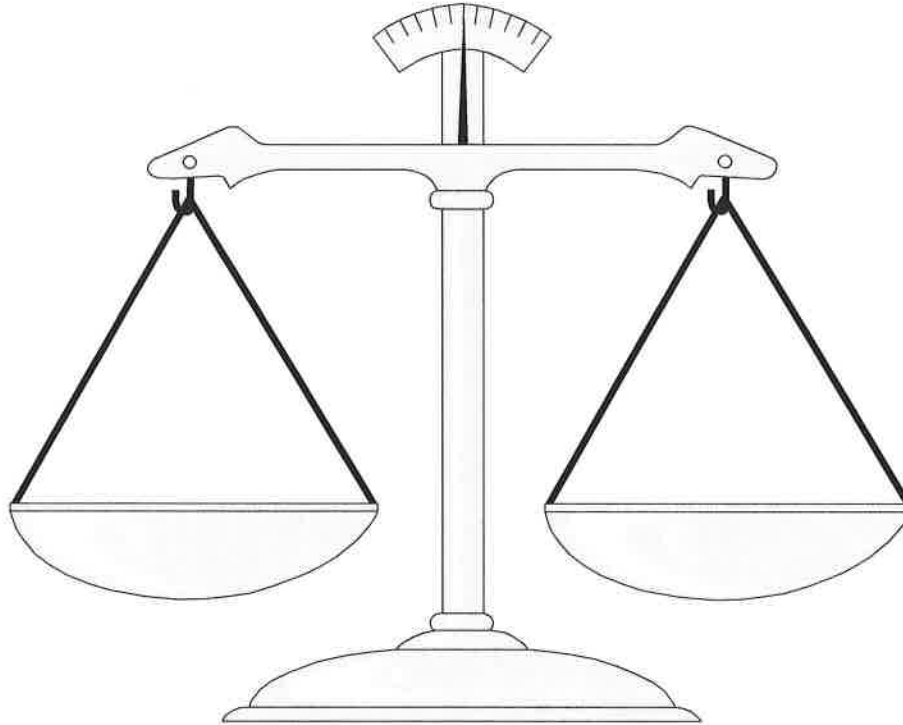


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COMMISSION ON MARINE RESOURCES

## COMMISSION MEETING

July 19, 2011

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1 COMMISSION ON MARINE RESOURCES  
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3 MEETING OF COMMISSION ON MARINE RESOURCES  
4 July 19, 2011  
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7 TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT  
8 BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAYVIEW  
9 AVENUE, BILOXI, MISSISSIPPI, ON THE 19TH DAY OF JULY 2011  
10 COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LADNER  
11 SOROE, CERTIFIED SHORTHAND REPORTER.  
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14 COMMISSION MEMBERS PRESENT:

15 DR. VERNON ASPER, Chairman  
16 RICHARD GOLLOTT  
17 SHELBY DRUMMOND  
18 STEVE BOSARGE  
19 JIMMY TAYLOR

19 ALSO PRESENT:

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

1 A. Call to Order  
2 DR. ASPER: Good morning. I'd like to welcome  
3 everybody to the regular July meeting of the Mississippi  
4 Commission on Marine Resources. It's great to have everybody  
5 here.  
6 If anybody is interested in speaking at the  
7 public comments section of our agenda, please fill out one of  
8 the little forms in the back and make sure it is brought to  
9 Michaela up here.  
10 1. Election of Officers for FY 2012  
11 DR. ASPER: The very first item on our agenda is  
12 the election of officers. And we'll start off with the  
13 election of a chair. Is there a nomination or are there  
14 nominations?  
15 MR. GOLLOTT: Mr. Chairman, I'd like to nominate  
16 Vernon Asper for chair.  
17 MR. BOSARGE: Second.  
18 DR. ASPER: Are there any further nominations?  
19 Is there a motion that the nominations be closed?  
20 MR. BOSARGE: Yes, sir. I make a motion we  
21 close the nominations.  
22 MR. GOLLOTT: Second.  
23 DR. ASPER: Then that seals my fate for the next  
24 year, I suppose.  
25 Thank you for the honor of another year as

1 chair. I'm in my eighteenth year on the commission now, so  
2 it's been long and enjoyable, as well as informative process.  
3 So thank you.  
4 Move on to the vice chair. Are there  
5 nominations for vice chair?  
6 MR. BOSARGE: I make a motion we nominate Jimmy  
7 Taylor as vice chair.  
8 MR. DRUMMOND: I'll second the motion.  
9 DR. ASPER: We have Jimmy Taylor. Is there  
10 anybody else, any other nominations?  
11 MR. GOLLOTT: Move we close the nominations.  
12 MR. BOSARGE: Second.  
13 DR. ASPER: Those in favor say aye. I don't  
14 know if we voted on the first one or not, but whatever.  
15 Okay. Congratulations, Jimmy.  
16 MR. TAYLOR: Just don't be absent.  
17 B. Approval of Minutes Commission Meeting - June 21, 2011  
18 DR. ASPER: Moving on to the regular agenda. We  
19 have a set of minutes from last month's meeting. Are there any  
20 modifications, changes, to the agenda? Is there a motion to  
21 approve the minutes as distributed?  
22 MR. BOSARGE: So moved.  
23 MR. GOLLOTT: So moved, Mr. Chairman.  
24 DR. ASPER: Those in favor say aye. They're  
25 approved.

1 C. Approval of Agenda - Chairman  
2 DR. ASPER: Move on now to the agenda. We have  
3 an agenda. Are there any changes?  
4 DR. WALKER: No, sir.  
5 DR. ASPER: Motion to approve the agenda as  
6 distributed?  
7 MR. DRUMMOND: So moved.  
8 MR. BOSARGE: Second.  
9 DR. ASPER: Those in favor say aye.  
10 D. Public Comments  
11 DR. ASPER: On that agenda, the next item is  
12 public comments. I have not received any requests to speak, so  
13 I assume there's nobody here that wants to address us on an  
14 issue. Okay.  
15 E. Executive Director's Report  
16 DR. ASPER: Move on then to the executive  
17 director's report.  
18 DR. WALKER: Thank you, Mr. Chairman. I have  
19 two things for your attention.  
20 First is an administrative penalty violation  
21 that four folks were stopped with over the limit red snapper.  
22 The recommendation to the commission is that they be fined \$500  
23 apiece.  
24 DR. ASPER: Okay. And that is an action item  
25 for us.

