

Maryland DNR
Sport Fisheries Advisory Commission
Meeting

Tuesday,
March 15, 2011

Maryland DNR
Sport Fish Advisory Commission Meeting

March 15, 2011

SFAC Members Present:

Jim Gracie, Chair

Larry Coburn

William Goldsborough

Shane Ireland (*proxy for Herbert Smith*)

Greg Jetton

Valentine Lynch

Ed O'Brien

Dave Sikorski

Dave Smith

Carol Stevenson

Roger Tragser

Brandon White

James Wommack

SFAC Members Absent:

Herbert Smith

Bill Windley

Maryland DNR Fisheries Service

Joe Evans (*on behalf of Marty Gary*)

Tom O'Connell

Maryland DNR
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March 15, 2011

I N D E X

	<u>Page</u>
<i>Welcome and Announcements</i>	5
by Marty Gary MDNR Fisheries Service	
<i>NRP Report</i>	6
by Lt. Kelley Johnson, NRP	
<i>Questions and Answers</i>	8
<i>Legislative and Regulatory Update</i>	17
by Gina Hunt MDNR Fisheries Service	
<i>Inland Fisheries Update</i>	27
by Don Cosden MDNR Fisheries Service	
2010 Annual Inland Reports Online	27
Deep Creek Lake Bass Populations	29
Felt Soles/Savage Didymo	31
Deep Creek Lake Discharge Permit	35
<i>Questions and Answers</i>	38
<i>Simkins Dam and Cooks Point</i>	
<i>Reef Projects</i>	44
by Commissioner Bill Goldsborough	
<i>Marine and Estuarine Fisheries Update</i>	55
by Lynn Fegley MDNR Fisheries Service	
Black Sea Bass	55
Summer Flounder	58
Atlantic Menhaden	58
<i>Questions and Answers</i>	59

Maryland DNR
Sport Fish Advisory Commission Meeting

March 15, 2011

I N D E X (continued)

	<u>Page</u>
<i>Discussion on Amnesty on Illegal Nets</i>	62
by Tom O'Connell MDNR Fisheries Service	
<i>Questions and Answers</i>	64
<i>MOTION</i>	70
<i>Public Comment</i>	71
<i>Possible Recommendations Regarding DNR's Commitment to Address Issues Pertaining To Maryland Commercial Striped Bass Gill Net Fishery</i>	
by Dave Sikorski	72
<i>Discussion</i>	76
<i>MOTION</i>	92
<i>Discussion</i>	95
<i>Public Comment</i>	97
<i>MOTION</i>	102
<i>Discussion</i>	104
<i>Fisheries Service New Initiatives Work Plan</i>	115
by Tom O'Connell MDNR Fisheries Service	
<i>Questions and Answers</i>	119

KEYNOTE: "----" denotes inaudible in the transcript
 "*" denotes word was phonetically spelled

E V E N I N G S E S S I O N

(6:00 p.m.)

Welcome and Announcements***by Joe Evans***

MR. EVANS: I am filling in for Marty tonight. It is a little bit after 6:00 p.m. We are just missing Bill Windley and Neil Jacobs. Shane Ireland is sitting in for Herb Smith tonight. No other proxies I don't think.

So we will start by just reminding everybody that this is recorded for the record. The public will have an opportunity to chime in a couple of times if there is an action item on the floor -- a motion, I should say. If there is a motion on the floor, the chairman will allow members of the public to stand up and speak.

But if you do, you will need to come to either this microphone or the one right next to Greg, identify yourself and then provide us your comment.

MR. GRACIE: Joe, a point of clarification. We are missing Neil Jacobs but Neil has resigned.

MR. EVANS: Oh, okay. I have a note from Marty that says to check to see if Tom has any announcements. No heads up on that, so. I think that is really it.

MR. GRACIE: Did you introduce Herb's proxy?

MR. EVANS: I just did.

MR. GRACIE: Oh, I am sorry. I missed it.

1 MR. EVANS: Shane. Shane Ireland. Where are you
2 from?

3 MR. IRELAND: Severna Park.

4 MR. EVANS: So as soon as the chairman is ready, we
5 can roll.

6 MR. GRACIE: Do you have an NRP Report?

7 **NRP Report**

8 ***by Lt. Kelley Johnson***

9 LT. JOHNSON: Hello. Lt. Kelley Johnson with NRP.
10 This should be brief, but as you can see on the report, the
11 officers -- it is still an ongoing investigation in reference
12 to the search warrants that were served in early February in
13 reference to all the illegal gill nets. As soon as we get
14 updates on that, you guys will be -- you will find out. I
15 can't really share anything on that.

16 But as you can see, there were a few more nets
17 located. And also in Kent County on the 9th of March, the
18 officers worked a surveillance and seized 1,000 yards of
19 unattended perch gill net and 492 pounds of White Perch were
20 sold.

21 Outside of this -- it is not on the report, but I am
22 pleased to let everybody know that fisheries, we have gotten
23 another \$50,000 nontidal fishing grant for the officers to
24 use, which is imperative this year because we are quite -- we
25 have lost a few NRPs out west.

1 So having the overtime is really going to afford the
2 officers that are working some valuable hours and money that
3 is needed to enforce some of the nontidal fishing laws and
4 regs. Thank you, Don, and his group for setting up all the
5 meetings.

6 This year, part of that money is allocated to
7 central region as well, which is really nice for the fishing
8 streams down in central Maryland. I think it was \$50,000
9 total, which will be split with central and west.

10 So many of the trout streams and lakes have been
11 stocked, so the guys are already working some of that
12 overtime. Hopefully next month we will have some good cases
13 to share with you, but the guys just really did start working
14 it so there is nothing -- no cases have been made quite yet.

15 So hopefully next month I will have some nontidal
16 cases to share with you, but other than that, that is it.
17 Don?

18 MR. COSDEN: (away from mic) A regional manager out
19 of Frederick called to talk about a couple things, and he
20 mentioned that he was --- fishing about two weeks ago.

21 LT. JOHNSON: At Williamsport or Dam 4?

22 MR. COSDEN: Dam 4. So just wanted to let you know
23 you guys are on the ball.

24 LT. JOHNSON: Well, the thing is with -- I will
25 share this, Dam 4 and Williamsport, because the walleye have

1 really been running these past couple weeks, and fisheries,
2 through some studies, found that a good portion of the walleye
3 up on the Potomac in Washington County are actually above the
4 20-inch maximum size.

5 So our officers, the ones that have been working the
6 overtime, have completely concentrated at Williamsport and Dam
7 4 to try to catch guys keeping fish, Walleyes, larger than 20
8 inches. That is their priority right now because a lot of the
9 trout guys aren't out yet. There are a few but the Walleye is
10 what we are really pressing here until the end of
11 mid-April, when the season opens back up.

12 MR. COSDEN: (off mic) --- and they tend to stack
13 up at the base of these dams when they are spawning.

14 LT. JOHNSON: Our guys are working under cover, so
15 it is interesting that last week Officer Forrest*, he watched
16 a guy, he threw like 3 fish, 19 ½ inches, he kept those. But
17 the ones that were just over 20, he actually threw them back.
18 They are doing well up there. For the Walleye fishermen, it
19 is a good place to go.

20 ***Question and Answers***

21 MR. WHITE: Are you still having the same effort
22 looking for gill nets that you did around our last meeting?
23 The same level of effort?

24 LT. JOHNSON: Yes. As you can see on here, they are
25 going to continue those into March -- like, they are still

1 | doing it, looking for illegal nets. I know that they were
2 | going to try to use the MSP helicopter to try to -- from
3 | aerial. So yes, it is still continuing.

4 | MR. COBURN: As far as the trout streams are
5 | concerned, do you guys really monitor them? Because I know a
6 | couple of streams per se that as it gets warmer, they get
7 | attacked with casting nets, et cetera. And I am wondering how
8 | does that work? Or do you guys just wait for the hotline to
9 | be called?

10 | LT. JOHNSON: No, no, no. We don't wait. On all
11 | the trout streams -- which part of Maryland are you talking
12 | about?

13 | MR. COBURN: Well, this particular one, Savage Mill
14 | out of the Little Patuxent.

15 | LT. JOHNSON: Oh, Little Patuxent. Yes, okay. That
16 | area, because it is not -- getting down to Laurel in that area
17 | is not right in the middle of anyone's patrol area. That
18 | would be a good thing to call in and let a supervisor that
19 | works that county know, and the officers can pick up their
20 | patrols and actually look for that.

21 | But in general, our guys on routine patrol check all
22 | the streams, and when they encounter that stuff they
23 | definitely seize the nets, and whether -- it is more to
24 | whether it is a ticket or a warning. Who knows, but the nets
25 | are usually seized so they can't continue to use them.

1 MR. COBURN: So mainly exercise the 800 number. Is
2 that what you are saying?

3 LT. JOHNSON: Definitely. If you know it is
4 happening, and if you are down there fishing when it is, call
5 that 800, 24 line. There is always somebody working, and they
6 will go down there and catch them. If it just general
7 information, like you are not there, you just know it is going
8 on, call it in and say you want to provide some information.

9 But the 800 line, when you are actually fishing, we
10 always recommend that you call in as it is happening so we can
11 actually catch them, which is more reactive because we are
12 reacting to a complaint. But definitely that 800 number.

13 We love having -- hunters, especially, with
14 trespassers. We love it when the hunters are in the tree
15 stand and they call it in -- hey, there is somebody here,
16 instead of after the fact, because we are just not going to
17 catch them at that point.

18 MR. GRACIE: Kelley, it is common practice there,
19 and maybe they know that is not a regularly patrolled area.
20 Maybe that is why it is common practice.

21 LT. JOHNSON: You have got to understand, the
22 officers that work central, they have got a very large area
23 and a lot of trout streams to check. It is not an excuse, but
24 I am sure the officers are aware that goes on down there, and
25 they look for it when they are on patrol, but I can

1 | certainly -- if you don't want to call it in, I will e-mail
2 | Lt. Powell, who is the lieutenant for central, and have him
3 | spread the word down the chain so the officers can pick up the
4 | patrols down there now.

5 | MR. COBURN: Because it is going to start heating
6 | up.

7 | LT. JOHNSON: Right.

8 | MR. COBURN: I mean, I have seen situations where I
9 | have gone down there, and they have 15 trout in the bag and
10 | are pulling the net up and have six trout in the net.

11 | And when they go to these holes, it doesn't take a
12 | couple casts, with a net like that, to kind of do some damage.

13 | MR. GRACIE: It is kind of easy for them right after
14 | stocking them. Fish tend to be concentrated.

15 | LT. JOHNSON: Well, the good thing about that -- you
16 | know, years ago, I worked that area. It is a very easy area
17 | for us to patrol because it is so easy for the officers to
18 | hide without being seen, so it doesn't take a lot for us to go
19 | down there and try to catch them. The point is we have just
20 | got to get down there.

21 | Primarily -- do you know, is it more on weekends, is
22 | it in the evenings? That is really good for our officers to
23 | know.

24 | MR. COBURN: To try to pinpoint those times?

25 | LT. JOHNSON: About, yes. Like, are you down there

1 on weekends?

2 MR. COBURN: It can be at any given time that I go
3 there, per se. But I get a lot of complaints from others.
4 They come to me and speak up about it.

5 LT. JOHNSON: Well, I will e-mail Nick tomorrow and
6 share this information. Hopefully you will see a few more of
7 us down there.

8 MR. COBURN: That would be great.

9 MS. STEVENSON: Lt. Johnson, at the risk of bringing
10 a painful subject up, I wanted to ask you whether there would
11 be some officers available during the summer months to just go
12 and check on the --- area, that area from the train station
13 all the way to Blue Mount and down.

14 I know we had a terrible problem there last year,
15 and it just shut down the fishing. And we are working with
16 everybody that we can -- the precinct police, the Department
17 of Parks, the Natural Resources Police. And we just didn't
18 hit it right last year because when we had some officers out
19 there, that was the day it rained really heavily.

20 But the rest of the time in the summer it is just an
21 absolute zoo. We are working with Todd Huff now to get some
22 measures implemented to try to get the parking under control.
23 But it would be really helpful if nothing more than just to
24 have a presence, maybe one day a month down there at the trail
25 head and especially over at Blue Mount.

1 Just, you know, maybe to deter some of them. I feel
2 badly for the people who are trying to fish. When the tubers
3 overrun the river, there is just no chance of getting anywhere
4 close, but we can't just take the risk of having somebody down
5 there from your Department the whole entire day. It is a
6 waste of resources.

7 LT. JOHNSON: Well, it is interesting because in
8 that area, the tubers, they are allowed to be there.

9 MS. STEVENSON: They are, but they are illegally
10 parking and they are drunk and they are disorderly and they
11 are rude and they preclude anybody else from using the stream,
12 and it is a multi-use resource.

13 In the past we have had families who have come down
14 with their kids in tubes, and fishers and kayakers and
15 canoers. But that is pretty well gone in the summer from
16 12:00 p.m. until about 6:00 p.m. at night every Saturday and
17 Sunday. So it is not a new thing, and everybody is very
18 limited on resources but I would be so grateful if we could
19 just have a show of presence now and then.

20 LT. JOHNSON: Okay. I will share that as well.
21 When you are down there and you see problems or there are lots
22 of cars parked illegally, all police departments can handle
23 the parking. We primarily are the ones that enforce
24 everything else on the rivers.

25 MS. STEVENSON: Yes, and you were very helpful last

1 year along with the Park Police to try to deter people from
2 bringing those big coolers full of beer from the trail head
3 onto the river. And the police are really working with us.
4 They are so sick of us, but they are working very closely to
5 try to get that under control. Thank you.

6 MR. GRACIE: What authority do you have to prohibit
7 beer, because that is outside a state park.

8 LT. JOHNSON: That is right. It is not illegal to
9 drink on a boat. It is illegal to operate a boat while under
10 the influence or intoxicated. So --

11 MR. SMITH: Is a tube a boat?

12 LT. JOHNSON: Yes. A tube is considered a vessel; a
13 means of transportation on the water is a vessel. Even if you
14 have a blow-up dinosaur raft, it is a vessel. Okay, because I
15 have seen that on the Potomac.

16 People are allowed to bring alcohol -- as long as it
17 is not -- the only way we can enforce it -- now it is very
18 easy because the State parks have excluded it everywhere,
19 which has been fantastic for us because it is easy to
20 enforce -- but if it is not part of a State park, people can
21 bring alcohol. The underage is a different issue.

22 MS. STEVENSON: The park is the trail, so the park
23 service has authority over that, and they are trying to block
24 people from bringing it on the trail head, but unfortunately
25 they can't, they can't force them to open the cooler. And

1 then DNR has that land between the trail and the water. The
2 Watershed Police from the city of Baltimore have the authority
3 on the water itself, and we are trying to get somebody down on
4 the water, but they don't have any vessels to maintain the
5 river.

6 So there are jurisdictional overlaps and --

7 MR. GRACIE: Sounds like --- needs a Homeland
8 Security organization. Three different jurisdictions.

9 MS. STEVENSON: Thank you. I really do appreciate
10 it.

11 MR. SMITH: So is it fair to say that the main
12 priority or the main focus of the NRP still is this Striped
13 Bass issue?

14 LT. JOHNSON: I would venture to say that. I am the
15 area commander for Frederick and Washington County so I kind
16 of know what is going on out west a little bit better, but
17 absolutely. These Striped Bass cases are going to be a
18 priority for the guys down here, yes.

19 MS. STEVENSON: Will you continue to monitor after
20 the season closes, beyond March?

21 LT. JOHNSON: The NRP -- it is going to be a
22 continual thing. This has opened everybody's eyes, and it
23 will never go away now. It is always going to be in our
24 radar.

25 MR. COBURN: I was just wondering, I think we do

1 identify hotspots as part of this grant. Give that
2 information to the officers, wherever you would like them to
3 concentrate. I believe our central regional manager did
4 identify that area that you brought up, and so hopefully there
5 will be -- they have already gotten word that there will be
6 some patrols directed there. Any time that you guys know of
7 these spots, not only can you call the 800 number, but if call
8 us, we can provide that information as a part of this grant as
9 well.

10 LT. JOHNSON: And what is great about this grant,
11 the officers that are working the overtime on any given day,
12 they are literally undercover working just the fishing. They
13 don't have to worry about answering calls. The guys on duty
14 are the ones answering the calls, so if there is an officer
15 who wants to work four hours' overtime one day to go down
16 there in plainclothes to see what is going on, that is what he
17 is going to do. He doesn't have to worry about anything else.

18 And that is why having central region included in
19 this overtime grant is phenomenal because central has got a
20 lot of places like that. Last year they weren't offered the
21 overtime, so it was more difficult. This year I think it is
22 really going to help in some of those spots.

23 MR. GRACIE: Thank you. Gina, you have a
24 legislative and regulatory update?

25

1 *Legislative and Regulatory Update*

2 *by Gina Hunt*

3 MS. HUNT: There is a handout in your book. I don't
4 know the tab number.

5 MR. GRACIE: Three.

6 MS. HUNT: Tab three. I will just focus on
7 legislation at this point, and it is obviously a substantial
8 number of pages. Don't let that scare you away. It is a lot
9 of cross-filed bills. But I will just focus on what is new
10 since the last time we met. What is coming up this week. If
11 there are any bills of interest that I don't touch on, just,
12 you know, ask me.

13 The first thing is that House Bill 111, our fishing
14 gear authority bill, will allow the Department to write
15 regulations to define fishing gear. That bill, the leasing
16 sanctuary bill, which is the next one, House Bill 208, and the
17 agent license fee bill, which I will touch on a little
18 bit -- those three bills are going to be voted on by the House
19 subcommittee tomorrow.

20 So if there is anything good or bad you want to say
21 about any of those bills, this would be your shot to comment
22 to the subcommittee, the Natural Resources Subcommittee in the
23 House. They will vote on them tomorrow.

24 At this point, the fishing gear authority bill does
25 have a possible amendment that would limit our authority just

1 to specific types of gear. I could tell you what they are,
2 but it is pretty narrow.

3 Also House Bill 273, I just wanted to let you know
4 that has been voted out clean, so it has passed. Actually it
5 has passed the House, and the Senate version has passed. This
6 allows the Department to revoke a commercial license upon
7 citation for oyster violations, specific oyster violations.
8 It is not anything, but the really egregious stuff.

