

Commission on Marine Resources

COMMISSION ON MARINE RESOURCES

Tuesday, November 15, 2011
9:00 o'clock, a.m.
Bolton State Building
Suite 101
1141 Bayview Avenue
Biloxi, Mississippi

Commission Members:

- Dr. Vernon Asper, Chairman
Mr. Jimmy Taylor, Vice Chairman
Mr. Richard Gollott
Mr. Shelby Drummond
Mr. Steve Bosarge

Executive Director:

Dr. William W. Walker

Attorney:

Mr. Joseph Runnels

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DR. ASPER: Good morning. I would like to welcome everybody to the regular November meeting of the Mississippi Commission on Marine Resources. Great to have you here.

If you are interested in addressing the Commission, there is a form that you need to fill out in the back. We are anxious to hear what you have to say, but we like to have a record of who was here and all that. So please fill out the little form and hand it in to one of the ladies here at the desk, and we'll get you on the schedule.

The first item, on the agenda, is the approval of the minutes.

Are there any changes to the minutes?
(No response.)

DR. ASPER: Is there a motion to approve as distributed?

MR. DRUMMOND: So moved, Mr. Chairman.

MR. GOLLOTT: Second, Mr. Chairman.

DR. ASPER: Those in favor say aye.
(All in favor).

DR. ASPER: We have an agenda. Those of you who don't have an agenda, they are at the back.

Are there any changes to the agenda?
(No response.)

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I N D E X

Table with 3 columns: SPEAKER, PRESENTATION, PAGE. Lists speakers like Dr. William W. Walker, Olin Gunter, Joe Jewell, etc., and their respective presentations and page numbers.

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DR. ASPER: Is there a motion to approve as distributed?

MR. DRUMMOND: So moved, Mr. Chairman.

MR. BOSARGE: Second.

DR. ASPER: Those in favor say aye.
(All in favor).

DR. ASPER: Now, we'll come to the public comments. I don't have any forms.

Is there anybody who would like to speak that hasn't filled out a form?

(No response.)

DR. ASPER: We'll move on, then, to the Executive Director's Report.

DR. WALKER: Thank you, Mr. Chairman. Just a couple of quick things. One has to do with marine patrol. We're out on the water an awful lot. We do a lot of things. We interact with the public a lot. Most of the calls and comments I get back are people complaining about one thing, or another. When I get something nice, I like to pass it on to you guys and would like for the marine patrol folks to hear it, as well.

This is a letter we got from a supervisor in Lamar County. It says, "A while back, I had the privilege of meeting two of Mississippi's finest officers" -- and he says their names -- "while the circumstances that caused

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1 the meeting were not great, the service they so kindly and
 2 humbly rendered to me was more than exemplary. I
 3 appreciate the assistance they offered to my friends and
 4 me, when our boat broke down over seven miles out into the
 5 Gulf.

6 "I pray that God returns great blessings to them
 7 and your department because of the kindness these officers
 8 extended to us. I am aware that I may not compensate them
 9 for their outstanding job, but I believe they went over
 10 and above their call of duty. Therefore, I would like to
 11 donate to a non-profit organization in their honor.

12 "If these fine men are a representation of the
 13 entire department, then we, as a State, are extremely
 14 blessed. Thank you for employing the folks like this."

15 You guys in the back need to be proud of that.
 16 Thank you for the job that all of you men do. This is
 17 just another example of our folks out there paying
 18 attention to the fact that we do have customers out in the
 19 public and offering public service to these folks.

20 The second letter I want to share with you is
 21 from Congressman Steven Palazzo. He is writing in
 22 reference to the resolution that the Commission sent to
 23 him in support of the RESTORE The Gulf Coast Act of 2011.

24 "Thank you for your support of the RESTORE the
 25 Gulf Coast Act of 2011. Our region is still experiencing

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1 The last thing, in your packet, you have a
 2 package. It says, "Marine Resources Proposed Legislative
 3 Changes, 2012 Legislative Session". This is something we
 4 put together every year for the upcoming legislative
 5 session.

6 On December the 9th, we will have our legislative
 7 forum here in this building. All of you either have, or
 8 will soon receive your invitation letters. At that time,
 9 we will go through the legislative changes that we propose
 10 to put before the legislature. We give these to you, now,
 11 so that you can begin to review those, and, if you have
 12 any questions about them, you can contact me, or Joe, or
 13 the boss, Machaela, to get some clarification.

14 Thank you, Mr. Chairman.

15 DR. ASPER: Thank you, Dr. Walker.

16 I would like to echo the comments made in the
 17 letter about our marine patrol. We are extremely proud of
 18 our marine patrol. They are doing a wonderful job.

19 Speaking of which, it's your turn to make a
 20 presentation.

21 OLIN GUNTER: Good morning Commissioners and Dr.
 22 Walker. My name is Olin Gunter. I will be giving the
 23 report for marine patrol.

24 You can see the difference in the citations.
 25 Some are crab, and we are still having a problem with

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1 the lingering effects of the disaster, and a full recovery
 2 will take years, if not decades. It is only fair that the
 3 states that were directly impacted by the oil spill should
 4 receive the bulk of the fines that the responsible parties
 5 will have to pay, due to damages incurred. This is common
 6 sense.

7 "I will continue to do everything I can to
 8 ensure that this bipartisan legislation makes it to the
 9 House floor and, ultimately, to the president's desk. As
 10 always, if I, or my office, can be of any assistance,
 11 please do not hesitate to contact us.

12 "Once again, thank you for your continued
 13 support of the RESTORE Act, and I look forward to working
 14 with you and the CMR to ensure the environmental and
 15 economic recovery of the Mississippi Gulf Coast."

16 Congressman Palazzo also was instrumental in Mr.
 17 Feinberg testifying before Congress a few weeks ago, in
 18 pressing him to provide additional assistance and
 19 compensation to some of our fishermen who were impacted
 20 during the oil spill. Congressman Palazzo was able to do
 21 that and, as a result of his action and others in the Gulf
 22 Coast states, Mr. Feinberg has since publicly announced
 23 that additional compensation will be forthcoming to those
 24 folks who were affected. So we need to understand that he
 25 is working for us.

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1 people with saltwater fishing licenses.

2 We are seeing a lot of activity on the water, at
 3 this time; a lot of shrimp boats working at night, plus we
 4 are starting to see more of the Speckled Trout fishermen
 5 up in the rivers and the bays.

6 Violations are probably about normal for this
 7 time of year; a little more safety violations.

8 If there is anything that y'all have a question
 9 about, maybe I can help.

10 MR. BOSARGE: Yes, I had one question. I see
 11 where it says, "Over the limit of crabs" (indicating
 12 document).

13 I didn't know there was a limit on crabs?

14 OLIN GUNTER: It was the size limit. There were
 15 fifty-seven under the legal size limit.

16 MR. BOSARGE: I understand, now.

17 DR. ASPER: I notice something that is
 18 conspicuously missing and that is anything about gill
 19 nets. This is the time of the year when we typically see
 20 some.

21 OLIN GUNTER: We are seeing a little bit of
 22 activity. Some of them are launching in Mississippi and
 23 going to another state.

24 We did find one, on the other side of Pearl
 25 River. We advised Louisiana Wildlife of the gill net that

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1 we saw. Since it's in Louisiana waters, we didn't do any
2 action with that.

3 Most of the gill-netters that we've had trouble
4 with in the past are, now, throwing cast nets. So they
5 are making the adjustments that they need to, to still
6 take away from the fishery.

7 DR. ASPER: So they are still catching a
8 significant number of mullet this time of year?

9 OLIN GUNTER: Yes. The guys that are throwing
10 the cast nets are good. They are doing extremely well.

11 DR. ASPER: Any other questions?
12 (No response.)

13 DR. ASPER: Thank you very much, Olin.

14 OLIN GUNTER: Thank you.

15 DR. ASPER: Moving on, now, fisheries. Joe.

16 JOE JEWELL: Good morning Commissioners, Dr.
17 walker, Mr. Runnels. Dale sends his apologies again. He
18 is away representing the Department of Marine Resources at
19 the Gulf Council meeting. My name is Joe Jewell. I'll be
20 representing the Office of Marine Fisheries this morning.

