

Maryland DNR
Tidal Fisheries Advisory Commission
Meeting

Wednesday,
March 17, 2011

**Maryland DNR
Tidal Fish Advisory Commission Meeting**

March 17, 2011

I N D E X

	<u>Page</u>
Welcome and Introductions	
by Jack Brooks, Chair	5
National Resources Police Report	
by Lieutenant Nick Powell, MD DNR NRP	5
Legislative and Regulatory Update	
by Gina Hunt, MD DNR Fisheries Service	8
Questions and Answers	
by Stephen Gordon	13
by John Van Alstine	13
by Russell Dukes	18
by John Van Alstine	18
Tolerance Limits	
by Michael Luisi, MD DNR Fisheries Service	21
Questions and Answers	
by Russell Dukes	27
by Richard Young	31
Motion	33
Question, Answers and Comments	
by William Rice	35
by Tom O'Connell	35
by Bob Evans	36
by Russell Dize	36
by Tom O'Connell	38
by Gina Hunt	38
by Russell Dize	40
by Tom O'Connell	40
by Bob Evans	41
by Mike Luisi	42
by Brian Keehn	43

I N D E X (Continued)

	<u>Page</u>
<i>Blue Crab Industry Workgroup</i>	
by Jack Brooks, Chair	47
<i>Question, Answers and Comments</i>	
by Gilbert Dean	50
by Tom O'Connell	50
by William Rice	52
by Tom O'Connell	53
by Russell Dize and Tom O'Connell	53
by Bill Goldsborough and Tom O'Connell	56
<i>Accountability in Maryland's Recreational and Charter Boat Fisheries</i>	
by Gilbert Dean, Chairman, Cheseapeake Bay Fisherman's Association	57
<i>Question, Answers and Comments</i>	
by Bill Goldsborough	62
by John Van Alstine	63
by Tom O'Connell	66
<i>Amnesty</i>	
by Gilbert Dean, Chairman, Cheseapeake Bay Fisherman's Association	67
<i>Question, Answers and Comments</i>	
by Bob Evans	69
by Brian Keehn and Bob Evans	71
by Bill Goldsborough	73
by Tom O'Connell, Gilbert Dean and Tom O'Connell	74
by Russell Dize	75
by Brian Keehn	75
by Stephen Gordon	77
<i>Commission Decorum and Protocol</i>	
by Gilbert Dean, Chairman, Cheseapeake Bay Fisherman's Association	80
<i>Question, Answers and Comments</i>	
by Russell Dize, Robert Gilmer and Russell Dukes	82
by Richard Young	82
by Jack Brooks	84
by Tom O'Connell	84
by Russell Dize	85
by Richard Young	85

I N D E X (Continued)

	<u>Page</u>
<i>Simkins Dam and Cook's Point Reef Projects</i>	
by Bill Goldsborough	88
<i>Question, Answers and Comments</i>	
by John Van Alstine	96
by Bob Evans	99
by Russell Dize	100
by John Van Alstine	101
by Russell Dize	108
<i>Summer Flounder Commercial Hook and Line</i>	
by Bill Phebus	110
<i>Question, Answers and Comments</i>	
by Brian Keehn	114
by Mike Luisi	114
by Mike Benjamin	120
by Mike Luisi	123
by Richard Young	124
by Tom O'Connell	124
by Stephen Gordon	125
by Tom O'Connell	126
<i>Bycatch of Terrapin in Commercial Gear</i>	
by Marguerite Whilden	127
<i>Question, Answers and Comments</i>	
by John Van Alstine	130
by Stephen Gordon	133
by Tom O'Connell	135
by Brian Keehn and Stephen Gordon	136
by John Van Alstine	139
by Russell Dize	141
by Bob Evans	142
by Stephen Gordon	143
by Bob Evans	144
<i>Public Comment Period</i>	147

Keynote: "----" indicates inaudible in the transcript.
 "*" indicates phonetically spelled in the transcript.

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

(6:30 p.m.)

Welcome and Introductions

by Jack Brooks, Chair, Seafood Processor

MR. BROOKS: Would everyone take their seats? We have a full agenda and we need to get out of here at 9:00 p.m. sharp. Okay, thank you for coming, everybody. Let us get started with Nick. Nick, you have a report for us?

National Resources Police Report

by Lieutenant Nick Powell,

Maryland Department of Resources Natural Resources Police

LT. POWELL: Okay. General tidal fish. Officer issued one citation for illegally marked gillnets, several officers conducted surveillance and seized 1,000 yards of unattended perch gillnet and 492 pounds of white perch sold. Charges are pending.

In striped bass, we had multiple team search warrants served on several watermen's residences in Talbot County, vessels and their outbuildings --- . Officers located and seized 400 yards of striped bass gillnet and 300 pounds of striped bass in the Chester River/Chesapeake Bay. In Queen Anne's County, officers observed watermen setting their nets early in the Chester River.

Our officers were out there searching for illegal gillnets throughout February and still through March. We

1 saturated the check stations and put fishery personnel on
2 patrol of the waterways ---. Oysters and clams. We conducted
3 an oyster saturation patrol in Somerset County.

4 Twelve boats were checked, and one citation for
5 undersized oysters. This was Talbot County but that was
6 actually in Queen Anne's County. Officers got two boats
7 working an oyster sanctuary in the Chester River. They dumped
8 their oysters and charges are pending and that was it.

9 MR. BROOKS: Okay, thank you, Nick. Any questions
10 or comments for Nick?

11 MR. : On the boys that they caught in the
12 Chester River, I know it was two boys on a boat that culled
13 oysters. Correct me if I am wrong, but does a culler need a
14 license? Because I know two of those boys were charged on the
15 Chester River deal for no license.

16 I do not know about --- but I know one boy, all he
17 did was cull and I just did not know why he was charged for
18 not having a license.

19 LT. POWELL: I do not know who was on the case, but
20 usually it ties to what your limit is on the boat ---. If
21 they both were tonging -- if they observed them both tonging,
22 you have to have a license. --- observed them switching back
23 and forth.

24 LT. POWELL: --- and location code. I do not know
25 if there is a separate --

1 MS. HUNT: Well if not, it does not matter. Can we
2 just have a breakdown of commercial and recreational? I mean
3 the commercial guy gets blasted every single day in the
4 newspaper but you never hear anything about a recreational
5 person having any problems getting any citations.

6 We kind of want to know if you are avidly working
7 not only to watch the commercial guy but the recreational
8 person too.

9 LT. POWELL: No. I can assure you they are but I
10 will try to get that information for you.

11 MS. HUNT: Thank you.

12 LT. POWELL: I know, as far as crabbing goes, in
13 September and August, the guys up in Baltimore -- I have
14 forgot -- I know from -- that is where my guys are -- had over
15 40 citations and I think it is 80 warnings for crabbing. That
16 was strictly recreational, you know, possession of females,
17 possession of undersized males.

18 MS. HUNT: Okay. Thank you.

19 MR. BROOKS: Okay. Thank you. Anyone else have
20 anything for Nick?

21 (No response.)

22 MR. BROOKS: Okay. Nick, thank you. Okay. Gina,
23 you are up.

24

25

1 *Legislative and Regulatory Update*

2 *by Gina Hunt,*

3 *MD DNR Fisheries Service*

4 MS. HUNT: Before I start on legislation, I walked
5 around and handed out something about the apprenticeship
6 program. Mike, I will get you one. I just ran out of copies.
7 It is just in response to last meeting. Bob Evans had asked
8 about the apprenticeship program and licenses, how they moved.
9 So, it is just a summary of, by license category, the number
10 of permits we currently have out there, number of licenses we
11 have available, how many licenses we have issued over the last
12 five years.

13 If you have any questions, I can walk you through it
14 but I was not going to touch on it. It is just our response
15 to the question at last meeting. Legislation. You should
16 have a legislative handout. There are a couple of updates to
17 it, but let me -- I will just walk through some of the bills
18 that I know are of interest to you. You can ask me any of
19 them but I won't be touching on all of them.

20 House Bill 111 is the Gear Authority Bill. We
21 actually talked about this bill during the last meeting and it
22 is out of the subcommittee at a Natural Resources
23 subcommittee. It was amended and it is amended with very
24 specific commercial gear that the Department can regulate in
25 broadly recreational gear.

1 House Bill 208, that bill is also out but it has an
2 amendment that puts a limit -- or limit, a restriction of 51
3 percent interest in a corporation that leases in Maryland.
4 So, there has to be at least 51 percent of that corporation
5 has to be residents in order for that corporation to lease.
6 But again, that is just subcommittee. So, it is not fully out
7 in that version.

8 House Bill 273 is the Oyster Poaching Bill. This is
9 a penalty bill and that bill actually came out clean. So, no
10 amendments on that bill. House Bill 396, honestly, I do not
11 know if that moved. I thought that moved. I am sorry.

12 MR. : I do not think so.

13 MS. HUNT: Maybe not.

14 MR. : No.

15 MS. HUNT: No. It is cross-filed though also on a
16 Senate version. That is the inspection bill and we did have
17 amendments to that bill that would restrict no inspections
18 without a warrant on a dwelling. Then, let us see, next page.
19 House Bill 1053.

20 That bill was heard. There are amendments to this
21 bill -- a number of different amendments that -- I can go over
22 them with you but they are a little more specific to the water
23 quality issues and now both the House version and the Senate
24 version have some possible amendments about moving marketing
25 over to the Department of Natural Resources, as well as the

1 aquaculture provisions position that is at Department of Ag.

2 So, the Senate version -- the cross-filed Senate
3 version of this bill was heard yesterday and those amendments
4 were submitted by Senator Klausmeier. 1142, Atlantic
5 menhaden, this was actually heard yesterday but there was no
6 testimony on the bills and this is simply a restriction on
7 products -- the manufacturing and the selling of products that
8 are from menhaden in the State of Maryland.

9 So, it is not a national ban or anything. It would
10 only affect what you could use fish oil for in the State of
11 Maryland. 1154 is another penalty bill -- also heard
12 yesterday. This one is specific to striped bass and crabs.
13 It is very similar to the oysters.

14 House Bill 1225, again a Commercial Fishing
15 Violation Penalty Bill. This one is really specific to
16 fishing without a license or on a suspended license or revoked
17 license, something -- it is not about any particular
18 violation. It is just that you were out there when you no
19 longer had a license. That was also heard yesterday.

20 1238 is the Tracking Device Bill. This actually is
21 not a fisheries bill but it is on this list just because you
22 guys would be interested in it. But that hearing is tomorrow
23 and again, it is sponsor only. So, where you can submit
24 written testimony, you cannot actually get up there and talk.

25 House Bill 1240 is the Right to Harvest Seafood.

1 This is very similar to the bill that has gone on in the last
2 two or three times that just added counties to this law that
3 allowed a county to write an ordinance about your right to be
4 in the seafood business, you know, like just crab pots outside
5 your house, that type of thing.

6 The county has -- some counties have ordinances and
7 the law before said only certain counties could write those
8 ordinances. This says all counties can but in all cases, they
9 have to check with the Department of Natural Resources first.
10 Patuxent River Use of Patent Tongs, this is a bill that has
11 been filed previously -- two other times.

12 It is being heard tomorrow. It opens up some hand
13 tong area as patent tong area in the Patuxent. South River
14 Bill is a very confusing bill. It is 1249. It actually --
15 all it does is designate a portion of the South River as hand
16 tong only, which it already is.

17 It does not affect commercial -- it does not affect
18 leases, which is actually what it was intended to do. It does
19 not affect whether or not somebody can lease in the South
20 River. So, at this point, as drafted, unless it gets amended,
21 all it would do is make the area that is hand tong only --
22 hand tong only by law and not by regulation.

23 1252, Striped Bass Poaching Bill, this is also heard
24 tomorrow. It is a very specific and pretty egregious penalty
25 -- a penalty for a pretty egregious crime where the value of

1 the rockfish that is captured unlawfully is worth at least
2 \$20,000.00. So, this is not any specific size limit or
3 anything to with any of the other penalty bills. They are all
4 pretty unique.

5 I want to make a correction on House Bill 1340.
6 This is actually a fairly new bill. It has not been heard
7 yet. It is the same language as Senate Bill 538, Colburn
8 Sanctuary Bill, as it is amended not his original version of
9 that bill.

10 As amended, it requires the Department to prove
11 scientific evidence that the commercial -- outside of the
12 sanctuary is the commercial bars, outside the sanctuaries,
13 have increased in harvestable oysters before we could actually
14 expand any sanctuaries.

15 So, it does not require us to sample the
16 sanctuaries. It actually requires us to sample outside the
17 sanctuaries before we could make anymore. That is what the
18 amended version of 538 does and that is what this version,
19 House Bill 1340, does as well as 1340 also has penalty
20 provisions that were in the Senate bill too for oysters.

21 So, it takes two other bills and it makes it into
22 one; one on penalties of oysters and one on the oyster
23 sanctuaries. It is very confusing but that is why it is late
24 filed and it has not been heard yet. So, let us see.
25 Anything else I have not hit?

1 The Commercial Fishing Apprenticeship Permit, that
2 moved favorably. This was the bill I had mentioned to you
3 guys before that was to deal with the Virginia issue, to make
4 things more equitable where a non-resident could come in and
5 use their experience in Virginia or any other jurisdiction
6 towards the Apprenticeship Program.

7 Are there any questions about these because most of
8 the ones I did not go over are just cross-files.

9 MR. BROOKS: Right there. Steve?

10 MS. HUNT: Yes?

11 MR. GORDON: Are you aware of any legislation in
12 process right now that would affect your -- in regard to any
13 leased bottom harvesting?

14 MS. HUNT: Well, that is what the South River one
15 was supposed to do but it does not. No.

16 MR. VAN ALSTINE: What prompted that South River
17 bill --

18 MR. GORDON: I am sorry?

19 MR. BROOKS: Go ahead.

20 MR. VAN ALSTINE: What prompted that South River
21 bill -- I mean it certainly does need some addressing -- some
22 amendments -- was the fact that three of our --- were actually
23 processed to be leased. Three of our active oyster bars that
24 showed harvests, they had stakes and polls on them and we are
25 getting the surveyors coming out to plant them.

1 In the western shore of the State of Maryland, we
2 have got one area set aside pretty much for hand tonging on
3 the entire western shore in South River. We cannot afford to
4 lose anymore, which is what prompted that concern.

5 MR. BROOKS: Any more questions or comments for
6 Gina?

7 MS. HUNT: I have just a reg thing to go over too.

8 MR. BROOKS: Go right ahead.

9 MS. HUNT: There is a regulatory handout. It is not
10 a whole lot different than the last time you saw it because
11 the last time we met, it was right before -- or after -- it
12 was right before our scoping meeting on regulations. So,
13 really, the only difference to this it that everything that we
14 scoped is listed as an upcoming proposal.

15 But I did want to bring up one scoping issue with
16 you guys because there were a few individuals -- few
17 commercial watermen at that scoping meeting that commented on
18 the striped bass permit provision that is listed here. This
19 is -- I do not have page numbers but it is like third to the
20 last page in your handout.

21 At the last meeting, we talked about the TFL buyback
22 and one obstacle, possibly, for an individual that has a TFL
23 and a striped bass permit to participate in the buyback is
24 that you need to be able to transfer away your striped bass
25 permit, you know, because you cannot sell your license and

1 hold onto the permit.

2 But if you only recently acquired that striped bass
3 permit, current regulation prohibits you from doing so. You
4 have to hold it for several years before you could transfer it
5 away -- three year provision. Very similar to what there is
6 for your license.

7 So, what was scoped at the public scoping meeting
8 was two choices; either we just remove that provision and
9 regulation, if you are going to participate in the TFL buyback
10 so that if you do participate and you just recently acquired
11 that permit, we will let you transfer it away or there was
12 some question of whether or not really even need that
13 provision anymore.

14 The reason it is there is it was really copied off
15 of the law that says that you cannot do this with licenses.
16 The intent of that was so an individual does not sit there and
17 broker and pass things around. Now, the folks that came to
18 the scoping meeting, and I think it was only three
19 individuals, said, "We are fine if you do not have it anymore,
20 period, not just for the buyback."

21 But I wanted to clarify that if that was an option
22 that individuals wanted -- the waterman wanted, we would still
23 probably have to have at least one year -- as far as you had
24 to hold it for at least one year because right now, if you get
25 a striped bass permit transferred to you permanently, you have

1 the option of changing the gear.

2 So, if Brian was a gillnetter and he transferred the
3 permit to me after gillnet season, I have the option of making
4 it hook and line or -- well, I have the option of making it
5 point net. We certainly would not want people transferring
6 these around just so they could double dip in the fishery by
7 fishing gillnet and then also fishing pound net on the same
8 permit.

9 So, there would have to be at least a one year
10 timeframe that you would have to hold the permit before you
11 could transfer it. Or, like I said, the first option was that
12 we only allow this in the case of the TFL buyback.

13 MR. VAN ALSTINE: Question on the beneficiary
14 portion of that. If I were to die, the license is transferred
15 to my wife and I just recently received a quota, how is it --
16 in that situation, would my wife then be able to sell my
17 business within -- it was just -- I had it for one year.

18 I passed. It is transferred to my wife or
19 beneficiary -- now it has just been transferred to her. Will
20 she be able to move the business or will she be stuck with
21 something that she cannot move, as you are planning to move
22 forward with it.

23 MS. HUNT: Right. Well, this was not in regards to
24 any particular provision. It really copies the law. The
25 issue that you are getting to is an issue that happens with

1 licenses, as well.

2 MR. VAN ALSTINE: Yes.

3 MS. HUNT: When an individual has assigned the
4 beneficiary -- so, you assign the beneficiary to your wife, if
5 your wife does not want to hold that business, be a waterman,
6 she should never take possession of that license. It should
7 go to the administrator of your estate.

8 What that person in the estate does is they can sell
9 it to whomever they want. That is why in law now -- the law
10 was changed probably about five or six years ago where it
11 provides for an authorized representative to do that for you.
12 So, a lot of times that is not a family member but it is just
13 somebody you decided to handle your estate and they can sell
14 the business.

15 Along with that would be the striped bass permit.
16 The problem that people run into is that somebody walks into
17 licensing and says, well, my husband passed away and they
18 assign the license to themselves and then a year later, they
19 realize -- they have got a buyer and then they want to do it.

20 That is where we have run into problems with both
21 licenses, and you would with a striped bass permit, because
22 that person has now only held it for one year. It is no
23 longer a beneficiary transfer, it is a permanent transfer.
24 They are prohibited from doing so.

25 I do not think in that case, you know, the law is

1 not -- the law and the reg are not serving the intent that
2 they had.

3 MR. VAN ALSTINE: I agree.

4 MR. BROOKS: Great. Anybody else?

5 MR. DUKES: How long have you had, say what he was
6 talking about, would your -- say your wife would have on that
7 before she sold it, Gina?

8 MS. HUNT: Three years.

9 MR. DUKES: She has got -- I mean before she put it
10 in her name?

11 MS. HUNT: Before she can put it in her name. Well
12 really until license renewal. I mean, we have people --
13 individuals that are deceased for quite some time before their
14 family member, you know, gets around to being concerned about
15 that. So, it is just by the time license renewal comes up,
16 somebody has to renew that license.

17 MR. BROOKS: One more?

18 MR. VAN ALSTINE: Yes, just one more real quick.
19 That hits you in a sticky -- a potential -- and I do not know
20 if there is a way around it but I -- when you were talking
21 about dropping it on the time limit on the striped bass
22 transfer, it is what brought that other piece to mind because,
23 you know, that individual, that beneficiary, may only have a
24 couple of months.

25 It is the middle of a season. August is coming up.

1 She put too much arsenic in my dinner --- have to do
2 something, is there any recourse for an individual in the
3 legal process right now to overcome that hurdle?

4 MS. HUNT: I was just stuck on the arsenic ---.

5 (Laughter.)

6 MR. VAN ALSTINE: I keep telling my wife that I
7 still need a roof on the house, do not kill me yet.

8 (Laughter.)

9 MS. HUNT: Yes, okay. All right. So, you died
10 prematurely and --

11 MR. VAN ALSTINE: But your license --

12 MS. HUNT: -- in the middle of fishing season --

13 MR. VAN ALSTINE: The license is due to come renewed
14 in two or three months. So if she does, at that point, take
15 it over, is there a legal process in the system that is going
16 to allow her yes, I had to take it but if I did not, the
17 license would have been lost. We have an entire business
18 here --

19 MS. HUNT: No. No. No. No. Well, first of all,
20 she has until, you know -- let us say you die in June, license
21 renewal is in August, she has until March 31st of the following
22 year to technically do it.

23 MR. VAN ALSTINE: Okay.

24 MS. HUNT: So, I do not think -- I think the problem
25 is really if on March 20th you pass away and you did not renew

1 your license since last August.

2 MR. VAN ALSTINE: Right. So, this is not with --
3 the allocation part would not help or hurt one way or the
4 other, which was the original question.

5 MS. HUNT: Does anybody want to comment on that
6 question though on whether or not it gives you great angst to
7 get rid of it, drive it down to one year or just leave it to
8 the TFL buyback? Because since there were only there waterman
9 at that meeting, I just felt like I should bring it back to
10 the Commission.

11 (No response.)

12 MR. BROOKS: Okay. Anything else for Gina?

13 (No response.)

14 MS. HUNT: No? Okay.

15 MR. BROOKS: Gina, are you done?

16 MS. HUNT: I am done.

17 MR. BROOKS: Okay. Thank you. All right.

18 MR. VAN ALSTINE: Jack, if I could --

19 MR. BROOKS: You are not thinking about dying there
20 or anything?

21 MR. VAN ALSTINE: I am not thinking about dying
22 there are you?

23 (Laughter.)