1 DR. WALKER: Yes.  
 2 DR. ASPER: Are those people here? Would they  
 3 like to address us? Come to the podium and state your name.  
 4 MR. LUNSFORD: My name is Jams Vernon Lunsford.  
 5 And first thing I need to say is I have been a  
 6 professional fisherman all my life. This is the first citation  
 7 I have ever had, and I am totally embarrassed for letting  
 8 myself get put in that position.  
 9 I was with someone else on their own boat. And  
 10 when I told him we had enough and had a duty to go look for  
 11 something else, he said I'll take the responsibility. And I  
 12 said it doesn't work that way. I said if anybody on this boat  
 13 gets a ticket, everybody on this boat gets a ticket.  
 14 But in the heat of the bite, I guess they didn't  
 15 hear me or they ignored me. Thank you.  
 16 DR. ASPER: Okay. We have a recommendation --  
 17 MR. TAYLOR: Mr. Chairman, I would like to  
 18 comment. I've known Mr. Lunsford since I was a young man  
 19 fishing at Port Eads and out in the Gulf, and I can vouch for  
 20 what he says about -- and he's been a captain for 35 or 40  
 21 years --  
 22 MR. LUNSFORD: Forty-five.  
 23 MR. TAYLOR: -- 45. And he's never received a  
 24 citation that I know of or hurt anything. Matter of fact, he  
 25 set an example for most of us -- not young, but at the time he

5

1 kept a lot of us in line from doing stuff.  
 2 So I just want to make a comment about Mr.  
 3 Lunsford having known him for so long.  
 4 DR. ASPER: Would you like to make a motion  
 5 regarding the fine?  
 6 MR. TAYLOR: I'd like to waive his fine if at  
 7 all possible if it's okay with the director.  
 8 DR. WALKER: Well, I mean, we all do things we  
 9 know we shouldn't do from time to time. I've certainly made my  
 10 share of mistakes.  
 11 I really, while I appreciate what you said and  
 12 what Mr. Lunsford said, that is just not a good message to send  
 13 to the folks that are out there. And we just need to --  
 14 MR. TAYLOR: I withdraw it.  
 15 DR. WALKER: Thank you.  
 16 MR. DRUMMOND: Yes, sir. I would like to -- was  
 17 it your boat?  
 18 MR. LUNSFORD: No, sir.  
 19 MR. DRUMMOND: It wasn't your boat?  
 20 MR. LUNSFORD: I was on somebody else's boat,  
 21 yes, sir.  
 22 MR. DRUMMOND: Okay.  
 23 MR. GOLLOTT: Mr. Chairman, I make a motion that  
 24 we fine them a thousand dollars apiece, suspend \$500, and have  
 25 a two year probation period on the other \$500.

6

1 DR. ASPER: Is there a second to the motion?  
 2 MR. DRUMMOND: I second the motion.  
 3 DR. ASPER: Further discussion? Those in favor  
 4 say aye.  
 5 MR. TAYLOR: Opposed.  
 6 DR. ASPER: Let the record show that  
 7 Commissioner Jimmy Taylor opposed and voted no. It still  
 8 carries three to one.  
 9 DR. WALKER: Mr. Chairman and commission, I have  
 10 one more item for you today.  
 11 We intend to enter into contracts with two  
 12 people in this current fiscal year. One of them is Corky  
 13 Perret. The other one is Greg Denyer. Both of these folks are  
 14 retirees from the state retirement system in Mississippi. And  
 15 both of their contracts will be for more than \$20,000 for the  
 16 year. State law requires that in those circumstances that the  
 17 commission approve these contracts before we enter into them  
 18 and that we notify the appropriations chairman on both the  
 19 House and Senate side when we take that action.  
 20 So I propose to you that you approve the  
 21 department entering into a contract with Corky Perret and Greg  
 22 Denyer.  
 23 DR. ASPER: Is there a motion to approve?  
 24 MR. BOSARGE: I make a motion we approve.  
 25 MR. GOLLOTT: I'll second.

7

1 DR. ASPER: Any further discussion, questions,  
 2 comments? Those in favor say aye. It's approved.  
 3 I just want to mention that it's always sad to  
 4 lose really good people like that when they retire, and it's  
 5 nice that there is a mechanism to keep them employed with us  
 6 because they have so much talent and experience that they bring  
 7 to us. It's a good mechanism.  
 8 That's all for executive director?  
 9 DR. WALKER: Yes, thank you.  
 10 F. Marine Patrol  
 11 DR. ASPER: Move on to marine patrol. Chief.  
 12 2. Marine Patrol Report  
 13 CHIEF CHATAGNIER: Walter Chatagnier, chief of  
 14 law enforcement. Good morning, Chairman, Mr. Vice Chairman,  
 15 our new vice chairman, director, and the rest of the  
 16 commissioners.  
 17 Marine patrol has been busy. We only had one  
 18 oyster violation. That happened in Jackson County at the Home  
 19 Port Island out there. We had somebody filling up five gallon  
 20 buckets full of oysters and taking them off for consumption.  
 21 Shrimping charges, we had three. One of them  
 22 was all the way up in Bayou Portage above the CSX railroad  
 23 bridge. It was a recreational man trying to catch his own  
 24 bait.  
 25 Saltwater fishing license, they're about

8

1 average.  
 2           It seems like the flounders, people are keeping  
 3 a lot of undersized flounders. I know the flounder fishing has  
 4 been real good here in the last 30 days or more. I don't see  
 5 any reason why people need to keep the undersized. From the  
 6 ones I've seen, they're catching plenty of legal ones.  
 7           Had some undersized cobia and over the limit of  
 8 cobia on our fishing charges.  
 9           And you'll see one down there fishing in closed  
 10 area. This is a case that started all the way back in the BP  
 11 oil spill. A man in the Long Beach Harbor at the bait shop was  
 12 arrested for fishing inside the harbor during the closure.  
 13 They went to court. He got somebody else to come up and  
 14 testify saying he wasn't fishing, I was. So the judge  
 15 instructed us to arrest him on the spot.  
 16           Children under 12 without PFDS. There's no  
 17 sense in it, no reason for it. We're steady writing tickets on  
 18 it.  
 19           We had five boating accidents that resulted in  
 20 two injuries. And the injuries were small children. And we  
 21 had one of those accidents resulted in a fatality in Ocean  
 22 Springs Harbor.  
 23           We taught boat and water safety classes Bay St.  
 24 Louis, Gautier, and Biloxi during June.  
 25           Go over to our JEA patrol, we did 37 patrols.