21 I would like to make two announcements, before
22 we get started on the agenda items.

23 We have a popular series of free seminars to the
24 public. The next one will be on the subject of spotted
25 sea trout. It will be here in the Commission room, on

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1 With that being said, we would like to move on
2 to our first agenda item, and that is Mr. Kerwin Cuevas
3 for artificial reef update.

4 KERWIN CUEVAS: Good morning. My name is Kerwin
5 Cuevas with Mississippi Department of Marine Resources
6 Artificial Reef Program.

7 This is a quick update of the artificial reef
8 bureau. This essentially starts back in 2005, after I
9 think we had a little bad weather that affected our
10 program. I don't know if y'all remember that.

11 We started the inshore reefs in 2007. Since the
12 hurricane to current, we've had a hundred and forty-one
13 deployments in all three coastal counties, Hancock,
14 Harrison, and Jackson, with a total of twenty-four
15 thousand cubic yards of crushed concrete, or limestone.
16 This crushed concrete, or limestone, is generally two
17 inches, approximately two inches.

18 A little bit over eight thousand cubic yards was
19 around our public piers. Essentially, every public pier
20 with a water depth that would allow us to get a barge in
21 and material, in the three coastal counties, have
22 limestone, or artificial reef, around them. This helps
23 the public that doesn't have a vessel, or small boat.

24 Our low profile fishing reefs, a little bit over
25 fourteen thousand cubic yards of material. These are

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1 November the 17th. That's a Thursday. It will be from
2 4:00 to 6:00 p.m. It's open to the public. Anyone that
3 would like to attend, we certainly would encourage anyone
4 that is interested in that subject to attend. The
5 Commission would certainly like to invite all the
6 Commissioners to attend that meeting.

7 We are going to have several guest speakers.
8 Y'all may be familiar with some of these. Mr. Jim Franks
9 from Gulf Coast Research Lab, University of Southern
10 Mississippi. Mr. Mike Buchanan of our staff here at the
11 Department of Marine Resources. Dr. Reginald Blaylock
12 from GCRL USM. Captain sonny Schindler from the Shore
13 Thing Charters will also be a guest speaker, at that
14 seminar series.

15 Additional information about that seminar can be
16 found at the DMR website, DMR.ms.gov, if the public would
17 like to find additional information. We encourage
18 everyone to attend.

19 Also, if you will look on the agenda, we were
20 going to have, on our schedule, a presentation about
21 invasive species. I would like to mention that Mr. Mike
22 Pursley, we would like to congratulate him. He has been
23 named the State of Mississippi's Aquatic Invasive Species
24 Coordinator. That's a big honor for the Department of
25 Marine Resources, and we would like to recognize him.

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1 little patch reefs around boat ramps for our small boat
2 users, and, also, around the deep water poles for our wade
3 fishermen. So wade fishermen can also utilize these
4 reefs.

5 We have two breakwaters, with about sixteen
6 hundred cubic yards of material; concrete rubble on those.

7 As you can see here, we have a total of sixty-
8 seven inshore reefs that covers state line to state line.
9 So our inshore fishermen can utilize these reefs, and it
10 provides habitat for our local marine species (indicating
11 map).

12 Here's a map showing our current reef zones, one
13 through thirteen, fourteen, and Cat Island. The material
14 that was deployed here was concrete culverts. We had
15 thirty-eight deployments. When I say thirty-eight
16 deployments, one barge load is one deployment. It's
17 usually around four hundred tons per deployment, and these
18 culverts range three to five foot in diameter and four to
19 eight foot in length. So we are talking substantial
20 culverts.

21 Missile ballasts. Essentially big cylinders,
22 concrete cylinders.

23 Some buoys, big iron round cylindrical design,
24 seven foot in height, twelve foot in diameter.

25 Some lox tanks. Actually they were just

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1 deployed here recently.

2 The BRT, big round thing, for lack of better
3 words.

4 Steel hull vessels. Eighteen deployments, since
5 the hurricane. I would like to thank Irvin Jackson,
6 working with him through our derelict vessel program, and,
7 of course, the Commission and the State Legislators for
8 funding that program. It's a win-win situation, between
9 the derelict vessel program and the artificial reef
10 program, that provide habitat that these two old vessels
11 do.

12 Florida limestone, reef balls, and, also, bay
13 balls in the reefs around the islands where water depth
14 allows.

15 This is one of our steel hull vessels, the Great
16 Wicomico. This is a vessel donated by Omega Protein.
17 They actually, in part, funded it to be cleaned with
18 Mississippi Gulf Fishing Banks and DMR. You can see it on
19 the left. It's a hundred and seventy-six foot pogy boat,
20 and, on the right, it's excellent habitat for fish, right
21 now, snapper, grouper, trigger. It is providing excellent
22 habitat (indicating photographs).

23 Here's the big round thing. It was deployed a
24 couple of weeks ago. Actually, when the divers went down
25 to take the cradle off, all the rigging, a couple of lemon

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1 reefs. As of today, our reefs are rebuilt, offshore and
2 inshore, a hundred percent pre-Katrina because of those
3 funds.

4 MR. TAYLOR: Kerwin.

5 KERWIN CUEVAS: Yes, sir.

6 MR. TAYLOR: I think there is one other person
7 that we need to thank, also, with especially the Katrina
8 reef, and that's Senator Tommy Gollott. He worked real
9 hard to get some of the funds and getting it done. He was
10 very adamant about what to do with the bridge.

11 KERWIN CUEVAS: By all means, Senator Gollott,
12 yes.

13 DR. ASPER: Any other questions for Kerwin?

14 MR. DRUMMOND: I've got just one.

15 Have you ever been able to talk Dr. Walker into
16 buying that DIDSON sonar for you?

17 KERWIN CUEVAS: We're close. I've just got to
18 hit him at the right time, but I appreciate that. Thank
19 you.

20 MR. DRUMMOND: Just thought I would ask.

21 KERWIN CUEVAS: Thank you Commissioners and Dr.
22 Walker.

23 DR. ASPER: Thank you, Kerwin.

24 JOE JEWELL: Our next speaker is Mr. Mike
25 Pursley from the Coast Ecology office. He is going to

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1 fish were cruising around on it already. So I think it is
2 going to provide habitat for years to come, a lot longer
3 than I'll be around I'm sure (indicating photographs).

4 The Jail House Key. I was working with then
5 Congressman Taylor's office to help secure this key. A
6 lot of people are utilizing this lately with the wind. It
7 helps out with the inshore fishermen (indicating
8 photograph).

9 The Pass Christian Key is just now complete
10 right outside the harbor (indicating photograph).

11 Also, we are working with the contractors and
12 the City of Biloxi, and I would like to thank the
13 Commission for the Katrina Key add on; in particular
14 Commissioner Gollott and Commissioner Taylor for helping
15 us secure this material from Back Bay, the old Back Bay
16 fishing bridge. If it wasn't for the Commission and Dr.
17 Walker, we wouldn't be able to have that material put on
18 this key. We are lucky to have them and utilize the
19 material. That's our ongoing program, now (indicating
20 photograph).

21 I do want to say the funds utilized for all this
22 material to be deployed is the EDRP, Emergency Disaster
23 Program Funds, Katrina Funds, and from NOAA. Dr. Walker,
24 the Commissioners, Corky, and the State Legislators really
25 went to bat for us to get these funds to rebuild the

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1 give the presentation on invasive species, and I would
2 like to introduce him as our new statewide Invasive
3 Species Coordinator.

4 MIKE PURSLEY: Good Morning Commissioners, Dr.
5 Walker, and Mr. Runnels. My name is Mike Pursley. I'm
6 here to give you your aquatic invasive species update.

7 This work was funded, in part, by the Coastal
8 Impact Assistance Program. We have been having ongoing
9 efforts managing aquatic invasive plants, like,
10 waterhyacinth and giant salvinia. We are searching
11 regularly the waterways for new outbreaks, and we are
12 engaging in a number of public outreach efforts to aid in
13 the early detection of aquatic invasives.

14 We were worried that with the recent Mississippi
15 River flooding, that there would be introduction of
16 freshwater species that are currently in Louisiana into
17 our Mississippi rivers, but, luckily, so far there has
18 been none of that, according to Mike Buchanan's fisheries
19 guys and Kerwin.

