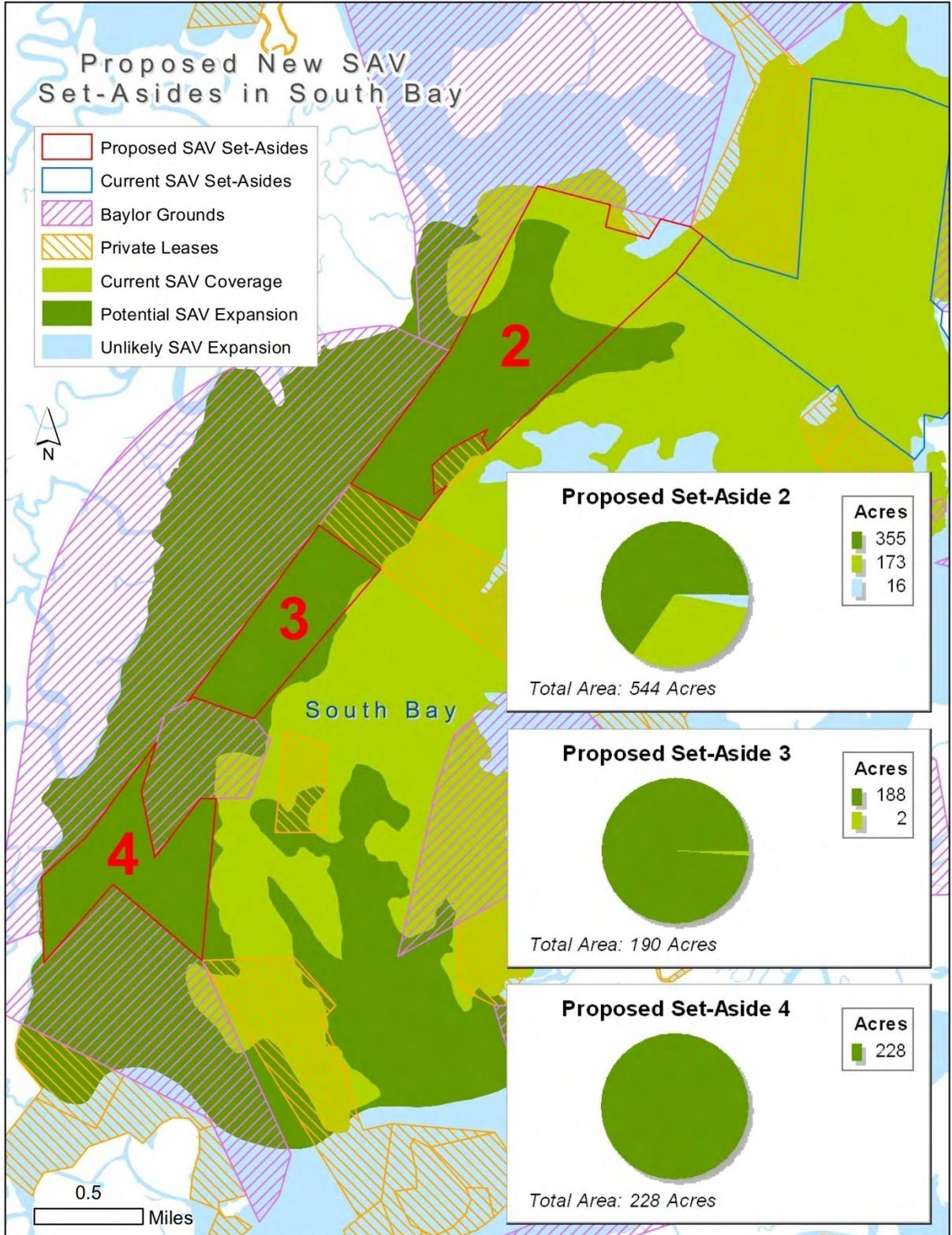
**Figure 3**



*Figure 4*



**Figure 5**



*c. Summary of VMRC Meeting Activities and Policy Outcomes*

The initial outcomes of the potential SAV expansion area analysis were presented to the Commission during their January, 2014 meeting. The Commission requested recommendations for specific SAV set-aside areas on the Seaside at that time. The project team returned in October, 2014 to present the four SAV set-aside areas for the Commission’s consideration. The Commission scheduled a public hearing during their January, 2015 meeting at which they approved set-asides for Area #1 in Cobb Bay and Area #2 in South Bay while denying Areas #3 and 4. The set-aside areas were established for a period of 5-years and require an annual report on SAV potential and SAV losses within each area and throughout the Seaside. The Commission holds the authority to abolish the set-aside areas should the scientific observations show that over the 5-year period conditions shifted thereby inhibiting SAV productivity in the area. This constitutes an important policy change for the Commission that, for the first time, recognizes a more dynamic management system is needed for this very dynamic ecosystem.

The following is a timeline of activities undertaken by the project team:

<b>Table 3</b>	
<b>Timeline of Activities: Seaside SAV Set-aside Area Development</b>	
<b>Date(s)</b>	<b>Activity</b>
<b>January 28, 2014</b>	VIMS staff presented the findings of the potential SAV expansion assessment for the Seaside. The Commission requested recommendations for new SAV set-aside areas on the Seaside. Meeting minutes are included in <b>Appendix B</b> .
<b>February – September, 2014</b>	VIMS, VA CZM Program, A-NPDC, and VMRC staff assess specific areas within Spidercrab/Cobb and South Bays to identify SAV set-aside areas to present to the Commission for consideration.
<b>October 28, 2014</b>	VIMS and VMRC staff proposed four specific SAV set-aside areas in Spidercrab/Cobb and South Bays to the Commission and requested a public hearing be scheduled. The Commission scheduled a public hearing on the request during the January, 2015 meeting and requested additional information be brought back on the matter. Meeting minutes are included in <b>Appendix C</b> .
<b>January 27, 2015</b>	The Commission conducted a public hearing on 4 SAV set-aside areas in Spidercrab/Cobb and South Bays. VIMS and VMRC staff gave summary presentations summarizing the request and following public comments, the Commission voted to approve one set-aside area in Spidercrab/Cobb Bays and one area in South Bay while denying two additional areas in South Bay. The areas were approved for five years and require a report on SAV potential and SAV losses in the areas be provided annually to the Commission. Presentation and meeting minutes are included in <b>Appendices D and E</b> .

During the public hearing at the January, 2015 Commission meeting, members of the project team spoke in favor of the request and presented information highlighting the historic successes of the SAV restoration project and ensuring that the areas were selected because they were expected to have minimal impact on the aquaculture industry and there was high certainty for SAV growth. It was reported that the 5-year management approach has worked well in other areas on the Seaside and that the SAV set-aside area established in Hog Island Bay for years has recently shoaled to the point where it is not suitable for SAV, but is suitable for aquaculture. It was recommended that the Commission consider releasing this set-aside area as it has become more beneficial for aquaculture use. Staff from The Nature Conservancy also spoke in favor of the request, commenting that the set-aside areas will provide for the existence of SAV for future generations.

Several individuals spoke in opposition to the request. Kim Huskey, speaking on behalf of the Virginia Seafood Council, commented that it was critical that the requested areas not be established in perpetuity so that leases for these areas could never be authorized should the dynamics of the environment change. Ann Gallivan and Heather Lusk, representing separate aquaculture businesses on the Seaside, each echoed the Virginia Seafood Council's sentiments and expressed concerns about the ramifications of setting such large tracts aside upon the multi-million dollar aquaculture industry. While each party acknowledged the benefits of SAV on water quality and natural habitat, there were concerns that establishing additional SAV set-aside areas was an unnecessary management approach considering existing regulations already in place to protect SAV and that the management approach sets a precedent of holding large expanses of bottom land for extended periods of time in a manner that lacks the flexibility necessary to adapt to the ever-changing aquatic environments of the Seaside. Additionally, expansion of SAV beyond the boundaries of set-aside areas could become extremely problematic to the burgeoning aquaculture industry. Specifically, there were concerns that without continued monitoring of SAV growth and losses, VMRC's system of management would not provide the flexibility needed to allow the aquaculture industry to co-exist with SAV set-aside areas. Following thorough discussion of these issues, the Commission established a temporary (5-year) management approach with requirements that provide the flexibility to accommodate both the aquaculture industry and the ever-changing natural environment on the Seaside.

Discussions held following the public hearing with those in opposition to the proposed SAV set-aside areas indicated that the presentation and discussion during the January, 2015 Commission meeting did clarify some of the issues with the request. Specifically, it was agreeable that a temporary 5-year approval and the requirements for annual monitoring do provide that the Commission would have opportunities to authorize the areas for the most beneficial use based on recent scientific observation of SAV. However, there was still belief that the authorization of the SAV set-aside areas was an unnecessary measure considering the existing regulations already in place to protect SAV. There

remained concerns about the ability of VMRC and VIMS to adequately and comprehensively monitor the presence of SAV in all privately leased areas considering staff and financial restraints, thereby impacting the overall effectiveness of the management system.

Rebuttals to aquaculture industry concerns from the scientific community included the following:

1. Existing SAV is protected however, areas for potential SAV expansion are not. If areas are not set-aside for expansion, they could be leased and lost forever;
2. Although the aquaculture industry considered Area #3 (190 acres) and Area #4 (228 acres) as large tracts, they are small in comparison to the total leased acreage (17,386 acres) for aquaculture. Currently 11.4% of the Seaside water area is leased for aquaculture and only 4.7% currently contains SAV; and
3. VIMS has been mapping SAV annually for decades with funding support from the VA CZM Program and others and expects to continue to do so indefinitely allowing for a very effective overall monitoring and management system.

# Appendix A

Matrix of Recommendations from *Nantucket Shellfish Management Plan – March, 2012*

	Objective	Recommendation #	Recommendation	Implementing Agencies/Groups	Priority	Evaluation Criteria
<b>Habitat Management Goal 1</b>	Objective 1	Recommendation 1	Conduct and/or support research to better understand the hydrodynamics within Nantucket and Madaket Harbors and the impacts of water circulation on shellfish habitat and population dynamics. This research should include a study to determine the impacts of raising the jetties. With better information on water circulation and its impacts, options for improving circulation could be considered and implemented as appropriate.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Department of Marine and Coastal Resources or the Town</li> <li>• Outside experts as appropriate</li> <li>• Harbor Plan Implementation Committee</li> </ul>		
		Recommendation 2	<p>Support research activities, regulatory management changes, public education initiatives, capital improvements, and related fund-raising activities aimed at reducing nutrient inputs from anthropogenic sources, both in Nantucket waters and in Nantucket Sound.</p> <p>Nantucket is currently addressing nutrient reduction from anthropogenic sources through a variety of activities, including reviewing the Massachusetts Estuaries Report project and implementing the Best Management Practices guide developed by the Article 68 Work Group. Additionally, the Harbor Plan Implementation Committee, in conjunction with the Town, is currently developing an educational initiative called the "Nantucket Blue Pages" that was recommended as part of the Harbor Plan.</p> <p>Nantucket is supporting a water quality testing effort to assess the effectiveness of activities to reduce nutrient input into local waters. Researchers are looking into the possibility of using barriers of natural materials (e.g., woodchips) to remove</p>	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Board of Selectmen</li> <li>• Board of Health</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Conservation Commission</li> <li>• Harbor Plan Implementation Committee</li> <li>• Maria Mitchell Association</li> <li>• University of Massachusetts Boston Nantucket Field Station</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• Nantucket Shellfish Association</li> <li>• Outside experts as appropriate</li> </ul>		

	nitrogen from groundwater. A federal No Discharge Area for Nantucket Sound is under development. Stakeholders should support these types of activities by lending their expertise; raising awareness of important information, events and developments, such as meetings or the dissemination of publications; and helping to secure financial resources.			
Recommendation 3	Conduct and/or support research to better understand the links between shellfish habitats, population dynamics, and anthropogenic activities that introduce chemicals into Nantucket waters. Examples of activities of interest include: the application of fertilizers, herbicides, and pesticides on upland areas (including details about the chemicals being used, the quantities being applied, and the associated impacts); the use of septic systems; the discharge of grey water from vessels (and the related No Discharge Area designation); the discharge of petroleum hydrocarbon, and boat maintenance activities such as boat washing and bottom painting.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Board of Selectmen</li> <li>• Board of Health</li> <li>• Mosquito Working Group</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Conservation Commission</li> <li>• Nantucket Land Council</li> <li>• Maria Mitchell Association</li> <li>• University of Massachusetts Boston Nantucket Field Station</li> <li>• Boat yards and marinas</li> <li>• Outside experts as appropriate</li> </ul>		
Recommendation 4	Develop a better understanding of the sources and impacts of HABs on shellfish and their habitat. Support or conduct research to address identifying and tracking potentially harmful blooms in local waters.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• The Marine and Coastal Resources Department</li> <li>• Nantucket Land Council</li> <li>• Nantucket Biodiversity Initiative</li> <li>• Maria Mitchell Association</li> <li>• University of Massachusetts Boston Nantucket Field Station</li> <li>• Outside experts as appropriate</li> </ul>		

	Recommendation 5	Conduct and/or support studies to investigate the role that environmental changes may have in altering shellfish populations on Nantucket, including sea level rise, ocean acidification, and climate change. As part of this, continue, and where appropriate, enhance efforts to record water temperature, changes in pH, and details about when the Harbors freeze over.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Maria Mitchell Association</li> <li>• Outside experts as appropriate</li> </ul>		
	Recommendation 6	Explore options to reduce the financial cost and temporal delay currently associated with obtaining water quality results. Include a review of on-Island options for “in house” local analysis.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Massachusetts DEP</li> <li>• US EPA</li> <li>• Outside experts as appropriate</li> </ul>		
Objective 2	Recommendation 1	Beginning with historical data compiled and maintained by the Massachusetts DEP, encourage continued monitoring of the extent and health of eelgrass in Nantucket waters, and explore the relationships between eelgrass beds and other aquatic vegetation such as epiphytic growth, which can influence eelgrass health. To the extent possible, connect with regional eelgrass mapping exercises.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Massachusetts DEP</li> <li>• US EPA</li> <li>• Outside experts as appropriate</li> </ul>		

<p>Recommendation 2</p>	<p>Undertake a review of practices that may directly damage eelgrass beds (e.g., moorings, scallop dredges, propeller damage, excess nutrient inputs from upland sources) to determine the short and long-term nature and significance of the impacts and explore methods to minimize those impacts. As part of this, look at options to modify dredging activity throughout the season (e.g., starting with a 40 pound limit at the beginning of the season, and reducing weight as the season progressed; changing the design of the dredge to reduce impacts to eelgrass; etc.). Also, specifically evaluate the progress of modifying moorings in Nantucket Harbor to minimize damage to surrounding eelgrass beds. Also evaluate the effects of alternative technologies, such as placing floats on mooring chains, replacing chains with flexible bungee-style rope, or placing multiple boats on one chain anchored between two mushroom moorings. Once the effects and capabilities of these technologies are understood, work to implement appropriate mooring strategies to reduce impacts on eelgrass. Additionally, explore the option of charging an extra fee for people who do not upgrade to more environmentally sensitive mooring technologies and for dedicating those funds to mitigation of damaged resources.</p>	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Nantucket Land Council</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Great Harbor Yacht Club</li> <li>• Nantucket Land Council</li> <li>• Conservation Commission</li> <li>• SHAB</li> </ul>		
<p>Recommendation 3</p>	<p>Develop and implement a cost-effective strategy to protect/restore eelgrass in locations of significance to shellfish resources –both within and outside Nantucket and Madaket Harbors. This strategy should take into consideration options such as propagating eelgrass, re-seeding areas, and removing stressors (e.g., moorings, excess nutrients)</p>	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Nantucket Land Council</li> <li>• Maria Mitchell Association</li> <li>• SHAB</li> </ul>		

		to existing and potential eelgrass habitats.			
	Recommendation 4	Until a new strategy to protect eelgrass is in place, enforce existing mooring regulations and ensure that moorings are not located in productive shellfish beds. This will require a substantial reduction in the number of permits.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• SHAB</li> </ul>		
	Recommendation 5	Support research to better understand the relationship between eelgrass health and density and shading from various algae blooms, physical effects on eelgrass growth from overlying macroalgae (for example, observations suggest that Gracilaria sp. is covering eelgrass and causing it to lay flat during the spring, but it may also serve as a settlement substrate for bay scallops), and effects to eelgrass from nuisance epiphytes growing directly on eelgrass.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Massachusetts DEP</li> <li>• Outside experts as appropriate</li> <li>• Nantucket Land Council</li> </ul>		
	Recommendation 6	Conduct research to better understand changes in sediment within the Harbors since the most recent data were gathered.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Maria Mitchell Association</li> <li>• UMass Boston Nantucket Field Station</li> <li>• Outside experts as appropriate</li> </ul>		
Objective 3	Recommendation 1	Catalog, map, and ground-truth information about the dominant habitat types (relative to shellfish survival) throughout Nantucket waters. If adequate funding for these activities cannot be secured, explore alternative, less-costly options for obtaining habitat information. Use this information as baseline data and as a basis for prioritizing and protecting shellfish habitat and promoting an awareness of the need for managing habitat as a	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• SHAB</li> <li>• UMass Boston Nantucket Field Station</li> <li>• Maria Mitchell Association</li> </ul>		

		means to manage the shellfishery.		
Recommendation 2	Work with the Department of Public Works to institute a shell recycling program where most, if not all, shells are returned to the Harbors for pH buffering and settlement substrate purposes (potentially with assistance from fishermen). Ensure that the deposition of shells does not harm existing habitat features (such as eelgrass beds) or create new habitat dominated by predators. Adhere to DMF's Shellfish Planting Guidelines for placing shells in the water: "Oyster, quahog and softshell clam shell used as cultch shall be aged on land for a minimum of one year. Shell from other species of bivalves such as surf clam, ocean quahog, scallops and mussels may be used without limitations. All issues regarding approved shell cultch must be addressed by Marine Fisheries prior to placement into coastal waters" (Hickey, et al., 2012). Conduct research and monitoring activities to understand the impacts of, and to identify the most appropriate locations for returning the shells.		<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Department of Public Works</li> <li>• Massachusetts Division of Marine Fisheries</li> <li>• Nantucket Shellfish Association</li> </ul>	
Recommendation 3	Continue to monitor dissolved oxygen in benthic areas of the Harbors, and expand monitoring to include monitoring of sediment acidity.		<ul style="list-style-type: none"> <li>• Maria Mitchell Association*</li> <li>• The Marine and Coastal Resources Department or the Town</li> <li>• Conservation Commission</li> </ul>	

<b>Shellfish Resources Goal 1</b>		Recommendation 4	Continue existing monitoring of spat settlement throughout the waters of Nantucket by way of spat collection and enumeration.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Maria Mitchell Association</li> </ul>		
		Recommendation 5	Conduct collaborative annual surveys of juvenile shellfish stocks to assess the areas of spatfall to aid in management decision-making.	<ul style="list-style-type: none"> <li>• The Marine and Coastal Resources Department*</li> <li>• Maria Mitchell Association</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• Nantucket Shellfish Association</li> <li>• UMass Boston Nantucket Field Station</li> </ul>		
	Objective 4	Recommendation 1	Conduct and/or support studies to determine the impacts of recreational and commercial shellfish harvesting on the sustainability of the resource and the habitat.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Nantucket Shellfish Association</li> <li>• Commercial fishermen</li> <li>• SHAB</li> <li>• Outside experts as appropriate</li> </ul>		
		Recommendation 2	Monitor and assess the overall intensity of shellfish harvest practices and manage activities within specific harvest areas to minimize the risk of detrimental impacts from excessive harvest practices.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• The Marine and Coastal Resources Department</li> <li>• Nantucket Shellfish Association</li> <li>• SHAB</li> </ul>		
	Objective 1	Recommendation 1	Develop and implement a strategy to track the effectiveness of propagation activities in terms of supplementing the commercial and recreational harvests. As part of this, identify locations best suited for larval release (e.g. areas with larval retention), examine the timing of larval release in terms of survival, and conduct post-set release and associated monitoring for survivability.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Nantucket Shellfish Association</li> <li>• Commercial fishermen</li> <li>• UMass Boston Nantucket Field Station</li> <li>• Outside experts as appropriate</li> </ul>		

