COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

July 16, 2013

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A. Call to Order

MR. TAYLOR: I'd like to welcome all of you to the July CMR meeting. As usual, if we have a time in the meeting for a comment, there are comment forms in the rear that you have to fill out and give to Sandy or Jennifer. She'll get them and bring them up, and we'll give you some time.

Okay. First order of business on the agenda is the election of officers for 2014. Do I have a motion to do the election of officers?

MR. GOLLOTT: So moved, Mr. Chairman.

MR. TAYLOR: Okay. Is there a second?

MR. DRUMMOND: I second it.

MR. TAYLOR: All in favor. Passes. Okay.

Are there any nominations for chairman?

MR. BOSARGE: I'd like to nominate Jimmy Taylor as chairman.

MR. GOLLOTT: I'll second that.

MR. TAYLOR: All in favor. Hold on a second. Are there any other nominations for chairman? All those in favor. Okay.

Are there -- okay. I'll entertain a motion for nominations for vice-chairman.

MR. DRUMMOND: Mr. Chairman, I nominate Richard Gollott for vice-chairman of the commission.

B. Approval of Minutes

MR. TAYLOR: Okay. Next order of business is approval of the minutes. Are there any corrections or deletions on last month's meeting? If not, I'll entertain a motion to approve the minutes.

MR. GOLLOTT: So moved.

MR. DRUMMOND: So moved.

MR. TAYLOR: Second?

MR. GOLLOTT: Second.

MR. TAYLOR: All those in favor. Passes unanimously.

C. Approval of Agenda

MR. TAYLOR: Okay. Approval of the agenda. Are there any changes or deletions in the agenda you would like to make? Then I'll entertain a motion to approve the agenda as published.

MR. DRUMMOND: So moved, Mr. Chairman.

MR. GOLLOTT: Second, Mr. Chairman.

MR. TAYLOR: All those in favor. Passes unanimous.

D. Public Comments

MR. TAYLOR: Since we have no public comments, we are going to move on to the executive director's report.

MR. MILLER: Thank you, Mr. Chairman.

As part of my report, we will be doing the bid opening for the two vessels, The CALIFORNIA and The TOPAZ.

We've asked our attorney, Sandy Chesnut, to open those envelopes with our acting marine patrol chief, Rusty Pittman, to witness.

But I've got just a brief statement in regards to the advertisement.

The MDNR advertised for the submission of sealed bids for The TOPAZ and CALIFORNIA boats on Friday, June 21, and Friday, June 28.

Bids were accepted until 3:00 p.m. on Monday, July 15, 2013, with the bid opening to take place at the Commission on Marine Resources regular scheduled monthly meeting today, Tuesday, July 16, 2013.

The department received 20 bids by the advertised deadline. As advertised, the bids will now be opened and read aloud.

As a reminder, this will serve only as the bid opening. No discussion will be entered into with any bidder or any member of the public as to the quality or provisions of the specifications, and no award will be made, either stated or implied, at this bid opening.
The MDR reserves the right to reject any and all bids and to waive any informality, including but not limited to bids that the agency deems disproportionate in comparison to the estimated value of the vessels.

And I will make one more comment. There's been a lot of questions and comments about the decision that was made to remove the electronics from these two vessels. And I want to be clear that the decision was made that these vessels, these electronics, were purchased with State of Mississippi taxpayer money and that they served a higher purpose in value for the agency moving forward, whereas the two recreational vehicles themselves did not. So we made a decision to pull those electronics off to use on our working vessels in the future.

So I don't want there to be any questions about why the decision was made or whether it was the right decision. We believe and I believe and directed our staff to remove those electronics because they have a higher purpose for our agency's mission.

Are you prepared to open the bids, Sandy?

MS. CHESSMAN: They are being retrieved at this moment. Momentary delay.

I can explain the process that we'll be doing. I will be opening the bids. Rusty Pittman will be serving as the witness for the bids. And Tom Doster will tally all the bids. And then once we are finished, the bids will be posted on a bulletin board in the hallway for review. So just to kind of give you a little overview of the process.

The first bid opened is from Debbie Landry May. This is a bid on the CALIFORNIA in the amount of $66,100.

The second bid is from Debbie Landry May. This is on the TOPAZ in the amount of $27,600.

The next bid is from Michael O'Dwyer on the CALIFORNIA in the amount of $87,500.

The next bid is from John Higginbotham on the CALIFORNIA in the amount of $6,000.

MR. ORMOND: How much?

MS. CHESSMAN: Six thousand.

The next bid is from John Higginbotham, as well, on the TOPAZ in the amount of $5,000.

This bid is from William Moseley on the CALIFORNIA in the amount of $1,015. This is also from William Moseley on the TOPAZ in the amount of $1,015.

This is bid from Edward Currie on the CALIFORNIA in the amount of $29,000. Next bid is from Edward Currie on the TOPAZ in the amount of $16,000.

A bid from Mitchell Marine, Incorporated, on the TOPAZ in the amount of $25,250.

Another bid from Mitchell Marine on The CALIFORNIA in the amount of $32,250.

Bid from Unique Collision Center on The TOPAZ for $21,209.94.

Another bid from Unique Collision Center on The CALIFORNIA in the amount of $66,357.91.

Bid by Christopher Vancleave. This is for The TOPAZ in the amount of $12,100.

This bid is from Donnie Landry on The TOPAZ in the amount of $34,287.50.

This is from OS Management Group, a bid on The TOPAZ in the amount of $25,000.

A bid from D&N Towing & Salvage on The CALIFORNIA for $3,500.

And a bid from D&N Towing & Salvage on The TOPAZ for $3,500.

Bid from Richard Foreman on The TOPAZ for $13,00.

Another bid from Richard Foreman for The CALIFORNIA for $28,500.

A bid from Aral Cereal on The TOPAZ in the amount of $15,000.

This bid is from George Meridian on The TOPAZ in the amount of $11,001.

This bid is from Carol Houp, and this is on The CALIFORNIA in the amount of $82,000.

Next bid is from Fairco, Incorporated, on The TOPAZ in the amount of $23,777.

Another from Fairco, Incorporated, on The CALIFORNIA in the amount of $17,777.

This is from Anthony Fournier on The TOPAZ in the amount of $38,614.05.

