

Maryland DNR

*Meeting of the Sport Fisheries
Advisory Commission*

Tuesday,

February 5, 2013

Held at the

Tawes State Office Building
Annapolis, Maryland

Maryland DNR
Meeting of the Sport Fisheries Advisory Commission

February 5, 2013

SFAC Members Present:

Jim Gracie, Chair

Larry Coburn

Richie Gaines (*proxy for Brandon White*)

Bill Goldsborough

Greg Jetton

Val Lynch

Dr. Ray Morgan

Ed O'Brien

David Sikorski

David Smith

Carol Stevenson

Roger Trageser

Brandon White

James Wommack

SFAC Members Absent:

Herb Smith

Brandon White

Bill Windley

Maryland DNR Fisheries Service

Tom O'Connell

Marty Gary

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KEYNOTE: "---" denotes inaudible in the transcript

A F T E R N O O N S E S S I O N

(2:10 p.m.)

Welcome and Announcements

by Jim Gracie, Chair, SFAC

and Marty Gary, MD DNR Fisheries Service

MR. GRACIE: I would like to call the meeting to order. Thank you all for coming. There is a card going around for Bill Windley. Bill came down with pneumonia and went into the hospital on his way home from North Carolina. He has been in Norfolk for five weeks and was I think unconscious for almost three weeks.

He had a trach tube in him, and they were feeding him intravenously. The trach came out last week. I got a text message from Tori, his wife, last night saying they are hoping to bring him home this week but he won't be staying home. He is going to be in a rehab facility for a while.

He has been essentially incapacitated for five weeks. He is going to need a lot of physical therapy. Anyway, there is a card going around. We are trying to get everybody to sign it.

MR. O'CONNELL: Anybody not sign it yet that wants to? Everybody sign it that wants to?

MR. GRACIE: Marty, you're on.

MR. GARY: All right. Welcome, commissioners and members of the public to the winter meeting of the Maryland

1 Department of Natural Resources Sport Fish Advisory
2 Commission.

3 Today we have three commissioners who are unable to
4 make it. Herb Smith is not going to be here and he does not
5 have a proxy designated. Commissioner Brandon White is not
6 able to join us but we have as his designated proxy Captain
7 Richie Gaines here with us today.

8 Richie is a former Sport Fish Advisory commissioner
9 and former chairman for the Sport Fish Advisory Commission.
10 So Richie, thank you for your availability for Brandon. And
11 as Jim had mentioned, unfortunately Commissioner Windley
12 cannot join us but keep him in your thoughts and prayers.

13 So just some procedural announcements for the
14 meeting. Today's meeting, as always, is being recorded. Our
15 court recorder is Laura Jackson seated to my right up here in
16 the pink sweater. She is with Audio Associates. So she will
17 be producing a transcript of this meeting that will be
18 available 10 working days, two weeks from today.

19 Please silence your cell phones if you have not
20 already to help Laura with eliminating interference with her
21 recording. And to ensure that Laura is able to capture a
22 legible recording for the transcript, we ask today that only
23 one person speak at a time and have Chairman Gracie
24 acknowledge you before speaking.

25 That is very important. Laura could get crossed up,

1 so let's honor each other's discussion, and Chairman Gracie
2 will acknowledge you to speak next when it is your turn.
3 Members of the public are afforded an opportunity to provide
4 comment at two times during the meeting. One is before the
5 commission takes a vote, after a motion but before a vote, and
6 during the designated public comment period, which is toward
7 the end.

8 There is a designated seat for public speakers and
9 DNR staff when they are asked to engage. It is down to the
10 left of Commissioner Sikorski over on the far side. And also
11 we have a sign-in sheet for everyone who is attending today,
12 so if you haven't signed in, it is all the way down toward the
13 end between Commissioner Goldsborough and Richie Gaines.

14 And also there is a sign-up sheet if you would like
15 to speak, so please sign that sheet if you intend to speak
16 during a public comment period. As I mentioned, the
17 transcript of today's meeting will be uploaded to our Website
18 two weeks from today. Motions and action items will be
19 recorded and made available on the DNR Website by close of
20 business tomorrow.

21 To assist with accuracy of the action items, we ask
22 the commission members and/or staff to specify for the record
23 that we are in fact recording an action item. We will take
24 our time to make sure it is worded. I will type it up on a
25 document on the screen so everybody can see that. And the due

1 date also of that action item if there is one.

2 The action item's follow-up document will be posted
3 and updated as items are addressed under the meeting summary
4 on the Website. That is a living document. Before we begin,
5 as Jim mentioned, keep your thoughts and prayers with Bill
6 Windley, our vice chairman of the Sport Fish Commission, and
7 his family.

8 Also keep in your prayers and thoughts the Tidal
9 Fish Advisory Commission vice chairman Larry Simns with the
10 ongoing health challenges that he is having. And finally also
11 remember in your thoughts and prayers Danny Beck, who was a
12 proxy for Larry Simns, and since the last time either of the
13 commissions met, we lost Danny. So he has passed on.

14 So last-minute updates to the agenda: We will have
15 the -- the Conowingo presentation will be given by our
16 Assistant Secretary for Aquatic Resources Frank Dawson. We
17 have an updated legislative handout that is in your folders.
18 And we have also added a handout for Atlantic menhaden, of
19 which Mike Luisi will be providing that presentation. Those
20 are all the announcements.

21 MR. GRACIE: Let me just add thing. If you did
22 not -- as a member of the public, if you did not sign up to
23 speak at the end of the meeting, and something came up during
24 the meeting which causes you to change your mind and you want
25 to speak, I will give you an opportunity to let us know before

1 we close. So if you decide later that you want to speak, you
2 will get a chance to. Okay, we have an NRP report?

3 ***NRP Activity Report***

4 ***Lt. Beth Mauk, MD DNR NRP***

5 LT. MAUK: I think in the past you have asked me to
6 be brief and just answer questions. I hope everyone got a
7 handout so you were able to look through and see if there was
8 anything that caught your attention. Do I have questions from
9 the group?

10 ***Questions and Answers***

11 MS. STEVENSON: Just on the snakehead, a little bit
12 more detail on the snakehead issue.

13 LT. MAUK: I do have some more detail on the
14 snakehead. If you look on the back of the handout, it was in
15 our central region. I am understanding that a citizen called
16 the Natural Resources Police and told us that his neighbor was
17 raising and distributing snakeheads.

18 The subject had ties to the restaurant community and
19 has a large backyard tank where he apparently raised the fish
20 and distributed them in coolers to other people. The neighbor
21 was asked to film this activity from his property, which he
22 did. And just as the last of the fish were being taken off
23 the property, there was some very nice video that was actually
24 sent to fisheries biologists for confirmation of the species.

25 The subject was not cooperative, and he was charged

1 | by way of a criminal summons with one count of transporting a
2 | snakehead fish, with a maximum fine of \$1,000. I guess I knew
3 | I would get some interest in this because of the pending
4 | legislation, and because I guess we can all imagine what type
5 | of damage this type of invasive species could do.

6 | And so I would just take, if I could, just another
7 | moment of the committee's time and tell you a brief incident
8 | that happened at Sandy Point involving snakeheads as well.
9 | This was a couple of years ago, and it hasn't come up in this
10 | forum that I know of.

11 | There were some Buddhists that were wanting to
12 | release fish into the Chesapeake Bay, not native to the
13 | Chesapeake Bay. And they were there on several occasions, and
14 | officers turned them away each time without a whole lot of
15 | legislation to back them, but just knowing that this wasn't
16 | healthy for the bay.

17 | And really only standing on a little, tiny shred of
18 | aquaculture law that some judges would say didn't apply. And
19 | we did catch them on their third and final visit to the park
20 | releasing a fish. We did charge them with a little piece of
21 | aquaculture law that probably had about a \$250 fine amount,
22 | and we charged them with failure to obey a lawful order.

23 | We did win that in court, but that case, in addition
24 | to this case, I think highlights and let's us all stop and
25 | imagine why more legislation might be prudent.

1 MR. GRACIE: Any other questions? Ed?

2 MR. O'BRIEN: At one of last meetings we talked
3 about recreational poaching of small striped bass and red
4 drum. It is becoming a significant problem with the Hispanic
5 community, and we talked about actions that were to be taken
6 to inform somehow that community that there are laws out
7 there. Did anything come of that?

8 LT. HAUK: I think that was undertaken by Josh
9 Davidsburg, if I am correct. Anyone who can help me remember?

10 MR. O'CONNELL: I can offer a little bit. Following
11 that meeting, Karen Knotts, our communications division
12 manager, has been talking to NRP, and NRP and OCM, Office of
13 Communications, are looking at developing some signage to put
14 out at some of the popular fishing spots.

15 We have also been talking to the administration as a
16 kind of a Hispanic representative, have some communication
17 with him as to how best to communicate these rules to
18 fishermen, Hispanic fishermen.

19 So we anticipate at least having some signage out
20 there, finding some other means, and ultimately trying to
21 convert some of our information on the Internet and in print
22 to the Hispanic material as well and giving it out to
23 licensing service centers and tackle shops to distribute that
24 information.

25 So that is kind of what we have done since we last

1 met.

2 MR. O'BRIEN: Well, that is good. You know, I was
3 wondering, from the enforcement standpoint, if there was any
4 input on the problem.

5 LT. HAUK: I would say -- I think I said something
6 along these lines at the last meeting -- I think our
7 perceptions aren't necessarily reality when it comes to this
8 particular topic. I think it is always important to try to
9 get the word out there in different languages. I think that
10 is a good goal, and I think we should continue to do that in a
11 greater volume than what we are doing now.

12 But it is surprising how many folks, no matter what
13 their nationality or language, don't really take an interest
14 in finding out what the laws are. And even when they do know
15 the law, they just don't follow it. They don't seem to think
16 it is as important as, for example, traffic law or criminal
17 law because people can't always see the immediate impact.

18 MR. O'BRIEN: Okay, well, I appreciate that. I note
19 that most of the citations listed are on the eastern shore.
20 And as the fishing season starts up again, it would be nice to
21 see a little more enforcement on the western shore,
22 particularly these little boats when they come in.

23 LT. HAUK: October through February, several of our
24 officers are TDY to the eastern shore because there is a
25 greater amount of commercial activity during these months.

1 So what we are left with is a much smaller crew on
2 the western shore, and we have been unfortunate in terms of
3 criminal violations, at least in Anne Arundel County, and our
4 officers have spent an inordinate amount of time and have done
5 a fantastic job of criminal law, none of which would interest
6 this group, but that is kind of what we have been tied up
7 with.

8 MR. O'BRIEN: Thank you.

9 LT. HAUK: You are welcome.

10 MR. GRACIE: Go ahead, Greg.

11 MR. JETTON: Just one quick question on the crabs.
12 You had 12 citations for recreational crabbers to J&J in Kent
13 County. Is there no penalty for the actual buyer for the
14 commercial because I see nothing on the commercial there.

15 LT. HAUK: I can make a phone call. It depends on
16 how those cases pan out. Occasionally what officers will do
17 is they will catch the person and they will actually watch
18 them sell, and then they will charge both, and then they
19 barter, you know, a lower charge for the seller.

20 And that is not always wise, and it just sort of
21 depends on how the surveillance works.

22 MR. JETTON: But there is a penalty for buying from
23 an unlicensed --

24 LT. HAUK: There is, but just reading here, I can't
25 tell for sure if they actually completed the sale or if the

1 buyer was in cahoots -- like, I just can't tell how that sort
2 of rolled out.

3 MR. JETTON: Okay.

4 LT. HAUK: But I can check. And I know we have
5 charged both in certain circumstances.

6 MR. JETTON: I just didn't know if there was a
7 penalty there for them or not too.

8 LT. HAUK: There is. I want to see it used to be
9 exactly the same fine amount.

10 MR. GRACIE: Any others?

11 MR. GAINES: Going back to the undersized rockfish,
12 I think 90 percent of that activity takes place at some public
13 fishing areas, Matapeake, Kent Narrows and Landing. You will
14 probably get more bang for your buck doing some really good
15 signage. \$500 fine per fish, got to be this size, written in
16 Spanish or multiple languages.

17 Because I don't think they check social media or the
18 Website before they go out. You are not going to reach that
19 many of them. But every one of them standing right there can
20 look up and see the sign and understand it is a big, big fine.
21 You can probably reach the bulk of those people just at those
22 landings.

23 LT. HAUK: I agree there are a lot of violations at
24 our public landings, that is for sure. And you are right, you
25 would get a lot of bang for your buck doing signs there. And

1 the fine amount would probably be a good deterrent.

2 MR. GAINES: Because nobody thinks it is much. Lay
3 it on them. Let them know it is serious.

4 LT. HAUK: Right. And then as an officer you don't
5 feel quite so bad when they are standing right under the sign
6 with a bucket full of small fish.

7 MR. GAINES: Put it up high enough where they can't
8 rip it off, but I mean I fish out at Kent Narrows every day,
9 and I see there are lots and lots of people fishing there. I
10 am sure most of them are law abiding, but you can reach the
11 majority of the people just at those 8 or 10 landings, I
12 think.

13 LT. HAUK: I agree.

14 MR. GRACIE: As I understand it, you guys are not
15 producing signs. Fisheries would do that, right?

16 MR. O'CONNELL: Yes, we are producing the signs but
17 we are coordinating with NRP as to the best language, what
18 would be the hot spots.

19 LT. HAUK: Pictures are great, and we have used a
20 lot of pictures in the past.

21 MR. GRACIE: So to comply with what Richie is
22 suggesting, are you making those kinds of recommendations to
23 NRP about where to put them as well?

24 MR. O'CONNELL: Yes. We have already had those
25 conversations and we are in the process of developing what

1 | would be put on the signs and where to place them.

2 | MR. GRACIE: Okay.

3 | MR. O'CONNELL: Hopefully that will be out there
4 | this spring.

5 | MR. GRACIE: All right. Any other questions? Ed
6 | O'Brien.

7 | MR. O'BRIEN: I guess we are still on -- we have had
8 | our sins here in Maryland commercially with poaching. We
9 | certainly may have taken steps to solve some of the problem
10 | off of the Virginia coast. There have been arrests relative
11 | to the striped bass issue. And some people sitting here know
12 | what I am talking about.

13 | The area we really haven't hit is what is going on
14 | in the Virginia commercial fishery when they work up the bay
15 | from the ocean in the late February/March time period. Now I
16 | know Tom has talked to Virginia, but again the inputs are
17 | coming in from people who are close to the scene that this
18 | kind of thing is probably going to happen again this year if
19 | there is no enforcement.

20 | MR. GRACIE: That doesn't involve our NRP at all,
21 | does it? They can't do anything about that.

22 | MR. O'BRIEN: No, except the communications -- you
23 | know, we have set up this ASMFC enforcement group. And, you
24 | know, we have a captain on there. Virginia has a captain on
25 | there. It opened pretty aggressively relative to some of

1 their recommendations. So I just want to put that out there
2 again. It is a problem. It remains a problem.

3 MR. GRACIE: Anything else?

4 (No response)

5 MR. GRACIE: All right, then Gina, you are up.

6 ***Legislative Update***

7 ***by Gina Hunt, Deputy Director, MD DNR Fisheries Service***

8 MS. HUNT: Good afternoon. Gina Hunt, deputy of
9 fisheries service. So in your handout is a legislative
10 update. And seriously this is hot off the press today, and
11 yet there are still updates now at 2:30 p.m. So I will go
12 through what we have here and just let you know what else has
13 happened since we printed this.

14 Since this is our first meeting, and session has
15 already started, I am going to try to give you the highlights
16 of most of these bills because you haven't heard them up to
17 this point.

18 ***House Bill 16***

19 House Bill 16 is actually an administrative bill in
20 regard to the Administrative Procedures Act. It basically
21 says that a state agency can only promulgate regulations
22 certain times of the year -- basically four times a year.

23 You know, fisheries service proposes regulations
24 almost every opportunity. There is one package going in. So
25 this is a problem for fisheries and for the department because

1 | it will cause us to have to do more emergency regulations. It
2 | only applies to permanent regulations, and it will certainly
3 | impact your public comment and scoping as it applies to
4 | regulations.

5 | ***House Bill 72***

6 | House Bill 72 is just a reporting change in the
7 | Aquaculture Coordinating Council. They provide a legislative
8 | update once a year, and they are changing their date to try
9 | and better comply with when the budgets go in for the agencies
10 | in case they have any legislative ideas that require fiscal
11 | increases.

12 | ***House Bill 96***

13 | HB 96 is actually a Department of Environment bill,
14 | and it changes their water testing but it may affect our
15 | aquaculture. So that is why it is a bill commented on by
16 | fisheries service.

17 | ***House Bill 184***

18 | HB 184 is actually a tax credit for recycling oyster
19 | shells, and this is really, I think, coming out of the oyster
20 | recovery partnership.

21 | ***House Bill 241***

22 | House Bill 241 is a seafood operations nuisance
23 | bill, and I am not sure if we are commenting on this bill or
24 | not but it is very -- it is similar in concept to what has
25 | happened before with working watermen bills where we are just

1 | trying to ensure the comment between the public and somebody
2 | that is running their seafood business around their home and
3 | the nuisance that the public finds with that business.

