

# *Compressed Transcript*



COMMISSION ON MARINE RESOURCES

## COMMISSION MEETING

October 16, 2012

**N.J. Soroe, CSR, P.O. Box 2102, Bay St. Louis, MS 39521  
(228) 467-2199**



COMMISSION ON MARINE RESOURCES

MEETING OF COMMISSION ON MARINE RESOURCES

October 16, 2012

\*\*\*\*\*

TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAYVIEW AVENUE, BILOXI, MISSISSIPPI, ON THE 16TH DAY OF OCTOBER 2012 COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LADNER SOROE, CERTIFIED SHORTHAND REPORTER.

\*\*\*\*\*

COMMISSION MEMBERS PRESENT:

JIMMY TAYLOR, Acting Chairman
RICHARD GOLLOTT
SHELBY DRUMMOND
STEVE BOSARGE

ALSO PRESENT:

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

you three minutes in all.

First up is Mr. Tom Becker.

MR. GOLLOTT: Mr. Chairman, we need to go back, and I make a motion that we approve the minutes -- the agenda.

MR. TAYLOR: Okay. We have a motion to approve the agenda.

MR. BOSARGE: So second.

MR. TAYLOR: Second. Those in favor. Carries unanimously. Sorry.

Okay, Mr. Becker.

MR. BECKER: Good morning, Dr. Walker, council members, Commissioners.

This week I received a news bulletin. And I don't know. I talked to one of these DMR people. And he was telling me that they had heard about it and thought maybe the other people would know about it.

But it is a new requirement coming out effective today that new commercial safety requirements take effect Tuesday, October 12.

The Coast Guard is urging the commercial vessels owners and operators to take advantage of some voluntary dockside safety examinations prior to the enforcement of the new requirement today, which is going in effect today.

The requirement mandates that all commercial vessels fishing, fish tenders, fish processing vessels, that

A. Call to Order

MR. TAYLOR: I'd like to call the October DMR meeting to order.

And couple of things first. One, if you want to speak, please fill out one of the consent forms and have one of the staff bring it forward. We do welcome your comments and all.

B. Approval of Minutes

MR. TAYLOR: And at this time, I would ask for approval of the minutes. Are there any changes to the minutes?

MR. DRUMMOND: I make a motion, Mr. Chairman, that we approve the minutes from the last meeting.

MR. TAYLOR: Do we have a second?

MR. GOLLOTT: Second, Mr. Chairman.

MR. TAYLOR: All those in favor. Minutes passed unanimously.

C. Approval of Agenda

MR. TAYLOR: Are there any changes to the agenda?

DR. WALKER: No, sir.

MR. TAYLOR: The agenda will stand as published.

D. Public Comments

MR. TAYLOR: Okay. This is a time that we listen to the public comments. We welcome them. And we have each person come forward and state your name. And we'll give

operate or transit more than three nautical miles offshore demonstrate full compliance with all existing commercial fishing safety regulations during the dockside examination.

If these are the same individuals that I have inspections, have a good time. Thank you.

Any questions? If you need a copy of it, I have a copy.

MR. BOSARGE: I believe, Mr. Tom, there's actually no new regulations coming in place. Basically what they're doing is they will -- now you have to have an inspection and a sticker issued. That's the law.

MR. BECKER: Right.

MR. BOSARGE: I don't believe there's any new regulations other than they're just going to enforce what's there.

MR. BECKER: Going to enforce it which they haven't been doing because it's not -- basically here we don't have problems. If you read -- I get blurbs all the time of things that's happening all over the country with commercial vessels, safety problems that they're having, and we don't want them to happen here.

Thank you.

MR. DRUMMOND: Tom, who does the inspections?

MR. BECKER: The Coast Guard.

MR. TAYLOR: Would this apply to six-pack

1 charter boats or boats such as your multi-passenger inspected  
2 vessels?

3 MR. BECKER: No. This doesn't affect the six  
4 pack vessels. We have our own inspection rules that apply to  
5 the multi-passenger vessels, anything that handles over six  
6 passengers. We have a safety inspection every year topside and  
7 a bottom deck below the water, we pull it out every two years.  
8 We have to have them inspected, and they're very thorough,  
9 believe me.

10 MR. TAYLOR: Thank you very much.

11 MR. BECKER: Thank you.

12 MR. TAYLOR: Next up will be Ms. Jane Boyd  
13 Beauguez.

14 MS. BEAUGUEZ: I'd like to give this to the  
15 press, please, and for the minutes, also.

16 Thank you very much for letting me be here.

17 MR. TAYLOR: You need to state your name.

18 MS. BEAUGUEZ: My name is Jane Boyd Beauguez. I  
19 live at 213 Halstead Road, Ocean Springs, Mississippi. I'm a  
20 lifetime citizen of Ocean Springs. I say lifetime. I was  
21 eight and a half years old when my daddy came down to the coast  
22 from east central Mississippi to coach the Greyhounds baseball  
23 and football.

24 My husband was born, raised as his father, in  
25 the back end of the Ocean Springs harbor.

5

1 find out this isn't the plan at all. Green space, marine life,  
2 just the whole picture for what Ocean Springs harbor -- how did  
3 we get this money?

4 And so I have your letter that you wrote back to  
5 me, and I want to make sure that I get this read, and then I  
6 want y'all to hear it. You have the copies, so if you haven't  
7 read them lately, you need to go back and read Dr. Walker's  
8 response to me because he copied the letters to each of you,  
9 but he addressed it to you, too. He also used the salutation,  
10 Commissioners and Jane. So that made me wonder what did you  
11 know if he's writing to you as well as me instead of just  
12 copying this to you, what did you know at the time yourselves?  
13 Or was this just Dr. Walker who knew this?

14 And he says the DMR has -- this was on December  
15 13th of 2010. I was already on December 13 of 2010, my husband  
16 and I were up in arms to say, hey, look at this, we're going to  
17 get our harbor back. And so I get this confirmation from Dr.  
18 Walker.

19 And what did we think about Dr. Walker? We saw  
20 him as a marine biologist down the street from us. Halstead  
21 Road ends at the research lab. So we watched him when he was  
22 just a young man. And he wasn't the director of anything. He  
23 was just a working man like us.

24 So what did we do? We put our confidence in him  
25 many times, because he doesn't know how much we thought of him.

7

1 Just to give you a little background of who I am  
2 and why I have such an interest, and my husband does, too.  
3 He's not well or he would be here to bring to your attention  
4 our interest on this land swap.

5 We do not want a land swap in our harbor.  
6 Biloxi property has nothing to offer Ocean Springs. We don't  
7 want Point Cadet property swapped off for our Ocean Springs  
8 harbor. We want it put back like we were told it would be put  
9 back.

10 If your name is Golding -- I can't see your  
11 names from where I am. If your name is Mr. Caleb, Mr. Drum,  
12 Mr. Broussard, Mr. Vernon Asper, I have written to you as I  
13 wrote to Dr. Walker in December of 2010.

14 I got a reply from Dr. Walker, but I heard from  
15 none of you.

16 And then I suppose he being the director, you  
17 left it up to him to reply to my letter.

18 Then when he replied, didn't answer all my  
19 questions, as my husband and I both had many questions of how  
20 -- you know, we were proud that the DMR was going to buy back  
21 the harbor. What -- everything -- I've read all your  
22 documentation. I have all the tings you wrote, Dr. Walker, and  
23 you signed off on, for the purpose of what was going to happen  
24 to Ocean Springs harbor.

25 And then we come back in less than two years and

6

1 But then, okay. And then I wrote him in the  
2 first letter and said how proud I was that this has happened,  
3 that DMR has bought back the property, and we are going to get  
4 it back. This boat barn and this restaurant went completely  
5 around a very strict zoning ordinance. And we as citizens went  
6 to meetings begging this not to happen.

7 But our board, our mayor, they didn't pay any  
8 attention to us. And people were packed in there opposed to a  
9 boat barn and a restaurant that came along a little later.

10 The letter which I'm going to really get to the  
11 bottom of it first -- you all know where the money came from so  
12 I don't have to tell you that it was purchased and what it was  
13 purchased with and what it was purchased for.

14 But the big thing is it was purchased with  
15 federal money. And you know if you're living in America today,  
16 and we citizens are about up to our eyeballs in federal money  
17 that we can't account for. Citizens don't get an accounting.  
18 But I asked for an accounting when I wrote this letter, I said  
19 give me a full disclosure of where this -- I think it was \$10  
20 million, and I didn't get that. I didn't get the answers.

