

# *Compressed Transcript*



COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

January 15, 2013

**N.J. Soroe, CSR, P.O. Box 2102, Bay St. Louis, MS 39521  
(228) 467-2199**



1 COMMISSION ON MARINE RESOURCES  
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3 MEETING OF COMMISSION ON MARINE RESOURCES  
4 January 15, 2013  
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7 TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT  
8 BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAYVIEW  
9 AVENUE, BILOXI, MISSISSIPPI, ON THE 15TH DAY OF JANUARY 2013  
10 COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LADNER  
11 SOROE, CERTIFIED SHORTHAND REPORTER.  
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13  
14 COMMISSION MEMBERS PRESENT:  
15 DR. VERNON ASPER, Chairman  
16 RICHARD GOLLOTT  
17 SHELBY DRUMMOND  
18 STEVE BOSARGE  
19 JIMMY TAYLOR  
20  
21 ALSO PRESENT:  
22 DANNY GUICE, Interim Executive Director DMR  
23 JOSEPH R. RUNNELS, ESQ., Asst. Attorney General  
24 SANDY CHESNUT, ESQ., Asst. Attorney General  
25

1 DR. ASPER: Is there a second?  
2 MR. DRUMMOND: I second the motion.  
3 DR. ASPER: Second by Commissioner Drummond.  
4 Those in favor say aye. It's carried.  
5 D. Public Comments  
6 DR. ASPER: We have a period of public comments,  
7 and we welcome input from anybody on just about anything. In  
8 order to do that, you need to fill out one of those little  
9 forms in the back. And I don't have any filled out, so unless  
10 somebody asks to be recognized, I don't guess we have any  
11 comments or questions.  
12 E. Executive Director's Report  
13 DR. ASPER: Okay. We'll move on to the  
14 executive director's report.  
15 MR. GUICE: We have administrative penalty cases  
16 that Sandy will handle, Mr. Chairman.  
17 MS. CHESNUT: This matter involves four adult  
18 individuals, Alexander Fogg, Cause Number 011412-01, Holland  
19 McCandless, 011512-02, Andrew Lamier, 011512-03, and Justin  
20 Goggins, 011512-04.  
21 On January 15, 2012, Officers Webb and Southern  
22 stopped these individuals in a recreational vessel bearing  
23 MI-6937-BA as they were coming into the Pascagoula ship channel  
24 in the Gulf of Mexico.  
25 Upon inspection of an ice chest containing red

1 A. Call to Order  
2 DR. ASPER: Good morning. I'd like to welcome  
3 everybody to the regular January meeting of the Commission on  
4 Marine Resources.  
5 B. Approval of Minutes  
6 DR. ASPER: Since the December meeting, we have  
7 had two special meetings. And I'd like to -- actually, since  
8 December we had a special meeting on December 28. We had a  
9 special meeting for personnel matters. We have therefore three  
10 sets of minutes in our packet. Are there any corrections to  
11 any minutes, either for the last meeting or for the special  
12 meeting on December 7 and the special meeting on December 28?  
13 Are there any corrections to the minutes, or is there a motion  
14 to approve as distributed?  
15 MR. DRUMMOND: So moved, Mr. Chairman.  
16 MR. GOLLOTT: Second.  
17 DR. ASPER: So we have a motion to approve all  
18 three sets of minutes. Those in favor say aye. Carries  
19 unanimously. Thank you.  
20 C. Approval of Agenda  
21 DR. ASPER: We have an agenda before us. Are  
22 there any additions or corrections to the agenda? Or is there  
23 a motion to approve as distributed?  
24 MR. GOLLOTT: I'll make a motion that we approve  
25 the agenda as distributed.

1 drum, triggerfish, and a bag of filets were discovered.  
2 Mr. Fogg was the captain of the boat and advised  
3 that the filets were white trout, that they were being used  
4 for bait, and that it was an unregulated fish, and that they  
5 were NOAA biologists in Pascagoula.  
6 Officer Southern advised that the filets  
7 appeared to be red snapper rather than white trout and it was  
8 illegal to possess filets until final destination.  
9 Upon further questioning, Mr. Fogg advised that  
10 the red fish on board were caught within 12 miles of the island  
11 around some oil rigs.  
12 Officer Southern informed Mr. Fogg that the red  
13 fish were caught in federal waters since there were no oil rigs  
14 located in Mississippi waters, and a citation was issued to Mr.  
15 Fogg for possession of filets.  
16 On January 25, 2012, Captain Armes discovered  
17 internet posts on two separate fishing websites by A. Fogg  
18 dated January 15, 2012, stating that he and his friends had  
19 moved offshore in 60 feet of water and had caught a bunch of  
20 red snapper, catfish, triggerfish, and a nice red drum.  
21 There were pictures of the total catch, a woman  
22 with a red snapper, a man holding red fish and a triggerfish,  
23 and a man and woman holding a red drum while fishing an oil  
24 rig.  
25 It was determined that the individuals in the

1 photographs were the four individuals listed above, and  
2 citations were issued to all individuals for possession of red  
3 drum in federal waters and possession of filets.

4 All four individuals were sent letters stating  
5 that at the time of the -- I'm sorry. All four individuals  
6 sent the department letters stating that at the time of the  
7 incident they were unaware of the regulations and apologized  
8 for their actions. They stated that they are now aware of the  
9 regulations and that it would not happen again.

10 Three of the individuals, Holland McCandless,  
11 Justin Goggins, and Andrew Lamier requested and attended an  
12 informal settlement conference with Dr. Walker and Danny Guice.

13 All of the supporting documentation including  
14 photographs are being provided to each member of the  
15 commission.

