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COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

September 20, 2011

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MR. TAYLOR: Now, the next part of the meeting is public comments. We welcome your comments. We limit them to three minutes about your concerns or issues related to fisheries. What I'm going to ask, we've got a good number here, more than usual, is that, one, you refrain from -- my mind just went blank. But anyway, three minutes.

And the first person that will come up will be George Storrs.

MR. STORRS: I'm here. But if you're going to ask me say anything -- I'd rather for Luke to come with me, Luke Harris.

MR. TAYLOR: That's fine. And when you come up, please state your name, and, you know.

MR. HARRIS: Good morning. I'm Luke Harris.

The other day, George and I, we went and took a look at the reef with Scott and Dale. The outer reefs don't look that good. We did find some promising areas between the bridges that looked like we could make a little good there. We'd like to see this opened around the 1st, if possible, with a lower limit.

We understand that with a higher limit, it would draw a lot of out of state workers.

Alabama opens around the 26th or the 29th. If we could get like a bag sack limit at an earlier time and whenever the other state opens, we could raise it say to ten sacks, that would be a terrific thing.

If you take that under consideration, we'd really appreciate it.

DR. ASHER: Thank you.

MR. STORRS: I'm George Storrs. I'm a commercial tonger like Luke.

I can only say dittoes what Luke said. But five sack limit, I know we can live with this. And I don't know if we're going to get ten. But we'll try to get ten if you guys would raise it around the 29th or so when Alabama opens up, it would be fine. We'd like that.

But if we can get open sooner than the 29th, I know there's probably going to be scheduling problem with the staff because they want it on the 29th, and I can understand where they're coming from. But a little bit sooner would not be -- you know, we need to go to work.

A little bit sooner would help us, maybe by the 10th or before. Like Luke said, maybe on the 1st.

But the five sack limit is pretty crucial to us because we don't want -- it's going to be a stretch to see if we can get ten. Now, I think we can do five and still be in at a good decent time of day. Ten might be stretching it, but we do want it to go to ten whenever they open up the state next door to us. Thank you.

MR. TAYLOR: Thank you. Next is Mr. Chris.
MR. BAYLous: My name is Chris Baylous. I'm a commercial fisherman in all aspects.

The fisherman's organization, Mr. Harris and the rest of us belong to, support what Luke had to say.

We were also wondering what the possibilities of getting oyster transplant or relaying out of the Biloxi Bay area for later in the year would be. If there's any way that you all can give us any enlightenment on this.

MR. TAYLOR: I believe Scott is going to talk about that when he comes up. If not, Dr. Walker will.

MR. BAYLous: All right. I thank you.

MR. TAYLOR: Thank you.

I hope I can pronounce this right. Choung Phan.

Is that the correct pronunciation or close?

MR. PHAN: My name Choung Phan (ph.). I hear today they have meeting over here. And I come and I have to -- we (inaudible) about shrimp this year, you know. And I don't know why this year, got no shrimp. We go check every time, and we loose our end. And (inaudible) every time, you know, from about July to here, I got no shrimp. And I let you know about that. Thank you very much.

MR. TAYLOR: Thank you very much. And I believe that the commission is very worried about that. The members. I know they are looking at everything that possibly could have caused that, everything from the Bonnet Carre to BP. It's just one of those things that I think at this point we don't know.

Next is Catfish.

Hold on.

MR. BEDGAGE: Mr. Phan, you're not the first one that said the same thing to me. And talking to a lot of different folks within the community and a lot of the old time fishermen, they say that, yes, it is as bad as they've seen it ever. And when you say bad, maybe just different. Bad, but different in that the guys go out and can trawl in areas and not catch anything.

So it's something we're looking into. And we've done some tests. And I hope we do some more.

But I know how you feel.

MR. TAYLOR: Just to give you an example, last week I went to the dock there where I normally buy -- last year I bought about 200 pounds of ten count shrimp over August to October to freeze. Could not find any.

So we are well aware of it and doing -- you know, the scientists are doing what they can to find out what it is. It's an elusive problem.

Okay. Catfish.

MR. MILLER: How you all doing today? My name is James A. Miller, ak Catfish, Biloxi fisherman 40 years old.

Two things you can't hide is the sun, the moon, and the truth. That's what we're here today for.

Why are we opening up what grounds we have left for seed oysters while you're blowing gravel out there on our reefs to try to restore? Why are we opening grounds? You done destroyed out in front of Pass Christian, Dr. Walker. And that's the Gospel. You couldn't even get a basket of oysters out of there the other day off a beautiful tonging ground that has oysters stacked up knee deep. You let Alabama haul them off, now we ain't got any more.

Now you're wanting to open between the bridges.

What you going to do for our seed oysters? That's my question is.

Mr. Dr. Walker (sic), you got the biologist marine up here, education, what are you going to do when you take all our seed oysters?

No comment! You can't hide the sun, the moon, and the truth. BP will keep you punished, I promise you.

MR. TAYLOR: Thank you.

MR. MILLER: Don't laugh, Dr. Walker. It's not funny. When I got to go get food stamps --

MR. TAYLOR: Okay. I have someone that didn't write their name in, but it says oyster relay program.

State your name.

MR. SKINNER: My name is Marnie Skinner. I'm a commercial tonger.

I stand kind of with Catfish on this situation about getting the oysters out of the bay, Pass Christian.

What few is left there is seed oysters to take care of all these rocks and shells that we planted out there.

From what I understood last year, BP give us twenty million bucks to go out there and take care of the reefs. And we took the money and basically we went and bought a bunch of rocks, bunch of oyster shells, and we spread them out there on the reef. And we are doing that right now today.

I'm saying to myself, this is a good program except when the Bonnet Carre Spillway opened up.

When the Bonnet Carre Spillway opened up, everything come to a halt on that program.

But I realize probably the State of Mississippi was under contract with certain people down in the Pass to get rid of these oyster shells and this gravel. But what we should have done but we haven't done, we should have stopped that program and we should have started a oyster relay program. Oyster relay program would have put our people to work.

And what I'm saying is right now, it's not too late. We can't stop the gravel and the oyster shells, dead oyster shells, from being planted out there. And I'm hearing on the radio this morning it's going to be two years before we...
After BP spill when Mr. Gordon went out, 90 percent mortality rate. That left ten percent.

We opened it for tonging that year or last year, rather.

So say that took five percent off of that rate.

After the Bonnet Carre Spillway opened, it took another 85 percent mortality rate from the five percent. That leaves you .75 percent of your original reef.

Because of the conditions, it hasn't really been able to reproduce itself in order to -- I mean, the numbers are probably not accurate. This is just what I'm getting from watching the TV, reading the news, you know, what have you. They're probably not accurate figures. But they're close.

I have not heard anything from anybody saying that within -- since the BP spill that our oysters have been able to reseed themselves in a positive way to show anything very positive for it.

I don't know which way to decide with this. I just wanted to put those figures out there to you the way I understand them. Thank you.

MR. TAYLOR: Thank you very much.

Mark Stewart.

MR. STEWART: Good morning. Mark Stewart, commercial fisherman.

I'm concerned about several things here today.

Have been for a while.

One thing is at least two and a half months I haven't been able to make a dollar anywhere on this coast, anywhere. Every time I go out, if I do catch a few shrimp one night, there's nothing the next night. The animals out there are starving to death. The porpoise will chew your nets off. Right now I got to spend about $800 to rebuild my nets because of about five hours of dragging out there.

There's no boats out there. Porpoise are starving. You go throw your equipment over, they chew it to pieces.

I mean, what's going on?

Last time we talked about it, we're in transition mode. We must still be because there's no shrimp out here at all. There's no oysters over here. I'm a commercial oyster dragger. No oystering last year. I'm not going to oyster this year.

What's being done about it? That's what I'd like to know for the fishermen.

Is anything being done for the fishermen is what I want to know.

Can anybody answer that?

Dr. Walker, can you answer that?

DR. WALKER: Mark, I will just say this, that we have petitioned the Secretary of Commerce to declare a federal
1. fisheries disaster for oysters following the freshwater flood through the Bonnet Carre. That's being considered. I'm hopeful that in a week perhaps that decision will be made at the NOAA southeast regional office. As soon as that happens, that will hopefully open the doors for several things to come our way after this disaster. And if, in fact, that happens, one of the things we're considering is utilizing fishermen to do a relay program.

MR. STEWART: Well, that's been being considered. Mr. Collett brought this up last couple of months, but there's nothing being done. It should have already been something being done.

It's my understanding -- and you know there's already money come down the tube, you know. All the shells and rocks that's been thrown out over there, that's a lot of money. We talked about this before. Instead of feeding a couple of families that own all this stuff, could have put all the fishermen to work. But instead, all the fishermen are sitting here wondering. We're really wondering. And we're worrying about it, and we're worrying about it too much. And we don't see nothing happening in our favor.