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1 We used 490 total man hours, made 432 contacts. Enforcement  
 2 action, of course, goes to the NOAA. We did five of those.  
 3 And state citations issued were eight.  
 4           Any questions?  
 5           DR. ASPER: For those of us who aren't as  
 6 intimately involved with this as you are, could you refresh me  
 7 on what the rules are for catching your own bait shrimp?  
 8           CHIEF CHATAGNIER: You can catch your own bait  
 9 shrimp. And if you use a trawl, all you have to have is a 16  
 10 foot trawl and under, and you have to buy a recreational shrimp  
 11 license.  
 12           But there's no shrimping activity north of the  
 13 CSX railroad bridge.  
 14           DR. ASPER: That was his infraction.  
 15           CHIEF CHATAGNIER: Yes, sir. He was in a  
 16 sanctuary, what's deemed to be a sanctuary.  
 17           MR. GOLLOTT: Chief, on these flounders that  
 18 they're gigging, if you gig an undersized flounder, will it  
 19 live if you put that gig through him?  
 20           CHIEF CHATAGNIER: I guess it depends on where  
 21 you stick the gig. If you stick it through his head, chances  
 22 are he's probably not going to live. You stick him out toward  
 23 the middle of the back, and you don't have anything but meat,  
 24 I'm sure he can survive that.  
 25           But I'm not so sure these were gigging

10

1 violations. These were probably all rod and reel violations.  
 2           DR. ASPER: Anything else? Okay. Thank you.  
 3           Move on to fisheries.  
 4 G. Marine Fisheries  
 5           MR. JEWELL: Good morning, commissioners, Dr.  
 6 Walker, Sandy. Congratulations, Dr. Asper, Mr. Taylor on your  
 7 appointments.  
 8           Dale sends his apologies. Unfortunately, he was  
 9 called away.  
 10           Today we only have two items on the agenda. But  
 11 before I get started, I'd like to mention the workshop that the  
 12 DMR is hosting. We've done a public announcement and a press  
 13 release. The DMR is hosting a workshop by the Gulf South  
 14 Atlantic Fisheries Foundation. It's being taught here in the  
 15 commission room. The first of this workshop started yesterday  
 16 from 3:00 to 5:00, and then it will be taught again today from  
 17 3:00 to 5:00. It is taught on the TED regulations and how to  
 18 properly install a TED in a fishing trawl. That's done as a  
 19 public service community outreach to the shrimping community.  
 20 And we encourage all of our shrimper men to participate and  
 21 attend one of those workshops.  
 22           And first on the agenda is --  
 23           MR. TAYLOR: Could I ask you a question about  
 24 the TEDS?  
 25           Not being a shrimper, I know what they are and

11

1 all, but last week in the paper NOAA stated that all the turtle  
 2 deaths were caused by the shrimp fleet. And we had done  
 3 something earlier and a lot of (inaudible) flyovers and things.  
 4 I know (inaudible). Is it just a lack of knowledge that these  
 5 people are sewing the TEDS in wrong to just bypass the TED?  
 6 They cited -- I forget -- over 30 percent of the TEDS were  
 7 wrong. I don't know if you had any ideas on that. I mean,  
 8 y'all do a lot of work, just like you're holding a seminar  
 9 here, you've held many of those, even bought TEDS for people.  
 10           MR. JEWELL: We have. We've done a lot of  
 11 community outreach to not only the commercial shrimper men but  
 12 to the recreational community, also.  
 13           We've given out free TEDS, just under 400 free  
 14 TEDS to the shrimping community. We have done literature  
 15 outreach to just over 66,000 recreational fishermen and just  
 16 over 2,000 commercial fishermen concerning turtles, how to  
 17 handle those properly. We did the restriction in trawl tow  
 18 times for the shrimping, the push trawls. We've done a lot of  
 19 outreach to the shrimping community.  
 20           But the TEDS, I think the chief will be able to  
 21 talk more about the actual onboard inspections of the device  
 22 itself.  
 23           We have participated, our staff, in conjunction  
 24 with marine patrol have done overnight onboard inspections of  
 25 the actual activities as they shrimp. And last year and this

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1 year -- last year, they had noticed and observed only four captures of turtles, and all those were successfully returned alive. This year, we have not noticed any capture of turtles in the shrimping fleet.

5 MR. TAYLOR: I wish that someone, I don't know who would do it, maybe our attorney or something, kind of write a response to the thing that was in the paper because to me it looked like -- I know y'all do all of this, but the general public doesn't know how much y'all do. And I would like to maybe do a little response -- I won't say a response, but something in the local media that states basically what you just said because I know some people think it's blowing their own horn, but it's not because again I read the article and felt that it slighted y'all.

15 MR. JEWELL: Well, we have a couple things that we are doing in response to the scoping meeting that occurred here. The Department of Marine Resources is in the process of submitting our comments to that process. That's going on internally, and we do plan to submit comments.

20 We do through the -- Ms. Floyd will be able to address that, but we do have a shrimp and crab newsletter that we do release a lot of that information to the public directly, both commercially and recreational. And we do have a lot of that information that's published on our website that the public can access through the Internet.

13

1 MR. BOSARGE: And there's been quite a lot of publicity on TEDs, and lot of folks, whether it be state, federal, checking TEDs, and a lot of TED violations. But they range anywhere from a hole in a flap to a cut not quite right to a wrong TED angle. But hopefully the fishermen are working on it.

