

# *Compressed Transcript*



COMMISSION ON MARINE RESOURCES

## COMMISSION MEETING

July 17, 2012

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1 COMMISSION ON MARINE RESOURCES  
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3 MEETING OF COMMISSION ON MARINE RESOURCES  
4 July 17, 2012  
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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 17TH DAY OF JULY 2012  
10 COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LADNER  
11 SOROE, CERTIFIED SHORTHAND REPORTER.  
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13  
14 COMMISSION MEMBERS PRESENT:  
15  
16 DR. VERNON ASPER, Chairman  
17 RICHARD GOLLOTT  
18 SHELBY DRUMMOND  
19 STEVE BOSARGE  
20 JIMMY TAYLOR  
21  
22 ALSO PRESENT:  
23  
24 DR. WILLIAM WALKER, Executive Director DMR  
25 JOSEPH R. RUNNELS, ESQ., Asst. Attorney General  
SANDY CHESNUT, ESQ., Asst. Attorney General

1 Is there a motion to close the nominations?  
2 MR. DRUMMOND: So moved, Mr. President.  
3 DR. ASPER: Is there a second?  
4 MR. GOLLOTT: Second.  
5 DR. ASPER: I guess that means I am elected by  
6 acclimation. Thank you for your trust in me. I'll try to do a  
7 good job.  
8 And for vice-chair, are there nominations?  
9 MR. GOLLOTT: I make a motion for Jimmy Taylor.  
10 MR. BOSARGE: I'll second that motion.  
11 DR. ASPER: Any other nominations?  
12 MR. GOLLOTT: Make a motion we close.  
13 DR. ASPER: Is there a second?  
14 MR. DRUMMOND: I second the motion.  
15 DR. ASPER: I guess we need to vote on that  
16 actually. Those in favor say aye. Say aye again for the  
17 vice-chair. Okay. Thank you.  
18 Congratulations, Jimmy.  
19 B. Approval of Minutes  
20 DR. ASPER: Okay. We have the minutes here, and  
21 there should be copies in the back. Are there any changes to  
22 the agenda -- changes to the minutes as they were distributed?  
23 Is there a motion to approve the minutes?  
24 MR. DRUMMOND: So moved, Mr. President.  
25 MR. GOLLOTT: Second, Mr. Chairman.

1 A. Call to Order  
2 DR. ASPER: Good morning. I'd like to welcome  
3 everyone to the regular July meeting of the Mississippi  
4 Commission on Marine Resources. Great to have everybody here.  
5 Before we start our regular agenda, there are  
6 three of our commissioners who have been reappointed for  
7 another four year term. We'd like Commissioners Bosarge,  
8 Gollott, and Drummond to come around to this side for the  
9 swearing in.  
10 1. Oath of Office  
11 (Whereupon the oath of office was administered  
12 by the Court Reporter.)I  
13 DR. ASPER: Thank you, gentlemen. Thank you for  
14 your years of service already, and I'm sure you'll do great in  
15 your next term.  
16 2. Election of Officers  
17 DR. ASPER: The next item on our agenda is the  
18 election of officers. Every year in July, we elect officers.  
19 And we start with the chairman, and then we go  
20 to vice-chair.  
21 Are there any nominations for chairman?  
22 MR. BOSARGE: I make a motion that we nominate  
23 Vernon Asper for chairman.  
24 MR. GOLLOTT: I'd like to second that motion.  
25 DR. ASPER: Any other nominations?

1 DR. ASPER: Those in favor say aye. That's  
2 carried.  
3 C. Approval of Agenda  
4 DR. ASPER: And the agenda, are there changes?  
5 DR. WALKER: Yes, sir, Mr. Chairman. I assume  
6 the last thing on there was approval of the June 19 meeting  
7 minutes. You need to also approve the special-called July 2  
8 minutes.  
9 And then changes to the agenda, Item G-3,  
10 speckled trout update, need to change that from no action to  
11 action.  
12 Item H-1 also needs to be changed from a no  
13 action to an action.  
14 I believe that's all the changes.  
15 DR. ASPER: Okay. Let's back up then and take a  
16 look at the minutes from the special meeting that was held on  
17 July 2. Are there any changes to those minutes? Or is there a  
18 motion to approve as distributed?  
19 MR. DRUMMOND: So moved, Mr. Chairman.  
20 MR. GOLLOTT: Second.  
21 DR. ASPER: Those in favor say aye.  
22 Okay. So now we've approved all of our minutes.  
23 And the agenda with two changes. Any other  
24 changes? Or is there a motion to approve with those two  
25 changes?

1 MR. GOLLOTT: Motion to approve, Mr. Chairman.  
 2 DR. ASPER: Is there a second?  
 3 MR. DRUMMOND: Second, Mr. Chairman.  
 4 DR. ASPER: Those in favor say aye.  
 5 Okay. Agenda is approved.  
 6 D. Public Comments  
 7 DR. ASPER: Come now to the time of public  
 8 comment. I have two papers here -- requests. If you have not  
 9 filled one of these out and would like to speak your mind or  
 10 bring issue up to the commission, please fill one of these out  
 11 and get it to us so that we can recognize you.  
 12 Both of these individuals want to speak on Item  
 13 G-2 which is the speckled trout update. We're going to talk  
 14 about the quota.  
 15 I'll give you the option. This is Mr. Forte and  
 16 Mr. Dubuisson, you can either talk now or when we're discussing  
 17 that item. Which would you rather do?  
 18 PERSON IN AUDIENCE: When you discuss the item.  
 19 DR. ASPER: Okay. We'll do it then.  
 20 Anybody else for public comments?  
 21 E. Executive Director's Report  
 22 DR. ASPER: We'll move on to executive  
 23 director's report.  
 24 DR. WALKER: Mr. Chairman, I have two  
 25 administrative procedure matters, Mr. Richard Parker and Mr.

1 far as violations. Everybody seems to be in pretty good  
 2 compliance.  
 3 We did have one shrimping in closed waters, and  
 4 one was washing the nets in closed waters.  
 5 We went into a couple crabbing violations. Mr.  
 6 Nguyen decided to keep a few dozen crabs over his legal limit  
 7 on a shrimp boat. He had 13 dozen without a crab license.  
 8 And then we had some undersized -- we had quite  
 9 a few no saltwater fishing license, but it's that time of the  
 10 year when the license change and all around and people go  
 11 fishing and forget to renew their license.  
 12 We had one particular case, commercial fishing  
 13 north of the CSX railroad bridge. One of the officers  
 14 approached a man. He presented his commercial fishing license,  
 15 and he had several redfish that he explained to the officer his  
 16 intentions were to sell them because he was commercially  
 17 fishing for them. He was cited, and the fish were released  
 18 back to the water.  
 19 Couple undersized fish cases.  
 20 Boat and water safety are running about the same  
 21 as they do every month. Did three boat and water safety  
 22 classes, certified 57 students.  
 23 We had two boat accidents with injuries. One of  
 24 them was a boat explosion out at Horn Island. Somebody  
 25 received major injuries on that. We got to the scene on that

1 George Lewis, both been found in possession of too many red  
 2 snapper and have been -- my recommendation would be that we  
 3 impose an administrative penalty against both of these  
 4 gentlemen in the amount of \$8,000 with \$6,000 of the penalty  
 5 suspended contingent upon the payment of \$2,000 within 12  
 6 months and no new commercial fishing violations occurring  
 7 within that same 12 month period.  
 8 We received notice that Mr. Parker would not be  
 9 here today, and Mr. Lewis may or may not be present to discuss  
 10 his case with you.  
 11 DR. ASPER: Okay. Are there any comments? Or  
 12 is there a motion to accept this recommendation?  
 13 MR. TAYLOR: So moved.  
 14 DR. ASPER: Is there a second?  
 15 MR. BOSARGE: I'll second.  
 16 DR. ASPER: Those in favor say aye. Those  
 17 opposed? Okay. It's carried.  
 18 Anything else from the executive director?  
 19 DR. WALKER: No, sir.  
 20 F. Marine Patrol Report  
 21 DR. ASPER: Next, marine patrol. Chief.  
 22 2. Marine Patrol Report  
 23 MR. CHATAGNIER: Good morning, Mr. Chairman,  
 24 commissioners, legal, Dr. Walker.  
 25 It's been a pretty good shrimp season so far as

1 kind of late after the accident happened before we were even  
 2 notified.  
 3 We didn't have any fatalities, which is good.  
 4 Our dive team assisted Hancock County on a dive  
 5 looking for some evidence in a criminal case.  
 6 And we did boating safety presentations at the  
 7 Biloxi Fire Department and the Mississippi Power Company during  
 8 the month of June as far as our outreach presentation.  
 9 Our JEA patrols, we did 22 patrols, 333 man  
 10 hours, made 221 contacts, and issued six statr violations  
 11 during that time.  
 12 That's it for marine patrol. Any question?  
 13 MR. DRUMMOND: Got any idea what the penalty is  
 14 for a crabber catching 13 dozen too many crabs?  
 15 MR. CHATAGNIER: His first offense is one to  
 16 five hundred, second offense is five hundred to a thousand, and  
 17 third offense is two to four thousand.  
 18 MR. DRUMMOND: Thank you, sir.  
 19 DR. ASPER: Anything else? Okay. Thank you.  
 20 G. Marine Fisheries  
 21 DR. ASPER: On to marine fisheries. Dale.  
 22 MR. DIAZ: Good morning, Dr. Asper,  
 23 commissioners, Dr Walker, Ms. Chesnut.  
 24 Before we get started with the marine fisheries  
 25 presentations, I want to update you on the commercial finfish

1 quotas.

2 The total commercial quota for redfish is 35,000  
3 pounds a year. To date, we have harvested 19,984 pounds.

4 The total commercial quota for flounder is  
5 74,000 pounds. To date, we have harvested 17,763 pounds.

6 First up for marine fisheries for presentations  
7 is going to be Buck Buchanan.

8 DR. ASPER: And just for the record, you did not  
9 give a speckled trout.

10 MR. DIAZ: Speckled trout, we met the quota on  
11 that, and it did close in May. Sorry about that.

12 DR. ASPER: Just so we have them all on the same  
13 page here.

14 3. Speckled Trout Update

15 MR. DIAZ: First up for marine fisheries is  
16 going to be Buck Buchanan, and he's going to do a speckled  
17 trout update.