And you keep mentioning about the oysters, you know, it's a disaster. Well, how about the shrimp? What are the local shrimpers going to do around here? You've already told the public and everybody else that it's the best brown shrimp season we have seen in five years. It couldn't be further from the truth.

How about the local fishermen right here, all up and down this coast right here that are suffering that are not catching anything, haven't been catching anything? Go on down to the harbor down there and buy you some shrimp. You will see.

The fishermen of the coast, the whole coast, are suffering. The bigger boats offshore are catching a few shrimp, couple of hundred feet of water. It's over my head, and everybody else's around here, too, other than a few boats.

That's all we got.

MR. TAYLOR: Thank you, Mark.

Okay. I thank all of you all for your comments.

They are not taken lightly.

E. Executive Director's Report

MR. TAYLOR: So next we have the executive director's report.

DR. WALKER: I don't have anything for you, Mr. Chairman.

21. P. Marine Patrol

MR. TAYLOR: Then Walter Chatagnier with marine patrol.

2. Marine Patrol Report

MR. CHATAGNIER: Walter Chatagnier, marine patrol. Good morning, Mr. Chairman, commissioners, Dr. Walker.

We have been busy out there. We've been writing a few tickets for crabs. A lot of people trying to keep undersized crabs, including some commercial people, too, at this point.

Saltwater fishing license. They're running about normal. I don't know why people just don't go buy one. It's a whole lot cheaper to pay $10 than it is to pay $175, but it's their choice.

A lot of undersized speckled trout. There's no reason for people to be keeping ten, 11 inch trout, but they are. Undersized flounders, even keeping some undersized sharks.

Had one case with over the limit of red drum. I think the guy was three fish over the limit. It probably would have been more if we wouldn't have stopped him when we did.

We had one fatality on the water. And it says here it was a boating accident. But it really wasn't a boating accident. The captain of the boat died of natural causes, and the boat was just steady going in a circle, and one of the officers was able to jump on the boat, and I think they attempted CPR on him, but it was too late.

We did have a couple of boating accidents with some injuries, but just minor injuries.

Our dive team didn't have to do any search and rescue diving in the month of August which was real nice.

One marine patrol local event with the CGA's kids fishing rodeo at Point Cadet, worked that.

Our JRA August patrols were, we had 70 patrols.

We totaled 1,112 man hours, did 608 contacts, and issued 13 state citations.

Any questions?

MR. TAYLOR: I do. You said you had some undersized sharks. Was it recreational fishermen, charter boats, or...

MR. CHATAGNIER: They were recreational fishermen.

MR. TAYLOR: I know that some of the shack species are off limits now. Were they just undersized or...

MR. CHATAGNIER: Yeah, these particular cases.

We did make a case that was on the news the other day with two Atlantic angle sharks which are prohibited species. But these were just one small coastal shark and one large coastal shark.

The small shark was 18 inches, and the large shark was 27.

MR. TAYLOR: Thank you.

Any further questions?

3. Title 22 Part 4

MR. CHATAGNIER: We got one action item or notice of intent on Title 22 Part 4.
We got a big Power Point presentation here. We’ll go to the next slide, and that’s probably as far as we need to go.

All marine patrol is trying to do is make this ordinance or this title in part user friendly for our guests that come to this state.

Right now, the only way you can run recreational crab traps by boat is it has to be a Mississippi registered boat. We have a lot of people that come over from Alabama and Louisiana, bring their boats, come camp over here for a week, have to come in and buy a nonresident crabbing license, go put the crab pots out, and legally they cannot run those crab pots with that boat.

It says it has to be a Mississippi resident. To me and some of the other people in law enforcement, it doesn’t make any sense. As long as that person is running his traps, he has a valid license, we don’t care what boat he runs it in.

So that’s all we’re trying to do is strike the word Mississippi in two places on this title in Part 4 so somebody from Louisiana, Alabama, if somebody came from Colorado and brought their boat down here, they could run their crab traps.

MR. TAYLOR: Okay.

DR. WALKER: Are you asking for action today, Chief?

MR. CHAYAGNIER: I think it’s got to go out for public hearing. Yeah, take it out for public hearing.

DR. WALKER: So we need a motion to do that.

MR. TAYLOR: Could I have a motion, please?

MR. DRUMMOND: So moved.

MR. GOLLOTT: Second.

MR. TAYLOR: All those in favor. Opposed?

Carries. Thank you.

MR. CHAYAGNIER: That’s it for me. Anything else?

G. Marine Fisheries

MR. TAYLOR: Next on the agenda is marine fisheries, Dale Diaz.

MR. DIAZ: Good morning, Mr. Chairman, commissioners, Dr. Walker, Ms. Chesnut.

I want to mention a couple of things before we get started with the agenda. One is I want to let you know that NGA, in coordination with the American Sportfish Fish America Foundation has awarded the Nature Conservancy and MDNR $75,000 grant to do a cullch planting activity up inside of Bay St. Louis.

This project will be completed sometime during 2012.
approved area.

One of the things that’s holding us up, we haven’t done the plant yet, is because there is a beneficial use project that still has to be done on the east end of Deer Island. And we don’t want to plant the material until that beneficial use project is completed. We don’t want to put it out there and have it get any problems that might cause some sitting or something from that beneficial use project.

So we’re just waiting until that’s done and do plan on completing that as soon as the beneficial use project is done.

Mr. Gollott: I just wanted the fishermen to know that we are working -- the staff is working on these problems as hard as they can. And a lot of times you don’t like to come out and just talk about it before you get some progress on that. But thank you very much.

Mr. Diaz: I think on planting cultch, I don’t know of a state in the country that has planted more cultch material than the State of Mississippi since the mid-’90s. We’ve done cultch plants every spring and fall. We’ve been fortunate to have some money to do that. And, you know, that’s what keeps the reefs going. When we do have productive years, part of that is the fact we’re doing some stuff to do some restoration work and keep the reefs in good a shape as we can.

Mother Nature and things like the Bonnet Carre Spillway come along, and, you know, if you ever look at the cycles of oysters over a long period of time, they’re up and down because environmental conditions change, and they’re in one spot and they can’t move.

But anyway, thank you for your question.

First up for marine fisheries is going to be Ms. Traci Floyd, and she’s going to ask you about final adoption on a live bait shrimping regulation.

3. Title 22 Part 6

Ms. Floyd: Good morning, Mr. Chairman, commissioners, Dr. Walker and Sandy.

This presentation is for the final adoption for administrative and legislative updates to match state statute for Title 22 Part 6 rules and regulations for live bait shrimping.

I’ll go over these updates briefly. In Chapter 2, we’re just updating the reference to Mississippi code.

Chapter 4, we’re just clarifying the take of shrimp for personal consumption in the bays, again to match state statute.

In Chapter 5, we’re removing the requirement that trawling times be provided.

In Chapter 6, we’re matching state statute that now allows the application for bait camps and the licensing of those bait camps to occur year round.

And in Chapter 12, an updated reference to Mississippi code.

The notice of intent on these changes was filed on August 16. It was published in the Sun Herald on August 26. No comments were received. And if you’d like to make a motion, we can go ahead with final adoption.

Mr. Taylor: Do I have a motion?

Mr. Bosarge: I make a motion we adopt the changes to Title 22 Part 6 of the live bait shrimping.

Mr. Drummond: I second the motion.

Mr. Taylor: Any comments? All those in favor.

Carries unanimously. Thank you, Traci.

Ms. Floyd: Thank you.

Mr. Bosarge: Traci, there’s been a lot of concern about what’s going on within the bay and the shrimping in the bay. Is the testing still taking place?

Ms. Floyd: For the seafood safety?

Mr. Bosarge: Correct.

Ms. Floyd: Absolutely. We continue to do that monthly. The results are on our web page. And if anyone has any questions, they can contact me at any time, and I’ll get those directly to them.

Mr. Bosarge: It’s been quite a different year in that -- and I’m sure, I would imagine within your sampling,

1 have you seen where during your sampling you’re not seeing the numbers of whatever organisms that you normally see?

Ms. Floyd: We are seeing -- so far, what we have seen is comparable to previous years. But we do want to study that much further. And sampling is ongoing, but --

Mr. Bosarge: It’s something I think we need to look into because these guys can tell you and I can tell you personally, for whatever reason, this is an out of the ordinary year, you know, for whatever reason.

But let’s look at it closely if we can.

Ms. Floyd: Absolutely. We are doing that, and we’re happy to share those results with you. Thank you.

Mr. Taylor: Thank you, Traci.