7 And I guess from a fisherman's perspective, here in Mississippi especially, we look forward to the trip ticket system because having had that data to show where the effort was at at the time the effort was taking place, which was very little effort, then we could correlate strandings with no effort.

13 So the fishing and shrimping industry in Mississippi pretty well feels like they have been accused without any proof. And hopefully as we here in Mississippi as we work through our trip ticket system, that's just another example on how we can use that information.

18 MR. JEWELL: Well, yeah, exactly. And one of the things that was brought out, and certainly one of the things that the statement we would make is that the initial landings of these turtles, the mortalities when they started occurring was about mid-March. And the peak occurred in April. And this is the time when the shrimping industry was all docked. The season was not even open at that point.

25 So while trip tickets would have been worthwhile

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1 and they still have very great asset, the overwhelming data right now, the evidence is that while the turtle mortality is increased and peaked, it actually spiked in April, and they have been going down dramatically while shrimp season was open, the curve being that when it peaked at its greatest point, the shrimp fleet was docked.

7 And now that that curve has been going down, the shrimp season was open.

9 So that's the facts as we have them documented.

10 MR. BOSARGE: I agree with Jimmy. It would be nice to have something from the state. I know Dale has been working hard on it. So I would look forward to seeing something from the state kind of rebutting what the talk is.

14 DR. ASPER: I think one thing that's missing here is an alternative explanation for what's killing the turtles. Given exactly what he just said about the effort and mortalities not correlating very well, we need to come up with some other explanation.

19 MR. JEWELL: Correct.

20 DR. ASPER: And I realize that NOAA -- National Marine Fisheries is interested in funding a population study. And I'm thinking that maybe in state waters perhaps we should be looking into doing something like that because it's really critical that we understand what's going on here especially if there is any possibility that it's going to result in increased

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1 regulations which are going to impact the industry. Whatever we can do.

3 MR. JEWELL: I think the curious thing is that the fishing community, particularly the shrimping community, and the scientific community are all on board with this. The approach being a holistic approach. That unilinear approach is not giving the answer that the preponderance of the evidence of pointing to.

9 What really needs to be done is a holistic approach. And I think everyone is on board with that. What we really need is a holistic approach that addresses what really is going on out there because the overwhelming evidence is not pointing to what is being pointed out as the cause which is the shrimping industry.

15 MR. GOLLITT: One other thing I'd like to add. Enforcement did go down all the boats before they started this season and checked the TEDs and United States Coast Guard and enforcement. If they weren't correct, they corrected them.

19 There's absolutely no way that the shrimping industry caused these turtle deaths. Like Dr. Vernon Asper said, I wish we could find out what really did.

22 MR. JEWELL: Our law enforcement has done an overwhelming great job in enforcing the TEDs regulations. I have utmost confidence in marine patrol's capabilities to enforce the rules and regulations. They continue to do

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1 inspections and on board inspections of the shrimping industry.  
2 While there are minor adjustments that need to be made, as with  
3 any industry, marine patrol continues to do a great job in  
4 enforcing the rules and regulations.

5 MS. FLOYD: If I could too add, we are currently  
6 pursuing additional funding for sea turtle work. And also the  
7 Coastal Markers, DMR newsletter, for the past issues has  
8 highlighted our work and will continue to do that.

9 DR. ASPER: Okay.

10 MR. JEWELL: Our first agenda item is Mr. Scott  
11 Gordon. He's going to give an update on the Bonnet Carre.

12 3. Bonnet Carre Update

13 MR. GORDON: Good morning, Mr. Chairman,  
14 commissioners, Dr. Walker, Sandy.

15 Brief background. Bonnet Carre Spillway opened  
16 up May 9 of this year and closed June 20. And there were 330  
17 out of 350 bays open. Now that for people in the future,  
18 they're going to look at that, and it's going to be misleading  
19 to them because that's what we usually look at, how many bays  
20 did they open up. But this year we had a maximum discharge of  
21 316,000 cubic feet per second. Whereas, the structure is  
22 designed to handle 250,000 cubic feet per second with all 350  
23 bays open. So this was a very significant event, and the best  
24 I could tell it was about fourth or fifth highest of any of the  
25 openings.

17

1 Dealing with the flood situation on the coast  
2 was interesting, especially since we have been under the  
3 exceptional, the extreme to the exceptional drought along the  
4 coastal areas, that is until yesterday.

5 And I think everybody was glad to see that rain.

6 But as a result of us being under this drought  
7 condition, the Pearl River -- here at the very top I've got a  
8 chart showing the Pearl River stage at Pearl River, Louisiana,  
9 and at the bottom is the Wolf River near Landon, Mississippi.  
10 And the lines on those is for the Pearl River, that's the gauge  
11 height, and the little triangles on there are the median daily  
12 statistics over 14 year period for the Pearl River. And as you  
13 can see during the period of time when the spillway was open,  
14 we were below the average levels. And the discharge for the  
15 Wolf River, again the line was way below what the average was  
16 over a 39 year period.

17 So that really helped us out to some extent.  
18 And in my fist presentation on the Bonnet Carre Spillway, I had  
19 predicted we were going to have 100 percent mortalities. That  
20 did not occur, but we still did receive some significant  
21 mortalities.

22 These are some of the constant recorder  
23 monitoring locations throughout the coast. And the one right  
24 here is the St. Joe area. I'm going to show that. This is the  
25 Merrill Shell Bank. This is the Gulfport Light, and then the

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1 East Ship Island.

2 At East Ship Island, that is one that they also  
3 have a -- they record dissolved oxygen. That's the only one  
4 that I know of in the Mississippi Sound that does a constant  
5 recording of that.

6 And again the triangles, that's the median daily  
7 statistic just looking over the last year period. And we did  
8 have a few instances here where we had some oxygen or low  
9 oxygen events going on.

10 These are salinity levels for the various  
11 stages. And this is St. Joe Light. This is Merrill Shell Bank  
12 Light, Gulfport Light, and the East Ship Island Light. And as  
13 you can see, in every one of these we did see effects from the  
14 Bonnet Carre Spillway, and some were more significant than  
15 others.

