

Compressed Transcript



COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

August 16, 2011

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

COMMISSION ON MARINE RESOURCES

MEETING OF COMMISSION ON MARINE RESOURCES

August 16, 2011

TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAYVIEW AVENUE, BILOXI, MISSISSIPPI, ON THE 16TH DAY OF AUGUST 2011 COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LADNER SOROE, CERTIFIED SHORTHAND REPORTER.

COMMISSION MEMBERS PRESENT:

DR. VERNON ASPER, Chairman
RICHARD GOLLOTT
SHELBY DRUMMOND
STEVE BOSARGE
JIMMY TAYLOR

ALSO PRESENT:

DR. WILLIAM WALKER, Executive Director DMR
JOSEPH R. RUNNELS, ESQ., Asst. Attorney General
SANDY CHESNUT, ESQ., Asst. Attorney General

A. Call to Order

DR. ASPER: Good morning. I'd like to welcome everybody to the regular August meeting of the Mississippi Commission on Marine Resources. Glad to have everybody here. There are agendas in the back if you haven't gotten any. And if you're interested in speaking during the public comments section of the meeting, please fill out one of the forms. And I want to remind everybody that this is for public comments, this is not a dialogue and question and answer and anything like that. This is where we eagerly hear your comments and your input and your issues.

B. Approval of Minutes

DR. ASPER: The first item on the agenda is approval of the minutes. Are there any changes to the minutes that were distributed? Or is there a motion to approve?

MR. DRUMMOND: So moved, Mr. Chairman.

MR. GOLLOTT: Second.

DR. ASPER: Those in favor say aye. The minutes are approved.

C. Approval of Agenda

DR. ASPER: We next have the agenda. Are there any changes to the agenda?

DR. WALKER: No, sir.

DR. ASPER: Is there a motion to approve the agenda as distributed?

MR. GOLLOTT: So moved, Mr. Chairman.

MR. DRUMMOND: Second.

DR. ASPER: Those in favor say aye. The agenda is approved.

D. Public Comments

DR. ASPER: Now, we're ready for our public comments period. And per our policy, you are going to be limited to three minutes. I'm going to call your name here on one of these forms. And if you're here and didn't fill out a form, it's not too late. You can fill one out in the back, and you can get it to us. And please come to the podium, be recognized, state your name, and make your comments.

The first person is Manuel Skinner.

MR. SKINNER: My is Manuel Skinner. I got on there I want to ask a question, but I realize now that I ain't supposed to ask questions, I'm just supposed to make comments.

Anyway, I was wanting to know maybe about the oyster relay, if there's going to be any this year. And if there's going to be any oyster relayed to the Katrina reef. And maybe planting some more oysters down at the Pass on the tonging reefs, and whether or not it would be the fishermen that are going to relay these oysters or they're going to hire somebody contractor-like to sub it out and they do all the work.

DR. ASPER: I tell you what. Ask Dale. He's

going to be the guy with all the answers on that. We'll have a break here in a little while. If you'll just get with him, he'll have all the answers. In fact, he may even cover that in his section.

Thank you.

Next we have Delores Suarez.

MS. SUAREZ: Thank you. My name is Delores Suarez.

Before I begin my comment, I would like to inform this council that a commercial fisherman was in Jackson County yesterday speaking with the Board of Supervisors. Upon walking into this building, one of your officers stopped him and harassed him over something that happened in Jackson County.

I would appreciate it if the board would take up some kind of issue, find out what's behind this, and stop the harassment.

Now, my comment is based on comments that were released by DMR that 2.9 million shrimp were caught this season. We all know there are no trip tickets in the state of Mississippi. There's no way to verify this. But we can audit each and every commercial fisherman to prove that that is invalid.

Also, if it is -- we understand that there can be up to one percent of domestic shrimp and 99 percent of

1 imported shrimp, and it is still allowed to be called domestic
2 caught shrimp.

3 This is supposed to be, quote, unquote, the best
4 season in five years. Since the Biloxi harbor has opened back
5 up after Katrina, I have been on that wharf many, many times.
6 I know the boats that have shrimp every day. I know the
7 fishermen who have shrimp every day. They have not had them
8 this year. The information that has been put out is false. It
9 is -- I don't even understand where it's coming from.

10 And, quite frankly, the country doesn't care
11 whether we have oil in our shrimp. That is not an issue any
12 more. They've moved on.

13 Saying that everything is perfect, this is the
14 only state who came out saying, oh, everything is perfect, come
15 buy it, come buy it. Every other state is looking into why we
16 have such a small turnout, why our shrimp are not growing, why
17 our fishermen can't shrimp, why we can't find them.

18 I have heard that a shrimper in a large freezer
19 boat went all the way to Brownsville, Texas, and back for 300
20 pounds of shrimp -- 300 boxes, my bad. I'm sorry.

21 Okay. Twenty-one days, 300 boxes of shrimp. He
22 can't even make fuel costs. And you're releasing to the public
23 that everything is perfect. That is a false statement, and I
24 would like the paperwork that shows where those figures came up
25 from.

5

1 that we was going to close up or get an area behind Deer Island
2 from one channel to the next due to angle fishing. And the
3 angler fishing, you know, they're steady -- we done lost a half
4 a mile of the front beach. We're the only state that has done
5 that in certain areas. Florida -- I shrimp in Florida and
6 Texas and Alabama, and we can't shrimp within a half mile of
7 these. They also took away a mile of our barrier islands. And
8 that's also an issue. I mean, we're steady losing bottom, and
9 they're planning 60 -- is it 60 more sites? -- to put rubble to
10 make other fishing reefs in the Sound.

11 We got one of the smallest bodies of water. and
12 every time we lose a piece of property, these issues are very
13 relevant to us. And seems like we are always on the -- it's
14 kind of being punched, and we're steady backing up and nobody
15 has ever really given us nothing back or given us credit for
16 nothing.

17 The other day we got a little kudos from NOAA
18 saying that we was almost off the endangered species list, and
19 then in the same statement he wants to upgrade everything. And
20 the EMR -- you know, DMR, EMR, they been right on the band
21 wagon saying that we was in the middle of this. And we haven't
22 got any positive feedback from them that we didn't kill them
23 turtles. We've had a couple comments, but when it was time to
24 get on camera and say things, it was lacking. We didn't have
25 no public -- they didn't show the people. Maybe they did it

7

1 And I do intend on getting with whichever
2 organization I need to to go to these fishermen and get a count
3 of what they have and what they put out, what they've caught
4 this year, whether it be sold to a factory or whether it be
5 sold on the dock.

6 DR. ASPER: Thank you, Delores. Your three
7 minutes are up. We appreciate your comments. Some of those
8 items are going to be covered. Obtaining accurate data on any
9 of our fishermen is always a challenge. But we've got some
10 ideas that we're not going to discuss right now. But thank you
11 for your comments.

12 Next, Mark Stewart.

13 MS. SUAREZ: He's being harassed right now.

14 DR. ASPER: We'll go with Danny Ross.

15 MR. ROSS: Yes, sir, gentlemen. My name is
16 Danny Ross, lifetime fisherman.

17 Some of the stuff's going to be covered today.
18 One of my main concerns is I see there's going to be a crab
19 ticket issue. And we asked for a shrimp, but the crab is going
20 to be coming up quick. I don't know why.

21 We really need these shrimp tickets, you know,
22 where they are caught, not where they're landed, where they're
23 caught. And like I say, it's very vague business trying to get
24 statistics on where fish are caught and how many.

25 Also, I'd like to comment on a rumor I heard

6

1 behind closed doors, but we'd like a little more transparency
2 with their business and address these couple of issues because
3 I think that in the future if we keep losing, we're lost. But
4 maybe that time, other people will be rich.

5 That's all I have to say.

6 MR. TAYLOR: Mr. Ross --

7 MR. ROSS: Oh, we're going to make a comment?

8 MR. TAYLOR: -- I know you weren't at the last
9 meeting, but it was discussed about the NOAA information that
10 was in the paper which most of us were livid over because it
11 was wrong because we know the shrimp season wasn't even open or
12 very little boats were working when the turtles were killed.

13 And Dale and the commission -- and a lot of
14 times when you give information to the paper, and this is not
15 just in this industry, but in my industry, the insurance
16 industry, they don't publish it or they change it. And the one
17 thing that Dale and his group and Joe Jewell -- I was very
18 livid when I read that -- was that we wanted to have correct
19 information when they gave it to NOAA and did it.

20 And I don't know why it wasn't published.

21 That's one thing I asked and we all agreed on was to have that
22 because we thought that y'all were being unfairly blamed for
23 something that y'all weren't even shrimping at that time of
24 year.

25 But anyway, I just wanted to comment because you

8

1 weren't here at the last meeting.
 2 MR. ROSS: I'm sorry I missed that statement. It
 3 would have been nice to see it on the news media. But I was
 4 told that WLOX got \$3 million from BP, so I don't guess they're
 5 going to say much against them, you know.
 6 DR. ASPER: Thank you, Danny.
 7 Mark, are you ready?
 8 Catfish?
 9 MR. MILLER: How y'all doing today? My name is
 10 James ak Catfish, D'Iberville residence. I'm directing my
 11 question to Dr. Walker with water quality.
 12 Do you feel today, sir, that the water quality
 13 is up to standard to our fishers out there and shrimpers?
 14 No, sir.
 15 DR. WALKER: No comment.
 16 MR. MILLER: He has no comment.
 17 Well, what my comment was, the water quality. I
 18 worked for the VOO program out there, Dr. Walker, and I been in
 19 and out of the hospital. This is my seventh trip in the
 20 hospital for dehydration. I got proof of what the water's done
 21 to me out there, what all it's done. And you got a water
 22 quality certificate last week, I heard, from being some big
 23 doctor of the year for oil cleanup.
 24 Man. I don't see anywhere in your literature
 25 about health care on this coast with this water quality that

1 I'm tired of fighting you, sir. You are not
 2 doing the job for me. I swear. If I wasn't sick, I might have
 3 a different other opinion on this, but I'm sick. I've been to
 4 Texas. I've been to Arizona, Florida, seeing 30 doctors. It's
 5 crazy.
 6 And you still today, you say the water quality
 7 is perfect. Look behind Horn Island. How many more tons of
 8 oil and tar patties you need out there?
 9 Ship Island. Our nesting areas.
 10 You don't see those things out there, sir? I
 11 see them every day with my eyes. I catch tar balls in my
 12 trawls.
 13 And you think it's okay, man. They only sunk
 14 the oil.
 15 And I'm sorry I got to bring up the oil question
 16 all the time because you people got \$25 million to help butter
 17 your bread to study this out here, and you're not studying it
 18 for us. You're way off key.
 19 And our fishing grounds, you're giving our
 20 fishing grounds up more for concrete out there, man.
 21 I'm trying to make a living, not tear more gear
 22 up out there on your junk you're throwing on top of me. Man,
 23 go make it in a thousand foot of water. Don't make it in ten
 24 foot of water. We trawl right on that beach line out around
 25 our barrier islands. We done give you a mile of it for the

we're dealing with with our shrimping.
 2 And this leads back to our shrimp not growing,
 3 too, sir. Our shrimp's not growing. That fresh water is not
 4 causing it. We know this because I'm out there 88 percent of
 5 my time. That's where I live at. And I can't see where you're
 6 not going out there doing the right job with this water quality
 7 deal, I mean, because we have poor water quality.
 8 And you keep saying it's okay, the seafood's
 9 safe, this is safe, that's safe. I beg to differ, sir, to you.
 10 I'm sick today. I'm tired of coming up here
 11 looking at you. You look at me like I'm a lunatic. I'm not a
 12 lunatic. I'm a fisherman. I believe in myself, just like you
 13 believe in yourself, you know, and I got a brain, and it's
 14 functioning like yours.
 15 And I'm sorry that we're off key because every
 16 time I talk to you, try to get you on the phone, it's the same
 17 thing, you don't call me back.
 18 I talk to Dale on the phone all the time. They
 19 know I'm pissed. Traci knows I'm pissed. Dr. Jewells (sic)
 20 knows I'm mad. I talked to Dr. Vernon this morning. I got
 21 harassed coming through your door this morning by your
 22 deputies. It's got to stop, man. You got to get on our side.
 23 Come aboard us, man. We're suffering out here as fishermens
 24 (sic). Quit getting the government money, man. Quit chasing
 25 it and come help us, please. We are begging you.

