

# *Compressed Transcript*



COMMISSION ON MARINE RESOURCES

## COMMISSION MEETING

August 21, 2012

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TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAYVIEW AVENUE, BILOXI, MISSISSIPPI, ON THE 21ST DAY OF AUGUST 2012 COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LADNER SOROE, CERTIFIED SHORTHAND REPORTER.

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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

1 have an agenda.

D. Public Comments

DR. ASPER: We now go to the period when we do accept public comments. I have two sheets, one from F.J. Eicke. He wants to talk later on, so we're going to give him the opportunity to talk after Joe Jewell's presentation. But Tom Becker is next on the list here.

MR. BECKER: Good morning. Tom Becker, president of the Mississippi Charter Boat Captains Association.

I'm here on two things.

One, I'm not blasting anybody, but I just want to bring the law enforcement people up to date on an issue that has happened out there.

They have been stopping our boats, which we applaud. Don't get me wrong there. But they're asking for a TWIC card, transportation worker identification card.

We no longer need that card. I brought the Coast Guard rule and handed that to the young lady over here to hand out to you people. It states in there what is required. And the boats that we run here are not required to have a TWIC card any more.

The second item is the Gulf Council is meeting today all this week. And one of the issues that they're talking about is this sector separation which will lead to catch shares for the boats.

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. We have an agenda there. If you would like to speak and address any of the issues on or off of the agenda, please fill out a form and get it to the ladies in the front here.

B. Approval of Minutes

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

MR. DRUMMOND: So moved, Mr. Chairman.

MR. GOLLOTT: Second, Mr. Chairman.

DR. ASPER: Those in favor say aye. It carries unanimously.

C. Approval of Agenda

DR. ASPER: We have an agenda before us. Is there anything that needs to be changed on the agenda?

DR. WALKER: No, sir.

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

MR. GOLLOTT: So moved, Mr. Chairman.

DR. ASPER: Second?

MR. DRUMMOND: Second the motion, Mr. Chairman.

DR. ASPER: Those in favor say aye. Okay. We

This is in EDF's profile. They want this done. They won't listen to the majority of the people. There's 337 pages of replies to this on their website.

We want to go on record to let the people know that the people of Mississippi do not want sector separation or catch shares. We would like to get this known and to get out to the public and so I can present this to the council tomorrow when I go over there for public speaking over there.

It's something that is very near and dear to us. When they talk about catch shares, when they get to that point, we have not been under the radar until 2010, and then the oil spill hit, so we didn't have much reporting that day.

We will not get any fish. And this is wrong. They think they own the fish. There's only one person in this universe that owns them, and that is The Lord.

Thank you.

MR. TAYLOR: Mr. Chairman, I'd like to make a motion at this time that the DMR goes on record supporting Mr. Becker and the Charter Boat Association position as far as catch shares.

We have talked to a lot of recreational fishermen.

And it's my understanding, Mr. Becker, that CCA is opposed to this?

MR. BECKER: Correct.

1 MR. TAYLOR: I'd like to make a motion that we  
 2 support his position in this, and I'm very much against it.  
 3 MR. BECKER: Thank you, Jimmy.  
 4 MR. GOLLOTT: Mr. Becker, I'm just a little bit  
 5 confused. What are they trying to do?  
 6 MR. BECKER: They are trying to take on sector  
 7 separation. Right now, we have two. We have commercial and  
 8 the recreational.  
 9 They want to take the recreational and divide  
 10 that into recreational for hire and recreational.  
 11 And what do we take out? We take out the  
 12 recreational fishermen.  
 13 But they want it two separate sections. That's  
 14 sector separation. One more step to it.  
 15 Then they can come after one section, us, the  
 16 charter boats, and give us catch shares.  
 17 Like I said, we have no data except what we have  
 18 caught in '11 and '12.  
 19 MR. TAYLOR: This has happened in the commercial  
 20 industry. I had a commercial license several years ago. And  
 21 what happens is you have people buying and selling licenses  
 22 that really have no business in the industry. Some do, but  
 23 some don't. And then the little guy that's a small charter  
 24 boat that's probably right now not making it is going to be  
 25 left out of the picture.

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1 manage that resource and make it available to the public.  
 2 It is a public resource.  
 3 MR. TAYLOR: Would you please tell the  
 4 commission what EDF stands for?  
 5 MR. EICKE: EDF stands for the Environmental  
 6 Defense Fund.  
 7 I don't know when it was, seven or eight years  
 8 ago, before the hurricane, I met with an EDF guy that was  
 9 visiting in the area here with one of the scientists out at the  
 10 Gulf Coast Research Lab. And he presented some things at that  
 11 time about tagging fish in the recreational sector.  
 12 And quite frankly, you know, at that point I was  
 13 ignorant of it.  
 14 But what it has done over the years is just  
 15 grown to where it is today. And it just won't die. It's time  
 16 to let this thing go. The Gulf Council needs to let it go.  
 17 There is public sentiment that is so much  
 18 against it, both within the recreational sector and sections of  
 19 the charter section of the recreational sector. It's really,  
 20 they are buying a few charter captains, thinking this is going  
 21 to be the salvation for the charter industry. It's not.  
 22 And I wholly agree with Captain Tom that if this  
 23 happens, Mississippi is going to get crunched. And we don't  
 24 need that. The charter captains that he represents are not  
 25 going to fare well. And the recreational is not, as well.

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1 And it could also affect the recreational people  
 2 in that way, too, you know. It could go that way.  
 3 So that's my motion.  
 4 I think Mr. Eicke wanted to say something.  
 5 MR. EICKE: Good morning. I'm F.J. Eicke. I'm  
 6 from Coastal Conservation Association Mississippi. I serve on  
 7 the national government relations committee, though.  
 8 And I can tell you the comment was made that we  
 9 were against this. We're not against it; we're adamantly  
 10 against it.  
 11 Would note for you that one Governor Perry has a  
 12 letter on file to the Gulf Council criticizing this action as  
 13 well as others.  
 14 But the biggest thing is that the congressional  
 15 sportsmen's caucus of which a number of our legislators, three  
 16 out of the four, in fact, are members, is adamantly opposed to  
 17 this action by the Gulf Council.  
 18 Why this has any life is just amazing to CCA.  
 19 It should have died two years ago, just a natural gone. But it  
 20 just seems to hang in.  
 21 And the reason it hangs in is just what Captain  
 22 Tom is talking about. The EDF is pushing this thing just with  
 23 everything they can, and it's part of a process that's been  
 24 going on to try to strip things down without really answering  
 25 the real question which has to do with the resource and how we

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1 So, you know, I can tell you if you look on the  
 2 CCA website, it's loaded with sector separation information.  
 3 And there is none of it that says we even should be thinking  
 4 about this at this point.  
 5 MR. GOLLOTT: Mr. Chairman, I'd like to second  
 6 Mr. Taylor's motion.  
 7 DR. ASPER: We have a motion and second. And  
 8 the motion is that we support the Charter Boat Association in  
 9 their effort basically to oppose the sector separation that is  
 10 being proposed at Gulf Council.  
 11 Further discussion?  
 12 MR. BOSARGE: What is the mindset? I can  
 13 understand -- I think I understand the reasoning for wanting  
 14 sector separation in that they will be able to better manage  
 15 the fishery in knowing what one sector is actually catching.  
 16 In other words, like they do the commercial side now. In other  
 17 words, you have catch shares to where you have a certain amount  
 18 of fish you can catch, and whatever time you want. Is that  
 19 what they're gearing for is to better manage the fishery by  
 20 knowing what the charter boat side is catching?  
 21 MR. BECKER: Right, exactly right. They're  
 22 trying to get us involved with this thing. And then if we want  
 23 to catch more, then we can go lease some from them. And there  
 24 should be no cross-section leasing.  
 25 And as far as everybody is concerned, the only

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1 ones that are for that are the guys that have the catch shares  
2 already with the commercial side. They want to use their  
3 commercial ones on the recreational out there. You know, the  
4 season is closed, but they would like to go out there and use  
5 their commercial quota and bring that in. That's not right  
6 because the commercial quota belongs to the guys that went out  
7 on their boat, not to the commercial side.

8 There's been a lot of talk about this --

9 MR. BOSARGE: I'm not sure I quite follow you.

10 MR. TAYLOR: What you've got, Mr. Commissioner,  
11 is you've got a few captains in Florida and in Texas, and they  
12 don't -- they've got areas where they can go fish that think  
13 that they can buy the shares once that goes into effect, so  
14 they can fish all year round.

15 And what will happen is Mississippi and possibly  
16 Alabama and Louisiana will really be like Mr. Eicke said  
17 crunched under this, we believe. And we'll just see too many  
18 of the small people pushed out, you know.

19 And I know the Gulf Fishing Banks hasn't said  
20 anything, but this would affect them, the people in our group  
21 that builds all the reefs, too, you know. Our small charter  
22 boats mainly use them to snapper fish. And it will affect the  
23 tourism industry here in Mississippi, you know, the hotel  
24 association, the restaurants, you know.

25 But it's just not a good deal for the

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1 Washington, there was 105 representatives from every state,  
2 every nationality, up there, American island, American Samoan,  
3 all those, Hawaiian Islands, Alaska, everybody was there.  
4 There was 105 of us that told Dr. Jane Duchinko (ph.) that we  
5 do not want sector separation. And the places that they've had  
6 catch shares, they have had a lot of boats go out of business,  
7 exactly what Jimmy said about the little guy that can't afford  
8 to lease these catch shares from these guys.

9 MR. DRUMMOND: Tom, this has nothing to do with  
10 the commercial fishermen; right?

11 MR. BECKER: No. They would stay as they are  
12 right now. Right.

13 Any further questions? Thank you.

14 DR. ASPER: Any further discussion? Those in  
15 favor of this motion signify by saying aye. Those opposed.  
16 Carries unanimously.

17 Next on the agenda is the executive director's  
18 report.

19 E. Executive Director's Report

20 DR. WALKER: Mr. Chairman, it's with a heavy  
21 heart that I let you all know that Michaela Hill passed away  
22 this past weekend. With her passing, we lost an excellent  
23 employee and a valued friend. I'd ask that you keep her family  
24 in your thoughts and prayers.

25 That's all I have.

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1 recreational or the charter boat captains in Mississippi.

2 MR. BOSARGE: And do you report your catch now,  
3 Captain?

4 MR. BECKER: I do now, yes. Every month I have  
5 to turn it in to -- and the gentleman back there is the man  
6 that schedules the guy to come around.

7 But, yes, I do report all my catches every  
8 month to them. And we've only been on that for the last few  
9 years, and it took me ten years of telling them on the council  
10 why aren't we on this. When I finally got the attention of one  
11 when I said I think my people come on board, they have a head,  
12 like a head boat, because he kept talking head boat, head boat.  
13 I said they have a head. And guess what? At the end of the  
14 day they pay a per person price just like the head boat. But  
15 they're their own group.

16 We've had too much trouble here with things  
17 coming out of the casino drunk who want to go fishing and  
18 really mess it up for everybody.

19 So that's why we're not per se a head boat area.  
20 We are a group, fishing groups.

21 MR. BOSARGE: And I see every fishery being  
22 pushed towards catch shares. And even in my fishery.

23 MR. BECKER: Right, they are. They're pushing  
24 that in that side.

25 In 2010, when I went to the fishing summit in

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1 DR. ASPER: Thank you, Bill. Yeah. I'd just  
2 like to echo what he said. It's just quite a shock when  
3 somebody so young passes away. And you just have to rethink a  
4 lot of things in your life. We sure will miss her.

5 Next on the agenda is marine patrol.

6 F. Marine Patrol

7 2. Marine Patrol Report

8 MR. CHATAGNIER: Good morning, Mr. Chairman,  
9 commissioners, Dr. Walker, legal.

10 As you can see by the report, it's a little  
11 lengthy. There's been a lot of citations issued this last  
12 month, especially fishing license.

13 It's got to the point where we really don't know  
14 what to do other than issue citations. We've warned people and  
15 warned people. Why they won't go buy one, we don't know. I  
16 had one of my captains went to Long Beach, walked on the pier,  
17 and the first five people didn't have a fishing license. He  
18 wrote them tickets. He told them, he says, I'll be here for  
19 one hour, go across the street to Wal-Mart, buy your license,  
20 come back, and I'll tear the ticket up. Not one person went  
21 and bought a license.

22 Several of these people that have these tickets  
23 have been warned and warned. So it's time to take action on  
24 them. So that's why there's such a lengthy report on fishing  
25 license. It's like three or four pages.

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1 And the same on some of these fishing cases.  
2 You try and warn people and warn people. And I think one of  
3 the cases was some undersized speckled trout, they warned the  
4 man, made him throw the trout back, left, came back, and he had  
5 another load of undersized speckled trout.

6 So there's really nothing as far as fish-wise  
7 significant other than possession of shark fins, and I think  
8 that was on a recreational person.

9 We're back doing our JEA again. And as you can  
10 see, we ended up 39 patrols, made 590 man hours, made 379  
11 contacts, had one enforcement action report, and 11 state  
12 citations were issued.

13 DR. ASPER: Chief, could you comment on the TWIC  
14 card issue that Tom brought up?

15 MR. CHATAGNIER: That's news to me. Nobody has  
16 called my office or spoke to any of my supervisors saying that  
17 this was going on.