4 | ***House Bill 306***

5 | House Bill 306 is a departmental bill. It is a
6 | shellfish nursery permit bill, and this bill basically
7 | establishes a nursery permit so that you do not have go
8 | through the water column lease application process with the
9 | department to create a nursery application.

10 | ***House Bill 357***

11 | House Bill 357 is a bill for the Potomac River
12 | Fisheries Commission. In order for PRFC to make any changes,
13 | law has to pass on both the Virginia and the Maryland side
14 | that is identical and that amends the Potomac River Fisheries
15 | Compact. So this bill is to do that, and basically increase
16 | the oyster inspection tax there to \$2. The tax right now in
17 | Maryland is \$1. The tax in Virginia is 50 cents. PRFC would
18 | have \$2.

19 | ***House Bill 505***

20 | House Bill 505 is a social security number bill.
21 | Again it is a bill that would tell the department that you
22 | cannot ask for a Social Security number on fishing and hunting
23 | license applications. The department will be commenting on
24 | this, but it is a much bigger fiscal impact.

25 | I think you have heard this bill before in regard to

1 the money that we receive in a federal grant for welfare
2 programs, and so it would be a significant impact to other
3 programs in the state, not necessarily just DNR.

4 ***House Bill 514***

5 House Bill 514, again Social Security number
6 legislation. So there are two bills on the house side, but
7 they don't say the same thing.

8 ***House Bill 622***

9 House Bill 622, distribution of oyster tags. It
10 basically tells the department we have to give an oyster
11 harvester 30 days worth of oyster harvesting tags when they
12 are issued their tags.

13 There was a problem this year because the harvest
14 was pretty good. We had a lot of latent effort come into the
15 oyster industry, and we had to restrict the number of tags we
16 gave individuals when they came into the license centers, and
17 that caused a lot of headaches both for the watermen and for
18 us.

19 This legislation was I think to try and get us to
20 give them more tags, although it is very difficult to predict
21 what 30 days was worth, but that is the intent of the bill.

22 ***House Bill 708***

23 House Bill 708, nuisance species penalties. So this
24 is cross-filed with -- actually it is a senate bill. Yes,
25 Senate Bill 547. It says cross-filed house bill but it is

1 | Senate Bill 547.

2 | So this is the bill that we had e-mailed you about a
3 | couple weeks ago, and I wanted to give this one a little more
4 | discussion because we had some comments and questions back
5 | from the commissioners. So the intent of the bill is to
6 | charge \$2,500 as a fine for each -- I think as we sent it to
7 | you, I think it said each organism, though as drafted it says
8 | for each offense.

9 | But the intent was to basically have the fine not
10 | just apply one time but for each organism that you are
11 | transporting, but also -- and really something that was taken
12 | off of legislation that we have seen in other states, to be
13 | able to provide a reward for anybody who gave information that
14 | resulted in a conviction under nuisance organisms.

15 | So it is very difficult to find something like this
16 | going on but if you -- citizens are more likely to turn it in
17 | and lead to more convictions. That is the intent here, to try
18 | and get more information flowing to Natural Resource Police so
19 | that these violations can be found, and then the increase in
20 | the fine is meant as a deterrent.

21 | Now the only thing I think -- some of the comments
22 | we received were in regard to didymo and felt-sole waders, and
23 | whether or not that would apply under this. Felt-sole waders
24 | already has a pre-payable fine of \$125, so basically if you
25 | are found in violation of that you are going to get a \$125

1 fine.

2 The only way that you would get a higher fine than
3 that is if you choose not to pay the pre-payable fine, choose
4 to go to court, and a judge in his discretion thinks that was
5 really that awful of an offense to warrant a higher fine. In
6 my experience with natural resources violations, that doesn't
7 happen. Usually you get much less than the maximum, not up to
8 the maximum.

9 But the idea with anything else that may come up
10 similar to didymo where it is not necessarily stocking of a
11 fish or something like that, we can always make a pre-payable
12 fine, make a recommendation to District Court, and that fine
13 would be set, you know, however the penalty workgroup that has
14 members from this commission, thinks the fine is appropriate
15 for that violation.

16 So I didn't want folks to think it was \$2,500, and
17 that is definitely what you are going to get, because that is
18 not the case.

19 MR. O'CONNELL: Gina, can you also mention ---
20 crayfish and the snakehead. There were some comments from the
21 commission as to -- you know, we are asking people to remove
22 these things and they were caught in possession of them.

23 MR. GRACIE: You could be violating this law.

24 MR. O'CONNELL: There are other regulations, I
25 think, that allow that so you wouldn't be violating the law, I

1 | thought the point was.

2 | MR. COSDEN (away from microphone): The regulations
3 | are that animal has to be dead if you possess it.

4 | MS. HUNT: Right. So for snakeheads, I mean we
5 | already have, you know, we have a legal harvest of snakeheads.
6 | You are allowed to possess a snakehead dead. You are not in
7 | violation of our regulations unless you are transporting it
8 | live.

9 | So, and again, you know, there could be a separate
10 | fine set up for certain species. It doesn't have to be
11 | \$2,500.

12 | MR. O'CONNELL: Zebra mussels was another one that
13 | came up.

14 | MS. HUNT: Right. Now and also nuisance organism,
15 | you know, it is defined in the law here as a nonnative aquatic
16 | organism that will alter or threaten or harm the ecosystem.
17 | So, you know, it would be up to us to determine also which of
18 | these organisms are nuisance. There isn't a list currently.
19 | There is a nonnative list, and there is certainly a list of
20 | the snakeheads, but there is not a list of every nuisance
21 | organism that could ever show up in Maryland.

22 | Okay. Are there any more questions though about
23 | this bill because we were hoping, and we can do this when we
24 | get to the end of it, we are hoping to see if the
25 | commission -- most of the comments back on this bill were

1 positive, but Bevin is here from the Chesapeake Bay Commission
2 and just would like to get formally, you know, approval or a
3 recommendation from the commission on this bill.

4 *Questions and Answers*

5 MR. GRACIE: I have a question. If I am a Natural
6 Resources Police officer, do I have the discretion to charge
7 with whatever violation I want in the case of didymo, for
8 example?

9 MS. HUNT: Well, you have the discretion --

10 MR. GRACIE: So I could charge them for, I could
11 charge them for violating this law as well as for violating
12 the felt-sole wader regulation.

13 MS. HUNT: This law is the penalty. This is the
14 penalty for a violation.

15 MR. GRACIE: What I thought you said was that you
16 don't have to worry about having this penalty apply to
17 carrying didymo on your felt-sole waders because there is a
18 pre-paid fine. If the Natural Resources Police wants to
19 charge you with violating a nuisance species laws as well,
20 would they have the discretion to do that?

21 MS. HUNT: If the Natural Resources Police finds
22 somebody in violation of felt-sole waders, they are going to
23 write them up for the violation of that regulation.

24 MR. GRACIE: How do you know they wouldn't write
25 them up for this too, for introducing the species violations

1 | too?

2 | MS. HUNT: You mean would they cite this law under
3 | the violation? This law does not say -- all this law does is
4 | set a penalty. It does not set a you can do this and you
5 | can't do that. You don't violate this law. This law is just
6 | a penalty.

7 | MR. GRACIE: What law are you violating when you get
8 | this penalty?

9 | MS. HUNT: Any nuisance organism law.

10 | MR. GRACIE: Exactly. Didymo is a nuisance
11 | organism.

12 | MS. HUNT: Right. And so for didymo, there is a
13 | penalty established, a pre-payable fine. So when you get your
14 | ticket from NRP, it is going to say \$125 pre-payable fine. If
15 | you pay the ticket just like you would your speeding ticket,
16 | that is what it is going to be.

17 | If you choose not to, if you think you were innocent
18 | or you have extenuating circumstances and you want to go to
19 | court, then it is up to the judge to decide should they pay
20 | it? Are they guilty? Are they not? Should it be more.

21 | MR. GRACIE: You still haven't answered my question,
22 | Gina. If the Natural Resources Police officer wants to charge
23 | me with spreading didymo, which is a nuisance species, what is
24 | to stop him from doing that instead of charging me with a
25 | felt-sole violation?

1 LT. HAUK: I might be able to help you. Our
2 officers are trained to charge someone with the most specific
3 and appropriate charge. So if somebody opens their car window
4 at 2:00 in the morning and shoots a deer, and they are not
5 wearing orange, could we charge them with not wearing orange?
6 Sure, we could.

7 But that is not the way we train them, and that is
8 not what I see as a commander. So I hear your concern and I
9 can't predict what everybody will do for the continuation of
10 time, but I don't see that as being a problem. I don't
11 predict that to be a problem. If I were the officer, If I
12 were the commander, if I were the sergeant, I would expect for
13 felt soles to write a felt-sole ticket.

14 MR. GRACIE: Go ahead, Richie.

15 MR. GAINES: I think I can shed a little bit of
16 light. The \$125 ticket is for felt soles. In order to prove
17 that you are introducing another organism, they are going to
18 have to prove that didymo is present on those felt-sole
19 waders. I don't think DNR wants to seize the waders and send
20 them, so they are probably going to write a felt-sole ticket.

21 The only way they can prove that you are introducing
22 an organism is to test those waders. Am I right? To show the
23 presence of didymo.

24 LT. HAUK: I actually think Ms. Hunt has the crucial
25 piece of information.

1 MS. HUNT: What I was trying to articulate was that
2 we do not have a regulation that says you can't introduce
3 didymo. We have a regulation that says you can't wear
4 felt-sole waders. So when you get a ticket, you are getting a
5 felt-sole wader ticket. That is what you violated. Now there
6 is broad nuisance species law. It is not this. It is just
7 broad --

8 MR. GRACIE: No, but this penalty applies to that
9 law, right?

10 MS. HUNT: This penalty applies to any nuisance
11 organism, right.

12 MR. GRACIE: But there is no list, so we don't know
13 what they are.

14 MS. HUNT: Exactly. Right. We would have to decide
15 what should apply under nuisance organisms because there is
16 just a definition. And if you list, if you make a list, and
17 then something new shows up, you are not going to cover it.
18 So I mean, it would be very, very difficult to try and write a
19 list that could be everything that would ever be nuisance.

20 MR. GRACIE: I think it would be very, very
21 difficult to get a conviction and have somebody pay a fine
22 when they would have no idea what a nuisance species is. And
23 that would be a pretty valid defense I would think.

24 MS. HUNT: Right, but we could write regulations.

25 MR. GRACIE: All right. I have heard all I need to.

1 Any other questions?

2 (No response)

3 MS. HUNT: The rest of the bills I would say,
4 following down the rest of that page, Aquaculture Coordinating
5 Council, again that is just cross filed.

6 ***Senate Bill 46***

7 Senate Bill 46 is the first of three shark fin
8 bills, and 46 is very similar to the bill that went in last
9 year but failed.

10 ***Senate Bill 59***

11 Senate Bill 59 is a departmental bill. It is a
12 housekeeping bill. It was already heard on the senate side
13 and passed, and it applies to many various different laws.
14 Some of them are shellfish. Some of them are gear. There are
15 basically sections of law that are already not withstood or in
16 the way of regulations that the department has put forward.

17 ***Senate Bill 163***

18 Senate Bill 163, again the seafood operations
19 nuisance action cross filed.

20 ***Senate Bill 241***

21 Senate Bill 241, this is again an administrative
22 procedures act bill in regard to having to hold a public
23 hearing, having at least five members of ALR on a committee.
24 So it again applies to our regulatory process.

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Senate Bill 261

Senate Bill 261 is also an administrative process altering the effective date of specified regulations.

Senate Bill 344

Senate Bill 344 is another PRFC. This is the inspection tax bill and also increases the maximum penalty for the violations that they are able to charge. I think it goes from \$1,000 to -- is it \$3,000? To \$3,000.

Senate Bill 379

Senate Bill 379, this bill is really interesting because it basically says that if there was ever legislation in the general assembly and it failed in either chamber, senate or house, then the department may not write regulations that does something substantially similar.

So if there is ever a bill that says you cannot harvest -- well, actually one of the examples that we had was something about power dredging with oysters, and that the department could not write regulations to power dredge with oysters, and the bill failed. But then if we ever tried to write a power dredge regulation, we wouldn't be able to because it would be substantially similar.

So in that case, whether the bill failed or passed, we wouldn't be able to write regulations. It is also very problematic because it doesn't say back to when, ever, the 1800s? It doesn't say when every bill had to be in. It

1 | doesn't say if it considers amendments. So there are a lot of
2 | problems and ambiguity with this bill.

3 | MR. GRACIE: Who is the sponsor? Do you know?

4 | MS. HUNT: I don't know. Jacob, could you look in
5 | my binder over there? Okay, so anyway, that is Senate Bill
6 | 379.

7 | ***Senate Bill 464***

8 | 464 again is the cross filed, the department's
9 | nursery permit bill.

10 | ***Senate Bill 525***

11 | Senate Bill 525 is the sustainable fisheries
12 | enforcement fund. This bill charges a \$10 surcharge to
13 | commercial fishing licenses and certain recreational fishing
14 | licenses.

15 | It creates a special fund for Natural Resource
16 | Police. Natural Resources Police currently does not have any
17 | special funds. So it creates this fund and sends the money
18 | over there. It also specifies that the money has to be used
19 | for enforcement activities and it is meant to augment their
20 | current revenue, not to be replaced by it.

21 | So in other words, this is meant as you pay more,
22 | you get more. It is not to backfill any other money that they
23 | were getting.

24 | MR. GRACIE: Gina, I think it actually says it has
25 | to be used for enforcement of fisheries laws.

1 MS. HUNT: Right.

2 MR. GRACIE: Not just enforcement.

3 MS. HUNT: Right, yes, it does say fisheries laws.

4 Now the recreational licenses it does not apply to, just in
5 case you haven't read the nuances of the bill, is it does not
6 apply to the senior license. It doesn't apply to trout
7 stamps. It doesn't apply to complementary free licenses or
8 the angler registration that you get in free fishing areas,
9 stuff like that.

10 So it is your main licenses that you buy, except for
11 seniors. And again, that is kind of -- if you read the bill,
12 it is a pretty long bill, but that is what is not applied for
13 in recreational.

14 ***Senate Bill 528***

15 Then Senate Bill 528 is not on your sheet because
16 again things just happened even after we printed this. 528 is
17 the second of the shark fin bills. This is a bill that just
18 tells you, you cannot eat shark fins, you cannot be in
19 possession of shark fins. No shark fin soup. That is all the
20 bill is about.

21 ***Senate Bill 547***

22 547 is another nuisance, the nuisance organism bill.

23 ***Senate Bill 592***

24 592 is the third of the shark fin bills. This one
25 is a little different because it does have some exemptions.

1 It allows you to use rays and skates as bait, so it is a
2 little different than the other versions of the bill.

3 ***Senate Bill 662***

4 Senate Bill 662 just came over last night. This is
5 the bill that is based on the cost-recovery report. So it
6 would not be exactly like the report, in the tables that you
7 would have seen in the report, because the commercial industry
8 made some additional recommendations on fees after that report
9 was submitted.

10 But it does in general create a commercial fishing
11 registration that is \$215. So this is a registration that
12 every commercial harvester would have to get. It would be
13 unique for the individual. It does not apply to charter boat.

14 The bill also makes some dealer -- changes in the
15 dealer requirements, and those changes were laid out in the
16 cost-recovery report, so those little items that are not
17 necessarily fees but actually changes who has to pay the fees,
18 is also part of this bill. And then it also removes, it stops
19 the commercial fishing apprenticeship permit.

20 So the apprentice program would be gone, and it
21 would go back to a simple waiting list for commercial fishing
22 licenses.

23 ***Senate Bill 795***

24 Senate Bill 795 is so new, we can't even see the
25 text of the bill yet. It is up online as a bill, but we do

1 not actually know where these lines are, if there are lat-long
2 coordinates in the law, or if it is just talking about county
3 lines, or if it overlaps PFSAs.

4 So I don't know anything about 795 yet. It just
5 dropped today.

6 MR. GRACIE: Any questions?

7 *Questions and Answers*

8 MR. LYNCH: Gina, could you comment on any other
9 what I call bounty bills that DNR deals with.

10 MS. HUNT: Bounty bills, you mean like penalties?

11 MR. GRACIE: No, he means where the person who turns
12 somebody in gets a reward.

13 MS. HUNT: We have never had that before.

14 MR. LYNCH: So this is new for fisheries.

15 MS. HUNT: It is very new. It is based on law -- if
16 we didn't send you the memo, I can send you the memo that we
17 had staff research other states. And other states do have
18 this program where they rely on somebody turning somebody else
19 in and giving them a reward from the fine that is paid.
20 Otherwise all the fine money goes to District Court.

21 So, you know, if it is -- just to be clear, it is
22 not money that the department would have otherwise received.
23 We don't get any of that money. District Court gets the
24 money. So in this case, up to half of that money could be
25 given to the person that provided information for the

1 conviction.

