COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

Tuesday, September 19, 2017
9:00 a.m.
Bolton Building Auditorium
1141 Bayview Avenue
Biloxi, Mississippi 39530

Commission Members:

Steve Bosarge, Chairman

Ron Harmon, Vice Chairman

Richard Gollott

Mark Havard

Jolynne Trapani

Also Present:

Jamie M. Miller, Executive Director DMR
Sandy Chestnut, Esq., Assistant Attorney General

COMMISSIONER BOSARGE: Good morning everyone. I would like to call this meeting to order.

I want to thank everybody for taking time out of your day to come help us out, as we try to make some decisions here. Welcome to the September meeting.

We will start it out by saying the Pledge of Allegiance. I would like Mark Havard to lead us.

(Whereupon, the Pledge of Allegiance was recited.)

COMMISSIONER BOSARGE: Next on the agenda will be approval of the minutes for the July 18th meeting.

Do I have a motion, or do we need to make any changes to the minutes?

COMMISSIONER HARMON: Mr. Chairman, I make a motion that we approve the minutes for the July meeting.

COMMISSIONER BOSARGE: Do we have a second?

COMMISSIONER GOLLOTT: I'll second it.

COMMISSIONER BOSARGE: All in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

We also need a motion for approval of the minutes for the August 15th meeting.

COMMISSIONER GOLLOTT: So moved, Mr. Chairman.

COMMISSIONER BOSARGE: We have a motion.

Do we have a second?

COMMISSIONER HARMON: So seconded, Mr. Chairman.

COMMISSIONER BOSARGE: All in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

Are there any changes to the agenda?

COMMISSIONER HAVARD: I would like to move Item F3 to K2.

COMMISSIONER BOSARGE: We have a motion.

Do we have a second?

COMMISSIONER HARMON: So seconded, Mr. Chairman.

JOE JEWELL: Excuse me.

Is that Item F2?

COMMISSIONER BOSARGE: F3 to K2.

JOE JEWELL: Thank you.

COMMISSIONER BOSARGE: We have a motion and a second.

All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

Executive Director's report.

JAMIE MILLER: Chairman, I don't have a report, other than to ask the Commission to consider our October meeting. We normally move to Hancock County and Jackson County this time of year, and I ask that someone on the Commission make a motion to move to Hancock County for the October Commission meeting and that we move the meeting time to 10:00 a.m. It will be at the administrative office building on Highway 90.

COMMISSIONER BOSARGE: That works for me.

Do we have a motion for that?

COMMISSIONER TRAPANI: I'll make a motion to move the October meeting to Hancock County.

COMMISSIONER GOLLOTT: I'll second it.

COMMISSIONER BOSARGE: We have a motion and a second.

All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

That will be 10:00 a.m. in Hancock County.

Office of Marine Patrol, Chief Davis.

KEITH DAVIS: Good morning Mr. Chairman and Commissioners.

I am going to be very brief because we have an extended agenda today. Last month was a busy month for the Office of Marine Patrol.

Just going through some of the citations that should be highlighted, you will notice under Recreational Fishing Violations, it looks like our numbers were up a little bit during the month of August. Twenty-five citations for no fishing license.

If you remember, I told you earlier that we were allowing individuals who did not possess a fishing license to come in and get their fishing license.

I don't have the numbers on those, but I can tell you that that program has worked. We see a lot of individuals coming in and getting the proper fishing license.

The other thing I would like to point out is the possession of undersized Spotted Seatrout.

Also in the last meeting, I told you that we were getting reports of people keeping undersized Spotted Seatrout, speckled trout at the Gulfport pier. Our night shift has done some strategic patrols in that area and we wrote ten citations last month for undersized Spotted Seatrout and six citations for Red Drum, some others for possession of undersized Red Snapper, undersized Gray Snapper and some over-the-limit citations, as well.

Before I sit down, I do want to go through our Red Snapper numbers for you on enforcement.

Chairman Bosarge, you asked us to provide you with a little bit more information, in terms of enforcement on Red Snapper.

This is a compilation of all of the numbers for that period of Red Snapper season this year. According to our Fisheries Bureau, twelve hundred and sixty trips were registered on Tails n' Scales. This is just a breakdown, and I can provide this to you, if you want a copy of it (indicating slide).

That tells you that citations were issued during that time period, but, ironically, we found that most people were compliant.

This graph shows you a little bit better. Honestly, it's not working, but, in the large blue area, that is your boaters that we found to be compliant which translates to eighty-two percent of the people that we checked were compliant, during those days.

This graph kind of breaks down what we actually wrote citations for. As you can see, undersized Red Snapper was the main category of what we were finding, as well as failure to report.

Just another graph of the compliance rate. You can see, during the month of August, that was our largest

month of individuals not being compliant.

Of course, I can provide all of those numbers for you, if you would like more information on that.

COMMISSIONER BOSARGE: That's great. I appreciate it.

Whether we move towards State management, or not, your job is a big portion of that, getting the information we need.

KEITH DAVIS: Absolutely.

COMMISSIONER BOSARGE: I appreciate it. Thank you.

COMMISSIONER HAVARD: Keith, is there a way that we can get it out to the fishermen next year so they know where they can sign on to Tails n' Scales?

KEITH DAVIS: Yes, sir. The Fisheries Bureau and Marine Patrol work very diligently and try to get that information out by posting it at the local boat ramps. I think that there is a component with social media, using our public relations office, that we can certainly make an effort to try to get those.

What we found was it was mostly fishermen from the northern part of the state coming down that were not compliant. I think we can do something to get information out to those fishermen.

COMMISSIONER HAVARD: Thank you.

COMMISSIONER BOSARGE: Thank you, Chief.

KEITH DAVIS: Thank you.

COMMISSIONER BOSARGE: I would like to recognize State Senator Mike Seymour and, also, County Supervisor Randy Bosarge. We appreciate you coming. Please stand up.

MIKE SEYMOUR: Thank you.

RANDY BOSARGE: Thank you.

COMMISSIONER BOSARGE: Now, we have Mr. Joe Jewell with Marine Fisheries.

JOE JEWELL: Thank you, Mr. Chairman.

I would like to welcome our elected officials. It is always welcome for them to take time out of their busy day to visit us at our Commission meeting.

For efficiency sake, I would like to introduce our first two items and let them come conjoined together to give their presentations.

Our first presentation will be by Mr. Matt Hill. He is going to give you our annual update to the Spotted Seatrout stock assessment, and, then, second will be Mr. Erik Broussard who will present the 2017-2018 Oyster season update.

Mr. Matt Hill.

MATT HILL: Thank you, Joe.

Good morning Commissioners, Director Miller, Ms.

Chestnut.

I would like to say I will be brief, but I'm not sure the Commission is going to give me that luxury on this particular one, so we will just get right into it.

This is our annual Spotted Seatrout update that we have been tasked by the CMR to provide on our Spotted Seatrout stock in relation to the target of a percent, SPR of twenty percent set by the Commission.

This particular update was completed in June of 2017, by our Mississippi Stock Assessment Panel. The panel is comprised of staff from MDMR and the Gulf Coast Research Lab. We completed an internal review at the MDMR in July of 2017, and a final analysis and edits were completed in August of this year.

I would like to point out that the terminal year of this update is 2016.

I know we know a lot about this, but this is just a brief management history of Spotted Seatrout in Mississippi. There have been many changes, with the latest change beginning January 16th of this year with the fifteen inch minimum size for the recreational sector.

Analysis provided in this update does not incorporate potential affects of this size change because, as I stated earlier, the terminal year of this update is 2016. The numbers that you will see that are presented

have not been influenced by the size change. That will occur on the next update.

Here is a brief summary of the Gulf and South Atlantic Management. All Gulf states, Georgia, North Carolina and South Carolina have seen dramatic decreases in Catch Per Unit Effort over the last five years.

Seven of these eight states have either raised the minimum size, or lowered their bag limits, since 2008.

All states, except Louisiana, are at a fourteen inch minimum size limit, or greater, and no states currently have any type of undersized allowances.

A little bit about the model, and I am definitely not a model expert, but this is a dynamic model that is constantly changing, as parameters are more precisely defined and additional data is added on an annual basis. We are able to make projections for future years, but these may change, once the actual data is put into the model.

I do want you to keep in mind that we only have ten full years of actual data in this model, right now. This is a very data-hungry model. When you start adding terminal years -- this year we actually added two years to it -- it is very sensitive and it is not quite as stable as we would like to see it. However, as we continue to have the ability to add data to it in the next five to

eight years, it will stabilize some of the more recent years a lot more than what we are seeing.

After internal data review, two strong year classes were identified in 2015 and 2016. I would like to point out the 2016 year class has been identified as a phenomenal year class. It is one of the best we have ever seen. These year classes are both currently recruiting into the fishery.

However, when you see this year class of 2016 and we start looking at some of the numbers, the model was somewhat at the mercy that it was such a good year class that it overpowered some of the other years.

Some of the conclusions. When we try to form these management decisions, using this particular model, this model is presently accepted on a peer review level and models are identified as best available science.

This particular update was completed using the Age Structured Assessment Program, or ASAP, from the NOAA Fisheries Toolbox which has been peer reviewed and accepted.

Now, this is getting down to what everybody wants to see. I know it is a little tough to see the writing. As you can see, in 2016, the first chart on the left is our instantaneous fishing mortality. 2016 had the highest fishing mortality of any year we have ever seen,

and it looks like it is continuing on this particular projection.

What we do see in a positive light is on the right side, the percent SPR. If you remember, from the base model, when we did the projections, the 2016 percent SPR came out to be approximately a percent SPR of eight. This shows, when we added the actual data and we added the new indexes of abundance, it raised it slightly to eleven.

However, I do want to caution that this year class was such a strong year class that it did have an impact on that particular number.

What we do see here and what we have circled in red is the percent SPR that the Commission has chosen as a target which is twenty.

As you can see, the biomass of the mature female portion of the population, after a five-year change, once the regulation goes into effect, we will have a twenty-one percent increase on this particular biomass, and, also, the biomass available for harvest, if we continue on this trajectory, will increase by thirty-four point eight percent over the same five-year period.

Some people ask how do we do this. These projections are based on forecasting catch and effort, using current trends in the fishery. We do know that the effort is going to increase and we do know that some of

the parameters will change, but we based these projections using the current trends in the fishery. That's all we currently have.

What we are trying to show here is instead of using the single point, continuously using the single points anymore, we would like to begin for the Commission to start considering using five-year trends and Dr. Mickle and I have had some discussions about maybe using the three-year trend as a starter.

Although we are not in quite as big a hole as what we initially stated in the base model, what you can see here is all these trends are still in a negative pattern.

For instance, the discard ratio, these are some of the inputs and you can see. If you change them from ten percent to twenty percent, it has very little affect on the model. If you remove certain indices, it has very little affect on the model.

This shows it is a very robust model. However, it is a data-hungry model and we do realize that it needs much more data to stabilize the model.

The goal is not only to meet the target of a percent SPR of twenty, but to begin to consistently see positive short- and long-term trends in biomass yield and percent SPR.

Just because we get one year with an SPR over twenty, that should not be our goal. Our goal should be to see this as a consistent trend.

These are scenarios. The twenty percent SPR which is the current target the Commission has chosen is the red line. The sixteen percent SPR is the mean SPR from the Spotted Seatrout update. That is the broken dotted line. The fourteen percent SPR, the mean value projected tend for 2017, that's the broken dash line. The ten percent SPR which was our previous projection is the bottom line there.

The key thing of this slide for your biomass is the twenty percent SPR is the only scenario that shows a continuous and consistent increasing trend in biomass over a period of time.

I would like to point out that the twenty percent and the sixteen percent SPR value both show an increase in biomass over five years. However, once we get beyond that, the twenty percent is the only one that shows the continued and consistent increase.

Now, we talk about the yield. That's what the fishery can actually yield to both sectors of the fishery.

These are the same scenarios, the twenty percent SPR, the sixteen percent SPR, the fourteen percent SPR and the ten percent SPR. Again, you can see the red line is

the twenty percent, and it is the only scenario that shows a continuous and consistent increase in yield over five years.

Again, I would like to point out that the twenty percent and sixteen percent SPR value shows an increase in yield over a five-year period, but, as you can see, the sixteen percent begins to flatten out as the twenty percent continues a continuous and consistent increase.

In conclusion, I would like to say that I do believe the Commission did make the right decision in choosing the SPR target and we are seeing positive signs in the fishery not necessarily due to the regulation because, as I said, the regulation has not had time to take affect into this update.

To be frank, we just got lucky. We had very strong year classes two years in a row, and that is carrying our fishery right now. We cannot continue to depend on that. However, what we can hope is that the fifteen inch minimum size will continue to bolster the fishery and continue to raise the SPR in the direction that we want to see it on a continuous basis.

With that, I will take any questions.

COMMISSIONER BOSARGE: I have a couple of curious questions.

Looking at where we are right now and looking at

all of the scenarios that you presented, including the twenty percent SPR and sixteen percent SPR, and looking at the models, are you pretty confident we are going to get to the twenty percent SPR?

Go back to the harvest where we actually look at the harvest.

MATT HILL: This (indicating slide)?

COMMISSIONER BOSARGE: Yes.

When I do the math and I look at, for instance, what we can harvest, biomass available for harvest, I think we are at about a fifteen percent SPR, right now?

MATT HILL: If you want to do the average, the five-year average which is what I consider is the best way to look at this trend, it's at sixteen percent currently.

COMMISSIONER BOSARGE: You've got it in metric tons?

MATT HILL: Yes.

COMMISSIONER BOSARGE: I think about a fifteen percent SPR is about five hundred and seventy-eight thousand pounds we can harvest?

MATT HILL: That is correct.

COMMISSIONER BOSARGE: What was our harvest this past year?

MATT HILL: It was close to a million. A million-and-a-half pounds.

COMMISSIONER BOSARGE: I can't understand how we are going to get there, if we are harvesting a million-and-a-half pounds and we don't need to harvest but five hundred and seventy-eight thousand pounds.

MATT HILL: As Dr. Mickle pointed out very well last year, the goal that we are going to have to strive to reach is to drastically lower the fishing mortality for us to consistently have a percent SPR of twenty and not just for one year, for several years.

However, these numbers and these projections are based on harvest levels that are being caught still at the thirteen inch minimum size limit. The regulation did not take place until this year. As I said, the terminal year was 2016.

I believe after this year and definitely after next year, if we get two years of data in, what that fifteen inch minimum size limit will do is it has the possibility of turning an average year class into a phenomenal year class and, if we can continue to do that on a consistent basis, I do believe that the fifteen inch regulation will put us at the twenty percent SPR in time.

What that time is, I would like to say within five years. I think that is being quite optimistic, but I think it is something that can happen, when you begin to see the percent increases that we are seeing and that is

still based on the thirteen inch minimum size.

COMMISSIONER BOSARGE: If I understand correctly, once we get to the twenty percent, we will be able to harvest somewhere between two hundred and two hundred and seventy-three metric tons?

