



MAY 2020 MEETING MINUTES

Marine Fisheries Commission Business Meeting Minutes
Virtual Meeting via WebEx
May 14, 2020

Due to COVID-19, the commission held a one-day business meeting via WebEx webinar on May 14. Members of the public submitted public comment online or via U.S. mail. To view the public comment, go to:

<https://files.nc.gov/ncdeq/051420-mfc-meeting/03-ChairmanReportPackage.pdf>

The briefing book, presentations and audio from this meeting can be found at
<http://portal.ncdenr.org/web/mf/05-2020-briefing-book>.

Actions and motions from the meeting are listed in **bolded** type.

BUSINESS MEETING - MOTIONS AND ACTIONS

May 14

Chairman Rob Bizzell convened the Marine Fisheries Commission business meeting at 9:10 a.m. on May 14 and reminded commissioners of their conflict of interest and ethics requirements.

The following commission members were in attendance: Rob Bizzell-Chairman, Mike Blanton, Doug Cross, Tom Hendrickson, James Kornegay, Robert McNeill, Dr. Martin Posey Tom Roller and Sam Romano.

Motion by Martin Posey to approve the agenda. Seconded by Doug Cross.

Roll Call Vote				
Commissioner	Aye	Nay	Abstain	
Mike Blanton	X			
Doug Cross	X			
Tom Hendrickson	X			
James Kornegay	X			
Robert McNeill	X			
Dr. Martin Posey	X			
Tom Roller	X			
Sam Romano	X			
Chairman Rob Bizzell	X			

Motion carries unanimously.

Motion by Pete Kornegay to approve the minutes of the February 2020 meeting. Second by Doug Cross.

Roll Call Vote				
Commissioner	Aye	Nay	Abstain	
Mike Blanton	X			

Doug Cross	X			
Tom Hendrickson	X			
James Kornegay	X			
Robert McNeill	X			
Dr. Martin Posey	X			
Tom Roller	X			
Sam Romano	X			
Chairman Rob Bizzell	X			

Motion carries unanimously.

Chairman's Report

Chairman Bizzell stated that the Chairman's Report is in the briefing book for review and he gave an update at a commissioner's request on the N.C. Wildlife Resources Commission and N.C. Marine Fisheries Commission Joint Committee on Delineation of Fishing Waters. He stated that the joint meeting is still on recess and that WRC asked Division of Marine Fisheries staff for some data on commercial fishing efforts, landings, etc. in joint waters.

Director's Report

Director Murphey gave an update on gill net actions and progress. He outlined recent regulations changes in the fishery related to the Flounder FMP and the recently issued small-mesh gill net proclamation in March. The director also gave an update on the progress of the division's gill net working group and the expected timeline for progress on the rulemaking process. Commissioner Blanton described the winter/spring menhaden fishery in Management Unit B and requested the division consider an exception for this fishery as part of the larger gill net discussion. Commissioner Cross commented on the hot spot issue, specifically encouraging cooperation between user groups.

Director Murphey also discussed the impacts on the division from the COVID-19 pandemic, which are significant. In addition, he reviewed the CARES Act and the related federal assistance programs. He also provided the commission with an update on the Hurricane Florence Federal Fishery Disaster.

Steve Poland, the Division's Executive Assistant for Councils, presented the Recreational Hook and Line Information Paper requested by the commission.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_id=1169848&folderId=33653918&name=DLFE-142892.pdf

Chairman Bizzell stated that regarding trolling, circle hooks are required at any tournament that targets highly migratory species using natural bait.

Commissioner Cross stated that each species will require a different size hook and he recommends the recreational seats on the commission work on some guidelines. He also recommended a fishery management plan to get the hook sizes established. He commented that there is a lot of money on the recreational side, manufacturers of hooks and bait. He would encourage a timetable for manufacturers and anglers.

Commissioner Posey stated that early on in the presentation Steve mentioned that ASMFC had adopted requirements for circle hooks for striped bass and sharks and that we had to be in compliance by July. Does the commission need to take further action to be in compliance? Steve answered no, Director Murphey would issue a proclamation before the July 1 deadline.

