Commission Meeting

April 19, 2011

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COMMISSION ON MARINE RESOURCES

MEETING OF COMMISSION ON MARINE RESOURCES
April 19, 2011

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TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAYVIEW AVENUE, BILOXI, MISSISSIPPI, ON THE 19TH DAY OF APRIL 2011 COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LAUDER SOROE, CERTIFIED SHORTHAND REPORTER.

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COMMISSION MEMBERS PRESENT:

DR. VERNON ASPER, Chairman RICHARD GOLLOTT SHELLEY DRUMMOND STEVE KOCARZE JIMMY TAYLOR

ALSO PRESENT:


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1. Call to Order

DR. ASPER: Good morning. I'd like to welcome everybody to the regular April meeting of the Mississippi Commission on Marine Resources. Glad to have so many folks here.

We have a couple of distinguished guests. I'm only aware of Senator Golliott. If there is anybody else who's elected official, let us know. Senator Golliott, great to have you here.

2. Approval of Minutes Commission Meeting – March 15, 2011 - Action

DR. ASPER: We have on our agenda here the approval of the minutes. Are there any changes to the minutes?

Is there a motion to approve as distributed?

MR. DRUMMOND: So moved.

MR. GOLLOTT: Second.

DR. ASPER: Those in favor say aye. Carried unanimously.

3. Approval of Agenda - Chairman - Action

DR. ASPER: We have the agenda. I have one concern here, one change we want to make. One individual needs to leave early but wants to hear Item H-3(d), so I'd like to move that up to the agenda location before marine fisheries.

I'd like to recommend that change. Are there any other changes to the agenda?

1. Is there a motion to approve as amended?

MR. GOLLOTT: So moved.

DR. ASPER: Is there a second?

MR. KOCARZE: So second.

DR. ASPER: Those in favor say aye.

2. Public Comments

DR. ASPER: And before we get to public comments, Senator Golliott has asked to have a few minutes of our time. I'd like to welcome him to our meeting.

(Appause.)

SENATOR GOLLOTT: Gentlemen, I want to thank the DMR and the many, many things, the letter that you sent to the City Council about the Katrina reef.

If it wouldn't have been for y'all's assistance and the Businessmen's Club and the different organizations that got involved in this, we would not be moving that concrete out to the Katrina reef.

We want to also thank the coast delegation.

They got involved in this, and they were unanimous about putting the money together and giving the money to y'all to move the concrete out to the Katrina reef.

And they said -- the City Council said that we had to make sure that the money was available. Well, I talked to Dr. Walker, and the moneys that we put in y'all's budget, there was $272,000 that was still left in that budget. So he

1 sent a letter to the City Council and to the mayor that the moneys was available, and that pretty much locked it in where the concrete was going to go out there on the Katrina reef.

And during this session, we put the additional money back in y'all's budget, even though y'all had enough to go ahead and do the Katrina reef, because of the different things that y'all do during the year helping the coastline.

And I want to personally thank -- and these different organizations, like the Sierra Club came through.

They were pushing this, and the different organizations that's here contacted the council members and the mayor and everyone to let them know we wanted to build that reef. It's going to be one of the greatest reefs in the Continental United States in the northern Gulf of Mexico.

And the fishermen are elated over this, what's going to happen, as far as putting that in. And it will protect the island. It will protect the coastline.

And there's one other thing that's probably going to happen. And that's between the reef and Deer Island. If y'all put some oysters there and oyster shells, then that will be one of the best reefs that we have down here close to Biloxi because it will knock the wave action off of the island, and it will allow the oysters to grow there.

So later on we need to do that after we get the concrete all the way down.
But I personally wanted to come this morning and thank y'all for what y'all did and to help to do this and make it possible that it's going to happen. And I want to thank y'all. Thank you.

(Appause.)

DR. ASPER: Of course, we'd like to thank you, Senator, for all the help you've given us over these many years in so many ways, legislative help, budget help, support in making our programs work. We have just benefited from your care. We appreciate it.

Okay. We're also in the section now for public comments. If you have something you would like to bring to our attention, you need to fill out one of these public comment forms and get it to us. And we have three people who have requested permission or requested the opportunity to give us some comments. So we'll take those in the order that we received them.

You're limited to five minutes. Please come to the podium and identify yourself and present whatever you have on your mind.

Start with Gilbert Ramsey.

MR. RAMSEY: I stand before you today to recognize the hospitality state as a whole package. I stand before you today to recognize each professor and each research scientist to accommodate everybody throughout this organization.

The governor was a gamble. The governor gambled on casinos. The governor gambled on Nissan. The governor gambled on all these organizations. Well, let's gamble on us as an organized committee.

Thank you.

DR. ASPER: Okay. Thank you.

Next we have E.J.

MR. EICKE: Could I reserve mine to G-5?

DR. ASPER: Okay. We can do that.

And George, you want to wait until the oyster issue comes up, right?

MR. STORRS: Yes.

DR. ASPER: Anybody else filled one out that I didn't get?

Where did you put it? Did you fill out one of these? Just fill out one of these. You're supposed to fill out one of these.

Okay. Five minutes, Don. I know it's a new rule.

MR. JOOST: Don Joost with Bayou Cadet.

DR. ASPER: Go ahead and fill one out, Catfish, just so we have it on record. And Don, if you could fill one out later, I'd appreciate it.

MR. JOOST: I didn't know.

But I'm here to take Frankie's place for the
Mississippi Gulf Coast Fishermen's Organization.

And first off, we were definitely backing the department on the trip tickets. We think that that's something that's time has come.

Secondly, we would like to have seen the moratorium stand on the oyster liceses. We're developing a class of people who buy licenses just to participate in the programs where there's a disaster.

And third, we would like to back up Commissioner Bosarge on the board law, what your ideas are on that, on the eight foot boards.

Thank you.

MR. BOSARGE: I didn't quite understand you, Don. I'm sorry.

MR. JOOST: We're behind you -- we back the eight foot board law, with looking at it again.

We back it up.

MR. BOSARGE: Okay. I didn't understand you.

MR. JOOST: Thank you.

MR. MILLER: How y'all doing today? My name is James A. Miller, a.k.a. Catfish, D'Iberville resident.

Really who I was here to truly speak to was Dr. Walker, but he ain't up on this board today.

I got some serious issues to talk to him about our DEQ and stuff. I think we're overlooking what's happening out here with our waters being as toxic as they still are. I feel I'm still sick every day. I been sick all morning. That's why I'm late. In and out of the hospital still poisoned from the dispersants.

And I read the paper this morning and everything is okay out here.

There's a lot of questions to be asked to Dr. Walker, you know. And I know no one up here that I want to speak to today but him, and I'm sorry he's not here.

And I don't understand about the DEQ out here with their testing. It's terrible. The water quality that we got out here is beyond belief.

I hope the seafood we get, we sell to the public, we don't get them sick. It's very disturbing that I got to go out and catch these thousands of pounds and feed the public.

Who are we going to blame when I come in and get someone sick? It's going to be me, not y'all.

And I'm sorry that I'm up here today pleading my case again about the water quality. I'm very upset. I've been around it here lately. I've been out in it. It's not good.

I'm a fisherman. I live on the water.

And my man ain't here today who I want to talk to, Dr. Walker. And I'm sorry. The main person on this board.

And about the eight foot board law, I'm all for it, too, just like our organization is. So I hope y'all look at this board law because it will save a lot of time and effort with different boats switching boards in and out. And you can choose whatever you want to use, the weapon you want to pull out there.

So I just want to tell y'all the water quality -- that was all I was up here today about the water out here on the coast. It's very tainted at this point in time in our life. Just like this man stopped aboard about his cleanup project. He's not going to get approved. He's not going to be out there to work. I'll tell him before he ever wastes his breath.

I've been sick for nine months. No one has helped me. No one is willing to pay my bills.

And the water quality is fine. The air quality is fine. It's wrong.

What you're doing to these people out here feeding them this tainted seafood when it comes to the market, you are going to understand. It might not affect us here right now, but it's going to get us.

So y'all have a nice day. Mr. Richard Gallodott, love you.

MR. DRUMMOND: Catfish, can I ask you a question? Did you see Dr. Walker on TV Sunday?

MR. MILLER: No, sir, I didn't. I've been here lately, bad, bad sick.

MR. DRUMMOND: What I'm trying to say is if you had, he probably could answer some of your questions. So anyway, that's --

MR. MILLER: I'm glad you spoke because I know he did because I want to ask about the dead dolphins. Don't that just blow y'all away that we wake up every day and have turtles and dead dolphins on our shorelines?

I mean, there's got to be something wrong. We don't have blinders on, people. I wake up every day, and I put my pants on and shoes on just like y'all do, and no differently. And I eat breakfast just like you and drink a little cup of iced tea or whatever, coffee. I'm no different than you.

Now, you can't let your tainted mind believe that there's nothing wrong out here because the state pays you or the government pays you. I mean, come on, man. I worked out here. No one pays me but myself when I drag my nets, no one.

And it's sad that our board members -- in Louisiana, their board members, they recognize there's a problem over there. Why ain't we recognizing there's a problem on our coastline? Alabama is recognizing there's a problem there, Florida, too. Why Mississippi? Why can we not see what's wrong with our waters out here? Is it that $30 million?
DR. ASPER: Come to the podium again. You have 30 seconds.

MR. RAMSEY: Good morning once again. My name is Gilbert Ramsey. The initiative this man has taken, I'm honoring him. Okay? Just for the facts what he's distributed amongst us. Okay?

BP has come to him. Mr. Vernon himself, he knows. Sunday morning I noticed him on TV. He recognized something what BP is doing, $500 million. He's on computer three times a day to identify how much money is cut there from BP coming to us. Okay. If he's on that computer three times a day, why can't he go on that computer three times a day to represent all of us?

DR. ASPER: Moving on to -- is there any other public comments? You have to fill out a form. It's the rule.

Mr. SKINNER: I know it is, and I'm going to fill one out.

DR. ASPER: We'll let you go this time. After this, we're going to really cut down on this. You've got five minutes. Go ahead.

Mr. SKINNER: My name is Manuel Skinner. I'm a commercial fisherman, oysters.

I want to personally thank Scott and Mr. Tommy Gollott for getting behind this reef here behind Deer Island, something that I brought up probably last April.

And I was -- most of the questions I got to ask I believe Scott is going to answer.

And I wanted to know why the daily hour went from four o'clock to twelve o'clock on the tonging reef.

And are we going to transplant some oysters back down to the Pass or in some other area this fall so that when we run out of oysters like we did last year that we will have places that we can go to that's been confined to a restricted area and we can go in there and catch those oysters?

Thank you very much.

DR. ASPER: All right. Thank you.

Executive Director's Report

DR. ASPER: Moving on to Item B now, executive director's report. Is there a report?

Mr. CHAGNIGNER: I'm sitting in for Dr. Walker this morning. And the only thing he'd like to mention is for the commissioners, the Coastal Development Strategy Conference is going to be held May 11 through 12, and it should be in your packet, the report on that.

That's the only thing on the executive director's report.

DR. ASPER: Okay. What about the marine patrol?

MR. FITTMANN: Good morning, Mr. Chairman, commissioners, Chief Chatagnier, Sandy.
You have the report in front of you. Couple of things I want to mention. If you look over on Page 3, we had one boat and water safety class where we certified 25 students.

We had a boating accident without injuries in March.

We did have a fatality in March. This was from an individual that was working off his boat on a pier. The coroner thinks he had a seizure, fell overboard, and drowned. Our dive team responded and recovered the victim.

On special events, we had three. We also had three presentations of outreach program.

JFA totals, we had 50 patrols, 1,029 man hours, 392 contacts, one EAA, and five state citations issued.