18 MR. BUCHANAN: Good morning, commissioners, Dr.  
19 Walker, Sandy.

20 At the May commission meeting, we had some of  
21 our commercial fishermen asked to see for an update on spotted  
22 seatrout to see of the possibilities of extending the season.  
23 And we have a number of things that could be done to help them  
24 out.

25 And the commission asked us to give an update.

9

1 fishermen about 360.

2 These are just hook and line licenses. The  
3 vessel has to be licensed. Each fisherman on board the vessel  
4 has to have a license.

5 The way the quota essentially came about in the  
6 1996 year was that at the time we were taking a look at  
7 reducing commercial or recreational and commercial fishing  
8 mortality at the time, and we basically asked for a 25,000  
9 pound quota. This would be in conjunction of reducing the  
10 mortality on the fish, and the same thing as the recreational  
11 since it was a ten fish bag limit, 14 inches. And this was the  
12 recommendation.

13 However, that was not accepted by the  
14 commission. This would reduce mortality. They decided to go  
15 with a 40,000 pound quota which was basically like a ten year  
16 average, give or take.

17 I apologize for that. I should have bolded  
18 those. But those are the years that it was closed. The 2011,  
19 all those are October through the fishing year started in  
20 October of the previous year. So it started October 1995, in  
21 essence.

22 But in this past year, 2011, since we changed  
23 the fishing year from January 1, we had another three months so  
24 that extended the fishing year, so we added some more pounds on  
25 the quota. So we went from October through June 6, and in 2012

11

1 And if I could get to it, I guess I would...

2 Sorry about that.

3 The presentation I'm going to make is just a  
4 general overview of what the fishery looks like here right at  
5 the moment.

6 The first slide shows the Mississippi  
7 recreational and commercial spotted seatrout harvest. Since  
8 1996, we have had a 40,000 pound quota. You see that the  
9 recreational fishery by and large takes the bulk of the catch.  
10 And it has been increasing over the last few years. Well,  
11 actually since about 1996 has been going up fairly steadily.

12 MR. BOSARGE: Buck, what is that number, the  
13 recreational catch?

14 MR. BUCHANAN: That's in pounds. The  
15 recreational catch is over 1.2 million at the moment. That's  
16 the number of pounds that is estimated by MREG.

17 If you look at percentage commercial catch by  
18 year, this is the -- we have had a 40,000 pound quota. You'll  
19 see that the percentage catch for the last ten years, the  
20 commercial catch has been somewhere between three and six  
21 percent.

22 Resident commercial hook and line vessel and  
23 fisherman license basically peaked in '10 and '11, '11-12. And  
24 it has come down somewhat this past year. So the vessel  
25 licenses right now is about 211 with the number of commercial

10

1 it went from October -- I mean from January 1 to May 19.

2 We are utilizing currently trip tickets to try  
3 to monitor the quota. These are due by the 10th of the month  
4 for the previous month's information. It does collect catch  
5 and effort information. We can get any number of things from  
6 this. We know there's approximately ten dealers that do dealer  
7 specs. There's three or four fresh product permit license  
8 holders that also deal because they sell to the public or  
9 wherever they chose to sell them. And about 180 fishermen. So  
10 that's kind of a -- have sold their catch, anywhere from two to  
11 2,000 pounds.

12 But if you're on a vessel, only one of those  
13 fishermen -- I mean, there's about average of 1.7 fishermen per  
14 vessel give or take. So two people. So one person is going to  
15 sell the fish and sign the ticket. So you got to be careful  
16 with that.

17 The recreational. Recreational fishing licenses  
18 have basically been increasing for a while. We're up to about  
19 sixty -- well, this is another about 63,000 with another 5,000,  
20 that's 68,000 annual license. We have about 6,000 three-day  
21 licenses. And we have an over 65 license that I really should  
22 have added probably these two together. And so that's another  
23 probably 5,000. So there's probably like seventy-three,  
24 seventy-six thousand licenses out there.

25 The fishing effort has been steadily increasing,

12

1 along with the increasing license sales. So there have been  
2 more trips.

3 Catch per unit of effort has stayed pretty much  
4 steady. In 2009, we did have a rise. This is about the time  
5 we changed it to 13 inches. But it has remained fairly steady  
6 state. So there's more fish being caught. There's more trips.

7 And if you look at just the mean length in  
8 inches, the spotted seatrout size has been somewhere between 14  
9 and 16 inches on the average.

10 If we look at our independent information, the  
11 independent information goes up. These are gill net sets that  
12 we do all across the Gulf Coast, 12 a month. About 108 net  
13 sets per year. And the population looks like it is pretty much  
14 steady state right at the moment.

15 In that same vein, looking at populations, we  
16 also have a stock enhancement program which began in 2004. And  
17 to date, we've released over 500,000 fingerlings.

18 All right. When we looked at a bunch of  
19 different I guess scenarios or a bunch of different things for  
20 possibly extending the season any number of different ways, and  
21 we looked at -- this is what the other Gulf states do. Take a  
22 look at Florida. In order to -- they have a means test. A  
23 person has got to provide at least proof of \$5,000 of income  
24 from the sale of saltwater products to a licensed dealer in any  
25 12 consecutive months for the last -- so they basically say you

13

1 got to be a commercial fisherman or 25 percent of your income  
2 has to come from commercial fishing. Not necessarily speckled  
3 trout. It can be anything. They also have a bag limit. And  
4 the length limits are 15 to 25, and the fishing year is June,  
5 July, and August.

6 Alabama, Texas obviously have no commercial  
7 take. And you know what ours is.

8 Louisiana, also, you must provide a means test.  
9 And you got to provide proof of such income simply by using tax  
10 returns. And you must have also held a gill net license in  
11 certain years. The legal gear is rod and reel. And the  
12 fishing year is January 2 to the 31st.

13 When we consider all these -- I mean there's any  
14 number of ways that you could extend the season, you could do  
15 this and do that, restrict number of licenses, proof of income,  
16 means test, any number of other things.

17 And our staff recommendation would actually be  
18 to increase the quota by 25 percent, 10,000 pounds. This would  
19 make it a 50,000 pound quota. This would extend it for a  
20 certain period of time.

21 And that's what we're here to present to you to  
22 see if this is acceptable or if there's other...

23 MR. TAYLOR: Do you have an expiration date on  
24 that extension of the quota, Buck, so that it could be tested,  
25 you know?

14

1 I don't have a problem with increasing it as  
2 long as it doesn't hurt the species from the gill nets since  
3 it's pretty level, and we don't want to go backward. That's  
4 the only thing, you know, whether it's...

5 MR. BUCHANAN: Well, you know, given the fact  
6 that the catch per unit effort also, which means it's  
7 relatively level which normalizes stuff.

8 So there are more fish out there, it would seem  
9 like. I mean, it's remaining steady state.

10 The independent stuff, I know it's going up and  
11 down. But by and large over the last few years, it's been  
12 fairly consistent.

13 But you have to remind yourself that, you know,  
14 obviously recreational fishing pressure is going to go up. I  
15 mean, I don't think that's going to stop. So you have to be  
16 careful about, you know, things that you might want to do down  
17 the line, and this is just kind of a step forward that...

18 DR. ASPER: And before we get into too much  
19 discussion, I'd like to have our two public comment requests.  
20 We'll start with Jerry Forte.

21 MR. FORTE: Good morning. I'm Jerry Forte,  
22 seafood dealer in Pass Christian.

23 And I just think that the limit is way too low,  
24 the commercial limit, because of what he just said that the  
25 recreation, I mean, they catch like a million pounds a year,

15

1 and 40,000, that's not even compared to it. So, you know, it  
2 should, I think it should be over 100,000 pounds myself  
3 commercial.

4 And plus, there's more trout right now than  
5 there's ever been. And back when everybody was going, they  
6 were all buying baits, buying fuel, and there was a lot of  
7 people going, and it went real good for about maybe we got to  
8 fish four or five weeks, that was it. April and two weeks into  
9 May.

10 And I just feel like they could up it, way up at  
11 least 100,000 pounds. But I think they could have a hundred  
12 fifty.

13 And I've always said that if they think there's  
14 a shortage on speckled trout, they ought to close it the month  
15 of May when they're laying eggs for everybody, you know. But  
16 they don't want to do that.

17 But if they did that, I guarantee you we'd have  
18 more trout than we'd know what to do with.

19 But I just think it needs to be up at least to a  
20 hundred thousand to a hundred fifty because we don't have no --  
21 we don't have limits on crabs like that. We don't have no  
22 limits on shrimp. And 40,000 pounds, that's a drop in the  
23 bucket. When you see like 40,000 pounds of trout, you got  
24 12,000 pounds of meat. That's all you have. That's nothing.  
25 That's not even one tractor trailer load of speckled trout.

16

1 And I think, you know, a lot of people benefit  
2 by commercial because they sell license and all. And I think  
3 they've been selling 200 plus commercial license at \$100  
4 apiece. And they could even charge -- I mean, the way I think  
5 the state could benefit from it, they could go to like three or  
6 four hundred dollars per boat and, you know, like anywhere from  
7 -- if you have one person or five people on the boat, that  
8 would be the same amount like, you know, \$500 or \$300. And  
9 therefore you could, you know, the state would be getting more  
10 money out of it.

11 But, I guess it needs to go up because this  
12 year, all the restaurants down here in the summer, they depend  
13 on speckled trout, and here it is the peak of the tourist  
14 season, they close it up before the tourist season got started.  
15 You know, you can't even sell fish, and there's plenty of them  
16 out there.

17 So I just feel like it's way, way too low. And  
18 I hope y'all get it up to at least 100,000.

19 Okay. Thank you.

20 DR. ASPER: Thank you.

21 Mr. Dubuisson.

22 MR. DUBUISSON: Good morning. Matt Dubuisson.

23 I'd like to reemphasize everything Jerry said.

24 Basically, you know, I agree with him.

25 But I would like to see, you know -- you're

17

1 talking about the mortality rate of the smaller fish -- maybe  
2 go to a 15 inch fish for commercial. Let's look at that.

3 And that's really -- you know, I don't have the  
4 answer or the solution, but I'd like to try something like that  
5 maybe.

6 That's all I got.

7 DR. ASPER: Thank you.

8 MR. GOLLOTT: Mr. Chairman, we are not in a  
9 hurry to do this. And I've got some ideas. I was thinking  
10 about reducing the months down and maybe put a 10,000 quota on  
11 per month or something to stretch this thing out so it's not  
12 all caught in one or two months.