And I think that's it. And that concludes the bids.

MR. MILLER: Thank you.

Let me just read one or two more statements.

Thank you, Sandy.

This does conclude the bid opening. If a bid is accepted, the sale must be approved by the Mississippi Department of Finance & Administration.

A decision will be announced as soon as possible but no later than Friday, July 26, 2013.

These bids will be posted on the bulletin board in the hallway if you want to review those bids. And again, let me just say that the MDR reserves the right to reject any and all bids and to waive any informality, including but not limited to bids that the agency deems disproportionate in comparison to the estimated value of the vessels.

And also would like to mention that we will...
Thank you very much.

MR. TAYLOR: Okay, I'm going to back up. We have some comments handed to me. Evidently they didn't realize they had to sign for them.

And under the comments, if you would, come forward to the microphone, state your name, and then I'll give you three minutes.

The first one is Tao Vu.

MS. VU: Good morning, everyone, Director Miller and the commissioners. My name is Tao Vu. And I'm also here on behalf of Mr. ( ). He also just recently signed a comment form, and that's why I asked him to join me instead of coming back up in a few minutes.

Again, my name is Tao Vu. And I work with Mississippi Coalition for Vietnamese American Fisher Folks and Families. We're a nonprofit organization formed after the BP oil disaster.

And I would like to really emphasize the importance of addressing language barriers and access on the front end. For example, just having this agenda right here in front of us translated into Vietnamese language for those who have language barriers. You know, this is a public meeting, and for the majority of Vietnamese American community, who are very dependent on commercial fishing for their livelihoods and jobs, you know, the topics and issues and concerns that are brought up at these types of meetings are very important and relevant to their livelihoods and jobs and way of life. And it's very important that, you know, we work together to try and address all these language needs.

That also means having interpreters at the meetings and doing outreach in a different manner. We know that DMR typically does outreach in terms of notifying meetings and notices through the website, you know. But for many minority families all along the coast, and it's not just the Vietnamese community, they lack computers. They don't have e-mail. And they're not aware of the meetings or anything that is important topics that are discussed at the meetings that they should attend or participate in.

So addressing language barriers, such as having interpreters, translated documents or translated agenda, and providing interpreters, I think that's a very good start that will help, you know, in terms of the agency working and better communication between agencies and the various communities diverse population we have here on the coast, and I think will address, you know, immediate the concerns and sometimes the miscommunication that happens between all of us.

Baton Rouge, Louisiana.

We want to know when commercial fishermen who have been impacted by this oil disaster will receive this disaster assistance funding.

In addition, specifically for oyster harvesting, which has been my primary livelihood, the oyster reefs have been closed for the most part since 2010. And to this day, it still is closed except for last year it opened five to six weeks.

I have not received any interim compensation from back then Gulf Coast Claims Facility, nor the BP settlement, for all of the losses I suffered and reduced income that I've had to experience as a result of these closed fisheries.

I know that one of the early restoration projects was placing culftch on that reef. At this point, we don't know when those reefs will be reopened. It will be reopened when it's healthy and there is enough baby spat sets that will grow up to become adult oysters that we can harvest in the future.

And we really have experienced great financial hardship, particularly because of these closed fisheries. We don't know when the fisheries will reopen like it was before this BP disaster. It may be seasons before it's opened again.

Before the BP disaster, the oyster season typically lasted
almost eight months for us.

There was a sufficient way for me to be able to
provide and support my family. It was a great income but it
was sufficient where I no longer depended on federal benefits.
But at this point, since the BP disaster, I've had to depend on
federal benefits and social service providers because my income
has been drastically reduced because of closed fisheries.

Please look into disaster assistance funding for
commercial fishermen. We greatly need it at this point. Thank
you.

MR. TAYLOR: Thank you. You made some good
points. However, I just want to reiterate that the floods, the
opening of the Bonnet Carre Spillway in 2012, really did
probably as much or more harm as -- I'm not a biologist, but we
know that it killed most of our reefs in western Harrison
County. So thank you for your comments very much.

Next up is office of finance and administration,
overview of agency grants and budget overview.

F. Office of Finance and Administration
1. Overview of Agency Grants

MR. MILLER: Thank you, Chairman. I'm going to
provide this presentation, although it's a result of effort
from everybody in the agency. I've asked to get information on
each and every one of the grants that the agency deals with,
and I know the commission has made it a commitment and voiced
that to me at least having the overview of the grants and the current status.

So this is kind of a broad overview, but I think
it's important for everyone to kind of get a sense of how many
grants we're actually operating.

So with that, let's go.

So to separate these by agency or U.S.
departments. So we'll start with Department of Commerce, which
is NOAA. NOAA is a large funder of some of our federal
programs here.

Coastal Zone Management is a large funder, about
$1.1 million annually. That goes to our coastal ecology or our
now coastal zone management staff. It provides for about ten
staffers, travel, supplies, and equipment. And it is one to
one match. We match that million and one with state dollars.

Next is National Estuarine Research Reserve or
the NERR which is the facility that we have, Grand Bay NERR in
eastern Jackson County. It is also matched with state dollars.
And this is kind of a recent running total of that federal and
state funding stream and the obligated balances.

This is NOAA through Gulf States Marine
Commission partners with us, provides in time post-disaster,
disaster assistance, emergency disaster assistance program. So
we refer to this as Emergency Disaster Recovery Program 1. It
was a congressional appropriation. The initial one was
post-Katrina. It was September '06 and will close out this
year August. So the grant award was $37 million, and we've got
a remaining balance of about a hundred thousand there. No
match was required.

Next came EDRP-2 which was in December of 2007
and will conclude September of 2013. This grant award was for
$25 million, and we've got an obligated balance remaining of
about six hundred eighty thousand.

Next -- remember, these programs exist in
several different offices within the agency, but I have put
them together under the federal partner who we receive the
money from. So this is through NOAA, through Department of
Commerce. It's a joint enforcement agreement or JEA. It's a
federal/state agreement to prevent and detect violations
identified in the Magnuson-Stevens Fishery Conservation
Management Act. This runs annually. It's July '12 through
June '13, and the grant award, most recent grant award, was
$553,000.