	Recommendation 2	Continue current propagation efforts such as the larval release program and, based on the results of the study of propagation effectiveness, consider pursuing opportunities to expand propagation activities, including expansion to different species (i.e., oysters).	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Nantucket Shellfish Association</li> <li>• Commercial Fishermen</li> </ul>		
Objective 2	Recommendation 1	Develop seed management protocols for transplanting seed. Outline criteria for establishing seed sanctuaries and for determining compensation to volunteers who assist with seed management. Review the effects of the protocols and adapt as appropriate.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Harbor and Shellfish Advisory Board</li> </ul>		
	Recommendation 2	Develop and/or support studies to evaluate the efficacy of seed management activities. Adjust seed programs to improve on efficacy.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> </ul>		
	Recommendation 3	Better understand effects of wind-driven strandings on the bay scallop population. Topics of interest include survivability of seed returned to the water and the effects upon the seed population (i.e. what percent of seed is stranded).	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Maria Mitchell Association</li> <li>• Outside experts as appropriate</li> </ul>		
Objective 3	Recommendation 1	Continue to develop spawning sanctuaries, through the use of spawning cages, to increase larval supply, and monitor their impacts. As part of this, focus on utilizing areas with high larval retention and evaluate manipulating water flow for larval retention.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• UMass Boston Nantucket Field Station</li> </ul>		
	Recommendation 2	Institute new steps, and continue existing efforts, such as placing spat bags strategically around the Harbors, to identify spawning events and monitor spat levels in the Harbors.	<ul style="list-style-type: none"> <li>• The Marine and Coastal Resources Department or the Town*</li> <li>• Maria Mitchell Association</li> <li>• Harbor and Shellfish Advisory Board</li> </ul>		

<b>Goal 2</b>		Recommendation 3	Continue the larval release strategy at various locations throughout Nantucket waters and evaluate the effectiveness of the program in terms of localized recruitment of spat. Also investigate whether or not the timing of the releases impacts their effectiveness at enhancing local populations.	<ul style="list-style-type: none"> <li>• The Marine and Coastal Resources Department*</li> <li>• Nantucket Shellfish Association</li> </ul>		
	Objective 1	Recommendation 1	Measure and monitor predator abundance in local waters (in part through a survey of by-catch) and measure impacts on shellfish resources during the various stages of life for each species. Understand the impacts of native versus non-native predators and implement a predator management protocol as appropriate, perhaps based on the identification of an "over-abundance" (which would need to be defined) of predators in the ecosystem. As part of the protocol, conduct research to understand the impacts of predator removal – both on the harvested resources and on the biological communities in the Harbors. Specifically look at the impacts of the mud blister worm ( <i>Polydora</i> ).	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Shellfishermen</li> <li>• Outside experts as appropriate</li> </ul>		
<b>Goal 3</b>	Objective 1	Recommendation 1	Conduct and/or support current and future research to better understand the spawning cycle of scallops, and specifically the spawning cycle of nub scallops.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Maria Mitchell Association</li> <li>• University of Massachusetts</li> <li>• Massachusetts Division of Marine Fisheries</li> <li>• Massachusetts bay scallop fishing communities</li> <li>• Outside experts as appropriate</li> </ul>		

<b>Regulations</b> <b>Goal 1</b>		Recommendation 2	Better understand and define the biological traits of and stressors to bay scallops, quahogs, conch, oysters, soft shelled clams, and other harvested shellfish. Use that knowledge to make informed management decisions. Specific topics of interest include (1) the relationship between spat recruitment and post-set spat survival as it relates to the overall abundance of shellfish, and (2) the genetic variability among harvested shellfish.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Maria Mitchell Association</li> <li>• Outside experts as appropriate</li> </ul>		
	Objective 1	Recommendation 1	Monitor the population characteristics of important shellfish resources across the Island, assessing recruitment into the fishery and the standing stock available for harvest, in order to provide information for management decisions. This monitoring could lead to the development of a predictive population model for Nantucket shellfish. This monitoring could be done in a collaborative manner by working with local fishermen.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> <li>• Maria Mitchell Association</li> </ul>		
		Recommendation 2	Continue to limit the size and mechanics (power hoisting) of dredges and enforce existing restrictions such as the 40 pound limit on the weight of the dredge.	<ul style="list-style-type: none"> <li>• Board of Selectmen*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> </ul>		
		Recommendation 3	Work with other Massachusetts-based shellfishing communities and DMF to identify and conduct research designed to evaluate the definition of a legally harvestable bay scallop. As part of this, consider research to inform the potential use of a thickness gauge to measure harvestable bay scallops.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Board of Selectmen</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> </ul>		

		Recommendation 4	Increase oversight of recreational shellfishermen and enforcement of recreational regulations more widely. This includes expanding enforcement efforts during the summer, obtaining data on recreational catches throughout the shellfishing seasons, and enforcing the regulation requiring people to wear the pins which prove they have purchased licenses.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> </ul>		
Goal 2	Objective 1	Recommendation 1	Implement the steps needed to institute the adaptive management section of this Plan. As a first step, the Town should establish a Shellfish Management Plan Implementation Committee. This Committee should be responsible for developing specific rules about adaptation, including the timing of meetings, whether or not a “traffic light” approach to management is logical/feasible (see Appendix F), etc.	<ul style="list-style-type: none"> <li>• Board of Selectmen*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> </ul>		
Goal 3	Objective 1	Recommendation 1	Develop alternative commercial and recreational permit fee structures to generate more direct, indirect, and induced revenue for Nantucket. Investigate opportunities for changes to permit fees from time to time. Any direct revenues should be put toward propagation activities. Follow-up studies should be conducted to determine the economic impacts of the new fees.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Board of Selectmen</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> </ul>		

<b>Management Implementation</b> <b>Goal 1</b>	Objective 1	Recommendation 1	<p>Ensure stable funding for sufficient staffing of all management activities including research, water quality testing and analysis, propagation, enforcement and the use of interns and seasonal employees (estimated to cost at least \$150,000). Funding sources should include money for salaries and equipment out of the general fund, money for propagation from fines, and additional income from grants, gifts, and the sale of licenses. One hundred percent of license fees must be used for propagation efforts. Consider various budget scenarios for expanded propagation activities, and the hiring of a second biologist.</p>	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Board of Selectmen</li> </ul>		
	Objective 2	Recommendation 1	<p>All personnel involved in management of shellfish resources and enforcement of shellfish regulations should attend periodic joint-training sessions (facilitated by fishermen and managers together) to ensure consistency of enforcement. These sessions should be open to commercial and recreational shellfishermen in the interest of improving compliance and communication between managers and the regulated community. Continue to include attendance in a training session as part of the penalty for harvesting seed scallops.</p>	<ul style="list-style-type: none"> <li>• Harbor and Shellfish Advisory Board*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Board of Selectmen</li> <li>• NSA</li> <li>• Commercial fishermen</li> </ul>		
		Recommendation 2	<p>Work with other fishing communities in Massachusetts to identify and make recommendations to DMF in areas where changes might benefit Nantucket shellfisheries, such as with the size of a legally harvestable bay scallop. Prepare and make widely available clear guidance on identifying harvestable scallops.</p>	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Board of Selectmen</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> <li>• Fishermen</li> <li>• Other fishing communities in Massachusetts</li> <li>• Outside experts as appropriate</li> </ul>		

	Recommendation 3	Work with the Harbor Plan Implementation Committee to develop the data clearinghouse for Harbors-related topics, including information pertaining to shellfish. Include the resources listed in this Management Plan, and ensure the availability of information pertaining to previous research on Nantucket shellfish.	<ul style="list-style-type: none"> <li>• Shellfish Management Plan Implementation Committee*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Board of Selectmen</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> <li>• Maria Mitchell Association</li> <li>• UMass Boston Nantucket Field Station</li> </ul>		
	Recommendation 4	Nantucket’s research entities, along with the Town and fishermen, should work together to further develop and implement the coordinated Research Plan associated with this Shellfish Management Plan, identifying priority research sites, data needs, and a standardized method for data collection, recording and reporting. This research coordination should be overseen by a group of local and outside experts with knowledge of research issues contained in the Research Plan. For purposes of this Plan, that group is referred to as the “Nantucket Research Collaborative.”	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Maria Mitchell Association</li> <li>• University of Massachusetts Boston Nantucket Field Station</li> <li>• Department of Health</li> <li>• School for Marine Science and Technology</li> <li>• Massachusetts DEP</li> <li>• Other experts as needed</li> </ul>		
Objective 3	Recommendation 1	Continue to develop and implement an action plan to increase available space and use of space for aquaculture in Town waters. The action plan should address qualifications of bidders; a requirement for a business plan, and; management standards. The action plan should also ensure that shellfishing activities are not impaired as a result of aquaculture, and stress the participation of fishermen in hearings pertaining to aquaculture decisions.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Board of Selectmen</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> </ul>		

Education Goal 1		Recommendation 2	Continue to work with DMF to identify and consider (1) potential aquaculture locations outside of the agency's usual physical siting requirements and (2) approval of a block of sites in advance of the DMF's issuance of a license to an individual.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Board of Selectmen</li> <li>• MA Division of Marine Fisheries</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> </ul>		
	Objective 4	Recommendation 1	Identify and make publically available areas for recreational fishing. Recreational fishing already dominates those shallow areas of the Harbors most easily accessible to recreational fishermen. Those areas should be officially identified and set aside for recreational fishing, though commercial fishing should not be excluded from those areas.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Board of Selectmen</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> </ul>		
	Objective 1	Recommendation 1	Design and implement a study to assess the economic impact of recreational and commercial shellfishing to Nantucket. This study should address topics such as employment rates (including jobs both directly and indirectly impacted by shellfishing), wages, impacts to other sectors of the economy, cash-flow through the Island economy, and economic trends related to shellfishing.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> <li>• Outside experts as needed</li> <li>• Nantucket Planning and Economic Development Commission</li> </ul>		

<p>Recommendation 2</p>	<p>Develop and implement a public outreach strategy to highlight the significance of shellfishing both from a cultural and an economic perspective. This may include components such as a series of articles in local newspapers and magazines; a mail campaign; outreach activities at fairs and festivals; recruitment of recreational shellfishers for the NSA; a “meet the fishermen” event; the development and distribution of the Blue Pages book; and an informational display that can be moved from venue to venue (appearing in such places as the library, town hall, ferry terminals, the airport, etc). This strategy should be developed in a way that fosters collaboration with other existing outreach plans so as to not duplicate efforts or send mixed messages to audiences.</p>	<ul style="list-style-type: none"> <li>• Shellfish Management Plan Implementation Committee*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> </ul>		
<p>Recommendation 3</p>	<p>Develop an oral history of commercial and recreational shellfishermen and those associated with the industry as part of the historical records of the Island.</p>	<ul style="list-style-type: none"> <li>• Nantucket Historical Society*</li> <li>• NSA</li> <li>• SHAB</li> </ul>		

Objective 2	Recommendation 1	<p>Develop and implement an outreach strategy to educate the public about how land and water-based activities can affect shellfish habitat. The outreach strategy should consider opportunities to coordinate with existing education efforts such as those identified in the Harbors Plan.</p> <p>This outreach strategy should make every effort to reach landowners, boaters, yacht clubs and their members, students, Maritime Festival audiences, and others, as appropriate. Additionally, electronic communication methods, including social network tools, should be explored. Examples of possible topics include fertilizer applications and their impact on shellfish habitat, and the dangers of dropping anchor in a shellfish bed.</p>	<ul style="list-style-type: none"> <li>• Shellfish Management Plan Implementation Committee*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> <li>• Harbor Plan Implementation Committee</li> <li>• Marine Science Teacher(s)</li> <li>• Egan Maritime Institute</li> <li>• reMain Nantucket</li> <li>• Nantucket Health Department</li> <li>• Nantucket Department of Public Works</li> <li>• Others as appropriate</li> </ul>		
	Recommendation 2	<p>Support the Harbor Plan Implementation Committee’s work to develop and circulate a Blue Book modeled after those found in many communities on Cape Cod and Martha’s Vineyard. Assist with content development and distribution.</p>	<ul style="list-style-type: none"> <li>• Shellfish Management Plan Implementation Committee *</li> <li>• Harbor Plan Implementation Committee</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> </ul>		

Objective 3	Recommendation 1	Provide information on “best fishing practices” for recreational fishermen, including tips on how to identify legally harvestable scallops, where to access the water, how to be safe while harvesting, and how to minimize impacts on the habitat. Improve outreach to let people know that recreational permits are required to harvest shellfish. Use the outreach opportunity as a way to improve community awareness of the issues facing the shellfisheries. Include information about how the money raised by license sales helps the fishery and the Island’s economy.	<ul style="list-style-type: none"> <li>• Harbor and Shellfish Advisory Board*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• NSA</li> <li>• Maria Mitchell Association and Aquarium</li> <li>• DMF</li> </ul>		
	Recommendation 2	Improve access for recreational fishermen when feasible. Ensure that these new access points do not lead to illegal parking, blocking of traffic, culling on private property, and other similar issues.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> <li>• Planning Office</li> </ul>		
	Recommendation 3	Gather contact information from people when they purchase their recreational shellfish permits. Use that information to communicate with recreational fishermen about upcoming events; management changes; opportunities to provide input on shellfish management; opportunities to participate in surveys about recreational shellfishing; and other important issues/opportunities.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• NSA</li> </ul>		
Objective 4	Recommendation 1	Investigate other Fishery Cooperative Research Programs in the region with the intention of developing and implementing a program on Nantucket that will allow local fishermen to be involved in research and stock assessment efforts.	<ul style="list-style-type: none"> <li>• NSA*</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• BOS</li> </ul>		

<b>Harvest Documentation</b> <b>Goal 1</b>		Recommendation 2	Identify a select group of fishermen to assist with research by documenting bycatch details such as the percentage of seed and the types and abundance of predators.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Board of Selectmen</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• Nantucket Shellfish Association</li> <li>• Commercial fishermen</li> </ul>		
	Objective 1	Recommendation 1	Continue to utilize records from shanties to help monitor and verify commercial landings. Additionally, continue to utilize records from shanties for enforcement of limits.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• DMF</li> </ul>		
		Recommendation 2	Implement a means to track the general locations where shellfish were harvested –both recreationally and commercially. The new trip-level reporting to DMF includes records of the growing areas fished and captures information about effort. Recreational fishing records should be designed to collect information similar to that reported for commercial harvests. While methods to track recreational fishing are imperfect, they could be augmented to also obtain information about where recreational fishermen fish. These commercial and recreational data should be analyzed jointly to understand where the fishing is greatest from year to year, and what significance that might have for management.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Commercial fishermen</li> <li>• DMF</li> </ul>		

<b>Support of the Commercial Fishery</b> <b>Goal 1</b>	Objective 1	Recommendation 1	<p>Develop marketing strategies, such as branding the Nantucket bay scallop and/or controlling the rate at which scallops reach the market, to optimize the price of the Nantucket bay scallop. As part of this, continue to develop the concept of using a sticker to identify boxes of scallops as coming from Nantucket. Also consider developing quality standards (such as a freshness standard) that would be universally agreed upon and promoted by all who handle Nantucket bay scallops. Work with USDA to see if their marketing programs are applicable to the Nantucket bay scallop fishery. Link with ecotourism opportunities on Nantucket.</p>	<ul style="list-style-type: none"> <li>• NSA*</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• Commercial fishermen</li> <li>• Wholesalers</li> <li>• Outside experts as appropriate</li> </ul>		
		Recommendation 2	<p>Consider establishing a co-op for marketing purposes. As part of the development of this co-op, consider making participation optional, and look to other co-ops for examples of good strategies. Appendix H provides some guidelines and resources for developing this cooperative.</p>	<ul style="list-style-type: none"> <li>• NSA*</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• Commercial fishermen</li> </ul>		
		Recommendation 3	<p>Develop marketing strategies that will enhance the value of Nantucket shellfish bi-products (e.g. shells as a buffering source for restoration projects, viscera as a protein source, guts as bait or food, gonads as food).</p>	<ul style="list-style-type: none"> <li>• NSA*</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• Fishermen</li> <li>• Wholesalers</li> <li>• Shuckers</li> <li>• Outside experts as appropriate</li> </ul>		
		Recommendation 4	<p>Review options for timed fishing closures to ensure the quality and consistency of product reaching the market.</p>	<ul style="list-style-type: none"> <li>• NSA*</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• Board of Selectmen</li> <li>• Fishermen</li> <li>• Marine and Coastal Resources Department or the Town</li> </ul>		

	Recommendation 5	Explore the apparent correlation between the price of scallops and number of buyers. Determine whether or not the number of buyers impacts the price they are willing to pay.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> <li>• Outside experts as appropriate</li> </ul>		
Objective 2	Recommendation 1	In conjunction with the Harbor Plan Implementation Committee, consider opportunities to improve shore-side access and facilities through the expansion of existing access points and/or the creation of new access points. Ensure that these new access points do not result in the unreported taking of additional shellfish.	<ul style="list-style-type: none"> <li>• Marine and Coastal Resources Department or the Town*</li> <li>• Nantucket Land Bank</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• Planning and Economic Development Commission</li> <li>• Conservation Commission</li> <li>• Roads and Right of Way Committee</li> </ul>		
Objective 3	Recommendation 1	Continue to enhance and implement a mentoring program to assist new entries into the fishery. As part of the enhancement, develop a check-list of topics for the teaching captain to cover with the apprentice. The checklist would include topics such as how to identify a legal bay scallop (to be taught by a Warden or shellfish biologist), how to cull a catch, a review of the regulations, and general etiquette at sea. Continue to allow the reduction of the 40-day limit to allow for shorter apprenticeships if fishermen demonstrate the appropriate knowledge and skills needed to operate safely. These shorter apprenticeships would require the approval of SHAB.	<ul style="list-style-type: none"> <li>• Harbor and Shellfish Advisory Board*</li> </ul>		

<b>Adaptation of the Plan</b> <b>Goal 1</b>	Objective 1	Recommendation 1	Bring together a group of people (a “Shellfish Management Plan Implementation Committee”) responsible for overseeing the implementation, and adaptation of this Plan. This group should meet regularly and should include representatives from multiple stakeholder groups including recreational fishermen, commercial fishermen, scientists, and managers. Off-Island expertise should be included as appropriate. This group should work closely with not-for-profit entities to help raise funds for management plan research and implementation activities, identify common data reporting/gathering techniques, prioritize research projects, and address other research-related issues.	<ul style="list-style-type: none"> <li>• Board of Selectmen*</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> <li>• Nantucket Land Council</li> <li>• UMass Boston Nantucket Field Station</li> <li>• Maria Mitchell Association</li> <li>• Conservation Commission</li> </ul>		
		Recommendation 2	Establish a system whereby a review of coordinated threshold criteria (e.g. number of weather-related fishing days lost, seed density, stock assessments, etc.) or a valid concern raised by a citizen would initiate a public process, through SHAB, to address the issue(s) – including possible management actions.	<ul style="list-style-type: none"> <li>• Nantucket Research Collaborative*</li> <li>• Harbor Plan Implementation Committee</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> <li>• Outside experts as appropriate</li> </ul>		
		Recommendation 3	Review and revise the Shellfish Management Plan every three years.	<ul style="list-style-type: none"> <li>• Shellfish Management Plan Implementation Committee</li> <li>• Marine and Coastal Resources Department or the Town</li> <li>• Harbor and Shellfish Advisory Board</li> <li>• NSA</li> </ul>		

# **Appendix B**

Minutes of the January 28, 2014 Virginia Marine  
Resources Commission Meeting

## MINUTES

## Commission Meeting

January 28, 2014

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 2600 Washington Avenue, Newport News, Virginia with the following present:

John M. R. Bull	Acting Commissioner
James D. Close	
S. Lynn Haynie	
Ken Neill, III	Associate Members
J. Bryan Plumlee	
Whitt G. Sessoms, III	
J. Edmund Tankard, III	
Paul Kugelman	Assistant Attorney General
Katherine Leonard	Recording Secretary
Jane McCroskey	Chief, Admin-Finance
Linda Farris	Bs. Systems Specialist, MIS
Robert O'Reilly	Chief, Fisheries Mgmt.
Joe Grist	Deputy Chief, Fisheries Mgmt.
Jim Wesson	Head, Conservation/Replenishment
Joe Cimino	Fisheries Mgmt. Sr. Manager
Stephanie Iverson	Fisheries Mgmt. Manager
Alicia Nelson	Fisheries Mgmt. Specialist (RFAB/CFAB Coordinator)
Lewis Gillingham	Director, VSWFT
Samantha Hoover	Fisheries Mgmt. Specialist
Sally Roman	Fisheries Mgmt. Specialist
Adam Kenyon	Biological Collection Prgm. Supvr.
Jason Schaffler	Fisheries Mgmt. Analyst
Laurie Williams	Fisheries Mgmt. Specialist
Rick Lauderman	Chief, Law Enforcement
Warner Rhodes	Deputy Chief, Law Enforcement
Chris Beuchelt	Sr. Marine Police Officer
Casey Springfield	Sr. Marine Police Officer
Matt Dize	Marine Police Officer

**Commission Meeting**

**17064  
January 28, 2014**

Tony Watkinson	Chief, Habitat Management
Chip Neikirk	Deputy Chief, Habitat Mgmt.
Jeff Madden	Environmental Engineer, Sr.
Jay Woodward	Environmental Engineer, Sr.
Jordan Creed	Environmental Engineer, Sr.
Hank Badger	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Justine Woodward	Environmental Engineer, Sr.
Juliette Giordano	Environmental Engineer, Sr.
Randy Owen	Environmental Engineer, Sr.
Bradley Reams	Program Support Tech., Sr.

