

**Advisory Council on Shellfisheries
Minutes of January 23, 2003**

A scheduled meeting of the Council on Shellfisheries was held on January 23, 2003 at 7:30 P.M. in the Richardson and Robbins building, 89 Kings Highway, Dover, Delaware. Those Council members in attendance were Chairman Alan Davis, Leonard Voss, Jr., Virgilio Pacelli, Charles Auman, and Clifford Copp. Staff members present were Lloyd Alexander, Roy Miller, Rick Cole, Jeff Tinsman, Jim Graybeal, Bayard Holleger, Deb Rouse, who works with Jack Pingree both with the Division of Water Resources, and Kim Records. There were approximately 30 members of the public in attendance.

Mr. Davis began the meeting by asking for a motion to accept the minutes from the last Council meeting. **Mr. Voss** made a motion which was seconded by Mr. Auman to accept the minutes from the last meeting. All members were in favor.

Mr. Davis indicated that John Mick had been skipped over at previous meetings, so even though Mr. Mick was number 3 on the agenda, Council would hear from Mr. Mick's attorney, Tim Willard, first. **Mr. Willard** indicated that he knew the Chairman, but did not know the other members of Council. He informed Council that Mr. Mick's issue was his eligibility for a conch dredge license. Mr. Willard reviewed the Division of Fish and Wildlife's eligibility and renewal requirements for the conch dredge license. He stated that Mr. Mick's problem is the Division says that he was not licensed in 1998 for conch dredging. Therefore, when Mr. Mick came to the Division to renew in 2001, the Division stated that Mr. Mick was not eligible to renew. Mr. Willard stated that Mr. Mick believed he was eligible in 2001, because he had a 1998 conch dredge license. Mr. Willard said that the misunderstanding arose because of Mr. Mick's poor record keeping, and the Division's record keeping was just as poor. Mr. Willard referred to Title 7 and asked for a letter from Council to the Division, if they agreed, stating that due to the evidence presented tonight, Council believes Mr. Mick did have a conch dredge license in 1998 and should be allowed to renew his conch dredge license. Mr. Willard stated that ultimately, if the Division continues to deny the license to Mr. Mick, his next step would be to go to Superior Court and request a writ of mandamus to order the Division to give Mr. Mick a conch dredge license if the court believes he is entitled. Mr. Willard presented copies of documents showing evidence that Mr. Mick had purchased a 1998 conch dredge license, including what he and Mr. Mick believe is a receipt from DNREC saying he had a license in 1998, a letter from Mr. Mick's accountant, a letter from James Graybeal of the Division stating that an investigation was completed and no evidence was found to show that Mr. Mick had a 1998 license, and a white plastic card that Mr. Mick says is his conch dredge license for 1998. Mr. Willard called Roy Hand and Alan Pleasanton to come to the front with their own white plastic cards. Council viewed these cards and noted similar characteristics between the cards. Mr. Willard also presented a listing from the Division of 26 conch dredge license holders for 2001 from which the name Bill Rice is excluded. Mr. Willard apologized for Bill Rice's absence and stated that Mr. Rice did, in fact, hold a 2001 license for conch dredge. Mr. Willard called Mr. Mick and asked him to verify that his presentation of the documents was accurate. **Mr. Mick** concurred and stated that the documents were everything that he was able to find to try to put together his case for his eligibility for the license. Mr. Mick stated that when he came into the Division in January of 2000 to renew some licenses, Tina asked him if he wanted to get his conch dredge license. Since he was under the impression that he could wait another year and still remain eligible to participate in the fishery, the license was not renewed at that time. Mr. Mick said that he chose not to get it then. When he went back in 2001 to get the conch dredge license since he had bought a new boat, he said, he was refused. **Mr. Davis** asked Mr. Mick when he