1 federal government to keep us away from the grass beds.
 2 You know, it's terrible I got to sit here and
 3 look at you, man. You think I am a lunatic. I'm not, sir.
 4 When I tell you I'm sick, I'm sick, sir. You can laugh
 5 underneath your breath. I'm eager today. I just got out the
 6 hospital for a seven day round, dehydration. I'm hurting. I
 7 shouldn't even be here today. I should be home. I'm still
 8 sick. But I care.
 9 And you don't care. That's all you're chasing
 10 that federal government dollar, man. You got to let it go and
 11 help us. The price gouging on the shrimp, my boy over here,
 12 Richard Gollott, love you to death. I been around you all my
 13 life. Man, we need help, sir.
 14 I caught 70,000 pounds of shrimp at 65 cents a
 15 pound. My business went backwards, you know. Best year I ever
 16 had. Man, that's baloney, man. Traci Floyd, y'all putting out
 17 the wrong information, man.
 18 DR. ASPER: Okay. Catfish, your time is up.
 19 MR. MILLER: God bless you.
 20 DR. ASPER: We appreciate your input on this.
 21 Honestly, we do take everybody really seriously, and we are
 22 very, very concerned about this. It's a very complicated
 23 issue.
 24 One of the things we're going to talk about is
 25 the low oxygen levels on the bottom out there. And it's

1 something that we haven't seen before. And we're seeing a lot
2 of things out there in our environment that we don't fully
3 understand yet. And it's where these issues are coming from is
4 complicated.

5 And one of the things we're going to today is
6 ask -- issue a resolution asking NOAA to do some studies out
7 there and let us do some studies, as well.

8 MR. MILLER: And I notice a lot of things in my
9 troll. Just one quick, then I'll sit down.

10 When I troll with my big troll behind my boat in
11 the shallow waters --

12 DR. ASPER: Speak up to the mic a second because
13 I asked you a question, I guess it's okay.

14 MR. MILLER: Yes, sir. I want to give you an
15 example what I'm going through about the weirdness of what's on
16 our bottom.

17 When I go out for these seven day trips, I troll
18 with my nets behind my boat and I drag them. Well, they troll,
19 buddy. They're just like a plow in the ground.

20 Well, sometimes I catch shrimp. I go up and
21 down in that area. It takes me three days to come off that
22 water. It happens to me on my boat. I get deadly sick from
23 the oil and the dispersants that I'm kicking up on that bottom
24 from turbulence from my trawls.

25 And you call people on the phone and you tell

13

1 fishing violations being committed for a period of two years
2 and paying of \$500 in 45 days.

3 DR. ASPER: Dr. Walker, I want to ask you a
4 question. I think one of the excuses they gave in here was
5 that they had misidentified the fish because of the dark spot.
6 Not knowing the individual species of snapper very well, is
7 this at all a viable excuse?

8 DR. WALKER: Well, lane snapper and red snapper
9 have lines on them. One runs parallel to the body, and the red
10 snapper runs vertical to the body.

11 So is it conceivable that someone would confuse
12 them? Possibly. I would defer to some of the folks in our
13 fisheries group to answer that better, though.

14 MR. DRUMMOND: I can make a comment on that, Dr.
15 Walker.

16 The lane snapper is, of course, a different
17 species than the red snapper. The lane snapper consists of
18 yellow lines, lateral lines, along its body. The red snapper
19 doesn't have that.

20 So they're very easy to distinguish to between
21 them.

22 DR. ASPER: Okay. And we need a motion for this
23 penalty?

24 DR. WALKER: Yes, sir. I think some of the
25 folks might be here to speak.

15

1 them. No one is responding because that's not no oil there.
2 You got to understand, it's like a sheen that you're churning
3 up on the bottom.

4 And I'm not elusive. I do this in daytime and
5 night, and I got big monster lights on my boat, so you see
6 everything. You don't miss much. You see shrimp jumping.

7 But I just want to bring it to your attention.
8 There is something wrong with our bottom, that's why the shrimp
9 are not growing because all our food on the bottom is dead and
10 it's gone. Our bottom's 80 to 90 percent dead out there.

11 DR. ASPER: Okay. Thank you.

12 Last chance. Anybody else? Okay. Thank you
13 very much.

14 E. EXECUTIVE DIRECTOR'S REPORT

15 DR. ASPER: Move on now to Item E, executive
16 director's report.

17 DR. WALKER: Thank you, Mr. Chairman. I have
18 one item. We have an administrative penalties case to put
19 before you today. Basically it involves back in November of
20 last year marine patrol boarded a vessel that was fishing on
21 one of our artificial reefs, examined the catch held on the
22 vessel, and they were found to have quite a few red snapper
23 which were illegal in both size and creel limit.

24 And what our recommendation to you is to fine
25 them \$1,000 apiece with \$500 suspended contingent upon no new

14

1 DR. ASPER: Let's have the motion first. Is
2 there a motion for that?

3 MR. BOSARGE: I make a motion that we follow Dr.
4 Walker's recommendations.

5 DR. ASPER: Motion made by Commissioner
6 Bosarge.

7 MR. TAYLOR: Second.

8 DR. ASPER: Are any of the people involved here
9 would like to come -- come to the podium and state your name.

10 MR. MORAS: I'm Gillan Moras. We got out there
11 -- I don't do much fishing outside the islands. I usually do
12 speckled trout fishing. And we caught the fish, and we had our
13 book, and we opened it up, and we all four compared the
14 pictures. And I know after reading and doing some research and
15 looking at some pictures on line and all, I know exactly what
16 they are now. But at the time, the boat was rocking, we looked
17 at the pictures. It was a spot on the side of the fish, and
18 the ones that we thought we could keep, so we kept them.

19 I mean, I didn't need the fish to sell. I
20 didn't need them to eat. I catch plenty of fish, and I always
21 measure my fish. In fact, I usually throw back most of the
22 fish I catch. I keep enough to eat.

23 But I didn't need the fish or anything. We just
24 thought that we had some lane snapper, and we'd eat a few of
25 them and see how it was. And so it was our mistake. Two of

16

1 the guys with me now that we're all four here, two of them are
2 out of work, and this fine would be pretty excessive for them.
3 It would be a hardship for them. So, I appreciate y'all
4 consider that. Thank you.

5 DR. ASPER: Any of the others want to talk?
6 Any further discussion?

7 MR. DRUMMOND: I know you probably made a
8 mistake, but ignorance is no excuse of the regulations, and
9 you've got to follow the regulations regardless.

10 Snapper is a very important resource in the
11 coastal Gulf area. And there are about three user groups for
12 red snapper in the Gulf of Mexico. And that includes
13 recreational fishermen, commercial fishermen, as well as
14 charter boat fishermen.

15 Two of those three groups depend on their
16 livelihood or part of their livelihood fishing for red snapper.

17 Probably you got off easy. I'll tell you why.
18 To perpetuate the resource, you need to manage the resource
19 right now because snapper are not in too good a shape really.

20 You catch undersized fish, you defeat the
21 purpose of the management scheme. You keep the other user
22 groups from having use of it. The recreational fishermen love
23 to fish for them, they love to eat them. It's a good, very
24 good fish.

25 I say you got off lightly simply because there

are all these user groups that you are affecting.

2 I think in the future the fines are going to be
3 a lot greater to circumvent some of these activities as far as
4 catching undersized fish.

5 Anyway, I just had a couple of comments to give
6 to you, Mr. Moras.

7 MR. GOLLOTT: Dr. Walker, what is the maximum
8 fine on this, penalties?

9 DR. WALKER: Sandy.

10 MS. CHESNUT: The fine could go up to \$10,000
11 per violation.

12 MR. TAYLOR: And on the federal level, it's four
13 hundred per fish, if I'm not mistaken, five hundred per fish.

14 MS. CHESNUT: I'm not familiar with the federal.

15 DR. ASPER: Okay. We've got a motion to impose
16 a fine of \$1,000 with five hundred of that suspended contingent
17 on no further violations. That was made by Commissioner
18 Bosarge and seconded by Commissioner Taylor. Any further
19 discussion? Those in favor say aye. Those opposed.

20 MR. DRUMMOND: No.

21 DR. ASPER: Let the record show that
22 Commissioner Drummond voted no. It carries three to one.

Anything else with the executive director?

23 DR. WALKER: No, sir.

24 F. Marine Patrol

1 DR. ASPER: Move on then to Item F, marine
2 patrol.

3 2. Marine Patrol Report

4 MR. CHATAGNIER: Walter Chatagnier, chief of law
5 enforcement. Good morning, Dr. Asper, commissioners, Dr.
6 Walker.

7 Just for your information, we get the federal
8 report on these fine summaries, and the average fine right now
9 is running about fifteen hundred to twenty-five hundred per
10 person per one snapper violation.

11 Marine patrol has been out busy, a lot of
12 activity on the water.

13 We had one case made against a live baiter
14 trawling after legal sunset which is illegal.

15 And had a theft of some crabs. We arrested a
16 man for stealing other people's crabs.

17 There's a few fishing violations here. A lot of
18 it is red drum and seatrout.

19 We had a couple of what they call jubilees here
20 last month where a lot of flounders came up two or three days
21 in a row. As you can see, we made several cases on flounders,
22 people catching too many and undersized.