Any questions?

DR. ASPER: Okay. Thank you.

MR. MILLER: Yes, sir. I got a question.

DR. ASPER: Can you ask him that just personally like at the break?

MR. MILLER: No, really, this is a big concern.

DR. ASPER: Okay. We're going to move on to Item H-3(b) which is coastal ecology.

H. Coastal Ecology

b. W.C. Posey

MS. BRANTLEY: Good morning. If you give me just a minute, I have to skip through our Power Point a little bit.

My name is Willa Brantley. I'm standing in for Greg Christodoulou who is on your agenda, but he was unable to be here this morning.

This is a request for a permit extension by W.C. Posey. It's located on Goose Pointe subdivision on the Back Bay of Biloxi in Biloxi. It's a general use district, and Art Posey is the agent for the applicant.

Here you see the project location. The yellow thumbtack, this is the Goose Pointe subdivision. And then we're concerned with dredging out from the subdivision.

The applicant is requesting an extension so that the permit will expire on March 19, 2012, which will coincide with the expiration of the Corps of Engineers permit.

The dredging is approximately 2,440 cubic yards. Part of that will be dredged down to four feet below mean low water, and part will be down to eight feet below mean low water in two different channels.

This is a diagram. This is the area that will go down to eight feet, and then this is the area that will go down to four feet. This line here is the edge of the federal navigation channel. There's a natural canal that comes out here so that they're hoping that that would keep this area open. And then all of the members of the Goose Pointe subdivision, the property owners, would have access through this L-shaped area right here.

In April of 2005, a permit was approved by the commission which allowed 7400 cubic yards of material to be dredged.

In February of 2006, that permit was modified to allow the 2,440 cubic yards.

On March 21 of this year, we received a request to extend that project to expire the same date as the Corps of Engineers permit.

And we do recommend extension of DMR-050567 until March 19, 2012.

Are there any questions?

MR. TAYLOR: I make a motion, Mr. Chairman, that we follow the staff recommendation.

DR. ASPER: Is there a second?

MR. BOSARGE: I'll second that.

DR. ASPER: Any further discussion? Those in favor say aye. Carried unanimously. Thank you, Willa.

MS. BRANTLEY: Thank you.

DR. ASPER: Let's get back on the agenda then and go on to marine fisheries.

G. Marine Fisheries

MR. DIAN: Good morning, Commissioner Asper, commissioners, Chief Chatagnier, Ms. Chesnut, Senator Gollott.

I'd also like to thank Senator Gollott for his help in securing the concrete for Katrina Key and for his tireless support for our marine resources. Thank you, Senator.

We appreciate you being in our corner helping us.

Before I get into the agenda, I do want to give you a quick update on our seafood safety sampling.

Over the course of the last year, we have been sampling shrimp, finfish, crabs, and oysters for polycyclic aromatic hydrocarbons. Those are the hydrocarbons that can cause problems for human health.

To date, we've taken 357 samples. We have 32 samples pending. All of the samples that we have results on so far have come back low levels of concern. Most of the samples have come back nondetect for hydrocarbons. Almost 80 percent of the samples have come back nondetect.

We do this sampling in coordination with the Mississippi Department of Environmental Quality and our Mississippi State Chemistry Lab.

We are currently sampling about 20 samples a month for shrimp, finfish, crabs, and oysters. And we plan to continue this sampling effort for an extended period of time. So just a quick update on that.

First up for marine fisheries is we have final adoption for Title 22 Part 1, and Bradley Randall from the shellfish program is going to present that.
3. Title 22 Part 1

MR. RANDALL: Good morning, commissioners, Ms. Chesnut, Chief Tiny.

As you recall, last month during a -- during last month at the commission meeting, we had final adoption for this rule, Title 22 Part 1 rules and regulations for shellfish harvesting, Chapter 19 on bottom shellfish leasing regulations, Section 105.

And there was just a discrepancy between what the state statute said. The state statute said $5 per acre minimum bid. And the other one said $1 an acre.

And so the notice of intent was passed on March 15, 2011.

We put in the public notice from the Sun Herald on March 22 and on April 6. We sent out a DNR mass media release for public comment. And this is what it said, and you’ve got that in your package.

Public comment period was from March 15 through April 10. We’ve had no public comments as of April 10, 2011. So our staff recommendation is a motion for final adoption of the proposed rule.

DR. ASPER: Any questions? Is there a motion? MR. BOSARGE: I make a motion we accept the staff recommendations.

DR. ASPER: Is there a second?

4. Title 22 Part 7

MR. RICHARDSON: Good morning, commissioners, Chief, Ms. Chesnut.

This is Title 22 Part 2 dealing with the shrimp door size regulations.

We did pass a notice of intent last month.

And what we expect to be doing is raising the door size regulation, the maximum door size from 6-34s to 8-43s.

We put it out for public comment. We’ve had three comments against verbally at commission meetings, and then we have five for. It was also endorsed by Gulf Coast -- that should say Commercial Fishermen’s Association. That’s my mistake.

It was in the paper as a legal notice and in the public notice. We did a news release. And it was also on our web page.
the extra three months that they have to fish. And this is put
on the agenda basically because some fishermen had asked us to
look into this and to see if we could do something to rectify
the situation.
5. Title 22 Part 7

MR. HILL: Good morning, commissioners, Tiny,
Sandy. My name is Matt Hill.

Just a quick update on where we stand right now.
Currently, the quota is 74,000 pounds for flounder, and we are
at 8400 pounds, which leaves approximately 90 percent of the
quota left for the year.

Redfish, the quota is 35,000 pounds. We are --
we have harvested 28,800 pounds, which leaves approximately 18
percent for the rest of the quota year.

And for speckled trout, it is 40,000 pounds, and
we have harvested 33,000 pounds so far, which leaves
approximately 17 percent for the rest of the quota year.

And currently, a quota year would end on
December 31 which leaves us eight more months.

Here is what we were proposing to do. From and
after January 1, 2012, the annual total allowable catch per
commercial landings of flounder will be set at 74,000 pounds.
The 2012 commercial fishing season for landing
flounders shall commence from January 1, 2012, and end December
1, 2012. Thereafter, the TAC shall commence on January 1 and
end on December 31 of each subsequent year.

The commercial fishing season for the current
season which will be 15 months long will run from October 1,
2010, to December 31, 2011, and the TAC will be set at 92,500
pounds.

I'm not going to read through it all. This is
for the flounder.

Here is the one, this is for red drum. We are
proposing to raise it to 43,750, which is a 25 percent increase
to take care of the 25 percent increase in the amount of time.
Three months is 25 percent of the year.

We're proposing to raise the red drum to 43,750,
and we're proposing to raise the spotted seatrout from 40,000
pounds to 50,000 pounds just for this current year.

If we raise these figures, the flounder will not
be a problem, which it would not have to begin with. But
that would be 91 percent of the quota left to catch for eight
months.

Redfish would leave 33 percent of the quota for
eight months.

And speckled trout will leave 33 percent of the
quota for eight months.

And more than likely if we do not do this, the
speckled trout season will close sometime in June and the
redfish season will close sometime in September.

1. So after further consideration, it was
determined that it made sense to adjust the length of the
season, the current 15 month season, the 12 month season will
add 25 percent to the quota for just this 2010-2011 season.
And beginning January 1, 2012, the seasons will revert back to
12 months in length and TAC will return to the more familiar
limits.

Any questions?

MR. GOLLOTT: Matt, if we add this, can you give
us a projected say for spotted seatrout when would they catch
based on the -- what they've been catching, when would it
close?

MR. DIAZ: I had looked at that, Commissioner
Gollott. And it looks to me like if we were to add it, and we
did averages, somewhere around the October or November time
frame is when the estimates came up with it would likely
close for spotted seatrout.

MR. GOLLOTT: Thank you.

MR. ECCLE: My name is F.J. Eccle. I represent
the Coastal Conservation Association.

When this provision passed last month, I sat
back there and thought this isn't fair. And I wasn't thinking
about us; I was thinking about the commercial fishermen.
And 25 percent increase absolutely makes sense, and reversion back to the yearly quota that's set in this
 provision is completely acceptable to us.

So I would mention however that the overall --
the way that we are going about this in terms of licenses with
complaints that I hear about people holding both commercial and
recreational licenses, about the number of licenses that have
increased over the years that are obviously putting pressure on
the quota for the commercial fishermen, whether there should be
mean steps in terms of who fishes and who does not on licenses
of this type are all questions that really need to be
addressed.

And not too much from a recreational standpoint,
although we would like to be obviously part of the discussion,
but because some of our members quite frankly and other
recreational fishermen are likely to be suspect in terms of
what's happening in this fishery as a whole.

It's a crime. Last year when the season ended
early, we presented to you a statement from CCA that
essentially addressed this in terms of our concern. Because
our concern quite frankly is if the season keeps closing,
there's going to be more and more pressure for an additional
quota, and there are other questions that need to be asked
before we raise or (inaudible) people with a quota for any of
these species that are regulated.

So it's a big issue. And I think the CM and
the DNR should take a long hard look at what's happening. Dale
1 Louisiana involving some funding from Shell Oil to essentially
2 reestablish an island that no longer exists in the -- I think
3 it's in Barataria Bay.
4
5 But at any rate, to note to you simply that we
6 are totally in support of not only the development of the
7 Katrina Reef, but reefs in general, because we just don't have
8 the habitat to put us in the position such that would be in
9 Louisiana and other states, and we commend the DNR and the
10 commission and everybody that's involved in it, including our
11 legislative group, because Julhouse Reef, for example, would
12 not exist apparently without the influence that Representative
13 Taylor exerted on that particular project.
14
15 Thank you very much.
16
17 MR. TAYLOR: Mr. Eicke, I want to thank you for
18 your comments.
19
20 But there is another organization that --
21 MR. EICKE: Jimmy, I forgot to mention them.
22 You're absolutely right. The Mississippi Gulf Fishing Banks is
23 obviously a major --
24
25 MR. TAYLOR: That's the partner with them on
26 whatever you want to do because they work tremendously with the
27 DNR. It's been a quasi-government deal, and it's been one of
28 the best partnerships I've seen because I know what it costs to
29 put reefs down. I was vice-president of that organization.
30 And if you look at what other states spend for putting a ship
31 down, concrete, it will baffle you. Sometimes it's five to ten
32 times as much.
33
34 So, you know, if you're going to do something, I
35 would suggest really working through it with them, because they
36 hold most of the permits.
37
38 MR. EICKE: This is a new thing for us. And, in
39 fact, on my notes it says Mississippi Gulf Fishing Banks, and I
40 just did not reference it. But that's obvious. And thank you
41 very much.
42
43 MR. BOSARGE: Mr. Eicke, I appreciate you
44 recognizing that commercial fishermen do serve a purpose, and
45 that is to feed the public, feed the restaurants.
46
47 And when you were talking about dual license and
48 trying to get a hold on who catches what, it brings us back to
49 the trip ticket system that needs to be in place.
50
51 And if we could, I would like to propose a
52 motion, and I'd like to read for everybody --
53
54 MR. EICKE: You're going beyond me right now.
55
56 MR. DITAZ: If I can maybe slow things down just
57 a second.
58
59 The issue that Matt presented, that would
60 require commission action to take that out for notice of
61 intent.
62
63 MR. GOLLOTT: Mr. Chairman, I'd like to make a
64 motion that we accept the staff's recommendation on this.
DR. ASPER: This is the issue at hand here.
Let’s get that taken care of, then we’ll move on to those other
things.

Is there a second to that motion?

MR. TAYLOR: Second.

DR. ASPER: Further discussion? Those in favor
say aye. Carries unanimously. Thank you.

And now we can move on to considering these
other issues.