20 The fish we were worried about most was the
21 Silver Carp. They are from Asia. They are highly
22 prolific. They get big. They get really big. They get
23 about sixty pounds, and they jump out of the water, when
24 boaters come by, and they have been known to hurt people.
25 They are such voracious filters that they tear out the

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1 bottom of the food chain, and they have a adulterous
2 effect on the ecology of the area.

3 What we did is we created some of these fliers
4 and we distributed them, and we created the email address,
5 REPORT_INVASIVE@DMR.MS.GOV, to help with the reporting of
6 these things because the more eyes and ears that we have
7 to find any new sightings the sooner we can do something
8 about it (indicating photograph).

9 This picture shows Silver Carp jumping, when
10 they get spooked by an outboard motor.

11 The sightings so far have been mainly through
12 the Mississippi River valley, but, with the flooding that
13 we've seen recently, they were found as far south as Lake
14 Pontchartrain, and the fear was that they would come out
15 and come around through the freshwater bridge that was
16 created and get up into the Pearl, or the Wolf, or even up
17 in the Back Bay.

18 There is this one sighting here that was
19 reported to the Nonindigenous Aquatic Species Database.
20 This was a sighting out of literature. It's not
21 confirmed. It's on the map, though (indicating map).

22 Another fish we are watching for is Lionfish.
23 They are a Pacific fish. They are voracious feeders.
24 They have venomous spines. They have no natural predators
25 to speak of. They tend to reproduce rapidly and reduce

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1 reef species abundance and diversity. So far we have not
2 seen any of these. However, they are close. They are up
3 into Mobile Bay, about forty miles south of Dauphin
4 Island, all off the coast of Louisiana (indicating map).

5 This is kind of an animation. If you will watch
6 the date in the top left-hand corner, as the red dots
7 appear as time goes by, you can see the movement of the
8 invasion. In the year 2000, it starts shooting up the
9 East Coast, and, then, by mid 2000, it gets down into the
10 Caribbean. From the Caribbean, in about 2010 and 2011, it
11 just explodes up into the Gulf of Mexico. You can see we
12 have a real dynamic situation here (indicating graph).

13 I'll let this run through one more time. This
14 graphic is courtesy of our friends at the US Geological
15 Survey who collect this data that we report and provide
16 this kind of information to us.

17 We saw our first Lionfish, in the northern Gulf,
18 in about 2008. We'll move to 2011. Who knows what next
19 year will hold (indicating graph).

20 Probably the most interesting thing we've got
21 going on, right now, are these Asian Tiger Shrimp. The
22 Commissioners have a sample of the decal that we mailed
23 out to over four hundred commercial shrimp license
24 holders, seafood processors, and seafood distributors
25 (indicating photographs).

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1 They are the world's most aquacultured shrimp
2 because of their large size and their very fast growth
3 rate.

4 As recently as a couple of years ago, it was
5 thought that they would not survive in the northern Gulf
6 because of their lack of cold tolerance, but what I'm
7 finding out now is this might be some sort of a variety of
8 shrimp that was produced through selective breeding that
9 may be more adapted to our waters.

10 Right now, we are collecting samples for DNA
11 analysis with the US Geological Survey that will tell us,
12 perhaps, more information about the stats that these are
13 from, as well as their reproductive status in the Gulf.
14 The worry is that they could compete with our native
15 shrimp for habitat and food, and they could possibly bring
16 disease.

17 Here's a map of the Tiger Shrimp sightings that
18 have been reported. They stretch all the way from the
19 northern coast of North Carolina and as far west as
20 Laredo, Texas. The green circles and squares represent
21 sighting that were confirmed, and the yellow circles and
22 squares represent sightings that have had actual samples
23 in the freezer for genetic analysis. We just started
24 collecting samples this summer. So there are not as many
25 of them.

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1 A little closer look at our area shows the
2 Mississippi ones off Belle Fontaine Point, the Biloxi
3 channel, and out at Round Island, and off of Horn Island,
4 too, and they are all up into Mobile Bay. Of course, most
5 of the ones they have been seeing have been coming out of
6 Louisiana, from our fishermen going over there, and, then,
7 dragging their nets (indicating map).

8 The shrimp are coming in, oddly enough, during
9 shrimping season, but we are seeing the peek in August
10 through November, as far as the number of shrimp reported.

11 Here's another time sequence. It shows the
12 timeline of this invasion. It started out in about 1988
13 with a release from the hurricane, and it shot right up
14 the east coast very similar to the Lionfish invasion, just
15 a different year. It seemed to have started separately in
16 the Gulf of Mexico, and now, in 2011, the reports have
17 just exploded, and we don't know if it's due to actual
18 numbers increasing, or just better awareness. There is a
19 lot that needs to be known about these shrimp that we just
20 don't understand, right now (indicating graph).

21 Here's a picture of the decal that we mailed
22 out. Hopefully, it will increase awareness and increase
23 the reporting of these shrimp.

24 Another program that we have going is our Stop
25 Aquatic Hitchhikers Program. It's part of the national

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1 program to put signs at boat ramps to remind people to
2 clean any plants off their boat trailers and equipment,
3 before transporting them, to help minimize the spread of
4 invasive species (indicating photographs).

5 Another thing we're doing, as part of my job as
6 the coordinator, is we are setting up the Mississippi
7 Aquatic Invasive Species Network. We've got the domain
8 name MAISN.ORG ready to go. When it is developed, this
9 will be the clearinghouse of information and network of
10 communication and support for everybody involved in the
11 fight against aquatic invasive species. It will be in the
12 form of an email newsletter and a website, and, hopefully,
13 we will be able to promote collaboration and coordination
14 and improve the fight against what we are dealing with
15 here.

16 MR. BOSARGE: I have one suggestion on the Asian
17 Tiger shrimp. I know a lot of the guys that are working
18 on the boats, and I hear a lot of them talking about
19 seeing these shrimp, and I've even had some of our guys
20 send me pictures.

21 I wonder if it would be possible to have that
22 where they could text that information to you?

23 All of these guys are all about texting, and I
24 think it might be an easier way. You would probably get a
25 lot more reporting, if all they had to do was pick up a

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1 than about six inches.

2 MR. BOSARGE: That's strange.

3 DR. ASPER: Anything else for Mike?

4 (No response.)

5 DR. ASPER: Thank you very much. That was a
6 really good report. I hope you will keep us informed
7 because this is something that, obviously, we've been
8 concerned about for a long time. It's very nice to see
9 that we are making a concerted effort on it.

10 MIKE PURSLEY: Thank you.

11 JOE JEWELL: Our final presentation is by Mr.
12 Erick Porche, the fish records.

13 ERICK PORCHE: Good morning. I have four
14 records for your consideration today. Three of them are
15 conventional tackle and one is fly-fishing.

16 First will be conventional. We have a
17 Vermillion Snapper, *Rhomboplites aurorubens*. We had an
18 old record of four pounds eleven ounces. The new record
19 would be five pound one ounce. Caught by David Kuehn
20 (indicating photographs).

21 An Atlantic Cutlassfish, *Trichiurus lepturus*,
22 old record of two pounds six point four ounces. It would
23 be a new record of two pounds nine point four four ounces.
24 Caught by Jonathan Stanley. This is Mr. Stanley and his
25 Cutlassfish (indicating photograph).

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1 phone and text.

2 MIKE PURSLEY: If we could get text message at
3 our 374-5000 number, they could certainly do that.

4 MR. BOSARGE: Will it take?

5 MIKE PURSLEY: I don't know, at this time, but I
6 can check on it.

7 MR. BOSARGE: I think you will probably get a
8 lot more reporting. It's something you can follow up on.

9 MIKE PURSLEY: I like that idea. Thank you.

10 F. J. EICKE: Where did those shrimp come from?

11 MIKE PURSLEY: They are from Asia.

12 F. J. EICKE: I mean, where were they released?

13 MIKE PURSLEY: They were initially released in
14 1988 in Bluffton, South Carolina, after a hurricane, but
15 we don't know where the ones in the Gulf of Mexico are
16 coming from. It's thought that they are coming from
17 aquiculture farms in the Caribbean and drifting up the
18 Gulf currents, or maybe in ballast water, or they might
19 even be reproducing out there. We just don't have any
20 concrete information, at this time.