Commission Kornegay stated that he has extensive experience with circle hooks and striped bass on the Roanoke River. He stated that it took 2-3 years to convince the anglers up there that circle hooks are the way to go. Now, however, probably a majority of the fishermen are using circle hooks because they see the benefits for striped bass. They started an education program and were able to distribute circle hooks to the fishermen that were donated by Eagle Claw and Mustad.

Commissioner Romano stated that he was concerned that it was a bit broad sweeping and suggested the motion state that it is species specific. Chairman Bizzell answered that these types of things can be focused on during the rulemaking process.

Commissioner Roller mentioned that he uses a jig head for live bait because there is less deep-hooking. Circle hooks have really taken over at the tackle shops; not seeing many j-hooks anymore.

Commissioner Blanton stated that regarding commercial trotlines, he is unsure that if using a barbless hook would be conducive to trying to cull out some of these catfish. Would like to explore deeper into trotline in the commercial aspect. Secondly, being a bass fisherman, he doesn't use circle hooks when he fishes with soft plastic. We need to be careful when we go about implementing something like this.

Commission Hendrickson had a couple of observations; when staff develops the issue paper, take a species by species view to determine what makes the most sense. We can develop the issue paper and evaluate it based on species to figure out how to make something that will work for the fishermen and resource. Regarding bending down barbs on treble hooks, is the intent as the commission to ask staff to say that ever barb on every treble in the water needs to be bent down?

Motion by Pete Kornegay that the Division develop an issue paper for rule making to require the use of barbless non-offset circle hooks when hook size relates to 2/0 or larger while using natural bait. In addition, barbs on treble hooks must be bent down. Seconded by Tom Roller.

Roll Call Vote				
Commissioner	Aye	Nay	Abstain	
Mike Blanton	X			
Doug Cross	X			
Tom Hendrickson	X			
James Kornegay	X			
Robert McNeill	X			
Dr. Martin Posey	X			
Tom Roller	X			
Sam Romano			X	
Chairman Rob Bizzell	X			

Motion carries 8-0 with one abstention.

Director Murphey pointed to the locations of ASMFC, SAFMC, etc. Chairman Bizzell commented that the tarpon rule received 10 letters of objection it so it will be reviewed by the legislature. He said letters can come from anyone even out of state residents and he is opposed to that.

Fishery Management Plan Update

Catherine Blum, the division's Fishery Management Plan Coordinator, gave the commission a presentation on the status of North Carolina's ongoing fishery management plans.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=33653918&name=DLFE-142891.pdf

Blue Crab Fishery Management Plan Amendment 3

Joe Facendola and Corrin Flora, division staff leads for the Blue Crab FMP gave the commission a presentation on the proposed Diamondback Terrapin Management Areas.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=33653918&name=DLFE-142896.pdf

Commissioner Romano read a statement:

"Diamondback Terrapins have been harvested for food since the 1800s. Winston Churchill called Diamondback Terrapin soup his favorite delicacy. Only in 2016 did New Jersey restrict harvest. If Terrapins reach sexual maturity in a couple of years, the North Carolina population should have seen a distinct rebound as harvest was restricted decades ago. There are many less crabbers and thus many less interactions, yet perceived scarcity still exists. After harvest has been restricted and crabbing pressure decline, coastal population in development has exploded. So, why is it that our number one concern with Diamondback Terrapins is the crabber's impact when this inverse relation exists? Contrary to belief, no long-term populations study has ever been achieved."

Most experts will tell you that little is known about the actual numbers of Diamondback Terrapins in any area of North Carolina. Any important species that we manage should have an in-depth study and includes assessment of age sex, spawning stock, biomass and protection before rulemaking is taken. The science that we have in the proposed DTMA is citizens taking Kayak trips and counting Terrapins by head count. We should be relying on sound science, not perceived scarcity, Diamond Terrapins range from Cape Cod to Florida keys and throughout the Gulf, they're even found on Bermuda, and they're found not to be introduced by humans. There are only a few states have any mandates and they don't produce nearly the volume of crabs in North Carolina does. So, why are we in NC putting burden on specific crabbers when these populations are found all over with very little restrictions in place. Raccoons and foxes are said to have significant impact on Diamondback Terrapin populations. One study in New Jersey found a direct correlation between raccoon populations and Diamondback Terrapin populations. Both of these DTMA have significant thriving raccoon and fox populations. Coastal development, predation, habitat loss and water quality have all contributed to the perceived scarcity of Terrapins.

