Compressed Transcript

COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

August 16, 2011

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COMMISSION ON MARINE RESOURCES

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

DR. VERNON ASPER, Chairman
RICHARD GOLLOTT
SHELBY DRUMOND
STEVE BOGARDE
JIMMY TAYLOR

ALSO PRESENT:

DR. WILLIAM WALKER, Executive Director DMR
JOSEPH B. RUNNELS, ESQ., Asst. Attorney General
SANDE 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. DRUMOND: 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. DRUMOND: 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 name 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 relay 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 do 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...
imported shrimp, and it is still allowed to be called domestic
caught shrimp.

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

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

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

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

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

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

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

Next, Mark Stewart.

MS. STARKES: He's being harassed right now.
DR. ASHER: We'll go with Danny Ross.
MR. ROSS: Yes, sir, gentlemen. My name is
Danny Ross, lifetime fisherman.

Some of the stuff's going to be covered today.

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

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

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

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

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

The other day we got a little kudos from NOAA
saying that we was almost off the endangered species list, and
then in the same statement he wants to upgrade everything. And
the BNR -- you know, DMR, BNR, they been right on the band
wagon saying that we was in the middle of this. And we haven't
got any positive feedback from them that we didn't kill them
turtles. We've had a couple comments, but when it was time to
got on camera and say things, it was lacking. We didn't have
no public -- they didn't show the people. Maybe they did it
behind closed doors, but we'd like a little more transparency
with their business and address these couple of issues because
I think that in the future if we keep losing, we're lost. But
maybe that time, other people will be rich.

That's all I have to say.

MR. TAYLOR: Mr. Ross --
MR. ROSS: Oh, we're going to make a comment?
MR. TAYLOR: -- I know you weren't at the last
meeting, but it was discussed about the NOAA information that
was in the paper which most of us were livid over because it
was wrong because we know the shrimp season wasn't even open or
very little boats were working when the turtles were killed.

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

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

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

But anyway, I just wanted to comment because you
weren't here at the last meeting.

MR. ROSS: I'm sorry I missed that statement. It
would have been nice to see it on the news media. But I was
told that WLOG got $3 million from BP, so I don't guess they're
going to say much against them, you know.

DR. ASPER: Thank you, Danny.

Mark, are you ready?

Catfish?

MR. MILLER: How y'all doing today? My name is
James ak Catfish, D'iberville residence. I'm directing my
question to Dr. Walker with water quality.

Do you feel today, sir, that the water quality
is up to standard to our fishers out there and shrimpers?

No, sir.

DR. WALKER: No comment.

MR. MILLER: He has no comment.

Well, what my comment was, the water quality. I
worked for the VOO program out there, Dr. Walker, and I been in
and out of the hospital. This is my seventh trip in the
hospital for dehydration. I got proof of what the water's done
to me out there, what all it's done. And you got a water
quality certificate last week, I heard, from being some big
doctor of the year for oil cleanup.

Man. I don't see anywhere in your literature
about health care on this coast with this water quality that
we're dealing with our shrimping.

And this leads back to our shrimp not growing,
too, sir. Our shrimp's not growing. That fresh water is not
causing it. We know this because I'm out there 88 percent of
my time. That's where I live at. And I can't see where you're
not going out there doing the right job with this water quality
deal, I mean, because we have poor water quality.

And you keep saying it's okay, the seafood's
safe, this is safe, that's safe. I beg to differ, sir, to you.

I'm sick today. I'm tired of coming up here
Looking at you. You look at me like I'm a lunatic. I'm not a
lunatic. I'm a fisherman. I believe in myself, just like you
believe in yourself, you know, and I got a brain, and it's
functioning like yours.

And I'm sorry that we're off key because every
time I talk to you, try to get you on the phone, it's the same
thing, you don't call me back.

I talk to Dale on the phone all the time. They
know I'm pissed. Traci knows I'm pissed. Dr. Jewells (sic)
knows I'm mad. I talked to Dr. Vernon this morning. I got
harassed coming through your door this morning by your
deputies. It's got to stop, man. You got to get on our side.
Come aboard us, man. We're suffering out here as fishermen
(sic). Quit getting the government money, man. Quit chasing
it and come help us, please. We are begging you.