13 What I'd like, if it's okay with the commission,  
14 is to give it to the staff -- we've got until January -- let's  
15 see if we can work out a reasonable quota and a way to  
16 implement this thing so, you know, it will last through the  
17 summer months when the people eat a lot of fish and not  
18 February and March, because that's months that's not really  
19 good for fishing, and give us more through September or  
20 something.

21 And if that's okay, I'd like to make that motion  
22 that we give it to the staff to study.

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

24 MR. DRUMMOND: I'll second the motion.

25 MR. BOSARGE: I'd just like to ask one question.

18

1 Are you trying to figure out a way to split the  
2 quota up or I guess split the quota up amongst the fishermen  
3 that are here now? Is that what you've kind got on your mind?

4 MR. GOLLOTT: Well, I want to look at that and  
5 give the fishermen a quota or give the people buying it a quota  
6 or, you know, just putting a quota per month, in other words,  
7 you can't go over because the last time we increased the quota  
8 they filled it within like a couple of weeks.

9 MR. BOSARGE: And I believe now with the trip  
10 ticket, we're probably going to get a better handle on the fish  
11 that are actually being landed, too.

12 So I'm with you. That's going to be a daunting  
13 task I think for the folks tasked with it, but, yeah, we need  
14 to do something. I'm with you.

15 MR. TAYLOR: We do need to -- our people that  
16 come down here, I think it's very important that they have  
17 probably the best resource to eat which is the speckled trout  
18 during the summer months. And I think anything we can do to  
19 help that, of course, it helps the fishermen, too, without  
20 hurting the resource itself.

21 MR. BOSARGE: Commissioner Gollott, would it be  
22 reasonable to go ahead and increase the quota by the 10,000  
23 pounds while we're working on this?

24 MR. GOLLOTT: Well, it doesn't take effect until  
25 January. So let the staff come back and give us a

19

1 recommendation on that.

2 DR. ASPER: Okay. The motion before us which  
3 has been made by Commissioner Gollott and seconded by  
4 Commissioner Drummond is to give this issue back to the staff  
5 one more time and with the suggestion that we work with them to  
6 come up with a plan to spread the harvest out a little bit  
7 longer so that there is not a lack of fresh local trout for the  
8 restaurants in the summer. Is that a good synopsis?

9 MR. GOLLOTT: Yeah. To try to work with the  
10 fishermen and the dealers, you know, get their input on this  
11 thing, to see if we can come out with a good recommendation  
12 that will make everybody happy.

13 DR. ASPER: I will comment that it's good to see  
14 that speckled trout fishery in general is doing so well and  
15 that we are in a position where we're deciding an allocation  
16 issue rather than a preservation issue or a conservation issue.  
17 It's really nice to have it as healthy as it is.

18 So I think we'll be able to work something out.

19 Any further comments?

20 MR. DRUMMOND: I'd like to make a comment.

21 Buck, if and when there's an increase in the quota for speckled  
22 trout commercial fishermen, will there be a public hearing  
23 associated with it?

24 I mean, I think it should go out for the public  
25 to hear it, what the changes are and what the plans are.

20

1 MR. BUCHANAN: We can if that's the  
 2 commission's...  
 3 MR. DRUMMOND: It's not something that  
 4 necessarily will happen, huh?  
 5 MR. BUCHANAN: Well, no, I mean, unless it's  
 6 requested by somebody, you know, it doesn't have to go out to  
 7 public...

8 MR. DRUMMOND: Okay. That's all I'm asking.  
 9 DR. ASPER: Any further discussion? Those in  
 10 favor of the motion signify by saying aye. Those opposed.  
 11 Carries unanimously.

12 MR. BUCHANAN: Thank you.

13 4. Biloxi Fishing Reef Development

14 MR. DIAZ: Next up for marine fisheries is going  
 15 to be Kerwin Cuevas, and he's going to do a presentation on the  
 16 Biloxi fishing reef development on Katrina Key.

17 We wanted to do this because eight, ten months  
 18 ago, there was a pretty good bit of discussion here in public  
 19 comments to the commission about how this material was going to  
 20 be handled from the old fishing piers. I know Senator Gollott  
 21 was interested in it, and there was other members of the public  
 22 that brought it up in public comments.

23 So we wanted to give the commission an update.

24 MR. CUEVAS: Good morning, commissioners, Dr.  
 25 Walker, legal.

1 A little update on Katrina Key extension.  
 2 The partners in the extension, I'd like to thank  
 3 the City of Biloxi, of course, our state legislators, in  
 4 particular Senator Tommy Gollott because he was instrumental in  
 5 obtaining additional funds instead of this material going to  
 6 the shore and get crushed and used for other stuff. He  
 7 obtained additional funds from the legislators to put this  
 8 material on the key. So, I'd like to thank him. Of course,  
 9 our Commission on Marine Resources and our partner in the  
 10 artificial reefs for the State of Mississippi, Mississippi Gulf  
 11 Fishing Banks.

12 The contractors, of course, W.C. Fore  
 13 Construction. And Borrhies Construction also, they deployed  
 14 five barge loads from the commercial harbor out of Biloxi on  
 15 the demolition, so they deployed extra for us on the key.

16 Just a quick look at where the key is. Most  
 17 people are familiar right there by Deer Island, just south side  
 18 of Deer Island. This is all our inshore reefs, you can see,  
 19 from coastline to coastline.

20 Here we go. It's somewhere right around Katrina  
 21 Key just south of Deer Island.

22 Here's an overall view. I thank Darren Stewart  
 23 with shrimp and crab for taking these pictures for us. On the  
 24 right, you can see the key. This is before the extension. And  
 25 this, of course, is Google Earth on the left.

1 Here is just a picture of the bridge coming up.  
 2 This is the Biloxi side of the Ocean Springs bridge, old  
 3 fishing pier bridge.

4 And this is the material that was used on the  
 5 extension.

6 And this is just a picture. This is the first  
 7 leg. There was two legs from this Back Bay fishing pier  
 8 bridge. This is the first leg.

9 What we did was, instead of continuing one  
 10 continuous key to the west, we brought it in, created a gap. We  
 11 had comments from the public. Of course, the commissioners  
 12 gave us comments, charter boat captains, everybody wanted to  
 13 have gaps in there to create this flow which adds additional  
 14 foraging for our fish which our fishermen can utilize.

15 This is the first leg to your right, and you can  
 16 see the gap.

17 This is the start of the second leg. After the  
 18 completion of the second leg -- we have two legs. They're  
 19 approximately 100 yards apiece with about a 20 yard gap in  
 20 between.

21 And this is results, of course, speckled trout.

22 Where's Buck? You're welcome, Buck. Thank you.

23 Anyway... but this is just some of the fish

24 being caught off the reef.

25 And again, we'd like to thank partners

1 Mississippi Gulf Fishing Banks and, of course, the commission  
 2 for support of the Mississippi Artificial Reef Program.

3 Any questions?

4 MR. TAYLOR: I have a comment. I've been  
 5 involved with the Fishing Banks for about 25 years, served as  
 6 an officer, and it is a very unusual -- I'm just a member now  
 7 -- partnership that has worked tremendously well for the State  
 8 of Mississippi and its citizens.

9 The Fishing Banks hold most of the permits on  
 10 the reef that they, along with the DMR and Kerwin, have built  
 11 reefs probably at a third to one-quarter of what it costs  
 12 elsewhere in the Nation to build reefs.

13 I've actually done studies on different reefs to  
 14 what it costs from other states, and it's just amazing how well  
 15 the partnership worked for the State of Mississippi.

16 MR. CUEVAS: Thank you, commissioner.

17 And again, we wouldn't have the reefs if it  
 18 wasn't for the Commission on Marine Resources and Dr. Walker  
 19 getting funding for these reefs.

20 Thank y'all.

21 DR. ASPER: Thank you, Kerwin.

22 5. State Records

23 MR. DIAZ: Thank you, Kerwin.

24 Last up for marine fisheries is Eric Porche, and  
 25 he has a state record.

1 MR. PORCHE: Good morning. I have one record to  
 2 submit for your consideration this morning.  
 3 It's for conventional tackle. It's for Atlantic  
 4 sharpnose shark, Rhizoprionodon terraenovae. Old record of 10  
 5 pounds 7.18 ounces. It will be a new record of 12 pounds 9.5  
 6 ounces caught by Paul Greenwood.  
 7 There's the Atlantic sharpnose and Mr. Greenwood  
 8 and the shark.  
 9 Any questions?  
 10 MR. DRUMMOND: I make the motion, Mr. Chairman,  
 11 that we accept this new record.  
 12 MR. GOLLOTT: Second.  
 13 DR. ASPER: Those in favor say aye. Approved  
 14 unanimously. Thanks.  
 15 Congratulations to the angler.  
 16 I believe we're now ready for coastal ecology.  
 17 H. Coastal Ecology  
 18 MR. BOYD: Good morning, Mr. Chairman,  
 19 commissioners, Dr. Walker, Sandy.  
 20 Coastal ecology has six action items for your  
 21 consideration this morning. Before we get to that, I wanted to  
 22 share the Chancery Court of Harrison County made a decision on  
 23 the John Beck, Kim Beck versus Mississippi Department of Marine  
 24 Resources case.  
 25 Ordered and adjudged that the decision of the

25

1 Mississippi Commission on Marine Resources to issue the permit  
 2 to the City of Biloxi was hereby affirmed. This decision was  
 3 made by the Court in May, and we waited for the 30 day appeal  
 4 to end before I brought it to you.  
 5 So I just wanted to give kudos to our legal  
 6 folks for this.  
 7 And if you need copies of it, we can provide  
 8 that to you.  
 9 DR. ASPER: Okay.  
 10 Jan, I think we need to take a short break  
 11 before we get into the next issue, so let's take a short break.  
 12 (Off the record.)  
 13 DR. ASPER: Come back to order. We're picking  
 14 up with Item H-1(a).  
 15 1. Staff Follow-Up Items  
 16 a. Paul A. Lea, Jr.  
 17 MR. DAVIS: Good morning, commissioners. My  
 18 name is James Davis. I'll be presenting the first item for  
 19 coastal ecology.  
 20 We have a petition for reconsideration by Mr.  
 21 Paul Lea, Jr. It's located on an unnamed canal adjacent to  
 22 Bayou Portage at 5040 East Midway Drive in Pass Christian. It's  
 23 in a general use district.  
 24 Marked is Mr. Lea's project location just east  
 25 of Bay St. Louis.