MATT HILL: That is correct, if the biomass doesn't change, but, as the biomass increases, the biomass available for harvest, or the yield, will continue to increase.

That is the discussion that we have had, but the model has still not stabilized yet in the terminal years, and I do believe, after the fifteen inch minimum size has a chance to take hold, that we will see a drastic increase in the biomass portion of the population which the model will then, in turn, increase the yield portion of the model.

COMMISSIONER BOSARGE: I just want to be sure that for most of the general public they understand that the harvest level we are at, now, is not sustainable.

MATT HILL: That's correct, it is not.

COMMISSIONER BOSARGE: Those are all of the questions I'm got, Matt. Thank you.

MATT HILL: That wasn't too bad.

Any other questions?

COMMISSIONER BOSARGE: Well, we have some that

would like to make public on this issue.

The first one will be Mr. F. J. Eicke.

F. J. EICKE: That's okay. No problem.

COMMISSIONER BOSARGE: Thank you, Mr. Eicke.

That's all we have on that.

Mr. Erik Broussard.

ERIK BROUSSARD: Good morning Commissioners, Director Miller, Ms. Chestnut.

This morning I have the 2017 Oyster Reef Assessment, along with a season recommendation.

To pick up where we left off last spring, we had several discussions about oyster management and the Commission requested staff come forward with an oyster management plan. We did, and it consisted of a compliance section, replenishment/restoration, and an oyster harvest strategy.

What came out of that was the Commission adopted the Oyster Management plan as a whole. There was not a current season at the time, so no specific strategies were adopted. Staff had some recommendations. They are here highlighted in yellow, and they still stand today (indicating slide).

Number two of the Replenishment/Restoration portion of oyster management here we have a map of the northwestern Sound. The piles in red are cultch plant

sites that were completed in the spring, and the piles in green were completed about two weeks ago.

This is going to be Henderson Point and Pass Christian tonging/dredging and Pass Marianne.

Here you have St. Joe, the same thing. Spring is in red. Green is this fall. We did about a hundred acres on St. Joe which is a good portion. The total reef is about four hundred acres. We did get good coverage on St. Joe.

In total, we had about five hundred and fifteen acres of cultch plant this past year.

The reef assessment consists of one-minute dredge tows and square meter dive sampling.

We collect physical parameters, salinity, oxygen, temperature, and the size frequency of live oysters which is how any of each size class are present in the samples, and that is the data we will present to you in just a second.

We also keep up with the predators/competitors and keep an eye on the disease on the reef.

Here is the Western Sound and this is kind of an overview of the 2017 reef assessment of all your sample sites. We had eighty dredge tows and four hundred and thirty-four square meter dives.

The sample sites in green are representing

samples that had at least one market size oyster in the sample, and your red sites are going to be a sample that either had no catch at all, or had spat and seed present. This just kind of gives an idea of where the resource is, or is not.

We are going to start off with Biloxi Bay. This is that size frequency data we were talking about. This Biloxi Bay cultch plant site is in Area V "A", and it would be available for harvest. It's about a three-and-a-half year old cultch plan site. It is seventeen acres.

This is kind of what you want to see. This is what a relatively healthy reef would look like, and, so, we are going to start here.

In general, when we have this meeting, we focus on the sack size, how many market size oysters per square meter. That would be this year's crop, what is available right now.

We want to kind of change gears and start looking also at this spat and seed categories to get a larger picture of kind of where we are headed that can give you some indication of what kind of recruitment we are going to have onto the reef.

If you see where there is not a lot of spat and seed coming into the resource, you might want to take a more conservative approach on how you harvest, if there is

not going to be a lot of recruitment in the next coming years.

We can take these concepts and apply them to the rest of these charts for the Western Sound.

We are going to start off with Pass Christian Dredging. Zero point three market size oysters per square meter, and, then, when you look back and you see the spat and seed size classes at well below one, almost nonexistent, that causes some concern.

Generally, you want to see your spat categories around twenty to twenty-five spat per square meter, you want to see seed from fifteen to twenty, and you want to see that sack size six plus.

Something, also, we did in the top right was look at the four-year average, or give you a trend line to give kind of a sense of the direction in which the reefs are headed.

Next up we have Pass Christian Tonging. This reef historically has been self-sufficient. There is always some amount of resource out there for the harvesters to go get. It didn't need a whole lot of cultch planting. It was pretty self-sufficient.

With this year's reef assessment, we found zero sack size oysters per square meter, along with very little spat and seed.

Now, that zero sack size, that's just what we found in our samples. Obviously, there are ten thousand plus acres and we didn't get to every square inch of the bottom. There could be some resource there, but, if there is, it is probably not very significant. Again, your trend is slightly downward, as well.

Pass Marianne historically has been the number one producer, when the years are good. It's our largest reef and has been the most productive. In this year's reef assessment, we found zero point one sack size oysters per square meter, with very little spat and seed. The trend is downward, as well.

Henderson Point has had some amount of available resource to harvest the last couple of years. We found point one sack size oysters per square meter. One difference with this reef is you see a good spat class.

Henderson Point was affected by the mortality last year. There was some resource there and, when it died, it was unfortunate, but the one good thing about having a resource there, when it dies, it can catch spat. This is a good example of that. When you look at the trend, it is much of the same.

COMMISSIONER BOSARGE: Erik, could I point out one thing?

ERIK BROUSSARD: Sure.

COMMISSIONER BOSARGE: As you have presented this to us, you pointed out, if you look at the column to the far left, the spat size, in the graph in the right top corner, it goes to twenty-five. In other words, that was a lot of spat in that year. Whereas, now, the graph that you have only goes to eight. Even though it looks like a lot of spat, your graph is a little short.

ERIK BROUSSARD: That would be correct.

St. Joe has been the most stable reef over the last three, or four, years. It's a little deeper water and it has more current. We have two point five sack size oysters per square meter with some decent spat and seed classes.

One unfortunate thing about St. Joe is it is the smallest reef we have for dredging. The fishing pressure can be isolated and it can take a toll fast.

Your trend on St. Joe, again, it looks fairly stable, but, when the 2014-2015 year drops off and you add a new year in, it will probably be slightly downward as well.

St. Stanislaus, this is where a fair portion of the available harvest for tongers came from last year. Three point eight sack size oysters per square meter, some decent spat and seed, and you actually have an upward trend for St. Stanislaus.

Between the Bridges, this is a very small reef, but we wanted to put it in here so the Commission could get a sense of the condition in there for the whole Western Sound. Point six sack size oysters per square meter, a good seed class and a little bit of spat, but you can see, historically, the reef is capable of producing more.

Here is just an overview of everything we just went over, with the addition of how many samples were on each reef which is in the end category. Below that, you can see a percentage, and, then, that percentage represents the total harvestable resource in the Western Sound.

You can see St. Joe at fifty-four percent and St. Stanislaus at thirteen percent. Basically, you have seventy percent of the allowable harvestable resource on your two smallest reefs. That can raise some caution on the side of the resource managers because, again, you can have isolated fishing pressure and it can create some damage.

License sales are kind of down this year. I think most people are aware of the condition of the reefs and they are probably waiting to see what happens here today.

Here is kind of a new approach for us. The

black bars are the reef assessments -- this is the last ten years -- and, then, the white bars are representing what the actual harvest is, with the black dotted line being the average reef assessment prediction and the green being the average harvest.

If you look at your black line, you can see on average we predicted about four hundred thousand sacks in the Western Sound, and we harvested about two hundred thousand sacks; about fifty percent.

When you get into these years where we are down to fifty, sixty, seventy thousand sacks, we have to come up with some ideas of how we are going to get it back and how we are going to rebuild it, not just sustain. We are beyond sustainable harvest. We need some rebuilding efforts going on here.

You can see, in 2014-2015, 2015-2016 and 2016-2017, I have the days.

2015-2016, we were open for thirty-four days. We harvested about forty thousand sacks.

2016-2017, we were open for eighty-one days, harvesting the same amount, about forty thousand sacks. It took us twice as long to harvest the same amount of resource.

When you look at 2017-2018, that is going to be the lowest reef assessment on record for the State of

Mississippi. Last year was the previous low, and, then, this year holds the new low.

Here we have just a visual aid, just to kind of put a name with the face. This is Area V "A", that seventeen acre cultch plant site that we started with, and the reef assessment predicts there is a little over sixteen hundred sacks available, and that is just on this seventeen acre site.

Same thing for the Western Sound. We start with St. Joe, a little over seventeen thousand sacks. St. Stanislaus, a little over four thousand sacks. Henderson Point at around two thousand sacks. Pass Marianne at four thousand sacks. Pass Christian at around thirty-five hundred sacks.

You can see in these approved areas, no catch. Telegraph and Pelican have been insignificant for several years, now.

Here is the 2017 Mississippi Oyster Abundance Estimate. Your first column is the reef. Your next column the estimated sack total. That is the total amount of sacks that the reef assessment predicted.

Since this was the lowest reef assessment on record, we wanted to see what the change was from last year, so we put this percent change from 2016 and overall it looks like about a twenty percent decline.

If the Commission chose to go with a percent, we have thirty percent up here. This is what it would look like, this column here, what percent would come off of each reef.

If the Commission chose to go with a percent by area, one thing that would be different this year than last year would be that that would prevent all of the harvest coming from one reef, or one area. The reefs would systematically close down, once that thirty percent was reached on each reef.

One other thing to point out is this is not really just a Mississippi problem. Louisiana has recorded its lowest reef assessment, as well, this year, and I think it is pretty much widespread across the Gulf.

Season Area Rules and Regulations for the Commission to consider when making motions:

We would ask to keep approved areas closed, due to the lack of resource. That would help us with some of the staffing on the check stations.

Close areas within five hundred feet of artificial reef sites, except the Waveland Reef which was a historic reef.

Harvesters launching their vessel at a launch site remote from a designated oyster check station may, upon returning from harvesting and prior to unloading any

oysters, trailer their vessel on land and travel along the most direct route to their designated oyster check station for check-out. Once the vessel has been checked out and the sacks of oysters are properly tagged, the sacks of oysters may then be unloaded from the vessel.

A scenario for this is the St. Stanislaus Reef for the tongers. It is quite a difficult run in the smaller skiffs, and that would allow them to check into the check station, and, then, trailer their boat over to a launch site that is closer to the reef, harvest their oysters, and, then, go back to check out.

Staff recommendation is to open Biloxi Bay Area V "A" on October 2nd for tonging, with a thirty percent quota, and close Biloxi Bay once the thirty percent quota is reached.

The reason for this October 2nd opening is, as you are aware, we just reduced the management plan criteria to half an inch of rainfall for this area. October is one of the drier months. If we were going to harvest out of this area, ideally, October would be the month.

Open the conditionally approved areas in the Western Sound on November 1st for harvest, with a thirty percent quota by area, and, then, close those areas once the thirty percent quota is reached.

Adopt those season rules and regulations.

COMMISSIONER GOLLOTT: Mr. Broussard.

ERIK BROUSSARD: Yes, sir.

COMMISSIONER GOLLOTT: According to some records I'm looking at here, the Western Sound harvested five hundred and fifty sacks a day.

Could the staff go along with thirty-three percent which would give them a little bit better than ten thousand sacks in harvest by area?

Like you said, once an area harvests thirty-three percent of the oysters, you could close it down.

The Biloxi Bay, we can live with the thirty-three percent, if we can do relaying out of Pascagoula to enhance that area and build oyster reefs and allow fishermen to harvest oysters in the Biloxi Bay this season.

ERIK BROUSSARD: Sure. I mean, this is just a recommendation. The Commission could make a motion adopting a percentage, or any strategy, that they so choose.

COMMISSIONER GOLLOTT: How many days would that allow them to fish -- I don't have a calculator in front of me -- and do we need to reduce the sack limit to make it last a little bit longer, like, twenty sacks per dredge boat and fifteen sacks per tonger?

What is your opinion on that?

ERIK BROUSSARD: Last year, I think the sack limit was twenty-five for dredging and fifteen for tonging.

I hate to really comment on the economics of it, but, by adopting a percentage, that allows the resource some cover.

As far as bag limits go, we are fairly open to whatever the Commission chooses on that. We are more concerned with a percentage.

COMMISSIONER GOLLOTT: I think we should wait until, say, November the 13th, right before Thanksgiving to open it so maybe we can get into the Christmas area and help the fishermen through the tough Christmas season.

Do we have any more Commissioners who want to say anything?

COMMISSIONER HAVARD: I've got some questions about this.

From our stock assessment for 2016-2017, we are down sixty-one percent, and we are wanting to go harvest an additional thirty percent off of that.

If we do that, where is that going to leave us next year for our stock?

ERIK BROUSSARD: It is a delicate balance. Last year when we came forward and presented the eighty-six

thousand sacks in our reef assessment, we did notify the Commission there was a mortality event occurring, and that did reduce that number down.

The thirty percent harvest can apply in a bad year, or even in the good years.

Let's look at it here. In 2008-2009, we were predicting almost a million sacks and would say thirty percent would be three hundred thousand. It's a delicate balance for us, as resource managers, to look at what is best for the resource, but, also, have some consideration for the fishermen and the industry.

Fifty percent is what we have been at over time. That is probably a little too much. Forty percent might be sustainable. Thirty percent, hopefully, is getting us into that rebuild mode. That's kind of where that is coming from.

When you look at those size frequency graphs, to get more to the root of the question of where does it leave us, next year doesn't look to be much different, as well. It is just trying to find a balance for all of that. It doesn't look good for the next year, or two.

COMMISSIONER HAVARD: Based off of this graph, it's not close to where it was five years ago. It has drastically dropped, and we are going to take more off.