21 So, anyway, here I've got it, federal money and  
22 all about where it came from.

23 But then you've got in the letter, Dr. Walker,  
24 that you were required to do this and you agreed to do that.

25 And so what do I do? I believed all of this.

8

1 I've always been naive. My husband gives me credit for being a  
2 very naive person. But you know what? As I've grown older,  
3 I'm not so naive any more. I don't believe everything, but I  
4 did believe you, Dr. Walker.

5 But you said that you were required by the  
6 federal government to give us yellow book value, and you ended  
7 up paying \$3.6 million to the Harris family for the harbor  
8 landing.

9 Well, that is not the case at all because in  
10 this document right here, this grant of yours document, it says  
11 the recipient received three point seven two five three hundred  
12 dollars.

13 So did David Harris -- and I've known David all  
14 my life -- did David receive \$3.6 million, or did he receive  
15 another \$125,000 and \$300?

16 A hundred twenty-five thousand three hundred  
17 dollars is a lot of money to me. We were working people,  
18 retired now, but worked all our lives for little. So that  
19 would have been a couple of salaries to me from a bank that I  
20 worked at for 30 years.

21 So, another thing that just really struck me in  
22 your letter is that I asked you to go public to tell the  
23 public, tell me, tell the public, tell us what you paid David  
24 Harris for the harbor, but you said in this letter that you  
25 felt that you refused to provide the actual sale price to the

1 And the Sun Herald asked -- also in his letter,  
2 he writes back and tells the Sun Herald asked for the same  
3 thing, but they filed a formal report for the same information.  
4 And so they were going to release it on the advice of your  
5 attorney, which was good advice. It should have been released.  
6 But it should have been released in its entirety, not leave off  
7 \$125,300.

8 The agreement, he talks about the agreement that  
9 was made.

10 And then the big thing to me is the promise,  
11 that I took your word, Dr. Walker. I took your word you meant  
12 it, and I really want you to go back and honor this word. And  
13 I would like all of you commissioners to honor it, too, that  
14 the intent was that you were going to focus on making coastal  
15 communities more resilient and less susceptible to future  
16 storms. That was an agreement.

17 What happened to agreements that aren't held up  
18 any longer?

19 And with that in mind, you said, we intend to  
20 tear down both the barn storage facility and the restaurant.  
21 And this is all a run-on sentence. I don't remember too much,  
22 but now I remember quite a bit about my English days, and this  
23 runs on, and this makes me wonder when is this barn and this  
24 storage company coming down because it says that we intend to  
25 tear down both of them. You can't pause. We intend to tear

1 media because I, you were speaking for you, you were speaking  
2 for this board, because being in a bank, I know that not just  
3 the officers of the lenders or the CEO is responsible for that  
4 bank; the board is responsible. So that puts it all back in  
5 the hands of you, also, each one of you who sit here.

6 But he felt, so he's speaking for you, that you  
7 refused to provide the actual sale price to the media because  
8 you felt that that information was private, particularly to the  
9 Harris family.

10 MR. TAYLOR: Ms. Beauguez, I'm going to give you  
11 30 more seconds. You're way over, and I've let you. Okay,  
12 please.

13 PERSON IN AUDIENCE: Mr. Taylor, I will give her  
14 my three minutes if you allow me to give you this document.

15 MR. TAYLOR: I don't see a problem with that.  
16 Just get to -- I don't see a problem.

17 PERSON IN AUDIENCE: Thank you. I appreciate  
18 that, sir.

19 MS. BEAUGUEZ: So to follow along with my train  
20 of thought, Mr. Harris gave up his right to any privacy the day  
21 he received a dollar of federal funds, and that was why I wrote  
22 to Dr. Walker and to all of you because there were no rights to  
23 privacy any more. There wouldn't be any rights for you, and  
24 there wouldn't be any rights for me, and there shouldn't have  
25 been any rights for David Harris.

1 down both the storage barn and the facility and the restaurant  
2 some point in the future when we receive additional federal  
3 funds through -- and then you give it -- through the coastal  
4 whatever. Once cleared of structure, we will work with the  
5 county and the harbor commission to utilize the property in a  
6 manner that is beneficial to the harbor.

7 Green space is your next word. Some potential  
8 use of green space for picnicking, parking, and possibly  
9 rerouting the road.

10 And, Dr. Walker, you signed this yourself. And  
11 you also said if I had further questions would I please ask  
12 them, and I did. I sent y'all another letter, all of you,  
13 found another letter from me, and not one of you and including  
14 you, Dr. Walker, you did not answer my second letter because my  
15 questions were not answered on the first letter.

16 I am here to ask you to stop this land swap. It  
17 is not what the citizens of Ocean Springs want. We don't  
18 desire it. We want our harbor back. And we want it back  
19 because our citizens have now paid for it, our national  
20 citizens, our federal government, which is us. We paid for it.  
21 We deserve it. We love it. It is part of our heritage in  
22 Ocean Springs. And swamp land on the point of Biloxi on Back  
23 Bay will mean nothing to the citizens.

24 And if you say my time is up, I just remind you  
25 of all the things I read. I have all the documents now. We

1 had to get them the hard way. I asked the questions in  
2 December '10, and I didn't get the answers. So now I had to  
3 get them the hard way. It's not right for citizens to have to  
4 get the answers the hard way.

5           And the whole warranty deed is so specific of  
6 what you shall not do, that this shall never be industrial  
7 again, this shall not be converted for any other uses other  
8 than green space for the public. It's for natural features,  
9 ecology. It shall be used to maintain forever, the word is  
10 used.

11           I am quoting out of the deed, the transfer deed  
12 from the Harris family to the DMR. And the list goes on of  
13 those type things.

14           Please, I am told that y'all have the power now  
15 to reverse any thoughts that you had to turn this land over to  
16 a business in Biloxi which means nothing to us, nothing at all.  
17 We have no interest in what's going on on Point Cadet other  
18 than the good wishes for Biloxi. But for our town, we want our  
19 property back.

20           MR. TAYLOR: Thank you, Ms. Beauquez.

21           MS. BEAUGUEZ: We thought you were going to give  
22 it back to us. And we trusted it. Thank you.

23           MR. TAYLOR: Thank you very much. We appreciate  
24 your comments.

25           Okay. Next on the agenda is the executive

13

1 allowed in the boat when they're out alligator hunting. And  
2 when they had the special season, they asked if we came across  
3 any boats in our area, we would check them, which we did. Two  
4 officers did check the first night and made those cases on  
5 that.

6           On our boating accidents, we had one boating  
7 accident with fatality. We had two boating accidents with  
8 injuries and one boating accident without injuries.

9           And on our JEA totals, we had 58 patrols, 875  
10 man hours, 584 contacts were made, zero enforcement action  
11 reports, but we did issue seven state citations.

12           Any questions?

13           MR. TAYLOR: Thank you, Rusty.

14           MR. PITTMAN: Thank you.

15           MR. TAYLOR: Next up is marine fisheries, and  
16 Dale Diaz. But I see Dale is not here.

17 G. Marine Fisheries

18           MR. BRAINARD: Good morning, commissioners, Dr.  
19 Walker, Ms. Chesnut. Dale sends his apologies. He's at the  
20 Gulf States Marine Fisheries commission meeting over in Point  
21 Clear, Alabama, representing the state.

22           Marine fisheries has four items on the agenda  
23 today. Rick Burris will give an update on the sport fish  
24 restoration grants. Matt Hill will be doing the means test  
25 report. Scott Gordon will give an oyster season update. And

15

1 director's report.

2 E. Executive Director's Report

3           DR. WALKER: I don't have anything today, Mr.  
4 Chairman.

5           MR. TAYLOR: Thank you.

6           And next will be marine patrol, Chief  
7 Chatagnier. Okay. Rusty.

8 F. Marine Patrol

9           2. Marine Patrol Report

10           MR. PITTMAN: Good morning, Mr. Chairman,  
11 commissioners, Dr. Walker, Ms. Chesnut. Chief Chatagnier is  
12 feeling under the weather today, so I'll be doing the report.

13           If you look, we did drop in the saltwater  
14 fishing license violations by a few. We still had 41.

15           Two things that stood out on the undersized fish  
16 were the red drum, people keeping fish eight to ten inches.  
17 What they're going to do with an eight to ten inch fish, I have  
18 no idea.