23 We had one case we took these flounders that
24 were seized and we got reports of a seafood dealer who was
25 buying recreational fish. We took the fish, took a couple

1 undercover agents, went and sold them to him, and turned around
2 and charged him with illegal possession of -- purchase of
3 recreational fish and failure to maintain the records. When we
4 went and asked him for the records, he presented five or six
5 different fishermen that he had bought the fish from, so-called
6 purchase orders or trip tickets, I guess you want to call it
7 right this moment, but we knew who he bought the fish from.

8 Boat and water safety. We had one on here for
9 commercial light law violation, standard life jackets, and
10 stuff such as that.

11 Taught two boat and water safety classes Bay St.
12 Louis and Gautier. Certified 48 students.

13 We had accident at Horn Island resulted in a
14 fatality. That was the man that got thrown from the boat.
15 The boat come back around, run him over.

16 Five accidents with injuries.

17 I had two water drowning accidents off of
18 Waveland beach involving two children. Our officers and dive
19 team members went out and made the recoveries by walking along.

20 We assisted the Gulf Islands National Seashore.
21 There was a big unsponsored party that was going on at Horn
22 Island and ended up fizzling out after the Park Service finally
23 got some information out to the people that there wasn't going
24 to be a big gathering of people out there with a band and all
25 that.

1 JEA patrols, we did 56 patrols, accumulated 814
2 man hours, made 396 contacts, had one federal enforcement
3 report, and issued 17 state citations out of the patrols.

4 DR. ASPER: Thank you. Any questions?

5 MR. DRUMMOND: Chief, what is the penalty for
6 catching all these small flounders?

7 MR. CHATAGNIER: Under 49-15-63, the first
8 offense is one to five hundred, second offense is a thousand to
9 -- five hundred to a thousand, excuse me, and the third offense
10 is two to four thousand. And then the associated court costs,
11 and I think on the first offense the court costs for the first
12 \$100 fine, it's like \$170 or something.

13 MR. DRUMMOND: It's not anything per fish?

14 MR. CHATAGNIER: No, sir. It has nothing to do
15 with how many fish you catch. The only thing I believe that
16 falls in place with us is redfish on a pogy boat, purse seine
17 boat. And the fine is strictly up to the judge. We have no
18 say-so whatsoever.

19 MR. DRUMMOND: Okay. Thank you.

20 DR. ASPER: Anything else? Okay. Thanks a lot,
21 Chief.

22 G. Marine Fisheries

23 DR. ASPER: Move on then to marine fisheries.

24 MR. DIAZ: Good morning, Dr. Asper,
25 commissioners, Dr. Walker, Ms. Chesnut.

21

1 the fall cultch plant. It started on August 2. We have a
2 massive cultch plant underway.

3 If you'll remember, back in the spring, we
4 started a spring shell plant and had a lot of rainfall in the
5 middle part of the country. And we ended up as projections for
6 the Mississippi River were starting to show that there could be
7 a danger of opening the Bonnet Carre, we stopped that cultch
8 plant with a low percentage of that cultch actually have been
9 planted.

10 So we're planting the remainder of the cultch
11 from the spring and then another plant that we bid out for this
12 fall.

13 Altogether, we have ordered 62,254 cubic yards
14 of cultch material. That includes 24,393 cubic yards of oyster
15 shell and 38,861 cubic yards of limestone.

16 If the weather holds up and everything gets to
17 be planted, that's approximately 113 bargeloads that would be
18 planted. If you were to stack those end to end, that's about
19 2.5 miles.

20 I measured that this morning on I-110, and
21 that's from the Promenade Mall just a little bit past the
22 drawbridge on the I-110 bridge. So it's a tremendous amount of
23 material that is being put out this year.

24 So let's hope that the weather holds out and
25 we're able to take delivery of all that material.

23

1 The office of marine fisheries continues to work
2 with Mississippi Department of Environmental Quality and the
3 state chemistry lab to collect and analyze seafood tissue
4 samples for shrimp, finfish, crabs, and oysters since The
5 DEEPWATER HORIZON spill.

6 From May 2010 through July 2011, 414 samples
7 have been submitted. And we have received results for 371 of
8 those samples.

9 None of the results have been above levels of
10 concern, and most samples have been listed as non-detectable
11 for any PAHs.

12 Also, the office of marine fisheries continues
13 to look for ways to be proactive in relation to marine sea
14 turtle issues. The shrimp and crab bureau is preparing a
15 mailout of free angle meters -- I have one of them here -- to
16 licensed Mississippi resident commercial shrimp fishermen to
17 give them another tool to help them make sure turtle excluder
18 devices are set at the proper angle.

19 This project is being paid for by the balance of
20 a grant from the National Fish & Wildlife Foundation.

21 There will also be instructions included with
22 the mailout, and there will be instructions in Vietnamese and
23 English. So we're trying to accommodate Vietnamese fishermen
24 so they can understand.

25 Also wanted to let you know that we have started

22

1 Also, I wanted to let you know that we've seen
2 the dissolved oxygen through our constant recorder instruments,
3 and through datasondes that we've acquired from DEQ on loan.
4 And we've been placing those datasondes at selected location.
5 And we have been experiencing low dissolved oxygen conditions
6 in several areas that we've been monitoring.

7 And one that was real noteworthy to me is we put
8 a datasonde right on the Pass Christian tonging reef, and there
9 was an eight day period where the dissolved oxygen was
10 extremely low, at or near zero for eight consecutive days. And
11 the days preceding it and the days following it were still
12 extremely low.

13 So we have been seeing some low DO, and that's
14 causing a little bit of concern.

15 Water temperatures have been fairly high. If
16 you look at the constant recorder instruments, some of the ones
17 actually out in the Sound have exceeded 30 degree Cs already
18 for four weeks. One by Round Island has exceeded it for over
19 five weeks. So it's been a hot summer so far.

20 And that doesn't help with low DO problems. The
21 hotter the water temperature is, the harder it is for oxygen to
22 stay dissolved in the water.

23 We did also have one algae bloom near the end of
24 July, and the name of that particular species of algae was
25 Chattonella subsalsa. And that particular bloom stretched from

24

1 Courthouse Road in Gulfport all the way to the Pass
2 Christian-Long Beach line. And there were a couple of real
3 minor fish kills associated with that.

4 So that's all I have for now. Some of the
5 things that were brought up during the public comment period
6 will be addressed on some of the items that's on the agenda.

7 And if any folks have any questions of me, I'll
8 be around after the meeting to talk to them about issues.

9 DR. ASPER: Dale, I just wanted to mention that
10 USM continues their transects. They start right there in St.
11 Louis Bay and go all the way out to a site several miles south
12 of the island. And they're measuring dissolved oxygen, as
13 well. In addition to measuring it in electronic sensors, they
14 do actual chemical titrations.

15 So should you need to have data like that to
16 back up your information for dissolved oxygen levels, that's
17 going to be available. And it's called (inaudible) titration,
18 and it's the best way to do it.

19 And they concur with what you're saying. They
20 saw some really low numbers, especially out there toward the
21 north end of Chandeleur Island, the water was actually
22 (inaudible).

23 MR. GOLLOTT: Dale, can I ask you a question?

24 MR. DIAZ: Sure.

25 MR. GOLLOTT: Is there anything standing in our

1 year.

2 MR. DIAZ: We can certainly look at it.

3 MR. GOLLOTT: We need to see if we can make that
4 happen.

5 MR. DIAZ: Anything else?

6 First up for fisheries, Traci Floyd's got the
7 next two items on the agenda. The first one is a resolution on
8 marine sea turtle study. And the second one is a live bait
9 shrimping regulation that we have some changes proposed for
10 you. This is basically a housekeeping thing where some of the
11 things in our regulation are not consistent with state statute,
12 and we're trying to clean that up.

13 So, Traci.

14 3. CMR Resolution - Marine Turtle Study

15 MS. FLOYD: Good morning, Mr. Chairman,
16 commissioners, Dr. Walker, and Sandy.

17 This is the sea turtle resolution.

18 For your consideration, this is Commission on
19 Marine Resources Resolution Number 081611-01, and it will be
20 submitted to NOAA Fisheries. And it reads this way:

21 Whereas, the Commission on Marine Resources is a
22 duly constituted governmental entity created to serve the great
23 State of Mississippi; and

24 Whereas, said service includes the protection
25 and management of Mississippi's marine resources; and

way of taking a relay program out of Pascagoula, any
2 regulations or any money? That's what I'd like to see because
3 we talked about it, and I'd like to know if there's anything
4 stopping us from doing a relay program.

5 MR. DIAZ: Right now, Governor Barbour sent a
6 letter to NOAA Fisheries in June asking for NOAA Fisheries to
7 consider Mississippi for a federal fisheries disaster for
8 whatever fisheries might be impacted as a result of the Bonnet
9 Carre Spillway and other factors.

10 We have been working on a report to send to NOAA
11 Fisheries. We'll probably mail that report out today.

12 What we've been able to document so far is that
13 there has been a substantial reduction that probably will meet
14 the standard of NOAA Fisheries to declare a federal fisheries
15 disaster for shellfish. And there is a substantial reduction
16 for the crab fisheries that we can document.

17 I'm not sure if it will raise up to the level
18 where NOAA will declare a disaster for the crab fishery.

19 If some money was to come about through that
20 program, we could look at a project such as that, so that would
21 be the source of funds we would probably be looking at if we
22 were going to do a project like that.

23 MR. GOLLOTT: You know, I think that BP has done
24 a lot of damage to our Pass Christian reefs. (Inaudible) to
25 finance a relaying so we can have an oyster season this coming

1 Whereas, increased sea turtle strandings are
2 occurring in the northern Gulf of Mexico states; and

3 Whereas, there is a need to explore all options
4 because timing of increased strandings does not match spacial
5 distribution of shrimping effort; and

6 Whereas, the Mississippi DMR has responded
7 proactively and taken precautionary measures to address
8 fisheries interactions which may affect sea turtles in state
9 waters, and this includes education, free gear distribution,
10 increased monitoring and enforcement efforts and temporary tow
11 time restrictions; and

12 Whereas, the Mississippi Commission on Marine
13 Resources recognizes the economic and cultural importance of
14 the shrimping industry in the Mississippi Sound and the
15 public's inherent right to access the plentiful, fresh, natural
16 American shrimp food resource; and

17 Whereas, on June 20, 2011, the U.S. Department
18 of Commerce, NOAA, issued a scoping document for the
19 preparation of a draft environmental impact statement to reduce
20 incidental catch and mortality of sea turtles in the
21 southeastern U.S. shrimp fishery, including potential
22 alternatives to enact new restrictions on the shrimp fishery,
23 including additional gear requirements and seasonal area
24 closures.

25 Whereas, the Mississippi Commission on Marine

1 Resources considers its role in the management of marine sea
2 turtles essential and recognizes the need to know the status
3 and distribution of the listed sea turtle species in the state
4 and all Gulf of Mexico waters before enacting regulations which
5 may severely impact shrimp fisheries and dependent communities.