This is an example, one example, of some of the
things we do with the JEA money. It supports the equipment and
boats that our officers use to patrol waters here, state waters
and federal waters. I don't know if you can see that picture,
but it's basically just to refurbish one of our vessels. I'm
not sure which one this is, maybe The MOOSE -- CAPTAIN MOOSE,
I'm sorry.
1 not large but a primary federal partner of ours. Wildlife and
2 sport fish restoration. This is just some examples. Wildlife
3 Restoration Grant Program, Sport Fish Restoration Grant
4 Program, the Clean Vessel Act, boating infrastructure grant,
5 National Coastal Wetlands Conservation grant.
6 And this is a breakout of each of those projects
7 within those programs. Sport fish tag and release, sport fish
8 studies coastal Mississippi, artificial reef program, striped
9 bass restoration, coordination planning administration,
10 Mississippi boat access program, boating infrastructure grant,
11 Clean Vessel Act.
12 Others. Fuel reduction grant. This is at the
13 NERR, but I've listed it because of the federal partner was a
14 grant given in August of 2010. It does not expire until 2015.
15 It was a $90,000 grant. And we've got about forty thousand
16 five hundred left. No match required.
17 And stewardship trail also a program at the
18 NERR, August '12. It runs through August of 2015. It was a
19 $10,000 grant award.
20 Gulf States Marine Commission. They provide
21 funds to us. They get their funds primarily through NOAA, I
22 believe. But one of the programs we are receiving funds for is
23 biological sampling. Basically the purpose is to conduct
24 biological sampling in Mississippi's three coastal counties and
25 collect and process otoliths from species important to
26 recreational and commercial fishery. This is done annually
27 January through December. The grant award is $62,000. The
28 program began back in 2003. No match was required.
29 Trip ticket program. Trip ticket system is used
30 to collect commercial landing associated information by trip.
31 Information gathered and reported through this program is
32 beneficial to the fishermen and fishery managers. This is also
33 annually January through December. Grant award is two hundred
34 thirteen thousand. And it began in 2012. No match is
35 required.
36 Marine Recreational Information Program or MRIP,
37 also January through December. Grant award $210,000. This
38 program began back in 1997, and no match is required.
39 Gulf of Mexico Program which is a program funded
40 through the Environmental Protection Agency, we partnered with
41 them to do Deer Island restoration. This is Phase 2. It's
42 community based restoration partnership grant to create living
43 shorelines for erosion control. This grant January will run
44 through December. Grant award was $55,000. We've got a
45 remaining balance of about seventeen thousand. This is matched
46 with our in kind services, our staff time, and other equipment.
47 Another gulf of Mexico program, a project at the
48 NERR habitat risk assessment tool. This was January 2009 and
49 would wrap up in September of 2013. The grant award was three
50 hundred fifty thousand with a very small obligated balance
51 remaining. This is in collaboration with NOAA and the City of
52 Pascagoula and several other local and federal partners.
53 Mississippi Seafood Testing Program which was
54 provided funding by BP. This was initiated in January of '12
55 through December of '15. The grant award was $545,000. No
56 match was required.
57 Mississippi seafood marketing also funded
58 through BP. There's an MOU we have with BP to market seafood
59 industry and Gulf seafood. January of '12 and runs through
60 January of 2015. The total was $3 million. We have about $1.4
61 million remaining obligated balance.
62 And then this is National Fish & Wildlife
63 Foundation, shell marine habitat program and Nature
64 Conservancy. This was Biloxi Bay oyster habitat restoration.
65 This was initiated in May of '12, runs through December of this
66 year. The award was $136,000. We provide in kind match
67 through staff and equipment.
68 So that was really quick and an overview, but I
69 just wanted to give y'all a sense and everyone a sense of how
70 many federal partners and other -- all the grant programs in
71 addition to just the state responsibilities and state funding
72 that we receive.
73 So we'll continue to work on updating this and
74 providing information monthly on the status of these grants and
75 future grants we may receive. But we can go to the budget
76 presentation now.
77 So this is -- let me just couch this and give it
78 a qualifier. This is simply a look at our state revenues and
79 state expenses. It does not include our federal grants. It is
80 only state funds, state revenues. And so we just closed out
81 Fiscal Year 13. And so as you can see, the revenues broken out
82 by category, our revenues were about 6.2 -- not about, but
83 exactly 6.2, seventy-six four six one and thirty-four cents.
84 Our expenditures seven million two seventy-two
85 five six five.
86 Which of course brings us to a -- for Fiscal
87 Year 13 we had a deficit of about nine hundred ninety-six
88 thousand.
89 Let me just say that we have money and have paid
90 this. This is just as a planning and as we're budgeting moving
91 forward, just to kind of show that the current revenue and
92 expenditures that the state is incurring through state funds is
93 not sustainable. So we're addressing those issues now. But
94 this $996,000 does not represent any bills or anything that has
95 not been paid. We have paid all this. We are just wanting to
96 show that currently the last several fiscal years even as I
97 went back, we've run similar deficits. So trying to correct
98 cores, make sure we don't stay in this kind of path.
99 So we'll go to projected Fiscal Year 14 revenue
100 which is based off our general appropriation at $1.125 million.
Off road fuel tax three million. And these others are estimates based on historical data of the agency, license sales, fines, penalties, interest, miscellaneous, some indirect costs. Our indirect costs are money that we get associated with handling federal dollars, and so that indirect cost is about half of what it was last year, and so that potentially could be more but conservative estimate we anticipate about $5.5 million in state revenue.

And then projected state expenditures based on historical track record. Of course, we know very close what our salaries will likely be and travel and other things, so we anticipate that being about $7.2 million, which would bring us to about a $1.7 million deficit. And again, this is projected. We are working diligently now to look at how our -- how we pay for our personnel, how we pay for equipment. We're looking at how we can substitute state money with federal money when eligible. And we're working on a plan that will bring to the commission and to our -- of course, as we go to Jackson and meet with our coastal delegation this fall.

So this is just a -- for planning and projection purposes kind of where we stand, and so we'll have more information about how we intend to meet some of these shortfalls in August.

This is quickly just tidelands. This is from 2013. This was the actual amount we got from the Secretary of State's Office for our tidelands leases. And this was basically the breakout, managed programs. Of course, we had some payments for Deer Island, the bond payment, and then public access projects that the delegation places individually in the appropriations bill.