24 MS. HUNT: He is really worried about this.

25 MR. VAN ALSTINE: I would like to be a fourth one to

1 push it back to a shorter period of time.

2 MS. HUNT: Okay.

3 MR. VAN ALSTINE: To push the quota transfer back to
4 a shorter period of time.

5 MS. HUNT: Okay.

6 MR. VAN ALSTINE: If you are saying you need a
7 minimum of a year, I would say that that would be better in
8 the --

9 MS. HUNT: It would be a minimum of a year, except
10 in the case of the TFL buyback --

11 MR. VAN ALSTINE: Right.

12 MS. HUNT: -- in which case there is no minimum
13 because your license is just up.

14 MR. VAN ALSTINE: Right. That would be what my
15 suggestion would be on that.

16 MR. BROOKS: Okay.

17 MR. VAN ALSTINE: That would be my comment.

18 MR. BROOKS: Okay.

19 MS. HUNT: Good.

20 MR. BROOKS: Thank you. All right. Next, Mike --
21 tolerance limits.

22 ***Tolerance Limits***

23 ***by Michael Luisi,***

24 ***MD DNR Fisheries Service***

25 MR. LUISI: I want to see if you guys can see this

1 before I start.

2 (Slide.)

3 MR. LUISI: Is that going to be -- are you guys all
4 going to be able to see that from where you are sitting or
5 should we make it bigger?

6 MR. : That is okay.

7 MR. LUISI: All right. If you need it bigger, just
8 let me know. We can pull the machine back a little bit and
9 blow it up. Well, based on the last meeting of this
10 Commission, it was requested that the Department come back to
11 all of you with an update on where we are dealing with
12 commercial finfish harvest tolerance.

13 So, what I thought I would do is spend a few minutes
14 giving you guys just a very quick and very brief presentation
15 on tolerance that exists within finfish and then we can open
16 the floor for discussion on the issue. So also, as I am going
17 through this, if you have any questions, just feel free to
18 stop me if anything is confusing and we can make sure that
19 everybody is straight as we get through the presentation. All
20 right, next slide.

21 (Slide.)

22 MR. LUISI: Okay. Just a real brief explanation of
23 the problem and where we currently are. Industry has, you
24 know -- as long as I have been around, there has been some
25 concern regarding license suspensions due to, you know,

1 | unintentional harvest of fish.

2 | With the point system taking on a new shape in the
3 | more recent years, that anxiety has steadily grown and it has
4 | gotten to the point where industry put forth a bill last year,
5 | which never made it out, but the bill addressed a blanket
6 | tolerance provision of five percent on all finfish harvest.

7 | Through discussions with the industry, the
8 | Department made a commitment to evaluate the need for
9 | tolerance within finfish harvest. So, what I am going to do
10 | is go through a couple different tables with you and provide a
11 | few examples of how our current rules and regs would apply to
12 | somebody, given the particular example.

13 | For the purposes of this discussion, I am going to
14 | stick with finfish harvest. You guys know, if you are
15 | involved with crabs or oysters, there are other tolerances
16 | built into those systems or into those fisheries, but for the
17 | purposes of tonight, we are just going to talk about fish.
18 | Okay, Paul, next slide.

19 | (Slide.)

20 | MR. LUISI: As we sat and began to discuss this
21 | within fisheries, it became apparent that we continue to ask
22 | the questions to one another about how would a particular
23 | situation be addressed given the current point system? So, as
24 | we evaluated it, we have come to the conclusion that there are
25 | certain built in tolerances within the point system that we

1 have in place.

2 The first example that I am going to go through
3 deals with size limit. If you want to follow this table
4 along, all species -- all finfish species, with the exception
5 of striped bass, there is a 1 to 10 fish tolerance limit on
6 undersize or on size limit, if that species has a size limit.

7 Now, the tolerance there is not that you completely
8 get away with it but there are no points associated with it.
9 No points would be accumulated on your license. Therefore, a
10 suspension could not result in having, on a particular day,
11 between 1 to 10 fish on board, you know -- that you are
12 checking in that exceed -- or not exceed -- exceed or under
13 the size limit.

14 Once you go over 11 fish, the result is a Tier I
15 violation in the current point system which results in a 5
16 point -- 5 points if you are found guilty of that violation.
17 It is a little bit different for striped bass in that the
18 built in tolerance is only 1 to 5 fish.

19 Again, no points would be associated with that.
20 However, if you have 6 to 10 or 11 to 15 I believe it is,
21 there is an increment that it continues to go up where if you
22 are found guilty of having undersized fish in that amount, you
23 would receive a Tier I, a Tier II, a Tier III and so forth
24 violation, which would mean points on your license.

25 So, I have got a -- just a quick example here. A

1 fisherman comes to the dock with 300 pounds of striped bass.
2 Upon inspection, 2 undersized fish are identified, each
3 measuring 17½ inches. In addition, the fisherman has 100
4 pounds of croaker, of which 8 of these are noticed to be much
5 less than the 9 inch minimum size limit.

6 All of these mistakes were unintentional and as a
7 result of the volume of the catch. So, you know, they were
8 mixed in the baskets of croaker. There were just a few mixed
9 in that were identified as small. The striped bass, you know,
10 is close to 18 but not quite.

11 Now, based on the current system that we have in
12 place, the above scenario, if it took place, no points would
13 be accumulated on that waterman's license. Now, citations may
14 be written and fines may happen, if that were -- if that ends
15 up being what happens at the time.

16 But it is important to understand that there are no
17 points that would come from that because with the two fish
18 undersized for striped bass and the nine fish undersized for
19 everything else but striped bass, you know, what you would be
20 looking at is a potential fine but not a potential suspension
21 in that case.

22 (Slide.)

23 MR. LUISI: The second thing we -- I just want to --
24 the second and last provision in the point system deals with
25 season. Now, there are not really any built in tolerances for

1 season and we will talk about a scenario in just a second.
2 Any harvest of any fish that has a particular season
3 associated with it would result in a violation, if found
4 guilty, and that violation would equal that of a Tier III.

5 If it were striped bass, it could be -- depending on
6 the time of the year when that violation happens, it could be
7 even higher. It could be at Tier IV. There are only a few
8 species that actually have a season. Many of the species just
9 have an open season of all year.

10 But those with a particular season are striped bass,
11 yellow perch, river herring, croaker, wheatfish and flounder.
12 So, with the example that I am about to put up here, a
13 fisherman comes back to the dock on the 23rd of September with
14 35 bushels of menhaden.

15 Upon inspection of the catch, there are 20 bluefish
16 and 2 flounder that are noticed to be mixed in with all these
17 menhaden. 6 of the bluefish and both of the flounder are
18 undersized. It is important to note here that just 2 weeks
19 prior to this, the Department closed the Chesapeake Bay
20 flounder season based on the fact that the quota had been
21 attained at that point.

22 So, the fishery was closed. The built in tolerance
23 and the point system would allow for those undersized bluefish
24 to be checked -- to be landed without there being any points
25 associated with that. You know, again, a fine could happen.

1 However, those two small flounder that were in
2 there, based on our current system, there is no tolerance for
3 that because of the season closure. Therefore, if charged
4 guilty in the case, the fisherman would receive a Tier III
5 violation, which I believe is 15 points for that.

6 Now, one thing that is not built into this is
7 officer discretion on whether or not it was intentional --
8 whether or not the harvest of those two small flounder mixed
9 in with all those other fish was something that was
10 intentional and whether the officer would cite the fisherman
11 in the first place.

12 But this scenario was -- maybe not this particular
13 scenario but this season tolerance limit and the points system
14 was reviewed by the Penalty Workgroup. Therefore, this is
15 something that the Penalty Workgroup has had a time to make
16 comment on.

17 However, this can be revisited if it is asked to be
18 revisited so that a situation like this would not end up with
19 some type of suspension to the fisherman.

20 MR. DUKES: Mike?

21 MR. LUISI: Yes?

22 MR. DUKES: When do you have a season on river
23 herring? I have never known it to be a season.

24 MR. LUISI: I do not know off the --

25 MR. DUKES: I have never known it --

1 MR. LUISI: -- top of my head. I took this --

2 MR. DUKES: -- as many years as I have worked on --

3 MR. LUISI: -- from a table with --

4 MR. : They just started it this year.

5 MR. BROOKS: No. It has been in there --- for
6 years. I think it is June 15th. It is real, real late --- the
7 end of it.

8 MR. LUISI: It is not going to matter too much
9 longer.

10 MR. DUKES: No, by then.

11 (Laughter.)

12 (Simultaneous conversation.)

13 MR. DUKES: Everybody -- you are done by then but I
14 was just saying, you know, I have never seen --

15 MR. LUISI: We ran into that and a species like
16 that, you are not going to come across later in the year but,
17 you know, I put it on here only to be inclusive of the species
18 that have some type of associated season. Okay, next slide.

19 (Slide.)

20 MR. LUISI: One other future consideration to be
21 thinking about is a situation like we have with river herring.
22 As of January 1, 2012, there will be a restriction in Maryland
23 under a harvest moratorium for river herring. The industry
24 has expressed concern regarding the -- again, the
25 unintentional landings of river herring in the bait fishery

1 due to just the complexity and the difficultness of picking
2 those fish out when they are on a -- when the boat is full and
3 you might have a few river herring mixed in with bushels of
4 menhaden.

5 Right now, let us say we are next -- we are in 2012
6 right now, there would be nothing written into the point
7 system right now to account for the unintentional harvest. If
8 those fish were found, there would be nothing in there to be a
9 violation but this is something that the Penalty Workgroup
10 will be discussing.

11 For those of you who may sit on that group or want
12 to be involved in the discussion on that, it will be coming
13 down the pike here as we move forward to -- and a little
14 closer towards that moratorium. Okay. Next slide.

15 (Slide.)

16 MR. LUISI: All right. Last slide here. The
17 Department feels that we should continue to work with the
18 commercial industry and the point system to try to mitigate
19 the unintended -- the consequences of this unintentional
20 harvest.

21 If we were to set -- like the bill addressed last
22 year, if we were to set a provision -- a permanent percentage
23 of tolerance, you know, we feel that there are two things that
24 this could influence. Well, the first thing it does is it
25 eliminates really any officer discretion if you are saying

1 that you can have so many fish or so many percentage of your
2 harvest can be considered illegal harvest.

3 But, what it also does is, and it is even more of
4 concern, is that it if we were to say that those five percent
5 are striped bass that are undersized are tolerated and they
6 are legal, then it could open the door for -- well, it does
7 not open the door but there would be smaller fish that are
8 considered legal out in the market.

9 They would not be considered illegal. Therefore,
10 they could circulate in the market and it just could be a
11 problem on that end. All right. One more.

12 (Slide.)

13 MR. LUISI: Another slide. Just a final thought. I
14 asked the question as we discussed this, you know, what is the
15 frequency of occurrence with these types of citations. What
16 we have found was that in the summary of it, the entire year
17 of 2010, there were 7 citation written -- 7 citations written
18 on striped bass based on size limit commercially.

19 7 were written by -- for harvesting out of season
20 commercially. None of those were points related. Those were
21 only fined violations. There was one non-points related
22 citation written on size limit for white perch. As far as
23 points go in 2010, there was only one citation written on size
24 limit. It equaled five points on the fisherman's license.

25 There were no out of season citations written at all

1 | last year. So, when taking the amount of the frequency of all
2 | of this and applying it to the tolerance, we really would hope
3 | that we could continue working within the system that we have
4 | to develop some level of tolerance for unintentional
5 | harvesting.

6 | With that, I think, Tom and I will take any
7 | questions that you have or comments.

8 | MR. YOUNG: Wait. On this one -- I have another
9 | comment to it --

10 | MR. LUISI: Yes.

11 | MR. YOUNG: -- if I can go back a couple. But on
12 | this one, you have under no points, striped bass 7 size limit
13 | and 7 out of season, but down under points, you have no
14 | striped bass out of season. But you just said on the other
15 | slide that if it was harvested out of season, it was a Tier
16 | III.

17 | MR. LUISI: Well, what we do not know from this but
18 | what I am assuming -- I am glad you brought that up --

19 | MR. YOUNG: Yes.

20 | MR. LUISI: -- because it is confusing. There had
21 | to be some level of officer discretion involved --

22 | MR. YOUNG: Okay.

23 | MR. LUISI: -- in whether or not that went to --
24 | whether or not that was prosecuted to the full extent.

25 | MR. YOUNG: So, was it mitigated -- maybe mitigating

1 | circumstances or something --

2 | MR. LUISI: Just could have been a circumstantial --

3 | MR. YOUNG: ---.

4 | MR. LUISI: -- a circumstantial case.

5 | MR. YOUNG: Now, when we go back -- and this is my
6 | last comment but go back a couple to where -- go back again
7 | and again.

8 | MR. LUISI: Which one are you looking for?

9 | MR. YOUNG: Let us see.

10 | MR. GENOVESE: Is it this one?

11 | MR. LUISI: Season or size limit.

12 | MR. YOUNG: Yes. The out of season.

13 | MR. LUISI: The out of season. That is it.

14 | MR. GENOVESE: This one, right?

15 | MR. LUISI: Yes.

16 | MR. GENOVESE: Or next one?

17 | MR. YOUNG: Maybe it is the next one -- because I am
18 | on the Penalty Workgroup --

19 | MR. LUISI: Okay.

20 | MR. YOUNG: -- and I do not recall -- this thing was
21 | definitely not the intent of what -- we did not intend for
22 | guys accidentally harvesting fish out of season to get any
23 | points at all or much less, a Tier III violation. It is very
24 | easy to miss one or two fish.

25 | MR. LUISI: Sure. Well, the reason why I put that

1 on there was that the season was discussed by the Penalty
2 Workgroup.

3 MR. YOUNG: Yes, it was.

4 MR. LUISI: This situation -- this review that we
5 did, this example may not have been thought of and --

6 MR. YOUNG: Yes. Well, we need to --

7 MR. LUISI: -- so therefore, it --

8 MR. YOUNG: -- go back and discuss that.

9 MR. LUISI: If we need to -- if the Penalty
10 Workgroup needs to go back, it would be good to have that
11 recommendation come from this committee -- this commission.

12 MR. YOUNG: Well, I would like to make a motion that
13 this go back to the Penalty Workgroup for more discussion.

14 MR. BROOKS: Okay. We have a motion on the table
15 and who is taking the motion?

16 MR. GENOVESE: (Raises hand.)

17 MR. BROOKS: You?

18 MR. GENOVESE: Yes.

19 MR. BROOKS: Okay. All right.

20 MR. YOUNG: The motion that this -- the out of
21 season harvest go back to the Penalty Workgroup for more
22 discussions. I believe that is my first motion.

23 (Laughter.)

24 MR. LUISI: That was Richard Young. I do not think
25 there was a second.

1 MR. BROOKS: Richard, is that it?

2 MR. YOUNG: Yes.

3 MR. BROOKS: Is that seconded by --

4 MR. YOUNG: Revisit it? Yes.

5 MR. BROOKS: Okay. We have a motion by Richard to

6 -- I cannot quite read it but anyway, we got a second?

7 MS. HUNT: --- Paul.

8 MR. RICE: I will second, Mr. Chairman.

9 MR. BROOKS: We have got a second? Billy?

10 MR. RICE: Yes.

11 MR. BROOKS: Okay. Discussion on the motion.

12 (No response.)

13 MR. BROOKS: Any comments on the motion?

14 (No response.)

15 MR. BROOKS: From the commissioners?

16 (No response.)

17 MR. BROOKS: Okay. Any comments from the public on

18 this motion?

19 (No response.)

20 MR. BROOKS: Hearing none we will call for a vote.

21 All in favor of this motion, say 'I' and raise your hand

22 please.

23 (Chorus of "I".)

24 MR. BROOKS: Oppose?

25 (No response.)

1 MR. BROOKS: Abstentions?

2 (No response.)

3 MR. BROOKS: Bill Goldsborough --- had an abstention
4 on the vote.

5 MS. HUNT: ---.

6 MR. BROOKS: Two?

7 MS. HUNT: ---.

8 MR. BROOKS: Okay. Thank you.

9 MR. RICE: Mr. Chairman?

10 MR. BROOKS: Yes?

11 MR. RICE: I have got a question for Tom O'Connell.

12 MR. BROOKS: Okay. Tom? ---.

13 MR. RICE: This type of thing affects, to me, mostly
14 pound netters more so that --- doing anything like we have
15 done in the Potomac with the research on the cull panels.

16 MR. O'CONNELL: We have not yet. In the Potomac
17 River, they have passed some rules to require cull panels on
18 that given issues related to river herring and I think
19 flounder perhaps and --

20 MR. RICE: Actually, I am not 100 percent sure and I
21 did not like saying that I am 100 percent sure unless I am. I
22 think we do not require them yet but the incentive is if you
23 have cull panels installed by our specifications --- you are
24 allowed a two percent bycatch of undersized or out of season
25 fish, not to exceed two bushel per load. I think that is how

1 | it is.

2 | MR. O'CONNELL: I think we have gotten the
3 | information or research from Casey Carpenter* and we have been
4 | reviewing with our staff because that is something we have
5 | been meaning to look at as a --- closing the river herring
6 | fishery and trying to provide some tools that can minimize the
7 | bycatch.

8 | Whether or not, you know, there can be somewhat of
9 | an incentive based approach where people utilize those cull
10 | panels, there is some greater tolerance allowed. That is
11 | something that we could further look at.

12 | MR. BROOKS: Okay. Bob?

13 | MR. EVANS: Are we really addressing a tolerance
14 | here? I mean we are skirting around this thing but I do not
15 | see any tolerance. I mean -- go ahead, Russell.

16 | MR. DIZE: I would just -- I mean Bob has brought
17 | this up year after year. He brought it back up years ago when
18 | I was on the Panel Advisory.

19 | MR. EVANS: Yes, and I --- took this into
20 | legislature last year. That is why we are here.

21 | MR. DIZE: Right. He always gives the example that
22 | he is handling thousands of catfish and if you get one
23 | catfish, he get -- okay, under the scenario that Mike said, he
24 | will get a -- he will get a ticket but why should he have to
25 | get a ticket?

1 Why should you be issued a citation when everything
2 else has a tolerance and here is a -- here is a fish that we
3 are not worried about is what --- on but why he should he have
4 to worry every time that he takes 5,000 pounds or 10,000
5 pounds somewhere?

6 MR. EVANS: I ask anyone of you all to come fishing
7 with me one day. Right now, I am working fight nets and
8 catfish spots. When I pull my fight nets up, certain parts of
9 the nets is a sidewall of white perch this big (indicating)
10 when the fish are running hard.

11 Well, when we get those nets up alongside the boat,
12 we shake that stuff out. Those little perch fly all over the
13 place. Every day, when I clean the boat up, somewhere in the
14 boat, we will pick up 15 or 20 little perches this big
15 (indicating).

16 It is bycatch. It happens. When catfishing is real
17 good for me, I handle 10,000 pounds a week on the average and
18 they all go out of state and there are 10 to 15 inch catfish.
19 Well, you gave the scenario on no points or how many points
20 but what you are not addressing is a problem with it.

21 Whether I get any points or not, if I take these
22 fish over state lines and a catfish is undersized -- now, let
23 me tell you something. When you enter 10,000 pounds of 4 fish
24 to the pound of fish a week, you are handling thousands and
25 thousands of fish.

1 The way we handle fish, you are going to miss 1
2 every once in awhile and guess what, those ones in there that
3 are this big (indicating), they are throwing up fish that are
4 this big (indicating) that are illegal fish. We are not
5 addressing the problem here. We need a tolerance.

6 MR. O'CONNELL: There remain issues that you stated
7 Bob.

8 MR. EVANS: Right.

9 MR. O'CONNELL: Well, let me say this then. When I
10 take these fish over state lines or I send them over in
11 somebody's truck, whether I get points on my license or not, I
12 am still liable on a Lacey Act violation and a Lacey Act
13 violation puts waterman like me out of business and I cannot
14 afford it and I am worried to death all the time about it.

15 MS. HUNT: Can I answer? Two things. I would -- a
16 couple of points. The first one I would say, in regards to
17 the Lacey Act, is what -- I thought this -- what originated
18 for this bill, because the concern about this bill was the
19 increase in penalties and changes in the penalty system.

20 Nothing has changed in the Lacey Act, okay? If you
21 were concerned today, you should have been concerned 10 years
22 ago. That is not different. Second, this really looks --
23 what it really is is that you guys are concerned about officer
24 discretion.

25 I hear this in a lot of meetings where while ---

1 officers differently but I think that last slide, there is
2 evidence that there is not a lot of citations out there where
3 this is happening, okay? So, whereas I know there is the
4 concern and the fear but the reality is different, all right?

5 Then the real concern for the Department is that if
6 we did put a tolerance in there -- Mike was trying to explain
7 that what happens by saying there is 2 fish that you could
8 have or let us say in the case of pound net right now, we put
9 in a 50 pound tolerance on your daily catch limit.

10 You know everybody catches that 50 pound tolerance
11 now. It is no longer that people catch their 300 pounds.
12 They catch 350. That is what comes in on their permit card.
13 It is now their legal catch. It is no longer their tolerance.
14 So, what happens is those 50 pounds of fish are going to
15 market and now they are legal.

16 Well, you are trying to say is then that these 2
17 fish are going to be able to go to the market and they are
18 going to be legal. Now, it is going to be really hard to
19 enforce, when you have a bunch of undersized fish sitting out
20 in the market, and saying well, this basket of fish all came
21 from 20 different fishermen and that is -- they are each 2
22 fish.