2 MR. LYNCH: I did read the memo.

3 MS. HUNT: Okay.

4 MR. LYNCH: But I couldn't tell whether there had
5 been any established precedence for that.

6 MS. HUNT: Not in Maryland.

7 MR. GRACIE: Anybody else? Dave?

8 MR. SMITH: You said for a while which bills that
9 DNR would comment on. Are they going to comment on Senate
10 Bill 525?

11 MS. HUNT: 525? Oh, the fisheries enforcement fund?
12 I don't know what our position will be, but I can tell -- I am
13 sure we will have at least an --- bill report.

14 MR. SMITH: Do you have any idea when you will know
15 your position on that bill?

16 MS. HUNT: It is usually just like the day before
17 the bill hearing. So this bill just dropped like Thursday.
18 It is not even -- it doesn't even have its bill hearing date.
19 When it gets closer to bill hearing date, we will have a
20 position.

21 MR. SMITH: Senate Bill 662, I didn't have a chance
22 to read it or anything, but would that -- would restaurants
23 now have to pay a fee and report to buy fish from --

24 MS. HUNT: Okay, only if they are not, only if they
25 are buying from a waterman who is not also licensed as a

1 dealer. So right now a restaurant can buy from a waterman,
2 and there is no dealer involved. There is no dealer
3 reporting. There is no information to the department of where
4 the seafood went.

5 So in this case, it changes the exemptions and says
6 the restaurant either is licensed as the dealer, or they are
7 buying from a waterman who is also licensed as a dealer. And
8 in this case the bill also establishes a discounted dealer
9 license for a waterman. So it raises the general dealer's
10 license fee, and then it creates a new dealer's license for
11 anybody who also has a TFL.

12 So a waterman could basically be licensed as a
13 dealer for a discounted price and then he could sell to
14 restaurants, whoever he wants, and he can also sell other
15 people's seafood. Because right now a harvester can only sell
16 his own seafood.

17 MR. GRACIE: Go ahead, Bill.

18 MR. GOLDSBOROUGH: I am curious why Senate Bill 208
19 is not on this list. That is the one that establishes an
20 intent to meet a minimum number of NRP officers?

21 MS. HUNT: Because we missed that one. You are
22 right.

23 MR. GRACIE: That is being heard tomorrow, isn't it?
24 No, it is today, today and tomorrow.

25 MS. HUNT: Well to be honest it is probably because

1 | it not fisheries. That is probably why -- fisheries staff
2 | made this, and it is not a bill that fisheries service
3 | comments on, but it is a bill the department comments on.
4 | Right. And it is similar to the bill that has been in several
5 | years now.

6 | MR. GRACIE: Any others? I have one. House Bill
7 | 96, testing for shellfish harvesting waters. What does it
8 | change it to? Does it just eliminate the requirement?

9 | MS. HUNT: It basically -- right now, MDE is
10 | required to monitor every month, I think it is, or several
11 | times a month, and if a county requests the monitoring, they
12 | have to go out there and do it. It removes that request
13 | provision, and it does not have any timeframe for when they
14 | have to go back out there and test.

15 | However, when we asked them about it, they are going
16 | to comply with the testing requirements under FDA and NSSP.
17 | So shellfish certification requirements, once you have waters
18 | that are considered restricted, MDE still has to go back there
19 | and keep testing them periodically, but it wasn't under the
20 | same timeframe that was in the law.

21 | The timeframe that was in the law was a lot more
22 | frequent, and based on their budget, they said they just, you
23 | know, weren't going to go out that often but would go out as
24 | often as required under FDA.

25 | MR. GRACIE: Do you know what the FDA standards by

1 any chance?

2 MS. HUNT: No, I would have to pull it up under
3 NSSP.

4 MR. GRACIE: Tom --

5 MR. O'CONNELL: Once a month. I think they were
6 doing bimonthly --- .

7 MR. GRACIE: All right, thank you. Any other
8 questions for Gina?

9 (No response)

10 MR. GRACIE: Thank you, Gina.

11 MR. O'CONNELL: Since Bevin has taken the initiative
12 to get some feedback from the commission, when we sent the
13 e-mail out on the nuisance species bill, there was general
14 support with some questions. Is there any strong opposition
15 for that bill that the commission wants to inform Bevin or the
16 department at this time?

17 MR. GRACIE: Carol?

18 MS. STEVENSON: Not opposition but I was just
19 wondering in light of some of the things that are happening
20 with, you know, the snakehead thing, what kind of exemptions
21 are going to be considered in the bill? It wasn't necessarily
22 that I oppose it. I don't certainly. But I am interested to
23 see it filled out a little bit more.

24 MR. O'CONNELL: And obviously a dead snakehead, dead
25 crayfish, are exempt through other regulations. It is a

1 movement of live, nuisance species. You have a nonnative
2 species list, which would be very close to the nuisance
3 species list that needs to be developed, and that would be
4 something that we would have to work on.

5 But as we are trying to apply strategies to market
6 and promote people to remove these invasive species, we have
7 heard some feedback from fish and wildlife service that we are
8 creating incentives to relocate as these fisheries become
9 popular.

10 So, you know, we feel like having an increased
11 deterrent as a penalty, given the difficulty of NRP catching
12 somebody, is an important step for us to continue advocating
13 fishermen to remove these things. Otherwise it is going to be
14 like no possession.

15 DR. MORGAN: If you pass this bill and get it
16 enacted and all that, how do you handle the problems with the
17 adjoining states, because Maryland may have this Cadillac bill
18 to prevent nuisance species, but what are you going to
19 do -- are you going to work at, not work at. That is the
20 wrong term. But are you going to advocate that the adjoining
21 states do something too?

22 Because Pennsylvania would have to strengthen their
23 regulations. That little bit of Delaware, West Virginia,
24 Virginia --

25 MR. O'CONNELL: Yes, the Chesapeake Bay program,

1 sustainable fisheries goal implementation team that the chairs
2 of sport fish and tidal fish are on, one of the focus points
3 is on nonnative invasive species. And that includes, you
4 know, Delaware, West Virginia, Pennsylvania, Virginia.

5 And even through the Chesapeake Bay commission
6 process, we have been using that forum to bring these issues
7 to light. They are becoming more aware of them and
8 recognizing the need. Maybe by us taking the lead, we will
9 initiate them to do some action too.

10 MR. GRACIE: I have a question. I guess -- what
11 strikes me is there is a possibility for some arbitrary and
12 capricious enforcement here when there is no certainty on what
13 are nuisance species. What do you do now if you want to
14 charge somebody with violating with releasing a nuisance
15 species? Is it just up to the discretion of the court, and
16 that is your only option?

17 LT. HAUK: There is an aquaculture, a section of
18 aquaculture that talks about not having a permit, that we have
19 used.

20 MS. HUNT: There are nonnative species, Jim, that
21 are listed in reg.

22 MR. GRACIE: Which may or may not be nuisances.

23 MS. HUNT: Right, they are not the same as
24 nuisances, right. So that is where most of our violations
25 right now are happening. They are nonnatives. We have only

1 had a couple felt-sole wader cases. This is really not
2 something that you run into very often.

3 MR. GRACIE: If you are charging somebody with
4 releasing a nonnative species, that is without a permit, in
5 other words, because your regulations say you have to have a
6 permit to do that, correct?

7 So right now you could charge them with whatever
8 penalty you could provide for doing something without a
9 permit. What would that be under current law?

10 LT. HAUK: I would have to get the book. I don't
11 know the precise book, but it is a section in aquaculture.

12 MR. GRACIE: If I stock three rainbow trout in Dead
13 Run with no permit, that comes under aquaculture?

14 LT. HAUK: Yes.

15 MR. GRACIE: And I brought three trout and stocked
16 them? I didn't raise or culture or anything --

17 MS. HUNT: There is a section that tells you what
18 you are allowed to put into the water. There are a very
19 limited number of species that you are allowed to put in the
20 water. If you put anything else other than that, you would be
21 getting a citation.

22 MR. GRACIE: Okay.

23 MS. HUNT: Yes. So that is what you would be
24 getting charged under. There is probably a prepayable for it.
25 I could look it up.

1 MR. GRACIE: I guess I needed to know that you had a
2 provision and people have been living with it prior to this.
3 But now you are setting a substantial penalty for persons who
4 may not know they are violating a law.

5 MS. HUNT: It is a nuisance organism, which is going
6 to be a higher standard.

7 MR. GRACIE: Right. Anybody else have any concerns?
8 Larry?

9 MR. COBURN: Well, I do on SB 525, on this
10 enforcement fund.

11 MR. GRACIE: Let's get this off the table first.
12 Anybody else have any questions or comments about that? All
13 right, go ahead.

14 MR. COBURN: The SB 525, does that mean your fishing
15 license is going to go up this year or what?

16 MR. GRACIE: Well, whenever it takes effect. I
17 think it will be next fiscal year.

18 MR. COBURN: So another \$10.

19 MR. GRACIE: If it passes. Any other questions on
20 that? Update? Bill?

21 MR. GOLDSBOROUGH: Is the department looking for any
22 guidance from the commission on any of this legislation?

23 MR. GRACIE: Tom asked if there are any serious
24 objections on any of them.

25 MR. GOLDSBOROUGH: I mean if any members of the

1 | commission have a concern or an interest in a particular bill,
2 | if they want to talk up and make a motion say in support or in
3 | opposition, would the department be interested in that?

4 | MR. O'CONNELL: Yes.

5 | MR. GRACIE: If somebody wants to make such a
6 | motion, it doesn't matter if the department is interested or
7 | not. We can still make it.

8 | MR. O'CONNELL: It is helpful to know what the
9 | commission's positions are on these bills.

10 | MR. GRACIE: Bevin, did you want to say anything
11 | about that nuisance species penalty bill?

12 | MS. BUCHHEISTER: No, other than, you know --

13 | MR. GARY: Bevin, can you come up to the mike?

14 | MS. BUCHHEISTER: We did look at all the comments
15 | that we received from you all, and thanks for turning that
16 | around rather quickly. And we will consider all the other
17 | comments that were made here today as well. And I just wanted
18 | to point out that it is existing law already, and this, the
19 | change is just making it \$2,500 per offense, and each organism
20 | is a separate offense.

21 | So, you know, the questions that you had about how
22 | do they determine what a nuisance organism is, that is, that
23 | is already an issue, I guess, under current law so that is
24 | something that they are already dealing with already.

25 | And then the other question about what they

1 neighboring states do, I believe Virginia has a civil law
2 under the civil code that provides for -- I think it was up to
3 \$20,000. That was a max fine for this kind of offense. And
4 there was also restitution in there, and I think somebody had
5 mentioned restitution in the e-mail response. And DNR had
6 assured us that they already have authority to do restitution
7 regs, so I think that is all.

8 MR. GRACIE: Thank you.

9 MS. BUCHHEISTER: Oh, and I also wanted to mention
10 our commission consists of Virginia, Maryland and Pennsylvania
11 legislators, so this is something we can spread to them as
12 well.

13 MR. GRACIE: Thank you. Did anybody want to make a
14 comment on any of these bills, proposals?

15 MS. STEVENSON: Are we going to have a separate
16 discussion on the bill, the nuisance species, or was this all.

17 MR. GRACIE: No, this was it. Bill?

18 MR. GOLDSBOROUGH: Well, Larry brought up Senate
19 525, and I think it would be worthwhile to have a brief
20 discussion about that.

21 I took his as an expression of surprise that there
22 was something out there that was going to increase the license
23 fee by \$10 that we hadn't heard about until now. Is that a
24 fair position, Larry?

25 MR. COBURN: Yes.

1 MR. GOLDSBOROUGH: And I think that -- well, let me
2 step back and say that unless someone has a different view, I
3 think all of us recognize the importance of full funding for
4 NRP and having sound enforcement out there and recognize that
5 we have got a problem now in that it is way underfunded.

6 So the concept of increasing funds, especially
7 setting up a special fund, to the extent that remains intact,
8 is a good one. And I personally feel like the user fee
9 concept is a good way to go. People who benefit from
10 something or for whom something is necessary be the ones that
11 bear the brunt of the cost.

12 So I think the concept in Senate 525 is a very sound
13 one. The problem, as I see it though, is in exactly the point
14 that I just mentioned, and I think I read in Larry's remarks,
15 that it sort of came out of nowhere. In comparison, for
16 example, to the cost-recovery stuff that we just spent a whole
17 year going through a series of meetings -- of course, that was
18 a much more complex analysis that the department had to do.

19 But it was very inclusive and worked with both
20 commissions. I think this is the kind of thing that is
21 worthwhile but needs to go through that kind of a stakeholder
22 driven process to arrive at something that makes sense.
23 Now I toss that out there because also in the context of the
24 bill that I mentioned that is not on here, Senate Bill 208
25 that is being heard today and tomorrow in the house and the

1 senate, which is the third year in a row for this bill.

2 It failed the first two years, as was mentioned.
3 The department has opposed it because what it does is it calls
4 for the expression of an intent to maintain a minimum number
5 of NRP officers but doesn't provide for any funding for the
6 department to do that. So obviously that is part of the
7 problem but not all of it.

8 And it seems to me by looking at these two bills
9 that you have got two sides to the problem that maybe need to
10 be considered together. You know? I think we all agree it
11 would be great to have some minimum number of NRP officers out
12 there but we have got to figure out a way to pay for them.

13 So some of us have been talking in a different forum
14 about this just in the last day or so and wonder if it doesn't
15 make sense for there to be a process outside of the session
16 building to next year's session where both of these concepts
17 are evaluated and we can come up with sound, stakeholder
18 driven recommendations both for establishing a standard for
19 minimum NRP officers and perhaps even reaching some consensus
20 on some mechanism to pay for it.

21 So I toss that out there, and I don't know if it
22 calls for some kind of motion or not, but I would like to hear
23 what other commissioners think.

24 MR. GRACIE: Anybody want to comment on it? Larry,
25 go ahead.

1 MR. COBURN: Well, I am just concerned because if I
2 am not mistaken in the last five years there has been a
3 decline in purchases of fishing licenses. And I think a \$10
4 surcharge, whatever you want to call it, on top of what you
5 already pay, would deter certain people buying licenses, and
6 you might see another decline.

7 Is that helpful to the resources or to DNR? I am
8 just -- it is a concerning issue, it really is, now that I see
9 it.

10 MR. GRACIE: Dave?

11 MR. SIKORSKI: Bill and Larry both make perfect
12 sense with what they are saying. I know the hunting side of
13 DNR has gone through some license increase discussions, and it
14 didn't go so well for them last year. It sounds like it is
15 going better this year.

16 MR. GRACIE: Yes, there is a bill, and they have got
17 a consensus on it.

18 MR. SIKORSKI: Right, similar with cost recovery,
19 you know, with a long discussion. And that goes over a lot
20 better with the general public and most fishermen than just
21 all of a sudden seeing another \$10 fee. I mean, our fees were
22 raised five years ago?

23 MR. GRACIE: 2007.

24 MR. O'CONNELL: 2010.

25 MR. SIKORSKI: You know, thinking when is the next

1 one -- call it whatever you want to call it. It is still \$10
2 out of a fisherman's pocket, and like Larry says, I think
3 declining numbers is a bad thing.

4 MR. GRACIE: Actually more recent if you count the
5 saltwater-wide license too in 2010.

6 MR. SIKORSKI: It is a fee, and in these economic
7 times, nobody wants more money leaving their pockets.

8 MR. GRACIE: What I have been hearing from people is
9 that this really exacerbates the cost-recovery inequalities as
10 well, so. In fact, I have been told by some people that they
11 believe that the bill was introduced on behalf of the watermen
12 as a strategy to counter our effort to get them to meet cost
13 recovery.

14 MR. SIKORSKI: It was brought in a meeting among the
15 watermen, and you and I both were there, and it was a great
16 idea, but it is simply a fee. And I know the officers, when
17 they go on patrol, and spend their time in the field, they can
18 write on time cards, you know, whether they were doing
19 enforcement of this or enforcement of that.

20 But what is an officer going to do that is supposed
21 to be doing fisheries enforcement but they come across
22 something else? Not enforce that or -- how does that all
23 work?

24 MR. GRACIE: You can't enforce any boating laws with
25 that money, right?

1 MR. SIKORSKI: It just complicates. I don't know.

2 MR. LYNCH: I would like to echo what Bill pointed
3 out, that it seems like it needs a good deal more deliberation
4 before going forward in its present form, and given the time
5 we looked at cost recovery, I think it deserves an equal
6 amount of time to consider it in more than one facet, like in
7 terms of how will it impact --

8 Like Larry said, how will it impact new issued
9 licenses? Are you going to raise \$10 from a significantly
10 reduced number of licensees and therefore lose money overall?
11 I think somebody has to look at that and make sure we are on
12 the right track.

13 MR. GRACIE: I guess, without trying to take over
14 your prerogative, I saw a suggestion in an e-mail today that
15 it might be wise to recommend summer study for both this and
16 force level for Natural Resources Police so that you discuss
17 both of these approaches together: how we get the Natural
18 Resources Police up to level at what it should be, and a
19 funding mechanism for them.

20 A summer study session might allow that. Richie?

21 MR. GAINES: I had a bright spot there. I am kind
22 of in a unique position. I get to circulate among the
23 recreational anglers as well as the commercials and the
24 fishing guides. And the one point of contention I see in
25 every discussion about license fees increases, whether it is

1 commercial or recreational, is geez, they are just taking more
2 money going to the general fund and spending it on something
3 that I don't care about.