9 And let's see. Paging through, House Bill 1142 is
10 an Atlantic Menhaden bill. It has nothing to do with actually
11 fishing. It is a restriction on the manufacturing and sale of
12 products from Atlantic Menhaden. And that bill is going to be
13 heard on Friday -- I am sorry, Wednesday.

14 Also heard Wednesday, 1154, Striped Bass and crabs
15 revocation. This is a cross-filed bill. This is just very
16 similar to the oyster one where upon citation for specific
17 violations, the Department could revoke your license.

18 On 1225, also heard Wednesday, and this is another
19 commercial fishing penalty violation bill. So there is actual
20 testimony that is accepted on Wednesday. You could, if you
21 want to testify on any of these bills, testify Wednesday.
22 Friday you cannot.

23 MR. GRACIE: We thought that on Wednesday --
24 Maggie's committee you are talking about?

25 MS. HUNT: Yes.

1 MR. GRACIE: Sponsors only, that is what we were
2 told. Everything from 1141 up.

3 MS. HUNT: Oh.

4 MR. GRACIE: That is the word we got as of today.

5 MR. SMITH: You can submit written testimony.

6 MR. GRACIE: You can submit written testimony.

7 MS. HUNT: No, I just had that Friday's bills were
8 sponsor only.

9 MR. GRACIE: 1141 up is what we were told.

10 MS. HUNT: Okay.

11 MR. GRACIE: We have a panel coming down on the
12 Menhaden bill, and they are going to let us sit but not
13 testify. We will be there in case they want to ask questions.
14 That was Maggie's compromise.

15 MS. HUNT: So Friday, 1238, that tracking device
16 bill, there are a bunch of bills also heard on Friday, those
17 are definitely sponsor only. Again, you could submit written
18 comments. And that one, the right to harvest seafood, is also
19 heard Friday. That is simply a bill that expands to all
20 counties provisions that are already in law, and this is
21 really for your town to create certain ordinances about
22 harvesting seafood, but they have to check with the Department
23 first.

24 That is all it says, and it is already provided in
25 many cases in certain counties. This expands it to all

1 | counties. Patuxent River, the use of patent tongs in the
2 | Patuxent. This bill has been filed twice before, and it is
3 | being heard on Friday. South River public fishery. This bill
4 | is a little confusing, and I believe what it was intended to
5 | do the bill language does not do that.

6 | So at this point what the bill actually does is just
7 | make a portion of the South River hand tong only gear. This
8 | is commercial fishing gear. It is just already hand tong only
9 | fishing gear by regulation. It simply codifies that. It does
10 | not affect leasing, which -- its intent was to affect lease
11 | laws.

12 | MR. GRACIE: What would be the purpose of it then?

13 | MS. HUNT: At this point, nothing. But the reason
14 | the bill was originally filed was because they wanted to
15 | create this area to be a commercial hand tong only area and
16 | not allow leasing. But it does not trump subtitle 11A, which
17 | is a lease law that allows leasing there. So basically it is
18 | drafted poorly. It doesn't accomplish what it was intended.

19 | MR. GOLDSBOROUGH: So we don't care what happens
20 | with it.

21 | MS. HUNT: Well, we care in the sense that it does
22 | remove a certain portion of our authority but a lease holder
23 | may not care.

24 | And let's see.

25 | MR. GOLDSBOROUGH: Gina?

1 MS. HUNT: Yes?

2 MR. GOLDSBOROUGH: I am sorry. Before you go on,
3 about the -- can I assume the Patuxent River bill, we care
4 about that, and we don't like it.

5 MR. GRACIE: It is not really clearly worded as to
6 what it is doing in this --

7 MS. HUNT: It extends the patent tong line in the
8 Patuxent River up into what is currently hand tong only area.

9 MR. O'CONNELL: We sent a pretty detailed --- report
10 opposing the bill.

11 MS. HUNT: But also -- I mean, we are not going to
12 be able to testify on this bill either. So just keep that in
13 mind. I mean normally there is testimony. In the past it has
14 appeared two other times, and we have had an opportunity to
15 testify. In this case, we will not.

16 MR. GRACIE: Is it cross filed?

17 MS. HUNT: No. No, that is just -- it says
18 previously filed as House Bill 154. That was in 2010 session.

19 MR. GRACIE: So there is no Senate version.

20 MS. HUNT: No. In fact, I think even over time the
21 sponsors have changed. It is not always even the same
22 sponsor, if you really wanted to track it back. Okay, so --

23 MR. O'CONNELL: Gina?

24 MS. HUNT: Yes.

25 MR. O'CONNELL: On House Bill 1340 and Senate Bill

1 538, the description of that bill is not accurate anymore.

2 MS. HUNT: That is what the bill did originally. At
3 this point -- I am sorry, 1340.

4 MR. GRACIE: That is the 25 percent limit on the
5 sanctuaries.

6 MS. HUNT: Correct. And the Senate version of the
7 bill, 538, has passed out of the Senate committee with an
8 amendment. And the amendment is basically to prohibit
9 expansion of sanctuaries to 25 percent or greater unless the
10 Department holds a public hearing and proves at that that
11 public hearing with scientific evidence that harvestable
12 oysters have increased in abundance.

13 It is a little unclear what we need to prove --

14 MR. O'CONNELL: So the change is -- the amendment
15 makes the metric for determining whether or not sanctuaries
16 are working and should be expanded, is that sanctuaries can
17 only be expanded if it is demonstrated that the amount of
18 oysters in the public bars increases --

19 MS. HUNT: Harvestable.

20 MR. O'CONNELL: -- which is not the right
21 metric --

22 MR. GRACIE: No.

23 MR. O'CONNELL: -- because 25 percent sanctuaries
24 may not be enough to influence the remaining 75 percent areas,
25 and disease could be an overwhelming factor.

1 You know, sanctuaries could be providing recruits to
2 the public shellfish areas, but disease could be an overriding
3 factor, so this bill would not allow the Department to expand
4 sanctuaries unless we demonstrated an increase in harvestable
5 oysters on the public bars. And it has made it through the
6 Senate, second reader.

7 MS. HUNT: Subcommittee, not the floor. Not the
8 entire floor. As Bill would put it, we do care greatly about
9 this bill.

10 It also has a -- so this is actually a bill that
11 is -- and now that I think about it, the House version is
12 copied off of the amended Senate version. Right. The Senate
13 version got amended, and then sponsors in the House took the
14 amended version of the Senate and put it in.

15 So it wasn't originally a cross file. There
16 originally wasn't a House version, and now -- that is why it
17 is so confusing on here. So we have to change that.

18 MR. GRACIE: You said it passed second reader in the
19 Senate?

20 MR. SMITH: Subcommittee.

21 MR. GRACIE: Well, subcommittee is different than
22 second reader, Dave.

23 MS. HUNT: Right. Right. No, no, no. Passed the
24 committee. Passed the committee. So did it pass third
25 reader? No. It is not that far.

1 In fact, that just happened last night, so this
2 is -- that is really new, which is why your handouts don't
3 reflect it, because they were printed before that.

4 And just to let you know since it is a fishing
5 license issue, Senate Bill 188, the exemption for disabled
6 armed forces, that has passed out of the House -- I am sorry,
7 passed the Senate, and in the House, I don't believe it has
8 been voted on there. But it doesn't have any opposition so it
9 has a pretty good chance.

10 Let's see, Senate Bill 847 also has made it out of
11 the committee, so these are things that just happened last
12 night as well. That is the aquaculture bill.

13 That is actually -- it basically moved some people
14 across some different agencies and consolidates aquaculture in
15 the Department of Natural Resources.

16 So that is it for legislation. I say that is it. I
17 mean there is a lot.

18 MR. GRACIE: Gina, can I come back to one, House
19 Bill 111? That limiting amendment has passed as part of the
20 bill now?

21 MS. HUNT: No, they are voting tomorrow in the
22 subcommittee, and the Natural Resources Subcommittee will be
23 voting on that amendment. It was presented to them last week.
24 They wanted to go home and think about it, and they are
25 meeting tomorrow.

1 MR. GRACIE: Do you have a sense of what is going to
2 happen from testimony or line ups or anything?

3 MS. HUNT: I can tell you right now, I think it
4 would have voted out amended last week except Jacobs wanted to
5 take it back to his constituents and see what they thought
6 about the recreational authority.

7 It is broad under allowing -- the amendment allows
8 the Department to still define recreational gear broadly. It
9 doesn't say hook and line, net -- you know, it doesn't get
10 nitty gritty, and largely because there are differences in our
11 authority between tidal and nontidal right now. Things that
12 are allowed in tidal waters are not allowed in nontidal
13 waters, and it is just -- we don't have any authority to
14 change it.

15 The specificity of the amendment comes in for the
16 commercial gear, and it is specific to certain types of
17 commercial gear, and it seems that the opposition that was
18 held there by commercial watermen and their representatives in
19 the past is not there if we are that specific.

20 So at this point, I think it all hinges back down on
21 Jacobs and whether or not he is comfortable with the
22 recreational language.

23 MR. O'BRIEN: What is uncomfortable to him?

24 MS. HUNT: I have no idea. I wish I could say I
25 understood it.

1 MR. O'CONNELL: Not knowing if it is uncomfortable
2 to his recreational constituents.

3 MS. HUNT: Right. But in the past when we have
4 spoken to him, he was concerned about the commercial language,
5 so I don't actually know what the recreational concern is. We
6 will find out tomorrow. If it makes it out of subcommittee,
7 it has a great chance. If it can't make it out amended, then
8 it is just dead.

9 MR. GRACIE: In other words, it won't pass without
10 the amendment.

11 MS. HUNT: No, no. We have been trying to push that
12 ship, and it is just not sailing. And actually -- I mean, a
13 lot of people have, so --

14 And then the additional -- the next handout is just
15 regulatory, which has a lot of meaty information, but I can
16 tell you from the last time we met, it really hasn't changed.
17 What happened since the last time we met was we had a
18 regulatory scoping meeting in which some of these issues were
19 scoped at that meeting. Therefore, they are not new.

20 So again, as always, what you have in the beginning
21 is just what is new as far as regulations, and then what is in
22 the hopper currently pending. Like some things have scheduled
23 effective dates that are in March or April.

24 And then upcoming regulations, these are really the
25 things that we just scoped. These are the things that we had

1 at that meeting. And then the very back is some public
2 notices that have come out since our last meeting.

3 So -- well, I say some. Quite a bit. So if you
4 have any regulatory questions, I would be happy to answer
5 them, but I don't want to take up your time if you just want
6 to read the handout.

7 (No response)

8 MS. HUNT: Okay, I take that as a no.

9 MR. GRACIE: Don?

10 ***Inland Fisheries Update***

11 ***by Don Cosden***

12 MR. COSDEN: I will be as quick as I can, but I do
13 want to point your attention to our Web site.

14 ***2010 Annual Inland Reports Online***

15 MR. COSDEN: The first thing on my agenda here was
16 to point out the 2010 reports that our regional managers do.
17 This is more or less a synopsis that they put together after
18 they have done all their surveys all year, and it includes
19 information from the surveys but not in a technical format.

20 But it also basically points the public to popular,
21 good quality fishing spots. It includes some survey results.
22 It is a fishing forecast of sorts according to what they
23 found. It also includes some habitat issues or work that we
24 might be doing, as you can see here.

25 This discussion in particular is about the Savage

1 River --- water, which went through a rough period two years
2 ago when the Savage Reservoir was drained and received a lot
3 of sediment. And our Regional Manager Alan Klotz is basically
4 explaining what happened and where the river stands right now.
5 You can scroll down a little bit. We will go pretty quickly.

6 (Slide)

7 That is actually a picture when the dam was drained
8 and the sediment that was in some of these pools and all. So
9 basically if people ask you where I should go fishing, this is
10 one good place. You can send them to our website right here.
11 This is under Fishing Reports. It is --

12 MR. GRACIE: You mention the Didymo?

13 MR. COSDEN: This was done before Didymo. These
14 reports were put up before Didymo was found. I will get to
15 that in a minute.

16 (Slide)

17 The catch-and-release trout area, some nice pictures
18 of some of the recreational -- actually that was a survey fish
19 right there, but our guys do spend a lot of time on the rivers
20 as well.

21 Once again I just want to let you know it is there.
22 We do these technical federal aid reports from all this work
23 we do all summer -- spring, summer and fall really. They are
24 a little hard to digest by the general public, but this is
25 where we sort of write these things up in a very quick -- boy,

1 this looks good, the population has improved, this is a great
2 spot to fish -- kind of a format. If you get on our website,
3 you will find lots of other great stuff.

4 ***Deep Creek Lake Bass Populations***

5 MR. COSDEN: So to move on, I think there is a
6 handout probably running in the front of your book actually.
7 I have two handouts that Diane put in late. One of them is a
8 -- was a synopsis that our regional manager of Western
9 Maryland wrote on the Deep Creek Lake bass population. This
10 was something that we were asked to address at the bass
11 roundtable, which we held last February, last month in
12 February. We never got to it. I did hand this out to some of
13 the folks, but I just wanted to briefly touch on it here.
14 Roger was one of those folks at the roundtable, and some of
15 his folks have been asking about this.

16 You can look that synopsis over, but the gist of
17 this is we were asked about the bass population there because
18 there was concern that the Smallmouth population has been in
19 decline in recent years.

20 We just finished a five-year completion study. It
21 has to do with our federal aid grant process, but we use those
22 five-year periods to sort of compare to previous periods to
23 look for trends as well as look at annual changes. It is a
24 little more valid for us to take a look at a five-year
25 average, say, than just annual fluctuations up and down for

1 some of these populations.

2 What we have seen basically -- there had been
3 changes in the last five years, previous five years' period.
4 Some of these have been somewhat going on for a longer period,
5 these trends. Largemouth Bass populations have actually
6 improved on the lake quite a bit.

7 At the same time, the abundance of Smallmouth larger
8 than about 14 inches has shown a big decline. The percentage
9 of our total catch that was greater than 14 inches in the
10 previous five-year segment was 60 percent -- or over 60
11 percent. And that dropped nearly 60 percent. Although the
12 abundance appears to be about the same, there are many more
13 small fish in the population right now.

14 What we haven't seen is tremendous fluctuations in
15 reproduction. Our juvenile surveys appear to show somewhat
16 consistent reproduction. So we are not sure why this change
17 has occurred.

18 The other thing -- what is kind of backing up our
19 data are tournament results, and we have seen the shift in
20 tournament catches from Smallmouth Bass -- there previously
21 used to be a high percent of Smallmouth. More recently it has
22 been mostly Largemouth. And that is because -- well, two
23 reasons. The guys want bigger fish, and the legal size
24 Largemouth are just easier to come by, I guess.

25 What is causing this? We don't know right now. We

1 know the lake is aging. That is going to favor Largemouth
2 Bass. The upper coves are filling in. We have got a lot of
3 grass that we didn't have 15 years ago, and the bass, the
4 Largemouth are taking advantage of that.

5 I would say that the other thing that concerns us is
6 the Smallmouth are carrying a heavy load of bass tapeworm. It
7 hasn't been there forever but it has -- it has been there a
8 while. It has been there for over 10 years. But recently it
9 seems like we are seeing perhaps a higher incidence of -- we
10 sent a lot of fish off to be checked in this fishkill we had
11 last year on Deep Creek Lake. The notes that came back from
12 the Leetown lab were that the Smallmouth, many of the
13 Smallmouth had exceptionally heavy loads of bass tapeworm.

14 We are not sure what that means but we are going to
15 have to look into the data a little closer and do a better job
16 of monitoring tournaments and see if we can come up with a
17 conclusion and see if there is a course of action we might
18 want to take. I will leave it there for now and come back
19 when I have got more information.

20 ***Felt Soles/Savage Didymo***

21 MR. COSDEN: Moving on, just briefly -- Jim, you
22 asked about the Savage, Didymo on the Savage. I believe it
23 was after our last meeting that we got the report. It was
24 mid- to late February. I don't have the date, but we did get
25 a report from an angler that the Lower Savage had a large

1 bloom of Didymo algae. Previously we had identified Didymo in
2 the river but we had never had a real bloom of any
3 consequence, and this apparently was already at the nuisance
4 stage when we found out about it.

5 We sent staff out, and they verified it was there.
6 Before we could do any real reconnaissance, we started to get
7 into this wet period and they put the flows way up. Since
8 then, we have not had a chance to go back and look. We did
9 have a graduate student that wanted to get a sample and we
10 sent him to the Savage after that, and he was unable to find
11 it.

12 So it is possible that the high water has just moved
13 the stuff out for the time being, but I am not -- I don't at
14 all believe that is the end of the story. I assume that we
15 will have problems with Didymo there in the future.

16 MR. GRACIE: The descriptions I heard from some
17 people who were up there sounded like it was really, in some
18 places, heavier and thicker than we have ever seen on the
19 Gunpowder. They are talking about it being real bad down by
20 the woodyard.

21 MR. COSDEN: Yes, the further downstream, down
22 toward the mouth, is where it was the worst. And that is the
23 lowest radiant really, which is kind of consistent with what
24 we see in the Gunpowder. When flows are low and slower, it
25 seems to do better. In higher velocities, it seems like it

1 | actually gets mechanically moved.

2 | But yes, it did go all the way up to the Appalachian
3 | foot bridge, so it was a pretty long area of coverage. And it
4 | was at nuisance levels for the folks that were fishing,
5 | definitely.

6 | So that leads me to quickly remind you all that we
7 | have adopted the felt sole regulation. It is effective March
8 | 22 actually. We will be meeting with NRP. We have already
9 | had some discussions with district commanders, and they are
10 | aware that this is a year of education as we are putting it.
11 | We are asking them not to write citations.

12 | They would have the leeway to write citations though
13 | in the case of egregious behavior or other circumstances, so
14 | it is always possible somebody could get ticketed for that
15 | maybe along with some other violations at the same time.

16 | We have a press release coming out, and we have a
17 | new set of FAQs, Frequently Asked Questions, that we put in
18 | the back of your book as well. It has been updated with some
19 | information, some new information that points to some studies
20 | that are -- it pointed to some of the impacts of Didymo in
21 | case people are asking, well, where is the proof.

22 | I think we are going to start seeing more proof of
23 | impact as some of these studies are getting published.