I understand we are basing our decisions based

1 off of harvesting and not what is best for the resource.
2 When it drops this low, what is concerning to me
3 is, is there enough resource out there to provide enough
4 spat to regrow our resource.
5 Is there, in your opinion?
6 ERIK BROUSSARD: That's a good question that we
7 go around with. Is it a lack of spat, or a lack of
8 substraight, and it is a combination of several things.
9 We have cultch planted over five hundred acres
10 this year and, hopefully, we will have some success with
11 that and really start getting some substraight back on the
12 reefs and see this upward turn.
13 COMMISSIONER BOSARGE: I'm listening to Mark's
14 comments, and I know I've heard you say it before, that a
15 certain amount of dredging is good for the reef, in that
16 it busts things up, moves things around and actually
17 benefits for a better cultch plant.
18 Is that correct?
19 ERIK BROUSSARD: Cultivating has been proven to
20 have some added benefits to the reef. It can expose new
21 material. When they are out harvesting, there is a theory
22 that you can expose material and clean and bust up muscles
23 and do different things through harvesting, or pulling the
24 bagless dredges.
25 We are actively out there today cultivating and

1 turning and trying to expose new material ahead of the
2 fall spat set. We are trying to break up some of these
3 shells.
4 COMMISSIONER GOLLOTT: I have had some oyster
5 biologists tell me that two oysters, under the right
6 circumstance, can repopulate the whole western reef, half
7 a dozen oysters. Nobody has ever proven it one way, or
8 the other, how many oysters it is going to take to
9 repopulate the reef.
10 If no one else has a motion --
11 COMMISSIONER BOSARGE: (Interposing) We've got
12 some public comments from people who would like to speak
13 on the issue, before we actually make a motion.
14 Mr. Steve Shepard.
15 STEVE SHEPARD: Thank you. I really don't have
16 much to say. That is a pretty shocking report.
17 I'm with the Sierra Club. My concern is the
18 environment, and part of my concern with the environment
19 is we want reefs out there. First, we want reefs. If
20 there are lots of reefs, then, people can go oyster, but,
21 if we are constantly trying to figure out, like, let's up
22 the percentage they are recommending, I'm not even sure
23 their percentage is as generous as it should be to the
24 oyster.
25 Let me urge you to, at least, stick with the

1 percentage they are recommending and don't up it to try to
2 figure out how to make it better for the fishermen.
3 Now, I don't act like I'm heartless toward the
4 fishermen, but let's get the oysters back, and, then, we
5 can have maybe a whole bunch more fishermen.
6 I'm not against having people fish a resource
7 that is abundant, but this doesn't look like an abundant
8 resource.
9 My second thing is I'm going to say again I do
10 not like stripping these inshore reefs. If you have
11 already got a problem -- I'm not under the impression that
12 these inshore reefs are just loaded with oysters because
13 they are not normally being oystered. It doesn't sound
14 like any of our reefs are in good shape.
15 What are we going to do?
16 We have already got clearly depleted commercial
17 reefs. I can state that generally speaking from everyone
18 I know that looks at the inshore reefs, they are not
19 exactly in great shape. We are going to take the oysters
20 off the inshore reefs which provide fishing and
21 opportunities for an awful lot of people and we are going
22 to strip those and go get them harvested.
23 I wish you would stay away from that. I know
24 that you are far below your target. I understand the
25 target is a hundred thousand sacks. My impression is, if

1 I'm reading the graphs correctly, there are sixty-eight
2 thousand potential sacks that are supposed to be pulled
3 off of inshore reefs, starting with Pascagoula.
4 I have told people it sounds to me like if
5 Pascagoula doesn't come up with sixty-eight thousand
6 sacks, you will turn to Graveline, you will turn to Grand
7 Bay NERR, you will turn to the Biloxi fishing reefs, you
8 will turn to anywhere there is an oyster.
9 Even if you got away with it this year, when is
10 it going to finally come home that the fishermen aren't
11 going to have a job?
12 Maybe not this year. Maybe they will through
13 this year, but what about next year and the year after
14 that?
15 Can't we look forward and say we've got to
16 tighten the belt, now?
17 I urge you to, at least, follow the
18 recommendation that has been given here and also refrain
19 from pulling those oysters off the Pascagoula Reef. Thank
20 you.
21 COMMISSIONER GOLLOTT: Mr. Shepard, with all due
22 respect, State law says we will move those oysters out of
23 Pascagoula and put them on thin reefs.
24 I don't know where you come up with these sixty-
25 eight thousand sacks. You don't know much about oysters,

sir, and we're not stripping any --

STEVE SHEPARD: (Interposing) Okay. Tell me this.

If Pascagoula doesn't provide enough, are you going to go to other reefs, or is that the only reef you are going to pick on?

COMMISSIONER GOLLOTT: That is the only reef that I'm interested in moving anything off of, right now.

STEVE SHEPARD: Well, that makes me feel better. I'll say that because I'm under the impression that there is a goal here.

There isn't a goal of a hundred thousand sacks this year?

COMMISSIONER GOLLOTT: No, sir. I haven't heard anything about that.

STEVE SHEPARD: Thank you.

COMMISSIONER BOSARGE: I think that would be an unrealistic goal.

Jeanne Lebow.

JEANNE LEBOW: Thank you for the opportunity to speak. I, too, represent the Sierra Club, and I just want to state a concern with the entire resource.

The Pascagoula Reef is one of the inshore reefs. I'm delighted to hear that you are not going to strip all of them, but I would wish that you would tong it rather

than dredge it because of the damage that it does.

It's not just oysters because I'm not just looking at oysters. It is a fishing reef, and we do have some fish that might enjoy it. Thank you very much.

COMMISSIONER BOSARGE: Thank you, Ms. Lebow.

Mr. Kevin Briggs.

KEVIN BRIGGS: I know you have a long agenda. I would rather save my comment for the oyster farming, if it is possible that you could move my comments.

COMMISSIONER BOSARGE: That item was taken off the agenda -- well, it was actually never put on the agenda. I think it will be on there next month.

KEVIN BRIGGS: Next month?

COMMISSIONER BOSARGE: Yes, sir.

KEVIN BRIGGS: Well, let me just go ahead and make a comment. I really am here to find out the information about it because everything I have read about it, I don't see what the design is for it, and I'm wondering about the intensity of the aquaculture.

Is this a reef, or is this something more intensive than a reef?

COMMISSIONER BOSARGE: This is actually farming oysters. It would be less intense than a reef.

KEVIN BRIGGS: Less intensive than reefs?

COMMISSIONER BOSARGE: Mr. Joe Jewell could

answer your question.

JOE JEWELL: We can talk about it after the meeting.

KEVIN BRIGGS: Thank you.

COMMISSIONER BOSARGE: We actually had one more public comment. Of course, he's not here, but the Governor weighed in on this issue and, basically, he wants to encourage the Commission on Marine Resources to adopt the agency's recommendation for a sustainable oyster harvest of thirty percent of the estimated thirty-two thousand sacks available.

I just wanted to let you guys know that we've got somebody that wants to make sure our oysters make it, also.

We've got the Supervisor from Jackson County, Randy Bosarge, that would like to make some comments.

RANDY BOSARGE: I know I got here a little late, but I would like to speak on this.

COMMISSIONER BOSARGE: Come on up, Randy. We will give you three minutes.

RANDY BOSARGE: That works for me. You must have taken lessons from Mr. Harris.

Good morning Commissioners and Director Miller. I appreciate y'all allowing me to speak this morning out of turn.

On the oysters on the Biloxi Bay part of it, is that going to include Shearwater Reef?

If you are going to be in Biloxi Bay, Shearwater Reef is in Biloxi Bay.

Let's get back to Jackson County oysters here. I really think that there is nothing wrong with Jackson County oysters, other than it seems like nobody wants to go get them.

I'll go get them, if you will let me. I'm just trying to figure out a way to have Jackson County more involved in the oyster industry along the Gulf Coast like it used to be. Jackson County used to produce more oysters than anybody else did, at one time.

I don't have a problem with the Pascagoula inshore reef, as long as you just don't decimate it. I have a problem with that.

I really believe that if those oysters were stirred up a little bit more, I think we would be able to go back out there and harvest them ourselves in Jackson County.

I would really like to see the science on that. I'm not a scientist by any means. I grew up oystering on those reefs, so I can tell you, and I'm doing the tonging side because that's what I used to do with my grandfather.

I'm just telling you I really believe that if

they were stirred up a little bit -- maybe not as much as what I've heard in the past -- I really believe that our oysters can come back.

The County over the years has taken the initiative to pretty much get rid of all septic tanks along the water's edge. Everything is on a centralized sewer system that pumps to the north part of the county, the Seaman Road area. If it doesn't go to Pascagoula, it goes to Seaman Road.

We have no other contaminants that I know of going in the water, other than maybe some industrial stuff which I'm working on as we speak.

I have been in close contact with some folks that are doing some testing for me, as we speak. I don't mean to overstep y'all's authority, but I've got to do what I've got to do to help get Jackson County oysters back and us creating that market back like it used to be.

I do want to say thank you for considering this.

I did leave you a message, Jamie. I don't know if you got it, but I do appreciate y'all looking at the oyster farming for that area of Round Island, right there by the new Round Island. I really think that is going to be very beneficial.

If the Deer Island area doesn't work out, bring more of it over to Jackson County. I will help you. All

you have to do is call me, ask me and I will do whatever it takes to have more oysters.

Consider the Shearwater Reef, when you open Biloxi Bay. I would appreciate that.

COMMISSIONER GOLLOTT: Mr. Bosarge.

RANDY BOSARGE: Yes, sir.

COMMISSIONER GOLLOTT: With all due respect, if you will get with Senator Seymour, he has been doing research on where the pollution is coming from.

RANDY BOSARGE: I didn't know if he wanted to stay in stealth mode, but Senator Seymour and I have been working closely on this and a few other members and past members.

COMMISSIONER GOLLOTT: Jackson County really needs some help over there.

RANDY BOSARGE: We've got to have it. I appreciate y'all. Thank you.

COMMISSIONER GOLLOTT: Thank you, Randy.

COMMISSIONER TRAPANI: Mr. Chairman, I have a comment for members of the Sierra Club that spoke.

I'm just a little concerned that they are maybe thinking that we have some kind of goal in mind of the number that we want to harvest.

As for myself -- I think I could probably speak for all the Commissioners -- that number would be

unrealistic. We have no intention of ever doing that.

Relaying oysters from Pascagoula, or wherever it may be, to get the oysters there so we can have some more to harvest -- they are sitting there -- we have no intention of trying to get to some crazy number that is unrealistic.

Also, I have one other question for you, Erik.

When we look at this chart right here -- I know you don't have a crystal ball, and I wish we all did because we wouldn't be in this situation -- I'm looking at the year 2017-2018, and it is sad to look at this and see what we have to look at.

With all the cultch plants and y'all have your plans on trying to bring back these reefs, restore them, bring them back, do you have any projections that go past 2017-2018 that you could show the Commission maybe, in the next couple of meetings, or is that something you can't produce because you don't know?

Just so maybe we know we have a plan and we have some hope for what we are trying to get to.

ERIK BROUSSARD: We definitely have a plan. About as far out as we can speak on it are those spat and seed classes, and that's not even a guarantee that they are going to survive two, or three, years.

Given that they are very low, the cultch

planting, some of that is included, but the majority of that cultch planting is not represented in this reef assessment.

During next year's reef assessment, we will have a good grasp on what the future might look like, depending on how successful those plants were.

COMMISSIONER TRAPANI: Thank you.

COMMISSIONER BOSARGE: From what I see, it looks like we are two to three years down the road from a manageable type of harvest.

Do we have a motion?

COMMISSIONER GOLLOTT: I would like to make a motion that we go with the staff's recommendation, adjust it to thirty-three percent so we can at least get over ten thousand sacks, open the season on November the 13th so we can cover the holidays, and, by all means, start relaying and doing some planting to enhance the Biloxi Bay and let some of these fishermen harvest the oysters that we relay out of Pascagoula in October.

Let me see if there is anything else.

I will make that motion.

ERIK BROUSSARD: We will need a daily sack limit, as well.

COMMISSIONER GOLLOTT: Let's drop the dredging sack limit to twenty and leave the tonging at fifteen.

COMMISSIONER BOSARGE: The staff's recommendation was thirty percent, and I would like to see us hold to thirty percent. Three percent is not going to make, or break, us at this point. I would feel much better if we stayed with the thirty percent.

Is that something you would consider doing?

COMMISSIONER GOLLOTT: No. Thirty-one percent. I just want to get ten thousand sacks.

JOE JEWELL: Can I get some clarification on the motion?

COMMISSIONER GOLLOTT: Go ahead.

JOE JEWELL: I guess the motion is thirty-one percent?

COMMISSIONER GOLLOTT: Yes. We can leave it at thirty-one percent. That's fine.

What will that give us, Joe? How many sacks?

JOE JEWELL: That will put you over ten thousand. The staff is recommending thirty percent.

We have a motion for thirty-one percent, to open on November the 13th which is a Monday, but you also mentioned to do some relays and cultch planting.

Is that part of your motion?

COMMISSIONER GOLLOTT: It is, and let's give the staff the authority to open and close those relayed reefs in the Biloxi Bay as they see it's necessary.

In other words, what I would like to see happen is the first of October open Biloxi Bay, start relaying into a different area from Pascagoula, let that area set there for two weeks and depurate, and, then, let the staff open that, as they need to, or maybe have three areas that we can relay into, and, then, you can open it and let them harvest the marketable oysters, and leave the other two- or three-year class there to grow for next year and the following year so we build the reefs.

JOE JEWELL: You want to open Biloxi Bay on...

COMMISSIONER GOLLOTT: What did you say, October?

ERIK BROUSSARD: October 2nd.

COMMISSIONER GOLLOTT: October 2nd, but give the staff the authority to close it.

JOE JEWELL: Can I modify your motion just a little bit?

COMMISSIONER GOLLOTT: Sure.

JOE JEWELL: Give the Executive Director the ability to direct the staff and, two, we open and close according to the model ordinance of the ISSC. Those are the regulations that Mr. Broussard mentioned. We open and close on those.

Giving the Executive Director the ability and flexibility to open areas is what I would ask the

modification be.

COMMISSIONER GOLLOTT: That would be fine.

JOE JEWELL: Okay.

COMMISSIONER GOLLOTT: Would you need that kind of authority on the Western Sound, also?

If you are only going to harvest thirty-one percent of this seventeen thousand sacks coming off of -- what is it, seventeen thousand sacks that is in the St. Joe channel?

JOE JEWELL: Yes, sir.

COMMISSIONER GOLLOTT: When you reach thirty-one percent there, you get to close it, so you will need that authority, too.

Right?

JOE JEWELL: Yes, sir. You are giving, in your motion, the Executive Director that authority, and we will manage the area by the model ordinance regulation according to the management criteria, river stage and rainfall?

COMMISSIONER GOLLOTT: Yes, sir.

JOE JEWELL: Thank you.

COMMISSIONER HAVARD: Commissioner Gollott, can I get a clarification on the reasoning behind raising it from thirty percent to, now, thirty-one percent which is above the staff's recommendation?

COMMISSIONER GOLLOTT: Yes. You're not talking about that many oysters in a day. It's just the idea of getting above ten thousand sacks. That's all.

COMMISSIONER HAVARD: We are going to take more oysters from a downward spiraling resource, just because the numbers look better?

COMMISSIONER GOLLOTT: Well, let's put it this way, Mark. There is no way what we are doing is going to help us next year. The only thing is if God gives us the spat set out there to bring the oysters back is this oyster industry going to recover. You cannot manage your way to more oysters.

COMMISSIONER HAVARD: It's not going to help us, but it can hurt us.

COMMISSIONER GOLLOTT: We have a motion.

COMMISSIONER BOSARGE: Excuse me. We need to look at the motion and make sure everybody is clear.

JOE JEWELL: I have the first part of it, if you would like to type it, Will.

COMMISSIONER BOSARGE: While we are doing that, Paul, you had something you wanted to say, Dr. Mickle.

PAUL MICKLE: Thank you, Chairman.

Just a quick fact. To get ten thousand sacks, the percentage to reach that will be thirty point four five percent. Thirty point five percent will get over ten

thousand. Point five percent is what we are arguing over right now.

COMMISSIONER BOSARGE: Thank you.

COMMISSIONER TRAPANI: Chairman Gollott, did you specify when the relay was going to take place?

COMMISSIONER GOLLOTT: In October.

COMMISSIONER TRAPANI: Okay.