16 Based upon the foregoing information, the  
17 executive director found that the allegations contained in the  
18 enforcement reports had merit and that the department  
19 recommended to the commission to impose an administrative  
20 penalty against Alexander Fogg, Holland McCandless, Justin  
21 Goggins, and Andrew Lamier in the amount of \$1,000, with \$500  
22 suspended contingent upon no new fishing violations being  
23 committed in any jurisdiction for a period of two years and  
24 payment of the \$500 fine within 45 days of the approval of the  
25 recommendation by the commission.

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1 The commission may accept or reject or modify  
2 the department's recommendation upon motion by the commission.

3 All the individuals have been advised this  
4 matter would be presented to the commission today, and they may  
5 be here and wish to address the commission.

6 When you come forward, state your name.

7 MR. GOGGINS: Hi. My name is Justin Goggins,  
8 and I just want to say that we are very sorry for what we've  
9 done and didn't have our thinking caps on and seeking leniency  
10 of this commission.

11 That's all I have to say.

12 MR. GOLLOTT: Mr. Goggins, was this a charter  
13 trip, or was it just a friendly trip?

14 MR. GOGGINS: Just a friendly trip.

15 MR. GOLLOTT: And did the captain know where you  
16 was at?

17 MR. GOGGINS: Yes, sir, I believe so. I didn't  
18 realize at the time that we were offshore in federal waters,  
19 but I believe he did know that.

20 MR. GOLLOTT: Thank you, sir.

21 MS. CHESNUT: Would anybody else like to address  
22 the commission?

23 MR. LAMIER: Hi. I'm Andrew Lamier. And as Mr.  
24 Goggins said, I would like to say how sorry we are for this  
25 incident and appreciate the director and assistant director's

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1 leniency in their recommendation on us. And also, am truly  
2 very sorry for this and hate to be a part of this entire  
3 situation. I just want to make it right. Thank you.

4 MS. CHESNUT: If there are no further comments,  
5 the commission can make a motion.

6 MR. GOLLOTT: Mr. Chairman, I think we ought to  
7 -- I'll make a motion that we accept the director's  
8 recommendation on everybody but the captain. And I think the  
9 captain should pay at least a thousand dollars since he knew.  
10 He was the one that broke the law really, and he knew where he  
11 was at, and the captain is responsible for his boat and where  
12 it's at.

13 MR. BOSARGE: I'll second that motion.

14 DR. ASPER: Is there any further discussion?  
15 Those in favor say aye. Those opposed. Carries unanimously.  
16 That ends the administrative penalty cases. Is  
17 there anything else from the executive director?

18 I'd like to make a few comments about the things  
19 that have been going on in the department and the reports that  
20 you're hearing in the newspaper and the TV.

21 I just want to let everybody know that we're as  
22 distressed about these things as everybody else is and that we  
23 promise you that in the future we are going to pay a lot closer  
24 attention to what's going on in the department.

25 It's really hard to deal with the situation

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1 where you trust somebody explicitly and implicitly and that  
2 person lets you down.

3 In this case, we trusted an individual, and we  
4 gave that person free rein with everything. And we saw lots of  
5 good things happening, and we never suspected that some of the  
6 things were taking place that have been alleged.

7 So we are aggrieved with this.

8 Is there any other action?

9 MR. TAYLOR: Mr. Chairman, I'd like to make a  
10 motion I want the commission to consider. On December 28,  
11 2012, the commission met in executive session to discuss  
12 personnel matters. The person at the center of discussion was  
13 Executive Director Bill Walker.

14 The commission heard from Dr. Walker at the  
15 meeting, and the commission reviewed information provided by  
16 the commission's legal counsel.

17 The commission then voted to suspend Dr. Walker  
18 without pay. However, upon further review and reflection in  
19 light of continuing information received by the commission, it  
20 appears that the commission has received sufficient information  
21 that warrants the removal of the executive director for cause.

22 Therefore, in an attempt to move this matter  
23 forward as soon as possible that will aid the department in a  
24 swift recovery, I make the motion that Bill Walker be dismissed  
25 immediately from his position as director of the Mississippi

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1 Department of Marine Resources.  
 2 DR. ASPER: Is there a second?  
 3 MR. BOSARGE: I second that motion.  
 4 DR. ASPER: Is there any further discussion?  
 5 Those in favor signify by saying aye. Those opposed. Carries  
 6 unanimously.  
 7 And I'd like to just say again on our behalf,  
 8 we're heartbroken by this. We think that Dr. Walker did a  
 9 fantastic job as director. And it's such a disappointment that  
 10 it has come to this. Hope those things are resolved and that  
 11 they're resolved quickly. We have been informed that it's not  
 12 going to be February. It's going to be much longer than that.  
 13 And it's going to be a very careful process. We have been  
 14 informed by the various investigators that they are doing their  
 15 job, but there's a lot to go through, so it's going to be a  
 16 while.  
 17 I'd also like to thank the media, especially the  
 18 Sun Herald, for bringing this to light. Although it's been  
 19 really painful, I think that they have been instrumental in  
 20 bringing this to the public in a way that it wouldn't have been  
 21 had they not been as diligent as they are.  
 22 And I'd like to encourage you to help us work  
 23 together to rebuild the agency because it is a good agency, and  
 24 we have so many tremendous fantastic employees here. Everybody  
 25 does their job diligently, their job accurately and in a