found the receipt. **Mr. Mick** replied that he was unsure, but it was sometime after presenting the white card to the Division. **Mr. Davis** asked what the Division had to say about the receipt. **Mr. Mick** replied that Charlie Lesser told him that it does not prove that he had purchased the license in that year, it only proves that he was eligible in that year. **Mr. Davis** asked if the Division had anything to say. **Mr. Graybeal** came forward and stated that he conducted an administrative review of the matter upon John Mick's request and he concluded it in March of 2002. Upon review he could find no credible evidence to support Mr. Mick's claim that he possessed a conch dredge license after April of 1996. **Mr. Davis** asked Mr. Graybeal if he had an opportunity to review the documents presented by Mr. Willard. **Mr. Graybeal** acknowledged that he had and stated that it is just a computer generated paper and does not mean that the recipient is eligible. Mr. Graybeal submitted his findings to Council. Council discussed the information presented and reviewed the white plastic card. **Mr. Voss** indicated that he vaguely recalled the Division having a problem with the printing of the cards. **Mr. Auman** mentioned that the receipt has sometimes been known to be incorrect, and that his own is accurate every year. **Mr. Davis** stated that Council should take the matter under consideration and/or make a recommendation to the Division however they decide. **Mr. Voss** stated that he is satisfied with the information presented. **Mr. Graybeal** spoke up that he did search the record of purchases of plastic cards for the printer and there was no record of any other color of card purchased except blue or yellow. He also stated that the type-set, terminology, and set-up of the card's information is different on the white card than how the Division has its cards set up to print. **Mr. Davis** asked Mr. Graybeal if there was any way to explain the existence of the other white cards. **Mr. Graybeal** stated that it may be possible to get these kinds of cards printed other places. **Mr. Voss** stated that he recalls Division employees telling him at some point after 1996 that they were experiencing problems with the computer transferring information to the card printer, so the card was made differently than normal, but he does not recall how. He believes that he may have been given a white card at some point in time, but he can not find it, therefore he is not able to prove it. **Mr. Pacelli** made a motion to approve Mr. Mick's request to get his conch dredge license. Fred Wagner spoke out that he wanted to get his fishing license back, since Council was giving licenses out. Mr. Davis told Mr. Wagner that there was a motion pending and asked Council if there was a second for the motion. **Mr. Copp** seconded the motion and all members were in favor. Mr. Davis stated that he was not voting due to his professional relationship with Mr. Willard and that Council could now take Mr. Mick off the agenda. Mr. Davis instructed Mr. Pacelli to prepare a letter from Council to the Division regarding the position the Council has taken on this issue.

Mr. Davis indicated that Council would revert back to the agenda as written. Mr. Davis stated that for those who did attend the last meeting, no notice was sent to any commercial fishermen, only to Council and a select group of interested parties. He stated to Mr. Willis Hand that he does not believe it is fair that only a few people received notice and he does not feel comfortable with the vote that was taken. Mr. Davis wants the subject to be more fully discussed tonight and that Council could decide they do not want another vote to be taken. **Willis Hand** stated that he does not believe the last meeting was illegal as he had heard several people say. Mr. Davis said that he had read the code at Mr. Hand's request and agreed that it was a legal meeting. Mr. Hand said that he did not have any problem with Council reconsidering the results of the last meeting. Mr. Davis stated to the audience, for those that did not attend the last meeting, that there was a proposal submitted in last years legislative session to change the regulation regarding oyster harvest licenses and how many licenses are allowed on one vessel per year. **Mr. Voss** questioned if the last meeting was legitimate. **Mr. Miller** interjected that as long as there was a majority of Council present, the meeting is considered legitimate. Mr. Voss stated that it is not necessary to re-visit every issue just because it did not go someone's way, and that if the Council is going to do that, then he has a few issues he'd like to re-visit. Mr. Davis indicated that he was not going to do this again.