COMMISSIONER BOSARGE: October for Biloxi Bay. Correct?

COMMISSIONER GOLLOTT: We've got to do it in October, before we start getting these winter tides, because you will never get the Conservationist on the oyster reefs in Pascagoula, once you start getting the winter tides.

COMMISSIONER BOSARGE: One question I had, and I think you guys have got the information where we can look at it. In other words, we haven't said what we are going to harvest from Pascagoula to move to Biloxi Bay.

I would like to go ahead and set that in stone.

COMMISSIONER GOLLOTT: Well, the Executive Director has agreed to go down and assess the reefs with us next week, and, then, we will get together. We will include you in it, Steve.

COMMISSIONER BOSARGE: Do we have that information, Joe, on the Pascagoula Reef?

Do you have that where you can present it?

JOE JEWELL: Erik does have that, but it would be a lot more efficient for us, if the Commission made the motion and made the decision on setting the season, and, then, the relay.

COMMISSIONER BOSARGE: We have a motion.

Do we have a second on the motion?

COMMISSIONER TRAPANI: I'll second that.

COMMISSIONER BOSARGE: Any further discussion?

(No response.)

COMMISSIONER BOSARGE: We have a motion and a second.

All those in favor say aye.

(Commissioner Gollott, Commissioner Trapani in favor.)

COMMISSIONER BOSARGE: Opposed?

(Commissioner Bosarge, Commissioner Havard opposed.)

JOE JEWELL: Sandy, they modified your motion a little bit to include Biloxi Bay opens October 2nd, but they modified the motion to direct the staff to relay. Now, they are going to take up that portion of the motion.

COMMISSIONER BOSARGE: Back up just a minute. Let's do this vote again. I didn't quite get your vote.

Which way did you vote, Commissioner Harmon?

COMMISSIONER HARMON: I vote nae.

COMMISSIONER BOSARGE: That's three against and two in favor. The motion fails.

SANDY CHESTNUT: This motion failed?

COMMISSIONER BOSARGE: Yes, ma'am.

COMMISSIONER GOLLOTT: The motion failed.

COMMISSIONER BOSARGE: Sandy, did you want to say something?

SANDY CHESTNUT: No.

COMMISSIONER BOSARGE: I will make a motion. I say we accept the staff's recommendations as stated, and the only thing we change is the opening date of the Western reefs to what Mr. Gollott wanted which is November 13th.

COMMISSIONER GOLLOTT: Repeat that, Steve.

COMMISSIONER BOSARGE: Basically, accept the staff's recommendation. The only changes, I believe, between yours and this one would be thirty percent, instead of the thirty-one percent and we would change the opening date for the Western reefs to November 13th.

JOE JEWELL: Do some cultch planting and relaying, also?

COMMISSIONER BOSARGE: I thought we were going to do that after this.

JOE JEWELL: We will do that separate.

You are recommending accepting the staff's recommendations, with the modification of opening the Western Sound on November the 13th and opening Biloxi Bay October the 2nd.

COMMISSIONER BOSARGE: Correct.

We have a motion.

Do we have a second?

COMMISSIONER HARMON: Seconded, Mr. Chairman.

COMMISSIONER BOSARGE: Any further discussion?

(No response.)

COMMISSIONER BOSARGE: All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

Let's talk about relaying, now. I guess really the only question, or concern, I have is we can leave it to the discretion of the Executive Director, but I would like to set, if we could, that same thirty percent where we don't take more than thirty percent from Pascagoula, and, then, what we do take, we move to Biloxi Bay.

We will give you time to think about that. Commission Gollott has asked for a break. We will take about a five-minute recess, and, then, we will be back.

JOE JEWELL: Before we break, I want one clarification for the record.

COMMISSIONER BOSARGE: All right.

JOE JEWELL: In your motion, we still retain the sack limit, twenty-fifteen?

COMMISSIONER BOSARGE: Twenty sacks for the dredge boats and fifteen sacks for the tongers.

JOE JEWELL: That's right. That was in the motion.

SANDY CHESTNUT: That was in his motion?

JOE JEWELL: In his original motion, yes.

SANDY CHESTNUT: That was Gollott's original motion. It failed. We will have to come back with that.

JOE JEWELL: We will have to redo it.

(Whereupon, a short recess was taken.)

COMMISSIONER BOSARGE: Let's get everybody back to their seats and back to the task at hand.

I have been instructed that when we made our motion, we talked about the sack limits and that was not part of the staff's recommendations. Sandy has asked that we make a separate motion.

I will make the motion that we set the sack limits at twenty sacks for the dredge boats and fifteen sacks for the tongers.

Do we have a second?

COMMISSIONER GOLLOTT: I'll second it.

COMMISSIONER BOSARGE: We have a motion and a second.

Any further discussion?

(No response.)

COMMISSIONER BOSARGE: All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

Now, we are going to talk about Pascagoula relaying.

ERIK BROUSSARD: We are going to present the same format as the other reefs. This is the Pascagoula Causeway Reef.

These are 2017 samples. You have seven point eight sack size oysters per square meter. You can see some good seed and very little spat.

Here is the three-year trend. We started including this in our reef assessment three years ago. That's all we have data for, and you can see a downward trend.

These reefs, as well, have fallen victim to some of the mortality events and the record amount of rain we

have had this year.

The West Pascagoula Reef, six point three sack size oysters per square meter, with some seed and very little spat. We have two years of data for this reef, and, again, you can see coming down from fourteen sack size oysters per square meter all the way down to six, in a two-year period.

We did do some diving in Graveline. One point three sack size oysters per square meter, down from fourteen, as well, with very little spat and seed.

Here's a map that, basically, sums it up, how many acres each one of those reefs are and how many sacks.

When I talk about sacks here, we conduct a reef assessment the same. It's sacks of marketable size oysters.

There is a difference, when you start talking about transplanting because they are sacks of material.

Being that the market size was so high in the past years and it is low, now, that tells you the reef is still there, it is still very dense, and there is probably more sacks of material there than there are sacks of market size oysters. That is just something to keep in mind.

COMMISSIONER GOLLOTT: Wouldn't you say that probably the lack of spat indicates that the reef hasn't

been turned over, worked, or there is nothing for the cultch material to attach to because it is so dense?

With so many marketable oysters, that just points to me that it needs to be thinned out and moved and placed in Biloxi Bay, and it would give Pascagoula a chance to spread out and the oysters to start growing better, getting more food.

One of the things that I want to do and I think we have already agreed to go back in and cultch plant Pascagoula, after we take the oysters out of there, so we are not depleting Pascagoula. All we are doing is utilizing and refertilizing it so we will have nice oysters in the future.

What I would like to do is just leave it up to the Executive Director and the staff to get together in October and let's figure out how many we need to move, what is the right amount to move.

I would like to put that in a motion.

COMMISSIONER BOSARGE: Can you state that motion one more time?

COMMISSIONER GOLLOTT: What I would like to do is leave it up to the Executive Director and the staff to set how many oysters that we relay out of Pascagoula into Biloxi, and I do want to start this is October, and I do want to, at the next opportune time, to go back in and

cultch plant Pascagoula so we can keep this thing going.

To me, Pascagoula, is one of the ideal areas to catch a spat and to raise an oyster. It has been doing it for years. We have about seventy-five years of nothing but the oysters sitting there catching spat and growing and dying and producing reefs. There is a lot of reef there.

I think we figured out that it would be a lot cheaper to build reefs in Biloxi Bay by relaying these oysters, plus what have you got, three or four year class of oysters that you just showed us sizes and stuff that is coming.

By letting the fishermen catch the three-inch plus oysters, we are also setting it up for the next two, or three, years in the class, leaving the spat there to grow.

COMMISSIONER BOSARGE: We have a motion.

I would like to discuss it just a little bit more. You talked about, Erik, oysters versus material.

Me personally I would like to see us actually set a hard number on what we are going to take from Pascagoula, or what we are not going to take from Pascagoula.

If we say we are going to take thirty percent from Pascagoula Reef, how are we going to figure out what

is oysters and what is material?

Have you got that wrapped around your head somehow?

ERIK BROUSSARD: We have given that some thought, and that might be something we can look into, giving you more of a volumetric measurement versus how many marketable oysters are there. We can look into coming up with some numbers.

COMMISSIONER BOSARGE: I mean, there is a big difference between catching oysters and culling on the reef and leaving a lot of material.

In your opinion, what would you say if you were to drop a dredge, pick it up, dump it, what percentage is going to be marketable oysters and what percentage is going to be material?

ERIK BROUSSARD: Well, going back to those drafts this year, you can see the decline in marketable oysters. In previous years, the percentage would be higher because you were at fourteen marketable size oysters. It really just depends on what state the reef itself is in.

COMMISSIONER BOSARGE: Even though the reef, like Commissioner Gollott says, hasn't been touched in seventy-five years for the most part, it is still in a declining stage.

If you look across all the states for the most part, that's where all the oysters are, even with us with reefs that haven't been touched.

I agree with Commission Gollott in that I would love to see some oysters moved from Pascagoula to Biloxi, but I would like to set that number at a hard number and, at the same time -- because we are not just removing oysters. We are removing material -- go back and cultch plant where we took the oysters from.

COMMISSIONER GOLLOTT: Excuse me.

Would you take Graveline out of that?

My motion was not for Graveline. I do not want to mess with Graveline, at this point.

ERIK BROUSSARD: Do you want to distinguish between the two Pascagoula reefs, West River and Causeway?

COMMISSIONER GOLLOTT: No. That's all basically the same.

ERIK BROUSSARD: Okay.

COMMISSIONER GOLLOTT: We have had years and years of cultch material building up there and dying. If you move a little bit of cultch material with it, if you come back with some fresh cultch material, we are not killing the Pascagoula Reef, believe me.

You could put a hundred dredge boats in there and never get down to the bottom of it, I don't believe,

as thick as that thing is. Like I say, you are going to have to have good tide days to even get on top of the reef there are so many oysters there, but I think it can be worked out with the staff and the Executive Director, and we don't have to put a hard number on it.

That's my motion.

COMMISSIONER BOSARGE: We have a motion.

Do we have a second?

COMMISSIONER HARMON: So seconded, Mr. Chairman.

COMMISSIONER BOSARGE: We have a motion and a second.

Any further discussion?

(No response.)

COMMISSIONER BOSARGE: All those in favor say aye.

(Commissioner Gollott, Commissioner Harmon, Commissioner Havard, Commissioner Trapani in favor.)

COMMISSIONER BOSARGE: Opposed?

(Commissioner Bosarge opposed.)

COMMISSIONER BOSARGE: Motion carries.

ERIK BROUSSARD: Thank you.

COMMISSIONER HARMON: May I make a statement?

COMMISSIONER BOSARGE: Sure.

COMMISSIONER HARMON: I know that we are spread real thin on our resources working with this. I would

like to make sure that we get back over to Pascagoula and do the cultch material and cultivate this with some bagless dredges. It is a very important area to us. Let's just make sure that we don't neglect it. It has helped us. Let's give it some help back.

ERIK BROUSSARD: Yes, sir.

COMMISSIONER HARMON: Thank you.

COMMISSIONER BOSARGE: Thank you.

JOE JEWELL: Thank you Erik. Thank you Commissioners.

Next up on the agenda for Marine Fisheries for the Commission's consideration is a Haul Seine update. It is a non-action item. It is going to be presented by Mr. Matt Hill.

MATT HILL: Good morning again Commissioners, Director Miller, Ms. Chestnut.

I'm just going to do a quick haul seine update. First, I want to go over the regulations that pertain to the haul seine. I think there has been a little bit of confusion on this.

The first part of these regulations are found in Title 22 Part 5, Rules and Regulations that Establish Restrictions Governing the Use of Nets, Fish Traps and Pots within the Territorial Waters of the State of Mississippi and Establishing Certain Catch Limitations and

Quotas.

The first issue we come to is in Chapter 4, Commercial Net Closure Areas and Gear Size Restrictions.

This is a very lengthy chapter, especially when we start talking of the net closure areas, so we produced some maps to make it a little clearer for everyone.

The areas shaded in green are the areas that are closed to haul seine fishing year round. You can see it's the bays and the bayous. It's one mile around Ship Island, Horn Island, Petit Bois Island and some areas around Pascagoula. It is a very difficult line to draw. There are some markers that aren't currently there anymore. We did some historical search, and this is a fairly accurate depiction of that.

What we don't have in here because it's just too numerous, it's within twelve hundred feet of any active pier and some other manmade structures that just didn't seem relevant to this particular presentation.

Also, during the period from May 15th through September 15th, there are additional haul seine closure areas. These include Telegraph Key on the bottom left, one mile around Cat Island and one mile around Round Island, and these are basically your summer months.

We also wanted to compare this to your recreational closure areas. These are your recreational

closure areas three hundred and sixty-five days a year. They are shaded in green and, as you can see, there are no areas shaded in green which is to say there are no recreational closure areas for fishing.

The next restriction we come to with haul seine is also in Title 22 Part 5, Chapter 4, Section 101, Subsection 101.08. It states:

"It shall be unlawful for any person, firm, or corporation to use at any time trammel nets, gillnets, seines, or any other like contrivances in excess of twelve hundred feet in length."

Additional haul seine requirements are also found in Title 22 Part 5, Chapter 4, Section 101, Subsection 101.10:

"It shall be unlawful for any person, firm, or corporation to leave a gillnet, trammel net, purse seine, seine, or any other net like contrivance governed by the restrictions set forth in this Part unattended in the waters of this state, and at least one person shall be required to stand by, within one boat length of the boat using said net, at all times the net is in the water. It shall further be unlawful for a person, firm, or corporation, to use, or have in their possession, a gillnet, trammel net, seine, or like contrivance, on the waters of this state without a visible buoy attached every

one hundred feet clearly marked with the license number, or owner's full name, thereon."

We decided it would be best to do a harvest comparison, and we began by doing just a quota species for the most recent time period that we could which is the first six months of 2017, January through June.

As you can see, the white shaded area, that is your recreational landings which accounts for a little over one point eight million pounds of Red Fish, Speckled Trout, or Flounder, for the first six months of the year which represents ninety-five percent of the total harvest of the resource.

The commercial percentage is approximately five percent, with one percent of that coming from the haul seine industry, and the other four percent coming from all other commercial gear. The total comes to a little over one point nine million pounds.

We also combined all finfish together. This includes all recreationally and commercially viable species. The white area, again, shows the recreational sector landings of a little over three point three million pounds which accounts for ninety-three percent of all finfish landed in the state.

The commercial sector is responsible for approximately seven percent of that, with the haul seine

industry, again, coming in at one percent of that catch, and all other commercial gear contributing to six percent of the catch, which gives us a total of a little over three and a half million pounds.

We just broke down the commercial gear comparison for all finfish, as we feel like there has been a little misinformation put out there. The haul seine industry, when compared to all other commercial gear types, catches approximately seventeen percent of all finfish. All other gear which includes mainly the hook-and-line industry is still responsible for eighty-three percent of the catch.

The total catch so far for the entire commercial fishery is a little over quarter of a million pounds.