24 | MR. GRACIE: Don, I don't think we have seen it
25 | anywhere other than on tailwater yet, right?

1 MR. COSDEN: Not in Maryland, but in West Virginia,
2 it is in the upper Blackwater, and the --

3 MR. GRACIE: Oh, really?

4 MR. COSDEN: Yes, Laurel Fork. Several
5 freestone streams that are not tailwater streams have had
6 blooms for the last couple years. So that is kind of bad news
7 in terms of constantly getting into the upper drainage where
8 we have this brook trout population that we are desperately
9 trying to improve and protect.

10 Obviously people can easily fish below the dam, jump
11 in their car and drive up stream. We are adding a couple more
12 wader wash stations, and our instructions to anglers in the
13 press release is just because you don't have felts doesn't
14 mean you shouldn't be using the wash stations because you can
15 still carry fragments on your wet boots and stuff when you are
16 moving around, so that is important to remind people.

17 The other thing that I will point out that is in the
18 FAQ's, there is actually a timeline showing when we started
19 talking about this to the public.

20 We have gotten some criticism that we are sneaking
21 this in the back door and haven't given people warning, but in
22 our timeline, you can see we actually took the information and
23 warned people we intended to ban felt soles starting early
24 last April, last March, with our press releases, so we spent
25 about a year of outreach.

1 In case you guys hear the criticism, you can point
2 people to this information. So I am going to move on from
3 that.

4 ***Deep Creek Lake Discharge Permit***

5 MR. COSDEN: I am going to talk briefly about this
6 discharge at Deep Creek Lake to the --- River, which is an
7 important trout area. The discharge provides the cold water
8 that actually helps those trout survive through the summer.
9 Without that discharge we wouldn't have that virtually wild
10 trout fishery there.

11 We've had several meetings now with MDE and the
12 stakeholders. They have proposed some changes -- none of them
13 that I think are going to negatively impact us right now. One
14 is to extend the upper --- ban, which means they can hold the
15 reservoir up a little longer into the summer, which hopefully
16 will provide some extra water to keep the boaters happy and
17 still allow us water for the fish when the temperatures get
18 high.

19 They have also proposed to allow the water to go
20 above that upper level, which typically they never want that
21 water to get too high on the dam because the dam releases from
22 down low, and it does not overflow. And if it overflows, it
23 is a serious safety issue.

24 But they are proposing to allow it to rise maybe
25 three or four inches and provide that much more cushion of

1 water for use in the summer. They are proposing to
2 not -- they have whitewater releases there now that are
3 scheduled days. They also have releases that occur when
4 temperatures in the area get above a certain point. We think
5 stream temperatures are going to get too high.

6 At times, the power company that is running the
7 power plant there were not synchronizing those two, so they
8 are proposing to make sure that we not put extra water, run
9 extra water from the lake, but we have a scheduled whitewater
10 release. We can use that whitewater release as temperature
11 enhancement.

12 So that is going to save a few inches in the lake.
13 There were two things they were going to consider for the
14 future. One of them is to look at -- the model that they use
15 for making those temperature releases uses climate data
16 from -- the closest station is really Elkins in West Virginia.
17 And they are looking at some closer stations that don't have
18 quite as long a database that they can use to model this.

19 But possibly we can get enough years that we can
20 more accurately predict when temperatures are going to exceed
21 the tolerance of trout.

22 The other thing that we are looking at is what they
23 call the wicked flow, which is actually leakage that goes
24 around all of the turbines and whatnot. There was a fairly
25 large discussion -- this flow is constant, and it is pretty

1 | important to us. It provides cold water to the river all the
2 | time, even when they are not releasing any of the water from
3 | the dam, and this provides sort of a refuge, a last refuge for
4 | a lot of trout when things get really rough in the river.

5 | That amount of flow was estimated years ago at 9
6 | cubic feet per second, and then we estimated it at 7. They
7 | recently, the power company is estimating it at 18 cfs. So
8 | there is some discrepancy about how much water is actually
9 | leaking.

10 | If it is truly 18 cfs, it is going to get a lot more
11 | scrutiny, a lot more consideration about cutting that back,
12 | and that is a big concern to us because all the modeling that
13 | has been done has been done with this constant flow in place,
14 | and any changes to that would change the entire scenario to
15 | management. So stay tuned to that.

16 | Finally I just have two other things really quick.
17 | I think I brought up the closure at Potomac River at the
18 | Quantico Marine Base around Chopawamsic Island last time
19 | around. That is something that we have been in contact with
20 | Virginia Game and Inland Fish. Apparently they have talked to
21 | the Richmond Corps office that handles those regulations.

22 | They intend to write a letter to the corps mainly
23 | stating their concern that the lack of public involvement with
24 | the outreach and also asking if there is not some modification
25 | that could occur to that closure, which excludes boaters from

1 a fairly large area, some fairly well-used bass fishing and
2 catfishing areas as well.

3 I understand, according to Virginia, the Potomac
4 River Fisheries Commission is also going to write a letter.
5 So we are going to draft a similar letter. There has
6 been -- there is reason to believe the corps may relent a
7 little bit and allow weekend and holiday access in that area.

8 I sort of conveyed that to Virginia, and I think, so
9 I think we may get a little compromise from them.

10 ***Questions and Answers***

11 MR. GRACIE: The discussion on the Deep Creek Power
12 Station permit, did they give any additional time for people
13 to comment on what they have decided to finalize on?

14 MR. COSDEN: They proposed this March 8 as
15 conditions. We had a discussion at that meeting, and they
16 said they would take final comments up to March 31, and then
17 they are going to make a decision.

18 MR. GRACIE: Oh, okay. I drafted the testimony for
19 Trout Unlimited, and we asked them to include the use of the
20 model into September and to require the temperature
21 enhancement release whenever the model showed it was
22 necessary.

23 We didn't make a big case out of that, but it seems
24 to me that if you get those kinds of temperatures in
25 September, which can happen, it might be an occasional event,

1 it could do the kind of damage that was done in the past where
2 we took almost five years for the fishery to recover after a
3 temperature excursion.

4 And the cost would be a fraction of an inch of water
5 in the lake. So it seems like a small price to pay. So we
6 might come back with a stronger argument for that. Have you
7 gotten into any discussions about that?

8 MR. COSDEN: Early on, the discussions, before this
9 came up with the property owners, there was discussion. And
10 they indicated that they were inclined to extend that maybe
11 into the first two weeks of September.

12 Since the property owners' complaint, they have come
13 back and said right now it is off the table. I know there was
14 one incident last September where it was extremely hot, the
15 river was low, and we were very concerned, and we asked MDE to
16 provide the flow and they didn't because they were under
17 scrutiny from the property owners.

18 And it appears that we got through that okay, but
19 that is an area of concern, where we could take a hit at some
20 point down the road.

21 MR. GRACIE: I think we are going to try to put that
22 in terms of what the risks are and how small the cost is and
23 try to make a strong case from outside.

24 MR. COSDEN: It is unfortunate that the property
25 owners have focused on not just losing water through the

1 middle of the summer but the fact that they would like to see
2 their boating season go at least until early October. By the
3 time you get through September, it -- particularly a year like
4 last year, it was so low that even a couple of inches raises
5 hackles.

6 So it may be a battle, but I think it is a battle
7 worth fighting.

8 MR. GRACIE: I think we will probably go ahead and
9 do that. Have you backed off from that?

10 MR. COSDEN: Well, they are aware that we would like
11 to have it. All we can do is comment. We don't have
12 authority to -- but certainly we would be in favor of that,
13 but I think it is going to be --

14 MR. GRACIE: But there is a difference between
15 saying you are in favor of it and saying it in the strongest
16 terms. What I am asking is do you feel free to do that? Will
17 you support us, in other words?

18 MR. COSDEN: Oh, yes. I made it very clear it only
19 takes one or two cases of not -- of failure to get the
20 temperature releases, and then you are done. You don't lose
21 10 percent of the fish. You lose 80 percent or 90 percent
22 possibly, and then you are done for five years, and so it has
23 been stated up front. They are very clear on that.

24 Finally, just one last thing, we -- I discussed with
25 our tidal bass specialist the idea of having a little

1 incentive for people to catch and kill snakeheads. He has
2 basically come up with a little tournament thing, which -- I
3 forget exactly what we are calling it, but it is -- what we
4 would ask people to do is when they catch a snakehead, to kill
5 it.

6 And part of the reason we are even suggesting this
7 is that we know a lot of guys, particularly bass fishermen,
8 guys in tournaments, they are in a hurry, and they don't want
9 to mess with other stuff. But even guides and other folks are
10 telling us, oh, I am just throwing them back. I don't want to
11 mess with them. I don't want to eat them and I don't want to
12 mess with them.

13 And as you know, anglers can go a long way toward
14 controlling fish populations, so we would like to develop some
15 behavior, which is, oh, I have got a snakehead. The first
16 thing I have to do is kill it.

17 So in this case, we would ask anglers to kill it,
18 take a picture and send the report in to our angler's log.
19 The picture of the fish. And for every fish they turn in, we
20 would put their name in the hat. At the end of the year we
21 are going to give away probably a high-end fishing outfit.
22 Park service has offered, as a second-place prize, to give
23 away a year's state park pass.

24 We ran that through our staff management team and
25 got some feedback, as well as the Invasive Species Management

1 Team. And Tom suggested I bring that up with you all. There
2 is concern about glorifying an invasive species. And if
3 people somehow get the idea that the fun here is catching the
4 fish, if we sort of encourage that, people might take a cue to
5 move it to other places.

6 We would try to counter that just by making our
7 outreach, making it very obvious that this is an attempt to
8 suppress this population. So I don't know if we actually
9 would like to hear a vote, but if anybody has any strong
10 opinions about it, we certainly would like to hear them.

11 (No response)

12 MR. GRACIE: I don't think you are getting much of a
13 reaction here.

14 MR. COSDEN: Okay.

15 MR. GRACIE: Go for it.

16 MR. COBURN: Don -- you done?

17 MR. COSDEN: Yes.

18 MR. COBURN: Two things. No. 1 is on that snakehead
19 deal. If this goes through, are you going to make up some
20 kind of poster that can go into the stores and stuff to
21 promote this issue?

22 MR. COSDEN: Yes. Certainly we would promote it
23 everywhere we can, and a poster at some of the local tackle
24 shops is probably a good idea. We have a press release
25 drafted that we would send out, and it would be on our

1 website. Through word of mouth, the tournament directors
2 would go a long way to getting the word out on the Potomac
3 there since there is so much tournament activity there, going
4 out to Smallwood and some of the other sites.

5 But anybody who fishes over there, we would like to
6 have their cooperation.

7 MR. COBURN: No. 2, back on the felt ban issue, 2011
8 is more or less going to be unlimited warnings from rangers
9 and stuff to any individual? Because if an individual keeps
10 going out and fishing, he might bump into these rangers
11 numerous times. Is that going to be an unlimited warning
12 issue or are there going to be some ramifications after the
13 10th time or something? Because I have got people actually
14 asking about that.

15 MR. COSDEN: We discussed this, and I think we
16 have -- well, I know we have all agreed. It is going to be a
17 warning year. We are going to ask NRP not to write citations.
18 They are aware of that, and we have not gotten any feedback
19 yet that wouldn't be acceptable.

20 There is the possibility that some other type of
21 behavior could bring about a citation for felt soles along
22 with perhaps, you know, whatever that other behavior is if it
23 is illegal. In other words, we don't have the authority to
24 say, NRP, don't enforce the regulation entirely.

25 Our concern is that people go out for a week in

1 Western Maryland, let's say, and you get a warning the very
2 first day. Well, you might not even have a place where you
3 can find a new pair of boots out in Deep Creek Lake right now
4 unless you drive all the way back to Bass Pro or perhaps out
5 to Cabella's in West Virginia. There are not many shops out
6 there that are carrying a large inventory. So does that mean
7 that you are done fishing for your vacation?

8 MR. GRACIE: So essentially it is lenient
9 discretionary.

10 MR. COSDEN: Yes. I think maybe that is a good way
11 to put it. And there is a little incentive to go ahead and
12 get boots as soon as you can.

13 MR. COBURN: I finally was successful in getting
14 Bass Pro to get rid of all the felt. It took an act of
15 Congress but it happened.

16 MR. COSDEN: Is that right?

17 MR. COBURN: Yeah.

18 MR. COSDEN: Very good.

19 MR. GRACIE: Just in time. Thank you, Don.

20 ***Simkins Dam and Cook's Point Reef Projects***

21 ***by William Goldsborough***

22 MR. GOLDSBOROUGH: I suspect that this topic is of
23 some inherent interest to the commission, but the reason I am
24 bringing it before you is because both of these projects, we
25 are seeking to proceed under the state's alternative material

1 permit, which applies to all natural oyster bars under a
2 certain set of circumstances.

3 So the Department has suggested since we are doing
4 that, that it be worthwhile and important to get feedback from
5 this commission and then Thursday night from Tidal Fish
6 Advisory Commission as well. So any feedback you have would
7 be welcome. If you care to voice some kind of support for the
8 project, I welcome that as well.

9 (Slide)

10 I know we are short on time, so I am going to go
11 through these slides pretty quickly. If you would hold any
12 questions until I get done with the Simkins part, and then we
13 will deal with them and then I have got a few slides on the
14 Choptank.

15 (Slide)

16 So the bay, of course, once had a huge network of
17 natural reefs as the result of oysters growing upon oysters
18 for millennium. We knocked down most of them in the 19th
19 century through harvesting, and so now we are without this
20 important natural structure, and there is a lot of work going
21 on to try to rebuild that.

22 (Slide)

23 There are a lot of different materials being
24 employed. Of course, the one in the middle, shell, is the
25 best one for rebuilding an oyster reef. Oysters prefer it.

1 But that is in a really limited quantity, so a lot of
2 alternatives are being looked at too.

3 In the upper left, recycled, large pieces of
4 concrete, in that case, from the Wilson Dam, is a bread-and-
5 butter material of the artificial reef initiative that a lot
6 of you were involved in, and that is primarily for building
7 that three-dimensional structure.

8 To the right up there are pre-cast concrete reef
9 balls. I will be talking more about them. Oysters like them
10 quite a bit. Down below here is marine limestone. Oyster
11 like that as well, and in the lower left, recycled concrete
12 that has been ground down to size. By that I mean it is
13 ground down to a size that is more typical of the interstitial
14 spaces that you would find on a natural oyster reef. So I
15 think it is a better habitat for oysters. Next slide.

16 (Slide)

17 This pretty much captures in one illustration where
18 we are in our supplies of oyster shell. The present is about
19 in the middle of that bottom axis there, and everything to the
20 right is a projection. The blue is the supply of shell coming
21 from shucking houses. That is dropping off very slowly. The
22 yellow is the demand from both the hatchery and from growing
23 aquaculture. Of course, it is going up.

24 And both of them combine to cause our stockpile of
25 shell to drop off substantially in the future, so we are going

1 to have quite a crisis, and that only underscores the need for
2 alternative approaches to building reefs.

3 (Slide)

4 This project would utilize the concrete from this
5 dam, the Simkins Dam up on the Patapsco River, which is
6 being -- has been now dismantled in order to provide free flow
7 of that river for fish movement and other natural dynamics.
8 And then use that concrete for reef in the bay.

9 (Slide)

10 So most of you are probably familiar with the upper
11 Patapsco. That is the Inner Harbor to the right there. There
12 are four dams. Now I think Bloede is the only one that is
13 still in obstruction.

14 MR. GRACIE: Daniels is still there.

15 MR. GOLDSBOROUGH: Daniels is still there.

16 MR. GRACIE: And there are no plans to remove it
17 yet.

18 MR. GOLDSBOROUGH: The long-term plan is to provide
19 passage to all of them. It has been attempted through fish
20 ways, but now -- they have had very limited success, so now
21 dam removal seems to be preferred, and that is happening with
22 Union and Simkins right now under this same project.

23 Last year it was stimulus funding through American
24 Rivers that was used to dismantle them, but only the concrete
25 from Simkins could be procured in time for this kind of

1 application. The other from Union Dam went to just
2 contractors.

3 (Slide)

4 So this is the dam being dismantled in December.

5 (Slide)

6 You can see it is reinforced with rebar*, and this
7 is just on site. Some of the material -- you can see the
8 rebar is coming out pretty readily, and is all eventually
9 going to be removed from the material.

10 (Slide)

11 Is then moved down to the Inner Harbor, Curtis Bay,
12 where we lease some property, and then moved by barge to Love
13 Point. That is --- facility where it is going to be processed
14 to size. About four to eight inches is the target size range,
15 and this is the screening device they use here. And then it
16 will be ready for deployment as a reef hopefully later this
17 spring.

18 (Slide)

19 Okay, so the main question that we have right now is
20 where are we going to build this thing? We want to shoot for
21 one of the established sanctuary areas within the State's
22 plan. We want to do it in the upper bay area, the area where
23 the material came from. That is a pretty fundamental
24 principle for alternative reefs. When you have to move a lot
25 of material, you don't want to move it long distances because

1 that ups your cost.

2 And also because, as those of you who are familiar
3 with MARI know, most of the reef building under that program
4 so far has been further down the bay because the main source
5 was the Wilson Bridge, so it had to come up on the Potomac.
6 This will be the first project hopefully under the MARI
7 umbrella that will be in the upper bay zone.

8 Okay so -- maybe you better go back just for a
9 second. Sorry, Joe.

10 (Slide)

11 So the green zones are what we would be looking at.
12 Those are the sanctuary zones. And in the upper bay you can
13 see one to the upper right of Man-O-War Shoals, and that is
14 pretty much it until you get down toward the Chester River.
15 Now you can go to the next one.

16 (Slide)

17 We are focused on the Chester River because in the
18 main bay there is a requirement by the Coast Guard that
19 alternative material reefs have to leave a clearance of 15
20 feet above them. Within the tributaries, it can only be 8
21 feet. And when you are trying to build an oyster reef, you
22 have to be sensitive to building them too deep because then
23 you have dissolved oxygen problems.

24 But also that area up by Man-O-War Shoals is roughly
25 in the 10- to 12-, 14-foot range, and we wouldn't have enough

1 depth to build there. So we are looking at the mouth of the
2 Chester. These areas, the red and the green, are the natural
3 oyster bars.