Virginia Institute of Marine Science (VIMS):

Lyle Varnell                  Robert Orth

Others present:

Jennifer Copenhaver	Jon C. Poulson	Rob Stith
Gerry Negley	Aaron Appljits	Arthur Bender
Keith Lockwood	Robert Pruhs	Andy Lacatell
Laura McKay	Nick Meade	Jim Lang
Ernest George	Lacy Rose, Jr.	John Kirkpatrick
Joann Kirkpatrick		

and others

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Acting Commissioner Bull called the meeting to order at approximately 9:30 a.m. Associate Members Beck and Erskine were absent.

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At the request of Acting Commissioner Bull, Associate Member Tankard gave the invocation; and Tony Watkinson, Chief of Habitat Management led the pledge of allegiance.

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**APPROVAL OF AGENDA:** Acting Commissioner Bull asked if there were any changes from the Board members or staff.

**Commission Meeting**

**17065  
January 28, 2014**

Tony Watkinson, Chief, Habitat Management requested that Item 8, the VIMS presentation on the Status of SAV be heard after Habitat Item 5, John and Joann Kirkpatrick.

Acting Commissioner Bull announced that the amended agenda was approved.

\* \* \* \* \*

**MINUTES:** Acting Commissioner Bull asked if there were any changes or corrections to be made to the December 10, 2013 Commission meeting minutes.

Acting Commissioner Bull announced that as there were no changes or corrections, the December 10, 2013 Commission meeting minutes were approved. Associate Member Plumlee stated he was abstaining because he was not present at the last meeting.

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

\* \* \* \* \*

**2. PERMITS** (Projects over \$500,000 with no objections and with staff recommendation for approval).

Tony Watkinson, Chief, Habitat Management, informed the Commission that there were three page two items to be heard. He reviewed the items, A through C, for the Board. His comments are a part of the verbatim record.

Associate Member Plumlee stated he would be abstaining for Item 2C because of business conflicts. He suggested that there be separate motions.

Acting Commissioner Bull asked for public comments. There were none. He then asked, what was the pleasure of the Commission for items 2A, 2B, and 2C?

**Associate Member Plumlee moved to approve the page two items 2A and 2B. Associate Member Sessoms seconded the motion. The motion carried, 6-0.**

**Associate Member Tankard moved to approve 2C. Associate Member Haynie seconded the motion. The motion carried, 5-0-1. Associate Member Plumlee abstained.**

2A. **ARMY CORPS OF ENGINEERS, #13-1611**, requests authorization for overboard disposal of up to 3 million cubic yards of state-owned subaqueous bottom material per dredge cycle within previously authorized placement sites, adjacent to the federal navigation channel associated with Army Corps of Engineers dredging of the James River federal navigation channel at City Point Shoal, Jordan Point Shoal, Sandy Point Shoal, and Goose Hill Shoal from Milepost 69 to Milepost 27 within the James River in the Counties of James City, Surry, Prince George, Charles City, Chesterfield and the City of Hopewell.

Permit Fee.....	\$100.00
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2B. **ARMY CORPS OF ENGINEERS, #12-1255**, requests a permit modification to place overboard in an unconfined manner, dredge material from the Bradford Bay Federal Project Channel onto a previously permitted placement site in Bradford Bay (centered at N37°35'02", W75°40'53") near the Town of Wachapreague in Accomack County. The placement site's dredge material will increase by 15,000 cubic yards to a maximum of 75,000 cubic yards, per dredge cycle, from the hydraulic maintenance dredging. All other permit conditions would remain the same.

Permit Fee.....	\$100.00
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2C. **BAE SYSTEMS NORFOLK SHIP REPAIR, #13-0940**, requests authorization to maintenance dredge a maximum of 150,000 cubic yards of State-owned submerged land on an as-needed basis, to maintain depths ranging from -36 feet to -64 feet mean low water adjacent to existing piers and drydocks at their facility located at 750 West Berkley Avenue situated along the Southern Branch of the Elizabeth River in Norfolk. Dredged material will be taken to the Craney Island Dredged Material Management Area (CIDMMA) and disposed of in the Rehandling Basin.

Permit Fee.....	\$100.00
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3. **CONSENT AGENDA ITEMS.**

3A. **TOMMY GARNER, #13-1760**, requests after-the-fact authorization to retain 596 square feet of deck space on an existing open-pile private pier, and requests authorization to install an additional 69 linear feet of 5-foot wide finger pier, a boat lift, and an additional 72 square feet of deck space on the existing pier located along Deep Creek at 635 Snug Harbor Lane in the City of Newport News. The applicant has agreed to pay a civil charge in the amount of \$2,000.00 in lieu

of further enforcement action. Staff recommends approval and acceptance of the aforementioned civil charge.

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

Acting Commissioner Bull asked if there were any public comments, pro or con. There were none. He stated the matter was before the Commission.

**Associate Member Tankard moved to approve 3A. Associate Member Sessoms seconded the motion. The motion carried, 6-0.**

Permit Fee.....	\$ 25.00
Civil Charge.....	\$2,000.00
Total Fees.....	\$2,025.00

**3B. TARKILL AQUACULTURE VENTURES, LLC, #13-1660**, requests after-the-fact authorization to retain a 32-foot by 20-foot platform; a 30-foot by 7-foot finger pier; a small connecting platform; a 40-foot by 12-foot floating upweller and a 56-foot by 52-foot platform (of which a 40-foot by 40-foot portion had previous been permitted) situated adjacent to their property along Tarkill Creek at 14008 Tarkill Road in Accomack County. The applicant also requests authorization to construct a 40-foot by 30-foot second story platform with access stairs over the already constructed 56-foot by 52-foot open-sided platform. The applicant has agreed to pay a civil charge in the amount of \$2,000.00 in lieu of further enforcement action along with a triple permit fee of \$300.00 and royalties in the amount of \$3,468.00 for the additional platform encroachment over 2,312 square feet of State-owned subaqueous land at a rate of \$1.50 per square foot and \$28.80 for the floating upweller encroachment over 576 square feet State-owned subaqueous land at a rate of \$0.05 per square foot. Staff recommends approval and acceptance of the aforementioned civil charge, permit fee, and royalty fees.

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

After some discussion, Acting Commissioner Bull asked if there were any public comments, pro or con. There were none. He stated the matter was before the Commission.

**Associate Member Plumlee moved to approve item 3B. Associate Member Tankard seconded the motion. The motion carried, 6-0.**

Royalty Fees (encroach 2,312 square feet \$1.50/sq. ft.).....	\$3,468.00
Royalty Fees (encroach 576 square feet \$0.05/sq. ft.).....	\$ 28.80
Permit Fee (triple).....	\$ 300.00
Civil Charge.....	\$2,000.00
Total Fees.....	\$5,796.80

**3C. SANDIE POINT CONDOMINIUM ASSOCIATION, #13-0239**, requests after-the-fact authorization to retain an existing 10-foot wide by 16-foot long gazebo, and to install 16 additional, uncovered boatlifts at their community-use pier adjacent to Sandie Point Lane situated along the Western Branch of the Elizabeth River in Portsmouth. The applicant has agreed to pay a civil charge in the amount of \$1,000.00 in lieu of further enforcement action. Staff recommends approval and acceptance of the aforementioned civil charge.

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

Acting Commissioner Bull asked if there were any public comments, pro or con. There were none. He stated the matter was before the Commission.

**Associate Member Plumlee moved to approved 3C. Associate Member Tankard seconded the motion. The motion carried, 6-0**

Permit fee.....	\$ 100.00
Civil Charge.....	\$1,000.00
Total Fees.....	\$1,100.00

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**4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.**

When asked if a closed meeting was needed, Paul Kugelman, Assistant Attorney General and VMRC Counsel responded no.

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5. **JOHN and JO ANN KIRKPATRICK, #13-0410**, request authorization to construct a 54.5-foot by 6-foot addition to their previously permitted 1,220 square foot T-head pier and dock house situated adjacent to their property along Chesconessex Creek at 18192 Robins Lane in Accomack County.

Hank Badger, Environmental Engineer, Sr., gave the presentation of the information provided in the staff evaluation. His comments are a part of the verbatim record.

Acting Commissioner Bull asked if the applicant or their representative wished to comment.

Jon C. Poulson, attorney for the applicant, was present and his comments are a part of the verbatim record. Mr. Poulson explained that the area is not used by others for any purpose and the applicant was willing to mitigate or improve state-owned bottom by removing the pilings near the county dock. He provided several pictures, a copy of a quote by a contractor for the estimated costs, and a copy of an e-mail from the County administrator stating their support of the project especially the advantages of the pilings being removed because they were a hazard to navigation. He said that when they asked Tony Edwards, the owner's son, who stated his Father, would be pleased with the removal of this structure. He said they were asking the Commission for approval.

After further discussion regarding the mitigation offer and its public and private benefits, Mr. Kugelman explained that there was nothing in Section 28.2 for mitigation for this type of structure, but it would come under consideration as regards the public versus private benefits. He said the new structure would be a private benefit and the removal of the structure would be a public benefit.

Tony Watkinson, Chief, Habitat Management, explained that mitigation was usually considered for impacts to wetlands not for a private structure on state bottom.

Associate Member Plumlee explained that under 28.2-1204 the benefit would be to the adjacent property owner and this is where the VMRC was given its authority.

Mr. Kugelman noted that written permission was needed for the record from the owner of the structure to be removed. He suggested this be made a permit condition.

Acting Commissioner Bull opened the public hearing. Mr. Poulson noted that the applicant was present if he needed to comment. There were no other public comments, pro or con.

**After some discussion, Associate Member Plumlee moved to approve the proposed project and to include the removal of the Edward's crab shed structure after receiving permission from its owner. Associate Member Sessoms seconded the motion. Associate Member Haynie suggested that the motion include a timeline for**

**the removal of the crab shed structure so that it would be removed prior to any new construction. Associate Members Plumlee and Sessoms both agreed to the amendment. The motion carried, 6-0.**

Permit Fee.....	\$25.00
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**8. VIRGINIA INSTITUTE OF MARINE SCIENCE:** Presentation of Dr. Bob Orth's annual review of the status of Submerged Aquatic Vegetation.

Dr. Robert Orth, VIMS, was present and gave his presentation. His presentation is a part of the verbatim record.

Dr. Orth explained that he would like to continue with his current efforts. He said he would like to discuss other study proposals regarding areas for expansion of SAV resources on the Seaside of Eastern Shore to bring back to the Board at a later date. He also asked that the request for funds in the amount of \$22,000.00 to continue with ongoing SAV studies be approved.

Robert O'Reilly, Chief, Fisheries Management, explained that this funding would be split evenly between the Marine Waterway Fishing Improvement funds (MWIF MFIF) and the Recreational Fishery Advisory Board (RFAB) Virginia Saltwater Recreational Fishing Development Fund (VSRFDF) funds.

**Associate Member Plumlee moved to approve the funding of the study for the total requested of \$22,000.00, \$11,000.00 to be utilized from each of the funds. Associate Member Tankard seconded the motion. The motion carried, 6-0.**

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**11. REQUEST FOR PUBLIC HEARING:** Proposed amendments to Chapter 4VAC20-490-10 et seq. "Pertaining to Sharks," to comply with the federal and interstate management plans for these species.

Lewis Gillingham, Director, VSWFT, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

He explained that in November the ASMFC Shark Management Board adopted Addendum III and established a compliance schedule with a very short turn-around time for the states. On February 6, 2014, the ASMFC Shark Management Board will review and take action on state proposals and states will be required to implement appropriate regulations by March 1, 2014.

Staff recommended advertising a February 25, 2014, public hearing to consider the proposed amendments to Chapter 4VAC20-490-10 et seq., "Pertaining to Sharks," in order to amend the shark management group definitions, establish a recreational size limit of 78 inches for hammerhead sharks and increase the aggregate commercial possession limit for Large Coastal Sharks to 36 sharks to comply with the federal and interstate management plans for these species.

**As there were no questions of staff, Associate Member Plumlee moved to approve a public hearing to be held in February. Associate Member Haynie seconded the motion. The motion carried, 6-0.**

\* \* \* \* \*

**6. PUBLIC COMMENT.**

**Derelict Vessels**

James Lang, An Attorney representing a waterfront property owner, gave a talk regarding the status and removal of numerous vessels in a section of the Elizabeth River, which are abandoned or derelict. During the December Commission Meeting Mr. Lang had requested that the Commission take action for the removal of the vessels. He indicated at this hearing that three of the vessels were removed and a fourth was partially removed because the engine had been left on state bottom. He suggested that there was still more to be done. His comments are a part of the verbatim record.

Acting Commissioner Bull indicated that the Law Enforcement Division needed to complete their investigation.

**Request for Extension of Public Oyster Harvest Season**

Ernest George, waterman, requested that the Commission consider reopening rotational harvest Areas 2 and 4 of the Rappahannock River for two weeks in February due to extremely poor weather conditions which has prevented the watermen from being able to work. His comments are a part of the verbatim record.

The Commission discussed the request with staff. Dr. Jim Wesson, Department Head-Conservation and Replenishment, said these areas had been worked hard and need to remain closed to protect the remaining oyster stocks.

The Commission did not take any action on the request.

**Horseshoe Crab Fishery**

Robert O'Reilly, Chief, Fisheries Management, informed the Commission that Peter Bender had submitted two letters to staff concerning the adoption of amendments to the horseshoe crab regulation at its December 10, 2013 meeting. Mr. Bender was concerned about an increase in effort by Class B Dredge Permit Holders which would impact his harvest. There were two handouts, both from Mr. Bender.

The Commission did not take any action.

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- 9. PUBLIC HEARING:** Proposed adoption of previous emergency amendments to Chapter 4VAC20-260-10 et seq. "Pertaining to Designation of Seed Areas and Clean Cull Areas," to clarify culling tolerances and inspection procedures for oysters taken from public oyster beds, rocks and shoals in Virginia's tidal waters.

Dr. Jim Wesson, Head, Conservation and Replenishment, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Dr. Wesson explained that language had been added to the regulation to clarify the inspection and culling procedures since there was again some confusion in the field. The issue was how small oysters adhering so closely to the shell of any marketable oyster as to render removal impossible without destroying the host oyster, should be considered in culling requirements.

Staff recommendation was to adopt the previous emergency amendments to Chapter 4VAC20-260-10 et seq. "Pertaining to Designation of Seed Areas and Clean Cull Areas," to clarify culling tolerances and inspection procedures for oysters taken from public oyster beds, rocks, and shoals in Virginia's tidal waters.

Acting Commissioner Bull opened the public hearing. There were no public comments, pro or con. He stated the matter was before the Commission.

**Associate Member Plumlee moved to adopt the amendments to the regulation. Associate Member Tankard seconded the motion. The motion carried, 6-0.**

\* \* \* \* \*

**10. PUBLIC HEARING:** Proposed adoption of previous emergency amendments to Chapter 4VAC20-490-10 et seq. "Pertaining to Sharks," to increase the daily commercial trip limit for spiny dogfish from 3,300 pounds to 4,000 pounds.

Joe Cimino, Fisheries Management Manager, Sr., gave the briefing for the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Mr. Cimino explained that at its December 10, 2013 Commission meeting, Chris Ludford, a commercial harvester, provided public comment that Virginia's spiny dogfish buyers had a small market but at a much lower price per pound than previous years. Mr. Ludford was requesting on behalf of spiny dogfish buyers an increase in the trip limit, to 4,000 pounds, to make harvesting spiny dogfish an economically viable option for 2014. The Commission approved the amendment by taking emergency action as well as approving the advertisement for a public hearing.

Staff recommended adoption of previous emergency amendments to Chapter 4VAC20-490-10 et seq. "Pertaining to Sharks," to increase the daily commercial trip limit for spiny dogfish from 3,300 pounds to 4,000 pounds.

Acting Commissioner Bull opened the public hearing. There were no public comments. He stated the matter was before the Commission.

**Associate Member Tankard moved to approve the amendment to the regulation. Associate Member Plumlee seconded the motion. The motion carried, 6-0.**

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**7. REPEAT OFFENDERS.**

Lt. Col. Warner Rhodes, Deputy Chief, Law Enforcement and Chris Beuchelt, Marine Police Officer were both present and their comments are a part of the verbatim.

**Michael F. Stith:**

- 10/6/12 charged and convicted for possession of undersized red drum.
- 10/6/12 charged and convicted for possession of undersized grey trout.
- 10/6/12 charged and convicted for possession of undersized speckled trout.
- 5/9/13 charged and convicted for possession of undersized striped bass.
- 5/9/13 charged and convicted for possession of undersized red drum.
- 5/9/13 charged and convicted for possession of over the limit of striped bass.

Lt. Col. Rhodes stated that Mr. Stith was not present at this hearing. He had called to tell staff that he did not have transportation. In response to questions, he stated this a for a recreational license. He said that Mr. Stith had not been present at his last court date and

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he was tried in his absence and fined. He said that the Fisheries Management staff had made the recommendation for one (1) year probation.

Joe Cimino, Fisheries Management Sr. Mgr., explained that the old and new rule both said that the recommended penalty was one (1) year probation for the first appearance before the Commission. His comments are a part of the verbatim record.

Robert O'Reilly, Chief, Fisheries Management, explained that the new penalty matrix approved at the August 27, 2013 Commission meeting would be provided when an applicable repeat offender hearing occurs. His comments are a part of the verbatim record.

When asked, Officer Beuchelt read the staff recommendation:

In accordance with Code Section 28.2-232, staff recommended the Commission place Mr. Stith on probation for a period of one (1) year. Any failure on his part to obey any of the laws or regulations relating to Marine Resources Commission during the one (1) year probation would result in the Mr. Stith appearing before the Commission for a hearing of license revocation.