19           We also had one commercial business with  
20 recreational fish inside. They had them in their freezer.  
21 While on our JEA patrol, the officers made the case on that and  
22 seized the fish, and we're holding them for evidence right now.

23           On the miscellaneous violations, three things  
24 stand out. And that's on the alligator with alcohol.

25 According to the Department of Wildlife, there's no alcohol

14

1 Erick Porche has two state records.

2           So Rick will go first.

3           3. Sport Fish Restoration Grants Update

4           MR. BURRIS: Good morning, commissioners, Dr.  
5 Walker, Ms. Chesnut.

6           Today, we just want to make you all aware that  
7 this year marks the 75th anniversary of the U.S. Fish &  
8 Wildlife's sport fish restoration program.

9           If you are not familiar with the program,  
10 basically it's a user pay user benefit system exhibited in this  
11 slide here.

12           Basically, anglers, hunters, and boaters  
13 purchase equipment and boat fuel, and there's excise taxes that  
14 are paid by the manufacturers before the purchases, and then  
15 boat fuels have a tax on them that boaters purchase at the  
16 pump.

17           The U.S. Fish & Wildlife Service takes these  
18 funds and allocates them to the state fish and wildlife  
19 agencies through several grant programs.

20           The state agencies use those funds to implement  
21 programs and projects, such as habitat restoration, research,  
22 management, education, and access to recreation and resources.

23           And the benefits or the results are for the  
24 hunters, anglers, and the boaters, increased opportunities for  
25 the manufacturers and retailers, they get better sales and

16

1 growth. And then for the wildlife and fisheries, they improve  
2 habitat. So everybody benefits from these programs.

3 Here's a little bit of history and  
4 accomplishments on a national level since the inception of the  
5 program in 1937. Through these excise taxes, as well as  
6 license revenues, the sports men and women have contributed  
7 more than \$12 billion to conservation through the wildlife  
8 sport fish restoration program. And since our agency only  
9 deals with sport fish restoration, that's all I'll be talking  
10 about from here on out.

11 That program has provided more than \$5.4 billion  
12 for fisheries research, habitat restoration, recreational  
13 boating access, and construction of fish hatcheries, as well as  
14 aquatic education.

15 You can see the primary areas of investment for  
16 SFR funds are fisheries research 32 percent, development and  
17 stocking of fisheries 26 percent, and operation and maintenance  
18 of facilities are around 23 percent.

19 For your reference, these are the allocation of  
20 funds for the federal fiscal year 2012 were distributed down to  
21 our agency. The total U.S. Fish & Wildlife sport fish  
22 restoration money was about \$350 million. The State of  
23 Mississippi received about \$4.1 million. And how that is  
24 allocated down to the states is there's a Fish & Wildlife  
25 Service has a formula where 40 percent of that is land and

17

1 water area in square miles, and then the other 60 percent is  
2 based on the number of licensed anglers in proportion to the  
3 national total.

4 So that's how the State of Mississippi received  
5 their funds.

6 And then all our agency got \$573,000, and the  
7 way that we received those funds is the Fish & Wildlife Service  
8 does a survey for all the licensed anglers or for all anglers  
9 in the state, and they determine the freshwater, saltwater  
10 split. That's how we get our funds.

11 And to go over our projects we have ongoing  
12 right now to give you some of the accomplishments of them. To  
13 start off, we have the Mississippi Artificial Reef Program  
14 which I'm sure everybody is very familiar with. It helps to  
15 fund the deployment of over 16,000 acres of artificial reefs in  
16 various reef locations in the Mississippi Sound and adjoining  
17 Gulf of Mexico which includes 20 steel hull vessels, 304  
18 limestone pyramids, 315 Goliath reef balls, 550 bay reef balls,  
19 and 30 different deployments of concrete rubble. And all these  
20 locations are published on our website, as well as maps. You  
21 can also get these locations from our front office.

22 Next is the Mississippi coastal sport fish day  
23 which is subgranted through the DMR to the University of  
24 Southern Mississippi Gulf Coast Research Lab. It was initiated  
25 as a target study to assess spotted seatrout stock. So far

18

1 it's collected more than 5,000 spotted seatrout for abundance  
2 and age estimates to monitor the population of the species.  
3 And since the start of it, we've also integrated several other  
4 species, including red drum and coastal sharks. And all the  
5 data that's collected from this program is very important in  
6 managing these species.

7 The next program which is also subgranted to  
8 GCRL, probably the most popular, is sport fish tag and release.  
9 Through this program, 16,800 cobia have been tagged from  
10 Virginia to Texas with the assistance of thousands of anglers  
11 since 1988. 19,200 spotted seatrout have been tagged in  
12 Mississippi waters alone since 1995. And 2700 triple tail have  
13 been tagged in the southern United States since 2001.

14 And all the data collected through this program  
15 has aided fisheries management in other states besides our own  
16 in determining the geographic ranges and migratory patterns for  
17 these species, which is very beneficial in determining  
18 management jurisdictions.

19 Another program which is subgranted to GCRL is  
20 the restoration and monitoring of striped bass. The striped  
21 bass restoration program has released over thirteen million  
22 hatchery raised fingerlings into our coastal tributaries.  
23 Around 250,000 fingerlings are now released annually, and that  
24 includes tagged fish and untagged fish, and also the guys  
25 running this program are studying the disturbances on them and

19

1 their effects on the striped bass populations.

2 Some other programs which are administered by  
3 Rhonda Price (ph.) include the BIG program, boating instructor  
4 grant, which has provided nearly two and a half million dollars  
5 for the construction and renovation and maintenance of public  
6 and private boating infrastructure.

7 The Clean Vessel Act which has provided funds to  
8 harbors, marinas, to install pump-out facilities. So far 22  
9 pump-outs have been installed across the state.

10 Public access program which provides funds for  
11 improvement to public access facilities along the coast,  
12 including boat ramps and piers.

13 And lastly to kind of tie in two things that are  
14 directly correlated are recreational fishing licenses. In  
15 order to make it more convenient for the public to purchase  
16 their fishing license, we've come up with an experimental  
17 mailout which you see right here that we've sent to certain  
18 number of people that their license were about to expire, and  
19 they purchased their license last year. Like I said, we want  
20 to make it more convenient for people to purchase their  
21 recreational fishing license. This is very similar to what  
22 Wildlife, Fisheries s& Parks do with their sportsman's license.  
23 We send them this mailout which says it's about to expire. And  
24 they can take this part right here, tear it off, and send it  
25 back to us with their payment, and we will mail their license

20

1 back to them.

2 Also, if they don't feel like doing that, we  
3 have a 24 hour license number posted on the back side of the  
4 card, as well as the website, where they can go purchase their  
5 license. And even if they have a Smartphone, they can scan  
6 this. It will take them directly to the website where they can  
7 purchase their license online.

8 And in this section, we have several different  
9 avenues that they can go purchase their license in person.

10 And like I said, the main reason we're doing  
11 this is to make it easier on the recreational fishermen to  
12 purchase their licenses.

13 We also included on that a statement, tag line  
14 we came up with, that tells them basically everything I just  
15 told you today, that their purchasing a fishing license  
16 supports research and restoration, it enhances fishing  
17 opportunities in coastal Mississippi. So it's also user pay  
18 user benefit system.

19 We even have another card very similar to this  
20 that we hand out at all the public outreach events for people  
21 that haven't already purchased a license, and it has all these  
22 same avenues on there. It has everything except for the mail  
23 back portion.

24 And with that, if there are any questions, I'll  
25 be happy to answer them.

1 fuel for recreational boats. Is there such a thing? Did you  
2 say that?

3 MR. BURRIS: Yes, sir.

4 MR. DRUMMOND: There's a state tax on fuel, I  
5 know that, when you buy fuel for your vessel. But how do they  
6 collect tax from recreational boats? I don't know of any tax.

7 MR. BURRIS: There's a tax, from what I'm aware  
8 of, there's a tax at all harbors that sell fuel. It's a  
9 federal tax that goes into this sport fish restoration plan.  
10 It may not be much, but it is a --

11 MR. DRUMMOND: What if you buy fuel elsewhere?

12 MR. BURRIS: I'm pretty sure if you buy it from  
13 a harbor that that tax is on there.

14 MR. TAYLOR: Any other questions? Thank you,  
15 Rick.

16 (Comments from audience.)

17 MR. TAYLOR: Can't hear you, Mr. Eicke.

18 MR. BURRIS: I believe it is. I can't remember.  
19 I just pulled that number from looking at it earlier. I can't  
20 remember if it's both or just resident.