23 How is NRP going to know where those legal bycatch
24 came from? It just seems that every time we extent that, it
25 is now not the tolerance. It is now just what the legal limit

1 | is --

2 | MR. DIZE: But Gina?

3 | MS. HUNT: -- and it is going to be a problem for
4 | enforcement.

5 | MR. DIZE: I see no difference in what you are
6 | talking about than oysters. They go five percent. They are
7 | in a bushel. They go up the road. You know that you are
8 | allowed five percent.

9 | MS. HUNT: Right.

10 | MR. DIZE: We surely could address this one fishery,
11 | even if we do not touch the rockfish or other but the
12 | catfish --

13 | MS. HUNT: Catfish fishery.

14 | MR. DIZE: -- you certainly could address that --

15 | MR. EVANS: And white perch.

16 | MR. DIZE: -- because this man has been asking for
17 | it for years.

18 | MR. EVANS: You know, touch everything but the
19 | rockfish. If you have a problem with the rockfish, cut it
20 | out.

21 | MR. : Tom?

22 | MR. O'CONNELL: I think the take home message from
23 | Mike's presentation was, in our view, rather than having a
24 | blanket tolerance limit, we think we should build upon the
25 | current point system and there is obviously more work to be

1 done.

2 So, if there is a specific issue related to white
3 perch, like you described, Bob, we have a system in place that
4 will allow us to address that specific issue to determine what
5 is an acceptable level of tolerance for that fishery,
6 acceptable level of tolerance for the fight net situation you
7 describe for white perch may be completely different than the
8 gillnetter or hook and liner commercially catching for white
9 perch.

10 So, our suggestion is that we work with the current
11 system, the Title Fish Advisory Commission can begin to
12 identify the additional tolerance issues that need to be
13 focused in on and the Department would work with the Penalty
14 Workgroup to begin to evaluate and make any necessary
15 modifications to address these issues.

16 MR. EVANS: Two things I want to say. One is when
17 you bring up there are no citations written, well, let me tell
18 you something. Being a fisherman for 40 years plus, when we
19 used to get checked every day on the water, I had 2 men on my
20 boat that have been on the boat for 4 years and never had a
21 fish culled.

22 Enforcement is a problem because these guys do not
23 have any officers. I go through 2 or 3 seasons on the upper
24 Patuxent on the spawning grounds and never see a marine police
25 boat. Now, when they get officers back out there to and

1 | forth, they are going to start checking my fish.

2 | There are going to be tickets written and we need a
3 | tolerance. We are not addressing the issue.

4 | MR. O'CONNELL: What we are suggesting is that this
5 | is the mechanism to further address --

6 | MR. EVANS: This does not have anything to do with
7 | the Penalty Workgroup. This is a tolerance issue and we need
8 | to address it as a tolerance.

9 | MR. O'CONNELL: Well, we would be interested in
10 | hearing what others have to say. Our suggestion is to -- we
11 | have tolerance built into the system. There are other issues
12 | that we can add into the system. Our suggestion is to build
13 | upon the current system for tolerance.

14 | We are very interested in hearing other viewpoints
15 | tonight.

16 | MR. EVANS: Anybody else?

17 | MR. LUISI: I think we -- Bob, when you look, and I
18 | know you know this, but the 1 to 10 fish that can be
19 | undersized, you know, that is the tolerance and the tolerance
20 | is basically left up to an officer's discretion in that case.

21 | MR. EVANS: I know that.

22 | MR. LUISI: If we say --

23 | MR. EVANS: And you are looking at a person that had
24 | 1,500 pounds of white perch on his boat one day --

25 | (Simultaneous conversation.)

1 MR. EVANS: -- years ago, I had 2 young officers
2 check me when I came into the landing. An hour and 45 minutes
3 later, they had culled every fish on the boat and they had 5
4 undersized fish. Now, we are talking about 4,000 fish. They
5 had 5 undersized fish, 4 of them were about that big
6 (indicating) that got shaken out of the net and 1 of them just
7 didn't quite hit the stick.

8 And they wrote me a ticket because of the zero
9 tolerance and that is going to happen again.

10 MR. LUISI: Just one more point, and I appreciate
11 your situation in that but if there was a tolerance of let us
12 say five fish, it no longer -- it no longer is a -- it no
13 longer allows when you have six fish, there is no discretion
14 anymore.

15 You have reached and you have exceeded your
16 tolerance limit. Therefore, there is no discretion to make a
17 decision as to whether or not that could have just been chance
18 or it just was unintended --

19 MR. EVANS: I say you get your --

20 MR. LUISI: -- and it just happened.

21 MR. EVANS: -- you get your six fish, write a
22 ticket.

23 MR. BROOKS: Brian?

24 MR. KEEHN: I was just going to say, Bob, I mean a
25 couple of us in the room, Russell, Richard, myself and Larry,

1 we are on the workgroup -- Penalty Workgroup and what you are
2 describing in your fishery, the catfish fishery, was not our
3 intent in any way, shape or form and we were just sitting here
4 talking.

5 I mean we would be more than happy to sit down, you
6 know. In the next winter Workgroup meeting, come on in and we
7 can address it because that certainly was not our intent was
8 that, you know -- like you said, a mistake, little white perch
9 are in the boat, that is not what -- that is not the spirit of
10 what we were trying to do.

11 MR. EVANS: Well -- and I know that but we are not
12 really addressing the issue. The issue is a tolerance. Just
13 like every other fishery in the State of Maryland, you have,
14 on an average, 5 percent tolerance. Let me tell you something
15 about hard crab.

16 Number 2 crabs run, on an average, 100 grams to the
17 bushel. You are allowed 5. Now, if you have a man cull
18 bushel crabs into the basket, number 2's, and measures every
19 crab and puts it in the basket, I will guarantee you, when
20 that marine policeman comes and measures those crabs, it is 3
21 to 5 undersized because an end of a point gets broke off.

22 It is the same thing with an undersized white perch
23 that shrivels up, especially yellow perch, that when they get
24 die, they shorten up quite a bit. All I am asking for, it is
25 an easy fix, is 5 fish to the 100 on everything but rockfish.

1 MR. BROOKS: Okay.

2 MR. EVANS: That is not a whole lot to ask for.

3 MR. BROOKS: Anybody else?

4 MR. EVANS: You do not have to weigh anything. 5
5 fish to 100.

6 MR. YOUNG: What you are looking for then is you are
7 looking for a tolerance where you do not get a ticket.

8 MR. EVANS: Yes.

9 MR. YOUNG: Whether you get points or not -- you are
10 not going to get points on that. You would get a citation and
11 maybe have to pay a fine but there are no points but you do
12 not want to get the citation?

13 MR. EVANS: No citation.

14 MR. YOUNG: Okay.

15 MR. EVANS: No points. No nothing.

16 MR. YOUNG: Okay.

17 MR. EVANS: 5 fish to 100. Why is it -- why is the
18 finfish fishery any different than the oyster fishery, the
19 crab fishery or the soft crab fishery? That is what I am
20 saying.

21 MR. BROOKS: Bob, would you be willing to go to the
22 next Workgroup meeting then --

23 MR. EVANS: I do anything I gotta do.

24 MR. BROOKS: -- try to hammer out something out
25 here?

1 MR. EVANS: I have been fighting this --
2 MR. BROOKS: Okay.
3 MR. YOUNG: We can hammer something out.
4 MR. : Yes.
5 MR. YOUNG: We can work on that. We work really
6 hard on coming with --
7 MR. EVANS: But like I said, I am not coming over
8 there and spending my time to work out something on -- if you
9 are not going to work on the tolerance, then I am not going to
10 waste my time coming over there. I do not care whether you
11 get tickets or points or whatever.
12 You need a certain amount of fish, by law, just like
13 every other fishery. It is only fair.
14 MR. YOUNG: So, you want a percentage tolerance.
15 You do --
16 MR. EVANS: Yes.
17 MR. YOUNG: -- not want a number?
18 MR. EVANS: 5 fish to the 100.
19 MR. YOUNG: Yes. 5 percent.
20 MR. EVANS: You do not have to weigh the fish or
21 anything.
22 MR. YOUNG: 5 percent.
23 MR. EVANS: You do not have to have --
24 MR. : We can talk ---.
25 MR. EVANS: -- waste of tubs or whatever. Let them

1 cull 100 fish. If you have got 5 undersized -- over 5
2 undersized, write a ticket.

3 MR. BROOKS: Please make sure Bob knows when that
4 next Workgroup meeting is.

5 MR. : I do not know when they got -- when
6 it is set up.

7 MR. YOUNG: Yes and sent that -- make sure Sara
8 knows that we need to talk about that.

9 MR. : Yes. Okay.

10 MR. EVANS: I would be glad to come there.

11 MR. YOUNG: Yes.

12 MR. BROOKS: Okay. Anything else for Mike?

13 (No response.)

14 MR. EVANS: Thank you very much and thank you for
15 all your time putting all this together.

16 MR. BROOKS: Okay. Nothing else. Hearing nothing
17 else for Mike, thanks Mike. Okay. Next, the Blue Crab
18 Industry Workgroup. I requested that this come on.

19 ***Blue Crab Industry Workshop***

20 ***by Jack Brooks, Chair, Seafood Processor***

21 MR. BROOKS: I am not looking for a motion or
22 anything but just a little frustration here. When --- person
23 I think is in the group was asked to serve on the industry
24 crab -- Blue Crab Industry Workgroup really thought that --
25 and hoping that we would be heard and be able to make a

1 | difference.

2 | The last meeting we had, we were presented with a
3 | menu of items -- several menus of items for different groups
4 | of -- different scenarios with populations of crabs, anywhere
5 | from under 300 million crabs up to over 700 million crabs. I
6 | think there were like 6 or 7 menu items that you could choose
7 | or suggest that we take provided where the 2011 population
8 | landed.

9 | I think the overwhelming majority of the group asked
10 | to see more menu items, especially for the higher numbers, 5
11 | -- 4 to 5 million, 5 to 6 million and even maybe over 7
12 | million. Brenda was there and so was Lynn and I felt we were
13 | really heard.

14 | It really -- the people in the Workgroup explained
15 | the reasoning behind it to try to extent the season out
16 | longer, even if it meant drinking -- taking bushel limits off
17 | to try to get rid of the closed -- mid-season closures and
18 | extend the season somewhere in the middle or late November --
19 | November 21st preferably.

20 | I felt really good leaving that meeting. I really
21 | did. Then, I guess, after some consideration, I think Brenda
22 | sent out an email and said well, it is no, we cannot do that.
23 | We cannot explore that. They have checked with people and
24 | cannot explore it, cannot offer any menu items.

25 | As a matter of fact, worried about Virginia maybe

1 restarting to dredge crab season. We may not have that option
2 over -- with oversight 100 million crabs as proposed on their
3 menu -- on the original -- one of the original choices or a
4 couple -- 2 or 3 of the original choices.

5 So, I waited a couple of days before I sent a
6 response and I just, you know -- it was very hard for me to
7 understand that. I talked with Lynn and just a little
8 frustrated that, you know, the Workgroup was not heard and
9 certainly hoping that they could -- the Department could
10 reconsider these options.

11 If Virginia is going to go crab dredging, they are
12 going to go crab dredging. Virginia showed us time and time
13 again that, you know, okay, they will work with us -- work
14 with Maryland but they are going to do -- Virginia is going to
15 do what Virginia wants to do.

16 I do not know how we can influence it and I just do
17 not want to make another mistake, as had been made in the past
18 history, that we crush or penalize or do things to hurt the
19 Maryland fisherman or the Maryland crab fishery or any other
20 fishery hoping that Virginia will go along and -- at
21 Maryland's expense.

22 Back in the '90's or something, their season was
23 closed October 31st and there was not science or anything
24 behind it but they were hoping Virginia would do something and
25 Virginia smiled and reaped the benefits. So, I am not looking

1 for a motion or anything.

2 I am just a little bit frustrated by it and hoping
3 that at least the 21st will stay on the 700 million and over
4 and hope that the Department will reconsider offering the 21st
5 at least as a choice -- maybe to 5 to 6 and/or the 6th to ---.
6 So, I do not want to take up a whole lot of time with this but
7 just wanted the group to hear at least my view.

8 So, if anybody has got any comments or anybody is on
9 the Workgroup or not on the Workgroup but anyway. Gibby?

10 MR. DEAN: I think, if I am not mistaken, Jack, in
11 order to achieve that November 21st closure, you even offered
12 to decrease the daily bushel limits --

13 MR. BROOKS: Well, that is the only way we could do.

14 MR. DEAN: -- in order to achieve it.

15 MR. BROOKS: Right and that is --

16 MR. DEAN: And they still turn down.

17 MR. BROOKS: And just to offer it as an option. We
18 might not like it, you know. The bushel limits may not be
19 adequate to -- so the guy can work. We would just like to
20 have seen it as an option.

21 MR. O'CONNELL: Just one point of clarification.

22 MR. BROOKS: Okay.

23 MR. O'CONNELL: First, you know, we appreciate your
24 frustration, Jack. You know, we worked hard trying to come to
25 that Workgroup with options that we thought were acceptable

1 and, you know, in regards to offering more options with season
2 extensions for the 500 and 600 plus million, there is a lot of
3 concern with expanding the season under declining abundance
4 levels because we were at 658 million last year.

5 I understand that you guys were looking for some
6 trade-off with maybe modifying. In regards to the 700 million
7 level, you know, there is a lot of concerns about -- well, I
8 guess, let me backtrack. We did present options for November
9 21st under the 700 option.

10 Under further discussions in the Department, the
11 Department is getting very uncomfortable with those options.
12 They are not off the table but letter back said that it would
13 be very difficult for the Department to move those options ---
14 based upon the information we have available right now.

15 You know, part of that is related to not wanting to
16 make significant changes. We heard from the stock assessment
17 last year that, you know, fishery behavior is changing. You
18 do not want to make drastic changes because you may be seeing
19 some different levels of fishing effort and fishing behavior
20 and that could be influencing the tools we are using to
21 project the harvest.

22 Jack said his Department is very concerned in
23 regards to the possibility of Virginia opening up the winter
24 dredge fishery and that is a reality and we have developed a
25 very strong partnership with Virginia and we are hoping that

1 | by taking some prudent actions in Maryland, that will be
2 | reflecting in Virginia and keep them from not opening that
3 | fishery.

4 | But we do understand the frustration and just want
5 | to say that, you know, that option is not off the table but we
6 | did say it is going to be difficult for us to support but that
7 | is something that the Committee can still look at proposing to
8 | us.

9 | You may want to look at building in some further
10 | safeguards to help sell that to the Department but there are a
11 | lot of concerns, as I expressed, and I do understand your
12 | frustration. We just thought it better to be upfront in front
13 | of the Workgroup now, rather than telling you in April.

14 | MR. RICE: Well, I sat at the table to represent PRC
15 | when we talked from the state level and when you talk about
16 | the State of Virginia, you have to understand that VMRC has
17 | limited power. Most of their stuff comes through legislation.
18 | This is my opinion as a waterman. The general overall
19 | population of crab potters in the State of Virginia do not
20 | want to see winter dredging.

21 | 99 percent of them do not want to see no more winter
22 | dredging than we do but VMRC does not have the hammer, so to
23 | speak, as Maryland DNR does on those type scenarios and if it
24 | could -- if it passed through the legislature, I guess it
25 | probably would come back.

1 Correct me if I am wrong, Tom, but isn't a close by
2 some type of emergency type regulations through VMRC?

3 MR. O'CONNELL: VMRC only has the authority to close
4 or open the winter dredge fishery on an annual basis.

5 MR. RICE: Annual. That is what it was. Okay.

6 MR. O'CONNELL: So, every year they have to --

7 MR. RICE: Right.

8 MR. O'CONNELL: -- make another decision so --

9 MR. RICE: They have to renew. Right.

10 MR. O'CONNELL: -- that is what is before the
11 Commission right now is in their April or May meeting they
12 will be deciding whether or not the fishery reopens.

13 MR. RICE: Right. Well, each and every crab potter
14 or crabber, rather, that is licensed in the State of Virginia
15 got a survey and I would like to see the results of those
16 because one of the questions were would you like to see the
17 dredge fishing open back up and I put in parenthesis "heck
18 no". I mean in bold letters.

19 I mean I think -- personally, I think everything
20 that we work for would basically have a chance to go down the
21 tubes if they open that back up again.

22 MR. BROOKS: Well, I certainly agree. I certainly
23 hope Virginia does not go and open it up to --- season of any
24 sort and but, you know, I go back to Virginia when they
25 decided to extend their season two weeks in the spring. You

1 know, I do not think they consulted us.

2 This is not Maryland versus Virginia. This is about
3 Maryland looking out for the Maryland crabbers and look, very
4 likely, if you presented one -- went to November and the
5 earlier -- or the 5 to 6 or 6 to 7, the Group may not have
6 liked it.

7 It might not have been the quota -- daily quota
8 catch to sustain a working waterman and -- but, to just, you
9 know, we are afraid of what Virginia might do, I -- we all are
10 but I do not think Tom, you, or John or anybody else is going
11 to control what Virginia does and their commission.

12 MR. O'CONNELL: Let me just -- Virginia did consult
13 us last year. I mean I just want to reiterate. We have a
14 very strong working relationship. This would be the first
15 year, under the new administration, there and time will tell,
16 I guess.

17 MR. BROOKS: Okay. Russell?

18 MR. DIZE: I agree with you. They could care less.
19 If the legislature votes it in, it will be in. If they do
20 not, it will be out and that is it. I do not VM's have
21 anything to do with it. I think whatever the legislature
22 votes, according to how much pressure is put on the
23 legislature to open it or keep it closed.

24 I think that is where it stands. What we do, I do
25 not think they care. I do not think they ever have cared.

1 MR. BROOKS: I do think Virginia and Maryland have a
2 better working relationship --

3 MR. DIZE: Yes.

4 MR. BROOKS: -- than they did 5 or 10 years ago but
5 I think the bottom line is, Virginia is going to do what is
6 best for Virginia.

7 MR. DIZE: I agree with what you said but we cannot
8 land our conchs in Virginia right now. We cannot land them --
9 Maryland boats cannot land them because Virginia do not want
10 them landed there.

11 MR. BROOKS: Yes.

12 MR. DIZE: We cannot do anything about it.

13 MR. BROOKS: Yes. There you go. Perfect analogy.
14 Okay.

15 MR. O'CONNELL: So, just -- because I mean, we will
16 be talking about this issue in the future. Just so, it is not
17 the legislature that decides whether or not the dredge fishery
18 opens or not. The legislator has given the authority to
19 Virginia Marine Resources Commission --- decision on an annual
20 basis.

21 So, it is not the legislature, it is the elected
22 commissioner's of VMRC. It is a minor thing but just --

23 MR. BROOKS: They are House of Representatives of
24 industry and --

25 MR. O'CONNELL: Appointments by the Governor.

1 MR. BROOKS: Right. Right. Okay. Bill?

2 MR. GOLDSBOROUGH: Yes. I have a question for Tom.
3 Is there a former process whereby Maryland and Virginia confer
4 like on an annual basis about what they are going to do for
5 the crabber in the coming year?

6 MR. O'CONNELL: What we have been doing -- formally,
7 we meet after the winter dredge survey results are available,
8 we are looking to set up a meeting in mid-April right now. It
9 is Maryland, Virginia, Potomac River Fisheries Commission and
10 the --- Office who is involved with this fishery --- team.

11 MR. GOLDSBOROUGH: That is what I was going to ask.
12 Who?

13 MR. O'CONNELL: Then there is, you know -- that is
14 usually the one sit down meeting, then there are conversations
15 between the secretaries and me and my counterpart, you know,
16 throughout the season on issues that require that level of
17 attention.

18 MR. GOLDSBOROUGH: So, it is basically the executive
19 committee of the --- team.

20 MR. O'CONNELL: Well, it is the secretaries. At
21 that April meeting, it is the secretaries.

22 MR. GOLDSBOROUGH: Yes.

23 MR. O'CONNELL: Throughout the year it is, you know,
24 different.

25 MR. GOLDSBOROUGH: Because I was going to say, if it

1 | would be helpful to have stakeholder input, like some of these
2 | ideas that are being discussed, it could be the whole goal
3 | team takes up that topic on an annual basis.

4 | MR. BROOKS: I do not want to belabor the issue but
5 | I just want to stress that to the Department that certainly,
6 | do not penalize Maryland for what Virginia does or may do.
7 | That is, you know, hard enough to ---. Next, accountability
8 | in Maryland's recreational charter boat fisheries. Gibby?

9 | ***Accountability in Maryland's Recreational and Charter Boat Fisheries***

10 | ***by Gilbert Dean, Chairman,***

11 | ***Chesapeake Bay Fishermen's Association***

12 | MR. DEAN: I will be as brief as possible on this,
13 | as well. Due to the recent discovery of confiscation of some
14 | illegal nets --- most all the conservation groups and sport
15 | fishing organizations all criticize the commercial fishery
16 | because of accountability issues.

17 | It was a major concern and rightfully so. The
18 | commercial fishery, you know, at present, have to tag their
19 | fish. They have to check them in at state check in stations
20 | or state authorized check in stations. They have two separate
21 | forms to fill out, which are very detailed.

22 | For those of you that -- here that have not seen
23 | them, you know, I have brought, you know, a couple if you are
24 | certainly willing to look at. One is their permit card itself
25 | that you take to your check in station, which describes, you

1 know, your vessel, the date, number of fish you check in,
2 which equates to the number of tags you have used, the pounds
3 of fish, which are weighed by the check in station, and the
4 check in station ID number and initials.