Is this a good time, Dale, for this?

MR. DIAZ: Yeah, this is fine. That agenda item
is taken care of. Thank you.

MR. BOSARGE: Mr. Chairman, recent events have
demonstrated the need for the implementation of commercial trip
ticket program for Mississippi fishery. The enactment of a
commercial trip ticket program will provide the commission and
the department valuable information on the commercial fishing
effort in the state and adjacent waters. This information will
be used to make more informed decisions on the management of
the various commercial species. This same information would
also aid true commercial fishermen in documenting their losses
in the aftermath of disasters such as Hurricane Katrina and the
BP DEEPWATER HORIZON oil spill. Commercial oyster harvesters
long accustomed to trip tickets have little problem in
documenting their losses. Similarly, live bait and menhaden
industry already submit information that reflects most of their
effort. Crab, finfish, and shrimp harvesters could also
benefit from gathering information from a trip ticket system,
such a system that may also help identify individuals who are
active commercial fishermen and those that only dabble in the
occupation. For these reasons, I make the following motion:
And I think we’ve got it up on the board. The
only changes to that would be the time frame where -- I’ll read
through it.

The commission directs the staff of the MDW to
develop a trip ticket plan for every commercial fishery that
captures trip and effort data at trip level with resolution for
primary gear and area fished.

The staff shall submit the trip ticket plan for
the commercial crab fishery at or before the
June meeting -- 2011 meeting of the commission for review
and final approval, adoption, and implementation.

And then the staff shall submit the trip ticket
plan for the commercial finfish fishery at or before the
October 2011 meeting of the commission for review and upon
approval, adoption, and implementation.

And then the staff shall submit the trip ticket
plan for the commercial shrimp fishery at or before the
December 2011 meeting of the commission for review and upon
approval adoption and implementation.

And that, Mr. Chairman, is my motion.

DR. ASPER: Is there a second to the motion?

MR. TAYLOR: Can I ask a question?

DR. ASPER: Certainly.

MR. TAYLOR: On some of these, like in the
shrimp industry, are we getting the data somewhere else, some
of the data? Because if you’re getting the data, I don’t see
what a trip ticket would do if you’re getting the data.

I have a problem with the people selling shrimp
-- not a problem with them -- there are a lot of them selling
shrimp at the Biloxi commercial harbor, but we don’t know what
-- I don’t know what percentage of -- but if we’re getting the
data on -- and I’m just going to pull shrimp or speckled trout
or whatever, I don’t think -- I think you’re wasting time and
money. That’s my point.

MR. BOSARGE: Dale can probably answer it. But
that data is not recorded. Anything coming across the dock
that’s sold directly by the fishermen is lost.

And also, you’ve got to understand, we’re the
last state within the Gulf of Mexico to implement a trip ticket
system.

MR. GOLLOTT: Mr. Chairman, just a point of
order. Did we amend the agenda to take care of this?

DR. ASPER: This is no: something -- we can ask
our counsel about this -- but this is something we’re directing
the staff to investigate. This is no: something that’s going
out for public comment at this point. So I think it’s okay to
insert something like this into the agenda. We’re still giving
the public ample notice because the plans would not be brought
to us for consideration for another couple of months. And even
then, it would only go out for public comment.

So I think we are okay. This is actually giving
the public more forewarning or notice than we would normally
give. So I think we’re okay there.

MR. GOLLOTT: Can I make a statement?

And I’ve said this before, but I’ll repeat it.
The shrimp docks in Mississippi, the DNR sends a
person around that collects the data. They actually give them
the best data that they can possibly get, which is invoices,
money invoices, weight, all of that.

I am opposed to putting any more regulation on
our commercial shrimp industry.

I’m opposed to trip tickets, but if you’re going
depending on the people that’s peddling them off the back
of their boats. And you don’t have any data, I suspect, it’s
not going to be that great an impact. So I think it’s a waste
of time. But I just wanted to make that comment.

DR. ASPER: I’m still waiting on a second to the
motion.

MR. DIAZ: I was just going to respond to
Commissioner Taylor's question.
We do have a port agent that goes around for
dealers and processors throughout the state. And we basically
get information down to the boat level. And for shrimp, for
example, we can get the number of pounds caught, the price
paid, down to the boat level. So we do get it to that point.
With trip tickets, we would get a little bit
more detailed information. We'd get area fished and gear and
some other effort information that would be additional
information.

MR. GOLLOTT: Dale, excuse me. Question for
you. Do you know any fisherman that's really going to tell you
where they're catching shrimp and how they're catching them?
Come on, now.

MR. MILLER: Dale, can I speak a second, please?
MR. DIAZ: The chairman runs this meeting.
DR. ASPER: You'll have plenty of time for
comment --

MR. MILLER: This is very important, because
this is a heated discussion.
I want to tell you that --
DR. ASPER: I'm sorry. We have a motion on the
floor, and it's not been seconded.
MR. TAYLOR: I will second it based on the fact
that if it comes before the commission and if we're getting the
data, if we're getting the data from some other source, I won't
vote for the trip ticket if it duplicates what we're already
getting. I'm just not going to put any more regulations on
anybody. So I'll second the motion as it reads because it does
not.

DR. ASPER: Just to add my perspective on this,
this is simply developing a plan, and this would be directing
the staff to come up with something that they think would be
really reasonable. And I think once we have a plan, a proposed
plan, then we are going to get some comments from the public
that are going to be really useful in terms of deciding whether
or not to implement it.

It looks like the support here to implement a
plan like that is going to be moderate at best. So I think it
behoves us to investigate this, given the fact that other
states have it, and see whether it's something that's going to
benefit the state and benefit our ability to regulate these
fisheries.

MR. ROSANGEL: And if you'll notice, Mr.
Chairman, I did not ask to put it in place as much as just to
develop it, bring it back to us. Let's see if it's something
we can work with. And then have a vote on it. This is not the
final say-so but it's something that we are behind every other
state in this, and the information is something that could be
used, and as far as trip ticket system, it's as much for the
state, but it's also important for the fishermen. Now he has
his receipt of who he is and what he does; whereas, right now
we don't have that.

DR. ASPER: Is there any further discussion on
this motion? Ready to vote?
MR. GOLLOTT: This is just strictly to come up
with a plan.
DR. ASPER: Come up with a plan. That's all.
That's correct.

MR. TAYLOR: I would assume that y'all would
include when you're developing this plan input from the
industry, the people that are doing it on both sides of the
issue.

MR. DIAZ: Most certainly, we'll get public
input. We'll make some forms available.

DR. ASPER: Those in favor of the motion signify
by saying aye. Those opposed. Carries unanimously. So we'll
look forward to hearing the plan developed in the stages as per
the motion.

Move on to Item G-6.

6. Update on Live Bait Shrimp

MR. DIAZ: Next up on the agenda is an update on
live bait shrimp. Darrin Stewert from our shrimp and crab
bureau is going to present that for marine fisheries.

MR. STEWART: Good morning, Mr. Chairman,
commissioners, Tiny, Ms. Chesnut, ladies and gentlemen.
As Dale mentioned, and as you requested, I have
some information concerning live bait. We've been looking at
the rules and rege and state statute that govern and regulate
this live bait fishery, as well as the past and present numbers
of live bait camps and catcher boats that we've had and some
catch data, also.

And first of all, this is taken from the state
statute, 49-15-64.4, and it reads licensed live bait catcher
boats and licensed live bait dealers shall not operate as
commercial shrimpers or commercial shrimp dealers or otherwise
engage in commercial shrimp operations.

Live bait dealers shall only sell or otherwise
expose bait shrimp when alive or dead with heads attached
solely as bait to recreational fishermen or other licensed live
bait dealers as regulated by the commission.

Pretty much no live baiters cannot have any
interest in the commercial shrimp activity.
And this is from Title 22 Part 6 rules and
regulations for live bait shrimping. And it states that the
Mississippi Commission on Marine Resources, CMR, views the Live
bait fisheries as service to the recreational fishermen and
tourist industry of Mississippi.
The CMR has determined that regulations are
necessary to ensure that this service may be performed with
1 minimal impact on shrimp and fish populations.
2 The CMC has determined in order to protect the
3 valuable shrimp fishery in the State of Mississippi, no more
4 than that; amount of bait shrimp necessary to service the
5 recreational fishermen in Mississippi to be harvested from
6 those waters of the state that are closed to commercial
7 shrimp harvesting except for live bait shrimp.
8 This is a comparison of regulations with live
9 bait dealers and commercial shrimpers. Of course, live bait
10 catcher boats, they are allowed to shrimp 12 months out of the
11 year, where a commercial shrimper must abide by commercial
12 seasons.
13 A live bait catcher boat is allowed to shrimp
14 inside the one-half mile of the shoreline. And commercial may
15 not shrimp within one-half mile of the shoreline.
16 Live bait catcher boats are not allowed to
17 shrimp at night; however, the commercial shrimpers may shrimp
18 at night in legal waters.
19 And live bait dealers may buy and sell between
20 licensed camps. And the commercial shrimpers may not buy from
21 licensed live bait dealers.
22 Live bait dealers cannot sell shrimp for human
23 consumption. Of course, commercial may sell shrimp for human
24 consumption.
25 Also, live bait catcher boats drag times are
26 limited to 25 minutes. This includes the pickout. And for
27 commercial, there's no limit on drag times as far as otter
28 trawls.
29 And live bait catcher boats, they can only have
30 a maximum of 16 foot trawl and four foot doors. And commercial
31 boats are allowed up to a 50 foot net in the water and trawl
32 doors not to exceed six foot by 34 inches and 48 square inches
33 for camber doors.
34 This is additional regulations, Mississippi
35 Code, CMC Title 22 Part 6. Live bait dealers must apply
36 between January 1 and April 30 and reapply each year, and
37 inspections will be completed annually by Ma 31. However,
38 there is some new legislation that is passed. It will go into
39 effect July 2 of this year which will allow live bait camp or
40 potential live bait dealers to apply for a license any time
41 throughout the year, and they will be inspected not to exceed
42 30 days after they submit their completed application.
43 Live bait dealers cannot sell shrimp for human
44 consumption. Sales are limited, 500 live shrimp per person
45 each day. Dead shrimp must be sold with heads attached in
46 containers holding no more than 16 ounces with a limit of five
47 containers per person each day.
48 And they must report landings and sales monthly
49 to the DM. These reports are due by the 15th of the following
50 month, and they include the number of customers for each day,
51 the shrimp caught, and also the sales reported.
52 This is our current camps for the 2010-2011
53 season. You can see we have three camps in Hancock County,
54 five camps in Harrison County, and eight in Jackson County, so
55 we have a total of 16 camps, and also 16 catcher boats.
56 This is a look at some historical information of
57 our camps going back all the way through -- camps and catcher
58 boats going back through '91. And you see, we used to have a
59 lot more, probably averaged about 40 camps and catcher boats
60 all the way to about '01, '02. There was a little steady
61 decline. And then Katrina, of course, decimated the fishery.
62 And it's just starting to creep back a little bit. Of course,
63 we have 16 boats and camps this year.
64 This is a look at the number of live bait, live
65 shrimp caught. And this goes back to '01, '02. And we had a
66 high of I guess in '02-03 of about 5.25 million shrimp, not
67 pounds. And then also '09-10, we had about 3.8 million shrimp,
68 and last year we had about 1.75 million shrimp which equates to
69 about 40,000 pounds.
70 This is a look at some of the bycatch. This is
71 what they recorded as bycatch was sold, of course, and it
72 listed chum in pounds, squid in pounds, and crabs in numbers.
73 This represents less than one percent of the total catch.
74 And I believe that is it. And are there any
75 questions?
76
77 MR. GOLLITT: Mr. Stewart, I think the bottom
78 line is are these live boat fishermen -- I mean live boat
79 fishermen hurting the resource with larvae coming in right now?
80 I think that's what the concern is. How much damage are they
81 doing? What is the bycatch, you know?
82 MR. STEWART: Well, that's the bycatch recorded.
83 Certainly, it's not everything, but that's what they sold.
84 There might be a little more. It still is a low, low
85 percentage of the total catch.
86 There is minimal impact. And minimal I say
87 because there's only 16 boats now. In the past we had 40. So
88 we're actually less than half the number of boats, and with the
89 restrictions on them as far as gear size, 16 foot trawl, tow
90 times, you're looking at a 25 minute tow time. That clock
91 starts when the tail of the bag hits the water, and the clock
92 doesn't stop until the net is back on board and everything has
93 been sorted.
94 You're probably on average looking at 10, 11, 12
95 minutes that that net is actually fully deployed in the water.
96 So that's got to decrease stress and decrease
97 the possibility of any incidental catch.
98 MR. GOLLITT: Thank you.
99 DR. ASPER: Do you know if anybody has ever done
100 an economic impact study regarding how much impact there is per
101 shrimp for live bait versus commercial?
MR. STEWART: There has been an impact study. I don't have those numbers. But it included commercial charter boats. And there was a study done; I'm not sure how specific it got, though.