We have also had reports of people believing that there has been a run on haul seines.

As you can see, the licenses sold have increased slightly. The active numbers have increased slightly, but I would like to also put a caveat on this. In the three years that we are showing, there has been no active gillnet fishery in the State of Mississippi. We have no active commercial gillnet landings showing up in our trip ticket system. We feel like some of this is due to some of these fishermen have swapped gear types from the gillnet to the haul seine, not necessarily that we have

had an increase in fishing.

With that, I will take any questions.

COMMISSIONER BOSARGE: I think we also have some public comments, some people who want to speak.

COMMISSIONER HAVARD: Let me ask you a question real quick, Matt, before we get started on that.

It is my understanding that these nets are primarily made out of monofilament?

MATT HILL: That is correct.

COMMISSIONER HAVARD: The holes in these nets are larger than normal, and these nets tend to be acting in the same manner as gillnets?

MATT HILL: I don't understand the question of being larger than normal. There are no mesh size restrictions on any net that we have, except for the purse seine. They are within the regulations that we currently have in place.

COMMISSIONER HAVARD: Are these nets acting as entanglement devices, in the same way that gillnets were?

MATT HILL: All nets have the potential, if they are not used correctly, to act as an entanglement device. Shrimp trawls, purse seines, cast nets, brill nets, all have the potential to act as an entanglement device.

The haul seine, when used correctly and with the correct mesh size, is a very selective gear. It targets

the species that the fishermen want to target.

We had a long conversation with Marine Patrol the other day on some regulations that we may want to consider putting in place, but overall they do agree that it is a very efficient gear and it is a very selective gear.

However, it is just like anything else. If the net is not used correctly, it can be considered as a gillnet. An example of that is if they let loose of that net and if they do not keep it moving and it stays stagnant in the water, then, there is a much greater chance of fish being entangled, instead of corralled, as the net was designed for.

COMMISSIONER HAVARD: I had some people ask me about these nets potentially becoming ghost nets like the old gillnets used to be.

MATT HILL: These nets are very expensive to make. It's not something that you just run down to the store and buy. These nets cost, on the average, twenty-five hundred dollars each to construct a new net.

These fishermen are making a living. It's not the most lucrative living. I find it very difficult to believe that they would leave a twenty-five hundred dollar net in the water to ghost net fish. The fishermen that are using them are very seasoned fishermen.

One of the things that we are working with and one of the things that we have stressed is that the net must always be attached to the vessel.

We have had one instance where the net was not attached to the vessel and we considered that fisherman was using that net as a gillnet, and we supported Marine Patrol in that. We supported the court case in that, but that was a very isolated incident.

All the incidents that I have witnessed and that we have documented, the fishermen have kept the net attached to the vessel and they have kept the net moving to corral the fish and not entangle the fish. It is not in their interest to entangle these fish.

COMMISSIONER GOLLOTT: Matt, just to get one thing clear, there is a quota on Speckled Trout and Flounder for commercial fishermen. When they reach that quota, the season closes.

MATT HILL: Yes, sir.

COMMISSIONER GOLLOTT: How they catch the fish really doesn't make any difference. It's still a fifty thousand pound quota.

MATT HILL: It is still a fifty thousand pound quota, and one of the arguments that brought this to the table to light with us was we had another sector of the commercial fishery that felt as if this gear type was

harvesting too much of the quota.

We did an analysis and we did it specifically on Speckled Trout, and we were able to show that if we eliminated the haul seine industry from catching a quota species such as Speckled Trout -- and we had a banner year on Speckled Trout. There is no getting around it. We had a phenomenal year and we are continuing to have a phenomenal year, commercially and recreationally, but, if take all the haul seine landings out of the Spotted Seatrout commercial fishery, the hook-and-line fishery would have gained twenty-two extra days in that fishery. We would eliminate a gear type to allow another gear type to fish for a little over twenty days to catch that other seventeen percent of the fishery.

COMMISSIONER GOLLOTT: I think it is pretty ridiculous that the recreational fishermen almost caught two million pounds and they've got fifty thousand pounds for commercial fishermen and somebody is saying something about it.

COMMISSIONER BOSARGE: One other point. The hook-and-line fishermen, the only closures I believe they have would be north of the CSX.

MATT HILL: That is correct.

COMMISSIONER BOSARGE: Whereas, that haul seine fisherman, there are so many places he can't go.

MATT HILL: That is correct.

COMMISSIONER BOSARGE: In other words, it is hard for him to catch fish with that gear.

MATT HILL: Yes.

I also would like to point out that it is not necessarily a fishery that we see that targets especially quota species. I have shown that they caught approximately seventeen percent.

This gear type is very effective in targeting what we like to think of as underutilized species, species that hook-and-line fishermen, or other commercial fishermen using different gear types, are not interested in catching. They are difficult to catch with hook and line, but they are still a valuable fish in several markets, and that is how these fishermen are making their living. It's not the quota species. It's the underutilized species that we are seeing.

COMMISSIONER BOSARGE: Any more discussion?

COMMISSIONER HAVARD: Do we have any idea what the bycatch is?

MATT HILL: We have not done an official study on what the bycatch is. What we have seen is it is very efficient, when you look and even asking some of the law enforcement officers. I have point blank asked them, and I'm not going to speak for them. We did point blank ask

them, are these sets, in your opinion, clean sets, and they said, yes, they are very clean sets.

They can target the exact species of fish they need to catch, based on mesh size. If they don't want to catch Spotted Seatrout, they will use a four-and-a-half to five inch mesh to where Speckled Trout will go through there, but they may possibly be targeting Black Drum, or they may use a different mesh size in a different area for Spanish Mackerel.

They are able to target and they are very effective at it, to target the species that they need to target for that particular time of the year and what is going to allow them to profit the most.

COMMISSIONER BOSARGE: If you look at where they have to fish, then, they see the fish. They are not just blind hauling. They see the fish and they set the net.

MATT HILL: That is correct.

COMMISSIONER BOSARGE: We've got some folks who want to make public comment on this issue. The first one being Mr. F. J. Eicke.

JOE JEWELL: Before Dr. Eicke gets up here, my colleague wanted me to mention we have been in consultation with Marine Patrol, and I wanted to clarify this for Commissioner Havard.

We are considering some regulatory changes to

one of our regulations, Title 22 Part 5, to clarify some of the issues that Mr. Hill brought up.

One of those issues has been an issue for Marine Fisheries and Marine Patrol, how we define that section of the code, Title 22 Part 5, Chapter 4, Subsection 100.10, where it describes the position of the boat:

"Required to stand by, within one boat length of the boat using said net, at all times the net is in the water."

Well, we interpret that as once he releases from the boat, and that has happened once this year. It rarely happens, but it did happen. The boat operator who did that admitted to it and Marine Patrol acted appropriately in that instance.

Marine Fisheries and Marine Patrol are working to clarify that regulation so that it more succinctly describes that act because it doesn't do that, now, what happens afterwards when they turn loose of the boat.

As Commissioner Havard pointed out, there is some improvement to give Marine Patrol more flexibility in the field when they are observing those potential regulatory breaches.

I am going to be out of the office in October attending the ISSC conference. It's one of our big conferences.

We will probably come forward in November with some proposed regulatory changes to make it a little more clear for both Marine Patrol, the fishermen and Marine Fisheries.

I hope that answers the question.

COMMISSIONER BOSARGE: Yes, sir.

Get them all in the same room maybe and try to make sure that the rule works for both enforcement and for the fishermen.

JOE JEWELL: Sure.

Dr. Eicke.

F. J. EICKE: As y'all know, I'm here as a representative of CCA Mississippi.

We did address this issue with Director Miller. Our opinion, basically, is that we really haven't gotten to the point where we think these are defined, in terms of the construction and the use, to the point where we are comfortable with it.

I want to make it clear, two things, one is that where this started was on the fact that a number of recreational fishermen contacted me, and I think Commissioner Havard will say that they contacted him, as well, with the first thing being the gillnets are back.

It was some observations. Whether they are legitimate, or whether they were reliable, or whatever,

but they were observations, and that's what brought this up.

The second thing that I would say is the criticisms that have emerged today from Commissioner Gollott and I guess you, as well, Chairman Bosarge, comparing catch data and closed areas and such to recreational fishermen is really not even needed. It's an irrelevant piece of information.

This is about the definition of haul seines as they were observed by some of our members and as they labeled them.

If we can get to the point where we better define these, in terms of how they are constructed and how they are used, it's a commercial issue, but, in that sense, it's a gillnet issue that goes back to the 1990's when that particular issue was not exactly approached in a calm manner.

We don't want to get back there. We want to do something that is legitimate and that allows commercial fishermen to function in a way that basically fits the history and the current regulations.

With that, I'm going to stop, rather than going further, and we will wait.

Director Jewell mentioned that there was some thinking in the department about changing the regulation

to clarify it.

We made some initial kinds of inquiries and it turns out that back in 1998 there was a bill proposed that defined nets in a number of different ways, one of which was the definition of gillnets and seines, and that came at a time we have kind of decided, based on my discussion with some of the older members of CCA who were around at that time and active at that, that bill never went forward because that was the time when the Commission took the action to make the requirement that gillnets be biodegradable and our experience, obviously, has been that that essentially took gillnets out of the water, and that's where the comments by some of our members came from, in terms of the history of this particular issue.

COMMISSIONER BOSARGE: Your time is up, Mr. Eicke. I'm sorry.

You talked about comparing the closure areas to recreational. I think it is very relative. The people need to understand this. Most people, in my opinion, have a swayed view of what commercial fishermen do.

The marine resources, in the State of Mississippi, belong to all the people of the State of Mississippi, not just the people in these three, or four, coastal counties. Commercial fishermen provide that resource for the rest of the people in the State of

Mississippi.

F. J. EICKE: My comment, or reaction, to what you are saying is there was some reason for those closures and I think if those reasons are no longer applicable, then, there should be some changes to the closure areas, but, as of right now, this is the way the closure areas stand.

We are dealing with an issue that we are going to proceed on, apparently, with some additional clarification, and I think there is a need for that, in terms of how we define the nets.

COMMISSIONER BOSARGE: Yes, sir, all twelve people that are involved in that fishery; seven of them that are active.

F. J. EICKE: To have a pie chart as we did with the one million, or whatever it is, recreational catch, what I have always believed is that is an estimate that very often is overestimated, and we need to get some real data.

COMMISSIONER BOSARGE: Mr. Eicke, we are overfished and undergoing overfishing.

F. J. EICKE: I agree with that, and we can deal with that issue as we need to.

COMMISSIONER BOSARGE: I agree. Because I represent the commercial industry, it does tend to get to

me when if the tables were turned and this was a recreational fishery and the commercial fishermen were catching that many fish, this would be all over every front page of the papers from here to eternity.

F. J. EICKE: I would remind you, Commissioner Bosarge, that there are apparently over eighty thousand recreational licenses in this state.

COMMISSIONER BOSARGE: I agree.

F. J. EICKE: And that needs to be recognized, as well.

COMMISSIONER BOSARGE: Yes, sir. Thank you, Mr. Eicke.

F. J. EICKE: Thank you.

COMMISSIONER BOSARGE: Next is Mr. Steve Shepard.

STEVE SHEPARD: This is the real reason I came today because everyone is talking about haul seines. This spring, those haul seines looked about like a shrimp trawl. All of a sudden they come up monofilament and, now, I couldn't see close up that they actually are using them with mesh sizes that conform to the size of the fish.

That's gilling. That is gillnetting. That is entanglement, and that should not be allowed. Just because it's called a haul seine it falls under the same change that was made, regarding the biodegradable rule.

Now, as far as no one would throw away a twenty-five hundred dollar net, I can assure you twenty-five hundred dollar gillnets were thrown away all the time; all the time back in the old days.

I know gillnetters. I know them, and they admitted it because, if they got into a mess of catfish, or something, they dropped the net. It was easier for them to go home and get another net than it was to fight a big balled up mess of bycatch which, now, you say never happens.

Dr. Eicke's comment about eighty thousand is something to think about because, as I told the number of haul seiners that were telling me on our social media, well, what's your problem. Why doesn't everybody just go get a haul seine, yes, that's a solution. Let's everybody get a haul seine. I'll tell you this. If everyone got a haul seine and actually used it, it would be more fair than picking out a few people and saying, everybody else uses a rod and reel.

To hear this report on the haul seine, they act like a rod and reel is equal to a haul seine. We've got a limited resource out there. The fairest way to do commercial fishing is have everyone use the same gear.

Now, nobody is fussing over the hook-and-line commercial guys. You know why? You can't even tell them

apart from anybody else. If everybody is out fishing Speckled Trout and they've all got rods and reels, I assume that the commercial hook-and-line guy is really good at pulling them in, if he is going to catch enough to make it worth his while.

These millions of pounds coming in from these recreational people, it is interesting to me because every person I knew growing up that was good at catching Speckled Trout, even back in the days when you didn't have a license, they were selling fish. When the license came in, they all got hook-and-line licenses, the ones who knew how to fish.

I don't know these amateurs who recreationally fish who are slaughtering the fish. I know who the experts are, and they tend to sell the fish.

Now, I want to comment on your closures, too. Let me first of all recommend that you add a closure. If you want the haul seiners to survive, get them off that Singing River Island area because last spring before they went to the monofilament gillnet, I heard it from a number of fishermen. They are out there fishing and here comes a haul seiner. He sets one end of the net on the rocks, makes a big U, goes back to the rocks and he sucks up all the Speckled Trout in that spot. Then, he moves to the next section (indicating).

Now, if you want to keep the haul seine, don't do that in front of a bunch of recreational fishermen. Have the guy with the haul seine switch to a rod and reel and participate with everybody in catching those fish.

Please do not be unfair.

By the way, I saw twenty-three out there, not seven, or eight. I saw twenty-three lately because they are excited by this monofilament net.

This should be illegal. This is an entanglement net. If they ditch them, we are going to have ghost fishing again like we had back when the gillnetters were not responsible, and I don't see any reason why the haul seiners will be responsible.

They have a record. They've got a track record in this state. It's not good.

If the eighty thousand are going to have to use their voice, we may use our voice in the legislature. Thank you.

COMMISSIONER BOSARGE: Thank you, Mr. Shepard.

Next is Ryan Bradley.

RYAN BRADLEY: Thank you Commissioners for allowing me to speak today.

My name is Ryan Bradley, and I'm involved with the Mississippi Commercial Fisheries United, Incorporated.

First, I would like to say that I respectfully

disagree with the comments made by Mr. F. J. Eicke and Mr. Steve Shepard.

Haul seines are not the problem. There are only a few vessels who fish regularly with this method, compared to the other types of fishing.

What we really need to look at is why the commercial sector is only being allocated less than two percent of the overall harvest for a variety of species, not just Speckled Trout.

There is a lot of talk about these haul seiners are using monofilament. Most of the ones I've seen are made of nylon.

The haul seines are prohibited from operating in many locations, they are prohibited from operating at night, and they must always be within a boat's length of the net.