And then for 2014, the estimate now is about $9.7 million. We won't know exactly what that is until the leases are paid, and we'll get an exact number from the Secretary of State's Office this fall. But you can see the breakout there.

This is the tidelands schedule for 2015. We just finished receiving proposals, tidelands grant proposals, for the 2015 year. And that is kind of the schedule that we have run through. So we'll now be reviewing those with our internal committee.

All right. Thank you.

If you have questions, I'll be glad to try to answer them.

MR. TAYLOR: Jamie, I have just a couple. You said you looked back at the budget for several years back, and it seems that -- how many years back does there seem to be a deficit, and how did they take care of it?

MR. MILLER: Yeah. If you look back historically at the agency, one, a few things come to mind. One, the appropriation for the agency through the general fund over the last eight years has gone from about $2.2 million to about $1.1 million. So we've reduced -- the appropriation for the agency has been reduced to half. At the same time, you had Hurricane Katrina and BP oil spill. So you had other federal dollars that were coming in to supplement some of those services that the agency was providing.

But for at least the last five years, we seem to be running very similar level of deficit, about eight hundred to $1.2 million. And it doesn't reflect the cash we have.

We've paid all our bills. We have funds to pay it. What we're trying to do is to make sure that the funds that we receive, federal or state or donations or whatever they may be, we're making sure those funds are paid specifically and directly to projects that they're eligible to pay for and that we are not commingling money in a way that creates a compliance problem.

So we're trying to reflect all those things honestly and accurately, and so when you just look at the state revenues and the state expenses, you know, it's not sustainable currently.

MR. TAYLOR: Thank you.

Any questions?

MR. DRUMMOND: Jamie, I noted there was a $75,000 interest, and I don't know what that is.

MR. MILLER: Well, we hold -- of course, we have a state treasury account. We have cash there from appropriation from our revenue streams that we do get interest off of. I think the interest that you're referring to is $75,000, what we project to receive in interest for this coming year. But it's just the cash on hand that we have collecting interest.

MR. DRUMMOND: So this is interest coming to us.

MR. MILLER: Yes, sir.

MR. DRUMMOND: Okay. Thank you.

MR. ROSARGE: And you see a way to balance our budget?

MR. MILLER: Well, we will balance the budget, and we're putting together a plan now. Part of that is making sure that we are accurately paying people state funds that are eligible to be paid with state funds and also federal funds. But it's not a cash flow problem. It's really a -- you know, our state and federal funds are commingled so we don't have a cash flow problem. But we've got to make sure that our state expenses are being met with state revenue.

So, yes, we will balance the budget. I can't tell you exactly how we're going to do that yet. But I hope to know that by August or at least the fall.

MR. ROSARGE: Do you plan on bringing that to us?

MR. MILLER: Yes, I will bring that to you.
MR. BOSARGE: Good.
MR. TAYLOR: Any other questions?

Rusty Pittman.
5. Office of Marine Patrol
6. 1. Report on Citations

MR. PITTMAN: Good morning, Mr. Chairman,
commissioners, Director Miller, Ms. Chesnut.
Ours is going to be a pretty quick report.
Couple things I just want to mention about it again is about
our fishing license tickets written last month. And we have
several undersized fish.
And one I just wanted to mention is the redfish
that was six and three-quarters inches undersize. So I don't
understand why people are still trying to keep undersized fish.
We had several boat and water safety violations.
We had three boat accidents with injuries. And
we had six boat accidents without injuries, total of nine for
last month.
The special events will come later in the
meeting.

And on our JEA patrols, we did 31 patrols. We
had 436 total man hours, 434 contacts, four enforcement action
reports, and ten state citations were issued.
MR. TAYLOR: Rusty, as you know, we had a

jubilee a couple of weeks ago. How many tickets did y'all
write during the jubilee?

MR. PITTMAN: I'm not sure on that. I think
around ten or 12.
The report went to Jackson that we wrote 150.
That wasn't the case. It was either ten or 12 that were
written at that time.

MR. TAYLOR: Most of them for no license?
MR. PITTMAN: A couple no license. But a lot of
them were undersized flounders. I'm talking about like six
inches. And a lot of these flounders in the jubilee, a lot of
the fish will live. And that was the tickets that were written
on those were undersized.

MR. TAYLOR: Any questions?
MR. BOSARGE: So Rusty, I see where we got some
ran a stop sign, reckless driving. Is this normal?
MR. PITTMAN: Sometimes you do have that in
certain months. That case was made in Hancock County. We were
on a stake, and the officer pulled up to a traffic light, and a
car -- the people ran the red light, almost hit him, and went
off into the ditch. And that's when he made the stop on that
and issued them citations. That's not all the time that that
happens.
MR. BOSARGE: I don't really notice that too
often --
What we are proposing to do, we would like to
add in Title 22 Part 5 our regulation that deals with the use
of nets, fish traps, and pots within the territorial waters of the
State of Mississippi and establishing certain limitations
and quotas.

What we would like to do is we would like to add
a statement in the beginning. And the reason we would like to
do this is to make this consistent with state statute. There
is some confusion. We would like to add in Chapter 4 Section
100 to make our regulation consistent with state statute
49-15-78.

There are several other revisions that we would
have to make that are just numbering, clerical issues that we
can take care of.

It would read: It is unlawful for a person to
use a gill net, trawl net, entanglement net, or like
contrivances for the taking of fish in marine waters within
one-half mile of the shoreline.

For this to happen, what we would need from the
commission, what would be required would be a motion for notice
of intent of the proposed rule.

MR. BOSARGE: Matt, can you give a little more
detail? In other words...

MR. HILL: What we have now currently in our
regulations is the line, and it's extremely difficult for
1 people to understand. We would like to have that line in
2 there. It's less restrictive than this half a mile. State
3 statute overrides what we actually have in our regulations.

So what ends up happening is some people will
say, hey, I got a new book or I got a line, and it says follow
this line. Well, when marine patrol officers get up to them,
7 they don't use that. They use state statute which says that
gill net has to be a half a mile off the shoreline.

So if you don't read state statute, our line is
10 a little less restrictive.