I'm tired of fighting you, sir. You are not
doing the job for me. I swear. If I wasn't sick, I might have
a different other opinion on this, but I'm sick. I've been to
Texas. I've been to Arizona, Florida, seeing 30 doctors. It's
crazy.

And you still today, you say the water quality
is perfect. Look behind Horn Island. How many more tons of
oil and tar patties you need out there?

Ship Island. Our nesting areas.

You don't see those things out there, sir? I
see them every day with my eyes. I catch tar balls in my
trawl.

And you think it's okay, man. They only sunk
the oil.

And I'm sorry I got to bring up the oil question
all the time because you people got $25 million to help butter
your bread to study this out here, and you're not studying it
for us. You're way off key.

And our fishing grounds, you're giving our
fishing grounds up more for concrete out there, man.

I'm trying to make a living, not tear more gear
up out there on your junk you're throwing on top of me. Man,
go make it in a thousand foot of water. Don't make it in ten
foot of water. We trawl right on that beach line out around
our barrier islands. We done give you a mile of it for the
federal government to keep us away from the grass beds.

You know, it's terrible I got to sit here and
look at you, man. You think I am a lunatic. I'm not, sir.

When I tell you I'm sick, I'm sick, sir. You can laugh
underneath your breath. I'm eager today. I just got out the
hospital for a seven day round, dehhydration. I'm hurting. I
shouldn't even be here today. I should be home. I'm still
sick. But I care.

And you don't care. That's all you're chasing
that federal government dollar, man. You got to let it go and
help us. The price gouging on the shrimp, my boy over here,
Richard Gollott, love you to death. I been around you all my
life. Man, we need help, sir.

I caught 70,000 pounds of shrimp at 65 cents a
pound. My business went backwards, you know. Best year I ever
had. Man, that's balance, man. Traci Floyd, y'all putting out
the wrong information, man.

DR. ASPER: Okay. Catfish, your time is up.

MR. MILLER: God bless you.

DR. ASPER: We appreciate your input on this.

Honestly, we do take everybody really seriously, and we are
very, very concerned about this. It's a very complicated
issue.

One of the things we're going to talk about is
the low oxygen levels on the bottom out there. And it's
something that we haven't seen before. And we're seeing a lot
of things out there in our environment that we don't fully
understand yet. And it's where these issues are coming from is
complicated.

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

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

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

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

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

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

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

And you call people on the phone and you tell

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

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

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

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

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

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

So they're very easy to distinguish between
them.

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

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

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.
Walker's recommendations.

4. DR. ASPER: Motion made by Commissioner
Bosarge.

5. MR. TAYLOR: Second.

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

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

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

9. But I didn't need the fish or anything. We just
thought that we had some lane snapper, and we'd eat a few of
them and see how it was. And so it was our mistake. Two of
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
26 are all these user groups that you are affecting.
27 I think in the future the fines are going to be
28 a lot greater to circumvent some of these activities as far as
29 catching undersized fish.
30 Anyway, I just had a couple of comments to give
31 to you, Mr. Moras.
32 MR. GOLLITT: Dr. Walker, what is the maximum
33 fine on this, penalties?
34 DR. WALKER: Sandy.
35 MS. CHESTMUT: The fine could go up to $10,000
36 per violation.
37 MR. TAYLOR: And on the federal level, it's four
38 hundred per fish, if I'm not mistaken, five hundred per fish.
39 MS. CHESTMUT: I'm not familiar with the federal.
40 DR. ASPER: Okay. We've got a motion to impose
41 a fine of $1,000 with five hundred of that suspended contingent
42 on no further violations. That was made by Commissioner
43 Bosarge and seconded by Commissioner Taylor. Any further
44 discussion? Those in favor say aye. Those opposed.
45 MR. DRUMMOND: No.
46 DR. ASPER: Let the record show that
47 Commissioner Drummond voted no. It carries three to one.
48 Anything else with the executive director?
49 DR. WALKER: No, sir.

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 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 came 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 found 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.
The office of marine fisheries continues to work
with Mississippi Department of Environmental Quality and the
state chemistry lab to collect and analyze seafood tissue
samples for shrimp, finfish, crabs, and oysters since the
DEEPWATER HORIZON spill.
From May 2010 through July 2011, 414 samples
have been submitted. And we have received results for 371 of
those samples.