16 Darren Stewart with the shrimp and crab bureau  
17 was doing a turtle observation flyover, and he happened to see  
18 some discoloration in the water, and he snapped a picture. And  
19 he sent the picture out to several of us. And I looked at it,  
20 and I was just amazed at what I saw. And I was able to -- it  
21 was hazy when he was flying, and I was able to put it through  
22 some little enhancing process. But we can see the -- it really  
23 brought out the details with this.

24 Where he was flying, he was just north of Ship  
25 Island, and he was headed toward the Biloxi area. This is the

19

1 Beau Rivage and here is Deer Island.

2 I believe what this was showing, we didn't  
3 happen to have a boat out on the water at the time to grab the  
4 water samples, but we did have one go out shortly thereafter,  
5 and we did not see any plankton events.

6 But what I believe this to be, and this was done  
7 on June 22, while we still had some of the Mississippi River  
8 water coming through the Sound, the lighter areas I believe are  
9 the turbid low salinity or fresh water and the darker areas are  
10 the higher salinity offshore waters. And this is where they're  
11 mixing at.

12 And it was interesting, I played around with a  
13 couple more of these filters, and you can see in this area  
14 which you could not see on the other photo, this little helix  
15 where the water is twirling around and then the sheets coming  
16 out. That is what I feel to be where the salt water and fresh  
17 water is actually mixing.

18 So I thought you might be interested in that  
19 picture.

20 We conducted some square meter samples in May  
21 and in July. And these are results of our -- this is the  
22 percentages of oyster mortalities comparing those two times  
23 from the square meter sampling.

24 The Pass Christian reef complex, Pass Marianne  
25 reef, St. Joseph reef, and Telegraph reef. We had 20 stations

20

1 in the Pass Christian complex, and we did duplicates for each  
2 station. So it was a total of 100 samples, square meter dive  
3 samples that were conducted.

4 And then the Pass Christian reef complex, you  
5 can see we had 16 percent in May and 54 percent mortalities in  
6 July. And it goes on through the 18 and 43 for Pass Marianne  
7 and St. Joseph's reef which was the reef that was the greatest  
8 affected, and it's our reef area that's closest to the Bonnet  
9 Carre. In May, we only had a seven percent estimated mortality  
10 and just about 100 percent for the July samples. And Telegraph  
11 reef, it's just a result of the samples that actually the  
12 mortalities seem to have gone down.

13 Now, this next slide, what we do is from the  
14 samples we know how many spat, seed, and sack oysters there  
15 are. And so these are estimated sacks of oysters per acre for  
16 the various reef complexes, again, looking at May versus July.  
17 And these are looking at the legal oysters in our samples.

18 And it's pretty disheartening to see these. The  
19 Pass Christian complex, we had estimated in May 448 sacks per  
20 acre. And for July, that was down to 36.4 sacks per acre.

21 And you can see how the rest of them go.

22 So these are fairly low numbers of surviving  
23 oysters.

24 Again, some of the seen or expected effects were  
25 the significant mortalities of oysters. And we have seen that.

21

1 There appears to continue to be a reduction in reported blue  
2 crab landings, increased mortalities to the predatory oyster  
3 drill which that was a good thing for us, and the drought  
4 seemed to help because we had the lower than average river  
5 stages.

6 But we feel that -- and this is one of the  
7 things that I feel that we may see some results of this week or  
8 next week is with the increased nutrient load of the fresh  
9 water and having phytoplankton blooms, whenever you have the  
10 hot cloudy days, the phytoplankton tends to die off and sucks  
11 the oxygen out of the water. And we may have some problems  
12 with that.

13 As I reported last month, the possible permanent  
14 introduction of some invasive species into coastal rivers and  
15 streams. And it has delayed or set back our coastal  
16 restoration activities, but the salinities seem to be returning  
17 to normal levels.

18 Some of our related activities. The  
19 CONSERVATIONIST has been moving oysters to the St. Joseph reef  
20 area to facilitate recovery. Since we had such a high  
21 mortality rate in that area, we felt that that was important to  
22 get some brood oysters into the area.

23 Cultch plants are beginning in August. We are  
24 currently working with NOAA Fisheries on a federal fisheries  
25 disaster declaration, and the governor has already sent a

22

1 request of such.

2 The Mississippi Department of Environmental  
3 Quality is assisting us in some datasonde placements, and they  
4 remain in place. And I really would have liked to have had the  
5 information for this meeting, but since we were having this  
6 rainfall event, I wanted them to remain in the water so we  
7 could record especially any low oxygen events.

8 And that's going to be very helpful in  
9 recording detailed event information.

10 So in conclusion, the department will continue  
11 to identify and monitor affected areas over the next several  
12 months and document any potential impacts from this historic  
13 event, and we will continue in our recovery efforts.

14 Are there any questions? Thank you.

15 DR. ASPER: Has there been any sign of the Asian  
16 carp?

17 MR. GORDON: In Mississippi, no. Keep our  
18 fingers crossed.

19 DR. ASPER: Okay. Thank you, Scott.

20 MR. JEWELL: Our final agenda item is state  
21 records, Erick Porche.

22 4. State Records

23 MR. PORCHE: Good morning. We have five records  
24 for you today. They're all conventional tackle.

25 First up, we have a yellowtail snapper, *Ocyurus*

23

1 *chrysurus*. Our old record is 6 pounds 0.32 ounces. We have a  
2 new record of 7 pounds 3.52 ounces caught by Jacob Edward  
3 Faucett. There's the yellowtail and Mr. Faucett.

4 Second we have a scrawled filefish, *Aluterus*  
5 *scriptus*. It's a new record of 4.8 ounces caught by Derek  
6 Edward Saucier. And Mr. Saucier.

7 A belted sandfish, *Serranus subligarius*. It's  
8 also a new record at one ounce caught by Eddie Kopszywa.

9 Tilefish, *Lopholatilus chamaeleonticeps*. It's  
10 an old record of 10 pounds 3.2 ounces. The new record is 14  
11 pounds 8 ounces caught by Mike Salvetti.