Mr. Diaz: Next up for marine fisheries, Christine Murrell has a presentation about the trip ticket program before you.

4. Trip Ticket Program

Ms. Murrell: Last month I presented a trip ticket implementation program. And I’m going to briefly go over the trip ticket system in Mississippi, and then I will go over the notice of intent after the presentation.

Trip ticket implementation. At the Mississippi Department of Marine Resources commission meeting in April 2011, a motion was passed directing the office of marine fisheries to develop trip ticket plans for all commercial
fisheries, beginning with crabs, followed by finfish and then shrimp.

A trip ticket program is a system to collect commercial landings and associated information by trip. Trip tickets would replace the current system used to collect Mississippi commercial landings if approved. Currently, Mississippi is the only Gulf state that does not collect trip tickets in all fisheries. Some of the reasons for implementation:

Provide for quantification of loss of income, vessels, and gear due to hurricanes and other disaster, and allow a more equitable distribution of disaster funds.

May enable fishermen to get an accurate account of seafood landed.

Better evaluate effects of proposed and current management regulations.

Sometimes funding is based on landings.

Therefore, by not collecting all sources of landings, Mississippi could be missing out on its share of money.

Trip tickets are a first step in traceability, which allows for the tracking of food products through all steps of production, distribution, and sales.

This is just a summary of the changes. It would be a change to MDMR Regulation Title 22 Part 9, the reporting requirements which includes fresh product permit and trip ticket form.

: One of the things I'd like to see you modify in your deal here is it says that people are required to send it in, where right now if you go around to the different processors and collect it, I'd like to see that word, you know, sent or collected.

: MR. MURRELL: Okay.

: MR. GOLLOTT: Change there.

: MS. MURRELL: Right. I would still be going to the dealers and I can collect them.

: MR. TAYLOR: Are we still looking at electronic?

: MS. MURRELL: Yes. You have the option of submitting them electronically, and either way. And the electronic program is simple and easy to use.

: MR. BOSARGE: And the form is still basically the same as it was before? They use the trip ticket itself?

: MS. MURRELL: Correct.

: MR. BOSARGE: No changes?

: MS. MURRELL: No changes. The only change I think we got rid of depth. We just removed that. We didn't include that. A lot of states don't ask for that, and we didn't want to ask for depth.

: MR. BOSARGE: We did put customs house numbers and state registration numbers on the form?

: MS. MURRELL: Yes, on the paper form. I'm working on that electronically. It has been addressed.
MR. TAYLOR: One of the things that I think I talked to Christine and we've discussed is that if you're a dealer or whatever, if you're using electronically most of your fields, once you use it, will repopulate themselves. Correct?

MS. MURRELL: Yes. You can enter the fisherman data and the boat information, and it's all -- as soon as you've entered the license number or whatever, it will all come up so you don't have to enter it every time.

MR. STEWART: What is the fresh seafood sales permit about? What's it for?

MS. MURRELL: It's for if you're a fisherman and you want to go back out and you want someone to sell your catch while you're fishing, you can get that fresh product permit. And that's only if you don't want to sell it to a dealer, if you sell your catch to the public.

MR. STEWART: I thought we already had that under our license, fishing license.

MR. TAYLOR: It might. I'm not sure. But what's happening is that shrimp is not being reported. And again, it goes back to having correct data. And that's the issue there. It's a non-cost. It doesn't cost you anything.

How many people can be on the license?

MS. MURRELL: We're just having one per -- one permit per license. It will be tied to a license.

MR. TAYLOR: Okay. There's no cost to the fisherman.

MS. MURRELL: There's no cost. And if you sell to a dealer, you won't have -- the dealer will be in charge of filling out the trip ticket.

MR. BOSARGE: But the dealer will give you your receipt or you --

MS. MURRELL: Right. It's a -- right.

Okay. Let me go on to the changes.

Title 22 Mississippi Department of Marine Resources Part 9 rules and regulations for statistical reporting and confidentiality of statistical data for marine fisheries in the State of Mississippi.

Basically, the first three sections are the same, and Chapter 4, Chapter 6 are just removed.

This is the -- Chapter 5 is the fresh product permit secondary fresh product -- that shouldn't be in there -- just the fresh product permit.

The licensed commercial fisherman may only sell to a dealer, seafood dealer, processor, a validly licensed commercial fisherman may sell their catch to a consumer within the state if they in their possession a fresh product permit obtained from the MDNR.

An alternate person may be added to the permit at the time it's issued in order to allow the catch attributed to the commercial license to be sold to consumers while the commercial fisherman continues to fish. And there will be no fee for this permit.

Basically, landings reporting requirements. It was by fishery, and we're just including all fisheries under the same reporting requirement.

This is the main change here. Seafood landings reporting requirements. Unless otherwise specified, each seafood dealer/processor is hereby required to complete Mississippi trip tickets provided by the MDNR. Commercial fishermen who sell their catch to individuals other than a Mississippi dealer/processor are hereby required to complete Mississippi trip tickets provided by the MDNR and be in possession of a fresh product permit.

Commercial fishermen who sell their catch to anyone other than a Mississippi licensed dealer/processor or transport their catch out of state are required to purchase and possess a dealer/processor license and are required to comply with all regulations governing Mississippi dealers/processors.

All trip tickets shall be returned to the MDNR or electronically submitted on or before the 10th of each month for actual transactions from every commercial fisherman during the preceding month.

A trip ticket summary form that states the total trips taken in a given month shall be submitted by the 10th of each month by the seafood dealer/processor or commercial fisherman.

The fisherman is required to provide to the dealer complete and accurate information necessary for the completion of the fisherman portion of the trip ticket. This includes but is not limited to commercial fisherman's name, valid license number, date and area of harvest, depth, trip and fishing time, proper vessel identification, gear, quantity, and size of gear used, and applicable mesh size if any of gear used, seafood dealer's name, date of purchase, dealer license number, port and county product was landed, species being purchased, weight or any other applicable standard, condition of product count or market grade of purchased seafood product, and price paid per unit, pound, or number for species.

The seafood dealer/processor or fisherman is required to verify the accuracy of the tickets by signing each ticket. Menhaden seafood dealers/processors shall provide information on catch in accordance with the requirements of the National Marine Fisheries Service.

Let me go back. The fresh product permit, if you don't sell to a dealer, you will be required to have the fresh product permit. But it will also allow a fisherman to sell -- they can get another name on it when they get their license, and that way if they're fishing...
But if you don't sell to a dealer, then you have to have a fresh product permit in order to sell to the public.

MR. TAYLOR: Is there a -- allowing two names, alternate names? Because there are people that are selling shrimp, one of them might be sick or something, the boat is out, and I guess if it's not a problem, you know, two names.

MS. MURRELL: Right now, we're just having one.

But, I mean, if it comes up quite a bit, you know, we can look into that.

MR. GOLLOTT: Christine, I see a problem here with signing it. In other words, when you come to my facility, I run a report for you which is generated off the invoices that we make for the boats when we pay them.

That would kill that whole process for me if they had to sign each and every one of these reports.

MS. MURRELL: The dealer can sign them.

MR. GOLLOTT: The dealer can sign?

MS. MURRELL: Right. The dealer signs the ticket.

MR. GOLLOTT: And you also still got depth included in there, discrepancy.

MS. MURRELL: I'm sorry.

MR. BOSARGE: Let me make sure, Christine, it's correct, this comment. With any other trip ticket system I've ever been involved with in all the rest of the states, as you unload your catch, when you finish your catch, you keep your trip ticket. There's a trip ticket generated that shows what you caught, takes all the information, where you caught them, the days fished and everything, and it's separate from the invoice. It's a trip ticket. And at the bottom of it, you sign the trip ticket as your proof of what you did. And it's issued to you as you unload.

MS. MURRELL: That the dealer and fisherman sign.

MR. BOSARGE: No. Just the fisherman signs.

MS. MURRELL: The fisherman -- well, currently in the other states you're talking about?

MR. DIAZ: The way we have it written up right now is that if the fisherman is unloading to a dealer, the way it is right now is the dealer can sign that trip ticket. So...

(Comments from audience.)

MR. BOSARGE: Is that a trip ticket? I mean --

MR. STEWART: Anybody can fabricate that.

MR. BOSARGE: You see what I mean? That you receive for your catch, and that receipt is yours. And when you sign your name to the bottom of that receipt, you're saying that what you reported is correct, everything you've done is correct, and you sign your name to it. That's a normal trip ticket in any state I've ever been in. I don't understand how we can have anybody else signing that and validating that information.

MR. DIAZ: Can you go to that section where that's at?

MR. GOLLOTT: Excuse me, Dale.

I think this gets down to the integrity of the dealer. Why would I want to change anything? It's a lot more convenient for me to run a report at the end of the month, and it spits it all out off of the invoices.