18 We will put a memo out today to the officers  
19 telling them not to ask for this card any more. We weren't  
20 aware that it was happening. We have people that patrol in the  
21 federal waters, and I'm sure that's where they're asking for it  
22 because it only pertains to the federal waters.

23 So we will address that today.

24 DR. ASPER: It pertains to federal waters?

25 MR. CHATAGNIER: If you're coming back in from

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1 offshore, you're supposed to have that card. It's a Homeland  
2 defense thing. It goes through Homeland defense. It's kind of  
3 like -- the card I think you're talking about is kind of like  
4 the passport card. If you work offshore on documented vessels  
5 and all and you're staying out there and you're coming back in  
6 the United States waters, you got to have that proof of  
7 identification.

8 DR. ASPER: That's news to me. I have one of  
9 those cards. We need it to get into the Port of Gulfport. And  
10 that's the only place I've ever been asked for it. So you're  
11 saying that if I go beyond the three mile state limit and I'm  
12 fishing on a fishing reef out there, I've got to have one to  
13 come back?

14 MR. CHATAGNIER: No. My understanding it's for  
15 people that's working on commercial vessels. Am I correct on  
16 that, Tommy, that particular card?

17 We will get with Homeland Security. And if the  
18 guys are checking for the cards -- which I don't know who told  
19 them to check for it, they go to all these different federal  
20 schools and all, and they're teaching these things in federal  
21 schools. And unfortunately, once they go to school, if the  
22 federal government doesn't come back and update what they are  
23 doing, then they keep continuing on doing what they're doing.

24 But I haven't had any complaints. I don't know.  
25 Mr. Becker can tell me what officer was doing it so we can go

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1 straight to them and make sure that they don't do it.

2 DR. ASPER: Well, and above that, I think we  
3 need to know really clearly when it's required. Is it required  
4 for commercial shipping vessel or shrimper? Is that a  
5 commercial vessel that is regulation?

6 We need to get that resolved so that we can get  
7 the word out to people so they'll know what's involved.

8 Getting one -- anybody can get one. You don't  
9 have to be a U.S. citizen. But it's a lengthy security  
10 process. They want to fingerprint you and do a very thorough  
11 background check.

12 MR. CHATAGNIER: I was under the impression it  
13 was only for commercial activity because, I mean, I go out  
14 there, I don't have one.

15 DR. ASPER: Let's, if you can, get that resolved  
16 so we can get the word out.

17 MR. CHATAGNIER: Will do.

18 DR. ASPER: Anything else?

19 MR. BOSARGE: I was curious as to the possession  
20 of filets. Was that inshore or offshore?

21 MR. CHATAGNIER: I think a lot of that is on the  
22 piers, happening on the piers. You can't possess filleted fish  
23 on the piers. And I don't know what to do because they just  
24 built a brand-new pier down here or refurbished a pier at the  
25 boardwalk, and they put a fish cleaning station on the pier.

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1 Every pier they build, they put fish cleaning stations on them.  
2 And it's illegal to clean fish on piers.

3 MR. BOSARGE: Even some of these folks that have  
4 it behind their house it's illegal to clean fish on their pier?

5 MR. CHATAGNIER: You cannot clean fish on your  
6 pier.

7 The City of Ocean Springs built that nice fine  
8 pier on the beach, and they got a fish cleaning station out  
9 there.

10 MR. GOLLITT: Chief, I've been told as long as  
11 you land them, you can take them back out on the pier and clean  
12 them. Is that correct?

13 MR. TAYLOR: Is that a state statute or one of  
14 our statutes?

15 MR. CHATAGNIER: It's in our ordinances.

16 MR. TAYLOR: Okay.

17 MR. GOLLITT: I think we need to clear that up  
18 because when we went over this thing several years ago and did  
19 that ordinance, I checked. And they said, well, you've got to  
20 go land them, and then you can take them back out on the pier  
21 and clean them.

22 So it might be good to adjust that if that says  
23 that.

24 MR. CHATAGNIER: And the drawback to that is how  
25 do we know you landed them?

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1 MR. GOLLOTT: At some point, you've got to take  
2 somebody's word for something, you know.

3 MR. CHATAGNIER: We took all these people's word  
4 that they was going to go buy a fishing license. I mean, we  
5 try and be as user friendly as possible, but if we need to  
6 address the rules, I think that's where we need to do it at.  
7 But, I mean, either that or put it in some kind of clause that  
8 you can't build a fish cleaning station on a pier. You can  
9 build it right there at the edge of the beach and then walk  
10 back out on the pier and throw the head and guts overboard.

11 MR. BOSARGE: Thank you.

12 DR. ASPER: Anything else? Thank you, Tiny.  
13 Moving on now to fisheries.

14 G. Marine Fisheries

15 MR. JEWELL: Good morning, commissioners. I'm  
16 going to try and get this microphone thing right today.

17 I'd also like to echo Dr. Walker and Dr. Asper's  
18 comment on Ms. Michaela Hill. She was a great employee, a  
19 great person, and a great friend. And we wish our condolences  
20 and sympathies to the Hill and Sabattini families.

21 We have several agenda items today. First is a  
22 request for notice of intent for Title 22 Part 17.

23 3. Title 22 Part 17 Notice of Intent

24 MR. JEWELL: I think most people are aware right  
25 now that these changes are occurring. They've evolved over a

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1 types of changes that are occurring here. Those time  
2 temperature changes, and then a couple of updates that we've  
3 gone through, a couple of grammatical errors, and a couple  
4 other changes, some editorial changes.

5 And the first editorial change, they all occur  
6 on one slide, are sort of color coded. I'll go through those  
7 really quickly.

8 One, we had sort of intermittent through the  
9 ordinance, through the regulation, the word mollusk. Because  
10 we've defined it in the definition section, we're going to  
11 remove all occurrences of mollusk. Sometimes we referenced it;  
12 sometimes we didn't. So to be uniform through the regulation,  
13 we've removed the word mollusk because we defined the word  
14 shellfish.

15 The second change, we clarified in two different  
16 places the statute reference that incorrectly referred to the  
17 statute or didn't clearly reference the correct statute. We  
18 renumbered a couple of sections when we either inserted a  
19 definition or deleted a section. And then we corrected a  
20 couple of grammatical mistakes. And that takes care of the  
21 editorial changes.

22 Are there any questions on that section?

23 DR. ASPER: I'm just looking at the document  
24 that you've given us. Where does it define shellfish?

25 MR. JEWELL: In the shellfish section, the very

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1 couple of years now. The actual changes impact the HSSP plans.  
2 They have been officially in place since May 19th of this year.  
3 All these changes have been updated and incorporated into our  
4 dealers and processors plans, so they have been in effect since  
5 May.

6 What we are attempting to do here today is to  
7 update Title 22 Part 17, our DMR regulation, to reflect those  
8 changes.

9 So what I've done here today, I'm going to hand  
10 to our court reporter and to Ms. Evelyn copies of this  
11 presentation that have outlined the regulations to try and  
12 shorten this presentation, because typically what we do is read  
13 line by line each one of those changes. And it's a grueling  
14 long involved process, as most of you all know.

15 But essentially right now, we really only have a  
16 handful of changes. They have evolved and really affect time  
17 and temperature. And most of you all are aware of those. If  
18 you're a dealer or a processor, if you have anything to do with  
19 the oyster season, updating the oyster season, you're aware of  
20 the impacts that are currently in place or have been in place  
21 and evolving over the past year or so.

22 So there really are only a handful of changes  
23 that are occurring, and they're just duplicates throughout the  
24 presentation, and they replicate through the title.

25 And then also in addition, there are really two

18

1 beginning, definition section.

2 DR. ASPER: Because, I mean, crabs could be  
3 considered shellfish.

4 MR. JEWELL: Correct. But in the shellfish  
5 definition in this title and part, it specifically says  
6 shellfish is oysters.

7 DR. ASPER: I guess I'm asking why do we do  
8 that? Why did we come up with our own definition which is not  
9 consistent with the general definition that people from other  
10 states might have? If you have somebody coming in from another  
11 state who understands shellfish to mean crabs, shrimp,  
12 whatever, that would be confusing. Why do we make that  
13 decision?

14 MR. JEWELL: Well, first let me address your  
15 first question, and it's on Page 17. Shellfish shall be  
16 defined as all edible shellfish species of oysters, clams,  
17 mussels, or scallops, either shucked or in the shell, fresh or  
18 frozen, whole or in part.

19 And so that's how the definition for this  
20 regulation occurs throughout the title.

21 And so if you look throughout the regulation,  
22 the use of shellfish and molluscan shellfish is intermittent.  
23 It's uniform. Sometimes it's used shellfish, and sometimes it  
24 says molluscan shellfish.

25 So we went with the definition of the word

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1 shellfish.  
2 So we chose to delete molluscan shellfish  
3 because it's already defined what it is.  
4 DR. ASPER: What I'm asking is, why is the State  
5 of Mississippi defining shellfish to mean something other than  
6 what everybody else in the universe uses it as?  
7 MR. JEWELL: Well, the term shellfish we're  
8 using as defined in ISSC-NSSP model ordinance.  
9 DR. ASPER: Okay. So this is a change in the  
10 federal regulations in how they're defining it.  
11 MR. JEWELL: Well, I think it's already changed.  
12 I mean, it's already defined what it is.  
13 DR. ASPER: So if somebody comes down from  
14 Massachusetts, they're going to know what shellfish is also.  
15 MR. JEWELL: Right.  
16 DR. ASPER: Okay. So I guess it's a change in  
17 the English language then.  
18 MR. JEWELL: I mean, we had some options. I  
19 mean, it isn't -- I mean, we clearly can go back, you know --  
20 DR. ASPER: I'm just curious. So what term is  
21 used for like crabs and lobsters? They used to be called  
22 shellfish versus finfish.  
23 MR. JEWELL: Well, they are. They clearly are.  
24 I mean, we had some options. At the commission's discretion,  
25 we can go back and write molluscan shellfish throughout the

1 a clear and concise definition of adequately iced. So  
2 everywhere in the current title and part where it says well  
3 iced, we have inserted the definition now as it occurs in the  
4 model ordinance adequately iced.  
5 The next change that occurs is the stand alone  
6 definition of where the current ordinance can be found on the  
7 website for all our customers, the general public that would be  
8 reading this regulation, our dealers and processors, because  
9 they can be quite entailed. It's a rather lengthy document.  
10 Some of these changes can be substantial. And they are subject  
11 to current and future changes. So we decided to insert into  
12 the title and part where these changes can be found on the  
13 website.  
14 Next up is one of the more important changes  
15 that occurred. Everywhere in the document where it references  
16 a specific time frame, and in this document it's either four  
17 hours or two hours, the dealers and processors no longer have  
18 those time frames. They'll have to use the specific time  
19 that's been allocated using the time matrix under the time  
20 temperature changes. And so what we came up with was a generic  
21 statement that will reference the model ordinance and whatever  
22 those definitions will be according to the ambient and water  
23 temperatures for that particular time of the year.  
24 And so the statement that will be inserted into  
25 the document everywhere a specific time occurs will be within

1 title.  
2 DR. ASPER: Well, how does the federal  
3 government, how do they define it?  
4 MR. JEWELL: Well, I'm not sure how the federal  
5 government defines it. But as the ISSC-NSSP defines shellfish,  
6 this definition is used.  
7 DR. ASPER: Okay.  
8 MR. JEWELL: So you are correct. That is  
9 correct. Molluscan shellfish is the most appropriate word to  
10 use. And we clearly can go back and insert molluscan  
11 everywhere the word shellfish is used.  
12 DR. ASPER: I'm just trying to get my mind  
13 around why are we going in this direction and trying to  
14 understand it. Okay.  
15 MR. JEWELL: We just chose to go in that  
16 direction because it's already defined what shellfish is.  
17 DR. ASPER: Okay.  
18 MR. JEWELL: Are there any other questions on  
19 the editorial changes?  
20 And so what I have done for the rest of the  
21 presentation, I've highlighted in red the handful of changes  
22 that are expressed uniformly throughout the presentation.  
23 And the first one up is adequately iced. And  
24 the regulation as it appears now, it just says well iced. And  
25 the changes that occurred in the NSSP model ordinance now gives

1 the time limits under the most recent time temperature changes  
2 in the current version of the ISSC-NSSP model ordinance.  
3 The next important change is wherever a specific  
4 time occurs, again the generic statement was referenced where  
5 there are any current or future changes again that it will  
6 reference the most recent changes found in the model  
7 ordinance. And that statement is consistent with the  
8 requirements in the most recent time temperature changes in the  
9 current version of ISSC-NSSP model ordinance.  
10 And again, these are all the sections where  
11 those changes occur.  
12 The next significant change, I'll read it to  
13 you. Dealers receiving shell stock from the harvester shall  
14 only accept shell stock that is accompanied by documentation  
15 from the harvester demonstrating that the shell stock is  
16 harvested under the most recent time temperature changes in the  
17 current version of the ISSC-NSSP's model ordinance. And that  
18 change, what that change entails now is that the harvester will  
19 actually have to produce documentation that they have harvested  
20 those oysters and have kept those oysters under the most recent  
21 changes for the time temperature recommendations of the model  
22 ordinance.  
23 And consulting with Scott Gordon, my equivalent  
24 in the harvesting section of the shellfish, we feel that the  
25 current trip ticket program, that documentation will suffice

1 for that documentation. But we have to put that statement in  
2 there.