21 (Comments from audience.)

22 MR. BURRIS: Last year it was eighty thousand,  
23 and that might include nonresident, too.

24 MR. TAYLOR: Thank you, Mike (sic).

25 4. Means Test

1 MR. BOSARGE: This last slide, that's an  
2 experimental program?

3 MR. BURRIS: Yeah. We didn't know if it -- we  
4 don't know if it's feasible enough to send them out to every --  
5 to all 80,000 recreational license holders. So we're just  
6 sending it out to certain amount of people just to see what  
7 kind of feedback we can get on it.

8 MR. BOSARGE: And if it looks promising, that's  
9 something you're going to --

10 MR. BURRIS: Yes. The Wildlife, Fisheries &  
11 Parks, they've been doing it for years with the sportsman's  
12 license, and they seem to get good results out of it.

13 MR. BOSARGE: You can see just by our  
14 enforcement how many licenses that people don't have. So,  
15 yeah, that looks like a good program.

16 MR. BURRIS: That's kind of what triggered all  
17 this.

18 MR. TAYLOR: You said about the Smartphone with  
19 the thing up there. Let's say a person hasn't bought a  
20 license, he can scan that and go right there and buy the  
21 license right then?

22 MR. BURRIS: On the boat, yeah. And just like  
23 on the website, they'll give him a confirmation number, and  
24 that will be their receipt that they bought the license.

25 MR. DRUMMOND: I'm not sure about the tax on

1 MR. HILL: Sandy, Commission. My name is Matt  
2 Hill. I'm here to present the means test for the commercial  
3 spotted seatrout fishery.

4 At the last meeting, some suggestions were made,  
5 and we were asked to come up with some language.

6 And here's some of the language that we have  
7 come up with.

8 Means test for spotted seatrout commercial  
9 fishing,

10 Individuals harvesting spotted seatrout for sale  
11 must possess a spotted seatrout endorsement. And we did put a  
12 cost of \$10. That basically recovers all our costs for issuing  
13 and printing a license. In addition to a current applicable  
14 harvester's license.

15 To qualify for this endorsement, the fisher must  
16 present proof that ten percent of their earned income came from  
17 commercial fishing activities within one of the previous three  
18 tax years.

19 Proof would be a form provided by the DMR,  
20 completed by a licensed tax preparer possessing a CTIN and  
21 preparer tax identification number. Must be notarized and  
22 submitted to the department.

23 This endorsement will be valid for three year  
24 period at which time a new form must be submitted for a new  
25 spotted seatrout endorsement.

1 Here is what the form would look like. It will  
2 be something like this. We would like to add a little bit of  
3 language in there if this becomes finalized.

1 We did call around. We called five CPAs to get  
5 some cost of what this would cost somebody just walking in the  
6 door. The prices range from \$30 to \$150, \$30 if they have  
7 everything in order and this particular person prepared their  
8 taxes already. If it's a fisherman that came in and just had  
9 everything and needed it all and wanted to hire, it was \$150.  
10 So there is a cost involved of having this form filled out.  
11 But it's one page simple form.

12 One thing we would like to point out, though, is  
13 if we do something, we want to go down this path, we feel that  
14 we're going to have to have an economic impact analysis. And  
15 I'm just going to read the bold parts of this.

16 Prior to giving notice, each agency shall  
17 consider the economic impact the rule will have.

18 The economic impact statement shall include  
19 specific legal authority, the need for the proposed action,  
20 benefits of the proposed action, the effect on the public  
21 health, safety, and welfare, an estimate of the cost to the  
22 agency, estimated amount of paperwork and any anticipated  
23 effects on state or local revenues, an estimate of the cost for  
24 economic benefit to all persons affected, analysis of the  
25 impact of the proposed rule on small business, comparison of

25

1 the cost and benefit of the proposed to the probable cost and  
2 benefits of not adopting, whether less costly methods or less  
3 intrusive methods exist, reasons for rejecting those  
4 alternatives, and a detailed statement of the data and  
5 methodology used in making estimates required by this  
6 subsection.

7 We have contacted an economist that has agreed  
8 to do this. We do not have a time frame from him. We plan on  
9 contacting another. And we also -- we have no timeline for  
10 completion, nor do we have a cost.

11 MR. BOSARGE: And I guess one question would be:  
12 What would trigger the need for the economic statement?

13 MR. RUNNELS: That's actually a change they made  
14 to the Administrative Procedures Act this past year.

15 It used to be that it had to have an impact  
16 greater than \$100,000 in the aggregate. They removed that. So  
17 now you have to do one no matter what you're proposing, a  
18 proposed rule.

19 The statute that they just passed will be in  
20 effect for four years. It has a repealer. It will go out July  
21 1, 2016. But until then, every rule or regulation that you  
22 propose, you have to do an economic impact analysis.

23 MR. TAYLOR: Do we have to do it before it's  
24 passed?

25 MR. RUNNELS: Yes, that's part of the final.

26

1 And there's also, what wasn't included in this slide is there  
2 is a new council, commission, I forgot what it's called, that  
3 was created that goes along with this, that actually falls  
4 under I think the Mississippi Development Authority, and  
5 there's like 12 people will be a member of this council. And  
6 they will supposedly review proposed rules and regulations to  
7 determine what effect they have on small businesses. And they  
8 may actually respond to any proposed rules and regulations an  
9 agency may propose.

10 MR. BOSARGE: So now if we say, for instance,  
11 raise the size of speckled trout to 17 inches, it will have to  
12 have an environmental impact statement?

13 MR. RUNNELS: It's not an environmental impact  
14 statement; economic impact statement. Potentially, yes.

15 MR. GOLLOTT: Do you have any idea what the  
16 economic impact is? Have you questioned that, or have you done  
17 any work on that at all?

18 MR. HILL: We have not. Like I said, we have  
19 contacted the economist that works with us. And he basically  
20 said that he can do this for us. He says his schedule is full.  
21 And he could not give us a timeline.

22 The reason that we felt that there was  
23 definitely going to be some economics involved in it is because  
24 they are going to have to pay to have his form filled out,  
25 they're probably going to have to pay to have their taxes

27

1 professionally done at some point. That's why we feel if we do  
2 something like this, we would like it to be valid for a three  
3 year period so that cost does not occur on a yearly basis, you  
4 know, it would just be every three years.

5 Another issue that we have also ran into with  
6 this is to allow a new fisherman into the fishery that has not  
7 been in the fishery before, the first year they will not be  
8 able to apply for this endorsement. They will have to earn ten  
9 percent of their income from another fishery. And then the  
10 next year, they would be allowed to apply for this endorsement.

11 And the reason in that, we were very specific  
12 about the earned income. The earned income is the least  
13 restrictive income that there is. Earned income is less than  
14 gross income or net income. Earned income takes out such  
15 things as interest from dividends, retirement income, Social  
16 Security, unemployment benefits, alimony. That's going to be  
17 your least number when you go for your income amount for most  
18 people.

19 MR. GOLLOTT: But your economic impact is not  
20 the only deciding factor; right? I mean, circumventing the law  
21 would be in there, also; right?

22 MR. HILL: Sir?

23 MR. GOLLOTT: The economic impact would probably  
24 carry a lot of weight. But breaking the law, circumventing the  
25 law, would be another deciding factor.

28

1 MR. HILL: That is correct. But, I mean, I'm not  
2 saying -- the economic impact may come back and say that it's a  
3 positive for all we know. We don't know that. But it's just  
4 something that's basically a formality now that we feel that  
5 we're going to have to do for this particular thing. But it  
6 may come back and say it's a positive economic impact or it's a  
7 negative, and give us a number. We don't know that.

8 MR. BOSARGE: If we were to change the means  
9 test from whereas in the State of Florida, basically it says  
10 \$5,000 in seafood sales, which would not involve a CPA or  
11 accountant, would that still trigger an economic impact  
12 statement?

13 MR. HILL: I believe that it would. I believe  
14 that it would. And I believe that in this particular fishery,  
15 which is -- you're talking about \$100,000 fishery, if you're  
16 going to put a number on it like that, it's going to have to be  
17 a very low number to get into that particular fishery.

18 MR. BOSARGE: And I wasn't necessarily speaking  
19 about \$5,000 sales of those. Any seafood. In other words, if  
20 you're a commercial fisherman and \$5,000 of sales would be a  
21 low number if that's what you're making your living off of.