MR. BOSARGE: I'm not trying to say that anybody would change anything. I'm just saying that's the way the trip ticket system -- any trip ticket system I've ever been involved in, that's the way it works.

MR. MURRELL: On the end, it says the seafood dealer/processor or fisherman is required to verify the accuracy of the tickets by signing each ticket. It says or.

MR. STEWART: No good.

MR. DIAZ: Certainly, if a motion is made on it, I mean, it could be amended however the commission sees fit if there's a motion made to...

MR. BOSARGE: I don't see it as a big deal, honestly. I mean --

(Comments from audience.)

MR. BOSARGE: -- uniform, and then I just feel that the information that you're going to gather from the trip ticket system needs to be validated by the person signing it.

It's your receipt. Do you see what I'm saying?

In other words, it's like anybody can go and charge something, you're going to sign you name to that receipt, it's the same thing with the trip ticket system. It's your receipt of what you've done, you see?

MR. GOLLOTT: Commissioner, when a person gets paid at my place, they sign the invoice. So, I mean, if you want to back it up, come in and look at it, the invoice would be signed where they unloaded X amount.

MR. BOSARGE: And it's not there s any differences. The way that information is going to be gathered and what it's going to be used for, and that information, it's totally different from your receipt for your catch, if you follow what I'm saying. Trip ticket basically records effort, records landings. It's totally different from the receipt for where you actually -- what money you're getting for your catch.

This trip ticket system or this trip ticket is to show where you caught, what you caught, how long it took you to catch it. And basically, I guess, at the end what you got for it.

MR. GOLLOTT: Well, basically it boils down to when I'm making an invoice for a fisherman, I can ask him a few questions, put it in my computer, and then it's all generated out at the end of the month. And the fisherman doesn't have to stand there and fill it out himself and sign it and everything.
It's just less paperwork for the fisherman.

(Comments from audience.)

May I ask you to hold your comments. If you want to say something, please raise your hand.

MR. BOSARGE: I do understand that this is a new system for the State of Mississippi. But I would like to get it right the first time if any way possible.

And, like I say, if you go back and the information is being gathered through the trip ticket system is something totally different than sales which -- and the way the information is going to be pulled from, in other words, when National Marine Fisheries wants this information, or whatever group, it needs to come straight from the trip ticket system. It doesn't need to go back through the processor trying to generate the information out of a sales receipt.

MR. DIAZ: I understand.

MR. BOSARGE: At the same time, the fisherman also -- and that's the part that, because I come from a fishing background, that maybe a lot of folks don't understand, I'd like my receipt. I want my information recorded, and I want to know that I signed the bottom of it, the dealer's name is on it, this is my receipt of what I am and what I did not coming from any other place because I've had times where I had to use those receipts to prove that I had landings in a certain place to qualify for a permit. And I don't want to have to go back to a dealer or to the state and try to pull this information out again. That is my receipt.

And I think most of you -- if you talk to most of these fishermen, that's what they want. They want the same system that we have in Texas, Louisiana, Alabama, and Florida, right on through.

MR. TAYLOR: Catfish, briefly.

MR. MILLER: Steve is right, you know.

MR. DIAZ: I think you need to come to the mic.

MR. TAYLOR: Come to the mic, please. State your name.

MR. MILLER: My name is James Miller at Catfish. Steve, you're so correct. We need to get this right the first time because this means a lot for our landings in the future.

And if you don't do it right, you can swap around and make things -- the dealers can make more shrimp than they possibly landed at their factory. I'm not saying anybody is doing that, but it's possible. They can do that.

Now, when I unload my shrimp at Dean Blanchard's, if I don't have my sell card, I'm not even unloading my shrimp there. You got to buy on your license, you got a dealership, and that's what you need to do.

And they tell you exactly where you catch your shrimp at, Zone 1, 2, or 3. Simple gig. Caught it in 2. That's right there in Morgan City Channel.

MR. TAYLOR: Thank you.

MR. MILLER: I mean, come on, we got to get this right for us for the future for these national disasters, the oil spills, Katrina, these floods. We got to get up on this.

We're late, man. We got the lowest money in our state from this oil spill.

Y'all have a nice day.

MR. TAYLOR: Thank you.

MR. GOLLERT: Let me say this. If a fisherman comes in to my place and wants a trip ticket, I'll give him a trip ticket. We can do it any way he wants to.

The ones who don't want to do it, that don't want to have to go through all of this, I will take and put on my computer and generate it.

And I think most of the dealers in Mississippi is doing the same thing. It's just a convenience thing. I can't imagine why a dealer would change anything unless he tries to get it less than what it was or something.

MR. JOOST: Don Joost, commercial fisherman.

I just want to say that I want to back up Commissioner Bosarge. So many permits and licenses today are based on recorded landings. And you take like with the Louisiana oyster license, if a landing was lost, you know, through electronic reporting and things like that, and you didn't get a license or you had to go through appeals process.

So I just think that the more points that we have to prove that that's your landings, I think the better off that the state and the fishermen would be just having that, not just having it rest solely on the responsibility of the dealer or solely on the responsibility of the fisherman, why not both.

And there were laws introduced in Louisiana after that little deal to make it so the fishermen could be responsible and could submit his own data so it wouldn't happen in the future.

MR. TAYLOR: Thank you.

MR. BOSARGE: To give you an example, I had one case where there was a trip ticket filled out. I neglected to get my copy of the trip ticket. When it came time for me to prove my landings, I said it's not a problem, I'll just go back to the state. The dealer neglected to report the landings to the state.

MR. JOOST: That happens everywhere.

MR. BOSARGE: Had I made sure I got my copy of the trip ticket, I would have had my proof.

And I learned a very valuable lesson. Now I make sure I get my copy of the trip ticket because you never know what's going to happen.

But that copy of that trip ticket is your proof of what you did, whether, like Don says, it's a computer...
failure or whatever, that they don't get reported, or they get
put in the wrong place, you still have your proof of what your
landings are.

And that's the part of the trip ticket system
that most fishermen want.

MR. TAYLOR: Thank you.

MR. BAYLous: My name is Chris Baylous.

The trip tickets, the way Mr. Gollott here is
proposing is absurd. Every year when we oyster, we have to
fill out trip tickets to the state every day.

It works for us. There's no hiding what we do.

We don't have to worry about the dealers meshing them up. It's
our responsibility. And we pay the price if we do not do it
correctly.

Now, what the situation is here is we can come
up with the ability to run our boats on our boats, we should be
able to take and make sure that we keep up with our own trip
tickets without having to worry about one or two individual
factorymen wanting it their way for whatever reasons they may
have.

Now, if I fill out a trip ticket and falsify it,
it's on me. But if I hand that trip ticket over to somebody
else, and they falsify it, it's on them? No, it's still on me
because it's in my name.

So we should be the ones filling it out, and the

dealers should be the ones signing it. We should be the ones
taking and submitting it to the state.

The dealer should not have to concern themselves
with the personal trip tickets of each individual license.

Thank you.

MR. GOLLOTT: I don't think this has anything to
do with the oyster industry.

MR. BAYLous: This was not a direct --

MR. GOLLOTT: We're talking about the shrimp
industry.

MR. BAYLous: Yes, sir, I did. That's right.

You're right, Mr. Gollott. We know your position.

MR. GOLLOTT: Okay. Thank you.

MR. BAYLous: I was making reference to the fact
that we have trip tickets and we've had them in this state for
16 years.

MR. TAYLOR: Thank you for your comments. They
have been well taken. Thank you.

Let me just make a comment because this is not
something that has just popped up. I've been on the commission
for five years, been talking about it. And we asked them to
develop a plan that is seamless. And when we say seamless, to
make it as least aggravating to everybody involved.

And one of the things with the electronic trip
ticket, once that information is punched in, it's sent

electronically. The data, once it's sent, if it's done that
way, cannot be altered by the processor, you know.

So they're trying to make it seamless for
everybody there. So thank you.

MR. DIAS: Thank you for saying that,
Commissioner Taylor.

We have through this whole process been trying
to work with folks and get input and set the system up where it
would be -- it has parts of it that's agreeable to folks.

But if this thing gets a motion and second, I
mean, it could certainly be amended at the commission's
pleasure.

MR. BOSARGE: It is a trip ticket system whereby
the information is collected. There is a receipt given to the
fisherman. And if I need to put that in the form of a
motion...

DR. ASPER: Before you do that. If you do an
electronic trip ticket --

MS. MURRELL: You print it out and give it to
the person.

MR. BOSARGE: And I believe the rest of the
states that do electronic trip tickets, there is still a paper
trip ticket filled out.

MS. MURRELL: Yes.