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

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

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

Also wanted to let you know that we have started

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

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

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

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

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

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

Courthouse Road in Gulfport all the way to the Pass.

Christian-Long Beach line. And there were a couple of real minor fish kills associated with that.

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

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

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

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

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

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

MR. DIAZ: Sure.

MR. GOLLOTT: Is there anything standing in our way of taking a relay program out of Pascagoula, any regulations or any money? That's what I'd like to see because we talked about it, and I'd like to know if there's anything stopping us from doing a relay program.

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

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

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

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

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

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

MR. DIAZ: We can certainly look at it.

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

MR. DIAZ: Anything else?

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

So, Traci.

3. CMR Resolution - Marine Turtle Study

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

This is the sea turtle resolution.

For your consideration, this is Commission on Marine Resources Resolution Number 081661-01, and it will be submitted to NOAA Fisheries. And it reads this way:

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

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

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

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

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

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

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

Whereas, the Mississippi Commission on Marine
Resources considers its role in the management of marine sea turtles essential and recognizes the need to know the status and distribution of the listed sea turtle species in the state and all Gulf of Mexico waters before enacting regulations which may severely impact shrimp fisheries and dependent communities.

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

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

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

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

DR. ASPER: Is there a second?

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

DR. ASPER: Discussion?

MR. BOSARGE: I would like to say, Traci, and what Catfish and a lot of the others don't realize just what the DMR, Dale, Traci, Joe, a lot of folks have worked really hard on this issue, and we are gaining a lot of ground to prove that we are not the problem. So I would like to say thank you for all you've done, and yes for the resolution, also.

MS. FLOYD: Thank you.


Thanks.

4. Title 22 Part 6 - Live Bait Shrimping Regulations

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

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

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

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

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

Under Chapter 4, closure areas, it now reads:

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

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

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

MS. FLOYD: A count size?

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

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

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

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

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

DR. ASPER: Is there a second?

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

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

MS. FLOYD: Thank you.

MR. DIAZ: Next up for marine fisheries, there's two action items. Christine Murrell is going to present those.
It's the crab trip ticket program and then notice of intent for
Title 22 Part 9.
5. Crab Trip Ticket Program
Title 22 Part 9 - Confidentiality of Statistical
Data
MS. MURRELL: Good morning, commissioners,
chairman, Sandy, and Dr. Walker.
My name is Christine Murrell, and I'm a marine
fisheries scientist with the bureau of finfish.
I'm presenting an implementation of the crab
ticket system in Mississippi, crab trip ticket
implementation.
The Mississippi Department of Marine Resources
commission meeting on April 2011, a motion was passed directing
the office of marine fisheries to develop trip ticket plans for
all commercial fisheries beginning with crabs, followed by
finfish, and then shrimp.
And a trip ticket program is a system to collect
commercial landings and associated information by trip.
Trip tickets would replace the current system
used to collect Mississippi commercial landings if approved.
Collection of Mississippi landings. Oyster and
live bait fisheries landings are currently being collected
under a trip ticket system. Other fisheries, shrimp, crab, and
finfish, are collected through dealer purchase records. Crab
landings are reported as total pounds and average price per
pound by dealer by month. No information regarding effort is
recorded, such as number of traps, soak time, and a very
generalized area is used, Mississippi Sound.
Trip tickets would provide this effort
information which is important in managing the fishery.
Since Hurricane Katrina, there is a low number
of crab processors in Mississippi. Many crabbers go to other
states or to the public to sell their catch, and none of these
landings are reported.
When distributing EDRP-1 and -2 monies, trip
tickets were completed in all fisheries which familiarized many
fishermen with the process of completing and submitting the
trip ticket form.
Some of the reasons for implementation. To
provide for quantification of loss of income, vessels, and gear
due to hurricanes and other disasters. It will enable
fishermen to get an accurate account of seafood landed. Better
evaluate effects of proposed and current management
regulations. Allow a more equitable distribution of disaster
funds. And sometimes federal emergency grants and other
funding opportunities are based on landings, and by not:
collecting all sources of landings, Mississippi could be
missing out on funding.
This is our confidentiality. I just put this up