1 Mississippi.  
 2 I have a little letter I'd like to read just  
 3 telling you a little bit about some of the hardworking people  
 4 that work here.  
 5 I'm going to leave a word or two out of this  
 6 letter, but this letter came from the Criminal Investigation  
 7 Division for the United States Navy Headquarters in Quantico,  
 8 Virginia, for NCIS. This isn't the TV show. These are the  
 9 real people here.  
 10 On behalf of the criminal investigation service,  
 11 I'd like to take the opportunity to commend the marine patrol  
 12 dive team members, Tommy Jennings, Brice Gex, Matt Caspolich  
 13 (ph.), Donnie Ladner, and Scott Saucier for their assistance in  
 14 assisting them in trying to gather evidence from a 1995 cold  
 15 case homicide. And I'm not going to tell you what city it is  
 16 because some of the stuff is still under investigation.  
 17 But this person that was killed or came up  
 18 missing was an active member of the United States Navy, and his  
 19 body still hasn't been recovered.  
 20 But with short notice, Captain Donnie Armes and  
 21 a member of the dive team developed and executed operational  
 22 plan in September which used our boat, gear, and personnel for  
 23 several days. And it says the dive team was prepared,  
 24 professional, and they exhausted all search efforts in zero  
 25 visibility diving conditions, handling extremely sensitive

1 friendly manner. We've got the best law enforcement that we  
 2 could ever imagine having. The permitting process is just  
 3 fantastic. Fisheries are being managed extremely well. Have  
 4 no complaints there.  
 5 I assume the next step in the process is going  
 6 to be to choose a new director. In the meantime, our deputy  
 7 director will be acting, and I would assume that we will be  
 8 starting the process which will be an open process. State  
 9 statute requires that we submit three names to the governor, so  
 10 we will be looking for the very best person we possibly can to  
 11 step in and fill Dr. Walker's shoes.  
 12 And at this point, we just have no idea who that  
 13 is going to be. So we're wide open for that search.  
 14 And with that, we will move on to marine patrol.  
 15 F. Marine Patrol  
 16 2. Marine Patrol Report  
 17 MR. CHATAGNIER: Good morning, Mr. Chairman,  
 18 commissioners, legal, deputy director.  
 19 I'd like to start out first by thanking the  
 20 people that work here at DMR with all the well wishes and  
 21 thoughts and prayers that helped me convalesce through this  
 22 surgery I had.  
 23 And I'd also like to tell you that there is a  
 24 bunch of good hardworking people here proud to come to work and  
 25 proud to do a good job for the citizens of the State of

1 case, eliminated several possible locations for the remains.  
 2 And like I say, this has come from Michael  
 3 Keeler, and I'm not sure exactly what his rank is with the U.S.  
 4 Navy.  
 5 But they came to us. They solicit our help, our  
 6 dive team, for some of the work they've done in the past  
 7 recovering evidence in homicides in other cases.  
 8 Those are just some of the hardworking people  
 9 that you have working for you along the coast here.  
 10 We had a few cases of dredging on the tonging  
 11 reef.  
 12 We had one for failure to cull oysters, and one  
 13 case of a tonging boat that had a dredge on it which is  
 14 illegal.  
 15 Our crabbing cases, we had one with no  
 16 commercial license.  
 17 Gill net. We had a gill net violation.  
 18 Somebody forgot to tell this guy it was illegal to gill net in  
 19 St. Martin Bayou. He got caught and was charged with five or  
 20 six different counts.  
 21 Saltwater fishing license tickets went way down.  
 22 I think a lot of that had to do with the weather.  
 23 Even our possession of undersized seatrout, we  
 24 only had one case and only two red fish cases during the month.  
 25 We taught a marine class, St. Martin High

1 School, during the month of December and certified 53 students.  
2 The outreach, went to the high school, some high  
3 school students at Point Cadet and conducted a little  
4 presentation for those students down there.

5 Christmas on the Water parade, Christmas by the  
6 River in Moss Point, Christmas on the Water fireworks in Pass  
7 Christian, Christmas on the Bayou in Gulfport, those are some  
8 of the events that we took and assisted these people with.

9 We only had one boating accident with injuries.  
10 Had no fatalities.

11 On JEA patrols, we're a little slower during the  
12 winter months. There's not quite as many people out there, but  
13 they're still doing some patrolling.

14 We ended up issuing one state citation and four  
15 enforcement action reports that went to the feds.

16 Any questions?

17 DR. ASPER: Thank you. Appreciate it.

18 G. Marine Fisheries

19 MR. DIAZ: Good morning, commissioners, Dr.  
20 Asper, Mr. Guice, Ms. Chesnut. Chief Chatagnier, we're glad to  
21 have you back. It's good to see you back at work.

22 I've got a few things I'd like to lead off with  
23 for marine fisheries to let you know about before we get  
24 started with our presentations.

25 First, we got a letter from FDA Southeast

1 shellfish in interstate commerce and keep our fishermen and our  
2 processors and a whole bunch of other people working.

3 So I appreciate the staff's hard work on that.

4 I'd also like to let you know that the  
5 Mississippi derelict crab pot cleanup is scheduled for February  
6 21st through the 23rd. Traci and the shrimp and crab bureau  
7 have been working closely with the crab task force planning for  
8 this event this year. The staff has sent out letters to all  
9 the fishermen, and they're aware that this program is going to  
10 be conducted. And we do this program in cooperation with GCRL,  
11 so it's a partnership. And we appreciate all of their help.

12 And lastly, I mentioned this I believe at the  
13 November meeting, but I wanted to let you know that this is  
14 coming up. The Gulf Council has scheduled scoping workshops  
15 around the Gulf of Mexico to get public input on a proposed  
16 amendment that examines regional management of recreational red  
17 snapper. Scoping workshops are the first and best opportunity  
18 for the public to make suggestions or raise issues and concerns  
19 before the council begins developing the amendments. The  
20 regional management of recreational red snapper would enable  
21 areas of the Gulf to propose management measures tailored to  
22 their specific regions. These scoping workshops will address  
23 regional management issues, including locally operable  
24 management measures, regional boundaries, allocation, and other  
25 components for the design of a regional management proposal.