4 The bright spot in this is it is very specific where
5 that money is going to go, so if you have to have a bitter
6 pill, it certainly makes it better to swallow when you know it
7 is going to something that is going to result in a benefit
8 right back to you in that specific community.

9 So I think that is a bright spot in anything we do,
10 or you guys do, you may want to keep that in mind because I
11 know that is the single biggest issue that I see with any kind
12 of increases.

13 MR. GRACIE: I just want to correct something. I
14 think you might be giving an incorrect impression if you are
15 agreeing that license money for fishing licenses goes to the
16 general fund. It does not. They are restricted funds.

17 MR. GAINES: I understand. The perception in the
18 community is that it does.

19 MR. GRACIE: Well, why would the perception be any
20 different for this if they are all restricted funds?

21 MR. GAINES: Because this one lays out exactly where
22 the money should go in the bill, and that -- you know,
23 communication is everything.

24 MR. GRACIE: So do the others, Richie. Lay it out
25 exactly where it goes, and it can't be diverted to the general

1 fund.

2 MR. GAINES: You know that sitting at this table.
3 The perception out in the community is something different. I
4 am not saying that it is correct. It is something totally
5 different.

6 MR. GRACIE: Bill?

7 MR. GOLDSBOROUGH: Could I make a motion?

8 MR. GRACIE: Sure.

9 **MOTION**

10 MR. GOLDSBOROUGH: I move that the department
11 evaluate the concept of summer study for Senate Bill 208 and
12 Senate Bill 525 in establishing the process that would include
13 stakeholder participation for the purpose of coming back in
14 the 2014 session potentially with recommendations for
15 legislation on funding NRP.

16 MR. GRACIE: You got all that, Marty?

17 MR. GARY: No, not quite. Just go back through it
18 one more time. The department evaluate the concept --

19 MR. GOLDSBOROUGH: You can probably perfect the
20 language a little. It wouldn't hurt my feelings.

21 MR. SIKORSKI: I will second it.

22 MR. GARY: The department evaluate the concept of
23 summer study for --

24 MR. GRACIE: Senate Bill 208.

25 MR. GARY: -- 208 and House Bill --

1 MR. GOLDSBOROUGH: 525.

2 MR. GRACIE: Senate bill. They are both senate
3 bills.

4 MR. GARY: Oh, senate bill.

5 MR. O'CONNELL: Say through a process of citizen
6 participation to provide recommendations for 2014 legislation
7 to address the funding needs of NRP.

8 MR. GOLDSBOROUGH: Good.

9 MR. O'CONNELL: And you got Sikorski seconded it.

10 *Discussion*

11 MR. SIKORSKI: I am going to second it but I would
12 also say -- a little clarification as to what citizen
13 participation is. Make sure it is stakeholder participation.

14 MR. GOLDSBOROUGH: Yes, that is what I meant,
15 stakeholders.

16 MR. SIKORSKI: Like all stakeholders, not just
17 fishermen.

18 MR. GRACIE: And all we are asking is for the
19 department to evaluate? We are not asking them to say that or
20 testify that --

21 MR. GOLDSBOROUGH: Well --

22 MR. GRACIE: And what timeframe?

23 MR. GOLDSBOROUGH: I am open to other commissioners
24 to comment on that but I think obviously the timeframe is
25 short. We are hearing one of these bills today. But the

1 department has got a lot to consider in the context of the
2 session so we have got to leave it a little bit open ended.
3 But I am open to any suggestions on the strength of that
4 language.

5 MR. GRACIE: I think -- we are not asking them to
6 come up with a proposal at this point. We are asking them to
7 evaluate a summer study session. I would rather ask them to
8 recommend summer study. That is something they would have to
9 do in the context of the bill processing. Ed O'Brien?

10 MR. O'BRIEN: Yes, in the past a lot of times when
11 these bills are laid out here we mention just who put the
12 bills in. I have had an early indication there is confusion
13 in the legislature on this. Who put in the senate bill, for
14 instance?

15 MR. GRACIE: They are both senate bills. Which one
16 do you mean?

17 MR. O'BRIEN: Which legislator is my question.

18 MR. GRACIE: Well, for the one bill it was Dyson.
19 That is the NRP force bill. Did he also submit both of them?
20 Both of them are the same then. Okay.

21 MR. GOLDSBOROUGH: They are both Dyson and Colburn.

22 MR. GRACIE: Okay. We have a motion on the floor
23 that has been seconded. Dave, are you finished with your
24 wordsmithing?

25 MR. SIKORSKI: You were saying to change the

1 language, remove the word evaluate and just ask the department
2 to recommend.

3 MR. GRACIE: To recommend would be my change, but I
4 am only the chairman. You guys have to decide that.

5 MR. SIKORSKI: Remove the word evaluate and we
6 recommend that the department pursue a summer study.

7 MR. GOLDSBOROUGH: I would do that.

8 MR. GRACIE: Okay, you guys agreed so we don't have
9 to amend the bill. It is there. Any more discussion on the
10 motion? Commissioners first.

11 (No response)

12 MR. GRACIE: And the public? Have you signed up to
13 testify?

14 MR. DEAN: I don't think so. I got in here late.

15 MR. GRACIE: Okay. Well, you have to sit down next
16 to Dave. Use the microphone and give your name.

17 ***Public Comment***

18 MR. DEAN: My name is Gibby Dean. I am president of
19 the Chesapeake Bay Commercial Fisherman's Association. The
20 two bills in question, we actually had sponsored.

21 First of all, the Fisheries Enforcement fund, I was
22 just elected to my fourth term with this association.
23 Practically every meeting I have been to has concerns about
24 the amount of enforcement that we currently have. It seemed
25 to be a common thread that both the commercial and the sport

1 fishing associations could agree on.

2 This bill was born out of all those complaints. Now
3 if we didn't have time to run it through the Sport Fish
4 Advisory Commission or whatever, it may be my fault, but we
5 also had deadlines to get the bill in under a certain time
6 before they have to go before the rules committee. So we did
7 expedite this bill and attempt to get it in, mainly because we
8 all -- I thought we all wanted it.

9 I came here tonight asking for your support on both
10 these two bills. The cost-recovery bill for example. That
11 was also born out of this Sport Fishery Advisory Commission at
12 your last meeting. As you recall, you voted and supported a
13 \$1.6 million increase in commercial license fees, which we
14 were totally against, as you heard me say when we went into
15 that meeting.

16 And I can't remember exactly which gentleman it was,
17 but he made a suggestion about, you know, if you divided the
18 entire number into the number of people -- well, we looked at
19 that in a different light and found out we could do that and
20 make it a little more palatable by instituting a Harvester's
21 Permit Card, where each of us came up with \$215.

22 Plus we also suggested some individual license fees
23 on our own to get it up to that number. So like I said, this
24 is my fourth year here. I would like to think that we have
25 made great strides in working with the department on working a

1 lot of these issues out. And we also -- I mean, from a
2 commercial and recreational fisheries, there is too much of a
3 division between us here now.

4 And there are so many things that all of us can do,
5 whether you want to believe me or not, we all have the same
6 goals and interests at heart here. And there is no reason for
7 us to be divided on every particular issue that comes out.
8 And the two bills in question were born out of this
9 commission, and I am here to ask your support on both.

10 You can summer study these things until you -- you
11 know, on and on and on. But for four years that is all I have
12 heard about. We need more enforcement, we need better
13 enforcement. The bill, if you read the bill, it addresses
14 every concern, to my knowledge, that you all had. It is
15 earmarked. It can't go anywhere else. And most important, I
16 know there are some issues on the cost-recovery bill, but this
17 is over and above the funds that the NRP currently receives
18 from the fisheries service.

19 These are additional funds to help them get their
20 officers up. Thank you.

21 MR. GRACIE: Do you have another question or
22 comment? Bill?

23 MR. GOLDSBOROUGH: Just from my standpoint, the
24 purpose for the motion wasn't expressing opposition. Quite
25 the contrary, actually. It expresses support for the concept

1 of 525. Now 208 has been around. This is the third year for
2 208. That one didn't come out of this commission I don't
3 believe.

4 MR. GRACIE: It came out of legislation for the
5 Sportsmen's Foundation.

6 MR. GOLDSBOROUGH: Right. So the cost recovery was
7 662. We haven't talked about that yet, and I am quite sure we
8 would support that because of the very reasons expressed.

9 But I think the reason for the summer study is
10 because we would be serious about it, because we think it is
11 an important problem because we think just establishing some
12 standard of minimum numbers of NRP officers without providing
13 funding for it isn't going anywhere. Like I said, that bill
14 has died for the last two years.

15 We need to marry both concepts, and you can't do it
16 in a haphazard way. You have to consider both together, and
17 as much as I like the concept -- I assume my seconder likes
18 the concept of Senate 525. It would be kind of a user fee
19 concept of fisheries enforcement to provide that funding. But
20 there are a lot of questions that I think people need to work
21 through as to how you do that.

22 The bill as written now sets a \$10 fee per license,
23 commercial or recreational, just across the board. In a lot
24 of discussions with people, I have heard all kinds of
25 questions about, well, should it be tied to the amount of the

1 license? Should it be tied to the type of catch?

2 What about in the cost-recovery analysis, it showed
3 that the recreational funds were in surplus but the commercial
4 were in deficit? How does that affect this? What about that
5 same analysis in which the department showed that
6 three-quarters of the cost of fisheries enforcement is on the
7 recreational side? We need to factor that in too.

8 So the point is this: It is fairly complex, and I
9 don't think all those concepts have been discussed and worked
10 out, and it certainly hasn't been the stakeholder
11 participation that you need to build a base of support for a
12 bill like that. I mean, that is what we need to get
13 legislation through that establishes a fee and a mandate on
14 the agency for a number of officers.

15 And that is what I am saying. This is a motion to
16 take these concepts seriously and do them right so it will
17 pass.

18 MR. GRACIE: Okay. If there are no more questions
19 from the public, I am not going to let the debate go on back
20 and forth between the commission and the public so if there
21 are no more questions from the public I am going to call the
22 question.

23 Okay, all in favor of the motion, raise your hand.

24 (Show of hands)

25 MR. GRACIE: Nine in favor. Opposed?

1 MR. GARY: None.

2 MR. GRACIE: None? Are there abstentions? There
3 you go.

4 (Show of hands)

5 MR. GARY: Three abstentions.

6 MR. GRACIE: Thank you. The motion carries.

7 MR. GARY: That is adding up to 12. Did anybody not
8 vote?

9 MR. GRACIE: Did you count me?

10 MR. : I didn't vote.

11 MR. GARY: You abstained. Okay four.

12 MR. GRACIE: Four abstentions. Okay, we are going
13 to get an update on Conowingo. Is Frank still here?

14 MR. DAWSON: Sure.

15 ***Conowingo Dam Presentation***

16 ***by Frank Dawson, MD DNR Assistant Secretary for Aquatic Resources***

17 MR. DAWSON: I am Frank Dawson. I am the assistant
18 secretary here at the Department of Natural Resources for
19 aquatic resources, which includes fisheries. It is a great
20 pleasure working with all the folks in fisheries.

21 Bob Sadzinski is here, who has been spending a lot
22 of time on the Conowingo project, particularly related to fish
23 passage issues, so if you have any specific questions that I
24 can't answer, I am going to ask Bob to answer them.

25 As I think many of you are familiar with, we are in

1 the process right now of looking at relicensing Conowingo Dam.
2 Exelon is the power company. They are looking for a 46-year
3 license. You can see some of the data there. It has been
4 operated since 1928. There are 11 units, 573 megawatts. It
5 was last licensed in 1980. And there were two fish lifts, one
6 in '72 and one in '91. And Bob can talk more about that.

7 I would just say in general the data on the success
8 of the fish lifts is not great.

9 MR. GRACIE: What?

10 MR. DAWSON (away from microphone): Is not great.

11 (Slide)

12 So Conowingo is one of the four dams on the
13 Susquehanna. And I think you are all familiar -- the
14 Susquehanna provides about 50 percent of the fresh water of
15 the bay, 50 percent of the nitrogen, 25 percent of the
16 phosphorous and 25 percent of the sediment. Muddy Run, which
17 is a pump/storage facility, which is right up here, basically
18 they pump the water --- dam. When the rates are good they let
19 the water back through. They generate electricity.

20 Not being an economist related to an energy
21 development, that surprised me, but they make money doing
22 that. In fact, they make more money there, Exelon, than they
23 do at Conowingo Dam. There are the other dams that are
24 located north of there. Again, if you are an anadromous fish,
25 you have a gauntlet to run. You have got four dams to make it

1 through to be successful.

2 Several of the dams already are at capacity as far
3 as the amount of sediment that is going to be stored behind
4 them. Conowingo is rapidly approaching that. Right now we
5 are engaged in conversations on relicensing at both Muddy Run
6 and Conowingo.

7 (Slide)

8 There are a number of folks that are involved in the
9 relicensing process. FERC, Federal Energy Regulatory
10 Commission, they are the guys that actually issue the license.
11 Exelon is the applicant. You can look at the list of federal
12 agencies -- Maryland state agencies, Pennsylvania, Susquehanna
13 River Basin Commission, Nature Conservancy and the Lower
14 Susquehanna Riverkeeper, we are all involved in that
15 discussion.

16 (Slide)

17 The relicensing schedule actually takes quite a
18 period of time, which in some respects is very good. They are
19 looking for a license for 46 years, and a lot is going to
20 change in 46 years and there are a lot of serious issues we
21 need to deal with now understanding that timeframe.

22 Preapplication document was in 2009. FERC approved
23 a total of 32 studies, which Exelon has been involved in
24 conducting the studies. There is a lot. There are two slides
25 on here that list all the studies. I am not going through it.

1 It is for your information. But there is an extraordinary
2 amount of information to understand the impacts of the dam on
3 a lot of related activities.

4 The license application was submitted in 2012 in
5 August. So some negotiations have been ongoing. Fish passage
6 has been one of the issues that has been under discussion. We
7 haven't necessarily reached an agreement on that, but there
8 has been a lot of discussion about it.

9 The important date that really starts to kick off
10 the clock formally is when this Ready for Environmental
11 Assessment is released. It has currently been pushed off to
12 the end of March. It is probably likely not to be released
13 until late spring or early summer.

14 What that does is it makes it so Fish and Wildlife
15 Service, whose comments on fish passage issues are
16 prescriptive, which means in theory FERC has to do them and
17 the courts have to hold it up, have to make to comments on
18 this REA in 60 days.

19 We also have an opportunity to make comments. At
20 that time we may make some but our authority is underneath our
21 water quality certification, which comes out of MDE, and we
22 have a year. So that is the big thing that will kick off the
23 clock. So there is a lot of discussion, negotiation, a lot of
24 things going on right now. But the clock really hasn't
25 started yet.

1 Go ahead. Just see if you can just scan through
2 some of these. I am not going to talk about all of them.

3 MR. GRACIE: That is in the handout we all got.

4 MR. DAWSON: Yes, this is all -- I think everybody
5 should have gotten one. I think there was enough, Marty, yes?

6 (Slide)

7 So the major issues that we have related to the dam,
8 I know you all have been reading in the paper probably a
9 number of articles related to the great concern of the
10 sediment, sediment management issues behind the dam.

11 Fish passage related to American shad and American
12 eel. Flow management and how it impacts things like fish
13 strandings. Downstream habitat, and there are a lot of water
14 quality issues, including the ability to restore freshwater
15 mussels above the dam.

16 (Slide)

17 Again, as I talked about earlier, passage, if you
18 are an anadromous fish or American eel, you are impeded by
19 four dams and several intakes, so it is a heck of a journey to
20 make. We know that migratory fish are very important to the
21 ecology of the river. American eel are a host for freshwater
22 mussels, and they also remove nutrients.

23 One of the main issues of discussion right now is
24 not just getting the fish up and the eels up. It is getting
25 them back down. And that has been a lot of the discussion,

1 particularly related to the United States Fish and Wildlife
2 Service. How much of the investment should made in getting
3 the fish up, and how much should be made in getting them down?

4 MR. GRACIE: Fish and Wildlife Service? Not NOAA?
5 National Marine Fisheries Services doesn't have any comment on
6 this?

7 MR. DAWSON: No, they are not -- pardon me?

8 MR. SADSINSKI: NOAA has not showed up at any of the
9 meetings. I contact John Nichols. There is no interest.

10 MR. DAWSON: It is interesting because they have a
11 lot of interest and involvement with American rivers and dam
12 removals, as we are working on the Patapsco with them. And
13 they have been a funder of those projects.

14 But I know just the way the law is set up with FERC,
15 Fish and Wildlife Service is the lead agency. They certainly
16 carry a lot of weight on that.

17 (Slide)

18 The issues related to flow, and this is where I get
19 a presentation that exceeds my technical ability, which is a
20 great part of the test for me. But anyhow, this just gives
21 you an idea of how much the flow varies in a given number of
22 days from Conowingo. And it is pretty dramatic if you look at
23 that.