Council established that the letter that was sent to Mr. Davis from Council member Wayne Cropper does not count as his vote, that a member had to be present to place their vote. **Mr. Voss** had the Chairman verify that Mr. Cropper is the oyster representative for the Council. **Mr. Auman** stated for the record that Mr. Cropper did not attend any of the oyster workshops or any meetings. For the record, Mr. Davis stated that Mr. Cropper indicated in his letter that he did not support any change in the legislation. Mr. Davis stated that he had Mr. Cropper's letter in his truck and that he would make it a part of the record. **Bert Adams** stated that he believes the current legislation is good and believes that if Mr. Hand has the financial ability and equipment to allow others to use his vessel, he does not have a problem with it. **Mr. Hand** stated that he was not the only person to get it all and that he paid a total of 55 people \$250,000, and that due to this, there were 55 Delaware citizens to get a piece of this "pie". Mr. Hand also said that anybody else can do the same thing he did and that every quota filled on his vessel was unsolicited. Mr. Hand stated that it is not his object to force anyone out of the fishery. This year's oyster quota, Mr. Hand said, is going to be half of last year's according to Rick Cole. **Robert Piascinski** stated that everybody gets the same quota, so he does not see what difference it makes who catches them or how. Mr. Hand interjected that it all boils down to jealousy. **Alton Wyatt** indicated that he believes Mr. Hand is working the ground better than anyone else would be able to. **Rusty Trout** stated that he sees both sides and that some middle ground should be able to be met. Mr. Trout said that if one vessel is catching the great majority of the oysters, than they all go to one buyer and he does not believe this is healthy for the industry or fair to oyster fishermen who are not using that one vessel. Mr. Trout indicated the price for oysters may be affected by the current legislation and could have a negative impact on those fishermen who used their own vessel and did not allow others to do so. **Mr. Voss** stated that Mr. Hand was not the only one to allow his vessel to be used by others. **Mr. Hand** stated that he had been on the radio offering others the phone number of a buyer he knew, in case anyone was not happy with the buyer they were currently using. **Mr. Davis** asked Mr. Trout what was stopping him from allowing others to oyster off of his boat, as Mr. Hand does. **Mr. Trout** answered that he feels he would need a big boat to do that. Another audience member said that it was not worth it to get rigged up and hire people for oystering when he could just go join someone else that was rigged up and ready. **Mr. Auman** put a petition forward that contained names of 22 people who oppose using multiple fishermen on one boat. He stated that there are a couple of things wrong, including that even though Mr. Hand did not solicit any of the fishermen that used his vessel for oystering in 2002, the door is open for him to do so this year. Mr. Auman stated that he does not believe a brand new fishery should operate with one person harvesting the majority of the quota. He raised the question how could he justify investing in a boat with the equipment needed to oyster, knowing that Mr. Hand would most likely take 70% of the fishermen on his vessel. Mr. Auman also stated that he has heard some oystermen say that they would never go oystering if they couldn't go with Mr. Hand on his vessel, and he wonders what makes these individuals think they have the right to get on another man's boat, not do the work, and claim oysters for themselves, when other people who do the work could have been issued a larger portion of the quota. **Mr. Davis** asked Mr. Hand how many licenses he ran off of his boat. **Mr. Hand** replied that he had 21 people use his vessel for oystering. **Mr. Davis** asked the audience if others did this same thing, and asked if there would be a number that might be reasonable to everyone. He stated that his main objective has always been to make these fisheries more inclusive. Mr. Davis then suggested that maybe there should be a limit of 10 or 12 licenses to each vessel. **Mr. Hand** stated that he has already let people know that his vessel will be available for 2003. Mr. Davis said that if everyone was permitted to run 10 or 12 licenses off their boat, then it would spread the wealth. Mr. Hand said that he's not getting rich from doing this. **Mr. Voss** stated that if you leave it alone, it will allow more people to get involved. Mr. Voss suggested that Council would be hypocritical to set something up that would only allow a few to be involved. **Mr. Wyatt** said that the more Mr. Hand works the ground, the better it is for the oysters. **Mr. Voss** motioned to leave current legislation as is for 3 years,

but there was no second to the motion. Mr. Voss then suggested that before taking any action, the Department do a poll of all eligible license holders from 2001 and 2002 to find out each person's sentiment. After much discussion, **Mr. Copp** seconded the motion. There were 3 in favor, 2 not voting. An audience member stated that there has already been a bill introduced in the legislature, Senate Bill No. 6, to do exactly what Council just voted on. **Mr. Davis** said that Senator Simpson asked him to relay the happenings of tonight's meeting to him and the outcome will effect what happens to that piece of legislation. **William Poulin** raised concern with only polling those that were licensed in the last 2 years and does this mean that others don't have a say. **Mr. Davis** stated that those licensed for the past 2 years showed that they cared about the fishery enough to participate. **Mr. Miller** asked for clarification from the maker of the motion and did he specifically mean those who held an oyster license in 2001 or 2002. Mr. Voss replied "yes".