21 MR. BOSARGE: The ones that I've heard of and
22 I've seen are all larger shrimp.

23 Have you had any reports of any smaller ones?

24 MIKE PURSLEY: No. We've not had any reports of
25 any juveniles, or postlarvae, or anything really smaller

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1 Blackfin Tuna, *Thunnus atlanticus*. There's an
2 old record of thirty-three pounds even. It would be a new
3 record of thirty-three pounds zero point eight ounces.
4 Caught by Mark Herrmann. This is Mr. Herrmann and his
5 tuna (indicating photograph).

6 Finally, we have one fly-fishing tackle record.
7 It would be a new entry for a Lemon Shark, *Negaprion*
8 *brevirostris*. It would be a new record of eleven pounds
9 fifteen ounces. Caught by Don Abrams. This is Mr. Abrams
10 and his shark (indicating photograph).

11 Any questions?

12 MR. DRUMMOND: What is the process you use, or
13 the procedure you use, in determining this is a record
14 species?

15 Do you identify the fish and go from there?

16 ERICK PORCHE: The species is determined by us,
17 or, for example, this Lemon Shark was determined by Mr.
18 Jim Franks. So it has to be a reputable biologist to
19 begin with.

20 MR. DRUMMOND: Who weighs the fish?

21 ERICK PORCHE: It is always weighed on a
22 certified scale. In fact, that was weighed at GCR by Mr.
23 Jim Franks. The rest of them are weighed by us here in
24 the lab.

25 MR. TAYLOR: Most fishing tournaments use a

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certified scale, too. If it's a SKA tournament, that's a certified scale, if they weigh anything there that's a potential record.

ERICK PORCHE: As long as that certification is current.

MR. DRUMMOND: I was just inquisitive about it.

DR. ASPER: Is there a motion that we approve these records?

MR. GOLLOTT: I make a motion we approve them.

DR. ASPER: Second?

MR. BOSARGE: I'll second the motion.

DR. ASPER: All in favor say aye.

(All in favor).

DR. ASPER: Thank you very much, Erick.

ERICK PORCHE: Thank you.

DR. ASPER: I believe that's the end of fisheries?

JOE JEWELL: That completes fisheries.

Are there no questions?

(No response.)

DR. ASPER: We'll move on to Coastal Ecology.

JAN BOYD: Good morning Mr. Chairman, Commissioners, Dr. Walker, and Mr. Runnels. I'm Jan Boyd.

Coastal Ecology has five action items for your consideration this morning, and Jennifer Wittmann will be

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presenting our first one.

JENNIFER WITTMANN: Good morning. I'm Jennifer Wittmann.

The first item on the agenda today is a request for modification by MVB Holding. That is also known as the Margaritaville Casino and Restaurant. It's located on the Back Bay of Biloxi on 5th Street. It's in the Industrial Development Use District, and Machado Patano is the agent.

You can see the project location here, in reference to Highway 90 and Bayview Avenue and Oak Street. St. Michael's is here, and the project location is just above (indicating map).

This is a photo looking out towards the waterway. This is the train bridge in the background.

The applicant is seeking authorization to modify an existing permitted marina, in order to comply with Corps of Engineers navigation section setbacks from the federally-maintained channel.

The current project consists of dredging, piers, a boardwalk, mooring pilings, wave breaks, and a pump-out facility. The total shading impacts, with the permitted project, total approximately thirteen thousand two hundred square feet.

The impacts that will be associated with the

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modification include dredging, boardwalk, mooring pilings, a pump-out facility, and piers. The shading impacts, with the modification, will total nine thousand one hundred square feet. So it has been a reduction in the overall shading impacts associated with the project.

The permitted design -- I'm sorry this didn't come out well, with the lighting in here -- the piers came out, and there was a single opening into the marina (indicating sketch).

The modified design, there will be several different openings in, and all the pier lengths have been reduced (indicating sketch).

I'm not going to go through all of the decision factors, only the ones that have changed with the modifications. So you won't see all the same things that we saw with the original permit.

The proposed modification will serve a higher public purpose by maintaining a hundred and ten foot setback from the toe of the federal navigation channel for all fixed structures, and replaces all of the permanent piers with floating piers that will go up to the toe of the channel.

The reduction in marina footprint and the switching to floating piers will minimize adverse impacts.

No alternative sites were considered, since this

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is a modification. The modification is required to maintain the national need for transportation, with respect to the federally-maintained navigation channel.

The project appeared in the Sun Herald, as required. That was the original project. Comments were received, and they were addressed within the original permit.

DEQ has issued water quality certification. Secretary of State's office has stated that a Tidelands Lease will be required. Department of Wildlife, Fisheries and Parks recommends best management practices, and the Corps is reviewing the project.

Based on department review and evaluation, it has been determined that the project is consistent with the Mississippi Coastal Program, and the staff recommends approval of the modification request.

DR. ASPER: Thank you.

Any questions?

MR. GOLLOTT: Yes.

Jennifer, how is this going to affect Mr. David Luke who is a neighbor?

A major concern of David Luke is the way they were building this. It's commercial docking. We don't want to block the commercial end of it.

JENNIFER WITTMANN: Correct, and we had spoken

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1 with Mr. Luke, prior to the original permit being issued,
2 and all of his concerns were addressed, then. This has,
3 now, reduced the distance out from the shoreline even
4 more.

5 MR. GOLLOTT: It would improve it, then?

6 JENNIFER WITTMANN: It would improve it, even
7 from what he was happy with, with the original permit.

8 MR. GOLLOTT: Okay.

9 MR. TAYLOR: I make a motion to accept.

10 DR. ASPER: Is there a second?

11 MR. BOSARGE: I'll second the motion.

12 DR. ASPER: Before we go on, I just want to ask
13 one question. This is not a criticism.

14 How is it we missed this hundred and ten foot
15 setback, in the original evaluation?

16 JENNIFER WITTMANN: When we were reviewing the
17 original project, they were in discussions with the Corps
18 of Engineers navigation section, and there was differing
19 information on where exactly the channel lies.

20 When the applicants went out and surveyed, they
21 surveyed the line of the channel markers, and, when the
22 navigation section from the Corps reviewed the project,
23 the channel markers actually lie outside of the actual
24 channel. The information that they had wasn't accurate,
25 when they were determining how far off of the channel that

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1 seventy-five square feet.

2 Here's a diagram of the project showing the
3 existing residential lot. It already does have a
4 bulkheaded lot. It's been there for a while. It's a
5 double boathouse to house two boats bow-to-bow, with a
6 walkway in the middle, and the piers around the perimeter
7 of the lot (indicating).

8 The project does not serve a higher public
9 purpose, and the project is allowable within the General
10 Use District. Similar projects have been approved by the
11 Commission, and it is not expected to set a precedent.

12 Piling installation will temporarily increase
13 turbidity, in the construction area, and result in a
14 temporary decrease in number of benthic organisms. The
15 project would result in the shading of no more than
16 eighteen hundred and seventy-five square feet of
17 waterbottoms. Best management practices will reduce
18 adverse impacts.

19 No alternatives were considered, since this is a
20 private residential lot and the project would allow the
21 property owner to access the water.

22 There are other piers and boathouses, in the
23 vicinity of the project. It's a residential area.

24 The project was placed on public notice, as
25 required. We received no public comments.

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1 they actually were.

2 DR. ASPER: A motion has been made and seconded.

3 Is there any further discussion?

4 (No response.)

5 DR. ASPER: Those in favor say aye.

6 (All in favor).

7 DR. ASPER: It carried unanimously.

8 JENNIFER WITTMANN: Thank you.

9 GREG CHRISTODOULOU: Good morning. My name is
10 Greg Christodoulou. I will be presenting Item H-4b. This
11 is a permit request by Mr. Scott Graham. It's located on
12 Mallini Bayou at 219 Sunset drive, in Pass Christian, in
13 the General Use District, and Pink Marine is the agent for
14 the project.

15 Here is kind of a wider view of the site
16 location. Here is the bridge, the Pass Christian-Bay St.
17 Louis bridge, and here is a zoomed-in view of the project
18 location (indicating photograph).

19 The project description is a boathouse seventy-
20 one feet ten inches in length and sixteen feet ten inches
21 in width, a couple of piers around the perimeter of the
22 property; one a hundred and forty feet by four feet, and
23 another pier that's thirty-six feet eight inches and
24 ranges from four to ten feet in width. The square footage
25 of the total project will not exceed eighteen hundred and

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1 Archives and History and DEQ are still reviewing
2 the project. The Secretary of State's office has stated
3 that it will require a tidelands lease, and Wildlife,
4 Fisheries and Parks recommended best management practices
5 be implemented and that the structures be oriented to
6 avoid marsh vegetation which there is none in the project
7 area.