Haul seining is hard work, and the men and women who do it provide public access to resources that belong just as much to the people in Jackson, or Ridgeland, or Hattiesburg, as they do to the people on this Coast who are blessed to have access to the resource with a boat.

We should be thankful for the hardworking men and women who fish commercially with these haul seines to provide this access to the public.

The haul seines are not the problem. We need to

address why the commercial sector is getting such a small allocation.

I'm glad that they admit that the eighty-something thousand recreational licensed are a problem, that they seem to think that they are the only ones who deserve access to the resource.

What if we start having all the public throughout the state start weighing in to the legislature, wondering why they are not getting their fair share, their access to the resource.

With that being said, I think the haul seines are operating just fine. There is not an issue here.

Thank you, sir.

COMMISSIONER BOSARGE: Thank you, Mr. Bradley.

Moving on, I think we are going to have a jubilee update, by Mr. Jonathan Barr.

JOE JEWELL: Yes, Mr. Jonathan Barr will be doing that update.

JONATHAN BARR: Good morning Commissioners, Director Miller, Ms. Chestnut.

Last month the Commission asked that we come forth with a recommendation for future jubilee events.

For starters, I would like to touch on current regulations for collecting seafood from the beach in such an event.

In order to retain any finfish at all, fishermen must have a saltwater recreational license. All size and bag limits do apply.

For shrimp, no license is required. If you are fishing with a cast net, you may retain only fifty pounds of shrimp head-on.

For crabs, no license is required, but a minimum carapace size of five inches is required.

As of yet, no other Gulf state suspends any rules and regulations, during jubilee-type events.

We did bring four options to the table for y'all to consider. Three of these four, we consider regulatory change.

The first option, status quo, what we currently do. The agency does not currently suspend any rules, or regulations, during jubilee events.

The second option would be to repeal the bag and size limits in designated areas, during these events.

The third option is to repeal license requirements for the collection of finfish, during jubilees. This would require a State statute modification.

Then, the fourth option is a combination of two and three.

The staff's recommendation, at this time, is

that we maintain current regulations, during future jubilee events.

COMMISSIONER GOLLOTT: Mr. Chairman, I make the motion that we go with the staff's recommendation on this jubilee event.

COMMISSIONER HARMON: I'll second that motion.

COMMISSIONER BOSARGE: I'm hard of hearing.

Can you say it one more time, Richard, please?

COMMISSIONER GOLLOTT: That we go with the staff's recommendation on this jubilee event and leave it as it.

COMMISSIONER BOSARGE: Thank you.

We have a motion and a second.

All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

JONATHAN BARR: Thank you.

COMMISSIONER BOSARGE: Thank you.

JOE JEWELL: Next up for the Commission's consideration is a new State record. That will be presented by Mr. Travis Williams.

TRAVIS WILLIAMS: Good morning Commissioners, Director Miller, Ms. Chestnut.

Today for your consideration is a new State saltwater sport fishing record. This record falls in the conventional tackle category.

The record is an Oyster Toadfish, Opsanus tau. The old record is two pounds four point four eight ounces. The new record is three pounds two ounces. The angler is Mr. Sherman Roberts.

Here is a picture of the Toadfish. Here is Mr. Roberts with the Toadfish.

What would be required from the Commission is a motion to adopt the new State record Toadfish.

COMMISSIONER BOSARGE: We need a motion to adopt.

COMMISSIONER TRAPANI: I'll make that motion to adopt the new State record for Toadfish.

COMMISSIONER GOLLOTT: I'll second it.

COMMISSIONER BOSARGE: We have a motion and a second.

All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

TRAVIS WILLIAMS: Thank you.

COMMISSIONER BOSARGE: Thank you.

Next is Office of Coastal Resources Management, Mr. Jan Boyd.

JAN BOYD: Good morning Mr. Chairman, Commissioners, Director Miller, Ms. Chestnut.

We have three items for your consideration this morning, and Holland Lamier will be our first presenter.

HOLLAND LAMIER: Good morning. I will be presenting the first item which is a request for a permit extension by Warren Paving, Incorporated.

The location is the Bayou Bernard Industrial Canal at 11211 Reichold Road, Gulfport, in Harrison County.

It's in the Industrial Development Use District, and the agent is Culpepper and Associates.

This is the project location. You can see I-10, Cowan Lorraine, Highway 605, and that is the project location right here (indicating diagram).

In their project description, we have the structure as being a six hundred and eighty-eight linear foot bulkhead, three mooring pilings and fill with the dimensions of six hundred and eighty-eight feet by twenty-two feet, equaling four thousand five hundred and forty-three cubic yards of material.

On September 6th, 2012, we issued the permit with an expiration date of September 6th, 2017.

On August 21st, 2017, we received a submission with a request for an extension for two years.

Staff's recommendation is based upon departmental review and evaluation. We recommend that the CMR approve the applicant's request.

COMMISSIONER BOSARGE: Are there any questions?

(No response.)

COMMISSIONER GOLLOTT: Mr. Chairman, I make the motion that we accept the staff's recommendation on this project.

COMMISSIONER BOSARGE: We have a motion.

Do we have a second?

COMMISSIONER HARMON: So seconded, Mr. Chairman.

COMMISSIONER BOSARGE: We have a motion and a second.

Any further discussion?

(No response.)

COMMISSIONER BOSARGE: All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries. Thank you.

HOLLAND LAMIER: Thank you.

CHRIS PICKERING: Good morning Commissioners. I will be presenting the next two items on the agenda.

First is a request for a permit extension by the Mississippi Department of Marine Resources.

This is located on the Mississippi Sound, Heron Bay, St. Louis Bay, Back Bay of Biloxi, Davis Bayou, Graveline Bayou and Pascagoula Bay, in Hancock County, Harrison County and Jackson County. This is in the General Use District.

The applicant is requesting a change in the expiration date of the DMR's permit from June 22nd, 2026, to May 2nd, 2027. This is to match the U.S. Army Corps of Engineers permit expiration date.

The previously permitted project includes restoring up to thirty-five hundred acres of the proposed twenty-three thousand eight hundred and twenty-three acres of existing and historical oyster reefs, during Phase I of a ten-year project to restore the full twenty-eight thousand eight hundred and twenty-three acres.

Oyster shell, crushed concrete, or limestone cultch material, will be placed at a density of one hundred cubic yards per acre across each selected site, totaling no more than three hundred and fifty thousand cubic yards of material. This density will ensure less than six inches of relief of cultch materials across the

bottom of each restoration site.

Because these areas are currently designated as a General Use District, the applicant requested and was granted a change in the Coastal Wetlands Use plan to a Special Use District. This is S-1, Natural and Artificial Oyster Reefs. Also, the applicant requested and was granted a variance to Chapter VIII, Section 2, Part III.O.1. of the Mississippi Coastal Program. This was for permanent filling of Coastal Wetlands is discouraged.

Here are the diagrams from the previously permitted project (indicating).

On December 22nd, 2015, a permit application was submitted to DMR with an Environmental Impact Assessment and a request for a variance.

On June 21st, 2016, the Commission approved the permit application.

On July 26th, 2017, DMR received a request to change the expiration date of the permit.

Based upon departmental review and evaluation, the staff recommends that the Commission approve the applicant's request to extend the expiration date of the permit to May 2nd, 2027.

Any questions?

(No response.)

COMMISSIONER BOSARGE: Do we have a motion?

COMMISSIONER TRAPANI: I'll make that motion to extend the permit to May 2nd, 2027.

COMMISSIONER BOSARGE: We have a motion.

Do we have a second?

COMMISSIONER GOLLOTT: I'll second it.

COMMISSIONER BOSARGE: We have a motion and a second.

All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

CHRIS PICKERING: Next is a violation update for Juanita Starr. It is located on the Tchoutacabouffa River at 12033 Motsie Circle in Biloxi, Harrison County. It's in the General Use District, and the agents are Richard Shepler and Michael Yentzen.

There were a hundred and twenty linear feet of bulkhead constructed out of compliance with the previously issued General Permit.

These are pictures y'all have already seen of when we flagged it and the bulkhead as constructed.

On June 28, 2017, staff sent an email detailing what would be required to complete an after-the-fact application.

On June 29th, 2017, staff informed everyone at the site meeting how to complete an after-the-fact application.

On July 18th, 2017, the Commission ruled to issue a fine to Ms. Starr and Mr. Shepler in the amount of one thousand dollars each which shall be paid within sixty days of the Commission's decision, or by September 18, 2017.

The Commission also ruled to order the bulkhead be brought into compliance with the General Permit issued on July 5th, 2016, within sixty days of the Commission's decision, or by September 18th, 2017.

In the event the project was not brought back into compliance by that date, the matter should be forwarded to the Attorney General's office for further enforcement action.

On July 24th, 2017, staff met with the applicant's attorney and handed him an application packet and explained how to complete the after-the-fact application.

On July 27th, 2017, the applicant by and through counsel, Michael Yentzen, filed a Petition for Reconsideration of the Commission's July 18th, 2017, ruling and specifically requested, one, that the thousand dollar fine issued to the applicant and her contractor be reduced

to fifty dollars each and, two, that the applicant be granted sixty days from the date of reconsideration to apply for an after-the-fact permit.

On August 15th, 2017, the Commission denied the applicant's Petition for Reconsideration and ruled that the project be brought into compliance with the July 5th, 2016, General Permit no later than September 18th, 2017, and, in the event the project was not brought back into compliance by that date, the matter should be forwarded to the Attorney General's office for enforcement action.

On August 17th, 2017, a letter was mailed to Ms. Starr, Mr. Shepler and Mr. Yentzen to inform them of the Commission's denial of the requested relief stated in the Petition for Reconsideration and that the original ruling was upheld. A copy of the letter from the original ruling was enclosed.

On September 8th, 2017, staff received an after-the-fact application for the bulkhead to be retained as is.

We went through the application and Environmental Assessment that was submitted, and we have a response to some of the points that were made in there.

The Environmental Assessment states the bulkhead as constructed will provide the applicant adequate protection of their private property and constructing a

bulkhead landward of the existing proposal would subject the applicant's property to loss due to erosion.

Staff believes protection can be obtained by constructing the bulkhead at, or above, the mean high tide line as flagged by DMR staff on June 29th, 2016, and without the filling of an additional three hundred and sixty square feet of Coastal Wetlands.

The Environmental Assessment states the bulkhead was constructed as proposed and, to the extent of the applicant's knowledge, above mean high tide.

The staff says the bulkhead was not constructed as flagged by staff. Accordingly, staff believes the bulkhead was constructed waterward of the line of mean high tide as of June 29th, 2016.

The Environmental Assessment states constructing a bulkhead landward of the existing proposal would not be consistent with DMR-080788 and DMR-110281.

I pulled the permits for these two projects, and the bulkheads were both permitted to be constructed at, or above, the current line of mean high tide as flagged by DMR personnel.

The Environmental Assessment states the alternative designs would not impact Coastal Wetlands, or Section 404 Wetlands, thus these designs would not require permitting.

Any structures placed waterward of the mean high tide line as flagged on June 29th, 2016, would require authorization from the DMR.

While we agree Section 404 Wetlands -- these are non-tidal wetlands -- would not be filled, staff believes Section 10 Waters, water of the U.S., could and have been filled.

The Environmental Assessment states other designs, such as constructing a bulkhead waterward of the existing proposal, would require fill of Coastal Wetlands and Public Trust Tidelands.

Staff agrees with this statement, but also believes the bulkhead as constructed filled Coastal Wetlands, Public Trust Tidelands and Section 10 waters.

The Environmental Assessment states that the current applicant is for General Permit reauthorization and the proposal is compatible with the Coastal Zone Management Plan, and no variance is required.

Staff cannot issue a General Permit for the current proposal because the proposal does not meet General Permit guidelines. We strongly believe waterbottoms were filled and Coastal Wetlands at that.

The applicant would have to obtain authorization from the DMR, U.S. Army Corps of Engineers and Department of Environmental Quality for the placement of fill in

waterbottoms, whether it is placed in Coastal Wetlands, or not.

The applicant could also be required to mitigate for these wetland impacts.

Staff believes the applicant would need to request two variances to the Coastal Program:

One is the Chapter VII, Section 2, Part III.D.3 which states, "Vertical face structures shall be aligned no further waterward than mean high tide, and constructed so that reflected wave energy does not destroy adjacent wetlands habitat."

The second is Chapter VII, Section 2, Part III, 0.1 which states, "Permanent filling of coastal wetlands because of potential adverse and cumulative environmental impacts is discouraged."

The applicant has not requested a variance, but has claimed that a variance is not necessary.

The applicant has not demonstrated that impacts to wetlands have been avoided and minimized to the maximum extent practicable.

The Environmental Assessment states, "The project will create long-term and construction-related employment opportunities. The additional employment opportunities and expansion of the local tax base serves a higher public interest than the avoidance of temporary

nominal impacts created by the proposed project. The project represents an insignificant impact to the public interest of coastal wetland protection, and it will serve a greater public interest by creating employment opportunities in South Mississippi."

This is for a private residential bulkhead and, therefore, does not serve a higher public purpose. Staff does not agree that filling of coastal waterbottoms and wetlands represents an insignificant impact to the public interest of coastal wetlands protection, nor is it a temporary impact.

The applicant and her agents, including legal counsel, have been notified numerous times to submit an after-the-fact application, but it was not submitted until after the Commission made their ruling and denied the applicant's petition request for an additional sixty days in which to submit said application.

To date, the bulkhead has not been brought into compliance and, as of yesterday, the fines have been paid, so that is one thing that has been done.

The matter is scheduled to be forwarded to the Attorney General's office for enforcement action, in accordance with the Commission's July 18th, 2017, ruling.

COMMISSIONER BOSARGE: Up there it says the fines have not been paid (indicating slide).

You said the fines have been paid?

CHRIS PICKERING: Yes. They paid them yesterday.

COMMISSIONER BOSARGE: I believe Mr. Richard Shepler would like to speak on this issue.

MICHAEL YENTZEN: Actually, I would like to speak, first.

COMMISSIONER BOSARGE: State your name.

MICHAEL YENTZEN: Michael Yentzen. I'm the agent for the applicant.

I just want to clarify. I don't agree with this assessment of what has happened.

First of all, I wasn't even notified about the meeting, until yesterday. I didn't receive any written notification of this meeting.

I'm not prepared for a full evidentiary hearing today, but, just as a point of clarification, the last time that I asked for reconsideration of the prior decision, I wanted to clarify that we would be given an opportunity to complete and submit an after-the-fact application.

I was assured by the Commission, then, that that was the intent of the ruling of the Commission, not withstanding the formal letter of the Commission.

I indicated, at that point in time, that I felt

like I had had the rug pulled out from under me by DMR because I was told specifically by DMR that I should file a Petition for Reconsideration so that we could clarify that point.

The Commission ruled, at that point in time, that we would be allowed to complete and submit an after-the-fact application.

Well, DMR presents this today and says that that was not the Commission ruling and that we were not given the permission to complete and submit an after-the-fact application.

I would just like to clarify that that is not the case. It's not correct. That is completely untrue and that is a mischaracterization of what actually happened at the previous two meetings.