Mr. Davis stated Council would move on to number 2 on the agenda and requested the report on eligibility analysis pertaining to the horseshoe crab dredge lottery that Council previously requested. **Mr. Cole** presented the results of the analysis from reviewing the Division's license database. He stated for those that were not at the last meeting, Council wanted a review of the Division's license database and for the Division to tell Council how many people would be eligible under various scenarios of qualification for the horseshoe crab dredge lottery, if the qualification criteria were essentially based on having a dredge license and based on criteria that would involve the length of the vessel. Mr. Cole stated the first option looked at using the criteria where a person had to hold a clam dredge, crab dredge, or conch dredge license in 2002. He stated that those who met this criterion numbered 47. Mr. Cole stated the second option's criterion were the number of people who held a dredge license for conch, clam, or crab in 2002 and had a vessel with a total length of greater than 35 feet. He said that given the information the Division currently has available pertaining to lengths of vessels; there would be 26 that would qualify. Mr. Cole said the other criteria would be to have an oyster dredge license in 2000 and/or 2001, and the number that would meet that criterion is 89. Mr. Cole stated that he wanted to clarify that the vessel length data is not as complete as it could be because some people didn't reply to the Division's request for information regarding length of vessel. **Mr. Davis** reminded everyone that this issue involves changing the current law because it is not up to date. He said that the Division used oyster dredge licenses as its criteria for the last two years, which is not what the statute says and could be challenged. **Mr. Auman** suggested using the criterion which states one has to have a vessel greater than 35 foot in length because it would still keep it open for new guys and prevent people with small vessels from tying up licenses for speculative purposes. **Mr. Adams** stated that the apprenticeship program was started to allow new people in, so why should more be done to keep allowing more new people into the fisheries. **Mr. Voss** asked if this decision needed to be made today because of a letter he received about an upcoming meeting regarding horseshoe crabs. **Mr. Davis** stated that Lloyd Alexander will be making an announcement about that letter. Mr. Davis answered Mr. Voss's question saying that the horseshoe crab dredge lottery has already been held for 2003, so the decision did not have to be made tonight, it will just have to be made in the next 6 months. **Mr. Wyatt** stated that there have been instances where people have signed up for the horseshoe crab dredge lottery with a 14-foot boat. **Mr. Voss** replied to Mr. Wyatt that that did not bother him as much as an instance where the lottery is open for anyone and someone from the National Audubon Society, who doesn't want any dredging would buy license(s) and try to disrupt the fishery. **Mr. Piascinski** suggested allowing transfers. **Mr. Auman** stated that a lot of the people who sign up to be in the lottery only do it because they want to try to block someone from getting a license. **Mr. Davis** stated that his personal concern is that the regulation could easily be challenged right now. **Alan Pleasanton** stated that he believes there needs to be a stipulation that says if you sign up for the lottery

and your name gets drawn, you must do the dredging. **Mr. Voss** motioned to wait until after the horseshoe crab meeting in February before making any decision. All members of Council were in favor.