3 And again, these are all the areas where that  
4 occurs.

5 So if there are any questions, I'll address  
6 those. But in order to proceed, I'll need a motion by the  
7 commission to take this out for notice of intent.

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

9 MR. JEWELL: Sure.

10 MR. GOLLOTT: Have you talked this over with the  
11 oyster dealer, the only one we've got left in the State of  
12 Mississippi? How does he feel about this?

13 MR. JEWELL: Well, he's aware of it. And like I  
14 said, in May these requirements actually went into effect. And  
15 his HSSP plan has been modified with all these changes in it.  
16 He's been under these time temperature requirements since May.

17 MR. GOLLOTT: Will this make our regulations  
18 more stringent on that oyster dealer? I mean, we're just about  
19 regulating them out of business now. How will this affect  
20 them?

21 MR. JEWELL: Well, the requirements for  
22 temperature are not going to change. The specific 45 degree  
23 temperature is not going to change. It's just going to make  
24 the requirement of updating this regulation every time there's  
25 a rule change unnecessary.

25

1 The specific changes that are in Chapter 13 and  
2 Chapter 14 which are transportation and receiving are going to  
3 change. They can no longer leave these oysters out on the dock  
4 or receive the oysters or transport the oysters without  
5 specific temperature controls. That will change.

6 And our dealers and processors -- the specific  
7 dealer that you're referring to is aware of that. He has  
8 already made those changes. And he is currently transporting  
9 and shipping oysters under those conditions. His HSSP plan has  
10 been modified, as are all the Gulf states and all the  
11 participatory states in the ISSC's model ordinance.

12 Unfortunately, that has occurred. And there are  
13 additional requirements.

14 MR. GOLLOTT: What kind of time frame are you  
15 looking at in September moving oyster season? Is it going to  
16 make the fishermen put refrigeration on their boats, or is it  
17 going to stay like it is, are they going to tong oysters and  
18 have such certain period of time to come in and get them under  
19 refrigeration?

20 MR. JEWELL: You are correct in that. It likely  
21 will not have -- the way that we're going to address that issue  
22 is we typically, we have opened oyster season, commercial  
23 oyster season, in Mississippi sometimes in late September. Our  
24 typical season opened in October. So we likely are not going  
25 to open in September because the time restrictions will be so

26

1 restrictive on them it wouldn't be worth their effort.

2 But in October where the ambient temperature and  
3 the water temperatures are warmer, they will have a shorter  
4 period of time where they are able to harvest.

5 But as those water temperatures and the air  
6 temperatures cool down, they will have longer periods of time  
7 where they can harvest and bring those oysters under  
8 temperature controls.

9 So that's essentially the way that it will work  
10 in the future when we do have commercial harvest seasons once  
11 we start back up again.

12 MR. GOLLOTT: And did you give Mr. Jenkins a  
13 chance to come and tell him you were going to have this today  
14 so he could come and tell us or make any statements or  
15 anything?

16 MR. JEWELL: He is aware of the changes. I  
17 didn't specifically tell him that the commission meeting was  
18 today or that he could allow here. He has been given copies of  
19 this over and over and over and over, and he has made comments  
20 about this, and we've done our best to incorporate those  
21 comments.

22 The very specific one about the generic  
23 statement for the temperature requirement is one of the ones  
24 that he has had specific input on. So we tried to incorporate  
25 as much of the input that our dealers and processors have put

27

1 into the process that we can under the rulemaking matrix of the  
2 ISSC and NSSP conference.

3 MR. GOLLOTT: Are you under a time limitation on  
4 this?

5 MR. JEWELL: We do need to enact these  
6 regulations as quickly as possible because, like I said, the  
7 ISSC executive board and council has already acted on these.  
8 They are in effect as of May of this year.

9 What we have right now is a title and part that  
10 is essentially saying very different things than the rules and  
11 regulations that the seafood industry has to act on. So we  
12 have two guidance documents that are essentially saying two  
13 different things. So we're trying to bring our regulations in  
14 line with the ISSC and NSSP's documents.

15 MR. GOLLOTT: I guess what I'm asking is, would  
16 it give you heartburn to put this off until next month until we  
17 talk to these fishermen and dealers as to how it's going to  
18 affect them?

19 DR. ASPER: This is just going out to public  
20 comment. That's what our motion will be today for public  
21 comment.

22 MR. GOLLOTT: No problem.

23 DR. ASPER: Is that correct?

24 MR. JEWELL: It is correct. And we have --  
25 we've mailed this out to them. Every time that there's been an

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1 executive board meeting, any of the changes that's come out,  
2 we've mailed this out to them. Any of the times that we've had  
3 internal updates or changes within ourselves, we've sent this  
4 out to them. We've hand delivered this to them. We've gone  
5 out of our way to make sure that they're involved in this  
6 process because you are correct, it is additional rule  
7 changing. It is going to change dramatically the way that they  
8 do business. So we have gone out of our way to ensure that  
9 they are aware of this.

10 Some of these rules can be quite complicated.  
11 Our seafood inspectors have gone down to a lot of the  
12 processors that were unsure how these would affect their  
13 receiving and transporting of oysters and explained that to  
14 them in person.

15 We've given the web address information so they  
16 could peruse that site at their own leisure because a lot of  
17 them would like to do that on their own time. They do this  
18 individually. They handle it a different way. Some of them  
19 want us to be at their place in their face talking to about  
20 changes. Others wanted to do it at their own time, their own  
21 leisure, and they have individual questions they wanted to  
22 follow up later at.

23 So we have been very interactive with the  
24 industry all through this process for over a year now.

25 MR. TAYLOR: Joe, would y'all need to modify the  
29

1 September like we have in the past -- we haven't had a whole  
2 lot of harvesting in September, but we have had harvest in  
3 September. Yes, you may only have a couple of hours or three  
4 hours or certainly it would very much limit the amount of time  
5 to only a handful of hours in the month of September.

6 If there are no other questions, I would need a  
7 motion.

8 MR. DRUMMOND: Back to this molluscan shellfish  
9 that Vernon was talking about.

10 I see you have erased molluscan several times on  
11 Page 18. Why did you do that?

12 MR. JEWELL: Well, like I said earlier, we did  
13 that to be consistent with the definition as it occurs in the  
14 definition section.

15 MR. DRUMMOND: So everything is shellfish now;  
16 right?

17 MR. JEWELL: Correct. But I think what we're  
18 going to do as a management decision, we're going to go back  
19 and through the document, and we're going to insert molluscan  
20 shellfish. And then we're going to redo the definition as it  
21 occurs in the definition section to incorporate molluscan  
22 shellfish to more accurately describe it.

23 I think that would probably be the best way to  
24 accomplish that at this point.

25 MR. TAYLOR: Mr. Chairman, I'd like to make a  
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1 trip ticket to put some kind of statement on there for a person  
2 to sign that these are in compliance with the --

3 MR. JEWELL: The trip ticket already has been  
4 modified to incorporate all these changes. Like I said, it  
5 occurred in May, and we had to have all this in place to be in  
6 line with those changes that occurred. The only thing left  
7 outlying right now is this part.

8 MR. BOSARGE: And when you're talking about time  
9 and temperature, just for a rough idea, what kind of time would  
10 those guys have for fishing, actual fishermen, in October say  
11 now under the new rules?

12 MR. JEWELL: Well, that particular matrix, that  
13 part of the matrix would come under the harvesting section,  
14 Title 22 Part 1, which is Scott Gordon is in charge of that.

15 But we have been in discussions about that. In  
16 October-- which the very earlier part of October can be warm.  
17 And so they would only have a handful of hours, four or five  
18 hours to harvest. Where traditionally, you know, they may have  
19 six, seven hours.

20 So it is going to limit the amount of time that  
21 they have to harvest depending on the ambient and water  
22 temperature.

23 MR. BOSARGE: But you don't see it going to  
24 anything like two hours?

25 MR. JEWELL: If we were going to have harvest in  
30

1 motion that we send this out for intent of proposed rules.

2 MR. BOSARGE: I'll second it.

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

6 And the definitions of things, maybe that's just  
7 a nit-picky point, but it just seems like the clearer we can  
8 make it the better. Maybe we should just say oysters, because  
9 that's all we have in this state. We have basically no clams.  
10 So maybe we could just say oysters so everybody knows what it's  
11 talking about.

12 MR. JEWELL: Sure. Now, that's under our  
13 discretion. The way that's defined is under the commission and  
14 DMR's discretion. So we can change that. That's not an issue.  
15 We'll go back and work with our attorneys and redo that. We  
16 can clarify that. That's easy.

17 DR. ASPER: Thank you.

18 MR. JEWELL: Next under our commission agenda  
19 items is sea turtle update by Mr. Erik Broussard.

20 4. Sea Turtle Update

21 MR. BROUSSARD: Good morning, commissioners. I  
22 have a sea turtle update prepared for you.

23 The majority of standings we're seeing are  
24 coming from one turtle, Kemp's Ridley.

25 Prior to 2010, we saw around 30 strandings per  
32

1 year. We had a dramatic increase 2010 at 307 dead strandings, 2 45 live strandings. Thirty-eight of those hooked by fishermen. 3 Four released in Mississippi, 23 released in Florida, six with 4 satellite tags.

5 In 2011, we had 266 dead strandings, 32 live 6 strandings, 23 hooked by fishermen. Fourteen were released 7 with PIT or flipper tags. Eleven were released with satellite 8 tags.

9 2012, this is trough the end of July, we had 145 10 dead strandings, 186 live strandings. A hundred eighty-two of 11 those were hooked by fishermen. Sixty-seven have been released 12 with PIT or flipper tags. And six were released with satellite 13 tags.

14 Sea turtle strandings for 2011-2012, this is 15 January through July. 2011 is in red. 2012 in blue.

16 Historically and now we start seeing our 17 strandings early spring being pretty consistent through the 18 summer and tapering off after July. You see the spike in March 19 and April, being consistent May, June, and July.

20 I have a breakdown for 2012. We have our dead 21 strandings in red, our live strandings in blue.

22 In March and April, 100 dead strandings. May, 23 June, and July, still quite a bit of strandings but more on the 24 live strandings.

25 We have sea turtle strandings prior to shrimp

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1 strandings.

2 We work really hard at educating the public 3 should they come in contact with the sea turtles. These are 4 some of the activities. The Endangered Species Act, Section 6 5 agreement with NOAA. We sent mailouts to all recreation and 6 commercial license holders to educate them on what to do and 7 who to contact should they come in with sea turtles.

8 Thirty aerial surveys. Three hundred eighty 9 TEDs to Mississippi shrimpers. Angle meters to make sure that 10 their TEDs are hung in the nets correctly. TED training 11 workshops. Observer trips where observers have gone out with 12 the shrimpers.

13 We've also worked with IMMS on putting some 14 signs on fishing piers. Here's an example of that. These 15 signs are located on fishing piers throughout the Mississippi 16 Sound, and it's basically saying what to do should you come in 17 contact, who to contact. Here's a few pictures.

18 This is an example of our aerial flights. You 19 see the flight path is the white line through the Mississippi 20 Sound and adjacent waters.

21 And the fishing efforts that were observed with 22 the different symbols, trawling, menhaden, crabbing, oysters.

23 We've had some loggerhead nests got some 24 attention here lately. We've had one Graveline. We've had 25 three at Pass Christian. We've had three at Cat Island, one on

35

1 season opening and after the opening. We had 124 dead 2 strandings prior to shrimp season opening May 29. We had 45 3 live strandings prior. After the season opened, we saw 21 dead 4 strandings and 135 live strandings.

5 With shrimping effort on opening day 2001 to 6 2012, gradual decline, 2010 being our lowest effort opening at 7 67.

8 This is a story of Rambo, one of many success 9 stories. IMMS has done a great job of rehabilitating and 10 releasing some of these live stranded turtles. Rambo was 11 caught at a pier in Waveland, rehabilitated, and released 12 behind Ship Island. You can see the star. Rambo beelined 13 straight back to Waveland where he was castered. Again, this 14 was one of many success stories. You can follow Rambo and 15 several of these turtles at IMMS's website, some of those 16 turtles we saw earlier that had the satellite tracking devices 17 put on them.

18 So what are causing these strandings? It could 19 be many possibilities. Fishing activities, biotoxins, possible 20 impacts from DEEP WATER HORIZON. There are some sea turtle 21 studies going on. Natural resource damage assessment response 22 to DEEP WATER HORIZON, or NRDA, the Gulf States Marine 23 Fisheries Commission stock assessment, to determine if 24 protection of the nesting beaches or the uses of TED have 25 increased turtle population possibly resulting in more

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1 Deer Island. The Deer Island nest did hatch last week, and 2 some of the hatchlings were found around Biloxi small craft 3 harbor. They were collected and released the next day behind 4 the barrier islands. And also over the weekend a Pass 5 Christian nest has had an emergency. You see the background 6 pictures of a nest and a sign trying to keep people from 7 disturbing the nest.