22 MR. HILL: That's correct. If that's what  
23 you're making your living off of, it would be.

24 However, Florida is also, like what I said, that  
25 first year, you're not -- you basically have to earn the

1 in there.

2 If I change it, it's going to have -- if we  
3 change something, it's going to have to come back in front of  
4 -- something dramatic, we're going to have to come back and  
5 ask.

6 MR. TAYLOR: If I'm hearing you right, we have  
7 to have the economic impact statement before this goes into  
8 effect; correct?

9 MR. RUNNELS: You jump in here, Sandy, if I mess  
10 this up. But my understanding is that when you file your  
11 notice of intent, you're supposed to file your economic impact  
12 analysis at the same time.

13 MR. TAYLOR: Okay. So we can't really do  
14 anything, if I'm reading right -- tell us what we can do.

15 MR. RUNNELS: You can direct the staff to go  
16 prepare whatever means test you want, if that's what you're --  
17 in other words, if you like this, just like you would do any  
18 other rule, you'd say go do it. But before they could actually  
19 physically file with the Secretary of State's office, they're  
20 supposed to go ahead and prepare an economic impact statement.

21 So it doesn't really so much change the way you  
22 do business, it's going to change the way the department does  
23 business, and it's going to change the length of time that it  
24 takes to get a rule into effect.

25 MR. BOSARGE: From what I see, that's any rule.

1 endorsement over there, and that's basically what we would be  
2 doing over here. They're going to have to earn that  
3 endorsement for that particular species.

4 MR. BOSARGE: Correct.

5 MR. GOLLOTT: Unless we put a provision in there  
6 that they could make application to the director, and he could  
7 waive it.

8 MR. HILL: There's many different options. This  
9 is just from what I read in the minutes, if the director would  
10 like to take that on, he's more than welcome to.

11 There's many different options that we do have,  
12 but there's going to be some issues, and there's also some  
13 other issues I'm sure we haven't thought about so far.

14 But this is the language that y'all asked for us  
15 to come up with for the last meeting, so this is what we have.

16 MR. GOLLOTT: Matt, what would we have to do --  
17 in other words, if I make a motion that we accept this, can it  
18 be modified next week or when you come back with this, or what  
19 kind of wording would we have to put in this -- maybe Joe  
20 Runnels can answer that -- to be able to modify something in it  
21 if it comes back and we need to do it?

22 MR. HILL: I think for something like this that  
23 it's going to have to be voted on before we could even take it  
24 out for economic impact study or even for a notice of intent,  
25 and we're going to have to know exactly what we're going to put

1 MR. RUNNELS: Probably pretty much, yes.

2 MR. BOSARGE: If we changed the rule on triple  
3 tail, I think, Scott, the last one, and now we'd have to have  
4 an economic impact study.

5 MR. RUNNELS: In the past, they had the  
6 provision in there that it had to have \$100,000 worth of  
7 impacts in the aggregate. We always said -- I think there was  
8 actually a box on the filing notice when you filed it where you  
9 could check it and say, well, it doesn't have \$100,000 worth of  
10 impacts in the aggregate. So we didn't do an economic impact  
11 analysis.

12 Now they've changed the statute, and basically  
13 they've taken that out. They put in this repealer where this  
14 provision will exist for four years, but they've added that  
15 they've changed it now where it doesn't matter -- the only  
16 thing that would matter is if you're responding to something  
17 that the federal government requires. Otherwise, you have to  
18 do the economic impact analysis regardless of the dollar  
19 amount.

20 MR. BOSARGE: It's a state statute; in other  
21 words, it's not a federal -- it's a state statute.

22 MR. RUNNELS: That's correct. This one --

23 MR. TAYLOR: Is that only on commercial  
24 fisheries?

25 MR. RUNNELS: It's for every rule or regulation.

1 They're looking for impacts to small businesses apparently.  
 2 And that's why they formed this new small business council that  
 3 will have a whole bunch of people appointed. And I don't even  
 4 know if they've been appointed yet or where they are.

5 MS. CHESNUT: They were supposed to have been  
 6 appointed within 60 days of July 1.

7 MR. HILL: One of our issues that we're not --  
 8 we are -- I think Sandy could write a number. We are not sure  
 9 how long if we take something and get an economic impact  
 10 analysis how long that's going to take.

11 MS. CHESNUT: Well, you have the time that it's  
 12 going to take to do the impact analysis. And, you know, then  
 13 you have to file it. Then you have to wait your 20 days for  
 14 review from the public.

15 The catch is once it goes to this committee that  
 16 they're going to come up with, if they have comments, and they  
 17 thing it's going to negatively impact small businesses, that's  
 18 going to add at least another two months to the process because  
 19 of the review periods that are allowed.

20 If they don't have negative comments, then it  
 21 will go just on schedule, and the only new impact or new delay  
 22 would be the time that it takes to do an economic impact  
 23 statement.

24 MR. RUNNELS: I do want to proffer one small ray  
 25 of hope. It provides that no rule or regulation shall be

33

1 declared invalid based on a challenge to the economic impact  
 2 statement for the rule unless the issue is raised and the  
 3 agency perceived.

4 They don't really tell you that you have to go  
 5 out and hire someone to do an economic impact analysis, but  
 6 you've got to be prepared to defend whatever you do. And if  
 7 it's challenged while it's still at the administrative level,  
 8 then if I'm reading the statute right, then if it's appealed to  
 9 court, then it could be the basis for overturning whatever  
 10 decision you've reached based on the quality of the analysis.

11 MR. BOSARGE: Getting back to our means test, I  
 12 would prefer to see just a -- in other words, this is kind of  
 13 intrusive in that the person wanting a license is going to have  
 14 to hire an accountant or something. He's going to have to come  
 15 up with money out of his pocket.

16 I do like the way Florida does it in that \$5,000  
 17 in seafood sales being any type of seafood would be much less  
 18 intrusive in that it would be just providing documents they  
 19 already have.

20 You know, I don't know how the rest of the  
 21 commissioners feel. But I would like to see it reworded in  
 22 that manner. And then as far as our economic impact statement,  
 23 it would also fit better into that model.

24 MR. HILL: And I understand. But if we're going  
 25 to change it, we're going to need -- and we want to come up

34

1 today with what to put -- for the economic impact statement,  
 2 we're going to need -- is it five thousand, is it two thousand?  
 3 We're going to need a specific number.

4 MR. BOSARGE: Five thousand.

5 MR. HILL: Okay.

6 MR. TAYLOR: Are you making a motion?

7 MR. BOSARGE: It may be best to let you guys  
 8 look at this one more time.

9 MR. HILL: And also I want to be careful, too.  
 10 The way it is in Florida -- and I'm favorable to the Florida,  
 11 but what they do say is these sales must be to a licensed  
 12 Florida wholesale saltwater products dealer.

13 MR. BOSARGE: Correct. And that's why I'd like  
 14 to see you guys look at it a little closer, if the rest of the  
 15 commissioners agree.

16 MR. HILL: So now basically what we're giving  
 17 these people now are these fresh product permits, and we're  
 18 making them where they can sell to the public. Well, they're  
 19 still selling these products. Well, that's not allowed in  
 20 Florida.

21 MR. TAYLOR: It needs to be here.

22 MR. HILL: I understand. But the products must  
 23 be sold to a dealer in Mississippi. They can't sell it to the  
 24 public because we can't allow them to sell -- if they're  
 25 selling shrimp off the back of a shrimpboat in Biloxi small

35

1 craft harbor, that doesn't count under Florida's provisions.

2 MR. TAYLOR: But it could under ours if we so  
 3 deem it.

4 MR. HILL: That is right. But we're going to  
 5 have to word it for that.

6 MR. GOLLOTT: Matt -- I guess, Joe: If we just  
 7 adopted this, either way we're going to have the impact study;  
 8 right? No matter which way we go. You go ahead and start the  
 9 impact study because it's going to take a while apparently, and  
 10 then we can come back and maybe modify this and come back with  
 11 something like Florida, whatever.

12 MR. TAYLOR: I think you'd have to have another  
 13 -- if you modify it, that's what he's saying.

14 MR. RUNNELS: We're on new territory here so I  
 15 don't know what you can get away with or not.

16 If you propose something today, and if you  
 17 changed it and it didn't have a significant alteration in  
 18 whatever economic impact, then I wouldn't see why you would  
 19 need to do a new study. But it's going to depend on what rule  
 20 you come out -- I mean, the better way would be to have pretty  
 21 firmly what you want so that if there is any modification, it's  
 22 a very slight, it would make it a lot easier to defend any  
 23 challenge to your economic impact analysis.

