Compressed Transcript

COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

December 20, 2011

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COMMISSION ON MARINE RESOURCES

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December 20, 2011

TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT
BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAYVIEW
AVENUE, BILOXI, MISSISSIPPI, ON THE 20TH DAY OF DECEMBER 2011
COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LADNER
SOROE, CERTIFIED SHORTHAND REPORTER.

COMMISSION MEMBERS PRESENT:

JIMMY TAYLOR, Acting Chairman
RICHARD GOLLOTT
STEVE BOSARGE

ALSO PRESENT:

DR. WILLIAM WALKER, Executive Director (MR)
JOSEPH R. BONNELL, ESQ., Asst. Attorney General
SANDY CHESNUT, ESQ., Asst. Attorney General

A. Call to Order
MR. TAYLOR: We'd like to call the regularly
scheduled meeting of the Department of Marine Resources to
order.

B. Approval of Minutes Commission Meeting -
November 15, 2011 - Action
MR. TAYLOR: First up, approval of the minutes.
Are there any changes?
MR. GOLLOTT: So moved, Mr. Chairman.

C. Approval of Agenda
MR. TAYLOR: Okay. Next up is the agenda. And
I understand we have some changes.
MR. GOLLOTT: Yes, sir. Mr. Chairman, I'd like
to move that we bring the action items to the head of the
agenda because we've got a commissioner that's got to leave,
but we can -- however, we can still handle the items that need
action (sic) after one of our commissioners leave.
MR. TAYLOR: Do I have a second?
MR. BOSARGE: Second.
MR. TAYLOR: All those in favor. Passes.
First up, Bureau of Wetlands permitting.
Back up. We'll do the executive director's
report.

MS. CHESNUT: Excuse me, Commissioner Taylor. I
don't think that we voted on the approval of the minutes.

We have six action items for your consideration
this morning. And Willi Brantley will be our first presenter.
3. Bureau of Wetlands Permitting
a. Alternative Construction Method Test Proposal
MS. BRANTLEY: Good morning, commissioners. As
Jan said, my name is Willi Brantley. I'm going to be
presenting our first item. It's a little bit different than we
normally present. It's not an application for a permit. It's
a proposal that we have for you, and we are going to ask you to
make a decision at the end of it.

We have a request for authorization for an
alternative construction method in tidal and tidally influenced
marsh for access piers.
This is an example. We a few permits over the
years that have been approved by the commission for
subdivisions where there's a large amount of tidal marsh where
these were the homes and then the access pier would have to go
very far across the tidal marsh.
I don't know if you can rad this. This is like
786 feet, this yellow line. And if you went all the way out to
the tip, it would be close to 900 feet.
So in these cases, sometimes the commission has
required special conditions for the construction of access
piers. This particular neighborhood requires that the access
piers be built at least three feet above the top of the wetland
vegetation and be completely hand built. No heavy machinery is allowed to enter the marsh.

So what we have proposed is use of what's commonly called a marsh buggy to be used in those cases. It's got wide tracks on it. It's supposed to be far less damaging to the marsh even than a whole crew of guys carrying pilings out and dragging them through the marsh by hand.

So what we're proposing in the test case to allow one pier to be constructed with that method, and then after that's done, we'll come back with the results of that, pictures, a video, and then we would be proposing, if it's successful, if the marsh is not damaged, we'd be bringing it back and asking you to consider approving that method for all of those cases where the commission in the past put the condition on that they had to be hand built.

So this is what the application for the test case would be required to contain. It would have to be submitted to the Bureau of Wetlands Permitting in writing. It would have to be specific for property that already has authorization for an access pier that crosses tidal and tidally influenced marsh or it would have to accompany an application for a pier like that. And it would have to contain specifications on the equipment that would be used, including the area of the tracks or the tires and the total weight of the equipment.

And this is just an example spec sheet for one type of equipment that could be used. And I don't know if you can read this, but down here it's got the width of the track, shoes, the ground pressure, and it's got the total operating weight of the machinery. So we would require something like this to be turned in so we would know what type machinery was going to be used specifically.

And these are some pictures. According to the contractor who has requested this at this time, the machinery that he would use would even have lighter tracks than those and would also be sort of buoyant so it could float.

These are just examples of what might be used.

We would also put some conditions on the test.

It would need to begin within 15 days of written approval from DMR. The reason for this is because we don't want someone to apply for the test and then not conduct it for six months say when somebody else could go get it done right away. So they need to be ready to start work when they apply to be the test case.

DMR would be notified of the planned start date and time so that we could be on site when they start to observe the work and take pictures.

The equipment shall not travel the same path through the marsh more than three times. You can go two or three times across the marsh or it will lay down, and it's supposed to rebound after that. But if you go too many times, it causes ruts and kills the vegetation, so they would have to make different paths and minimize the number of times that they crossed an area.

If any ruts are created by the machinery, the contractor shall immediately cease construction, remove the machinery from the marsh, and restore the soil surface to the original elevation.

And if any vegetation is destroyed by the machinery, the contractor should immediately cease construction and remove the machinery from the marsh.

If the vegetation was destroyed, we would give it one whole growing season as we normally do to recover, and then after that it would have to be restored in accordance with our marsh restoration guidelines.

We would ask that a minimum of three stationary photo stations be established, and that photographic documentation be collected each day that construction takes place and submitted to the Bureau of Wetlands permitting weekly during construction.

And we would also be going out during construction taking our own pictures and videos to be able to bring back and show you the results of the test case.

So at this time, we are asking you to give us permission to allow one test case to take place, and then once that has been done, we'll bring it back and make a recommendation whether we think that these methods should be approved for all cases or whether it should be denied and they should still have to build it completely by hand.

MR. GOLLOP: One question. If you are going to use wider tracks than what's recommended, how are you going to get an accurate test on this if the tracks are going to be putting less pressure on the ground and all that kind of stuff?