4 The ones in red are like that because they have some
5 kind of historical value to them. Shipwreck or something, so
6 they have been put off limits by the Maryland Historical
7 Trust, even though in any one of these areas that are red,
8 there might just be one or two specific spots. I think
9 eventually we will need to work through that a little better
10 so they don't make such a blanket prohibition on the areas you
11 can use.

12 But for now we are limited to the green areas within
13 that blue line. The blue line is the sanctuary area in the
14 lower Chester. So we are looking for something with the right
15 depth requirements. We are looking for something that is
16 within the green zone and inside the blue line.

17 So what we found when we cross referenced all those
18 criteria is there is an area around here, an area around here,
19 another one up here, that fit those general criteria. So we
20 are down to those three areas now. And that is what is shown
21 in red on this diagram that NOAA produced from their side-scan
22 sonar vessel.

23 (Slide)

24 And this is my last slide on this one. This is
25 where we are right now. We are trying to narrow this down a

1 little bit. They do have some data from the bay bottom survey
2 from a few decades ago to indicate what kind of substrate we
3 have now, and whether they are mud or sand or cultch or what
4 have you.

5 And the Swan Point site doesn't look too good at
6 this stage. It has got a lot of mud. Hickory Thicket and
7 Ferry and Long Point site seem to have the most potential, so
8 the NOAA side-scan boat is out looking at those sites now.

9 And I should have mentioned up front NOAA is funding
10 this, so that is why they are contributing that service. So
11 at this point, I will take any questions or comments you might
12 have on this project.

13 (No response)

14 MR. GOLDSBOROUGH: Cool. Anybody want to say it is
15 the best thing they have ever heard?

16 MR. GRACIE: I will let you know after I walk the
17 Patapsco River this weekend.

18 MR. GOLDSBOROUGH: We didn't take the dam down. We
19 didn't take ownership of the material until it showed up in
20 Curtis Bay.

21 MR. SIKORSKI: That is right below Route 40,
22 correct?

23 MR. GOLDSBOROUGH: Jim can answer that.

24 MR. SIKORSKI: It is right below Route 40, correct?

25 MR. GRACIE: No, Union Dam is right below Route 40.

1 Simkins Dam is further downstream.

2 MR. SIKORSKI: And Union is gone now as well.

3 MR. GRACIE: Yes, Union and Simkins.

4 MR. GOLDSBOROUGH: Mr. Chairman, you have a hand in
5 the back.

6 MR. : Will you take a question from an
7 audience member?

8 MR. GRACIE: We usually hold those until the end
9 unless we are voting.

10 MR. GOLDSBOROUGH: Okay, let's move along.

11 (Slide)

12 Okay, the Cook's Point Sanctuary in the mouth of the
13 Choptank looks like this underwater, at least parts of it do.
14 This is a picture you may have seen before. It was used as
15 the cover slide in the presentations of the Governor's oyster
16 plan, oyster and aquaculture plan beginning a year plus ago.

17 And there are a whole series of these slides, which
18 resulted from an artificial reef initiative monitoring trip in
19 the fall of '09 with a professional dive photographer, Mike
20 Eversmeyer, and the ideal water clarity conditions.

21 So we got a really good look at what has accumulated
22 so far in the first three years of us putting reef balls on
23 the site. And you can see we have got live oysters and lots
24 of everything else, and a Black Sea Bass, which is phenomenal.
25 I don't think any of us recall seeing Black Sea Bass that far

1 up the bay system in a long time. That is because they are
2 reef structure fish. And you put back the structure, and lo
3 and behold there they are.

4 They have also seen Spadefish -- a similar species,
5 similar habitat requirements -- out at the reef off the Gooses
6 off the mouth of the Choptank in the bay.

7 (Slide)

8 So CBF is big into making reef balls now. We
9 produced 240 last year, and that is a result of a NOAA grant,
10 with which we were able to buy 30 of the molds. You see in
11 the upper left there?

12 We use a lot of volunteer hours to do them. We
13 produce them, we put them in setting tanks, going clockwise
14 here, filled with water. Put in oyster larvae from the
15 hatchery. The oysters attach to the reef balls, and then they
16 look something like this after a few weeks in the water. A
17 few months in the water and they will look like that.

18 And then to the lower left is -- they get planted on
19 site. And to date we have put in, well, between our reef
20 balls and some others produced by the MSSA Dorchester Chapter,
21 most of which we brought over from Cambridge, and also set
22 oysters on before putting on site, almost 600 reef balls.

23 (Slide)

24 There is the site, with the four triangles in it,
25 there is the mouth of the Choptank. This is Cook's Point down

1 below, and up above it would be Black Walnut Point, the lower
2 end of Tilghman. And that area above there is the airplane
3 wreck. Everybody is familiar with that. Let's go to the next
4 one.

5 (Slide)

6 MR. GRACIE: Can you read the depths for us? I
7 couldn't read the numbers.

8 MR. GOLDSBOROUGH: Well, you can read these.

9 MR. GRACIE: Oh, okay. It is the same place.

10 MR. GOLDSBOROUGH: Yes, this is the spot --- that is
11 shell that was put down by the Department 10 or 12 years ago.
12 And then four hills -- here, here, here and blocked by
13 that -- of shell. So that was at a point when, I think, Gary
14 Smith and Oxford Lab was running that program and he build 3
15 sites like this, one off Love Point, one in the Choptank and
16 one off Smith Island in the bay.

17 And they are sanctuaries, and yet nothing had ever
18 been done with them in terms of planting oysters to any great
19 degree. And three-plus years ago we proposed being able to
20 put reef balls on this site and plant oysters on it, overplant
21 with oysters. And we were granted access with agreement of
22 stakeholders in the area to this two-acre area around one
23 hill, the southeastern hill.

24 And since then, like I said, we put out nearly 600
25 reef balls and several million oysters overplanted. And the

1 result is that, that first image I started with for the most
2 part. And we pretty well filled up that area.

3 So what we are proposing now is to be able to expand
4 into more of this sanctuary site. Maybe the next hill over or
5 perhaps the whole area eventually.

6 (Slide)

7 So that is what we are advancing to the Department
8 right now, that we are able to do that. So this would be my
9 last slide. It is another one of those shots from Mike
10 Eversmeyer, harkening back to that very first one I showed you
11 of an image of what looked like a natural oyster reef. We
12 think these reef balls that have oysters set on them actually
13 come pretty close to restoring that natural structure.

14 Any comments?

15 (No response)

16 MR. GOLDSBOROUGH: And you loved this one too,
17 right? Thanks.

18 ***Marine and Estuarine Fisheries Update***

19 ***by Lynn Fegley***

20 MS. FEGLEY: I am going to be really quick. I think
21 I just have three things in the hopper to tell you about.

22 ***Black Sea Bass***

23 MS. FEGLEY: Black Sea Bass is the first one on the
24 list. We are going forward with -- we put out a public notice
25 that closed the fishery because it actually is closed. We had

1 to reinforce that with a notice. The ASMFC meeting next week
2 will vote hopefully on an addendum.

3 Black Sea Bass is really complicated. The council,
4 the Mid-Atlantic Fisheries Management Council essentially
5 passed a motion saying that it would -- that the states, if
6 the state had come up with a plan to regionalize Black Sea
7 Bass management, that would reduce Black Sea Bass recreational
8 catch sufficiently to NMFS' satisfaction, that the states
9 could go ahead and implement that regionalized plan, and if
10 that happened, then the federal waters would revert to the
11 2010 regulations.

12 If at the upcoming March meeting, the states cannot
13 agree to a regionalized a Black Sea Bass plan, then we will go
14 to the conservation measures enacted by the council, which
15 would be an incredibly short season for anglers in Maryland.
16 It would be a season that would open July 1 and go to October
17 1, and then it would close for a month and open November 1 to
18 December 31, which would be, frankly, devastating for our
19 Maryland headboat industry out of Ocean City.

20 The issue with Black Sea Bass is this is a species
21 that has a lot of --- . It is very regional specific, and is
22 managed under the council on a coastwide plan, so that when
23 everybody has to -- when there is an overage, everybody has to
24 reduce.

25 We are in a situation now where the northern states

1 fishery really functions in state waters. The southern
2 states, meaning New Jersey to the south, function mainly off
3 shore in the federal waters. The reductions that have been
4 taken since 2008 every year have really cut into and been
5 successful in the southern states. The northern states'
6 harvests have continued to increase.

7 But as the northern states' harvests are increasing,
8 the plan is such that everybody has to reduce, so we are -- it
9 is a really complicated situation, and frankly what is
10 happening at the commission next week is a bit of a Hail Mary
11 pass to try to salvage some season for Maryland anglers, and
12 it is not just us. It is also Virginia and Delaware who are
13 also struggling with this issue.

14 So that is Black Sea Bass. Any questions?

15 MR. GRACIE: Does the commission acknowledge that
16 this is not a workable approach?

17 MS. FEGLEY: Well, the commission acknowledges it,
18 and it is also -- it is the council as well and, you know, in
19 order -- I think that, I should say, this initiative next week
20 is to regionalize management measures. It is for 2011 only.
21 There is great interest both on the part of the council and
22 the part of the commission to go forward and talk about a more
23 long-term management structure that is regionalized.

24 The thing with the council is that the process for
25 implementing this into plan is a long one, so I think

1 everybody recognizes it is a problem. It is how to deal with
2 it, how to get it through the process and how to not have
3 people just lose their businesses in the meantime. Any other
4 questions on that?

5 (No response)

6 MS. FEGLEY: Summer Flounder is the next one.

7 ***Summer Flounder***

8 MS. FEGLEY: We will be going forward to propose
9 regulation for the 2011 season. 18 inches, 30 fish, April 16
10 through November 30th. This is a modified option No. 3 based
11 on comments that we got that would extend the season a bit
12 through the Thanksgiving holiday and help our -- especially in
13 the light of Sea Bass.

14 The last thing on the list for me was Menhaden.

15 ***Atlantic Menhaden***

16 MS. FEGLEY: Just as an FYI to everybody, the
17 Menhaden Management Board will meet on Tuesday next week. It
18 is likely one of the top -- one of the things the board will
19 discuss in initiating an addendum for public comment that will
20 lay out alternative and more conservative reference points for
21 Menhaden management.

22 These are reference points that lower the threshold.
23 So they incrementally calculate lower thresholds for Menhaden.
24 It is our hope that the board will go ahead and initiate that
25 addendum and get them out for public comment. And we are

1 going to see the technical committee's analysis on those as
2 well at that meeting. Questions on Menhaden?

3 *Questions and Answers*

4 MS. STEVENSON: I am not familiar enough with the
5 ASMFC's position on Menhaden. I think that 1142 wants to
6 preclude all of the production, but what is ASMFC's position?

7 MS. FEGLEY: Well, 1142 would, as far as I
8 understand it, prevent the sale of any products within the
9 state of Maryland that contain Menhaden products, which is
10 somewhat of a back-door -- it is a Maryland boycott, you know,
11 basically of Menhaden products, which would not likely be
12 effective given the broad market range of where Menhaden oil
13 is marketed.

14 The ASMFC's position is really interesting actually.
15 The fishery is managed according to a very classic single
16 species management framework. That means that there is a
17 target fishing mortality rate, which we hope to, on average,
18 hit that target. There is a fishing mortality rate, and by
19 fishing mortality, I mean how many fish are killed every year
20 by fishing.

21 There is a threshold fishing mortality rate that we
22 really don't want to go over, otherwise we are overfishing.
23 And then there is a threshold level of spawning index, how
24 healthy is the spawning.

25 So Menhaden, we are overfishing. We are over that

1 fishing threshold. This is very new information. As of six
2 months ago we weren't overfishing. There was an error found
3 in the stock assessment that was just conducted and completed.
4 When that error was corrected, the results showed that we
5 were, in fact, overfishing in 2008.

6 The spawning potential of the population is still
7 within the healthy zone, but what is so interesting is that is
8 measured in terms of eggs. So while the scientists tell us
9 there are plenty of eggs out there, there is less Menhaden.
10 There are fewer actually Menhaden bodies in the water than
11 there have been ever. The abundance of fish is at its lowest.

12 So the simple answer to your question is within the
13 management framework of this classic single species, the
14 fishery, there have been no triggers pulled to force
15 management action to lower the fishery.

16 That being said, it is also very clear that this
17 fish is incredibly important to Striped Bass, and Weakfish and
18 Spiny Dogfish and whales and birds and ospreys and everything
19 else out there, and there is a large body of scientific
20 literature that says that these forage fish need to be managed
21 more conservatively to make sure there are enough fish bodies
22 left in the water.

23 And the ASMFC hasn't transitioned yet into that more
24 multi-species context for management. We are still managing
25 sort of in this classic single species but we are slowly

1 turning the wheel.

2 So the ASMFC is really at an interesting juncture,
3 is the short answer, where this motion that was made in August
4 to consider these more conservative reference points is a big
5 step, and hopefully we will get it in an addendum and get it
6 out to public comment and then the will of the people, and
7 people can weigh in and tell the ASMFC, you know, how they
8 feel about the management of this fishery.

9 MR. GRACIE: Mack?

10 MR. WOMMACK: Yeah, this Menhaden issue, is anything
11 being pushed as far as Virginia, because their --- all
12 scooping up the Menhaden. I hate to see Maryland get
13 punished, and you are going to allow the lower bay just to go
14 wide open.

15 MS. FEGLEY: Well, that conversation will
16 occur -- if this addendum goes out that lays out more
17 conservative reference points, the next step will be for the
18 board to select one of those reference points.

19 If a more conservative reference point -- in other
20 words, if a lower fishing mortality rate is selected, then the
21 next step is to figure out how to get the fishery down to that
22 lower fishing mortality rate. How do we decrease fishing to
23 honor that new, more conservative reference point?

24 And that is when the conversation about, you know,
25 the big reduction fishery versus the bait fisheries versus all

1 of the fisheries along the coast versus the potential for
2 fisheries to open up for Menhaden in the north -- it is going
3 to be a really interesting conversation that might require
4 Styrofoam baseball bats.

5 MR. GRACIE: Any other questions or comments?

6 (No response)

7 MR. GRACIE: Thank you. We had another agenda item.
8 We will let Tom introduce it. There has been -- I guess many
9 of you heard -- there has been a request for an amnesty on the
10 illegal nets. You want to --

11 MR. O'CONNELL: Sure.

12 MR. GRACIE: Give us the background on that?

13 ***Discussion on Amnesty on Illegal Nets***

14 ***by Tom O'Connell***

15 MR. O'CONNELL: The commercial fishing industry has
16 requested at the Tidal Fish Advisory Commission meeting on
17 Thursday night a discussion for allowing amnesty days for
18 illegal gill nets.

19 So given the -- I know the interest by the Sport
20 Fish community on this issue, so I wanted to bring the issue
21 to your attention, let you know where the Department is
22 currently, and provide you guys an opportunity to weigh in at
23 this point.

24 So we have had the request. The issue is that the
25 industry is concerned that more nets are out there, and with

1 warming water temperatures, we could have a situation this
2 spring where nets are floating up with dead fish.

3 And particularly with the migratory stock beginning
4 to enter the bay, that could be a pretty messy situation,
5 mostly for the industry's image but also for Maryland.

6 The Department has not made any decisions at this
7 point. I have been having discussions with my staff, and with
8 the colonel of NRP and his staff, and we have talked about a
9 couple of options that I want to share with you, and then you
10 guys can ask questions and weigh in.

11 The first option is just to reject the proposal.
12 One of the concerns with rejecting the proposal is that if we
13 do have an event, the industry's talking point to the media
14 would be that we advised the Department that this would
15 happen, the Department ignored it, and kind of put blame on
16 us.

17 That said, we already have the ability, the industry
18 already has the ability to call in anonymously to report any
19 nets that they are concerned with conservation.

20 A second option that we are talking about is that if we did
21 allow amnesty, it would be with certain conditions. And the
22 conditions right now would be No. 1, is that the industry
23 would have to notify the Department and have NRP meet them on
24 the water before any nets were removed.

25 NRP would be on the water, the watermen would be the

1 individuals pulling the nets, not our officers. It is a
2 pretty manual job, and the nets and fish would be confiscated.

3 There have been discussions about additional
4 penalties, but with the term amnesty, you know, I think the
5 confiscation of nets and confiscation of fish are the two
6 conditions for which we are currently considering if we were
7 going to allow any amnesty days to occur.

8 I will tell you that the industry's request at this
9 point for amnesty is not only to allow them to retrieve their
10 nets at will but also to allow them to keep the nets, keep the
11 fish, sell the fish and have them come off the quota.

12 So I am thinking we have two options. One is to
13 reject the proposal. Another one is to allow it with
14 significant conditions for which the industry probably won't
15 call in on the nets.

16 ***Questions and Answers***

17 MR. GRACIE: You are not even considering their
18 request.

19 MR. O'CONNELL: No, no.

20 MR. GRACIE: With the second option, with the
21 conditions, do you really think that you would get much --

22 MR. O'CONNELL: I don't believe we would but we
23 would have the ability to say if this industry is that
24 concerned with conservation, here is the opportunity to come
25 forward. Like I said, they already have the opportunity now

1 with an anonymous phone call.

2 That is where we are right now. We haven't briefed
3 the Secretary. We have just been having these discussions
4 between NRP and the fisheries service.

5 MS. STEVENSON: Are you going to put an electronic
6 monitor on the boat?

7 MR. GRACIE: You have to speak up.

8 MS. STEVENSON: Get an electronic monitor on the
9 boat if they have amnesty and they get to go out again?

10 MR. O'CONNELL: That isn't being discussed as an
11 option but, you know, obviously anybody who comes forward is
12 going to be under a greater scrutiny probably by NRP in the
13 future because it does advise NRP who the players are and
14 where they are playing.

15 MR. GRACIE: So the amnesty the way you are
16 considering it just means they are not going to be prosecuted.
17 They don't get to keep anything.

18 MR. O'CONNELL: Yes.

19 MR. LYNCH: It would seem to me that you want to
20 take option 1 and reject it but publicize it that it has come
21 forth from the industry. And due to the circumstances, the
22 Department doesn't feel that is appropriate. And then outline
23 in a very carefully worded release what are some of the
24 conditions that might happen, as you just pointed out: the
25 change in water temperature, the upwelling of the nets.

1 Explain that could happen, and that we are
2 continuing to encourage these people to come forward without
3 amnesty in order to 'fess up and fix the problem.