Why is it that crab modification action leads our conservation efforts. Terrapins are dimorphic and the males are much smaller than the females. Traditional pots with cull rings, allow the smallest Terrapins, predominantly males, to escape. The crab pot entrances restrict all the large Terrapins, females only. Only a specific size Terrapin, that means smaller than the entrance and larger than the cull ring, can actually be caught. Is this specific-sized Terrapin mortality enough to crash the population? Do we have an understanding of population breakdown between males and females in any area of North Carolina? The bycatch reduction design shows very little imagination and is composed of a plastic square that fits in each of the four entrances to the trap. Crabbers are rightfully protective of the entrances of any trap as it is the ultimate determinant of what you'll catch. Viable, valuable and sustainable seafood, such as stone crabs and welch and most fish are completely eliminated by this design. Although claims have been made that crab catch will not be affected, this runs completely contrary to fisherman intuition. These are the exact people that design traps over generations and squares aren't generally found in nature. The square piece of plastic has to be installed in four locations of your crab pot leading to increased costs by ways of materials and labor. And they're only certain times and places that these traps will actually be in interactions zones. The rest of the year, they will only be limiting catch and creating useless burden. Is this our best action? Distance from shoreline, specific areas and seasonal closures all add to the myriad of enforcement difficulties towards marine patrol. Why waste their valuable time with these, with these offices on tricky labors enforcement of boundaries that could be better spent. What is the end game to these regulations? Certainly, it will not end in the proposed DTMA boundaries. If you're a crabber elsewhere, you may not think you'll be affected. However, it is easy to conclude that these rules will serve as precedent for implementation throughout the state. The blue crab fishery is extremely important, and any rulemaking, no matter the size of impact, should be made with extreme caution. Proposed DTMA's are a couple thousand acres compared to millions in NC and beyond, which means very little impact to any Terrapin populations. The proposed DTMA's correspond with national heritage sites and coastal research reserves, which have little to do with Diamondback Terrapin migration dynamics, or sound science. Only a few dedicated, time tested

crabbers work these areas and they will be put on the chopping block. These private crabbers supply crabs almost exclusively for local Wilmington in greater North Carolina markets. Is this fair? Is this effective?

You can easily find Diamondback Terrapins available for sale online for about two hundred dollars per terrapin. This suggests that breeding programs exist. If we're so worried about populations of Terrapins, why don't we discuss population enhancement? How many mortalities do we think occur? How large of a breeding program would we have to do to completely offset this loss? Many have cited the avoid listing from the Monterey Bay Aquarium as a reason for action. Pressures from NGOs should never enter our conversation about the actions of the state.

This is an extremely dangerous precedent to set. This group based in California has never done any study of North Carolina it has not committed to do anything if we take action.

Our job is to assess science not the political or economic undertones. I'm one of the few crabbers that this will affect.

I'm a graduate of UNCW, with the degree in environmental studies. It has been extremely important to me since I began my business to work with researchers as a way of bridging the gap between science and industry. We began to work with UNCW master students twelve years ago and we help them procure bait and wire for research on their Terrapins. At the end of their research, they call us to apologize when they found out their findings were being used to pursue regulation

they didn't agree with. The next thing we knew, we are in the room with fellow crabbers and were asked to circle hotspots, but we're giving no explanation of what they would be used for. Many veterans of the seafood industry had warned us that working with the scientific community would only lead to harsh regulation, regardless of our good relationships with the researchers. The erosion of trust between fisherman, researchers and policymakers threatens to undermine all the good decisions the community expects from us.

We began to work with Larry Bolton, the crab pot maker, and Sammy Corbett, modifying entrances by way of number of meshes. Traditional pots have about fifteen mesh or more circumference at the entrance to the pot. By limiting the amount of meshes at the entrance, the resulting funnel is smaller. Because the entrances remain smooth without any barriers, crab catch is retained, regardless of size of opening. Our design actually makes the initial entrance smaller than the BRD would do. I have personally used this design all spring in Diamondback Terrapin interactions zones and have yet to catch one.