MS. FLOYD: I'm Traci Floyd, shrimp and crab bureau director. Good morning.

I just received some information from MSU, Benedict Posadas and his study, so there would be some information in there, and I'll send it out to you.

MR. KOPSYWA: Hi. My name is Mark Kopszywa, commercial fisherman.

And the last month's meeting, I requested the commission to open commercial fishing or shrimp fishing inside the intracoastal waterway. And I was denied because of post-larvae. They said that would be a detriment to the resource.

And I raised the question, well, how I'm killing the resource. How much of the resource is 16 boats killing where I can't even fish?

We're killing little post-larvae stuff that we can't even see and can't even be counted.

So, you know, 40,000 pounds of shrimp, they're that big? What's that weigh when they're that big?

DR. ASPER: Okay. Thank you.

Go on to G-7, the oyster season.

7. Oyster Season Closure Recommendation

MR. DIAZ: Thank you, Darrin.

Next up is going to be Scott Gordon with recommendation on oyster season closure.

MR. GORDON: Good morning, Mr. Chairman, commissioners, Ms. Chesnut, Colonel Chatagnier, ladies and gentlemen.

First off, before I get into my presentation, I wanted to invite the commission to attend or view our exhibit that's kicking off today. We're going to be planting 42,000 cubic yards of oyster shells in the western Mississippi Sound. So this is probably going to go on for a month or so. Forty-two thousand cubic yards, that's, I'd say, roughly the equivalent of 100 barge loads.

My agenda item right now is closing the 2010-2011 Mississippi oyster season. And I would like to remind the chairman that Mr. George Storrs has asked to be recognized following my presentation in order to address the commission on this matter.

To date, we have had over 37,000 sacks of oysters harvested over 45,000 trips. That compares to over 39,000 sacks over 3,000 trips for all of last season.

We've had relatively few closures this season. And the reef conditions are about what you would expect to see this time with the amount of harvest effort on these areas. So some areas have been worked hard with some scattered pockets of oysters remaining, and I've received mixed reports on the conditions by harvesters. Some harvesters are having no difficulty in getting their limit; others are struggling.

In order for a tonging area to be successful, the density of legal three inch oysters must be high. I would anticipate next year to have similar harvest efforts and levels.

And this has been brought up as a result of our vibrio vulnificus management plan, we have reduced the checkout time this month to 12:30 p.m. and reduced the time to refrigeration to two hours.

Some of the harvesters are having difficulty getting their limit in this reduced time period.

For the month of May, the checkout time would be further reduced to 10:30 a.m. which may result in difficulty unloading and refrigerating the oysters from all of the boats landing at or near that time.

Now, this didn't take effect until May of last year, and so that's where we are first seeing the results of that. We're just in April of this year.

And traditionally in Mississippi, oyster season ends April 30.

I don't know if you would like me to do my staff recommendation right now. But the staff recommendation would be for the Mississippi Commission on Marine Resources to close the 2010-2011 Mississippi oyster season at 12:30 p.m. Saturday, April 30, 2011.

MR. BOSARGE: Scott, was this brought up at the task force meeting, oyster task force meeting? And how did the task force feel about it?

MR. GORDON: It wasn't, you know, just generally discussed there, but it was mentioned.

MR. BOSARGE: And so we don't have a feel from the task force on when we do it?

MR. GORDON: No. George is on the task force, so he can let you know what his views are on that.

MR. STORRS: Everybody knows I'm George Storrs.

I'm a commercial fisherman.

I'm going to (inaudible) in a minute, but a friend of mine who's also on the task force couldn't show up today, broke down on his way, his name is Harold Strong. And he's a good representative on that task force.

And Harold was going to address Mr. Bosarge and our guy that represents commercial fishermen here about the licenses that are being sold, just being sold.

We had a meeting several months ago or we didn't
1 want to, task force didn't want to have any more licenses
2 issued if we could put a cap on them some way. We discussed it
3 and voted on it. And we're supposed to have been working on
4 getting that cap put on there.
5
6 Last meeting we had, we didn't have a task force
7 meeting before we had this commission meeting. So I guess you
8 guys just didn't think about that, putting a cap on it.
9 Anyway, it's like 100 new licenses sold. And
10 those 100 licenses are probably just opportunity, people that
11 got relatives and people -- what they do is they come into the
12 program when there's a disaster. They come in. They saw what
13 happened after Camille (sic) and how the fishermen made some
14 money. It wasn't easy money, but it was money. And that's
15 when the licenses really started escalating. Just get a
16 license, and you'll be in the program.
17
18 And what happens is when you get a bunch of
19 licenses out there, it pushes people like me out. I don't mind
20 being pushed, but I don't like being pushed out for no good
21 reason.
22
23 The only reason I can see being pushed out is
24 for a good reason. There's no good reason for just selling
25 licenses so people can come in and take advantage of the easy
26 federal money. I'm just opposed to it. And the little group
27 I'm with is opposed to it.
28
29 Now, I'm certain that all real fishermen are
30 opposed to it. Real commercial fishermen are opposed to this.
31 And I'm not speaking -- I'm saying they are, but maybe they're
32 not.
33
34 But anyway, Harold asked me, he call me and said
35 he broke down, he couldn't address this, so this is the point
36 he would have said and talked to you about.
37
38 But as far as this oyster season goes, you know,
39 we got 37,000 sacks, and that's a lot. But we missed two
40 months from October through November. The end of November is
41 when it was opened up for us. That would have been two more
42 months of income for a guy like me.
43
44 So what I'm going to ask is -- and I know
45 there's a lot of plans being made and things that are going on
46 in scheduling -- but what I want to ask is that we just get two
47 more weeks of this added onto the end of the season, just two.
48 Not going to take a lot of enforcement people to watch us.
49 We're just going to go a small group out there, one square
50 mile. One guy can take care of all of us as far as keeping an
51 eye on what we're doing that may be wrong. Nobody does
52 anything wrong out there when you're working hard like that,
53 you don't have time to do anything wrong.
54
55 But anyway, it wouldn't take away from
56 enforcement I don't think. And that would really, really,
57 really help somebody like me. Now, if you was a dredger, you
58 know, I don't try to address what they need and what they want.
MR. STORRS: We're not opposed to cutting the
limit so that this time limit could be met. If we can cut the
limit, that's fine, cut it by five. It's only ten now. But
five is still money to me. And that would bring us in at an
earlier time. I can still get ten by when we need to be in
now. But like you said, all of us can't. But if you cut that
limit, we can meet that timeline. That extension wouldn't hurt
anything, and we'd be in by 10:00, be under refrigeration by
12:00 or 12:30, and we wouldn't be allowed but five sacks.

I don't want zero. Something is better than
nothing. Five is a livable thing. I can live with five. And
my guys, if I go back and talk to them today, they might be mad
because they're not going to get ten, but it's okay to get
five, you know, it's up to you, I understand that.

But we're willing to cut this thing so that we can
meet that timeline.

MR. TAYLOR: Would that make a difference,
Scot, in y'all's thing if you cut the sack limit?

MR. GORDON: You know, that would be possible.
But I still stand by my original recommendation.

MR. TAYLOR: Would it harm if I did this, I mean the resource?

MR. GORDON: I do not believe so.

MR. BOSARGE: How about if we maybe reach a

compromise? Instead of giving you two weeks, we give you ten
days?

MR. STORRS: Anything is good if it's all
working days, you know.

MR. BOSARGE: I make a motion then that we leave
the reef open for additional ten days, ten sacks, as long as
the times are met, harvest times, when you have to be at the
dock. And I guess that's it for ten additional days.

MR. TAYLOR: I'll second.

DR. ASPER: Any further discussion on this?

Catfish, I'll give you one minute.

MR. MILLER: One minute is all I need.

Hi again. Here I am again. I love you. I appreciate y'all giving me a little bit more time.

I've been oystering all my life since I've been
a little kid. I've never seen so much pressure being put on
the Pass Christian reef as it is now from outsiders, from out
of state people.

And, you know, like I said, we don't have
blinders on. We live in Mississippi. I fish in Alabama. I
fish in Louisiana. I can't dredge in Louisiana any more. I'm
done. They don't allow me to dredge there any more. Alabama,
I don't dredge in Alabama no more.

So, people, we got to start taking care of the
Mississippi people, and our reefs are being utilized (sic)

really bad over the years. And I'm glad we are recognizing the
pressure we're getting from these license sales from out of
state people.

We got to take care of instate people before we
do out of state people. I mean, that's all I'm here for. We
need help, people.

Again, let me pull this pole out and shake it
again. You are our backbone up here. We need your help about
license caps, overutilizing (sic) our reefs out there. I mean,
just think, six more hundred boats on top our reef next year,
we're going to pound it.

DR. ASPER: That's your minute. Thanks.

MR. GOLLOTT: Could I address something?

MR. MILLER, I want to address three things.

MR. MILLER: Yes, sir. Come on with it.

MR. GOLLOTT: First of all, I'd like for you to
tell my banker I'm a millionaire.

Second of all, the statement about 20 years, my
son is in the business now, and I do care about everything, you
know. Sometimes we say things when we're angry.

The only thing that I resent that you said is
about the quality of the seafood. There have been thousands of
tests. The quality in the seafood, I've been eating it. I've
been packing it. You're attacking the processing plants in
Mississippi that put millions of dollars in shrimp. You're

attacking all the workers that work in these processing plants.

I just wish you'd cut it out.

MR. MILLER: You've been attacking me for years
with low shrimp prices. Now, what if I sit here and told
you what?

MR. GOLLOTT: All I want to do --

MR. MILLER: That's what I'm trying to say.

Would it upset you if I told you you were attacking me all these
years with low shrimp prices and you are the shrimp price man?

Have I complained to you about that? No, sir, I haven't.

Let me tell you why I'm concerned about the
fishing industry as a whole. I know you can sit here and wave
your hands all you want, Mr. Richard. You asked the question
of me.

MR. GOLLOTT: No, I didn't ask -- I made a
statement, and I was responding to something you said.

MR. MILLER: Okay, sir. I'm sorry you don't
like me.

DR. ASPER: All right. Let's cut this off, all
the comments.

Don, I'll give you one minute, also.

Scott, do you want to comment on the date?