4 We don't want to be taking the rap for it. The
5 state of Maryland and DNR should not take the rap for this.
6 But at the same time, amnesty should not be on the table.

7 MR. GRACIE: Dave?

8 MR. SIKORSKI: Go ahead, Bill.

9 MR. GOLDSBOROUGH: Tom, have we had significant
10 incidents like this in the past in the spring when the water
11 warms up of nets coming up with bloated fish and PR problems?

12 MR. O'CONNELL: We have not.

13 MR. GRACIE: And we definitely had nets out there
14 before.

15 MR. GOLDSBOROUGH: Last year, a year ago in the
16 winter, if I recall from a previous report, we had more
17 net -- illegal nets had been seized than this year.

18 MR. O'CONNELL: That is correct.

19 MR. GOLDSBOROUGH: So come spring last year we
20 didn't see this problem.

21 MR. LYNCH: Tom, wasn't there a time, I am going to
22 say 1998, water temperatures got way the hell up there, like
23 high 90s, and we did have that problem in the Choptank River?

24 MR. GRACIE: He was just a kid then.

25 MR. O'CONNELL: I was in diapers then.

1 (Laughter)

2 MR. O'CONNELL: I mean, I kind of recall there were
3 some issues with summertime gill netting, but not related to
4 the Striped Bass gill nets in the winter.

5 MR. LYNCH: It may not have been Striped Bass.

6 MR. GRACIE: You got something to say, Dave, or are
7 you just the traffic cop?

8 MR. SIKORSKI: Well, no. That too. But I sided
9 with what Val said. Get some outreach to the public. It
10 could be very important for the Department to convey the
11 efforts of NRP that are continuing to find these guys.

12 MR. GRACIE: I think the main message in that
13 publicity has to be that they can anonymously call in so there
14 are not repercussions for them if they do that.

15 MR. WHITE: And if they are asking for this, then
16 they clearly know there are nets out there, which is an
17 admission of guilt, and I don't think we should reward people
18 who admit that they know that there are guilty things out
19 there, and then say -- I mean, it just sets a precedent.

20 MR. GRACIE: The people that the request comes from
21 may not be guilty. I mean, it doesn't necessarily follow.
22 There may be -- I believe there are, and there is a problem.

23 MR. WHITE: So all of a sudden, we have had this PR
24 this year, all of a sudden this year they are asking for it
25 and they are not aware of it?

1 MR. GRACIE: I think they are really worried about
2 the PR they got this year. That is their problem.

3 MR. WHITE: I think your argument is plausible, but
4 I think given the circumstances, they do know there are nets
5 out there or they wouldn't ask for this.

6 MR. O'CONNELL: I don't want you guys to leave
7 thinking the Department is leaning one way or the other. We
8 are not. There is a lot of concern with granting any amnesty
9 days, but we have outlined that if we did, we would have some
10 strong conditions.

11 So we are not at that point where we are leaning one
12 way or the other, but those are the two options that we are
13 currently considering.

14 MR. O'BRIEN: I like the strong the conditions, but
15 by voluntarily calling in where these nets are with an
16 unrecognizable voice, the industry could say, hey, we
17 recognize there has been a problem, and we would like to give
18 the industry credit for being concerned about conservation
19 because those nets will keep fishing. You know, there could
20 be a PR advantage to the watermen if you would have some of
21 that.

22 MR. GRACIE: If they called in anonymously.

23 MR. O'BRIEN: Yes.

24 MR. WHITE: There would be, but are we trying to
25 help the watermen get good PR right now when they, as an

1 industry, have a huge problem? That they are not turning in
2 the bad apples?

3 MR. O'BRIEN: Hey, we would get the nets out of the
4 water. There would be no rewards, but we would get the nets
5 out of the water if they were willing to call in and say, hey,
6 we know there is a net. They wouldn't have to say it is even
7 my net. But we would get the nets that are going to continue
8 fishing out of the water. And that is a conservation measure.
9 It has nothing to do with amnesty.

10 MR. GRACIE: Bill?

11 MR. GOLDSBOROUGH: Are we -- I mean, it seems to me
12 we are talking about nets that have probably been placed since
13 the season was closed at this juncture. When you reopen the
14 fishery, the last date of the month, the 28th, was one of the
15 two days you reopen, and anybody who had nets out then would
16 know they didn't have any further opportunity to pull them
17 under the umbrella of an open time for harvesting and
18 marketing fish.

19 MR. GRACIE: The weather kept them in too.

20 MR. O'CONNELL: I think -- you make a valid point,
21 Bill. I think given the fact NRP announced a strong presence
22 on the water and the check stations, they deterred people from
23 going after any abandoned nets. I mean, they could have, but
24 I think a lot of them were deterred by that, the presence of
25 NRP on the water.

1 MR. GRACIE: Any other comments?

2 (No response)

3 MR. GRACIE: Did you want to make that a motion,

4 Val?

5 **MOTION**

6 MR. LYNCH: I will make that a motion.

7 MR. SMITH: I will second it.

8 MR. GRACIE: We have a motion and a second. Any
9 discussion? Any more discussion?

10 (No response)

11 MR. GRACIE: Any public comments?

12 MR. O'BRIEN: Repeat the motion.

13 MR. O'CONNELL: Let me give it a shot.

14 MR. GRACIE: Reject the amnesty.

15 MR. O'CONNELL: I think there are a couple things.

16 I think, Joe, is No. 1 is to support option 1, which is reject
17 an amnesty. Explain publicly what could happen, and encourage
18 the industry to come forward. Explain publicly what could
19 happen --

20 MR. EVANS: What was the rest of it?

21 MR. O'CONNELL: And encourage the industry to come
22 forward without amnesty through the anonymous phone number.
23 Something like that?

24 MR. GRACIE: Ken Hastings, comment?

25

Public Comment

1
2 MR. HASTINGS: My name is Ken Hastings. I will be
3 70 in June, and I hope to live long enough to have enough gall
4 to ask for this kind of an amnesty deal. This is the most
5 ridiculous thing I think I have ever heard. And you really
6 can't have it both ways, or you shouldn't be able to.

7 At the last Tidal Fish meeting, the leadership for
8 the watermen said that the media had made a bigger deal out of
9 the nets than it deserved because there were no anchors on
10 them so they weren't actually anchored gill nets. And they
11 weren't actually stealing from anyone but themselves so it was
12 no big deal.

13 Now all of a sudden they want to be
14 conservationists. Now all of a sudden, we want to just say,
15 hey, why don't we get these nets out of the water? They are
16 already putting more nets in the water. You just heard the
17 report about the perch. There is just no basis here for
18 amnesty. They should take the risk, leave the nets out there.
19 If they get embarrassed, it is too bad.

20 MR. GRACIE: Any other public comment?

21 (No response)

22 MR. GRACIE: If not, I will call the motion. All in
23 favor of the motion, raise your hands.

24 (Show of hands)

25 MR. GRACIE: Have the count, Joe?

1 MR. EVANS: Yep.

2 MR. GRACIE: Any opposed? Any abstentions?

3 (Motion passed)

4 MR. GRACIE: Thanks a lot. Are you going to lead
5 this discussion, Dave?

6 MR. SIKORSKI: I am.

7 ***Discussion of Accountability Issues***

8 ***with Maryland's Recreational Striped Bass Fishery***

9 ***by David Sikorski***

10 MR. SIKORSKI: Given the fact that we just talked
11 about some gill nets, we will skip ahead as to how it is
12 printed out on the agenda and talk about -- I requested to
13 have a discussion about the gill net issue and keep the ball
14 rolling here since some things have occurred since our last
15 meeting in February.

16 We made a motion for the Department not to reopen
17 the season. They chose to, and I believe I have provided you
18 all with a letter that CCA had written. I hope you had a
19 chance to review that. It basically spells out the way we
20 feel on this issue.

21 We understand why the Department reopened the
22 fishery, and the very act of reopening the fishery brought up
23 a lot of issues that we as stakeholders need to address and
24 bring to light and question the Department as to how they
25 truly see cleaning up this mess.

1 There are a few times when we get to come together
2 to discuss these issues, and I find it more advantageous to
3 have a roundtable discussion among our groups as opposed to
4 small conversations elsewhere, so I am going to have that
5 opportunity tonight and give --- an opportunity to discuss
6 some different things.

7 I would like to press the Department on some sort of
8 timeline as to their commitment as to looking into the gill
9 net fishery issues. And also discuss other net issues not
10 just gill net. Some -- specifically pound nets.

11 A lot of the issues that occur within the gill net
12 fishery parallel right along -- a lot of pound net issues
13 parallel right along with the gill net fishery issues. A lot
14 of us have been seeing in the last few years violations. We
15 have pound net fish being tagged with hook-and-line tags. The
16 large federal bust over on the western shore of the Potomac
17 River, I think a lot of us are pretty well aware of.

18 And there are a lot of issues that we need to clean
19 up. Other issues I see with pound nets are their impact on
20 spawning populations of Striped Bass, Hickory Shad, American
21 Shad, River Herring -- all the fish, the species that come
22 into the Chesapeake Bay to spawn.

23 I think the Department should bring the question why
24 pound nets are in the water at certain times of the year, and
25 the possible negative impacts they may be having on various

1 species. We really truly don't know.

2 I requested some landings data from the Department,
3 and I can provide this to all the commissioners in an Excel
4 file. It is nothing official, just some things I have looked
5 through and kind of struck me as interesting.

6 The number of River Herring landings in the
7 last -- from 2000 to 2009 is the current available landings
8 data. Just from 85,000, 124,000, 31,000, 11,000, 12,000,
9 2,000, 2,000, 1,100, 4,800 and 4,200 pounds over the last 9
10 years.

11 MR. GRACIE: Which one of those is an annual total?

12 MR. SIKORSKI: Pardon me?

13 MR. GRACIE: These numbers you called out are annual
14 totals?

15 MR. SIKORSKI: Correct, annual total counts. Those
16 numbers are all reported landings. And obviously it is a
17 trend that we are familiar with, with River Herring. A big
18 reason this commission has called for a moratorium, which will
19 go into existence in 2012.

20 The question for the Department with regard to that
21 is this landings data, can you clarify a little bit better as
22 to how it is captured and possibly -- I mean, is it simply
23 just caught, checked in, and then like a herring situation,
24 they were a legal catch, caught, checked in, and it is landed
25 once it is caught and reported as being sold?

1 I preface that by saying there are number of species
2 in here that I don't -- I don't see as marketable species that
3 have any commercial value, so --

4 MR. O'CONNELL: It is just through the monthly
5 harvest report. There is no check in for River Herring.

6 MR. SIKORSKI: Okay.

7 MR. O'CONNELL: Or other species most of the time.

8 MR. SIKORSKI: So it is a report given by the
9 watermen harvesting the fish?

10 MR. O'CONNELL: Yes.

11 MR. SIKORSKI: Okay. A number of other things.
12 American Shad and Hickory Shad, both under moratorium. How
13 are they caught -- or how is it determined that American Shad
14 and Hickory Shad aren't caught off the Menhaden fishery? It
15 is extremely difficult to tell the difference between the shad
16 species and the herring species -- Menhaden --- species. That
17 seems to be a problem in my eyes. There are also problems
18 with catching turtles and various other species that are of no
19 commercial value.

20 It is often believed that a pound net fishery is
21 somewhat a clean fishery. It has also been I guess believed
22 that a gill net fishery is also a clean fishery when they
23 follow the letter of the law. We have obviously had issues
24 within the gill net fishery that the law has not been
25 followed.

1 And it appears that the same is occurring in the
2 pound net fishery, and a number of these noncommercial
3 species, if you will, for lack of a better term, may be caught
4 up in the mix, and we may not actually know -- the Department
5 may not know the true negative impact that this pound net
6 fishery is having on a number of species.

7 So I open up the floor to discussion as to some of
8 the stuff I have said and anything else any commissioners want
9 to bring in to the discussion here with regard to where the
10 Department should go as they look into the issues that the
11 state does have with the commercial fisheries that use nets.

Discussion

13 MS. STEVENSON: Okay, I will jump in. Is the or has
14 the Department looked at the idea of phasing out some of the
15 gill nets or the pound nets, or has that not been addressed at
16 all yet?

17 MR. O'CONNELL: What the Department has committed to
18 is to evaluate the sustainability of gill nets, looking at the
19 biological impacts and ecological impacts, and look at the
20 enforceability of gill nets.

21 You know, using those as our management principles.
22 If we are going to allow gear, the gear should be enforceable
23 and sustainable, and the Department is committed that if it
24 cannot meet those management principles, then we would be
25 looking at phasing out gill nets over time.

1 MS. STEVENSON: So in answer to that, the evaluation
2 will be completed at some point in time, and then you will do
3 a policy and look at options after that?

4 MR. O'CONNELL: The commitment is to have a decision
5 to implement prior to the December gill net season. We are
6 looking to find time to begin working on it as soon as
7 possible. There are some harvest accountability issues that
8 have come up that we need to look at prior to the pound net
9 fishery.

10 Whether or not we could implement change that
11 quickly will be an issue, but there is the harvest
12 accountability issue for Striped Bass. There is also the gill
13 net issue for Striped Bass, and tonight we are hearing some
14 concerns about pound nets as well.

15 MR. GRACIE: You haven't committed to do any such
16 thing with pound nets.

17 MR. O'CONNELL: No. Does that answer your question?

18 MS. STEVENSON: I guess I was hoping for a little
19 bit more definition in terms of, you know, your conclusions
20 already for the manageability of it.

21 But I am just kind of new at all this, and I really
22 don't have a sense of how critical it is given that the gill
23 nets, and the issues that you have talked about, that have
24 been really high, are only like one of the contributing
25 factors among many, you know for the decline in the fisheries

1 or having the fishery imperiled in the first place.

2 Microbacteriosis or having --- in Menhaden that we talked
3 about was a piece of it but not the whole thing.

4 So when you address it in pieces, I am not sure you
5 get the whole answer. The gill nets probably are a piece of
6 it, so Menhaden may be a piece of it, and then maybe there are
7 some other things that should be talked about as a whole.

8 MR. O'BRIEN: We talk about these things at a lot of
9 these meetings. You will learn a little too as these subjects
10 occur, but you just covered the waterfront.

11 MS. STEVENSON: But are they being looked at in a
12 synergetic, the synergistic effect? You know, I am sorry, the
13 issue was put on the table as sort of this is the focus here.
14 We are doing gill nets. And then over here maybe we will do
15 the Menhaden later. And then maybe there is something
16 actually happening in the disease part of it, but it really
17 didn't seem to be coming together and getting some kind of a
18 weighted priority to -- you know, maybe the gill net is the
19 most important thing. Or maybe the disease is the second most
20 important thing.

21 MR. SIKORSKI: I would say the Department has
22 limited resources in focusing on all these different issues.
23 They are all issues that -- a lot of who have been here a
24 while, and some of us who have been here a lot longer, have
25 all dealt with. And there is only so much the Department can

1 do in working forward, and there are certain issues that get
2 pinpointed.

3 The Department has made this commitment currently to
4 look into the gill net fishery. It is of importance to them
5 right now. It is of importance to the fishery as a whole. A
6 lot of the other issues are not forgotten, even though we may
7 not be talking about it at this juncture. They are not
8 forgotten.

9 And I know that after this next agenda item, Tom
10 will be talking about 2011 initiatives, which will give you a
11 better idea as to where we are going, what resources are
12 available and what resources are being committed to different
13 issues. There is a lot out there, there is no question, but
14 for now we are really just focusing on this particular issue.

15 MR. GRACIE: More important than that, two of the
16 issues that you raised are really not under the Department's
17 direct control. Management of the gill net fishery is.
18 Microbacteriosis, I don't know that anybody in the Department
19 knows what to do about that. A lot of people think that if we
20 had a healthy Menhaden fishery, and the growth rates were back
21 up where they should be with Striped Bass in the bay, then
22 microbacteriosis wouldn't be as big a problem.

23 In terms of the Menhaden issue, the Department, some
24 of the sport fishing groups and an awful lot of people we were
25 working on it with -- we are probably in the seventh year

1 | now -- so that is being addressed, but again, it is not
2 | directly in the Department's control. We try to exert
3 | influence through the council and the Atlantic States Marine
4 | Fisheries Commission.

5 | So this is something that they can control, and
6 | under the circumstances, when the Department decided to open
7 | the gill net fishery for the last two days, John Griffin
8 | scheduled a conference call with a bunch of stakeholders. I
9 | was in on it representing the commission. And that commitment
10 | was made, that they would go through that and come to a
11 | conclusion before the December gill net fishery was to open.

12 | So that is the urgency. It is not that the others
13 | are being ignored. Bill was next and then --

14 | MR. GOLDSBOROUGH: I think as a practical matter,
15 | what Jim and Dave say are right, but I do want to say that I
16 | think Carol makes a really important point, almost to the
17 | point where I think that it is kind of an operating principle,
18 | unspoken for this commission. I think we all believe that is
19 | important to keep in mind how these different things interact,
20 | and it is a very difficult thing for us to wrap our arms
21 | around.

22 | I would encourage you, Carol, to stay on that track
23 | frankly as a member of this commission and for all of us to
24 | heed that, those considerations, and I would mention what Lynn
25 | was saying earlier when she was reporting on where things

1 stand with Menhaden at ASMFC.

2 She was talking about how even to this day, the
3 technical guidance that commission gets on Menhaden is stuck
4 in this traditional rut of single-species management even
5 though all kinds of people are clamoring, and have for several
6 years, been clamoring for more of an ecosystem-based
7 perspective on it.

8 It is just a difficult thing to work out, and yet it
9 is something that we have to keep working on and hope to get
10 there eventually.

11 MR. GRACIE: Val?

12 MR. LYNCH: Just a quick comment on what Carol
13 brought up. For anybody who is older than Mr. O'Connell
14 there, you probably remember having a kaleidoscope when you
15 were a kid. You hold it up and you just make a little twist
16 one way or the other, and everything changes. And that is
17 really what is going on.

18 And there are a lot of things that we can't control
19 in that kaleidoscope movement, but there are some things that
20 we can. But we always do, in fact, look at it, just like Dave
21 is bringing up tonight. The gill net issue is where we
22 started from. Now he is talking about pound nets. We are
23 talking about the Menhaden. We are talking about the shad and
24 the herring.