Furthermore, at the first meeting in July, I tried to make our case and our argument that, I guess, it's really not a permitting issue. It's a question of whether these were tidelands to begin with and, also, whether the DMR was negligent and actually approved the permit drawing as completed.

Those are several issues that we could bring up, if we proceed and take this to litigation.

There is no tideland survey that was performed. We have demonstrated that, when the flagging was done and

the pictures were taken, it was at a period where the river was at a higher than normal stage.

Furthermore, basically, what we are arguing is that the bulkhead that was constructed across the river was done in late 2013. The one that was done upriver was done in 2014. That created a situation where it exacerbated the scouring of this area and you could see.

I submitted a packet of information at the July meeting that shows that, until those bulkheads were constructed, there was a beachfront that was several feet beyond where the existing bulkhead was situated.

After the construction of that upriver bulkhead and the across-the-river bulkhead, it created a situation where it redirected the river flow and it created a situation where it created an avulsion situation, not erosion.

The State law is very clear on avulsion that avulsion which is a rapid change scouring away of material, or appreciative material, does not change the property boundaries. It does not create tidelands.

That is our argument in a nutshell. This was created in such a rapid fashion that it didn't change the property boundaries.

It is very evident, if you look at the satellite photographs that I provided in that packet and, also, some

other information that was provided in the packet, along with the case law, that the location of the bulkhead as constructed should be allowed to stand.

I'm prepared to appear at the next Commission meeting and do a complete evidentiary hearing. I can have an expert witness testify. I can provide much more documentation and much more case law.

Like I said, I wasn't even aware that we were on the agenda for this meeting until yesterday because I received no written notification of this.

Also, I was told yesterday by Chris that this was just going to be a status update and, now, it seems like this is going to be the end of discussion.

As I requested at the July meeting, I would like the Commission to use their authority to allow the bulkhead as constructed to stay where it was constructed.

Like the EA said, the Environment Assessment that we prepared and submitted, we are not talking about any significant amount of supposed, or alleged, tidelands. There is nothing there. There was no vegetation that was of any importance. There is nothing there.

I'm not sure exactly why this is such an important issue, but it has become a big issue.

We were trying to work a resolution out with the Department of Marine Resources, but really it has fallen

on deaf ears.

COMMISSIONER BOSARGE: I'm just a concerned citizen here more or less, but it appears to me that it has been mostly that everything has fallen in the wrong order. When you first came, there should have been an after-the-fact permit applied for, at that time, so that you would have given us some power to maybe do something.

MICHAEL YENTZEN: Yes, sir.

COMMISSIONER BOSARGE: If your argument is that the land was scoured out and the bulkhead should have been moved out, that argument might should have been made prior to them flagging and telling you where it had to go.

Another point. This is not an action. This is strictly just an update. That's all this is.

MICHAEL YENTZEN: It didn't appear that way, from the presentation by Mr. Pickering. It sounded like this was going to be forwarded to the Attorney General's office, and, then, we would be going to litigation.

COMMISSIONER BOSARGE: I can't speak for these guys, but, as it has gone on and procedures have taken place, as they take place on all these issues, that is where it is headed and, hopefully, to somebody that is wearing a robe that can look at all your evidence and make a determination on who did what in the right order and who needs to do what and what can be retained and what can't.

MICHAEL YENTZEN: I think the Commission is in a position to make that determination administratively, and I think there has been a lot of finger pointing, or basically in discussions with the Department of Marine Resources --

COMMISSIONER GOLLOTT: (Interposing) Excuse me, sir. I think the Commission has already made their decision on this, and I think you will have your chance to go to court with the Attorney General, and I don't think we want to address this any further.

Thank you very much.

MICHAEL YENTZEN: I'm very disappointed that you say that.

COMMISSIONER BOSARGE: Mr. Shepler would like to speak.

RICHARD SHEPLER: In view of Mr. Gollott's statement, you are telling me the Commission will not, or cannot, whichever term is legally applicable here --

COMMISSIONER GOLLOTT: (Interposing) Well, it's not an action item, so there is nothing we can do with it today, and it is already going to the Attorney General's office and, apparently, that's where you need to go to get all your problems solved because I don't think we can solve them.

RICHARD SHEPLER: Understood, and it's my

contention that the Commission has been asked to rule on this, make a decision on this, from the beginning, with incomplete information.

I will accept responsibility. I have broad shoulders. Blame me, if you want. That's fine.

I'm not here to point blame, just get some things straightened out that I feel like the Commission has made a decision with a substantial amount of incomplete information.

As Mr. Yentzen eluded to, State law does allow for the reconstruction of property lost due to avulsion; not erosion, but avulsion. Erosion is a slow natural process. If Mother Nature decides to take your property, that's between you and Mother Nature, not the State of Mississippi.

The case law that he refers to, one of them that I read was the State Supreme Court overturned a Chancery Court ruling in favor of the landowner that was challenged, and the level of proof they required was clarification on those terms, avulsion, erosion and accretion in a legal sense.

This has been educational for me, as well, because, in a legal sense, I didn't understand the difference in erosion and avulsion, until this case.

They relied on one eye witness and one expert's

testimony. Now, the Supreme Court overturned the lower court's ruling based on that level of proof.

We have at least two expert witnesses. We have an eye witness, a neighbor who watched this happen on more than one occasion.

The permit itself, the original permit, as a contractor, my single biggest complaint with how this has happened -- and this may, or may not, have much of a bearing here, but I believe it would for you and the department going forward with future permits -- I submit a drawing along with a permit application.

I am, in effect, entering into an agreement with the State of Mississippi. When you do that, you don't get to make changes to the drawing and not have the owner agree to those changes.

I submitted the drawing with the permit application. I get back in the mail, at some future point several weeks later, my drawing laminated to a permit card to go on my job site (indicating document).

Now, the only dimension mentioned in the actual permit, the yellow permit card is the hundred and twenty linear feet.

Mr. Pickering has mentioned this on at least two other occasions at previous meeting, the thirty-nine foot dimension which you may, or may not, recall.

COMMISSIONER BOSARGE: I do.

RICHARD SHEPLER: I will be glad to let you see this to refresh your memory, if you want it, or if you have it in front of you. That is a rather obscure dimension stuck in the middle of the drawing right there that three construction professionals in a row missed, and that's why that process of approval, before permit issuance, is standard with every other permitting agency you will ever deal with (indicating document).

If I submit plans to build a house to the City of Biloxi, it goes to plan review. Plan review, if they make changes, they have a big red stamp they put right on it. It's called a table of revisions, and every revision is noted, and I have to agree to those revisions before a permit is issued.

In this case, I didn't get that. I got a yellow card and the very last statement on that yellow permit card in bold, for emphasis, reads:

"Furthermore, this project as proposed" -- now, I'm the proposer -- "has been found to be consistent with all guidelines for conduct of regulated activities in Coastal Wetlands as set forth in the Mississippi Coastal Program" (indicating document).

COMMISSIONER GOLLOTT: Let me explain myself. You've got a beautiful bulkhead there and I would love

that. I think it is beyond our reach, now.

Let's ask our attorney because none of us are lawyers.

MICHAEL YENTZEN: Let me try to clarify this. From the July meeting, we had until yesterday to submit an after-the-fact application which we did timely, I might add.

The point of the last meeting in August was to get additional time and to clarify that we were allowed to submit an after-the-fact application, and the Commission denied that by ruling that the intent of the July ruling was to allow us to submit an after-the-fact application.

Right now, there is an after-the-fact application that was timely applied for and submitted, and I guess it is being summarily dismissed by the Commission. I don't know.

COMMISSIONER GOLLOTT: Let me say it again. Please let our attorney weigh in on this. She is the final say.

MICHAEL YENTZEN: Yes, sir, of course.

SANDY CHESTNUT: It is my understanding the Petition for Reconsideration requested sixty days to submit an after-the-fact application, and the Commission denied your Petition for Reconsideration at that meeting.

MICHAEL YENTZEN: They said, during the original

meeting in July, that they had authorized us to submit an after-the-fact application.

SANDY CHESTNUT: You have been able to submit an after-the-fact application all along from the beginning.

MICHAEL YENTZEN: I know. We did, and we timely submitted it.

SANDY CHESTNUT: No.

MICHAEL YENTZEN: Yes.

SANDY CHESTNUT: You did not submit --

MICHAEL YENTZEN: (Interposing) Yes, we did. At the July meeting, we were allowed to submit an after-the-fact application.

COURT REPORTER: I cannot take down what is said, unless they speak one at a time.

COMMISSIONER BOSARGE: Let's calm down just a minute. Give Ms. Chestnut a chance to state her case, please.

COURT REPORTER: One at a time, please.

SANDY CHESTNUT: At the July meeting is when you filed the Petition for Reconsideration, or at the August meeting.

MICHAEL YENTZEN: That's when it was heard. We filed it based on the July meeting, but, if you go back to the July meeting, the discussion was that we were allowed to file an after-the-fact application from the July

meeting until September the 18th, which we did.

SANDY CHESTNUT: Had you submitted the after-the-fact application prior to the Petition for Reconsideration that would have been considered.

You filed the Petition for Reconsideration. You asked for an additional sixty days to submit the after-the-fact application. The Commission denied that.

MICHAEL YENTZEN: The Commission denied that on the basis that the original meeting allowed us sixty days from the July meeting to file the after-the-fact application which we did file the after-the-fact application within sixty days from the July meeting.

That was the point, not to mention it was at the behest of the DMR because the DMR thought that the original letter wasn't clear that we were allowed the ability to file the after-the-fact application after the July meeting because it mentions nothing about that.

When we came back and asked for the Petition for Reconsideration, that was the whole point, in addition to establishing the fines were arbitrary and capricious, but the point was to clarify that we had time to submit an after-the-fact application.

Now, we weren't granted an additional sixty days from that August meeting, but we still had sixty days from the July meeting.

This makes no sense whatsoever.

SANDY CHESTNUT: Mr. Yentzen, you guys could have filed an after-the-fact application beginning in June, when the violation was first brought forth.

MICHAEL YENTZEN: I understand that.

SANDY CHESTNUT: And that had been addressed with you several times.

MICHAEL YENTZEN: It doesn't matter.

COMMISSIONER BOSARGE: It does.

MICHAEL YENTZEN: No, it doesn't.

COMMISSIONER BOSARGE: My point is procedurally you have to --

MICHAEL YENTZEN: (Interposing) Believe me I'm an attorney. I understand procedure, and I understand what the discussion was at the July meeting. The discussion was that we were allowed to file an after-the-fact application sixty days from the July meeting.

The Petition for Reconsideration didn't change that whatsoever, but, like I said, the letter from the DMR wasn't clear, with respect to the ability to file the after-the-fact application. That's why the Petition for Reconsideration was filed at the request of the DMR.

COMMISSIONER BOSARGE: Let's back up just a minute.

RICHARD SHEPLER: I have one question, if I

might, just to clarify something, just to know procedurally, and this is probably for Ms. Chestnut.

Information contained on the original permit, or with regard to the original permit, it's my contention that an after-the-fact application isn't even necessary and never was.

My question would be procedurally, then, does the same determination apply?

There is information, like I stated when I started, that you don't have, or didn't have, or wasn't presented in a way that really meant anything. The dots weren't connected, if you will, and that all had to do, from my standpoint as a contractor, with the original permit.

COMMISSIONER BOSARGE: I agree. You make points with the original permit. I understand that, but we don't wear robes and I think that, if you want these questions answered, you are going to have to go to a power higher than us.

I hate to be rude, but that's where we are, and we can argue this all day long, but we're not going to make any headway because we are where we are procedurally, and procedurally this is just an update. There is nothing we can do for you.

It is going to the Secretary of State's office

is where it's going, and that's where you guys need to focus your attention.

RICHARD SHEPLER: From my standpoint as a contractor, that is understood. Thank you, Mr. Chairman.

COMMISSIONER BOSARGE: Thank you.

SANDY CHESTNUT: I would like to say that an after-the-fact application has been required all along because the project was built out of compliance with where the project was flagged, and the after-the-fact application that was submitted cannot be granted because you are asking for a general permit, and that cannot be issued for this project.

MICHAEL YENTZEN: My --

SANDY CHESTNUT: (Interposing) Excuse me.

MICHAEL YENTZEN: I'm sorry.

SANDY CHESTNUT: You are also not requesting the variances that would be required, and those have all been explained to you. You have to request the variances. It is not going fit in GP guidelines, and those haven't been even addressed.

MICHAEL YENTZEN: Yes, it was addressed. The Environmental Assessment and the after-the-fact permit application is consistent with our legal argument. There is no variance that is required.

I'm not sure if you are saying that we had the

ability to submit an after-the-fact permit application, but it was completely disregarded. Now, you are saying that. I'm not sure if you are saying that.

Procedurally, there is nothing that was done that was not proper procedurally.

If you want to read the record of the last meeting on the Petition for Reconsideration, please read the record because you read the record from the July meeting that basically said that we were given the authority to submit an after-the-fact application until September the 18th.

I'm saying that this Commission has the authority to consider the after-the-fact application, notwithstanding what DMR's recommendation is.

If this is going to have to go to the Secretary of State, or the Attorney General's office, then, we will proceed that way, as well. That's fine.

COMMISSIONER BOSARGE: Both sides make good points.

RICHARD SHEPLER: All I would like to say -- and I don't know that this has any real bearing -- it's my contention that there are no variances required, based on the original permit.

The original permit clearly shows me connecting the bulkhead on either side of this property point-to-

point, corner-to-corner, and I would also just like to go on record as saying that both of those points that I connected with this bulkhead are previously established mean high water lines by the Department.

COMMISSIONER BOSARGE: That's why I say you need to take it to a level higher than us.

RICHARD SHEPLER: My apologies that I didn't stand up here at the first meeting and get this information to you in a way that you could disseminate it.

Procedurally, if that's where we have to go with it, then, that's where we have to go with it.

COMMISSIONER GOLLOTT: Basically, that's what we are trying to tell you. We --

RICHARD SHEPLER: (Interposing) I understand that, sir. I just wanted to make sure, and I wanted to be sure that the information that you needed was on record, if we have to refer back to it.

COMMISSIONER BOSARGE: You have a beautiful bulkhead and, for your sake, I hope that you will be able to keep it.

RICHARD SHEPLER: Well, that would make two of us.

COMMISSIONER BOSARGE: Thank you, sir.

RICHARD SHEPLER: Thank you.

SEAN MORRISON: My name is Sean Morrison,

counsel for DMR.

I just wanted to clarify one thing. We have been talking a lot about this after-the-fact permit. The commission's decisions have not actually focused that much on the after-the-facts because, again, that could have been applied for at any point along this process.

What we are focusing on, in terms of status update today and whether, or not, it is in compliance has nothing to do with whether that permit was filed.

The ruling was that the fines be paid and that the project be brought back into compliance with the original permit which means taking that out and bringing the bulkhead back into the original permit. That is what has not been done today, and that's why we are starting to look at the Attorney General's office because it has to be brought back into that permit footprint.