8 Based on evaluation, it has been determined that
9 the project is consistent with the Coastal Program, and
10 staff recommends issuance of the permit.

11 MR. TAYLOR: This is a private residence, and I
12 notice that the Secretary of State's office is requiring a
13 lease.

14 Is that because of the size?

15 GREG CHRISTODOULOU: It's because of the size,
16 the square footage of the project.

17 MR. GOLLOTT: What is the threshold for the
18 Secretary of State?

19 GREG CHRISTODOULOU: One thousand square feet.

20 MR. GOLLOTT: Anything over a thousand square
21 feet?

22 GREG CHRISTODOULOU: Yes, sir.

23 DR. ASPER: Greg, I think you mentioned that it
24 does not pose a navigational hazard.

25 Does it protrude further than the twenty-five

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1 percent?

2 GREG CHRISTODOULOU: It will not exceed the

3 twenty-five percent.

4 DR. ASPER: The question is, though, how is that

5 twenty-five percent measured?

6 I notice that the property has that sort of

7 extension that has been filled in, at some point in the

8 past.

9 Is that still considered public tidelands, the

10 area that has been filled in?

11 GREG CHRISTODOULOU: There was an area that was

12 filled in. It was an existing boat ramp previously and it

13 was filled in. I don't believe the area that was filled

14 in would be considered public trust tidelands because it

15 was originally excavated from the upland property. That

16 area would basically be squared off to square off the

17 property because it was excavated previously.

18 The property owner to the left side, their

19 property is indented in and it has been that way ever

20 since the aerial photos that I've looked at.

21 DR. ASPER: So it's not that this property is

22 extended out?

23 GREG CHRISTODOULOU: No.

24 DR. ASPER: It's the neighbor's property is

25 retracted?

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1 cubic yards of material.

2 They are authorized, currently, one hundred and

3 ninety-five thousand and fifty-three square feet for

4 piers, one bulkhead of three thousand two hundred linear

5 feet, two flow-through bulkheads, pilings, parking lots,

6 pavilions, pump-out stations, fueling station, commercial

7 icehouse, new Harbor Master building, and two boat

8 launches.

9 The applicant is requesting authorization to

10 modify the existing permit by reducing the overall

11 footprint of pile-supported access structures from one

12 hundred and ninety-five thousand fifty-three square feet

13 to eighty-four thousand square feet.

14 They are proposing to rotate the orientation of

15 the commercial fishing piers to facilitate the structure

16 size reduction, due to the loss of parking on the

17 structure.

18 They proposing to change the northern bulkhead

19 to a vinyl wall with sloped riprap armoring and to move

20 the northern bulkhead twenty-eight feet to the north to

21 mitigate for the required twenty-seven point five foot

22 footprint of the riprap armored slope in front of the

23 vinyl wall.

24 This is the diagram showing the location of the

25 expansion, in relation to the existing harbor. This is

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1 GREG CHRISTODOULOU: The neighbor's is retracted

2 in, yes.

3 MR. TAYLOR: I make a motion we accept the

4 staff's recommendation.

5 DR. ASPER: Is there a second?

6 MR. BOSARGE: I'll second it.

7 DR. ASPER: Any discussion?

8 (No response.)

9 DR. ASPER: Those in favor say aye.

10 (All in favor).

11 DR. ASPER: It carried unanimously.

12 JEREMY OVERSTREET: Good morning. My name is

13 Jeremy Overstreet, and I'm presenting a permit

14 modification, by the City of Pass Christian. It's located

15 on the Mississippi Sound, on the east side of the existing

16 Pass Christian Harbor. It is located in a Commercial

17 Fishing and Recreational Marinas Use District, and the

18 agent is Thompson Engineering.

19 This is an aerial of the project location. You

20 can see Pass Christian and Bay St. Louis (indicating).

21 The applicant is currently authorized to conduct

22 the following regulated activities. They are authorized

23 to fill one acre of waterbottoms, four point six five

24 acres of sand beach, and excavate one point one acres of

25 sand beach, and dredge four hundred and eighty thousand

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1 the currently authorized structure. This is the proposed

2 modification. You can see the reduction of the parking

3 area on the east side, and this will cause them to bring

4 the piers off the north end. The bulkhead that would be

5 altered would be the one on the north end (indicating).

6 This is a cross-sectional diagram of the

7 proposed changes to the bulkhead. This is current mean

8 high tide, and this is the twenty-seven point five feet

9 that they need to bring back the bulkhead. They will

10 excavate out along this line and place the riprap, and

11 this is where the vinyl bulkhead would be located. They

12 would be actually increasing the waterbottoms by this much

13 (indicating diagram).

14 This is a diagram of the proposed structure,

15 just showing it within the existing structures, the

16 existing authorized structures location (indicating

17 diagram).

18 I'm not going to go over the decision factors

19 covered in the original permit. I'll just cover the ones

20 that are applicable to the modification itself.

21 The project will provide public access to the

22 harbor for fishing, boat storage, vessel pump-out

23 facility, vessel fueling, and a ship's store. In

24 addition, the project will add to the local tax base and

25 provide construction-related jobs and jobs in support of

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1 harbor function.

2 The proposed modification is allowable within
3 the Commercial Fishing and Recreational Marinas Use
4 District.

5 The excavation of the bulkhead will result in a
6 temporary increase in turbidity of the area and a
7 temporary decrease in the number of benthic organisms.
8 The project will cause a temporary increase in noise and
9 night-time lighting levels, during construction
10 activities.

11 The modification will reduce the project's
12 overall impacts, and best management practices will be
13 utilized.

14 Public notice appeared in the Sun Herald, as
15 required. Comments were received and addressed, in the
16 original permit. Department of Environmental Quality
17 issued water quality certification, on June the 13th, 2011.
18 No comment was received from the Department of Archives
19 and History. Department of Wildlife, Fisheries and Parks
20 had no concerns, as long as best management practices are
21 observed. A tidelands lease will be required from the
22 Secretary of State.

23 The staff of the Department of Marine Resources
24 has conducted a thorough evaluation of the project, and,
25 based on the results of this evaluation, it has been

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1 The reason the reductions were made were due to
2 cost, obviously. We had to reduce the overall cost of the
3 project.

4 DR. ASPER: Is there a motion?

5 MR. BOSARGE: I make a motion we accept the
6 staff's recommendations for the modifications.

7 MR. GOLLOTT: I'll second it.

8 DR. ASPER: Any further discussion?

9 (No response.)

10 DR. ASPER: Those in favor say aye.

11 (All in favor).

12 DR. ASPER: It carried unanimously.

13 Thank you, Jeremy.

14 WILLA BRANTLEY: Good morning. My name is Willa
15 Brantley. I'm going to be standing in for James Davis in
16 presenting the next project. It is a permit application
17 by Chevron Products Company, located on Bayou Casotte at
18 250 Industrial Road in Pascagoula. It's located in the
19 Industrial Development Use District, and AECOM
20 Environmental is the agent.

21 You can see the project location here
22 (indicating photograph).

23 The applicant is currently seeking authorization
24 to maintenance dredge in Bayou Casotte. They expect that
25 approximately three hundred thousand cubic yards of silt

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1 determined that the project is consistent with the
2 Mississippi Coastal Program and, because it will serve a
3 higher public purpose, therefore, the staff recommends the
4 modification.

5 DR. ASPER: Thank you, Jeremy.

6 Any questions?

7 MR. GOLLOTT: What is the timeline on this?

8 Do they have one?

9 JEREMY OVERSTREET: I don't know it. Their
10 engineer is here.

11 DR. ASPER: State your name at the microphone so
12 it's on the tape, please.

13 SHAWN WOZENCRAFT: Shawn Wozencraft with
14 Thompson Engineering in Biloxi.

15 We anticipate the dredger, based on his
16 schedule, will start December 17th. Some of the
17 preliminary activities, we actually awarded bid package
18 one which was the bulkhead and breakwaters last week; had
19 a preconstruction meeting on Friday.

20 They are going to start doing some up-front
21 stuff, construction fencing, remove some riprap, et
22 cetera, next week, and, then, kind of go into a month-long
23 lull waiting for the dredge contractor to fill the one
24 acre that we are currently permitted for. So I guess the
25 timeline is pretty soon.