Mr. Davis stated that the next item on the agenda is the apprenticeship eligibility requirements. **Mr. Miller** stated that at the workshop that was held in November, they went over all of the issues associated with the apprenticeship program and that the problem the Department is facing is the statute that created the current program was not specific as to when the first lottery would be held. Mr. Miller said that there was a broad range of advice from attendees of that workshop and that he could not detect a consensus from the opinions expressed. Mr. Miller gave the numbers of licenses that would be available at the first lottery for apprentices; 23 hook and line, 3 gill net, 2 crab dredge, and that there were none available from conch pot and conch dredge fisheries due to a section in the code which specifies a 5-year waiting list before being eligible for a conch pot or dredge license. Mr. Miller stated that some will have completed the 2 year requirement beginning in May, provided that they submitted the required monthly logs on time. Mr. Miller stated that he gave everyone involved a chance, by way of a letter mailed out to all in the apprenticeship program last October to get any late log reports in before November 14, 2002. Mr. Miller requested that the Council give the Department some advice for when to hold that first lottery. Mr. Miller stated that the later in the year the lottery would be held, the more people would be in it. Mr. Miller said that the code doesn't specify when the Department has to hold the lottery, but it could be two lotteries the first year then one per year, or, one lottery per year. **Harry Smith** suggested having the lottery in November or December, since each person is allowed to buy or renew licenses starting the first of January of each year. **Mr. Piascinski** stated that he knows there were 3 people that signed up for the apprenticeship program the very same day the bill was signed and that the Department never sent any notification of the bill signing until later, with the cover letter from Charles Lesser dated May 29th, 2001. An audience member asked Mr. Miller what sort of notification was mailed and to whom it was mailed regarding this program. Mr. Miller answered that he was not involved with the program at the start of it, so all he could relay is what Charlie Lesser told him, which is that letters were mailed to all who attended the workshops for the apprenticeship program, beyond that he has no proof of who the letters went to. **Mr. Davis** asked Mr. Miller if he will be asking the same question of the Finfisheries Advisory Council. **Mr. Miller** replied that currently there is no Finfisheries Council, that as far as he knows there are still two appointments to be made. **Mr. Piascinski** stated that once the fishermen attend workshops and public hearings, there is no notification to them after something proposed has made it to the final stage or become law. An audience member asked when the clock starts as far as obtaining an available license, either through this program or by purchasing it. Mr. Miller replied that as soon as someone has completed the apprenticeship program requirements they become eligible. **Mr. Auman** added that you don't have to wait for the lottery, if you have 2 years in, it makes you legal to go buy, sell, or trade a license. **Mr. Trout** stated that the number of crab dredge licenses available should be 18. **Mr. Voss** stated that when they passed the apprenticeship law they cleared that matter up. **Mr. Miller** said that he believes since the apprenticeship program was passed after the section Mr. Trout is referring to; it supercedes it or holds precedence. An audience member suggested that from now on the licenses will just be sold on an open market. **Mr. Cochran** stated that he is an attorney and that he believes Mr. Miller is correct, that a more recent statute supercedes a prior one. He also agreed with the audience member who spoke before him regarding there was no longer a need for a lottery, since licenses can be sold. Mr. Cochran stated that he doesn't know of any other right of such value where the State gives so little public notice at the outset for an opportunity to participate. Mr. Cochran suggested that chance may not predominate in lotteries where only a few people are entered. **Mr. Auman** stated that there were 5 workshops that were on public notice and plenty of notices that went out. **Mr. Voss** stated that Mr. Auman has a personal stake in this decision and asked Mr. Miller what the Council is supposed to do in

this kind of situation. **Mr. Miller** said that the code is silent in that regard. **Mr. Hand** stated that he believes since the letter was mailed May 29th, June should be the month to hold the first lottery. **Mr. Alexander** stated that the Department is looking for advice only on this matter and said that everyone needs to be aware that the Department has no control over the Legislature once they've passed a law. **Mr. Auman** motioned to have the first lottery in June. **Mr. Voss** motioned to have it in January, 2004. **Mr. Davis** advised each member to give their opinion, since neither of their motions was seconded, and the Department could use these opinions as the Council's advice. **Mr. Copp** agreed with Mr. Voss on a December 2003 lottery. **Mr. Pacelli** abstained because he does not fully understand the apprenticeship program. **Mr. Davis** said he believes the lottery should be held in December. **Mr. Auman** favored a June 2003 lottery.

Mr. Davis stated that he had asked Mr. Wyatt, before he left, if he would mind being put on the agenda for the next meeting, due to the time, and Mr. Wyatt had replied to him that it would be fine. Mr. Davis asked Mr. Cole if he had time to present his report on status of oyster stocks. **Mr. Cole** stated that he will delay his presentation until the public hearing in March, and said the Department will be proposing to decrease the 2003 oyster quota considerably for the 2003 season. Mr. Davis asked if there were any suggestions or requests for topics for the next agenda. Mr. Miller suggested including a presentation about the Large Whale Take Reduction Act. Mr. Davis indicated that Council will consider that suggestion. Mr. Hand suggested Council consider discussing a ban on the Motiva proposal to dump hundreds of tons of salt into the Delaware River. Mr. Davis stated it will be put on the next agenda. Meeting adjourned at 9:50.

Respectfully submitted,



Kim Records

**Advisory Council on Shellfisheries
Minutes of October 27, 2003**

A scheduled meeting of the Advisory Council on Shellfisheries was held on October 27, 2003 at 7:30 PM in the Richardson and Robbins building, 89 Kings Highway, Dover, Delaware. Those Council members in attendance were Chairman Alan Davis, Leonard Voss, Jr., and Charles Auman. Staff members present were Roy Miller, Rick Cole, Bill Whitmore, Stewart Michels, Jeff Tinsman, John Rutherford, Aaron Hurd, Jeff Howell, and Kim Records. There were approximately 30 members of the public in attendance.