Acting Commissioner Bull stated the matter was before the Commission.

**After some discussion about probation versus revocation and on the advice of VMRC Counsel, Associate Member Tankard moved to revoke Mr. Stith's license for two years. Associate Member Plumlee seconded the motion. The motion carried, 6-0.**

\* \* \* \* \*

There being no further business, the meeting was adjourned at approximately 1:17 p.m. The next regular Commission meeting will be Tuesday, February 25, 2014.

\* \* \* \* \*

\_\_\_\_\_  
John M. R. Bull, Acting Commissioner

\_\_\_\_\_  
Katherine Leonard, Recording Secretary

# **Appendix C**

Minutes of the October 28, 2014 Virginia Marine  
Resources Commission Meeting

## MINUTES

## Commission Meeting

October 28, 2014

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 2600 Washington Avenue, Newport News, Virginia with the following present:

John M. R. Bull	Commissioner
Chad Ballard, III	
Robert G. Beck	
James D. Close	
A. J. Erskine	
S. Lynn Haynie	Associate Members
Ken Neill, III	
Whitt G. Sessoms, III	
John E. Zydron	
Matthew R. Hull	Assistant Attorney General
Laurie Naismith	Director, Public Relations
Katherine Leonard	Recording Secretary
Jane McCroskey	Chief, Admin-Finance
Todd Sterling	Bs. System Specialist, Sr.
Dave Lego	Bs. System Specialist
Joe Grist	Deputy Chief, Fisheries Mgmt.
Joe Cimino	Fisheries Mgmt. Manager, Sr.
Stephanie Iverson	Fisheries Mgmt. Manager
Lewis Gillingham	Director, SWFT
Samantha Hoover	Fisheries Mgmt. Specialist
Sally Roman	Fisheries Mgmt. Specialist
Adam Kenyon	Biological Sampling Supervisor
Laurie Williams	Fisheries Mgmt. Specialist
Rachael Maulorico	Fisheries Mgmt. Planner
Ande Ehlen	Fisheries Mgmt. Specialist
Alicia Nelson	RFAB Coordinator
Rick Lauderman	Chief, Law Enforcement
Warner Rhodes	Deputy Chief, Law Enforcement
Mike Morris	Marine Police Officer, Sr.
William Franklin	Marine Police Officer
Marshall Reedy	Marine Police Officer
Gerald Pitt	Marine Police Officer

**Commission Meeting**

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Tony Watkinson	Chief, Habitat Management
Chip Neikirk	Deputy Chief, Habitat Management
Jeff Madden	Environmental Engineer, Sr.
Jay Woodward	Environmental Engineer, Sr.
Hank Badger	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Randy Owen	Environmental Engineer, Sr.
Ben Stagg	Environmental Engineer, Sr.
Justin Worrell	Environmental Engineer, Sr.
Justine Woodward	Environmental Engineer, Sr.
Mark Eversole	Environmental Engineer, Sr.
Brad Reamy	Program Support Technician
Rob Butler	Surveyor, Engineering-Surveying

Virginia Institute of Marine Science (VIMS):

Lyle Varnell	Emily Hein	Mark Luckenbach
Robert Orth		

Virginia Department of Health – Division of Shellfish Sanitation

Keith Skiles	Danielle Schools
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Others present:

Wayne McCoy	Matt Rembold	Jay Crofton
Robert Kerr	Pria Clarke	Don Clarke
Bill Parr	Robert Pruhs	Dennis Kiett
Chris Williamson	Wesley Gross	Chris Turner
Ann Wallace	Ben Saunders	Ben McGinnis
Greg Brezinski	Jennifer Beckensteiner	
Nadya Mamoozaden	David Kledek	Paul Richardson
Corey Holbert	Matt Oreska	Charles H. William IV
Emily Williams	Charles Williams III	Kim Huskey
Jennifer Hume	Robert Hewlett	Phillip B. Brown
J. Breeden	Chris Moore	

and others.

\* \* \* \* \*

Commissioner Bull called the meeting to order at approximately 9:34 a.m. All Associate Members were present.

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**APPROVAL OF AGENDA:** Commissioner Bull asked if there were any changes from the Board members or staff.

Tony Watkinson, Chief, Habitat Management stated that there were no changes for Habitat Items.

Joe Grist, Deputy Chief, Fisheries Management, stated that there was an additional Fisheries Management item. He said that staff was requesting adding Item 24, to discuss a minor change in Chapter 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest", to amend the description of Rappahannock River Rotation Area 1.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Sessoms moved to approve the agenda, as amended. Associate Member Erskine seconded the motion. The motion carried, 9-0. Chair voted yes.**

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**MINUTES:** Commissioner Bull asked if there were any changes or corrections to be made to the September 23, 2014 Commission meeting minutes.

As there were no changes or corrections, Commissioner Bull stated that the matter was before the Commission.

**Associate Member Erskine moved to approve the minutes, as written. Associate Member Beck seconded the motion. The motion carried, 9-0. Chair voted yes.**

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**2. PERMITS** (Projects over \$500,000 with no objections and with staff recommendation for approval).

Tony Watkinson, Chief, Habitat Management, informed the Commission that there were six page two items to be heard. He reviewed the items A through F for the Board. His comments are a part of the verbatim record.

Commissioner Bull asked for public comments.

Matt Rembold, Engineer for the project and representing the applicant for Item 2 D was sworn in and his comments are a part of the verbatim record. He wanted to thank the Commission for hearing this matter and to answer any questions. There were no questions.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Beck moved to approve the page two items, 2A through 2F, as submitted. Associate Member Sessoms seconded the motion. The motion carried, 9-0. Chair voted yes.**

- 2A. DEPARTMENT OF THE NAVY, #14-1075,** requests authorization to hydraulically nourish sections of the Fort Story shoreline (4,170 total linear feet of shoreline) situated along the Chesapeake Bay within the Joint Expeditionary Base Little Creek-Fort Story in Virginia Beach. Approximately 850,000 cubic yards of sand dredged from federal navigation channels will be placed along the shoreline, and an existing 48-inch cast iron storm water outfall pipe will be extended by 160 feet out into the Bay.

Permit Fee	\$100.00
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- 2B. U. S. ARMY CORPS OF ENGINEERS, #14-0171,** requests authorization to place per dredge cycle up to 100,000 cubic yards of sandy dredge material along the shoreline at the Cape Charles Town Beach. The dredge material is from the maintenance dredging of the Cape Charles Federal Navigation Channel.

Permit Fee	\$100.00
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- 2C. SHIRLEY CONTRACTING COMPANY, INC., #14-1197,** requests authorization to construct twin clear-span bridges, each measuring 42 feet in width, across approximately 158 linear feet of Broad Run to facilitate construction of the Gloucester Parkway Extension (SR 2150) in Loudoun County. Permittee shall execute a transfer of this permit to the Virginia Department of Transportation upon their acceptance of the structure(s) authorized herein.

Permit Fee	\$100.00
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- 2D. HANOVER COUNTY DEPARTMENT OF PUBLIC WORKS, #14-1353,** requests authorization to cross Stony Run in four locations with a 24-inch diameter gravity sewer line encased in concrete and trenched in approximately two feet below the natural stream bed in association with Phase 6 of the Stony Run Sewer Interceptor project from Cobbs Road to the Town of Ashland. Recommend approval with standard in-stream work conditions, including all work to be conducted in the dry within cofferdams constructed of non-erodible material and complete removal of all construction related material and restoration of the streambed and banks to their natural, pre-constriction condition upon completion of the project.

Permit Fee	\$100.00
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- 2E. **COLONNA'S SHIPYARD, #09-0073**, requests authorization to maintenance dredge 13,200 cubic yards of State-owned subaqueous material using either mechanical or hydraulic methods to establish and maintain, on an as-needed basis, maximum depths of -27 feet at mean low water, adjacent to Pier 8 at the West Yard facility situated along the Eastern Branch of the Elizabeth River in the City of Norfolk. Dredged material will be disposed of in the Craney Island Rehandling Basin if dredged mechanically, or hydraulically pumped directly into the Craney Island Dredged Material Management Area.

Permit Fee	\$100.00
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- 2F. **VIRGINIA ELECTRIC AND POWER COMPANY, #14-1023**, requests authorization to remove the existing transmission line structures within the Lynnhaven Inlet and install two new towers, spanning an approximate 900-foot section of the Lynnhaven Inlet on the south side of the Lesner Bridge in Virginia Beach. The new towers will be installed utilizing eight-foot diameter concrete pipe pile bases which will extend eight feet vertically above mean high water. Six new conductor lines will be attached to the new towers, maintaining a minimum of 66 feet of vertical clearance above mean high water. Staff recommends approval with a total royalty assessment of \$5,710.40 which includes two complete electrical circuits crossing 900 linear feet of State-owned submerged bottom at a rate of \$3.00 per linear foot, the dredging of 184 cubic yards of State-owned submerged bottom (associated with the removal of the existing and installation of the new towers) at a rate of \$0.60 per cubic yard, and the filling of 100 square feet of State-owned submerged bottom at a rate of \$2.00 per square foot.

Royalty Fees (Two 900 ft. crossings @\$3.00/ft.)	\$5,400.00
Royalty Fees (dredging 184 cu. yds. @ \$0.60/cu. yd.)	\$ 110.40
Royalty Fees (filling 100 sq. ft. @\$2.00/sq. ft.)	\$ 200.00
Permit Fee	\$ 100.00
Total Fees	\$5,810.40

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3. **CONSENT AGENDA ITEMS.** None

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- 4. **CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. When asked, Matthew Hull, Assistant Attorney General and VMRC Counsel indicated that no closed meeting was necessary.**

\* \* \* \* \*

- 5. **ARMY CORPS OF ENGINEERS, #13-1563**, requests authorization to place approximately 27,000 cubic yards of sandy dredge material from the maintenance dredging of the Starling Creek Federal Navigation Channel along approximately 2,100 feet of shoreline, install an 879-foot long stone revetment centering on the existing dredge placement site and replace the four storm water outfall pipes adjacent to the placement site on Saxis Island in Accomack County. Subaqueous and Coastal Primary Sand Dunes/Beach permits are required.

Hank Badger, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record.

The County of Accomack has not yet adopted the model Coastal Primary Sand Dune and Beach Ordinance. As a result, the Commission is responsible for administering the provisions of the ordinance within that locality. Commission staff held a public hearing in the Saxis Town Hall on Tuesday, September 30, 2014, to accept public comments on the project. Mayor Drewer, two Corps representatives and five members of the public attend the hearing. All were in favor of the project.

Staff considered the merits of the project and all of the factors contained in Code Sections 28.2-1205 (A) and 28.2-1403 (10) (B) of the Code of Virginia and recommended approval of the project, as submitted, with the following condition:

The applicant shall be required to submit post bathymetric and cross-sectional surveys of the placement site within 90 days of completion of the placement of the dredged material.

After some discussion, Commissioner Bull opened the public hearing and asked for public comments, pro or con. There were none. He stated the matter was before the Commission.

**Associate Member Ballard moved to approve the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 9-0. Chair voted yes.**

Permit Fee	\$100.00
Coastal Primary Sand Dunes/Beach Permit Fee*	\$300.00
Total Fees	\$400.00

\*Prepaid

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6. **DENNIS KOCH, #14-0834, BARBARA MERCER, #14-0833, JACK LUNDY, #14-1064, JAMES SPEEGLE, #14-1231, ANN WALLACE, #14-1061, DAVID ROGERS, #14-1065, DOROTHY WHITE, #14-1062, SANDRA VON SHILLING, #14-1063, HORACE PRATT, #14-1232.** Each applicant requests authorization to install a manmade dune system consisting of geo-textile bags filled with sand, overtopped with sand and natural vegetation, upon their property located along the Chesapeake Bay at North 1<sup>st</sup> Street in the City of Hampton. Each project requires a Coastal Primary Sand Dune/Beach permit.

Mike Johnson, Environmental Engineer, Sr. gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record. He noted that the City of Hampton had not adopted the Coastal Primary Sand Dune/Beach ordinance, which meant the Virginia Marine Resources Commission was authorized to hear this matter.

Staff held a public hearing for the proposed project on October 9, 2014, which was attended by some of the applicants and adjacent property owners. No one spoke against the project and the proposal was supported by the adjacent property owners that were present.

Staff felt that while beach nourishment with breakwaters or groins may be the preferred alternative to control shoreline erosion in this area these methods are cost prohibitive. What the applicants were proposing should have minimal adverse environmental impacts and offer some level of protection. As such Staff recommended approval of their projects, as proposed, with the following special permit conditions:

1. A minimum of one foot of sand cover shall be maintained over the geo-textile bags.
2. A planting plan shall be submitted for approval by Commission Staff that includes natural vegetation and the use of Bermuda grass, as a walkway. The plan shall include provisions for replanting to maintain 80% coverage of vegetation and shall include monitoring for three years and the submittal of an annual report at the end of each year for three years following project construction.
3. Should the constructed dune features fail and they cannot be maintained the geo-textile bags shall be removed and sand spread on the beach.
4. Should the artificial dunes result in unanticipated impacts the Commission may hold an additional hearing to consider requiring their removal and order such removal if necessary.

After some questions and discussion, Commissioner Bull opened the public hearing. He asked if there was anyone present to comment supporting the project.

Robert Kerr, representing the applicant, was sworn in and his comments are a part of the verbatim record. Mr. Kerr said that he had designed the dune system consisting of geotextile bags filled with sand, overtopped with sand and natural vegetation, upon the applicants' properties located along the Chesapeake Bay at North 1<sup>st</sup> Street in the City of Hampton. He said that this was different from anything used before and he had talked with the Virginia Institute of Marine Science. He added that staff had been a great help.

After some questions and discussion for clarification, Commissioner Bull opened the public hearing to public comments, either pro or con. There were none. He stated that the matter was before the Commission.

**Associate Member Sessoms stated that he thought this would be an effective system and he moved to accept the staff recommendation for approval with the four conditions. Associate Member Erskine seconded the motion. The motion carried, 9-0. Chair voted yes.**

Coastal Dunes/Beach Permit Fee*	Primary	Sand	\$300.00
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\*Prepaid by each applicant (9).

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- 7. **GREGORY BREZINSKI, #14-1077**, requests authorization to construct a single family dwelling along the Chesapeake Bay at 826 North 1<sup>st</sup> Street in the City of Hampton. The project requires a Coastal Primary Sand Dune/Beach permit.

Mike Johnson, Environmental Engineer, Sr. gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record. He noted that the City of Hampton had not adopted the Coastal Primary Sand Dune/Beach ordinance and the Virginia Marine Resources Commission was authorized to hear the matter.

Staff held a public hearing for the project on October 8, 2014. The meeting was attended by the applicant and both adjacent property owners. The adjacent property owners felt the applicant should be allowed to build on his property, but that channelward encroachment should be limited to the existing line of dwellings to limit aesthetic impacts.

Staff recommended approval of the project pending receipt of revised drawings depicting the dwelling in line with the adjacent house to the south and depicting the channelward encroachment of the bulkhead to be as close as possible to the existing one to the south. Should the applicant not be able to secure a waiver from the City of Hampton for a variance to allow construction of the home and garage closer to North 1<sup>st</sup> Street (within the 30 foot setback area) the applicant would have to request that the Commission

reconsider his request for a change in the house and garage location or for a modified house and garage plan. Any such review would require a new public hearing.

After some questions and discussion, Commissioner Bull opened the public hearing to public comments, pro or con.

Gregory Breziwski, applicant was sworn in and his comments are a part of the verbatim record. Mr. Breziwski said that the City required that the entity approval was obtained prior to their decision. He noted that this was difficult site to develop and the DZA applied. He said he agreed with the staff recommendation to move the structure the ten feet required to align it with the existing bulkhead to the south and to align the dwelling with the adjacent house. He stated he needed the Commission approval.

Ann Wallace, adjoining property owner was sworn in and her comments are a part of the verbatim record. She stated she agreed with staff recommendation and had no problem with the project.

Commissioner Bull asked if there was anyone in opposition who wished to comment and there were none. He stated that the matter was before the Commission for discussion or action.

**Associate Member Beck moved to accept the staff recommendation. Associate member Sessoms seconded the motion. The motion carried, 9-0. Chair voted yes.**

Coastal	Primary	Sand	
Dunes/Beach Permit Fee*			\$300.00

\*Prepaid

\* \* \* \* \*

- 8. **VERIZON, #13-1275**, requests after-the-fact authorization to retain a fiber optic cable installed across the Southern Branch of the Elizabeth River adjacent to the Gilmerton Bridge in Chesapeake. The project requires a wetlands and a subaqueous permit.

Justine Woodward, Environmental Engineer, Sr., gave the briefing of the information in the staff's evaluation with slides. Her comments are a part of the verbatim record. Ms. Woodward noted that these are after-the-fact wetlands and subaqueous permits. She also noted that the City of Chesapeake had not adopted the Wetlands ordinance and the Virginia Marine Resources Commission is authorized to hear this matter.

Staff held the public hearing at the VMRC main office on October 21, 2014. The hearing was attended by Mr. Crofton and Mr. Tom Wheeler, Operations Manager with Southern States Cooperative, Inc., an adjacent property owner. Mr. Wheeler did not express

concern with the project, and indicated he was primarily there for informational purposes and to ensure there would be no conflict with future dredging projects. The current location of the cable is outside of the construction area of the Gilmerton Bridge. Since construction of the bridge is now complete, and to avoid any potential issues in the future, Mr. Crofton agreed that the portion of the line along the Eastern segment, adjacent to Southern States Coop, Inc. property, would be relocated further south and closer to the alignment of the original cable which is abandoned in place.

Staff recommended after-the-fact approval of the project, as proposed. In lieu of further enforcement action by the Commission, staff recommended after-the fact approval of the cable crossing contingent upon Verizon's agreement to pay a triple permit fee of \$300.00 and triple royalties in the amount of \$10,800.00 for the crossing of 1,200 linear feet of State-owned submerged land at a rate of \$3.00 per linear foot pursuant to Section 28.2-1206 of the Code of Virginia, and a \$1,000.00 civil charge based on a minor degree of deviation and a minimal degree of impact as identified in the Commission's Guidance for Civil Charge Assessments. Given the temporary wetland impacts associated with the proposal, staff further recommended the following permit conditions:

1. Erosion and sediment control measures shall be in conformance with the 1992 Third Edition of the Virginia Erosion and Sediment Control Handbook and shall be employed throughout construction.
2. Permittee agrees to restore, a minimum of 22.5 linear feet of vegetated wetlands onsite following the installation of the fiber optic cable. Existing biological benchmarks will be used to re-establish the appropriate grade to support the planting of both *Spartina alterniflora* and *Spartina patens* on 12-inch centers. Any additional vegetated wetland areas directly impacted within the limits of disturbance will also be restored.
3. Permittee agrees to coordinate all restoration activities with VMRC staff, and a final site inspection will be conducted subsequent to the restoration of the site.
4. Permittee agrees to adhere to a time of year restriction from February 15 to June 30 to protect anadromous fish resources.

Associate Member Zydron asked why was there a fine when this was an emergency repair which was not their fault. Ms. Woodward explained that most cases like this that are heard involve the assessment of a civil charge which in this case was \$1,000 for minor deviation and minimal impact.

Commissioner Bull asked for comments from the applicant's representative.

Jay Crofton, representing the Virginia Electric and Power Company, was sworn in and his comments are a part of the verbatim record. Mr. Crofton explained that this has happen in the past and it was not Dominion Virginia Power Company’s fault. He stated the permit was in place and it was marked and still someone damaged it. He explained that Mr. Watkinson explained what was in store if go ahead and they checked and did all the rights thing. They did what the Commission told them to do. He said they requested reconsideration of the penalties.

Commissioner Bull asked for comments, pro or con. There were none. He stated the matter was before the Commission for discussion or action.

After much discussion about the Board’s concerns regarding the penalties, Commissioner Bull stated the matter was before the Commission.