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1 This is Mr. Lea's boathouse and lot here.  
 2 Description:  
 3 The project involves construction of a boathouse  
 4 that was constructed outside of permitted guidelines.  
 5 On June 19 at last month's commission meeting,  
 6 you ruled that the boathouse be brought into compliance within  
 7 60 days, issued a \$1500 fine, and after 60 days have the  
 8 project forwarded to the Attorney General and \$500 per day  
 9 levied for each day past the restoration.  
 10 On July 3, 2012, Mr. Lea filed a petition for  
 11 reconsideration of the commission ruling on June 19.  
 12 On July 9, Mr. Lea was informed his petition was  
 13 being presented at the July 17 meeting. Mr. Lea responded that  
 14 day through e-mail he was waiving his appearance.  
 15 Title 22 Part 15, the administrative rules as  
 16 required by Mississippi Administrative Procedures Law, the  
 17 petition shall state specifically points of law or facts which  
 18 the party requesting the reconsideration believes the  
 19 commission has overlooked, misapprehended, and shall contain a  
 20 statement of action which the party wishes the commission to  
 21 take.  
 22 In Mr. Lea's petition, he did not state a  
 23 statement of action which he wishes the commission to take.  
 24 At this point, the commission may make a final  
 25 disposition of the petition by either granting or denying the

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1 requested action without further argument, request a response  
 2 from the Department of Marine Resources prior to making a final  
 3 disposition, set the matter for evidentiary hearing, or make  
 4 such further order as it deems appropriate under the  
 5 circumstances.  
 6 MR. TAYLOR: Mr. Chairman, I make a motion to  
 7 deny the petition.  
 8 MR. GOLLOTT: I'll second.  
 9 DR. ASPER: Is there further discussion? Those  
 10 in favor say aye. Carries unanimously. Thanks, James.  
 11 MR. DAVIS: Thank you.  
 12 3. Bureau of Wetlands Permitting  
 13 a. Jackson County Port Authority  
 14 MR. COLE: Good morning. My name is Ron Cole,  
 15 and I'll be presenting the next project.  
 16 It's a request for a certificate of exclusion by  
 17 the Jackson County Port Authority located on the Pascagoula  
 18 Lower Sound and Bayou Casotte navigation channels in Jackson  
 19 County. It's in a special use district, the S-5 which is  
 20 designated for navigation channels. And the agent for the  
 21 project is Atkins Global.  
 22 Here you can see a map of the project location.  
 23 The existing channel is -- or the existing channels are in  
 24 blue, and what they're requesting is in green.  
 25 Description of the project. The applicant is

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1 seeking authorization to widen existing Pascagoula Lower Sound  
2 and Bayou Casotte federal navigation channel segments.  
3 Widening would consist of widening the existing channel 100  
4 feet towards the west. This would amount to dredging  
5 approximately 3.4 million cubic yards of material from along  
6 7.2 miles of channel reaching the established navigational  
7 depth of 42 feet below mean low water.

8 Here's a diagram of the project. You can see  
9 the existing channel coming out of Bayou Casotte going out to  
10 Horn Island Pass. They want to widen that channel  
11 approximately 100 feet to the west.

12 The project would serve a higher public purpose  
13 by improving shipping transit conditions and safety of the port  
14 operations.

15 The project is allowable within the special use  
16 district for navigational channels.

17 There are no precedent setting effects expected  
18 because the site has historically been utilized as a navigation  
19 channel, and similar projects have been approved by the  
20 commission.

21 There will be a temporary loss of benthic  
22 organisms during the dredging operations and an increase in  
23 turbidity in the immediate area can be expected. However,  
24 best management practices will be utilized daily, and water  
25 quality monitoring will take place according to DEQ's water

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1 quality guidelines.

2 There are currently no known plans beyond the  
3 proposed channel widening.

4 Best management practices again will be utilized  
5 during all phases of the dredging. And they will minimize the  
6 resuspension of sediment during removal and transfer use, as  
7 well as again DEQ's water quality monitoring.

8 There was an alternative design considered for  
9 this project. Instead of expanding 100 feet to the west, they  
10 considered expanding 50 feet on each side of the channel. But  
11 this design was considered to be more operationally feasible.

12 The area is already utilized as a navigation  
13 channel, so there should not be any impacts to the scenic  
14 qualities.

15 The project does serve the national interest  
16 through the support of natural energy policy and the national  
17 need for transportation which includes ports and navigation.

18 The project has been out on comment in the Sun  
19 Herald. We received no comments.

20 DEQ is currently reviewing the project.

21 Secretary of State's Office has stated that they  
22 have no objection to the project.

23 Archives & History has stated that they have no  
24 objection to the project.

25 And Wildlife, Fisheries & Parks said that they

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1 would like to see preemptive trawling around the dredge head  
2 when possible to prevent unintentional killing of state and  
3 federally listed species. And they would also like to see the  
4 dredging performed at times when these species would be least  
5 likely to be in the area.

6 So based on our evaluation, the staff has  
7 determined that the project is consistent with the Mississippi  
8 Coastal Program, does serve a higher public purpose, and  
9 recommends approval of the project with the condition that  
10 preemptive trawling be performed when proper barge methods of  
11 dredging are being utilized.

12 DR. ASPER: Ron, could you comment on the  
13 disposition of this material? I'm a little curious first of  
14 all about how much of it will go to the open ocean sites and  
15 how much of it do you expect to use in beneficial use.

16 And my perception of this is that it's far  
17 easier for them just to go out and dump than it is for them to  
18 reclaim it out of their hole basically and pump it up on land  
19 somewhere.

20 So I guess I'm going to ask: How much do you  
21 expect to go to the open ocean sites, and how are we monitoring  
22 what that impact is?

23 MR. COLE: Well, the exact ratio hasn't been  
24 determined yet. The way we were planning to condition the  
25 permit would be to say that it would go to an approved

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1 location, which would be either a beneficial use site or the  
2 open ocean disposal sites. And its availability for the  
3 beneficial use sites would be dependent on passing the testing  
4 that we require for these sites and a site being available for  
5 them.

6 And the permit would be conditioned to where it  
7 would be placed in either/or.

8 The applicant and the applicant's consultant are  
9 each here if you'd like to get some more information on the  
10 technical details of that.

11 DR. ASPER: Are we monitoring what's going on  
12 offshore? The open ocean disposal sites, they're not really  
13 that open ocean. They're within state waters, or are they in  
14 federal waters?

15 MR. COLE: These will be in federal waters.

16 DR. ASPER: I'm a little concerned about the  
17 effects it has on our fishing reefs out there, things like  
18 that. There is a turbidity factor, and it does cover up the  
19 bottom, things like that. So I'm just concerned about that,  
20 that we're looking at the big picture when we authorize these.

21 MR. GOLLOTT: I'm with you, Mr. Chairman. I  
22 think we need to use this on beneficial if there's any way  
23 possible in the State of Mississippi, not put it out where our  
24 shrimp boats are out there shrimping.

25 MR. COLE: Okay. Like I said, the material will

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1 be authorized for use as beneficial use, depending on  
2 suitability and availability.

3 DR. ASPER: How limiting is the availability of  
4 suitable sites for beneficial use? Is it likely that there  
5 won't be a site available?

6 MR. COLE: We're in the process of getting the  
7 Round Island site approved right now. If you're familiar with  
8 what happened with the Greenwood Island site, the public didn't  
9 want it, so it was shot down.

10 So, you know, just based on getting these sites  
11 approved -- I mean, the program is very infant stages, so this  
12 work will be going on through I think 2015. So it will be  
13 years to come. So hopefully we'll be able to have a few more  
14 sites approved before the project is complete. So it would  
15 increase the chances that some of this material could be used  
16 beneficially.

17 DR. ASPER: What's the status of the Singing  
18 River Island site? We had a presentation by the Corps years  
19 ago that they were only going to put a barrier two-thirds of  
20 the way around it or something like that. Is that ongoing?

21 MR. BOYD: That is ongoing. I think it's been  
22 approved already.

23 DR. ASPER: It's available for some of this  
24 material perhaps?

25 MR. BOYD: Well, no. The Corps has got it

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1 nailed down for just their maintenance dredging material. But  
2 we've got several sites we're trying to get approved now. I've  
3 got George Ramsur working on that. We've almost got Round  
4 Island approved for about I'm wanting to say six to eight  
5 hundred acres. And we've got some sites already approved for  
6 Deer Island that we haven't filled up yet.

7 And we've got some more on the drawing board.

8 DR. ASPER: I know it's a long ways away, but  
9 what about Ship Island?

10 MR. BOYD: We can't do much with Ship Island.  
11 That belongs to the federal government.

12 DR. ASPER: They're going to need a lot of  
13 material; right?

14 MR. BOYD: I think they've located their  
15 material for that.

16 MR. GOLLOTT: What about the Deer Island site?

17 MR. BOYD: We have -- I think we've added about  
18 200 acres to Deer Island so far, and we've got probably another  
19 hundred acres available of area that we can put material in.

20 MR. GOLLOTT: My concern is once we issue this  
21 permit, then they're going to go the cheapest route and  
22 probably go ocean.

23 MR. BOYD: I don't think they can necessarily do  
24 that. If it passes the testing criteria that DEQ has set up,  
25 it has to go to beneficial use.

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1 MR. BOSARGE: Do you see most of this dredging  
2 being done hydraulic dredges or hopper dredges? I mean, it's  
3 in the Sound.

4 MR. BOYD: I'm not sure about that.

5 MR. COLE: It has to go unless they get a letter  
6 of exception --

7 MR. BOYD: Do you know what type of -- whether  
8 it's going to be hopper dredges or --

9 MR. COLE: It's going to be -- I'm sorry. I  
10 didn't get the question.

11 MR. BOSARGE: Because it's in the Sound, that's  
12 mostly done either through a clam bucket or through a hydraulic  
13 dredge, a cutter head dredge, not so much hopper dredges.  
14 Trying to figure out the way they're going to move the  
15 material.

16 MR. COLE: Yeah. They're going to have, if I'm  
17 not mistaken, each of those methods will be utilized throughout  
18 the project. The engineers are here if you would like to ask  
19 them exactly where each type will be used.