1 Region, and I'd like to read that to you if it's okay.

2 The letter says, enclosed please find a copy of  
3 the U.S. Food & Drug Administration FY 2012 annual program  
4 evaluation report on Mississippi shellfish sanitation program  
5 prepared by John Veazey (ph.), Southeast Regional Shellfish  
6 Specialist stationed in Baton Rouge, Louisiana, and David  
7 Wiggins, Southeast Regional Shellfish Specialist, stationed in  
8 Tallahassee, Florida.

9 Each year, the FDA evaluates program elements  
10 within each state's shellfish program to ensure compliance with  
11 the National Shellfish Sanitation Program guidelines to ensure  
12 the safety of molluscan shellfish shipped into interstate  
13 commerce.

14 We are pleased to report that the Mississippi  
15 shellfish sanitation program is in conformity with the NSSP  
16 requirements and would like to thank you and your staff for the  
17 cooperation provided through the 2012 evaluation.

18 And that is signed, Sincerely, Ellen Lehmann  
19 (ph.), Acting Director of State Cooperative Programs, Southeast  
20 Region for FDA.

21 So I'd like to commend Scott Gordon and Ruth  
22 Posadas and the shellfish staff and the seafood technology  
23 staff for the hard work that they do to keep us in compliance.  
24 It's very important that we stay in compliance because we have  
25 to be in compliance with all the elements to be able to ship

1 That scoping meeting is tonight, and it's going  
2 to be at the Four Points by Sheraton at 940 Beach Boulevard  
3 from 6:00 to 9:00 tonight. So if anybody can make that and  
4 give their input as to their thoughts on regional management of  
5 recreational red snapper.

6 If there's no questions, first up for marine  
7 fisheries is going to be Kerwin Cuevas, and he's going to do an  
8 inshore artificial reef update. This is a no action item.

9 3. Inshore Artificial Reef Update

10 MR. CUEVAS: Thank you, commissioners.

11 DR. ASPER: Kerwin, before you get started,  
12 there's clearly some misunderstanding among the commissioners  
13 and elsewhere and myself in particular regarding what the Rigs  
14 to Reefs program is all about and how it was set up, who runs  
15 it, and what our connection with the federal government is.

16 Could you just give us a quick briefing on what  
17 Rigs to Reefs is all about?

18 MR. CUEVAS: The Mississippi Department of  
19 Marine Resources has an artificial reef bureau. And the  
20 artificial reef bureau is funded through U.S. Fish & Wildlife  
21 Wallop-Breaux funds.

22 And in the bureau, there's a couple of  
23 components. The inshore reefs which is the reefs from a half  
24 mile inshore, and we usually utilize small cultch, two inch or  
25 less limestone, crushed concrete, that's usually oyster reefs

1 that we utilize for reefs.

2 And then the offshore reefs are a half mile  
3 offshore. I generally call those the offshore reefs.

4 And then you've got the Rigs to Reef which is in  
5 offshore in federal waters.

6 So there's three types of programs underneath  
7 the artificial reef bureau. It's one program, but there's  
8 three type of facets underneath it.

9 DR. ASPER: So how do we interact with the  
10 federal government on Rigs to Reefs? I mean, this is something  
11 that takes place totally in federal waters. How is it that the  
12 federal government isn't basically claiming those funds and  
13 those activities for themselves or get involved?

14 MR. CUEVAS: What happens is the oil and gas  
15 company comes to the state that they want to work with for a  
16 reef to reef their platform. It saves the oil and gas  
17 companies money. Instead of going ashore, they take it to one  
18 of the state's reef sites. They put it in their reef site, and  
19 they save funds.

20 But there's no -- the only government entity in  
21 there is the Minerals Management Service, and that's called  
22 BESSE. Now, they regulate the oil and gas companies offshore  
23 in federal waters. But they let the states handle their own  
24 Rigs to Reef program.

25 DR. ASPER: So this means that whoever -- which

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1 that's taking place now, are there very many more rigs in the  
2 pipeline to be reefed for Mississippi?

3 MR. CUEVAS: Right now, we don't have -- we have  
4 under contract two. But I'm not sure when that's going to  
5 happen because there are so many -- we're east of the river.  
6 Most of this is coming out west of the river, Texas and  
7 Louisiana, of course. And the Main Pass area, there's very few  
8 older jackets. It's a relatively new area. So we're kind of  
9 slow on this area. And it wouldn't behoove the State of  
10 Mississippi to go west of the river to look for, you know, reef  
11 and jackets over there.

12 MR. BOSARGE: So you're saying that we're not  
13 going west of the river --

14 MR. CUEVAS: No, sir.

15 MR. BOSARGE: -- to reef jackets?

16 MR. CUEVAS: Right. We'll just stay east of the  
17 river south of Mississippi.

18 MR. BOSARGE: Thank you.

19 DR. ASPER: Sorry to interrupt like that, but  
20 that was something that we just needed to have cleared up so  
21 we're all on the same page.

22 So continue with your report, please.

23 MR. CUEVAS: Thank you. This is a NRDA project  
24 that the inshore state Department of Marine Resources obtained  
25 from, of course, the BP.

19

1 state actually lays claim to this offshore water, it's not  
2 theirs, it's federal water, but we've had discussion about the  
3 state boundaries, and that means that where these boundaries  
4 are drawn and who manages these offshore reefs really is  
5 extremely important, not only for the reefs themselves, but for  
6 this program.

7 MR. CUEVAS: That's correct. The state has to  
8 go to a Corps of Engineers and get a permit in federal waters,  
9 and they have to work -- the Corps of Engineers has to work  
10 with BESSE, the former MMS, Minerals Management Service  
11 Company, and to get a reef site. And then once a reef site is  
12 obtained, then the state can reef that jacket, the state and  
13 the oil and gas company can reef that jacket.

14 DR. ASPER: Okay. Thank you for clearing that  
15 up.

16 MR. BOSARGE: I have a question just for  
17 clarification. How -- what's the furthest reef we have south  
18 of here mileage-wise?