8 MR. BOSARGE: Rambo. Where was he caught 9 originally?

10 MR. BROUSSARD: A pier in Waveland.

11 MR. BOSARGE: So they took him out to Ship 12 Island, and he went straight back to Waveland.

13 MR. BROUSSARD: Straight back. And that's what 14 we've been seeing. Several turtles have been doing that.

15 MR. BOSARGE: And in your graph where you show 16 the number of released alive and hooked turtles, why did it 17 increase so much in 2012?

18 MR. BROUSSARD: We are looking at that. And 19 some of those studies, we're hoping to find out that 20 information.

21 MR. BOSARGE: Do you think maybe because some of 22 the literature you put up?

23 MR. BROUSSARD: Possibly.

24 MR. TAYLOR: Something you said that was pretty 25 interesting is that you're studying -- is the increase in

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1 population of sea turtles resulted in more strandings? In  
2 other words, when you have more out there, and y'all are  
3 looking at that, also; right?

4 MR. BROUSSARD: We're definitely looking at that  
5 as an option.

6 DR. ASPER: What do the Kemp's Ridley sea  
7 turtles, what do they actually eat, and why are they attracted  
8 to the bait fishermen are using?

9 MR. BROUSSARD: Well, they do eat shrimp, crabs.  
10 But they could be opportunistic feeders could be some of the  
11 reason on hook and line.

12 MR. BOSARGE: It's amazing it appears that the  
13 majority of those turtles are caught off the Waveland pier.

14 MR. BROUSSARD: That area has been pretty  
15 concentrated with live hookigs.

16 MR. BOSARGE: You know, in your opinion out of  
17 the percentage of the turtles that are hooked, how many are  
18 from Waveland, off that Waveland pier?

19 MR. BROUSSARD: Off that specific pier, it's  
20 usually just the general area, there are several piers, but the  
21 majority of the hook and line encounters are from the Waveland  
22 area.

23 MR. BOSARGE: And out of the dead turtles, were  
24 there very many that had hooks in them, the ones that were  
25 dead?

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1 and fishermen, and I don't know if this is the last thing that  
2 will come out, but this is one thing we put together for your  
3 consideration. And if you wanted to take something out to  
4 notice of intent, you are going to have to change this update  
5 to an action item, but that's up to y'all.

6 So this is the way the section reads. From and  
7 after February 1, 2013, the annual TAC for commercial landings  
8 of spotted seatrout set at 50,000 pounds per season. 2013  
9 commercial season for landing spotted seatrout shall commence  
10 on February 13 and end September 30, 2013. Thereafter, the TAC  
11 shall commence on February 1 and end on September 30 for each  
12 subsequent season. Commercial TAC for the fishing season will  
13 be divided into four month periods as follows. From February  
14 to May 31 will be the first four month period. And then from  
15 June through September will be the second four month period.  
16 In the event that they don't meet the 25,000 pounds in the  
17 first period, then that will be or over-catch or catch more  
18 than 25,000 it will be added or subtracted from the second  
19 season. And in the event that the 50,000 pound quota is not  
20 met by September 13, the season would remain open until the  
21 quota is met the 31st or remain open until the quota is met or  
22 December 31st of that season, whichever occurs first.

23 So I don't know if you have questions or  
24 answers.

25 MR. GOLLITT: Mr. Chairman, I'd like to make a

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1 MR. BROUSSARD: Some of them are. IMMS does  
2 take them and look at their digestive content, and there are  
3 hooks in some of them's mouth. But that's not always an  
4 indicator.

5 MR. BOSARGE: All right. Thank you.

6 DR. ASPER: Anything else? Okay. Thank you  
7 very much. That was very informative. And I'd like to get a  
8 copy of that just for reference. There's a lot of figures in  
9 that.

10 MR. BROUSSARD: Okay.

11 MR. JEWELL: Our next presentation is Mr. Buck  
12 Buchanan on spotted seatrout.

13 5. Spotted Seatrout Report.

14 MR. BUCHANAN: Good morning, commissioners. You  
15 had asked us to take a look at -- this has been up for a little  
16 while -- about the spotted seatrout, looking at quotas and ways  
17 to maybe extend the season, that kind of stuff. And we've been  
18 through several iterations.

19 And this is what has finally come out of it. I  
20 know y'all all got a copy or an e-mail of this. This would be  
21 an ordinance --

22 DR. ASPER: Could you hit the slide show button  
23 so we can see that better?

24 MR. BUCHANAN: So like I said, this has been  
25 through several iterations, and we have talked to the dealers

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1 motion that we take that last sentence out, remain open until  
2 December 31st. I have no problem with decreasing the quota but  
3 what I'd like to see us do is end the season September 30 for  
4 obvious reasons. For years now, recreational fishermen go down  
5 to the Chalmette area and bring a lot of fish back from  
6 Louisiana and sell to our dealers in Mississippi, which is  
7 circumventing the law in Louisiana and Mississippi.

8 In October, the fish start migrating up the  
9 river, the Biloxi River, Tchoutacabouffa, Harvest Creek, all of  
10 those area, Graveline Bayou and stuff. These commercial  
11 fishermen are going up in there and catching these fish and  
12 bringing them back out and selling them. It's against the law.

13 So I think it would help law enforcement to  
14 achieve their goal if it's laid down September 30.

15 I'd like to make a motion to take this out for  
16 hearing.

17 MR. TAYLOR: Second.

18 MR. GOLLITT: We move it to an action item and  
19 then take it out for hearing.

20 MR. TAYLOR: Mr. Gollott, would there be a  
21 reason that we might want to put an income qualifier on this  
22 which would effectively eliminate recreational fishermen  
23 selling the catch?

24 MR. GOLLITT: Maybe the legislators can address  
25 that.

40

1 MR. BUCHANAN: That's already regulation. It's  
2 illegal for a recreational fisherman to sell their catch.

3 MR. BOSARGE: But still, we're the only state  
4 left that you can go buy this commercial license, and you have  
5 to qualify in Florida, you have to qualify in Louisiana, you  
6 can't buy it in Texas, Alabama.

7 So I'm with Jimmy Taylor in that I feel we need  
8 to put some type of a qualifier so that the right people will  
9 hold this license.

10 MR. TAYLOR: You truly earn your living from  
11 commercial fishing.

12 MR. BUCHANAN: This is -- you know, most of  
13 these fishermen that are doing this, I mean, they are not going  
14 to earn 50 percent of their income.

15 MR. TAYLOR: No.

16 MR. BUCHANAN: That's right. They're all  
17 part-timers.

18 MR. BOSARGE: Look at the State of Florida. The  
19 State of Florida has a \$5,000 -- in other words, you have to  
20 prove -- I believe it's \$5,000 of commercial seafood sales. It  
21 doesn't matter what state it comes from as long as you can  
22 prove \$5,000.

23 To me, that's a qualifier that would work for  
24 our folks here in the State of Mississippi.

25 MR. BUCHANAN: So you're saying you want to do

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1 in doing that, then let's go ahead and take that on as a  
2 separate issue.

3 But right now, we need to decide about the --  
4 MR. TAYLOR: I second Commissioner Gollott's  
5 motion.

6 DR. ASPER: So the motion is in two parts. One  
7 is that we accept the wording proposed by the staff, except  
8 that we eliminate the last sentence so that the second half of  
9 the quota would close on September 30 regardless of whether the  
10 quota has been reached or not. And the other part is that we  
11 have to make a motion to move this to an action item and take  
12 it to public comment.

13 Sandy, can we do that if it wasn't on the agenda  
14 a such?

15 MS. CHESNUT: We can.

16 DR. ASPER: Okay.

17 MR. TAYLOR: Second.

18 DR. ASPER: The motion has been seconded. Is  
19 there need for further comment? Okay. Those in favor say aye.  
20 Opposed? Carries unanimously.

21 Just for efficiency, Buck, you might also change  
22 the wording in that second sentence. You could say simply in  
23 2013 and thereafter the total allowable catch shall commence  
24 February. Eliminate that whole sentence and make it say the  
25 same thing but with a lot fewer words.

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1 this --

2 MR. TAYLOR: No, not in conjunction, I don't. I  
3 just want you to look at it.

4 MR. BOSARGE: Yeah, same here.

5 MR. TAYLOR: Look at it and come back with some  
6 suggestions, not really part of this. But I just think that  
7 it's very important to protect the guys that do this for a  
8 living, the commercial fishermen, not just speckled trout  
9 fishing.

10 MR. BUCHANAN: So not just for speckled trout,  
11 for everything.

12 MR. BOSARGE: Uh-huh.

13 MR. TAYLOR: No. What I'm saying is that a  
14 person that speckled trout fishes, if he oysters, if he  
15 shrimps, and makes his income a certain percentage of it from  
16 commercial fishing, not just speckled trout, you have to look  
17 at the qualifiers.

18 I'm not asking you to put a qualifier on this.  
19 I'm asking you to look at what we can do to protect those  
20 people and come back with suggestions, not a part of this  
21 thing.

22 DR. ASPER: Yeah, that is a separate issue. And  
23 we have considered this several times in the past, and it has  
24 never gone past the commission.

25 So I think if there's now a re-ignited interest

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1 And that just makes it clear that it's not  
2 beginning this year, it's beginning then and thereafter.

3 MR. BOSARGE: If you could come back to us at  
4 the next meeting with some alternatives for a qualifier for  
5 that commercial hook and line license.

6 MR. BUCHANAN: Yeah. We have presented this  
7 before. I mean, it is --

8 MR. BOSARGE: With the staff's recommendations  
9 for a qualifier.

10 MR. BUCHANAN: Okay.

11 DR. ASPER: Times change. And if the situation  
12 out there changes, and the economy changes, it's always good to  
13 revisit these things.

14 MR. BUCHANAN: Okay.

15 MR. JEWELL: Final presentation for marine  
16 fisheries is Mr. Erick Porche and our state records.

17 6. State Records

18 MR. PORCHE: Good morning. I have three records  
19 for your consideration today. Two of them conventional tackle,  
20 one of them fly fishing.

21 First is the conventional.

22 We have a new record for red grouper,  
23 Epinephelus morio. The old record was 14 pounds 8 ounces. It  
24 would be a new record of 20 pounds 1.28 ounces caught by Ronnie  
25 McMillan. And this is Mr. McMillan and his grouper.

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1 MR. DRUMMOND: That fish came out of state  
2 waters?  
3 MR. PORCHE: Yes, sir, it has to be landed in  
4 state.  
5 MR. DRUMMOND: I don't ever see Epinephelus  
6 coming out of any waters other than offshore. All it's got to  
7 do is be landed --  
8 MR. PORCHE: It has to be landed, yes, sir.  
9 The second is the lemon shark, Negaprion  
10 brevirostris. It will be a new record of 83 pounds 2 ounces  
11 caught by John Mayne II. That was caught at our Fourth of July  
12 fishing rodeo.  
13 Then we have one for fly fishing tackle for Gulf  
14 kingfish, Menticirrhus littoralis. It will also be a new  
15 record of 1 pound 4.7 ounces caught by Don Abrams. Kingfish,  
16 and Mr. Abrams and the kingfish.  
17 Any questions?  
18 DR. ASPER: Is there a motion to approve these  
19 records?  
20 MR. DRUMMOND: Mr. Chairman, I make a motion we  
21 approve the records.  
22 DR. ASPER: Is there a second?  
23 MR. GOLLOTT: So moved.  
24 DR. ASPER: Those in favor say aye. Carries  
25 unanimously.

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1 This is the project location. It's located in  
2 the western portion of the coast near the Louisiana line.  
3 This is a closer view. You can see Pearlington  
4 here and Highway 90.  
5 They are requesting to dredge 15,000 cubic  
6 yards. Beneficial use will be used if appropriate. And  
7 they're requesting a maintenance dredging agreement so the area  
8 can be dredged twice over the next five years for a total of  
9 not to exceed 30,000 cubic yards.  
10 This is a closer view of the canal. The  
11 dredging area is broke up into six different sections. What  
12 they're trying to do is dredge immediately adjacent to their  
13 docking areas where they're unloading products, such as coal,  
14 limestone, different stuff they're bringing in, and they're  
15 losing some as they're loading and unloading. And they just  
16 want to clear out their docking area.  
17 This is a picture of the site or one of the  
18 sites.  
19 The project will serve a higher public purpose  
20 by restoring safe navigational depths and creating safer  
21 conditions in the Port Bienville canal for recreational and  
22 industrial vessels.  
23 The proposed project is allowable within the  
24 industrial development use district.  
25 Similar projects have been approved by the

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1 MR. PORCHE: Thank you very much.  
2 DR. ASPER: Let's take a quick break, and we'll  
3 come back with coastal ecology.  
4 (Off the record.)  
5 DR. ASPER: Like to call the meeting back to  
6 order. Moving on to coastal ecology.  
7 H. Coastal Ecology  
8 MS. BRANTLEY: Good morning, commissioners, Dr.  
9 Walker. Jan sends his regrets. He is in Jackson at a special  
10 permit board meeting having an evidentiary hearing. So we all  
11 know that he would rather be here today than where he is.  
12 We have two items on the agenda. Jeremy  
13 Overstreet will be presenting the first permit application, and  
14 then I will be presenting Dr. Zimmerman's boathouse issue, the  
15 same one that we tabled last month. I'll be presenting that  
16 after Jeremy is through.  
17 3. Bureau of Wetlands Permitting  
18 a. Hancock County Development Commission  
19 MR. OVERSTREET: Good morning. My name is  
20 Jeremy Overstreet, and I'm presenting a non-action item which  
21 is a request for certificate of exclusion by the Hancock County  
22 Development Commission. It's located on the Port Bienville  
23 Industrial Canal in Pearlington, Mississippi. It's located in  
24 the industrial development use district. And the agent is  
25 Compton Engineering.