24 MR. HILL: There's just a few details in here,  
 25 and some of them -- where we just put the \$10 for the cost.

36

1 You just don't want to start changing. I'm sure we can change  
2 it a little. I think Mr. McArthur just told me that to appease  
3 me for today, so we just put \$10 in there because he thought  
4 that's about what it was going to cost.

5 MR. BOSARGE: The only problem I would have with  
6 what you have up there other than the burden of having to pay  
7 to have it is the earned income. You know, to me, the earned  
8 income, of course, is the less intrusive, but it's also -- it  
9 would make it to where if there was a person that had worked  
10 all his life and earned his retirement could sell one fish and  
11 the next year he could have his license. And I guess my  
12 problem with that would be that the gentleman that's worked in  
13 the fishery all his life, he can't --

14 MR. HILL: I understand.

15 MR. BOSARGE: You see what I'm saying? In other  
16 words, he's earned the right to be a commercial fisherman and  
17 to hold that license; whereas, the gentleman that worked in a  
18 different field and earned his retirement, now he's out there  
19 competing with the man that this is his income, this is what  
20 he's done all his life, this is what he's earned.

21 I think that if you're going to be a commercial  
22 fisherman, you need to be a commercial fisherman. And by  
23 having to go out and produce a certain portion of your income  
24 being that; whereas, when you do earned income, you've opened  
25 it up to a whole bunch of folks that it's just one fish, and

37

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

3 MR. GOLLOTT: I'll make the motion -- or second.

4 MR. TAYLOR: We have a motion and a second. All  
5 those in favor. Passes unanimous.

6 MR. HILL: So just to be clear, keep one like  
7 this, and then make Option B somewhere a little bit more what  
8 Florida does with a few amounts in there.

9 MR. BOSARGE: Yeah, with maybe keeping in mind  
10 what would be the least effort for the person applying for the  
11 license because it is an economic impact statement.

12 MR. HILL: That is correct.

13 Now, what Florida does -- and we would have to  
14 figure -- there's no form or anything. They just bring the  
15 receipts up. Somebody is going to have to be responsible for  
16 that at this agency to look, that's why we were leaning toward  
17 the form a little bit.

18 I know maybe not to have a licensed tax preparer  
19 do it, but that is one reason we were leaning --

20 MR. TAYLOR: How about just a regular -- they  
21 fill the form out and bring the tax return. The tax return is  
22 going to show where they got the money from.

23 MR. HILL: And we can do something --

24 MR. BOSARGE: It would be real simple. And I  
25 think Florida, as far as I know, even allows you to have

39

1 they're right there.

2 MR. HILL: The earned income is by far the least  
3 restrictive income. It takes a lot of things out.

4 MR. BOSARGE: I would like to see it just be  
5 income, period.

6 MR. HILL: Gross, net.

7 MR. BOSARGE: Net.

8 MR. HILL: Okay.

9 MR. RUNNELS: One more thing. Like my friend,  
10 Scott, just pointed out to me, of course, you have several  
11 proposals, two or three proposals, that you would like to  
12 submit. You have your economic impact analysis of the three  
13 proposals, then you're doing your alternative analysis, and  
14 that would help you, also, defending whatever decision you  
15 ultimately come up with.

16 MR. BOSARGE: I like the idea of Option A, B, or  
17 C. Maybe we could -- it would be more work on you guys -- go  
18 back and look at the \$5,000, give us Option A, B, or C for the  
19 next meeting.

20 MR. TAYLOR: Would you put that in a motion?

21 MR. HILL: Yeah, we're going to need that.

22 MR. BOSARGE: I'd like to make a motion that we  
23 have the staff go back and look at Options A, B, and C, where  
24 we maybe have it where it mimics Florida a little bit more and  
25 see what would be the least intrusive.

38

1 seafood sales from another state, if I'm not mistaken. It  
2 doesn't say it has to be within the state that you're buying  
3 your license in. It just says seafood sales.

4 MR. HILL: Correct.

5 MR. GOLLOTT: That's going to put a lot of  
6 responsibility on the staff who's selling these licenses. I  
7 like the form better. That way, it's putting it in. You're  
8 talking about \$30 or \$150 depending on who they go to to have  
9 it filled out. That person looks at the income tax and sees  
10 what's what. And then you're not just depending on somebody  
11 selling a few fish and putting their name on it.

12 That's just my opinion.

13 MR. DRUMMOND: I'm not sure who approves an  
14 individual going commercial speckled trout fishing. Who  
15 approves that individual that he's okay, he's done his economic  
16 study, he's given you his income tax statement; who approves  
17 it?

18 MR. HILL: Right now, anybody --

19 MR. DRUMMOND: We approve it? The commission  
20 approves it?

21 MR. HILL: Whenever we pass whatever we're going  
22 to, basically they will come get a license just how they get a  
23 license now. They will present the licensing agent with either  
24 a form, or they will come back there and just get a member of  
25 the staff, and we have to look at some things, and we will

40

1 decide if they qualify for the endorsement or they do not  
2 qualify for the endorsement.

3 MR. DRUMMOND: So DMR will essentially approve  
4 it.

5 MR. HILL: They would not have to come in front  
6 of the commission. It would be a licensing issue.

7 MR. TAYLOR: You have two people sitting back  
8 here, like when I go get my charter boat license, I have to  
9 bring my insurance, my documentation, and a check. And they  
10 give me a license. It would be no different there, just like  
11 you do a shrimping license or anything else.

12 MR. HILL: We're okay if once they do get  
13 approved to let them stay approved for three years.

14 MR. BOSARGE: Yes.

15 MR. TAYLOR: Yes.

16 MR. HILL: So it wouldn't be a year --

17 MR. BOSARGE: Three years or more.

18 MR. HILL: -- a yearly thing. Okay.

19 MR. BOSARGE: No.

20 MR. HILL: Any more?

21 MR. TAYLOR: Scott Gordon.

22 Scott, we've had a request for a short recess,  
23 so let's take about ten minutes.

24 (Off the record.)

25 MR. TAYLOR: We want to call the meeting back to

41

1 it into.

2 The red that was showing no oysters in the  
3 sample. The I guess you'd call it a pinkish color between one  
4 and 20. Your light blue at 21 to 40, 41 to 60 is the darker  
5 blue, and 61 to 80 is the green.

6 So this is for 2010. And as you can see, a lot  
7 of the area we had very low numbers of oysters.

8 And the highest areas were up in the Pass  
9 Christian area last year and then around the Square  
10 Handkerchief area.

11 If you look at the 2010 done over this summer,  
12 the Pass Christian numbers have gone down, and so have the  
13 Square Handkerchief, and the St. Joe reef area was nearly wiped  
14 out when the Bonnet Carre Spillway opened up.

15 We do have a few spots of oysters around. We  
16 took out the oyster task force a couple weeks ago. And they  
17 looked in the various areas. Then the following week, we had  
18 some days on the Sound with tongers and with dredgers. We had  
19 some of the dealers with us, as well, looking throughout the  
20 areas.

21 And we saw mixed results. In some of the areas  
22 where you do have oysters, you have a lot of hook mussels, and  
23 so that's going to entail a lot of work on the harvesters, and  
24 low numbers in other areas. But we do have some locations  
25 where we feel we can have some harvest on a very limited basis.

43

1 order. And Scott Gordon.

2 5. Oyster Season Update

3 MR. GORDON: Good morning, Commissioner Taylor,  
4 commissioners, Dr. Walker, Ms. Chesnut.

5 My name is Scott Gordon, shellfish bureau  
6 director.

7 What I wanted to speak with you about today is  
8 possibly setting a limited oyster season for Mississippi.

9 And so here we have some oyster landings going  
10 back to FY90 up through last year. As you can see, we've had  
11 our ups and downs. My goal one day is to have us back to a  
12 normal oyster season right around 300,000 sacks.

13 Last year, we only had about 65 sacks or so.  
14 And I don't forecast that we're going to do that this year.

15 Here is the Mississippi commercial license sales  
16 by type for FY2000 through FY13. This is through yesterday.

17 We did -- I was told after I got this we had two  
18 more resident tonging licenses sold, so that's up to 87 right  
19 now.