12 And finally, a bigeye tuna, *Thunnus obesus*. The  
13 old record of 92 pounds 2.88 ounces which was actually  
14 certified last month. It's a new record of 93 pounds 5.6  
15 ounces caught by Zach Joseph.

16 Any questions?

17 MR. DRUMMOND: How deep was the water where the  
18 tilefish was caught?

19 MR. PORCHE: I can't remember. I remember it  
20 was caught in deep water, but I don't have that information on  
21 me.

22 MR. TAYLOR: On the yellowtail snapper, that's  
23 unusual for this area; isn't it?

24 MR. PORCHE: In the last 12 years that I've been  
25 here, I've seen four. And that's it. Yeah. It's mostly a

24



1 tropical or subtropical fish. Find them down in the Keys, but  
2 every now and then we get these weather events that will wash  
3 them up into here.

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

6 MR. DRUMMOND: I make a motion.

7 MR. GOLLOTT: Second.

8 DR. ASPER: Those in favor say aye. Thank you.

9 MR. PORCHE: Thank you.

10 MR. JEWELL: If there are no questions, that  
11 concludes marine fisheries.

12 H. Coastal Ecology

13 MR. BOYD: Good morning, Mr. Chairman,  
14 commissioners, Dr. Walker, Ms. Chesnut.

15 Coastal ecology has three action items for your  
16 consideration this morning. And Greg Christodoulou will be  
17 presenting the first two.

18 3. Bureau of Wetlands Permitting

19 a. City of Gulfport

20 MR. CHRISTODOULOU: Good morning. My name is  
21 Greg Christodoulou. I will be presenting Items H-3(a) and  
22 H-3(b) this morning.

23 First is a request for a permit extension by the  
24 City of Gulfport. Location is the Bert Jones Yacht Basin Small  
25 Craft Harbor in Gulfport.

25

1 say aye. It's approved.

2 b. Bosarge Diving, Inc.

3 MR. CHRISTODOULOU: Next we have a permit  
4 modification by Bosarge Diving, Incorporated. It's on Bayou  
5 Casotte, and it's in the industrial development district. And  
6 EMI Environmental is also the agent for this project.

7 Project location is noted by the yellow  
8 thumbtack. And here is a zoomed in portion. Bayou Casotte.

9 Previously permitted impacts were 305 linear  
10 feet of bulkhead, 2,000 square feet of upland excavation,  
11 excavation of fringe marsh of 600 square feet, and 2500 cubic  
12 yards of dredging. And dredge fee was required for the earlier  
13 project.

14 For the proposed, we have a bulkhead that's 942  
15 linear feet, 8,342 square feet of upland excavation, 407 square  
16 feet of fringe marsh excavation, maintenance dredging of 46,000  
17 cubic yards of material which will be required for beneficial  
18 use, and eight three-pile cluster pilings, dolphins.

19 Here is a diagram of the previously permitted  
20 project. This piece of property right here and the boat slip  
21 associated with it, the bulkhead around the perimeter of the  
22 slip, the dredging area. Bosarge Diving also acquired the  
23 property to the south which contains this boat slip area here.

24 The proposed impacts for this project would be  
25 to cut off this upland point here, place a bulkhead around the

27

1 it's in a commercial recreational marinas  
2 district, and the agent is EMI Environmental.

3 Here is the project location south of Highway  
4 90, yellow thumbtack, middle of the small craft harbor.

5 And the applicant is requesting an extension  
6 until March 12, 2012, which will coincide with the expiration  
7 of the Corps of Engineers permit.

8 The permit authorized dredging of approximately  
9 140,000 cubic yards of material from the basin for maintenance  
10 activities following Hurricane Katrina.

11 Here is the diagram of the dredging.

12 In December 2006, the commission approved a  
13 project that would allow the applicant to dredge 140,000 cubic  
14 yards of material and also rebuild the piers and bulkheads  
15 within the harbor.

16 And in June of 2011, DMR received a request to  
17 extend the project so it would coincide with the Corps' permit.

18 And staff recommends that the commission extend  
19 the permit until March 12, 2012, so the DMR permit will expire  
20 at the same time as the Corps of Engineers permit.

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

22 MR. BOSARGE: I make a motion we accept the  
23 staff's recommendation.

24 MR. DRUMMOND: I second the motion.

25 DR. ASPER: Further discussion? Those in favor

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1 perimeter of the slip, install the dolphins here.

2 There will be some fringe marsh that is proposed  
3 to be excavated. It's in scattered locations along here and  
4 along this area.

5 And the mitigation for the proposed impacts for  
6 this project and for the previous project will be the creation  
7 of 3637 square feet of marsh in this edge of the boat slip, and  
8 the eight mooring piling clusters will be placed to protect  
9 that marsh mitigation area.

10 Decision factors.

11 The project will provide a commercial docking  
12 facility for offshore support vessels which will allow for safe  
13 and efficient loading and unloading of supplies and materials  
14 for offshore oil and natural gas platforms. And the project  
15 will employ approximately a dozen workers and will contribute  
16 to the local tax base.

17 The project is an allowable use within the  
18 industrial development district.

19 And the activity as proposed should not set a  
20 negative precedent. The commission has authorized past  
21 projects which allowed the applicant to remove and transplant  
22 vegetation to another location with required monitoring and  
23 appropriate mitigation when those projects had a higher public  
24 interest. And the applicant has proposed onsite inkind  
25 creation of higher quality tidal marsh at 3.6 to 1 ratio as

28

1 determined by DMR and other regulatory agencies, and without a  
2 mitigation agreement of this type, staff would not recommend  
3 approval of the project.

4 Maintenance dredging will increase -- will  
5 result in temporary increase in turbidity and a temporary  
6 decrease in the number of benthic organisms. And the marsh  
7 which will be removed consists of two separate narrow bands  
8 that's approximately three to four feet in width and which  
9 would be considered low to medium quality.

10 Bosarge Diving, Incorporated, proposes to  
11 construct a marine terminal facility to provide docking and  
12 loading and unloading for offshore support vessels.  
13 Alternative designs were considered. Piers would not be able  
14 to sustain the weight of the cranes that would be required to  
15 load and unload the material. And the configuration, the  
16 impacts to the emergent wetlands that are onsite would be just  
17 as great and would not provide a sufficient use of space.