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1 commission and is not expected to set any precedent.  
2 The proposed dredging would take place in  
3 previously excavated manmade waterbottoms and not in coastal  
4 wetlands.  
5 The project should not have any adverse impacts  
6 other than the loss of benthic organisms.  
7 An increase in turbidity is expected during the  
8 dredging process. However, conditions shall not exceed DEQ's  
9 guidelines.  
10 Best management practices will reduce any  
11 adverse impacts.  
12 And no offsite alternatives were considered  
13 since the maintenance dredging project is the same -- is in the  
14 area that they've already dredged, and no new areas will be  
15 dredged.  
16 The site is located in an industrial area with  
17 other industrial facilities located adjacent to the site.  
18 And scenic qualities should not be impaired by  
19 the proposed project.  
20 Notification was published in the Sun Herald on  
21 August 6, 12, and 19, and no public comments were received.  
22 Department of Archives & History, Department of  
23 Environmental Quality, and Wildlife, Fisheries & Parks are  
24 reviewing the project. And Secretary of State have no  
25 objections.

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1 Based on departmental review and evaluation, it  
2 has been determined that the project is consistent with the  
3 Coastal Program and serves a higher public purpose by restoring  
4 navigational depths and providing access to and use of the  
5 waterway. Therefore, staff intends to issue the certificate of  
6 exclusion.

7 And I just want to mention that this is a  
8 non-action item. We just wanted to present it to you to let  
9 you know what we were up to.

10 If there's any questions... If not, I'm  
11 finished. Thank you.

12 DR. ASPER: Thank you.

13 b. Emmett Zimmerman

14 MS. BRANTLEY: Good morning. I will be  
15 presenting the next item which is a violation and request for  
16 after-the-fact permit by Emmett Zimmerman.

17 We saw this last month, so I don't plan to go  
18 through all the decision factors, but I do have them on slides  
19 at the end of this presentation if you would like to see any of  
20 those again.

21 The location is on Bayou Carre at One River  
22 Place in the Kiln. It's in a general use district, and the  
23 agent is Mickey Lagasse.

24 Here is the project location. This is Highway  
25 43, and the Jourdan River cuts right through here. And here's

1 above mean sea level. Now, that's different than what we use  
2 which is mean high tide. There's maybe a foot or so difference  
3 there.

4 He also pointed me to 44 CFR 60.3(c) which is  
5 the FEMA guidelines for structures. And they require that  
6 enclosed structures must be built above the base flood level,  
7 which in this case is the 17 feet, or they must be designed in  
8 such a way as to equalize hydrostatic flood forces on exterior  
9 walls by allowing for the entry and exit of flood waters.

10 So those can be like breakaway walls, things  
11 like that could be built below that base flood level. But if  
12 it's not breakaways walls and it doesn't have -- they actually  
13 have guidelines for how many square inches need to be open for  
14 the penetration of water based on how many square feet the  
15 structure is. So if the homeowner doesn't want to build it  
16 that way so that the water can go in and out, then they have to  
17 build it above that base flood level.

18 So ultimately there's no absolute requirement to  
19 build above the base flood level, it's just the way you have to  
20 build.

21 So Dr. Zimmerman's argument last month was that  
22 the Hancock County building department flood regulations  
23 required the current height of the structure. However, what we  
24 found is the current height was only required because he  
25 planned to enclose a level in such a way that it would not

1 a little closer up. This is the oxbow that comes off of the  
2 Jourdan River. This is Highway 43. And Dr. Zimmerman's  
3 property is all of this right here, and the boathouse is  
4 approximately right here.

5 Again, it's a boathouse 57 feet by 35 feet with  
6 an enclosed storage level above where the boats are stored.  
7 It's 31 feet above mean high tide in height.

8 This is a diagram of the layout. As can you  
9 see, the yellow hatched is where the boathouse is. There's a  
10 boat launch. The blue line represents a permitted bulkhead, and  
11 the red line represents an area where he plans to do some  
12 control of erosion by living shoreline installation.

13 This is a picture of the boathouse as it stands  
14 now. Right there underneath that, that's where the boats are  
15 located. It is open on that level. And then there's an  
16 enclosed structure above that with a pitched roof.

17 In July, the project was presented to the  
18 commission and was tabled for the staff to investigate any  
19 requirements that MEMA, FEMA, and the Hancock County Building &  
20 Zoning department might have in regard to the height of the  
21 structure and to come up with more detailed findings in regard  
22 to the project.

23 We did speak to someone with the Hancock County  
24 zoning department. He said that the structure is located in  
25 Flood Zone AE-16, which gives a base flood level of 17 feet

1 allow for the entry and exit of floodwaters.

2 Therefore, his justification for the violation  
3 of the height restriction in the permit was the fact that he  
4 wanted to violate the condition that required that boathouses  
5 be open-sided.

6 We have traditionally made certain allowances on  
7 boathouses. We have allowed up to 72 cubic feet of enclosed  
8 storage space. That's usually in the form of a locker or a  
9 closet that can be locked up. People do have things on their  
10 boathouse that they like to make secure. So we've allowed  
11 that. And we've also allowed walls up to two feet in total  
12 height. Those could be hanging down from the top of the  
13 boathouse or coming up from the bottom, or you could do a  
14 combination, a foot on each. But usually people put them at  
15 the top. It provides a little more protection from weather,  
16 wind, and rain, sunlight, that kind of thing.

17 And he also had the alternative of constructing  
18 the enclosed storage structure over land rather than over  
19 coastal wetlands.

20 So our conclusions are that there is no absolute  
21 requirement that Dr. Zimmerman's boathouse be constructed at  
22 its current height. There are alternatives that would meet Dr.  
23 Zimmerman's purposes which is providing the secure storage area  
24 while minimizing impacts to coastal wetlands, and it would  
25 allow the protection -- allowing the project as constructed

1 would set a precedent for the height of the structures and for  
2 allowing enclosed structures over coastal wetlands.

3           So our recommendation hasn't changed. Based on  
4 our findings, we determined that the project does not serve a  
5 higher public purpose, and it would set a precedent, both for  
6 the height of the structure, for allowing an enclosed structure  
7 over water, and there are alternatives. Therefore, staff  
8 recommends that the commission deny the applicant's request for  
9 after-the-fact authorization, require that the structure be  
10 brought into compliance with the permit that was issued on  
11 December 22, 2011, which contains the following conditions: an  
12 open-sided covered boathouse 57 feet in length, 35 feet in  
13 width, and no more than 25 feet above mean high tide in height  
14 shall be constructed over open water. If the structure has not  
15 been brought into compliance within 90 days, we recommend that  
16 the matter be forwarded to the Attorney General's office for  
17 further enforcement action.

18           Dr. Zimmerman and his agent Mickey Lagasse are  
19 both here if you have any questions for them. If you have any  
20 questions for me, I'll be happy to answer those. And Mickey  
21 has actually brought a presentation that he wants to give to  
22 the commissioners.

23           MR. LAGASSE: Good morning.

24           DR. ASPER: State your name, please.

25           MR. LAGASSE: Mickey Lagasse. I'm an agent for

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1 no matter how it's constructed, is costly, and it actually  
2 costs the taxpayers because your flood regulations and your  
3 flood policies are all through the NFIP.

4           Second of all, when we put out the permit for  
5 this, when we requested this in November, we submitted an  
6 application. That application -- and I'm sorry you can't read  
7 it, I tried to do my best with the Power Point -- but this  
8 application basically shows what Ms. Brantley described. We  
9 did have a 25 foot height. And that is standard. And we admit  
10 there is a problem there. We admit we caused that problem.

11           The builder went off of mean sea level, as  
12 opposed to mean high tide, as Ms. Brantley said. And there's  
13 nothing we can do to abate that.

14           Second of all, and this is where my point sort  
15 of digs in, if you notice, there was also a boat launch that  
16 was supposed to be 8 by 16. The 8 by 16 boat launch before it  
17 was submitted to this commission in December, we also on the  
18 application said that we would like to construct a 57 by 35  
19 foot boathouse and storage room.

20           As Ms. Brantley stated, the storage room is  
21 above the boathouse as she showed you the picture. This is  
22 what was submitted with the original application, along with  
23 this picture here that it clearly shows an enclosure. It  
24 clearly shows that there's windows and other things. It shows  
25 all the boat launch and everything is to scale.

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1 Dr. Emmett Zimmerman.

2           First of all, I wasn't planning to get into  
3 this, but since Ms. Brantley brought it up, I need to clarify  
4 some things.

5           First of all, I am a certified floodplain  
6 manager. I have been for the last ten years which means that I  
7 am certified in flood management procedures through FEMA, as  
8 well as nationally certified.

9           Some of the things that she's saying is correct  
10 if put in the correct content.

11           First of all -- and I'm going to just go into  
12 this. This is the boathouse as it stands today. As Ms.  
13 Brantley said, there are some issues dealing if you decide to  
14 make this thing lower.

15           Now, if you read in the floodplain regulations,  
16 which I have a copy with me, it tells you that the idea behind  
17 the flood elevations are to minimize damage. That's why they  
18 are elevated; that's why the new heights.

19           Breakaway walls are not required in this  
20 instance because it's in a riverine flood area. The most that  
21 he would need to do would be vents if he wanted to put it on  
22 the ground.

23           The problem is when you put vents, as you know  
24 in a riverine flood area, when you're flooded as we have been  
25 nine times since this time last year, the damage that's done,

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1           When we were issued the -- further along before  
2 this commission met, before it was brought to y'all, we found  
3 out that we were over the square footage allowed to be issued  
4 by the -- by Willa and the permitting group. So we had to come  
5 to the commission.

6           We came to the commission. But before that, we  
7 received one e-mail from Ms. Lynne Moore. Lynne stated in this  
8 e-mail that the boat launch would have to be 16 feet by 16 feet  
9 if that's what we wanted to build, that it had to be the same  
10 width and length -- excuse me one second. Sorry about that  
11 y'all. I woke up with some sinus issues this morning.

12           She stated that the boat launch had to be 16 by  
13 16 feet or whatever determination of width and depth had to be  
14 the same.

15           This was the only e-mail or correspondence we  
16 received from Ms. Moore during this whole production.

17           We had one site visit with Ms. Moore and two  
18 e-mails that she sent. Basically the first one was the one I  
19 just showed you. The second one was asking for the diagrams to  
20 be on 8 1/2 and 11 instead of 11 by 17 because we had sent her  
21 bigger drawings, to make sure that they were easier to read.  
22 Evidently, the 8 1/2 by 11 is what they have to send out to the  
23 other enforcement agencies to make sure we're in compliance.

24           This was again what was sent. The last project  
25 that we did on Dr. Zimmerman's property was this, where we met

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1 with Ms. Brantley and Lynne a number of occasions. We made a  
2 couple of site visits. And they are helping us walk through  
3 the living shoreline. It's not something I think that's ever  
4 been done. So what we agreed to do is we agreed to put in the  
5 hard bulkhead for where the river actually had the most energy.  
6 Then we used living shoreline so that it would be not as  
7 invasive.

8 Here is the permit we received. And I'm not  
9 boring you, but I'm trying to show you that our intent was not  
10 to do anything incorrectly.

11 During the next project I met with Ms. Moore on  
12 was for a gentleman in Hancock County. He wanted to build a  
13 boathouse and a bulkhead. I got two visits and 17 e-mails that  
14 we went through. This was the project. This was the drawing.  
15 And you can see, it's a nice layout, but it's nothing like what  
16 we submitted for Dr. Zimmerman.

17 After this, here's the application we submitted.  
18 Three site visits and 35 e-mails, Ms. Moore and I went back and  
19 forth.

20 Guys, we didn't have a problem here. She was  
21 trying to make sure we were clarified, within the space  
22 requirements, not doing anything incorrect. And we appreciate  
23 the thoroughness.

24 But what I'm trying to get at is, for Dr.  
25 Zimmerman's project where we have a problem, we received one

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1 e-mail that talked about a boat launch, and we receive -- and  
2 drawings that need to be a different size, and we got one site  
3 visit.

4 We did not know we were in any kind of violation  
5 until somebody went by, saw it, called. We met with the  
6 attorneys. We met with different members of the staff and at  
7 that day realized that we were above the height requirements.

8 At this time, we still didn't know we had a  
9 problem with the enclosure.

10 Again, this is the one e-mail.

11 This just basically shows that after we  
12 submitted the application in November, we came to y'all in  
13 December, we had multiple meetings. We made sure that -- Dr.  
14 Zimmerman is trying to take his house that he's building and  
15 make the boathouse match. And so what we're trying to do is --  
16 that's why it's stucco'd. That's why the roof is what it is.