I am voluntarily switching all my shallow water traps to this design, not only to eliminate Diamondback Terrapin interaction, but also to increase my crab catch. I've done my best to push my design and to involve researchers and by doing my own testing. The Commercial Fishing Resource Fund Committee that I serve on received a proposal for research on these designs. I abstained from voting since I was advised that I was too significantly involved. However, I can't be paid for any contribution of time or equipment and I've already spent thousands of dollars and participate in daily self-driven experimentation.

There are much larger concerning elements to this issue. The first being that a private organization based in California that has never done any study of terrapins in NC is influencing matters of our state by pressuring large corporate grocers to stop buying NC crab meat. North Carolina should settle its own matters and come to its own conclusions by way of sound researching experimentation.

Secondly, our state has shown a little interest, creativity, or initiative towards a better way of handling this issue. Instead of additional research, they have only focused on regulation and boundaries instead of trying to understand Diamondback Terrapins better.

Lastly, it seems absolutely absurd to me that at the time in the near future, when we will see decreases in the available protein and food security issues, this is what seems most important. My brother, my partners, and I create a business that feeds North Carolinians primarily off our local crab. That's how we started. We need commercial fishing expertise more than ever, but we can send you to slowly have away at their ability to earn a living wage and we all suffer when we can't get to seafood that is in our backyards.

So, with that, I would like to make a motion. I'd like to make it verbally and that motion is to reject the DTMA boundaries and to use the States resources to enhance data collection and experimentation to better understand Diamondback Terrapin population, behavior and his relation to crab pot designs throughout the state."

There was significant discussion on this issue, largely led by Commissioner Romano. Following the discussion Commissioner Romano made the following motion:

Motion by Sam Romano to reject the DTMA boundaries and use the state's resources to enhance data collection and experimentation to better understand Diamondback Terrapin population behavior and its relation to crab pot designs throughout the state. Seconded by Doug Cross.

Roll Call Vote				
Commissioner	Aye	Nay	Abstain	
Mike Blanton			X	
Doug Cross	X			
Tom Hendrickson		X		
James Kornegay		X		
Robert McNeill		X		
Dr. Martin Posey		X		
Tom Roller		X		
Sam Romano	X			
Chairman Rob Bizzell		X		

Motion fails 2-7 with one abstention.

Motion by Sam Romano to accept the DTMA boundaries but reject the requirement for traditional BRDs. Seconded by Doug Cross.

Roll Call Vote				
Commissioner	Aye	Nay	Abstain	
Mike Blanton			X	
Doug Cross	X			
Tom Hendrickson		X		
James Kornegay		X		
Robert McNeill		X		
Dr. Martin Posey		X		
Tom Roller		X		
Sam Romano	X			
Chairman Rob Bizzell		X		

Motion fails 2-6 with one abstention.

Motion by Tom Roller to approve the DTMAAs as presented by staff, including the adjusted boundaries. Seconded by Robert McNeill.

Roll Call Vote				
Commissioner	Aye	Nay	Abstain	
Mike Blanton			X	
Doug Cross		X		
Tom Hendrickson	X			
James Kornegay	X			
Robert McNeill	X			
Dr. Martin Posey	X			
Tom Roller	X			
Sam Romano		X		

Chairman Rob Bizzell	X			
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Motion carries 6-2 with one abstention.

Repacking of Foreign Crab Meat in North Carolina

Shannon Jenkins, Section Chief and Shawn Nelson, Inspections Program Supervisor, Shellfish Sanitation and Recreational Water Quality Section, presented the Repackaging Foreign Crab Meat in North Carolina information paper requested by the commission.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=33653918&name=DLFE-142894.pdf

Commissioner Cross thanked Shannon for his presentation and gave an industry overview of crab meat packaging. He stated that repackaging imported crab meat into a domestic labeled container for resale is designed to defraud the customer. The firms that do this have a huge economic advantage, an unfair advantage over the crab houses who are left because it depresses the domestic crab price.