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1 and sandy silt will be hydraulically, or mechanically,
2 dredged from the proposed dredge site, during their
3 initial dredging. That will be their first dredge run.
4 It should come up within this next year.

5 Chevron is also requesting a maintenance
6 dredging agreement so that the area can be managed, as
7 needed, over the next ten years.

8 They have had a standing permit with us for the
9 last ten years. I think they have actually had two ten-
10 year permits back-to-back. So this is the just the same
11 thing they have always had. They will be reporting to us,
12 before they go out to dredge. I think they go out and do
13 surveys. They send in those surveys to us and tell us how
14 much they expect to need to dredge, and, then, after they
15 are done, they send us a report with the actual amount
16 that was dredged.

17 One change that they are having to work with is
18 that, now, their dredge spoils will be made available for
19 beneficial use projects, and any remaining spoils that we
20 don't have beneficial use projects for will be placed at
21 an offshore disposal site, or an upland location.

22 This is a project diagram. You can't see it
23 really well. This is Berth 9, Berth 7, and, then, this is
24 7A. You can't really read those on there, but this shows
25 the dredging area (indicating diagram).

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1 This project does serve a higher public purpose,
 2 by allowing the refinery to maintain the required depth
 3 for safety, operability, maintainability, and reliability
 4 for marine facilities associated with their daily
 5 operations. It is allowable within the Industrial Use
 6 District.

7 Similar projects have been approved, and this is
 8 not expected to set a precedent. As I said, Chevron has
 9 had the same permits for the last twenty years, and those
 10 same conditions will apply to this permit.

11 There will be a temporary increase in turbidity,
 12 during their dredging operations, and a loss of benthic
 13 organisms.

14 The project should not have any adverse impacts,
 15 other than the loss of benthic organisms. They plan to
 16 stay well away from the shoreline where they can and not
 17 affect the natural supply of sediments, nutrients,
 18 temperature, salinity, water flow, or circulation. As I
 19 said, there will be an increase in turbidity. However,
 20 those conditions shall not exceed DEQ's Water Quality
 21 Guidelines.

22 Best management practices will be used to reduce
 23 any adverse impacts.

24 No off-site alternatives were considered, since
 25 this is maintenance dredging and they will be following

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1 have actually learned that those months are when gulf
 2 sturgeon are in our coastal waters. In the winter, they
 3 come out of the rivers into the Gulf waters. So we are
 4 going to leave that one out, too, as a condition.

5 These are just images of the site and the
 6 berthing spaces where the dredging will be taking place.
 7 You can see it is fully operational, and this will help it
 8 continue to be so (indicating photographs).

9 We have evaluated the project, and, as the
 10 results of this evaluation show, it has been determined
 11 that the project is consistent with the Mississippi
 12 Coastal Program because it serves a higher public purpose.
 13 It will also provide local jobs and tax revenue.

14 Therefore, staff recommends approval of the
 15 project, with the condition that preemptive trawling be
 16 done at the dredge site, only if hopper dredges are going
 17 to be used. At this time, Chevron represented to the
 18 State that they will not be using hopper dredges.

19 DR. ASPER: Any questions?

20 MR. GOLLOTT: Yes, one.

21 Is the quality of the stuff they are pumping
 22 out, the dredge material, good enough for us to use
 23 beneficially?

24 WILLA BRANTLEY: We think it is. There are a
 25 few questions still going on with the chemical analysis.

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1 the same channel path as previous. They are not going to
 2 be dredging any new areas.

3 The project will not change the location of the
 4 navigation channel and should not affect the natural
 5 scenic qualities.

6 As stated in the application, the refinery is an
 7 integral contributor to energy needs of the nation, and
 8 the marine facilities are a critical part of the refinery.

9 Public notice appeared in the Sun Herald in
 10 October, as required. No public comments were received.
 11 DEQ and the Secretary of State are currently reviewing the
 12 project. Archives and History had no comment.

13 Wildlife, Fisheries and Parks recommended that
 14 preemptive trawling around the dredge head be conducted to
 15 capture sea turtles, gulf sturgeon, and manatees, and
 16 relocate them out of harms way. However, the dredging
 17 technique that Chevron plans to use, NOAA Fisheries does
 18 not recommend trawling for the type of dredge equipment
 19 that they plan to be using. So we're not recommending
 20 that, unless they are using the more harmful dredge
 21 mechanism.

22 Then, they also recommended dredging operations
 23 occur during seasons when gulf sturgeon, manatees, and sea
 24 turtles are least likely to be moving through the area
 25 which they stated were during the winter months, and we

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1 They did have some problems with their bioassay.
 2 Apparently, the first one through, all the fish died, but,
 3 when they gave the fish food, the fish lived. So they
 4 really think that they took their samples so far below the
 5 mudline that there weren't any nutrients for the fish to
 6 live on, or the organisms to live on, and that's why they
 7 died. They really don't think there are any chemicals
 8 dangerous in there, but they are still continuing to test
 9 it, and it won't be used for beneficial use, if it doesn't
 10 pass all of those tests.

11 MR. GOLLOTT: Do we have an area that we have in
 12 mind, if the material checks out?

13 WILLA BRANTLEY: I believe it's going to be
 14 planned for Deer Island possibly.

15 KEITH SUDERMAN: Now, we're looking at Greenwood
 16 Island.

17 WILLA BRANTLEY: He said, right now, they are
 18 looking at Greenwood Island. There are several beneficial
 19 use sites that we are trying to get up and running. So we
 20 should have a place for it to go, at least this year.

21 MR. GOLLOTT: Mr. Chairman, I make a motion that
 22 we accept the staff's recommendation on this project.

23 DR. ASPER: Is there a second?

24 MR. BOSARGE: I second the motion.

25 DR. ASPER: Any further discussion?

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1 (No response.)
 2 DR. ASPER: Those in favor say aye.
 3 (All in favor).
 4 DR. ASPER: It carried unanimously.
 5 One just quick comment, Willa.
 6 Given that we have been having some turtle
 7 mortalities we can't explain and one of the suggestions is
 8 that some of them may be related to dredging activities,
 9 do you think it would be worthwhile to have an observer go
 10 down and kind of monitor what's going on down there, when
 11 this dredging starts taking place, just to see if there
 12 are any unintended impacts?
 13 WILLA BRANTLEY: We certainly could. I know
 14 some projects that I've worked on with Chevron, they said
 15 that was part of their operating procedure.
 16 You have to come up here and state your name.
 17 KEITH SUDERMAN: I'm Keith Suderman from AECOM
 18 Environment. The current dredging project that just
 19 concluded was with refinery expansion of the marine
 20 facilities. There, we did have a wildlife observer, and
 21 they spotted one -- I think it was a dead dolphin that
 22 floated in, not associated with the dredging, but they did
 23 report it. Other than that, they saw no wildlife out
 24 there.
 25 There is no wildlife observer proposed for the

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1 dredging is going to be a bucket dredge I'm sure. So they
 2 don't require trawling.
 3 KEITH SUDERMAN: Correct. Thank you.
 4 WILLA BRANTLEY: Any other questions?
 5 DR. ASPER: That's good. Thank you.
 6 RON COLE: Good morning. My name is Ron Cole,
 7 and I'll be presenting a permit request by Sunset Landing,
 8 LLC, but, before I get started, Patrick Chubb of Pack
 9 Services had indicated that he would like to make a few
 10 statements that he feels may be relevant to this project.
 11 PATRICK CHUBB: Good Morning. My name is
 12 Patrick Chubb with Pack Services. I'm the environmental
 13 consultant agent representing John Ellis, managing partner
 14 for Columbia Land Development.
 15 First, we would like to state, for this project,
 16 we have no objection to the proposed structures of the
 17 project. However, as you are aware, permitting of a
 18 project involves a compensatory mitigation plan, as well,
 19 and this is where Mr. Ellis has issue.
 20 On behalf of Mr. Ellis and his attorney, Mr.
 21 Eric Wooten, a legal process has begun to prove legal
 22 ownership of one of the parcels in this project. It's not
 23 where the structures are occurring. It's in their
 24 mitigation proposal.
 25 I recognize a DMR permit does not grant