MS. BRANTLEY: Well, that's why we want specs of the specific machinery. We contacted a company and got some examples of what might be used. But that's not the only company. So they could have wider tracks, and that's why we would want specs before we approved it to make sure that we know the width and the pressure and the weight of the machinery.

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

MR. TAYLOR: Do we have a second?

MR. BOGARDE: Yes, sir, I'll second it.

MR. TAYLOR: Motion is made and seconded. All those in favor. Approved.

MS. BRANTLEY: Thank you.
name is James Davis. I'll be presenting the next item on the agenda.

We have a permit request by the Mississippi Department of Marine Resources beneficial use of dredge material program.

This is located at Round Island near Pascagoula, Jackson County, Mississippi.

The current use district is the seagrass preservation district labeled P-2.

This is an overhead of the site. You can see Round Island there in the middle just south of Bayou Casotte and the Pascagoula River.

Applicant is requesting authorization to create a beneficial use site. They're asking to dredge a channel a thousand feet in length, 60 feet in width, from a depth of four to six feet below mean low water.

This is all going to be done within the project location.

They are going to be creating 800 acres of tidal salt marsh and associated habitat. And this will be done by constructing a wave attenuation structure. It's going to be approximately five miles in length and 21 feet in width.

This structure currently is proposed to hold approximately four million cubic yards.

The applicant is requesting the permit be valid for a ten year period.

And they're also requesting a use plan change and a variance to the guidelines of the Coastal Program.

Here's a diagram of what the project proposed will look like. It's a little hard to see.

This is Round Island currently as it is, and then you can -- the black dotted line here is going to be the proposed project location. And this follows approximately the three foot contour line around Round Island.

And then this is an example of Phase 1. You can see all the black dots. These are going to be mound structures where the material is going to be pumped in to a height above mean high tide, and then it's going to be allowed to settle out.

So you're going to get some upland habitat, some marsh habitat, and some intertidal habitat within the area.

This is just a further in-depth view of the proposed creation. And then the large circles here are going to be where we'll dredge out sand and then create a beam around that area and then pump in finer material so they don't drift off and we lose the material from the area.

Decision factors.

The project serves a higher public purpose by creating a beneficial use area for dredge material in accordance with Mississippi Code 49-27-61 and creating 800 acres of tidal marsh and habitat.

Wetlands use plan. The proposed project does require a use plan change from preservation to special use.

This has been justified in accordance with Section 2, Part I.E.2.ii of the Coastal Program based on the assertion there are significant public environmental benefits, impacts to public access and adverse environmental impacts are not anticipated.

The public as well as governmental entities were notified of the project, and a hearing was held on Thursday, December 15, 2011.

The survey of SAV, submerged aquatic vegetation, was conducted in the area, and there was no evidence found.

The proposed site will increase production of the area while providing shelter area for seagrass to grow.

And no comments were received at the public hearing.

A variance to the Coastal Program will be required. This has been justified by saying impacts on coastal wetlands will be no worse than if the guidelines were followed because the proposed filling of these water bottoms will support ecological restoration.

Prevoced setting effects. Filling of state water bottoms has been approved in the past for projects with higher public purpose. A beneficial use site will also continue to be classified as coastal wetlands and state owned.

There will be a temporary increase in turbidity during disposal operations.

There will be a positive overall impact from the project by restoring habitat that has experienced significant loss and providing nursery habitat for many commercial and recreational fisheries species.

The Round Island project is intended to complement other significant efforts being made to restore critical habitats throughout the Gulf Coast.

The project will lead to further natural recruitment of marsh species in the area.

The project could be expanded later on in the future depending on availability of suitable material. And any expansions would require commission approval.

Temporary turbidity devices will be used in the area as needed during construction based upon visible observations of significant volumes of high turbidity leaving the project area by BMP or beneficial use group personnel.

No offsite alternatives have been considered for the project. Round Island site is part of the efforts to restore and enhance coastal habitat. And alternative uses for the dredge material would primarily be to place it on uplands at the dredge site or truck it to another uplands facility which would fail to provide for the restoration of tidal marsh

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habitat in the vicinity of the project as required by

The project is preservation of natural scenic qualities. The project involves the creation of marsh and
adjacent habitats that are native to the area and should either
improve or have no adverse impact on the scenic qualities.

Public notice was run in the Sun Herald on these
dates. We received no comment.

DBQ is currently reviewing the project.
Archives & History has no comment. Secretary of State has no
objection provided all boundary issues are resolved to the
satisfaction of the Secretary of State prior to beginning of
construction.

Once again, a public hearing was held on
December 15, 2011. We received no comments.
This is a slide showing Round Island through the
history from about 1850 to the present. As you can see, it
started out as 150 acres, and throughout time it has slowly
eroded to what is now currently close to 30 acres.

This is a chart showing the Round Island from
1850 to present and into the future. And currently, we do
expect Round Island to disappear sometime between 2030 and
2050.

Some more pictures of Round Island. In the
background, you can see where the tree roots have been exposed
and where the island used to be where it is now waterbottoms
close to estimated three to four foot of land loss in this
area.

Some more pictures. You can see the sand
eroding down to the substrate.

Staff has conducted a thorough evaluation of the
project. Based on results, it's been determined that the
project is consistent with the Coastal Program, serves a higher
public purpose. Therefore staff recommends approval of the
project, the variance request, use plan change, and the
validation of the permit for a period of ten years.

MR. TAYLOR: Any questions?
MR. BSARGE: Yes. I'm glad to see them doing
some work on Round Island. Like you say if it continues its
pattern, it won't be there for long.

I was curious about a couple of things. They're
basically going to build a berm all the way around the island?

MR. DAVIS: Yea, sir.

MR. BSARGE: Will there be access points for
folks that still want to go to Round Island?

