

**In The Matter Of:**

*Department of Natural Resources & Environmental Control  
Amendments to Regulation Striped Bass Spawning Season*

---

*Hearing  
February 26, 2020*

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DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
OF THE STATE OF DELAWARE

RE: Proposed Regulatory Amendments )  
to Regulation 3502, Striped Bass )  
Spawning Season and Area Restrictions, )  
Public Hearing )

.. . . . .

DNREC Richardson & Robbins Building  
89 Kings Highway  
Dover, Delaware 19901

Wednesday, February 26, 2020  
6:04 p.m.

.. . . . .

BEFORE: Theresa Newman, Hearing Officer

ALSO PRESENT: Stew Michels, DNREC

-- Transcript of Proceedings --

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1 MS. NEWMAN: Good evening. We are  
2 going to begin tonight's proceedings. Please  
3 allow the record to reflect the time is now  
4 6:01 p.m. on Wednesday, February 26, 2020.

5 Thank you all for taking the time  
6 to be here this evening. We are here to  
7 provide a formal platform for the State of  
8 Delaware's Department of Natural Resources  
9 and Environmental Control to receive public  
10 comment on the proposed regulatory amendments  
11 to 7 DE Admin Code 3502, Striped Bass  
12 Spawning Season and Area Restrictions.

13 My name is Theresa Newman, and  
14 Secretary Garvin has appointed me to serve as  
15 the hearing officer for tonight's formal  
16 proceeding.

17 There is a sign-in sheet up here.  
18 So for those who have not signed in, I ask  
19 that you please do so at some point today,  
20 especially before comment.

21 I will be going from these sheets  
22 to call out names of those who would like to  
23 provide a comment tonight in both of the  
24 hearings that are scheduled.



1           If you haven't done so, also please  
2           indicate whether you would like to comment.

3           And with regard to the public  
4           comment wishing to be offered, there are, as  
5           in all cases for DNREC public hearings,  
6           formal protocols which must be adhered to.

7           Please be advised of the following  
8           rules which are in place for tonight's formal  
9           proceeding:

10           Please mute all cell phones to  
11           avoid disruption. All comments must be  
12           limited solely to the subject matter of  
13           tonight's hearing.

14           Each person will be granted a total  
15           of three minutes to offer comment. There  
16           will be a visual timer in place to help  
17           everyone be aware of the time remaining while  
18           commenting.

19           If you have brought written comment  
20           with you tonight, I would ask that you  
21           present that to me after you provide your  
22           verbal comment so that the same can be  
23           entered into the record.

24           If you have brought another



1 person's written comments with you, you may  
2 wish to speak to their comments. However,  
3 that will be a part of your three-minute time  
4 allotment you have for your own comment,  
5 as well.

6 There will be no yielding of time  
7 from one commenter to another commenter.

8 I ask that you respect the time of  
9 each person, as well as their comments,  
10 although they may differ from your opinion.

11 There will be no Q and A session  
12 permitted for tonight's course of the formal  
13 proceeding. Myself and DNREC staff are  
14 present to facilitate receipt of public  
15 comment and not to participate in the  
16 proceedings.

17 Lastly, pursuant to the subject  
18 matter of this hearing, all comments  
19 pertinent to the aforementioned proposed  
20 amendments will be incorporated into the  
21 formal hearing record being generated in this  
22 matter.

23 There is only one authentic record  
24 of the formal proceeding tonight, and that is



1 the official court reporter's verbatim  
2 transcript.

3 The verbatim transcript is created  
4 tonight to memorialize tonight's formal  
5 proceeding by the court reporter. She can  
6 only hear and accurately transcribe one voice  
7 at a time.

8 In order to ensure accuracy of this  
9 transcript and to be mindful of the above  
10 protocols with the need for order at this  
11 formal proceeding, please do not speak while  
12 another person is speaking, and do not call  
13 out from the audience for any reason.

14 It is important to note that no  
15 decision has already been made by the  
16 Department, nor will any decision be made  
17 tonight.