MR. GORDON: Yes. We were just checking in the
ten days, that would put it May 12. So if you could maybe
clarify that it would end on May 12.
MR. GOOST: I came before the commission two years ago when I was told by different people that this was coming, you know, these time and temperature matrix issue, etcetera, etcetera. Louisiana is on refrigeration. Every other state has moved to let people refrigerate or ice or what have you.

I've got a refrigerated boat. I was told by Dr. Walker straight up eye to eye that we're going to make it where you can utilize this money you've invested in it.

Now, there's more than one now, there's several. And I'd like to see us be able to do something like that. I mean, you've got a modern vessel where you can refrigerate immediately. And yet, we're pushed out of the game in favor of ones that can't. And you have to do all these things around it.

I think it's time to work with all the types of boats if you want to have a healthy industry. What's wrong with somebody being able to refrigerate their oysters right away?

Thank you.

DR. ASPER: Thanks, Don.

So we have a motion on the floor that is too --

MR. BOSARGE: Let me clarify it. Motion would be to extend the season until May 12 with a ten sack limit as long as the time limits are met. Is that right how I phrased that, Scott?

MR. GORDON: Well, that the 2010-2011 Mississippi oyster season would close at 10:30 a.m. May 12, 2011.

MR. BOSARGE: Yes, sir.

DR. ASPER: That's okay with the seconder?

MR. TAYLOR: Yes.


MR. GOLLOTT: Mr. Chairman, can we take a break?

MR. ASPER: Let's take a break, and we'll come back with the records after the break.

(Off the record.)

DR. ASPER: I'd like to bring this meeting back to order. We're up to Item G-8(a), the state records.

8. State Records

MR. DIX: Last on the fisheries agenda is the state records, and Erick Porche is going to present that for us.

MR. PORCHE: Good morning. We have three records for approval this morning. All three of them are conventional tackle.

Our first one is a marbled groupers. It's a new entry. Dematelepis nemius. It's a record of 12 pounds 8 ounces caught by Dwayne Ames -- I'm sorry. The name on that record is wrong. That should be Phillip Lee King, Jr. I would like to apologize for that. But that is the marbled grouper, and that is Mr. King with the grouper.

The next one is a scorpionfish. Neomerinthe hemingwayi. The old record was three pounds two ounces. The new record is 3 pounds 8.56 ounces caught by Pete Atwood. Our fish and Mr. Atwood with the scorpionfish.

The last one is greater amberjack, Seriola dumerilli. The old record was 113 pounds 13.6 ounces. Our new record is 114 pounds 3.2 ounces caught by Troy Helwig. There's our amberjack and Mr. Helwig.

Any questions?

MR. GOLLOTT: Mr. Erick, was that grouper landed in Mississippi waters?

MR. PORCHE: It was. It was in federal water, but it was caught south of Horn Island and landed in Ocean Springs.

DR. ASPER: Is there a motion to approve these records?

MR. DRUMMOND: So moved, Mr. Chairman.

MR. GOLLOTT: Second, Mr. Chairman.

DR. ASPER: Those in favor say aye.

Congratulations to all of the record holders.

And now we have one other item we want to discuss, at least Commissioner Bosarge would like to bring up something.

MR. BOSARGE: Scott, I'd like to talk about the oyster license sales.

DR. ASPER: We need some guidance on this. This is something that was brought up at the last meeting. And Commissioner Bosarge wasn't here, so he'd like to bring it back up for reconsideration.

MR. BOSARGE: Yes, sir, for reconsideration.

DR. ASPER: And the question I think is you can just provide guidance on what's required and what's appropriate.

MS. CHEWSUT: As far as amending the agenda --

DR. ASPER: Everything.

MS. CHEWSUT: Okay. Commissioners have in the past made motions that are not on the agenda, so it's up to the commission to consider it if they want to consider it. There is an item on the agenda, as well, other business, where we capture other items not on the agenda.

MR. BOSARGE: So I guess I'm going to ask the commission then to bring up the oyster license subject. Or would you rather I wait until other business?

DR. ASPER: This is fine.

MR. BOSARGE: I have a lot of concern from a lot of different fishermen on the oyster sales where we open it up to just anybody in the general public.

N. J. SORGE, CSR #1297
And I've got a motion I'd like to read if that's possible.
Mr. Chairman, the recent license sales information for the commercial oyster fishery reveals the following:
In the past ten years, resident tonging license have increased 61 licenses to a high in 2010-2011 of 99 licenses, a 62 percent increase.
In the past ten years, nonresident tonging license have increased from 62 license to a high in 2010-2011 of 104 License, a 67 percent increase.
In the past ten years, resident dredge license have increased from 160 licenses to a high in 2009-2010 of 274 license, a 71 percent increase.
And most shockingly of all, in the past ten years, nonresident dredging license have increased from 29 licenses to a high in 2009-10 of 118 licenses, a 300 percent increase.
License data for sales for the fist 15 days of April 2011 indicate that even more new participants to the Mississippi oyster fishery are preparing to extract oysters from Mississippi’s public reefs.
Mississippi is seeing additional pressure on its resources while neighboring states have limited participation by Mississippians or made little effort to develop their own oyster reefs.

Mississippi's public oyster reefs cannot continue to both sustain the potential increased effort and provide economically for the oystermen that have traditionally harvested oysters from Mississippi waters.
Increased effort on the reefs will force the reduction of the number of sacks that can be harvested each day by oyster fishermen.
Reduced sack limits will have devastating financial impacts on the oyster fishermen.
Action has to be taken to avoid the depletion of the reefs and the financial collapse of those individuals that have committed a great portion of their lives and personal resources to Mississippi and Mississippi public oyster reefs.
The Mississippi seafood law provides that it is the public policy of the state to work towards the conservation of its seafood and aquatic life in connection with the revitalization of the seafood industry of the State of Mississippi.
The commission is charged with the duty of implementing this policy.
Therefore, regarding the sale of commercial oyster licenses for the 2011-2012 license year, I make the following motion:
That the commission declare immediate moratorium on the sale of commercial oyster licenses for the 2011-2012 license year.
During the moratorium, the executive director by and through the MDMR shall have the authority to sell a commercial oyster license to any entity that provides proof that they possess a valid Mississippi commercial oyster license during the immediate preceding license year.
License issued during the moratorium shall be limited to the number and type license issued to the entity during the preceding license year.
Entities that purchased a dredging license last year and then switched to a tonging license shall have the option of purchasing either, but not both, license.
All other entities that are prohibited from obtaining a license during the moratorium shall petition the MDMR in writing for the issuance of a license, provide proof of prior participation in the Mississippi oyster fishery, or why they were unable to participate, and show good cause why they should be issued a license during the moratorium.
And that, Mr. Chairman, is my motion.

MR. ASPER: Is there a second?
MR. TAYLOR: I have a question. We had a gentleman last year come before he commission because he was out of town or working offshore during the period for a license, and he didn't get his license. And I remember the comment that we promised this individual -- I don't remember his name -- that he would be able to get a license.
And my concern is that we have some people in that same boat, and I don't remember the gentleman's name -- but that we're going to be dealing with, also, that like this gentleman didn't have a 2010 license because he couldn't get one. Now, is he going to be kept from getting a license under this motion?

MR. BOSARGE: If I remember correctly, Dale, that gentleman, we didn't promise him a license, if I remember correctly. He was the one that was building the boat.

MR. DIAZ: His name is Jeffrey Powell.
MR. TAYLOR: He had a license the year before; didn't he?
MR. DIAZ: I think so. But he did not have one for 2010.
MR. TAYLOR: And that's my concern that we have people like that, (inaudible) those folks that fish in Mississippi a license.

MR. GOLLOTT: Mr. Chairman, this is limited entry, that's what we're talking about here.
As far as the conservation of the reefs, we have a sack limit. The oysters have to be culled to three inches.
So I've always maintained that if you make people cull them to
three inches, you can’t damage the reef because you’re leaving
the smaller oysters out there.

How -- the devil’s in the details -- how do you
now stop Mississippi people that want fish from getting a
license and we’re selling a percentage of licenses to Alabama
people, you know?

And another thing, license sales doesn’t mean,
it doesn’t go -- it doesn’t reflect effort. I’ve asked, and I
think the biggest day we had on the reef was like 200 boats --
wasn’t it? We sold like 500 licenses.

MR. DIAZ: I believe 271 was the biggest day
that we’ve had on the reef that I can recall last year.

MR. BOSARGE: What would you surmise it may be
after keeping the reef closed for a year now?

MR. GOLLOTT: I think a lot of people was trying
to get in on the BP oil spill, and I think we’ll see -- and
again, Alabama has had a problem with a whole oyster -- Dauphin
Island having saltwater intrusion on their oysters and killing
them.

We’ve gotten an increase from Alabama fishermen,
but we’ve had a good year.

Is there a problem here, Dale? Did you see? I
mean, with --

And what I’d like to do is make a second motion
that we give like we did a couple of years ago, give Dr. Walker
the authority to look at this thing. If he sees that it’s
getting out of hand, he can put a moratorium on license sales.

MR. DRUMMOND: I thought we already had that,
Richard.

DR. ASPER: No. We voted that down last month.

We voted against it.

MR. GOLLOTT: Well, it wasn’t really brought up
as an alternative.

MR. BOSARGE: And, Dale, can I ask one question?
Could you repeat what the staff’s recommendations were for the
last meeting for the oyster season? Do you have that?

MR. DIAZ: Generally, off the top of my head, if
y’all -- Scott, help me out if I mess up too bad. I think
generally the staff recommendations were to sell the same -- to
open up license sales for the month of April to people who have
held a license in the previous year. And they could come and
buy the same type of license that they had for the previous
year. And then starting in the month of May, any residual
license that was left over from the caps that we had previous
year would go up for sale on a first come first serve basis.

Is that generally it, Scott?

MR. GORDON: I believe so.

MR. DIAZ: And the only other thing you asked me
about effort for the next year. That’s one of the things I
think we struggle with all the time, especially when you’re
trying to set sack limits and seasons. It’s hard to predict
effort out into the future, especially this far out into the
future.

A good shrimp season makes a difference. To
some extent, fisheries that are going on in another state, how
good they are make a difference. The value of the price of
oysters. I mean, the price of fuel. There’s a lot of things
that just comes in. And I don’t think we could make a good
estimate at this point in time of what effort would be next
year.

MR. BOSARGE: And I guess my point is, you know,
the oyster task force met. They came to the conclusion that
they agree with the staff and recommend it. The staff
recommended it at the last meeting. And basically, that’s all
I’m doing now again is basically trying to put it back like it
was, and here as a commission we totally went against
everything that the fishermen wanted, that the DMR wanted, and
we opened it up to the general public. I have a problem with
that.

So that’s why I’m bringing it back up now.

MR. GOLLOTT: Dale, one more thing. He objects
because it’s opened up to the public. But it is public reefs.
The public -- the government, the State of Mississippi and the
federal government have put millions of dollars in these oyster
reefs. You’re fixing to have a big plant, and that’s federal
money.

I think just for a comparison, look at the sand
beach. The federal government pumped the sand beach in and
declared it public. You can’t keep people off of that. You
know, now we do have some obligations to make sure the
conservation, we conserve that reef.

Like I say, I think our hand here is we control
the size of the oysters, we control how many sacks they catch.
Other than that, I think the public should be able to buy a
license. How do you turn a Mississippi person down when we’ve
sold so many Alabama licenses?

MR. BOSARGE: I guess my point is, Commissioner
Gollott, that we have I’m not saying all the fishermen, but the
majority of the fishermen thinking one way, we have the DMR
thinking one way, and then we have you that thinks totally
different.

I try to look at the majority. If the majority
of the people think this is the way we need to go, then I think
this is the way we need to go.

MR. TAYLOR: Dale, what are license sales this
year as compared to last year?