MR. BOSARGE: But does state statute follow --
12 and if I remember correctly, it goes like from beacons to a
13 point. But does it go like say for instance half mile around
14 Bound Island?

MR. HILL: No. We did not take gill net out of
16 the -- we did not remove it from the section that it's already
17 in. So everything what you're saying now also is still
18 included in the ordinance. We didn't take anything out of the
19 regulation that's already there. So the weekend closure is
20 still in there. State statute doesn't deal with weekend
21 closures, 6:00 a.m. and 6:00 p.m., all of those --
22 MR. BOSARGE: I guess my question is: Does this
23 half mile take in any more area than what is in state statute
24 now?

MR. HILL: The half a mile is from state

1 statute. It's word for word. We're taking the half a mile up
2 off the shoreline out of state statute. And it just includes
3 the shoreline, the immediate shoreline.

MR. BOSARGE: Of the coast.
MR. HILL: Of the coast, that's correct.
MR. BOSARGE: That's the answer I was looking
7 for.
MR. HILL: Okay. I'm sorry.
MR. TAYLOR: Do we need a motion? I'll
10 entertain a motion to accept the staff's recommendation.
MR. GOLLOTT: Mr. Chairman, I'd like to make a
12 motion that we table this until the next meeting to give us a
13 chance to look at this thing very closely.
MR. TAYLOR: Okay. We have a motion on the
15 floor to table it. Is there a second?
MR. BOSARGE: I'll second.
MR. TAYLOR: All those in favor. Passes. We'll
19 bring it up at the next meeting.
MR. HILL: Thank you.

20 2. Fish Kill Update
MR. HILL: The next issue on the agenda that I'm
22 going to take care of will be the fish kill update or jubilee
23 as it's a little more fun for people to call.
As everybody knows, on July 1, 2013, we had a
low dissolved oxygen event. It also had an algal bloom
1 associated with it which also had an associated fish kill. A
2 lot of people have called it a jubilee. That is an accurate
3 term for what happened. We had a jubilee.

July 1 was Monday. On Sunday afternoon, I got a
5 phone call from some people out at Cat Island that had spotted
6 some discolored water. And Monday morning when I got into
7 work, there was a lot -- we started getting a lot of phone
8 calls, a lot of fish were washed up on shore. People were
9 calling asking if it was okay to pick up the fish, if they
10 could consume them.

So we went out and we came out of Biloxi Bay.
12 We ran the deep water poles. We sent a crew onto the shoreline
13 to take some readings. The conditions were perfect to have a
14 jubilee. The water temperature was up. The wind was very
15 calm. We had a slight wind out of the north the night before.
16 We had a rising tide, but it was a very slow tide, a very slow
17 rise to it.
18 This same event happened last year. It was a
19 week later. But the conditions were just right for this to
20 happen. However, we did not know that there was an algal bloom
21 associated with it. So what we did, we were concerned that if
22 this was a toxic algal bloom to get to the people to where they
23 could not eat these fish.

So we ran the deep water poles, and we did not
25 spot it. We also put the plane up in the air. That was

N.J. SOROE, CSR #1297
probably the best decision that we could have made because if
we wouldn't have done that, we wouldn't have seen it.
Later in the morning about mid-morning, the
plane called and had spotted it. And that is the red areas
that you see. It was a very extensive algal bloom. And I want
to emphasize that it was a non-toxic algal bloom. It was a
harmful algal bloom, but it was a non-toxic algal bloom,
non-toxic to fish and non-toxic to humans. I'm going to show
you what we saw here.

But the two areas, the green area is mainly
along the shoreline where we had the low DOs, we had the
jubilee event, and that's where the majority of the fish were
seen.

The line and where it becomes blue, that's Long
Beach Harbor. We had patches from there over to Bay St. Louis,
but we didn't see anything like what we saw to the east of Long
Beach Harbor. And it was definitely constrained by the Bay.
That's the Bay of St. Louis there on the left and Biloxi Bay on
the right. So the bays constrained this event.

We did have an area right around Cat Island, we
went out there, and we saw very few dead fish out there. But
we did go out and investigate that.

I know this is a little hard to see, but the
point of it is, the numbers in red, those are your surface DOs,
the ones that we took along the deep water poles. And you can
see your bottom DOs. Anything below two becomes lethal to
fish. They can't survive in that. Two to four, they're
stressed. We like to see it above four. It's not uncommon in
the heat that we have to see DOs below four. We see that on a
daily basis in some areas. But when you start getting down to
0.64 and 0.99 and you start seeing them in the ones, that's
when we start to see some of the problems that we had.

I know this is hard to see, but the arrow is the
Beau Rivage, and you can see the streaks of red in the water.
That's the tint that the algae cause when it is in bloom form.

And we thought this was particularly
interesting. Darren Stewart, a member of our staff, was in the
plane, and he took pictures. And you can see the algal bloom.
But that straight line, that's where we were in our vessel, and
you could see our boat wake and our prop churned up the algae
right there, and it made a straight line with ours. So you
could follow boats where they went. It would churn the algae
up, and it would leave lines all through the water.

We had Christina Broussard, she's our resident
phytoplankton specialist. I brought her on the vessel with me,
and we brought her microscope because that was our major
concern was not the extent of this fish kill. Our major
concern was if there was an algal bloom to find out if it was
toxic or not. And we wanted to find that out on the spot. So
she brought her microscope, and we started taking samples in

the algal bloom.

And this is what she found. This is known as
serratia beroa. It's a non-toxic marine dinoflagellate. It is
common, somewhat common in our waters.
But she looked at it, and she looked -- it took
her about ten seconds, and she looked up, and she said, we're
dealing with something that's non-toxic. And we made the phone
call to tell people that it would be safe to eat.

We also took some gill samples out of some
various species of fish, and we sent it to the research lab.
They did some quick analysis on it and turned it around and
said they did not find any of these serratium in the gills of
the fish.

So this definitely contributed to the fish kill,
but this was not the cause of the fish kill. It was just a
coincidence that it was out there. The conditions were perfect
to have an algal bloom, also, and we just coincidentally had
one along with the jubilee.

What these do to fish, you can see the horn
structures. Each one of them has three horn structures. And
it will get up in the gills of the fish, and it irritates the
fish. And if it becomes a serious enough event, it will cause
the fish, the gills to produce a mucus, and they basically
will suffocate themselves.