**Associate Member Zydron moved to approve the request but to assess the standard royalties. Associate Member Erskine seconded the motion. Associate Member Neil asked if it was for the standard permit fee not triple permit fees, to include staff conditions, and with no civil charge. Commissioner Bull stated yes. Associate Members Zydron and Erskine stated they accepted the changes. The motion carried, 9-0. Chair voted yes.**

Wetlands Permit Fee*	\$ 300.00
Royalty Fees (encroachment 1,200 lin. ft. @ \$3.00/lin. ft.	\$3,600.00
Permit Fee	\$ 100.00
Total Fees	\$4,000.00

\*Prepaid

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- 9. **SAVAGE NECK VA LLC, et al, #13-1843**, requests authorization to install five (5) 180-foot long offshore breakwaters with beach nourishment situated adjacent to their properties along the Chesapeake Bay (south of Smith Beach and north of Sand Hills) in the Savage Neck area of Northampton County. The project is protested by a nearby property owner.

Hank Badger, Environmental Engineer, Sr., gave the briefing of the information included in the staff’s evaluation with slides. His comments are a part of the verbatim record.

Mr. Badger noted that Edmund Tankard called him the day before to say he did not protest the project, but that he did have a right of way on the beach that he wanted noted in the record.

Staff explained that they considered all of the merits of the entire project and all of the factors contained in §28.2-1205(A) of the Code of Virginia and recommended approval

of the project, as submitted, with a one-time royalty assessment in the amount of \$3,149.00 for the beach nourishment fill over 62,980 square feet of State-owned subaqueous land at a rate of \$0.05 per square foot.

Wayne McCoy, representing the applicant was sworn and his comments are a part of the verbatim record. Mr. McCoy stated he was not aware of Mr. Tankard's easement until now as he had not contacted them. He said that they were building higher in order to counter the rising seas. He stated that there was tremendous erosion because it was a high energy area on the Chesapeake Bay.

Commissioner Bull opened the public hearing for public comments, pro or con.

Don Clarke, Virginia Beach Attorney and representing the protestant, was present and his comments are a part of the verbatim record. He noted that one of the property owners in the area will be selling their lot so they are not concerned, but if the project is done as proposed Mr. Tankard would not have his right of way and would have to build a bridge to access his property if the project is done as proposed. He said it was speculation on the sand movement and it was a dynamic beach. He said they questioned the need for five jetties and 1,100 feet was not minimal and a permanent change. He said the sand bars were working even with the changes. He stated they were opposed to the project because it would only help the applicant and they were not so sure it would help the other properties.

Commissioner Bull asked for comments from the Virginia Institute of Marine Science (VIMS) staff.

Lyle Varnell, representing VIMS, explained that this was a dynamic, high energy area and the sands move back to the beach as there is a lot of sand here. He said VIMS recommended the offshore breakwaters be used in areas like here because it allows for sand movement back to other areas on the beach. He said that a survey of all existing breakwater systems had proven that they work. He said the preferred method was recommended by VIMS.

Mr. McCoy explained that this project has been engineered based on the guidelines of VIMS.

William Parr, representative for Savage Neck, was sworn in and his comments are a part of the verbatim record. Mr. Parr said they searched for documents of Mr. Tankard's easement and cannot find anything. He said that the protests were not based on science and professionals had met with the governing agencies over the past year. He said that they were reducing the structures but did not agree with eliminating any of them or with what is down the beach. He noted that Ms. Savage's brother said that 40 miles of land was lost.

The public hearing was closed. Commissioner Bull stated the matter was before the Commission for discussion or action.

**Associate Member Ballard stated he felt the proposal was well done by the applicant and he moved to accept the staff recommendation. Associate Member Beck seconded the motion. The motion carried, 9-0. Chair voted yes.**

Royalty Fees (beach nourishment 62,980 sq. ft. @ \$0.05/sq. ft.)	\$3,149.00
Permit Fee	\$ 100.00
Total Fees	\$ 3,249.00

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- 10. REQUEST FOR PUBLIC HEARING** to set aside unassigned State bottom not to be leased in Cobb Bay adjacent to and south of Public Ground #13, and in South Bay adjacent to and east of Public Ground #30, in Northampton County. The areas are identified as suitable for Submerged Aquatic Vegetation (SAV) growth and restoration.

Hank Badger, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record.

Staff recommended the Commission hold a public hearing at their December 9, 2014 meeting to consider the proposed SAV set-aside areas in Cobb Bay for approximately 805 acres and in South Bay for approximately 963 acres.

Dr. Robert Orth, representing VIMS, explained that he reported annually on the status of seagrass and would be able to give they presentation at the January meeting to request the expansion of the SAV Areas.

Dr. Mark Luckenbach, representing VIMS, spoke in support of the request.

After much discussion, Commissioner Bull asked when the public hearing should be held.

**Associate Member Neill suggested January to hear the experts and moved to hold a public hearing at the January 2015 meeting. Associate Member Zydron seconded the motion. The motion carried, 9-0. Chair voted yes.**

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- 11. PUBLIC COMMENT:** There were no public comments.

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**12. REPEAT OFFENDERS:**

**Charles Williams, IV** – was present and sworn in.

William Franklin, Marine Police Officer, gave the briefing of the case from the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Possession of 34 untagged striped bass – Section 28.2-201, 4VAC 20-252 (Class 3 Misdemeanor, summons issued January 4, 2014; Amended by the Court Plea Agreement to possession of one untagged striped bass, March 24, 2014; convicted in Northumberland County General District Court, Fine \$75.00, Court Cost \$81.00, March 24, 2014.

Joe Grist, Deputy Chief Fisheries Management, read the staff recommendation.

Charles Williams IV, a commercial fisherman registration licensee, was convicted of an amended charge of possession of one untagged striped bass on March 24, 2014 (Section 120 of Chapter 4VAC20-252-10 et seq.). According to the Commission's guidelines for sanctions, one conviction of exceeding the possession limit within a 12-month period would result in one year probation.

Mr. Williams was cited on January 4, 2014, when the Virginia Commercial Striped Bass season was closed, and no possession was allowed.

In accordance with Code Section 28.2-232 of the Code of Virginia, staff recommends the Commission place Mr. Williams on probation for a period of one year, from October 28, 2014, through October 27, 2015. Any failure on Mr. Williams part of obey any of the laws or regulations relating to the Marine Resources of the Commonwealth during the one year probation would result in Mr. Williams appearing before the Commission for a hearing on license revocation.

James C. Breeden, Attorney for Mr. Williams was present and his comments are a part of the verbatim record. Mr. Breeden stated that there was evidence of nets in the Potomac River and therefore was in season. He said the Potomac River tags were good for 2013-2014, whereas, Virginia's tags were good for 2013. He stated that Mr. Williams forgot his Potomac River tags. He reiterated that there was no evidence of the fish being caught in Virginia waters and no evidence that the fish were caught out of season. He stated the nets licensed with the Potomac River Fisheries Commission. He stated he was wrong not to have them tagged. He noted that there was one crabbing violation but it was dismissed by the court. He stated that Mr. Williams had been cooperative with the officer and he realized the importance of the regulation.

Mr. Williams stated that the striped bass were taken from his licensed nets in the Potomac River and there was a line on the north side of the Great Wicomico to the Potomac River

where you can possess both area tags and he was within that line to his house. He stated he had been working with someone else the day before and had forgotten to bring his Potomac River tags with him.

After further discussion about the seriousness of the violation, the staff recommendation, and making the probation time period longer, Commissioner Bull asked for a motion.

**Associate Member Close moved to place Mr. Williams on a two year probation period, effective 10/28/14 and ending 10/27/16. Associate Member Neill seconded the motion. The motion carried, 9-0. Chair voted yes.**

\*\*\*\*\*

**13. UNLAWFUL TAKING OF OYSTERS OFFENDERS:**

Mike Morris, Marine Police Officer Sr., was sworn in and his comments are a part of the verbatim record.

**David A. Turner** – was not present.

Took, caught and removed oysters from condemned waters (Code Section 28.2-810); summons issued 7/14/2014; convicted 9/25/2014 in the Newport News General District Court (Criminal); fine \$300.00, Court Cost \$101.00.

Joe Grist, Deputy Chief Fisheries Management, read the staff recommendation:

Mr. David A. Turner's commercial licenses were revoked under Code Section 28.2-232 of the Code of Virginia for 12 months, 12/10/2013 through 12/09/2014, followed by one year probation, owing to repeat offender violations of two warm water violations and for harvesting oysters without shellfish tags and an oyster aquaculture harvester permit to do so. During his revocation, he had one conviction entered on September 25, 2014, for harvesting oysters from a condemned area, as defined in Code Section 28.2-810, valued at \$300.00. This is a riparian oyster planting ground assigned pursuant to Article 1 (Code Section 28.2-600 et seq.) of Chapter 6 of Title 28.2 of the Code of Virginia.

As authorized under Code Section 28.2-528, staff recommends the Commission revoke all of Mr. Turner's licenses to take or catch fish, shellfish, or marine organisms. Staff recommends that the revocation extend for two years from Mr. Turner's conviction date of September 25, 2014 and ending on September 24, 2016, as provided by Code Section 28.2-528.

**After much discussion on whether this was considered theft of oysters in accordance with Code Section 28.2-528, Associate Member Zydron moved to continue the hearing of all the cases until the December 9, 2014 Commission meeting and that all**

**cases scheduled for today's hearing would be brought back under the appropriate Code Section 28.2-232. Associate Member Beck seconded the motion. The motion carried, 9-0. Chair voted yes.**

\* \* \* \* \*

- 14. FAILURE TO REPORT:** Cases involving failure to report commercial harvests, in accordance with Chapter 4 VAC 20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting."

Stephanie Iverson, Fisheries Management Manager, gave the briefing for the failure to report cases. Her comments are a part of the verbatim record.

**Jennifer Hume – present and sworn in**

Ms. Iverson explained that Ms. Hume was current of all her reporting as of this meeting date.

Ms. Hume explained that she just did not do the reporting and with all that was going on in her life she was very busy. She stated she had not acted responsibly and taken care of her reporting.

Ms. Iverson stated that staff recommended two year probation to end October 27, 2016.

**After some discussion, Associate Member Erskine stated that the reporting was very important and moved to accept the staff recommendation for Ms. Hume to be placed on two year probation, starting 10/28/2014 and ending 10/27/2016. Associate Member Neill seconded the motion. The motion carried, 9-0. Chair voted yes.**

**Kevin R. Wyatt** – not present.

Ms. Iverson explained that since Mr. Wyatt was not here, the Commission could continue the hearing, suspending all of his licenses until he appeared before the board or decide to hear the matter today. Associate Member Neill asked if he was up to date to which Ms. Iverson responded no.

**Associate Member Neill moved to suspend all licenses until Mr. Wyatt appeared before the Commission for his hearing. Associate Member Erskine seconded the motion. The motion carried, 9-0. Chair voted yes.**

**Phillip Brown** – present and sworn in

Ms. Iverson explained that Mr. Brown was missing March and August 2014 and also February, September, June, and December 2013.

Mr. Brown explained that he had copies all of his paperwork with him and he had made a mistake. He added that staff had helped him to get caught up. He said he was just not organized or good with paperwork.

Ms. Iverson stated that staff recommended two year probation, ending October 27, 2016.

**Associate Member Zydron moved to accept the staff recommendation to place Mr. Brown on two year probation, starting October 28, 2014 and ending October 27, 2016. Associate Member Erskine seconded the motion. The motion carried, 9-0. Chair voted yes.**

\*\*\*\*\*

15. **PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-910-10 et seq. "Pertaining to Scup (Porgy)," to increase the possession limit for scup, during the Winter II Period (November 1 through December 31), from 8,000 pounds to 18,000 pounds.

Sally Roman, Fisheries Management Specialist, gave the briefing of the information provided in the staff's evaluation with slides.

The commercial fishery is managed by an annual coastwide quota divided into three periods: Winter I period (January 1 through April 30), Summer period (May 1 through October 31), and Winter II period (November 1 through December 31), under Addendum I to the FMP. For the Winter I and Winter II periods, quotas are managed through vessel possession limits, and landings are monitored by the National Marine Fisheries Service (NMFS). Addendum X to the FMP provided for the rollover of unused quota from the Winter I period into the Winter II period. Vessel possession limits for the Winter II period are increased by 500 pounds per each 500,000 pounds of scup that are rolled over. Virginia's commercial vessel possession limit will need to be modified to reflect the rollover between the two periods. The current possession limit is 8,000 pounds. The possession limit will need to be increased to 18,000 pounds.

Staff recommended the Commission adopt Chapter 4 VAC 20-910-10 et seq. "Pertaining to Scup (Porgy)" establishing the Winter II (November 1 through December 31) vessel possession limit for scup as 18,000 pounds.

Commissioner Bull opened the public hearing. There were no public comments. He stated the matter was before the Commission.

**Associate Member Zydron moved to accept the staff recommendation. Associate Member Haynie seconded the motion. The motion carried, 9-0. Chair voted yes.**

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16. **PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-1090-10 et seq., "Pertaining to Licensing Requirements and License Fees," to increase saltwater recreational license fees to ensure continuation of core recreational programs.

Joe Grist, Deputy Chief Fisheries Management, gave the briefing of the information provided in the staff's evaluation with slides. Mr. Grist noted that there were 19 additional comments received.

Staff recommends the Commission adopt amendments to Chapter 4 VAC 20-1090-10 et seq. "Pertaining to Licensing Requirements and License Fees" to raise recreational license fees, effective January 1, 2015.

Type of License	Last Fee Adjustment by VMRC	Current 2014 License Cost	Proposed 2015 License Cost
Individual SW, Resident	2011	\$ 17.50	\$ 22.50
Individual SW, Non Resident	2009	\$ 25.00	\$ 30.00
SW 10-Day Temp, Resident	2011	\$ 10.00	\$ 15.00
SW 10-Day Temp, Non Resident	2009	\$ 10.00	\$ 15.00
SW Recreational Boat, Resident	2011	\$ 48.00	\$ 53.00
SW Recreational Boat, Non Resident	2009	\$ 76.00	\$ 84.00
Combo Res Fresh/SW	2011	\$ 39.50	\$ 44.50
Combo Non Res Fresh/SW	2009	\$ 71.00	\$ 76.00
Combo Temp 5-Day Res Fresh/SW	2011	\$ 24.00	\$ 29.00
Combo Temp 5-Day Non Res Fresh/SW	2009	\$ 31.00	\$ 36.00
Resident Tidal Boat Sport Fishing	2011	\$ 126.00	\$ 131.00
Non Resident Tidal Boat Sport Fishing	2011	\$ 201.00	\$ 206.00
Charter/Head Boat - 6 and Under	2006	\$ 190.00	\$ 224.00
Non-Res Charter Boat 6 and Under	2009	\$ 380.00	\$ 421.00
Charter/Head Boat- more than 6	2006	\$ 190.00	\$ 224.00
Non-res charter boat more than 6	2009	\$ 380.00	\$ 421.00
Commercial Pier-optional license	2011	\$ 632.00	\$ 669.00
Boat Rental - resident (max 703)	2011	\$ 14.00	\$ 19.00
Boat Rental - non resident (max 1270)	2011	\$ 18.00	\$ 23.00

Commissioner Bull opened the public hearing.

Robert Hewlett, representative for Charter Boat Association, was present and his comments are a part of the verbatim record. Mr. Hewlett stated that the industry cannot stand any increases in the license fees and were opposed to any increases, unless the same were done for the commercial industry.

Commissioner Bull stated the matter was before the Commission.

Associate Member Zydron stated that he would abstain from participating in this hearing, because of a business conflict and also he does himself have a charter boat license.

Associate Member Neill said the recreational fishermen are opposed to any increases, but that he agreed with the report that was written. He stated that the Peninsula Salt Water Sport Fisherman's Association (PSWSFA) had grudgingly given their approval and also wanted the Commercial industry to have their license fees increased. He said they do not agree with using the money for other things or to replace general funds or Wallop Breaux federal funds. They wanted to use funds overall to keep the Saltwater Fishing Tournament operating and to enhance the artificial reef program.

After further discussion, Commissioner Bull again stated the matter was before the Commission.

**Associate Member Haynie moved to accept the staff recommendation. Associate Member Sessoms seconded the motion. The motion carried, 8-0-1. Chair voted yes and Associate Member Zydron abstained.**

\* \* \* \* \*

**17. REQUEST FOR PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-252-10 et seq., "Pertaining to the Taking of Striped Bass" to comply with Addendum IV to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan.

Joe Grist, Deputy Chief Fisheries Management, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

The primary issue before the Commission is that upon adoption of Addendum IV to Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass, the management measures will be required to be effective January 1, 2015. The Virginia commercial striped bass Individual Transferable Weight Quota fisheries, Chesapeake Bay and Coastal, begin on January 16, 2015 and must have a defined quota for management. The Virginia recreational fisheries, coastal and Chesapeake Bay, have differing seasons, however, they must also have defined size and possession limits, and these should be advertised as soon as possible so that the general public is aware of any ASMFC required management changes. There will not be a November Commission meeting for staff to provide an update on the specific details and requirements of the ASMFC decision on October 29, prior to the December 9, 2014 Commission meeting. In order to meet the expected implementation date of January 1, 2015, staff is requesting that the Commission approves advertisement, for a December 9, 2014 public hearing, any measures adopted and approved by the ASMFC Striped Bass Management Board on October 29, 2014.

Staff recommended advertising, for a December 9, 2014 public hearing, amendment to Chapter 4 VAC 20-252-10 et seq. "Pertaining to the Taking of Striped Bass" to include:

- Any measures adopted and approved, relative to Virginia striped bass fishery management, by the ASMFC Striped Bass Management Board on October 29, 2014;
- Provisions to establish a Spring Recreational Striped Bass Trophy Permit, and sanctions pertaining to the failure to submit mandatory harvest reports for spring trophy striped bass.

**Associate Member Neill moved to accept the staff recommendation for a public hearing to be held at the December 9, 2014 Commission meeting. Associate Member Zydron seconded the motion. The motion carried, 9-0. Chair voted yes.**

\* \* \* \* \*

**18. REQUEST FOR PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-500-10 et seq., "Pertaining to the Catching of Eels" to comply with the Interstate Fishery Management Plan requirements for American eel.

Ande Ehlen, Fisheries Management Specialist gave the briefing for the information provided in the staff's evaluation. Her comments are a part of the verbatim record.

Addendum III established new management measures for both the commercial and recreational eel fisheries, as well as implements fishery independent and fishery dependent monitoring requirements. To increase the accuracy of reporting, states and jurisdictions with a commercial yellow eel fishery are required to implement a trip-level reporting system for both buyer and harvester reporting. Although Addendum III implemented management measures to be effective by January 1, 2014, the American Eel Management Board (Board) voted in October 2013 to delay the requirement for states to implement buyer reporting until January 1, 2015. This motion allowed states more time to implement buyer-reporting requirements.

Virginia already has trip-level reporting in place for harvesters, through the Mandatory Reporting Program, but will need to implement buyer reporting for yellow eels, to be effective by January 1, 2015.

Staff recommended advertising for a December 9, 2014 public hearing for proposed amendments to Chapter 4 VAC 20-500-10 et seq., "Pertaining to eels", to comply with the Interstate Fishery Management Plan for American eel, that could include buyer reporting, establishing a commercial quota, and adopting a trigger mechanism.

**After some discussion, Associate Member Erskine moved to accept the staff recommendation and advertise for a public hearing December 9, 2014. Associate Member Haynie seconded the motion. The motion carried, 9-0. Chair voted yes.**

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- 19. REQUEST FOR PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-900-10 et seq., "Pertaining to Horseshoe Crabs" to establish the 2015 Virginia commercial landings quota.

Rachael Maulorico, Fisheries Management Specialist, gave the briefing of the information provided in the staff's evaluation. Her comments are a part of the verbatim record.