5 Now, those tags themselves, now we are required at
6 the end of the year to return those tags to the state and
7 count how many we have left over. The addition of the
8 remaining tags and the ones used on your fish should equate to
9 the number of tags that were issued so, all tags are accounted
10 for.

11 These check in stations report by 9:00 o'clock, if I
12 am not mistaken, the next morning. Then, we commercial
13 fisherman have our own separate report to fill out, which
14 includes your license number, day of the month, various fish,
15 gear, code, type, quality of gear, duration you used it, if
16 you are drift netting, number of sects, trip lengths, number
17 of crew and total pounds by species.

18 Most of you have seen these but anybody that has
19 not, if you want to pass them around. So, that is currently
20 what the commercial fishery is doing. I think the Department
21 would admit that they have a pretty good idea of how many fish
22 the commercial fishery currently catches.

23 As I spoke at the last meeting, the charter boat
24 industry. They also have a form to fill out. Now, this is
25 turned in on a weekly basis. It has a number of people -- or

1 it has the date, the number of people, excluding your crew,
2 number of trips per day, areas where fish were caught, has the
3 fish broken down by species.

4 You have to list the total number of fish caught.
5 In striped bass category, it is striped bass catch and striped
6 bass release and you also have to put the total number of
7 pounds. Now, that pounds --- maybe some of them are currently
8 random.

9 To my knowledge, in most cases, --- I would say it
10 is an estimate of what the pounds are. So, you know, the
11 charter boat industry is doing a fairly good job, you know, as
12 far as accountability goes, even though the poundage is an
13 estimate.

14 The recreational fishery currently does not have
15 anything to do. Correct me if I am wrong but there are people
16 that make random phone calls and do surveys sometimes at docks
17 -- did you fish this week? How many fish did you catch? I do
18 not know how valid those estimates are if they are doing
19 something like that.

20 A letter dated February 2nd from Secretary Griffin to
21 Maryland Sport Fishing or MSSA. I am quoting him from the
22 letter. He said, "It is far more difficult to estimate
23 recreational harvest relative to the established quote than it
24 is to estimate commercial harvest.

25 Fishery managers in Maryland and along the Atlantic

1 | coast share concerns for the need for improved recreational
2 | harvest accountability ---." Then, in a letter from CCA to --
3 | this was to Secretary Griffin. I would read the whole letter
4 | but "CCA Maryland now calls on the Department to" -- this was
5 | relative to the gillnet fishery.

6 | "The gillnet fishery closed --- to conclusively
7 | demonstrate that illegal gillnet fishing is under control,
8 | that the fishery can be affectively managed and that the
9 | fisheries catch can be fully accounted for." They go on to
10 | say that "in making this request, CCA" -- and this is in -- I
11 | mean, I give them credit for this.

12 | "In making this request, CCA Maryland acknowledges
13 | the uncertainty and appreciates the difficulty in accounting
14 | for any fishery. The recreational fishery is no exception."
15 | So, I give them credit for that. The point is that I was
16 | speaking before the Eastern Shore delegation one particular
17 | day, I do not recall the exact date, but Delegate Jay Jacobs
18 | asked me why was ---.

19 | He said that he apparently had had several calls
20 | from his constituents and asked me what my feelings were about
21 | requiring tags for recreational fisheries. I said, well, I,
22 | you know -- I really cannot answer that until I talk to our
23 | Association.

24 | It is certainly something to consider and I
25 | certainly, you know, agree that it needs improvement. So, I

1 | promised him that I would get back to him after discussion
2 | with our group. So, my next phone call, actually, was to
3 | Gina. Is she still here? Is Gina here?

4 | MR. : Yes. She is hiding over there.

5 | MR. : Hiding somewhere.

6 | MR. : In the green sweater.

7 | MR. DEAN: Anyhow, the question poses "Would a
8 | tagging program for recreational striped bass fisheries be
9 | cost effective mechanism to estimate recreational striped bass
10 | harvest?" I got a great email from her. Gina, do you want to
11 | talk about it or do you want me to highlight it or --

12 | MS. HUNT: You can sum it up.

13 | MR. DEAN: Anyhow, Gina responded that it would be
14 | difficult to implement a tagging program for recreational
15 | anglers that would lead to a reliable harvest estimate for
16 | striped bass." Here is something I never even considered. "A
17 | primary issue is the number of recreational anglers and the
18 | length of their season.

19 | For an example, in 2009, there were 135,000
20 | individual licenses." She goes on to say that, "managing and
21 | enforcing this type of accounting, if there were 100,000
22 | people fishing over 8 months would be nearly impossible. Tags
23 | would be lost, transferred from one angler to another, reused,
24 | misapplied, misreported, et cetera.

25 | The difficulties with this system would preclude any

1 sort of reliable harvest estimate." One such option that she
2 spoke about, and again, like Jack said, I am not looking for a
3 motion tonight. My purpose of bringing this up is that -- let
4 me tell you about an option.

5 One such option would be the requirement in the
6 recreational striped bass permit. The reason for asking this
7 to be on the agenda tonight is that it is something that, and
8 I went back to Delegate Jacobs, instead of trying to force
9 something in this year haphazardly.

10 We thought it best if you give the -- all the
11 advisory groups a chance to talk about it amongst themselves,
12 come up with some kind of plan that would be reasonable,
13 effective, fair and force them -- enforceable and ultimately
14 provide a better estimate of the recreational charter boat
15 harvest.

16 Again, we won't come to this -- any conclusions
17 tonight. I wanted to bring it to everybody's attention.
18 First of all, to feel that -- the first question we have to
19 ask ourselves is do we think, you know, that the
20 recreational/charter boat harvest needs to be improved upon?

21 If you feel it does, then we have to go back to the
22 drawing board amongst the various advisory groups and come up
23 with some plans that would meet that criterion.

24 MR. BROOKS: Bill?

25 MR. GOLDSBOROUGH: I think one short comment on ---

1 is that the Sports Fish Advisory Commission agrees with you
2 entirely with respect to the poor nature of the data that is
3 collected for the recreational fishery. It is not just in
4 Maryland either. It is coast -- it is a nationwide thing.

5 There is this marine recreational fishery -- fishing
6 statistical survey that has been around since the 60's that we
7 was never designed to give you a state by state landings but
8 it has been used for that and it is very -- it has been shown
9 to be very poor.

10 As a result of that, they actually started a few
11 years ago developing a replacement system for that that is
12 going to be coming online in the next couple of years. Tom
13 may know more precisely. So, that is an issue that is well-
14 known and is being worked on already.

15 MR. BROOKS: Good. John?

16 MR. VAN ALSTINE: Tom, when the moratorium was
17 lifted, there was a tagging system, was it?

18 MR. O'CONNELL: Yes.

19 MR. VAN ALSTINE: When the moratorium system was
20 lifted, you were issued tags when you received your license.
21 Do we still have that --- in our books?

22 MR. BROOKS: No.

23 MR. O'CONNELL: Do we what?

24 MR. VAN ALSTINE: Do you still have the information
25 that you received to see how effective the tagging system was

1 at that time?

2 MR. O'CONNELL: I am sure we have some information
3 available. Gina?

4 MS. HUNT: I will only say this because that was my
5 first job here. So, I sadly remember it really well and it
6 was five tags per permit. One individual could get more than
7 one permit if they wanted to harvest more than one fish. It
8 was not necessarily a controlled mechanism for catch.

9 What it was designed to do was we gave out to tackle
10 stores these carbon forms. You filled out your name and
11 address and phone number on there. The tackle stores sent
12 them back to us and then we did a random call survey off of
13 that information.

14 That is really the striped bass permit. That is
15 what it was. It just included five tags. Did the tags -- the
16 tags were returned at the end of the year, so part of the
17 problem is you do not really know if those tags were used or
18 not.

19 A person with five tags only harvest two fish, did
20 they come in get more fish -- got more tags, more permits?
21 So, the tags did not really serve the purpose. The permit did
22 and what that was was the random survey. Now, I do not know
23 if we still have that data or not but what we used it for at
24 the time was we had MRFSS.

25 We used it to compare our catch estimates and what

1 we had on our specific phone survey to what MRFSS had.

2 MR. VAN ALSTINE: How did that look? How did that
3 compare -- except I think it would be decent to visit --

4 MS. HUNT: Right.

5 MR. VAN ALSTINE: To go back to this.

6 MS. HUNT: I think there were trends --

7 MR. VAN ALSTINE: You have something there that can
8 be --

9 MS. HUNT: Right. It was not precise but there
10 trends to our data and their data so that we ran it for a
11 number of years and then after that point to conclude that we
12 got the trend and that is why we stopped doing the survey on
13 the permit.

14 But, I do not know if there were reports written or
15 what data we have left from that or even how long we ran that
16 permit. It was a number of years. It was probably at least
17 three or four years.

18 MR. VAN ALSTINE: It would be something that I think
19 that should be brought so we can see what trends, if any,
20 would that compare --- be a help, which brings me to, you
21 know, your --- permit when you are gunning. Every season, you
22 have got a call when you get your license.

23 You have got to call -- you know, there is another
24 system that is in place that tracks a sporting activity. If
25 your concern is on the tagging, if you were to do a tagging

1 system, you have got bonus deer stamps that the state manages
2 -- there are a lot of other things that the state is already
3 in process for the sporting public to manage a resource.

4 Our hunting enthusiast, I am sure, are managing
5 their honing of their bonus deer stamps and the state can keep
6 up with that. Where their hunting population is as large as
7 the recreative rockfish population, it may be a different
8 number but there are other models that could be brought to
9 bear here.

10 I think that is what Gibby -- if I am not mistaken,
11 that is what Gibby is looking for.

12 MR. DEAN: Right.

13 MR. VAN ALSTINE: Is some other models. But, I
14 would recommend we start back from the very beginning of the
15 release of the moratorium to the recreating public, gather
16 what information we have there to see how that worked out ---.

17 MR. EVANS: That was only a 35 or 40 day season
18 though. That made a big difference.

19 MR. BROOKS: Tom? You have a comment?

20 MR. O'CONNELL: Yes. You know, we appreciate the
21 recognition of this issue by both sport fishing --- Sport
22 Fishing Advisory Commission earlier this year. The Department
23 came out in writing and said that you not only have to deal
24 with some of these commercial issues, but also the
25 recreational accountability for striped bass.

1 We have already been working on that. That is how
2 Gina was able to provide the level of response that you got,
3 Gibby. We hope to be able to present something to the
4 commissions probably sometime this summer as we look at trying
5 to improve the situation for 2012.

6 So, we are aware of it. We agree with it and we are
7 working on solutions to improve it.

8 MR. BROOKS: Okay. All right.

9 MR. : Thank you very much.

10 MR. BROOKS: Thank you. Okay. Gibby, you are up
11 again.

12 *Amnesty*

13 *by Gilbert Dean, Chairman,*

14 *Chesapeake Bay Fishermen's Association*

15 MR. DEAN: Needless to say, I have caught a lot of
16 flack over this next one. We are talking about a three day
17 amnesty program for illegal nets. I want to start out by
18 clarifying something specifically that, you know, this was
19 just a recommendation that, you know, I wanted you all to talk
20 about and, you know, make a decision on --- recommendations to
21 the Department.

22 But it is based on the premise that if, for some
23 chance, there may be one or more nets still remaining in the
24 bay, this would give whoever set them three days to go get
25 them up, tag and check the fish and because we are right back

1 to an accountability issue again.

2 Everybody -- everybody without question is concerned
3 about accountability, including the commercial side. But have
4 these fish tagged, checked in and have that number deducted
5 from the quota, which in this case, that would be December.
6 We are willing to have those deducted.

7 We think they should be without fear of any
8 prosecution in doing so. No one would profit from a sale of
9 these fish. In other words, whoever brought them in would
10 certainly not be able to sell them. I doubt -- if for some
11 chance there are any out there, the fish are not worth being
12 sold anyhow.

13 To clarify, as well, that all nets -- if there are
14 any brought in, all nets would remain the property of that
15 person so they could be modified and used in a legal fashion.
16 Now, somebody said well, why would you do that? Well, if you
17 do not do that, if there are any out there, nobody is gonna go
18 get them anyhow.

19 What does this accomplish? First of all, if there
20 are any nets out there -- I keep re-emphasizing that, if there
21 are any more nets out there, you know, we get them up, we
22 satisfy the concerns of all stakeholders on accountability,
23 including ourselves, and this allows, you know, all the
24 stakeholders to start anew this spring.

25 We have got fishing season starting again. We do

1 not want to run into cases where somebody may possibly hook
2 one, if there is one out here, or one should come to the
3 surface and it would give the industry a chance for us to
4 educate our members, as well.

5 Let them know that illegal activities like this is
6 not going to be tolerated and give the example of the black
7 eye that it has given the entire fishery. I just -- I hate to
8 repeat myself but it is, you know -- I said that again, if
9 this -- I am not in fear that there are some out there.

10 I am saying if by chance there are, let us get them
11 cleaned up. To date, and keep this in mind --- tonight, to
12 date, no arrests have been made. We do not know for sure who
13 those nets belong to and, you know, this -- I am just curious
14 to see what you all think about it.

15 MR. BROOKS: Discussion on the discussion?

16 MR. EVANS: Well, I am going to say it. I guarantee
17 you there are still plenty of nets left out there. The anchor
18 net fishery on this state was rampant. Anybody that sat three
19 years ago -- Candice, you and I had this conversation. Bill,
20 you were there.

21 It was right at the Chesapeake Bay Foundation. I
22 came in there and I explained to them, this was three years
23 ago, that I could not go legal --- netting in my territory
24 because it was too many anchor nets out there. Now, it took
25 them three years to enforce this.

1 It just so happened that the year they enforced it,
2 it is more fish than we have ever seen in history. I have
3 been fishing for a long time and it was so many fish out
4 there, they were so easy to catch, the guys could not get
5 their nets up because it was too damn many fish.

6 I think Gibby has a good idea. He is giving us a
7 three-day amnesty to get the rest of that mess up because if
8 you do not, when this water temperature gets up to about 65
9 digress, they are going to be floating and stinking
10 everywhere.

11 Get the stuff out of the water and start some real
12 enforcement on this because we have got a problem. We need to
13 address it and we need to stop it. If we do not stop it, we
14 are going to lose this gillnet industry. It is plain as
15 simple as that.

16 I do not want to take anything away from the marine
17 police because they are doing the best they can do with what
18 they got to work with but back when we had enforcement, we had
19 450 officers. Now, they got twice as much work to do. What
20 are you working with now? 200?

21 MR. : 225.

22 MR. : 250 ---.

23 MR. EVANS: You cannot do your job with what you
24 have to work with. So, me personally, get that stuff up and
25 let us get some enforcement going. Let us go back to legal

1 fishing and we will be able to work every day.

2 Back when I was fishing for a living -- I quit but
3 when I was fishing for a living, we fished a whole season
4 because everybody was doing things right and the fish were not
5 that easy to catch but the way it is now -- the way it was
6 this year, you did not have set anchor nets anyway.

7 But it is rampant. The reason it is rampant is
8 there is no enforcement.

9 MR. BROOKS: Anybody else?

10 MR. KEEHN: I just have a question.

11 MR. BROOKS: Go ahead.

12 MR. KEEHN: What is the deterrent then, Bob? I
13 mean, if they get their nets back -- and nets are a lot of
14 money. We ---.

15 MR. DEAN: We do not care about the money.

16 MR. KEEHN: But I am just saying is --

17 MR. DEAN: The deterrent is if you leave those nets
18 out there, come hook and line season --

19 MR. KEEHN: I know. Believe me --

20 MR. DEAN: -- the ones that are not going to be
21 floating --

22 MR. KEEHN: Believe me, I know. I will be the one
23 snagging it but --

24 MR. DEAN: Exactly right.

25 MR. KEEHN: But that is -- I mean, I liken it to,

1 and this is over exaggerated, but that is like me robbing the
2 7-11 and dropping my gun and then asking for amnesty to get my
3 gun back.

4 MR. VAN ALSTINE: As a matter of fact, that is what
5 I was going to bring up. A lot of jurisdictions do just that
6 to get the guns off the street.

7 MR. KEEHN: Well, for free guns, yes. I agree with
8 you but you know? The criminal does not give his gun back. I
9 am all for amnesty --

10 MR. : They are turning in the guns.

11 MR. KEEHN: You are right. I am all for amnesty
12 but, you know, last meeting, you said it was a select few and
13 then that may be but rewarding them with their getting their
14 nets back -- I am all for amnesty but I do not believe that
15 they should get their nets back because then what is the
16 deterrent?

17 Then next year, we will be right back here having
18 the same conversation.

19 MR. EVANS: Well, they are not going to go get them
20 if they do not have amnesty.

21 MR. KEEHN: Well, but then next year, what is the --
22 they got away with it this year.

23 MR. EVANS: Last year -- mark my words, next year,
24 it is going to be black boxes on boats or it is going to be
25 something to put these guys where they belong.

1 MR. BROOKS: Anybody else? Bill?

2 MR. GOLDBOROUGH: I was wondering -- and I really --
3 I do not know the answer to this. Maybe somebody can say.
4 Have we seen that kind of problem? I mean if this has been
5 widespread for several years, have you seen that problem
6 before of in the spring, fish, you know, in these nets that
7 are out there, bloating and coming to the surface with the
8 net?

9 MR. DIZE: We never had the fish that we had this
10 year.

11 MR. EVANS: Exactly right.

12 MR. DIZE: We never had anything like this.

13 MR. EVANS: Never had. We have seen some problems
14 with it, but not a lot.

15 MR. GILMER: My address to that, Bill, was probably
16 we never had a season close that was down like it was this
17 year and they probably got them up, you know, where this is a
18 little different situation as far as that is concerned.

19 MR. GOLDSBOROUGH: So, they were not able to get
20 them up in last two days.

21 MR. GILMER: Right.

22 MR. EVANS: And you have got to remember those two
23 days, it blew a gale both days.

24 MR. O'CONNELL: Well, from what I am hearing, the
25 primary interest of those who want amnesty is because of the

1 conservation of the resource?

2 MR. EVANS: Absolutely.

3 MR. O'CONNELL: It is not about getting the nets
4 back because they are worth money?

5 MR. EVANS: No.

6 MR. O'CONNELL: Then I would encourage all of you to
7 make it very clear to the industry that there is currently an
8 anonymous phone number that people can call in on. If they
9 are that concerned about conservation, there is an anonymous
10 phone number right now.

11 The consequences of not doing that, if the
12 Department does not take amnesty, and having the nets show up
13 this spring could be devastating to this industry.

14 MR. BROOKS: Okay. Anybody else? Gibby?

15 MR. DEAN: Just to touch on a couple of things Bob
16 said. We have, on numerous occasions, shown all the support
17 to the NRP ourselves. We have asked our legislators at
18 various hearings to find some way to find the funds necessary
19 so they can an adequate job of protecting their resource.

20 We have stressed the point that the most cost
21 effective way of enforcing this is police presence.

22 MR. EVANS: Yes. Presence. All you gotta do is
23 have presence.

24 MR. DEAN: Yes, sir. Just like you said, it was
25 three years since you were checked up there. Manpower is, you

1 know -- funding is a major issue. Manpower is an issue. They
2 have the vessels. We could get our legislators -- and I think
3 there is a bill -- Tom or Gina, isn't Senator Dyson sponsoring
4 a bill to give the necessary funding to the NRP?

5 MS. HUNT: He has positions requested. Yes.

6 MR. DEAN: We encourage that. You know, I think Bob
7 is right. I think next year, you are going to see a different
8 scenario out there. Hopefully, we will have more police --
9 more police presence.

10 MR. BROOKS: ---.

11 MR. O'CONNELL: The Department is likely about to
12 make a decision on this amnesty issue. We did talk about it
13 with Sports Fish Advisory Commission. Bill could give their
14 viewpoints if he wants, but they did advise us.

15 We had some -- few people discuss their thoughts
16 about it but is there any overall advice that this commission
17 wants to provide to us before we make a decision?

18 MR. BROOKS: Russell?

19 MR. DIZE: I think one day is enough time to get
20 what you got out there up. If you cannot get --

21 MR. EVANS: Yes.

22 MR. DIZE: -- it up in one day, you are so damn
23 guilty, you ought to have been ashore anyway.

24 MR. : Well, what about weather issues?

25 MR. KEEHN: Well, I mean, I like John -- John had a

1 good idea, you said, with the gun program. I just do not
2 think their -- should get their nets back and as Tom said, I
3 mean, I had a guy, a gillnetter, at a charter boat meeting on
4 Monday to say that, you know, I am not a rat.

5 I know who -- a bunch of the guys were but I would
6 not turn them in. That is his personal preference but he
7 makes a living gillnetting, as do you, as do you. You know,
8 all the guys in here and if you know who it is, I would think,
9 for the threat of losing your livelihood, you go to him and
10 say hey, man, call this number. Get this net up.

11 I mean, you know, is it worth it? Is it worth it
12 for everybody that those guys get a free day to get their nets
13 back or is it worth it that you can keep, without black boxes,
14 without all of this, keep doing what you are doing to make a
15 living because you did not break the law, you know.

16 That is my point. I am all for, you know, calling
17 -- as Tom suggested and as you suggested, just like the gun
18 return. Call the 800 number. Tell the NRP where it is. They
19 go get it. It is out of the water. It does not pop up. It
20 is not bad press for anybody comes springtime.

21 But, I just look at is as if you give them a free
22 pass, where is the deterrent? That is my fear because there
23 is no deterrent. Then we will be cussing the same group of
24 outlaws next year and you guys will be -- the gillnetters will
25 be a whole lot worse off.