MR. BOSARGE: They get their trip ticket. They

compile the trip tickets, and they submit them electronically;
correct?

MS. MURRELL: Right. But when they enter --
when the transaction occurs, the data is entered and then press
print, and the fisherman gets a copy and the dealer can keep a
hard copy if he wants.

MR. BOSARGE: A lot of the places where we
offload, they're probably not that sophisticated to be able to
print that trip ticket.

MS. MURRELL: Then they fill out a paper form.
And the paper form has three copies.

MR. BOSARGE: That's right.

MS. MURRELL: One for the fisherman.

MR. BOSARGE: That's what we're after. And I
believe that we just need it to where the fisherman gets his
copy, and it's signed, it's his receipt of his catch and his
landings and his effort and his days fished.

MS. MURRELL: Okay.

MR. BOSARGE: And Commissioner Gollott, I don't
think anybody would change any landings. I don't think that's
what -- maybe I don't quite understand. In other words, I know
it's going to be a change for a lot of folks in the way they
present the information and the way it's recorded. But
evidently it must not be too burdensome simply because every
other state is already there. All the dealers do it.
MS. MURRELL: If we change that last line to say seafood dealer/processor and fishermen are required to verify instead of or, would that satisfy your...

MR. GOLLOTT: Let me say this, Christine.
Commissioner, it's just for convenience. I don't have any special agenda here. I'm not trying to get into anything. It's just making it convenient for my fishermen, that's all, so they don't have to stand there and fill out a -- it's generated electronically.

MR. BOSARGE: I believe most -- if you actually talk to most of those fishermen, they still want to get a receipt.

MR. TAYLOR: If it's done electronically, all you do is hit print.

In my industry, in the insurance industry, I don't even have a paper ap any more. We can't use paper aps any more. It's all done electronically. And the courts have ruled that if that's the case, that is valid, you know.
And so sooner or later, it's going to get to that anyway where you're not going to have that, but you can still ask the questions.
For instance, of Mark came into your office and unloaded shrimp, you know, type in Mark Stewart. Boat information, all that pops up. You ask him where were the shrimp caught, how much time, and you punch that in, and you can print that whole ticket for him.

MR. BOSARGE: The problem therein lies is because computers, computers are backed up, you got to understand that most fishermen aren't as computer savvy as probably you are, and myself included, but that information has a chance of being lost. And whereas with that paper copy, you've left the burden of proof upon the fisherman himself.
And like I say, I've experienced this firsthand. It's your responsibility, that is the fisherman's responsibility to collect his trip ticket, and that's his proof. If he loses it, it's his problem.

MR. TAYLOR: But he's not losing it; he's got the hard copy.

MR. BOSARGE: I don't quite understand where you're coming from.

MS. MURRELL: If you fill out an electronic trip ticket, you basically print out -- at the time, you print out the information that the fisherman just gave you, and there it is. It's the same concept.

MR. BOSARGE: That's fine, as long as he gets his receipt at the time he unloads. That's of the things -- in most of the ports, the first thing you have to present is your license. And the last thing that you do is your trip ticket, your copy of the trip ticket.

MR. TAYLOR: Mark, do you have a question?

MR. STEWART: Mark Stewart. What's going on here is we want proof, and we want it now. We've been waiting too long. We've been sweeping under the rug too long. What's going on right now, the best year we've had is landings in Mississippi in the last five years, we got enough.
This is why we want this. And we want our trip ticket when we unload. It's not a problem for the fishermen to come in there. We've been doing it for years already everywhere else. You go in there. You answer a few questions. They push a few buttons in the computer. You sign it. It's a done deal. It's not a hassle for the fishermen. It's our proof.
And it would also be proof that we didn't have no outstanding shrimp season here in Mississippi this year. It couldn't be no further from the truth. And we're suffering because of it. And it's not a problem.
We do it every trip everywhere else but here. I mean, it's just ridiculous to think that it's a burden on the fishermen. It's what we want. It's our proof of what's going on.
And when we go there and we unload our shrimp, before we get our check, we answer these few questions, and we get our proof and our check, and we leave; it's a done deal.
It's not a problem.

MR. TAYLOR: Thank you, Mark.
MR. SKINNER: Okay. And there are a lot of these people that sell down there on the pier down there. Very few of them probably got a computer, some kind of electronic device.

MS. MURRELL: They can fill out paper forms.
MR. SKINNER: That's what we need is two, two ways to do it.
MS. MURRELL: There will be two ways. Paper and electronic.
MR. GOLLOTT: Mr. Chairman, let me make a motion that we go out for public hearing on the proposal as staff has written it. They've put a lot of work into it, and I think it will work. As far as fisherman wanting paperwork, he can get it if he wants it. All he has to do is ask for it.
MR. BOSARGE: I disagree. (Inaudible.)
MR. GOLLOTT: It will go out for public hearing. If people want to comment on it, then when it comes back to us we can modify it.

MR. TAYLOR: We have a motion on a floor. Do we have a second?
MR. BOSARGE: I'd like to make an alternative motion.
MR. TAYLOR: We have to have a second first.
MR. DRUMMOND: I second.

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

MR. BOSARGE: Aye.
MR. TAYLOR: Motion carries.
MR. DIAZ: Next up for marine fisheries, Erick Forche is going to do state records.

5. State Records

MR. FORCHE: We have four new saltwater fishing records for your consideration today. They're all for fly fishing tackle.
The first one is for ladyfish, Elops saurus. The old record is 3 pounds 4.32 ounces. The new record is 3 pounds 7 ounces. The angler was Don Abram. The ladyfish and Mr. Abram.

Second is the yellow chub, Phosphus incisura. The old record is 4 pounds 4.8 ounces. New record would be 6 pounds 5 ounces caught by Doug Borries. Mr. Borries.
The third is for hardhead catfish would be a new entry, Arius felis. It would be a new record of 1 pound 10 ounces caught by Jordan Matthews. And Mr. Matthews' fish.
And last one would be for little tunny,

Buthynus allettersus. The old record is 12 pounds and 0.49 ounces. The new record will be 12 pounds 15.04 ounces caught by Dwayne Armes. And Mr. Armes.

Any questions?

Whenever they went out, we had two tonging boats with various Mississippi tongers on there. Some of these folks that would notoriously come in early, so we knew they were good tongers, and when we went out front, we we were seeing a lot of long faces out there.

I thought that was a good opportunity for them to -- and I really appreciate them taking their time out of their own days to go out and look at the reef areas.

But one of them had suggested that we look up in between the bridges. That's Area II-D conditionally approved waters. And so we went up in that area. And we found larger numbers of oysters there where they felt that they would be able to make a living.

So we decided to go ahead and try to bring this up on this commission's agenda.

This is Mississippi oyster landings. Y'all have seen this chart before from FY '90 to FY 2011. And as you can see, the Mississippi oyster landings do tend to fluctuate for one reason or another.
The commission has seen this chart, as well.

This is Mississippi commercial oyster license sales by type. And we had some preliminary numbers. I don't believe those numbers have changed very much. I have not updated those, but we had resident dredging 278, resident tonging 87, nonresident dredging 122, and nonresident tonging 96.
1 Now, I'm going to ask the commission to open up
2 a limited season for tonging only. And we did that or the
3 commission had opened up a tonging only season last year. And
4 one of the fishermen brought up before the meeting today the
5 possibility that those people that had purchased dredging
6 licenses this year, to give them the opportunity to purchase a
7 tonging, as well.
8
9 Our recommendation for the 2011-2011 Mississippi
10 oyster season is to open it up for tonging only.
11
12 We ask that the commission authorize the
13 executive director to set the opening date for a limited
14 Mississippi oyster season in Area II conditionally
15 approved waters to the harvest of oysters for tonging only.
16
17 We also ask that you authorize the executive
18 director to close areas to harvest to conserve the resource.
19
20 We would look for an initial ten sack daily sack
21 limit and authorize the executive director to adjust the daily
22 sack limit.
23
24 We are asking the commission to authorize the executive
25 director to modify the daily checkout time to no later than
26 4:00 p.m.
27
28 And to open reefs Monday through Saturday, and
29 as we usually do have the reefs and check stations closed on
30 Saturdays, Thanksgiving Day, Christmas Eve, Christmas Day and
31 New Year's Day.
32
33 Under other standard season provisions that we
34 do when we open up the season, they would remain the same as we
35 have in the past, such as check stations, correct change,
36 things like that.
37
38 We will continue to monitor the reef conditions
39 once the season opens and will make any necessary adjustments.
40
41 MR. TAYLOR: Scott, in your estimation, if we do
42 this, how will it affect the spat for year after next oysters?
43
44 Ms. Suarez felt that it would hurt the oyster season in the
45 future. But what are your feelings there?
46
47 MR. GORDON: Well, prior to Tropical Storm Lee,
48 one of our field technicians noticed that the oysters were
49 spawning then.
50
51 For those oysters that had not spawned, I'm sure
52 that the effects of Tropical Storm Lee with the drop in
53 salinity in the areas and also the drop in temperatures that we
54 saw right afterwards, those oysters that had not spawned,
55 spawned at that time.
56
57 So we have oyster larvae in the water as we
58 speak.
59
60 I'm glad that we were able to get our culture
61 plant operation completed yesterday. So I'm hoping that as we
62 speak right now, we have oyster larvae setting on that new
63 culture material that we have out there.
64
65 We also, The CONSERVATIONIST moved some oysters
66 opening this between the bridges?
67
68 Come on, people. I've been fishing since I've
69 been four years old. My father is a professional oysterman.
70 All our life we took care of the reef in the past. We're doing
71 a pitiful job with all this government money. We can't even
72 get food stamps and welfare, people.
73
74 Come on, man. You're talking about opening the
75 reefs?
76
77 I think you better save our hens and our eggs is
78 what you better do.
79
80 MR. TAYLOR: Thank you.
81
82 MR. GORDON: And, Mr. Chairman, Dale just
83 reminded me of a question Ms. Suarez had about us opening up in
84 between the bridges and whether that would affect I guess
85 future reef production.
86
87 No, I do not feel that that would be the case.
88 Whenever we had one of our -- if I go back to I
89 believe it was the '03-04 the high peak there where we were
90 nearly 500,000 sacks. After the season was over, we had time
91 to relax a little bit, I did some calculations just for my
92 curiosity, how many oysters would it have taken to produce that
93 number. And at the very bare minimum, we were talking about
94 150 oysters to produce enough larvae to make that 500,000 sack
95 season.
96
97 Oysters are very prolific. We just all need to
be thankful that they're all not successful.