6 Now therefore be it resolved in a duly
7 constituted and assembled meeting that the Mississippi
8 Commission on Marine Resources is requesting the U.S.
9 Department of Commerce, NOAA, to conduct a comprehensive Gulf
10 of Mexico sea turtle population and distribution study to
11 provide data base line data on the status of current
12 populations and furthermore to fully investigate all possible
13 causes of sea turtle mortality.

14 And with your approval, that's been submitted to
15 you for signatures. And this would be submitted to NOAA.

16 DR. ASPER: Any questions? Is there a motion to
17 approve this resolution?

18 MR. GOLLOTT: I'll make a motion, Mr. Chairman.

19 DR. ASPER: Is there a second?

20 MR. DRUMMOND: I'll second that motion, Mr.
21 Chairman.

22 DR. ASPER: Discussion?

23 MR. BOSARGE: I would like to say, Traci, and
24 what Catfish and a lot of the others don't realize just what
25 the DMR, Dale, Traci, Joe, a lot of folks have worked really

29

1 hard on this issue, and we are gaining a lot of ground to prove
2 that we are not the problem. So I would like to say thank you
3 for all you've done, and yes for the resolution, also.

4 MS. FLOYD: Thank you.

5 DR. ASPER: Any further discussion? Those in
6 favor say aye. Those opposed. Carries unanimously.

7 Thanks.

8 4. Title 22 Part 6 - Live Bait Shrimping Regulations

9 MS. FLOYD: The next item on the agenda, we have
10 updates to Title 22 Part 6 rules and regulations for live bait
11 shrimping. And as Dale said, these are simply administrative
12 updates, and they reflect recently made statute changes.

13 So, under 49-15-64.2, we have clarification of
14 the taking of shrimp for personal consumption, and this is
15 based on Senate Bill 2959.

16 Under 49-15-64.4, we have year round application
17 and licensing of live bait camps that is now allowed. And
18 that's based on House Bill 764.

19 We have 49-15-315 which includes clarification
20 of marine waters that are prohibited to commercial taking of
21 live shrimp based on Senate Bill 2958.

22 So under Chapter 2, justification and authority,
23 we're simply updating the reference to Mississippi Code,
24 removing of 1972.

25 Under Chapter 4, closure areas, it now reads:

30

1 Any person shall be allowed to take shrimp in the bays located
2 within and surrounding the Cities of Bay St. Louis, Gautier,
3 Ocean Springs, Biloxi, and Pascagoula, with a cast net or brill
4 net that shall not take more than 50 pounds heads on of shrimp
5 per person per day for personal consumption.

6 And again, that was just to make the law
7 clearer.

8 Under Chapter 5 gear regulations, again we have
9 an update to the reference to the Mississippi Code. And also,
10 we removed the requirement that schedules the trawling times
11 will be provided upon issuance of license.

12 Under Chapter 6 license regulations, we are
13 removing per state statute the requirement that application
14 must be made to DMR between January 1 and April 30 every year.
15 You may now do that all year long.

16 And then also the location of the camp must be
17 accessible to the general public by public road or navigable
18 waterway and located within the three coastal counties.

19 Also, inspections may be completed within 30
20 days of DMR receiving a fully completed application. No longer
21 must those be completed by May 31.

22 Under Chapter 12 Administrative Procedures Act,
23 again we have an update to the Mississippi Code reference, and
24 those are all of the changes, if you'd like to make a motion or
25 have any questions. We can take this out to notice of intent.

31

1 MR. TAYLOR: I would. Where it says it must be
2 located on a -- go back one -- either be on a road or on a
3 navigable waterway. It doesn't have to be both; am I correct?

4 MS. FLOYD: That's correct. It was or; yes,
5 sir.

6 MR. GOLLOTT: Traci, is there a count limit on
7 the size shrimp that they harvest out of the bay with cast
8 nets?

9 MS. FLOYD: A count size?

10 MR. GOLLOTT: Yeah, like 64 to the pound.

11 MS. FLOYD: They have to be legal size shrimp.

12 Oh, for live bait? I don't have that number
13 fright in front of me, but I believe it's 100 count.

14 DR. ASPER: Any other questions? Is there a
15 motion that we approve these changes?

16 MR. BOSARGE: I make a motion that we approve
17 the changes.

18 DR. ASPER: Is there a second?

19 MR. DRUMMOND: I second the motion, Mr.
20 Chairman.

21 DR. ASPER: Any further discussion? Those in
22 favor say aye. They are approved.

23 MS. FLOYD: Thank you.

24 MR. DIAZ: Next up for marine fisheries, there's
25 two action items. Christine Murrell is going to present those.

32

1 It's the crab trip ticket program and then notice of intent for
2 Title 22 Part 9.

3 5. Crab Trip Ticket Program
4 Title 22 Part 9 - Confidentiality of Statistical
5 Data

6 MS. MURRELL: Good morning, commissioners,
7 chairman, Sandy, and Dr. Walker.

8 My name is Christine Murrell, and I'm a marine
9 fisheries scientist with the bureau of finfish.

10 I'm presenting an implementation of the crab
11 trip ticket system in Mississippi, crab trip ticket
12 implementation.

13 The Mississippi Department of Marine Resources
14 commission meeting on April 2011, a motion was passed directing
15 the office of marine fisheries to develop trip ticket plans for
16 all commercial fisheries beginning with crabs, followed by
17 finfish, and then shrimp.

18 And a trip ticket program is a system to collect
19 commercial landings and associated information by trip.

20 Trip tickets would replace the current system
21 used to collect Mississippi commercial landings if approved.

22 Collection of Mississippi landings. Oyster and
23 live bait fisheries landings are currently being collected
24 under a trip ticket system. Other fisheries, shrimp, crab, and
25 finfish, are collected through dealer purchase records. Crab

33

landings are reported as total pounds and average price per
2 pound by dealer by month. No information regarding effort is
3 recorded, such as number of traps, soak time, and a very
4 generalized area is used, Mississippi Sound.

5 Trip tickets would provide this effort
6 information which is important in managing the fishery.

7 Since Hurricane Katrina, there is a low number
8 of crab processors in Mississippi. Many crabbers go to other
9 states or to the public to sell their catch, and none of these
10 landings are reported.

11 When distributing EDRP-1 and -2 monies, trip
12 tickets were completed in all fisheries which familiarized many
13 fishermen with the process of completing and submitting the
14 trip ticket form.

15 Some of the reasons for implementation. To
16 provide for quantification of loss of income, vessels, and gear
17 due to hurricanes and other disasters. It will enable
18 fishermen to get an accurate account of seafood landed. Better
19 evaluate effects of proposed and current management
20 regulations. Allow a more equitable distribution of disaster
21 funds. And sometimes federal emergency grants and other
22 funding opportunities are based on landings, and by not
23 collecting all sources of landings, Mississippi could be
24 missing out on funding.

25 This is our confidentiality. I just put this up

34

1 to show that all trip tickets and the information we collect is
2 confidential.

3 Confidentiality. All data collected or
4 otherwise obtained by statistical personnel in the course of
5 their duties and other landings data collected by information
6 confidentiality officers of the Department of Marine Resources
7 are confidential and unless specific authorization is given are
8 not to be divulged except in aggregate form to any person,
9 etcetera.

10 The Mississippi Department of Marine Resources
11 will not voluntarily release confidential information to other
12 state or federal agencies except as provided for above and to
13 the fullest extent possible will oppose other agency and
14 congressional subpoenas to obtain confidential information.

15 The Mississippi Department of Marine Resources
16 will not disclose confidential statistics under court order
17 without specific approval by the state attorney general's
18 office.

19 After we were directed to come up with a plan,
20 we got input from industry. And on July 1, a mailout was sent
21 to 332 seafood dealer processors and crab fishermen, including
22 a letter describing the plan with an invitation to a workshop
23 on July 12, a draft crab trip ticket manual, and a short
24 survey.

25 Twenty-six surveys were returned, 11 in favor of

35

1 trip tickets and 12 not in favor, and three with no opinion.

2 MDMR staff met with the crab task force on July
3 6, and adjustments to the trip ticket plan were made according
4 to their comments and suggestions.

5 Overall, the task force supported a trip ticket
6 program.

7 And the workshop was held on July 12 with three
8 fishermen attending. The crab trip ticket manual was
9 translated into Vietnamese, and copies were available at this
10 workshop.

11 This is a summary of the changes. There would
12 be a change to MDMR regulation Title 22 Part 9 under the
13 reporting requirements. And the fresh product permit and trip
14 ticket summary form are under these reporting requirements.

15 This is the proposed change to the MDMR
16 regulations. I'll go ahead and read this since this is the
17 main change. This is the information that is required under
18 Title 22 Part 9.

19 Each seafood dealer/processor is hereby required
20 to complete Mississippi trip tickets provided by the Department
21 of Marine Resources. Commercial fishermen who sell their catch
22 to individuals other than a Mississippi dealer/processor are
23 hereby required to complete Mississippi trip tickets provided
24 by the Department of Marine Resources and be in possession of a
25 fresh product permit. Commercial fishermen who sell their

36

1 catch to anyone other than a Mississippi licensed dealer/
2 processor or transport their catch out of state are required to
3 purchase and possess a dealer/processor license and are
4 required to comply with all regulations governing Mississippi
5 seafood dealers processors.

6 All trip tickets shall be returned to the
7 department or electronically submitted on or before the tenth
8 of each month for actual transactions from every commercial
9 fisherman during the preceding month.

10 A trip ticket summary form that states the total
11 trips taken in a given month shall be submitted by the tenth of
12 each month by the seafood dealer/processor or commercial
13 fisherman.

14 The fisherman is required to provide to the
15 dealer complete and accurate information necessary for the
16 completion of the fisherman portion of the trip ticket. This
17 includes but is not limited to commercial fisherman's name,
18 valid license number, date, and area of harvest, depth, trip,
19 and fishing time, proper vessel identification, gear, quantity
20 and size of gear used, and applicable mesh size, if any, of
21 gear use, seafood dealer's name, date of purchase, dealer
22 license number, port and county product was landed, species
23 being purchased, weight or any other applicable standard,
24 condition of product, count or market grade of purchase seafood
25 product and price paid per unit, pound or number per species.

37

1 state, as well as utility for dealers and fishermen. It can
2 generate reports, and then tracking of payments and sales.
3 This is an electronic trip ticket. Basically,
4 it's the trip ticket number, the fisherman's name, the license
5 number, vessel, either the Coast Guard number or the
6 registration number, date, transaction, trip time, fish time.
7 And then you go down to the gear used. And a lot of these are
8 drop down codes, so they're already in place, you just click on
9 them, and they go. And it's a pretty simple system to use.

10 Paper tickets. There are two types of paper
11 tickets. Single trip form is designed to accommodate a single
12 trip on a form. And multi trip form used to record information
13 from multiple fishing trips if one species is harvested and not
14 rated.