20 MR. GOLLOTT: One more question to consider.  
21 The engineers, what about turtles? You know, the shrimpers  
22 catch them -- dredgers kill the turtles, and usually they blame  
23 it on the shrimpers. What kind of insurance are we going to  
24 have?

25 MR. COLE: Well, the preemptive trawling that we

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1 are going to require for the dredging done by hopper barges is  
2 a requirement not only of the Mississippi Wildlife, Fisheries &  
3 Parks, but also NOAA fisheries. And that's the only method of  
4 dredging that they will allow preemptive trawling based on a  
5 conversation that we had with them in previous permit for  
6 Chevron's dredging.

7 So where we can, we're going to require  
8 preemptive trawling ahead of the dredging to remove the species  
9 from the area.

10 MR. DRUMMOND: How many acres did you say the  
11 Corps was going to put around Round Island in Jackson --

12 MR. COLE: How many what?

13 MR. DRUMMOND: Acres.

14 MR. BOYD: That's not the Corps. That's going  
15 to be us. I think it's about six to eight hundred acres.

16 And we've almost got the permits all approved  
17 for that.

18 Now, the Corps I think is going to put 1400  
19 acres at Singing River Island.

20 MR. TAYLOR: Jan, if they're using a cutter  
21 dredge, how far from the site is Round Island if the material  
22 is suitable?

23 MR. BOYD: I'm not sure about that.

24 MR. COLE: Four miles is what the engineer is  
25 saying.

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1 DR. ASPER: Any other questions? Is there a  
 2 motion?  
 3 MR. DRUMMOND: I make a motion we approve this  
 4 project, Mr. Chairman.  
 5 DR. ASPER: Is there a second?  
 6 MR. BOSARGE: So second.  
 7 DR. ASPER: Any further discussion? Those in  
 8 favor signify by saying aye. Those opposed. Carries  
 9 unanimously.  
 10 b. Tommy Newman  
 11 MR. DAVIS: Good morning, again. I'm James  
 12 Davis. Next up we have a permit extension request by Mr. Tommy  
 13 Newman. It's on Bayou Laporte in Biloxi. It's in the general  
 14 use district, and the agent is Joe Gill Consulting. And Mr.  
 15 Joe Gill is here today.  
 16 Project location in Biloxi. It's located off  
 17 Atkinson Road.  
 18 Project location is here. Here's Atkinson Road.  
 19 And Popp's Ferry is just over here to the west.  
 20 Project description. Applicant is requesting a  
 21 three year extension to the permit.  
 22 Previously permitted project includes wetland  
 23 fill, bulkhead, multiple piers, and a thousand cubic yards of  
 24 dredging.  
 25 Here is a diagram of the project. We have our

1 wetland fill in this area here, an existing borrow pit here and  
 2 here. Our piers are going to be in this area. And then our  
 3 dredging is going to be done in this little narrow canal there.  
 4 June 2005, commission approved a permit which  
 5 expired on June 27, 2008.  
 6 March 16, the commission approved a four year  
 7 extension request.  
 8 And June 18, 2012, DMR received a letter  
 9 requesting a three year extension so the permit would expire  
 10 August 21, 2015.  
 11 Staff recommends the commission approves to  
 12 extend the permit for three years so it expired August 21,  
 13 2015.  
 14 MR. TAYLOR: I make a motion, Mr. Chairman, we  
 15 accept staff's recommendation.  
 16 DR. ASPER: Is there a second?  
 17 MR. BOSARGE: I'll second the motion.  
 18 DR. ASPER: Further discussion? Those in favor  
 19 say aye. Those opposed. Carries unanimously.  
 20 MR. DAVIS: Thank you.  
 21 c. Warren Paving, Inc.  
 22 MR. OVERSTREET: Good morning. My name is  
 23 Jeremy Overstreet, and I'm presenting a permit for Warren  
 24 Paving. It's located on Harrison County Industrial Seaway in  
 25 Gulfport. It's located in the industrial development use

1 district. And the agent is Billy Culpepper.  
 2 It's located just east of Cowan-Lorraine Road.  
 3 This is a closeup.  
 4 And this is an existing bulkhead. And it's 455  
 5 feet in length. And it was permitted in 2007. And the  
 6 proposed bulkhead would extend 138 feet to the east and 555  
 7 feet to the west.  
 8 Project consists of 688 feet of bulkheads and  
 9 three mooring pilings and 4,543 cubic yards of fill.  
 10 This is a diagram. And you see the existing  
 11 bulkhead here and the extension to each side.  
 12 This is a picture of the site. You can see  
 13 there where they're tying up to the pine trees, and that's  
 14 where they're mooring currently.  
 15 This is a photo of the existing bulkhead.  
 16 The public benefit of the project is improving  
 17 the existing loading facility and creating safer navigational  
 18 conditions in the Industrial Seaway for recreational and  
 19 industrial vessels.  
 20 The proposed project is allowable within the  
 21 industrial development use district.  
 22 The applicant requested a variance to the  
 23 coastal program that vertical face structures shall be aligned  
 24 no further waterward than mean high tide. And they used the  
 25 justification that the impacts from coastal wetlands would be

1 no worse than if the guidelines were followed.  
 2 And best management practices will be employed  
 3 to reduce the impacts to the manmade canal. And the bulkhead  
 4 will be constructed prior to any earthwork. And to contain any  
 5 turbidity associated with such earthwork, and if any areas  
 6 exhibit potential for erosion into the waterway from the upland  
 7 site, best management practices such as hay bales, silt  
 8 fencing, and earthen berms will be employed.  
 9 Similar projects have been approved by the  
 10 commission and is not expected to set a negative precedent.  
 11 The proposed fill would be placed in previously  
 12 excavated manmade waterbottoms and not in coastal wetlands.  
 13 There would be noise, ground disturbance from  
 14 heavy machinery, and an increase in boat traffic during the  
 15 construction.  
 16 Best management practices will reduce any  
 17 adverse impacts.  
 18 Utilization of the existing industrial site is  
 19 preferable to creating a new site elsewhere.  
 20 And the proposed site is an industrial area with  
 21 other industrial facilities located adjacent to the site.  
 22 And scenic qualities should not be impaired by  
 23 the proposed project.  
 24 Notification was published in the Sun Herald on  
 25 June 24, July 1, and July 8, and no comments were received.

1 DEQ is currently evaluating the project.  
 2 Department of Archives & History and Secretary  
 3 of State have no objections.  
 4 And Department of Wildlife, Fisheries & Parks  
 5 recommend that best management practices be implemented.  
 6 The staff has conducted a thorough evaluation of  
 7 the project. And based on that evaluation, it has been  
 8 determined that the project should not have significant impacts  
 9 on coastal wetlands because the area proposed for the fill is  
 10 part of a manmade canal and not located in or near coastal  
 11 wetlands, would not set a negative precedent, and serves a  
 12 higher public interest.

13 Therefore, staff recommends approval of the  
 14 variance request and issuance of the requested permits.

15 The applicant was notified, and there's a  
 16 consultant here to answer any questions if you have any.

17 MR. TAYLOR: Would you go back to the picture of  
 18 the pine trees where they've been tied up? I think it was the  
 19 first or second picture.

20 While you're doing that, my thoughts. The  
 21 Industrial Canal is a safe haven during storms, hurricanes, for  
 22 many of our commercial fishing boats and recreational fishing  
 23 boats. And I was just curious if that was tied up here are  
 24 their vessels, Warren Paving vessels, because -- and I'm  
 25 wondering if there's any restrictions once this is bulkheaded

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1 and all to keep shrimp boats and so -- I think if a shrimp boat  
 2 is there and sinks and puts diesel fuel and oil in the water,  
 3 it's much worse than what you are doing here.

4 And I'm just curious, I mean.

5 MR. OVERSTREET: Well, it's private property  
 6 where they're tying off to. And during the site visit, that's  
 7 where they said that they were tying up to. And the aerial  
 8 photography that I pulled up -- well, you can see where they're  
 9 located right there.

10 If you have any other questions...

11 MR. TAYLOR: That's fine.

12 MR. GOLLOTT: Mr. Chairman, I make a motion that  
 13 we accept staff recommendation.

14 DR. ASPER: Is there a second?

15 MR. BOSARGE: I'll second.

16 DR. ASPER: Further discussion? Those in favor  
 17 say aye. Those opposed. Carries unanimously. Thank you.

18 MR. DRUMMOND: Jeremy, I have one more question  
 19 after the fact. What's a name like Warren Paving building a  
 20 bulkhead in the Industrial Canal in Harrison County? Are they  
 21 a paving company?

22 MR. OVERSTREET: Yes, sir. What they're using  
 23 that site for is they get their material from all the way up in  
 24 Tennessee, and they barge it down the Mississippi and up the  
 25 canal and eventually to that site. And then that's where they

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1 offload and unload in that area right there.

2 MR. DRUMMOND: Thank you, Jeremy.

3 MR. OVERSTREET: Thank you.

4 d. Kim Miller

5 MR. CHRISTODOULOU: Good morning. My name is  
 6 Greg Christodoulou. I am presenting H-3(d). It's a permit  
 7 request by Kim Miller located on the Jourdan River and an  
 8 adjacent canal at 107 Fiber Street, Bay St. Louis. General use  
 9 district. And the agent is Pink Marine.

10 Here is an aerial of the location. It's this  
 11 yellow thumb tack here, just east of 603, south of 10, and  
 12 north of 90.

13 Here is a zoomed-in location on aerial. This is  
 14 the lot in question right here on this unnamed canal and the  
 15 Jourdan River.

16 Project description is for a 30 foot by 13 and a  
 17 half foot boathouse, three piers, one 40 by 4, one 22 feet 10  
 18 inches by 18 feet 10 inches which would be a covered pier, and  
 19 a pier that is currently existing on the property that's 169  
 20 feet by 3 feet 9 inches.

21 And the total shading for the project is 1,630  
 22 square feet.

23 Here's a diagram of the project. The structures  
 24 in green are the proposed structures. There's a boathouse  
 25 here. The piers here. The red piers are currently existing on

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1 the property. This area of pier that is currently existing  
 2 will be removed to get the square footage of the project down  
 3 to a more acceptable level. There is an existing boat ramp and  
 4 there's an existing bulkhead on the property.