17 We had to meet certain requirements for the  
18 wind, so there had to be a certain slope.

19 But everything that we've done is to make it  
20 match the house.

21 Now, as you move forward, this shows the county  
22 permit.

23 This shows the problems that the county had with  
24 the plans, basically that the windows had to be a little bit  
25 bigger, that they had to meet the flood regulations. The

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1 county in no way said that this had to have breakaway walls,  
2 said in no way that it had to be vented, which is because we  
3 elevated it. We elevated it on all the drawings. None of that  
4 had ever come up.

5 This is a picture of the boathouse today from  
6 the water.

7 Again, you'll notice how close the top is --  
8 and, again, y'all, I'm sorry about my pictures -- but how close  
9 the top is and how close the props are to the water. If we  
10 were to lower it, we wouldn't be able to do too, too much to  
11 keep the boat out of the water.

12 I just have a couple other little things that  
13 I'd like to bring up real quick, and I'll try to make it as  
14 brief as I possibly can.

15 Again, we admit to the height violation as a  
16 problem. The contractor should have checked it. The owner  
17 should have checked it. I should have checked it.

18 If we went to where the outside of those stairs  
19 are on that picture, we could build a building 50 feet tall  
20 according to the Hancock County zoning regulations.

21 The book that I have has no regulations based on  
22 height or on enclosure. It's done, so I've been explained,  
23 that it, one, it mitigates, and, two, it looks better along the  
24 water's edge.

25 We received no complaints at the public hearing

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1 for what we were building. I don't think there were any  
2 comments.

3 If we were to take this building, again, we  
4 could have moved it to the outside of the stairs and built it  
5 50 feet tall. And according to what Ms. Willa brought up about  
6 the flood elevations, we could enclose the whole thing. We, in  
7 essence, could put a five story shed or building right there on  
8 the side of this. That's not what our intent is.

9 Our intent is to have a storage area that  
10 doesn't get flooded that allows for secure things to be put in  
11 there, such as the jet ski gas and life jackets and whatever,  
12 those little canoes and all that kind of thing, the dock  
13 tie-up.

14 Dr. Zimmerman never started out to be a problem.  
15 We didn't realize again basing off of mean sea level, which is  
16 what the surveyor put the benchmark in for, that it was going  
17 to cause a problem with the height. Nobody ever did that.

18 Again, no written regulations. I've been  
19 through the book a hundred times trying to find something that  
20 would allow it.

21 So we submitted an application. We received one  
22 e-mail about the boat launch. We submitted to this board. We  
23 get passed through this board. We start construction. We get  
24 it constructed basically. We get it stucco'd. We get the roof  
25 put on it. And then we find out we're in violation. And I

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1 believe that the first inclination of violation was the  
2 enclosure, not so much the height. We didn't know the height  
3 was high, neither did DMR staff, until we went out there and  
4 measured it from the actual peak.

5 Dr. Zimmerman has spent close to \$20,000 on  
6 this building on the top part of it alone and without the  
7 hoist. But everything from there up.

8 Again, no objection. The people in the area,  
9 people across from it, nobody seems to have a problem with it.

10 The Doc also has a unique piece of property.  
11 And what I mean by that is, Dr. Zimmerman actually owns this  
12 piece of property and this piece of property and a small strip  
13 along Highway 603. So although he doesn't own the  
14 waterbottoms, he owns all the land all the way around it.

15 I think we're dealing with a very unique  
16 situation.

17 I don't believe we're setting a precedent  
18 because I think that mistakes were made on both sides.

19 Again, I don't think either one of them were  
20 intentional, but I feel like we did our due diligence, other  
21 than the height, in going through all the regulations that were  
22 required, including the meetings here and the discussion with  
23 the staff.

24 And guys, ladies, that's about all I have, you  
25 know.

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1 One of them called me and knew I had a son and  
2 daughter-in-law who practice with me, Zimmerman Family  
3 Dentistry, Dr. Jeff and Dr. Jessica, my son and  
4 daughter-in-law. They practice with me.

5 He thought since we lived here on the Jourdan  
6 River, we all live on the Jourdan, that it would be practical  
7 to have a practice here.

8 We went and looked at it and because all the  
9 dentists had left, I thought it was a good motion to buy this  
10 practice. So seven years I bought the practice. And it wasn't  
11 easy because I had to go before a commission like this. I had  
12 to go before the Mississippi State Board of Commission for a  
13 dental license.

14 After 37 years experience, I then have to go  
15 through clinical exams if I wanted my credentials. And I had  
16 to go through a position like this. And the board was very  
17 unique. Before they gave me a license, one of the board  
18 members said, what would it take to give up your Louisiana  
19 license and come practice in Pass Christian. You haven't given  
20 me a license yet, and you're asking me to surrender my  
21 Louisiana license.

22 In any case, we did come here, and I'm working  
23 two days in Pass Christian and two days in Metairie. My son  
24 and daughter-in-law alternate with me. So we're servicing a  
25 large area. We service from Diamondhead to Gulfport. We're

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1 Dr. Zimmerman would like to speak for a second  
2 if that's okay with y'all. And I'll be available for any  
3 questions unless you have something right now.

4 DR. ZIMMERMAN: Thank you, Mickey. Again, my  
5 name is Emmett Zimmerman. I'm a practicing dentist in Pass  
6 Christian and in Metairie, Louisiana.

7 Now, everybody is worried about me speaking  
8 today. Mickey didn't want me to speak, my wife, afraid I'd say  
9 something I shouldn't say.

10 I'm speaking to you as Emmett Zimmerman from the  
11 heart. If I say something wrong, I apologize.

12 Mickey and Willa have described the project to  
13 you.

14 I just want a couple of minutes to explain my  
15 part in all of this.

16 I'm not really a bad guy. I know dentists have  
17 a bad rep for hurting people, but that's not what we're here  
18 for.

19 I'm a very caring and concerned professional,  
20 been practicing 37 years in Metairie and here.

21 And I just started practicing here since  
22 Katrina.

23 As you know, as you're aware of, after Katrina,  
24 there were five practicing dentists in Pass Christian. All  
25 five got washed out. None of them returned. None of them.

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1 the only dental office doing that.

2 So we provide a great service for Harrison and  
3 Hancock County.

4 In any case, 1981 I bought my property on the  
5 Jourdan River. We bought a camp in Jourdan River Shores. And  
6 since '81, I have flooded 15, 20 times. We have cleaned up so  
7 many times after every storm, it really was a problem.

8 So when I bought this acreage ten years ago, we  
9 bought 40 acres on the Jourdan, with the hopes that all of us  
10 would live there. And my sons and my grandkids, all of us are  
11 going to live on the Jourdan River.

12 Katrina came, took away our camp on the Jourdan  
13 River. We had 25 feet of water. It was not rebuildable. It  
14 had moved off the pilings. We had to demolish it.

15 Katrina took the roof off of my dental office in  
16 Metairie. I had no office for two years.

17 I have since opened another office. So it was  
18 really tough. We lost our office, our home, and all of our  
19 possessions with Katrina. But we didn't lose life. We lost  
20 material things.

21 But we did survive. And we have scars like we  
22 all do.

23 We bought a double-wide on 603, and currently  
24 that's where I'm living.

25 I told my wife we would be in the double-wide

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1 for a year. It's seven years, and we're still living in a  
2 double-wide. I need to get on with my life with this property,  
3 I really do.

4 I thought I did it right. I hired a reputable  
5 firm, Compton Engineering, who did my drawings for me for the  
6 boathouse and storage room. We applied for all the permits. I  
7 hired Mickey to handle everything for me because it was better  
8 for me to be practicing dentistry and not doing all of this.

9 As he said, one modification came back off the  
10 boat launch. We agreed to that. We went ahead and did it. We  
11 got the permit. It was signed, sealed, delivered to us. We  
12 got the permit. I started building.

13 The only correction I have on Mickey, it's not  
14 twenty thousand. Gentlemen, I have over fifty thousand  
15 invested here.

16 I take full responsibility for the project. I'm  
17 the owner. I apologize that we made the height problem. My  
18 contractor I think measured off the land, not the water. It's  
19 an honest mistake.

20 Again, that enclosed wall, we submitted that to  
21 the commission -- Willa. It was approved, signed. So the  
22 height issue I do take full responsibility for.

23 Nobody builds a boathouse to this extent like I  
24 did. We have a beautiful Mediterranean home planned, very nice  
25 home, that we hope to live the rest of our lives in.

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1 the time. It has us consumed. I spent six months of my life  
2 trying to resolve this boathouse issue.

3 I really need to get going with my life, my  
4 house. If you feel I have to be punished or reprimanded, I'd  
5 rather you slap -- give me a fine, do something like that.  
6 Please don't ask me to tear down such a beautiful structure we  
7 spent so much in planning and designing. It was not  
8 intentional. It was purely a mistake. We all make mistakes.  
9 Life isn't perfect.

10 But I'm asking you please find in your hearts  
11 that you can give us some consideration.

12 Gentlemen, I thank you for this time, and I  
13 thank you.

14 DR. ASPER: Gentlemen, questions?

15 MR. GOLLOTT: Mr. Chairman, question.

16 Willa, is there any way we can do an  
17 after-the-fact on this thing and get around the height? I  
18 disagree with the height. I think everybody knows that from  
19 the beginning.

20 Open-sided. How can they keep this thing in  
21 place and work to get the open sides?

22 MS. BRANTLEY: Well, at this point, it's in the  
23 commission's hands. You can make a decision to make him bring  
24 it completely into compliance with the permit. You could allow  
25 him to keep the height at its current level, but he has to take

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1 I plan on selling my Metairie practice and  
2 coming here full time. I'm in negotiations now selling the  
3 Louisiana practice, so I will be practicing full time in Pass  
4 Christian.

5 But we did an extensive job on this boathouse.  
6 We really did. And storage room. We tried to make it nice so  
7 it would match the house. I didn't anticipate this kind of  
8 confrontation, I really didn't. I didn't want to -- I'm not a  
9 troublemaker. We did not want this kind of problem. But we  
10 are imperfect. We make mistakes.

11 I think there's a lot of mistakes that were made  
12 on both sides.

13 I am not asking you to -- no -- I'm pleading  
14 with you to please find some way that we can make this work. I  
15 would not have done stucco, architectural stuff, shingles, the  
16 trusses. We went through a lot of effort to make this very  
17 nice on the Jourdan River. We have a lot of small boaters on  
18 weekends come by and talk about how nice it is.

19 This is a mistake on our part. It's not hurting  
20 anyone. It's not hurting none around me. It's tearing me  
21 apart.

22 If I have to tear down this boathouse, you will  
23 destroy me. You will destroy me physically, financially,  
24 emotionally. I mean, we have lost sleep. My whole practice,  
25 all my patients know the word DMR because I talk about this all

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1 off the sides. You could make him take off a certain  
2 percentage of the sides if you wanted to. I mean, all those  
3 things are kind of in play.

4 And it's really up to the commission at this  
5 point to make that decision.

6 And they're kind of separate issues, so just for  
7 me being able to keep up with the recommendation and the motion  
8 that ends up getting made, if you could kind of take one of  
9 those at a time, that would help me in taking my notes.

10 And he mentioned a fine. I did want to let you  
11 know fine is an option. I don't have the total amount that you  
12 would be able to issue. But you never come close to the  
13 maximum amount. It's \$500 per day for the duration of the  
14 violation. I doubt that you would want to issue a fine that  
15 was close to the maximum anyway.

16 But if you want me to, I can figure that out.

17 MR. TAYLOR: I have a question for you. You  
18 showed the slide up here that in his application it had the  
19 enclosed structure on the application. And was the permit  
20 modified to exclude that -- do you know? -- when the permit was  
21 issued?

22 MS. BRANTLEY: When the permit was issued, it  
23 was stated clearly in the permit that it had to be an  
24 open-sided structure.

25 Like I said last time, I expect the permitters

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1 to call the person and say, hey, this is what your application  
2 said, but we don't authorize that, so when you get your permit  
3 it's going to say something different. That didn't take place.

4 The permit itself, which was signed and accepted  
5 by their agent, clearly stated that it had to be open-sided,  
6 and it stated the height.

7 DR. ASPER: Willa, just for perspective, one of  
8 the documents in this package is from December of last year  
9 when there was a fine issued and a permit issued.

10 Could you just review what that fine was for,  
11 what the violation was, at that point?

12 MS. BRANTLEY: The violation at that point I  
13 believe was we were bringing the boathouse to commission to get  
14 it approved because of the size. The square footage was above  
15 the limit that we write GPs, general permits, or waivers for.  
16 So it had to come to the commission to get approved.

17 And I believe it was the morning of the  
18 commission meeting, maybe the afternoon before, we found out  
19 that they had already started construction of the boathouse. I  
20 believe that's what the fine was for was that they started  
21 construction of the boathouse without the permit.

22 DR. ASPER: So at that time we didn't know how  
23 high it would be and we didn't know it would be enclosed?

24 MS. BRANTLEY: No, sir. The only thing that was  
25 in place at that time, they had driven most of the pilings for

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1 or 75 percent or 25 percent, you know, that's an option.

2 And then if you're doing it that way, it would  
3 give Dr. Zimmerman kind of a design option. He could choose  
4 where to leave that percentage.

5 MR. GOLLOTT: Let's get the height variance out  
6 of the way. I'd like to make a motion that we issue him a  
7 after-the-fact permit for the height of this building.