MR. DAVIS: Some of the points there will be
areas where there's going to be no structure or substrate
blocking so tidal flow can get in and out. Depending on how
that material settles out, the depths may or may not support
navigation for a boat.

MR. BSARGE: And the thousand foot channel, I
didn't see where that channel is going to be.

MR. DAVIS: Looking at the project as proposed,
the dotted line here, the channel will be dredged inside of
this line to allow for the placement of the wave attenuation
structure. That material is just going to be sidecast back
into the project site.

MR. BSARGE: So the channel that you're digging
will be within the boundary?

MR. DAVIS: Yes, sir. The cannel will be dug.
The material will be sidecast and the wave attenuation
structure will be placed, and then that channel is going to be
filled right back in.

MR. BSARGE: I understand now.
I make a motion we accept staff's
recommendation.

MR. GOLLITT: Let me ask a question first. It's
a great project. I think it's wonderful that we can use this
dredge material.
But didn't we just approve a project similar to
this for Deer Island?

MR. DAVIS: Yes, sir.

MR. GOLLITT: What I would like to do, since
we're waiting on oyster project on the inside of Deer Island,
is make sure we get Deer Island first so we can get that out of
the way before we start planting oysters.

MR. DAVIS: Deer Island is currently, they're
working on that now. But the goal of the program is to have
different sites set up along the whole coast. So let's say
Harrison County can use primarily Deer Island without having to
take material to Jackson County, Pascagoula. A lot of material
being used for this site will come out of Bayou Cassotte and
areas of that nature so they don't have to spend all the extra
money to truck material off.

MR. GOLLITT: Our whole industry is waiting on
this deal. If we can get Deer Island finished first then we
can start transplanting oysters (inaudible) Jackson County
right on the inside of Deer Island and maybe open that thing up
next year for oysterling. Like I say, I'd like to see that Deer
Island completed first.

But I'll second Steve's motion and go with
staff's recommendation.

MR. TAYLOR: We have a motion and a second. I
want to make a comment. I think the beneficial use statute is
probably one of the best things that happened to the coast for
all of us that have lived here our whole life. I mean, all the
islands are eroding. I used to go to Round Island as a kid,
Ship Island, Deer Island. I think it's great that we're using
something that would just be put in a landfill or done
offshore.
So we have a motion and a second. All those in favor. Motion carries.

MR. DAVIS: Thank you.

City of Gulfport

MR. CHRISTODOULOU: Okay. Next we have a permit modification for the City of Gulfport. It's located within the Bert Jones Yacht Basin in Gulfport. It's in the commercial and recreational fishing and marinas district. And the agent is EMI Environmental.

Here is the overhead of the project location. You can see Highway 90 and 49 just to the west of the current Bert Jones Yacht Basin or Gulfport Small Craft Harbor, whichever you like to use.

The project is a replacement of the current Ship Island excursion pier. The existing pier is approximately 170 feet long, 14 feet wide. And the proposed new pier is 185 feet by 16 feet.

Here is a diagram of the project. The area in blue is the existing pier. And the red is the proposed pier.

The project will provide improved docking facility for the Ship Island ferry and allow the City of Gulfport to provide a safer pier that will accommodate higher volumes of pedestrian traffic.

The project is allowable within the C use district.

Similar projects have been approved by the commission, and the proposed project should not set a negative precedent.

Piling installation may temporarily increase turbidity in the area and result in a temporary decrease in the number of benthic organisms. And the project will add 30 square feet of additional shading of waterbottom.

Best management practices will reduce any adverse impacts.

No alternative sites were considered since this is an upgrade to the existing pier.

And the proposed site is utilized as a ferry pier, so it should not negatively impact scenic qualities of the area.

And public notice was run as requested. There were no public comments received.

Currently, Archives & History and DEQ are reviewing the project. Secretary of State has said that title to the property is currently under litigation, so that determination will have to be made before a lease will be required. And Wildlife, Fisheries & Parks has stated best management practices be implemented.

And based on result of staff’s evaluation, it has been determined that the project is consistent with the Coastal Program, and staff recommends issuance of the requested permit.

MR. TAYLOR: Any questions? Is there a motion?

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

MR. GOLLOM: I second it.

MR. TAYLOR: Got a motion and a second. All those in favor. Passed unanimously. Thanks.

d. V.T. Halter Marine, Inc.

MR. CHRISTODOULOU: Next we have a permit to request by V.T. Halter Marine located on Bayou Casotte in Pascagoula. And it's in the industrial development district.

The yellow thumb tack at the bottom right of the screen indicates the position of the project. Again, it's south of Highway 90 located on Bayou Casotte across on the west bank of Bayou Casotte across from Chevron, and Signal International is just south of the project.

Two large portions of this project. First is dredging and excavation of a mooring basin approximately 800 feet by 500 feet. This will be dredged down to a depth of 65 feet below mean low water. And it will result in approximately 1.1 million cubic yards of material that will be required for beneficial use per Code 49-27-61.

And the structures involved in this project are construction of a bulkhead approximately 1,000 linear feet and a floating dry dock structure 715 feet by 389 feet.

Here is a diagram of the project. I've put things in different colors so it might stick out a little easier.

The dredge boundary is in the black dotted line. That's where the area will be dredged and excavated down to 65 feet below mean low water.

The red area is the bulkhead that will be constructed.

And the orange structure is a floating dry dock. This dry dock actually shown in this picture is articulated out. It actually will pivot out into the waterway to help in the loading of large ships that may need to enter the dry dock.

The dry dock itself can be split into two parts to where the larger left side can be used for vessels, as will the right side. So smaller vessels can enter from the south or on the right side, and then larger vessels would go down the channel and go through the turning basin and turn around and enter from the north.