MR. DIAZ: Scott does have a slide that we can
put up that actually goes back about ten years.

Now, bear in mind, this year, what you got to
look at is we have only had license sales open for a couple of
weeks so far. And we did do some comparisons on how many
licenses have been sold through this time last year. I don't
know if I have that with me, though.

Do you have it?

Through the 14th of April, at this time last
year we had sold 131 licenses. Through the 14th for this
license year of April 2011, we have sold 216 licenses.

MR. GOLOTT: One more thing I'd like to
interject here. The commissioner said I was the only one
thinking like this. But it's my understanding that the United
States House of Representatives just passed a bill that would
prohibit NOAA from doing any limited entry program. And Perret
could address that.

MR. BOSARGE: I think that's catch shares
they're referring to, not a limited entry.

MR. GOLOTT: It's still part of limited entry.

MR. BOSARGE: Catch shares is a different --
Partly, different from limited entry in that catch shares can
be traded and sold amongst users and anybody that wants to go
out and participate in that fishery will be able to buy catch
shares and buy -- and that's part of -- limited entry seems to
be a dirty word. But limited entry in those fisheries up there,
if you -- if there are licenses that are for sale, the license
are transferrable, therefore you can buy a license, you can buy
a boat, if you -- catch shares are available. I'm not a
proponent of catch shares by any means. But that's the system
that's taking a hold.

And I think what they did was that the bill that
was passed basically was to no longer fund the catch shares.
So the catch share program is still there, they
just pulled the funding out from under it.

MR. GOLOTT: But isn't that the goal of this?
I mean, you could have a license for three or four years, and
you normally buy the license, and somebody could buy it from
you.

MR. BOSARGE: Well, if it was -- and here again,
hopefully the task force, these are issues they can work on.

But if this program was ever put in place and done from what I
consider correctly, it would be similar to what the federal
government does in that all licenses are transferrable. Right
now, there is a moratorium on shrimp fishing licenses in federal
waters of the United States Gulf of Mexico. But if you Richard
went to go into the shrimp business, you can go buy a
boat and you can go buy a license, and you can go to work.

And so you're not really limiting the entry, you
still are able to go do that fishery. And as far as I know,
that's most every fishery in the United States.

MR. GOLOTT: But one more thing. These oyster
fishermen are some of the hardest working people I've ever seen
in my life. If a person wants to go out there and work that
hard and make a living, maybe they have lost their job or
something and they need something to fill in, maybe their kids
are coming along and they want to oyster, God bless them. You
know, sell them a license.

MR. BOSARGE: I'm not against that.

The problem is having two neighboring states
that do not allow us to do the same thing. And then we manage
our fishery, and we manage it right, and they can come over --
and you can't shut out neighboring states. But still and all,
it allows anybody, and when I say anybody, I mean anybody, to
come in here and take what these fishermen, especially this
year -- I mean, we closed it down for dredging. We had all
that bottom closed. These fishermen are looking forward to
this year to make up some of what they lost. Now, if it goes
like -- and who knows. There may not be a problem. But if
there is a problem and the sack limit goes down to ten sacks to
the boat or five, nobody is going to make any money and
especially the fishermen that waited for this year's season.

MR. GOLOTT: Well, that's the reason I made the
seconoc motion that we put this in Dr. Walker's hands and trust
that he will do the right thing here. And I wouldn't be
endorsing limited entry.

Like I say, the devil's in the details. We need
fshermen. It's like our shrimp industry is down what? About
60, 70 percent now? We need fishermen in that industry. We
don't need to start limited entry on any fishery.
And the second thing is I've got a couple of
senators who are willing to go to the Attorney General of
Mississippi and see if we can file a lawsuit against Louisiana
for their limited entry, because I think it's illegal. The
government has put millions of dollars in Louisiana reefs, and
you got a few fishermen over there that's got this all passed,
and I understand it has to be revisited in 2013. Some of the
legislators over there don't like it, and they wish somebody
would say something about it.

So I would prefer to go to our legislators and
see if we can get something worked out with Louisiana so our
people can -- our fishermen, if things get bad, they can go to
Louisiana. And I think at the last meeting we asked our staff
to look into Alabama. What's the problem? Can our fishermen
do it?

MR. TAYLOR: I think one of the issues we're
going to have is you can sell (inaudible) but if the price of
fuel keeps going up, you're not going to have any shrimpers or
cysts on anyway, you know. So that's -- I can't make a living
in the charter business to go out with the cost of fuel $3.50,
$4 for diesel, you know. Just can't do it. It might not even
be an issue.

MR. BOSARGE: And that was the point that I was
going to make. The reduction in fleets is strictly economics.
1 I mean, nowadays where it used to be, for instance, if you were
2 a young man and wanted to get into the fishing business, be it
3 shrimping, if you really wanted to work hard, that's about all
4 it took, that and a little bit of sense, little bit of
5 knowledge.

Nowadays, to get into a fishery nowadays, you
6 better know what you’re doing. You better have experience, and
7 you better be able to go out there and not have to learn the
8 fishery, you better know it.

DR. ASPER: Okay. We have a motion on the
9 floor. It has not been seconded yet. We're waiting for a
10 second.

MR. BOSARGE: Could I alter that motion?
11 DR. ASPER: Certainly.
12 MR. BOSARGE: If Commissioner Gollott approves,
13 we would do number one where we would declare an immediate
14 moratorium on license sales and then strike everything else and
15 basically just give the executive director the authority to
16 take control of the program and do what he sees fit.

DR. ASPER: So the motion is number one, to
17 declare immediate moratorium on sales; number two, to empower
18 the executive director to sell licenses as he sees fit for the
19 2011-2012 license year. And there is a second by Commissioner
20 Taylor. Any comments from counsel?

1 MR. GOLLOTT: Let me say one more thing. My
2 motion does the same thing without the moratorium. And Dr.
3 Walker will put it on there if he decides to do it.
4 DR. ASPER: But his motion because it was first
5 precedes yours, so we're going to vote on that one first. It's
6 made and seconded.
7 MR. GORDON: If I may, with your motion as it is
8 right now, the 2011-2010 [sic] license year, that would become
9 effective May 1, so that tonnage season that we were talking
10 about ten days into May, that could potentially be affected by
11 that.

12 MR. DIAZ: I guess I might need some
13 clarification. I'm trying to understand the moratorium part.
14 If the moratorium was in effect on commercial oyster license
15 sales, in effect, we would not be able to sell licenses for a
16 period of time until the executive director comes up with a
17 plan. Is that what your --
18 MR. BOSARGE: We've got to cap the license sales
19 where they are right now and then put a plan in place that
20 allows us to have our traditional fishermen back on those
21 reefs.

22 How many license have we sold so far?
23 DR. ASPER: [Inaudible.]
24 MR. BOSARGE: And how many are -- did you ever
25 get the count on how many were new license holders, Dale?
So it's hard to compare what's usual and what's not usual because previous to three years ago, we didn't have license cap, so it's hard to compare that at all. People generally sold most of the license right before the oyster season back then. We didn't sell a lot of licenses in the month of April and May.

MR. TAYLOR: Mr. Chairman, I want to withdraw my motion (sic) because if Scott, you're saying that it's going to affect the ten days we gave our fishermen?

MR. CORON: It would have that potential if the folks desiring to harvest during that time — and I think George has already gone. I'm not sure that he's purchased his license yet.

MR. TAYLOR: Can we limit it to out of state license?

MR. BOSARGE: Can't do that.

MR. DIAZ: I'm sorry, Mr. Taylor?

MR. TAYLOR: We can't limit it to out of state license, put a moratorium on that. I mean, it seems that the issue is not the Mississippi fishermen, it's out of state people coming in. And I'm not really for that, but I'm trying to find a solution to kind of work through some of this.

MR. RUNNELS: My name is Joseph Runnels, and I think they want me to say something so I'm going to stand up here and blabber for a minute or two.

I don't see Scott's concern about this proposal even as amended affecting those people that are harvesting right now. And the reason why is because you have a provision in here if you're a license holder in the immediately preceding year you can still get a license. So I don't know how George Storrs would get —

(Several people speaking at one time.)

MR. RUNNELS: Well, I was assuming, and maybe Commissioner Bosarge can correct me, that he was actually just saying what he was going to amend number one, and he was basically going to keep most of everything else in place. Was that not —

MR. BOSARGE: No. I was trying to find a compromise here, Joe, to where we could stop the license sales and then maybe put Dr. Walker in charge of determining how to proceed with this.

MR. RUNNELS: I do have a comment on that, too. When Dr. Walker had that authority either last year or the year before, now they're beginning to blur together, he basically looked — he put it ten percent above license sales from the previous year in each one of the categories.

Assuming, just assuming, for a minute that everyone who bought a license last year buys another one. We had somewhere around 500 licenses, so you've already sold 64 new licenses this year. You're already above the ten percent that he's already set. Maybe not in each category, but you're above ten percent of the license sales from what you had the preceding year.

So I don't know what bag of monkeys you're going to be giving Dr. Walker with that proposal. But I just thought I'd point that out. I mean, he might have already made that determination if you had given it to him last month.

MR. DIAZ: Commissioner Asper, if I may. I did discuss this with Dr. Walker prior to the meeting, and we do have a staff recommendation. But I'm not sure at this point if it goes along with the will of the commission because we've discussed a lot of stuff here.

But if y'all would like to hear that at some point, it is available.

DR. ASPER: What you're saying by offering that is that your staff's recommendation is probably what the executive director will follow if we give him the authority.

MR. DIAZ: We anticipated that this issue might come up, and we decided to try to have a department position on what would be the department's recommendation.

I don't know that we really addressed what Dr. Walker would follow. What I think we would do is ask you to give Dr. Walker authority to look at this and handle unusual license sales.

What we did in the past is we sat around and we —

met and we tried to come up with a criteria what we thought unusual was. And like Joe said, ten percent is what we want with last time. But we would probably develop a specific criteria for what we think unusual is now, and I don't know what that would be until we have those discussions.

MR. GOLLIOTT: That would go along with my motion, then, that we give Dr. Walker the authority. I mean, if he thinks the moratorium needs to be tomorrow, he can put it on there. If he doesn't —

MR. DIAZ: It does, but it's got some additional components that your motion doesn't have.

MR. GOLLIOTT: Go ahead and give it to us.

MR. DIAZ: All right. This is basically the motion that we had discussed.

The executive director and the MDR shall closely monitor the sale of commercial oyster license for any unusual increase in the number and types of license sold. The executive director is directed to suspend the sale of commercial oyster license for any category of license that reflects unusual increase in the number of license sold. Prior to the suspension of the sale of license, the executive director will notify the CMR by phone or e-mail. Following any suspension in sales, the executive director is to report to the Commission on Marine Resources at the next regularly scheduled monthly meeting any suspension of the sales of commercial
oyster licenses.

And lastly, individuals that are prohibited from
obtaining an oyster license during any period of suspension may
petition the executive director in writing for issuance of a
license, provide proof of prior year's participation in the
Mississippi oyster fishery, and why they were unable to
participate, and show good cause why they should be issued a
license in the suspension of sales.

And that is the motion.

DR. ASPER: Okay. So we have a motion on the
floor that has no second at this point, and that motion is
in moratorium and turn it over to the executive director.

Is there a second for that motion?

MR. TAYLOR: No.

DR. ASPER: That motion fails for lack of a
second. So we move on to Commissioner Gollott's motion which
this is simply to turn everything over to the executive
director as he sees fit.

Would you consider replacing that motion with
the one that --

MR. GOLLOTT: I would, yes. I make a motion
that we accept the staff's recommendation on the moratorium on
the dredging license, oyster license.