24 It is just an interesting -- just from looking at a
25 photograph, this scene right here is this scene right here.

1 They are the exact same spot. So even if you don't understand
2 what this chart says, these photographs give you an idea of
3 how much the flow actually varies from Conowingo.

4 (Slide)

5 And then this chart here gives you even a -- it is
6 the estimated distribution of unaltered daily flows from
7 Conowingo, and you can just see the extremes that would happen
8 if you did not have Conowingo Dam there. You can slide all
9 the way down to the bottom.

10 But this is generally where the dam operator keeps
11 the flow. And it sends a lot of concern -- there has been
12 discussion about bringing it up to this bottom one. I think
13 that is what Exelon is proposing at this point in time. And a
14 lot of other people think it should be up here.

15 And the objective would be at some point in time,
16 not just with this dam but with a lot of dams in the United
17 States, is try to figure out how do you manage a dam so that
18 the water mimics the way the natural flow would be in a river.
19 Not an easy thing to accomplish. And to generate electricity
20 and to do it at a time when it is most profitable. So there
21 is a lot going on.

22 (Slide)

23 Sediment, as I said before, Holtwood and Safe Harbor
24 are already at equilibrium. That means there is no longer
25 storage for any sediment. The big point here: 3 million tons

1 a year come to a pool behind Conowingo Dam. Right now 2
2 million tons are trapped, and right now the sediment capacity
3 is at about 86 percent.

4 The estimate is that in 10 to 15 years that storage
5 capacity is going to be gone, but that is just an estimate.
6 But probably a pretty good one. Tropical Storm Lee is the
7 storm that gave you this photograph over here that just
8 highlights the problem with sedimentation in the watershed in
9 general, and it scoured 4 million tons of sediment, about 2
10 years worth of sediment in the storm.

11 And just to make sure, there has been a lot of
12 discussion about the impacts of that sediment, particularly
13 related to oysters in the upper bay. And I will just tell
14 you, our information suggests that the impacts from that storm
15 and the loss of oysters above the Bay Bridge were from
16 freshwater and not from sediment, and that is not -- we did
17 not find sediment smothering those beds.

18 I think everybody knows about Hurricane Agnes.
19 Obviously we continue to be concerned about storms like that,
20 and we know that every time we have major storms, we are going
21 to continue to get scouring out of the pool behind Conowingo
22 Dam.

23 MR. GRACIE: Quick question, Frank.

24 MR. DAWSON: Yes.

25 MR. GRACIE: The statement on capacity? I am having

1 | trouble with the ambiguity. The way it is worded implies that
2 | it has 86 percent of its capacity there. In fact it is 86
3 | percent full, isn't it?

4 | MR. DAWSON: That is correct.

5 | MR. GRACIE: So it is only 14 percent left.

6 | MR. DAWSON: That is correct, and the next two
7 | slides are really good to just give you an idea about the
8 | reservoir behind Conowingo.

9 | (Slide)

10 | It is 138,000 acre feet, and this shows you where we
11 | are and how it has changed over time related to basically this
12 | filling in. All dams are really stormwater management
13 | facilities. This is happening in any dam near you. We think
14 | a lot of the smaller dams are probably at capacity already in
15 | Chesapeake Bay watershed. And then the next slide is even a
16 | little bit more dramatic.

17 | (Slide)

18 | It just gives you an idea about how small of a piece
19 | of the pie is left to be filled. It is interesting for the
20 | most part -- I have heard nothing in the discussion that
21 | suggests that the sediment behind the dam, even in reaching
22 | capacity, is going to cause a safety problem.

23 | And as you can see -- I think this is actually where
24 | the dam face would be -- the scouring tends to come out just
25 | the way the water is released from the dam. So that does not

1 seem to be a concern.

2 The other thing that is really interesting to
3 remember is that Peach Bottom, the nuclear power plant, is
4 along the pool that goes behind this dam. So I asked the
5 question the other day, Bob, is what happens is the dam went.
6 Where would the water come for Peach Bottom?

7 I didn't get an answer to that question but it is an
8 interesting thought, that those other two power facilities
9 above the dam, Muddy Run and Peach Bottom, that use the water
10 from the pool behind the dam. Fun facts. You can tell
11 everybody at dinner time you learned that tonight.

12 (Slide)

13 Other issues: Obviously we have recreation. There
14 is a catwalk where folks used to do a lot of fishing along the
15 face of the dam. There are some great opportunities -- that
16 Exelon owns a lot of land along the pool, and they would
17 probably like somebody else to take care of that. So there
18 are discussions about that obviously.

19 Debris management: Again, as you know, every time
20 we have a major storm, people complain about all the logs,
21 whatever, refrigerators, everything that comes through the
22 dam. And there are always issues of rare, threatened and
23 endangered species.

24 (Slide)

25 As I talked about earlier, the water quality

1 certification, that is really where we have our ability to
2 affect this process. They have to file this within 60 days of
3 the REA, which we talked about earlier. We have a year to
4 reply.

5 It has been broadly interpreted -- you can see that
6 conditions that have been applied by states related to fish
7 passage, habitat, minimum flows and recreation have held up in
8 court. Our recommendations on this are binding also. So FERC
9 will take them. It will become part of the license. If
10 Exelon doesn't like that, they will be taking us to court.

11 But we are spending time trying to negotiate that
12 because we don't want to get ourselves into that position.
13 There is not a lot of track record of dealing with this
14 sediment issue through this process. Just other places in the
15 United States, so that part will be interesting, particularly
16 since it is so important to us. So you can read all that.

17 (Slide)

18 Again the goals: We are trying to figure out how to
19 properly manage the sediment, improve fish passage, restore
20 freshwater mussels and enhance flow conditions.

21 (Slide)

22 Mitigation for the sediment: A couple of things.
23 Bob, you can correct me, but I think Exelon has said they are
24 making about \$20 million a year on Conowingo Dam, and some of
25 the estimates have told us that if we just want to maintain

1 | what is going on with the pool behind there, it would cost
2 | anywhere around \$50 million a year to remove the sediment if
3 | we dredged it.

4 | So they are making 20 a year. It could cost you 50
5 | a year. So one might deduce that maybe Exelon is not going to
6 | be the only one trying to fix the problem. So anyhow. So how
7 | can you change that? Well, one is through the TMDL, the
8 | watershed implementation plans that each of the states have
9 | worked on or are implementing, including Pennsylvania and New
10 | York, to try to reduce sediment yield above the watershed.

11 | There are opportunities potentially to do bypasses
12 | of the dam or modify operations where for example you could
13 | release more sediment during the wintertime, where it would
14 | have a minimal impact, less of an impact on the bay.

15 | Or perhaps you could figure out a way to get more of
16 | the sand that is behind the dam to become better habitat below
17 | the dam. And a lot of you guys know more about fishing and
18 | fish habitat than I do, but I understand that is a good idea.
19 | Try to figure out ways of increasing or recovering
20 | sediment-trapping volume. Dredging, which I just talked
21 | about, is an option.

22 | Innovative reuse: If you have had any involvement
23 | or discussion with what has been going on, we are trying to
24 | figure out what to do with all the sediment related to
25 | Baltimore Harbor and its approach channels. A lot of work has

1 | been done in looking at innovative reuse but as far as I know
2 | there haven't really been any large-scale projects done with
3 | that.

4 | And lastly is replenishment, which for me is
5 | figuring out what you are going to do when you do this, do all
6 | this dredging. Where are you going to put the material.
7 | Which would be another whole challenge. And there are just
8 | some suggestions of things that you might do there depending
9 | on the composition of the sediment.

10 | So I think that is it. We are in the throes right
11 | now of having these discussions about fish passage right now.
12 | We are working with our federal partners and other state
13 | partners in trying to figure out what are potentially viable
14 | options related to the sediment issue, and then to ultimately
15 | figure out how do you finance it.

16 | And whether or not, for example, does Maryland have
17 | a financial responsibility to that or not.

18 | MR. GRACIE: In your goals you didn't list enhanced
19 | recreation. There has been a hue and cry, as you know, for
20 | some time about them closing the catwalk. I am not sure how
21 | relicensing can affect that. We were told that was a homeland
22 | security issue, access to the catwalk.

23 | MR. DAWSON: I think the issue has been raised
24 | related to homeland security. I also know that some of the
25 | preliminary estimates suggest it would cost about \$1.5 million

1 to make the catwalk suitable for that purpose. So I know Bob
2 and I talked about that a little bit earlier.

3 I mean one of the great challenges that we have
4 here, Jim, is that there is a finite pot of money that all
5 parties may or may not, including Exelon, may be involved in
6 related to this relicensing. And I think the challenge we
7 have is trying to figure out what is the best thing we can do
8 with that.

9 And I can tell you some of the things that have been
10 proffered related to some of the fish passage ideas,
11 particularly in dealing with the fish coming downstream were
12 in the hundreds of millions of dollars. So, you know, there
13 are going to be some very difficult decisions that are going
14 to have to be made collectively on where you think the best
15 investment is in this relicensing process.

16 And again, 46 years is a long time, and one thing we
17 do know about the sediment issue, it is going in the wrong
18 direction right now, and we know it is not going to get any
19 better in that time period. So it is very challenging, and
20 the fish passage issue is very challenging too.

21 As I said earlier, a lot of what has been done so
22 far has not been successful. And that is me saying that but I
23 think others would agree to the greater end of it. We are not
24 seeing the number of fish that we want to see all the way up
25 top, and there are a lot of barriers to that.

Questions and Answers

1
2 MR. COBURN: You say it is 86 percent on how much is
3 built up behind the dam, so you have 14 percent left. Just
4 for curiosity's sake, how far is it back up into the lake,
5 that sediment now. Do you have any idea?

6 MR. DAWSON: You know, as the water enters the pool,
7 the water slows down. So you start to get the larger
8 sediments dropping out the top and the finer as you as you go
9 toward the dam face. So I would have to look at a depth
10 chart, but I think it is all the way back up to the top of the
11 pool.

12 Bob, I know you have --

13 MR. : Yes, the did a --- survey, and one
14 of the studies they completed has maps in there of sediment.
15 But it is 400 pages long.

16 MR. DAWSON: And one of things also to remember is
17 that for the most part the habitat in that pool area is not
18 really that conducive if you are anadromous fish looking to
19 spawn. It is like you need to go -- maybe you need to stay
20 below the dam or you need to go further up where the habitat
21 is more suitable. So that is another challenge. It tells you
22 that you have to get above those other dams in order to be
23 successful.

24 MR. GRACIE: Bill?

25 MR. GOLDSBOROUGH: Frank, I think the way you put it

1 | earlier was that Exelon was requesting a 46-year license. Are
2 | we locked into that? Isn't that longer than they have had in
3 | the past?

4 | MR. DAWSON: Yes. I think 30 years was the last
5 | one. I don't know -- I know for example that the water
6 | quality certification that we would issue might not
7 | necessarily be for 46 years.

8 | And there have been discussions that some of these
9 | authorizations might be set up so you would reopen at certain
10 | periods of time, where there might be -- I will pick another
11 | example related to fish passage -- is if you weren't getting
12 | the success that you wanted out of Holtwood, the dam above it,
13 | moving fish, then that might trigger things to happen in
14 | Conowingo.

15 | But I think that is still an open question. I
16 | haven't been at the table on that. Bob, I don't know what
17 | your thoughts are on that, on the 46 years.

18 | MR. SADZINSKI: Our lawyers have told us that in
19 | order to get a 46 year, they have to do significant investment
20 | into a whole series of different things. What that really
21 | encompasses, we are not sure at this point.

22 | MR. DAWSON: So I don't think we are necessarily
23 | locked into the 46 years, but I guess that is what they have
24 | asked for.

25 | MR. GOLDSBOROUGH: So I have got a related

1 question. Just thinking about the long term, and that is
2 getting to long term by any definition, and your comment -- I
3 think you said a couple of times that fish passage success,
4 the lift and so forth, has been very poor.

5 So by that I think you mean, I think the main metric
6 is passage success, percent of fish that get to the dam that
7 are passed above it is really low. When they have got to go
8 through four dams in a row, you get down to a part of percent,
9 one percent, that is making it past all four. That is just
10 not going to get it for restoring these fish to the biggest
11 watershed tributary of the bay, right?

12 MR. DAWSON: Right.

13 MR. GOLDSBOROUGH: So I think the conclusion is
14 logically, and I think, you know, when you think about these
15 issues around the country if not around the world, the
16 conclusion has been that ultimately where we need to get to is
17 dam removal from the fish standpoint.

18 So -- now I understand that from another standpoint,
19 it is looked at as clean energy --

20 MR. DAWSON: Well, yes, that is the irony. That is
21 the irony because it is considered clean energy.

22 MR. GOLDSBOROUGH: Yes, it is clean with respect to
23 greenhouse gasses. It is not clean with respect to sediment
24 build up and the fish passage. So I am wondering, if we look
25 at the long term, if we ought to start the discussion of when

1 we are going to actually remove dams from the river. Maybe it
2 is 100 years, but you have got to start the discussion before
3 the clock starts.

4 MR. DAWSON: I don't think that has been a point of
5 discussion.

6 MR. GRACIE: FERC is not encouraging that?

7 MR. DAWSON: Right now -- no, but personally I don't
8 disagree, and I know that, you know, if you really want to
9 address the fisheries issue, if that is your top priority,
10 then that is a very viable option. We have had those same
11 discussion at places like Bloede. Right now at some point in
12 the near future we will going to permit on that, and I don't
13 know.

14 I am not going to disagree with you on that, but
15 that has not been part of this discussion at this point.

16 MR. GRACIE: I guess the question is if, to
17 eliminate its impacts it costs more than it makes, why is it
18 there? Because we are not making them eliminate the impacts.
19 I mean, that is the only answer. \$20 million a year is what
20 they make, and it will cost them \$100 million a year to
21 maintain a sediment charge, then it is obviously a losing
22 proposition if they had to meet regulatory requirements that
23 really maintain the river and its habitat.

24 MR. DAWSON: Yes.

25 MR. GRACIE: So they are passing the costs on to us

1 and making profit off of it.

2 MR. DAWSON: The cost is going to get passed on to
3 whoever is using the electricity.

4 MR. GRACIE: Not to the people making the profit.

5 MR. DAWSON: Coming out of Conowingo is just
6 generally the way this country operates but I think that over
7 time, you know, with a lot of work that is being done, I think
8 the problem is going to diminish over time just through better
9 nutrient sediment management above the dam.

10 But I don't think it is going to be enough to
11 mitigate for the problem that we have that is pending
12 and -- I mean, that is a good question, Jim.

13 MR. GRACIE: The cost I was referring to wasn't the
14 cost of fixing it. It is the cost of the loss we have
15 experienced as a result of the impacts of the dam that we have
16 all paid for in lost water quality and habitats.

17 MR. DAWSON: Right, and of course, you know, I was
18 reminded -- I went to Great Falls on Sunday. And, you know,
19 after the recent storms, you look at the power of the water
20 there and you are reminded why people wanted to put dams in
21 rivers to generate electricity. And, you know, it was a
22 public policy decision made back in the '20s to put up this
23 dam, and at some level we are left with trying to figure out
24 how to make the best of that situation.

25 Understanding we need the electricity, it is a very

1 | challenging issue. And I don't -- I can't sit here and tell
2 | you how I think it is going to end up. But one of the
3 | correlations that some of the staff and attorneys have made is
4 | that when you are burning coal you have all of this fly ash
5 | that is the by-product of it.

6 | Well, with a dam -- and you have to deal with it.
7 | Well, in a dam in a river, that by-product is sediment, and
8 | you have to figure out how to deal with it. And we are just
9 | getting to the point where a utility like Exelon is going to
10 | end up having some responsibility for that.

11 | But if we really are worried about the impacts of
12 | this, then others are probably going to have to contribute to
13 | that if it is going to get resolved, whether or not it is
14 | Pennsylvania state government, Maryland state government,
15 | federal agencies. I don't know but I think all those people
16 | are going to be in the mix if you are going to fix it. If you
17 | are going to solve it.

18 | And Bill, maybe you are right. Maybe they will take
19 | the dam out but I am not going to bet on --

20 | MR. GOLDSBOROUGH: Would you like a motion to that?

21 | MR. DAWSON: A motion to take Conowingo Dam -- I
22 | would be proud of myself if I went home tonight and that
23 | happened, but no. Anything else?

24 | MR. JETTON: You talk about 86 percent sediment, not
25 | from the upper bay. And these large-scale releases we get

1 with things such as tropical storms and Lee and things of that
2 nature are big, big issues to us, and they seem to be getting
3 worse. The more full that pool gets, the more that gets
4 released obviously.

5 And it affects all aspects of our fishing --
6 recreational, commercial, everything.

7 MR. DAWSON: And navigation.

8 MR. JETTON: Everything for weeks at a time, and by
9 default our economies on that part of the shore and the bay up
10 there. And that -- at this point, one of our biggest concerns
11 is that they address that sediment. If you could find some
12 way to mitigate that large-scale release and do it over a
13 longer time period instead of that two-week burst you get.

14 Like you said: propane tanks, refrigerators and
15 mud, it affects everything. I don't know if there is an
16 answer, but that is one of our main concerns.