18 A record consisting of the  
19 transcript of verbal comments given tonight,  
20 all written comments submitted prior to and  
21 after the hearing, all exhibits, and my  
22 report will be reviewed by the Secretary.

23 The Secretary will ultimately issue  
24 an order containing his decision of the



1 proposed amendments and the reasons  
2 therefore.

3 The record being generated in this  
4 matter will close 15 days from tonight's  
5 hearing on Thursday, March 12, 2020.

6 All comment, whether offered  
7 verbally tonight or submitted prior to  
8 March 12th in writing, will bear the exact  
9 same weight and will be considered equally by  
10 the secretary prior to making a final  
11 decision in this matter.

12 With that being said, I'm going to  
13 hand it over to Mr. Stewart Michels to  
14 present for the Division of Fish and  
15 Wildlife.

16 MR. MICHELS: Thank you very much,  
17 Theresa.

18 MS. NEWMAN: You are welcome.

19 MR. MICHELS: On behalf of the  
20 Division, I have 12 comments that I would --  
21 or 12 exhibits that I would like to enter  
22 into tonight's hearing record.

23 MS. NEWMAN: Okay. Thank you.

24 MR. MICHELS: And then I have a





1 brief presentation if that pleases you.

2 MS. NEWMAN: Sure. Before we get  
3 started with your presentation, I would like  
4 to mark Exhibits 1 through 12, given by the  
5 Department, as Department's Exhibits 1  
6 through 12.

7 MR. MICHELS: Hey, thanks for  
8 coming. That is great turnout for us. Quite  
9 often we are here before an empty room. So  
10 thank you all for taking the time to come  
11 here.

12 I just have a couple of slides for  
13 you to give you a little perspective on this  
14 issue. And we will get started.

15 So, first of all, does everyone  
16 have a copy of the proposed regulation? Did  
17 they have a chance to get one? If not, there  
18 is some out front at the table. And,  
19 otherwise, I will get started.

20 So right now the status quo for  
21 striped bass fixed gill net fishing above  
22 Liston Point is that it is not allowed from  
23 January 1st to May 31st.

24 Now, some of our commercial



1 fishermen that fish in the area requested  
2 through the Advisory Council on Tidal  
3 Finfisheries that we open the Delaware River  
4 to anchor gill netting from January 1st to  
5 May 31st.

6 And it's important to point out  
7 that really the intent of this closed area to  
8 fixed gill nets, it's not really a  
9 biologically based one; it's more of a user  
10 conflict based closure.

11 For striped bass, we have  
12 quota-based management, which means that the  
13 commercial fishermen are allowed to take a  
14 set amount of striped bass every year, and  
15 thereupon the fishery is closed.

16 There are some potential biological  
17 implications to that, and those would  
18 probably be things like discard mortality.  
19 And the changes that are proposed in this may  
20 or may not be offsetting to that discard  
21 mortality.

22 Certainly, given the expected  
23 number of participants in the area that will  
24 be using this area and the spatial coverage,



1           it's probably not a significant concern at  
2           the population level.

3                     The initial request to open the  
4           Delaware River to anchor gill nets came with  
5           some concerns from our enforcement section,  
6           because they thought there was much too much  
7           boater traffic in the area and a high  
8           potential for interactions up there with both  
9           recreational anglers and boaters.

10                    Over a series of three different  
11           meetings, this topic was discussed before our  
12           Advisory Council on Tidal Finfisheries.

13                    And one of the council members  
14           worked with the Division of Fish and  
15           Wildlife's enforcement section to come up  
16           with some proposal that could meet some of  
17           the needs of the commercial fishing industry  
18           and also address Fish and Wildlife's  
19           Enforcement's concern about boater and  
20           recreational angling interactions.

21                    And that's kind of what brought us  
22           to where we are now.

23                    The area that is proposed to be  
24           open to fixed gill nets is a stretch of about



1 1.75 miles of river. It's not an area that's  
2 highly trafficked by recreational boaters in  
3 the spring, particularly early in the spring,  
4 like this time of year, which is, I would  
5 say, late winter.