That did not happen in this particular event

that we can tell. But that is something that can happen when
this is present.
Here's just some of the pictures that we took.
This is in the old Broadwater marina. There were well over a
hundred people there all throughout the morning catching large
white shrimp, coolerfuls of white shrimp. A lot of people
fishing in the -- out there. After sunrise, a lot of these
species almost were trapped up. They came in here looking for
oxygen, and they were just trapped, and they stayed in here
until almost twelve to one o'clock in the afternoon. So we had
people there all day long.

Here is just to the east -- I mean, to the west
of the Broadwater marina. And you can see the people out there
wading, still getting flounder, some of the shrimp that were
still left floating. But you can see in this picture how calm
it still was. This was probably about ten o'clock in the
morning. There still wasn't a ripple on the water. And when
you have these conditions with a rising tide and a slight north
wind, you got an excellent chance of having a jubilee.

Here is one coolerful. Mostly big large white
shrimp were captured. This is the Broadwater marina right
here.

Here is another coolerful somewhere down along
the beach. I think this is somewhere around Edgewater Mall
where this picture came from in front of the mall.
Here is an interesting picture. This is two
black drum. They’re in about a foot of water. And they were
basically feeding on some of the dead organisms that were in
the water. You could watch them swimming along and gulping up
whatever they could. And they were just going back and forth.
Very opportunistic.

Here’s a picture of a group of rays. And like
Rusty said, a lot of things like this, the rays and the
flounders that were left in the water, once this washed out,
they survive. They were able to swim off. And that’s why we
were trying to urge people to please follow the limits. A lot
of people said, well, they’re going to die or they are dead.
Well, not necessarily. A lot of these rays and many of the
flounder were able to swim off.

I would like to thank all the different bureaus
that helped us. It was an agency-wide effort. I would
especially like to thank Christina Broussard with the shellfish
bureau. She was able to identify what we were dealing with in
a timely manner so we could assure the public that the fish and
the shrimp that they were getting were safe to eat. Omega
Protein, we also made a phone call to them, and they made a
flyover for us over in Jackson County. We did not get any
reports over there, so we did not have enough time to cover the
whole Sound how we wanted to. So they did us a favor, and we
asked them to see if they could identify any type of algal
bloom, and they were not able to.

I will add that this event did happen the next
morning on Tuesday morning for a brief period of time, maybe 30
minutes, and it washed back out. And the conditions were also
good again going into the evening, but we had some squalls
start to build up, and that’s what finally broke this up.
But I think everybody enjoyed themselves. And
I said, we were glad to tell the people that the fish were
safe to eat.

Do you have any questions?
MR. BOGARGE: Just one. What were the perfect
conditions?
MR. HILL: Whenever you have the water
temperatures rising like they are now -- we’re getting towards
our peak water temperatures -- we have a rising, a slow rising
tide. Even though there may be some range to it, it’s a slow
-- or even a neap tide does it, a slow rising tide, and you
have a north -- right before sunset, you have a slight north
wind, that slight north wind will blow the surface water which
contains the oxygen -- the wind, if it blows too hard, it will
cause mixing. If it’s just at the right three to four miles an
hour, somewhere right in there, it will just blow the surface
water just enough, and it won’t mix with the bottom, when that
tide comes in, it continuously pushes that bottom layer of
water up that wedge up in here, and the fish are swimming in
front of it trying to get out of it, and they just run out of
room.

Basically the fish that you see are the fish
that made the wrong decision. They went left when they should
have went right.

The algal bloom contributed to the problem just
because — it did not kill the fish, but it gave them less area
to escape to. Some of them may have went out there, and they
had to turn around.

But I like to say that’s the jubilee or the fish
that made and the shrimp that made the wrong decision.

MR. BOGARGE: That’s the best definition I’ve
heard yet. Thank you.
MR. TAYLOR: Any other questions? Thank you,
Matt.

MR. JEWELL: The final agenda item for marine
fisheries is fish records.


MR. JEWELL: This morning we have four
conventional tackle records, and we have one fly fishing record
for your consideration.

Conventional tackle, we have an Atlantic
spadefish. The old record was 8 pounds 3.2 ounces. The new
record is 9 pounds 8 ounces. And the fisherman was Ms. Cecily
O’Brien.

That’s a picture of the spadefish, and there she
is with her proud catch.
Next record is a lookdown. The old record was 2
pounds 9.6 ounces. The new record is 3 pounds 0 ounces by Mr.
Tommy O’Brien.

There’s a picture of the lookdown, and Mr.
O’Brien with his fish.
Next record is a gray snapper. The old record
was 13 pounds 12 ounces. The new record is 13 pounds 15 ounces
by Mr. Mark Alan Ros.

Here’s a picture of the snapper, and a picture
of Mr. Ros and his fish.

The next one is a skipjack tuna. The old record
was 26 pounds 4 ounces. The new record is 29 pounds 11 ounces.
And the angler was Mr. Jack Paul Edwards.

Picture of the tuna and Mr. Edwards with his
fish.

The next category is the fly fishing record. It
is a gafftopsail catfish. And it’s a new record for us. It is
4 pounds 10 ounces, and the angler was Mr. Doug Borries.

There’s a picture of it and Mr. Borries with his
fish.

We’ll need a motion.