Mr. Davis began the meeting by asking if any members of the Department had heard from other Council members not present. Department staff responded in the negative. Mr. Davis said that he did hear from Mr. Pacelli, who would not be able to attend. Mr. Davis then stated that Council would not be able to proceed with any actual votes due to their not being a quorum. He then asked Council members present if they were in favor of accepting the minutes from the last meeting, to which they positively responded.

Mr. Davis briefly reviewed Agenda item number one, under “Old Business”, regarding eligibility criteria for the horseshoe crab dredge lottery. He stated that this topic has been on the agenda for too long, and he hoped to have some kind of legislation prepared by the Department for the next session. Therefore, he hoped some kind of agreement on what this legislation may contain would be reached by the end of discussion tonight. **Mr. Cole** briefly went over the different criteria previously considered. **Mr. Davis** asked Mr. Cole if the Department had a preference regarding eligibility requirements for this lottery. **Mr. Cole** stated that they had offered a draft amendment, based on input from the Council, last October. This particular draft specified that an individual would need a crab dredgers license and a vessel at least 35 foot in length to qualify for a license. **Mr. Davis** stated that he recalled this draft amendment and that it was decided that it was too exclusive. Mr. Davis said that he would like to see the eligibility requirements include that an individual have a crab, conch, or oyster dredge license. He stated that this would broaden the criteria for entry into the lottery. Mr. Davis said that it would still need to be limited by vessel length, which he said he believed almost everyone agrees on the length of 35 feet. **Mr. Voss** expressed his concern about individuals entering the lottery who are not interested in actually following through with horseshoe crab dredging should they be drawn to receive one of the five licenses. He stated that he would like the Department to include some kind of language that may prevent individuals who are not serious from entering the lottery-some kind of “use or lose” clause. An audience member asked if anyone knew how the new horseshoe crab regulations would affect the lottery. **Mr. Miller** read directly from the new regulation and summarized that the dredgers would not be allowed to take more than 35 percent prior to May 1st, so this would leave up to 65 percent of the quota for hand harvesters. Mr. Miller asked Mr. Davis if Council would like the Department to draft legislation on this subject to be presented at the next Advisory Council meeting in early January, to which **Mr. Davis** answered “yes”.

Mr. Davis asked Alton Wyatt to begin the next item on the agenda, regarding his request to revise State law allowing conch license transfers to family members. **Mr. Wyatt** briefly reviewed events in the past regarding this request, and stated that he has not to date received a satisfactory answer as to whether or not this law could be revised. **Mr. Voss** asked if the Department had any problem with this request. **Mr. Miller** responded that he saw no problem with it, other than it would require going through legislation. **Mr. Voss** stated that he dreaded the thought of taking dredge legislation to the Legislature. **Albert Adams** suggested that the Department use the language “any commercial fishing license” on the legislation. **Mr. Cole** said that he suspects conch legislation omitted language regarding transfers of

licenses to immediate family members because of the five year waiting list requirement that was included in the statute. An audience member stated that he doesn't understand why there would be a mandatory five year waiting period for a license that has no landing restrictions, pot limit, or season closure. Another audience member asked Mr. Cole how transferring a conch license could be considered circumventing the waiting list. **Mr. Cole** answered by saying that the purpose of the waiting list was a form of limited entry to try to control effort. He then stated that the Department does not have the kind of data needed to formulate management measures that would be based on effort reductions designed to achieve target exploitation rates. **Mr. Miller** said that there is no cap on the number of conch licenses, therefore the number of licenses will continue to rise. **Mr. Cole** then displayed current data collected on effort levels in the conch fishery, showing unprecedented high levels of effort during the last three years.

Mr. Davis then moved on to the next agenda item, by asking what happened with the Motiva proposal to dump waste salt in the Delaware River. **Mr. Miller** stated that this proposal was withdrawn-no need for any discussion.