DR. ASPER: So the motion that we have then is
as Dale Diaz just read, and that is basically turn it over to

the executive director, requiring him to monitor the sale of
licenses. If anything looks like we are seeing a dangerously
high number, that he will limit the sales as he sees fit and
that he will notify the commission both by phone and e-mail as
he does it and then at the next commission meeting.

Is there a second for that motion?

MR. TAYLOR: Second.

DR. ASPER: That motion is seconded. Is there

further comment?

MR. BOSARGE: So we're going to let license
sales continue on as they are until the point in time when Dr.
Walker adjusts it or whatever he does.

MR. DIZ: License sales will not stop under
this motion right now, but we would start closely monitoring
those, and we will start having meetings immediately to
determine what our criteria would be for unusual license sales.

MR. BOSARGE: That's all.

DR. ASPER: The motion is made and seconded.

Are we ready to vote? Those in favor say aye. Those

opposed.

MR. BOSARGE: Aye.

DR. ASPER: Let the record show that
Commissioner Bosarge voted against, the other three
commissioners voted for. The motion carries three to one.

MR. DIZ: Thank you. That concludes fisheries

section.

DR. ASPER: Let's move on to coastal ecology.

H. Coastal Ecology

MR. BOYD: Good morning, Mr. Chairman,
commissioners, Chief Chatagnier.

Coastal has five action items left on the agenda
for your consideration. But before we get to that, we have a
report from Jennifer Wittmann on marsh restoration project.

2. Program Status

a. Marsh Restoration Project

MS. WITTMAN: Good morning, commissioners,
Chief, and Ms. Chesaot. I'm Jennifer Wittmann, and I'm going
to veer away from the typical permitting agenda item. There's
not going to be a recommendation. There's not going to be a
fine or forward to the Attorney General's office. This is a
violation that was voluntarily resolved by a property owner,
and we want to take an opportunity to show the commission some
of the violations that are taken care of without a commission
order and things that you don't actually ever get to see.

So this violation was located on an unnamed
canal off of the West Pasquagoula River in Gautier. And it was
in the general use district.

In December of 2005, an exclusion was issued for
an access pier and a terminal structure that totaled
approximately 1800 square feet.

And a violation was reported to DMR in August of
2009 concerning the construction of a keyhole boat slip.

So the diagram on the left is the permitted
structures. The diagram on the right is what was constructed.

Site visits revealed approximately 4,000 square
feet of decking and approximately 2,000 square feet of marsh
that had been excavated.

This is an aerial from March of 2006 of the
site. Concentrate on this area right here. And a picture from
January of 2010, you can see where the marsh has been excavated
and a keyhole boat slip has been constructed.

And this zooms in that keyhole boat slip and the
decking that was constructed.

This picture was taken in August of 2009 on a
site visit with marine patrol.

This is another picture of that site. It shows
some decking. And you can see here that the access pier was
not constructed as it was originally authorized. It is below
the height of the marsh grass, and it also was built too wide.

This is sidecast dredge material that presumably
was from when the keyhole boat slip was constructed.

This picture is another one of the access pier.

You can see again the marsh grass has grown up on either side,
so it actually goes through the width.

Following site visit by DMR and meetings with
the Secretary of State's office, Corps of Engineers, the
property owner decided to voluntarily bring the violation into
compliance.

And finally in March of 2010, an application was
submitted for dredging along with the restoration plan. And
that plan was reviewed by the Corps and Secretary of State's
office, and a general permit was issued in April of 2010 for
dredging in the adjacent canal.

So May 18, 2010, they had come in and removed
the decking. They replaced some of the marsh vegetation that
was out there that was left from when the general permit was
issued. And the restoration plan was approved.

At that time, the boat was removed from the
keyhole boat slip, but no work had begun.

By October of 2010, they had gone in and removed
all the decking on the access pier and were putting two by
fours out to try to get some sunlight into the area to minimize
the impacts to the marsh and try to get it to start
revegetating more quickly.

By November of 2010, the canal had been dredged
and the area had been sprigged with native vegetation. And
that was done in accordance with the DNR marsh restoration
guidelines that states the area has to be restored to the
pre-impact level using the least destructive method possible.
And they dredged the adjacent canal to a depth of six feet
below mean high tide, dewatered the material, and then placed
it in the keyhole slip area.

The plant spacing was not to exceed four feet in
accordance with those marsh restoration guidelines. In
this case, they went higher. They were trying to get a higher
survivability to make sure that that material would stabilize
more quickly. And the consultant did use vegetation from the
adjacent marsh. Sprigs were four inches by four inches, and
they're more than six inches deep.

This picture was from March of 2011. You can
see they went in. They narrowed the access pier. They added
an additional piling on the side of each one of the pilings so
that they were able to raise it up and raised it to four feet
in height.

They went in next to the access pier and
sprigged many of the areas that were impacted during the
restoration activity.

So I kind of did like a little bit of timeline
on a couple of slides to show you some of the same areas over
the last couple of years.

In September of 2009, and that same area with
access pier in April of this year, again narrowed and raised to
the appropriate height.

The area of decking in September, and in May of
2010, and that area now. The piling here in this picture was
the corner piling here that started to revegetate with
zagittaria latifolia.

The keyhole boat slip, and again the area with
the dredge material placed in it and sprigged with the native
vegetation.

Some of the corrective action, things that took
place. The unauthorized pier, and there was a retaining wall
and (inaudible) were removed.

General permit was issued for dredging in the
adjacent canal.

The unauthorized keyhole boat slip was filled.

And authorization for a temporary bulkhead one foot above mean
high tide was authorized to stabilize the dredge material.

However, they did not actually have to construct this temporary
bulkhead material. Once they got it in place after it was
dewatered, it didn't seem to be moving around, it wasn't
causing siltation, and they chose not to put the bulkhead in,
and we still haven't seen any problem.

The keyhole boat slip area was again filled in,
and it was sprigged with marsh plugs from the adjacent marsh.

The access pier was narrowed from 5.9 feet to
four feet and raised to a foot above the top of the adjacent
vegetation.

The areas impacted adjacent to the access pier
were sprigged with that native vegetation.
1. So that was all I have. Anybody have any
2. questions?
3. MR. DRUMMOND: Do you do all this by yourself,
4. Jennifer?
5. MS. WITTMAUN: I didn't do the work. I did work
6. on the violin, though.
7. I worked with the Corps of Engineers, Secretary
8. of State's office, several of our staff members went out with
9. me on many, many site visits. I think everybody knows how to
10. get to the site now. We’ve gone out there several times. We
11. are out there at least every other month just to kind of check
12. on the progress and see what's done.
13. It really has been an effort of the whole office
14. working together. If I haven't been able to make it out,
15. somebody else will go out and take pictures and just let me
16. know what's going on. And I’ve had people have to attend
17. meetings.
18. But we've all worked really hard to be sure that
19. we could have more violations -- not have more violations, but
20. more problems that are resolved without having to bring them to
21. the commission to try to work with people. It has been a slow
22. process, but it's the process and it's working. It just takes
23. a little more time. And we have to be a little patient with
24. them, and they have to be patient with us. But it's been a
25. positive, positive process.

3. Bureau of Wetlands Permitting
4. a. Jackson County Board of Supervisors
5. MS. BRANTLEY: Good morning. Willa Brantley.
6. I’m going to present H-3(a) now. This is a request for a
7. permit by Jackson County Board of Supervisors. It's located on
8. Davis and Stark Bayous in Ocean Springs. It's in a general use
9. district, and Seymour Engineering is the agent.
10. This is going to be very similar to other
11. dredging projects in the area that we have by Jackson County
12. Board of Supervisors.
13. This shows the bayou where they're going to be
14. dredging.
15. This is a little bit closer up. It's hard to
16. see, but this is -- you can tell where the land is and where
17. the water is.
18. They will be dredging a total of 20,620 cubic
19. yards. This material will be used for beneficial use in
20. accordance with Mississippi Code 49-27-61 if it's appropriate.
21. And that includes not only if it's clean enough, but also if
22. it's the appropriate type, size, grain size, things like that
23. are analyzed, as well.
24. And they are also requesting a ten year
25. maintenance dredging agreement.
26. This is a diagram showing the actual path that
27. they will take. These are the established navigation channels.

1. They won't be changing or altering those from what's already
2. existing.
3. The project will serve a higher public purpose
4. by restoring safe navigational depths and providing public
5. access to and use of the waterway.
6. It is allowable within the general use district.
7. Similar projects have been approved, and this is
8. not expected to set any precedent.
9. There will be a temporary increase in turbidity
10. and a loss of benthic organisms within the dredging area while
11. the work is going on.
12. The project should not have any adverse impacts
13. other than the loss of benthic organisms. The activity will
14. remain well away from the shoreline, and it will not affect the
15. natural supply of sediments, nutrients, temperature, salinity,
16. or affect the water flow or the circulation beyond an increase
17. in turbidity, which is not expected to exceed DEQ's guidelines.
18. There were submerged aquatic vegetation surveys
19. done in the area, and there weren't any where the dredging will
20. take place.
21. Best management practices will reduce any
22. adverse impacts.
23. No offsite alternatives were considered. This
24. is maintenance dredging of the existing canals, and they will
25. be following those same paths and not dredging any new areas.

The project will not change the locations of the
channels and should not affect the natural scenic qualities.
Public notice ran in the Sun Herald as required
and also on our website.
Department of Archives & History has no
reservations.
DEQ is still reviewing the project.
And the Secretary of State has no objections.
I forgot to say there were no negative comments
received.
So based on our evaluation, we have determined
that this does serve a higher public purpose, and we recommend
approval of the project, and we request that the county notify
the department if any maintenance dredging is required in the
next ten years.

DR. ASPER: Any questions? Is there a motion?

MR. DRUMMOND: What do they intend to do with
the spoils?

MS. BRANTLEY: I’m not sure at this moment. It
may be appropriate for some use out at Deer Island, but they’re
not sure right now if it's appropriate or not.

DR. ASPER: Come to the podium and state your
name, please.

MR. GIBSON: I'm Jason Gibson with Seymour

Engineering.
It will be beneficial use. We are having the
material tested as we speak, so we'll know in just a few weeks
as to whether or not it meets the requirements.

MS. BRANTLEY: And that's kind of a new thing,
just went into effect this last July. So, you're hearing about
that, and it's sort of new, but we do have a beneficial use
group, which is not only DNR, but the Corps of Engineers,
National Marine Fisheries, Wildlife, Fisheries & Parks, the
Federal U.S. Fish & Wildlife. We have people from Senators'
offices who come participate, both locally and -- I mean, state
and federal level. So we have a lot of participation in that.
Also Secretary of State's office. And they will be reviewing
these projects. When you hear that it's going to be used for
beneficial use in accordance with that new statute, that is the
group that will be reviewing that and determining if they have
a good place to send the material.

DR. ASPER: Is there a motion?
MR. BOSARGE: I make a motion that we adopt the
staff's recommendations.

MR. COLLINS: Second.
DR. ASPER: Motion made and seconded. Those in
favor say aye. Carries unanimously. Thank you.

1. MS Department of Marine Resources MS
2. Beneficial Use Dredge Material Program
3. MS Department of Marine Resources MS

Beneficial Use Dredge Material Program

MS. RAY: Good morning. My name is Rebekah Ray,
and I will be presenting the next two projects together because
they're both proposed beneficial use dredge material sites and
they have many of the same decision factors. But at the end,
there will be two motions.

This is a permit request by the Mississippi
Department of Marine Resources Mississippi Beneficial Use
Dredge Material Program.

It's on Deer Island near Biloxi in Harrison
County, and it's in a general use district.

The yellow thumbtack shows where the project is
located on Deer Island.