6 And it also, you know, may serve  
7 another purpose in that it can reduce drift  
8 net and recreational angler interactions  
9 further up the river.

10 So I know that the thought of the  
11 council was have the guys go in with their  
12 anchor gill nets, get in, get their quota,  
13 and get out, and that way they are not  
14 interfering farther north where a lot of the  
15 recreational angling occurs with those  
16 anglers.

17 So the Division provided the draft  
18 regulation, a copy of which is out at the  
19 front table, to the Council at their request  
20 to draft up something that would reflect this  
21 new opening from the southern bank of the  
22 Appoquinimink River down to Liston Point,  
23 opening that area.

24 The Council approved taking



1 measures through the regulatory process at  
2 their -- I think that was two meetings ago --  
3 and the Division did not object to that. And  
4 that's what brings us here tonight.

5 So just to give you some sense of  
6 the area, of course up here north of the C&D  
7 Canal, we have the spawning grounds, and  
8 that's closed from April 1st to May 31st.

9 This green area is the proposed  
10 area that is proposed to the opening for  
11 fixed gill nets.

12 And then this entire area covered  
13 by this blue line represents the area where  
14 previously no fixed gill nets were allowed.  
15 Really, that's the way it is -- that's the  
16 way it stands now.

17 So that just gives you a little  
18 picture of the area. The yellow line just  
19 reflects my best attempt at indicating the  
20 Delaware state waters.

21 And, with that, that's about it.

22 Again, we will accept your comments  
23 tonight either written or verbally. And  
24 there are a number of other ways that you can



1 provide comments to us.

2 And, as Theresa pointed out, the  
3 hearing officer, the Department will accept  
4 public comments through the close of business  
5 on Thursday, March 12, 2020.

6 That concludes my presentation.

7 MS. NEWMAN: Great. As the  
8 Department has no further comments, I will  
9 now open up for public comment by calling on  
10 those individuals who have signed in and  
11 marked that they would like to provide  
12 comments.

13 Please keep in mind that you do  
14 have three minutes to provide your comment.  
15 I don't believe we do have a visual timer in  
16 place. That's okay.

17 Just be mindful of the three-minute  
18 time allotment for everyone, and I will keep  
19 a tracking up here in case you go over that  
20 time.

21 So, that being said, I will go  
22 ahead and get started.

23 We have one person who would like  
24 to provide comment. Tyler O'Neal, please.



1 MR. O'NEAL: Yeah, that's me.

2 MS. NEWMAN: Sure.

3 MR. O'NEAL: So I'm Tyler O'Neal.

4 I'm a small business owner related to  
5 fisheries in Delaware.

6 And I have been a Delaware board  
7 member from the (inaudible) Association.

8 So as far as my position and my  
9 association goes on this, it has to be a no.  
10 You put up there "may or may not offset it."

11 That tells me that there is no real  
12 data or science behind it. And we can't get  
13 behind a decision that doesn't really have  
14 any data or science behind it to tell us  
15 what's going to impact the fishery and how  
16 it's really going to go moving forward.

17 That's all I really want to say.

18 MS. NEWMAN: Okay. Thank you. So  
19 I have a number of you who did sign in and  
20 did not say whether or not they would like to  
21 provide a written comment. That's okay.

22 So, for those of you who will, by a  
23 raise of hand if you could just state your  
24 name, please, and I'll mark it off, and then



1           you can proceed on with your comment. Go  
2           ahead.

3                       MR. HOFFECKER: Brian Hoffecker.

4                       MS. NEWMAN: And if you could,  
5           please stand up while you are providing your  
6           comment just for clarity for the court  
7           reporter. Thank you.

8                       MR. HOFFECKER: I helped work on  
9           this. I had a couple commercial fishermen  
10          contact me. So I helped work on this.

11                      I put it to the Department first  
12          and then to enforcement and talked to them  
13          and, you know, got their opinion on  
14          everything before we went to the Council and  
15          brought this up and all.