17 MR. DAWSON: I am sure some engineer could tell you
18 how you could create more storage behind there but I don't
19 think people would like the answer to that either. I am sure
20 the dam has to go up and the pool has to get bigger. It is
21 just --

22 MR. JETTON: I mean, we deal with dredge material
23 and everything else. We have all seen the islands built. We
24 know how much of an issue that is to transport that. That is
25 really the issue. Digging is cheap. Transporting it, getting

1 | it to where it needs to go, tends to be the expensive part.

2 | I think that is our main concern because obviously
3 | they are not going to remove this dam tomorrow. So we need to
4 | look at it and see what we can do.

5 | MR. DAWSON: I think that is going to be the great
6 | challenge, just trying to figure out how do we come up
7 | with something that is viable.

8 | MR. JETTON: It is kind of a minor issue but we have
9 | a phone number we can call that tells us how many gates are
10 | open when we are fishing up there. We use that number all the
11 | time. It is not always -- there is a delay there, a lag time,
12 | two to three hours, sometimes five or six hours. In this day
13 | and age of the Internet and broadband and everything else, I
14 | would love to see something on the Internet that is more up to
15 | date or even --

16 | MR. DAWSON: Are we asking, have we had that --

17 | MR. SADZINSKI: I told Exelon that very thing.

18 | MR. JETTON: Or even a Web cam that I could just
19 | click on and look. I will count them myself. That kind of
20 | thing.

21 | MR. SADZINSKI: I have asked that for years, but
22 | they said because of security issues, they can't do it. I
23 | said that is hogwash.

24 | MR. JETTON: I want to push that issue. That is one
25 | that I think we can overcome because that allows us to prepare

1 for where we are going to fish the next day or what we are
2 going to.

3 It also allows the commercial man to get his pots up
4 or whatever he needs to do. It allows our communities and our
5 marinas to prepare their boaters for -- hey, you want to watch
6 for stuff in the water this week. It is cheap and I think it
7 can be done easily.

8 MR. DAWSON: We will raise that issue again.

9 MR. JETTON: Okay.

10 MR. DAWSON: Thank you. Anything else? Well, I
11 will be glad to -- I will take this question -- but I will be
12 glad to come back again and give you an update as things move
13 along in this process.

14 DR. MORGAN: So they are asking for a 46-year permit
15 to come and be effective some time in the near future.

16 MR. DAWSON: 2014.

17 DR. MORGAN: 2014. Okay, so you are getting up
18 close to 2,100 with a lifetime of this permit. Are they
19 factoring in climate change factors because several of the
20 models are saying increased precipitation along the mid-
21 Atlantic, higher frequency of storms and higher magnitude of
22 storms.

23 And Sandy was just a category 1, I believe. Look at
24 the damage that did. Are they factoring those kinds of things
25 into the analysis?

1 MR. DAWSON: Bob is saying yes.

2 MR. SADZINSKI: Absolutely. Yes, oh yes. They are
3 well aware of the NOAA studies calling for those higher fall
4 precipis.

5 DR. MORGAN: Well, I won't be around to see those
6 results but it would be nice if they did factor climate change
7 in there.

8 MR. SADZINSKI: But how much water they can hold
9 back isn't very much. I mean, you look at the dam, it is like
10 95 feet? They can only withhold basically 4 ½ to 5 feet. So
11 they say -- they can't open up floodgates to prepare for water
12 coming down.

13 MR. GRACIE: The storage isn't there anymore. They
14 can't attenuate floods anymore. All right, can we move on
15 then?

16 MR. DAWSON: Thank you all.

17 MR. GRACIE: Is Sarah here? Is Sarah giving us a
18 regulatory update? Thank you.

19 ***Regulatory Update***

20 ***by Sarah Widman, MD DNR Fisheries Service***

21 MS. WIDMAN: Hello. I am Sarah Widman, assistant
22 director of policy and planning, here for your regs update.

23 So I will just do the normal regs update first.
24 There have been a slew of public notices, a lot of leases. We
25 had a hearing on our lobster regs for 2013. There are a

1 couple of catch limit changes for the commercial striped bass
2 fishery during that time period.

3 We did open one, the Bramleigh Creek Oyster Reserve,
4 during oyster season. And we also had extended the female
5 hard crab season to November 17 last year. The typical spiny
6 dogfish federal closure occurred. We had the opening of the
7 winter recreational black sea bass season for 2013. Those
8 dates came in. I think those largely were the public notices.
9 Does anyone have questions or comments on any of the public
10 notices we issued?

11 (No response)

12 Moving on then, regs that became effective: The
13 summer flounder recreational size and season and commercial
14 for the coming year. We had the black bass tournament permit.
15 The black sea bass, similar to summer flounder, recreational
16 season and commercial fishery updates.

17 Our annual nontidal changes for 2013 went into
18 effect as well as we extended an emergency until that package
19 went effective for two put-and-take trout fishing areas that
20 we were giving more leverage to the parks where they were to
21 allow disabled people to fish there.

22 Shellfish: The lobster permit that we had was based
23 on some V-notch and releasing egg-bearing females and closures
24 that were coming through ASMFC. And then yellow perch was
25 just a change in that the opening and closing or modifying is

1 You are going to have this continuously gathering
2 data but when are you going to be able to collect data and use
3 the data for a pound net assessment?

4 MS. WIDMAN: I will actually defer to Mike Luisi on
5 that since his group will be collecting it. I am not sure.

6 MR. LUISI: Hi, I am Mike Luisi, estuarine division.
7 What we anticipate is that when the regs become finalized, you
8 know, one of the things we are going to be asking for are the
9 active nets that are set in the bay to be -- to have the
10 department notified of that activity.

11 So this upcoming year we are going to have better
12 information and knowledge about effort being placed in the bay
13 as far as where nets are being set. I expect that not very
14 many nets get set between now and June.

15 I mean, they will start getting set, and then we are
16 going to communicate with the pound net registered license
17 holders and ask them to supply us with information about what
18 they have set leading up to the point for which these
19 regulations become effective.

20 MS. STEVENSON: But then -- you are collecting data.
21 Are you going to have something that you can update, a white
22 paper, next year or 18 months?

23 MR. LUISI: Every bit of information is going to
24 help us in -- it is going to take a couple years to fully
25 understand the amount of effort that is being placed and see

1 | the variation --

2 | MS. STEVENSON: See the impact on the striped bass,
3 | which is what we were looking at.

4 | MR. O'CONNELL: Carol?

5 | MS. STEVENSON: Yes?

6 | MR. O'CONNELL: It seems like maybe two questions to
7 | Are you asking more regarding the by-catch effects of pound
8 | nets?

9 | MS. STEVENSON: (Nodding)

10 | MR. O'CONNELL: And --

11 | MS. STEVENSON: You know, one of the things with a
12 | white paper was we didn't have the data to really make any
13 | recommendations. So we were waiting for this. I was looking
14 | at what the timeframe would be when we get some usable data to
15 | go ahead and make some more recommendations, if that was
16 | appropriate.

17 | MR. O'CONNELL: And we some have some level, we have
18 | some level of sampling of the pound nets, right, Mike?

19 | MR. LUISI: We do. We have some level of sampling.
20 | We are also going to have better information and more details
21 | about where the nets are being fished this spring, leading
22 | into the summer season. I didn't hear when Sarah said the
23 | regs would become effective.

24 | MS. WIDMAN: April 1.

25 | MR. LUISI: April 1, so between April and June, we

1 are going to be gathering information about the areas
2 specifically in the tributaries of the bay where the issue
3 comes with the protection of the fish as they are moving into
4 their spawning grounds. So we will have one year of
5 information going into next year as far as where the effort is
6 being placed.

7 But the impacts of what happens to a striped bass if
8 it is captured in a pound net and released from that pound net
9 is information that isn't part of this regulatory package. We
10 are not going to be doing any type of sampling when people
11 release fish to determine what happens to those fish as a
12 result of their being released.

13 Now the other part of the regulation, not just the
14 notification of the department but the soak time limitations,
15 will hopefully reduce the holding and the stressing of the
16 fish during the time when they are vulnerable in those
17 spawning areas.

18 MR. GRACIE: One of the questions we asked, Mike,
19 was, that the commission asked was can you get a handle on how
20 many striped bass are caught in pound nets in spawning areas
21 and released? And we weren't given any encouragement that you
22 could get that answer at the time. Is anything being done to
23 address that?

24 MR. LUISI: Not at this point right now.

25 MR. O'CONNELL: At this point -- I think it goes

1 back to, you know, the white paper and our fisheries people
2 that, you know, they have reassessed the situation and while
3 we don't have the information that several of you have asked
4 for, we don't believe it warrants a significant amount of
5 concern to the point where we have to reallocate more
6 resources to sampling.

7 The data we have on striped bass being held in pound
8 nets indicate a very low level of mortality. So one way we
9 have done that without having to invest a lot of resources in
10 monitoring was to add a regulation in regard to soak times.
11 So indirectly, you know, put more burden on the fishermen to
12 check their nets and get those fish out of there as, you know,
13 in regard to, compared to putting a lot more resources and
14 trying to set up a program to monitor pound nets.

15 So I think there is some disagreement in some
16 people's viewpoints on pound nets and our staff's professional
17 opinion that we don't necessarily agree that it warrants as
18 much concern, and as a result of that we haven't put the
19 priority into it. That may be an area we disagree on, but we
20 have put forth some regulations to put some controls on that
21 concern.

22 MR. GRACIE: One of the responses was that -- I
23 think the suggestion was made to have a voluntary reporting of
24 the number, and I think your response was, well, we wouldn't
25 have any way to enforce that.

1 MR. O'CONNELL: Validate it.

2 MR. GRACIE: Validate it. Wouldn't the same be true
3 of limiting the soak time?

4 MR. O'CONNELL: No, we have worked with NRP to
5 ensure that they would be able to enforce that soak time.

6 MR. GRACIE: Oh, okay.

7 MR. JETTON: Mike, how many nets, how many pound
8 nets would you estimate are actually in a spawning area -- you
9 could say a percentage or a number or anything -- that are
10 actually in a spawning area, not in a river but in a spawning
11 area?

12 MR. LUISI: It was actually all the way in the
13 spawning area. I don't have the paper in front of me. It was
14 maybe a couple dozen potential sites, and the reason why we
15 had a very difficult time -- because a site is registered
16 means nothing as to whether or not it is set.

17 So, you know, we can say that there is potential to
18 have 20 sites set in these rivers, in these spawning areas,
19 but whether or not they are set was unknown to us. So now we
20 are going to at least learn if the nets are set. And if, you
21 know, if only one site is set or, you know --

22 MR. JETTON: So at the end of this you should have a
23 handle on how many nets are actually physically set in these
24 spawning areas.

25 MR. LUISI: Yes, that is the purpose of this

1 notification to us.

2 MR. SIKORSKI: This is a step in the right
3 direction. It is one of the first of a number of steps in the
4 right direction to kind of get a hold of what is going on, so
5 thank you.

6 MR. GRACIE: Any other questions or comments?

7 (No response)

8 MR. GRACIE: Was there anything else on the
9 regulatory update, Sarah?

10 MR. WIDMAN: Yes. Just the scoping items, a couple
11 of those really quickly. Again we are looking -- we have a
12 couple of items that are in sort of draft form or pre-draft
13 form, and we are just looking for your feedback.

14 All of them will be up on our Website for electronic
15 feedback but if you think open houses or some sort of public
16 meetings are warranted or in certain locations are warranted,
17 just letting us know today if you have an idea or within the
18 next week or so, that would be great.

19 The first two are summer flounder and black sea
20 bass, and actually horseshoe crabs kind of fits in with them
21 as well. All three of these fisheries have a lot of changes
22 that occur through the ASMFC process, and specifically with
23 summer flounder and black sea bass, we usually end up finding
24 out this time of year that we need to make recreational
25 changes to the fishery.

1 And so we issue a public notice right away to do
2 that but at the same time we need to change it in reg because
3 we have it written in the regs, so the reg might contradict
4 the public notice and we think that is confusing to the
5 public. So we would like to take out the specifics in the
6 regs and just issue it by public notice in accordance with
7 ASMFC's approval each year.

8 So that would be the changes. It doesn't really
9 change the regulations other than just the method of getting
10 that information out in a consistent manner. Did you guys
11 have any comments? Those two --- summer flounder, black sea
12 bass -- would be up on the Web. Does anyone think those
13 warrant further scoping?

14 (No response)

15 All right. Again, if you think of things, feel free
16 to contact me. Menhaden, Mike is actually going to follow up
17 with this in his presentation for you guys with a little more
18 information. But essentially ASMFC has adopted Amendment 2 to
19 the fishery management plan for menhaden. Because of these
20 changes to the fishery, essentially we have to abide by that.
21 In order to have regulations on menhaden, we are going to
22 declare it in need of conservation.

23 So it would be kind of a two-part regulation, one
24 declaring it in need of conservation to give us that authority
25 to regulate it appropriately. And then the second part would

1 | actually be the regulations. It kind of summarizes some
2 | things here that might be included in that, commercial quotas
3 | and trip limits and by-catch limits and things like that, some
4 | reporting mechanisms.

5 | And again, Mike is going to cover it in a little
6 | more detail so if you want to think about that and let him
7 | know if you have -- we will be doing some public outreach,
8 | additional public outreach on that, but if you have any
9 | specific ideas for public outreach, let him know. That would
10 | be great.

11 | Striped bass, again we have been working with the
12 | industry workgroup, and we are looking at commercial fishery
13 | changes for 2014. At this point I think they are still kind
14 | of working with staff and the industry to figure out what
15 | ideas will come out of that for the 2014 season.

16 | But we will have, again, additional open house
17 | scoping of some type probably in the next month or two,
18 | speaking with the public about that in some more detail.

19 | And again, if you have thoughts on specific areas,
20 | locations or what not, where we need to have those types of
21 | meetings, I guess talk with Mike about that as well or get
22 | back to me.

23 | Aquaculture is -- essentially we had emergency regs
24 | in place this summer. The aquaculture industry wanted to be
25 | able to sell some of the smaller oysters that the market is

1 demanding, so we put in a two-inch minimum.

2 It is a three-inch minimum for the fishery, the wild
3 fishery, and we put in a two-inch minimum outside of the
4 public fishery season for them to be able to sell the smaller
5 oysters that they are producing in their aquaculture
6 operations. And some of the other -- there is a tolerance
7 limit for undersized that we wanted to mirror for both
8 aquaculture and commercial fisheries.

9 And then some fees that have come through under a
10 bill last year. So that all went in, in emergency, and
11 essentially now the emergency is going to be expiring so we
12 just need to put that in a permit format.

13 So the permit format would look largely the same,
14 although I believe the one change-up would be that the
15 two-inch would be allowed to be sold year round from the water
16 column leases. Submerged land leases would still remain with
17 the two inch outside of the wild fishery season.

18 And additionally some tag issues that had happened
19 as far as dealer tags versus harvester tags for the
20 aquaculture industry, we are sorting that out so they are
21 still in compliance but have a little more flexibility under
22 the federal rules. Did anyone have any thoughts on scoping
23 for aquaculture?

24 That will be discussed at the Aquaculture
25 Coordinating Council or was discussed at the Aquaculture

1 Coordinating Council over the last year at public meetings
2 there. Okay. And then I kind of went over horsehoe crabs.
3 Again it is kind of this ASMFC management thing in removing
4 some of this language, doing it more through public notice so
5 there is not that contradiction.

6 It is pretty much similar to the summer
7 flounder/black sea bass issue I just talked about. And then
8 the last one is recreational sharks. Essentially sharks need
9 to be reported. Your recreational catch needs to go on the
10 reporting cards similar to how you do blue fin, tuna,
11 swordfish and billfish now.

12 So it will be included in that reporting system, so
13 we just need to add it to comply with federal law. That was
14 it. Did anyone have any -- again if you think of something,
15 please feel free to e-mail me. Or follow up with Mike on
16 menhaden and striped bass.

17 MR. GRACIE: Thank you, Sarah. Oh, did you have
18 something? I just saw your hand.

19 MR. O'BRIEN: Just to address to Tom. Tom, what do
20 you think the schedule is on the stock assessment of striped
21 bass. It is February already.

22 MR. O'CONNELL: It is supposed to be -- a final is
23 supposed to be provided to the board in August of 2013. Our
24 report is supposed to be available in May, which would then go
25 through the peer-review process and then be brought to the

1 board in August.

2 MR. GRACIE: Okay. Thank you, Sarah. Don Cosden,
3 freshwater fisheries.

4 *Inland Fisheries Update*

5 *by Don Cosden, MD DNR Fisheries Service*

6 MR. COSDEN: I am going to sit here at Marty's chair
7 so I can navigate this map here. I just have three things
8 here to update the commission on. I will try to be brief. I
9 have seen a lot of yawning since Sunday night.

10 So the first thing I wanted to bring up with the
11 commission has to do with the freshwater fishing guides
12 license and the requirement for the -- what is known as a six
13 pack license by the Coast Guard. This goes back a long ways.

14 I don't know the exact history when we first
15 developed this freshwater guide's license but what I know is
16 we started out with a ruling from the Coast Guard that vessels
17 operating in tidal waters under power needed the six pack
18 license. Those captains needed the six pack license.