1 to show that all trip tickets and the information we collect is
2 confidential.
Confidentiality. All data collected or
otherwise obtained by statistical personnel in the course of
their duties and other landings data collected by information
confidentiality officers of the Department of Marine Resources
are confidential and unless specific authorization is given are
not to be divulged except in aggregate form to any person,
etcetera.
The Mississippi Department of Marine Resources
will not voluntarily release confidential information to other
state or federal agencies except as provided for above and to
the fullest extent possible will oppose other agency and
congressional subpoenas to obtain confidential information.
The Mississippi Department of Marine Resources
will not disclose confidential statistics under court order
without specific approval by the state attorney general's
office.
After we were directed to come up with a plan,
we got input from industry. And on July 1, a mailout was sent
to 332 seafood dealer processors and crab fishermen, including
a letter describing the plan with an invitation to a workshop
on July 12, a draft crab trip ticket manual, and a short
survey.
Twenty-six surveys were returned, 11 in favor of
1 trip tickets and 12 not in favor, and three with no opinion.
MDR staff met with the crab task force on July
6, and adjustments to the trip ticket plan were made according
their comments and suggestions.
Overall, the task force supported a trip ticket
program.
And the workshop was held on July 12 with three
fishermen attending. The crab trip ticket manual was
translated into Vietnamese, and copies were available at this
workshop.
This is a summary of the changes. There would
be a change to MDR regulation Title 22 Part 9 under the
reporting requirements. And the fresh product permit and trip
ticket summary form are under these reporting requirements.
This is the proposed change to the MDR
regulations. I'll go ahead and read this since this is the
main change. This is the information that is required under
Title 22 Part 9.
Each seafood dealer/processor is hereby required
20 to complete Mississippi trip tickets provided by the Department
of Marine Resources. Commercial fishermen who sell their catch
to individuals other than a Mississippi dealer/processor are
hereby required to complete Mississippi trip tickets provided
by the Department of Marine Resources and be in possession of a
fresh product permit. Commercial fishermen who sell their
catch to anyone other than a Mississippi licensed dealer/
processor or transport their catch out of state are required to
purchase and possess a dealer/processor license and are
required to comply with all regulations governing Mississippi
seafood dealers processors.

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

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

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

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

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

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

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

state, as well as utility for dealers and fishermen. It can
generate reports, and then tracking of payments and sales.

This is an electronic trip ticket. Basically,
it's the trip ticket number, the fisherman's name, the license
number, vessel, either the Coast Guard number or the
registration number, date, transaction, trip time, fish time.
And then you go down to the gear used. And a lot of these are
drop down codes, so they're already in place, you just click on
them and they go. And it's a pretty simple system to use.

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

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

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

This is the time line for the crab trip ticket.

At this meeting, adoption of the notice of intent Title 22 Part
9 requiring dealers and fishermen to submit trip tickets for


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

September DMR meeting, final adoption of Title
22 Part 9.

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

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

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

November 1, implementation of crab trip ticket
program.

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

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

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

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

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

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

DR. ASPER: Is that a motion?

MR. GOLLOTT: It is a motion.

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

MR. TAYLOR: I'll second it.

DR. ASPER: That motion has been seconded. Commissioner Taylor seconded it. All right. Open for discussion.

MR. BOSARGE: I have a question [inaudible]. Can you go back to the [inaudible] trip ticket?

MS. MURRELL: Sure.

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

MS. MURRELL: I think this is an older version. I think it has been updated. This is just something I had in my -- but I think they've already addressed that.

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

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

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

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

MS. MURRELL: That's something that we could probably look at. We wanted to try to keep it as simple as possible and not get -- we could have a number of maybe two, I think, you know, but we don't want to have too many floating around.

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

MS. MURRELL: Okay.

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

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

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

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

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

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

MS. MURRELL: I think in our -- we did do a budget. I think we have -- I think we're going to move people possibly. We may have to hire one person -- two people. Because it will be a lot of paperwork coming through.

MR. DRUMMOND: I can imagine.

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

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

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

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

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

MR. BOSARGE: No cost.

MS. MURRELL: Yeah, no cost.

MR. DRUMMOND: What else can I ask you?

MS. MURRELL: Whatever you want. Fire away.