19 MR. CUEVAS: We have a reef in the south -- it's  
20 not in the -- probably Main Pass 280.

21 MR. BOSARGE: Which is?

22 MR. GOLLOTT: Sixty miles or so.

23 MR. CUEVAS: It's approximately 80 miles south  
24 of Pascagoula.

25 MR. BOSARGE: With all the de-commissioning

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1 Due to contractual obligations and going out for  
2 public bids on the contractor, we did do some deployments just  
3 before the first of the year. This is just an update on what  
4 we did the first of the year. And it will restart up in March  
5 to finish the whole 67. We've got a project to restore and  
6 enhance all 67 of Mississippi's inshore reefs. As I stated,  
7 due to the long time it took to go out on public notice to get  
8 a contractor and all that, we just had a small window of  
9 opportunity to deploy before the new year, and this is just an  
10 update on what we deployed.

11 We deployed five reefs toward the eastern side  
12 of the State of Mississippi. This is our map of the inshore  
13 reefs. You can see, we have inshore reefs from state line of  
14 Alabama to state line of Louisiana. These reefs are there for  
15 our inshore fishermen, wade fishermen, and pier fishermen.  
16 They're located near boat ramps for fishermen that utilize our  
17 small skiffs and such. They're located where wade fishermen  
18 can and do fish, and our pier fishermen who don't have boats,  
19 they can get on the pier and still fish on the reefs.

20 The first reef was the Pascagoula Reef Site 1.  
21 We put approximately 900 cubic yards of fresh concrete. And  
22 J.E. Boories won the contract with this. And they did a good  
23 job to everything -- they did everything that we asked to  
24 create the habitat and create in a manner that will last a long  
25 time.

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1 Our next one was Pascagoula front beach reef,  
2 approximately 900 cubic yards there.  
3 And then this is the Pascagoula municipal pier  
4 reef. We only put 400 cubic yards there due to the area. It's  
5 a small area.  
6 And the Graveline reef, 900 cubic yards. This  
7 is one of the best reefs I hear from our fishermen on the Gulf  
8 Coast. A lot of people utilize this Graveline reef.  
9 And the Belle Fountain reef, another 900 cubic  
10 yards there.  
11 These are the five reefs. Approximately 4000  
12 cubic yards of material was put on these reefs. And in March  
13 when the tide is a little bit better for them to get in with  
14 their tugs and their barges, we'll restart up in March and  
15 finish the rest of the 67. So we look forward to enhancing and  
16 restoring the rest of Mississippi's inshore reefs.  
17 Any questions?  
18 MR. BOSARGE: The same shell is what you're  
19 going to put on that?  
20 MR. CUEVAS: Yes, sir. Yes, sir. 57/67  
21 limestone.  
22 MR. BOSARGE: And basically working your way  
23 from east to west?  
24 MR. CUEVAS: It's going to be up to the  
25 contractor. Where he has the staging sites, I imagine he'll

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1 have a couple of staging sites throughout the Gulf Coast. And  
2 we will work with the contractor which sites he wants to do  
3 and, you know, as it gets in summer, people are going to be  
4 utilizing the reefs to fish in. So I'd like to get it, you  
5 know, before it's heavily used so we don't bother our  
6 fishermen.  
7 MR. BOSARGE: And the reefs that are not around  
8 the piers, are they marked in any kind of way?  
9 MR. CUEVAS: Yes, sir. We do mark them.  
10 They're marked with PVC poles with a sign. Sometimes people  
11 tie up to them. But we try to keep them up because most of  
12 your inshore fishermen -- not most -- some of your inshore  
13 fishermen, they don't utilize GPSs on their small boats, so  
14 it's easier for them to see with a pole.  
15 MR. BOSARGE: Thank you.  
16 MR. DRUMMOND: Kerwin, all these reefs in  
17 Jackson County, are they strictly shell reefs?  
18 MR. CUEVAS: Yes, sir. They're all low profile  
19 limestone crushed concrete oyster reefs.  
20 MR. DRUMMOND: Thank you.  
21 DR. ASPER: And when you say this is a NRDA  
22 project, NRDA means Natural Resource Damage Assessment. The  
23 funding for that ultimately comes from BP?  
24 MR. CUEVAS: Yes, sir. This is one of two Phase  
25 1 projects. Scott has the other one from Mississippi.

22

1 DR. ASPER: Other questions?  
2 MR. GOLLOTT: Kerwin, just a quick question. Is  
3 the Katrina Reef, the one outside of Deer Island, in Jackson or  
4 Harrison County?  
5 MR. CUEVAS: Harrison County. It's close, but  
6 it's in Harrison.  
7 And we are going to utilize material from the  
8 NRDA project to -- around the Katrina Key to deploy some  
9 material more that's around there now.  
10 MR. GOLLOTT: You know, I understand that there  
11 was an oyster reef in that area years ago before we did all of  
12 this. Is there a possibility that we could make a half-moon  
13 and put an oyster reef in the middle, a tonging reef or  
14 something, and could we look into that? Sounds like a good  
15 idea.  
16 MR. CUEVAS: Yes, sir, we'd be glad to look into  
17 that for you.  
18 I'd be glad to work with you. If you knew any  
19 historical data where the reef was, we can utilize our side  
20 scan and possibly look for it. And if permits allow, it's  
21 something we could do, I'll get with Dale and Mr. Guice and  
22 we'll do what we can do.  
23 MR. GOLLOTT: Thank you.  
24 DR. ASPER: Thank you, Kerwin.  
25 MR. DIAZ: Thank you, Kerwin.