But we have been going through some difficult
times, and the oyster fishermen are going through difficult
times. And we realize that, and we're trying to get these
areas recovered as quickly as possible.

MR. TAYLOR: Thank you.

DR. WALKER: Scott, would you agree that the
annual production of spat is hundreds, if not thousands, of
times more than we actually need to populate the reef size we
have to support it, and that the limiting factor in Mississippi is
hard bottom for these spat to set on; would you agree with
that?

MR. GORDON: Yes, if not millions of times
higher.

Yes, it's part of the cultch material that's out
there and also the proper growing conditions. So we have to
have the right mixture of the salt water and the fresh water,
temperatures, bottom types, things like that.

MR. TAYLOR: Okay. Do we have a motion to go
with the recommendation? Is there a motion to approve staff
recommendation?

MR. GULLOTT: What is the staff's
recommendation?

MR. GORDON: The staff recommendation, if you
would like, I can go over them again.

MR. GOLLOTT: Just briefly.

MR. GORDON: For the 2011-2012 Mississippi
oyster season for tonging only, authorize the executive
director to set the opening date for a limited 2011-2012
Mississippi oyster season in Area II conditionally approved
waters to the harvest of oysters for tonging only.

Authorize the executive director to close areas
to harvest to conserve resource.

Initial ten sack daily sack limit and authorize
executive director to adjust the daily sack limit.

Authorize the executive director to modify the
daily checkout time to no later than 4:00 p.m.

Open reefs Monday through Saturday, closed on
Sundays, Thanksgiving Day, Christmas Eve, Christmas Day, and
New Year's Day.

And the other standard provisions, such as the
check stations, correct change, etcetera, that we normally do
with each season opening order.

And we will continue to monitor the reef
conditions once the season opens and will make any necessary
adjustments.

MR. GOLLOTT: Scott, what I'd like to see is the
ten sack daily sack limit taken out, let the executive director
set it just in case he wants to do the five sacks, whenever —
the executive director.
So the commission has four options when there's a petition on the table.

You may make a final disposition of the petition by either granting or denying the requested action without further argument.

You may request a response from the BMR staff prior to making the final disposition.

You may set the matter for an evidentiary hearing or you may make such further order as it deems appropriate under the circumstances.

So at this time, we'd like to give Mr. Green the opportunity to present his petition, and then you can make a motion on which one of these you would like to follow.

MR. GREEN: Thank you. My name is James Green. And I want to thank y'all for giving me the opportunity to come and state my case.

I want to let you know that I'm not a criminal. And this $2,000 fine that I got kind of made me feel like I was.

So, I felt that it was in my best interest to come and explain the situation and give y'all a little bit of background that maybe you didn't have when you made your decision.

Around twenty some-odd years ago, I applied for a permit to build a boat shed. The permit requested the shed to be 14 feet in width in order to get my boat in. I'm not too good of a boat driver, and I figured I needed a little extra.

The commission came back and said that by doing this I was taking up too much of the bayou for navigable traffic.

I said, well, you know, I'm at a loss here. Is there anything I can do? They said, yes, you can dredge into your property and move the boat shed inward. I said, okay, that's what we'll do.

So we dredged into the property. The boat shed was constructed adjacent to the dredge area. Okay?

Not being too familiar with what hurricanes and boat traffic wash, all the adjacent area to the boat shed caved into the boat shed. So it made it almost unusable.

So I talked to several people. They said the only way you can stop this is put a bulkhead in. I said, okay. So I applied for permission to install a bulkhead but first dig out the area that had caved into the boat shed.

The BMR personnel came over, looked it over, and where I wanted to put the bulkhead was adjacent to the boat shed piling. They said, no, you can't do that because in this time period the hurricanes and everything else had washed about four or five feet back into my yard down into the boat shed. So they said you can't reclaim this property.

And it was quite an argument. I said, it's already my property, I pay taxes on it, I bought it, it's mine. Nope, you can't do it. Once the water washes over, it belongs to the state.

So I said, well, what can we do? So they laid out onto my property an approved position to put the bulkhead, which was about five or six feet from the boat shed piling.

I said, well, what you've done is you have required me to spend twice this much money to build this bulkhead. And there was an argument.

I said, well, I won't be able to build the bulkhead.

Well, I'm not too savvy about paperwork. So when the paper permit came back, it was only permitted to dig the boat shed out, which was all the money I really had to do with.

So, I got the guy down there. The BMR personnel had laid out where they would approve the bulkhead. And they left the little red flag stakes. But it didn't come back that the bulkhead is not approved to the boat shed. It's approved five or six feet back into the property. I just thought maybe there was an oversight.

They didn't come back and pull up the stakes and say you can't build a bulkhead. So I felt that being the stakes were there, wouldn't be any problem with building the bulkhead there.

So, the man was digging and he kept on and on, saying that what have done here is going to wash right back in there, that you ought to build a bulkhead.

So I decided to go to the bank and get some more money and construct a bulkhead in accordance with y'all's guidelines.

And I think Mr. Cole would attest to that. I put the bulkhead in the right place.

But the paper that y'all gave me didn't say that this was approved. So I'm at fault for not coming back and getting this discrepancy corrected. Okay?

The next problem was the boat shed had a pier on each side. The pier was about three foot wide, more or less a few inches, I don't know exact. And then the bulkhead now is about another three foot from my pier.

Well, the first thing happened, my little nephew comes down and falls in between there, and he had 19 stitches in his head from hitting the pier and the bulkhead. Of course, it was real sharp boards now because it's all brand new.

And I figured the best thing for me to do to keep him alive is to take the three foot walkway up and cover over across the bulkhead.

I didn't think that that was something that...
would cost a fine of $2,000. I mean, I didn’t think I was doing anything wrong here. If I did, I will pay for whatever I did wrong.

And Mr. Cole came out to inspect, as you all do, and I’m glad you do, how I had complied with the permit. He found that I had constructed the bulkhead. I said, yeah, I did it exactly where y’all told me. And he said, yes, looks like you did. And he said that what we could do is submit another permit to change the language in the original permit, but submit it with a $50 check to cover it.

And he called me back a day or two later, said looks like we’ll refund your $50 because it’s just a paperwork problem. Okay? I said that will be good.

And then, he comes back and says, I need some information on the -- I’m going to call it a pier or walkway that you have there.

So he came out and did some measurement. And then the next call was -- we submitted it to the commission for approval. And unfortunately, I had a death in the family and I couldn’t come to that meeting to give you all the background information for whatever it may do. That the fine was going to be $2,000.

And I feel like maybe I had robbed a bank or something, a $2,000 fine. I’m willing to pay the amount that I feel is commensurate with the problem that I caused. I don’t feel like I’ve caused any problem.

I did something that the paperwork did not match. Y’all came back and approved what I did. You didn’t disapprove it and tell me that I had to tear it back down. So I don’t feel like that the $2,000 is commensurate with me building the bulkhead without the paper saying it even though y’all said that I could build it there.