Most of the commission agreed the labeling is inadequate. Commissioner Romano brought up unintended consequences of not allowing people to repack bulk purchased crab meat if it is labeled well. This will disadvantage lots of people, who are doing the right thing.

There was discussion about rulemaking versus statutory change.

Motion by Doug Cross to make it illegal to repack any imported crab meat in North Carolina into another container for resale in the State of North Carolina through the rulemaking process. Seconded by Tom Hendrickson.

Roll Call Vote				
Commissioner	Aye	Nay	Abstain	
Mike Blanton	X			
Doug Cross	X			
Tom Hendrickson	X			
James Kornegay	X			
Robert McNeill	X			
Dr. Martin Posey	X			
Tom Roller	X			
Sam Romano	X			
Chairman Rob Bizzell	X			

Motion passes unanimously.

Rulemaking Update

Catherine Blum, the division's Rulemaking Coordinator, provided the commission with a presentation on the 2019/2020 and 2020/2021 rulemaking cycles, 2020/2021 rulemaking cycle and notice of text for seven rules proposed for readoption or readoption through repeal in 15A NCAC 18A .3400.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=33653918&name=DLFE-142895.pdf

Motion by Martin Posey to approve notice of text and the corresponding fiscal analysis for the re-adoption of seven MFC rules in 15A NCAC 18A .3400 (Coastal Recreational Waters Monitoring, Evaluation, and Notification), per G.S. 150B-21.3A. Seconded by Doug Cross.

Roll Call Vote				
Commissioner	Aye	Nay	Abstain	
Mike Blanton	X			
Doug Cross	X			
Tom Hendrickson	X			
James Kornegay	X			
Robert McNeill	X			
Dr. Martin Posey	X			
Tom Roller	X			
Sam Romano	X			
Chairman Rob Bizzell	X			

Motion passes unanimously.

Rule Suspensions

Kathy Rawls, the division's Fisheries Management Section Chief, gave a presentation to the commission on new rule suspensions that have occurred since the Nov. 2019 meeting. Due to inclement weather, the votes on rule suspensions were delayed until the May 2020 meeting.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=33653918&name=DLFE-142893.pdf

Motion by Martin Posey to approve the continued suspension of the following MFC Rules:

- 15A NCAC 03M .0511 Bluefish
- 15A NCAC 03J .0103 (h) Gill Nets, Seines, Identification, Restrictions
- 15A NCAC 03R .0110 (4)(5) Crab Spawning Sanctuaries; 03L .0201 (a)(b) Crab Harvest Restrictions; and 03L .0203 (a) Crab Dredging; 03J .0301 (g)(h) Pots

Motion seconded by Tom Hendrickson.

Roll Call Vote				
Commissioner	Aye	Nay	Abstain	
Mike Blanton	X			
Doug Cross	X			
Tom Hendrickson	X			
James Kornegay	X			
Robert McNeill	X			
Dr. Martin Posey	X			
Tom Roller	X			

Sam Romano	X			
Chairman Rob Bizzell	X			

Motion carries unanimously.

Issues from Commissioners

Commissioner Romano would like to discuss the guidelines on rules; corresponding effect on the industry, the Commission's collective value system. How does economic impact and how many fishermen we will lose come into play when a rule is put in place? It is something he has brought up in the past. New Jersey poaches, but is also on the Monterey Bay Aquariums "good choice" list. It is worrisome that the out-of-state private organizations like Monterey Bay Aquarium isn't properly vetting. He would like to see this on the agenda. Chairman Bizzell stated the, preamble of the Fisheries Reform Act; primary charge is to protect the resource.

Commissioner Cross mentioned the Executive Order on Promoting American Seafood Competitiveness and Economic Growth.

Commissioner McNeill asked if there is any data or research on the need to have hook modifications and if so, he would like to see it. He would support circle hooks for certain species, but there needs to be some exclusions for artificial lures.

Commissioner Posey gave an update on the most recent CHPP Steering Committee meeting where Division staff presented the habitat section of the Blue Crab FMP Amendment 3.

Lara Klibansky reviewed the meeting assignments and previewed the Aug MFC business meeting agenda.

The meeting adjourned at approximately 2:51 p.m.