And like I said, it will pivot out. And there is a lot of coordination when this structure is moved out to receive some of these larger vessels out into the channel because it will pivot out into the channel, that there's a lot of coordination that has to go on with the bar pilots and the Coast Guard for when this structure is being used.
Here's a picture of the site in question. It's an undeveloped site. It's been previously used as a spoil pile for projects. And you can see there's a lot of invasive species in the area, and Cogon grass, tallow trees, et cetera.

Public benefits of the project include increased employment opportunities for construction of the dry dock structure and employment opportunities from contracts received by the applicant to construct and service vessels.

The project is allowable within the industrial use district.

The applicant has requested a variance from the Coastal Program. Chapter 8, Section 2, Part III.C.5 states marina basins and boat slips shall be designed to avoid sumps and other conditions which would result in long term degradation of water quality. And the depths of these basins, slips, and access channels should not be any deeper than the controlling depth of the parent body of water, and they should become gradually shallower as you get towards the nearshore area.

The applicant has justified this variance based on Chapter 8, Section 2, Part I.B.2.c.iv that the activity requires a waterfront location, there is a significant public benefit in the activity, and a public hearing has been held.

Again, the project would allow the applicant to get more contracts to service and construct vessels.

The public hearing was held. We didn't receive any comments. And we actually have waited on concurrence from CEQ on water quality for this one since that was going to be the key issue for this project.

Similar projects have been approved by the commission, and the proposed project is not expected to set a negative precedent. I think approximately a year or two ago, the commission approved a project for Northrop-Grumman for digging a large sonar pit for testing of sonar equipment for some of their vessels.

Dredging operations will result in temporary increase in turbidity in the area, and there will be a temporary decrease in benthic organisms.

The dredge material from this project has been tested and has been found suitable and will be available for beneficial use, hopefully for some of the Round Island stuff that we just heard about.

Best management practices will reduce any adverse impacts.

Additional designs were considered. Additional upland excavation into the property would have caused maneuvering issues with the adjacency to the federal navigation channel. Additional alternative sites were also considered. And since lack of ownership of the area, the Port Authority owns some of the property that was considered as alternative sites.

and blocking of the current ship building areas that Halter has.

The area in question is currently undeveloped and has previously served as a dredge material disposal area. The site is located in an industrial area with other shipbuilding facilities located adjacent to the site, so scenic qualities should not be impaired by the project.

And national interest is to be served as V.T. Halter is contracted to construct and service vessels that support the U.S. Military and companies that are essential to the nation's energy policy.

Public notice was published as required. No comments were received, as well there was a public hearing, and no comments were received.

Archives & History has no objection to the project. Department of Environmental quality has issued a letter of concurrence with the project. Secretary of State will require a tidelands lease for the project. Wildlife, Fisheries & Parks says best management practices be implemented. And the Coast Guard has done a risk study and found that there is no unacceptable risk with regard to waterway safety.

As a result of staff's evaluation, we determined that the project is for a water dependent industry which helps construct and service vessels that support the U.S. Military.

1 and companies essential to the nation's energy policy. And the project also has a public benefit by increasing the local tax base by creating jobs in the area. So therefore staff recommends approval of the variance request and issuance of the permit.

MR. TAYLOR: Thank you.

Any questions?

MR. BOSARGE: You've answered most of mine. I was worried about the pilot's association, and you cleared up that. Sounds good. And as far as the 65 foot pit, we're close enough to the navigation channel, I don't believe that's going to be a problem.

So I'm good with it.

MR. TAYLOR: Do I have a motion?

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

MR. TAYLOR: Have a motion. Do I have a second?

MR. CORKLEY: I'll second it.

MR. TAYLOR: All those in favor. Motion carries. Thank you.

e. Emmett Zimmerman

MS. MOORE: Good morning. My name is Lynn Moore. I'll be presenting the request for a permit by Emmett Zimmerman. It is located on Bayou Drive at One River Place in Kiln, Mississippi, in Hancock County. It is in the general use

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district, and the agent is Mickey Lagasse.

MR. LAGASSE: Members of the board.

MR. GOLLOTT: Why did he start the project
without the permit?

MR. LAGASSE: Mr. Gollott, I'd love to give you
an answer to that question. I knew about it after y'all knew
about it yesterday when I met with the owner, Dr. Zimmerman.
He was in Metairie. His contractor evidently
came down. They were doing some work in Vicksburg and had an
opportunity to start late last week. Not that this is any
excuse, but he assumed that because everything was going to the
commission, that it met all the requirements — that it was a
mistake. He just screwed up is all it boiled down to.

He was very apologetic to me yesterday when I
met with him after I received the call from the staff.

But again, y'all knew about it before I did
yesterday. So again, he has just done a bulkheading project in
which everything was permitted correctly. I don't think he had
any ill will to do anything wrong. I think the contractor came
in before Christmas, probably pushed him because he needed some
Christmas dollars to get things done. But I don't think
anything was done out of malice or intent to hide anything.

MR. BOSARGE: Was it just the pilings he built
or the bulkhead, also?

MR. LAGASSE: No, sir. The bulkhead was all
permitted and is complete.

What happened was there were some erosion
issues that started with multiple things that went through the
river because of the way it sets. So the bulkhead was
permitted and everything was done.

The only work that has been done without a
permit is the pilings and what you see there.

They didn't band it. The banding material is on
site. None of that was done. It was just simply getting the
barge in and driving it while they had a barge available.

MR. GOLLOTT: He sure took a big chance because
if the permit wouldn't have been correct we would have made him
pull the pilings up.

MR. LAGASSE: And I can promise you that I have
explained that thoroughly last night.

MR. GOLLOTT: Mr. Chairman, I'd like to make a
motion that we approve the permit without a fine.

MR. TAYLOR: We have a motion on the floor. Do
we have a second?

MR. BOSARGE: We're not going to set any
precedent by not fining him?

