Virginia Marine Resources Commission

COMMISSION ACTIONS April 26, 2016

** APPROVAL OF AGENDA. **UNANIMOUSLY APPROVED AS WRITTEN.** [audio]

1. MINUTES of previous meeting. **APPROVED 7-0 WITH ASSOCIATE COMMISSIONER KELLUM ABSTAINING.** [audio]

2. PERMITS (Projects over $500,000.00 with no objections and with staff recommendation for approval). **UNANIMOUSLY APPROVED PER STAFF RECOMMENDATION.** [audio]

3. CONSENT AGENDA ITEMS. **NONE**

4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. **NONE**

5. DAVID ROLFE, #15-1175 Requests authorization to construct a single-family dwelling with an associated retaining wall along the Chesapeake Bay at 818 North 1st Street in the City of Hampton. The project requires a Coastal Primary Sand Dune/Beach permit. **UNANIMOUSLY APPROVED AS PROPOSED** [audio]

6. CENTURYLINK, #16-0051 Requests authorization to relocate an existing, previously unpermitted, underground fiber optic telecommunication line across the Shenandoah River onto temporary poles located on either side of the river adjacent to the Route 624 Morgan Ford Road crossing near the Town of Front Royal in Warren County. The temporary line and poles will be removed once the permanent line is installed on the proposed new bridge under an agreement with VDOT. The project is protested by an adjacent upland property owner on the north side of the river. **UNANIMOUSLY APPROVED PER STAFF RECOMMENDATION.** [audio]

7. COUNTY OF WARREN, #16-0144 Requests authorization to construct a 20-foot wide, concrete, public boat ramp into the Shenandoah River as part of the Farms Riverview Boating Access Facility in Warren County. The project is protested by three nearby property owners. **UNANIMOUSLY APPROVED PER STAFF RECOMMENDATION WHICH INCLUDED CONDITIONS TO MINIMIZE ADVERSE IMPACTS DURING INSTREAM CONSTRUCTION ACTIVITIES.** [audio]

8. JOSEPH R. HEALY, #2014-281 Requests authorization to lease approximately 25 acres of planting grounds within Elmington Creek in Gloucester County. The application is protested by a nearby highland property owner. **VOTED 7-1 WITH ASSOCIATE COMMISSIONER BALLARD OPPOSED TO APPROVE A MODIFIED**

STAFF RECOMMENDATION TO LEASE THE AREA APPLIED FOR WITHIN THE NON-RESTRICTED CLASSIFICATION WATERS MINUS AN AREA OF UP TO ONE-HALF ACRE OF AN AREA YET TO BE SPECIFIED TO ACCOMMODATE A RIPARIAN LEASE APPLIED FOR BY THE UPLAND PROPERTY OWNER. [audio]

9. JOSEPH R. HEALY, #2014-298 Requests authorization to lease approximately 71 acres of planting grounds within Blackwater Creek in Mathews County. The application is protested by two nearby highland property owners. **UNANIMOUSLY APPROVED A MODIFIED STAFF RECOMMENDATION TO LEASE THE PROPOSED AREA WITH THE EXCEPTION OF THE NORTHERN PORTION CONTAINING APPROXIMATELY 6 ACRES MINUS YET TO BE SPECIFIED AREAS TO ACCOMMODATE THE CONSTRUCTION OF THREE NONCOMMERCIAL PIERS AND THREE RIPARIAN LEASES BY THE OWNERS OF THE ADJACENT UPLAND PARCELS.** [audio]

10. PUBLIC COMMENTS NONE [audio]

11. OFFENDERS: **THE COMMISSION HEARD 7 CASES OF OFFENDERS WITH NATURAL RESOURCE VIOLATIONS.** [audio]

12. PUBLIC HEARING Proposal to amend Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks" to establish the May 1 through April 30 commercial spiny dogfish harvest quota. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADOPT THE 2016-17 COMMERCIAL SPINY DOGFISH QUOTA (4,356,944 POUNDS).** [audio]

13. PUBLIC HEARING Proposal to amend Chapter 4 VAC 20-900-10 et seq., "Pertaining to Horseshoe Crabs" concerning a proposed revision of the May 1 through June 7 prohibition that makes it unlawful for any individual to harvest horseshoe crabs within 1,000 feet in any direction of mean low water. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO AMEND CHAPTER 4VAC20-900-10 ET SEQ., "PERTAINING TO HORSESHOE CRABS" TO PROHIBIT THE HARVEST HORSESHOE CRABS WITHIN 500 FEET IN ANY DIRECTION OF MEAN LOW WATER BY POUND NET GEAR FROM MAY 1 THROUGH JUNE 7.** [audio]

14. PUBLIC HEARING Proposal to amend Chapter 4 VAC 20-910-10 et seq., "Pertaining to Scup" to establish the May 1 through October 31 commercial scup harvest quota. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADOPT THE 2016 VIRGINIA COMMERCIAL SUMMER (MAY THROUGH OCTOBER) SCUP QUOTA OF 13,154 POUNDS.** [audio]

15. REQUEST FOR AN EMERGENCY AMENDMENT Industry proposal to increase the number of days that summer flounder harvested commercially from offshore may be landed in Virginia during the second landing period that began April 7. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADOPT EMERGENCY AMENDMENTS TO CHAPTER 4 VAC 20-620-10 ET SEQ."PERTAINING TO SUMMER FLOUNDER," TO MODIFY THE LANDING PERIOD TO INCREASE THE NUMBER OF DAYS THAT SUMMER FLOUNDER HARVESTED COMMERCIALLY FROM OFFSHORE MAY BE LANDED IN VIRGINIA DURING THE SECOND LANDING PERIOD THAT BEGAN APRIL 7. THE**