16                      And my biggest thing for doing  
17          this, Stew kind of pointed most of that out,  
18          was kind of to separate the recreational  
19          fishermen from the commercial fishermen.

20                      Right now as it stands, those guys  
21          can drift anywhere up there. I mean right  
22          where people are hook and line fishing and  
23          all that.

24                      I fish right up to where a boundary





1 is now. I have fished there for the last 15  
2 years, probably.

3 And, I mean, I can see up that  
4 whole stretch. There's no boat traffic that  
5 goes up through there.

6 Nobody -- I fish there hook and  
7 line, because we have caught fish there  
8 before in a gill net.

9 And when you fish there with a hook  
10 and line, you get your slur. That's what you  
11 get. You don't catch any fish there.  
12 There's not boat traffic.

13 Where the guys are drifting now,  
14 there's boat traffic up there where they are  
15 actually drift fishing and stuff.

16 So I thought that this was good,  
17 because if you move them away from up there  
18 and put them here where there is less boat  
19 traffic, that's safer.

20 Plus, if enforcement knows that  
21 they're going to be fishing here, they don't  
22 have to ride. They can fish on the Jersey  
23 side, the Delaware side, it doesn't matter,  
24 they don't have to ride everywhere looking



1 for them. They are pretty much going to know  
2 where they are at.

3 And I know it said 1.7 miles. But  
4 that area right there, there's a sharp edge  
5 right there. You're not going to fish over  
6 20, 15-foot of water from there on out, so  
7 that eliminates all of that.

8 Inside of that, you got two  
9 three-foot of water you're not going to fish.  
10 Plus there's three creeks that come out  
11 there, a stone jetty that comes out there.  
12 And we already have laws in place that you  
13 have to be like a three-quarter of a mile  
14 radius away from them creeks.

15 So, basically, you got one little  
16 stretch through there where it's going to be  
17 enough for the three guys or four guys that  
18 want to fish there to stagger a couple of  
19 nets right up through this stretch is all  
20 it's going to be.

21 Um, like I say, I've talked to the  
22 Department, enforcement, we run it through  
23 the Council, and this was the fairest option  
24 that, you know, we come up with.



1           Nobody is getting any more fish to  
2 catch. I mean, it's not changing anything.  
3 Our quota is set. This is a way to -- you  
4 know, the way they're doing it now drift  
5 fishing is it's taking them three weeks to  
6 catch their fish.

7           So you got nets out there floating  
8 around, one guy for two to three weeks,  
9 where, if you give them an anchor net in this  
10 little thing right here, in four days their  
11 net is going to be in the water, out of the  
12 water, and gone.

13           And I just think that's safer,  
14 myself. So that's what we come up with. So  
15 I'm for this.

16           MS. NEWMAN: Thank you. Sir in  
17 front.

18           MR. MARSHALL: John Marshall. Um,  
19 I remember a few years back when Larry Foley  
20 was on the Advisory Council. He asked for  
21 this same movement, only he wanted to go from  
22 Liston Point all the way up to the C&D Canal,  
23 the whole area for anchor nets.

24           And it was voted down, and the



1 biggest concern was, on the recreational  
2 fishermen, that you have so many tags to  
3 catch your quota, and there would be a lot of  
4 culling.

5 Because if you're using a drift  
6 net, and you see your corks bobbing up and  
7 down, you can immediately go to it, pull the  
8 fish out. If you don't want it, you can  
9 release it, or you can throw it in the boat.

10 But once it's been in a gill net,  
11 it sits out there from, you know, usually 24  
12 hours or close to that, and just about every  
13 fish that's pulled out of the net is dead.  
14 There is no released fish.

15 And the other thing was that a few  
16 people were saying that oh, the smaller fish  
17 pass through, and you don't have to worry  
18 about it.

19 Well, I used to recreational  
20 gillnet for perch, and I would catch carp 15,  
21 20 pounds and catfish 10 to 12 pounds, and  
22 all kind of large fish, and they would  
23 basically be caught by their lips and tangled  
24 up in it.