MS. CHESNUT: There's the chance you would set a
precedent by not fining him but it depends on how the
commission feels about his intent and the factors surrounding
the case.

MR. GOLLOTT: If you want to make an alternative
motion, I'll go with it.

MR. BOSARGE: I would like to make an alternative motion that we fine him $300 for not waiting until he got his permit, but approve his permit.

MR. GOLLOTT: I second.

MR. TAYLOR: We have a motion and a second. All those in favor. Motion carries.

MR. LAGASSE: Thank you all very much.

Ivy J. Trosclair

MS. WITTMAANN: Good morning. I have the final item on the agenda today. It's a violation by Ivy J. Trosclair located on an unnamed canal off of the Jourdan River at 11026 Delaware Street, Bay St. Louis. It's in the general use district.

The letter A on the map shows the project location in reference to Highway 653 in the Shoreline Park Subdivision.

An unauthorized private beach has been constructed on private property. You may remember seeing a project very similar to this at the August commission meeting.

On May 31, 2007, Mr. Trosclair was issued an after-the-fact general permit for a boat ramp. At this time, the commission also approved the construction of a bulkhead and issued Mr. Trosclair a fine.

On March 24, 2011, a violation was reported to the DMR concerning the construction of an unauthorized private beach, part of which was on the reporter's property.

On April 4, 2011, following earlier site visit by staff, an onsite meeting was held with Mr. Trosclair. He was the reporter of the violation. We discussed that the violation extended onto Mr. Trosclair's property and that he was responsible for the fill material that had been placed below mean high tide adjacent to his property.

Following the meeting with Mr. Trosclair, staff did attempt to set up a meeting between the two property owners, but due to conflict, the two were not willing to meet onsite together.

On April 19, Mr. Trosclair contacted DMR staff and asked that the violation be dropped because he was not happy with the speed at which DMR staff was handling moderation. We informed Mr. Trosclair that that was not an option and reminded him of his responsibility for the fill material adjacent to his property.

On August 16, 2011, a cease and desist notice was sent to Mr. Trosclair following the commission ruling that Mr. Long, the adjacent property owner, remove the fill material adjacent to his property.

On August 22, Mr. Trosclair contacted DMR and indicated that he planned to request authorization to retain the unauthorized fill material. We told Mr. Trosclair that it was highly unlikely that the commission would approve Mr. Trosclair to keep that material because they had just previously ordered his neighbor to remove the material in front of his property.

On August 24, we did mail Mr. Trosclair an application packet that discussed the preparation guidelines and an adjacent property owner authorization form.

On September 6, a site visit to Mr. Long's property revealed that the fill material had been removed off of both properties. So the commission ruled for Mr. Long to remove the material in front of his property, and in the meantime Mr. Trosclair contacted DMR and said he wanted to keep it. Mr. Long did remove the material by the deadline that the commission had ordered.

On November 16, a follow-up site visit was performed by DMR staff. The fill material had reentered the waterway because silt fencing was improperly installed and had failed.

On December 1, a letter was sent to Mr. Trosclair informing him that the violation was still open and that the item had been placed on the agenda for the upcoming commission meeting.

This is a picture from the 2007 after-the-fact general permit site visit. This is the area that the beach is located. This is Mr. Long's pier you see in the background.

This is the diagram showing the location of the beach in reference to the structures. Mr. Long's property is on the right. Mr. Trosclair's property is on the left.

This is a picture of the beach after the original report in March.

This is a picture following the September 6 site visit after the fill material had reentered the waterway.

Staff has conducted a thorough evaluation and recommends that Mr. Trosclair remove the unauthorized fill material and install best management practices or construct a bulkhead at mean high tide as was authorized by the 2007 after-the-fact general permit within 30 days or the matter be forwarded to the attorney general's office for enforcement action.

We also recommend a fine in accordance with the Mississippi Code 49-27-51. In this case, Mr. Trosclair was officially informed in writing of his violation on August 16, 2011. That would make the violation duration 126 days. The maximum potential fine is $63,000. The minimum would be fifty. The recommended fine is five thousand with an additional $100 per day fine for each day after the 30 day time limit until the violation is restored.

The decision factors. The project does not meet guidelines. Mr. Trosclair has had a previous violation at this
site and is well aware of the permitting process. Mr.
Trosclair has not responded to written correspondence from DRM
staff. And he was informed of the violation at the original
onsite meeting and did not attempt to bring the violation into
compliance.

We know that Mr. Trosclair was aware of the
meeting. We sent meeting notification via e-mail with its
delivery receipt and also via standard mail, and we do have the
receipts from both of those correspondences. However, he has
not attended the meeting today.

And Mr. Long was the adjacent property owner.
He was fined $2500. He did not have a previous violation.

MR. TAYLOR: Are there any questions?

MR. COLLOTT: Mr. Chairman, I make a motion that
we go along with the staff's recommendation, including a $5,000
fine, $100 a day.

MR. BOSARGE: And just so I understand your
motion, the one neighbor has corrected his, and Mr. Trosclair
has not?

MS. WITTMAN: Mr. Long did remove the material
from both properties, but he failed to put the back management
practices in place. So Mr. Long's project is now back in
violation and is going to be forwarded to the attorney
general's office for enforcement.

MR. TAYLOR: Didn't Mr. Long take care of both
of them, make an attempt to take care of both of them, and Mr.
Trosclair if I'm understanding made no attempt?

MS. WITTMAN: Mr. Long did remove the material
from both properties. Mr. Trosclair did not. But Mr. Long did
not ever properly contain the fill material, so with higher
tides, rain events, and the improper installation of the silt
fencing, it washed right back into the waterway.

MR. TAYLOR: I guess what I'm asking, you said
you were going to forward it to the state attorney general on
Mr. Long.