5 Normally when we see structures like this, this  
 6 40 by 4 foot pier is considered an access pier. But since the  
 7 property owner has access to navigable depths here in the  
 8 canal, this would count into the square footage on this  
 9 particular project.

10 Decision factors:

11 The project does not serve a higher public  
 12 purpose.

13 It is allowable within the general use district.

14 Similar projects have been approved by the  
 15 commission, and this is not expected to set a precedent.

16 Piling installation may temporarily increase the  
 17 turbidity in the area and result in a temporary decrease in  
 18 benthic organisms.

19 And the project would result in the shading of  
 20 about 1630 square feet of waterbottoms.

21 Best management practices will reduce adverse  
 22 impacts to coastal wetlands.

23 No alternative sites were considered because  
 24 this is a private residential lot, and the project serves to  
 25 allow the property owner access to the water.

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1 There are other piers and boathouses in the  
 2 area, so the project is not expected to adversely affect the  
 3 natural scenic qualities.  
 4 Public notice was ran as required. No public  
 5 comments were received.  
 6 Archives & History is reviewing the project, as  
 7 well as DEQ.  
 8 Secretary of State has said there's no tidelands  
 9 issues associated with the project.  
 10 And Wildlife, Fisheries & Parks has recommended  
 11 best management practices be implemented.  
 12 Staff has made an evaluation of the project.  
 13 And based on the results, it has been determined the project is  
 14 consistent with the coastal program, and staff recommends  
 15 issuance of the requested permit. And the agent for the  
 16 project is here if you have any questions for him.  
 17 MR. TAYLOR: Mr. Chairman, I'll make the motion  
 18 that we accept staff's recommendation.  
 19 DR. ASPER: Is there a second?  
 20 MR. DRUMMOND: Second the motion.  
 21 DR. ASPER: Further discussion? Those in favor  
 22 say aye. Those opposed. Carries unanimously.  
 23 Thanks, Greg.  
 24 e. Emmett Zimmerman  
 25 MS. BRANTLEY: Good morning, commissioners. My

1 some type of living shoreline.  
 2 This is a picture of the site. You can see the  
 3 bulkhead is constructed. And this is the boathouse. From this  
 4 angle, it looks kind of like it's over land, but it's not.  
 5 It's over water. You can see the tops of the boats underneath.  
 6 It's got stairs up. And it's a whole story that's enclosed  
 7 here for a storage area.  
 8 And yesterday we went out to take some just last  
 9 minute confirmation measurements on the height, a couple of the  
 10 staff did. And they noticed that there was an extra pier here  
 11 that had not been authorized. And apparently this section down  
 12 here at this end and this section have been added within the  
 13 last week. So that's another violation that we had to add to  
 14 it. And they are still under a cease and desist notice.  
 15 But I did get an e-mail this morning, actually  
 16 it looks like it was sent last night after we left, from Mickey  
 17 Lagasse, their agent, saying that the Zimmermans have agreed to  
 18 remove the excess dock and come into compliance. So they're  
 19 going to remove those extra two ends down here, and that will  
 20 get them within 14 feet, and then they're going to find 14 feet  
 21 some place else on the structure to get down to the 1,995 that  
 22 was approved.  
 23 Decision factors:  
 24 This project does not serve a higher public  
 25 purpose.

1 name is Willa Brantley, and I'll be presenting our last item on  
 2 the agenda this morning. This is a violation/request for  
 3 after-the-fact permit by Emmett Zimmerman located on Bayou  
 4 Carre in the Kiln. And it's in a general use district. And  
 5 the agent is Mickey Lagasse.  
 6 Project location. Here is I-10. This is  
 7 Highway 43. This is the Jourdan River right here. Here's a  
 8 little oxbow lake, and that's where the project is located.  
 9 This is the oxbow that extends this way, and this is Dr.  
 10 Zimmerman's property.  
 11 The description is a constructed boathouse 57  
 12 feet in length by 35 feet in width with an enclosed storage  
 13 level. And it's also constructed at 31 feet above mean high  
 14 tide in height. It might be a little more than that. We've  
 15 gotten different numbers from the agent, 31 or 32, but it's  
 16 right in that area.  
 17 This is the approved diagram from when this came  
 18 to the commission and was originally approved. It came before  
 19 the commission because of the size of the boathouse being over  
 20 1500 square feet. The total that was approved was 1,995  
 21 square feet.  
 22 This is the boathouse. And a boat launch was  
 23 approved right next to it. This blue line was a proposed  
 24 bulkhead that has been constructed. And then this red line,  
 25 they are going to do some erosion control on that part through

1 The proposed project is allowable within the  
 2 general use district.  
 3 If approved, the project would set a precedent  
 4 for allowing an enclosed structure over water and for allowing  
 5 a structure greater than 25 feet above mean high tide in  
 6 height.  
 7 The effects of this:  
 8 An enclosed structure over water increases the  
 9 amount of shading to the waterbottoms because the sides aren't  
 10 light penetrable, there's more shade.  
 11 There's a higher likelihood both from the  
 12 vertical walls and from the height of the structure that it  
 13 could be destroyed during a windstorm event.  
 14 It would also -- that would cause more debris to  
 15 either hit other people's homes in the area or be washed back  
 16 out into coastal wetlands to have to be cleaned up later.  
 17 There's also the potential if we start allowing  
 18 enclosed structures over water for people to conceal wastewater  
 19 discharge points.  
 20 There is no evidence whatsoever right now that  
 21 Mr. Zimmerman has done that or has any plans to do that, so as  
 22 of right now that's not a concern with his. It's just a  
 23 concern for future projects. If we started allowing those all  
 24 the time, that would be really hard for the staff to keep up  
 25 with and enforce.

1 Removing the walls and reducing the height to be  
2 in compliance with the issued permit would minimize these  
3 potential adverse impacts.

4 No alternative sites were considered because  
5 this is a private residential lot, and the project serves to  
6 allow the property owner access to the water.

7 The boathouse as currently constructed at 31 to  
8 32 feet above mean high tide in height is taller than other  
9 structures in the area and would therefore impact the natural  
10 scenic qualities to a greater extent than other structures.

11 Notification appeared in the Sun Herald as  
12 required. We did not receive any public comments.

13 And when it was sent out to all the normal  
14 agencies, we did not receive any comments from any of them,  
15 either.

16 A couple of things we wanted to point out.

17 This is the original application that was  
18 received in November of 2011. And you can see on the front  
19 page, the height of the boathouse was entered as 25 feet is  
20 what they were asking for authorization for.

21 This is the permit condition. It's an  
22 open-sided covered boathouse, gives the dimensions, and it says  
23 no more than 25 feet above mean high tide in height.

24 And then this is showing where the agent for the  
25 Zimmermans signed the diagram and sent it back. And that

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1 signature means that they accepted the conditions that were in  
2 the permit.

3 One thing that we did get in this last permit  
4 for the after-the-fact because there are more than three  
5 residential slips in this boathouse, it was indicated that it  
6 will serve three families. So we're going to allow it to be  
7 called a multi-family pier, and we have a recommendation at the  
8 end based on that.

9 So we conducted a thorough evaluation. Based on  
10 that evaluation, we have determined that the project does not  
11 serve a higher public purpose. It would set a precedent both  
12 from the height of the structure and for allowing an enclosed  
13 structure over water.

14 Therefore, staff recommends that the commission  
15 deny the applicant's request for after-the-fact authorization,  
16 require that the structure be brought into compliance with the  
17 permit issued on December 22, 2011, which contains the  
18 following condition. An open-sided covered boathouse 57 feet  
19 in length, 35 feet in width, and no more than 25 feet above  
20 mean high tide in height shall be constructed over open water.

21 And we are also asking that you add a condition  
22 to that December permit that no more structures shall be  
23 permitted on the parcel owned by Dr. Zimmerman even should it  
24 be subdivided in the future unless that is authorized by the  
25 commission.

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1 And then if the structure is not brought into  
2 compliance within 90 days, the matter should be forwarded to  
3 the Attorney General's Office for further enforcement action.

4 And Mickey Lagasse, the agent for Dr. Zimmerman,  
5 is here and has indicated that he would like to speak. And I  
6 think he even has a handout that he would like to give.

7 DR. ASPER: Willa, my recollection of some past  
8 issues with boathouses is that we have been really strict about  
9 the open-sided rule. In fact, as I recall, there was one in  
10 Waveland that was a pretty nice boathouse, and we required the  
11 individual to strip the walls off of it and so on. And within  
12 a few months, that individual actually committed suicide. He  
13 was very depressed about the whole thing.

14 And there was also another issue in Ocean  
15 Springs that I can remember that was pretty hotly disputed.  
16 But again, we held the line on it.

17 So I just want to be sure I'm understanding  
18 right, that the big issues we've got are the open sides, and we  
19 just don't allow that, and then we've held the line on that in  
20 the past. And then, of course, also the height. And we just  
21 had one for reconsideration which we denied based on the  
22 height.

23 MS. BRANTLEY: And there are others, too, that  
24 have been caused to take the solid walls out and put in air and  
25 light penetrable walls.

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1 I would want to say before you start considering  
2 a decision that it doesn't have to be all or nothing, like, you  
3 know, if you wanted to approve the height but not the  
4 enclosure, you can do that. You can add conditions to our  
5 recommendation. So just keep that in mind when you're making  
6 your decision.

7 MR. LAGASSE: Good morning.

8 MR. GOLLOTT: The one we just addressed for  
9 reconsideration, the gentleman didn't want to cooperate with  
10 the staff at all (inaudible). A height variance, I think we  
11 would have allowed that.

12 This looks like a real nice boathouse. And to  
13 make them reduce the height of this thing, you are going to  
14 destroy his boathouse.

15 And how could we go about raising the height to  
16 accommodate some of these stormwaters and everything that --  
17 like down in the Pass where the water gets so high? And  
18 they're really protecting their property by raising it higher.

19 Can the commission revisit this height variance?

20 MS. BRANTLEY: Yeah. If you chose to allow --  
21 he has gone through the after-the-fact procedure, so with Mr.  
22 Lea's, he did not choose to -- well, he did apply, and then he  
23 chose to withdraw his application. So there was no option on  
24 the table for that being approved.

25 This has been approved the proper way, and like

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1 I said, Mickey has a presentation to give his reasons for why  
2 they want to keep it that way.