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

MR. BUCHANAN: We didn't want to take this up -- I mean, we could go through. It takes 60 days, you know, every time we make a change.
Now, we could do that, but the time line that we
got presented, this was the way to do it. I mean, we know that
you wanted crabs implemented first, and that's the way we were
going to go with it. It wasn't going to be -- you're right
technically. With the law that's in here now, you know, we
could say, oh, oh, everybody's got to submit everything. But
we weren't going to do that. We were going to implement it one
fishery at a time like the commission wanted to.

MR. DIAS: And only after authorized by --

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

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

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

MR. BUCHANAN: Pretty much.

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

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

DR. ASPER: No.

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

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

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

MR. TAYLOR: And eliminating two public
hearings.

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

DR. ASPER: Okay. So we have a motion on the
table by -- to table this motion or this issue until further
discussion has been made and seconded.
commissions, Dr. Walker, Ms. Chesnut.
Coastal ecology has six action items on the
agenda for your consideration this morning. And Rebekah Ray
will be our first presenter.
3. Bureau of Wetlands Permitting
a. MS Department of Marine Resources, MS
Beneficial Use Dredge Material Program
MS. RAY: Good morning. My name is Rebekah Ray,
and I will be presenting a permit request by the Mississippi
Department of Marine Resources beneficial use of dredge
material program.
This is located on Deer Island near Biloxi in
Harrison County. It's in the general use district.
The yellow thumb tack shows the location of the
proposed project south of Ocean Springs and Biloxi.
The applicant has been previously authorized to
dredge a channel 1,000 feet in length, 60 feet in width, from a
depth of two feet below mean low water to six feet below mean
low water. This permit is currently expired.
They are requesting to dredge this same channel
from the depth of six feet below mean low water to nine feet
below mean low water.
They will be removing a total of 15,556 cubic
yards of material. And that's including the previously
authorized material.

The applicant is also requesting a ten year
maintenance dredging agreement for the project.
They are doing this because they currently don't
have an efficient way to -- it's not efficient enough to access
the beneficial use sites on Deer Island.
This is the diagram of the proposed project.
The dotted line shows the dredge channel. And this gray area
here is the sidecast of the material. And these are the
beneficial use sites at Deer Island.
This project serves a higher public purpose by
allowing more efficient transport of dredge material to the
beneficial use areas on Deer Island.
This project is allowable within the general use
district.
The project as proposed does not set a precedent.
There will be a temporary increase in turbidity
during dredging operations and a loss of benthic organisms
within the dredging area.
This project is intended to allow more efficient
access to the efforts being made to restore the critical
habitats on Deer Island and to restore its historical
footprint.
There are currently two beneficial use sites on
Deer Island that are -- one was permitted earlier this year,
and the other one was before that.
The Mississippi Department of Wildlife,
Fisheries & Parks has recommended that dredging operations
occur between the months of October and January when Gulf
sturgeon, manatees, and sea turtles are least likely to be
moving through the coastal waters.
No offshore alternatives have been considered.
This project is requesting to increase the depth
of the previously authorized channel dredging. No new areas
will be dredged for the project.
These projects will not change the location of
the currently authorized channel and should not affect the
natural scenic qualities of the area.
The project appeared in the Sun Herald as
required, and no public comments have been received
DEQ is currently reviewing the project.
Department of Archives & History has no
objections.
The Secretary of State has no objections.
And the Department of Wildlife, Fisheries &
Parks did recommend a specific time for dredging of the area.
However, the method that will be used will be dredging with an
excavator bucket which is very slow and will not likely intrude
any of the species of concern.
The staff of the Department of Marine Resources
is conducting a thorough evaluation of the project. Based on
the results of this evaluation, it has been determined that the
project is consistent with the Mississippi Coastal Program and
serves a higher public purpose by allowing more efficient
transportation of dredge material to the beneficial use area on
Deer Island. Therefore, staff recommends approval of the
project and a ten year maintenance dredging agreement
contingent on water quality certification of DEQ.

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

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

MR. RUSSELL: Second the motion.