1           So there is really no safe net that  
2           you can put out there that you can say well,  
3           let the smaller fish pass through that you  
4           don't want.

5           And I think the amount of nets you  
6           put out as an anchor net is, what, a thousand  
7           yards? Is that right?

8           MR. MICHELS: I don't --

9           MR. HOFFECKER: That's the maximum.

10          MR. MARSHALL: That's the maximum?

11          MR. HOFFECKER: Most of them fish  
12          about 300 to catch what we're allowed.

13          MR. MARSHALL: Three hundred? A  
14          few 300s.

15          MR. HOFFECKER: No. 300, I said.  
16          Not a few. Three-hundred.

17          MR. MARSHALL: Just one 300?

18          MR. HOFFECKER: Yeah, to catch  
19          twelve quotas. Twelve people's fishing. We  
20          only fish 300 yards of net. We're allowed a  
21          thousand per person.

22          MR. MARSHALL: Yes.

23          MR. HOFFECKER: Okay. We're only  
24          fishing 300, not a few.



1 MR. MARSHALL: Okay. Okay. Well,  
2 since I never went commercial for gill net --

3 MR. HOFFECKER: That's why I told  
4 you.

5 MS. NEWMAN: Sir, could you please  
6 keep the comment towards --

7 MR. HOFFECKER: Sorry.

8 MR. MARSHALL: Sorry. Okay. But  
9 basically what it amounted to was, with the  
10 amount of discards that you could probably  
11 get and, you know, dead fish, I think it's a  
12 very wasteful way to fish.

13 If anything, we should really be  
14 looking to move the line further south, not  
15 further north.

16 And I'm also afraid, if this gets  
17 okayed this year, next year it will be  
18 proposed all the way up to the C&D Canal like  
19 it was originally proposed a few years back  
20 by Larry Foley.

21 And the other thing is -- well, I  
22 think that's about it. My time is probably  
23 just about up.

24 MS. NEWMAN: It just made it.



1 MR. MARSHALL: It's a no from me.

2 MS. NEWMAN: Right here. Yep.

3 MR. THOMAS: My name is Lee Thomas.

4 I'm going to fall back to the first  
5 thing this man here brought up as the first  
6 point of everything.

7 That's not a law, from the Liston's  
8 Point, it's not a law created by DNREC. It's  
9 a law created by fishermen.

10 It was the drift netters saying,  
11 look, you guys anchor from here down, and  
12 we're going to drift from here up. And it  
13 became an agreement between drift netters and  
14 anchor netters.

15 There is no law in DNREC that says  
16 that that was the case until -- as he said,  
17 it's not a law on books; it's a law in  
18 agreement by the fishermen, us.

19 I am a drift fisherman. I'm the  
20 guy that stops that boat coming out of that  
21 canal all day long coming down to my  
22 200 yards of net that he don't have no clue  
23 is on the water, or the guys with the yellow  
24 can and running up on me all day long, or the



1           guys that are fishing the jetty all day long.

2                     You can put a 200-yard net out.

3           You can't put them out one behind the other.

4           I can put 300, 400, but I got to maintain

5           them nets. And there goes this guy going

6           across to the yellow can fishing. Here comes

7           three boats coming up on the red can fishing.

8           Now, these are guys that are coming up on a

9           dangerous net. All day, every day, we deal

10          with this.

11                    We fish a month a season drifting

12          every day trying to catch our quota. We

13          ain't catching our quota no more.

14                    Me and this man right here, we

15          fished last year. The first time in our life

16          we ran, took the time the risk of the winds

17          and the rough water. We ran down below the

18          line from the Appoquinimink, which is what we

19          come out of.

20                    We anchored fish for the first

21          time. We were done in two weeks, a week and

22          a half. Done. Completely two quotas that we

23          can't catch drifting in a whole season no

24          more.



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1                   And the activity of boats from red  
2                   can -- any Rock fisherman knows -- from red  
3                   can, yellow can, to jetty, the pipes, all of  
4                   this is your main fishing grounds.