3           So it would set a precedent. However, he has  
4 asked for it the proper way. It can be approved today if you  
5 chose to.

6           MR. LAGASSE: Commission, thank you very much.

7           DR. ASPER: State your name, please.

8           MR. LAGASSE: Mickey Lagasse.

9           And I hope not to be too lengthy, but I feel  
10 that it's very important. And I put the packets together to  
11 sort of explain to the commission how we got here and why.

12           First of all, in the very back of your packets,  
13 there is a series of pictures that I added that basically shows  
14 a view of the boathouse, and in two actual other pictures  
15 behind it, for the last southeast wind, small tropical wave,  
16 whatever you want to call it that we just recently had.

17           We are trying to mitigate damage for the  
18 applicant. And I'm going to start off by going through very  
19 quickly if you will allow me to to basically point out some  
20 things that I feel like that need to be discussed.

21           First of all, I want to bring you through the  
22 timeline how things happened.

23           We submitted an application on November 2, 2011.

24           We received an e-mail from Lynn Moore who was  
25 our permittee or permitter that we had a problem with our

1           The page before that, however, is also what we  
2 submitted. And if you notice, we submitted in this application  
3 a boathouse with an enclosed storage area above it, windows,  
4 the whole nine yards. We in no way were trying to do anything  
5 illegal or wrong.

6           And to be perfectly honest with you, I've never  
7 seen one submitted. I've never heard of one being done. But  
8 when the only response we got back was the e-mail saying that  
9 we had submitted the wrong -- we needed to submit an 8 1/2 by  
10 11 and I needed to correct the depth and width of the boat  
11 launch, honestly I assumed that -- and maybe wrongfully so --  
12 that that's what we were being permitted.

13           So from that point, we e-mailed on or about  
14 November 30 the corrected size so they could be distributed to  
15 the agencies.

16           On December 12, my contractor or my owner  
17 applicant allowed the contractor to go ahead and drive the  
18 pilings. His guys were slow. Christmas. Came to y'all on the  
19 20th, openly admitted that they had made a mistake, paid the  
20 \$500 fine.

21           Between December 20 and January 6, after we  
22 received the application, there were a lot of things that went  
23 into this boathouse. It's not just a boathouse.

24           And I agree that you can't -- long term, you  
25 can't protect everybody from doing something wrong. If they

1 application.

2           The original application, if you look, is in the  
3 first part of this section. And if you notice, Willa was  
4 correct. We did have a 57 by 35 by 25 put in place. But also  
5 above that you will see highlighted an 8 foot by 16 foot boat  
6 ramp.

7           Now, I've probably done 30 applications through  
8 the DMR in the last four or five years. They've always been  
9 professional, always had a good working relationship. However,  
10 every time I've ever turned in an application there was a  
11 problem, whoever had that application contacted me and said  
12 look, we've got a problem. You can't do this, you can't do  
13 this and so forth.

14           If you will turn and hold that page, but if you  
15 will turn to the first tab, we did receive an e-mail from Lynn  
16 Moore on November 28 that basically said that I was incorrect  
17 on the boat launch. The boat launch had to be the same width  
18 as it was in length. And, you know, will the new boat launch  
19 meet this criteria? I responded with yes.

20           She also asked to send letter sized paper  
21 diagrams with the application.

22           If you'll turn back a couple of pages, you will  
23 see that Ms. Brantley was correct. We had turned in a 11 by  
24 17, me thinking it was better to be seen, and that's what she  
25 showed you the diagram that was originally sent.

1 want to do something wrong, they're going to do it, and they're  
2 going to figure out a way to do it. Doesn't matter what you  
3 allow and what you don't.

4           If you look in the back, Dr. Zimmerman -- under  
5 the last tab, Dr. Zimmerman finished the plans of his house.

6           Now, I don't know exactly the term that Willa  
7 used about being in compliance with serenity of the area. But  
8 the issue we have is Dr. Zimmerman not only owns that piece of  
9 property, but he also owns the piece of property across it.  
10 There's 40 acres there that he owns, including the slew that  
11 goes all the way back around.

12           So I feel like if we would have built a  
13 boathouse with T-1-11 siding on the side that we would be doing  
14 more damage than what we have here.

15           Dr. Zimmerman -- the reason it took us so long  
16 between the December 20 and January 6 is Dr. Zimmerman had to  
17 finish his house plans. We had to figure out what was going to  
18 be on the outside of his house, which is stucco, and the roof  
19 material that he was going to use.

20           What we wanted to do was, we wanted to have when  
21 people pull onto the site to see a project, one project that  
22 coincided, not a house with a boathouse that didn't match, you  
23 know, that kind of thing.

24           So there was a lot of time and effort that went  
25 into that.

1 In that section, once those plans were done, we  
2 finished the plans for the house. We delivered the plans to  
3 the Hancock County Building Department.

4 Now, the Hancock County Building Department is  
5 who controls and has the task with doing your flood prevention  
6 ordinance throughout -- you know, each county of jurisdiction  
7 has their own.

8 As you know, the new guidelines have gone a  
9 little crazy. Everybody has had to elevate. FEMA is pushing  
10 that everything is to be elevated to be out of the floodplain.

11 This meets the requirements. And the reason  
12 that where we're at is this meets the requirements of the new  
13 elevations, not the old elevations. But we again put a lot of  
14 time and effort to make sure that we met the county  
15 requirements.

16 If you will look through the tabs back here,  
17 you'll notice that Hancock County issued a permit. They used  
18 the same basic plans and specs.

19 You'll notice that there's a page in there that  
20 shows where the surveyor said that the finished floor elevation  
21 of the house across the bayou is 17.6. It's in an AE flood  
22 zone of 17.

23 So the bottom of the first floor is where it's  
24 got to be to be built. We minimized the roof slope. We did  
25 everything that we possibly could to sort of almost sandwich it

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1 was. Ms. Moore had seen the structure from the road either in  
2 an inspection or passing by and said that we could not have an  
3 enclosed structure.

4 Now, at this time, I mean, the stucco is on, the  
5 thing is built, everything has been inspected. We had no idea  
6 that we were in any kind of violation.

7 Again, I did sign the permit. I talked with the  
8 applicant. Dr. Zimmerman reviewed the application. It looked  
9 as clear as any other standard language that I've seen on one  
10 of every other permit.

11 Again, I received no correspondence to say that  
12 we had a problem with the storage area.

13 At that point, Ms. Moore told me that we had a  
14 problem. Went into a panic mode. We had a meeting with some  
15 of the DMR staff out on the property.

16 That's the day that we actually noticed that we  
17 had a problem with the height.

18 Went back and talked to the contractor. And  
19 what he had done is, he had based his height off of the highest  
20 adjacent grade, which is what the FEMA requirements are, not on  
21 mean high tide level.

22 In other words, if you look at the diagram  
23 submitted to you in the very second to last section which is  
24 the amended application, you will notice that it's 27 feet  
25 above highest adjacent grade. It's 32 feet as Willa said,

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1 in the middle.

2 The next page, if you'll look, just is a FEMA  
3 map. It shows the approved plans for the county. And then  
4 there's an original copy of the reduced plans that we presented  
5 the county right here.

6 The next page is basically the same page. But I  
7 blew up this section, and it's going to be entitled end wall  
8 blown up. And basically what it was was if you look at the  
9 bottom diagram, the county required certain construction to  
10 meet the building code. And they gave some comments: Gable  
11 end wall construction required.

12 We actually hired an engineer to build trusses  
13 and design trusses to keep the roof load as best as we can to  
14 protect from uplift. It meets or exceeds all of the 2003 code  
15 as required by the county.

16 On January 16, once we turned over the plans,  
17 all pilings were ordered -- I mean, all materials were ordered  
18 except for the pilings that were previously installed.

19 January 30, they were removed on site.

20 Construction began February 1.

21 February 9 we received a Corps letter of  
22 permission.

23 March 20 through 29.

24 On March 20, I received a call that we were in  
25 violation. I was surprised, didn't know what the violation

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1 depending on what's going on, 31, 32, above mean high tide.

2 The benchmark that was set by the surveyor was  
3 set in a telephone pole which is where the contractor went off  
4 of to build the structure which is normal practices, not for  
5 marine construction, but it's the normal practices that go  
6 along with it.

7 Again, the first time we heard of any notice was  
8 the cease and desist.

9 And, ladies and gentlemen, we are not -- Dr.  
10 Zimmerman is trying to build a house that he can retire to that  
11 his family and grandkids can come and basically build himself a  
12 compound out there.

13 He has no intention of making it any kind of  
14 living spacing.

15 He has no intention of putting any sewer and  
16 water in it.

17 As a matter of fact, on the last part of the  
18 timeline, until the problem this week when they asked us to  
19 stop, when Lynn called and said we had a problem, we stopped.

20 The main power from the pole to the building is  
21 shut down. They've been using extension cords to run the boat  
22 lifts to where they need to be so that the boats can be  
23 elevated and lowered.

24 All of the little outlets that's required by  
25 code, we've got basically shop lights, those ten or 11 dollar

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1 shop lights you buy at Lowe's, hanging on the inside.

2 We did not put in the handrails around the  
3 outside, no stairway.

4 And we've not installed the peg board and  
5 shelving inside where the stuff can be stored.

6 If you go back to the page in the county where  
7 it shows that it's in a floodway. Dr. Zimmerman's piece,  
8 although dry in the middle, has wetlands surround it. If Dr.  
9 Zimmerman were to build a storage area on the ground, the other  
10 pictures that you see from these sections in the back showing  
11 the flooding, he would be inundated with flood about nine or  
12 ten times a year in that storage area.

13 In a floodway, it has to be designed almost to V  
14 zone specifications. So everything has to be above the base  
15 flood.

16 If he had a storage building that was built on  
17 the ground, it surely would be destroyed with raising water  
18 coming from the river if there was a problem.

19 So you could pretty much guarantee that it would  
20 end up in the wetlands as Willa has said.

21 Again, I don't want to bore you. I think that  
22 we have done due diligence. I realize that we believe it sets  
23 a precedent. I don't. And this is why.

24 First, with Dr. Zimmerman, there was a mistake  
25 made. Partly on me, partly on permitting. I submitted

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1 never written.

2 The guidelines that I was trying to follow --  
3 and again, I felt like if we'd have ever had a problem, now  
4 that all this is forthcoming, that it would have been through  
5 the permitting side, not once construction was complete and it  
6 was done. We had completed the roof. We did the stucco. We  
7 picked the colors for the house.