The Virginia TECH trawl survey has provided essential horseshoe crab abundance estimates for the ARM model, since 2007; however because of a loss of funds, the survey was not conducted in 2013. For this reason, the ASMFC Horseshoe Crab Technical Committee has recommended remaining status quo to the 2014 quota, until other estimates of abundance can be introduced to the ARM model. The ASMFC's Horseshoe Crab Management Board is scheduled to vote on establishing the 2015 horseshoe crab quota at its October 30, 2014 fall meeting.

Staff recommended advertising for a December 9, 2014 public hearing to propose amendments to Chapter 4 VAC 20-900-10 et seq., "Pertaining to Horseshoe Crabs," to establish the 2015 Virginia horseshoe crab commercial quota.

**Associate Member Haynie moved to accept the staff recommendation. Associate member Beck seconded the motion. The motion carried, 9-0. Chair voted yes.**

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- 20. REQUEST FOR PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-280-10 et seq., "Pertaining to Speckled Trout and Red Drum" to amend the daily by-catch landing limit for speckled trout.

Joe Cimino, Fisheries Management Manager Sr. gave the briefing for the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Sub-section 4 VAC 20-280-50 B currently states, "...it shall be unlawful, for any commercial fisherman registration licensee, to take, harvest, land, or possess a daily by-catch limit of up to 100 pounds of speckled trout". This phrasing is not consistent with the intent of the regulation, which was to ensure that it shall be unlawful for any commercial fisherman registration licensee, to take, harvest, land, or possess no more than 100 pounds of speckled trout as bycatch after the 80% trigger has been reached.

Staff recommended advertising for a December public hearing to consider proposed amendments to Chapter 4 VAC 20-280-10 et seq., "Pertaining to Speckled Trout and Red

Drum” to amend the phrasing of the daily bycatch landing limit for commercial speckled trout.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Haynie moved to accept the staff recommendation. Associate Member Sessoms seconded the motion. The motion carried, 9-0.**

Associate Member Neill noted that it was unlawful to possess more than 100 pounds and suggested that needed to be corrected in the regulation. Mr. Grist said the Regulation Committee reviews all regulations.

\* \* \* \* \*

**21. RECOMMENDATIONS:** From the Recreational Fishing Advisory Board, on funding an artificial reef project from the Virginia Saltwater Recreational Fishing Development Fund.

Alicia Nelson, RFAB Coordinator, gave the briefing for the information provided in the staff’s evaluation. Her comments are a part of the verbatim record.

At the September 8, 2014 RFAB meeting, the board members requested that \$350,000 be dedicated to maintenance and development of additional artificial reefs. This request is consistent with public comment received by the RFAB in recent years requesting that more funding be used toward artificial reef development projects.

The September 8<sup>th</sup> RFAB meeting also included a public hearing for the projects in the current RFAB cycle (2<sup>nd</sup> cycle 2014). RFAB recommendations for the remaining projects currently under review will be decided at the RFAB’s November 17, 2014 meeting and will be brought to the Commission at the December 9, 2014 Commission meeting. However, the RFAB voted unanimously to recommend an expenditure of \$350,000 from the VSRFDF to development and maintenance of Virginia’s artificial reefs at the September meeting, and recommended this single item be taken before the Commission during the October 28, 2014 meeting. The RFAB members explained that their intention was to allow staff the ability to move expeditiously, and not wait until after December, to begin acquiring further maintenance materials for deployment by the artificial reef program.

Staff recommended the project funding recommendation by the RFAB to the Commission, for an expenditure totaling \$350,000 from the VSRFDF for artificial reef development and maintenance be approved.

**After some discussion, Associate member Neill moved to accept the staff recommendation for approval of the RFAB recommendation. Associate member Erskine seconded the motion. The motion carried, 9-0. Chair voted yes.**

\* \* \* \* \*

**22. REQUEST:** For emergency amendments to modify Summer Flounder management measures, as described, in 4VAC20-620-10 et seq.

Joe Grist, Deputy Chief Fisheries Management gave the briefing for the information provided in the staff evaluation. His comments are a part of the verbatim record.

The request by industry is to change the start date of the offshore summer flounder fishery 2<sup>nd</sup> period from the second Monday in November (November 10, 2014) to December 1, 2014, and lengthen the within season landing period to 20-days. These measures should maximize the opportunity for vessels to participate and land flounder from offshore. This would also improve value of the fish, as the season would occur just before the Christmas holidays, when flounder often have a higher dockside value. There is no requested change of the 10,000-pound Virginia landing amount, as industry members have noted that there may be 70 or more licensed vessels willing to participate in Virginia's offshore summer flounder fishery. With approximately 839,000 pounds of commercial quota left, industry members did not want to risk exceeding the remaining allotted quota amount.

Staff recommended adoption of emergency amendments to Chapter 4 VAC 20-620-10 et seq. "Pertaining to Summer Flounder" to establish a consecutive 20-day landing period, beginning December 1, 2014, for any legally licensed Summer Flounder Endorsement Licensee landing summer flounder, harvested outside of Virginia waters, effective November 10, 2014.

**Associate Member Erskine moved to accept the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 9-0. Chair voted yes.**

\* \* \* \* \*

**23. REQUEST FOR PUBLIC HEARING:** Proposed amendments to Chapter 4VAC 20-1270-10 et seq. "Pertaining to Atlantic Menhaden" to modify the reference years for the total allowable landings.

Lewis Gillingham, Director, SWFT, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

In March of this year the legislature extended the provisions of Section 28.2-402 of the Code of Virginia until July 1, 2016. It is necessary for the Commission to modify and extend the provisions of Chapter 4 VAC 20-1270-10 et seq. "Pertaining to Atlantic

Menhaden” to align with Code and modify the reference years to allow the Commission to fulfill its limited role in the management of Atlantic menhaden.

Staff recommended the Commission authorize advertisement, for a December public hearing, to modify the reference years for the total allowable landings of commercially caught menhaden and extend the provisions of Chapter 4 VAC 20-1270-10 et seq. “Pertaining to Atlantic Menhaden” until July 1, 2016.

**Associate Member Haynie moved to accept the staff recommendation. Associate Member Sessoms seconded the motion. The motion carried, 9-0. Chair voted yes.**

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**24. REQUEST:** Emergency amendments to Chapter 4 VAC 20-720-10 et seq., “Pertaining to Restrictions on Oyster Harvest” to amend the definition of Rappahannock River Rotation Area 1.

Joe Grist, Deputy Chief, Fisheries Management, gave the presentation and his comments are a part of the verbatim record. Mr. Grist explained that this was an amendment to the regulation to correct the latitude-longitude for Rappahannock River Rotation Area 1. Staff recommended approval of the amendment with an effective date of October 30, 2014.

**After some discussion, Associate Member Beck moved to approve the amendment. Associate Member Neill seconded the motion. The motion carried, 9-0. Chair voted yes.**

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There being no further business, the meeting was adjourned at approximately 3:44 p.m. The next regular Commission meeting will be Tuesday, December 9, 2014.

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\_\_\_\_\_  
John M. R. Bull, Commissioner

\_\_\_\_\_  
Katherine Leonard, Recording Secretary

# Appendix D

Presentation to Virginia Marine Resources  
Commission – *January, 2015*

# Eelgrass and Bay Scallop Restoration on the Seaside of Virginia's Eastern Shore

Bob Orth

Virginia Institute of Marine Science  
College of William and Mary



## Background

### Eelgrass Distribution in Chesapeake Bay & Coastal Bays

1930



1960'S



1997

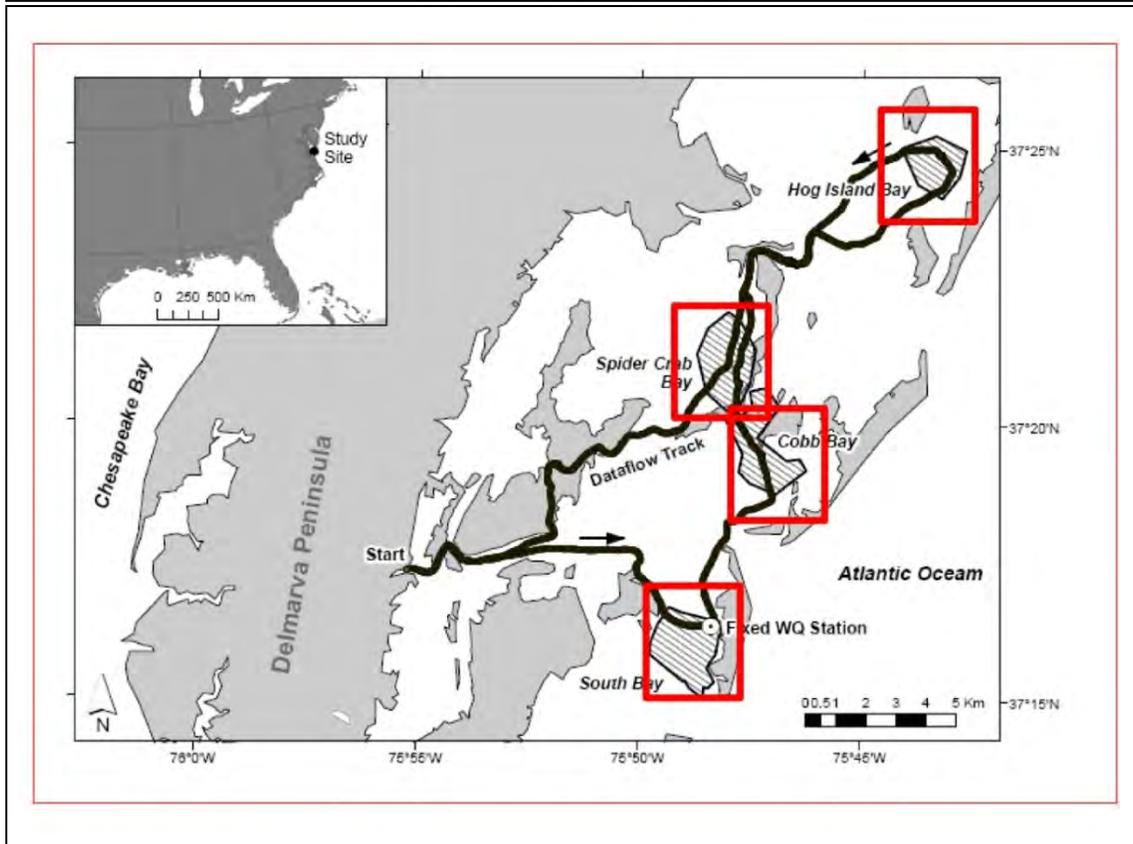


Adapted from: Orth and Moore. 1984. Distribution and abundance of submerged aquatic vegetation in Chesapeake Bay: an historical perspective. *Estuaries* 7:531-540.



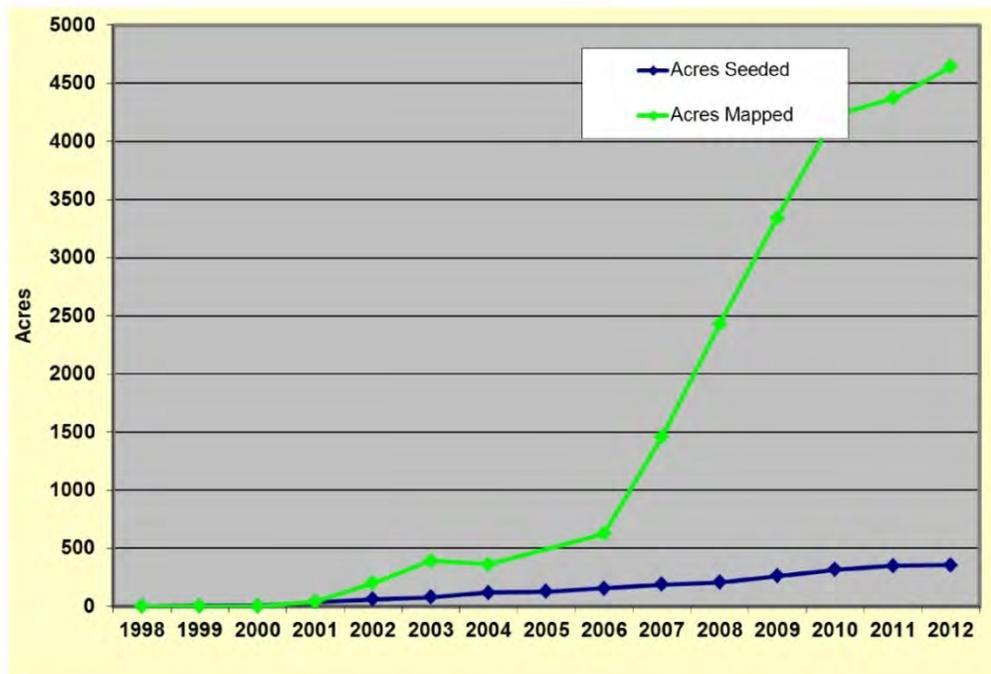
## GOAL

Re-establishment of eelgrass to the Virginia's coastal lagoons and the ecosystem services this community provided, esp. the bay scallop!

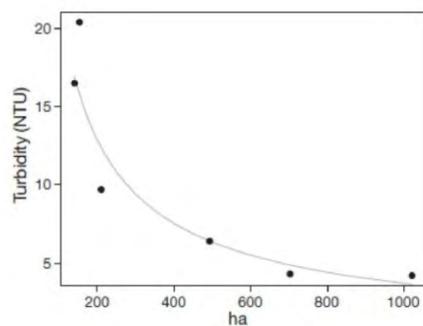
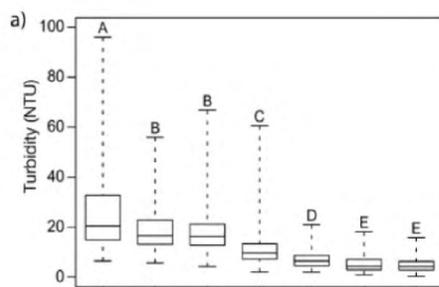
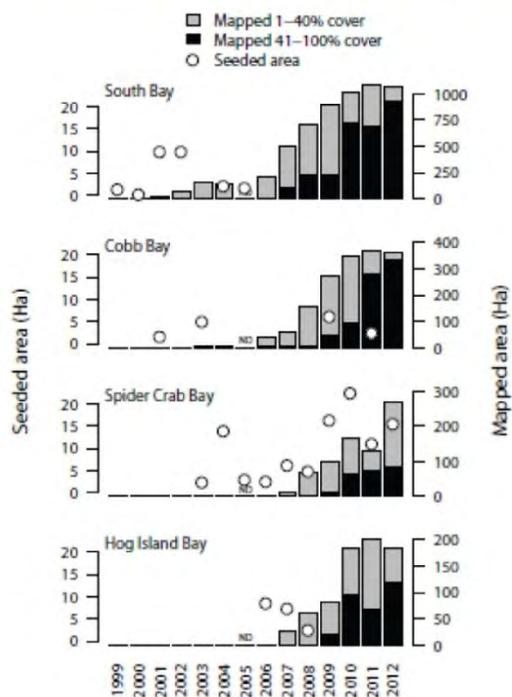


# Seed Based Eelgrass Restoration Effort

## Volunteers Collecting Eelgrass Seeds



## Hectares seeded and mapped each year in each of the four coastal bays



## South Bay Turbidity Trends



<http://www.ysieconet.com/public/WebUI/Default.aspx?hidCustomerID=154>

From Orth et al. 2012 Mar Ecol Prog Ser



# Bay Scallops

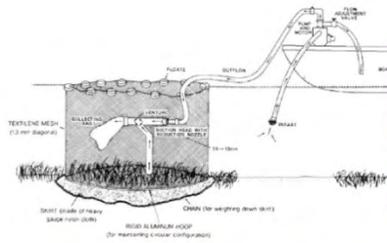
**Bay Scallop Harvest  
Accomac and Northampton Counties  
Seaside!**

Year	Harvest (lbs)	Dollars	Today's \$\$
1925	360,732	74,272	902,405
1929	1,145,598	207,883	2,554,882
1930	1,824,948	147,564	1,773,719
1931	1,226,478	78,990	1,031,609
1932	658,584	80,090	1,153,296
1933-present	0	0	0

# Bay Scallop Restoration Initiated 2009

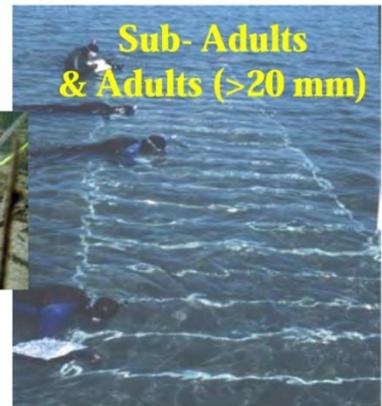


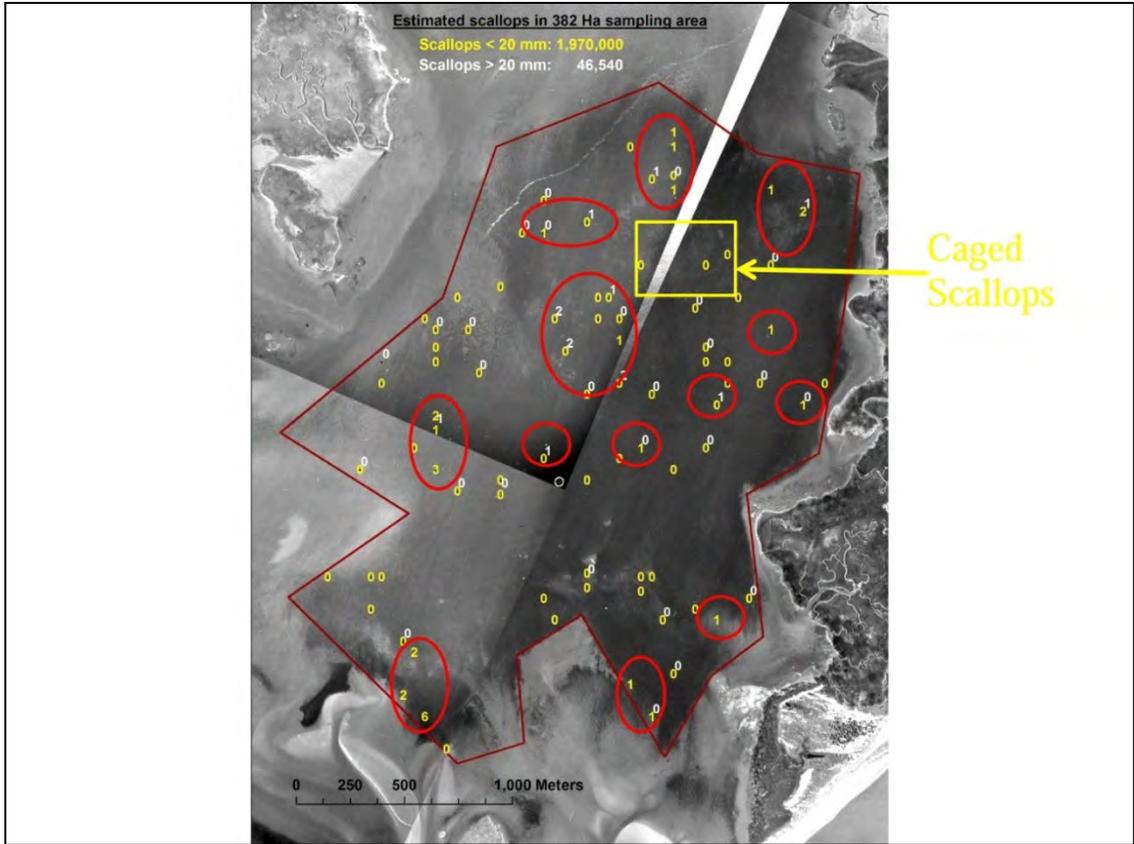
# Bay Scallop Assessment July, 2012



**Juveniles (<20 mm)**

**Sub- Adults  
& Adults (>20 mm)**



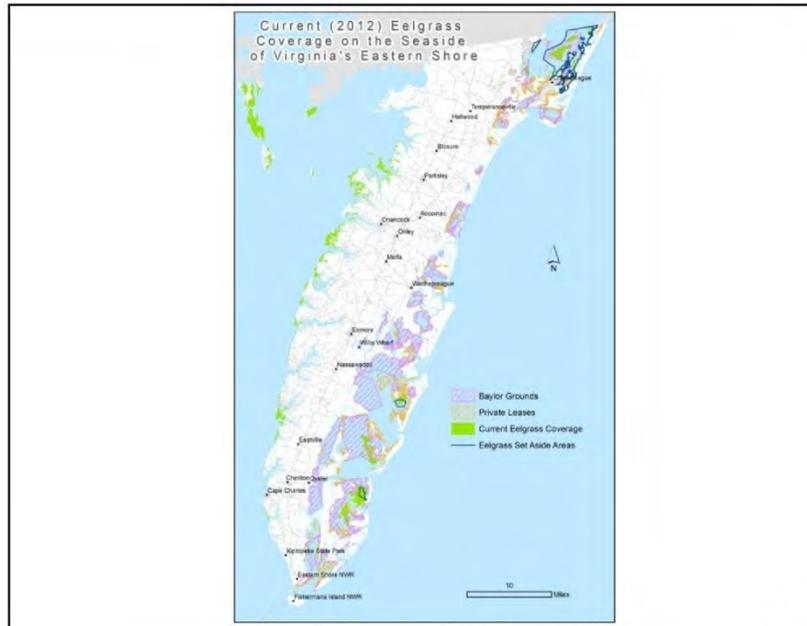


Year	Larvae Produced (in millions)	# Caged Scallops in Grassbed (in thousands)	Estimated Wild population size (in thousands)
2009	1.4*		
2010	10.4**	6	
2011	3.7	76	
2012	6.5	30***	2,000
2013	5.8	125	200
2014			?