20 Back in 2010, we did a 60 station survey with  
21 one minute dredge tows. And I like that. This is the results  
22 of that from 2010. And you can probably see better on the  
23 handouts that you have, you know, the breakdown. And we were  
24 looking at grids. And we did some one minute dredge tows in  
25 each of these 60 grids. And these were the numbers that we put

42

1 And I want to emphasize that, on a limited basis.

2 This chart is showing our average oyster size  
3 frequency comparison by reefs. This is 2011 versus 2012 one  
4 minute dredge tows. And the first two charts on here are the  
5 Pass Christian reef area. 2011 is the first one, and 2012 is  
6 the second one.

7 The total numbers of oysters in those samples,  
8 and these are multiple samples that have been averaged out, but  
9 the total number of oysters has gone down, but the number of  
10 harvestable oysters has come up in the one minute dredge tow.

11 The next two are the Pass Marianne reef area.  
12 And those have gone down, and the number of harvestable oysters  
13 has stayed about the same.

14 St. Joe reef area, which was nearly wiped out  
15 from the Bonnet Carre Spillway opening, last year we had zero  
16 oysters in the sample, and from this year, we have -- there  
17 were about two market sized oysters in there. So that's the  
18 only one that's come up, and there's not much of anything in  
19 there.

20 And the very last two are the Telegraph reef  
21 area.

22 So as you can see from our samples over the  
23 summer, this was conducted over June and July, it does not look  
24 real promising. But some of the areas I would like to see the  
25 entire western Sound like that, that they looked fairly decent.

44

1 But again, we are looking at a limited season because they are  
2 small areas.

3 So in discussing with the oyster task force and  
4 some of the other harvesters and the dealers, we would like to  
5 make this recommendation:

6 That the commission authorize the executive  
7 director to open a limited 2012 through 2013 Mississippi oyster  
8 season in Area II-Approved for conditionally approved waters to  
9 the harvest of oysters beginning Monday, November 5, 2012,  
10 through Saturday, December 29, 2012.

11 We would also ask that you authorize the  
12 executive director to extend the limited oyster season or open  
13 other areas as they may become available.

14 And to authorize the executive director to close  
15 areas to harvest to conserve the resource.

16 We would like for the commission to consider an  
17 initial 20 sack daily commercial dredging sack limit and a 12  
18 sack daily commercial tonging limit and authorize the executive  
19 director to adjust the daily sack limit.

20 We would also like you to authorize the  
21 executive director to modify the daily checkout time to no  
22 later than 4:00 p.m., open reefs Monday through Saturday,  
23 closed on Sundays, Thanksgiving Day, Christmas Eve, Christmas  
24 Day, and New Year's Day. This is something that we ask for  
25 every year.

45

1 Other standard provisions such as check  
2 stations, correct change, you know, similar things.

3 And we will continue to monitor the reef  
4 conditions once the season opens and will make any necessary  
5 changes.

6 Now, we are hoping that by the time we get this  
7 opened up, the new Pass Christian check station will be open,  
8 but we're making alternate plans right now.

9 We are trying to get the -- again, the check  
10 stations and all of those things in order. The harvesters and  
11 the dealers have both asked me, you know, they have some notice  
12 so they can get things ready. We had Hurricane Isaac come in  
13 and flooded a lot of these areas. And so there's still a lack  
14 of power to some locations.

15 We are working with or encouraging some of these  
16 areas to get their pump-out facilities repaired and get power  
17 to them.

18 And we have a pretty long list of things.

19 But anyway, I just wanted to emphasize that we  
20 are asking for a limited season, you know, not wanting to  
21 encourage anyone to think that we're going to break any records  
22 with this, but there is a resource out there that can be  
23 harvested. We want to monitor it closely and try to get these  
24 areas opened up prior to the holidays so everybody can enjoy  
25 some nice tasty Mississippi oysters.

46

1 MR. TAYLOR: Thank you very much. Any  
2 questions?

3 MR. GOLLOTT: We have Commissioner Sahuque. Is  
4 there anything you would like to add to this, Oliver, as an  
5 ex-commissioner?

6 MR. SAHUQUE: That's fine with me. Of course, I  
7 like most fishermen would like to see more of a limit, but  
8 since they are limited, at least we get to make some money for  
9 Christmas.

10 MR. TAYLOR: Thank you.

11 MR. BOSARGE: I just have one question. You  
12 said there were a couple more license sold here recently? I  
13 remember we kind of put a cap on that. In other words, there's  
14 still licenses available?

15 MR. GORDON: Yes, sir. This is as of this  
16 morning, we had seven Mississippi resident tonging licenses  
17 remaining. There are no Mississippi resident dredging licenses  
18 available. There are 46 nonresident tonging licenses available  
19 and 47 nonresident dredging licenses available.

20 MR. BOSARGE: And most of the recommendations  
21 that you've made, the task force and the dealers seem to be all  
22 good with these?

23 MR. GORDON: Yes, sir.

24 MR. TAYLOR: Do I have a motion?

25 MR. BOSARGE: I make a motion that we adopt the

47

1 recommendations of Scott's bureau.

2 MR. TAYLOR: Do I have a second?

3 MR. GOLLOTT: I'll second it, Mr. Chairman.

4 MR. TAYLOR: All those in favor. Passes  
5 unanimous. Thank you, Scott.

6 MR. GORDON: Thank you.

7 Next up we have Erick Porche.

8 6. State Records

9 MR. PORCHE: Good morning. I have two records  
10 to submit for your approval today, one conventional, one fly  
11 fishing.

12 First the conventional tackle. It's for  
13 Atlantic croaker, *Micropogonias undulates*. The old record was  
14 4 pounds 12 ounces. It will be a new record of 5 pound 1 ounce  
15 caught by Matt Glenn. Here's the croaker and Mr. Glenn with  
16 his croaker.

17 The other is fly fishing for southern flounder,  
18 *Paralichthys lethostigma*. The old record of 2 pounds 12.8  
19 ounces. It will be a new record of 4 pounds 14 ounces caught  
20 by Joshua P. Lyons. There's the flounder and Mr. Lyons.

21 Any questions?

22 MR. TAYLOR: No. Thank you.

23 MR. DRUMMOND: I make a motion we accept these  
24 new records for the State of Mississippi.

25 MR. TAYLOR: We have a motion. Do we have a

48

1 second?

2 MR. BOSARGE: I'll second.

3 MR. TAYLOR: All those in favor. Records are  
4 certified. Thank you very much, Erick.

5 MR. BRAINARD: That concludes marine fisheries'  
6 presentation.

7 MR. TAYLOR: Thank you.

8 Next up is Jan Boyd, coastal ecology.

9 H. Coastal Ecology

10 MR. BOYD: Good morning, Mr. Chairman,  
11 commissioners, Dr. Walker, Ms. Chesnut.

12 Coastal ecology has one action item for your  
13 consideration this morning. And Willa Brantley will be  
14 presenting it.

15 3. Bureau of Wetlands permitting

16 a. Kenny Lobell

17 MS. BRANTLEY: Yes. Your agenda said that Ron  
18 Cole would be presenting this, but I'm going to be standing in  
19 for him this morning.

20 This is a violation/after-the-fact permit  
21 application by Kenny Lobell. It's located on the Back Bay of  
22 Biloxi at 610 Bay Cove Drive in Biloxi. It's a commercial  
23 fishing and recreational marinas use district. And the agent  
24 is Coastal Environments, Incorporated.

25 Here is the project location right on this

49

1 proposes to create the almost 3,000 square feet of tidal marsh  
2 for mitigation.

3 This is a diagram. This is the best diagram we  
4 have. I apologize for the boathouse and access pier. Let me  
5 go back.

6 It is my understanding he wants it to come right  
7 off of this point here. There is an archaeological site. I  
8 believe it's right there, that little white spot. It's a shell  
9 midden. So where he would come off is potentially to cross  
10 through that cultural resource site. So we have a condition,  
11 I'll explain it in detail later, but we have a condition that  
12 want to have Archives & History approve the site in writing  
13 before we approve that.

14 The chronology:

15 On January 8, 2012, DMR received a report that  
16 Mr. Lobell had possibly filled wetlands beyond the scope of a  
17 Nationwide permit that had been issued to him in 2008.

18 I don't know how familiar you are with  
19 Nationwide permits. We don't discuss those a lot. Those are  
20 permits that are issued by the Corps of Engineers, and they are  
21 reviewed both by DMR and DEQ for water quality certification  
22 and coastal zone consistency. So once those are issued, we  
23 don't have to take any action ourselves. The Corps does those.

24 So they have issued a Nationwide permit. And  
25 then he filled more than he was supposed to under that

51

1 point. You can see I-10 right here, and this is I-110.