8 We feel like that boathouse and the ambience of  
9 that house is going to make the view a better place. We could  
10 throw up a lot of different things, and you could do them a lot  
11 cheaper. But we feel like that what we've done during our due  
12 diligence is going to add beauty to the river. There's no  
13 doubt.

14 It's one of the nicest storage areas I've ever  
15 been in. And I can assure you that Dr. Zimmerman had no  
16 intention of anything incorrect. He certainly wouldn't have  
17 gotten out financially that far knowing that y'all could make  
18 him take it down, you know.

19 We did reduce the size of the boathouse. The  
20 original size of the boathouse was 57 by 35. The new one, I  
21 added 47 by 35. It's actually 47 by 33. You know, we did that  
22 because we didn't need the additional pace.

23 I guess to the commission, all I'm trying to do  
24 is say that we feel like that it shouldn't set a precedent  
25 because there was some miscommunication made between the

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1 something. They reviewed it. They gave us comments. We  
2 responded. Nobody intentionally did anything wrong on our end  
3 or theirs.

4 I believe also this. I went through the coastal  
5 ecology book last night. There is nothing that designates  
6 height. And I don't believe I can find anything that  
7 designates enclosed structures.

8 Now, I agree with enclosed structures can cause  
9 a problem.

10 I agree that wastewater discharge.

11 You could do the same thing right next to that.  
12 I mean, Dr. Zimmerman is not going to build a \$400,000 home and  
13 a \$40,000 boathouse for storage. We don't need it. I mean,  
14 it's not something he's going to do.

15 Again, I'm not trying to say that other people  
16 wouldn't say, but I think his conditions are different. I  
17 think that we put in an application in good faith. I think we  
18 turned over multiple sets of plans. We went to the county  
19 office. We met with FEMA's requirements and the county  
20 requirements.

21 As far as the heights go, you know, again, I  
22 went through the book. I know that it's been a policy of this  
23 board and a policy of the DMR for a very long time. I was in  
24 the enforcement side of things for a while. And a lot of what  
25 we got hit with, we know what may be right or wrong. But it's

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1 applicant and the permitting department.

2 The height, I can't say -- we can knock the roof  
3 off and make it a flat roof and be well under the height if  
4 that's what the commission so wanted us to do. But by doing  
5 that, I think it's ruining what you're trying to preserve in  
6 that area.

7 MR. GOLIOTT: Mr. Chairman, I'd like to make a  
8 motion that we table this until next month if Willa doesn't  
9 have a timeline problem with it.

10 Sir, get with the staff and see if you can work  
11 these problems out.

12 MR. LAGASSE: We're more than willing. I don't  
13 think that Willa --

14 MS. BRANTLEY: I don't want this to sound bad  
15 for Dr. Zimmerman. I kind of think we have spent several  
16 months going through this and offering different things. And  
17 it just has gotten to this point.

18 Dr. Zimmerman wants what he wants, and our  
19 permit says what it says. And that's not -- I don't get that  
20 there's hard feelings on his side that the permit says what it  
21 says. There's no hard feelings on our side that he wants what  
22 he wants. I just don't know that tabling it and discussing it  
23 -- I would leave that up to Mickey as the agent or even Dr.  
24 Zimmerman, he's here.

25 We would ask that if you did choose to approve

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1 this that you let Dr. Zimmerman keep it as it's built, that you  
2 would look at it like Mickey said that it didn't set a  
3 precedent, and that you were allowing it only because of a  
4 perceived miscommunication by staff.

5 And can I stand up here and say that legally we  
6 did what we had to do? Yes, I think I can because the permit  
7 was issued correctly, with the correct conditions.

8 Can I say that the standard operating procedures  
9 that I expect the staff to follow to work always? No, they  
10 were not.

11 When there's a question about something in a  
12 permit, when something doesn't look right, I expect that  
13 project manager to contact the applicant or their agent and  
14 make that clear.

15 And I honestly have to stand up here and say  
16 that that did not happen.

17 So, you know, if you choose to let him keep the  
18 boathouse because of those reasons, I would ask that that's  
19 made clear in the record, that it was a staff perceived  
20 miscommunication and that it wouldn't set any precedent.

21 MR. TAYLOR: Richard, can we ask counsel if this  
22 would set a precedent if we do this?

23 I don't see how we can do it after just denying  
24 someone that's been before us three times. I mean, I just --  
25 you know, I'm not an attorney or anything.

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1 proper language, so this won't set a precedent, get with legal  
2 and see if we can work it out that way?

3 MS. BRANTLEY: Do we need to do that, Sandy? Or  
4 could we just -- if they stated it right now that that was  
5 their reasoning, would that cover it? Or do we need to table  
6 and come back with a specific --

7 MR. TAYLOR: I would prefer to table it myself.

8 MS. CHESNUT: To cover it properly, we can work  
9 on it and get it stated just exactly the way you wanted it, if  
10 that's what the commission wanted to to.

11 MR. GOLLOTT: I make a motion that we table this  
12 until next month and have the staff and legal work out the  
13 details.

14 MR. TAYLOR: Second.

15 DR. ASPER: Any further discussion?

16 Just a note from my perspective is that  
17 regardless of what language you put in there, it is setting a  
18 precedent, and so you can put all the disclaimers you want, but  
19 the fact that we allowed it after the fact regardless of  
20 reasons is setting a precedent.

21 It's like you reason it wasn't, and you can say  
22 that it's not, but the fact is, it is.

23 So as we consider this, this motion does not say  
24 that we're going to approve it next month. It just says that  
25 we're going to table it until next month. So there's still the

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1 MS. CHESNUT: Any time you do something outside  
2 the guidelines of what you've always done, there's a potential  
3 for precedent.

4 However, if you enter the reason into the record  
5 why you're doing it and that that's the only reason you're  
6 doing it, then any further projects in the future would have to  
7 also meet those requirements so that you're essentially  
8 establishing why this went over and above your established  
9 guidelines.

10 MR. TAYLOR: So if we do this and someone  
11 doesn't read their permit, and from what I understand, Ms.  
12 Brantley, if you'll put the permit back up there, if someone  
13 doesn't read their permit, then we would have to allow it.

14 Is the onus on us to read the permit or is it on  
15 the property owner?

16 MS. CHESNUT: Well, the onus is on the property  
17 owner and the agent to read the permit and abide by it.

18 MS. BRANTLEY: But you've also got with this  
19 where the standard procedures of contacting the applicant and  
20 telling them, hey, you're not going to get what you asked for,  
21 this is what we can approve, and this is what your permit is  
22 going to say, of trying to work that out before the permit goes  
23 out to them, that didn't take place, and it should have.

24 MR. GOLLOTT: Can we do this? Can we table it  
25 until next month and Willa come up with the language, the

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1 option of us denying the request and requiring this to come  
2 into compliance.

3 MS. BRANTLEY: I was about to ask that. So  
4 we'll come back with language, and then the decision will be  
5 made based on that language. The decision is not being made  
6 right now.

7 DR. ASPER: That's what the motion says, right.  
8 Further discussion? Those in favor say aye.

9 Those opposed. It's unanimous.

10 MR. LAGASSE: Thank you all very much for your  
11 time. Sorry it was so drawn out.

12 MR. BOYD: Mr. Chairman, that concludes  
13 coastal's portion of the meeting.

14 DR. ASPER: Okay. Move on to the financial  
15 report.

16 J. Administrative Services

17 2. Financial Report

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

19 Today I'll be giving the budget status as of  
20 June 30. The significance of this date is it is the ending of  
21 one fiscal year and the beginning of another.

22 So the fiscal year that just ended, Fiscal Year  
23 '12 on June 30, our budget of \$6,267,493, all funds have been  
24 spent, as well as our tidelands obligations have all been met  
25 -- excuse me -- the tidelands funds have been obligated.

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1           Going into Fiscal Year 2013, our budget is  
 2 \$6,152,176. And our tidelands budget for that year is  
 3 \$10,170,743.  
 4           Any questions today?  
 5           DR. ASPER: Thank you, Kara.  
 6           Before we dismiss, I'd like to ask Dale if we  
 7 could get a report next month on the turtle standings.  
 8           There was a report in the news about the  
 9 turtles, and a lot of them were killed apparently by fishing  
 10 hooks, which is a new thing. And I'd like to hear a little bit  
 11 more about that. I don't want to blindsides you with that right  
 12 now.  
 13           MR. DIAZ: Sure, we'd be glad to do that.  
 14           DR. ASPER: This is something that Moby was on  
 15 TV saying I've never seen this before.  
 16           If you could just get us a little bit of a  
 17 factual report, I think that would be really good.  
 18           MR. DIAZ: One thing just to make sure it's  
 19 clear, we've had a lot of turtles that have interactions with  
 20 hook and line. And most of those turtles are alive. They  
 21 require some rehabilitation. But the vast majority of them do  
 22 live.  
 23           We'll have a report for you next month.  
 24           DR. ASPER: I think that would be really  
 25 interesting.

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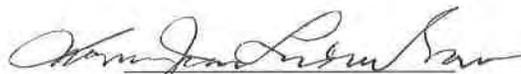
1           I think we're at the end of our agenda. Is  
 2 there a motion to adjourn?  
 3           MR. DRUMMOND: I make a motion we adjourn, Mr.  
 4 Chairman.  
 5           MR. BOSARGE: So second.  
 6           DR. ASPER: We're adjourned.  
 7           (Meeting adjourned 11:00 a.m.)  
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## COMMISSION ON MARINE RESOURCES

COURT REPORTER'S CERTIFICATE

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 3  
 4           I, Norma Jean Ladner Soroe, Certified Shorthand  
 5 Reporter, do hereby certify that to the best of my skill and  
 6 ability I have reported the meeting of the Commission on Marine  
 7 Resources and that the foregoing 70 pages constitute a true and  
 8 correct transcription of said meeting held on the 17th day of  
 9 July 2012.  
 10  
 11  
 12           I do further certify that my certificate annexed  
 13 hereto applies only to the original and certified transcript.  
 14 The undersigned assumes no responsibility for the accuracy of  
 15 any reproduced copies not made under my control and direction.  
 16           Witness my signature this the 8th day of August 2012.  
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NORMA JEAN LADNER SOROE, CSR #1297  
 Certified Shorthand Reporter

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