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

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

DR. ASPER: So this is basically our version of

N.J. SOROE, CSR #1297
Corps permit.
DR. ASPER: Any questions?
MR. DRUMMOND: Jennifer, I'm not sure what USACE
is. What is that?
MS. WITTMANN: United States Army Corps of
Engineers. We usually just say the Corps.
DR. ASPER: Is there a motion?
MR. ROSSACE: I make a motion that we accept
staff's recommendation to extend the permit.
MR. TAYLOR: Second.
DR. ASPER: Motion made and seconded to extend
the permit. Any further discussion? Those in favor say aye.
Carries unanimously.
MS. WITTMANN: Thank you.
c. Jeff Long
MS. WITTMANN: Next I have a violation by Jeff
Long located on an unnamed canal off of the Jourdan River at
11020 Delaware Street in Bay St. Louis. It is in the general
use district.
This is the project location located by the A
off of Lagan Street and in reference to 603.
An unauthorized beach has been constructed and
has not been removed in accordance with the property owner's
restoration plan.
On March 24, 2011, a violation was reported to
DMR concerning the construction of an unauthorized private
beach, part of which was on the reporter's property.
On April 4, 2011, following an earlier site
visit by DMR staff, an onsite meeting was held with the
reporter of the violation.
On April 5, a cease and desist notice was sent
to the property owner.
On April 14, 2011, Mr. Long, the property owner,
called DMR and stated that he had purchased the property from
his neighbor and that the neighbor had placed the fill. Mr.
Long stated that he would remove the fill only on his property.
On May 17, 2011, following several follow-up
e-mails, a phone call was received from Mr. Long's agent that
he would have a restoration plan submitted to DMR by May 10,
2011.
On May 26, 2011, that restoration plan was
submitted via e-mail.
On June 15, 2011, a conversation was held with
Mr. Long's agent who said that work was to begin that day.
On July 5 following a site visit, conversations
were held with Mr. Long's agent stating that the work needed to
be completed within a week. At the site visit, staff
discovered that the sheet pile walls had been placed along the
property line, but the fill had not been removed.
On July 20, a site visit was performed. No work
been made.

N.J. SOROE, CSR #1297
had taken place since the July 6 correspondence with Mr Long's agent. An e-mail was sent to Mr. Long and his agent informing them that the violation had been placed on the August commission agenda.

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

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

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

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

Mr. Long and his agent did submit a restoration plan. They had a property survey to establish the boundary of the violation, and that was completed. The sheet pile wall was installed to divide the property and to allow proper slope to the water. The estimated installation of that wall was June 15, and that is completed.

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

This is a picture from the site as it is today.

The sheet pile wall has been installed along the property line, but again none of the fill material has been removed.

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

The potential penalty range in this case: The violation was discovered on March 24, 2011. The violation duration is 145 days. The maximum potential fine is $72,500. The minimum fine is fifty. Staff recommends a fine of $2500, as well as a $100 per day fine for each day after the 20 days until the area is restored.

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

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

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

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

DR. ASPER: Is there a second?

MR. DRUMMOND: I second the motion.

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

MS. WITTMANN: As soon as we get this one taken care of, I'm going after the neighbor. I wanted to get the one completely taken care of, get him headed in the right direction, and then we're going to go after the other neighbor.

And the neighbor actually is a previous violator, as well.


MS. WITTMANN: Thank you.

d. James L. Green, Sr.

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

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

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

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

The dimensions of the structures that were unauthorized was 42 linear feet of bulkhead and a 42 foot by
foot pier.

The chronology.

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

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

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

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

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

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

When I asked Mr. Green why he constructed these structures without authorization, he said that he wanted to build them, and he thought it would be too much time and money involved in coming back, so he constructed them as he wanted them. He thought he was doing the right thing by constructing the bulkhead where we had asked for, but that doesn’t explain the pier that was constructed.

This is a diagram of roughly the same structures.

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

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

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

DR. ASPER: Any questions?

MR. GOLLOTT: Mr. Chairman, I make a motion that we go with the staff’s recommendation with the exception of the fine. I think it’s way too low because the applicant did know that he had to have a permit, he just decided doing it and getting permission afterwards would be cheaper. I think we need to go with a $2,000 fine now.

DR. ASPER: Is there a second?

MR. TAYLOR: Second.

DR. ASPER: Seconded by Commissioner Taylor.

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

MR. DRUMMOND: No.