15 This is a single trip form. You can't see it
16 too well, but it's basically the same information as the
17 electronic trip ticket. You just have to write everything by
18 hand.

19 And this is a multi trip ticket. And this can
20 be used for something such as crabs where they're not graded,
21 and you can record up to five trips on one ticket. So it
22 simplifies having to fill out so much information each time.

23 This is the time line for the crab trip ticket.
24 At this meeting, adoption of the notice of intent Title 22 Part
25 9 requiring dealers and fishermen to submit trip tickets for

39

1 The seafood dealer, processor, or fisherman is
2 required to verify the accuracy of the tickets by signing each
3 ticket.

4 Okay. This is the fresh product permit
5 proposal. A licensed commercial fisherman may only sell to a
6 seafood dealer/processor. However, a validly licensed
7 commercial fisherman may sell their catch to a consumer within
8 the state if they have in their possession a fresh product
9 permit obtained from the MDMR. An alternate person may be
10 added to the fresh product permit at the time it is issued in
11 order to allow the catch attributed to the commercial license
12 to be sold to consumers while the commercial fisherman
13 continues to fish. There will be no fee for this permit.

14 The trip ticket summary form. A trip ticket
15 summary form will be filled out and sent to the department once
16 a month. The trip ticket summary form documents the number of
17 trip tickets filled out each time trip tickets are sent to the
18 MDMR. If no trips are taken for a given month, the dealer,
19 fisherman is still required to send a monthly submission sheet
20 indicating zero trips were taken for that month.

21 Okay. There is electronic versus paper trip
22 tickets. Specialized software can be installed at no cost for
23 data entry of trip ticket information. It is PC based. You
24 need a connection to the internet. It provides a more
25 efficient way of reporting data, provides necessary data to the

38

1 crab trips.

2 August-September, public hearing on Title 22
3 Part 9 if required.

4 September CMR meeting, final adoption of Title
5 22 Part 9.

6 On November 1, 2011, the regulation requiring
7 fishermen and dealers to submit trip tickets for crab trips
8 will take effect if approved by the CMR.

9 September, modifying and ordering trip tickets,
10 mailout informing fishermen and dealers where and when they can
11 pick up trip tickets, and creation of the fresh product permit.

12 October, using trip tickets and training and
13 visuals on how to fill out the forms if needed.

14 November 1, implementation of crab trip ticket
15 program.

16 In conclusion, upon approval from the Commission
17 on Marine Resources in August, the Mississippi Department of
18 Marine Resources will begin the implementation of a trip ticket
19 program for the commercial crab fishery to begin November 1,
20 2011.

21 Mississippi is the only Gulf state that does not
22 currently collect trip tickets in all fisheries.

23 Trip ticket program proposals for finfish and
24 shrimp will be presented in October and December respectively

25 And questions?

40

1 MR. GOLLOTT: Yes, Christine. This would allow
2 you to quit going around and collecting data from different
3 dealers; wouldn't it? You're saying they have to mail it in or
4 send it in to Traci?

5 MS. MURRELL: Eventually, yes, there would be a
6 period --

7 MR. GOLLOTT: Christine, I'd like to say I see a
8 lot of problems with this that needs to be worked out before we
9 can approve it, and I'd like to table this until next month
10 until we could really look at it. It's a lot to digest.

11 DR. ASPER: Is that a motion?

12 MR. GOLLOTT: It is a motion.

13 DR. ASPER: Is there a second to that motion?

14 MR. TAYLOR: I'll second it.

15 DR. ASPER: That motion has been seconded.

16 Commissioner Taylor seconded it. All right. Open for
17 discussion.

18 MR. BOSARGE: I have a question (inaudible).
19 Can you go back to the (inaudible) trip ticket?

20 MS. MURRELL: Sure.

21 MR. BOSARGE: One of the questions I would have
22 is where you got the Coast Guard slash state registration,
23 could you put both on there?

24 MS. MURRELL: I think this is an older version.
25 I think it has been updated. This is just something I had in

41

1 think, you know, but we don't want to have too many floating
2 around.

3 MR. TAYLOR: One up on the dock, and the
4 families are all working there, and we see them leave, you
5 know, and I'm (inaudible) someone get a ticket.

6 MS. MURRELL: Okay.

7 MR. DRUMMOND: Are you going to be heading this
8 project up, Christine?

9 MS. MURRELL: Buck and myself will be heading
10 this project.

11 MR. DRUMMOND: Do you have funding to do it?

12 MS. MURRELL: Yes, Gulf States has provided
13 funding and they have -- they will provide full implementation.
14 This is a high priority item on their list for Mississippi to
15 get trip tickets because we are the only state that does not
16 have them.

17 MR. BOSARGE: It's basically for Mississippi to
18 catch up with the rest of the world.

19 MR. DRUMMOND: You're going to have to hire
20 somebody, Christine?

21 MS. MURRELL: I think in our -- we did do a
22 budget. I think we have -- I think we're going to move people
23 possibly. We may have to hire one person -- two people.

24 Because it will be a lot of paperwork coming through.

25 MR. DRUMMOND: I can imagine.

43

my -- but I think they've already addressed that.

2 MR. BOSARGE: That was the only question that I
3 had.

4 I'm glad to see -- I'm actually a member of the
5 crab task force, and we did a lot of work on this program. If
6 Commissioner Gollott would like to take a look at it, I don't
7 have a problem with that. But I guess we will bring it back up
8 at the next meeting.

9 MR. GOLLOTT: Yes. I don't have any problem
10 with it, Commissioner. I'd just like to really study it and
11 make sure that we are not hurting the crab industry, we're not
12 putting in regulations that would burden them any more. I
13 mean, we have just about destroyed this industry with
14 regulations. I'd just like to make sure that we're not doing
15 the same thing.

16 MR. TAYLOR: On the fresh permit, the permit
17 where you can sell off your boat, is there one reason why we
18 only have you can put one person there? I know like with the
19 Vietnamese, if you go down and buy shrimp from them, or
20 anybody, the families are working there, if the wife leaves,
21 then, you know, someone -- and I don't know about the crab
22 fishermen, but they would be in violation of the law with --

23 MS. MURRELL: That's something that we could
24 probably look at. We wanted to try to keep it as simple as
25 possible and not get -- we could have a number of maybe two, I

42

1 What about -- I think you called it a fresh
2 market where a crabber would sell his crabs to a restaurant,
3 how are you going to track that?

4 MS. MURRELL: Well, if he wants to sell to
5 anyone other than a licensed dealer, he will have to have this
6 fresh product permit, and that's how we'll keep track of who's
7 selling to people --

8 MR. DRUMMOND: He'll have to have what?

9 MS. MURRELL: It's called a fresh product
10 permit. And that way, if you're not selling to a dealer, they
11 will capture the -- you will have to -- you'll be responsible
12 for reporting your own landings.

13 MR. GOLLOTT: Will there be a price on that? I
14 think you covered that, but I --

15 MR. BOSARGE: No cost.

16 MS. MURRELL: Yeah, no cost.

17 MR. DRUMMOND: What else can I ask you?

18 MS. MURRELL: Whatever you want. Fire away.

19 DR. ASPER: I'm looking at the text that you
20 have here, and it looks like -- I mean, it applies to all
21 fisheries. How is it that this is going to apply only to
22 crabs?

23 MR. BUCHANAN: We didn't want to take this up --
24 I mean, we could go through. It takes 60 days, you know, every
25 time we make a change.

44

1 Now, we could do that, but the time line that we
2 got presented, this was the way to do it. I mean, we know that
3 you wanted crabs implemented first, and that's the way we were
4 going to go with it. It wasn't going to be -- you're right
5 technically. With the law that's in here now, you know, we
6 could say, oh, oh, everybody's got to submit everything. But
7 we weren't going to do that. We were going to implement it one
8 fishery at a time like the commission wanted to.

9 MR. DIAZ: And only after authorized by --

10 MR. GOLLOTT: I personally don't have a problem
11 with this. (Inaudible) going through this time and time again.

12 MR. BUCHANAN: And like I said, the reason was
13 putting it in like that, it takes 60 days every time you make a
14 change, at least 60. We have to 30 days, you know, and then it
15 would take another -- so it would take six, another half year,
16 whatever it would take, to do it.

17 DR. ASPER: So the process, regulations, and the
18 paperwork are going to be the same for all fisheries --

19 MR. BUCHANAN: Pretty much.

20 DR. ASPER: -- as outlined here, and it's just
21 going to be sort of an agreement that we're identifying crabs
22 initially.

23 MR. BUCHANAN: Yes. I mean, you make the
24 directive, and that's what we would do. All right. Or we
25 could just do it all.

45

1 DR. ASPER: No.

2 MR. BUCHANAN: Or we can just ignore you if you
3 want us to.

4 DR. ASPER: No. I'm asking the question because
5 that makes it clear that this is going to apply to the other
6 fisheries, as well. So when we're considering this one, and
7 what the public is considering is, they can look at it not only
8 as it applies to crabs, but to the other fisheries, as well.

9 MS. MURRELL: Yes. The motion in April, it was
10 to separate the three and do it one at a time. But the
11 regulations, the way it is in the regulations, it was easier
12 just to do it all together. But we could implement one fishery
13 at a time.

14 MR. TAYLOR: And eliminating two public
15 hearings.

16 MR. DIAZ: Right. And what we were going to do
17 is after -- if this passes the commission, then we was going to
18 bring it out for public hearing for all of the fisheries on the
19 section that applies and give people a chance to comment on
20 that. So after if it does indeed pass next month, then they
21 take that up and have public hearing for shrimp, finfish, and
22 crabs for that section.

23 DR. ASPER: Okay. So we have a motion on the
24 table by -- to table this motion or this issue until further
25 discussion has been made and seconded.

46

1 MR. DRUMMOND: I second the motion.

2 DR. ASPER: Is there further discussion on the
3 motion? Those in favor of tabling this signify by saying aye.
4 Anybody opposed?

5 MR. BOSARGE: Aye.

6 DR. ASPER: Let the record show that
7 Commissioner Bosarge is opposed. Carries three to one. So we
8 are going to table it for now.

9 MR. DRUMMOND: Mr. Chairman, I move we take a
10 ten minute break.

11 DR. ASPER: We'll do that as soon as we're done
12 with the records first.

13 MR. DIAZ: This trip ticket program is a
14 significant change, and I do want to make sure whenever we
15 implement it we do it right. I would make an offer to any of
16 the commissioners, if y'all want us to come out one on one and
17 sit down and talk with you and go over it and address your
18 concerns, we would be glad to do that, just let us know and
19 we'll set up a time that's convenient for you to do that. So
20 we do want to get it right.

21 Last up for marine fisheries is going to be
22 state records, and Erik Porche is going to present those for
23 us. Thank you.

24 6. State Records

25 MR. PORCHE: Good morning. We have two records

47

1 for your consideration today. Both of them are conventional
2 tackle.