18 Also, by placing bulkhead right behind the  
19 existing marsh, probably a matter of time, that marsh would  
20 slough off anyway.

21 There are very few sites with waterfront access  
22 available on Bayou Casotte. Other waterfront areas north and  
23 east of the proposed site have extensive emergent wetlands  
24 along the shoreline, and the water depths are not sufficient to  
25 allow for safe navigation without extensive dredging.

29

1 The site is located in an industrial area with a  
2 similar facility located just south of the preferred location,  
3 so scenic qualities would not be impaired by the project.

4 National interest. Bosarge Diving is contracted  
5 to supply equipment and materials necessary for support and  
6 operation of natural gas and oil platforms. So the project  
7 would indirectly contribute to nation's energy policy.

8 Public notice was placed as required. No public  
9 comments were received.

10 The project did receive water quality  
11 certification from DEQ on June 3. Archives & History has no  
12 reservations. Wildlife, Fisheries & Parks recommends  
13 implementing of best management practices. And the Secretary  
14 of State's Office has said no tidelands lease will be required.

15 And based on evaluation by the staff, we  
16 recommend approval of the modification because the project is  
17 for a water dependent industry which helps support companies  
18 essential to the nation's energy policy and also has a public  
19 benefit by increasing the local tax base and creating jobs in  
20 the area.

21 DR. ASPER: Any questions?

22 MR. BOSARGE: Mr. Chairman, I would like to  
23 recuse myself from voting as this is a relative of mine.

24 MR. TAYLOR: I make a motion we accept the  
25 staff's recommendation.

30

1 MR. GOLLOTT: I'll second it.

2 DR. ASPER: Further discussion? Those in favor  
3 say aye. Three in favor, one recused. Motion passes.

4 c. MVB Holding, LLC D/B/A Margaritaville Casino and  
5 Restaurant

6 MS. WITTMANN: Good morning. I'm Jennifer  
7 Wittmann, and I will be presenting a permit request by MVB  
8 Holding doing business as Margaritaville Casino and Restaurant  
9 located on the Back Bay of Biloxi on Fifth Street.

10 It's in the industrial development use district,  
11 and the agent is Machado Patano.

12 You can see the location of the site north of  
13 Highway 90 and south of the CSX railroad bridge.

14 And a zoomed in area showing the project  
15 location.

16 This is a photo of the project location taken  
17 from St. Michael Fuel & Ice which is the southern property,  
18 adjacent property owner.

19 The applicant is proposing to construct a marina  
20 in association with an upland casino development. Impacts  
21 associated with the project include the maintenance dredging of  
22 1600 cubic yards of material, 810 feet of piers ten feet in  
23 width, 70 feet of piers six feet in width, a 348 by 9 foot  
24 boardwalk, 41 mooring pilings, 600 feet of wave break piers, a  
25 floating restroom facility 21 feet by 20 feet, and pump-out

31

1 facility.

2 Shading impacts associated with the project will  
3 total approximately 13,200 square feet.

4 The marina will provide ten overnight slips and  
5 17 transient berthing slips.

6 This is a diagram of the marina. As you can  
7 see, it will be 45.64 feet from the southern property line and  
8 58.44 feet from the northern property line.

9 This is the dredging diagram. They will only be  
10 dredging a portion of the basin. The whole basin doesn't have  
11 to be dredged.

12 And this diagram shows the location of the  
13 pump-out system, the pump-out controls, and the location to the  
14 pipes to the force main to connect with the city sewer systems  
15 and also the location of the floating restroom facility.

16 The project serves a higher public purpose by  
17 constructing a master plan waterfront property consisting of an  
18 upland casino development with restaurants, retail space,  
19 entertainment area, and marina, in an area of Biloxi severely  
20 damaged by Hurricane Katrina.

21 The project is allowable within the industrial  
22 development use district.

23 Similar projects have been approved by the  
24 commission, and no precedent setting effects are anticipated.

25 Shellfish and SAV surveys were completed in the

32

1 area, and no evidence of either was found.

2 There will be temporary increase in turbidity  
3 during dredging operations and a loss of benthic organisms.

4 Shading impacts associated with the project  
5 again will total 13,200 square feet.

6 This is a diagram used for the shellfish survey.  
7 They went out 200 feet beyond the marina as recommended by our  
8 shellfish staff and gridded off and were able to survey the  
9 entire marina and again no evidence of shellfish was found.  
10 For the SAV, they only went out to a depth of eight feet, and  
11 they ran three transects north and south and again did not find  
12 any SAV in the area.

13 The full extent of the project consists of an  
14 upland casino development with restaurants, retail space, an  
15 entertainment area, and a marina.

16 Best management practices will be utilized  
17 during all phases of construction to minimize adverse impacts  
18 to coastal wetlands, as well as strict onsite management of  
19 construction activities and signage.

20 The original plan for the casino consisted of 16  
21 to 20 transient slips and no overnight berths or utilities.  
22 However, the Mississippi Gaming Commission required that the  
23 developers have more investment in non-casino areas. The  
24 Gaming Commission also objected to the scale of the original  
25 project and strongly recommended that the applicant provide a

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1 marina facility that better complemented the Margaritaville  
2 theme.

3 The applicant considered several properties  
4 along Highway 90, but because the water is susceptible to  
5 intense wave action from storms and the need for extensive  
6 dredging, those areas were eliminated.

7 The applicant also considered 11 sites along the  
8 Back Bay of Biloxi, but these sites were all rejected because  
9 of ownership issues, insufficient land mass, dissection by city  
10 streets, poor access, proximity to the railroad, and the  
11 presence of wetlands on site.

12 A marina does require a waterfront location, and  
13 casino gaming sites are required to be no more than 800 feet  
14 from the mean high water line.

15 The project is in an area that has historically  
16 been utilized as an industrial and commercial facility.

17 Notification of the project appeared in the Sun  
18 Herald as required. Comments were received concerning the  
19 proximity of the marina to the adjacent property and the  
20 distance of the facility into the adjacent waterway.