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1 maintenance dredging because it's generally a smaller
 2 operation.
 3 DR. ASPER: Thank you.
 4 We are just concerned about what might be
 5 causing these mortalities because, from what we've been
 6 able to read, the injuries are consistent with either
 7 trawling, or possibly dredging activities, but it's a
 8 longshot. So we are just trying to understand every
 9 possible impact on our resources.
 10 WILLA BRANTLEY: We actually just yesterday got
 11 a document -- I believe it was from NOAA -- that talked
 12 about that, and that's how we made the decision on the
 13 recommendations. They only recommend trawling, when you
 14 are using a hopper dredge. When you are using hydraulic,
 15 or pipeline, dredging, they do not recommend trawling and
 16 actually will not issue the take permits that you need to
 17 be able to do the trawling and transport the animals.
 18 With the type of dredging that Chevron is
 19 proposing, NOAA won't even give them the permits to do the
 20 trawling for it because they don't think it's appropriate.
 21 MR. BOSARGE: I have a little experience that
 22 it's really impractical to try to do any trawling where
 23 they are doing this dredging, and, like you say, it's
 24 mostly hopper dredging where the dredgers use the vacuum
 25 to suck the mud up and the turtles get caught in it. That

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1 ownership. However, if the proposed mitigation is not
 2 truly valid, then, alternatives must be identified. Due
 3 to this type of habitat, I know that alternatives are not
 4 easily secured.
 5 Mr. Ellis just texted me a few moments ago and
 6 said that he was willing to work with Sunset Development.
 7 Again, he is in favor of their project. He is just not in
 8 favor of them using his property, or what he believes to
 9 be his property, as mitigation. He, obviously, owns
 10 several hundred acres around the project, and is willing
 11 to work with them on other possible mitigation options, if
 12 they can work that out.
 13 One question that I'm going to anticipate that
 14 you might ask is why are we coming in at this so late and
 15 not during the formal public notice process, and that's
 16 because there is a dispute on this land, that one parcel
 17 is contiguous to the project and, therefore, in the public
 18 notice process, they do not recognize anything on the
 19 other side of Henderson Avenue, and, therefore, we were
 20 not considered adjacent property landowners and were not
 21 given an individual letter, or public notice, sent to us.
 22 Once we did learn of it and once I was retained,
 23 we contacted DMR and let them be aware of the potential
 24 issue. Mr. Ellis and Mr. Wooten are filing a lawsuit to
 25 prove that that one parcel is theirs.

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I respectfully ask the Commission to consider this information and the forthcoming legal action surrounding this project. Thank you.

RON COLE: I believe the applicant would like to address that statement, at this time, if it's okay.

COLIE DONALDSON: My name is Colie Donaldson. I am one of the others of Sunset Landing, LLC.

We have had three real estate attorneys that have reviewed this all the way back to 1954, all the way up. Mr. Ellis has made this claim for numerous years, but the owners that we have under contract and will close with this week have paid the taxes on it for the last thirty years.

Mr. Ellis has known for six years what we were doing, and we welcome his suit. We will ask that he post a bond, when he prepares his suit, but we have little doubt of the ownership. We have two title policy companies that are going to issue title policies on it.

I will answer any questions you might have.

DR. ASPER: Any questions?

(No response.)

RON COLE: I will add, to follow up on that, that this is not an uncommon occurrence and, because of that, DMR has a condition in our permits that states that no property is transferred by conveyance of the permit.

So that covers us on that issue.

Again, we have a request for a permit by Sunset Landing, LLC. It's located on Bayou Portage in Pass Christian. It's in the Commercial Use District, and the agent for this project is Coastal Environments, Incorporated.

Here you can see an aerial of the project location. It's located south of I-10 on the eastern side of Bay St. Louis and Bayou Portage (indicating photograph).

The applicant is requesting authorization to construct a dry dock boat storage facility and associated amenities. The proposed facility is to contain one hundred and fifty-two slots and be capable of storing boats up to thirty-five feet in length.

The list of our regulated activities here, I won't go into all the dimensions of each, but I will briefly go over what they are. It's a bulkhead, floating T-shaped pier, another floating pier, access pier over tidal marsh, a fixed staging pier. They will also have vertical baffles associated with it to protect the adjacent marsh from wave action generated by boats in the area, ten mooring pilings, and maintenance dredging of the already existing basin.

This project also proposes filling of,

approximately, point two one acre of wetlands below mean high tide. Of those wetlands, we are looking at point one four nine acre of unvegetated waterbottoms and of those there are point zero two three acre which are considered to be public trust tidelands.

There are point zero six three acre of tidal marsh that they are requesting to fill. None of the tidal marsh is within public trust tidelands, and no vegetated public trust tidelands are to be filled with this project.

The applicant is proposing to fill point zero three two acre of non-tidal scrub-shrub wetlands.

To mitigate for these impacts they are proposing to restore point two nine one acre of onsite tidal marsh. That will at a ratio of four point six to one. They are proposing to preserve point one four acre of tidally-influenced marsh directly adjacent to the tidal marsh, and they are proposing to deed over to the state point zero six acre of unvegetated waterbottoms to compensate for the impact to the point zero two three acre of impact to the public trust tidelands, and they are proposing to purchase an appropriate amount of mitigation credits from a bank for the impacts to non-tidal wetlands.

Here we have an aerial of the project location. This is, I believe, West Wittmann Road in Pass Christian. To your left here you have Bayou Portage (indicating

photograph).

This is an overall diagram that shows the basic layout of the project. Here in gray you can see the storage facility that they are proposing. This orange line right here that runs in right angles is the bulkhead that they are proposing. As you can see, that is waterward of the storage facility, and the majority of their impacts will be the filling of those waterbottoms (indicating diagram).

There are two piers associated with this over unvegetated waterbottoms, some mooring pilings, and a small access pier going over tidal wetlands (indicating diagram).

This is kind of a zoomed-in picture of the impacts that we are anticipating. The bulkhead placement will result in this one section of unvegetated waterbottoms being filled which is public trust tidelands. This bold line that runs catty-corner down the diagram is the boundary for the public trust tidelands, as determined by the Secretary of State, and they determined that based on the 1940 shoreline (indicating diagram).

Originally, there were other impacts, but we had to minimize that, and these were the only impacts to public trust tidelands left.

The area in red is the impacts that they have

1 proposed to tidal wetland vegetation. The area in yellow
2 is the area of non-tidal wetland vegetation. The areas in
3 green are either undisturbed, or protected, areas of marsh
4 vegetation, and, then, we have the pier structures, and
5 it's hard to see on this diagram, but there is a hatched
6 area that is dredging of the existing basin (indicating
7 diagram).

8 This is just an overlay of that project diagram
9 on the aerial photography so you can kind of get an idea
10 of what the configuration of everything would be
11 (indicating photograph).

12 These are some pictures from the site visits.
13 This is the manmade boat slip. You can see there is tidal
14 vegetation that fringes the borders of it. This is the
15 manmade canal. Again, these are your tidal impacts here.
16 This is a picture looking back towards the bridge. Again,
17 we have the tidal vegetation, and this area over here will
18 be the mitigation area next to the bridge, and I believe
19 that area is also a part of the parcel that Mr. Ellis is
20 claiming ownership of (indicating photographs).

21 This is a diagram of the proposed mitigation.
22 The areas in green are avoided, or preserved, marsh. The
23 areas in red are the impacts to tidal vegetation, and the
24 area in orange is the mitigation that will compensate for
25 those impacts to the tidal vegetation. The area in yellow

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1 over here is impacts to non-tidal wetlands (indicating
2 diagram).

3 For decision factors, this project should
4 provide an alternative to traditional wet-slip marina
5 storage, and, thereby, reduce the potential for fuel, oil,
6 and other chemical-related spillage.

7 The proposed activity is allowable in the
8 designated Commercial Fishing District.

9 The applicant has requested three variances to
10 the Coastal Program.

11 The first variance that they have requested is
12 to the section of the Coastal Program that states,
13 "Vertical face structures shall be aligned no further
14 waterward that mean high tide". This project does propose
15 placing a new bulkhead up to fifteen feet waterward of the
16 current mean high tide line.

17 The second variance that they have requested
18 states, "Vertical face structures intended to replace
19 failed erosion control structures that are beyond repair
20 shall not extend more than twenty-four inches waterward
21 from the base of a failed structure. The applicant's
22 project does propose placing the new bulkhead up to
23 fifteen feet waterward of the existing bulkhead.