1 MR. EVANS: I disagree with the blasting.

2 MR. DIZE: Let me ask you something, do you -- when
3 you see illegal activity when you are charter fishing, do you
4 turn them in?

5 MR. KEEHN: Yes. Tom, you can speak to that.

6 MR. DIZE: You turn them all in.

7 MR. KEEHN: Yes.

8 MR. O'CONNELL: Yes. Several times each year.

9 MR. DIZE: Because, I mean, I see it.

10 MR. KEEHN: I turn it in. I mean I talk the talk,
11 so I have got to walk the walk. These guys at the Enforcement
12 Committee can tell you that, you know, I believe in -- I
13 believe in it and Tom can attest that I have had several
14 captains call me about several issues and I have called them
15 in on my guys.

16 MR. O'CONNELL: Let me tell you that I can verify
17 that. Brian takes a lot of crap for what he does but he does
18 walk the walk. He looks at it for the good of the overall
19 industry, whether it is commercial or charter boat and trying
20 to do the right thing. I appreciate him doing that.

21 MR. KEEHN: Thank you.

22 MR. BROOKS: Steve?

23 MR. GORDON: I am kind of on the same page Brian is
24 in in that the economic world we live in and the lack of
25 enforcement, those participants in the industry have to police

1 themselves. I mean is it a reality that if you would extend
2 an amnesty to these -- so glad -- alleged cheaters that they
3 are going to run on out there and pull those nets and come
4 back in?

5 I mean if I was a cheater and I got a day to declare
6 myself a cheater, I think I would stay -- I would do something
7 else that day.

8 MR. : I can answer ---.

9 MR. : Is that how they live? Is that how
10 they --

11 MR. EVANS: We all know who they are. We all know
12 who they are.

13 MR. DEAN: Whether I agree with whether they should
14 get their nets back or not makes no difference. The main
15 thing is that if you do not give them their nets back, they
16 are not going to get them.

17 MR. O'CONNELL: See, not necessarily, because we
18 know who they are. It is very frustrating for me knowing what
19 the potential consequence is for your livelihoods.

20 MR. BROOKS: Okay.

21 MR. DIZE: Well, I want to address something that
22 Tom said. I understand there were 100 and some calls on a
23 couple of guys out of Tilghman when that illegal fishing was
24 going on. Somebody was -- seems like to me, somebody was
25 interested in what was going on in the fishing business if

1 they called 104 times on one man.

2 Wouldn't you think someone was interested in the --
3 that was in the fishing community?

4 MR. : Yes.

5 MR. EVANS: I can tell you one thing.

6 MR. DIZE: Well, I mean all this stuff that I hear
7 that we do not do anything, there is things done.

8 MR. : Yes.

9 MR. DIZE: I think you will see more of it. I think
10 you are going to see more of the industry patrolling itself --

11 MR. DUKES: It is like Tom says --

12 MR. DIZE: -- than you ever saw in striped bass.

13 MR. : Absolutely.

14 MR. DUKES: -- that you have got it in your papers
15 that you get from the letters that we get for the commercial
16 and stuff we get, it has got a number right there you can
17 call. They do not ask no questions. You can call that
18 number, you know.

19 MR. BROOKS: Okay. Well, anything else from
20 anybody?

21 (No response.)

22 MR. BROOKS: All right. We will move on to the next
23 one. Gibby, you are in the hot seat here tonight.

24 (Laughter.)

25 MR. DEAN: This is my last one.

1 MR. BROOKS: Okay.

2 *Commission Decorum and Protocol*

3 *by Gilbert Dean, Chairman,*

4 *Chesapeake Bay Fishermen's Association*

5 MR. DEAN: At our last tidal fish commission
6 meeting, we brought up the issue about whether or not the
7 gillnet fishery should be reopened for those two days. We
8 took a vote. The vote was 13 and 2 in favor of reopening the
9 fishery.

10 When I left there, I felt elated because the
11 Department had said that they were not going to make the
12 decision until that Friday, until all the various advisory
13 groups had a chance to sit down and talk about it and give the
14 Department their opinions and recommendations on it.

15 2 out of 3 of those advisory groups recommended
16 opening -- reopening the fishery. The following day that
17 elation turned to other disappointment because of the fact
18 that I found out then that after our meeting that night, three
19 of our members went to Tom O'Connell and told him that they
20 voted -- correct me if I am wrong.

21 They voted the way they did to support the industry,
22 however personally they did not feel it should be reopened.
23 Is that a fair statement?

24 (No response.)

25 MR. DEAN: Now, there were two members -- like I

1 | said, the vote was 13 to 2 in favor of opening. Now, the 2
2 | members that voted against it, certainly I did not agree with
3 | their opinions, but I certainly did respect them for it
4 | because they had at least the guts the way -- to vote the way
5 | they felt they should have.

6 | But these 3 people, quite honestly, I do not know
7 | who they are but I have lost all respect for them whatsoever.
8 | In my opinion, they have undermined the integrity of this
9 | commission. They serve to destroy the credibility of this
10 | commission and they may have -- they had a -- they could have
11 | very well influenced the Department's decision to not reopen
12 | our gillnet fishery as a result of it.

13 | I do not know how you all feel but I, for one, am
14 | not going to waste my time coming up here to a commission that
15 | the Department feels is not credible. I have got better
16 | things to do and I am sure you all do as well. These three
17 | people should have either voted the way they believed, based
18 | on the people they represent.

19 | They could have easily abstained from voting if they
20 | wanted but they should, at all cost, refrain from what I call
21 | as backdoor politics. It is something that has been practiced
22 | in this state for years and I am personally sick of it. I do
23 | not know -- I have my personal views on how you should handle
24 | this but I am interested in hearing what the Commission says
25 | about it.

1 MR. BROOKS: Comments? Discussion on the topic?

2 MR. DIZE: My comment is that if you do not have
3 enough backbone to stand up for what you think, you ought not
4 be sitting on this Commission.

5 MR. GILMER: I agree and like -- I get my agenda
6 ahead of time and I try to call as many people in my area on
7 the topic that I think is going to be discussed and whether I
8 agree with it or not, I vote the way my people -- I mean in my
9 area I think would want the vote to go and, you know, I think
10 that is what we are here for.

11 MR. DUKES: That is the way I do it with the guys
12 from the --- the Choptank, you know. We are just strictly
13 drift and I let them all know what is going on so they can get
14 back with me if they have got anything and getting ready to
15 tell you, I even called him at times with some stuff, you
16 know, so I try to do it the right way.

17 I am here to represent the people and I have --- I
18 have done it. We might have had some arguments but I try to
19 stand up for the people I am representing.

20 MR. YOUNG: So pretty much, that is what Gibby was
21 talking about. I mean that -- the potential is there and I am
22 not pointing any fingers but the potential is there because
23 you are doing what your constituents wants you to do and your
24 personal feelings have been set aside and you are doing what
25 they want to do.

1 So, you could maybe not want it to be open but your
2 constituents want it to be open. You raise your hand, yes, I
3 do but does not mean that -- I mean and then you could be the
4 person -- one of the people that went to Tom and said
5 personally, I do not feel that way but I voted that way
6 because the other people wanted me to.

7 MR. : That is wrong.

8 MR. : But I do not think --

9 MR. : That is wrong.

10 MR. YOUNG: You see? I know but that is what they
11 are saying.

12 (Simultaneous conversation.)

13 MR. YOUNG: I know.

14 MR. : I wish we had more days to fish to
15 be honest with you --

16 MR. YOUNG: I agree with that.

17 MR. : -- because I could really use them.

18 MR. YOUNG: I am not trying to point any fingers but
19 I can see where that one person's person -- personal opinion,
20 if you are sitting here and you are representing a group of
21 constituents and the majority of your constituents think one
22 thing.

23 You come in here and you vote the way your
24 constituents would, which is what you are supposed to do, but
25 your personal feelings are opposite of that and there is the

1 | situation and it is a mix mash here is the problem.

2 | MR. BROOKS: But you, as someone -- when they do
3 | what Gibby said that they did, it takes the entire integrity
4 | away from that person and from the Commission and you have got
5 | to vote --- vote, whether you are voting for you or you are
6 | voting for your constituents, that vote is a vote --

7 | MR. : ---.

8 | MR. YOUNG: Well, I agree with that. I agree with
9 | that.

10 | MR. BROOKS: -- and you have got to vote, you know
11 | -- I feel, I mean I agree here. Tom.

12 | MR. O'CONNELL: Yes, I mean if you go back and look
13 | at the operating guidelines for advisory commissions, it talks
14 | about this point. I think as the guidelines say that I am
15 | less important -- I am less interested in the vote outcome
16 | than the issues that are behind those votes.

17 | If a vote passes 14 to 2, it is nice to see where
18 | the majority lies but as I try to make an informed decision or
19 | informed recommendation to the secretary, I want to know the
20 | issues for and also the issues against. I mean you guys are
21 | elected to represent a constituency and you should come
22 | prepared to represent that constituency, you know.

23 | It does not mean that you cannot suggest, you know,
24 | other viewpoints. My constituent believes -- the majority of
25 | my constituency believes this for X, Y and Z. There was,

1 | however, some others who felt this way because this or this.
2 | So, I think just, you know, we had some good some good
3 | discussion tonight, but just encourage everybody to put as
4 | much information on the table for and against issues because I
5 | think it helps all of us to understand what the issues are and
6 | helps me to make the best decision that I can.

7 | You know, at times you are going to get beat up when
8 | you go back home but that is, I guess, part of being in a
9 | leadership role like this.

10 | MR. : We all have that.

11 | MR. DIZE: I can tell you one thing. I would rather
12 | sit on a commission with that man there --

13 | MR. : Yes.

14 | MR. DIZE: -- or Eddie that I might not agree with
15 | because I know they are going to tell me the truth. We
16 | disagree but I know I am going to get the truth and we can
17 | talk with each other --

18 | MR. : That is right.

19 | MR. DIZE: -- than to go behind someone's back. No.

20 | MR. : ---.

21 | MR. YOUNG: I do not think the person should have
22 | expressed -- gone to Tom and say hey, my personal opinion is
23 | different than I actually voted. That is not right but the
24 | question is do you -- and he just said, we are here as
25 | representatives of a constituency.

1 Now, I do not belong to an association, okay? I am
2 an independent crabber. That is what I do. I do not -- I am
3 not a joiner. I got on here because when they first came up
4 with the female restrictions and I came here and I sat in the
5 public comment and I stood up and I said what I had to say.

6 It did not seem like anybody was listening to me and
7 I said that will not happen again. I am coming here and I am
8 going to be a part of this. Here I am. Okay. I made it
9 happen but I -- my county association has accused me of not
10 representing my constituents, okay, when I come down here
11 because I never talked them about what I am doing, okay?

12 I talk to independent waterman. There is probably,
13 in a month, 200 guys I talk to but I never went to my county
14 association, which is less than a quarter of the county of
15 license holders. I never went to them so they accuse me and
16 you all were here that one month that I was not here.

17 They accused me of not representing them down here,
18 okay? My job is to come down here and represent what my
19 constituent -- not my personal opinion. If my personal
20 opinion differs from what my constituents want, then my
21 obligation is to vote what they want.

22 Now, do I go to Tom afterwards and say hey, they
23 wanted me to vote that way so I did but I really do not feel
24 that way. No. That is not the right way to go. But, the
25 right way to go is to vote for the constituents. That is the

1 obligation -- that is probably the friggin' problem with
2 politics in this country.

3 MR. DEAN: I do not want to get off the point here,
4 and I appreciate your comments Richard, but it is not whether
5 we are voting for our personal agenda or constituents that are
6 at issue here. At issue here is backdoor politics and if you
7 are going to vote, however reason you vote, do not go behind a
8 commission's back and then go tell somebody that you should
9 have voted -- or that you really felt the other way.

10 That is what has been practiced in this state, as I
11 said, for years and I am sick of it. It has got to stop.

12 MR. DIZE: I agree. That is not the right way to
13 go.

14 MR. BROOKS: I tend to agree and Tom, could you send
15 out those guidelines for serving on a commission to all the
16 commission members again so we can review them --

17 MR. O'CONNELL: Sure.

18 MR. BROOKS: -- and -- or you have someone do that?

19 MR. O'CONNELL: Yes.

20 MR. BROOKS: So the commission members will know
21 and --

22 MR. DUKES: You have got your computer. You can go
23 online and bring it right up because I bring it up on mine.

24 MR. BROOKS: Well, if you would send us the link
25 that would be great.

1 MR. DUKES: Yes.

2 MR. BROOKS: Okay. Anything else there?

3 (No response)

4 MR. BROOKS: Okay. Next. Bill Goldsborough,
5 Simkins Dam and Cook's Point Reef Projects.

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

7 ***by Bill Goldsborough, SFAC Liaison to TFAC***

8 MR. GOLDSBOROUGH: Thank you, Mr. Chairman. I think
9 Paul is going to bring up a few slides I have got.

10 (Slide.)

11 MR. GOLDSBOROUGH: What this is is I just wanted to
12 brief the Commission on a couple of different reef projects
13 that we have got under way to get any feedback that you all
14 might have. They both use --- so I know that is something you
15 all -- or the industry, in general, is interested in.

16 The tidal slide here just speaks to this one but at
17 the end of it, I thought I better throw in some slides ---
18 ongoing one we got too. In the Choptank River, this one
19 liable be in the Chester River -- let us go onto the next one
20 Paul.

21 (Slide.)

22 MR. GOLDSBOROUGH: So, I will try to go through
23 these pretty quickly because I know we are short on time but I
24 think you all have heard the story before. You all know it
25 better than anybody but they used to have abundant

1 three-dimensional reefs built from oysters --- over thousands
2 of years.

3 There is a 19th century oyster ground chart showing
4 it there. Now for -- we are in that bind now because we have
5 lost most of those reefs, so there is a lot of work underway
6 trying to rebuild that -- the live oyster community reef
7 because all the benefits and the three dimensional structure
8 there we used to have because that has got habitat benefits
9 too.

10 In the middle, of course, is showing -- that is the
11 preferred material like anybody -- as you all know very well,
12 but that is very limited and around that are some other
13 alternatives that are being experimented with. Of course, in
14 the upper left there is material that the artificial reef
15 program is using.

16 That is material from the Wilson Bridge -- big hunks
17 of concrete that pile up on the bottom and create that three
18 dimensional structure. That serves as habitat but in my
19 opinion, what is ideal habitat is when you get the three
20 dimensionality that is based on oysters because that brings in
21 the biological element.

22 On the right up there, you will see reef balls.
23 Those are cast concrete. The one on the left has been -- has
24 been overboard where it had a good set and you got oysters
25 growing all over it. Down on the lower right --- limestone,

1 the same thing.

2 They are like that and that lower left is recycled
3 concrete that has been ground to size. In my opinion, again,
4 and this has been discussed a lot in the Artificial Reef
5 Committee. Some of you all maybe have been in on some of
6 those discussions.

7 That is a much better material if you are trying to
8 replicate a natural oyster reef because it gives you the
9 interstitial spaces that are typical of an oyster reef, as
10 opposed to the really big pieces and it is a better substrate
11 if you are going to plant ---.

12 (Slide.)

13 MR. GOLDSBOROUGH: This is a chart I borrowed from
14 the Oyster Recovery Partnership you may have seen. It is
15 projecting into the future what we are liable to have in the
16 way of shell. The red line is shell supply. You know, the
17 present is about midway there so we are up to the peak.

18 But it is projected to go down as our demands for it
19 go up there in the yellow and the supply -- the inputs of it
20 from the shucking houses, they are down. That is in the blue.

21 (Slide.)

22 MR. GOLDSBOROUGH: All right. So, the project I
23 want to tell you about is attempting to use some ground
24 concrete for substrate to rebuild a reef. It is the Simkins
25 Dam up in the Patapsco River. The goal is dismantle this dam

1 to allow free flow of the river and good fish habitat there.

2 Then to take that material and use to build a reef
3 in the bay and creek fish habitat there. Kind of a win-win
4 sort of thing. This is a concept that is funded by the
5 federal government, the dismantling of the reef -- the dam
6 funded by stimulus money last money through the American
7 Rivers Organization.

8 Then the building of the reef is being funded by
9 NOAA.

10 (Slide.)

11 MR. GOLDSBOROUGH: So, Simkins Dam is the second one
12 up on the Patapsco River. That is the Inner Harbor to the
13 right there. Union Dam is also being taken down as part of
14 this. Daniel's Dam in the upper and then Bloede Dam, the
15 lower one, still are intact.

16 Eventually, we will need to do something with them
17 too to allow free flow of the whole river. They have got fish
18 passages on them. We got them in there about 15 or so years
19 ago, you all might remember, on all 4 of those dams but they
20 did not really work out too well.

21 (Slide.)

22 MR. GOLDSBOROUGH: Here is a dam being dismantled.
23 This was in December. You can see the concrete there and a
24 lot of the rebar.

25 (Slide.)

1 MR. GOLDSBOROUGH: Here it is onsite and you can see
2 the rebars coming loose pretty readily and being piled up
3 there. Eventually, all the rebar is being taken out and being
4 recycled. That is part of the process. It is estimated to be
5 2,500 cubic yards of material in the dam.

6 (Slide.)

7 MR. GOLDSBOROUGH: So then, it is hauled down to a
8 staging area in Curtis Bay, a place we leased for a couple of
9 months for this purpose, and --- brought in their barges and
10 they took it over to Love Point.

11 (Slide.)

12 MR. GOLDSBOROUGH: I just went and looked at that
13 last week and took those pictures. The one in the upper left,
14 it is in the yard there. The lower right is some that has
15 already been crushed and screened. That is the screener
16 there, that red piece of machinery.

17 You can see our target size is down to 4 to 8
18 inches. That is a piece -- a typical piece down in the lower
19 left that we are striving for -- something that basically is
20 similar in size and shape to an oyster.

21 (Slide.)

22 MR. GOLDSBOROUGH: All right. So, the big question
23 right now, we are still trying to plan this thing and make it
24 happen this year is where to do it. Of course, the material
25 came from the Upper Bay and one of the basic principles to try

1 to stick with alternative material reefs is not go too far
2 from the source of the material so you do not spend a lot of
3 resources on transportation.

4 Also, within the artificial reef program, all the
5 reefs that have been built so far have been further down the
6 bay because all the materials come up from the Potomac and so
7 the Upper Bay region had not gotten any fish habitat rebuilt
8 yet. So, this one is targeted for up there.

9 (Slide.)

10 MR. GOLDSBOROUGH: Now, this is the chart for --
11 well, that you are all are very familiar with, I am sure.
12 Anybody in oystering is. It is the state's new special plan.
13 The green areas are sanctuary areas. In the Upper Bay, you
14 see one there to the northeast of Man of War Shoal and then
15 you have got the whole lower Chester River.

16 (Slide.)

17 MR. GOLDSBOROUGH: This is the mouth of the mouth of
18 the Chester River. The blue line is the sanctuary area and
19 the red and the green are natural oyster bars. The state's
20 alternative material permit applies to natural oyster bars and
21 so this project would be under that permit, if we meet all the
22 criteria.

23 We are looking at the Chester River because the one
24 area, like I said, in the main bay of the Upper Bay was
25 northeast of Man of War Shoal and is too shallow to work with

1 | because in the main bay, the Coast Guard requires that you
2 | have a 15 foot clearance above any alternative material to the
3 | surface but in the tributaries, it is 8 feet.

4 | So, when you are trying to grow oysters, you do not
5 | want to make them too deep or you run into oxygen problems.
6 | So, we would like to work where we, if we can, where we have
7 | only got the 8 foot clearance to deal with. So, we are
8 | looking at this area of the river.

9 | The green areas are NOB's where it is okay to go
10 | right on in under this permit, presumably, if everything else
11 | works out and build reefs. The red are NOB's where there are
12 | restrictions from the Maryland Historical Trust because there
13 | are shipwrecks or something of historical value in those
14 | areas.

15 | (Slide.)

16 | MR. GOLDSBOROUGH: So, what we have done so far, and
17 | I say we I mean NOAA in this case. They are, like I said,
18 | sponsoring it, paying for it and doing some of the analysis
19 | and their --- sonar boat is doing some of that work have
20 | looked at the depth criteria that we have got and try to find
21 | something within the blue line and within a green area that
22 | meets those criteria.

23 | We have come up with three possible zones. They are
24 | shown on this picture -- that area off Swan Point, Hickory
25 | Thicket and then Ferry and Long Point. So, they are the three

1 -- that is where we are right now in trying to find a site and
2 I wanted to come with -- to you all and see what you thought.

3 I think I have got one more slide with a little more
4 information about those three sites. Now, this is information
5 on the bottom type. The gray is mud bottom and the red is
6 good shell culch. Orange is sand with culch and then pink is
7 mud with culch and yellow with sand.

8 So, really obviously you want hard bottom if you can
9 but this is the Bay Bottom Survey done way back in the early
10 '80's so it is not necessarily the current information but
11 according to this, this Swan Point looks like a lot of mud in
12 it.

13 It may be a good area in there. We are not sure
14 just yet but the other two look to be preferable in terms of
15 firmness of the bottom. Right now, the NOAA --- boat is out
16 trying to get more information on these sites. So, that is it
17 for this.

18 That is where we are right now trying to identify a
19 site. It will probably end up being an acre, maybe two acres.
20 The material and the size I mentioned is going to be spread on
21 the bottom and it won't be closer to eight feet from the
22 surface of the water and then it will have spat on shells
23 planted on top of it.