MS. WITTMAN: We're going to forward Mr. Long
for what's on his property that's not been corrected. Mr.
Trosclair, if the commission agrees with the staff
recommendation, will have 30 days to fix what's on his
property. He can put the silt fencing in. He can remove the
material completely. Or he can construct a bulkhead which has
already been approved by the commission that he already has a
permit for. We'll go back out and reflag it for him if that's
what he chooses to do.

MR. TAYLOR: That's Mr. Long?

MS. WITTMAN: That's Mr. Trosclair.

MR. TAYLOR: Okay. I guess I'm confused. Mr.
Long made an attempt to do what was right, and it seems like
we're punishing him. I mean, I could be wrong. It seems like
we ought to go back out and say, hey, you need to take care of
this. I mean, if you've done that, fine. But I just, you
know, for a guy -- and he took care of both problems, not only
his, but the adjacent neighbor's. And I would just think, and
I can't make a motion being the Chair, but I just think that we
ought to -- I don't want to say cut him some slack -- but try
to work with people when they're trying to do what's right.

MS. WITTMAN: Right. And from the onset, there
was a discrepancy between the two property owners as to who was
responsible for the work. Mr. Long did go in and attempt to
remove the material from both sides. But following that
initial September meeting when we saw the material had been
removed, we did try to work with Mr. Long to send him
application to put in a bulkhead to help him figure out how to
contain that fill material without having it go back in the
water. But he was not receptive with that.

MR. TAYLOR: That's all I needed to know.

MR. COLLOTT: Let me make a modification to my
motion. I'd like to give him 60 days before the $100 a day
starts because 30 days is not very long when you're dealing
with contractors and the holidays and all that stuff. So give
him 60 days.

MR. BOSARGE: Again, I agree with that, and I
will second the motion.

MR. TAYLOR: Okay. We have a motion on the
floor. All those in favor. Motion passes.

1 of the action items. I think we're going to take a break here for
about five or ten minutes, and then we'll readjourn.

(Off the record.)

(Commissioner Taylor leaves the meeting.)

MR. COLLOTT: I'd like to call this meeting back
to order.

D. Public Comments

MR. COLLOTT: At this time, we'd like to call on
our public comments. I think we have a couple that want to...
If you will, come up and give us your name and make your
comment.

MR. MILLER: How are you doing today? My name
is James Miller at Catfish, D'Iberville.

I've been a fisherman all my life.

MR. COLLOTT: Did you fill out a form, Catfish?

MR. MILLER: No, sir. I was kind of late for
the meeting, I'll be honest with you.

MR. COLLOTT: Will you fill out one? We'll take
the second person, and then you can come up.

MR. MILLER: Gee whiz. Come on now.

MR. FERGUSON: My name is Joseph Ferguson,
(inaudible) Trawl Company. I believe I'm the last registered
trawl company in the State of Mississippi.
I'm here to talk about the shrimp. I'd like to
start off talking about the past, then I'll proceed to the
present.

All creatures eat shrimp that I know of,
millions of dogs, cats, whatever, fish. And a while ago,
shrimp were caught, you know, on the bottom.

Excuse me. I'm a little nervous.

Shrimp were caught in large seines by schooners.
And these schooners would go out with the tides and catch these
shrimp. And they'd bring them back, you know. I seen old
pictures of schooners, and the decks would be covered over with
seafood.

And then came the trawl. (inaudible) would work
close to 24 hours a day because no one had to work with the
tides, so it would be (inaudible) for work, and this was a good
thing at first.

So tonging came along, and it was (inaudible) Bilocx. We had seafood capital of the world. But I'm pointing
this out because (inaudible).

I entered the industry last of the Golden Age.
I wouldn't consider it the last of the Golden Age because this
industry is still going on.

It's just about gone now due to what I
(inaudible) management, poor management or whatever the reason
may be, it may be storms, oil spill, whatever.

But I started working at Stevenson's Trawl, and
I speak from the past, my past, when I worked at Stevenson's
Trawl, there was quite a few boats in and out of there, and a
lot of people worked there. And one day the shop was real
busy, in and out, (inaudible) shrimp season.

Mr. Steve was working on the floor because we
(inaudible) pushed. And I asked Mr. Steve, I said why are they
opening shrimp season this time of year.

He was sitting on a stool working when I spoke
up. The room kind of went quiet. They heard me speak because
I don't normally talk to people. I'm kind of a quiet person.

And I said, Mr. Steve -- I said, Mr. Steve, this
is the brown shrimp returning from the Gulf. I said, the
opening season on the brown shrimp -- this was like in early, early in the season. This was March, April, sometime along in
there. It was early in the year.

Mr. Steve, he kind of threw his needle down and
said -- he told me, he says -- we talked about this before, he
said I got with a bunch of scientists or whoever he talked
with. He just told me this, and I can't speak for him, he's
gone.

But he said that we tried to fix this problem.

We closed the season at the end of December. Didn't reopen
when the juveniles come out of the estuaries. And they made a
count so that they could reopen the season.

This count -- I'm not sure, I think it's like
(inaudible) per pound, something like that. Well, when this
count is reached, he says, the DMR opened the season, which is
law. This is how it should be done.

But the returning schools of shrimp coming in,
if you don't go near to the estuaries, they can't go out next
season shrimp. These trawls come in, they open the season,
these fishermen -- I have nothing against the fishermen,
nothing against here, the DMR or anybody, but they go out and
they catch shrimp.

Well, if they intercept these schools of adult
shrimp coming in, they get five or ten boats on a school of
shrimp (inaudible) was allowed to come into the estuary.

Later in the years, Mr. Steve, he'd come out of
the office and say -- tell everybody because he was telling me
that the shrimp were clean, now is the time to buy your shrimp.

He was referring to the adult white shrimp when they were
returning from out of the estuaries.

And so anybody that was interested in buying
shrimp, now would be the time because they would no longer be
(inaudible).