19 Sometime after that the Coast Guard interpretation
20 turned 360. Basically when I came onto the scene and made
21 some inquiries, I was told that all vessels for hire in Coast
22 Guard jurisdictional waters, the captains needed that license.
23 And this was a great concern to us.

24 We have some guides who operate solely in the very
25 upper reaches of the Potomac River out on rafts. They

1 paddle -- well mostly they row. Often times they are out of
2 the rafts as much as they are in the rafts walking their
3 clients downstream.

4 And anyone who has been through the Coast Guard,
5 taken the test, been through the courses it takes to pass that
6 test knows that there is not a lot of application of what is
7 in that license that would help a guide, say, in Garrett
8 County. So we had some discussions initially about that.

9 More recently, last spring, our own licensing
10 division, I guess in reviewing some of the regs and
11 requirements for guide's licenses, took it upon themselves to
12 deny several captains to reapply for relicensing on the
13 grounds that they did not have -- could not produce their six
14 pack license. And so we got more involved with communicating
15 back and forth with the Coast Guard.

16 The outcome of that is No. 1, our own attorneys
17 have determined we can issue our license. It is not required
18 for us to issue a guide's license that they have, the Coast
19 Guard six pack license. However, it is incumbent on any guide
20 operating anywhere to have all the licenses and requirements
21 there are in whatever jurisdictions are involved in that area.

22 So knowing that, we continue to have this
23 communication with the Coast Guard to try and determine what
24 were the requirements for these guides. We finally just
25 before Christmas had some final rulings from one of the

1 attorneys with the Coast Guard that is involved in this, and
2 they cited these, we can provide citations for anybody that is
3 interested. They cited the various regs that apply.

4 But the bottom line is anybody under a vessel under
5 power, and under power means not human power. It includes
6 electric motors, it includes sailing vessels -- and are
7 operating on Coast Guard jurisdictional waters need the
8 operator's license.

9 That still left some gray area because nobody
10 knew -- there was no published list of Coast Guard
11 jurisdictional licenses, and we sought that. In fact, we got
12 a document, a rather cryptic document from the Coast Guard,
13 not long after -- well, probably just before New Year's. And
14 the bottom line is it covers the entire Potomac River from
15 mouth to head waters as well as the entire Susquehanna.

16 And so there are some guides operating in western
17 Maryland more than likely that are required at this point to
18 have that license and haven't known it, haven't realized it.
19 So this does impact their ability to operate according to the
20 law.

21 The Coast Guard has promised us that they were going
22 to have this list of jurisdictional waters on their Website
23 sometime soon. They told us that before Christmas. I get the
24 impression they are working to try to get this thing online
25 probably within the next month but I can't swear to it.

1 involved with it, some charter boat industry people,
2 particularly that deal with the Coast Guard.

3 Because this is an intense conversation within the
4 Coast Guard right now. There has been a deal out in Minnesota
5 relative to navigable waters that has caused a lot of
6 consternation in Congress, and you may have heard about that.
7 That is hopefully going to be resolved one way or the other.

8 But this is in the Congress, this whole issue that
9 you are bringing up.

10 MR. COSDEN: Well, let me explain. We are not
11 negotiating with the Coast Guard. We are merely trying to
12 find out what their requirements are specifically, and I
13 believe there has been confusion even amongst their own
14 offices because we have gotten numerous different
15 interpretations over numerous years now.

16 I believe this is where it is going to end up, but
17 the question comes up, when you are talking about guiding
18 services in the upper Potomac River in Garrett County, so if
19 we require an angler or a fishing guide, what about someone
20 who is just paddling?

21 There are plenty of rafting services and all, and
22 they take people through these pretty rough stretches of
23 river. You know, would it be required for them? These were
24 some of our questions, and there are no answers.

25 MR. O'BRIEN: But again, where they have casualties,

1 and this is analysis that has been recent, has been on small
2 boat operators. They have had Coast Guard licenses but their
3 modus operandi, et cetera, has been really rocky. So that is
4 where that one is at.

5 And then you have boats, big boats that have a bunch
6 of little boats that send people out on those little boats
7 from the mother ship. And people have been on those boats
8 that haven't had licenses. So it is a really intense subject
9 right now.

10 MR. COSDEN: Well, there may be an opportunity for
11 some public meeting, and if so we will definitely let the
12 commission know ahead of time so that anyone who wants to
13 attend can be involved.

14 MR. O'BRIEN: I deal with the Coast Guard on the
15 highest level, so I have some input. I am just saying if you
16 are having to spend your time getting into this, come to where
17 it is at here in Maryland that has some knowledge of this
18 area.

19 MR. COSDEN: Okay. Any other questions on that?

20 (No response)

21 MR. COSDEN: Briefly I want to remind everybody we
22 did put a press release out about spring stocking. We start
23 stocking tomorrow. All the information is available online.
24 I have stocking schedules here if anybody is interested.

25 I just wanted to mention a couple of changes.

1 No. 1, the Casselman River, we had some discussions with our
2 Wildlife and Heritage Service about protecting endangers hell
3 benders on the Casselman. And last year we agreed to
4 eliminate brown trout from the stocking of the Casselman.

5 And we just recently had another discussion more or
6 less reiterating that we would continue to leave the brown
7 trout out of the mix. We are continuing to stock the
8 Casselman, and it is a fair amount of effort in looking at
9 what is occurring in the Casselman that may help to guide us
10 in the future.

11 We have reduced the numbers there a little bit and
12 actually pushed back our fall stocking time in order to avoid
13 the period when juvenile hell benders are out moving around
14 looking for new habitat. The animal is in big trouble, and it
15 is mostly from loss of habitat, sedimentation, water-quality
16 issues. But of course any pressure on an animal that is
17 barely holding on is going to be that straw that breaks the
18 camel's back.

19 MR. GRACIE: How did you avoid getting in the
20 discussion on the Yock for the same issue?

21 MR. COSDEN: Well the Yock came up but I more or
22 less got pretty obnoxious, and everybody agreed that, well,
23 let's use the Casselman as a -- right now let's see what goes
24 on in the Casselman. I would suggest -- after all, we spent a
25 year reviewing literature and looking for literature, and

1 stock trout are always considered a possible culprit any time
2 those communities change in streams.

3 There is virtually nothing, no empirical evidence in
4 the literature, that says we cut open stock trout and there
5 was a hell bender. What we based our decision on was a lab
6 study that took hatchery trout, rubbed the pellets in the hell
7 bender's slime, and then watched the trout's reaction.

8 The rainbow trout actually expelled these pellets.
9 The brown trout gobbled them up. And then there was some
10 other related research that showed that hell benders, when you
11 put pheromones or slime from nonnative species in a tank, they
12 don't have any reaction. You put native predators' feces,
13 slime in that same tank, and they immediately take some sort
14 of avoidance action.

15 So there is this evidence that maybe they don't
16 recognize hatchery trout as predators.

17 MR. GRACIE: But that would include rainbows then
18 wouldn't it?

19 MR. COSDEN: Well, in that case it would but since
20 rainbows appear to not like the taste of hell benders, we have
21 all agreed that this is where we are going now and we are
22 going to watch what happens.

23 Certainly I think heritage recognizes that the water
24 quality and the sedimentation are the biggest issues with this
25 animal, and we are also going to try -- we are calling a head

1 start program, collecting some eggs, raising these in a
2 hatchery and reintroducing the juveniles when they are past
3 the really vulnerable stage.

4 This is being done by several groups across the
5 country now with some success. It is unclear whether both
6 animals will eventually become adults and actually become part
7 of the population but they are successfully raising them in
8 hatchery situations.

9 MR. GRACIE: Does anybody claim there is a
10 measurable population of hell benders in the Casselman?

11 MR. COSDEN: They did a survey this summer. I think
12 they only found seven or eight, which was fewer than the last
13 time they did it. A real survey was about 10 years ago
14 previously and it was probably about half of what they found
15 then.

16 MR. GRACIE: So a significant difference based on
17 those numbers? Probably not.

18 MR. COSDEN: It is so small you can't even measure
19 it. They have changed their methods a little bit. Okay,
20 finally just really quickly I wanted to show a little bit of
21 what we have been up in regard to this public fishing access
22 map. I think I mentioned this probably a year or more ago
23 that we were working on this.

24 It had been stalled a long time but I think we may
25 actually have a product that may go online later this spring.

1 This would be a map -- right now this is hosted on a ---
2 Website. It is in a GIS format. We would actually host this
3 on our own.

4 (Website shot)

5 What you are looking at here are public fishing
6 sites that we have gathered. It is an incomplete data set but
7 we would have this on our Website. It has a number of
8 features. It allows you to switch your base map to a bunch of
9 different types of maps.

10 You can also filter. You can filter by a particular
11 county you are interested in, by fish species you are
12 interested in fishing for. Or by license type. You know, if
13 I only have a nontidal license, let me just see places where
14 my license applies. It allows you to bookmark specific sites
15 that you find interesting. Let me drill down for you here
16 really quickly.

17 I hope this operates right, this particular Web
18 browser. So far it is the first time we have used it. It was
19 giving me a little trouble earlier. If you put your cursor
20 over a site, presumably you get a -- anyhow, it does work
21 pretty well with several other browsers and we are working on
22 some of the problems.

23 But you can double click and it will zoom in on that
24 particular spot, and then you see you get information on the
25 right-hand side here, which gives you -- right now I would say

1 our data are incomplete but in this case we are looking at the
2 Potomac River. We have got some fish types in there. I
3 believe some of those fish types may be inaccurate. It is
4 actually calling this Anglers Inn, which I don't believe it
5 is.

6 But we also have all of the boating services, boat
7 ramp data, embedded in here too so we can find out is this
8 shoreline fishing only, is it boat ramp? What kind of other
9 amenities do you have? You can also -- you can print out the
10 screen that you have up here or if you are looking for
11 directions you could click over here and it takes you to a
12 Google map where you can print the directions or whatever out
13 of Google.

14 There are a lot of other things we are considering
15 that we might be able to do with this map but right now we are
16 just trying to get the data finalized and have it ready for
17 later this spring for the public to use.

18 One of the other things that we are hoping to do is
19 to allow it to be somewhat interactive for the public -- in
20 other words they can get on the site, and if they see some
21 information that is wrong or they have new sites, they can e-
22 mail that directly through the map product back to us and we
23 verify it and add that to the map at some later date.

24 So hopefully by the next meeting this will actually
25 be online and operational.

1 MR. GRACIE: Any questions for Don?

2 DR. MORGAN: I would appreciate it if you would
3 delete all the brook trout sites from the map.

4 MR. COSDEN: Obviously we are not going to delineate
5 every stream that is a wild trout stream. This is looking
6 more at public access sites that actually support a reasonable
7 amount of fishing.

8 MR. O'CONNELL: Just a couple years ago, I think it
9 was, when the commission gave us a priority tax, this was a
10 really big thing. The Fisheries Task force money that came
11 available allowed us to get a GIS person.

12 You know, we had someone and we lost them. We had
13 to get a new person, but these are some of the products we are
14 starting to see as a result of that effort. We hope this will
15 be valuable to the sport fishermen.

16 MR. GRACIE: Any other questions?

17 (No response)

18 MR. GRACIE: Thank you, Don. Mike, are you up?

19 ***Atlantic Menhaden Presentation***

20 ***by Mike Luisi, MD DNR Fisheries Service***

21 MR. LUISI: All of you should have received a
22 handout entitled 2013 Menhaden Changes. The purpose of
23 this -- and I will be brief in the presentation of this
24 material -- but it is an extension of what Ms. Widman was
25 talking about earlier with regulations and whether or not we

1 need any additional scoping other than the plan that we have,
2 which I am going to present to you right now.

3 (Slide)

4 So as you all know, menhaden management in Maryland
5 is shifting. There is a shift in our management of the
6 species in that we are now going to be required to manage
7 menhaden by a quota. The Atlantic states commission
8 implemented a 20 percent reduction for the coastwide
9 management of menhaden beginning in 2013, and this 20 percent
10 reduction came from an average of the previous three years of
11 landings along the coast.

12 The coastwide quota is 377 million pounds for this
13 year. And due to this, Maryland also receives a portion of
14 that 377 million pounds, so for 2013 our quota is a percentage
15 base of the total quota for the coast, but it equals
16 about -- a little over 5.1 million pounds is what we are going
17 to be managing toward for 2013.

18 Marty, if you could switch to the next page. I am
19 going to skip a few things as we go through here.

20 (Slide)

21 So we have 5.1 million pounds to manage for this
22 year, and I think it is important to point out that the
23 average that was used to calculate the quota that we will be
24 managing for did not include 2012 landings. So the average
25 that was used at ASMFC was 2009, 2010 and 2011.

1 Now in 2012, the harvest was quite large in Maryland
2 as it was along the entire coast, and it is being projected
3 right now -- we don't have all the data back -- but it is
4 being projected that we are going to be a little 10 million
5 pounds of landings in 2012. So we have the task now to manage
6 almost a 50 percent reduction in an overall quota as
7 established by this amendment, by Amendment 2.

8 Now there is a part to the plan that is a bit
9 different, and I will point it out here and then talk to you
10 about our plan I guess moving forward, the priorities that we
11 have.

12 Due to the unintended consequences of what could
13 happen to multi-species gears, if we -- so for instance if we
14 hit a quota of 5.1 million pounds some time in the middle of
15 the summer, there is a concern along the coast that gears that
16 interact with menhaden and are multi-species in nature, we
17 would have to eliminate all the other gears that interact with
18 menhaden in some way.

19 So the Atlantic states commission decided to grant a
20 6,000 pound by-catch allowance for other gears so that they
21 can continue operating throughout the remainder of the year
22 but under a 6,000 pound limit for that particular trip.

23 This is for 2013, and Lynn, you can correct me if I
24 am wrong, but we don't anticipate that this type of by-catch
25 limit will be something that will be in this plan forever. It

1 | was to allow us to monitor the take, manage to the quota and
2 | come up with what impacts could we see in the future if we had
3 | to eliminate or shut down the multi-species gears in some way.

4 | So it is kind of a data gathering tool. So what we
5 | are going to do for 2013, we have two management priorities.

6 | (Slide)

7 | The first priority, which is also part of the plan,
8 | requires that we collect information on menhaden landings more
9 | timely than what our current collection methodology is. We
10 | have many different ways of reporting via electronic and paper
11 | reporting but the current paper reporting system that most
12 | fishermen use is on a monthly basis.

13 | So we only get information about what was landed,
14 | you know, at a minimum, a month after it happened. Because we
15 | are going to have to manage to a quota now, and when we
16 | achieve the quota, we essentially have to shut down the
17 | directed fishery for menhaden and move to this by-catch
18 | allowance provision in the plan.

19 | So we are going to need information more readily
20 | throughout the season to know when we are projected to hit
21 | that mark. So one of the things we are going to be doing is
22 | working to determine a system for fishermen that are landing
23 | menhaden.

24 | And just so you guys know, menhaden are caught -- it
25 | is 95 to 98 percent from the pound net fishery. So we are

1 going to be working with the pound netters to try to figure
2 out a way for which they can provide us the information more
3 timely so we can use that for management.

4 We also have to put forth regulation that allows us
5 to close the fishery and establish this 6,000 pound by-catch.
6 As Sarah mentioned before, we don't have the authority to
7 promulgate regulation for menhaden because we don't have a
8 fishery management plan.

9 So we are working, working together with two, those
10 two tracks we are taking. The first one will be to do a
11 regulation to -- in need of conservation for Atlantic
12 menhaden. And the second one will be following that with the
13 management rules to allow us to do the job that we need to do
14 to manage the resource.

15 So those are the two priorities. And there are a
16 number of details that we have to work out through all of
17 this. Although 95 percent, let's say, of the landings come
18 from pound nets, there are other gears that interact with
19 menhaden. So what is going to happen in the event that we hit
20 our target? Are we going to allow for some additional catch
21 by these other gears such as gill nets and fyke nets?

22 Should we hold a little bit of the quota aside just
23 for these other fisheries that are landing some fish? We are
24 going to be working with the industry trying to craft
25 regulations to ensure that effort in these other fisheries

1 don't become larger.

2 If 95 percent of the take is from pound nets, what
3 we don't want to see is a shift to gill net fishery or some
4 other fishery. We are just going to need to talk to the
5 industry and work with them on crafting regulations for that.

6 (Slide)

7 Regarding the 6,000-pound by-catch limit, there are
8 some things we still need to work out. How precisely will the
9 by-catch allowance be implemented? We have talked
10 about -- people ask us questions about is it going to be on a
11 trip-by-trip basis, which means if I have a net not far from
12 where I am landing, I can make multiple trips in a given day,
13 with 6,000 pounds per trip?

14 Or if I have more than one fisherman's license on
15 the vessel, am I going to be allowed to have the by-catch
16 allowance for each of those people on board? Other things
17 that people were talking about is, if this is a by-catch
18 allowance, is there going to be a need to have other species
19 on board to actually consider this a by-catch and not a
20 directed fishery?

21 So some of these issues will be clarified. There is
22 an ASMFC board meeting on February 20. I believe it is at
23 8:00 a.m. in the morning in Alexandria, and some of these
24 actual points will be discussed at the table that day.