Mr. Davis said they would then move on to number two under "New Business", regarding night dredging of conchs, since they were just discussing them. **Mr. Auman** stated that he put this subject on the agenda because he'd like for there to be a season in the summer time to conch dredge at night, when the heat is not so excessive. He stated other advantages this type of fishing would allow. **Mr. Adams** stated his concern with the number of conch dredgers there may be in the future, and the danger it would present having so many boats out dredging at night. **Willis Hand** said he would be concerned with bigger boat's dredges catching on smaller boats and pulling them under. He considers night dredging to be too dangerous. Mr. Hand also believes it would create conflict between the potters and dredgers. **Mr. Miller** informed everyone that to allow conch dredging at night would require a legislative change. **Mr. Davis** called Lieutenant John Rutherford to the floor, who asked to speak on behalf of the Enforcement Officers. **Lieutenant Rutherford** stated that the Division of Fish and Wildlife Enforcement section is not in favor of eliminating the prohibition against dredging conchs during the summer at night time due to the fact that they do not have the manpower necessary to provide twenty four hour enforcement coverage. He said that staffing levels have not increased since 1988, when the Marine Police and Game Wardens were merged. Lt. Rutherford pointed out that many new laws have been adopted recently since the merger. He indicated that potential harvest of non target species such as horseshoe crabs and summer flounder could be problematic. **Mr. Davis** asked Mr. Miller if the Fisheries section has an opinion on this. **Mr. Miller** stated that Fisheries does not have an official position, but that they do support the Enforcement Officers. **Mr. Wyatt** stated that there is not enough enforcement during the day.

Mr. Davis pointed out to everyone that they should pick up one of the packets available at the door for going over the last agenda item-how to disburse federal blue crab economic assistance funds to crabbers. He then welcomed Doris Hicks, Seafood Specialist from the University of Delaware Sea Grant Marine Advisory Service, to the front. **Ms. Hicks** said that her position is part of the University's Sea Grant Outreach Program and gave a brief presentation summarizing program activities regarding education on seafood marketing and promotions. She went over current projects including educating processors/wholesalers about seafood regulations, and seafood sanitation. Ms. Hicks stated that she hopes to help the blue crab industry and Delaware watermen through better marketing of their product, continuing with consumer education, and research on handling, processing, holding and refrigeration of blue crabs. **Mr. Davis** asked Ms. Hicks exactly what Sea Grant is looking for from these watermen. **Ms. Hicks** responded that they are looking for possible funds from this federal assistance money to produce a brochure-approximately \$10,000. **Mr. Davis** stated that the crabbers will see a direct loss if some of the