24 So, that is the nature of it. I would like to hear
25 any feedback you all want to offer.

1 MR. BROOKS: Russell?

2 MR. DIZE: Will you contact -- like if you go to
3 Swan Point, will you contact the boys from Kent County
4 about --

5 MR. GOLDSBOROUGH: Yes. As a matter of fact, that
6 is -- I am glad you mentioned that, Russell. What was
7 recommended to us by the Department was that we bring it to
8 both commissions -- and I did Sport Fish Tuesday night. When
9 I get done with that, get in touch with both Kent County and
10 Queen Anne County and let them know where we are on this.
11 That is what I plan to do next.

12 MR. : That is a condition of our permit.

13 MR. GOLDSBOROUGH: Yes.

14 MR. BROOKS: Okay. John?

15 MR. VAN ALSTINE: In the condition of the permit, as
16 well, they are not --- coordinating council and we were
17 talking about alternative material for leasing -- for lease
18 bottoms. It was talked extensively with Gina and that is why
19 I just looked to see whether she was still here. She is not.

20 That what we were concerned about reef balls and
21 things like that that we were going to be in leased area, that
22 there was going to be a review board on what was to be put on
23 those areas so that you could not have somebody having a
24 vanity lease putting reef balls in it which would stop any
25 future work gillnetting and crab potting --

1 MR. : Trout lining.

2 MR. VAN ALSTINE: Trout lining. Any of that other
3 type of work. In my opinion, concrete does not belong on the
4 bottom of the Chesapeake Bay. When we did a program up in the
5 South River, there was three of us that spent three days
6 searching out a fine --- sandy bottom there off of the --

7 MR. : ---.

8 MR. VAN ALSTINE: Yes. It got concrete dumped on
9 top of it. We wasted a perfectly good piece of bottom that
10 needed nothing else dumped on top of it and we dumped concrete
11 on it. Concrete does not belong in the Chesapeake Bay. There
12 are areas that are suitable for such.

13 But I back up to my concern that the coordinating
14 council, a two year argument, to make sure that the substrate
15 that is put on all these leases is not something that is going
16 to be detrimental to the working public that works that
17 bottom. Concrete does not belong on the bottom.

18 MR. BROOKS: Anybody else? Comments?

19 MR. DIZE: Are you talking about what Bill was
20 showing us with the small --

21 MR. VAN ALSTINE: You know, I saw the small areas,
22 the one acre areas and the things like that, with the small
23 pieces.

24 MR. DIZE: Small. I agree with the large stuff but
25 that small stuff too?

1 MR. VAN ALSTINE: You know, I cannot be guaranteed
2 that there are going to be oyster sized piece of product.
3 Over time, those green areas -- can you jump to the latest and
4 greatest chart of our oyster industry? I do not believe that
5 that is going to stay that way.

6 (Slide.)

7 MR. VAN ALSTINE: I certainly hope it does not stay
8 that way. We have got broad sanctuaries that have been
9 whipped across the chart that I hope do not exist in the long
10 term because there is no way that the state can be held
11 accountable to plant and bring back those areas to the same
12 degree that they are requiring aquaculturalists to do on their
13 private leases.

14 Cost is not prohibitive to do that. So now when I
15 look at southern Anne Arundel County, that large chunk of
16 green is just out of the West River, I can envision some of
17 the deepest shell base that we have there covered with
18 concrete because somebody has got a dam they want to bust
19 apart.

20 Those are my concerns and my concerns are coming
21 from something that we have done in the past in South River.
22 What we selected, a prime piece of bottom, to put a sanctuary
23 on and we did not get what we were bargaining for on it. The
24 reef balls, you know, if you keep them inside -- did I mention
25 that with you before?

1 If you keep them inside of the state reef, I have no
2 problem with it. If they are outside of a state reef, I have
3 got a huge problem that is affecting working waterman's
4 bottom.

5 MR. EVANS: Our harvestable bottom.

6 MR. VAN ALSTINE: Harvestable bottom.

7 MR. EVANS: It takes harvestable bottom away from
8 us.

9 MR. VAN ALSTINE: Concrete does not belong on there;
10 little chunks or bit chunks.

11 MR. BROOKS: Anybody else?

12 MR. EVANS: Well, I have got something to say about
13 concrete. Concrete is not the proper thing to use. Anytime
14 you do anything on the water, you take a concrete block -- a
15 40 pound concrete block, you can hardly pick it up to throw it
16 overboard but people do not realize that concrete is built out
17 of water.

18 When it goes to the bottom, it has buoyancy to it.
19 That is why our drift gillnets have sandbags on them, not
20 leaded rings or lead lines or anything like that because you
21 can have a pound and a half sandbag on a net, but when you put
22 that overboard, you cannot even make an anchor net out of
23 that.

24 Anchors will not hold it. Concrete moves on the
25 bottom. When you start taking these 4 to 8 inch -- you know,

1 | when you say they are the size of oysters, well an 8-inch
2 | oyster is this big (indicating). An 8-inch chunk of concrete
3 | is like that (indicating).

4 | It would never be able to harvest it, not that you
5 | were planning on doing that anyway, but you put all that
6 | concrete on the bottom and you get a storm, that stuff is
7 | going to be everywhere. That is the thing about concrete and
8 | I do not think it is good stuff.

9 | I do not think concrete is the right stuff. It
10 | moves. Storms will move it.

11 | MR. BROOKS: Anyone else?

12 | MR. : ---.

13 | MR. DIZE: Bill, is the --

14 | MR. BROOKS: Russell and then Bill.

15 | MR. DIZE: Is the concrete, is it then covered with
16 | shells and then spat?

17 | MR. GOLDSBOROUGH: Yes. If you spat on shell plant
18 | on top of it.

19 | MR. DIZE: On top of it?

20 | MR. GOLDSBOROUGH: It is just a base for spat on
21 | shell. Yes.

22 | MR. DIZE: So, you are building the base with the
23 | concrete?

24 | MR. GOLDSBOROUGH: Yes. Yes. It is just like what
25 | we would do with shell if we had shell but there is no shell.

1 MR. BROOKS: Would you --

2 MR. GILMER: Yes. Bill, I will tell you that they
3 are either -- in Chester River -- that is Ferry Point, is a
4 prime crabbing area, we would definitely have a problem with
5 that area.

6 MR. GOLDSBOROUGH: That is good to know.

7 MR. GILMER: Yes.

8 MR. GOLDSBOROUGH: I appreciate that.

9 MR. GILMER: Yes.

10 MR. BROOKS: You do have something else, Bill?

11 MR. GOLDSBOROUGH: Yes. I just want to say about
12 concrete, just for everybody's info. I think if I had my
13 preference, we would not do anything but shell but there is
14 not any shell and the main limiting factor for oyster or
15 substrate live oyster bottom in the bay is substrate.

16 We have got to come up with something. Concrete is
17 very similar to oyster shell in terms of chemical makeup. It
18 is inert. It does not have anything in it that would leech
19 out or anything. This concrete in particular, I tell you, has
20 been a dam for the last 70 years so it has been in contact
21 with the water all that time.

22 But also, it is recommended in any of the reef
23 building manuals you look at nationwide as the preferred reef
24 material because it stands up in the marine environment and it
25 is inert. So, if that helps at all.

1 MR. BROOKS: Okay. All right. One other thing. We
2 are running behind.

3 MR. VAN ALSTINE: I will try to be brief, but like I
4 said this has been something that has been excessive in an
5 over two year discussion. When we have -- when we brought up
6 over trying to lease larger tracts of the bay for -- take
7 NOB's and turn them into leasable space.

8 We took NOB's and we turned them into sanctuaries,
9 one of the huge arguments we had through the entire process
10 was is we do not have enough substrate or seed to move forward
11 with the expansion. This is just bringing it to light, which
12 is now bringing more, in my opinion, unsuitable substrate to
13 bear.

14 But I back up to the original question, Tom, is this
15 going through the Aquaculture Coordinating Council's Review
16 Board for substrate on that bottom on that lease because that
17 is something that Gina assured any new aquacultural project,
18 and that is an aquacultural project, would be run through the
19 Coordinating Council to be approved and checked off on the
20 substrate that is going to be used.

21 MR. O'CONNELL: I guess I just need -- I do not
22 understand why it is an aquacultural project.

23 MR. VAN ALSTINE: Are you taking a piece of
24 Chesapeake Bay bottom and putting oysters on it?

25 MR. O'CONNELL: Yes. Not for aquaculture though.

1 MR. VAN ALSTINE: Are you planting them on there to
2 grow?

3 MR. O'CONNELL: Yes.

4 MR. VAN ALSTINE: What is the definition of
5 aquaculture?

6 MR. O'CONNELL: Commercial -- private --

7 MR. VAN ALSTINE: It was aquaculture is what that --
8 was brought to bear on it to make sure that we did not have
9 vanity leases putting anything and everything on the bottom.

10 MR. : That is not -- I mean --

11 MR. VAN ALSTINE: If I may make a request, I think
12 it bears that projects like this are given their due to the
13 Coordinating Council to at least be brought before them before
14 they are moved forward. If you do not feel that it is a -- to
15 stop any future concerns down, you can at least say hey, we
16 took it to you guys.

17 May I recommend that you run this past -- and that
18 was a huge step that Gina turned and looked at me over and
19 over again, John, we are going to have a program in place and
20 we are going to approve what goes on the bottoms of these
21 aquaculture projects.

22 That is an aquaculture product. You are putting an
23 animal on the bottom to grow. It is no different than a
24 vanity lease that somebody could put those reef balls in there
25 that would stop every commercial activity. I want to be

1 assured that the substrate that is going on there is going to
2 be approved. That was a huge problem over a two year period.

3 MR. O'CONNELL: I am sure Bill has listened to you
4 very carefully and I disagree with the aquaculture thing but
5 if there is a request to take it to the Aquaculture Review
6 Board, it may not hurt. I know Bill heard that. I heard it.
7 I know Bill feels differently about the aquaculture
8 definition.

9 I think that is commercial production and this is
10 not. So, like you said, John, it would not hurt and we will
11 take that into advisement.

12 MR. BROOKS: Okay. Thank you. Bill?

13 MR. GOLDSBOROUGH: I have got a few more slides --

14 MR. BROOKS: Okay.

15 MR. GOLDSBOROUGH: -- on something else and as a
16 matter of fact, it is reef balls. So, we can get into that.
17 You can skip this one, Paul. That is in-between.

18 (Slide.)

19 MR. GOLDSBOROUGH: First, I will say that I agree
20 with what John and Bob indicated about reef balls in the wrong
21 places and as you recall, years ago, when we proposed putting
22 some in the South River and you all --

23 MR. EVANS: Yes, you ---. Absolutely.

24 MR. GOLDSBOROUGH: -- and you all said this is a
25 problem and we --

1 MR. EVANS: Yes.

2 MR. GOLDSBOROUGH: -- we did not put them there.

3 MR. EVANS: Yes.

4 MR. GOLDSBOROUGH: We ended up in a state permitted
5 artificial reef in the eastern bay ---. In this case, this is
6 a picture you may have seen before. It has been around quite
7 a bit, taken a year and a half ago by commercial --- Brian's
8 boat.

9 The Cook's Point Sanctuary in the mouth of the
10 Choptank, or just inside the mouth there, it is not one of the
11 new sanctuaries. It is one that has been in place there for
12 about 10 or 12 years now. The state established it back then
13 and -- well, I will get into that in a second.

14 But this image, I put up there because I think it
15 captures what we are trying to achieve with a reef ball. We
16 are trying to achieve, again, some of that verticality, and it
17 is not a lot of it, but some of that verticality with an
18 oyster based live community on it.

19 So, you are helping boost the ecosystem that way,
20 the food web, and noticing that black sea bass there is key.
21 I think you all pretty much agree that we do not see a whole
22 lot of black sea bass normally in that part of the bay. They
23 are a reef species.

24 You put back the reef, you get back the reef
25 species. Out at the reef with the Gooses -- the reef with the

1 Goose, the Dominion Reef at the Gooses, which is an
2 alternative reef material -- or initiative reef, we also got
3 spadefish.

4 I saw that too. That is the same thing. There are
5 reef species we would not have them in that part of the bay if
6 we had not put that live structure back.

7 (Slide.)

8 MR. GOLDSBOROUGH: All right. To just show you what
9 we do with reef balls. We make them with volunteers using
10 fiberglass molds. We put them in our setting tanks, and this
11 is down in Shadyside Discovery Village, we set oysters on
12 them. They take really well to them. Then we place them
13 overboard using our vessel.

14 (Slide.)

15 MR. GOLDSBOROUGH: Here we are in the Lower
16 Choptank. To the bottom there is Cook's Point or the shoal
17 outside of Cook's Point. Of course, to the upper left is
18 Tilghman Island. That little four sided figure in there with
19 the four diamonds in it, that is the Cook's Point sanctuary.

20 (Slide.)

21 MR. GOLDSBOROUGH: This is a side scan image of that
22 site that shows that that dark oval there is all the shell
23 bottom that the state put down about 12 years ago when it
24 created that sanctuary and it built 4 hills or shell at that
25 time.

1 You can see the four hills except the upper left one
2 is obscured a little bit by that -- the coordinate box there.
3 Then, when you see that green box around the lower right hill,
4 that is a 2 acre area. When we first -- and this is ongoing
5 project.

6 This is when we started in 2008, a couple of you may
7 remember this, when we proposed going to this site and putting
8 out some reef balls with oyster respat stuck on them on that
9 shell bottom and then over plant with spat on shell to get
10 that bottom community going, we consulted with local folks in
11 the industry, the charter industry and the commercial
12 industry, and we ended up arriving at an agreement that we
13 restricted to that two acre area around that one hill and that
14 is what we have done.

15 In the intervening 3 years, we have put 580, I
16 think, total there with oysters growing on them and you saw in
17 that first image what you get. What we have in that area now
18 is that kind of rough bottom with a habitat value that comes
19 with it.

20 (Slide.)

21 MR. GOLDSBOROUGH: This is just another shot from
22 that same dive that shows how it really ultimately ends up
23 being part of the bottom and just providing that live habitat
24 that we do not have enough of -- that we used to have a lot of
25 in the bay, we just do not have anymore. That is the

1 objective of the whole thing.

2 So, what I am -- the reason I am bringing it before
3 you all now is because, as I said, we have got nearly 600 in
4 that 2 acre area. I think that is enough. That, on average,
5 means about 1 every 10 feet, if you had a grid, over 2 acres.
6 So, we would like to propose being able to move in the other
7 parts of that sanctuary area.

8 That is where we are. So, any comments you all want
9 to offer, I would love to hear it.

10 MR. BROOKS: Comments, Russell?

11 MR. DIZE: All right. Bill, the Corps of Engineers
12 was building a site down there in --- Choptank this winter.

13 MR. GOLDSBOROUGH: Yes.

14 MR. DIZE: And they --

15 MR. GOLDSBOROUGH: That is adjoining but it is not
16 the same.

17 MR. DIZE: It is not the same?

18 MR. GOLDSBOROUGH: No. It is adjoining it to the
19 northeast, I think.

20 MR. DIZE: Yes. It is on the northeast corner of
21 Dawson's. It is just outside of the airplane -- it is right
22 at the edge of that channel like --

23 MR. GOLDSBOROUGH: Yes.

24 MR. DIZE: -- and they have come off there and they
25 put stone down and then they put shell on top of it. Is that

1 in this program? Is that part of the program? That is Corps
2 of Engineers. It had nothing to do with --

3 MR. GOLDSBOROUGH: Yes. That is two separate things
4 just coincidentally happen to be together. You know the --
5 you probably know they were saying they were originally
6 planning their project for Sandy Hill, that sanctuary off Horn
7 Point, and that ended up not working out.

8 I do not even remember why but then they looked for
9 another site --

10 MR. : Crabbers.

11 MR. GOLDSBOROUGH: -- and ended up down there.

12 MR. DIZE: That is what I wanted to bring up because
13 I do not know that anyone down our way were talked to about
14 that Corps of Engineers going in there. I am sure they have
15 got enough power they do not have to but no one knew what was
16 going on because I got call after call after call.

17 What is the state doing? What, you know -- and when
18 I found out it was the Corps of Engineer putting that down and
19 it -- they did not talk with any dredges home and that bottom
20 was part of their bottom -- their dredge bottom on Dawson's
21 and, you know, I just do not know who to talk to -- or
22 shouldn't they at least talk to the oysterman in that area?

23 MR. O'CONNELL: I am aware they talked to a few
24 because that is what got them off of Sandy Hill but --

25 MR. DIZE: They talked with those guys up at the bay

1 | but this is -- I mean up the river. This is right off of
2 | Tilghman. It is on Dawson's. It is on the Talbot County
3 | side.

4 | MR. : I think it would be good to -- I
5 | mean, ultimately we approve what the Corps does in our waters,
6 | for this at least. We could advise them that we want them to
7 | bring any projects to this body before it gets too far along
8 | in the process. Would that help, Russell?

9 | MR. DIZE: Yes. Definitely. I mean that is out of
10 | bounds now and in the past, it has been a very, very good
11 | oyster bar. It is not right now but it has been.

12 | MR. BROOKS: Anything else for Bill?

13 | (No response.)

14 | MR. BROOKS: Okay, Bill. Thank you.

15 | MR. GOLDSBOROUGH: Thank you.

16 | MR. BROOKS: Okay. We are running severely behind
17 | here. We have got a couple of more items. Contacted by Bill
18 | Phebus down in the oceanside about the summer flounder and
19 | commercial hook and size tolerances. Bill, there you are.
20 | You are ready. Good.

21 | ***Summer Flounder Commercial Hook and Line***

22 | ***by Bill Phebus***

23 | MR. PHEBUS: Thank you. I want to say, I sat in
24 | last week and I try to -- not last week, last month when you
25 | were talking about the gillnet and you guys -- I tell

1 everybody you do a heck of a job. You take it personal I can
2 tell.

3 I mean just to hear you talk makes you really think
4 that you have got somebody looking after you. I do not know
5 that you realize that but I realize that and I think a lot of
6 other people do to so I do not know that -- you certainly --
7 you probably do not give yourself enough credit.

8 I want to thank the Chairman, Jack Brooks, for
9 letting me have an opportunity and Mike Luisi, he put a little
10 printout in your binder. I did not want to email you. I know
11 you look at enough emails and I am not going to be here but
12 for a minute or so. Everybody is rubbing their eyes.

13 Since '02, to catch a -- I got those numbers wrong.
14 I got up there '02 and '03. It should really read 2000 and
15 2001. The DNR --- that. I am not going to read that. I know
16 you can read. Anyway, what I would like is to ask your
17 support in is to drop paralleling or having the commercial
18 hook and line people stay right with the recreational anglers
19 with their size limit.

20 Every year it seems to fluctuate. For the most
21 part, it has been going up. Early on, it was not a problem in
22 2000 and 2001 because it went from 14, 14½, 15, 15½ and then
23 went right on up and 2002, it went to 17 and then that is when
24 it created a problem for anybody trying to catch a fish.

25 We are a very small group -- very small. There is

1 just not a whole of us. We take a fraction of one percent of
2 that fishery. I am not sure what the commercial fishery is
3 this year. I am sure it is probably close to 300 pounds.

4 Mr. O'Connell would know that but we catch very few
5 of those fish and I can be fishing -- I can be fishing --- I
6 can be fishing beside a net or beside another fisherman who
7 has got other type of gear and he can catch a 14 inch fish and
8 I still have to keep -- last year, I would have to keep a 19.

9 I fished in the ocean last year right where the
10 trollers were coming through. They could keep a 14 inch fish.
11 I could only keep a fish that was at least 19. So, there was
12 no fishery and the frequency chart -- frequency chart, 33
13 percent of those flounder are above 14 inches. Only 33
14 percent.

15 When you start getting to 16 inches, you only have
16 15 percent of the fish you can work on out of that. Then,
17 when you got up to 19 inches, you only had 3 percent. So, out
18 of 100 fish, you might catch 3. That is the only ones that
19 you were going to find that were above 19 inches.

20 So, it has been pretty tough being able to try to
21 catch enough fish to, you know, to either pay for your gear or
22 pay for all the expenses that you guys are aware of. While I
23 am thinking about it, Bob, if you fish in Ocean City and you
24 got five big numbers on the side of your boat, you are going
25 to get stopped every day, buddy.

1 MR. EVANS: Good.

2 MR. PHEBUS: Every day.

3 MR. EVANS: Good. That keeps it straight.

4 MR. PHEBUS: Not all for fishing. It is all check
5 safety gear or whatever. That is mostly what those DNR
6 officers do down there because there is a --

7 MR. EVANS: Good for them.

8 MR. PHEBUS: -- there are a lot of tourists and if
9 you do not get off the water by 12:00 o'clock, they run you
10 over with those jet skis.

11 (Laughter.)

12 MR. PHEBUS: Anyway, so I am just asking you fellas
13 to really look at that. Ladies and gentleman, if you would
14 really look at that and consider making it a minimum of 16
15 inches. I mean that still does not get us down to 14 and I
16 have no problem with that.

17 I would just like to have something, you know.
18 Something. I know in the past, Eric Schwab and Mr. O'Connell
19 said they were worried about -- it was a lot of reasons but
20 they are worried about some overfishing coming in -- over
21 2,600 -- over 2,800 licenses.

22 All of a sudden, they were worried about 2,800
23 people going into Ocean City with hook and line catching all
24 those fish. First of all, you do not -- you might have that
25 many licenses but you do not have that many fisherman.

1 Secondly, nobody is going to take a boat from Chesapeake Bay
2 and run it around to Ocean City with diesel fuel at \$4.00 a
3 gallon.