25 I mean, as Bill says, it is an ecosystem. These

1 things don't exist proprietary to themselves, and the synergy
2 for the best solution is often reached by taking one at a time
3 in some kind of a priority. And that is what this commission
4 and, in reality, the other commissions tend to do too.

5 But I did have a quick question. What does HB 111,
6 how does that play into the authority, if you would, to deal
7 with this gill net fishery?

8 MR. O'CONNELL: We already have a broad gear
9 authority through our fisheries management plans for
10 conservation purposes, but in order to get that authority,
11 sometimes we need to go back and modify an FMP that gives that
12 authority. For some species we may have to develop a new FMP.
13 It could be an issue with Black Crappie. And we don't have an
14 FMP for Black Crappie so we have to invest the time to develop
15 a fisheries management plan before we have the authority to
16 regulate gear for that species.

17 House Bill 111, as originally proposed, would give
18 us that broad gear authority outside of the FMP, so if there
19 was an issue, we could address it immediately rather than
20 going through an FMP, so it is more of an efficiency piece of
21 legislation. We already have the authority.

22 MR. LYNCH: What would that allow you to do with the
23 gill net fishery?

24 MR. O'CONNELL: No more than what we already have.
25 We already have broad authority to address the gill net issue.

1 As we look at Striped Bass, we look at fishing
2 mortality, spawn and stock biomass, and juvenile indices.
3 Those are the three metrics that we gauge healthy, sustainable
4 Striped Bass Populations. So to try to keep the fishery below
5 the harvest targets, looking at natural mortality, so micho,
6 we are doing research on that. We are seeing some declines in
7 the spawn and stock and biomass. We think that may be
8 attributed to declines of Menhaden perhaps.

9 So we are focusing on Menhaden to try to get more
10 conservative management targets, so we are taking a holistic
11 approach. It may not appear that way sometimes because of the
12 single species management.

13 I think, just building off of what Dave, the agenda
14 item at hand, is that as the Department prepares to conduct
15 this evaluation for gill nets, for all nets perhaps based upon
16 this petition, and pound nets, I am aware that some have taken
17 positions already on this gill net, on this all-net petition.
18 And I would be very interested in hearing what the issues are
19 pertaining to gill nets specifically or other nets.

20 Are there biological concerns, are there ecological
21 concerns, are there enforcement concerns? With Striped Bass
22 gill net, in the wintertime fishery, with a mesh size of five
23 to seven inches, and not many other fish in the bay of that
24 size, gill nets for Striped Bass has been a clean fishery.

25 I think the biggest question with Striped Bass gill

1 nets is the enforceability of those nets. If you guys think
2 otherwise, we would like to know more specifically what the
3 biological/ecological concerns are with Striped Bass gill
4 nets. There could be legitimate biological/ecological
5 concerns with other nets, other gill nets at times of the
6 year, and there could be those types of impacts with pound
7 nets, as Dave described earlier.

8 But if we are going to invest the time into this
9 evaluation, tonight is a great opportunity to be more specific
10 in what those concerns are, because a petition of 5,000 names
11 isn't going to help that evaluation.

12 What is going to help the evaluation is knowing more
13 specifically what the issues of concern are, and I think,
14 Dave, taking the time to put this on the agenda, would be a
15 great opportunity tonight -- or soon after the meeting -- if
16 you have concerns, to let us know, and we will focus our
17 investigations on this issue.

18 MR. GRACIE: I guess, Dave, based on what you said,
19 I am not sure what the concerns are behind the pound net
20 fishery issues and some of the other things that you
21 mentioned. So maybe others know more about it than I do.

22 I think it would help us if we had a presentation
23 that talked about what kinds of issues there are related to
24 these. In other words, what is the by-catch issue and what
25 are these other issues related to the net fisheries because I

1 don't know that I understand all of that.

2 MR. SIKORSKI: Okay.

3 MR. GRACIE: Anybody else feel that way?

4 MR. JETTON: I am kind of concerned of what we are
5 getting into. I am new here, so I am going to tread a little
6 lightly, but I have actually -- I am going to venture to say
7 that out of this room, I am probably one of the only people
8 that has been involved in the pound net fishery and the gill
9 net fishery.

10 A pound net fishery really is very clean, so I am
11 kind of curious what your concerns are there. I understand
12 the legality of checking in under the hook and line, and that
13 is an enforcement issue. Yeah, I have problems with that too.

14 But when you come up to a pound net, there is no top
15 on them. I have come right to them and seen big turtles
16 swimming in them. You know what you do? You let the side
17 down and you let the turtles swim out. And that is what you
18 do.

19 It is very clean. Most everything is live in it.
20 The only time you might have ever had an issue with something
21 dying in there is if the water quality is bad. Which does
22 happen if you get some warm water, but for the most part that
23 is a very clean fishery. The state uses it for a lot of their
24 scientific studies. The Oxford Lab comes out and gets the
25 fish all summer long out of the pound net fishery.

1 It is a good, clean fishery, so I am concerned what
2 the issue is there. You don't see a lot of shad in the pound
3 net because it is not the right time, right place to catch
4 shad. So I am not sure what that is unless maybe it is Mud
5 Shad. You do see some Mud Shad in there. So I am looking for
6 specifics here. Yes, I am little concerned too.

7 Gill net, I think that is pretty obvious. I have
8 done that too, and like Tom says, in the state of Maryland, we
9 fish five- and seven-inch net. It is very few other fish do I
10 ever see in there other than a Rockfish, and it is fairly
11 clean except for the enforcement issue.

12 We have obviously got some problems there. I know
13 the watermen have talked about some ways that they need to
14 clean up, such as making sure nets are labeled. You know,
15 that is one of the things. If you are caught on a boat
16 without your number on a net, maybe they take your net.

17 So you couldn't leave a net that is not labeled.
18 You couldn't even be on the water without a net. There are
19 lots of things on the table here. I think some of them are
20 aware they need to clean it up. And obviously we think they
21 need to clean it up because we voted that way.

22 So I guess I am looking for specifics on the tools
23 as you see them and what you think needs to be done.

24 MR. SIKORSKI: I see parallels existing in the
25 accountability and the enforceability issues that both gill

1 nets and pound nets have. They are both considered a clean
2 fishery, but they are only a clean fishery if the person
3 fishing them is clean. And I say clean in the way that they
4 are law abiding.

5 MR. JETTON: That is correct with any fishery you
6 have. Every single fishery.

7 MR. SIKORSKI: Absolutely. Absolutely. I am not
8 aware of any thorough Department studies that studied the true
9 conservation issues that may exist with the pound net. That
10 is the major concern of -- those are the three levels of
11 concern: accountability, enforceability and conservation
12 issues.

13 MR. JETTON: And I would counter -- I am not for or
14 against this. I am just asking. But I would counter there
15 are pound netters that -- pretty much a stationary
16 object -- they are all registered in the state. I am right
17 about that still. They know where they are, they are fairly
18 easy to enforce. The problem was where the fish were getting
19 checked in and how they were getting checked in.

20 For the most part, that has been our enforcement
21 issue on this particular item. But as far as mortality goes,
22 yeah, I would like to -- if you have heard of something, if
23 you know something, I would like to know about that too. But
24 I am just not aware of that. And I am around them a lot.

25 MR. SIKORSKI: That very well may be the case. I

1 know in my time on this commission, and just in my time on the
2 bay as a Marylander, I have heard it is a clean fishery, it is
3 a clean fishery, it is a clean fishery. And it very well may
4 be. I just don't know of any studies that may point to kind
5 of prove that, prove or disprove.

6 I bring it up tonight along with gill nets because
7 the accountability issues that exist and the enforceability
8 issues that exist go right in lockstep with the gill net
9 fishery. Slightly different issues -- we've got anchor nets
10 versus maybe using hook-and-line tags in the pound net, but
11 they all go through the same check stations, generally being
12 fished by similar communities, let's say.

13 Not necessarily the same exact person is running a
14 gill net and a pound net, but there are a lot of similar
15 issues that are parallel, that parallel each other, and I
16 think if the Department didn't include looking into -- I mean,
17 regardless of whether the Department is officially looking
18 into the accountability and enforceability issues of pound
19 nets, hopefully when they clean up some of the gill net
20 accountability and enforceability issues, pound nets will also
21 be brought up to speed.

22 But I think it is important that the Department
23 keeps that in their minds that pound nets are just as much of
24 a problem enforceability-wise and accountability-wise, it is
25 just that we remember gill nets because they have been all

1 over the news for the last two months.

2 So there is a lot going on out there that we are not
3 sure of, and I just think as the Department spends this year,
4 prior to December, looking into this accountability and
5 enforceability, bring pound nets right into the mix and not
6 forget that there are those issues there.

7 MR. O'CONNELL: A couple issues that I have heard
8 about, and they are just like -- in the discovery of these
9 nets, I was a little surprised to see some of the large fish
10 in these nets. And with this lot limit for the commercial
11 gill net fishery, when the industry comes across a fish that
12 exceeds the maximum size limit, what happens to that fish?

13 Is it reported? I have heard of a couple incidences
14 where Greg mentioned when there is bad water quality and you
15 have a big mortality event in your pound net. What happens to
16 those Striped Bass? They are released. Are they accounted
17 for in the harvest? No.

18 So there are some accountability measures. I mean,
19 if there is a fishery, it should be 100 percent accountable
20 for all the fish that you keep or die from your activity.
21 That is something that, you know, we need to look at for all
22 of our fisheries, full 100 percent accountability. A dead
23 fish is a dead fish, and it should be accounted for, otherwise
24 it could -- if it is of significant magnitude, start affecting
25 our management of that resources.

1 MR. GRACIE: Mack, I apologize. I keep skipping
2 over you.

3 MR. WOMMACK: What I wanted to ask was, I had got a
4 call last month from one of the mates. The mouth of the
5 Pocomoke River, 14,000 pounds of White Perch netted in one day
6 in the river. And what I was concerned about when you go to
7 this netting thing is, is there any way you can look at this
8 process like you did with the Yellow Perch?

9 You know, you put limitations on what rivers these
10 guys can go to the mouth of and net when they net up all the
11 spawning fish like that coming out? Not just targeting
12 Striped Bass but, I mean, other fish that is in there because,
13 you know, I think it has got out of control in netting period.

14 And I am wondering if there is any way possible
15 maybe you can limit or put certain rivers off limitation for a
16 while to see if the population of fish will pick back up in
17 these rivers and stuff?

18 MR. O'CONNELL: We have that authority through our
19 management plans, and I expect that is going to be one of the
20 issues that comes up with Black and White Crappie management.
21 You know, the intersection of those fish with fyke nets
22 particularly in the upper reaches.

23 But yes, through our fisheries management plans we
24 can look at those issues. I think it comes down to whether
25 there are biological issues, whether there are use-conflict

1 | issues and trying to develop a management plan to address
2 | those issues. So I mean, that can -- you know, White Perch is
3 | an issue of concern. That is another issue that perhaps the
4 | commission wants to spend a little more time on.

5 | MR. WOMMACK: Because I don't know what the actual
6 | net size is but I am pretty sure if it catching perch it is
7 | catching a lot of other species in there too at the mouth of
8 | these rivers.

9 | MR. GRACIE: As I recall, we had a presentation on
10 | the White Perch management plan, and the bottom line was that
11 | you were pretty confident that the populations were river
12 | specific, and you didn't have the manpower to get the data to
13 | manage them that way. Is that correct?

14 | MR. O'CONNELL: Well, it has been several years, I
15 | think, since we had that assessment. I think our staff is
16 | working on an updated White Perch assessment this year, right,
17 | Lynn?

18 | MS. FEGLEY: (off mic) Yes, we do one every other
19 | year.

20 | MR. O'CONNELL: So maybe something we bring back to
21 | you guys.

22 | MR. GRACIE: Yeah, maybe an update on that would be
23 | good. That was when I was on the commission last time.
24 | Larry?

25 | MR. COBURN: Speaking about what James is speaking

1 | about, nets in the mouth of rivers and the impact, I
2 | think --- down in St. Mary's County is an example. I think
3 | Ken Hastings can speak on this too because I have been
4 | involved with it.

5 | When we were invited down to fish -- Tom, you fished
6 | it -- there used to be a commercial netter there, and Dennis
7 | Fleming, which had kind of spearheaded the whole deal down
8 | there about the Yellow Perch, said they would always catch
9 | little perch, never nothing big, and numbers were going down.
10 | Somehow or some way, the commercial netter disappeared
11 | below ---, and it is abound. I mean 14-, 15-inch perch. I
12 | have caught them myself.

13 | It is amazing what occurs when you let these fish
14 | come up and spawn.

15 | MR. GRACIE: I didn't hear that you did that. Did
16 | you, Ken?

17 | MR. HASTINGS: I did. I had a baseball bat.

18 | MR. GRACIE: Did you have a witness?

19 | MR. COBURN: I am a witness that Ken does catch
20 | fish.

21 | (asides)

22 | MR. GRACIE: Dave?

23 | MR. SIKORSKI: Yes, I would like to make a motion.

24 | **MOTION**

25 | MR. SIKORSKI: As the Department moves forward in

1 | considering the issues that have been brought up with the gill
2 | net fishery, to also take into account the accountability and
3 | enforcement issues that pound nets have that parallel that
4 | gill net issues. Is that too much to type?

5 | MR. EVANS: Tell me where to start.

6 | MR. SIKORSKI: The Department to --

7 | MR. GRACIE: To include pound net fisheries --

8 | MR. SIKORSKI: -- include pound net fisheries --

9 | MR. GRACIE: In their assessment.

10 | MR. SIKORSKI: -- as they assess the accountability
11 | and enforceability issues specifically.

12 | MR. O'BRIEN: Jim, I have had my hand up here.

13 | MR. GRACIE: I am sorry, Ed. Geez, I am doing a bad
14 | job tonight. Please speak.

15 | MR. O'BRIEN: I just had a comment on these. I
16 | totally agree with Greg's description when it comes to these
17 | nets. I mean, he has done it. Pound nets, I do feel they are
18 | one of the easiest nets to enforce. My problem with pound
19 | nets, Tom, is there are too many of them.

20 | Before his watch, I think you -- we remember how
21 | they proliferated to where a family could have more than they
22 | had before. And to me, the classical pound netters went nuts
23 | when the Department let that happen. The guys that had been
24 | doing it for a while.

25 | MR. JETTON: We kind of created a vicious circle

1 here because what they have done is the guys that were getting
2 caught with the hook and lines have now switched those
3 licenses to pound nets, but in order to do that, it reduces
4 their quota, so they have to get more licenses. So now they
5 do it again, and it gets worse and worse and worse. Then they
6 have to set more nets to make it a viable thing for them. So
7 it is an issue.

8 MR. O'BRIEN: So Tom, before your watch, my point
9 was there was a proliferation of pound nets, whereas in that
10 whole area from Poplar Island on around Tilghman, there were
11 one or two. Now there are big ones, really big ones. And I
12 think that is the main problem with pound nets. But they
13 should be the easiest to enforce, and they do have a function
14 for somebody like charter boats and recreational boats as they
15 provide the bait.

16 So that is a necessary thing as far as we are
17 concerned, with pound nets. You know, no gear type is a
18 panacea. My God, on a commercial hook and line, it has been a
19 very disappointing thing, the way that has worked out between
20 the hook and liners and the pound netters. You know, a
21 criminal is going to find a way, one way or another, and that
22 is our problem, the criminals, and doing something about them.

23 But I don't know that the pound net deserves any
24 extra scrutiny, but what I would like to see is some of them
25 off the water. There have got to be too many of them out

1 licensed, 100 fishermen to be licensed to set pound nets this
2 year. That is about the average over the last few years.

3 That permit allows them to set up to 8 nets with
4 that permit. Now while they expect approximately 100 people
5 to apply -- I guess it is to declare their intent to fish? Is
6 that technically how it works? Like 250 or so could declare.
7 It is not expected, but it could.

8 So if we do see a reduction in, let's say, in the
9 gill net fishery next year. We may see a movement to pound
10 nets and it will be an issue. I don't know. If there is a
11 concern that there are too many out there already, we may be
12 pushing ourselves toward even more out there.

13 MR. GRACIE: Is there discussion on the motion?
14 Greg?

15 MR. JETTON: I have no problem evaluating it. I
16 think that is fine. I think that is a good thing. I think
17 there are a lot of enforcement issues that need to be done. I
18 don't think you will see a large proliferation of pound nets
19 anytime soon. It is a very expensive process, very expensive.

20 But, I think, yeah, I think looking at -- I think
21 the Department has already made some moves as far as that
22 pound net issue by making the hook and liners -- we have to
23 tag the fish as soon as we catch it now, as soon as it hits
24 the deck of your boat. And that was a concern because they
25 were coming to the dock and then tagging it when they were

1 free and clear.

2 So they have already made some issues, but I have no
3 problem looking at it and seeing where we can go with the
4 enforcement issues. If you want to look at the mortality
5 rates, I think that is fine. I think you are going to find
6 that it is pretty clean. I am fairly confident in that. So,
7 yes, I think I could support that.

8 MR. GRACIE: Brandon?

9 MR. WHITE: Just a comment on the bait fishery issue
10 that -- I think the pound net does provide bait, but there are
11 plenty of examples with many other states that have banned
12 nets completely that have used cast nets and other methods to
13 supply plenty of bait, not only to the recreational charter
14 but also the commercial sectors.

15 So while I think our pound net fishery may currently
16 supply bait to those, it doesn't mean that without them, we
17 wouldn't have bait, because other states are clearly surviving
18 and doing quite well without them. That would be my only
19 comment in regards to that.

20 MR. GRACIE: I would like to keep the comments to
21 the motion. Anybody else? Public comments before we vote?

22 *Public Comment*

23 MR. ZIVKOVICH: I am Trent Zivkovich with the CCA.

24 MR. EVANS: How do you spell Zivkovich?

25 MR. ZIVKOVICH: Z-i-v-k-o-v-i-c-h. One of the

1 things I want to bring -- folks to consider is the fact that
2 with the gill net fishery, the fact that the Department
3 decided to open it up in late February, they did it based on
4 two things: No. 1, excessive enforcement in the field with NRP
5 officers, and NRP personnel at all the individual check
6 stations.