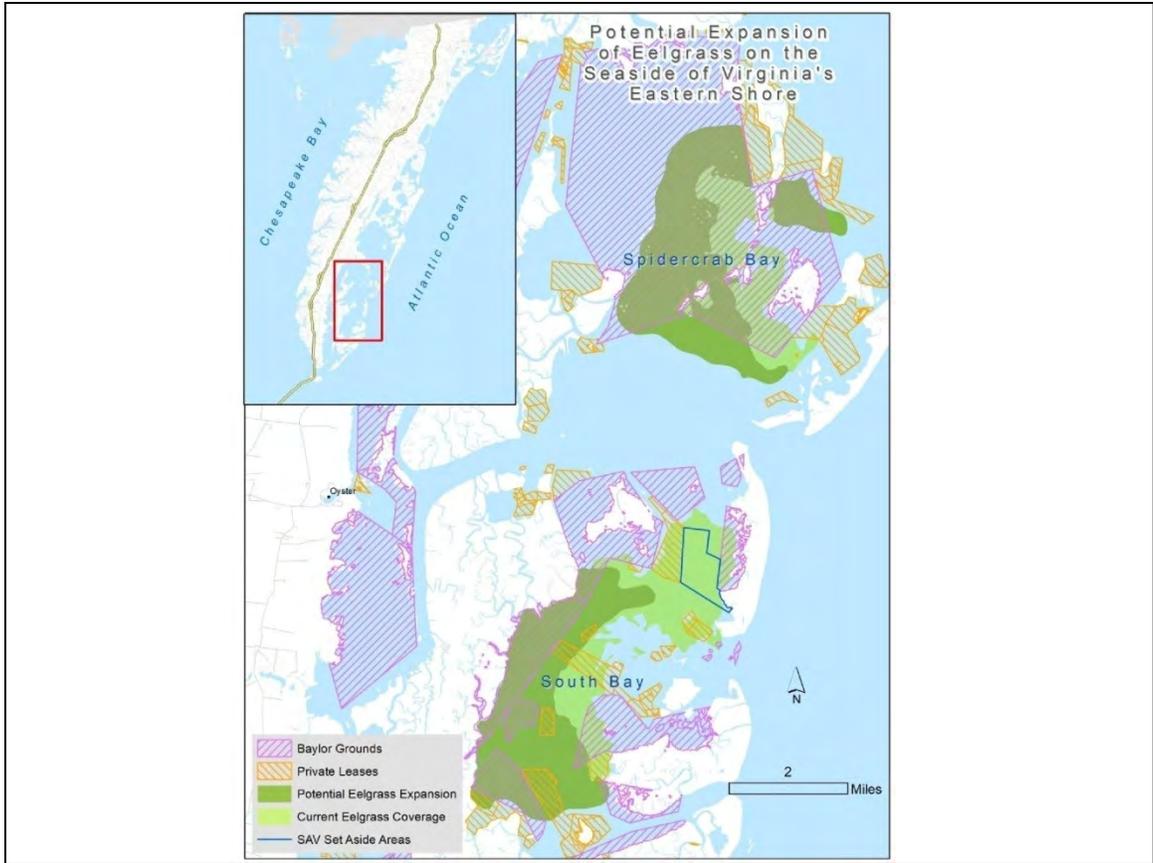
\*All scallops used for experiments and production of VA breeding stock

\*\*Early spawn of nearly 8 million lost to cold weather

\*\*\*Poor survival associated with cold weather and low salinity



southern tip of Chincoteague, to east end of Beach Road.)		
Unassigned	68,606	53.3
Baylor Grounds*	44,660	34.7
Private Leases*	15,510	12.0
Open Water	128,776	100.0
Current Eelgrass Restoration	4,643	3.6
<i>Potential Additional Eelgrass Restoration**</i>	<i>7,712</i>	<i>6.0</i>
*Baylor and Private Lease acreages exclude areas covering marsh or Atlantic Ocean.		
**Additional eelgrass coverage may only be possible in South Bay and/or Spidercrab Bay.		



# **Appendix E**

Minutes of the January 27, 2015 Virginia Marine  
Resources Commission Meeting

## MINUTES

## Commission Meeting

January 27, 2015

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 2600 Washington Avenue, Newport News, Virginia with the following present:

John M. R. Bull	Commissioner
James D. Close	
A. J. Erskine	
S. Lynn Haynie	Associate Members
Ken Neill, III	
Whitt G. Sessoms, III	
John E. Zydron	
Matthew R. Hull	Assistant Attorney General
Laurie Naismith	Director, Public Relations
Katherine Leonard	Recording Secretary
Jane McCroskey	Chief, Admin-Finance
Erik Barth	Bs. System Manager
Dave Lego	Bs. System Specialist
Robert O'Reilly	Chief, Fisheries Mgmt.
Joe Grist	Deputy Chief, Fisheries Mgmt.
Joe Cimino	Fisheries Mgmt. Manager, Sr.
Stephanie Iverson	Fisheries Mgmt. Manager
Lewis Gillingham	Director, SWFT
Samantha Hoover	Fisheries Mgmt. Specialist
Adam Kenyon	Biological Sampling Supervisor
Rachael Maulorico	Fisheries Mgmt. Planner
Ande Ehlen	Fisheries Mgmt. Specialist
Alicia Nelson	RFAB Coordinator
Rick Lauderman	Chief, Law Enforcement
Warner Rhodes	Deputy Chief, Law Enforcement
Rob Berryman	Captain, SA Supervisor
John Richardson	Marine Police Officer
Enrique Sanchez	Marine Police Officer
Mike Morris	Marine Police Officer, Sr.

**Commission Meeting**

**17283  
January 27, 2015**

Tony Watkinson	Chief, Habitat Management
Chip Neikirk	Deputy Chief, Habitat Management
Jeff Madden	Environmental Engineer, Sr.
Hank Badger	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Randy Owen	Environmental Engineer, Sr.
Ben Stagg	Environmental Engineer, Sr.
Justin Worrell	Environmental Engineer, Sr.
Mark Eversole	Environmental Engineer, Sr.
Jay Woodward	Environmental Engineer, Sr.
Brad Reamy	Program Support Technician
Robert Butler	Surveyor, Engineering/Surveying

Virginia Institute of Marine Science (VIMS):

Lyle Varnell	Mark Luckenbach	Emily Hein
Robert Orth		

Others present:

Kahe Crum	Bekki Jucksch	Adam Melita
Shawn Madern	Cynthia Hall	Chuck Roadley
Vic Yurkovic	Jamie Oliver	Mark Mason
J P Richardson	Erika Schmitt	Andrew Johnson
Bo Lusk	Frederick Holbert	David O'Brien
Kim Huskey	Jim Holthoff	Joe Stephenson
John Vigliotta	Laura McKay	Nick Meade
Keith Skiles	Ann Gallivan	Heather Lusk
Andy Lacatell	Squeezer	Kenneth Green
Joe Carter	Robert H. Williams	William A. West
William Crewe, Jr.	William Crewe	William T. West
Timothy Breen	William Robbins	David A. Turner
William Greene, Jr.	Tom Swartzwelder	Richard Green
Ann Sullivan	Chris Moore	

and others.

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Commissioner Bull called the meeting to order at approximately 9:36 a.m. Associate Members Ballard and Beck were absent.

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At the request of Commissioner Bull, Associate Member Erskine said the invocation and Tony Watkinson, Chief, Habitat Management, led the pledge.

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**APPROVAL OF AGENDA:** Commissioner Bull asked if there were any changes from the Board members or staff.

Robert O'Reilly, Chief, Fisheries Management, requested that an Item 18 be added to discuss a public hearing in February to consider making changes in the amount of a trip possession limit and the starting season date for summer flounder, both requested by industry.

Commissioner Bull asked for a motion to the requested additional item.

**Associate Member Erskine moved to add item 18. Associate Member Neill seconded the motion. The motion carried, 7-0.**

Commissioner Bull asked for a motion to approve the amended agenda.

**Associate Member Sessoms moved to approve the agenda, as amended. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.**

\* \* \* \* \*

**MINUTES:** Commissioner Bull asked if there were any changes or corrections to be made to the December 9, 2014 Commission meeting minutes.

As there were no changes, Commissioner Bull stated that the matter was before the Commission.

**Associate Member Erskine moved to approve the minutes, as amended. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.**

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

\* \* \* \* \*

**2. PERMITS** (Projects over \$500,000 with no objections and with staff recommendation for approval).

Tony Watkinson, Chief, Habitat Management, informed the Commission that there was only the one page two item to be heard. He reviewed the 'page two' item for the Board. His comments are a part of the verbatim record.

Commissioner Bull asked for questions of staff and any public comments for any of the items presented and there were none.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Zydron moved to approve the 'page two' item, as submitted. Associate Member Erskine seconded the motion. The motion carried, 7-0. Chair voted yes.**

**2A. BAE SYSTEMS. #14-1716**, requests authorization to install eight (8) new 6.5-inch diameter sub-surface cables across approximately 440 linear feet of State-owned submerged bottom to increase the power supply to the Titan Drydock at Pier 1 adjacent to their facility at 750 West Berkley Avenue situated on the Southern Branch of the Elizabeth River in Norfolk.

Permit Fee	\$100.00
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**3. CONSENT AGENDA ITEMS.**

Tony Watkinson, Chief, Habitat Management, informed the Commission that there was one consent item to be heard. He reviewed the consent item for the Board. He noted that an agreement was made between all parties to accept the staff recommendation that the civil charges of \$2,000.00 would be assessed against both the applicant and the contractor. His comments are a part of the verbatim record.

Commissioner Bull asked for questions of staff.

Associate Member Erskine asked if there had been any prior incident. Mr. Watkinson stated that only the contractor had a previous violation and paid a civil charge.

Commissioner Bull asked for any public comments and there were none.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Neill moved to approve the consent item, as submitted. Associate Member Close seconded the motion. The motion carried, 7-0. Chair voted yes.**

**3A. STINGRAY POINT BOAT WORKS, LLC, #14-1398,** requests after-the-fact authorization to retain 170 square feet of newly constructed replacement pier and a 15-foot long, vinyl sheet-pile wave screen, and authorization to install a 24-foot long by 14-foot wide floating dock and associated gangway at commercial property on Broad Creek at 19047 General Puller Highway in Deltaville, Middlesex County. The applicant and contractor, Haywood Marine, have each agreed to pay a civil charge of \$2,000.00 in lieu of further enforcement action. Staff recommends approval and acceptance of the aforementioned civil charges and the payment of a triple permit fee of \$75.00.

Civil Charge (applicant)	\$2,000.00
Permit Fee (Triple)	\$ 75.00
Total Fees	\$2,075.00
Civil Charge (contractor)	\$2,000.00

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**4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.** When asked, Matthew Hull, Assistant Attorney General and VMRC Counsel indicated that no closed meeting was necessary.

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**5. COTTAGE LINE CIVIC LEAGUE, #13-1899-D, NICHOLAS VANDERGRIFT, #13-1809-D, JUDITH SWYSTUN ET AL., #13-1808-D, CATHERINE McCOY, #13-1803-D, CATHERINE McCOY, #13-1804-D, THOMAS AND THELMA DRAKE, #13-1799-D.** Commission review on appeal by 52 freeholders of the June 11, 2014, decision by the Norfolk Wetlands Board to approve the above-referenced applications in modified form with special conditions, to include excavating sand from the dune as proposed or to a minimum height of 14 feet, and relocating the excavated sand channelward of the existing dune face along the Ocean View shoreline adjacent to the Chesapeake Bay. Request for postponement. Continued from the July 22 and September 23, 2014, Commission meetings.

Tony Watkinson, Chief, Habitat Management explained that a postponement had been requested by the applicants and all parties had agreed to the continuance of this matter. Mr. Watkinson recommended that this matter be postponed indefinitely and that any request to place the matter back on a Commission agenda be provided at least 60 days prior to the hearing. His comments are a part of the verbatim record.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Sessoms stated that he had spoken with some of the parties involved and it seemed that they were working towards resolving the matter. He moved to accept the staff recommendation for a deferral. Associate Member Zydron seconded the motion. The motion carried, 7-0. Chair voted yes.**

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**6. ISLE OF WIGHT COUNTY, #14-1236**, requests authorization to construct a 15-foot wide pedestrian/bicycle bridge over approximately 210 linear feet of Jones Creek, a tributary to the Pagan River in Isle of Wight County. The bridge structure is associated with a proposed 10-foot wide shared-use trail from the Town of Smithfield to the Carrollton Nike Park. The application is protested by adjacent property owners. Tabled from the December 9, 2014, Commission meeting.

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

Mr. Stagg explained that based on the information provided in the original application and the supplemental information provided by the applicant, after hearing of the concerns of nearby property owners, after evaluating the merits of the project against the concerns expressed by those in opposition to the project, and after considering all of the factors contained in §28.2-1205 of the Code of Virginia, staff recommended approval of the project with a time-of-year restriction on any in-water construction activities between February 15 through June 30 of any year to protect anadromous fish species.

After some discussion, Commissioner Bull asked for comments from the County representative.

Jamie Oliver, representative for Isle of Wight Transportation Department, was sworn in and her comments are a part of the verbatim record. She stated she could answer any questions and she appreciated staff's comments. She said the power line was between the vehicular bridge and pedestrian bridge and there were no plans to relocate the line.

Commissioner Bull asked for comments, pro or con.

Mark Mason, protestant, was sworn in and his comments in opposition are a part of the verbatim record. Mr. Mason explained that the elevation of the pedestrian bridge will impact navigation and he requested that the bridge be raised.

Jim Holthoff, protestant was sworn in and his comments in opposition are a part of the verbatim record. Mr. Holthoff explained that he was using the area recreationally and the clearance was seven feet. He said that the marine contractor who builds piers in the area told him he needed 12 feet clearance for his boat and equipment. He said that the bridge needed to be elevated and that the cost would be minimal to do so.

Becky Dukes, County Engineer, was sworn in and her comments are a part of the verbatim record. Ms. Dukes explained the varying elevations of the bridges and stated to raise the elevation of this bridge would increase the cost. She added that elevating it would definitely impact the adjoining property owner since this would require that more trees be removed. In response to a question, she said the clearance of the bridge for navigation would be determined by the U. S. Coast Guard.

Ms. Oliver in her rebuttal comments explained that there was a 25 year plan for the vehicular bridge and the pedestrian bridge could be either changed or eliminated if the VDOT Bridge were to be elevated and widen to four lanes at that time.

After further discussion, Commissioner Bull closed the public hearing. He stated the matter was before the Commission for discussion or action.

**Associate Member Erskine moved to approve the staff recommendation. Commissioner Bull stated that he appreciated the public's concerns and for their looking to the future, but the Commission was reluctant to make an assumption of what VDOT would do in 25 years. Associate Member Zydron seconded the motion. The motion carried, 7-0. Chair voted yes.**

Permit Fee	\$100.00
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**7. PUBLIC HEARING:** To set-aside, not to be leased, approximately 805 acres of unassigned State bottom in Cobb Bay adjacent to and south of Public Ground #13, and approximately 963 acres in South Bay adjacent to and east of Public Ground #30, in Northampton County. The areas are identified as suitable for Submerged Aquatic Vegetation (SAV) growth and restoration.

Hank Badger, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation. He noted that staff had received written comments from the Shellfish Growers of Virginia on Monday, January 26, 2015 in opposition to the proposed closure of the areas to leasing because the seagrass might grow in the area in the future. His comments are a part of the verbatim record.

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Mr. Badger stated that based on the eelgrass success and the expected expansion into other unassigned areas of state bottom that could be leased for oyster ground, staff recommended approval of the proposed SAV set-aside areas in Cobb Bay for approximately 805 acres and in South Bay for approximately 963 acres for a period of five years. Staff also believed the set-aside areas should provide for the continued success of the Seaside SAV and bay scallop restoration efforts.

Commissioner Bull asked for public comments, in support of the request.

Bo Lusk, representing The Nature Conservancy, was sworn in and his comments in support are a part of the verbatim record. He requested the areas be protected by management to allow for the existence of eelgrass for future generations and the request before the Commission be approved.

Dr. Robert Orth, representing VIMS was sworn in and his comments in support are a part of the verbatim record. Dr. Orth explained he was the lead investigator in the seagrass restoration project and he was requesting that the areas be set aside for a period of five years. He stated it was a once in a life time opportunity to protect the environment and restore the bay scallop population. In answer to a question, he said that they had transplanted seed to the Seaside Eastern Shore and been successful because of the adjacent ocean water temperatures. He noted where there was no seagrass before there were acres of continuous seagrass.

Dr. Mark Luckenbach, representing VIMS was present and his comments are a part of the verbatim record. Dr. Luckenbach said this was brought to the Commission at their request to suggest where the seagrass would spread and grow. He said with management the grasses will continue to grow whether the bay scallop stocks are restored or not. He said no one would be able to seed all the acres where it was determined the seagrass would spread.

Commissioner Bull asked for comments in opposition to the request.

Kim Huskey, representing the Virginia Seafood Council was sworn in and her comments in opposition to the request are a part of the verbatim record. Ms. Huskey stated that the Council members were opposed to setting these areas aside because the Commission had the authority to deny an application for a lease in the area.

Ann Gallivan, representing her aquaculture business on the Seaside, was sworn in and her comments in opposition to the request are a part of the verbatim record. Ms. Gallivan explained that aquaculture was a multi-million dollar business and they were opposed to setting aside such a large tract.

Heather Lusk, representing H. M. Terry on the Seaside, was sworn in and her comments in opposition are a part of the verbatim record. Ms. Lusk stated they agreed with

Ms. Huskey and Ms. Gallivan and eelgrass was important, but they were also concerned with the setting aside such large tracts. She stated it was a dynamic area. She added the Commission could review and deny an application for a lease in these areas.

The public hearing was closed. After much discussion, Commissioner Bull asked for a motion.