I did put the pier which I didn’t ask approval for. Now, if you feel like that pier is worth $2,000, I will pay it.

MR. TAYLOR: Thank you.

MR. GREEN: Thank you, sir. I request that you reconsider it.

Thank you.

MR. GOLOTT: Mr. Chairman, can we hear from the staff on this?

MR. TAYLOR: Yes.

MS. BRANTLEY: We do have a response prepared. It was also included in your mailout packets. First of all, just to remind you, Title 22 Part 15 requires that any petitions for reconsideration shall state specifically the points of law or facts which the party requesting the reconsideration believes the commission overlooked or misapprehended.

Mr. Green’s first statement was that approximately 25 years ago he obtained a DMR permit to construct a boathouse and that at that time he was required to excavate into his property in order to facilitate the boathouse in the size that he wanted.

Mr. Green could not provide a copy of that permit, nor could we find a copy in our historical files. It wasn’t mentioned, it’s not in the record that it was mentioned at any time in 2006 when the original permit was issued. And so DMR staff at that time evaluated the property as it was based on the current ecological conditions because there was no documentation that it should be evaluated in another way.

He also states that DMR mistakenly omitted the bulkhead from the permit that was issued in 2006. Our records show that Mr. Green requested that the bulkhead be omitted from the 2006 permit because he was unhappy with the location which DMR flagged. Mr. Green wanted to construct the bulkhead seaward of the current mean high tide in order to save money on the construction costs.

And his after-the-fact application that he submitted in July 2011 clearly states that constructing a bulkhead within that marked location would triple his cost, so he advised DMR staff that he would only dredge. And also besides that, omitting the bulkhead from the permit, even if it was a clerical error, still would not justify his construction of the unauthorized pier.

This is a view of his after-the-fact application which we received in July of 2007, and Mr. Green wrote in that application for this location it would triple my cost of construction, so I advised I would only dredge. So that’s where he made the statement that he told us to remove the bulkhead.

Mr. Green also states that upon discovering the violation, DMR staff informed him that he could modify his original permit without a problem and that we never mentioned that we would recommend a $500 fine. If you remember, that was actually the staff’s recommendation and the commission chose to raise that to two thousand.

Mr. Green’s 2006 permit specifically states as all our permits do that any deviations beyond the restricted conditions as set forth in your permit shall be considered a violation and may result in the revocation of the permit. Violations of these conditions may be subject to fines, project modifications, and/or site restoration.

And therefore, based on that response, we recommend that his petition for reconsideration be denied.

Are there any questions?

MR. TAYLOR: Would you put the options back up, the first slide that you had up there, for the commission, please?

Okay. We have a staff recommendation. Do we...
1 have a motion?
2 MR. GOLLOTT: Mr. Chairman, I would like to make
3 a motion that we go with the staff's recommendation. The only
4 thing is we will cut the fine in half to $1,000.
5 MR. TAYLOR: Do I have a second?
6 MR. GOSNAGH: I would like to make an alternate
7 motion.
8 MR. TAYLOR: If there's no second, then motion
9 dies for lack of a second.
10 MR. GOSNAGH: That we do give Mr. Green his
11 permit and that we go with the original staff's recommendation
12 of a $500 fine.
13 MR. TAYLOR: Do I have a second?
14 MR. DRUMMOND: I second the motion.
15 MR. TAYLOR: We have a motion and a second on
16 the floor. All those in favor. Opposed. Carries unanimously.
17 Thank you.
18 MS. BRANTLEY: Thank you.
19 MR. GREEN: Thank you very much.
20 MR. TAYLOR: By the way, this is not anything
21 criminal, and it's never been in the five years that I've been
22 on the commission. People make mistakes, and we have to uphold
23 the law, that's all it is.
24 MR. GREEN: I understand.
25 MR. GOSNAGH: And we do appreciate you coming
backward and admitting your mistake.
2 MR. GREEN: Thank you.
3 b. Richard Fincher and James Fincher
4 MR. COLE: Good morning. My name is Ron Cole,
5 and I'll be presenting the next project.
6 It is a violation/after-the-fact permit by
7 Richard and James Fincher. It's located on the Pascagoula
8 River off River Lodge Drive in Moss Point. It's in the general
9 use district.
10 Here you can see an aerial photograph of the
11 project location.
12 The project is located on the Pascagoula River
13 north of I-10 and just to the west of Highway 613.
14 On March 1, DNR staff discovered an unauthorized
15 boathouse, bulkhead, and piers while performing routine site
16 inspections in the area.
17 On June 23, after multiple meetings between the
18 applicant, the Secretary of State, and DNR staff, a restoration
19 proposal was agreed upon for the violation that had been --
20 that had taken place.
21 On July 15, a completed after-the-fact
22 application was received by DNR.
23 A little description of the project.
24 The applicants have constructed a bulkhead,
25 boathouse, and three piers without authorization. The
1 unauthorized activity resulted in approximately 150 square feet
2 of state owned waterbottoms being filled. And the square
3 footage of the structures exceeds the current shading precedent
4 for a residential project which is 2016 square feet.
5 Here's a diagram of the unauthorized structures.
6 As you can see, there's a 52 foot long bulkhead. There is a
7 pier parallel to that that measures four and a half feet in
8 width. There is a covered boathouse and piers built along the
9 sides of the boathouse.
10 Here's a photograph of the unauthorized
11 structures.
12 Just to break down the dimensions of the
13 unauthorized structures, you have 92 linear feet of bulkhead, a
14 parallel pier that is 92 feet long by 4 and a half feet wide.
15 And part of that pier is being constructed over emergent
16 wetland vegetation. There's another pier that measures 35 feet
17 by 7 feet. It's constructed perpendicular to the bulkhead.
18 And a nine and a half foot by seven foot finger pier and a
19 covered boathouse that measures 48 and a half feet long by 27
20 and a half feet wide.
21 The square footage of this structure is
22 currently 2059 and one-quarter square feet.
23 The precedent for a residential project is 2016
24 square feet. So the applicant exceeded the residential precedent
25 by 43 and a quarter square feet.
1 This is a diagram of the significant impacts.
2 And this structure actually straddles two separate lots. One
3 is owned by the father on the right-hand side. You see James
4 Fincher. And the other is the son Richard Fincher on the
5 left-hand side.
6 The son Richard Fincher has taken full
7 responsibility for the construction of the structures. And
8 because of legal matters, we have to actually have them as
9 co-applicants for the permit. But Richard Fincher, the son,
10 has claimed responsibility for constructing the boathouse and
11 piers and bulkhead.
12 The red area there you will see is waterbottoms
13 that were filled. The original property had a bulkhead
14 constructed at an angle to the adjacent property. Whenever
15 they got ready to construct the new bulkhead, they wanted it
16 straight and not at an angle, so they basically went off of Mr.
17 James Fincher's bulkhead and shot a straight line across which
18 resulted in the 150 square feet of waterbottoms being filled.
19 At the same time, they constructed a pier
20 parallel to that bulkhead and shaded out. I think it was
21 approximately 135 square feet of emergent wetland vegetation
22 and then constructed the boathouse and additional piers. And
23 you can see where the property line divides the structure.
24 This is a photograph that kind of outlines the
25 dimensions of the bulkhead. You can see where the original
1. Our decision factors for this.
2. This project does not serve a higher public
3. interest.
4. It is allowable in the general use district, and
5. no variances will be required.
6. Similar projects have been approved in the area,
7. so we don't expect this to set a precedent.
8. Project should have a minimal effect on the
9. biological integrity of the coastal wetlands once it has been
10. brought into compliance with the DNR guidelines.
11. Best management practices will be utilized
12. throughout the restoration process.
13. No offsite alternatives were considered since
14. this is a private residential property, and the structures are
15. meant to provide the homeowner water access.
16. Similar structures are located along the
17. Pascagoula River, and the project should not adversely impact
18. the scenic qualities.
19. The project has been out on public notice in the
20. Sun Herald. We didn't receive any comments.
21. DEQ is currently reviewing the project.
22. The Department of Archives & History had no
23. comment.
24. And the Secretary of State's Office has
25. indicated that a lease will be required.