8 MS. BRANTLEY: One thing I would request is if  
9 we are going to set a new precedent for height, we know how  
10 high Dr. Zimmerman's boathouse is above the base flood  
11 elevation, so we would ask that the precedent be set based on  
12 that height above the base flood elevation.

13 We also have adjacent property owner  
14 authorization from the one property -- in this case there's  
15 only one -- whose visual access to the coastal wetlands would  
16 be affected. We have that adjacent property owner  
17 authorization.

18 So we would ask that those two things be  
19 required in any future questions of how high a boathouse can be  
20 built.

21 MR. GOLLOTT: And Willa, there's only one  
22 objection that I think we would consider, and that's if he has  
23 a neighbor that's going to block his view of something.

24 MS. BRANTLEY: Right. And there's only one in  
25 this case, and they have given adjacent property owner

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1 the boathouse.

2 DR. ASPER: And just to add to Richard's  
3 comments, one option here would be to remove let's say the  
4 walls halfway down and replace it with screening.

5 MS. BRANTLEY: If that's what the commissioners  
6 chose to do.

7 DR. ASPER: Would that bring it into compliance,  
8 though?

9 MS. BRANTLEY: That would not bring it into  
10 compliance completely with the permit. It would set a new  
11 precedent possibly. We have made other people take off walls  
12 and replace it with screening.

13 I believe -- I don't know if all of y'all were  
14 here, I don't think all of you were on the commission at the  
15 time that Dr. Johannsen came. We made him remove walls, put in  
16 screening. He was allowed to keep -- to have some windows  
17 right at the corner that were little narrow windows, and they  
18 were between I believe some structural studs. He was allowed  
19 to keep those. But for the most part, his walls were removed.

20 DR. ASPER: So to bring this into compliance,  
21 what percentage of the walls would have to be removed?

22 MS. BRANTLEY: Basically everything but that two  
23 foot overhang that we said we would allow.

24 Like I said, the commission can pick the  
25 percentage. If you want to say at least 50 percent of it open

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1 authorization.

2 So we just ask future cases that we be allowed  
3 to ask for that adjacent property owner authorization, anybody  
4 whose line of sight access to the coastal wetland.

5 That's what we're supposed to protect, based on  
6 the Coastal Program, is other people's visual access to the  
7 coastal wetlands. So if we can get them to sign adjacent  
8 property owner authorization in future cases -- we've already  
9 got it in this one -- that would be another thing that would  
10 help to not set too much of a precedent here.

11 Sorry. He's reminding me that I didn't say the  
12 amount.

13 This is 14 feet above the base flood elevation,  
14 so that's what the precedent at this point would be set as.

15 MR. GOLLOTT: Since these folks had a 32 foot  
16 tidal surge down in that area, I don't have a problem with them  
17 trying to go higher to protect their property.

18 MS. BRANTLEY: Right. This would just be a way  
19 to keep it from going to any height. You know, we've had the  
20 25 foot feet above mean high tide for a long time. I know that  
21 hasn't been popular the last few times we've come before you,  
22 and that's fine. But this would just give us a new thing that  
23 it's set on, it's based on.

24 Now it would be based on how far above the base  
25 flood level they can go. And that varies from place to place.

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1 So he's dealing with 17 feet. Somebody else may be dealing  
2 with 20 feet. They would still have that same 14 feet above  
3 the base flood elevation to work with.

4 MR. GOLLOTT: I'd like to incorporate Willa's  
5 recommendation in my motion.

6 MR. TAYLOR: I have a question for legal. Will  
7 this affect any decisions we've already made?

8 MS. CHESNUT: Well, I mean, they certainly could  
9 come back in and ask that they be considered as well for the  
10 new precedent. Those decisions have already been made, though,  
11 and the decisions have been issued.

12 They can argue for anything, but I don't know  
13 how it would work out in the courts.

14 MR. DRUMMOND: I have a question, Willa.  
15 Regressing a little bit, there was some mention of both sides  
16 having fault in this matter.

17 What was DMR's faults?

18 MS. BRANTLEY: Oh, just the fact that the  
19 original application did show an enclosed structure in one of  
20 the diagrams that was presented. And one of the diagrams that  
21 didn't have all of the height dimensions on it but it could  
22 have been interpreted that there was a possibility that it  
23 would go above it the 25 feet. And those things weren't  
24 apparently communicated to the applicant or the agent, that  
25 those were going to be a problem, and that that wouldn't be

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1 DR. ASPER: How much does it vary if you're  
2 further? How high is it? Conceivably, if we adopt this, how  
3 high could a structure be?

4 MS. BRANTLEY: I don't know. I think the  
5 highest I've heard is around 22.

6 MR. TAYLOR: Thirty-four feet.

7 MS. BRANTLEY: That's just what I've heard.

8 MR. TAYLOR: You drive down the beach in Biloxi  
9 and look at McElroy's and Sharkhead's, they're 34 feet above  
10 sea level.

11 MS. BRANTLEY: But the total height of a  
12 structure can be 50 feet. Like Mickey said, if you bring it up  
13 on land, the total height of the structure, I was told, could  
14 be 50 feet.

15 Now, what the base flood level is are different.  
16 That's what I was -- was not the total height, but the base  
17 flood level, you know, can go into the twenties.

18 MR. TAYLOR: It depends on what flood zone  
19 you're in.

20 MS. BRANTLEY: It depends on the flood zone.

21 MR. TAYLOR: If it's in a V zone, you're going  
22 to look like you're at Mars.

23 What we're dealing with now is just the height  
24 issue; right? Correct? The motion?

25 And I want to make a comment. Dr. Zimmerman, I

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1 incorporated into the permit.

2 So they were incorporated into the permit, the  
3 applicant just wasn't told, hey, these two things in your  
4 permit application don't really fit our guidelines, so they're  
5 not going to be in your permit. That's the mistake if there  
6 was one.

7 DR. ASPER: So just to refresh what this motion  
8 is: The motion is that an after-the-fact permit is going to be  
9 issued, but with the understanding that the precedent -- this  
10 is being allowed because it meets the requirement that adjacent  
11 property owner authorization has been obtained and the height  
12 will not exceed 14 feet above flood elevation.

13 Is that something like the wording we're going  
14 to have in there?

15 MS. BRANTLEY: Yes, base flood level.

16 DR. ASPER: Is base flood level -- his structure  
17 is 31 feet above mean high tide, and our old -- our existing  
18 current requirement is only 25 feet. So we're basically  
19 extending six feet higher than what we normally allow.

20 But the real issue is the base flood level.

21 MS. BRANTLEY: Right.

22 So now instead of just basing it on mean high  
23 tide and going 25 feet above that, it could be variable from  
24 place to place, the height that we allow, based on what the  
25 base flood level is at that point.

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1 don't think any commissioner thinks -- I mean, I don't or  
2 anybody, that y'all really tried to pull the wool over  
3 anybody's eyes. We deal with these things -- have been dealing  
4 with them for eight years. And I don't believe there's any  
5 question that you thought you were doing the right thing.

6 We have a responsibility, though, to treat  
7 everybody the same. And sometimes it's hard. It really is  
8 hard.

9 And once again, I mean, I don't think any of the  
10 commissioners think that y'all intentionally did anything wrong  
11 or wanted to do anything wrong. I think there were some  
12 mistakes made and how we deal with them is the problem.

13 MR. LAGASSE: If I could say this. I appreciate  
14 the time that y'all have given us. And I appreciate that a  
15 bunch. That means a lot because I deal with Willa and the  
16 permitting team on a lot of times, and we've been probably  
17 dealing with each other two or three years on different things  
18 and have never had this kind of thing -- this has never  
19 happened, not to my knowledge.

20 Out of all the agencies that I deal with, DMR  
21 has probably been the most consistent and easy to work with.

22 Had it been in writing, had I seen it about the  
23 enclosure -- when we submitted it, if I would have got  
24 something that says -- we would have never went forth with the  
25 county permits and the other things had I had any inclination.

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1 I certainly don't want to jeopardize the working  
2 relationship that I have with this board, and, you know, with  
3 my job I come before y'all. And so it's important to me, and I  
4 appreciate that.

5 But again, had we had any inclination... The  
6 height I take responsibility because I should have checked it  
7 against the surveyor. That's, you know, they hired me as an  
8 agent; it's my fault, period. You can blame it on the  
9 contractor, you can blame it on the homeowner, but I should  
10 have checked it.

11 The enclosure, and I know y'all are on the  
12 motion, had we gotten any kind of inclination there was a  
13 problem, we'd have stopped.

14 So anyway, I'm sorry.

15 DR. ASPER: But the permit clearly says  
16 open-sided boathouse.

17 MR. LAGASSE: Yes, sir. But if you go back --

18 DR. ASPER: I know what the pictures -- but  
19 those are your pictures, they're not on the permit.

20 MR. LAGASSE: It's also written in there,  
21 though, that it was a boathouse with a storage room. And I  
22 think that's important to -- and on the application, we  
23 considered the boathouse where the boats are.

24 The storage room --

25 MR. GOLLOTT: Mr. Chairman.

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1 unanimously.

2 Ready for a vote on...

3 MS. BRANTLEY: I think there was a last minute  
4 suggestion by our legal staff.

5 MR. RUNNELS: It wasn't a suggestion. I think  
6 what the point what Willa was trying to make was that if you're  
7 going to set a new precedent, make the new precedent the --  
8 you're limited to 25 feet in height of mean high tide or not  
9 more than 14 feet above whatever the mean base flood elevation  
10 requirement is.

11 So, it's not you could be 31 feet above mean  
12 high tide, it's that you're 25 feet or 14 feet above base flood  
13 elevation, whichever one is smaller.

14 MR. TAYLOR: Do we need a motion to modify it?  
15 Joe, don't go anywhere.

16 MR. RUNNELS: Sorry. I hate to be a problem.

17 MR. TAYLOR: Do we need a motion to modify that,  
18 or can we just --

19 MR. RUNNELS: Well, it's just -- I mean, Dr.  
20 Asper, you said that you couldn't exceed 31 feet. I think what  
21 Willa's intention was that it be either -- you could go not  
22 more than 14 feet above base flood elevation -- no. So you  
23 either comply with the 25 feet, or you comply with not more  
24 than 14 feet above base flood elevation.

25 I think that was what her intent was. It wasn't

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1 MR. TAYLOR: Yeah, I'm going to second the  
2 motion.

3 MR. GOLLOTT: Can we go ahead and vote on the  
4 height? Not even talking about his project, I've always  
5 thought the height was too low, and I think it needs to be  
6 raised.

7 DR. ASPER: Okay. So we have a motion, and it's  
8 been seconded. Jimmy?

9 MR. TAYLOR: Yes.

10 DR. ASPER: Further discussion?

11 MR. DRUMMOND: I'd just like to know what Mr.  
12 Lagasse wants us to do. What would you like for us to do?

13 MR. LAGASSE: Well, I would like the height  
14 granted, if that would be the pleasure of the board, sir.

15 MR. DRUMMOND: You want us to give the height  
16 variance?

17 MR. LAGASSE: Yes, sir. And I would like to  
18 discuss the enclosure. Yes, sir.

19 DR. ASPER: So the motion on the floor right now  
20 is only about the height, and basically it's doing pretty much  
21 what he's asking in that we are allowing the existing structure  
22 to exist 31 feet above mean high tide or 14 feet above the base  
23 flood level.

24 Ready for a vote?

25 Those in favor say aye. Those opposed. Carries

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1 to change it to 31 feet above mean high tide everywhere.

2 DR. ASPER: I understand. What I meant to say  
3 when I said that was just to mention that this building happens  
4 to be that height.

5 MR. RUNNELS: Correct.

6 MR. GOLLOTT: Mr. Chairman, I'd like to go ahead  
7 and amend my motion for clarification.

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

9 MR. TAYLOR: Yes.

10 DR. ASPER: Let's just vote on that to make sure  
11 everybody is in agreement. Those in favor say aye. Opposed.  
12 Okay. That carries unanimously.

13 MR. RUNNELS: Maybe I just misunderstood how you  
14 phrased the question.

15 DR. ASPER: It's really good to have it as clear  
16 as possible because of the precedent we are setting.

17 MR. RUNNELS: Yes, sir.

18 MR. TAYLOR: Joe, don't go off.

19 I know we're getting ready to address the side  
20 issue.

21 Okay. When I first came today, we had two  
22 meetings. And I was ready to vote to have him to tear the  
23 sides off.

24 But I looked at the application and the permit,  
25 and I don't have my glasses with me, but the application has --

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1 does the permit have the storage read like the application  
2 does?

3 MS. BRANTLEY: No.

4 MR. DRUMMOND: What did you say, Commissioenr?

5 MR. TAYLOR: I said the application had a  
6 picture of the thing and the wording had --

7 MS. BRANTLEY: This is the actual permit with  
8 the condition blown up. It says an open-sided covered  
9 boathouse no more than 25 feet above mean high tide in height.

10 MR. TAYLOR: Well, I mean, the application. But  
11 the permit and all, it doesn't have anything on the actual  
12 permit about storage area.

13 MS. BRANTLEY: No.

14 MR. TAYLOR: Joe, I'm going to ask you another  
15 pointed question. Is there a way that we can do something here  
16 to work something out legally not as to I don't want to say set  
17 a precedent, because I think we're doing that, but to -- you  
18 know, I think we all know the problem, someone comes in and  
19 puts plumbing in the area and dumps it in the water. And I  
20 want to try to help the permittee, but by the same token, I'm  
21 not sure that we're not bound to do what we have done in the  
22 past, you know. Or if we do it, are we really opening up a bag  
23 of worms?