Today 68 count, and this should be referring to
the juveniles coming out of estuaries, not the adults coming
out of estuaries. But adults are coming out of estuaries, then
they should be checked to see if they're finished laying out.

I've read what the books say here at DMR about
the shrimp laying their eggs offshore and their eggs float in
on the tide and juveniles float with the tides. (inaudible)
but shrimp are kind of like fish in a way. They do lay eggs
offshore, but they're coming in. And as they come in, they
(inaudible). When the shrimp come in the estuaries, they lay
their eggs inside or they carry their young inside. I've heard
reports of shrimp carrying eggs underneath their --

MR. GOLLERT: Excuse me.

MR. FERGUSON: Yes, sir.

MR. GOLLERT: With all due respect, we do five
12 minutes, and you're getting close to that.

Both commissioners here have been in the shrimp
business all their lives. We're very familiar with it. Steve
Herman was a personal friend of mine.

I suggest that you get to your point.

MR. FERGUSON: Yes, sir. I'm getting down to it
now.

In the future your shrimp (inaudible). I
suggest that the adult shrimp be allowed to come in, bring
their young into the estuaries, and then let the shrimp season
begin when they start coming back out.

I know the law states nothing on these adult
shrimp. But if you allow the adult shrimp, it would give more
money for the fishermen to catch this year. It goes to show

N.J. SOROE, CSR #1297
that the adult shrimp, if (inaudible) juveniles or larvae or
small shrimp and not release these nets on them, then you'll
have a larger percentage of shrimp coming out of the estuary
which would give the shrimer more money, the state more money,
and me because I don't make much money unless the shrimpers make
money.

So I would like to see -- of course, there's
only two of you now -- I would like to see some kind of action
taken on this in the future on maybe correcting the laws to
allow these shrimp time to come in and then (inaudible) catch
the juveniles when they're coming out.

Now I know there's a time period, extended time
period when these shrimp come in. The brown shrimp come in
first earlier in the spring, then the white shrimp come in
about the time you're opening the brown shrimp. Then
(inaudible) longer after the white shrimp. And if you notice
the stages of these shrimp coming out of the estuaries, it goes
to show the good brown shrimp come out first (inaudible), then
at the end of the year, we'll have (inaudible).

So I'd like to see something done about this.
And I'll give the floor up, and I'd like to thank you. And
maybe I'll come back again when there's more commissioners.
Thank you.

MR. GOLLOTT: Thank you, sir.

Catfish, you can come on up.

He's a very man disturbed like I am wanting for you to provide
answers that you ain't.

We're hungry oystermen (sic) and fishermen
(sic) that you're providing the newspapers with record catches
that's bull crap. You're lying.

I'm serious. I'm disturbed over this. Record
catches out of our Sound you say we're getting. I'm so
disturbed. You're doing nothing for the fishermen (sic). All
the money you've got allocated, you and Haley Barbour, are so
solely in charge of, you and the EEO, all your projects are on
shore. Where is our projects in the water with all these
terillons of dollars you've got, billions of dollars, millions
of dollars, for us, the poorly little fishermen (sic)?

Y'all so busy figuring how you're going to spend
it, and you're forgetting about us, please tell me you are, Dr.
Walker, because I need your help, sir. I need you. And you're
not providing me the help I need. You have no structured
program for us.

We're people, too. We need jobs. Can I wash
the boats? Can I wash your trucks? Truly, I'm asking you. I
need a job. Who's going to hire a ninth grade educated
fisherman that's been fishing 30 years of his life? Nobody.

This is a serious situation. I got to feed my
family like you do, too, sir. And I ain't no crybaby. I'll
work you under the table daylight to dark. And I need a job
shortly in my life due to that oyster reef is dead due to BP or
that fresh water, sir.

I've been laid back listening, waiting for you
to restructure our oyster reefs. You give the program to
somebody in Alabama to do more reefs out there for us. Sir, I
don't have five years waiting for my reef to come back. We
need something for you to do for us now. We're starving.
I don't know if you people know this. We are
starving and suffering on the coast. You worried about your
watch, and my family is going to pay my doctor bills.

MR. GOLLOTT: Your time is out, Catfish.

MR. MILLER: I understand. You disturb me.

I'm not to be helping us. You're worried about your watches,
paperwork. Brother, I am why you're up there. I am a
fisherman holds a license that I buy every year, five sets of
them at your place. And I want you to help me. And I ain't up
here begging on my knees. I'm telling you. Y'all need to
create a program for us soon in y'all's life with all his money
you have.

Now, y'all might think I'm a lunatic fisherman,
but I ain't got nothing to do but read the paper and listen to
you. So do something for me in your life instead of looking at
your watch and figuring on what we're going to do in our life.

MR. GOLLOTT: Time is up, Mr. Miller.

MR. MILLER: Yeah. Create a program for us for
the fishermen of the Gulf Coast.

(Appause.)

MR. GOLLOTT: Tom Becker.

MR. BECKER: My name is Tom Becker. I'm here to
talk about the coastal charter industry fishing, not just the
charter boat association which I'm the president of.

I want to thank you for helping us to get the
word out. And we will have it out in the February through June
or July issue of the magazine Coastal Angler to give people --
to let them know why they want to come here fishing.

And we are very happy with that. And I am
coming before you. I am also on the disability connection
board. And we are working on a project that we are coming to
talk to you about to give us some help.

We would like to take the wounded warriors out
this year, give them a trip, break that daily routine that
they've got. We would have medical personnel on board. And if
we have a female on board, a wounded warrior, we would have a
female medical person to take care of them in case something
happened.

We'll be coming to see you. Janie O'Keefe is
the head of this organization. Her husband who passed just
recently was the executive director. So we are now in the
process of finding a new executive director to take over that
board.
So Pete the Pelican is on our payroll now as a drone, and we appreciate the help we get from the public. It's kind of strange, but that actually happened.