3 The first is for whitespotted soapfish, *Rypticus*
4 *maculatus*, with an old record of 4.48 ounces. The new record
5 is 6.26 ounces caught by David Kuehn. The soapfish and Mr.
6 Kuehn.

7 The second is for Atlantic cutlassfish,
8 *Trichiurus lepturus*. It's an old record of 2 pounds 2.2
9 ounces, a new record of 2 pounds 6.4 ounces caught by Jae'Von
10 Riley. And Mr. Riley and his fish.

11 Any questions?

12 DR. ASPER: Is there a motion that we approve
13 these records?

14 MR. DRUMMOND: I make a motion.

15 MR. GOLLOTT: Second.

16 DR. ASPER: Those in favor say aye.
17 Is that the end?

18 MR. DIAZ: Yes, sir.

19 DR. ASPER: We'll take a ten minute break.

20 (Off the record.)

21 DR. ASPER: I'd like to call the meeting back to
22 order. We'll get back on the agenda. We're at Item H, coastal
23 ecology. Jan.

24 H. Coastal Ecology

25 MR. BOYD: Good morning, Mr. Chairman,

48

1 commissioners, Dr. Walker, Ms. Chesnut.
2 Coastal ecology has six action items on the
3 agenda for your consideration this morning. And Rebekah Ray
4 will be our first presenter.

5 3. Bureau of Wetlands Permitting

6 a. MS Department of Marine Resources, MS
7 Beneficial Use Dredge Material Program

8 MS. RAY: Good morning. My name is Rebekah Ray,
9 and I will be presenting a permit request by the Mississippi
10 Department of Marine Resources beneficial use of dredge
11 material program.

12 This is located on Deer Island near Biloxi in
13 Harrison County. It's in the general use district.

14 The yellow thumb tack shows the location of the
15 proposed project south of Ocean Springs and Biloxi.

16 The applicant has been previously authorized to
17 dredge a channel 1,000 feet in length, 60 feet in width, from a
18 depth of two feet below mean low water to six feet below mean
19 low water. This permit is currently expired.

20 They are requesting to dredge this same channel
21 from the depth of six feet below mean low water to nine feet
22 below mean low water.

23 They will be removing a total of 15,556 cubic
24 yards of material. And that's including the previously
25 authorized material.

1 and the other one was before that.

2 The Mississippi Department of Wildlife,
3 Fisheries & Parks has recommended that dredging operations
4 occur between the months of October and January when Gulf
5 sturgeon, manatees, and sea turtles are least likely to be
6 moving through the coastal waters.

7 No offsite alternatives have been considered.

8 This project is requesting to increase the depth
9 of the previously authorized channel dredging. No new areas
10 will be dredged for the project.

11 These projects will not change the location of
12 the currently authorized channel and should not affect the
13 natural scenic qualities of the area.

14 The project appeared in the Sun Herald as
15 required, and no public comments have been received

16 DEQ is currently reviewing the project.

17 Department of Archives & History has no
18 objections.

19 The Secretary of State has no objections.

20 And the Department of Wildlife, Fisheries &
21 Parks did recommend a specific time for dredging of the area.

22 However, the method that will be used will be dredging with an
23 excavator bucket which is very slow and will not likely intrude
24 any of the species of concern.

25 The staff of the Department of Marine Resources

1 The applicant is also requesting a ten year
2 maintenance dredging agreement for the project.

3 They are doing this because they currently don't
4 have an efficient way to -- it's not efficient enough to access
5 the beneficial use sites on Deer Island.

6 This is the diagram of the proposed project.
7 The dotted line shows the dredge channel. And this gray area
8 here is the sidecast of the material. And these are the
9 beneficial use sites at Deer Island.

10 This project serves a higher public purpose by
11 allowing more efficient transport of dredge material to the
12 beneficial use areas on Deer Island.

13 This project is allowable within the general use
14 district.

15 The project as proposed does not set a
16 precedent.

17 There will be a temporary increase in turbidity
18 during dredging operations and a loss of benthic organisms
19 within the dredging area.

20 This project is intended to allow more efficient
21 access to the efforts being made to restore the critical
22 habitats on Deer Island and to restore its historical
23 footprint.

24 There are currently two beneficial use sites on
25 Deer Island that are -- one was permitted earlier this year,

1 has conducted a thorough evaluation of the project. Based on
2 the results of this evaluation, it has been determined that the
3 project is consistent with the Mississippi Coastal Program and
4 serves a higher public purpose by allowing more efficient
5 transportation of dredge material to the beneficial use area on
6 Deer Island. Therefore, staff recommends approval of the
7 project and a ten year maintenance dredging agreement
8 contingent on water quality certification of DEQ.

9 DR. ASPER: Thank you. Any questions? Is there
10 a motion?

11 MR. DRUMMOND: I make a motion we accept the
12 recommendations of the staff, Mr. Chairman.

13 MR. BOSARGE: Second the motion.

14 DR. ASPER: I just had one sort of general
15 question. That is, it's a little bit bothersome that we are
16 applying for a permit from ourselves with not a lot of external
17 oversight. I'm just wondering if there's another agency, the
18 Corps of Engineers on the federal level or anything like that,
19 that's reviewing this project and then also has to give its
20 approval.

21 MS. RAY: We have received a permit from the
22 Corps of Engineers for the project. And it's currently being
23 reviewed for the modification because their permit is still
24 current. Ours expired.

25 DR. ASPER: So this is basically our version of

1 putting something out to the public to let everybody know what
2 is being done and how it's being done and the details of the
3 process. But it is also under the supervision of the Corps.

4 MS. RAY: Correct.

5 DR. ASPER: Okay. And DEQ, of course.

6 Okay. Those in favor of the motion say aye.

7 Opposed? Carries unanimously. Thank you.

8 b. Guterrez, LLC

9 MS. WITTMANN: Good morning, commissioners, Dr.
10 Walker, and Sandy. I'm Jennifer Wittmann. I have the next two
11 projects on the agenda.

12 The first is a request for extension by
13 Guterrez, LLC, located at the intersection of Holly Street and
14 Bayview Avenue on the Back Bay of Biloxi in Biloxi. It's in
15 the commercial fishing and recreational use district.

16 The location of the project is indicated by the
17 yellow thumb tack in reference to Bayview Avenue and Holly
18 Street.

19 The applicant is requesting an extension of DMR
20 M-99165 until January 6, 2016, to coincide with the expiration
21 of the Corps permit.

22 On July 20, 1999, the commission issued a permit
23 to the Back Bay Casino of Biloxi for the construction of a
24 docking facility, mooring cells, bulkhead, dredging, and
25 wetland fill for the construction of a casino development.

53

1 Corps permit.

2 DR. ASPER: Any questions?

3 MR. DRUMMOND: Jennifer, I'm not sure what USACE
4 is. What is that?

5 MS. WITTMANN: United States Army Corps of
6 Engineers. We usually just say the Corps.

7 DR. ASPER: Is there a motion?

8 MR. BOSARGE: I make a motion that we accept
9 staff's recommendation to extend the permit.

10 MR. TAYLOR: Second.

11 DR. ASPER: Motion made and seconded to extend
12 the permit. Any further discussion? Those in favor say aye.
13 Carries unanimously.

14 MS. WITTMANN: Thank you.

15 c. Jeff Long

16 MS. WITTMANN: Next I have a violation by Jeff
17 Long located on an unnamed canal off of the Jourdan River at
18 11020 Delaware Street in Bay St. Louis. It is in the general
19 use district.

20 This is the project location located by the A
21 off of Lagan Street and in reference to 603.

22 An unauthorized beach has been constructed and
23 has not been removed in accordance with the property owner's
24 restoration plan.

25 On March 24, 2011, a violation was reported to

55

1 Between August 2002 and August 2008,
2 several extensions of that permit were granted with work to be
3 completed by August 20, 2010.

4 In November of 2009, the commission granted a
5 modification to the existing permit which removed the casino
6 development and added a marina in association with an upland
7 restaurant, as well as a one year extension that would expire
8 on August 20, 2011.

9 On August 2, 2011, a request was submitted to
10 extend the permit for the marina until January 6, 2016, to
11 coincide with the expiration of the Corps permit.

12 The applicant is currently authorized to do
13 dredging, the construction of a breakwater, piers, mooring
14 pilings, and a wastewater pump-out facility and fuel dock.
15 Total dredging would total approximately 40,000 cubic yards.

16 This is the diagram showing the dredging of the
17 channel and the footprint, as well as the configuration of the
18 piers and the overall site plan. The dark green areas are the
19 wetlands on site that are being avoided, the upland restaurant,
20 and marina.

21 Based on departmental review and evaluation, it
22 has been determined that the project is consistent with the
23 Mississippi Coastal Program and serves a higher public purpose.
24 Therefore, staff recommends approval of the extension request
25 until January 6, 2016, to coincide with the expiration of the

54

1 DMR concerning the construction of an unauthorized private
2 beach, part of which was on the reporter's property.

3 On April 4, 2011, following an earlier site
4 visit by DMR staff, an onsite meeting was held with the
5 reporter of the violation.

6 On April 5, a cease and desist notice was sent
7 to the property owner.

8 On April 14, 2011, Mr. Long, the property owner,
9 called DMR and stated that he had purchased the property from
10 his neighbor and that the neighbor had placed the fill. Mr.
11 Long stated that he would remove the fill only on his property.

12 On May 17, 2011, following several follow-up
13 e-mails, a phone call was received from Mr. Long's agent that
14 he would have a restoration plan submitted to DMR by May 10,
15 2011.

16 On May 26, 2011, that restoration plan was
17 submitted via e-mail.

18 On June 15, 2011, a conversation was held with
19 Mr. Long's agent who said that work was to begin that day.

20 On July 6 following a site visit, conversations
21 were held with Mr. Long's agent stating that the work needed to
22 be completed within a week. And at the site visit, staff
23 discovered that the sheet pile walls had been placed along the
24 property line, but the fill had not been removed.

25 On July 20, a site visit was performed. No work

56

1 had taken place since the July 6 correspondence with Mr Long's
2 agent. An e-mail was sent to Mr. Long and his agent informing
3 them that the violation had been placed on the August
4 commission agenda.

5 On August 4, commission notification letter was
6 sent to Mr. Long and his agent.

7 And on August 10, a second e-mail was sent to
8 Mr. Long and his agent concerning the August commission
9 meeting.

10 This is a diagram. The property line is shown
11 in the middle. There's been a dispute between the two property
12 owners over who did the work, but each property owner is
13 responsible for the fill that is on their property. Mr. Long
14 has installed a sheet pile wall along the property line. He is
15 responsible for the fill on his side of that line, and his
16 neighbor will be responsible for the fill on the other side.

17 This is a diagram. You can see there is a sheet
18 pile wall built around the edge of the beach area. And the
19 approximate mean high tide line is here. So the measurements
20 that we took were from the approximate mean high tide line out.
21 That was where we had the 25 feet in length and 8 feet in width
22 for the fill area.