COMMISSIONER GOLLOTT: I think we have beaten this horse to death.

SEAN MORRISON: I agree.

COMMISSIONER GOLLOTT: Let us move on. It's getting late.

COMMISSIONER BOSARGE: We understand your point.

MICHAEL YENTZEN: That wasn't the ruling. That wasn't the ruling, and that was clarified at the last meeting.

If you look at the decision that was made in the July meeting, that was not the ruling. That was my point at the last meeting that the Commission allowed us to apply for an after-the-fact permit and, from the letter ruling that the DMR made, it didn't allow for that.

That was my point, but I was assured by the Commission at the August meeting that we would be allowed to apply for an after-the-fact permit, and, then, the Commission can listen to our arguments, our legal arguments.

I feel a little bit railroaded here and, from a procedural standpoint, there is no procedural missteps whatsoever. The procedure that the Commission has was followed and was correctly followed.

In fact, I went overboard to follow it and to say that --

COMMISSIONER GOLLOTT: (Interposing) Sir, I will say it again, it's over. Thank you.

COMMISSIONER BOSARGE: We are going to move on. Next is Office of Finance and Administration, Kacey Williams.

KACEY WILLIAMS: Good morning everyone.

These are the financial results as of August 31st, 2017.

At the end of August, we had three point two

million in State Revenue. We had three point three million in Total Agency Revenue. We had two point two in State New Income. Our Total Agency Net Income was one point five million.

After two months of this fiscal year, we have ninety-three point eight percent of our Operating Funds Budget remaining, and ninety-eight point four percent of our Tidelands Funds Budget.

COMMISSIONER GOLLOTT: Kacey, are we in good shape?

KACEY WILLIAMS: Absolutely.

COMMISSIONER GOLLOTT: All right. Thank you.

KACEY WILLIAMS: Yes, sir.

COMMISSIONER BOSARGE: Now, Public Affairs, Melissa Scallan.

MELISSA SCALLAN: Good morning Commissioners, Director Miller, Ms. Chestnut.

The agency has been mentioned thirty-six times in local, state and national media since our last meeting.

Some of the items that got the most attention were the Alabama angler who caught a record-breaking shark at the Mississippi Deep Sea Fishing Rodeo, the end of the recreational Red Snapper season, the cultch planting on oyster reefs in the western portion of the Mississippi Sound, and the oyster aquaculture project near Deer

Island.

Since the August Commission meeting, we participated in the Biloxi Seafood Festival which was a big hit. They moved it to the Town Green this year from The Point. There were lots of people there and we gave out lots of stuff, talked about rules and regulations and that kind of thing.

Marine Patrol was with us at the Biloxi Seafood Festival. They were a big help in answering questions. They also participated in a few events, the Night Out Against Crime in Bay St. Louis, Face Off at the Fort in Ocean Springs and the CCA Kids Fishing Rodeo at Point Cadet.

Marine Patrol also held a boat-and-water safety class in August and certified six students.

COMMISSIONER BOSARGE: Good deal.

MELISSA SCALLAN: Any questions?

(No response.)

COMMISSIONER BOSARGE: Thank you, Melissa.

MELISSA SCALLAN: Commissioner Havard, I did want to tell you that I will work with Joe Jewell's office and Chief Davis and we will work to get the word out to the northern parts of the State about Tails n' Scales and see if we can't improve that compliance number for the northern portions of the State.

COMMISSIONER HAVARD: Thank you.

COMMISSIONER GOLLOTT: Mr. Chairman.

COMMISSIONER BOSARGE: Yes, sir.

COMMISSIONER GOLLOTT: I would like to make a motion that we go into closed session to determine the need to go into executive session to consider pending litigation.

COMMISSIONER BOSARGE: We have a motion.

Do we have a second?

COMMISSIONER HARMON: So seconded Mr. Chairman.

COMMISSIONER BOSARGE: We have a motion and a second.

All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

(Whereupon, meeting stands in recess.)

COMMISSIONER BOSARGE: I would like to call this meeting back to order.

Ms. Chestnut, can you give us a report on our executive session?

SANDY CHESTNUT: Yes, sir.

At 11:56, a motion was made by Commissioner Gollott to go into closed session to discuss the need for

executive session to discuss pending litigation. That motion was seconded by Commissioner Harmon.

At 12:02, a motion was made by Commissioner Gollott to go into executive session. That motion was seconded by Commissioner Harmon.

There were no motions made, during the executive session. At 12:19, Commissioner Havard made a motion to end executive session and go back into regular session. That motion was seconded by Commissioner Gollott.

COMMISSIONER BOSARGE: Thank you.

We will continue. Next is what is now K2 which is Petition for Reconsideration of Title 22 Part 1, Joe Jewell.

JOE JEWELL: Thank you Commissioners.

I will presenting Item F3, now K2.

I want to give an overview of the regulatory actions and procedural actions that have occurred in 2017, in relationship to his regulatory action.

In April of 2017, the Commission engaged in a Notice of Intent that was formally filed with the Secretary of State's Administrative Bulletin.

The Commission met at it's normal Commission meeting, on May the 16th, where Mr. Morgan Holder representing the Vietnamese coalition group submitted a Petition for Reconsideration.

The Commission made three motions, at that May meeting.

One of the motions was to deny the Petition for Reconsideration as being prematurely filed.

The second motion the Commission made was to extend the public comment period and to conduct a public hearing.

The third motion was to identify matters in the public comments and for more information on the Economic Impact Statement and whether there is additional scientific information.

On June the 14th, a public hearing was held at Biloxi, Mississippi, in this room.

On June the 20th, at the CMR regular meeting, the Basket Dredge Ban, the final adoption was considered and tabled until the July meeting.

At the July 18th CMR meeting, the final adoption was voted on and passed and filed with the Secretary of State's office. The effective date of this final adoption was September the 1st, 2017.

On August 1st, 2017, Mr. Morgan Holder refiled the Petition for Reconsideration.

At the August 15th CMR meeting, the Commission went into executive session to give the DMR Executive Director the authority to enter into a settlement

agreement. The Commission, then, reestablished the effective date of the regulation to October the 2nd.

Here we are at the September meeting.

The Commission has to now consider the Petition for Reconsideration.

This petition that was submitted on August the 1st contained three primary requests of the Commission.

The petition petitioned the DMR and the CMR to consider and rescind Chapter 7, Section 102, of Title 22 Part 1.

The three things that the petition requested the Commission to reconsider are as follows:

The prohibition on basket dredges is not supported by the best scientific information.

The Commission failed to consider the economic impact the rule would have on citizens and, thus, Chapter 7, Section 102, Title 22 Part 1 must be reversed.

Chapter 7, Section 102, Title 22 Part 1 are arguably facially neutral. Its disparate impact against the Vietnamese-Americans violates the 14th Amendment to the United States Constitution, and, therefore, must be invalidated.

At this time, I would call Attorney Morgan Holder up to argue his Petition for Reconsideration, but it is my understanding that he had Court date today.

Sandy, I'm not quite sure how to proceed with this with no legal representation for the Petition for Reconsideration.

SANDY CHESTNUT: His petition is in writing. If he had any further comments, he could make them if he were here. It's not required.

If there are any public comments that people are wanting to make, we can go ahead and take those.

JOE JEWELL: Okay. The next slide is simply I'm going to advise the Commission on the actions they can take.

COMMISSIONER BOSARGE: We will take public comments, and, then, we will let you advise us.

One young lady wants to speak, Ms. Thao Vu.

JOE JEWELL: Ms. Vu.

THAO VU: Good afternoon Director Miller and Commissioners.

I am Thao Vu with the Mississippi Coalition for Vietnamese-American Fisher Folks and Families. We are a community-based organization.

Please inform me if you have trouble hearing me. I have been sick with a cold, and I still have a sore throat.

First of all, I would like to state that our attorney, legal counsel, Mr. Morgan Holder, just as Mr.

Jewell stated, he has court responsibilities that he could not get out of, and he will definitely follow up with the agency as soon as possible after court.

At the last Commission meeting last month, I wanted to speak about the safety-at-sea issue that I had raised before, and I actually have a photo that I am going to show everyone.

I don't know if Director Miller and the Commissioners can see. I will bring it closer.

Basically, this is a photo of a fisherman. He is not from here. Actually, I think it's the Chesapeake, or Virginia, area. He is using a bag dredge, and he has to stand on the boat, and it is a safety issue. It's not safe, especially in windy conditions and rough seas. This is what we are talking about, a safety-at-sea issue.

I found this photo to help illustrate how dangerous it could be. It is very difficult sometimes to convey it without a picture, and I think this picture helps illustrate that, and I want to reemphasize this is a major concern for our Vietnamese fishermen.

The other issue I want to raise is about the economic impact and the financial hardship that, if we have to use the bag dredge, the bag dredge requires a lot of maintenance. Those bag dredges are not very durable. If it sits out in the sun, it will become brittle, and,

when they do harvesting, it is going to rip and the oysters are going to go right through it, and it is going to require extra costs to maintain.

We were informed that just the materials alone is at least three hundred dollars, not counting the labor because not many fishermen have the specialized skills to build, or construct, this bag dredge.

It is critically, critically important to our communities who have suffered so much, our fishing communities, and we were very, very, very disheartened to hear about the oyster season earlier that now is looking like a ten thousand sack year.

Translated into days, that is maybe a week's worth of work, one week. Even a part-time person works more. That is horrible.

Our fishermen are being displaced. It is not sustainable. We cannot have any more regulations that will further displace them. They are barely hanging on.

Think about it. Ten thousand sacks, that is at the most seven, or eight, days. That is if the weather cooperates with us. That's if. That is a major if because we have been having twenty-five to thirty thousand sacks the past several years, and that is maybe twenty, or twenty-one, days of work. My organization has been tracking all of this.

Our community cannot take any more of this. There is no robust science behind this, trying to ban this. The economic impact will be great.

COMMISSIONER BOSARGE: Ms. Vu, your time has run out. Thank you.

THAO VU: Thank you Commissioners for giving me the opportunity to comment.

COMMISSIONER BOSARGE: That was the only person who wanted to make a comment.

Continue on, Joe.

JOE JEWELL: Thank you Ms. Vu. Thank you Commissioners.

Commissioners, you should be a little familiar with this slide. I have presented it at least twice before at previous meetings.

The Commission, according to Title 22 Part 15, Chapter 3, Subsection 107.04, provides four action options the Commission may engage in.

One, they can make a final disposition of the Petition, by either granting, or denying, the requested action without further argument.

Two, they can request a response from the MDMR prior to making a final disposition.

Three, they can set the matter for an evidentiary hearing.

Four, they can make such further orders as it deems appropriate under the circumstances.

COMMISSIONER GOLLOTT: Mr. Chairman, I would like to make a motion.

COMMISSIONER BOSARGE: Yes, sir, Commission Gollott.

COMMISSIONER GOLLOTT: I would like to use Number One, final disposition, and deny the Petition for Reconsideration and move forward with banning the dredge, but I would like to direct the Department to look at the possibility of funds and an exchange program to help these basket dredgers convert their equipment to complying gear to ease any financial burdens.

By, I think, providing the money to help them with the dredges, that takes care of the financial end of it.

As far as Ms. Vu's claims of being real dangerous, I have dredged oysters myself on boats, and it is not dangerous.

The picture she showed was a dredge coming up on the side of the boat.

The dredge comes up on a table, or on the deck, and the net goes down and you just grab the reigns and empty the oysters, just to clarify that they are not dangerous.

There are Vietnamese people in Louisiana using these dredges, now, and I understand there are a couple in Mississippi. It is not beyond their capacity to do so.

I think for the resource, to make sure we are not damaging the resource, what little resource we have, we need to move forward with this.

COMMISSIONER BOSARGE: I think we probably need to separate this into two motions.

Let's do the first part, and that will be your motion to deny the Petition for Reconsideration.

COMMISSIONER GOLLOTT: That's correct.

COMMISSIONER BOSARGE: We have a motion.

Do we have a second?

COMMISSIONER TRAPANI: I'll second that.

COMMISSIONER BOSARGE: We have a motion and a second.

Any further discussion?

(No response.)

COMMISSIONER BOSARGE: All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

The second part of your motion, could you say

that one more time?

SANDY CHESTNUT: Can I make a clarification here, before you move on?

COMMISSIONER BOSARGE: Yes, ma'am.

SANDY CHESTNUT: Because the Petition for Reconsideration was denied, that effectively means that the regulation goes into effect October 2nd, like was voted on at the last meeting. I just wanted to make that clear for the record, that the regulation change will take affect October 2nd.

JOE JEWELL: Can I interject, right here?

COMMISSIONER BOSARGE: Yes.

JOE JEWELL: It might be appropriate for the Commission to take a reaffirmation vote for that October 2nd vote.

Would that be appropriate?

SANDY CHESTNUT: You can.

JOE JEWELL: They have done that before.

SANDY CHESTNUT: It's not necessary, but, if you want to go ahead and make that clear, you can.

The effect of denying the Petition for Reconsideration --

JOE JEWELL: (Interposing) Makes the regulation go into effect on October the 2nd.

SANDY CHESTNUT: Yes.

COMMISSIONER BOSARGE: So we are okay with that, Joe?

JOE JEWELL: Yes.

COMMISSIONER GOLLOTT: You want the second one, now?

COMMISSIONER BOSARGE: Yes, sir.

COMMISSIONER GOLLOTT: I make the motion to get the Department to do an exchange program to help the basket dredgers convert their equipment to compliant gear and to ease any financial burden.

COMMISSIONER BOSARGE: Do I have a second for Commissioner Gollott's motion?

COMMISSIONER HARMON: So seconded, Mr. Chairman.

COMMISSIONER BOSARGE: Any further discussion?

(No response.)

COMMISSIONER BOSARGE: All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Opposed?

(None opposed.)

COMMISSIONER BOSARGE: Motion carries.

JOE JEWELL: That concludes Marine Fisheries.

COMMISSIONER BOSARGE: Thank you, Mr. Joe.

Do we have anybody else in the audience who wants to make a public comment?

(No response.)

COMMISSIONER BOSARGE: Seeing none, do we have a motion to adjourn?

COMMISSIONER GOLLOTT: Mr. Chairman, I would like to make a motion that this Commission adjourn.

COMMISSIONER BOSARGE: We have a motion.

Do we have a second?

COMMISSIONER HAVARD: I'll second it.

COMMISSIONER BOSARGE: All those in favor say aye.

(All in favor.)

COMMISSIONER BOSARGE: Motion carries. The meeting is adjourned.

(Whereupon, at 12:40 o'clock, p.m., the September 19, 2017, meeting of the Commission on Marine Resources was concluded.)

CERTIFICATE

I, Lucille Morgan, Certified Shorthand Reporter, do hereby certify that the above and foregoing is a true and correct transcript of the September 19, 2017, meeting of the Commission on Marine Resources, as taken by me at the time and place heretofore stated in pen shorthand, with electronic verification, and later reduced to typewritten form to the best of my skill and ability; and, further, that I am not a relative, employee, or agent, of any of the parties thereto, nor financially interested in the cause.

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