2 The after-the-fact part of the project is fill  
3 in 325.6 square feet of tidally influenced scrub shrub  
4 wetlands. These are wetlands that are directly adjacent to  
5 coastal wetlands. It's a tidal and tidally influenced marsh.  
6 And typically, we require a buffer that is equal to 15 percent  
7 of the parcel depth in between any wetland fill that's in  
8 nontidal wetlands and tidal wetlands. So this fill falls into  
9 that buffer area that we normally would ask to be avoided.

10 The new construction is an access pier and a  
11 boathouse.

12 And then as mitigation, he has proposed to  
13 create 2,925 square feet of tidal marsh from an area of nearby  
14 uplands, and that would be mitigation for the fill that's in  
15 that buffer area.

16 And you can see right here is the outline of his  
17 residence. He's actually began construction of that residence.  
18 This is a bulkhead, just the white. And then the red, you can  
19 see that dotted line extends down, that's where 15 percent of  
20 his parcel depth would have fallen. And so the red portion is  
21 the portion of fill that's within that buffer area that did not  
22 have previous authorization.

23 This hatched area is the area of tidal and/or  
24 tidally influenced marsh or wetlands. And then this red area  
25 right here, his residence is down here. This is where he

50

1 Nationwide permit.

2 On March 13, 2012, Mr. Lobell submitted an  
3 application requesting after-the-fact authorization to retain  
4 that unauthorized fill.

5 And between that time and now, we went through  
6 multiple alternative designs, possibly pulling the fill out,  
7 different things that they could do for mitigation.

8 And finally on October 3, 2012, he proposed the  
9 creation of 2,925 square feet of tidal marsh. This is our  
10 usual three to one ratio for that type of impact, and it has a  
11 three times multiplier because of the impacts to the buffer  
12 area.

13 And on July 23, 2012, was when he requested to  
14 add the construction of the boathouse and the access pier to  
15 his after-the-fact request.

16 The project does not serve a higher public  
17 purpose.

18 It is allowable within the designated commercial  
19 fishing and recreational marinas use district.

20 That area -- let me get back to the diagram real  
21 quick -- this whole area was zoned commercial because of these  
22 condos that were built. They were planning to put a marina in.  
23 They got a permit for a marina, had the use plan changed for  
24 the purpose of putting in the marina. That marina has not been  
25 built, and we're led to believe that it may not ever be built.

52

1 Use plan changes go with the life of the project, so if they  
2 don't build the marina within the life of the permit, they  
3 still have a few years active on their permit. If they don't  
4 build a marina and they let that permit expire, it will go back  
5 to a general use district, but all of Mr. Lobell's activities  
6 would also be fine under a general use district, as well.

7 This would set a precedent by allowing wetland  
8 fill directly adjacent to tidally influenced marsh for a  
9 residential site. We have not allowed that before. We've  
10 always asked for that 15 percent buffer because it protects the  
11 marsh from herbicides and pesticides and these other kind of  
12 nutrients that can run off into it. So this would set a  
13 precedent.

14 Like I said, wetland fill directly adjacent to  
15 the tidally influenced marsh would have a higher impact because  
16 it doesn't have that buffer area, and you would potentially get  
17 pesticides and herbicides and things running off into it.

18 We know of no plans for development beyond the  
19 already described regulated activities.

20 Best management practices will be utilized  
21 throughout the remaining construction and mitigation processes.

22 No offsite alternatives were considered. This  
23 is a private residence, and the project serves to allow the  
24 property owner to construct his waterfront home which he has  
25 already partially done and to access the water.

53

1 square feet of fill, approve the boathouse and the access pier,  
2 and the proposed mitigation.

3 We do have some conditions we would like to put  
4 on the permit. The proposed mitigation shall be carried out in  
5 accordance with DMR's marsh creation success guidelines. And  
6 we ask that the initial dirt work and planting be completed  
7 within six months of the commission's ruling. They have to  
8 bring it down to a certain level and plant the plants on  
9 certain centers. They will have like five years to meet the  
10 coverage requirements, but we like at least the initial work to  
11 be done within six months.

12 Also, the location of the access pier and  
13 boathouse must be approved in writing by the Mississippi  
14 Department of Archives & History prior to the commencement of  
15 construction.

16 We would ask that if that proposed location  
17 cannot be approved by Archives & History that he be allowed to  
18 construct them on a different portion of the property provided  
19 that there are no impacts to tidal marsh, submerged aquatic  
20 vegetation, or cultural resources, and that the alternative  
21 location is approved in writing by DMR staff prior to  
22 commencement of construction.

23 We're also recommending a fine in the amount of  
24 \$250 in accordance with 49-27-51. And here's our penalty range  
25 slide. The violation was discovered January 8, 2012. It's

55

1 And the construction of the boathouse and piers  
2 do require a waterfront location, but the construction of a  
3 residence does not.

4 There are other piers, boathouses, and  
5 residential structures in the area. We do not expect this to  
6 adversely affect the natural scenic qualities.

7 Notification appeared in the Sun Herald as  
8 required.

9 The Corps is reviewing the project. They will  
10 also have to issue a separate permit.

11 Department of Archives & History is requiring  
12 some protection of that narrow archaeological site on the  
13 property. It's eroding, and they've asked Mr. Lobell to go  
14 ahead and build some barriers and do some planting waterward of  
15 that to stop that erosion as mitigation for impacts that they  
16 see to that site.

17 He will be coming back later once that's all  
18 nailed down. We don't know the dimensions or anything of that  
19 right now, so he'll be coming back for a modification on that.  
20 Right now, we wanted to get the fill portion taken care of so  
21 he could go ahead and still move forward with building his home  
22 as soon as he gets it taken care of with the Corps, as well.

23 Secretary of State is reviewing the project.

24 So based on our evaluation of the project, we  
25 recommend that the commission approve the unauthorized 325.6

54

1 been in duration 282 days. So the maximum potential fine is  
2 \$141,000; the minimum is fifty. We're recommending two hundred  
3 fifty.

4 The decision factor of this project does set a  
5 new precedent for impacts in the buffer zone; however, we do  
6 understand that the mitigation work will be costly. Not only  
7 is he having to create tidal marsh for DMR for mitigation which  
8 is costing approximately \$4200, he's also bought some credits  
9 from the Corps for impacts to scrub shrub. That cost about  
10 \$2700. And the work that Archives & History is asking for for  
11 the archaeological site is the really big one, and that's going  
12 to cost upwards of \$47,000.

13 So because he's going to be putting so much into  
14 the restoration and mitigation, we've recommended a low fine.

15 MR. TAYLOR: Any questions?

16 MR. GOLLOTT: Mr. Chairman, I'd like to make a  
17 motion that we accept the staff's recommendation on this  
18 project.

19 MR. TAYLOR: Do we have a second?

20 MR. BOSARGE: Second.

21 MR. TAYLOR: All those in favor. Passes  
22 unanimous. Thank you.

23 MS. BRANTLEY: Thank you very much.

24 MR. TAYLOR: Okay. Next up we have the  
25 financial report by Kara.

56

1 J. Administrative Services

2 2. Financial Report

3 MS. VESA: My name is Kara Vesa giving the  
4 financial report as of September 30, 2012. Our budget remained  
5 at \$6,152,176. We had spent \$1,895,274, leaving a remaining  
6 balance of \$4,256,902.

7 And our tideland funds remain obligated this  
8 year.

9 Any questions today?

10 MR. TAYLOR: Thank you.

11 Anything else need to come before the  
12 commission?

13 Do I hear a motion, Shelby?

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

15 MR. TAYLOR: Do I have a second?

16 MR. GOLLITT: Second it.

17 MR. TAYLOR: All those in favor. Carries.

18 Thank you.

19 (Meeting adjourned 10:45 a.m.)

20

21

22

23

24

25

57

1 COMMISSION ON MARINE RESOURCES

2

3

4 COURT REPORTER'S CERTIFICATE

5

6 I, Norma Jean Ladner Soroe, Certified Shorthand  
7 Reporter, do hereby certify that to the best of my skill and  
8 ability I have reported the meeting of the Commission on Marine  
9 Resources and that the foregoing 57 pages constitute a true and  
10 correct transcription of said meeting held on the 16th day of  
11 October 2012.

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

16 Witness my signature this the 6th day of November  
17 2012.

18

19

20

21

22

  
NORMA JEAN LADNER SOROE, CSR #1297  
Certified Shorthand Reporter

23

24

25

58