23 Mr. Long and his agent did submit a restoration
24 plan. They had a property survey to establish the boundary of
25 the violation, and that was completed. The sheet pile wall was

1 This was done at the encouragement of our legal
2 staff. When projects have been forwarded to the Attorney
3 General's Office, there's been a problem in trying to determine
4 what the fine should be. So if the commission would rule that
5 after that 20 day mark, then the fines would compound by \$100 a
6 day, it would aid in the judge properly passing a judgment.

7 The decision factors: The project doesn't meet
8 guidelines. We don't permit private beaches. Mr. Long
9 contacted DMR within two weeks of the C&D being mailed;
10 however, he's not complied with the 30 day restoration time
11 line in the plan that he submitted. And Mr. Long has not
12 responded to letter and e-mail correspondence from DMR staff.

13 And Mr. Long is not at the meeting today. I
14 spoke with his agent this morning, and the agent is not here,
15 either. Apparently there has been a lack of communication in
16 that relationship, as well.

17 MR. GOLLOTT: Mr. Chairman, I'd like to make a
18 motion that we go with the staff's recommendation.

19 DR. ASPER: Is there a second?

20 MR. DRUMMOND: I second the motion.

21 DR. ASPER: The only question I had was, what
22 about the neighbor? Is he being prosecuted, as well?

23 MS. WITTMANN: As soon as we get this one taken
24 care of, I'm going after the neighbor. I wanted to get the one
25 completely taken care of, get him headed in the right

1 installed to divide the property and to allow proper slope to
2 the water. The estimated installation of that wall was June
3 15, and that is completed.

4 Erosion control measures have not been placed
5 along the water's edge as stated in the restoration plan. They
6 have not graded the area at a six to one ratio. They obviously
7 have not called for an inspection since the project is not
8 complete. And they stated that the total project would be
9 completed within 30 days of the start, weather permitting,
10 which would have been July 5, a that is also not in compliance.

11 This is a picture from the site as it is today.
12 The sheet pile wall has been installed along the property line,
13 but again none of the fill material has been removed.

14 Staff has conducted a thorough evaluation and
15 recommends that Mr. Long be required to remove all the
16 unauthorized fill material within 20 days or the matter be
17 forwarded to the attorney general's office for enforcement
18 action and also recommends a fine in accordance with
19 Mississippi Code 49-27-51.

20 The potential penalty range in this case: The
21 violation was discovered on March 24, 2011. The violation
22 duration is 145 days. The maximum potential fine is \$72,500.

23 The minimum fine is fifty. Staff recommends a fine of \$2500,
24 as well as a \$100 per day fine for each day after the 20 days
25 until the area is restored.

1 direction, and then we're going to go after the other neighbor.
2 And the neighbor actually is a previous violator, as well.

3 DR. ASPER: Any further discussion? Those in favor say
4 aye. Those opposed. Carries unanimously. Thank you.

5 MS. WITTMANN: Thank you.

6 d. James L. Green, Sr.

7 MR. COLE: Good morning. My name is Ron Cole,
8 and I'll be presenting an after-the-fact general permit and
9 violation. It's by James L. Green. It's located in Gautier on
10 Tradewinds Drive. It's in the general use district.

11 Here is an aerial of the project location. It's
12 located south of Highway 90 near Graveline Bayou.

13 This is an aerial of the project. This
14 violation was found on a routine compliance check. Mr. Green
15 had applied for a permit back in 2006 and asked if he could
16 build a bulkhead at that time. But where we flagged the
17 bulkhead which is at mean high tide, he was not satisfied with
18 that and said that he would rather just not build a bulkhead at
19 all and chose to be permitted for dredging only at that time.

20 During a routine compliance check, we found this
21 additional structure had been built. You can see there the red
22 is an unauthorized pier, and the yellow line is a unauthorized
23 bulkhead.

24 The dimensions of the structures that were
25 unauthorized was 42 linear feet of bulkhead and a 42 foot by 7

1 foot pier.

2 The chronology.

3 As I said, in 2006, Mr. Green applied for a
4 permit. He was unhappy with where we flagged the bulkhead,
5 asked to be permitted for dredging and not a bulkhead.

6 In October, he was issued the permit for
7 dredging only.

8 And on July 14, 2011, a routine compliance check
9 revealed the unauthorized structures.

10 July 27, after being contacted by DMR staff, Mr.
11 Green submitted an after-the-fact application for the
12 unauthorized structures.

13 This is a photograph from the site conditions in
14 2006. As you can see, the pink flags there were at the current
15 mean high tide level. And to Mr. Green's credit, I will have
16 to say that even though the bulkhead was unauthorized, he did
17 construct it as we flagged it. His original proposal was to go
18 forward out to the existing pilings on the boathouse there, and
19 we told him that was just not an option because that would be
20 filling state waterbottoms.

21 This is a photograph from the current site
22 conditions. You can see in red there, that is the approximate
23 location of the unauthorized bulkhead. And in red here, we
24 have the unauthorized pier that was constructed.

25 When I asked Mr. Green why he constructed these

61

1 we go with the staff's recommendation with the exception of the
2 fine. I think it's way too low because the applicant did know
3 that he had to have a permit, he just decided doing it and
4 getting permission afterwards would be cheaper. I think we
5 need to go with a \$2,000 fine now.

6 DR. ASPER: Is there a second?

7 MR. TAYLOR: Second.

8 DR. ASPER: Seconded by Commissioner Taylor.

9 Any further discussion? Those in favor say aye. Those
10 opposed.

11 MR. DRUMMOND: No.

12 DR. ASPER: Let the record show that

13 Commissioner Drummond voted no. Passes three to one.

14 MR. COLE: Can we set a date on which that fine
15 has to be paid by?

16 MR. GOLLOTT: What is your recommendation?

17 MR. COLE: Our recommendation would be 60 days
18 from today's meeting.

19 MR. GOLLOTT: I'd like to include that in the
20 motion.

21 DR. ASPER: Okay. Is that okay with the
22 seconder?

23 MR. TAYLOR: Yes.

24 DR. ASPER: Those in favor of the 60 day limit
25 say aye. Those opposed.

63

1 structures without authorization, he said that he wanted to
2 build them, and he thought it would be too much time and money
3 involved in coming back, so he constructed them as he wanted
4 them. He thought he was doing the right thing by constructing
5 the bulkhead where we had asked for, but that doesn't explain
6 the pier that was constructed.

7 This is a diagram of roughly the same
8 structures.

9 So our recommendation is after a thorough
10 evaluation, we recommend that the commission approve the
11 after-the-fact general permit because the structures do meet
12 the general permit guidelines. And we recommend that the
13 commission fine Mr. Green in accordance with Mississippi code.

14 The violation was discovered on July 14, 2011.
15 It was in duration for 33 days. The maximum potential fine
16 would be sixteen thousand five hundred with a minimum of \$50.

17 Staff's recommended fine is \$500. And the
18 decision factors for coming up with that is that the project
19 does meet guidelines. Mr. Green has been cooperative in
20 applying for the after-the-fact authorization. He did have
21 knowledge of the permitting process as he demonstrated by
22 submitting an application in 2006. And the unauthorized
23 bulkhead was constructed as flagged by staff in 2006.

24 DR. ASPER: Any questions?

25 MR. GOLLOTT: Mr. Chairman, I make a motion that

62

1 MR. DRUMMOND: No.

2 DR. ASPER: Again let the record show that
3 Commissioner Drummond voted no.

4 MR. COLE: Thank you.

5 e. Hancock County Board of Supervisors

6 MR. CHRISTODOULOU: Good morning, commissioners,
7 Dr. Walker, Sandy. My name is Greg Christodoulou, and I will
8 be presenting the final two items for coastal ecology.

9 The first item, I'd like to make a little bit of
10 a clarification on what is in your agenda or on the writeup in
11 that we just caught the description of it. They are actually
12 asking to extend the launching piers, not the boat launches
13 themselves. So just a minor little change there.

14 This is the Hancock County Board of Supervisors
15 request for modification. The location is adjacent to
16 Washington Street in Bay St. Louis in Hancock County. General
17 use district. And Compton Engineering is the agent for the
18 project.

19 If you look at the map, there's the arrow
20 showing the Washington Street pier and jetty just south of
21 Highway 90 bridge, Bay St. Louis.

22 The applicant is requesting to modify the
23 existing boat launching piers. The east launch pier is
24 currently 54 feet by 5 feet. The proposed pier is 134 1/2 by 5
25 feet. And the west launch pier currently is 61 feet. And they

64

1 would like to lengthen it to 159 1/2 feet.

2 The reason for them lengthening these piers is
3 so that there will be more lay-by area for people to tie up to
4 while boats are being launched or pulled in.

5 If you look at the diagram, the blue is what is
6 existing, and the red is what is proposed.

7 The project serves a higher public purpose by
8 improving the public access to the water and helping to
9 alleviate boat congestion in the launch area.

10 The project is allowable within the general use
11 district.

12 There are no precedent setting effects for this
13 project.

14 Pile driving for the pier construction will
15 result in a temporary increase in turbidity in the immediate
16 project area. And the pier construction will result in
17 approximately 895 additional square feet of shading.

18 Best management practices will reduce any
19 adverse impacts.

20 No offsite alternatives were considered since
21 this is a modification of the existing launch piers.

22 This should not impact scenic qualities of the
23 area as there are currently piers, jetties, and a beach in the
24 area.

25 The project was published as required. There

65

1 south side of the bay in Biloxi.

2 The applicant is requesting maintenance dredging
3 below the current casino barge approximately 690 feet by 150
4 feet from the current depth of six feet to the final depth of
5 15 feet below mean low or low water. The amount of material is
6 33,300 cubic yards. And if the material is suitable, it can be
7 used for beneficial use according to the code.

8 Structures that will be constructed or proposed
9 is a bulkhead of 820 feet approximately five feet outside the
10 barge footprint as it is, and then a dry dock structure which
11 basically constitute fill underneath the existing casino barge,
12 and that's approximately 615 feet by 130 feet.

13 Here's a diagram of the project. The proposed
14 bulkhead around the area is in blue. This would be the limits
15 of the dredge area here.

16 Here's a cross-section view of the project
17 showing this is going to be a concrete and steel structure that
18 will be placed underneath the existing barge. The sheet pile
19 wall which will be constructed just outside the existing
20 footprint will allow this area to remain in the dry so
21 maintenance activities can be performed in there if they need
22 to go in there and weld or do some kind of maintenance on
23 there. It also will eliminate the need of maintenance dredging
24 the area constantly.

25 Public benefits of the project include increased

67

were no public comments received.

2 DEQ has issued water quality certification on
3 August 1.

4 Archives & History is reviewing the project.

5 The Secretary of State's Office says an existing
6 tidelands lease will need to be modified.

7 Based on decision factors, staff has determined
8 that the project is consistent with the coastal program because
9 it will serve a higher public purpose by providing increased
10 public accessibility to the water. And staff recommends
11 approval of the modification request.