23

1 Next up for marine fisheries, Scott Gordon is  
2 going to do an oyster season update. This is a no action item.  
3 4. Oyster Season Update  
4 MR. GORDON: Good morning, Mr. Chairman,  
5 commissioners, Mr. Guice, Ms. Chesnut.  
6 Just wanted to update you briefly on our limited  
7 oyster season.  
8 This is through today. The limited season  
9 opened November 5. To date, we've had 53,251 sacks harvested.  
10 As far as limited seasons go, I believe we have  
11 been successful with it.  
12 There have been 3,454 trips. That averages out  
13 to 15.4 sacks per trip for all harvest types, tonging and  
14 dredging.  
15 The dredgers, they've harvested 51,442 sacks  
16 over 3,173 trips. That averages out to 16.2 sacks per trip.  
17 And we closed dredging season for this limited season December  
18 22.  
19 Tongers have harvested 1809 sacks over 281  
20 trips. That averages out to 6.4 sacks per trip.  
21 All areas have been closed since December 30 due  
22 to the Pearl River stage. Once the Pearl River stage reaches  
23 -- our two main points are at the ten foot level, that will  
24 shut some of the inshore waters down. And then the 12 and a  
25 half foot level, that will shut other waters down.

24



1 I went back a month so you could see what the  
2 Pearl River is doing. And as you can see, it's just been  
3 steadily stair stepping upwards.

4 These little triangles below, this is the median  
5 daily statistic over a 17 year period. So the Pearl River is  
6 above what that 17 year average has been.

7 And to show you what it's forecast for the rest  
8 of this week, they've got it forecast to going up to 17.7 feet,  
9 which is just below the major flood stage of 18 feet and just  
10 staying there. So we keep a watch on this.

11 And I thought it would be interesting just to  
12 look at the past year what the Pearl River has done. Again,  
13 these triangles on here that shows the median daily statistic,  
14 and this is over a 14 year period. Largely, we are above that,  
15 so this seems to be a wetter year. And generally slightly  
16 wetter years, they tend to be conducive to good oyster  
17 production.

18 So this looks good for the future. We don't  
19 want to get too much fresh water, such as them opening up the  
20 Bonnet Carre Spillway and killing a lot of oysters. But a good  
21 steady supply of water is what is needed.

22 I wanted to tell you a couple other activities  
23 that we have going on in the shellfish bureau.

24 The CONSERVATIONIST will be doing some  
25 cultivation with bagless dredges. We're going to start in the

25

1 west first, and we are hoping to improve some of the conditions  
2 with the hook mussel problem that we have.

3 And also later on closer to the spring to clean  
4 shell that will make it more conducive to getting a successful  
5 spat set.

6 We're in the process, and they had bid openings  
7 about a week or two ago, for a spring NRDA cultch plant which  
8 could exceed 1400 acres. This is a leftover fall cultch plant  
9 plus an additional spring cultch plant.

10 That would be in excess or has the potential in  
11 excess of 140,000 cubic yards of material. We are working with  
12 the Mississippi Department of Environmental Quality on this.  
13 We have an MOA with them to provide oversight and supervision  
14 of the deployment process.

15 To put that 1400 acres into perspective, one  
16 oyster restoration group in the Chesapeake Bay area reported  
17 restoring of about 1400 acres over more than a 15 year period.  
18 And I made the comment to some of the folks I believe this may  
19 be one of the largest single cultch plantings ever. I don't  
20 have any proof of that, but I haven't been able to find  
21 anything that exceeded this. But it's going to be a very large  
22 undertaking. And if you were looking at large barges that  
23 would hold a thousand cubic yards of material, we're talking in  
24 excess of 141, 142 bargeloads. So that's a pretty sizeable  
25 undertaking.

26

1 Do you have any questions?

2 MR. BOSARGE: Where is this cultch plant, where  
3 is most of it going?

4 MR. GORDON: This is going to go on the western  
5 reefs. And those are the areas that we're normally able to  
6 open up right now. And again, this is one of the early oyster  
7 restoration projects. We're hopeful that we'll have some more  
8 in the future that we can look at some other areas.

9 In addition, the shellfish bureau has two other  
10 -- I'm sorry -- three other grants that we have received. One  
11 of them is for about a ten acre site. And another is a 25 acre  
12 site. Those are going to be in some of the bay areas. And  
13 then we have another Deer Island restoration project where  
14 they're putting the oyster shell in the bags trying to do some  
15 shoreline stabilization and improve the oyster habitat in those  
16 areas.

17 So we have a lot of different things going on.

18 MR. BOSARGE: You might have told me, but I  
19 didn't hear you. When is the cultch plant going to take place,  
20 or when do you think?

21 MR. GORDON: This spring.

22 MR. BOSARGE: Thank you.

23 MR. GORDON: Any other questions?

24 MR. DRUMMOND: What about all this fresh water  
25 coming, Scott?

27

1 MR. GORDON: As long as we don't get too much of  
2 it, we're in good shape. In fact, I welcome the fresh water.  
3 That helps keep oyster drills, you know, pushed back and out  
4 of the areas and helps the oysters grow. So it's a healthy  
5 thing to have fresh water, as long as we don't get too much of  
6 it.

7 DR. ASPER: Okay. Thank you very much, Scott.  
8 Now we'll move on to coastal ecology. Jan.

9 H. Coastal Ecology

10 MR. BOYD: Good morning, Mr. Chairman,  
11 commissioners, Mr. Guice, and Ms. Chesnut.

12 Coastal ecology has one action item for your  
13 consideration this morning, and Jennifer Wittmann will be  
14 presenting that.

15 3. Bureau of Wetlands Permitting

16 a. Royal D'Iberville Development, Inc.

17 MS. WITTMANN: Good morning. I will be  
18 presenting coastal ecology's only item on the agenda today.

19 We have a request for extension by the Royal  
20 D'Iberville Development, Incorporated, located on the Back Bay  
21 of Biloxi west of Boney Avenue in D'Iberville in Harrison  
22 County. It is in the commercial fishing and recreational  
23 marinas use district.