7 We have to ask ourselves, if that is what is
8 required to manage and maintain the gill net fishery, is
9 the --- level sufficient to keep it operating. Is that truly
10 sustainable from a financial and manpower standpoint?

11 If that is what is going to be required on a daily
12 basis next December, January and February, can we as a state
13 afford that? Put that out there, and now let's also take that
14 and put that to pound nets. Pound nets go in the water March
15 15. Correct me if I am wrong.

16 MR. SIKORSKI: From what I read of the regulation,
17 it seems like they only have to be out of the water during the
18 months of January --

19 MR. ZIVKOVICH: And then the --- are pulled November
20 30, I believe it is. But the bottom line is we have fishery
21 seasons or thereabouts.

22 The bottom line is we have pound nets in the water
23 capable of catching fish. Capable. They are not, but they
24 are capable of catching fish. Please correct me if I am
25 wrong. But the idea is we have certain distinct seasons for

1 catching these fish.

2 I think one of the concerns is there is the
3 potential, the possibility for these pound nets, especially in
4 the numbers we have seen in recent years, to be capturing
5 numbers of fish, and amounts of fish and species of fish that
6 are not targeted during different times of the year.

7 Now again, I don't know that for a fact. I think
8 that is the issue here, is that we just don't know, and that
9 is an unopened question, that if we are going to be trying to
10 manage these issues from an ecological standpoint, while
11 ensuring the maintenance of the species and the conservation
12 of the species, there are a lot of unopened answers there.
13 Unanswered questions, I am sorry.

14 We are spending a lot of money trying to protect
15 these area species. A lot of them you can't sell them. But
16 if we are spending all this money trying to protect them up
17 the rivers, removing dams and whatnot, but we are catching
18 them in these pound nets in the main stem of the bay --

19 MR. GRACIE: If I understand what you are saying
20 here, you are supporting the motion.

21 MR. ZIVKOVICH: Very much so.

22 MR. GRACIE: And those things would be covered in
23 that.

24 MR. ZIVKOVICH: Absolutely. Again, there are no
25 preconceived answers here. A lot of open questions.

1 MR. GRACIE: Thank you. Any other comments from the
2 public? Shawn?

3 MR. KIMBRO: Thank you, Chairman Gracie. I am Shawn
4 Kimbro. I am speaking tonight as a private recreational
5 angler. I would like to speak in support of the motion that
6 is on the floor. I would like to speak to the conservation
7 issue with pound nets specifically.

8 One of the primary concerns I think a lot of
9 recreational anglers and I have is that we are teaching
10 recreational anglers, especially in the summertime, to keep
11 fish in the water, to take care of the fish. When we catch
12 and release fish, we say don't even take them out of the water
13 when temperatures are warm.

14 What happens when a fish is taken out of a pound net
15 that is sublegal or over the legal limit? Is it taken out of
16 the water? Is it left on the deck of a boat for a while?
17 Does it take a while before it is culled? What is the answer
18 to that question? I don't the answer to that question because
19 I haven't fished pound nets, but I suspect that they probably
20 are left out for a while.

21 Also I heard the turtle question or the turtle issue
22 brought up by one of the commissioners, which I think is a
23 good question because I think there is a federal requirement
24 that every encounter with turtles be reported. I wonder if
25 that is being done.

1 And I wonder if all those turtles actually do swim
2 out or if some of them do get entangled in those nets and are
3 killed. I have personally, this is a personal observation, I
4 have seen dead turtles around pound nets. You know, I don't
5 know that the pound nets killed them, but I have seen dead
6 turtles around pound nets.

7 I have also hit pound nets with my boat that don't
8 have stakes. I don't think we have a -- there is any kind of
9 law in Maryland that says a pound net has to be staked or it
10 can be floating and anchored. You can't tell a floating pound
11 net from crab pots, and so there is a boating safety issue.

12 I know that is not really the resolution, but that
13 is just another comment on the considerations. So I am
14 speaking in favor of that and also would like to go on record
15 as asking the Department to look more into these issues with
16 pound nets.

17 MR. GRACIE: Thank you. Any other public comments?

18 (No response)

19 MR. GRACIE: If not, I will call the question. All
20 in favor of the motion raise your hands?

21 (Show of hands)

22 MR. GRACIE: Any opposed?

23 (No response)

24 MR. GRACIE: Any abstentions?

25 (No response)

1 MR. GRACIE: Unanimous.

2 MR. SIKORSKI: If the chair -- if the time is
3 correct, I have two minutes.

4 MR. GRACIE: No we are catching up. We are going to
5 have more time for the other. Did you want to put another
6 issue on the agenda?

7 MR. SIKORSKI: Sure do.

8 MR. GRACIE: It is a little late for that.

9 MR. SIKORSKI: It is 8:25 p.m.

10 MR. GRACIE: Forget it.

11 MR. SIKORSKI: I have another issue on the agenda
12 anyway. To finish this, I have another motion.

13 **MOTION**

14 MR. SIKORSKI: It --- to what Trent and Shawn were
15 speaking of. That is for the Department to undertake a pound
16 net mortality study, mortality and accountability study along
17 with it. It is perceived that pound nets are a clean fishery.
18 Well, let's prove it, and least look into a way that we can
19 study it to get a better idea of that.

20 If there are studies already out there, then so be
21 it. I would like to have them brought to the attention of the
22 commission.

23 MR. GRACIE: I guess I would really like to see
24 somebody in the Department or somebody make a presentation on
25 how these nets work and how they are done before we ask them

1 to do more studies.

2 MR. SIKORSKI: Right. That can be the first part of
3 the motion. Not only to make a presentation but undergo a
4 study.

5 MR. GRACIE: We have a motion. Is there a second?

6 MR. EVANS: Do we have a full motion? What is it?

7 MR. GRACIE: You don't have to write anything. We
8 don't have second.

9 MR. GOLDSBOROUGH: Well, we may need to see it.

10 MR. SIKORSKI: I would stick with the motion to be
11 to simply undertake a study. The Department to look into --

12 MR. GOLDSBOROUGH: I will second that.

13 MR. SIKORSKI: and I will explain why --

14 MR. GRACIE: It is a mortality study?

15 MR. SIKORSKI: Yes.

16 MR. GRACIE: Is that what you want?

17 MR. SIKORSKI: Yes. A mortality and landing study.
18 I will pass along this data, and while a presentation may be
19 nice -- I would be willing to do a presentation so it doesn't
20 take the Department's time -- just on what I have been able to
21 find. I will send out this landings data to you guys, and you
22 will see some of the anomalies within the data and --

23 MR. GRACIE: It kind of would have been helpful if
24 you had given that to us before you just kind of spouted it
25 out in 30 seconds.

1 MR. SIKORSKI: It is not, you know, really important
2 to -- with regard to these motions. It is a future issue.

3 MR. GRACIE: Okay.

4 MR. SIKORSKI: It has nothing to do with this
5 really.

6 MR. GRACIE: Is that motion right?

7 MR. SIKORSKI: Yes.

8 MR. GRACIE: And we have second by Bill
9 Goldsborough. Any discussion?

10 MR. O'BRIEN: Yes.

11 MR. GRACIE: Ed.

12 *Discussion*

13 MR. O'BRIEN: One thing that is troubling me a
14 little bit is we have given the Department a significant task
15 on gill nets, and now on the pound net thing, that make some
16 more time. Not that a pound net study is not a worthy thing.
17 It certainly is.

18 But the other side of this is within the state,
19 starting with the legislature, we have to deal with that
20 Eastern Shore delegation. And I am just wondering if we are
21 going a little bit one net too far when it comes to these
22 evaluations. I would like to see the gill net thing done
23 thoroughly with wide-open discussion.

24 I mean, if we are getting into this kind of thing,
25 we could put the commercial hook and line on the table too.

1 You know, the Department has got to have a time and sequence
2 to all this, and I would be interested in your reaction to it,
3 Tom.

4 MR. GRACIE: You want to respond to that, Tom?

5 MR. O'CONNELL: Sure. I mean, you know, the next
6 agenda item is looking at our workload and the number of new
7 tasks keep coming.

8 You know, with that said, we have over the past
9 three years really tried to strive for sustainability,
10 accountability, enforceability. And as each species' issues
11 come up, we are trying to improve our management of those
12 species.

13 I think we have done a pretty good job on a lot of
14 species, and there is a lot more work to be done. We have a
15 challenging task ahead of us with gill nets. I think there
16 may be some legitimate issues with pound nets.

17 I tend to agree with Jim that it may be good for us
18 to try to answer the first motion to evaluate, you know, the
19 pound net fisheries along with the gill nets. At least have
20 some basic evaluation that the commission can review to
21 determine whether or not we should undertake a pound net
22 study. And maybe even try to do it here --

23 MR. SIKORSKI: Can I make one comment to that?
24 Public comment?

25 MR. GRACIE: No.

1 MR. SIKORSKI: Why not?

2 (Laughter)

3 MR. SIKORSKI: Well, is it public comment or
4 Department?

5 MR. GRACIE: No, that is Department.

6 MR. SIKORSKI: Oh, then we can go ahead.

7 MR. GRACIE: Lynn?

8 MS. FEGLEY: (off mic) If --- a little thought to
9 giving us some more specificity on what mortality means, I
10 would really appreciate that. Are we talking about
11 specifically by-catch mortality? Are we talking about
12 mortality of directed species? Between harvest events?

13 You know, mortality is a pretty general issue, and I
14 am going to say it is a hard question, and it would really
15 help us to understand -- are we talking about mortality of
16 nondirected species? Are we talking about by-catch mortality
17 of over- or undersized target species? Are we talking
18 about -- you know, what are we talking about?

19 MR. SIKORSKI: I think I could answer that by
20 possibly amending the motion. And I would say not necessarily
21 mortality issues specifically, but conservation issues, which
22 may have just broadened the spectrum.

23 MR. GRACIE: May be less specific, I think.

24 MR. SIKORSKI: It is less specific, but, you know,
25 that is my intent. You know, the Department is tasked with

1 managing these fisheries. And I do have faith in the
2 Department's abilities to manage these fisheries. As an
3 advisory panel, which I think we all need to remember that is
4 what we are, we are simply advising that these things be
5 looked into.

6 I understand the workload is rather great right now,
7 and will be in the future, but that is what we pay you for.
8 It is simply the advice -- I am bringing this motion to the
9 advice of the Department.

10 And obviously it is going to take a lot more
11 meetings, and we will bring some more clarity as to what I am
12 asking for. But I don't want it to be brushed under the rug
13 essentially.

14 MR. GRACIE: Val?

15 MR. LYNCH: I would like to hitchhike on what the
16 chairman said a few moments ago, and that is with the
17 possibility of amending your motion, Dave, that we first look
18 at what is up with pound nets. What do we know about pound
19 nets? The numbers, the accountability, the enforceability?

20 I don't know anything at all about pound nets, and
21 I think before looking into the details, as you are speaking
22 of, even though in general terms -- and again, given the
23 Department's workload, I think that given the fact that pound
24 nets are not on the upper fold in the Capital right now, it
25 may be better for us to get educated on them before we start

1 | probing into what to do about them.

2 | And I would suggest you might want to amend your
3 | motion to that effect.

4 | MR. GRACIE: I think it was Dave and then Roger and
5 | then Bill Goldsborough raised a hand. And then Greg. You
6 | guys keep track of it for me. I am having trouble tonight.

7 | MR. SMITH: I was just going to echo, but make
8 | another point that we do need to be educated on these things,
9 | and also, just outside the issue, we start throwing motions up
10 | there kind of back to back to back, I think that weakens our
11 | effectiveness as an advisory panel. And also the DNR when we
12 | start overloading them with things.

13 | So those are just my thoughts. I agree with Dave on
14 | the issue though, that we need to take a look at it. That is
15 | it.

16 | MR. GRACIE: Roger?

17 | MR. TRAGESER: Just a point of clarification for
18 | myself because, like Jim and Val, I don't know much about
19 | pound nets or gill nets, but is the use of the word
20 | accountability in the second motion different than the
21 | application of the word accountability in the first motion?
22 | Or is it just repeating itself again?

23 | Again, motions getting layered on top of each other
24 | when maybe the first one kind of says where the first step
25 | should be until we get an explanation from the Department

1 about pound nets a little bit more thoroughly.

2 MR. GOLDSBOROUGH: I would like to comment, as the
3 seconder of the motion, to Lynn's question. My understanding,
4 and the reason I seconded it, was that it was primarily with
5 respect to the by-catch mortality in response to Shawn's
6 comment, as you mentioned, Dave.

7 Because I had that same question given that pound
8 nets are fished during the warm part of the season, and it is
9 a live catch net, like Greg says.

10 I have never fished them myself personally. I have
11 been along when they have been fished. What I have observed
12 is they all to in the hold of the boat first, and then after a
13 period of time, they get culled, and in the warm weather I
14 think there is something worth looking into there that is not
15 covered by the first motion.

16 But from my standpoint, that was the main thing. It
17 was not covered by the first motion. I don't know if you mean
18 it to cover anything broader than that specifically. You
19 know, anything specific beyond that or not. That is my reason
20 for seconding the motion.

21 And I would say that if, in view of our resource
22 limitations and considerations like Ed brought up, if we want
23 to defer this until a little bit later, I would be supportive
24 of that too.

25 MR. GRACIE: Could I ask a question? Can we -- pull

1 that screen down, would you, Joe, so we can see those two
2 motions. Do you -- are you happy with the wording of that
3 motion, Dave? The third one? Because I didn't understand
4 that is what you said. The issue of accountability being in
5 that motion is what is throwing me off.

6 MR. SIKORSKI: Where your cursor is, is the right
7 spot. For DNR to undertake a pound net by-catch mortality
8 study, by-catch mortality, and, I guess --

9 MR. GRACIE: How about a period?

10 MR. SIKORSKI: And take into account the various
11 conservation issues that may exist.

12 MS. FEGLEY: (off mic) You can't comment on
13 targeted or nontargeted by catch?

14 MR. SIKORSKI: Don't care to comment. By-catch
15 would be nontargeted, I would think.

16 MR. GOLDSBOROUGH: It would be nontargeted species
17 and it would be under or oversized target species. Anything
18 that is being thrown back.

19 MR. GRACIE: Is that clear? What is accountability
20 doing in there?

21 (simultaneous conversation)

22 MR. GRACIE: Greg, you are next.

23 MR. JETTON: I would just like to recommend to the
24 commission that -- you know, I am familiar with it, and I have
25 heard some misconceptions here, and that is common. You know,

1 I spend all day long on my charter boat explaining to people
2 how that works and why it works that why.

3 And maybe as a commission, before we get to detailed
4 into this motion and asking for a study, we need to educate
5 ourselves. You know, get somebody who actually sets a pound
6 net to tell you about it.

7 I know what Bill is saying. I have seen the
8 situation where they are bringing them in the boat and then
9 throw them back, but I have also been out when they get there
10 and it is obviously full of undersized fish, and what you do
11 is you just take the rings, and you drop it, and you let the
12 net fall down.

13 So there is lots of ways those things work, and even
14 I can't tell you them all because I don't set them. I have
15 just been out with them. But there are people, very qualified
16 people, that could come in here and tell you all about it and
17 how it works.

18 MR. GRACIE: Brandon next.

19 MR. WHITE: The only thing I say is if this motion,
20 before we make a recommendation to do a study, maybe we should
21 do a lit review to understand if there is a study. Has that
22 extensive lit review been done? I am just asking you, Dave,
23 because you made the motion.

24 If the lit review hasn't been done, for us to ask
25 them to do a study right now, I would say, is a little

1 premature. So I would just amend it that if there wasn't a
2 study done that we could reference, that would be valuable to
3 answer our questions, then we move forward with that. That is
4 my only feedback, because I feel like it is jumping the gun.

5 I don't know what literature is already out there,
6 and there may be literature out there.

7 MR. SIKORSKI: In response to Commissioner Smith's
8 comments on the number of motions kind of watering down the
9 issue here, I would respectfully disagree and say that my
10 intent here is to simply start the process. To focus on the
11 fact that there is a problem with pound nets. We have
12 requested that the Department address the accountability and
13 enforceability issues. There is a major conservation issue.
14 Two gentlemen from the public did address that.

15 That is my intent here. I think the Department
16 understands that intent. We could reword that motion 10
17 different ways and put 10 more motions behind it. So as
18 simple as we want to make it could be enough.

19 I think a by-catch mortality study is important.
20 Does a report for this commission about pound nets have to
21 come in order for us to request a by-catch mortality study? I
22 don't think so. I think those two things can happen in
23 parallel. The Department has experts on these issues, and for
24 us to need to be brought up to speed on the whole issue -- and
25 your own comments in general -- to request a study, I don't

1 see that as being a logical process there.

2 I understand that it is important for the
3 commissioners to come up to speed on pound nets, so maybe I
4 will make another motion once we are done with this one.

5 MR. GRACIE: Anybody want to speak next? I think
6 Lynn Fegley had something to say. Go ahead.

7 MR. O'BRIEN: Just a quick one. I thought Brandon
8 was on a good path. There may be a book, there may be
9 something in existence that could be distributed to us before
10 the next meeting, you know, to where people here who don't
11 understand pound nets at all, could understand them much
12 better.

13 The idea of having somebody to come in and talk
14 about it, that is a good idea too. I would like to see some
15 more knowledge to the group before we commission the
16 Department to do another net study.

17 MR. GRACIE: I think that was my point. I would
18 probably be able to ask questions more intelligently if I knew
19 a little more. Lynn?

20 MS. FEGLEY: I think I am fine.

21 MR. GRACIE: Any more discussion among the
22 commissioners? Any public comments on the motion?

23 MR. EVANS: I just heard Greg volunteer that perhaps
24 he could bring an expert in.

25 MR. GRACIE: That is not on the motion. I want to

1 get the motion out of the way first. I think that is a good
2 suggestion, and we will get back to it. All in favor of the
3 motion?

4 (Show of hands)

5 MR. GRACIE: All opposed?

6 (Show of hands)

7 MR. GRACIE: Motion fails.

8 MR. EVANS: I need to figure out who was who.

9 MS. FEGLEY: Those hands weren't up that long.

10 MR. SIKORSKI: You don't need to write any
11 abstentions.

12 MR. GRACIE: Were there abstentions? I am sorry.

13 MR. O'BRIEN: I am abstaining. I think he is on
14 some right tracks here, but I do feel we need some education
15 first. And he has done a lot of thinking about this, and I
16 just didn't want to oppose that.