**Associate Member Zydron moved to approve areas 1 and 2 and deny areas 3 and 4 as noted on the maps presented by staff with the requirement that an annual report on seagrass potential and seagrass losses be provided to the Commission. Associate Member Erskine seconded the motion. The motion carried, 6-1. Chair voted yes and Associate Member Neill voted no.**

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**8. REQUEST FOR PUBLIC HEARING:** Removal of a portion of Additional Clam Grounds as previously set aside by the Commission in 1930, within the Ware River, in response to an application to lease oyster planting ground.

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

Mr. Stagg explained that Ward Oyster Company (owned by Mr. John Vigliotta) had requested to lease approximately 100 acres of bottomlands at the northwestern most end of an area of additional clam grounds that were set aside by the Commission in 1930. While staff accepted the application, the area cannot currently be leased due to its designation as public clam grounds. The application includes a request to have the Commission determine if leasing some portion of the currently designated public clam ground may constitute a better use of this area. Staff believed such a request may have merit. Although staff was not aware of any clamming activity in the immediate area, a full public interest review was warranted to provide the Commission with feedback and information on current uses of the area to help determine if a modification of the current boundaries of the public clam ground was in the best interest of the Commonwealth. Staff therefore requested the Commission's approval to advertise for a public hearing on this matter at the February 24, 2015 Commission meeting.

Commissioner Bull asked for a motion.

**Associate Member Haynie stated that she supported the request for a public hearing. She moved to accept the staff recommendation to hold a public hearing at the February 24, 2015 meeting. Associate Member Erskine seconded the motion. The motion carried, 7-0. Chair voted yes.**

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- 9. **PLAINS MARKETING, LP**, requesting adoption of a resolution to approve the execution of permanent easements and right-of-ways for 3.694 acres of submerged land in the York River, as authorized by Chapter 368 of the 2014 Acts of Assembly.

Tony Watkinson, Chief, Habitat Management, gave the briefing on this matter. Mr. Watkinson noted that the fees and royalties (\$80,454.00) had been agreed to as authorized by the General Assembly. In response to a comment from Commissioner Bull he noted that the area of Public Oyster Ground established by the original Baylor Survey was non-productive. Staff recommended adoption of the resolution. His comments are a part of the verbatim record.

The resolution is as follows:

**RESOLUTION**

“WHEREAS, Chapter 368 of the 2014 Acts of Assembly authorizes the Virginia Marine Resources Commission to grant and convey to Plains Marketing, LP, its successors and assigns, upon such terms and conditions as the Commission, with the approval of the Governor and the Attorney General, shall deem proper, permanent easements and rights-of-ways needed for the expansion, construction, updating and maintenance of the Plains Marketing, LP, facility on the York River, described in said Chapter 368, including a portion of Baylor Survey, and

WHEREAS, the attached agreement has been prepared to grant Plains Marketing, LP, the permanent easements and rights-of-way authorized by Chapter 368 of the 2014 Acts of Assembly; and

WHEREAS, the description of the permanent easements and rights-of-way to be granted, which conforms to the description of the easements authorized to be granted as described in Chapter 368 of the 2014 Acts of Assembly, in the attachment agreement reads as follows:

[B]eginning at a point located along the northern line of “Public Ground No. 5,” said point having a coordinate value of North 3,612,505.00, East 12,083,115.69. Coordinate values based on Virginia State Plane Coordinate System, South Zone, NAD 1983, and expressed in U.S. Survey Feet. Thence from the point of beginning, along a bearing and distance of S 00° 30’ 17” E, 688.96 feet to a point; thence along a bearing and distance of S 85° 53’ 25” W, 220.44 feet to a point; thence along a bearing and distance N 00° 30’ 17” W, 628.69 feet to a point; thence along a bearing and distance of S 74° 59’ 59” W, 543.12 feet to a point; thence along a bearing and distance of N 14° 03’ 07” W, 29.52 feet to a point;

thence along a bearing and distance of N 75° 56' 53" E, 774.29 feet to the point of beginning; containing an area of 160,908 square feet or 3.694 acres; and

WHEREAS, Plains Marketing, LP, is willing to provide as the monetary sum in consideration for the grant of the above described easements and rights-of-way EIGHTY THOUSAND FOUR HUNDRED FIFTY-FOUR AND 0/100 DOLLARS (\$80,454) which represents a value of \$0.50 per square foot for the permanent easements and rights-of-way; and

WHEREAS, the Commission deems the terms and conditions set forth in the attached agreement to be proper;

NOW, THEREFORE, BE IT RESOLVED that the Commission hereby authorizes the Commissioner of the Virginia Marine Resources Commission, with the approval of the Governor and the Attorney General, to execute the attached agreement granting the above-described permanent easements and rights-of-way to Plains Marketing, LP, on the terms and conditions set forth in the attached agreement."

After further discussion, Commissioner Bull asked for a motion.

**Associate Member Sessoms moved to accept the resolution and approve the easement. Associate Neill seconded the motion. Associate Member Erskine asked if there were any public comments or industry involvement. Mr. Watkinson stated it was enacted at the 2014 General Assembly session. Commissioner Bull stated that he did not remember that there was any opposition. The motion carried, 7-0. Chair voted yes.**

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**10. PUBLIC COMMENT.**

**Joseph Stephenson** requested that the Commission consider an exception so that he could maintain his commercial hook-and-line license. He explained that he was unable to meet the eligibility requirements to maintain his license for the year, 2015. His comments are a part of the verbatim record.

Commissioner Bull explained they must abide by the regulation, which only allows for medical or active-duty military exceptions. He added that the Commission did not have any documentation for either of these criteria.

No action was taken.

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11. REPEAT OFFENDERS.

**David A. Turner – was not present**

Mike Morris, Marine Police Officer, Sr., was sworn in and gave the briefing of the case of Mr. Turner. His comments are a part of the verbatim record.

Did take, catch and remove oysters from a condemned area, Code Section 28.2-810, a summons issued July 14, 2014; convicted in the Newport News General District Criminal Court September 25, 2014, fine \$300.00, court cost \$101.00.

Robert O'Reilly, Chief, Fisheries Management, explained that David A. Turner's commercial licenses were revoked under Code Section 28.2-232, for 12 months, December 10, 2013 through December 9, 2014, followed by one year probation, December 10, 2014 through December 9, 2015, owing to repeated disregard for conservation and health regulations for two warm weather violations and harvesting oysters without shellfish tags or an aquaculture harvester permit. The current violation occurred after Mr. Turner's licenses were revoked by the Commission.

Mr. O'Reilly read that in accordance with Code Section 28.2-232, staff recommended that the Commission revoke all of Mr. Turner's licenses to take or catch fish, shellfish, or marine organisms for a period of two years from the date of the Commission meeting, January 27, 2015, through January 26, 2017. He said that staff also recommended the Commission revoke Mr. Turner's fishing privileges, within the Commonwealth's tidal waters, for a period of two years from the date of the Commission meeting, January 27, 2015, through January 26, 2017.

Keith Skiles, Director of the Virginia Department of Health-Division of Shellfish Sanitation, was sworn in and his comments are a part of the verbatim record. Mr. Skiles responded to questions from the Board. He explained that they surveyed and established the lines for the condemnation areas and this area was closed because of the sewage treatment outfall. He also explained that the severity of a recall on the industry could affect just the James River if that is on the label or if more specific information is on label, just a part of the James River. He added that if people hear the shellfish are bad it could impact more than one area, maybe the whole state. He stated that it could take only one oyster to make someone sick.

After further discussion, Commissioner Bull stated the matter was before the Commission.

**Associate Member Zydron moved to accept the staff recommendation for two years revocation of all of Mr. Turner's licenses and permits and two years revocation of all of Mr. Turner's fishing privileges within the Commonwealth's tidal waters,**

**starting January 27, 2015, through January 26, 2017. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.**

**Timothy C. Breen** - was present and sworn in.

Ann Sullivan, Attorney for nine of the waterman, was present and her comments are a part of the verbatim record. Ms. Sullivan questioned the actions of the officers prior to the charges, whether the coordinates used were correct, whether all information was being provided for consideration, the placement of the oysters on a sanctuary area was safe, and whether there was evidence of the shellfish being condemned. She questioned how the area was marked and maintained. She added that the Wests' boat was broken down and the weather had been blown them into the area and they were not harvesting. She said her clients had all asked to have their GPS coordinates checked on their boat and that those numbers were not used in the record. She said this should be mitigated as there were no extensive history of violations by these watermen and this was their livelihood to support their families. She added it was not necessary to take away all privileges as the Commission can apply a lesser penalty.

Mike Morris, Marine Police Officer, Sr., stated that he took exception to the statements made and that he had no list of boats but followed the watermen and took readings from his GPS to determine whether the boats were harvesting inside or outside of the closed shellfish area. He explained the charges against Mr. Breen.

Did take, catch and remove oysters from a condemned area, Code Section 28.2-810, a summons issued July 14, 2014; convicted in the Newport News General District Criminal Court September 25, 2014, fine \$300.00, court cost \$101.00.

Mr. O'Reilly read that in accordance with Code Section 28.2-232, staff recommended that the Commission revoke all of Mr. Breen's licenses to take or catch fish, shellfish, or marine organisms for a period of one year from the date of the Commission meeting, January 27, 2015, through January 26, 2016. He said that staff also recommended the Commission revoke Mr. Breen's fishing privileges, within the Commonwealth's tidal waters, for a period of one year from the date of the Commission meeting, January 27, 2015, through January 26, 2016.

Mr. Breen in response to his attorney's questions explained that he was on the vessel with Mr. Turner who was the captain of the boat. He stated he was the cull person and had no control over where the boat was going. He stated also this was his one and only time. His comments are a part of the verbatim record.

Richard Green, leaseholder, was sworn in and his comments are a part of the verbatim record. He answered questions from Ms. Sullivan the Attorney. Mr. Green stated he had had the lease for 7 or 8 years and he was aware of the condemnation as he tries to maintain PVC pipes to indicate where the line is for the condemnation. He stated also

that he tells everyone who works for him to stay in the clean area. He said he thought the most that would happen was they would have a fine to pay and it would be over.

Commissioner Bull stated Mr. Green's comment be allowed for all cases.

After much discussion and a short break in the meeting to allow the VMRC Counsel and the defendants' attorney to discuss the matter, it was agreed to that all of the following individuals would be considered together and under one motion.

Timothy C. Breen	Joseph L. Carter	William T. West
William E. Crewe	William E. Crewe, Jr.	
Kenneth L. Green	William G. Greene, Jr.	
William P. Robbins	William A. West	

**After further discussion, Associate Member Zydron moved for all licenses and permits and all fishing privileges, in the waters of the Commonwealth, to be revoked for a two year period, starting January 27, 2015, through January 26, 2017, but the Commission would suspend the revocations and place all parties on one year probation, starting January 27, 2015, through January 26, 2016. He further moved that if there were any violations and convictions by these individuals applicable to Title 28.2 of the Code of Virginia or the VMRC Regulations during the one year probation period, all licenses and permits and fishing privileges, within the Commonwealth's tidal waters, would be revoked administratively without notice or hearing for the remainder of the two year revocation period, ending January 26, 2017. Associate Member Sessoms seconded the motion. The motion carried, 5-2. Chair voted no and Associate Member Erskine voted no.**

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**15. RECOMMENDATION OF THE RECREATIONAL FISHING ADVISORY BOARD (RFAB):** Results and recommendations from the review of the King and Queen County Proposal for a Recreational Pier.

Alicia Nelson, RFAB Coordinator, gave the briefing of the information provided in the staff's evaluation. Her comments are a part of the verbatim record.

Ms. Nelson explained that at the December 2014 Commission meeting, the Commission heard the RFAB recommendation to not fund the King and Queen County Recreational Fishing Pier because the project was located in a designated freshwater area and it did not provide substantial benefits to the saltwater angler. After much discussion and comments by Delegate Keith Hodges and King and Queen County representatives Tom Swartzwelder and Lewie Lawrence, the Commission voted to refer the item back to the RFAB with the Commission's recommendation to provide 2/3 funding of the pier. Three motions were made on the revised proposal by the RFAB members. A final motion was

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made by Mr. Schultz to recommend funding at 50% of the total cost of the pier project, not to exceed \$91,236. Mr. Crowley seconded the motion, and the motion passed with eight in favor and one against.

Staff recommended funding the King and Queen County Recreational Fishing Pier project at 2/3 of the total project cost, not to exceed \$121,647.33, from the VSRFDF.

After some discussion, Commissioner Bull asked for a motion.

**Associate Member Sessoms stated that he agreed with the 2/3 funding coming from the RFAB, but was still uncomfortable with what is and what is not salty. He moved to approve the staff's recommendation. Associate member Erskine seconded the motion. The motion carried, 6-1. Chair voted yes and Associate Member Neill voted no.**

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- 12. FAILURE TO REPORT:** Cases involving failure to report commercial harvests, in accordance with Chapter 4 VAC 20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting."

**Hayes L. Angle** – Not present

Stephanie Iverson, Fisheries Management Manager, gave the briefing of the case of non-compliance for mandatory reporting. She explained that Mr. Angle was not present and staff had not heard from him that he could not attend the meeting. She explained also that the Commission could decide whether to hear the case or continue it. In response to a question, Ms. Iverson explained that the gentleman was 70 plus years old and staff was told that he had complications from a fall.

**After some discussion, Associate Member Neill moved to continue the case until the February Commission meeting. Associate Member Erskine seconded the motion. He asked about what contact staff had had in this matter. Ms. Iverson explained that staff did speak with Mr. Angle's wife on December 23, 2014 and further contact attempts have been made since that date. The motion carried, 7-0. Chair voted yes.**

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- 13. PUBLIC HEARING:** Proposed adoption of the 2015 commercial black sea bass quota as part of Chapter 4 VAC 20-950-10 et seq. "Pertaining to Black Sea Bass."

Rachael Maulorico, Fisheries Mgmt. Planner, gave the briefing of the information provided in the staff's evaluation. She provided a powerpoint presentation. Her comments are a part of the verbatim record.

Ms. Maulorica explained that following the adoption of the emergency amendment at the December 9, 2014 Commission meeting, the National Marine Fisheries Service (NMFS) released a 2015 coastwide commercial black sea bass quota that was reduced by 22,564 pounds, as a result of higher than estimated coastwide commercial discards in 2014. The NMFS adjusted quota will result in Virginia being allocated 442,584 pounds, as compared to the ASMFC quota of 448,000 pounds for 2015. For 2015, the commercial black sea bass bycatch fishery will be allocated 40,000 pounds, and the commercial black sea bass directed fishery will be allocated 402,584 pounds.

Ms. Maulorico said that staff recommended the Commission adopt amendments to Chapter 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass" to establish the 2015 quota as 442,584 pounds, with the commercial black sea bass directed fishery quota as 402,584 pounds and commercial black sea bass bycatch fishery quota as 40,000 pounds.

Commissioner Bull opened the public hearing for comment, pro or con. There were none. He stated the matter was before the Commission.

**Associate Member Neill moved to accept the staff recommendation to establish the 2015 quota as 442,584 pounds, with the commercial black sea bass directed fishery quota as 402,584 pounds and commercial black sea bass bycatch fishery quota as 40,000 pounds. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.**

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**14. REQUEST FOR EMERGENCY AMENDMENTS:** Proposed emergency amendments to Chapter 4 VAC 20-450-10 et seq. "Pertaining to the Taking of Bluefish," to establish the 2015 commercial bluefish quota.

Rachael Maulorico, Fisheries Mgmt. Planner, gave the briefing of the information provided in the staff's evaluation. She provided a powerpoint presentation. Her comments are a part of the verbatim record.

Ms. Maulorico explained that the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fisheries Management Council (MAFMC) have established the 2015 coast-wide bluefish commercial quota as 5.12 million pounds. This is a decrease from the 2014 quota of 7.49 million pounds because of scientific uncertainty regarding the estimated stock biomass. Virginia receives 11.8% of the coast wide quota which results in a 2015 Virginia bluefish commercial quota of 608,230 pounds. This is a 31% decrease from 2014.

Ms. Maulorico said that staff recommended the Commission adopt emergency amendments to Chapter 4 VAC 20-450-10 et seq., "Pertaining to the Taking of Bluefish", to establish the 2015 commercial bluefish quota as 608,230 pounds and advertise a public

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hearing for the February 24, 2015 Commission meeting to make the amendments a permanent part of the regulation.

Commissioner Bull asked for public comment, pro or con. There were none. He stated the matter was before the Commission.

**Associate Member Erskine moved to accept the staff recommendation to adopt the emergency amendments to establish the 2015 commercial bluefish quota and for a public hearing at the February 24, 2015 Commission meeting to make the amendments permanent. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.**

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**16. DISCUSSION:** Proposed amendments to Chapter 4 VAC 20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting," to establish requirements of authorized blue crab fishery agents.

Joe Cimino, Fisheries Management Manager Sr., gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Mr. Cimino explained that the 2013 cap of 168 total agents allowed was set as a year specific number in regulation when it was established. Chapter 4VAC20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting" was also specific to the 2014 season and needs to be amended for 2015. By removing the year for this cap, the limit will be set from this day forward.

Mr. Cimino said that staff recommended advertising for a February public hearing to amend Chapter 4 VAC 20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting", to limit and specify the number of agents in the crab fishery annually.

Robert O'Reilly explained that the CMAC wanted to know the crab 'agency' was being handled as ongoing with certain criteria limits other than temporary agents, such as for medical purposes and for those individuals on active duty military.

Commissioner Bull explained that this was a request for a February public hearing.

**Associate Member Haynie, moved to accept the staff recommendation for a public hearing at the February 24, 2015 Commission meeting. Associate Member Close seconded the motion. The motion passed, 7-0. Chair voted yes.**

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17. **DISCUSSION:** Proposed amendments to Chapter 4 VAC 20-270-10 et seq., "Pertaining to Crabbing," to establish limits for the use of fish pots by active crab pot or peeler pot fishermen.

Joe Cimino, Fisheries Management Manager Sr., gave the briefing of the information provided in the staff's evaluation with a powerpoint presentation. His comments are a part of the verbatim record.

Mr. Cimino said that staff recommended advertising for February public hearing to consider amendments to Chapter 4 VAC 20-270-10 et seq., "Pertaining to Crabbing", that limit the use of fish pots by any individual who is an active crab pot or peeler pot fisherman. Staff also recommended amending the time period for the fish pot prohibition from March 11- 16 to March 12 - 16.

Commissioner Bull stated this was a request for a public hearing.

**Associate Member Haynie moved to accept the staff recommendation for a public hearing at the February 24, 2015 Commission meeting. Associate Member Close seconded the motion. The motion carried, 7-0. Chair voted yes.**

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18. **REQUEST FOR PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-620-10 et seq., "Pertaining to Summer Flounder," to modify the commercial summer flounder trip limit and season dates.

Robert O'Reilly, Chief, Fisheries Management, gave the briefing on this matter. His comments are a part of the verbatim record.

Mr. O'Reilly explained that staff recommended advertising for a February public hearing to consider amendments to modify the start date for the directed landings period, when summer flounder from federal waters may be landed in Virginia, and lower the landing limit for that period from 12,500 pounds to an amount not less than 7,500 pounds. He explained this item was requested by the seafood industry to maximize the value of the allowable quota by spreading out the landings with the hope of yielding the maximum value of the fish by preventing a flooding of the market.

Commissioner Bull asked for a motion.

**Associate Member Erskine moved to approve the staff recommendation for a public hearing at the February 24, 2015 Commission meeting. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.**

\* \* \* \* \*

**Commission Meeting**

**17300  
January 27, 2015**

There being no further business, the meeting was adjourned at approximately 4:36 p.m.  
The next regular Commission meeting will be Tuesday, February 24, 2015.

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John M. R. Bull, Commissioner

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Katherine Leonard, Recording Secretary