money went to her program, and wanted to know what the watermen would gain. **Ms. Hicks** said that consumers would be better educated about the blue crab and would therefore be more inclined to purchase them. **Mr. Hand** stated that in his lifetime he has seen the University receive millions of dollars from the federal government and this is the first time any Delaware waterman has been given money from federal or state government and he resents the idea of having to share it with the University. He said that even with the millions of dollars the University has received over the years, there is not one more oyster in Delaware Bay today than there would have been if they had never received a nickel. **Mr. Davis** said that he wants to know what the general feeling is amongst the crabbers regarding the disbursement of these funds, then he will ask each Council member their opinion, and then give the Department an idea of the option that should be used. **Mr. Cole** explained the background from which these funds came, and the specifications for which they are to be used. He also went over the proposal the Department submitted when they were informed that Delaware would be eligible to apply for these funds. In this proposal the Department opted to only apply for personal assistance for Delaware's commercial crabbers, and they provided justification for the need for this assistance (proof of the decline in the blue crab resource). Mr. Cole stated that the proposal included the intention for the Department to work with the Shellfish Advisory Council to formulate a fair and equitable way to allocate these funds. He said that the Department used the 1999 through 2001 landings database to formulate allocation options because it is finalized data, and because this is the time period that Congress used for the allocation formula to distribute the \$5,000,000 to all the Atlantic Coast States (New Jersey to Georgia). Mr. Cole said that once one of the options for disbursement is decided on, each eligible person will be notified by certified letter and they will have 21 days to confirm that they wish to participate. He went on to say that once all of the funds available to Delaware are allocated, the program is terminated, and also, the deadline for allocating the funds is September 30, 2004. **Mr. Voss** asked what will happen if the funds are not distributed by this date, to which **Mr. Cole** said he assumes it will be reverted back to the National Marine Fisheries Service. He stated the total allocation sum for Delaware is \$186,743, which is based on the reported landings for the time series 1999 through 2001. An audience member asked why the Council was not brought into this before the proposal was written. **Mr. Davis** said that he sent a letter to Lloyd Alexander when he heard that Maryland was applying, requesting that Delaware needed to apply, and he was told that Fish and Wildlife was already on it. **Mr. Miller** said that they had already submitted the letter before they heard from Mr. Davis. **Mr. Cole** said that he only had two weeks to put a proposal together. **Mr. Adams** asked if a five-year data average should have been used, instead of the three-year information that was used. **Mr. Cole** stated that Congress dictated what time series to use for the disbursement of these funds. **Mr. Adams** said that he understood that, but couldn't the Department use whatever time series they choose, because he has not put as much effort into the fishery since it has not been as lucrative. **Mr. Cole** said that it is debatable whether or not the fishery was not as lucrative, but it would be possible to look into a five-year period. He said, however, that he had used the most recent data that was finalized. Mr. Cole went over the options for allocating these federal economic assistance funds. **Mr. Hand** commented that he is not in favor of any option that awards economic assistance money to people who have not utilized their license-they have not reported any landings, and this is what these funds are based on. **Wayne Mills, Jr.** stated that he disagrees with Mr. Hand. He said that he has a crab boat and a crab license, but he was not able to crab this year because you need to run 400 pots to make a living. Mr. Mills said that he only has a 200 pot license and he knew he would not be able to pay his bills, so he had to stay out of the fishery. He thinks if anybody should receive these funds, it should be someone like him-this is what this economic assistance money is meant for. **Mr. Adams** said that this is why he suggests going back five years and averaging three years, so that it will include some crabbers who may have had to skip participating in the fishery at some point in time. Mr. Adams clarified to Mr. Davis that he believes if a crabber has not put any effort into the fishery at all, that he should not reap the benefits. An audience

member asked how other states allocated their funds. **Mr. Cole** used Maryland as one example and explained that they used a basis of 100 days of fishing during a two-year period, and, in Virginia's case there were two thresholds of landings-an upper tier (2500 bushels over two or three years) and a lower tier (below 2500 bushels over same time period). He said that Maryland also chose to give some of their funds to marketing, research, etc. **Mr. Hand** made the comment that it is so important for the Department to receive accurate landings reports on time. An audience member suggested that the disbursement should be based on time put into the fishery, not landings. **Mr. Voss** said that if new options are presented by the Department, which they are willing to consider, it will take even more time to analyze. He fears that if a decision is not made soon, Delaware will lose out on these funds. **Mr. Hand** said the bottom line is that the federal government based the disbursement of these funds on a landings basis, so that is how the Department should disburse it. **Mr. Auman** said that he understands what the audience member is trying to say-that this is meant to be assistance money to help the crabbers out who have worked just as hard as those crabbers who reported higher landings. **Mr. Hand** said that this is the nature of the business. **Mr. Voss** asked if the Department would allow a comment period. **Mr. Miller** suggested designing a poll to be mailed to all crabbers with a date certain that they must return it to the Department. He said after that date, the Department would tally the votes for each option, and the one that gets the most votes would determine how the Department would allocate these funds. **Mr. Voss** said the Department could do it this way, or they could include the Department's opinion, and/or the Council's opinion. **Mr. Miller** stated that the Department does not have an opinion. **Mr. Davis** suggested that one more option be added to the choices, which is to have a flat rate of one or two hundred dollars, and landings would dictate the disbursement of the rest of the money. He believes this would be a more fair way to allocate. Mr. Davis proceeded with an informal poll of the crabbers present. The informal poll indicated that based on those crabbers that were present the majority favored Option C.

Mr. Davis asked for suggestions of topics for the next meeting. **Mr. Mills** suggested a topic to discuss doing away with the two licenses per boat regulation. **Mr. Miller** verified from Mr. Davis that the Council directs the Department to mail out a survey. **Mr. Davis** explained the option he would like to have added to the choices. **Mr. Whitmore** clarified that it is basically Option A, with a \$200 minimum. The meeting was adjourned at 9:50.

Respectfully submitted,



Kim Records