12 DR. ASPER: Are there any questions? Motion?

13 MR. GOLLITT: I make a motion that we accept the
14 staff's recommendation on this project.

15 MR. DRUMMOND: Second the motion.

16 DR. ASPER: Discussion? Those in favor say aye.
17 Opposed. Carried unanimously.

18 f. Imperial Palace of Mississippi, LLC

19 MR. CHRISTODOULOU: The final project for
20 coastal ecology is a permit request by Imperial Palace of
21 Mississippi. The location is on the Back Bay of Biloxi. It's
22 in a commercial fishing and recreational marinas district. And
Thompson Engineering is the agent for the project.

23 If you notice, the yellow thumb tack marks the
24 project location. It's just to the east of the I-110 on the

66

1 employment opportunities by the construction work and continued
2 tax revenue by the gaming portion. In addition, the public
3 safety will be improved by reducing the potential for damages
4 caused by storm surges generated by tropical events. As we
5 have seen from Katrina, sometimes these barges do come loose
6 and cause damage.

7 The proposed project is allowable within the
8 commercial recreational marinas use district.

9 The applicants have requested two variances from
10 the coastal program. The first being Chapter VIII, Section 2,
11 Part III.0.1 stating that permanent filling of coastal wetlands
12 is discouraged. And the second is Chapter VIII, Section 2,
13 Part III.D.3 which basically says that vertical structures
14 shall not be aligned any farther than mean high tide.

15 And the applicant has provided justification as
16 there are no feasible alternative sites or construction
17 techniques available, significant public benefit in the
18 activity, and the activity requires a waterfront location, and
19 a public hearing has been held.

20 They state that there is basically no -- I mean
21 significant environmental impact because right now the barge
22 itself drafts about five feet of water, and the depths are
23 currently six feet underneath of it. So you have a very, very
24 limited habitat beneath that barge. Also, the amount of effort
25 required to keep the barge from sitting on the bottom.

68

1 Similar projects have been approved by the
2 commission, and the project is not expected to set a negative
3 precedent.

4 Dredging operations will result in temporary
5 increase in turbidity in the area, and there will be a decrease
6 in the number of benthic organisms.

7 The project itself would result in the filling
8 of approximately 1.94 acres of waterbottoms. And the project
9 will eliminate the need for periodic maintenance dredging.

10 Imperial Palace is proposing to upgrade the
11 casino vessel moorings at their property at 850 Bayview Avenue.

12 Best management practices will reduce any
13 adverse impacts. And the applicant has submitted a mitigation
14 plan for impacts to waterbottoms, which are coastal wetlands.

15 Here is the letter that was received for the
16 mitigation for this project. They have proposed to donate
17 \$250,000 to the coastal preserves program, DMR's coastal
18 preserves program.

19 No alternative sites were considered as the
20 activity is considered an upgrade to the existing moorings for
21 the casino.

22 And the site is currently utilized as a gaming
23 facility, and the proposed modifications to the barge shouldn't
24 impact, negatively impact, the scenic qualities of the area.

25 The project was placed on public notice as

69

1 required. There was also a public hearing held for the project
2 on August 2, 2011. There were no public comments received from
3 the public notice that was in the paper or at the public
4 hearing.

5 Archives & History is reviewing the project.

6 DEQ is also reviewing the project.

7 Secretary of State has stated that the area is
8 currently under lease by the Imperial Palace.

9 And Wildlife, Fisheries & Parks has stated that
10 best management practices be implemented for the project.

11 And based on departmental review, we see that
12 the project is consistent with the coastal program because it
13 serves a higher public purpose and appropriate plan to mitigate
14 for impacts to coastal wetlands has been submitted by the
15 applicant. So staff recommends approval of the variance
16 request and issue of the requested permit contingent on the
17 water quality certification from DEQ.

18 And the applicant and the agents are here if you
19 have a little bit more technical questions regarding how the
20 whole dry docking system works.

21 MR. GOLLOTT: Will this make this a land based
22 casino? Will they continue to have a tidelands lease for that?

23 MR. CHRISTODOULOU: Yes.

24 MR. BOSARGE: The intention is to basically dry
25 dock this thing so they're going to dig out from under it, then

70

1 go in there and bulkhead it, then pump it out, then build
2 moorings to support the casino; is that correct?

3 MR. CAVANAUGH: My name is Michael Cavanaugh,
4 998 Howard Avenue.

5 It's within the footprint of the existing
6 tidelands lease. It will not affect that tidelands lease.

7 Insofar as the -- it will not be really
8 considered a land based casino because it's still -- water gets
9 up high enough, the water will lift it.

10 As far as the moorings, it's my understanding
11 that the existing moorings that are outside the casino barge
12 will stay in place.

13 MR. BOSARGE: And I guess my question I'm trying
14 to kind of see in my mind what your plans are once you build
15 the graving dock and pump it out, you will place supports for
16 this casino to sit on; is that correct?

17 MR. COOKSEY: Yes, sir. My name is Will Cooksey
18 with Thompson Engineering.

19 We'll actually construct the supports and place
20 work on the mooring blocks while the casino is still floating.
21 So all of the supports will be in place prior to the water
22 being pumped out of the graving dock. Once those supports are
23 in place, we'll pump the water out, and the casino will be
24 allowed to rest on its moorings.

25 The bulkhead that was mentioned by Greg will be

71

1 constructed to elevation plus eight. In the event of a storm
2 surge or tropical event, it creates a tide above plus eight,
3 the basin will be flooded, and the casino will actually rise
4 from its moorings.

5 I also note that we are upgrading the actual
6 moorings themselves to accommodate a storm surge at the
7 Katrina elevation. So what we're hoping, what we're allowing
8 the barge to do is to be protected at a higher storm surge
9 elevation than it currently is.

10 MR. BOSARGE: It's quite an undertaking. A lot
11 of work. But I can see your point. It would be easier to
12 maintain the barge. It's basically on dry land.

13 My concern was what would happen if a storm did
14 come and then peel your graving dock, and I think you answered
15 that question by creating moorings.

16 MR. COOKSEY: Yes, sir.

17 MR. TAYLOR: I make a motion to accept staff's
18 recommendation.

19 MR. GOLLOTT: I'll second it.

20 DR. ASPER: The question I had was, first of
21 all, let me say that regarding water quality, this is not
22 (inaudible) because that water underneath these barges has got
23 to be foul. So I don't have any objections to that.

24 The question I have for Greg, though, is you
25 said that it was not a precedent setting event because we have

72

1 approved similar projects. Would you remind me?
 2 MR. CHRISTODOULOU: It's my understanding this
 3 was before I came to the DMR, but the Isle of Capri Casino
 4 itself, also the waterbottoms were filled underneath that
 5 barge, as well. But again, that was prior to my coming to DMR.
 6 I have that from legal and from previous permitting staff.
 7 DR. ASPER: Jan, (inaudible) exactly the same?
 8 MR. BOYD: I don't think it's exactly the same.
 9 I think they actually filled the other with material.
 10 DR. ASPER: The Isle of Capri is not designed to
 11 ever float again.
 12 MS. BRANTLEY: No, it's not. Willa Brantley. I
 13 was the project manager for the Isle of Capri, and there was a
 14 question whether that was a filled excavated slip because it
 15 kind of sat back in the land. But what we determined from the
 16 Secretary of State's Office was that it had been filled around
 17 the barge, and the barge was left floating. And that was done
 18 I believe back in the late '60s or early '70s where those
 19 places were filled. And actually where the Isle of Capri sat
 20 was filled, but it was excavated out later so that the barge
 21 would be floating and fit the gaming laws.
 22 So that historically it was coastal wetlands
 23 that was filled, even though at the time it was like an
 24 existing keyhole boat slip. And that was in 2006.
 25 DR. ASPER: You're confident that this is not

73

1 MR. CHRISTODOULOU: The beneficial use has to be
 2 okayed to make sure that it is suitable for the project -- for
 3 beneficial use. They have to go through a variety of chemical
 4 testing for that. And many times in these areas heavily
 5 industrialized or in areas where you have a lot of industry,
 6 whether it's fishing or industrial, you may have things that
 7 pop up in your testing that may cause it to be unsuitable.
 8 So, I mean, obviously probably the choice would
 9 be Deer Island since the proximity, but...
 10 DR. ASPER: Further discussion? Those in favor
 11 say aye. Those opposed. Carries unanimously.
 12 Thank you.
 13 I believe that concludes coastal ecology.
 14 MR. BOYD: It does. Thank you, Mr. Chairman.
 15 DR. ASPER: Move on to financial report. Kara.
 16 J. Administrative Services
 17 2. Financial Report
 18 MS. VESA: Good morning. The budget status
 19 today is as of July 31, 2011. Our budget was \$6,267,493.
 20 After spending \$510,523, we have a remaining balance of
 21 \$5,756,970. And once again, all of our tidelands funds for
 22 this year have been obligated.
 23 Any questions today?
 24 DR. ASPER: Okay. Thanks, Kara.
 25 I believe that concludes our agenda.

75

1 setting a precedent? This is a lot of concrete being put
 2 basically in waterbottoms that are still flooded on storm tide.
 3 And it's just slightly different. I want to make sure hat
 4 you've given it careful consideration because it's something
 5 that is a little bit different. Beau Rivage is different yet.
 6 So we've got a lot of different (inaudible).
 7 MS. BRANTLEY: Right. I believe the Beau Rivage
 8 is completely closed off by a bulkhead, but it still has water
 9 underneath but circulated by tidal water pump system.
 10 DR. ASPER: It doesn't actually float, though.
 11 It's held in one position.
 12 MS. BRANTLEY: Right.
 13 We don't feel like this is setting a precedent
 14 because of what was done previously with the Isle of Capri.
 15 DR. ASPER: Further discussion?
 16 MR. DRUMMOND: Does IP have a site selected for
 17 the mitigation purposes?
 18 MR. CHRISTODOULOU: The mitigation is a donation
 19 to coastal preserves. So they don't have a particular project
 20 picked out for that money that's been earmarked for a
 21 particular project. It's just a standard donation to coastal
 22 preserves to either acquire land, do marsh restoration, the
 23 various activities that coastal preserves is involved in.
 24 MR. TAYLOR: What about the beneficial use of
 25 the dredge material?

74

1 MR. GOLLOTT: Motion to adjourn.
 2 MR. DRUMMOND: I second the motion.
 3 DR. ASPER: Meeting is adjourned.
 4 (Meeting adjourned 11:10 a.m.)
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

76

1 BEFORE THE COMMISSION ON MARINE RESOURCES

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COURT REPORTER'S CERTIFICATE

I, Norma Jean Ladner 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 76 pages constitute a true transcription of said meeting held on the 16th day of August 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.

Witness my signature this the 6th day of September 2011.


Norma Jean Ladner Soroe, CSR #1297
Certified Shorthand Reporter