

# Virginia Marine Resources Commission

## COMMISSION ACTIONS December 8, 2015

\*\* APPROVAL OF AGENDA. **APPROVED** [[audio](#)]

1. MINUTES of previous meeting. **APPROVED** [[audio](#)]

2. PERMITS (Projects over \$500,000.00 with no objections and with staff recommendation for approval). **NONE** [[audio](#)]

3. CONSENT AGENDA ITEMS. **NONE** [[audio](#)]

4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. **NONE NEEDED.** [[audio](#)]

**5. COLONIAL PIPELINE COMPANY, #15-1211** Requests authorization to replace or repair petroleum pipeline (Line 27) segments at multiple stream crossing, as needed in Cumberland, Henrico, Powhatan, Chesterfield, Charles City, James City, Surry, and Isle of Wight Counties and the Cities of Richmond, Suffolk and Chesapeake. A Subaqueous permit is required for the entire project and Wetland permits are required for crossings in Henrico County, Chesterfield County, Richmond and Chesapeake. **UNANIMOUSLY APPROVED WITH THE FOLLOWING CONDITIONS: THE APPLICANT SHALL ADHERE TO THE COMMISSION'S STANDARD INSTREAM PERMIT CONDITIONS LISTED HERE FOR ALL NON-TIDAL STREAM REPAIRS; 1. THE INSTREAM CONSTRUCTION ACTIVITIES SHALL BE ACCOMPLISHED DURING LOW FLOW PERIODS AND WITHIN COFFERDAMS CONSTRUCTED OF NON-ERODIBLE MATERIALS IN SUCH A MANNER THAT NO MORE THAN HALF THE WIDTH OF THE WATERWAY IS OBSTRUCTED AT ANY POINT IN TIME. 2. ALL AREAS OF STATE-OWNED BOTTOM AND ADJACENT LANDS DISTURBED BY THIS ACTIVITY SHALL BE RESTORED TO THEIR ORIGINAL CONTOURS AND NATURAL CONDITIONS WITHIN THIRTY (30) DAYS FROM THE DATE OF COMPLETION OF THE AUTHORIZED WORK. ALL EXCESS MATERIALS SHALL BE REMOVED TO AN UPLAND SITE AND CONTAINED IN SUCH A MANNER TO PREVENT ITS REENTRY INTO STATE WATERS. 3. THE VIRGINIA EROSION AND SEDIMENT CONTROL HANDBOOK SHALL BE EMPLOYED THROUGHOUT CONSTRUCTION. 4. THE PERMITTEE AGREES TO DEVELOP A CONTINGENCY/CLEAN-UP PLAN TO ADDRESS POTENTIAL FRAC-OUTS OR RELATED SPILLS ASSOCIATED WITH ANY DIRECTIONAL DRILLING ACTIVITIES. FURTHERMORE, THE APPLICANT SHALL SUBMIT A DETAILED RESTORATION PLAN FOR ANY TIDAL WETLAND IMPACT AREAS NECESSARY IN THE COUNTIES OF CHESTERFIELD AND HENRICO, AND THE CITIES OF RICHMOND AND CHESAPEAKE. THE PLAN SHALL INCLUDE SCALED,**