4 They would never have a life. I mean, you know, and
5 then they are going to sleep on their boat? What are they
6 going to do? You do not have to worry about Ocean City being
7 inundated -- is that the right word?

8 MS. : Yes.

9 MR. PHEBUS: I am looking at you.

10 MR. EVANS: What is the legal size of flounder --

11 MR. PHEBUS: Right now for --

12 MR. EVANS: -- in the Chesapeake Bay?

13 MR. PHEBUS: Okay.

14 MR. KEEHN: The same Bob. The same.

15 MR. PHEBUS: Same.

16 MR. EVANS: The same? It is not 14 inches because I
17 can remember --

18 MR. KEEHN: The reason we lost it, and Tom can
19 speak, but the reason we lost it -- we lost it last year. We
20 were hoping to get it back this year but it did not work out.
21 But the reason we lost it is last year, and correct me -- I
22 think we were at 25 percent over the quota across the board,
23 right?

24 MR. O'CONNELL: We were over. I do not ---.

25 MR. KEEHN: Yes. I think it was 25 percent so there

1 had to be drastic changes. We lost conservation equivalency
2 because of those drastic changes. Now that the flounder
3 fisheries are coming around, size limits come down, we did not
4 get it this year, but we had discussed it at Sport Fish of
5 maybe next year.

6 But right now, it is the same on the coast as is in
7 the bay, which has hurt us in the bay because --

8 MR. EVANS: Is that commercial hook and line ---?

9 MR. KEEHN: It is everybody.

10 MR. EVANS: Okay.

11 MR. KEEHN: Charter boat, commercial, recreational
12 -- it is everybody, as I understand it.

13 MR. : ---.

14 MR. EVANS: Well, as far as I am concerned --

15 MR. KEEHN: It is now -- this year, it is going to
16 be 18 inches. Last year was 19 inches, which is the Holy
17 Grail. I mean the lower bay guys -- a few lower bay guys
18 caught them but the middle and upper bay, I mean, you know, I
19 have got a better chance of --

20 MR. EVANS: Well, back to pound netters. Is that
21 the still the same for pound netters?

22 MR. KEEHN: 14 inches. All of the gear is 14
23 inches.

24 MR. : 14 inches.

25 MR. : I do not think it was that. Was it?

1 MR. KEEHN: Pound nets -- anything is all 14.

2 MR. : Not last year.

3 MR. BROOKS: Tom?

4 MR. LUISI: I can clarify.

5 MR. KEEHN: Mike.

6 MR. LUISI: If it is a -- can I just scoot up here?

7 MR. : Go ahead. Yes.

8 MR. LUISI: I can clarify this rather quickly for
9 you guys. The commercial limit on flounder is 14 inches for
10 every gear except for hook and line.

11 MR. KEEHN: That is what it was. Okay.

12 MR. LUISI: Hook and line in the bay commercially.
13 Hook and line in the ocean commercially. Hook and line in the
14 coastal bay is commercially is equal to that of the
15 recreational limit, which this year will be 18 inches. Last
16 year was 19.

17 You know, based on what Bill said, it has increased
18 since 2000 and 2001 to the point where we are now. This is
19 not a new issue. This has been brought to this Commission
20 every year as the size limits increased and, you know, the
21 Department has continued to deny this request.

22 You know, there are 2 million reasons why this
23 request -- we have continued to deny it. I won't -- I will
24 just give you the 30 second version here. Common limits
25 between commercial hook and liners and recreational fisherman

1 reduce the potential for user conflict between those two
2 groups, especially when they are fishing in close proximity to
3 one another.

4 Generally, they are a small size -- a smaller sized
5 fish with an increased bag limit for a commercial fisherman
6 right next to somebody who is fishing at a larger size limit,
7 a really small bag limit of 1 or 2 or 3 fish, you know, it is
8 just human nature that it is going to increase the amount of
9 conflict out there on the water.

10 It makes it an appearance if the individual
11 recreationally fishing does not realize that that is a
12 commercial fisherman, it makes an appearance that there is a
13 blatant breaking of the law and it also generates an attitude
14 as a kind of a disregard for the rules. So, that is one
15 thing.

16 That gets questioned, you know, that -- we get --
17 that logic is challenged often but this again has come to this
18 Commission a number of times and when asked at the last time
19 that it was brought here in 2009, the Commissioner at the
20 time, Mark Sampson, spoke on this point.

21 He was asked whether or not there would be conflict
22 if we were to allow a smaller fish in the hook and line
23 fishery in the Ocean City area. He was pretty adamant that
24 absolutely there would be conflict and, you know, even if this
25 were to be something that would be applied to the ocean, there

1 | would be a problem with that.

2 | So, you know, with that understanding, one
3 | additional thing is within our quota management. Maryland
4 | receives a commercial quota each year through the Atlantic
5 | States Marine Fisheries Commission, it is divided up into
6 | permit holders on the coast, and there is a small portion of
7 | the quota that goes towards the Chesapeake Bay quota.

8 | There is no quota that is necessarily allocated to
9 | my catch in the ocean. There is the Chesapeake Bay quota and
10 | the permit holders on the coast. If we were to allow for the
11 | increased harvest of fish on the coast through this hook and
12 | line fishery, which there are 2,500 fisherman in the state
13 | that have the potential to fish hook and line commercially.

14 | If we were to increase -- if we were to make a new
15 | fishery and promote that, it is only going to decrease the
16 | amount of time that that bycatch fishery, which operates in
17 | the Chesapeake Bay and the coast, it is a little bit of both,
18 | it would just decrease the amount of time that that fishery
19 | would be able to stay open.

20 | We have had to close it now every year for the last
21 | few years. We have decreased the daily catch limits to try to
22 | extend that but it is another reason why there is a new
23 | fishery and the potential for the increase in, you know, the
24 | number of fisherman in that area is just a -- is a concern for
25 | us.

1 So, hopefully that clears up the size limits and
2 some of the reasoning behind why we have denied this in the
3 past. I guess I will leave it up to you guys if you have any
4 questions for Bill or I.

5 MR. PHEBUS: Is there anybody in here that has a
6 boat that fishes? Would you run from Kent Island or from down
7 in the bay, Hooper's Island, and run all the way out
8 Chesapeake Bay and run all the way on up into Ocean City for a
9 flounder fishery.

10 When you all -- when you are going to make all your
11 money crabbing. Maybe you are going to make money catching
12 clams, raising --- whatever, you are going to go up there for
13 two months and pay \$700.00 or \$800.00 a month for a slip
14 maybe, then get a hotel because you do not want to sleep on
15 your boat or trailer.

16 It is unbelievable that you think that place would
17 be swamped by people coming in there with a hook and line
18 license. I absolutely -- it is unfathomable to me that you
19 believe anything like that. I do not care if you had 10,000
20 licenses.

21 You are only going to be able to catch so many
22 pounds a day and you could give us 1,000 pound limit and you
23 are going to catch about 40 pounds a day if you are lucky. At
24 \$2.00 or \$2.50 a pound, nobody could -- nobody would be able
25 to do anything like that.

1 The only reason why this is being done -- the couple
2 of people down there might have been a pal, might have been a
3 cropper, might have been a --- whatever did not like that
4 happening, said something to someone else in the DNR and the
5 police did not want to fool with it anymore and passed it on
6 up the line.

7 I talked to Eric Schwab and I got a letter right
8 here in 2008 where he said the reason why it is is because
9 there were complaints down there and I really do not know what
10 a conflict is. I swear I do not know what a conflict is on
11 the water.

12 Are they --- each other? What are they going to do?
13 If I have a 19 -- a 20 inch fish and 18 inch fish, are they
14 going to think that I have an 18 and a 16 in a net 40 or 50
15 feet away -- 100 feet away from somebody. How can they tell
16 that I have a -- I got -- I am sinking a boat with smaller
17 fish.

18 Now, I really can understand if you are saying you
19 can catch 18's and I am beside you catching 14's, I probably
20 would not like that either but I do not think there is a bit
21 difference between an 18 and a 16 other than to me where I can
22 catch a few pounds of fish.

23 MR. BROOKS: Mike, you have comments?

24 MR. BENJAMIN: Before they raised the size limit up
25 for hook and line commercial that went along ---, was there a

1 viable hook and line -- I mean was there people actually
2 participating in the hook and line fishery when it was 14 or
3 14 inches? You have to have catch reports. Were they --

4 MR. PHEBUS: There are catch reports --

5 MR. BENJAMIN: Were they making money on this?

6 MR. PHEBUS: -- but it is -- there was insignificant
7 amount of harvest. It was very, very small. There has never
8 been a historical hook --

9 MR. BENJAMIN: All right because, you know --

10 MR. PHEBUS: There has never been a historical hook
11 and line fishery for this fish.

12 MR. BENJAMIN: It is not right to phase a fishery
13 out and that is just what you did because you did not raise up
14 pound nets. You did not raise up gillnets. You did not raise
15 up fight nets. Even if the guy made a couple hundred dollars
16 a year on it, he had a little fishery going on.

17 You just kind of -- you did not -- you did not --
18 you say you are not including -- you are not starting another
19 fishery but if this fishery existed -- my point is you are not
20 trying to start a fishery, you just phased one out, you know,
21 and it is not -- it is not right because some people do choose
22 to do the hook and line fishery.

23 They should be held accountable to the commercial
24 quotas. I see this in this. I see this in the yellow perch
25 fishery now. You phase out different things because of

1 different reasons but it always come right down on the hook
2 and line fishery.

3 So, you need to -- I think you need to revisit this.
4 I agree with him. I do not even --- fish but I agree with
5 him.

6 MR. BROOKS: Anybody else? Comments? Gibby?

7 MR. DEAN: Bill, last time I ran my boat from
8 Hooper's Island to Ocean City took me 12 hours and 240 some
9 gallons of fuel --

10 MR. PHEBUS: At \$4.00 a gallon.

11 MR. DEAN: -- and that is about \$1,000.00 so no, I
12 am not coming.

13 MR. PHEBUS: I do not think you will -- you are not
14 going to be any competition for me, is that what you are
15 telling me?

16 (Laughter.)

17 MR. PHEBUS: Now, it, you know, a couple of people
18 complain down there and it went a long way and they cut it out
19 and I, you know -- you can tell me that and that does not make
20 it right and it was a little bit of a fishery and it -- but it
21 is not anymore and it has not been for years.

22 When I first started fishing down there -- I have
23 never had a ticket by the way. I have never had a ticket,
24 whether it was safety item or any other kind of
25 ticket/citation, and I can remember telling the DNR officers

1 all the rules and regulations for commercial hook and line
2 flounder fishing in Ocean City because they did not know them
3 because they never had a problem.

4 MR. BROOKS: Okay. I do have one quick question.

5 MR. PHEBUS: Yes, sir.

6 MR. BROOKS: When there was a viable -- or somewhat
7 of a viable commercial fishery, how many people participated
8 in it down there --

9 MR. PHEBUS: I know of --

10 MR. BROOKS: -- out there and now, how many
11 participate?

12 MR. PHEBUS: I knew of two other people that we
13 would talk to, and I did not have a cell phone then so I did
14 not call them on the water -- that I would talk to that fished
15 and we might catch 10 pounds a day or maybe might catch 20 a
16 day.

17 You are lucky if you can fish 3 days a week down
18 there because the winds will start blowing out of the south or
19 southwest over 15 mile an hour, you are done for a day or so
20 because the water gets dirty. I do not know if I am answering
21 your question.

22 MR. LUISI: If I can say something very quickly.
23 Based on some documents that go back a ways, the Atlantic
24 Harvest, for 2001, was 340 pounds, 2002 was 200 pounds and
25 2003 was 2 pounds for the flounder fishery during those times

1 when the fishery was operating at 14 or 15 inches.

2 So, compared to a 300,000 pound quota, it is pretty
3 small.

4 MR. : It is insignificant.

5 MR. BROOKS: Okay. Anything else? Any other
6 comments or questions on this issue?

7 MR. YOUNG: Yes. If that is the amount it was
8 compared to -- how much is the quota?

9 MR. LUISI: Well, now the quota is 300 -- almost
10 300,000 pounds.

11 MR. YOUNG: 300,000 pounds and they are catching 345
12 pounds? I would give them a break. Let them catch some more,
13 you know what I am saying? I mean let them catch 1,000 pounds
14 or 2,000 or 10,000 out of 300,000 pounds.

15 MR. BROOKS: Okay, Tom? We have got to move on
16 here.

17 MR. O'CONNELL: I just want to make one comment
18 that, you know, we believe that there will be user conflict
19 issue that said, you know, I wonder if it would be worthwhile
20 to begin to explore some options whereby maybe, you know,
21 certain days of the week where there is a less tourist -- less
22 recreational anglers on the water.

23 Maybe some daily limit so somebody cannot be
24 excessive, you know. We could potentially explore some
25 limited fishery and evaluate it on an annual basis to see if

1 the conflict arises to a level we are concerned with or not.
2 I do not know, Bill, if that would be helpful.

3 Like maybe weekdays, of course, maybe Monday through
4 Thursday, maybe have some limit, you know --

5 MR. PHEBUS: Well, there are very few fellas I
6 know --

7 MR. O'CONNELL: -- just to give it a try.

8 MR. PHEBUS: -- that like to fish -- fish on the
9 weekend in Ocean City. If you fish down there, you would know
10 why. I do not think we need any more regulations and I really
11 do not think there were that many complaints. I just think it
12 was somebody who carried a big stick complained to the right
13 guy.

14 That is exactly what happened. I just did not have
15 the right name. I might not have gotten the right name out
16 but I knew I was close and it is not that -- it is not that
17 big a deal to fish down there. Conflict, I swear -- I would
18 swear I -- really, I am not sure what the conflict is.

19 I understand what you are saying but nobody is going
20 to start -- if I am catching a few fish and a guy beside me
21 really thinks I am keeping an undersized fish or I am keeping
22 smaller fish than him, he is not going to be going in there
23 and catching that fish.

24 Those guys are on you down there like flies. I mean
25 they are regularly are. All you gotta do is go down there and

1 see.

2 MR. GORDON: To be brief on it, it sounds like there
3 was some, you know, potential mistake made here by the
4 influence of other people and I would like to see the
5 Department look into further and not just forget it as of
6 tonight because there are quite a few influential people down
7 there that do things like that on a regular basis.

8 There is a very good chance that that is what has
9 happened.

10 MR. O'CONNELL: This, I mean, user conflicts
11 hydraulic --- fishery, look what happened so, you know, we are
12 just -- if you guys want us to meet, we can explore some
13 options that we could potentially explore. I think it is too
14 late for this year because they --- plan requirements but
15 perhaps we could try it -- something in 2012 and see what
16 happens.

17 MR. BROOKS: Tom, you need a motion for that or --

18 MR. O'CONNELL: No.

19 MR. BROOKS: Does this consensus work?

20 MR. O'CONNELL: Yes.

21 MR. BROOKS: Okay. Well, thank you.

22 MR. PHEBUS: All right. I appreciate it.

23 MR. BROOKS: Thank you.

24 MR. PHEBUS: Thank you.

25 MR. BROOKS: Okay. Last agenda item, bycatch of

1 terrapins and commercial gear. Marguerite Whilden. Is she
2 here?

3 MS. WHILDEN: Yes.

4 MR. BROOKS: There you are.

5 MS. WHILDEN: Can we put some photographs --

6 MR. : You have got something?

7 MS. WHILDEN: They are just photographs. How much
8 time do I have?

9 MR. BROOKS: Minus 10 minutes.

10 (Laughter.)

11 ***Bycatch of Terrapins in Commercial Gear***

12 ***by Marguerite Whilden, Co-founder,***

13 ***Terrapin Institute***

14 MS. WHILDEN: Well, I did put together a printed --
15 I do not have enough for everyone. I guess the main reason --
16 I just want to give you a quick background on it. As many of
17 you know, terrapins were taken off the market in 2007 by
18 legislation.

19 The law also required additional conservation
20 measures. My organization, the Terrapin Institute, has been
21 working with the Department to move on those regulations. The
22 Department has shifted some of that responsibility but I feel
23 the bulk of the responsibility for conservation of terrapins
24 that exist in tidal waters, 99 percent of their life, relies
25 most with fisheries management.

1 So, I have been advised to come to this board and
2 ask you to take this issue on. In general, I would like you
3 -- I would like to assist with bycatch mortality in general so
4 it does not look like a single species issue and I would also
5 like to help get the fishery community involved in habitat
6 preservation.

7 Those are the two main things that my organization
8 is working on and those are the two main things that DNR had
9 cited as the key things for terrapin. So, because I do not
10 have the time that I thought I had, I will just hand these
11 things out.

12 Paul, do you want to print out the ---. See the
13 TFAC photos? In this handout that I have, I went over every
14 bycatch gear that we discussed in the -- in the wildlife
15 piece. This was an incident -- five nets, I think, are our
16 big concern because they are indiscriminate.

17 MR. EVANS: Where was that at Marge?

18 MS. WHILDEN: This was off of Eastern Neck in 2006.

19 MR. EVANS: Eastern Neck?

20 MS. WHILDEN: Yes, at the mouth of the Chester.

21 MR. EVANS: Okay.

22 MS. WHILDEN: There were four of these nets. They
23 were discovered by U.S. Fish and Wildlife.

24 (Slide.)

25 MS. WHILDEN: This was the worst -- probably the

1 most egregious situation and I do not want to inflame the
2 issue by throwing up these graphic photographs but it is rare
3 that you get this kind of evidence and I think that --

4 MR. EVANS: Thank God.

5 MS. WHILDEN: -- because of the nature of the net, I
6 have reviewed the data collected by DNR. They are used
7 throughout the tidewater and they are used year-round. That
8 is from the data. So, if you can go to the next one.

9 (Slide.)

10 MS. WHILDEN: There were 5 photographs. There was 1
11 live turtle in that whole 200 and it is right there. You see
12 there are snapping turtles there that are still commercial
13 harvest. It is still impacting those who make a living off of
14 that.

15 So, the key issue tonight would be if this were to
16 happen -- this was in 2006 and I will send you the article.
17 It was no big deal because they were going to be harvested
18 anyway but if this were to happen today, these animals are
19 protected.

20 They are on the fisheries point system. What would
21 happen? At that time, there was only a violation for not
22 marking the net properly. I have worked with fyke netters. I
23 know how difficult it is to keep these nets -- keep the floats
24 on them.

25 I do not know if there are any fyke netters in the

1 room?

2 MR. : ---.

3 MS. WHILDEN: Yes, of course but, you know, you have
4 fish in the upper fresher waters. I know we have discussed
5 that for years. I do not know where you fish, John, but --

6 MR. VAN ALSTINE: Mine are right in West River and
7 there are certain areas that I have pound net sites. As a
8 matter of fact, the officer over here has been in two
9 discussions. I changed one of my best fyke net spots to a
10 pound net spot, which fortunately more involves sitting in the
11 middle of my crib in the moment, but that I cannot believe is
12 a fine example of the average waterman.

13 I have, in my hotspots, where I have hot
14 concentrations of turtles is I put excluding devices where it
15 brings them. It floats to the surface. The last thing I want
16 is to kill those.

17 MS. WHILDEN: You could not -- you could not float
18 that because of the surface.

19 MR. VAN ALSTINE: I am not leaving it sit for months
20 like that appears to be.

21 MS. WHILDEN: Right. Well, I know --

22 MR. EVANS: Yes.

23 MR. VAN ALSTINE: I am fishing it on a regular
24 basis. I want to make sure that that --

25 MS. WHILDEN: ---.

1 MR. VAN ALSTINE: -- is not a typical float net
2 fisherman from what I see by those pictures.

3 MS. WHILDEN: I am not saying that. That is the
4 only thing I have. I do have a pound net with 350 turtles in
5 it that sat for 3 weeks. That is another example but, you
6 know, I guess my main thing, you know -- crab pots are another
7 thing.

8 The literature is replete with data on crab pots.
9 Maryland has addressed it partially. Crab pots allow --
10 involve -- testified on that bycatch requirement that we did
11 12 years ago. Bycatch or crab pots allowed at private
12 properties get, you know -- the Workgroup advised that they be
13 banned.

14 The Terrapin Workgroup took a vote -- you can get
15 rid of those crab pots, as far as we are concerned, because
16 they are not complying with the law. They are left there.
17 They are not fished responsibly. The main thing would be the
18 fyke nets.

19 I guess before, if it is appropriate -- I do not
20 know how the Advisory Commission works but I want to thank you
21 for this opportunity. I spoke with Jack on the phone prior to
22 this. I guess my preference would be to have a workgroup or
23 something established so that we can get into the details and
24 consider how this can be done.

25 The other advantage -- Paul, if you want to flip

1 that --

2 (Slide.)

3 MS. WHILDEN: That is the size of the net. So, you
4 know, these were not little hoop nets. These were big nets.
5 Again, I know it is an accident but if were to happen again
6 today -- back then there was even -- there was not even a
7 citation to be given because there is no requirement that they
8 be checked.

9 There is no requirement that they even be pulled at
10 the end of whenever you are done.

11 (Slide.)

12 MS. WHILDEN: Here is another thing that I want to
13 introduce and get into the fisheries discussion. I think I
14 picked a good night to do that because this is some of the
15 stuff that we are worried about. This is what is going on --
16 coming out 270 feet into your fishable area.

17 No fees for that except maybe a fee for, you know,
18 Board of Public Works. These things are theoretically windows
19 for fish to go in and out. If you -- this guy has no
20 trespassing signs. So, this again -- it is an egregious
21 example but I do not know why it was allowed other than to
22 create a private lagoon and this thing --

23 MR. DEAN: Where is it?

24 MR. : What is it?

25 MR. : What is breakwater?

1 MR. : It is a breakwater. Yes.

2 (Simultaneous conversation.)