MR. TAYLOR: Do I have a motion to accept the
records?
1. I'll make that motion, Mr. Chairman.
2. Do I have a second?
3. Second the motion.
4. All those in favor. Passes unanimously. Thank you.
5. That concludes --
6. Mr. Gollott: Mr. Chairman, I'd like to ask for a break before we go into ecology.
7. Okay. We'll take a ten minute break.
8. (Off the record)
9. We'll reconvene the CMR meeting.
10. And next on the agenda is Jan Boyd with coastal zone management.
11. Office of Coastal Zone Management
12. Good morning, Mr. Chairman,
13. commissioners, Director Miller, Ms. Chesnut. Coastal zone management has three action items on the agenda for your consideration, and Willa Brantley will be our first presenter.
14. Access Pier Blanket Order
15. Good morning. This is going to be a little bit different than what you're used to seeing from us. We are asking for a blanket order from the commission.
16. The proposal is that the commission will authorize the executive director to modify previously permitted access piers. Some of those were issued with conditions. With old general permits, we're asking to update those to the current general permits.
17. I have a little bit of background.
18. In the past, we have had permits that were issued for say residential developments, a subdivision, as an overall permit, one permit for the whole subdivision. And those were issued by the commission. And on some certain particular lots in those subdivisions that required really, really long access piers over tidal marsh, some conditions were put on those.
19. They did not qualify because of the length of the access pier for general permits. And so the commission put conditions on there to hold them to the limits of the general permits. Any permits for access piers that were issued any time in the future for those lots would have to be in accordance with the current general permits. And those dimensions were specified in the permits.
20. We've had a request from one of those lots to bring their access pier into compliance with the current general permits which allow a little more leeway. And rather than present each case separately because we know we have a few more coming up in the near future, we wanted to ask for a blanket approval of these.
21. So we have the former GPs that allowed for no more than four feet in width over tidal marsh, and the pier had to be at least one foot above the height of the vegetation, and there were board spacing requirements that varied from three-quarters of an inch to an inch.
22. And the current GPs based on some newer research, they allow for a pier to be up to five feet in width, and the height needs to be equal to the width. It's not based on the height of the vegetation any more. And there are no board spacing requirements. And like I said, that's based on some newer research that's been done in the last six to seven years that has shown that the height needs to be proportional to the width. And so if it's proportional to the width, you have a minimal impact on the marsh. And that the board spacing requirements have no effect on whether the pier had an impact on the marsh or not.
23. So we're just asking for that blanket approval that the executive director would be able to issue current permits for those lots that would allow the current general permit guidelines to be met.
24. Mr. Gollott: Willa, with all due respect, I think this is what the commission needs to do. I don't think we need to be giving up the authority to the executive director right now on this particular thing. I think you need to bring these before us.
25. Each one?
26. Yes, ma'am. That's my opinion.
27. Well, this current request is for 37 Shoreline Lane in Gulfport, Mississippi. I'm not sure exactly the full length of the pier -- 926 feet is the length of the pier that's in question, the one proposal that we received.
28. Do you want to let them go five feet and five feet above the marsh?
29. It would be five feet above the mud line for the height.
30. I'll make a motion that we accept this change on this.
31. Just for the one case.
32. Yes.
33. We have a motion. Do we have a second?
34. I guess my question would be more to Commissioner Gollott. Your reasoning for this? I mean...
35. Mr. Gollott: I think this is what the commission is charged to do is go over these permits. I don't think blanket is a good idea. We need to look at them. We don't need a commission if we're not going to do things like this.
36. All right.
MS. BRANTLEY: Well, I just want to clarify that we would be issued -- currently, each of these singular permits don't have to be looked at by the commission. We just have to issue them in accordance with the permit that was issued in this case back in 2004.

So we issue permits. We've issued I think three or four in the past year and a half for this particular subdivision. And we just had to write them in accordance with the old conditions that were put on them by the commission.

So that's all we're asking is that those -- that condition for the subdivision permit be updated to the current general permits.

MR. GOLLOTT: How many are you talking about?

One a meeting, two a meeting, or something like that? I mean, I don't think it's a big deal.

MS. BRANTLEY: Probably not that many even.

MR. BOSARGE: So just to clarify, if somebody came to you not in this subdivision but in another subdivision or just a homeowner and wanted to build a pier, our general guidelines say that they can build their pier five foot wide and five foot tall?

MS. BRANTLEY: Yes.

MR. BOSARGE: Thank you. So the ones you would bring to us would just only be --

MS. BRANTLEY: Would only be the ones that the commission approved the permit for the overall subdivision and put restrictions on specific lots.

MR. BOSARGE: Okay. I'll second.

MR. DRUMMOND: I have a question. Was there some reason to discontinue the board spacing?

MS. BRANTLEY: Yes. The research that's been done over the years that showed that the board spacings had no effect on the growth of the marsh under the pier.

MR. DRUMMOND: Okay.

MR. TAYLOR: Have a motion and a second. All those in favor. Passes unanimous. Thank you.

MS. BRANTLEY: Thank you.

2. Robert A. Helwig

MR. DAVIS: Good morning. My name is James Davis. I'll be presenting the next item for the commission.

We have a request for permit by Mr. Robert Helwig. It's located on an unnamed canal adjacent to the Biloxi River at 10525 Riverview Drive in Biloxi. It's in the general use district.

Here's a map. You can see the pin. It's located just close to where the Biloxi and Tchoutacabouffa River meets south of I-10. Here's a zoomed in aerial of the project. The house there on the end of the canal is where this boathouse is going to be constructed.

Project description. We are requesting 196 linear feet of bulkhead to be reconstructed and a boathouse 30 feet by 28 feet which will extend approximately 30 percent across the width of the canal.

Here is a diagram. The boathouse being built next to the existing pier. The black line running along the outside edge of the bulkhead that will be reconstructed. You can see the width of waterway at the current location is 102 feet. Thirty percent the width of the waterway will be 30 feet, and 25 percent the width of the waterway will be 25 and a half feet.

A picture of the project location. You see the existing pier there located on the right-hand side. Just adjacent to that and to the left is where the boathouse will be constructed. And the bulkhead you see is the bulkhead that will be reconstructed, as well.

No public benefits would be associated with the project.

The project is allowable within the general use district.

Precedent setting effects. In certain cases, applicants have been allowed to place structures more than 25 percent across the width of waterway. These cases are required written approval of all property owners upstream from the structures whose access to the waterway could be impacted.

Without those approvals, a new precedent would be set. And Mr. Helwig has submitted the appropriate signatures.

The project is not located in public trust tidelands. However, the driving the pilings for a boathouse and potential shading could be a minor impact to the biological integrity and productivity.

The project does pose a potential impact to navigation. To minimize the negative impact, the boathouse would be placed within 25 percent of the distance across the waterway.

No offsite alternatives have been considered.

This is a private property and the project serves to allow the property owner access to the water. However, alternative designs could minimize the impacts to navigation.

The site is a residential area with other boathouses and piers along the waterway. Scenic qualities should not be impaired by the project.

Public notice ran in the Sun Herald on these dates. No comments were received.

DEQ is currently reviewing the project.