**GEOGRAPHICALLY REFERENCED DRAWINGS AND INCLUDE A MONITORING PROTOCOL AND TIMELINE. A MINIMUM FIVE-YEAR MONITORING EFFORT IS RECOMMENDED FOR ALL IMPACTS TO TIDAL FRESHWATER WETLANDS AND FOR ALL WETLAND IMPACT AREAS WHICH POSE A RISK OF PHRAGMITES COLONIZATION. FOR CROSSINGS 1-4, 7-10, 12-16, 19-21, 24 AND 27, THE APPLICANT SHALL ADHERE TO A FEBRUARY 15 THROUGH JUNE 30 TIME-OF-YEAR RESTRICTION FOR INSTREAM WORK TO PROTECT ANADROMOUS FISH. THIS RESTRICTION SHALL NOT APPLY FOR REPAIRS, WHICH MUST BE INITIATED IMMEDIATELY OR WITHIN 60 DAYS, AS REQUIRED BY FEDERAL REGULATION. FOR ANY SUB-TIDAL REPAIRS NECESSARY WITH CROSSINGS 1-3, 5, 7-10, 12, 14, 16 AND 19, THE APPLICANT SHALL FIRST SUBMIT DETAILED PROJECT DRAWINGS, TO SCALE, DEPICTING THE LOCATION OF THE ANOMALY, THE TYPE OF REPAIR PROPOSED AND THE CONSTRUCTION METHODOLOGY (I.E., COFFERDAM TYPE, TEMPORARY TRESTLE OR BARGE ACCESS, ETC.). NO WORK MAY COMMENCE IN THESE AREAS UNTIL A PERMIT MODIFICATION REQUEST IS CONSIDERED AND APPROVED BY THE COMMISSIONER. THE COMMISSIONER RETAINS HIS AUTHORITY TO DEFER APPROVAL OF ANY INSTREAM WORK NECESSARY AT THE AFOREMENTIONED CROSSINGS TO THE FULL COMMISSION FOR CONSIDERATION AT THEIR NEXT AVAILABLE MEETING. ANY SUB-TIDAL REPAIRS THAT REQUIRE THE REMOVAL AND REPLACEMENT OF ANOMALOUS LINE SEGMENTS MAY BE SUBJECT TO AN ENCROACHMENT ROYALTY IN THE AMOUNT OF \$3.00 PER LINEAR FOOT. [\[audio\]](#)**

**6. THOMAS YARASHUS, #15-1403** Requests authorization to install approximately 109 linear feet of riprap, the toe of which may extend a maximum of two (2) feet channelward of mean low water adjacent to 1501 Taylor Point Drive, situated along the Western Branch of the Elizabeth River in Chesapeake. The project requires a wetlands and subaqueous permit. **UNANIMOUSLY APPROVED AS PROPOSED.** [\[audio\]](#)

**7. AQUIA HARBOUR PROPERTY OWNER'S ASSOCIATION, INC., #15-0861** Requests authorization to mechanically dredge approximately 6,500 cubic yards of accumulated sediment to re-establish navigation along portions of Aquia Creek in Stafford County. The project is protested by an adjacent property owner. **UNANIMOUSLY APPROVED CONDITIONED UPON THE ADHERENCE OF A TIME-OF-YEAR RESTRICTION BETWEEN FEBRUARY 15 AND JUNE 30 AND WITH THE INCLUSION OF OUR STANDARD DREDGE CONDITIONS WHICH SHALL INCLUDE: PROVIDING A POST-DREDGE BATHYMETRIC SURVEY WITHIN 30 DAYS OF THE COMPLETION DREDGING OPERATIONS AND A PRE-DREDGE CONFERENCE BEING HELD ON-SITE PRIOR TO THE COMMENCEMENT OF DREDGING ACTIVITIES. THE APPROVAL ALSO INCLUDED A DREDGING ROYALTY IN THE AMOUNT \$918.00 FOR THE NEW DREDGING OF 2,040 CUBIC YARDS OF STATE-OWNED SUBAQUEOUS BOTTOM AT A RATE OF \$0.45 PER CUBIC YARD.** [\[audio\]](#)

**8. COLONNA'S SHIPYARD, #15-1184** Requests authorization to install a 27-foot by 100-foot mooring dolphin, a 27-foot by 150-foot concrete pier, a 315 square foot platform, a 20-foot by 50-foot access ramp, dredge 213,575 cubic yards of State-owned subaqueous bottom to attain depths up to -48 feet MLW, and maintenance

dredge up to 60,000 cubic yards of subaqueous bottom per ten-year dredge cycle to allow for the installation of a drydock facility at the their shipyard located along the Eastern Branch of the Elizabeth River at 111 South Main Street in the City of Norfolk. The project is protested. **UNANIMOUSLY APPROVED CONDITIONED UPON CONFORMANCE TO OUR STANDARD DREDGE CONDITIONS WHICH SHALL INCLUDE: PROVIDING A POST-DREDGE BATHYMETRIC SURVEY WITHIN 30 DAYS OF THE COMPLETION DREDGING OPERATIONS, A PRE-DREDGE CONFERENCE BEING HELD ON-SITE PRIOR TO THE COMMENCEMENT OF DREDGING ACTIVITIES, AND MAINTENANCE DREDGING OPERATIONS MAY BE INITIATED AFTER A 15-DAY NOTIFICATION HAS BEEN SUBMITTED TO THE VMRC. THE APPROVAL ALSO INCLUDED THE ASSESSMENT OF A DREDGING ROYALTY IN THE AMOUNT \$96,108.75 FOR THE NEW DREDGING OF 213,575 CUBIC YARDS OF STATE-OWNED SUBAQUEOUS BOTTOM AT A RATE OF \$0.45 PER CUBIC YARDS.** [\[audio\]](#)