5                   We had a right to anchor net clean  
6                   to the C&D Canal. We agreed not to do that  
7                   so they can drift fish through the C&D Canal.

8                   It's not a law from the state. It  
9                   was a law from us fishermen getting together  
10                  and saying you guys drift, we're going to  
11                  anchor. That's how that became.

12                  He started up there by telling you  
13                  this. It's not a law that DNREC created.

14                  Al l that yellow line from that  
15                  nuclear plant north, every time I stick a net  
16                  out, there's 40 people who are using bunker  
17                  caught in a gill net. Every recreational  
18                  fisherman in here is buying bunker from Ken  
19                  he's caught in a gill net.

20                  All day long he's out there just  
21                  like anybody else up there drifting in  
22                  amongst the boats trying to catch their bait.  
23                  They are so against fishing, but all their  
24                  bait comes from live commercial industry



1 that's caught by somebody.

2 No matter how you look at it, if  
3 you're selling it, you're making money. But  
4 the thing is, that law was a fisherman's  
5 agreement, not a DNREC agreement.

6 And DNREC agreed to it. And we can  
7 catch our fish now in that little space they  
8 are giving us that's never been fished, and  
9 nobody does fish, because he's right. It's a  
10 slur hole. You've got that Blackbird Creek,  
11 the Odessa Creek, and Ray's Ditch all dumping  
12 out at once, and it's all slur.

13 But we will deal with that, because  
14 we can catch our fish and be done in a week  
15 and a half now.

16 That's all I got to say. I live  
17 this life.

18 MS. NEWMAN: Thank you. Go ahead,  
19 sir.

20 MR. JONES: Yeah. My name is Randy  
21 Jones, and I have been gillnetting up there  
22 since before the Rockfish even we were  
23 allowed to keep them, when it was just shad  
24 fishing; so I know the whole gamut up there.



1                   And you never used to see a  
2                   fisherman out there hardly. Now there is a  
3                   big recreational Rockfishery. And we do have  
4                   to run and tell them a lot of times you got  
5                   gill nets coming towards you so, you know,  
6                   we're trying not to get near you, but they're  
7                   coming this way. So there is a little  
8                   interaction with them quite a bit that we  
9                   never used to have.

10                  Um, as far as this chart, it's very  
11                  good. But for somebody that's not familiar  
12                  with it, the line that Brian has talked about  
13                  where we have to stop now, and the northern  
14                  line where you are perhaps going to let us  
15                  fish to is so small you can see it by eye.

16                  That's how small of an area we are  
17                  looking at. You can see it. It's that  
18                  small. I mean, from the southern end to the  
19                  northern end, you can see it by eye.

20                  And I don't think it's really  
21                  asking for a lot. I can understand why they  
22                  wouldn't want us up around the canal, because  
23                  the farther up you go, then you do have boats  
24                  up there hook and lining.



1                   But most of them don't really go  
2 past that yellow can, which is north of this  
3 boundary. That's the hot spot.

4                   They would have a hard time fishing  
5 where we are asking to fish by anchoring up.  
6 It would just be a messy slur.

7                   And the one other thing is it's  
8 such a small quota. If we were allowed to  
9 catch all the fish we wanted, I could see why  
10 somebody would be against it, but we got a  
11 quota. We got to stop.

12                   So, you know, it's not like we're  
13 getting more fish or something and we're  
14 gonna kill the fishery. I mean, when we  
15 reach our quota, we're done, you know, we're  
16 going home.

17                   MR. THOMAS: He can catch our quota  
18 every day if you want.

19                   MR. JONES: And as far as what  
20 Mr. Marshall said about the bycatch, it's a  
21 crock.

22                   I use the right-sized net. I don't  
23 kill two fish a year that I'm not supposed  
24 to. It don't happen.



1                   If you are using the right mesh  
2                   size, you keep all your fish. I don't  
3                   have -- you might catch a carp or something  
4                   like he said. Yeah, that happens. But all  
5                   the fish coming in my boat are keepers, all  
6                   of them, all of them. And that's a fact.