3 MS. WHILDEN: Yes. It is basically -- and yes.

4 These are happening. There is another one that we have been
5 asked to comment on ---.

6 (Simultaneous conversation.)

7 MR. GORDON: Where is that, ma'am?

8 MS. WHILDEN: Whitehall -- going into Whitehall Bay.
9 My neighbor there advised me that --- going in because it goes
10 in in the winter. Nobody knows about it. The next thing you
11 know, it is done. This thing --- you could drive a tractor
12 trailer on this. That is how wide it is.

13 MR. GORDON: So, they did the traditional rip wrack
14 in the first photograph up above and --

15 MS. WHILDEN: Yes.

16 MR. GORDON: -- then they came back --

17 MS. WHILDEN: Right.

18 MR. GORDON: That is amazing that the --

19 MS. WHILDEN: Yes.

20 MR. GORDON: -- state let them do that.

21 MS. WHILDEN: 350 feet. So, you know, I guess I
22 throw this in there together, because I do not want you to
23 think I am just coming here asking for something. We want to
24 be able help out with these kinds of things and I think the
25 Tidal Fish Advisory Committee would have a great deal of

1 | influence because I keep hearing it is habitat.

2 | It is development. That is going into your
3 | property. That is going into my property. We may not be able
4 | to do anything about development on private land. That is
5 | giving away the Chesapeake Bay right there. Fortunately, in
6 | 2008, we at least got the fee implemented but something like
7 | this, because it is designed as a habitat enhancement maybe, I
8 | do not know how that would have been described but what I am
9 | seeing now is this living shoreline ---.

10 | It is coming out 35 feet/55 feet into your fishable
11 | area. So, that is where I think, you know -- if we can work
12 | together, I would like to help do this. This is what we are
13 | doing for the species. We want to have the backbone to get
14 | out there and tell these owners that this is not right.

15 | We have had the backbone to go to the legislature to
16 | tell them that this is not right. I am asking you for the
17 | backbone to help us do this on a case-by-case basis or we go
18 | back to the legislature and get this under control.

19 | MR. BROOKS: Steve?

20 | MR. GORDON: Army Corps and MDE would certainly have
21 | to sign off on both of those projects.

22 | MS. WHILDEN: And the Board of Public Works.

23 | MR. GORDON: I just suggest you start with that. I
24 | mean, not that we would not want to help you but that -- they
25 | have the primary bottom line authority on that.

1 MS. WHILDEN: They were fine with it.

2 MR. GORDON: Well, you outta ask questions about
3 that.

4 MS. WHILDEN: I did. I have the testimony.

5 MR. BROOKS: Bob?

6 MS. WHILDEN: Yes. You know, again, I do not want
7 to -- I do not want you to -- I can send you all the data you
8 need on that. That was approved with flying colors.

9 MR. BROOKS: Okay.

10 MS. WHILDEN: There was another project nearby that
11 was approved with flying colors. They never went through with
12 it because when you get to the expense of it, it changes
13 things but the point is -- and I am glad to hear that people
14 do not want to see the rest of the bay used as a concrete
15 dumping ground because that is going to have consequences.

16 I know that it may be good for oysters. You cannot
17 hook and line over it. You cannot trout line over it. It has
18 its consequences. That is all --

19 MR. BROOKS: Tom? I think you have got some
20 comments about what you are doing?

21 MR. O'CONNELL: To share, you know, we have been in
22 communication with Marge and the Terrapin Oversight is now
23 with the Wildlife Service, not Fishery Service, but there is
24 coordination with us on issues like bycatch issues. Lynn
25 Fegley has been in conversation with Jonathan McKnight from

1 Wildlife, who runs that Terrapin Workgroup, to being talking
2 about what are the issues with bycatch.

3 We are committed to look at it further and it may be
4 good at some point in time to try to get some representative
5 fyke net fisherman or other gears that there is concerns with
6 and have the conversations, John. I mean like we have ---
7 whether or not that is something to be employed in other fyke
8 nets without complications.

9 So, we are working closely with Wildlife now, thanks
10 to Marge's patience and attention to this. We will follow
11 back up the ---.

12 MS. WHILDEN: I still think it -- I am concerned
13 that it is still fisheries law and I do not know how Wildlife
14 -- like when river herring gets -- there is a moratorium. Is
15 that going to go to Wildlife?

16 MR. O'CONNELL: No.

17 MS. WHILDEN: This is really a serious problem. We
18 have been at it for four years with no resolve. I know
19 Wildlife has met with you but I think the setup, the
20 ambiguity, has really created another hazard to the species.
21 I do not know where else to go.

22 I guess we would -- that is why we are here and we
23 really feel it is an obligation of the fisheries.

24 MR. KEEHN: Not the turtles but that is a living
25 shoreline. Who is the gentleman that talks to us at the reef

1 that is in charge of living shorelines? He did talk at the
2 last reef meeting.

3 MR. GOLDSBOROUGH: I was not at the last reef
4 meeting. That DNR guy?

5 MR. KEEHN: No. No. I am not sure. He is in
6 federal but I was just saying as a contact point, maybe you
7 want to talk to him about that ---.

8 MR. GOLDSBOROUGH: Yes. Well that there, I would
9 not even call that a living shoreline.

10 MR. KEEHN: No.

11 MR. GOLDSBOROUGH: I mean that is some kind of
12 private lagoon. Like you said, I do not know the purpose of
13 it. --- the shoreline is for the purpose of maintaining that
14 inner tidal shoreline.

15 MR. KEEHN: Where the grasses --

16 MR. GOLDSBOROUGH: Instead of having just an armored
17 shoreline with

18 MR. KEEHN: Right.

19 MR. GOLDSBOROUGH: --- where your terrapin cannot
20 get in the nest --

21 MR. KEEHN: Right.

22 MR. GOLDSBOROUGH: -- and your shore birds and
23 everything else, you know, you want to stabilize it and
24 control the erosion with an offshore breakwater but, you know,
25 plenty of flow in and out behind it.

1 MR. KEEHN: Yes.

2 MR. GOLDSBOROUGH: That there, I do not care what
3 that is.

4 MR. KEEHN: Well, I was just trying, as a contact --
5 I cannot remember his name but he spoke. Maybe you can get in
6 contact. Marty Gary* would have his name. Contact Marty and
7 at least you would have a point of contact with the federal
8 side.

9 MS. WHILDEN: Well, it is the federal people that
10 are paying for these things that we have a problem with. So,
11 you know, this thing started in 2002. We wrote an article for
12 the Waterman's Gazette entitled, "If You Don't Mind, It Don't
13 Matter."

14 This is creeping out. This is an old problem for me
15 and now it has been accelerated because they are being paid
16 for by the federal government. They do not have to pay a fee
17 under the fee bill since it is considered habitat enhancement,
18 but if you go -- do you know where that is Bill?

19 MR. GOLDSBOROUGH: No, I do not.

20 MS. WHILDEN: (Off microphone.) That is on
21 Whitehall Bay. It is right across from the Whitehall Bay.
22 CVS is over here. This is Whitehall Creek. What these --- do
23 -- this is an exaggeration. They come out ---. They say that
24 this --- tending to.

25 (On microphone.) See, that is the problem. I think

1 that an influx of money, you have some state grants available
2 and, you know, there is an incentive working in the background
3 there and you are paying for it in more ways than one.

4 MR. VAN ALSTINE: You look at the picture, that
5 whole beach is new.

6 MS. WHILDEN: No.

7 MR. VAN ALSTINE: The entire strip of sand was not
8 there.

9 MS. WHILDEN: (Off microphone.) You see what
10 happened, when this gets blocked up, any more geomorphologist
11 worth his salt knows that is going to go next because you tied
12 up ---. So, they were very -- it was a good design because
13 they knew that was going to go.

14 (On microphone.) Paul, just real -- I apologize.
15 Can you just flip to the next one? I have another one.

16 (Slide.)

17 MS. WHILDEN: This is the whole bay. (Off
18 microphone.) This is --- property. This is Whitehall Creek.
19 This is Whitehall Bay.

20 MR. : That is incredible.

21 MS. WHILDEN: This is 2004. Now, here is, again --
22 it is abstract. It is down the road. You blocked up all
23 this. See? This is the first. This is 2004. This has been
24 all blocked up. On some of these maps, you can see a shift in
25 the sediments.

1 This beach may be going next because the sediments
2 are starved from here (indicating). This is a ---. This may
3 be going next. (On microphone.) We do not know until it
4 happens. It is just that I think the fishing community needs
5 to be cognizant of what is going on.

6 The immediate consequences are you are -- and in
7 this case, there is a break -- there is a sandbar here. You
8 are pushed -- or it may be over here. You are pushed into a
9 narrow -- even further narrow channel. The marker is right
10 there (indicating).

11 Why that was permitted, I do not know, but it got an
12 extensive amount of review and so the immediate consequence is
13 if you are clamming or oystering, you know, you have to be
14 pushed -- you have to stay off shoreline by a certain amount.
15 In that case, that pushes you 270 feet further into the
16 channel.

17 It could be a navigation hazard, you know, and it
18 is --

19 MR. : Is that the distance that that --
20 that is not 270 feet offshore. From the original beach out to
21 the --

22 MS. WHILDEN: (Off microphone.) ---.

23 MR. : Holy moly.

24 MS. WHILDEN: (Off microphone.) And, it is a
25 bycatch problem. (On microphone.) That again, you know, I

1 | just want to fair. I found turtles, horseshoe crabs, fish.
2 | They are not the sharpest tool in the shed (off microphone)
3 | and they do not know how to get out of these things.

4 | They might come in here --- (on microphone) but, you
5 | know, the other thing, there are not a lot of terrapin in that
6 | area anymore.

7 | MR. BROOKS: Okay. Any questions or comments?

8 | MR. DIZE: The only comment I have is she is right.
9 | There is one been, over the last two years, has been put up in
10 | the lower end of Tilghman -- same type of thing but I do not
11 | think anyone in here can stop it because they are building
12 | marshland inside of the containment wall. So, it gets a go
13 | ahead from everyone.

14 | MR. BROOKS: Anyone else?

15 | MR. EVANS: Let me give you a little insight, Marge.
16 | I have worked the shallow waters for the mouth of West River
17 | to Deale for a long, long time and I have seen and caught and
18 | released a lot of diamondback terrapins. At one time, when I
19 | first started down there, it was a lot of turtles.

20 | We had turtles down there to the point to where we
21 | had to put excluding devices on the front of our flight nets
22 | to keep the turtles and the horseshoe crabs out of them but
23 | through the years, the more that shoreline it gets rip
24 | wracked, the less turtles show up and it is not because we are
25 | catching them.

1 It is not because the commercial gear is catching
2 them. It is because you are losing your shorelines.

3 MS. WHILDEN: So, where do we start, Bob? I know
4 that you are not -- I believe you 100 percent.

5 MR. EVANS: Right.

6 MS. WHILDEN: Where do we start? Do we start saving
7 the big ones or do we put all our attention on habitat?

8 MR. EVANS: Well, I can tell you this. I look at
9 every diamondback terrapin that I catch, and it is not a lot
10 anymore, and 50 percent of the turtles that I catch have marks
11 on the backs of them where they have been struck by outboard
12 motors or something.

13 It is -- I hate to say it but it is just like a lot
14 of things here, just like our native oyster, it cannot handle
15 the amount of people that live on this bay.

16 MS. WHILDEN: But we -- right.

17 MR. EVANS: The diamondbacks cannot handle it. I
18 mean it is too much boat traffic and too many people.

19 MS. WHILDEN: But the one thing I -- I guess, you
20 know, if I could just leave you with this list of things and
21 ideas that I have, I think you will never know until you try.
22 You need to start getting involved in this because if you do
23 not mind, then it does not matter.

24 Nobody should complain about shoreline development,
25 because this is the key body to do it. We could show you how

1 | to do it. We can alert you to the problem. What is in it for
2 | me? The beaches. What is in it for you? Put your money
3 | where your mouth is.

4 | MR. BROOKS: Marge, thank you so much for bringing
5 | these things to our attention. We have certainly -- it has
6 | been an eye-opener and we will take this under advisement. I
7 | do not know what this commission can do but it is --

8 | MS. WHILDEN: Could we have a workgroup or
9 | something?

10 | MR. BROOKS: -- a lot of information. If I were to
11 | propose -- anyone have a proposal for a workgroup?

12 | MR. GORDON: I would to be -- be at least be posted
13 | on future projects and issues like that for awhile and see --
14 | kind of see how that goes and if we can be of any assistance
15 | and if that develops into a workgroup, so be it.

16 | MR. BROOKS: Okay. Take that up. I think that is a
17 | good idea. Okay?

18 | MS. WHILDEN: I am sorry, you said?

19 | (Simultaneous conversation.)

20 | MR. BROOKS: Okay. Yes, we are going to have about
21 | a two-second public thing. It will be ---.

22 | MR. GORDON: I mean you should keep us posted on
23 | that on a monthly basis on whatever issues that are -- I mean
24 | you could do it via email to all of us --

25 | MS. WHILDEN: I will.

1 MR. GORDON: -- or whatever to start with and then
2 something strikes a chord, then we would start a workgroup to
3 try to work with you.

4 MR. BROOKS: That is a good idea Steve.

5 MS. WHILDEN: Could I -- and I hate to be so
6 persistent but could I get something on the bycatch? We are
7 not getting anywhere with the current situation. I just need
8 your help with -- to get -- pull this thing together.

9 MR. BROOKS: Members of the commission, any
10 suggestions on the bycatch?

11 MS. WHILDEN: Because, you know, here is my concern
12 (off microphone), you have another four of these nets come
13 floating up, (on microphone) it may backfire and the fallout
14 would be like what you are dealing with the gillnets.

15 MR. BROOKS: Okay. I would just encourage the
16 Department to continue working on it. I think they already
17 are.

18 MR. EVANS: Well, I think the first thing you need
19 to do, Marge, is give us a list of areas that have enough
20 diamondbacks that you have this problem and then we will work
21 on a season that you have to put the ---. That will eliminate
22 all your problems.

23 MS. WHILDEN: Miles has 250 nets fished a day.

24 MR. VAN ALSTINE: Not nets.

25 MS. WHILDEN: 100 -- I looked at the data.

1 MR. VAN ALSTINE: Not nets.

2 MS. WHILDEN: Miles River has 250 nets per day.

3 MR. VAN ALSTINE: What Bob is asking is where are
4 your terrapin populations --

5 MS. WHILDEN: Miles River.

6 MR. VAN ALSTINE: -- that you have high concern?
7 Miles River?

8 MS. WHILDEN: Yes. Miles. I can do that. You
9 know, that is why I am here. What do I do next? Do we go
10 to --

11 MR. EVANS: You need to come back to us, come up
12 with a season that we have got to put fronts on those next,
13 turtle exclusion devices. You can still catch fish --

14 MS. WHILDEN: Right.

15 MR. EVANS: -- but you keep your horseshoe crabs and
16 your diamondbacks out.

17 MS. WHILDEN: That is great to hear. I will do that
18 and I do have some -- on each gear, I have a suggestion.

19 MR. : Yes. Absolutely.

20 MS. WHILDEN: The fyke nets, like I said, that is
21 our biggest concern. Pound nets, they are basically innocuous
22 if they are fished well and tended well.

23 MR. VAN ALSTINE: The photographs you show are not
24 somebody that is fishing their fyke nets well. Period.

25 MS. WHILDEN: Absolutely.

1 MR. VAN ALSTINE: That is not the norm.

2 MS. WHILDEN: Right.

3 MR. VAN ALSTINE: That is not the standard for the
4 way we fish fykes.

5 MS. WHILDEN: But one thing, when I first got into
6 this in '98, I worked with a harvester and he said it is not
7 uncommon in the spring, you just see for a day or two they
8 float because they have been dumped and I have that in the
9 report. It is -- again, it is anecdotal.

10 This animal took a hit in 2006. 12,000 of them were
11 harvested. So, we cannot really -- I just do not feel -- to
12 be responsible to the people that fund my work. I cannot sit
13 by and wait any longer. We have waited 4 years and nothing is
14 happening. So, I would be appreciative --

15 MR. BROOKS: Bob? I think Bob had a suggestion and
16 I think we will take that under advisement and --

17 MR. EVANS: Yes. Yes. Yes. Come forward with a
18 area -- your areas you have problems with and the dates and
19 then we will work on --

20 MR. BROOKS: Okay.

21 MR. EVANS: -- you know, and I will show you, you
22 know -- I will the fyke netters what to do.

23 MR. BROOKS: Okay. All right. Thank you.

24 MS. WHILDEN: That is very -- I really appreciate
25 that Bob.

1 MR. BROOKS: Thank you.

2 MR. EVANS: No problem.

3 MS. WHILDEN: Thank you.

4 MR. BROOKS: Okay. Thank you for coming, Marge.

5 Okay. Public comment. Mike, you are first and probably last.

6 ***Public Comment Period***

7 MR. LUISI: Yes. I just had an announcement. The
8 Striped Bass Workgroup is going to meet on --

9 MR. : 30th.

10 MR. LUISI: -- two Wednesdays, the 30th. We have
11 every seat --

12 MR. EVANS: Wednesday the 30th.

13 MR. LUISI: We have all the seats filled at this
14 point but I do want to mention, we do not -- we still do not
15 have a hook and liner from the upper western shore and we need
16 somebody to help sit in while Danny is in the hospital. So,
17 if anybody has contact with Danny.

18 If anyone wants to reach out to find somebody in the
19 western part of the bay --

20 MR. EVANS: I will work on it. I will come up with
21 somebody.

22 MR. LUISI: -- we need a hook and liner to sit in on
23 that meeting and --

24 MR. EVANS: Let me write this down.

25 MR. LUISI: -- and a pound netter.

1 MR. KEEHN: Mike, I know one guy who would be
2 interested who is hook and liner up Baltimore way. Don
3 Murani*. I can get you his -- I can have him contact you.

4 MR. LUISI: ---. Have him contact me.

5 MR. KEEHN: Contact Bob. I mean that is your
6 decision but I know that --

7 MR. LUISI: Have him contact me. That is ---.

8 MR. KEEHN: I mean that is your decision but I know
9 that --

10 MR. LUISI: Have him contact me. That is the ---.

11 MR. EVANS: Yes. Just have him contact --

12 MR. KEEHN: Is that okay? Okay.

13 MR. LUISI: Yes. Have him contact me. Thanks.

14 MR. BROOKS: Okay. Any other public comment?

15 MR. EVANS: Yes. I have got two quick public
16 comments. I want to give you an update on Danny Beck. He is
17 back in the hospital. He has a blood clot on his lungs. He
18 is not doing well. JR is -- they are getting ready to move
19 him to Johns Hopkins. He had a brain tap and he is not doing
20 well. Larry is going for treatments.

21 One other thing I want to put on the agenda to talk
22 about at the next meeting is bringing the pound net quota from
23 wherever it is coming from into the pound net fishery because
24 as the amount of people increase in the pound net fishery, we
25 all agreed here and voted on bringing the quota with them but

1 it is not happening.

2 Now the pound net quotas are down to 2,500 pounds to
3 the net and the fellas that are pound netting, with the
4 increase in the price of --- are suffering from it. That
5 quota that we all agreed on, that is supposed to come from the
6 hook and line or gillnet over to the pound net fishery needs
7 to be done. It has not been done.

8 MR. DUKES: I think, Bob, on what you are talking
9 about that. On last year's pound net, you went 50,000 -- they
10 went 50,000 pounds over of the quota because --

11 MR. EVANS: No.

12 MR. DUKES: -- of the pound netters that are the
13 hook and liners that came over or the other guys that came
14 over, it showed a 50,000 pound overage in the pound net from
15 where they brought it from the hook and line.

16 MR. BROOKS: Bob, I think this is a good thing to be
17 brought up to the Striped Bass Workgroup -- no question.

18 MR. EVANS: Yes.

19 MR. BROOKS: Then let them come to this --

20 MR. EVANS: But I did want to bring it up here --

21 MR. BROOKS: -- come to this body.

22 MR. EVANS: -- because we did vote on it here.

23 MR. BROOKS: Okay. All right. Thank you.

24 MR. DIZE: Jack, I spoke with Larry today. He said
25 he felt real good today but he is quarantined so he cannot get

1 around -- cannot be around anyone. He feels a lot better
2 today ---

3 MR. BROOKS: Good.

4 MR. DIZE: -- but he has got to take another double
5 treatment Tuesday.

6 MR. BROOKS: Okay.

7 MR. DIZE: So, everybody keep those guys in prayer.

8 MR. BROOKS: Thank you.

9 MS. JACQUETTE: Tom, at last month's meeting, Chucky
10 White sat in for me. He is my proxy. He asked you to get
11 some information on the \$15 million we had for the crab
12 preservation. Did you get it?

13 MR. O'CONNELL: I must not have sent it but I will
14 do that first thing tomorrow because that is available.

15 MS. JACQUETTE: If you could send it to me.

16 MR. O'CONNELL: Yes.

17 MS. JACQUETTE: Okay. I do not know if anybody else
18 -- did everybody else miss that or am I just the only one?

19 MR. BROOKS: Okay. Anybody else? Any other public
20 comment?

21 (No response.)

22 MR. BROOKS: Okay. We stand adjourned. Thank you.
23 Sorry it ran so late.

24 (Chorus of "Thank you.")

25 (Whereupon the meeting was adjourned at 9:30 p.m.)