**9. PAUL HARRIS, #09-1498** Requests authorization to construct a 15-foot long by 5-foot wide private pier extension, and install one (1) additional mooring to improve the mooring of his yacht at his existing private pier, situated along the Great Wicomico River in Northumberland County. The project is protested by the adjacent oyster ground leaseholder. **APPROVED AS PROPOSED ON A VOTE OF 7-1 WITH ASSOCIATE COMMISSIONER FRANCE OPPOSED. ASSOCIATE COMMISSIONER ERSKINE ABSTAINED.** [\[audio\]](#)

**10. KALIE JOHNSON, #2015-085** Requests authorization to lease up to ten (10) acres of oyster planting grounds within the York River, near Sarah's Creek in Gloucester County. The application is protested by a nearby highland property owner. **UNANIMOUSLY APPROVED A MODIFIED LEASE AREA WITH THE INSHORE LINE LOCATED APPROXIMATELY 150 FEET CHANNELWARD OF MEAN LOW WATER AND THE REMAINDER OF THE LEASE AREA AS PROPOSED.** [\[audio\]](#)

**11. PUBLIC COMMENTS 1) TOMMY GARDNER REQUESTED APPROVAL OF HIS PREVIOUS APPLICATION TO CONSTRUCT AN ADDITION TO HIS PIER. 2) LISA ROSE- LISA ROSE REQUESTED THE COMMISSION OPEN THE PUBLIC GROUND ALL YEAR IN 2016 DUE TO THE SPAT SET SHE AND OTHER OYSTER HARVESTERS HAVE OBSERVED. 3) RICHARD GREEN - MR. GREEN REQUESTED THE COMMISSION RECONSIDER IT'S DECISION TO CLOSE THE JAMES RIVER TO HAND TONGING IN JANUARY 2016 DUE TO THE ECONOMIC IMPACT ON THE HARVESTERS. THE COMMISSION DECIDED TO CLOSE THE JAMES TO HAND TONGING IN JANUARY BUT OPEN IT IT MARCH, EXTENDING THE SEASON BY 31 DAYS. 4) PAUL MUHLEY- MR. MUHLEY TOLD THE COMMISSION HE WAS ELECTED TO THE ACCOMACK COUNTY BOARD OF SUPERVISORS IN NOVEMBER. HIS DISTRICT INCLUDES MANY WATERMEN FROM SAXIS. HE ENCOURAGED THE COMMISSION TO OPEN UP AREAS 9, 10 AND 11 TO HARVESTING THROUGH DECEMBER 31, 2015. 5) ARNOLD R. EVANS- MR. EVANS REQUESTED AREAS 9, 10 AND 11 IN SAXIS BE OPENED THROUGH DECEMBER 31, 2015. 6) BILL BAILEY - MR. BAILEY REQUESTED THE COMMISSION OPEN AREAS 9, 10 AND 11 IN SAXIS BE OPENED SIMULTANEOUSLY THROUGH DECEMBER 31, 2015. 7) MIKE CLARKE- MR. CLAIRE ASKED THE COMMISSION TO OPEN AREAS 9, 10 AND 11 IN SAXIS SIMULTANEOUSLY THROUGH DECEMBER 31, 2015.** [\[audio\]](#)

**12. OFFENDERS: NO CASES WERE HEARD.** [\[audio\]](#)

**13. FAILURE TO REPORT** Cases involving failure to report commercial harvests, in accordance with Chapter 4 VAC 20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting." **THE COMMISSION HEARD ONE CASE FOR THE FAILURE TO REPORT COMMERCIAL HARVEST TO THE COMMISSION'S MANDATORY HARVEST REPORTING PROGRAM.** [\[audio\]](#)