24 The third variance that they are requesting is
25 for areas containing submerged vegetation, or regularly

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1 flooded emergent vegetation, shall not be filled, and this
2 project, as proposed, would require the filling of
3 privately-owned wetlands containing regularly-flooded
4 emergent vegetation for the construction of the bulkhead.

5 The applicant has justified the requests for the
6 variances, by stating that the dry dock boat storage
7 facility and associated amenities does require a
8 waterfront location, and there is a significant public
9 benefit to the activity, and a public hearing has been
10 held.

11 Precedent setting effects. This project is not
12 anticipated to have any precedent setting effects, and the
13 Commission has approved similar projects with adequate
14 mitigation.

15 The extent to which the proposed activity
16 affects the biological integrity of coastal wetlands, the
17 fixed pier measuring one hundred and eighty feet in length
18 will be equipped with the vertical baffles designed to
19 protect the adjacent marsh from waves generated by boat
20 traffic.

21 The proposed mitigation plan has been evaluated
22 by DMR staff, and, if successful, should adequately
23 compensate for the impacts to tidal wetlands.

24 There will be a temporary increase in turbidity
25 and a loss of benthic organisms, during the dredging

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1 operation. Once the facility is fully operational, an
2 increase in litter, minor discharges of fuel and oil from
3 boats, and an increase in boat traffic can be expected.

4 In addition to the previously-listed regulated
5 activities, the applicant plans to construct a fuel
6 dispensing and storage system, a sewage pump-out facility,
7 parking lot facilities, and a ship's store for selling
8 convenience items to boaters.

9 Best management practices will be utilized,
10 during all phases of construction, to minimize the adverse
11 impacts to coastal wetlands.

12 Again, the fixed pier measuring one hundred and
13 eighty feet will be equipped with baffles to protect the
14 adjacent marsh.

15 Alternative sites available. The applicant did
16 propose several alternatives, but they were considered not
17 practical because of the amount of impacts to coastal
18 wetlands. They would have been more than the
19 configuration that they chose. The alternative locations
20 considered would have required a greater amount of impacts
21 to coastal wetlands, in order to meet the minimum size
22 requirements to produce an economically viable project,
23 according to a feasibility study that was provided by the
24 applicant.

25 The extent to which the proposed activity

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1 requires a waterfront location. A dry dock boat storage
2 facility that handles vessels too large to be trailered
3 does require a waterfront location.

4 The preservation of natural scenic qualities.
5 The existing site does contain a previously existing
6 marina, and there should be no negative impacts to the
7 existing scenic qualities.

8 The project did appear in The Sun Herald as
9 required. No public comments were received. A public
10 hearing was held. No public comments were received for
11 that either.

12 The Department of Environmental Quality is
13 currently reviewing the project. The Secretary of State's
14 office has indicated that a Tidelands Lease will be
15 required.

16 Based on that and the results of our evaluation,
17 it has been determined that the project is consistent with
18 the Mississippi Coastal Program, and, therefore, staff
19 recommends approval of the permit, contingent upon
20 clearance from DEQ, the Secretary of State, and successful
21 completion of the proposed mitigation plan which is to be
22 conducted prior to, or in congruence with, construction.

23 DR. ASPER: Thanks, Ron.

24 Are there any questions?

25 (No response.)

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1 DR. ASPER: I have a couple of quick questions.

2 First of all, I want to comment that the project
3 aerial overlay diagram that you gave is enormously useful.
4 We are used to looking at the diagrams that you provide
5 and trying to figure out what goes where and how things
6 lay out.

7 I realize that that's not so easy to prepare,
8 but I just want to congratulate you on coming up with what
9 I think is probably the ideal way to display these because
10 that really helps.

11 RON COLE: Okay. Well, we can try to do that
12 more often, in the future.

13 DR. ASPER: I would greatly appreciate it.

14 The other question I had was what was at this
15 location previously?

16 What kind of activity built those canals?

17 RON COLE: The canals were built around a road,
18 if I'm not mistaken, back in the forties, or fifties. I
19 believe the consultant may be able to answer that question
20 better than myself.

21 DR. ASPER: That pier there, this is, I guess,
22 before my recollection, but what was going on there?

23 Could you state your name, please?

24 RANDY ELLIS: Randy Ellis, Coastal Environments,
25 Incorporated.

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1 The canals were actually county road. It was
2 excavated sometime after 1958. So it was a roadway. One
3 of the previous owners excavated it to make a canal, and,
4 then, it was residential. There were actually two homes
5 on the property. That's all that we could see.

6 DR. ASPER: How long ago were they destroyed?

7 RANDY ELLIS: Katrina.

8 DR. ASPER: Any other questions?

9 (No response.)

10 DR. ASPER: Is there a motion?

11 MR. BOSARGE: Mr. Chairman, I would like to make
12 a motion we accept the staff's recommendation.

13 DR. ASPER: Is there a second?

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

15 DR. ASPER: Any further discussion?

16 (No response.)

17 DR. ASPER: Those in favor say aye.

18 (All in favor).

19 DR. ASPER: It carried unanimously.

20 Thanks, Ron.

21 RON COLE: Thank you.

22 DR. ASPER: I believe that finishes Coastal
23 Ecology. We have two other items on the agenda.

24 First, our financial report, Kara.

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

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1 I'll be giving the finance report today.

2 Our budget of six million two hundred and sixty-
3 seven thousand four hundred and ninety-three dollars
4 remains the same as last month. We have spent two million
5 four hundred and seventy-five thousand three hundred and
6 eighty-eight dollars which leaves a remaining balance, on
7 October 31st, 2011, of three million seven hundred and
8 ninety-two thousand one hundred and five, and our
9 tidelands status remains unchanged.

10 Are there any questions today?

11 (No response.)

12 DR. ASPER: Thank you, Kara.

13 KARA VESA: Thank you.

14 DR. ASPER: We got an item in for contracts. I
15 believe Tom is going to handle that.

16 TOM DOSTER: Good morning, Commissioners, Dr.
17 Walker, Joseph. My name is Tom Doster. I'm speaking on
18 behalf of Mr. Ziegler this morning for the final item on
19 the agenda.

20 The DMR intends to enter into a contract with
21 Carolyn Barnes. Ms. Barnes is a retired employee from the
22 State Retirement System, and the proposed contract is in
23 excess of twenty thousand dollars. Because of that, the
24 DMR is required to get approval from the Commission to
25 enter into that contract, and, then, upon approval of the

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1 contract, we are also required to notify the
 2 appropriations chairman in both the house and the senate.
 3 we are coming before you this morning to request
 4 approval of that contract for Ms. Barnes.
 5 DR. ASPER: Any questions on that?
 6 We have the information in our packets.
 7 (No response.)
 8 DR. ASPER: Is there a motion that we approve
 9 the contract?
 10 MR. BOSARGE: I make a motion we approve the
 11 contract for Ms. Barnes.
 12 DR. ASPER: Is there a second?
 13 MR. DRUMMOND: I second the motion.
 14 DR. ASPER: Further discussion?
 15 (No response.)
 16 DR. ASPER: Those in favor say aye.
 17 (All in favor).
 18 DR. ASPER: It carried unanimously.
 19 Thank you, Tom.
 20 TOM DOSTER: Thank you.
 21 DR. ASPER: I believe that concludes our agenda.
 22 Anything else, or is there a motion to adjourn?
 23 MR. DRUMMOND: I make a motion we adjourn, Mr.
 24 Chairman.
 25 MR. GOLLOTT: I second it, Mr. Chairman.

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1 DR. ASPER: We are adjourned.
 2 (whereupon, at 10:18 o'clock, a.m., the November
 3 15, 2011, meeting of the Commission on Marine Resources
 4 was concluded.)
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C E R T I F I C A T E

1 I, Lucille Morgan, Certified Shorthand Reporter, do
 2 hereby certify that the above and foregoing is a true and
 3 correct transcript of the November 15, 2011, meeting of
 4 the Commission on Marine Resources, as taken by me at the
 5 time and place heretofore stated in the aforementioned
 6 matter in shorthand, with electronic verification, and
 7 later reduced to typewritten form to the best of my skill
 8 and ability; and, further, that I am not a relative,
 9 employee, or agent, of any of the parties thereto, nor
 10 financially interested in the cause.
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