COMMISSION ALSO APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR A MAY PUBLIC HEARING TO ADOPT THE AMENDMENTS AS A PERMANENT PART OF THE REGULATION. [audio]

16. DISCUSSION Proposal to amend Chapters 4 VAC 20-270- 10 et seq. "Pertaining to Crabbing" and 4 VAC 20-1140-10 et seq., "Prohibition of Crab Dredging in Virginia Waters" in order to ensure conservation of the blue crab resource and 2015/2016 Bay-wide Winter Dredge Survey. **STAFF DISCUSSED THE RESULTS OF THE 2015/2016 WINTER DREDGE SURVEY. THE COMMISSION UNANIMOUSLY APPROVED STAFF REQUEST TO HOLD A REQUEST FOR PUBLIC HEARING AT THE MAY 2016 COMMISSION MEETING AND AN ADVERTISED PUBLIC HEARING AT THE JUNE 2016 MEETING.** [audio]

17. DISCUSSION Continued discussion and updates on the 2016 recreational cobia fishery. **THE COMMISSION MOVED TO ADVERTISE TO AMEND CHAPTER 4 VAC 20-510-10 ET SEQ., TO ESTABLISH AMENDMENTS TO THIS REGULATION, FOR THE 2016 VIRGINIA RECREATIONAL COBIA FISHERY, THAT INCLUDE BUT ARE NOT LIMITED TO INCREASES IN THE MINIMUM SIZE LIMIT; ESTABLISHMENT OF A VESSEL LIMIT; ESTABLISHMENT OF VARIABLE FISHING SEASONS; ESTABLISHMENT OF A PROHIBITION ON GAFFING COBIA; AND, ESTABLISHMENT OF A CLOSURE OF VIRGINIA WATERS TO RECREATIONAL COBIA HARVEST AND POSSESSION, ONCE FEDERAL WATERS ARE CLOSED TO RECREATIONAL HARVEST AND POSSESSION OF COBIA.** [audio]

18. REQUEST FOR PUBLIC HEARING Proposal to establish Chapter 4 VAC 20-1310-10 et seq. to comply with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Jonah Crab by June 1, 2016. The proposed regulation establishes minimum size limits, gear restrictions, and possession limits for the harvest of Jonah crab. Request for May public hearing. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR A MAY 2016 PUBLIC HEARING TO ESTABLISH CHAPTER 4 VAC 20-1310-10 ET SEQ. TO COMPLY WITH THE ATLANTIC STATES MARINE FISHERIES COMMISSION'S INTERSTATE FISHERY MANAGEMENT PLAN FOR JONAH CRAB BY JUNE 1, 2016.** [audio]

PAGE 2 ITEMS [audio]

A. DEPARTMENT OF THE NAVY, #16-0021 Requests authorization to reinstall magnetometer sensor tubes and cables at -55 feet mean low low water (MLLW), requiring 2,345 cubic yards of fill on State-owned submerged lands by deploying a turbidity curtain and releasing sediments at -30 MLLW in the Elizabeth River at the Lambert's Point Deperming Facility, in Portsmouth. **UNANIMOUSLY APPROVED AS PROPOSED**

B. NORFOLK SOUTHERN RAILWAY COMPANY, #16-0246 Requests authorization to hydraulically dredge approximately 162,000 cubic yards of State-owned submerged bottomlands to maximum depths of -45 feet mean low low water (MLLW) in the existing ship berth and approaching channel along Pier P, and install 1,250 linear feet of sheet-pile shoring along Pier P in the Port of Hampton Roads on the Elizabeth River in the City of Norfolk. Dredged material will be pumped to the Craney Island Dredged

Material Management Area. Staff recommends approval with special condition that the sheet pile shoring be driven by a vibratory hammer and a royalty in the amount of $28,800.00 for the dredging of 64,000 cubic yards of new material at a rate of $0.45 per cubic yard. **UNANIMOUSLY APPROVED PER STAFF RECOMMENDATION WHICH INCLUDED A SPECIAL CONDITION TO UTILIZE A VIBRATORY HAMMER TO DRIVE THE SHEET PILINGS.**

C. CITY OF PORTSMOUTH, #15-1359 Requests authorization to repair and replace approximately 3,660 linear feet of bulkhead and boardwalk, a maximum 3.8 feet channelward of the existing bulkhead, with 16 mooring dolphins, along the Southern Branch of the Elizabeth River, paralleling Water Street from the Downtown Tunnel to Tidewater Yachts property, in the City of Portsmouth. **UNANIMOUSLY APPROVED AS PROPOSED.**

D. CSX TRANSPORTATION, #10-1552 Requests authorization to modify their existing permit to include the construction of a temporary stone causeway composed of non-erodible materials, channelward of the mean low water mark, which will allow equipment access to construct 700 linear feet of class III riprap revetment extending a maximum 20 feet channelward of MLW to stabilize an eroding shoreline along the Potomac River adjacent to the Cherry Hill Third Rail project currently under construction in Stafford County. Staff recommends approval with a royalty of $6,291.00 for the filling of 2,097 square feet of State-owned subaqueous land at a rate of $3.00 per square foot. **UNANIMOUSLY APPROVED AS PROPOSED.**

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