DR. ASPER: Let the record show that Commissioner Drummond voted no. Passes three to one.

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

MR. GOLLOTT: What is your recommendation?

MR. COLE: Our recommendation would be 60 days from today’s meeting.

MR. GOLLOTT: I’d like to include that in the motion.

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

MR. TAYLOR: Yes.

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

MR. DRUMMOND: No.

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

MR. COLE: Thank you.

Hancock County Board of Supervisors

MR. CHRISTODOLOU: Good morning, commissioners, Dr. Walker, Sandy. My name is Greg Christodolou, and I will be presenting the final two items for coastal ecology.

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

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

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

The applicant is requesting to modify the existing boat launching piers. The east launch pier is currently 54 feet by 5 feet. The proposed pier is 134 1/2 by 5 feet. And the west launch pier currently is 61 feet. And they
1. would like to lengthen it to 159 1/2 feet.
2. The reason for then 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
26. were no public comments received.

DEQ has issued water quality certification on
August 1.
Archives & History is reviewing the project.
The Secretary of State's Office says an existing
tidelands lease will need to be modified.
Based on decision factors, staff has determined
that the project is consistent with the coastal program because
it will serve a higher public purpose by providing increased
public accessibility to the water. And staff recommends
approval of the modification request.

DR. ASPER: Are there any questions? Motion?
MR. GOLLITT: I make a motion that we accept the
staff's recommendation on this project.
MR. DRUMMOND: Second the motion.
Opposed. Carried unanimously.

f. Imperial Palace of Mississippi, LLC
MR. CHRISTODOLOU: The final project for
coastal ecology is a permit request by Imperial Palace of
Mississippi. The location is on the Back Bay of Biloxi. It's
in a commercial fishing and recreational marina district. And
Thompson Engineering is the agent for the project.

If you notice, the yellow thumb tack marks the
project location. It's just to the east of the I-110 on the
south side of the bay in Biloxi.

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

Structures that will be constructed or proposed
is a bulkhead of 820 feet approximately five feet outside the
 barg foot print as it is, and then a dry dock structure which
basically constitute field underneath the existing casino barge,
and that's approximately 615 feet by 130 feet.

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

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

Public benefits of the project include increased
employment opportunities by the construction work and continued
tax revenue by the gaming portion. In addition, the public
safety will be improved by reducing the potential for damages
caused by storm surges generated by tropical events. As we
have seen from Katrina, sometimes these barges do come loose
and cause damage.

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

The applicants have requested two variances from
the coastal program. The first being Chapter VIII, Section 2,
Part III.0.1 stating that permanent filling of coastal wetlands
is discouraged. And the second is Chapter VIII, Section 2,
Part III.0.3 which basically says that vertical structures
shall not be aligned any farther than mean high tide.

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

They state that there is basically no — I mean
significant environmental impact because right now the barge
itself drafts about five feet of water, and the depths are
currently six feet underneath it. So you have a very, very
limited habitat beneath that barge. Also, the amount of effort
required to keep the barge from sitting on the bottom.
Similar projects have been approved by the commission, and the project is not expected to set a negative precedent.

Dredging operations will result in temporary increase in turbidity in the area, and there will be a decrease in the number of benthic organisms. The project itself would result in the filling of approximately 1.94 acres of waterbottoms. And the project will eliminate the need for periodic maintenance dredging.

Imperial Palace is proposing to upgrade the casino vessel moorings at their property at 850 Bayview Avenue. Best management practices will reduce any adverse impacts. And the applicant has submitted a mitigation plan for impacts to waterbottoms, which are coastal wetlands. Here is the letter that was received for the mitigation for this project. They have proposed to donate $250,000 to the coastal preserves program, DPR’s coastal preserves program.

No alternative sites were considered as the activity is considered an upgrade to the existing moorings for the casino. And the site is currently utilized as a gaming facility, and the proposed modifications to the barge shouldn’t impact, negatively impact, the scenic qualities of the area.

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

Archives & History is reviewing the project. DEQ is also reviewing the project. Secretary of State has stated that the area is currently under lease by the Imperial Palace. And Wildlife, Fisheries & Parks has stated that best management practices be implemented for the project. And based on departmental review, we see that the project is consistent with the coastal program because it serves a higher public purpose and appropriate plan to mitigate for impacts to coastal wetlands has been submitted by the applicant. So staff recommends approval of the variance request and issue of the requested permit contingent on the water quality certification from DEQ.