21 The applicant has revised their plan and moved  
22 the marina an additional 15 feet from the southern property  
23 line for a total of 45.64 feet.

24 And this diagram shows the -- it's not very  
25 clear, I apologize. This is the outline of the marina, the

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1 approximate toe of the navigation channel, and the green  
2 channel marker line.

3 This is the adjacent property owner. We did  
4 have a meeting with the adjacent property owner, and since that  
5 meeting and the shift of the facility more to the north, he has  
6 stated that he doesn't have a problem with the project as it is  
7 being proposed to the commission.

8 DEQ, Department of Archives & History, and Corps  
9 of Engineers are reviewing the project. The Secretary of  
10 State's Office has stated that a tidelands lease will be  
11 required. And the Department of Wildlife, Fisheries & Parks  
12 has recommended the implementation of best management  
13 practices.

14 Staff has conducted a thorough evaluation of the  
15 project and determined that it is consistent with the  
16 Mississippi Coastal Program. Therefore, staff recommends  
17 approval of the permit, excluding the floating restroom  
18 component. Once this project receives 401 water quality  
19 certification from DEQ, if they approve the floating restroom  
20 component, we will bring it back to the commission and  
21 recommend approval. They are currently reviewing the project  
22 and are working with the applicants for some specifics on the  
23 restroom facility. And it won't have to go back on public  
24 notice because it was included in the original notice.

25 MR. TAYLOR: Do you foresee any problem with the

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1 DEQ?

2 MS. WITTMANN: I don't know of any projects  
3 where they have approved a floating restroom facility. But at  
4 the same time, I don't know that there have been any proposed.  
5 So I think that it's --

6 MR. TAYLOR: I know that FEMA has tried to  
7 required several places on the beach to do that instead of  
8 having restroom facilities (inaudible).

9 MS. WITTMANN: Right. I believe that that's  
10 where the concept came from. There were some issues with  
11 having sufficient restroom facilities on the ground floor of  
12 the development, and I think it was FEMA that recommended that  
13 they have the floating facility. So if DEQ will sign off on it  
14 and grant 401 water quality certification, we would bring it  
15 back and recommend that the commission also approve that  
16 component.

17 MR. GOLLITT: Jennifer, you said that you had  
18 met with Mr. Luke, and he has no problem with it now?

19 MS. WITTMANN: We met with him on Friday. Jan  
20 Boyd, David Machado, and myself. We reviewed the new plan.  
21 Machado Patano actually went out and staked where the marina  
22 boundaries will be located. They put out some PVC pipe so that  
23 he could see that. He said it wasn't going to be a problem.

24 MR. GOLLITT: Mr. Chairman, I'd like to make a  
25 motion that we accept staff's recommendation on this project.

36

1 DR. ASPER: Is there a second?  
 2 MR. BOSARGE: Second.  
 3 DR. ASPER: Just to be clear, what we're voting  
 4 on is what's in our packet, excluding the floating restroom  
 5 component for now.  
 6 Further discussion? Those in favor say aye.  
 7 Carried unanimously.  
 8 MS. WITTMANN: Thank you.  
 9 DR. ASPER: I believe that concludes coastal  
 10 ecology?  
 11 MS. WITTMANN: Yes.  
 12 DR. ASPER: We'll move on to our financial  
 13 report. Kara.  
 14 J. Administrative Services  
 15 2. Financial Report  
 16 MS. VESA: Good morning. Today's report  
 17 reflects the ending of one fiscal year and the beginning of  
 18 another.  
 19 Our fiscal year of 2011 ended on June 30, and  
 20 zero funds were remaining. And all of our tidelands funds have  
 21 been obligated.  
 22 On July 1, Fiscal Year 12 began, and our budget  
 23 for this year is 6,267,493. And our tidelands budget is  
 24 \$8,500,190.  
 25 And that is my report. Are there any questions?

37

1 DR. ASPER: Thank you very much.  
 2 As far as I can see, that's the end of the  
 3 agenda.  
 4 MR. GOLLOTT: Mr. Chairman, one more thing. Let  
 5 me go back and amend the fine on this fishing violation. I'm  
 6 not going to upgrade it; I just want to straighten it out.  
 7 Based on the foregoing executive director's  
 8 fine, the allegation contained that the reports have admitted  
 9 -- okay. Anyhow, what I want to do is I want to fine him a  
 10 thousand dollars, suspend \$500, and this is all contingent, the  
 11 extra \$500 is all contingent on no more violations in the next  
 12 two years being committed -- I just want to straighten that out  
 13 -- in any jurisdiction in Mississippi  
 14 DR. ASPER: Okay. I think that's pretty much  
 15 what was understood. Do we need to vote on that again? Just  
 16 clarifying what the motion was.  
 17 MR. GOLLOTT: Just clarifying.  
 18 DR. ASPER: Everybody okay with that?  
 19 Is there anything else on the agenda?  
 20 Is there a motion to adjourn?  
 21 MR. DRUMMOND: I make a motion we adjourn.  
 22 MR. BOSARGE: Second.  
 23 DR. ASPER: We're adjourned.  
 24 (Meeting adjourned 9:55 a.m.)  
 25

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BEFORE THE COMMISSION ON MARINE RESOURCES

COURT REPORTER'S CERTIFICATE

1  
 2  
 3  
 4  
 5  
 6  
 7  
 8 I, Norma Jean Ladner Soroe, Certified Shorthand  
 9 Reporter, do hereby certify that to the best of my skill and  
 10 ability I have reported the meeting of the Commission on Marine  
 11 Resources and that the foregoing 38 pages constitute a true  
 12 transcription of said meeting held on the 19th day of July  
 13 2011.

14 I do further certify that my certificate annexed  
 15 hereto applies only to the original and certified transcript.  
 16 The undersigned assumes no responsibility for the accuracy of  
 17 any reproduced copies not made under my control and direction.  
 18 Witness my signature this the 1st day of August 2011.

19  
 20   
 21 Norma Jean Ladner Soroe, CSR #1297  
 22 Certified Shorthand Reporter  
 23  
 24  
 25

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