17 MR. GRACIE: Record that, Joe? Ed O'Brien
18 abstained.

19 MR. O'CONNELL: Motion failed with one in support
20 and one abstention.

21 MR. GRACIE: Two in support. Bill Goldsborough and
22 Dave Sikorski. All right, now we are going to get the work
23 plan, so we are going to see what we are adding these things
24 onto.

25 MR. SIKORSKI: I will note we skipped an agenda

1 item --

2 MR. GRACIE: I beg your pardon.

3 MR. SIKORSKI: I didn't put --

4 MR. GRACIE: Your are out of time, though.

5 MR. SIKORSKI: I will take care of your problem. I
6 will write a report and get it out to the commissioners in the
7 next week or so, what I wanted to discuss, so the
8 commissioners will have an idea of where I am going with this.

9 MR. GRACIE: That would be good.

10 MR. SIKORSKI: And we can go from there.

11 MR. GRACIE: Thank you.

12 ***Fisheries Service New Initiatives Work Plan***

13 ***by Tom O'Connell***

14 MR. O'CONNELL: What I am passing out, you have a
15 copy under Tab 6. But I realized today in preparing for the
16 presentation that what MARI sent out -- that I asked them to
17 send out, so it was my fault -- wasn't the most up-to-date
18 file.

19 The only thing that has changed -- the list of
20 projects is the same, but this handout includes a little bit
21 more on the status report with those actions. The workload is
22 the same, it is just a little more information to give you a
23 status on all the projects.

24 So at the last commission meeting we talked about,
25 you know, the workload issues and taking on allocation and

1 Striped Bass allocation review and possibly Black Crappie FMP,
2 and I just suggested that, you know, with additional
3 assignments, it is going to impact other things that we are
4 trying to do.

5 So to give you guys a sense of what is on our plate,
6 I shared with you this document. This document is something
7 that I worked on with my staff over the past year. Just that
8 first page, a couple things to kind of provide you with
9 background is in reviewing all of the different job functions
10 that we do, we categorized them into four principle functions.

11 And they are listed there. I won't read them. And
12 then working with our staff at our retreat, we had some
13 breakout sessions where we asked staff to identify in order
14 the three most important things that they would like to see
15 accomplished within each of those four functions, and we had
16 several breakout groups.

17 We organized that into this document. I will also
18 say that, if you recall last year I think this time, we had
19 some exercise within the Sport Fish Advisory Commission as to
20 what you guys thought was important for the fisheries, and it
21 pretty much boiled down to access and enforcement. Those
22 themes are incorporated into this as well.

23 The last point to make is that, the last paragraph
24 on page 1, that the priorities outlined in this document are
25 mostly new priorities that we are trying to take on. We have

1 a lot of priorities that we are currently doing that are not
2 reflected in this document. It doesn't mean that they are not
3 important. They are.

4 This was mostly a list of new actions, new
5 priorities that we are trying to take on, and the idea was to,
6 as my management team and the program managers began to
7 develop annual work plans with our staff, to try to look for
8 the opportunities to take on these new initiatives as time
9 allows.

10 So I am not going to go into it in any great detail,
11 but how it is set up, it has the first function, kind of lists
12 the priority issue at hand in the left column. What division
13 is responsible in the middle, and then kind of the status of
14 that priority. And you will see some of them have been
15 completed. Some of them are ongoing and some of them we
16 haven't started yet.

17 Lastly -- as you look at a couple of the issues, as
18 we look at Tidal Black Crappie FMP, the staff that is going to
19 be involved with doing that is Nancy Butowski, our FMP
20 coordinator, --- within our Inland Fisheries Division, and
21 Paul --- , probably within Lynn's group.

22 So as you look at the divisions for which those
23 people are from -- legislation, regulation, inland fisheries
24 and estuarine fisheries -- you can begin to see the workload
25 that is already before that group and this additional task

1 that is being asked upon them.

2 In regard to allocation, you will notice that we
3 already had allocation on our workload. That was the
4 Fisheries Resource Allocation, the general allocation policy
5 that we would use to make allocation decisions. I will let
6 you know that we are on track with providing our draft policy
7 to the commissions in April.

8 In regard to whether or not we conduct an exercise
9 to re-evaluate the Striped Bass allocation issue, that is
10 going to take a lot of time for Steve Early within the
11 Cooperative Oxford Laboratory. Jorge Holzer, our economist,
12 Nancy Butowsky, Lynn and her Striped Bass staff.

13 So again, understanding the divisions for which
14 those people work under, you begin to see what their current
15 workload is and new initiatives that are being asked by them
16 from the commission.

17 So I think in summary I will tell you that, you
18 know, we are going to try to do as much as we can as the year
19 presents itself. Every week, it seems like new initiatives
20 come before us that we are taking on. If there is a strong
21 desire to re-evaluate Striped Bass, we will do our best to
22 move down that road.

23 One thing you are going to see in this Fisheries
24 Resource Allocations Policy, are some proposed triggers as to
25 when a reallocation should be reviewed. And that may be

1 something that the two commissions evaluate to determine if a
2 trigger has been reached to go forward and spend the time to
3 re-evaluate Striped Bass.

4 With that, I will open it up to any questions or
5 comments from you guys.

6 ***Questions and Answers***

7 MR. GRACIE: I want to bring this back to why we
8 asked for this and the context in which we asked for it.

9 We were being asked if a proposal that came from
10 this commission was important enough to displace something
11 else that wasn't more important than other things you were
12 doing.

13 I am not sure we can do anything with this to
14 respond to that. And maybe I am asking for something too
15 simple. Maybe it is just not that easy. We don't know, if we
16 say add a Black Crappie Management Study and develop that
17 program, whether it is displacing something else from this,
18 because there is no indication of workload -- how many people
19 you have working on these things and what would have to shift.

20 So I guess, in general, that is going to have
21 to -- those kinds of responses are going to have to come from
22 you. When you say to us, is this more important than the
23 other things we are doing, I guess we expect you to at least
24 be able to tell us what things you would have to move off the
25 priority list to do that.

1 And I am not sure, other than that, how to proceed.
2 Do other commissioners have some thoughts on that? Am I
3 correct in that is the context in which this came up?

4 MR. WHITE: I agree with that. I thought it would
5 be a little bit simpler, but to Jim's point, maybe you can't
6 make it that simple. But what I couldn't take away from this
7 was if we did -- I was just thinking about this. I don't want
8 to be down into an operational plan, which is essentially what
9 we are asking for by personnel.

10 But if we say, if we do a Black Crappie, here are
11 the three people that are on that currently doing this project
12 that is going to allocate six months of their year. We will
13 have to displace and move that out three months.

14 I know that is a complicated analysis to be going
15 down to man-hours. But I think, from this document, while it
16 was very helpful to me, and I appreciate it being put
17 together, I still can't make an assessment of whether to make
18 a recommendation based on resources, of what that means.

19 MR. O'CONNELL: And that is fair. I guess --- more
20 specific like you said. It is a very complex issue to try to
21 determine what is going to be dropped because we already have
22 a full plate, and we have a lot of new things.

23 Just for example, you know, Steve Early is going to
24 be a lead person on any reallocation review of Striped Bass.
25 Steve Early is spending a significant amount of his time

1 coordinating an evaluation of alternative blue crab management
2 efforts in the commercial fishery.

3 He is spending a lot of time on looking at the
4 sustainability certification of blue crabs and Striped Bass.
5 Those are things that are going to be slowed down if he has to
6 be diverted to focusing on a reallocation review for Striped
7 Bass.

8 Nancy Butowsky is going to be involved with both of
9 those things, okay? Black Crappie FMP and allocation. We
10 have the following FMP action items that she is currently
11 working on: an amendment to the Yellow Perch plan,
12 development of a Black Bass Fisheries Management Plan,
13 developing a Blue Catfish and Flathead Catfish policy,
14 beginning an Oyster Management Plan revision, which is going
15 to be a significant amount of time.

16 A coastal bay --- FMP revision and an amendment to
17 the --- Plan. In addition, we have to implement and review
18 the FMPs: blue crabs, Striped Bass, American Eel, Croaker,
19 Weakfish, Tautog, White Perch.

20 You know, that is just the workload for Nancy's
21 projects. So to take on --

22 MR. GRACIE: What is she going to do next month?

23 MR. WHITE: I was wondering if she ever leaves.

24 MR. O'CONNELL: So I apologize I wasn't able to find
25 more specifics. Again, the amount of time we had to prepare

1 for this. You know, Jorge Holzer, one of the action items in
2 here is we are trying to come up with better baseline data on
3 the economic value of our commercial and recreational
4 fisheries, so when we are looking at legislation and
5 regulation, and departmental review issues, we can sell the
6 story about the economic value with commercial and
7 recreational fishing.

8 He is going to be heavily involved with any economic
9 analysis with the Striped Bass allocation review, so that may
10 sidetrack him from taking on some of these new initiatives.

11 Those are just a few examples. With a little bit
12 more time, I could try to spell it out a little clearer --

13 MR. WHITE: Well, with --- , can you give us your
14 assessment?

15 MR. GRACIE: I would be very comfortable with
16 you -- rather than asking us if it is more important to take
17 this on than some other things, if you tell us what other
18 things might have to be displaced, and then we can make an
19 intelligent response to that.

20 I don't think that this group wants to micromanage
21 your operation.

22 MR. SIKORSKI: I would say that this group simply
23 would continue to bring up issues that we see as being issues
24 that need attention, and leave it to your judgment to manage
25 them among your staff as you see fit. That is your job.

1 MR. GRACIE: I would like the feedback on how they
2 are going to do it.

3 MR. O'CONNELL: My opinion, based upon our workload
4 and issues, we can, I think, take on the Black Crappie/White
5 Crappie FMP. We are going to finalize a fisheries resource
6 allocation policy. We need that.

7 I do not think it is worth the investment of time to
8 look at, re-examine Striped Bass allocation. My opinion, I
9 think we are going to spend a lot of time, and we are going to
10 end up in a very similar place. That is just my opinion. And
11 I think the investment of those resources on other things
12 could prove more beneficial to recreational fishing than a
13 potential minor reallocation of Striped Bass. That is just my
14 opinion.

15 MR. SIKORSKI: I would say that what we really,
16 truly maybe need -- but I don't know if we really need
17 it -- is more of a kind of progress report, where if you ever
18 have any question as to which you feel -- you want our input
19 on which way you should go on something, then so be it. I
20 brought up the Crappie issue this year, and it seems like you
21 have incorporated it into the plan without issue.

22 I don't know that somebody has been bumped
23 necessarily, if that is of importance. If you were to ever
24 come to that fork in the road where you needed some guidance
25 from the commission to say, hey, we think you should go this

1 way or we think you should go that way, I think we would all
2 love to give that input.

3 But until that point, I think we -- I have faith in
4 your management ability to manage your staff accordingly to
5 get things done.

6 MR. GRACIE: I guess we all have a sense of what we
7 think priorities are in the recreational fishing community,
8 and if we think that you are not meeting them, we will let you
9 know, and then I think the appropriate response for you is to
10 tell us what you would have to do to accommodate that and give
11 us an opinion on whether you think it is worthwhile. I don't
12 see anything wrong with that process. Anybody else have
13 anything to add to that? Go ahead, Val.

14 MR. LYNCH: I would only ensure that there is some
15 wiggle room for pop-ups, and I will give you an example.

16 MR. GRACIE: How about a pound net study? That is a
17 pop up.

18 MR. LYNCH: About a month ago I sent Tom and Marty
19 and I believe I sent it to you, Jim, the issue of catch
20 shares. Now regardless of what you know and don't know about
21 catch shares, it is a -- I think there is the reality of catch
22 shares and there is the perception of reality of catch shares.

23 And I think the Department needs to address that, or
24 Maryland recreational and commercial anglers. I am getting
25 information two different ways, and I am doing it just myself

1 and gathering whatever I can get through Internet searches and
2 so on. To include reading the law, which is painful.

3 But the law seems to say catch shares are good
4 things, and we need them, and they are not cap and trade,
5 okay, or cap and tax, depending on which side of the aisle
6 happens to --

7 But on the other hand, RFA, Recreational Fishing
8 Alliance, is aggressive in terms of dealing with Pew and the
9 Environmental Defense Fund about catch shares being a tradable
10 item, where, Ed, you are a charter boat operator. You get so
11 many fish that you are going to be able to catch, and if you
12 don't catch them, you can sell them, and somebody else can buy
13 them, and before long, the conglomerates wind up controlling
14 all the catches.

15 MR. O'BRIEN: I think catch shares are evil.

16 MR. LYNCH: Well, all I am getting at is that --
17 there is another side that says you don't understand. Okay.

18 MR. O'BRIEN: Oh, I think I do understand. Half of
19 my licenses came up, and I think the Environmental Defense
20 Fund, the way they have been involved in this, ought to be
21 investigated. This group is not capable of handling this
22 discussion in the depth that is required to even understand
23 it.

24 MR. GRACIE: Now my feelings are hurt.

25 (Laughter)

1 MR. LYNCH: I disagree with that, Ed, because I
2 think that at every level that would be affected, they need to
3 know about it, and we don't know about it. We don't know
4 about it.

5 I talked to Steve Early a year ago, and I think he
6 had a conversation with you, Jim. And I didn't understand it.

7 MR. GRACIE: Steve Early has a way of obscuring this
8 beyond my wildest dreams.

9 MR. LYNCH: I tried not to get confused by the
10 facts, but I was.

11 (Laughter)

12 MR. LYNCH: And I have tried to learn about it, and
13 quite honestly -- that is what I consider a pop-up that could
14 really be a bombshell. And whether we can do anything about
15 it, I don't know, but it is going to affect us. It is going
16 to affect us dramatically, because it is law. And as soon as
17 they start regulation to implement the law, we are going to be
18 stuck with it unless we take a position on it.

19 And as I said, we don't know enough about it now.
20 Tom, correct me if I am wrong. Either you or Marty indicated
21 it was going to be on the next tidal fish agenda in May.

22 MR. O'CONNELL: I think we decided to try to do it
23 at one of the joint meetings.

24 MR. LYNCH. Yes, that would be the May meeting. And
25 I would like to reaffirm that we do that.

1 MR. GRACIE: I think I am going to be sick that
2 night.

3 MR. LYNCH: I know you are trying to, you know, find
4 items for that meeting. I understand. But please, let's make
5 room for these kinds of things, and this one in particular.

6 MR. GRACIE: Brandon?

7 MR. WHITE: I think these things are really
8 important. The only thing I would say is that these
9 three-hour meetings aren't the venue or enough time to do
10 that. And maybe as an evolution of this group, that there are
11 quote, unquote workshops that people who are interested, and
12 as we, as commissioners, should be educated about, could
13 participate in that necessarily might not take the
14 Department's time, but be outsiders who could advise us on
15 catch shares.

16 I, like Val, had read and seen it and talked to
17 people, and I wouldn't know still to this day the slightest
18 thing or opinion to have. I read that the South Atlantic
19 Council voted it down today. I guess that is an interesting
20 development.

21 My point is that if we had workshops outside of
22 these three-hour meetings, where we try to cram in everything
23 under the sun, where at about five of everybody's attention
24 span is about out the door already, then we could have that
25 and we could get educated on these things a little bit better

1 that are important. That would be my only suggestion.

2 MR. GRACIE: And I think we can do that as long as
3 people select what they want to do by their interest and not
4 make it mandatory. When I was the chairman of the commission
5 the last round, we went through a strategic planning session
6 where some of us came up with the bright idea that we had to
7 set up subcommittees and have some of these in-depth meetings.
8 And we had a revolt on our hands.

9 MR. WHITE: I wouldn't make it mandatory. I just
10 say those who want to be interested and educated, those people
11 should be part of it.

12 MR. GRACIE: That is probably a fair way to handle
13 it. Ed?

14 MR. O'BRIEN: This is about -- you make the
15 statement that this is law. I highly dispute that. So do
16 many United States senators. This is a hot subject. I have
17 been in Washington on it off and on for a month talking to
18 politicians. The National Charter Boat Association is against
19 it. They have looked into it. The CCA is against it. They
20 have looked into it.

21 There is another aspect to it where in order to
22 implement it, they need to separate the for-hire boats from
23 recreational. And that kind of divide-and-conquer thing was a
24 late technique to try to get this implemented.

25 I think, Val, you need to research that statement a

1 little bit more about it is the law, and if it is the law, the
2 law can be changed.

3 MR. LYNCH: Indeed. The reason I say it is the law
4 is the people who are regulating it, who are charged with
5 regulating it under Magnuson-Stevens --

6 MR. O'BRIEN: Eric --- is so tired of listening to
7 me on this. I think he sort of agrees, but he was given a
8 policy. So he has got to enforce a policy.

9 MR. LYNCH: That is my point. And I think that as a
10 commission, we need to address it, and as a Department in the
11 state of Maryland, it needs to be addressed. But I will leave
12 it there. I am not trying to add it to your workload. I am
13 just trying to say that before we get blindsided, to where you
14 are in Eric's position, where all of a sudden you have to come
15 out and say something that you really don't support or want to
16 do as a Department. We don't want it shoved down our throats.

17 MR. O'CONNELL: Well, the Department's position on
18 catch shares has been that is the industry's choice, whether
19 it recreation, commercial or charter boat. We have to
20 determine what a sustainable harvest is, how we catch those
21 fish. As long as we meet our management principles, it is
22 really and industry choice.

23 MR. O'BRIEN: Eric's attitude is, quote, and he said
24 I could quote him, that they don't want to instill it on
25 anybody that doesn't want it.

1 There may be certain areas certainly -- crabs may be
2 different than finfish. Mussels. You know, there are certain
3 commodity areas where it makes more sense.

4 MR. GRACIE: And in spite of the fact that I haven't
5 met the request that somebody made, I am going to cut this
6 short so we can get out of here.

7 MR. O'BRIEN: Who made that?

8 MR. GRACIE: I don't want to say. Any public
9 comment?

10 (No response)

11 MR. GRACIE: I see Shawn gave up. If not, we will
12 accept a motion to adjourn.

13 MR. SIKORSKI: Move to adjourn.

14 (Whereupon, the meeting ended at 9:00 p.m.)

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