24 Project location is in this area right north of  
25 the Back Bay of Biloxi. This is I-110 right there.

28

1 The applicant is requesting a four year  
 2 extension of an existing permit. The current project  
 3 description as approved consists of a 500 room hotel, 2500  
 4 space multi-level parking garage, permanent mooring structures,  
 5 a 210 by 15 foot pier, 450 linear feet of bulkhead, four  
 6 mooring cassions, four entrance ramps, the dredging of 1500  
 7 cubic yards of material, and landside work includes porte  
 8 cochere, 425 foot space parking area, continuance of a hotel  
 9 and parking structure, road improvements to Boney Avenue,  
 10 Bayshore Drive, and the I-110 Rodriguez Street interchange,  
 11 construction of a sewer lift station, and a six inch force main  
 12 from the casino to the D'Iberville sewage treatment plant.

13 Special conditions included in the original  
 14 permit approved by the commission include that the non-water  
 15 dependent footprint over the water be no greater than 24,135  
 16 square feet and also no greater than anything approved by the  
 17 Secretary of State's Office.

18 The project should have minimal exterior  
 19 lighting with no bright lights directed on or towards the bay  
 20 so as to prevent disturbance to wildlife in the area.

21 Structures would have to comply with the Keesler  
 22 Air Force Base height restriction of 170 feet.

23 The permittee was required to submit \$100,000 to  
 24 the Mississippi Coastal Preserves Program.

25 And two wetland areas, one measuring 41,933

1 square feet and the other 9,699 square feet, were required to  
 2 be restored and enhanced with Spartina alterniflora.

3 This is the project diagram. All the upland  
 4 areas are the lighter white areas, and the bay is down here.

5 And these areas are the Spartina alterniflora  
 6 marsh enhancement and restoration areas.

7 On November 10, 2003, a permit application was  
 8 submitted to DMR with the environmental impact statement.

9 On January 20, 2004, the commission approved  
 10 that permit with all work to be completed by January 20, 2007.

11 On April 17, 2007, the commission granted a two  
 12 year extension of the permit until January 20, 2009.

13 And on December 21, 2010, the commission granted  
 14 a four year extension of the permit, one of which was  
 15 retroactive until January 20, 2013.

16 Staff has conducted a thorough evaluation of the  
 17 project and recommends that the commission approve the four  
 18 year extension request with all work to be completed by January  
 19 20, 2017.

20 I know Mr. Terry Moran is here if you have  
 21 questions for him. And I would also be happy to answer any  
 22 questions.

23 MR. DRUMMOND: Jennifer, how many -- is there a  
 24 limit on the number of extensions that we can approve for this  
 25 project?

1 MS. WITTMANN: No, sir, not that I'm aware of.

2 The project has changed over the --

3 MR. DRUMMOND: To give them an extension for  
 4 another four years?

5 MS. WITTMANN: Yes, sir.

6 We have typically extended permits in the past  
 7 for casino developments. When a lot of them were originally  
 8 approved, it was before Hurricane Katrina, and after the  
 9 hurricane there was some trouble getting new developers in.  
 10 Mr. Moran has told me that they do have a developer that is  
 11 looking at the site, and they do plan to move forward with the  
 12 project as soon as possible. They have received their approval  
 13 from the gaming commission.

14 The project will not be a barge as it was  
 15 originally approved. But they are planning to construct a  
 16 bulkhead. They will comply with the height restrictions from  
 17 Keesler Air Force Base. They will do the enhancement to the  
 18 marsh area. And they will also donate the \$100,000 to the  
 19 Coastal Preserves.

20 At this point, they are not planning to do the  
 21 dredging that had been permitted. They are not planning on  
 22 constructing the entrance ramps, the mooring cassions, or the  
 23 parking.

24 So the project has changed slightly, but it  
 25 won't move beyond the footprint of what has originally been

1 approved.

2 MR. DRUMMOND: We haven't heard this story  
 3 before?

4 MS. WITTMANN: I think all of the troubles that  
 5 the coast has had with moving forward because of the hurricane  
 6 and the BP oil spill. And then, like I said, we have given  
 7 other entities the opportunity to move forward.

8 Mr. Moran can probably answer some more  
 9 questions about what they currently have in the lineup, if  
 10 you'd like to hear from him.

11 MR. DRUMMOND: Not necessary.

12 DR. ASPER: Any other questions? Or is there a  
 13 motion?

14 MR. BOSARGE: I'll make a motion we accept  
 15 staff's recommendation.

16 MR. GOLLOTT: I'll second the motion.

17 DR. ASPER: Is there any further discussion?  
 18 Those in favor say aye. Those opposed. Carries unanimously.

19 MS. WITTMANN: Thank you.

20 DR. ASPER: That brings us to the end of coastal  
 21 ecology.

22 We'll move on to our financial report.

23 3. Administrative Services

24 2. Financial Report

25 MS. VESA: Good morning, everyone. My name is

1 Kara Vesa. I'll be giving the financial report today.  
 2 As of December 31, 2012, our budget was  
 3 \$6,152,176. On the same date of December 31, we had spent  
 4 \$3,818,011, leaving a remaining balance of \$2,334,165.  
 5 And our tideland funds remain obligated for this  
 6 fiscal year.

7 Are there any questions?

8 DR. ASPER: We have lots of questions, but I  
 9 think we're going to postpone those for now. We regret not  
 10 being better informed about the full financial picture of the  
 11 agency.

12 I believe we have a motion.

13 MR. BOSARGE: Yes.

14 MR. GOLLOTT: We do, Mr. Chairman, at this time.  
 15 Mr. Chairman, it is apparent that the commission needs to  
 16 require that the executive director to be more forthcoming with  
 17 information regarding the executive director's day to day  
 18 operations for the Mississippi Department of Marine Resources.