**14. DISCUSSION** The Virginia Institute of Marine Science will give a presentation on the results of an investigation of the potential impact on Gwynn's Island bridge rehabilitation work on mortality in a nearby oyster hatchery. **DR. MARK LUCKENBACH REPORTED ON A STUDY THE VIRGINIA INSTITUTE OF MARINE SCIENCE CONDUCTED CONCERNING THE POTENTIAL IMPACT THAT SANDBLASTING AND PAINTING OF THE GWYNN'S ISLAND BRIDGE MAY HAVE HAD ON SHELLFISH MORTALITY AT THE "OYSTER SEED HOLDING" HATCHERY SITUATED ALONG MILFORD HAVEN IN MATHEWS COUNTY. DR. LUCKENBACH EXPLAINED THAT THE STUDY WAS MORE OF A FORENSIC INVESTIGATION CONDUCTED AFTER THE SHELLFISH DIE OFF AND CESSATION OF WORK ON THE BRIDGE SO THE FINDINGS ARE NOT COMPLETELY CONCLUSIVE BUT THEY SUGGEST ZINC AND OTHER TOXINS COULD HAVE PLAYED A ROLE. HE ADDED THAT SUCH ACTIVITIES, ESPECIALLY AROUND SHELLFISH HATCHERIES IS SOMETHING THAT SHOULD BE CAREFULLY EVALUATED.** [\[audio\]](#)

**15. PUBLIC HEARING** Request to amend Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest" to close the Pultz Bar in the Mobjack Bay Area and establish a trial allowance of hand tong gear on seaside of the Eastern Shore (for clean cull oysters only). **APPROVED STAFF RECOMMENDATION TO CLOSE PULTZ BAR IN MOBJACK BAY FOR THE 2016 SEASON. APPROVED STAFF RECOMMENDATION TO ESTABLISH A TRIAL HAND TONG FISHERY ON THE SEASIDE OF THE EASTERN SHORE. PASSED, BY EMERGENCY ACTION, EXTENDING THE JAMES RIVER OYSTER HANDSCRAPE SEASON FOR THE MONTH OF JANUARY, 2016.** [\[audio\]](#)

**16. PUBLIC HEARING** Request to amend Chapter 4 VAC 20-140-10 et seq., "Pertaining to Identification of Crab Pots, Peeler Pots, Eel Pots, and Fish Pots " to establish marking requirements for eel pots with an identification number. **THE COMMISSION VOTED TO APPROVE STAFF RECOMMENDATION TO ADOPT PROPOSED AMENDMENTS TO CHAPTER 4 VAC 20-140-10 ET SEQ., "PERTAINING TO IDENTIFICATION OF CRAB POTS, PEELER POTS, AND FISH POTS" TO ESTABLISH EEL POT MARKING REQUIREMENTS.** [\[audio\]](#)

**17. PUBLIC HEARING** Proposed amendments to Chapter 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass," to establish the 2016 commercial quota. **THE COMMISSION VOTED TO APPROVE STAFF RECOMMENDATION TO ADOPT AMENDMENTS TO CHAPTER 4 VAC 20-950-10 ET SEQ., "PERTAINING TO BLACK SEA BASS" TO ESTABLISH THE 2016 QUOTA AS 542,000 POUNDS.** [\[audio\]](#)

**18. RECOMMENDATION** From the Recreational Fishing Advisory Board on funding projects from the Virginia Saltwater Recreational Fishing Development Fund. **THE COMMISSION VOTES TO APPROVE STAFF RECOMMENDATION TO SUPPORT THE PROJECT FUNDING RECOMMENDATIONS FROM THE RFAB, FOR EXPENDITURES TOTALING \$304,900.28, FROM THE VSRFDF, WITH ITEM K (CLONTZ PARK BOAT RAMP) CONTINGENT ON THE GRANTING OF THE HABITAT PERMIT.** [[audio](#)]

**19. REQUEST FOR AN EMERGENCY AMENDMENT** Emergency amendments to Chapter 4 VAC 20-620-10 et seq to increase the December offshore summer flounder landing limit. **THE COMMISSION VOTED TO APPROVE STAFF RECOMMENDATION TO INCREASE THE DECEMBER 2015 SUMMER FLOUNDER OFFSHORE LANDING LIMIT FROM 5,000 POUNDS TO 7,500 POUNDS.** [[audio](#)]