Mr. Gollott: Chief, looks like y'all been catching a lot of people for not having fishing license and undersized trout.

Mr. Chantagney: Yes, sir. Even had a few cases of undersized red fish. There's no reason for it. There's plenty of big red fish out there, and they're keeping some of these things only 13, 14 inches long.

Same with the trout. Some of the trout is 12, 12 and a half. You've got them down here 9, 10 inch trout.

Even one flounder, they made a case with one ten inch flounder.

Mr. Gollott: Unlawfully selling of recreationally caught fish. Who were they selling them to?

Mr. Chantagney: These were commercial fishermen coming in the Back Bay. And they were throwing a castnet and they were taking the mullet, selling it to the FKS (ph.) tournament fishermen right up here in the bay. Fishermen would come by their boat, give them so much money for a five-gallon bucket of mullet or 200 live mullet. This was all witnessed, and our officers stopped them and charged them for commercially fishing in Back Bay, selling recreationally caught fish because they claim that they were commercial fishermen, they were selling them as recreational fishermen. And some claim they were commercial.

And then I think they charged one of the guys for buying.

Mr. Gollott: Would it be illegal for them to throw their nets outside to catch those fish?

Mr. Chantagney: No. They're commercial fishermen. They could throw their net. You just can't have any commercial activity north of the CSX railroad bridge. They could have went to Deer Island and caught all the mullet they wanted and then could have sold them as long as they hold a valid commercial net license.

Mr. Gollott: Thank you, sir.

Okay. Marine fisheries.

G. Marine Fisheries

Mr. Jewell: Good morning, commissioners. I wish to wish everyone here present today Merry Christmas and Happy New Year.

We just have one item. Mr. Buchanan is going to give an update on the speckled trout program.

3. Speckled Trout Update

Mr. Buchanan: Good morning, Dr. Walker, commissioners, Sandy.

I'm going to show you a little bit of our monitoring efforts for spotted sea trout fisheries independent information. We cooperate with Gulf Coast Research Lab and also our fisheries dependent information and (inaudible) last few years.

The independent data is designed to sample population in basically a standardized consistent manner, and it's not based on angler catch. It's independent.

We do have 18 states that we do collect at, including five random ones.

We collect the size, age, growth, and reproductive status of each fish that is caught.

In addition to the speckled trout, we do collect information on all the other species that we do pick up in our nets.

Mostly, we use gill nets, multi-mesh gill nets, two to four inches.

Some of the -- if you're interested in length to weight relationships. See that about 14 inch fish is about a pound, a 15 about a pound and a half, give or take, showing that as fish get longer they get heavier.

Some sex ratio work. We normally don't see very many males caught in our studies. When they're up to about 14 inches, there's only like ten percent males in the population we find generally here in our waters.

This is a difference in us and Louisiana.

Louisiana is probably more of a 50-50 ratio with the stuff that they have. I've got no good explanation for it.

We do collect spawning condition. And if you take a look at this over the years, typically they are starting to come in spawning condition in April and they go through September. The males had a good May and then say too good a May because then they kind of slackled off in June. But they picked up again in July.

Size at maturity. Thirteen inches for the females are about 65 percent matured, at 14 they are 100 percent matured.

We do age all our fish. That gives us an idea of calculating mortality rates.

And if you're interested that average length for males at age, like some folks, you see that 12 inch fish, male 12 inch fish is about two years old. They typically grow slower than females.

Females at 12 inches are about one year old.

This is the independent information. I apologize. I should have added this, in 2011, I should have had the rest of this data on here. It will be substantially higher than what it's showing right there. But this particular index of abundance shows it to be on par with some of our better years over the past few years.

But anyway, our data collected, fishery
dependent data. This is our IMHS survey where we talk to our
anglers, get information on the catch, how long you go, where
did you go, how long did you fish, what did you catch, yadda,
yadda, yadda.

And just to show recreational versus commercial,
typically the larger fish are caught recreationally.
This can only go through '10 because the data is
not current. It's still under review for this year.
This is numbers of fish. And you can see that
the numbers are up substantially over the past three or four
years. We did have the minimum size change in '08. March of
'08 I believe.

Fishing effort tends to be somewhat up steadily
since the '80s, and it seems to be still climbing.
This is catch per unit effort. And our catch
per unit effort is on par with some of the better years that we
have had from '08 through '010.
So this particular index shows that the
population seems to be doing pretty well. The fishermen
continue catching fish.

And I threw in these length frequencies because
I just thought they were kind of interesting. In '08, you see
this is when we had the 13 inch minimum length limit, and then
you see quite a few 13 inch fish in there. And if you go down,
the same thing is taking place. But if you go down to 2010 and

2011, you see a shift, some larger fish were present in the
population. 2011 is still fairly preliminary, but it seems to
be that there is bigger fish around for whatever reason. A lot
of them have survived.

And fishermen aren't catching these. And we
aren't seeing them in our creel surveys.
And everything that I have there, speckled trout
seem to be doing pretty well at the moment.

MR. GOLLOTT: Mr. Buchanan, I have a question
for you. The $64,000 question I've been waiting a long time to
hear. Did the 13 inch speckled trout damage the fishery?
MR. BUCHANAN: No. But I think it was not a
good move. Took a chance that you didn't have to. I don't see
it as good for what we have. And we still -- and we will
continue to monitor.

MR. GOLLOTT: Thank you, sir.
Financial report.

J. Administrative Services
2. Financial Report

MS. VESA: Good morning. The report today is as
of November 30. Our expenditures as of November 30 were
$3,018,566 which leaves a remaining balance of $3,248,937. And
our tidelands budget at $6,267,493 remains obligated.
Any questions today?

MR. GOLLOTT: Any questions? Thank you.