19 Specifically, the commission needs to be  
 20 informed about employee decisions, especially contract  
 21 employees, land acquisition programs, and budget information.

22 The statute grants the executive director  
 23 authority over personnel matters, but the commission has  
 24 oversight of the department and the executive director. The  
 25 commission needs to be advised when the executive director

33

1 can about it, not because our staff is incapable of doing it,  
 2 but simply because we are ultimately responsible for the  
 3 agency. Therefore, we need to be better informed.

4 So that's what the intention of this is, to  
 5 require more complete information. As you saw, Kara Vesa's  
 6 report covered just basically the state appropriation and the  
 7 money that we get from offshore vehicle taxes. It doesn't  
 8 cover any federal grants, it doesn't cover any of those things.  
 9 And we just feel that we need to be better informed. So that's  
 10 where this is coming from.

11 Is there any further discussion? Those in favor  
 12 say aye. Those opposed. Carries unanimously.

13 And I believe at this point, Sandy would like to  
 14 address us.

15 MS. CHESNUT: Right. There have been  
 16 allegations recently that the department has wrongly denied  
 17 documents to the Sun Herald. And I just want to advise the  
 18 commission on that matter so that they will be fully informed  
 19 of what's going on.

20 The department has provided the Sun Herald  
 21 numerous documents pursuant to the public records request in a  
 22 timely and efficient manner. However, last week the department  
 23 was served a subpoena which was issued by the state auditor's  
 24 office and returnable to the grand jury.

25 This subpoena specifically mandated that the

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1 hires contract employees to be sure that there is a need for  
 2 the employees and the resources to pay the salaries.

3 The commission needs to be informed about land  
 4 acquisition programs to make sure that the programs are  
 5 justified and that the properties acquired serve the mission of  
 6 the Mississippi Department of Marine Resources and that the  
 7 properties will not be a drain on the department's resources.

8 Finally, the commission needs periodic updates  
 9 on the status of the budget from the executive director, and  
 10 the commission needs to be specifically informed as to whether  
 11 or not there are sufficient state funds available to meet the  
 12 operational costs of the Mississippi Department of Marine  
 13 Resources.

14 Therefore, I make the motion that the staff and  
 15 legal counsel review the commission's administrative handbook  
 16 and propose amendments to the duties of the executive director  
 17 to specifically require the executive director to report to the  
 18 commission on the matter that I just outlined.

19 DR. ASPER: Is there a second to this motion?

20 MR. DRUMMOND: I second the motion.

21 DR. ASPER: Just for clarification for the  
 22 public, we as a commission have not been involved in the day to  
 23 day management of the budget, and we have not been well  
 24 informed of how that budget is being handled. And that is  
 25 going to change. We are going to know as much as we possibly

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1 records requested by the subpoena may not be released to any  
 2 other entity besides the state auditor's office.

3 To provide the requested documents to the Sun  
 4 Herald would have violated the terms of the subpoena and would  
 5 place the department in contempt of court pursuant to  
 6 Mississippi Code Annotated 13-7-2.

7 Furthermore, any individual that violates the  
 8 terms of a subpoena is subject to charges of obstruction of  
 9 justice by the state auditor's office.

10 Accordingly, pursuant to the terms of the  
 11 subpoena and upon the advice received from the state auditor's  
 12 office, the department's only course of action was to comply  
 13 with the subpoena and deny the release of records to the Sun  
 14 Herald.

15 If the Sun Herald chooses to do so, they may  
 16 challenge the validity of the state auditor's subpoena in a  
 17 proper forum. Until then, the department will comply with the  
 18 mandates of the subpoena, and requests for any documents  
 19 subject to the state auditor's subpoena will be denied.

20 DR. ASPER: And I'll summarize that in one  
 21 sentence. We're caught between trying to not negatively impact  
 22 the investigation and want to, of course, comply with the  
 23 subpoena, but on the other hand, we want to be as open as  
 24 possible with all the information we have.

25 So our legal counsel is doing a really good job

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1 of walking the fine line between those two demands.  
 2 And we're about to close the meeting. I just  
 3 want to remind you again that we as a commission are trying to  
 4 do our very best job to manage the resources for the State of  
 5 Mississippi and trying to do the very best job we can with the  
 6 agency. And we voted last December that if the media has  
 7 questions the point person should be myself. I will be the  
 8 person to answer any questions regarding our actions and  
 9 activities. Of course, you're always welcome to contact the  
 10 deputy director, as well.

11 With that, is there a motion to adjourn?

12 MR. DRUMMOND: I make a motion to adjourn.

13 MR. GOLIOTT: I'll second.

14 DR. ASPER: We're adjourned.

15 (Meeting adjourned 9:55 a.m.)  
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 17  
 18  
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1 COMMISSION ON MARINE RESOURCES  
 2  
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4 COURT REPORTER'S CERTIFICATE  
 5

6 I, Norma Jean Ladner Soroe, Certified Shorthand  
 7 Reporter, do hereby certify that to the best of my skill and  
 8 ability I have reported the meeting of the Commission on Marine  
 9 Resources and that the foregoing 37 pages constitute a true and  
 10 correct transcription of said meeting held on the 15th day of  
 11 January 2013.

12 I do further certify that my certificate annexed  
 13 hereto applies only to the original and certified transcript.  
 14 The undersigned assumes no responsibility for the accuracy of  
 15 any reproduced copies not made under my control and direction.

16 Witness my signature this the 29th day of January  
 17 2013.  
 18  
 19  
 20

21   
 22 NORMA JEAN LADNER SOROE, CSR #1297  
 23 Certified Shorthand Reporter  
 24  
 25

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