7                   MS. NEWMAN: Thank you, Mr. Jones.

8                   Sir, I don't have your name signed  
9                   in, if you could please come up and sign in  
10                  before I call.

11                  MR. FOLEY: I'm sorry.

12                  MS. NEWMAN: That's okay. If you  
13                  are going to be staying for the next hearing,  
14                  you can sign both. This is for the hearing  
15                  currently.

16                  MR. FOLEY: This is for this?

17                  MS. NEWMAN: Yes.

18                  MR. FOLEY: Where do I sign at  
19                  here?

20                  MS. NEWMAN: I'm sorry. Next page.  
21                  There you go.

22                  MR. FOLEY: Is that all?

23                  MS. NEWMAN: If you are going to be  
24                  staying for the next hearing, you can sign in



1 here also.

2 MR. FOLEY: What's this, another  
3 meeting?

4 MS. NEWMAN: This will be  
5 immediately following this hearing, yes, on  
6 Cobia.

7 MR. FOLEY: Sorry.

8 MS. NEWMAN: That's fine. Thank  
9 you. I appreciate that.

10 Mr. Foley, you may provide your  
11 comment.

12 MR. FOLEY: Yeah. I would like to  
13 speak on this a little bit.

14 I used to be on the Finfish  
15 Commission for quite a few years. And I did  
16 try and get it passed. And I tried to get it  
17 up there where we're talking about right now,  
18 because it's feasible.

19 And there's a lot -- there's not a  
20 lot of us. There's a few of us come out of  
21 the Appoquinimink Creek. I tie my boat up in  
22 the Appoquinimink Creek.

23 If I have to go down where I used  
24 to fish years ago, I have to tie my boat in a



1 creek at Collins Beach. It's not very safe  
2 for my boat.

3 And one reason I asked Hoffecker if  
4 we could, you know, look at this, because  
5 there's only two or three of us that's even  
6 gonna come out there and fish of the area  
7 that we're talking about.

8 And this gentleman here, maybe you  
9 didn't realize that I was Larry Foley sitting  
10 right here behind you.

11 MR. MARSHALL: I didn't recognize  
12 you.

13 MR. FOLEY: Okay. But the thing is  
14 I did bring this up earlier, you know, years  
15 back.

16 And it would really be nice now,  
17 the situation we're running into with the  
18 driftnets, it's hard to catch your quota with  
19 all the recreational fishing that's going on  
20 and everything else.

21 Years ago, that wasn't going on.  
22 Now it is.

23 But in our nets, when we set  
24 nets -- and these gentlemen will tell you --



1 we don't set no small net now. I don't even  
2 start fishing early. I wait until the bigger  
3 fish get there, and I set seven and an 8-inch  
4 net. And I'm not there long.

5 Every fish that comes in that gets  
6 in my net goes in my boxes for sale. There's  
7 no throwbacks.

8 I've even had good-sized sturgeon  
9 laying up alongside my nets. They don't even  
10 get hurt in that net. I use 9-millimeter  
11 heavy stuff. It don't hurt them. I can roll  
12 them right out.

13 The fishermen have got smarter so  
14 that they don't kill a lot of fish. We used  
15 to fish with five, five-and-a-half-inch nets.  
16 We would kill all kinds of fish. Not trying  
17 to, but we didn't know any better.

18 This is what we -- that's what our  
19 fathers -- and I fished up there years ago  
20 with Bill Pritchard. And we at one time used  
21 seven nets north of where this gentleman,  
22 like this area here where this gentleman here  
23 was talking about (referring to Mr.  
24 Marshall), and we caught mostly shad and





1 perch is what we were catching then.

2 Seven nets. But we could fish up  
3 there, and there wasn't no law against it.  
4 Right off of Green's Beach, we had seven  
5 nets. And we could make our -- we could make  
6 our day.