25 And our plans right now for scoping of these ideas

1 | what is going to happen.

2 | And from my understanding, the target is the target.
3 | If we exceed the target before we can close the fishery, then
4 | anything in addition to what was landed will be deducted from
5 | next year's target. So we will do our best to make sure that
6 | we have the fishery closed at the point when the final fish
7 | comes in. There is one pound per pound payback provision, I
8 | believe, for the following year.

9 | MR. GRACIE: Any others?

10 | MR. GOLDSBOROUGH: Just to clarify, Mike, the 6,000
11 | pounds, is that per net per day?

12 | MR. LUISI: These are questions we are going to ask
13 | in a couple weeks. So if it is 6,000 pounds per net, that is
14 | totally different story than a trip limit. So we are just
15 | going to have to clarify all that.

16 | MR. O'CONNELL: I think the main point is that was a
17 | means to try to monitor the situation, but we don't want to
18 | end up in a situation where our harvest is equal or exceeding
19 | where we have been in the past. We have to assess whether or
20 | not a per net or a per trip or a per individual landing limit
21 | is going to meet the intent of the plan.

22 | MR. LUISI: And another thing I should just mention
23 | as it may come up later, based on last year's landings
24 | information, if this year is anything like last year, we are
25 | going to be approaching that mark of the quota potentially

1 right around when these rules become effective.

2 So we are working with the Atlantic states
3 commission right now to determine what the consequences would
4 be if we exceed our target before we have enacted our rules to
5 manage the fishery, to try to figure out what path we need to
6 take, whether it be emergency or do regulations through the
7 normal process. So we will be having those discussions as
8 well.

9 MR. GAINES: Just one point on that by-catch limit
10 of 6,000 pounds. I don't know anything about the commercial
11 fishery but I would be very careful. I think you need to have
12 that by-catch in there, but I think you need to be at a number
13 where it is not worthwhile for a fellow with bad intentions to
14 go out to that net four times in a day or fish his net every
15 day to get that 6,000 pounds per day if he would normally fish
16 his net every three days.

17 So you need to be careful, and I guess the industry
18 guys can give you that number but you need to make sure it is
19 not worthwhile to try to do the end around collected.

20 DR. MORGAN: Out of curiosity, what was Virginia's
21 quota?

22 MR. LUISI: I don't know. Lynn?

23 MS. FEGLEY (away from microphone): Virginia,
24 because of the quota, there were a couple of options. One was
25 to split between the --- sector and the reduction sector and

1 split it up by state, but what the commission chose to do is
2 to keep the fisheries together and then allocate by state. So
3 Virginia's share is 86 percent, 85 percent of the coast.

4 So it is very high, and that is because they have
5 the reduction fishery, which harvests 80 percent of the
6 coastwide landing every year. So their quota is quite high.

7 MR. GRACIE: Anything else?

8 (No response)

9 MR. GRACIE: Any comments from the public? Anybody
10 wish to speak? Did anybody sign up?

11 MR. O'CONNELL: We still have the FMP discussion.

12 MR. GRACIE: Oh, I am sorry. I jumped ahead of
13 that.

14 MR. O'CONNELL: I am going to go ahead and do that.
15 Jacob, if you can go ahead and hand that information out.
16 Nancy Butowski was not able to make it tonight.

17 ***Status of 2013 FMP Reviews***

18 ***by Tom O'Connell, Director, MD DNR Fisheries Service***

19 So the purpose of this agenda topic, as Jacob is
20 handing things out, is just to inform the commission of those
21 Chesapeake Bay fisheries management plans that are coming for
22 review in 2013. Also to explain how we are going to integrate
23 the fisheries allocation policy into the FMPs.

24 If you recall, the allocation policy was adopted by
25 the department last summer, and the FMP review process is

1 striving to achieve the recommendations of the task report,
2 which is to be more inclusive with the stakeholders through
3 this FMP review development process.

4 The first thing I will probably do, since all of
5 the -- well, let's look at the FMP review schedule table
6 first, and then we will just go through the process, which is
7 on the flow chart. In 2013, these were the species that were
8 on our list to be reviewed, and two of them we are going to
9 push down the road a little bit.

10 The first one being menhaden. We just went through
11 a pretty extensive process through ASMFC. Our management
12 efforts are basically to comply with ASMFC. The next
13 benchmark stock assessment for menhaden is scheduled to be
14 completed by the end of 2014. That will be a good time for us
15 to review the FMP.

16 The other one is in regard to oysters. Any major
17 changes to the oyster FMP is going to be focused largely on
18 the public fishery. One of the commitments that the
19 department made with its new plan a couple years ago was to
20 manage the public fishery on a more scientific basis. It is
21 one of the few fisheries that we manage that we don't have
22 biological reference points for.

23 There are no harvest targets. There are no
24 abundance targets, nothing. And Lynn and Mike Naylor have
25 been working on moving us down that road, but it is not going

1 to be until 2014 that we have some biological reference points
2 that we begin looking at with the stakeholders and our
3 advisory commissions. So we are going to move that one to
4 2014.

5 There are three of them that we hope to bring to
6 your attention for review at the May commission meeting, and
7 that is weakfish/spotted seatrout, shad/river herring, and
8 hard clams. So at the May commission meeting we intend to
9 provide to you a draft status review of those plans.

10 And in regard to the July commission meeting, we
11 plan to provide you with the yellow perch draft FMP review and
12 begin the process looking at striped bass. Striped bass is
13 slated for the July commission meeting as well as the October
14 commission meeting largely because it is largely going to be
15 dependent upon the stock assessment that is going to become
16 available in August.

17 What we what to do -- it is going to be one of the
18 bigger plans to review and we want to initiate that process in
19 July with a lot of the updated background information and
20 carry that out through the October meeting.

21 And then blue crabs -- this is one of the plans that
22 we are going to be reviewing annually. It is a short-lived
23 species. We have new information every year. We are going to
24 be doing that at the October commission meeting each year.
25 Typically we have the winter dredge survey results come out in

1 April, the renewable rates from the fishery that is reviewed
2 by the Chesapeake Bay Stock Assessment Committee.

3 They produce a final report in July. That will
4 provide us a good basis to begin conducting a review and
5 bringing it before the commission on the October timeframe.

6 The new element of the FMP review is this
7 integration of the allocation policy. So consistent with the
8 policy, FMPs come up for review. We are going to be
9 incorporating an allocation section. For some plans, there
10 are explicit allocations. For other species, there are not
11 explicit allocations. It is just kind of default of the
12 regulations.

13 So we are going to be adding a section to each of
14 these FMPs to try to capture the state of knowledge related to
15 the current allocation. And to assist us in that effort, we
16 are asking for the commissioners to provide some information
17 to us if there is an interest in looking at an allocation
18 scenario.

19 So the last column on the right is basically -- for
20 example, weakfish/spotted seatrout. If there is the interest
21 of a commissioner or the commission to have us look at a shift
22 in allocation, we are asking you to provide that information
23 to us by March 1. And what we would be looking at obtaining
24 from you is what is your preference for a shift in allocation?
25 Among the criteria laid out in the policy, which factors do

1 | you believe warrant a reallocation?

2 | And provide to us any data or references that you
3 | think, you know, we should be made aware of. I mean, we are
4 | going to have a lot of that information ourselves, but if you
5 | are aware of some specific information that you believe
6 | justifies your argument, make that available to us to ensure
7 | that we have it.

8 | And then we will begin looking at all of that
9 | information and incorporating that into the FMP review. And
10 | then we will bring it up before the commission as a draft to
11 | have that stakeholder inclusion process.

12 | So this is the list, and let me just go through the
13 | FMP review process and then we will take some questions.

14 | There are two flowcharts. One is the FMP review process,
15 | which is what we are going to be utilizing for all these FMPs.
16 | And the other one is the FMP development process.

17 | They are pretty similar. I will just look at the
18 | FMP review process.

19 | (Handout)

20 | So you can see that shaded green area is what we are
21 | going to be calling the plan review team. And that is going
22 | to begin with utilizing the FMP review schedule. Our staff is
23 | going to begin looking at the FMP managements strategies and
24 | actions, trying to assess whether they are being achieved or
25 | not.

1 We will pull in some additional scientific expertise
2 if we need to, but largely rely upon our species specialists.
3 Our staff will produce a draft status report and then we will
4 bring that before the appropriate commissions to include that
5 stakeholder element.

6 And, you know, there may be some disagreements as to
7 our assessment of the performance of the FMP versus the
8 stakeholders through the commissions, and that is why that
9 yellow arrow -- well, your arrow isn't yellow -- the iterative
10 circle of arrows means we may have to go back and forth a
11 couple of times to resolve any differences of opinions.

12 Once we get to a point where we are satisfied with
13 that, then a draft of the status FMP review will be provided
14 to myself. I will review that with the management team and
15 determine the next course of action.

16 If there is no regulatory changes needed, maintain
17 status quo, we will go down that path. Sometimes we may need
18 to revise the FMP or do an amendment to the FMP, and under
19 that process we would begin that process, which includes more
20 of a public process, regulatory process.

21 (Handout)

22 The only difference with the plan development
23 process is there is a little bit more initial work pulling
24 together all the biological fisheries, economic information.
25 So are there any questions in regard to the plan we have set

1 | forth for 2013?

2 | *Questions and Answers*

3 | MR. GRACIE: Bill?

4 | MR. GOLDSBOROUGH: I assume that is supposed to be
5 | PID where it says PDT in that lower center box in the shaded
6 | area? Incorporate comments and draft PDT. Should it be draft
7 | PID?

8 | MR. O'CONNELL: Incorporate comments and draft PDT.
9 | Yes, public information document. Yes. So the public
10 | information document is kind of like the draft FMP. Thanks,
11 | Bill.

12 | MR. GRACIE: Anyone else?

13 | (No response)

14 | MR. GRACIE: Okay.

15 | MR. O'CONNELL: Ed O'Brien over here.

16 | MR. GRACIE: I am sorry. Ed O'Brien.

17 | MR. O'BRIEN: This is very important, and the
18 | department has listened to us in the past on FMPs,
19 | particularly for flounder, on the size limits and that kind of
20 | thing. It really needs some recreational participation.
21 | Thank you.

22 | MR. GRACIE: Anybody else? I am sorry. Is that it?

23 | (No response)

24 | MR. GRACIE: All right, I have on the list here
25 | Joe Rupp for public speaking.

Public Comment

1
2 MR. RUPP: My name is Joe Rupp. I am a charter boat
3 captain from southern Maryland. And my concern here today is
4 the legality of Norfolk spot traps.

5 And I see where you guys went -- there is no date on
6 this document I have, but I see where it was brought up before
7 you and the deal is fishing gear currently being utilized and
8 referred to as spot pots are generally -- to make a long story
9 short, what people are using for spot traps are illegal
10 according to the Department of Natural Resources.

11 And what has happened is there is a huge amount of
12 spot traps being used by lots of people, licensed and
13 unlicensed, to catch spot for the live lining of
14 Norfolk -- striped bass. What has happened, this thing has
15 gotten so completely out of control that it is almost
16 impossible to catch a legal size spot in the Chesapeake Bay.

17 Hundreds of thousands of juvenile spot are being
18 trapped on the pretense of using them for live bait, and what
19 has to be done -- I would never just come up here and say
20 something without a solution. The solution is twofold.
21 Solution No. 1: Get the word around that spot traps are
22 illegal and start enforcing the law to make people stop using
23 them.

24 And the second thing is what we need to do is we
25 need to put a commercial size limit on Norfolk spot just like

1 we have on perch and every other fish that swims in the
2 Chesapeake Bay. And if we do that, I think in a matter of 2
3 or 3 years -- it takes these fish to get to the age of 3 or 4
4 and to be a size of 8 or 9 inches, according to your data, in
5 order to spawn.

6 So we need to do something to let these fish get big
7 enough to spawn, and putting a commercial size limit of 8 or 9
8 inches on them would solve that problem. It is important to
9 remember that it is the lowly Norfolk spot, but there is a
10 whole fishing industry that revolves around catching those
11 fish.

12 There is a whole group of charter boats that only
13 fish for spot, and they just can't find any. These guys are
14 very good at doing it, and they are having a hell of a time
15 trying to catch a legal spot anywhere.

16 And the other thing is it is a great barge fish for
17 lots of different kinds of fish, and when you do to them what
18 we are doing to them now, keeping them in their little
19 juvenile stages, in the numbers they are being caught in, it
20 is counterproductive. We have got to do something to try to
21 save the spot.

22 Another year or so of this, and there won't be any.
23 And that is basically -- you guys had this in your hand, and
24 you somehow or another, I don't know whatever happened, it
25 never happened that you checked into it, but you do know what

1 with, and coming back to the commission, is whether or not we
2 think this fishery and taking of young spot, is acceptable or
3 not and how we define a spot pot to determine, you know, what
4 level of interaction we allow with the fishermen.

5 So it is on our radar, and that is something this
6 year that we are going to be coming back to the commission as
7 we advance some regulations on defining gears, and spot pots
8 will be one of them. You know, it will be an opportunity for
9 us to determine what level of harvest interaction we want
10 fishermen to have with these juvenile spot.

11 MR. RUPP: The ones that are being used today, which
12 according to your stuff is illegal, there have no cull rings,
13 they have no escape mechanisms. Everything that goes into
14 them stays in them. Small crabs, little rockfish. They are
15 just totally counterproductive.

16 All of us in the charter boat industry that fish for
17 striped bass with live spot, we can go out and catch them with
18 a hook and line in the morning. We catch the 25 or 30 or 40
19 we need, and we go on and go fishing. What is going on with
20 this hook and line fishery, in order to put enough fish in the
21 boat for these guys to use, some of them are carrying more
22 than 1,000 juvenile spot per day.

23 Think about that over 40 or 50 or 60 or 100 boats.
24 I mean, that is what you guys are here for. When things get
25 out of control, you have got to do something about it. So we

1 all would appreciate it if you wouldn't let this go much
2 further. Something has got to be done. Thank you.

3 MR. GRACIE: Mack, you had a comment or question?

4 MR. WOMMACK: Yes.

5 MR. GRACIE: Stay there, Joe. It might be for you.

6 MR. WOMMACK: I have a question for him but I know
7 he is on point that this advisory board might have to take a
8 look at a size limit on spots because it has been really poor
9 for the recreational and commercial fishermen and charter boat
10 captains that depend on that, especially in the lower bay.

11 And I have seen where guys have taken just coolers
12 of little fish just to say that they have done something for
13 the day so we might need to really take a look at a size limit
14 on that.

15 MR. RUPP: You have got to remember now with the
16 recreational anglers, particularly the people that we call
17 subsistence fishermen who have to justify the cost of the trip
18 by taking something home, they might be happy to take home a
19 five-inch spot, which is all right. But somehow or another
20 why not put a commercial size limit on it like we have on
21 perch and everything else we fool with?

22 Nobody in their right mind is going to try to sell a
23 spot that is five or six inches long. People aren't going to
24 buy them. Whereas a guy who goes out and catches a few, he
25 might say, well, I will take some home to eat.

1 But it is just a simple matter of some
2 housecleaning. You have got to make sure that everybody knows
3 spot traps are illegal and put some kind of restrictions on
4 the harvest so we can have some spot in the future for all of
5 us. Where I come from down in southern Maryland, we like to
6 eat them but I don't want to eat a four-inch one.

7 MR. GRACIE: Any other questions or comments?

8 MR. JETTON: I have got one for Tom, and it goes
9 along with -- Joe and I have talked about this a couple of
10 times. I would like the department to get me -- it might be
11 as simple as reissuing the paper Joe has got -- something
12 about what defines a legal and illegal spot pot. I get this
13 question all the time.

14 Who can fish them, who can't fish them -- just what
15 is on the books for right now, and then, you know, maybe some
16 enforcement on the present laws would kind of slow some of
17 this down and take it to a reasonable level. As far as the
18 limit goes, I don't see any problem with discussing that and
19 seeing where it goes. I am not sure where we will end up with
20 that.

21 MR. O'CONNELL: Would everybody like to receive an
22 update on that paper? I will just forward it to Marty,
23 because I had it up on my screen, and we will get it out to
24 you guys.

25 MR. JETTON: Just presently where we are right now

1 | so we can give everybody a baseline to look at.

2 | MR. O'CONNELL: And if anyone is aware of some
3 | illegal pots out there, don't hesitate to contact me or NRP.
4 | We will keep your name anonymous to help us --

5 | MR. JETTON: It sounds to me like if the laws are
6 | already on the books, we are back to the enforcement issue
7 | again. So that is just kind of where I am going today.

8 | MR. GRACIE: Anything else? I don't think we had
9 | any action items, did we, Marty? We had one motion that was
10 | passed. The next meeting will be Tuesday, May 14, from 2:00
11 | p.m. to 5:00 p.m. There has been some talk in the past of the
12 | commission having some extra separate meetings. I asked for
13 | input on that. I haven't heard anything. Is anybody
14 | interested in doing that? You need to let me know. Okay. We
15 | are adjourned then. Thank you.

16 | (Whereupon, the meeting adjourned at 5:10 p.m.)

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