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

Mr. Gollott: Will this make this a land based casino? Will they continue to have a tidelands lease for that?

Mr. Christodoulou: Yes.

Mr. Bosarge: The intention is to basically dry dock this thing so they’re going to dig out from under it, then go in there and build a bulkhead, then pump it out, then build moorings to support the casino; is that correct?

Mr. Cavanaugh: My name is Michael Cavanaugh, 998 Howard Avenue.

It’s within the footprint of the existing tidelands lease. It will not affect that tidelands lease.

Insofar as the — it will not be really considered a land based casino because it’s still — water gets up high enough, the water will lift it.

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

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

Mr. Cooksey: Yes, sir. My name is Will Cooksey with Thompson Engineering.

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

The bulkhead that was mentioned by Greg will be constructed to elevation plus eight. In the event of a storm surge or tropical event, it creates a tide above plus eight, the basin will be flooded, and the casino will actually rise from its moorings.

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

Mr. Bosarge: It’s quite an undertaking. A lot of work. But I can see your point. It would be easier to maintain the barge. It’s basically on dry land.

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

Mr. Cooksey: Yes, sir.

Mr. Taylor: I make a motion to accept staff’s recommendation.

Mr. Gollott: I’ll second it.

Dr. Asper: The question I had was, first of all, let me say that regarding water quality, this is not (inaudible) because that water underneath these barges has got to be foul. So I don’t have any objections to that. The question I have for Greg, though, is you said that it was not a precedent setting event because we have...
approved similar projects. Would you remind me?

MR. CHRISTODOULOU: It's my understanding this
was before I came to the DMR, but the Isle of Capri Casino
itself, also the waterfronts were filled underneath that
barge, as well. But again, that was prior to my coming to DMR.
I have that from legal and from previous permitting staff.

DR. ASPER: Jan, (inaudible) exactly the same?

MR. BOYD: I don't think it's exactly the same.
I think they actually filled the other with material.

DR. ASPER: The Isle of Capri is not designed to
ever float again.

MS. BRANTLEY: No, it's not. Willa Brantley. I
was the project manager for the Isle of Capri, and there was a
question whether that was a filled excavated slip because it
kind of sat back in the land. But what we determined from the
Secretary of State's Office was that it had been filled around
the barge, and the barge was left floating. And that was done
I believe back in the late '60s or early '70s when those
places were filled. And actually where the Isle of Capri sat
was filled, but it was excavated out later so that the barge
would be floating and fit the gaming laws.

So that historically it was coastal wetlands
that was filled, even though at the time it was like an
existing keyhole boat slip. And that was in 2006.

DR. ASPER: You're confident that this is not

setting a precedent? This is a lot of concrete being put
basically in waterbottoms that are still flooded on storm tide.
And it's just slightly different. I want to make sure hat
you've given it careful consideration because it's something
that is a little bit different. Beau Rivage is different yet.
So we've got a lot of different (inaudible).

MS. BRANTLEY: Right. I believe the Beau Rivage
is completely closed off by a bulkhead, but it still has water
underneath but circulated by tidal water pump system.

DR. ASPER: It doesn't actually float, though.
It's held in one position.

MS. BRANTLEY: Right.

We don't feel like this is setting a precedent
because of what was done previously with the Isle of Capri.

DR. ASPER: Further discussion?

MR. DRUMMOND: Does IP have a site selected for
the mitigation purposes?

MR. CHRISTODOULOU: The mitigation is a donation
to coastal preserves. So they don't have a particular project
picked out for that money that's been earmarked for a
particular project. It's just a standard donation to coastal
preserves to either acquire land, do marsh restoration, the
various activities that coastal preserves is involved in.

MR. TAYLOR: What about the beneficial use of
do the dredge material?
BEFORE THE COMMISSION ON MARINE RESOURCES

COURT REPORTER'S CERTIFICATE

I, Donna Jean Lachner 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.

[Signature]

Donna Jean Lachner Soroe, CSR #1297
Certified Shorthand Reporter