24 We need guidance, I do, from you on this, how we  
25 can handle this, if we can make it work. If we can't, you

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1 and her group a chance and this man's architect and see if they  
2 can take some walls out and make it architecturally strong and  
3 acceptable, you know. You've got to have a certain amount of  
4 walls there to hold the roof up. And to make it look good,  
5 maybe his architect can come up with a way to meet it and still  
6 do it correctly.

7 MS. BRANTLEY: We did offer at least two months  
8 ago, probably three months ago, to do that with him. Our legal  
9 staff, permitting staff, any designers he wanted. He didn't  
10 choose to do that. He wanted to come to the commission and ask  
11 to keep it the way he wanted it.

12 He said to me before the meeting that he really,  
13 really just wants a decision made. I'll let him come up and  
14 correct me if he's changed his mind on that, if he'd prefer to  
15 let you table it right now.

16 There are ways to condition, if you did decide  
17 to let him keep the walls, you could condition it so that it  
18 wasn't just anybody could keep walls and do anything. You  
19 could condition it so that there's no sewage supplied to the  
20 structure, no one is allowed to live in the structure.

21 We also were going to ask if you were going to  
22 let him keep the walls that if this boathouse is destroyed that  
23 it would be rebuilt within the conditions of the permit, if you  
24 were going to let him keep this one because you felt like the  
25 staff made a mistake on this.

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1 know...

2 MR. RUNNELS: I think you were directing that  
3 question to me.

4 MR. TAYLOR: Yes.

5 MR. RUNNELS: I don't know how to do this  
6 without setting a precedent. We're talking strictly about the  
7 walls. The commission has a history of requiring people to  
8 tear down walls when they put them up. There was obviously the  
9 Johannsen case. There was another one over in the Henderson  
10 Point area in Pass Christian. I think there's the famous one  
11 off the beach in Waveland. I can't remember whether it was  
12 Maquez or Imbornone or one of those people. I can't remember.  
13 So the commission has had a history of making  
14 people tear walls down.

15 I don't know how you do this without setting a  
16 precedent if you let him keep it like it is.

17 Now obviously, we have in the past allowed you  
18 to have an area of 72 cubic feet for storage. Obviously, he  
19 could do that. I'm assuming you could increase that size if  
20 you wanted to. You could let him keep it like it is.

21 But whatever you do, if you go beyond the 72  
22 feet or you don't require him to put air and light penetrable  
23 surfaces on those walls, you will be setting a precedent.

24 MR. GOLLOTT: Mr. Chairman, let me make a  
25 suggestion. Let's table this until next month to give Willa

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1 So there are other conditions that you came up  
2 with on your own you could add in. Just throwing that out  
3 there.

4 MR. GOLLOTT: Dr. Zimmerman, do you want to  
5 address that?

6 MR. LAGASSE: Yes, sir, I want to address the  
7 technical side of it, and then I'll let Doc talk about the  
8 other.

9 From a technical side, we are already going to  
10 have to sign and deed over a non-conversion agreement to the  
11 county which means basically what Willa just said, that it can  
12 never be converted to anything but a storage room. And that  
13 goes attached to the deed on Dr. Zimmerman's property.

14 So before we get power to the structure, we're  
15 going to have to sign a non-conversion agreement which is part  
16 of their now flood regulations.

17 As far as the other issues dealing with the  
18 tearing down of the walls, when it was constructed, it was  
19 constructed so that the outside envelope we used trusses, so  
20 that there would be no interior walls or no need so that if  
21 anybody ever got the idea, there is no way -- you can place  
22 walls, but they're not needed. There's no good explanation on  
23 why you would put a wall up anywhere in that room. I mean, you  
24 clearly can go look at the windows. It's wide open.

25 The only thing that concerns me is we did cut

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1 back from 57 I think to 43 to make it smaller when we realized  
2 that we didn't need all that coverage for the three boats.

3 The only thing I would get concerned with is the  
4 building is an envelope right now. And it's a sealed envelope.  
5 And it's addressed to meet the 130 mile an hour winds that are  
6 required.

7 When you start pulling and allowing air to get  
8 in there in that envelope, I honestly don't know if the design  
9 would still work to meet the requirements for the wind load.

10 MR. TAYLOR: Well, the problem we have is that  
11 if we set a precedent, you know, we've got to do it for  
12 everybody. We've had people that we've done this for. And I  
13 realize it's a burden and all, but I really like what  
14 Commissioner Gollott said, if there's a way that it can be  
15 worked out to make it aesthetically pleasing to y'all, but also  
16 come within compliance with us, I think a little extra effort  
17 and a little extra money would be well worth it.

18 MR. LAGASSE: We will gladly bring the architect  
19 back into play.

20 MR. BOSARGE: One option because as mentioned,  
21 there has to be a fine. There doesn't have to be, but there  
22 most likely will be a fine involved here.

23 Have you considered moving the building? In  
24 other words, have you looked at the cost of easing it back over  
25 the land and then still having your boat shed I guess, and if

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1 the -- to be built landward ten feet? I'll have to find it. I  
2 saw it.

3 MR. TAYLOR: I think what we're trying to say is  
4 we want to make it work for you.

5 MR. LAGASSE: Yes, sir, and we appreciate it.

6 MR. TAYLOR: I know it's a pain, and I know it's  
7 tearing you up, Dr. Zimmerman, but we want to make it work for  
8 you and for us, you know. Like I said, we have a  
9 responsibility, and that's all we want to do.

10 DR. ZIMMERMAN: Gentlemen, I appreciate your  
11 comments. They've been very good.

12 Number one, thank you for the height vote. I  
13 greatly appreciate that.

14 I sit on the ethics and malpractice board, and I  
15 sit where you are, and we take every case on its own merit.  
16 You can't compare one to the other.

17 I know precedent is important. But when we're  
18 doing malpractice case and ethics cases, every case has to  
19 stand on its own merit.

20 I'm hoping my case can stand on its own merit. I  
21 really do.

22 As much as I don't want to table it, the  
23 suggestion of moving it is a great suggestion. I'm so sorry we  
24 didn't do that initially. We didn't anticipate any of this,  
25 otherwise I would have done that.

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1 the commissioners felt so for it, we could do away with your  
2 fine and you could take that money and actually move that  
3 building back where it comes in compliance, now you don't have  
4 to tear it down.

5 In other words, just an option.

6 MR. LAGASSE: We have not.

7 I will have to look at the cost and then the  
8 construction of the bottom, but that's another option. If this  
9 board -- I hate to do this to y'all again, but give us another  
10 30 days and we'll get you some answers because from a  
11 structural standpoint, I can't tell you that it won't work, I  
12 can't tell you it will. I have no clue.

13 MR. BOSARGE: I mean, it's on piles. I see it  
14 being easily moved.

15 MR. LAGASSE: Yes, sir.

16 MR. BOSARGE: And you could still -- you've got  
17 your boathouse, and now with the height actually extend your  
18 roof over. And I see them in a lot of the fishing -- down in  
19 Venice where they have the little bungalows, whatever you want  
20 to call it, with the roof over the fishing --

21 Anyhow, a little different. Maybe something  
22 that you might even like better. But it's something to think  
23 about.

24 MR. LAGASSE: Isn't there a violation about  
25 crossing a bulkhead? Doesn't the roof have to be ten feet from

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1 Again, I have over fifty thousand invested. I'm  
2 hoping to move on. If that's the commission's position, then I  
3 have to accept it. But I will certainly hope that you can  
4 maybe see in your heart to try to let us build -- we submitted  
5 it to the -- on our application.

6 Had they told me not to do this, I wouldn't have  
7 designed it like this. I would have stopped at the beginning.  
8 But we submitted it. No one said anything. I'm 90 percent  
9 complete, and then I'm told to shut down. My God, why couldn't  
10 they have told us that in the front end? We would have  
11 designed it then to meet all guidelines.

12 I don't want to be out of compliance. I want to  
13 work with you. I'm living here. I'm raising my grandchildren.  
14 But it's unfortunate it happened. But again, I can't own all  
15 the onus of that. I submitted it properly. I had a top  
16 reputable firm submit the drawings. We submitted it. We  
17 received it. We went ahead with it. Ninety percent done. You  
18 make a mistake. Wow. Why didn't you tell us that before we  
19 got the permit? That's my only objection.

20 But I will do --

21 MR. BOSARGE: Is this your first boathouse, Mr.  
22 Lagasse?

23 DR. ZIMMERMAN: No.

24 MR. BOSARGE: I mean, is this your first  
25 boathouse to build?

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1 MR. LAGASSE: No, sir. It's the first one I've  
2 ever asked for a storage area on top.

3 And again --

4 MR. BOSARGE: You see my point.

5 MR. LAGASSE: I do. And like I said, I've never  
6 asked. It's not in the rule book. It's not written anywhere.  
7 And so again, when I received the e-mail from Lynne saying  
8 there was a problem with the boat launch, you know, I guess  
9 what bothers me is that when the permit came, it came with just  
10 a picture of the water and the two structures being on it. It  
11 didn't have the picture of anything.

12 The packets that y'all received in December,  
13 those drawings were submitted to y'all. Now, I don't know if  
14 y'all got them.

15 You know, this has been a long -- like the  
16 doctor said, it's been a long trying process because I'm like  
17 y'all, I feel like, you know, we want to be in compliance. I  
18 want to have a relationship of not being a troublemaker with  
19 this board, there's no doubt.

20 But I just feel like we did our due diligence in  
21 the front. And mistakes happen again.

22 MR. BOSARGE: Well, it just seems to me like if  
23 you had done it before, you would know that you can't have a  
24 two foot of walls, and you would have told Mr. Zimmerman that  
25 you can't do it that way.

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1 MR. LAGASSE: I've never faced that. I've never  
2 asked for enclosed boathouse.

3 The boathouses that I've dealt with were like  
4 Mr. Sheehan's that I showed you that were just an open roof  
5 over on top of a pole structure, like a pole barn.

6 I've never been asked.

7 When submitted, I told Doc, I said, you know, I  
8 said, it's going to be a nice building. So I sent it, had the  
9 drawings done, had them to scale. Most of the time my  
10 submittals to the permitting are not drawn in CAD. They're  
11 nice on graph paper. I mean, they're decent drawings, but I  
12 felt like we needed to show the whole picture to get the  
13 approval.

14 MR. BOSARGE: I agree -- the precedent setting  
15 effect.

16 MR. LAGASSE: Listen, I understand 100 percent.  
17 I've been on the enforcement side. I've just never been in the  
18 position we're in right now.

19 And again, thank y'all. I want it to work one  
20 way or the other.

21 MR. BOSARGE: I'd love you to look and see what  
22 the cost would be to back it up. I mean, you would retain your  
23 structure that you like.

24 MR. LAGASSE: We'll be happy to do that, yes,  
25 sir. And I can have those costs -- I'll bring those costs to

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1 you at the next meeting.

2 MR. TAYLOR: What I would like, also, is if  
3 there's an option with Willa to do what we talked about, the  
4 square footage of the walls, whatever, I'd like really try  
5 y'all to work together and see if we can make it work that way,  
6 also, you know, and legal.

7 It's hard to vote for a precedent setting thing,  
8 but we want to make it work because we understand.

9 MR. LAGASSE: Thank you very much.

10 MR. TAYLOR: Does Richard have a motion on the  
11 floor?

12 MR. GOLLOTT: Not on that, no. But I will make  
13 a motion that we table this until next month to give Dr.  
14 Zimmerman a chance to get with the staff and see if they can  
15 work out the problem.

16 MR. TAYLOR: I'll second it.

17 DR. ASPER: Any further discussion? Those in  
18 favor say aye. Those opposed.

19 MR. LAGASSE: Thank you all very much for your  
20 time.

21 MS. BRANTLEY: Thank you very much. And that  
22 finishes up coastal ecology.

23 J. Administrative Services

24 2. Financial Report

25 MS. VESA: Good morning. My name is Kara Vesa.

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1 I will be giving the budget status through our first year  
2 Fiscal Year 13.

3 Our budget was \$6,152,176. After July 31, we  
4 had spent \$664,013, leaving a remaining balance of \$5,488,163.  
5 And our tidelands budget of \$10,170,743 has all been obligated.

6 Any questions?

7 DR. ASPER: Thank you.

8 That concluded our agenda. Is there a motion to  
9 adjourn?

10 MR. DRUMMOND: I make a motion we adjourn.

11 MR. GOLLOTT: Second it.

12 DR. ASPER: We're adjourned.

13 (Meeting adjourned 11:20 a.m.)

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1 COMMISSION ON MARINE RESOURCES

2  
3  
4 COURT REPORTER'S CERTIFICATE

5  
6 I, Norma Jean Ladner Soroe, Certified Shorthand  
7 Reporter, do hereby certify that to the best of my skill and  
8 ability I have reported the meeting of the Commission on Marine  
9 Resources and that the foregoing 92 pages constitute a true and  
10 correct transcription of said meeting held on the 21st day of  
11 August 2012.

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

16 Witness my signature this the 11th day of September  
17 2012.