The applicant is requesting authorization to
create a beneficial use of dredge material site. It will
create approximately 50 acres of tidal salt marsh and
associated chenier habitat. It will be constructing a dike
3,200 feet in length and 12 feet in width with an approximate
five to one slope.

The dike (inaudible) additional 600 feet and
connecting it to Deer Island depending on the need to protect
against wave action.

The intent is to contain approximately 200,000
to 400,000 cubic yards of dredge material between the dike and
the island. This will occur over a ten year period until all
available capacity has been filled. And the applicant is also
requesting a variance to the guideline in the Mississippi
Coastal Program.

This is a diagram of the beam project. This is
where the dredge material will be held and then the dark line
is the dike that will contain it. And over here is the 600
feet that may or may not be installed. And the hatched part is
the chenier habitat.

The next project is also by the Mississippi
Department of Marine Resources Beneficial Use of Dredge
Material Program. This one is on the Escatawa River adjacent
to Highway 613 in Moss Point, Jackson County.

It's in a general use district.

The yellow thumbtack shows the location of the
proposed project right next to the highway.

The applicant is requesting authorization to
create another beneficial use site for dredge material by
depositing 24,000 cubic yards of dredge material. This will
restore ten acres of tidal low and high marsh. And the
applicant is also requesting a variance to the Mississippi
Coastal Program.

This is a diagram of this project. This is
where the material will be deposited and the marsh will be
restored.

The decision factors for this project:

This project serves a higher public purpose by
creating beneficial use areas for dredge material in accordance
with Mississippi Code 49-27-61 and by creating marsh and
chenier habitats.

These projects are allowable within the general
use district.

Both of these projects are requesting a variance
8 to Chapter VIII, Section 2, Part III.0.1 of the Mississippi
Coastal Program which states permanent filling of coastal
wetlands because of potential adverse cumulative environmental
impacts is discouraged.

The applicant justified this under Chapter VIII,
Section 2, Part I.E.2.c.i, that impacts on coastal wetlands
would be no worse than if the guidelines were followed.

This proposed filling of waterbottoms will
support ecological restoration and therefore has a positive
environmental impact, specifically the creation of tidal marsh
and upland habitat in an area of open water and shallow
waterbottoms.

The filling of state waterbottoms has been
approved in the past with projects of higher public purposes.
Therefore, these projects are not expected to set any
precedent. The beneficial use sites will continue to be
classified as coastal wetlands and state owned.

There will be a temporary increase in turbidity

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during disposal operations and a loss of benthic organisms within the area. There will be a positive impact with these projects by restoring habitat that have experienced significant loss and degradation and that provide important nursery habitat for many commercial and recreational fisheries species.

The Deer Island project is intended to complement other significant efforts being made to restore critical habitats on Deer Island and restore its historical footprint which in 1850 was roughly twice its current 400 acre size.

These projects could lead to further natural improvement of marsh species in the surrounding area. The beneficial use projects could be expanded upon in the future depending upon the availability of suitable material. And any expansions would require commission approval.

The adverse impacts to be avoided for Deer Island: If the dike does not rejoin Deer Island, temporary turbidity devices will be used in the area as needed during construction based upon visual observations of significant volumes of high turbidity leaving the project area by DMR or partner beneficial use group personnel. The dike and chenier habit along the north shore of Deer Island in concert with the shoreline will serve as the remainder of the containment.

The adverse impacts for the Escatawa River to be avoided: The Escatawa River area because of no containment or turbidity control, the material will be placed intermittently over a short period of time. Various historical images show that high turbidity conditions occur in the Escatawa and Pascagoula Rivers regularly, and this is not a setting that supports oyster beds or sea grasses.

No offsite alternatives have been considered for either of these projects. The Deer Island site is part of the efforts to restore it to its 1850 footprint, and alternative uses for the dredge material would primarily be to place it on uplands on the dredge site or truck it to another upland facility which would fail to provide for the restoration of tidal marsh habitat in the vicinity of the project as required by Mississippi Code 49-27-61.

The creation of tidal marsh does require a waterfront location.

These projects involve the creation of marsh and chenier habitats that are native to the area and should either improve or have no adverse impact on the scenic qualities of the area.

The Deer Island project went out on public notice as required. No public comments have been received.

DEQ is currently reviewing the project. Department of Archives & History has requested a cultural resource survey for the project location.

And the Secretary of State's office has stated that the public trust status and ownership would not be affected by this project and that inclusion of this site within coastal preserves would enhance its conservation status.

The Department of Wildlife, Fisheries & Parks recommended surveys be conducted for nesting shorebirds prior to and during construction of the proposed project throughout the active nesting season of April through August. However, there is no nesting habitat within this area.

The Escatawa River Project has gone out on public notice as required. No public comments have been received.

Department of Environmental Quality and the Department of Archives & History are currently reviewing the project. And the Department of Wildlife, Fisheries & Parks has recommended that best management practices be used.

The recommendation for Deer Island: Based on the results of the evaluation, it has been determined that the project is consistent with the Mississippi Coastal Program and serves a higher public purpose by creating a beneficial use area for dredge material and creating 50 acres of tidal marsh and associated chenier habitat. Therefore, staff recommends approval of the project and variance request contingent on approval from Archives & History and water quality certification from DEQ.

DR. ASPER: Any questions?
be built with funds coming from the dredging entity. So as long as they pay their own way, we are considering like kind work as payment.

Does that --

MR. DRUMMOND: Thank you.

DR. ASPER: Further questions, comments? The motion is made and seconded. Those in favor say aye. Any opposed? Carried unanimously.

MS. RAY: This is the recommendation for the Escatawpa River project. Based on the results and evaluation, it has been determined that the project is consistent with the Mississippi Coastal Program and serves a higher public purpose by creating a beneficial use area for dredge material and restoring ten acres of tidal marsh. Therefore, staff recommends approval of the project and the variance request contingent on approval from Department of Archives & History and water quality certification from DEQ.

DR. ASPER: Is there a motion?

MR. GOLLOTT: Second.

DR. ASPER: Any further discussion?

MR. BOSARGE: One more question. Is it just folks that are over the 25,000 cubic yards, or is it anybody that wants to participate in the program?

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MS. RAY: The only ones that are required to be considered for it are the ones over the 2500.

MR. BOSARGE: Twenty-five hundred or 25,000?

MS. RAY: Twenty-five hundred.

MR. BOSARGE: Thank you.


e. John Koerner

MR. BOSARGE: Yes. In the modifications, he didn't exceed the shaded areas or anything, so it's all kind of like it was, he just changed his plans a little bit?

MS. RAY: He's increasing his shading, but it will not exceed the set precedent.

MR. BOSARGE: Okay. I make a motion we accept staff's recommendation.

MR. DRUMMOND: Second.

DR. ASPER: Those in favor say aye. Carried unanimously. Thank you.

f. Dona Stephens

MR. COLE: Good morning. My name is Ron Cole, and I'll be presenting permitting's last project. It shouldn't take much longer than about 45 minutes or so.

This is a violation/after-the-fact general permit by Dona Stephens. It's on an unnamed canal adjacent to Fort Bayou in Ocean Springs. It's in the general use district. Here you can see an overall aerial of the project location. It's to the east of Highway 609 and between I-10 and Highway 90.

Here you can see a closer aerial of the project. And this is a bulkhead constructed without a permit. And you can see the red line there is approximately where the bulkhead is located.

Project description: A 46 foot bulkhead is

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being constructed without a permit.

On March 30, we received a report that a bulkhead had been constructed without a permit.

On the 31st, we went out and took a look and, in fact, there was a bulkhead constructed without a permit, and we informed Ms. Stephens that she needed a permit to conduct such activities. And she filed for an after-the-fact permit shortly after that.

Here you can see a picture of the bulkhead. This is another picture from a different angle. And our staff recommendation is to approve the after-the-fact permit because the structure does meet general permit guidelines and in this case, issue a fine to the contractor since he has previous experience with the permitting process. And I'll get into his previous experience in just a second here.

The violation was discovered on the 31st of March. It's been (inaudible) for 19 days. The maximum potential fine would be $9,500; minimum fine of $50.

Our recommended fine is $2,500 to the contractor.

And our decision factors that we based on that are the fact that the contractor was involved with similar violation in 2006 with another commercial project that was Anatoile Bay Condominium complex on Popp's Ferry Road in Biloxi. In that circumstance, the homeowners association there was fined $2,000, but the contractor was informed that that type of work does require a permit, and from that point on he should have known to get a permit for conducting these type activities.

And our other decision factor is you approve the permit because it does meet our guideline.

DR. ASPER: Any questions?

MR. BOGATE: Is the contractor here?

MR. COLE: He was. He was sent a certified letter. I haven't received the certification back yet, but he was sent a letter via certified mail.

MS. STEPHENS: I'm Dona Stephens. I essentially let him convince me that I did not need a permit. And in hindsight, which is always 20/20, I realized that I should have gotten one. And I'm sorry.

His father and his brother have agreed to tear out the offending bulkhead because it is such shabby workmanship that it's not tolerable. And so we are asking for a permit to do it and do it right this time.

MR. COLE: And I guess I should have pointed out in there that his will be actually for the reconstruction because that bulkhead is constructed poorly, so that would be to remove that bulkhead and replace a new bulkhead.

MS. STEPHENS: And the bulkhead we permitted originally. It just had rotted away. We had a permit to do it, and I was convinced that since I was only replacing a preexisting structure, repairing a preexisting structure, that I didn't need a permit. My bad.

DR. ASPER: Questions? Motion?

MR. GOLJOTT: Mr. Chairman, I think we need to table this thing until next meeting and contact the contractor because I'm thinking $2,500 is way too cheap. I'm thinking $10,000. So I think we ought to give him a chance to come here and tell us why he thinks he didn't have to have a permit.

DR. ASPER: Is that going to give us problems with our timing on these things? It's a violation, so I believe --

MR. COLE: I don't believe we are going to run into time table problems with this one. The violation, there's no time table on it. The after-the-fact general permit should be in correlation with the violation. If I'm not mistaken, that will all be tied together, and there would be no time line.

MR. GOLJOTT: Let me modify that. Let's go ahead and issue the after-the-fact permit for this project and table the fine until next month.

MR. DUNNOON: I'll second.


J. Administrative Services

2. Financial report

DR. ASPER: We have our financial report, I believe.

MR. DOSTER: Good morning, commissioners, Chief Chatagnier, and Sandy. My name is Tom Doster. I'm filling in for Kara Vessa this morning.

The total MDR budget for 2011 was $6,266,493. The remaining balance is $329,380. The total tidelands budget for 2011 was $7,429,565. And all of those funds have been obligated.

Are there any questions?

DR. ASPER: Thank you, Tom.

On the agenda we have an L-4, legal, Joe Runnels, but it does not say all items current. Do you have anything on the agenda?
MR. RUNNELS: No, I don't.

DR. ASPER: Okay. Thank you. Is there any other business or a motion to adjourn?

MR. DUMOND: I make a motion we adjourn.

MR. COLLOTT: Second.

DR. ASPER: We're adjourned.

(Meeting adjourned 11:50 a.m.)

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BEFORE THE COMMISSION ON MARINE RESOURCES

COURT REPORTER'S CERTIFICATE

I, Norma Jean Lader Soroe, Certified Shorthand Reporter, do hereby certify that to the best of my skill and ability I have reported the meeting of the Commission on Marine Resources and that the foregoing 109 pages constitute a true transcription of said meeting held on the 19th day of April 2011.

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

I further certify my signature this the 5th day of May 2011.

Norma Jean Lader Soroe, CSR #1297
Certified Shorthand Reporter

Commission Expires May 11, 2013

STATE OF MISSISSIPPI
COUNTY OF HANCOCK

N.J. SOROE, CSR #1297