Archives & History has no objections. And the Secretary of State has no objections.

Staff has conducted an evaluation of the project, and based on the results of the evaluation, staff has made the determination that Mr. Helwig submitted statements.
from all the affected property owners that the boathouse as
constructed will not interfere with navigation to the
properties. Therefore, staff recommends that the commission
approve the permit for the boathouse and bulkhead.

MR. TAYLOR: Do I have a motion?

MR. COLLION: Mr. Chairman, I make a motion that
we approve this permit.

MR. TAYLOR: Do I have a second?

MR. BOSARGE: Second.

MR. TAYLOR: All those in favor. Passes. Thank
you.

3. Damien Bond

MS. WITTENBERG: Good morning. I'm Jennifer
Wittmann. I'll be presenting coastal zone management's final
action item on the agenda today.

It's a violation by Damien Bond located on Old
Fort Bayou at 9012 Dixie street in Ocean Springs. It is in the
general use district.

The violation location is indicated by the
yellow thumb tack in reference to I-10 and Highway 57. And
this is a zoomed in area showing Dixie Street and the violation
location.

Coastal wetlands have been filled for the
construction of a private beach.

On June 20, 2006, violation concerning the
filling of a quarter acre of wetlands was presented to the
commission, a ruling was made requiring the restoration of
the area to preexisting conditions.

On May 22, 2013, a violation was reported
concerning the construction of a private beach on Old Fort
Bayou.

On June 4, 2013, a site visit was performed by
staff, and the area of the coastal wetlands had been filled for
the construction of a private beach.

On June 13, a cease and desist notice was sent
to the property owner, Mr. Damien Bond, via certified mail.

And Mr. Bond was to respond to DMR by June 25 with his plan to
bring his violation into compliance.

On July 8, a letter was received from Mr. Bond
stating that the beach had been in place for many years.

And on July 9, commission notification was sent
to Mr. Bond informing him that the project would be presented
to the commission meeting today, informing him of the
requirements to petition for reconsideration.

This is an aerial photograph from 2005. The
area that we're looking at here is at the very end of the
manmade canal.

In 2010, you can see there is a marshy area at
the very end of what is an existing road.

And in 2012, you can see that a beach area had
been created.

This is a picture from the 2006 violation that
was reported to DMR staff and presented to the commission. The
yellow circle is around the area of Juncus roemerianus growing
at the end of the canal.

And this is a picture from June 4 of this year
when staff did the site visit. You can see fill has been
brought in. It is coming down over the sort of bluff area and
then allowed to erode down into Old Fort Bayou. You can see
area of Juncus on the right-hand side that most likely filled
the entire area.

And again, here is another version showing the
fill that's been brought in to create the beach.

Based on departmental review and evaluation,
staff recommends that the commission require Mr. Bond to remove
the unauthorized fill material and issue a fine in accordance
with Mississippi Code 49-27-51. The material should be removed
and the fine paid within 30 days of the ruling or the matter be
forwarded to the Attorney General's office for enforcement
action.

The violation was discovered on May 22, 2013.
The violation duration is 55 days. The maximum potential fine
for this violation would be $27,500; minimum fine would be $50.
The recommended fine in this case is $2,500 with
a $100 per day fine for each day after the 30 days until the
violation is restored.

Decision factors include that the project does
not meet guidelines and Mr. Bond has had a previous violation
at this site and is aware of the permitting process.

And I don't believe that Mr. Bond has attended
the meeting today.

MR. TAYLOR: Any questions?

MR. COLLION: Mr. Chairman, I'd like to make a
motion that we go along with staff's recommendation on this
project.

MR. TAYLOR: We have a motion. Do I have a
second?

MR. BOSARGE: Set the fine at twenty-five
hundred with 100 days, also?

MR. COLLION: Yeah, I think that's specified.

MR. TAYLOR: We have a motion and a second. All
those in favor. Passes unanimous. Thank you.

MS. BRANSTON: Thank you.

MR. TAYLOR: Next on the agenda, tidal lands
program. He's already covered that. Jamie has.

Next would be directorate, Melissa Scallon.

K. Directorate

1. Communications and Outreach

MS. SCALLON: Good morning, Director Miller,
commissioners, and Ms. Chesnut.

N.J. SOROE, CSR #1297
I just wanted to give you an update on some of
the things we’ve done in the past month for communications and
outreach.

Since the last meeting in June, we have been
mentioned 106 times in newspapers, radio stories, TV stations
across the state, throughout the state, and in the nation.
We also have been putting more information on
the website. The transparency Mississippi is on our website.
The 60 day assessment is on the website. The OIG report is on
the website. So we’re encouraging more people to go to our
website for information.

We also have had more — been more active with
our Twitter accounts, social media. We’ve doubled our
followers in the past couple of weeks. So we’ve been making an
effort to do more of that.

We also in the past couple of months since the
beginning of the summer have done some education and outreach
projects with different departments. Marine patrol had two
boat and water safety classes, one in Biloxi, one in Pass
Christian, and there were 43 students in the combined classes.
Marine patrol also participated in Operation Dry
Water. It was the last weekend in June, and it’s a
multi-agency operation to encourage safety awareness and reduce
the number hopefully of BUIs on the water.

Marine patrol officers also gave a presentation
to the kids fire academy in Biloxi during the month of June.
Coastal Reserves Program, Allie Leggett gave two
talks on July 8 to children participating in the Dig Deep to
Reading summer program at the Woolmarket Public Library. There
was a pre-K group and a K through 5 group. So we are showing
kids about the environment and animals and marine life and that
kind of thing.

The Long Beach Public Library has requested some
educational materials from DMR for its summer reading program.
We are giving those out, bringing them to the library this
week.

We also had several employees who worked at the
DMR booth at the Deep Sea Fishing Rodeo, July 4 through 7, at
Barksdale Pavilion at Jones Park and gave out about 300
brochures.

So we also have quite a few upcoming events.
The Carl Leggett Memorial Fishing Tournament is one that we’ll
probably be at, and there’s things going on throughout the
fall.

So any questions?

MR. ROGERS: I know also, at least I can get
them, I’m pretty sure all the rest of the commissioners, the
daily news clips. That’s great. Lot of different articles
that are in the papers that are not even around here. Thank
you.