7 MS. NEWMAN: Thank you, Mr. Foley.

8 Is there anyone else who has signed  
9 in that would like to provide a comment?

10 Okay, sir, go ahead. Please stand  
11 up and state your name.

12 MR. LUPINETTI: John Lupinetti. I  
13 guess just a citizen.

14 So we're talking about anchor nets,  
15 anchor netting in the yellow zone; correct?

16 MR. HOFFECKER: No.

17 MR. LUPINETTI: No?

18 MR. THOMAS: The anchor net goes  
19 that way.

20 MR. LUPINETTI: Where? Is that  
21 green?

22 MR. THOMAS: Are you familiar with  
23 this? Are you familiar with this?

24 MR. LUPINETTI: Not that area. But



1 I've anchor netted, and I've gill netted --

2 MR. THOMAS: Yeah.

3 MR. LUPINETTI: -- and I've drift  
4 netted down further south.

5 MR. THOMAS: Yeah, okay. Right.

6 MR. LUPINETTI: I guess my question  
7 is, is the drift netting still allowed when  
8 you're anchor netting?

9 MS. NEWMAN: Sir, we can't ask  
10 questions.

11 MR. LUPINETTI: So what we're  
12 basically doing is extending -- you can drift  
13 net up there, and then you can anchor net,  
14 but they are separate zones? Is that  
15 correct?

16 MR. THOMAS: No, you can drift net  
17 the whole state of Delaware. You can only  
18 anchor net so far.

19 MR. LUPINETTI: Okay.

20 MR. THOMAS: Except for along the  
21 canal.

22 MR. LUPINETTI: I guess my question  
23 is why are we allowing more netting if you  
24 can already driftnet?



1 MR. THOMAS: Because we have --

2 MR. LUPINETTI: I understand about  
3 the application.

4 MS. NEWMAN: We can't have the back  
5 and forth.

6 MR. LUPINETTI: I understand that.

7 MS. NEWMAN: We can't have the back  
8 and forth, so if you're going to state a  
9 question, the question can be answered later  
10 on, but --

11 MR. LUPINETTI: I'm just a little  
12 confused on it.

13 So I guess, in my opinion, I would  
14 have to say no, okay, because we're actually  
15 expanding the range of netting. All right?  
16 That's my opinion.

17 And I have done both of these, both  
18 anchor netting and drift netting in my life.  
19 Okay?

20 And so that's my opinion is not to  
21 allow it.

22 The other thing, too, is -- and I  
23 understand about the nets about as far as the  
24 bycatch. I do understand that. Because you



1 have bigger mesh, more fish can get through  
2 there; so, you know, that's correct.

3 But I just have to say no, because  
4 it's another way of catching -- another zone  
5 to catch fish a different way, so it expands  
6 your netting. That's the way I look at it.  
7 And it's efficient, too.

8 MS. NEWMAN: Thank you for your  
9 comment. All right. So does that conclude  
10 the public comment for tonight's hearing?  
11 Thank you. All right.

12 MR. JONES: One more thing.

13 MS. NEWMAN: Sir, we can't go back  
14 if you have already provided a comment.  
15 Additional comments can be received. Just  
16 for fairness of the formal proceeding, you  
17 can provide additional comments written via  
18 the comment e-mail, or you can provide it in  
19 writing at the address. I apologize.

20 As the Department has met the  
21 hearing protocols and there is no further  
22 public comment, the record will remain open  
23 through March 12th, at which time the record  
24 will then close, so you are able to provide



1           that written comment up till March 12th, the  
2           close of business, which is 4:30 p.m.

3                       I would like to thank you all for  
4           attending this evening. And the hearing is  
5           now adjourned at 6:32 p.m.

6                       (The proceedings were concluded at 6:32  
7           p.m.)

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CERTIFICATE

I, Lorena J. Hartnett, a Notary Public and Registered Professional Reporter, do hereby certify that the foregoing is an accurate and complete transcription of the proceeding held at the time and place stated herein, and that the said proceeding was recorded by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.

I further certify that I am not a relative, employee, or attorney of any of the parties or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on this 28th day of February 2020.



Lorena J. Hartnett  
Registered Professional Reporter

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