1. So after a thorough evaluation of the project,
2. staff recommends that the commission require the unauthorized
3. structures to be brought into compliance with the previously
4. outlined restoration plan and approve the after-the-fact
5. permit.
6. Staff also recommends that all construction
7. should be completed within 120 days of the commission's ruling
8. or the matter should be forwarded to the Attorney General for
9. further enforcement action.
10. And at the discretion of the commission, a fine
11. may be issued in accordance with Mississippi Code.
12. Potential penalty range. The violation was
13. discovered on March 1. We received the application I believe
14. on July 1. So the duration was 122 days. Maximum potential
15. fine could be sixty-one thousand. And, of course, the minimum
16. as always is $50.
17. Our recommended fine in this case is minimal
18. fine at the commission's discretion.
19. And our decision factors for coming up with that
20. recommendation is that the project will be restored to meet
21. guidelines. The restoration work will be substantially
22. expensive. Mr. Fincher has been very cooperative and readily
23. accepted responsibility for his actions. And Mr. Fincher
24. claims no prior knowledge of the permitting process.
25. MR. GOLLOTT: Is Mr. Fincher here?
MR. COLE: Yes, he is.

MR. TAYLOR: I have a question first for you. On the Secretary of State, why is he requiring a lease? It seems like the square footage went down below the minimum required. Did it?

MR. COLE: Well, it did go down below the minimum or below the precedent set for these types of projects, residential projects. But the Secretary of State's Office requires a lease for anything over 1,000 square feet.

MR. TAYLOR: Thank you.

MR. Finch, would you like to speak?

MR. FINCHER: Richard Finch. Thank you, commission, for hearing this out today.

Our place backs up on the Escatawpa River, so you know any time we do anything or if we -- permitting process I know this seems hard to believe whatever after building this.

But the guy, he was building a bulkhead down the road or doing some maintenance down the street and I saw the guy doing it. And I had plans in my head of what I wanted to do.

And so then after talking with him, said hey, come up here and let me show you what I want to do. And so then we started on the bulkhead and really didn't have any intentions of building a boathouse at that time.

And then we got talking about a boathouse. He said why don't you let me go ahead and let me build a boathouse.

And so then that was when we come up with the boathouse.

And so after Ron and them, they come out, I said, hey, guys, it's not -- we enjoy the East River, and it's strictly for recreational purposes only. And, you know, not doing anything to harm the waterway.

Thank you.

MR. GOLLOTT: Mr. Finch, can you complete this in 120 days?

MR. FINCHER: Yes, sir.

MR. DRUMMOND: You didn't have one permit, Mr. Fincher?

MR. FINCHER: No, sir.

MR. TAYLOR: Who was the contractor?

MR. FINCHER: Frankie Brown.

MR. TAYLOR: Have we got any violations on Mr. Brown or anything in the past that you know of?

MR. COLE: Not that we are aware of.

MR. BOSARGE: I'd like to make a motion. I make a motion we accept the staff's recommendation and set the fine at $500.

MR. DRUMMOND: I second the motion.

MR. TAYLOR: Any discussion? All those in favor. Motion passes unanimously.

Thank you.

MR. DAVIS: Good morning. My name is James Davis. I'll be presenting the next two items on the agenda. First I have a violation/after-the-fact permit by Huey Stockstill, Incorporated. It's located on the Jourdan River at 2359 North Nassau Street in Bay St. Louis. It's in the general use district, and the agent is Pink Marine Construction.

Here is a serial of the project location. You see the Bay of St. Louis and then the Jourdan River comes down. This is in the Shoreline Park area which is just south of I-10. A closer zoomed-in shot of the property. It's a corner lot.

Project chronology.

On April 23, 2011, a general permit was issued to -- I'm sorry -- that should be 2010 a general permit was issued to Huey Stockstill, Incorporated, for a bulkhead, piers, uncovered boathouse, mooring pilings, and dredging.

On December 30, 2011 (sic), the violation was discovered by DMR staff while performing a compliance check.

On January 5 -- I apologize, that should both be 2011 -- a notice of violation was sent to the property owner.

On January 11, we received a phone call from the applicant, and we arranged an onsite meeting for January 25.

On January 25, we met on site with the property owner. We discussed the violation and ways to bring the project either into compliance or apply for after-the-fact authorization.

They were informed the project would require a tidelands lease and have to go through the permitting process since the project totaled over 1,000 square feet.

On February 7, 2011, staff received after-the-fact application.

Previously permitted structures was a bulkhead 391 feet in length, a pier 330 feet by 3 feet in width, an open-sided uncovered boathouse 32 feet by 12 feet, two mooring pilings placed 22 feet into the waterway, and dredging an area of 25 by 12 feet in width to a depth of six feet.

The structures as constructed are a pier 91 and a half feet by 3 feet in width, a 15 and a half feet pier by 4.1 foot in width, a pier 225 foot in length by 4 and a half feet, a pier 23 by five feet, a pier 16 feet by 15 and a half, and a covered boathouse 33 and a half feet by 15.6 feet in length.

And on the boathouse, only 5 and a half feet in length by a 15.8 foot section is actually over water. The remainder is over a keyhole slip. So we're not going to count the additional square footage over the keyhole slip in with the
Pile supported structures should have a minimal impact on the biological integrity and productivity of the area. The project has been completed, so no other adverse impacts are anticipated. No offsite alternatives were considered because it's a private residence and the project serves to allow the homeowner access to the water. And construction of a boathouse, pier, and access pier require a waterfront location. Public notice was ran in the Sun Herald on these dates. No comments were received. DEQ is currently reviewing the project. Archives & History had no comments. And the Secretary of State has indicated the project will require a lease. Based on the results of our evaluation, staff recommends the commission approve the after-the-fact request and issue a fine in accordance with Mississippi Code 49-27-51. Our penalty range is the violation was discovered December 30, 2010. Until we received the after-the-fact application, the violation was open for 36 days. The maximum potential fine is nineteen thousand with a minimum being fifty. Our recommended fine will be $2500 to the agent.

MR. BOGARDE: I make a motion that we accept staff's recommendation and set the fine what they asked for it to be.

MR. TAYLOR: Do I have a second?

MR. DRUMMOND: So moved.

MR. TAYLOR: Those in favor. Opposed.

MR. GOLLOTT: No.

MR. TAYLOR: Let the record show that Commissioner Gollott opposed.

Thank you.

d. Chevron Products Company

MR. DAVIS: Next I have a request for permit modification by Chevron Products Company. It's located at Bayou Casotte at 250 Industrial Road in Pascagoula. It's in the industrial development use district. And the agent is AECOM Environment.

This is an overhead view of the project location on Bayou Casotte. It's down here, right here on the right, and then the Chevron Products Company refinery is in this area here.

Project description. Previously permitted structures in Berth 9 and 7A will not be constructed.

For fill, they were previously authorized 72.29 acres of nontidal wetlands. They are additionally requesting 2.99 acres of nontidal wetlands. And for this, the additional
fill is required for construction of access roads, laydown
areas, and construction corridors. And total wetland fill --
total nontidal wetland fill will be 75.29 acres.

Shoreline stabilization. A concrete mat
reevetment approximately 20 feet wide and up to 1,000 feet long
is to be installed near Berth 7A. And they are also
considering the use of concrete riprap if the material is
available during time of construction.

Structures within Berth 9 will be 180 foot by
41.7 foot roadway, a 95 foot by 60 foot platform, a four foot
wide pier totaling 700 feet in length, four mooring dolphins,
three berthing dolphins, two breasting dolphins, and a 14 foot
by 9 foot gangway. Total square foot associated with Berth 9
will be 19,988.

Structures proposed within Berth 7A would be a
240 foot by 41.7 foot roadway, a 60 foot by 80 foot main
platform, 4 foot wide pier totaling 840 feet in length, two
breasting dolphins, four mooring dolphins. And total square
footage associated with Berth 7A will be 23,444.

Total square footage associated with all
structures will be 43,432. And this modification will increase
the amount of over water structure by 978 square feet from the
previously permitted project.

This is a diagram. This area here has already
been permitted. They are currently dredging at the moment.

And then this would be the concrete revetment in front of Berth
7A. And then the wetland fill would be along the lines in this
area there.

Decision factors.
The project does serve a higher public purpose
by upgrading the refinery's ability to process, ship, and store
petroleum products. The project will also provide local jobs
and tax revenue.
The project is allowable in the industrial use
district.

Similar projects have been approved, and no
precedent setting effects are anticipated.

There will be a temporary increase in turbidity
in the area, a loss of benthic organisms, increased shading,
and fill of nontidal wetlands.

Mitigation credits are being obtained from the
Road Lake mitigation area to offset the impacts of the nontidal
wetland fill.

Additional impacts to adjacent uplands include
upgrades and expansion of the refinery process area, west tank
farm, learning centers, upgrade to the wharf area, and possible
roads and parking areas.

Best management practices will reduce any
adverse impacts.

Offsite alternatives have been considered, but

1 due to the proposed structure requiring close proximity to the
2 refinery, alternatives have been deemed impractical.
3 The project is located in an industrial area and
4 is consistent with the surrounding development.
5 And upgrading the refinery's ability to
6 process, ship, and store petroleum products will help meet an
7 increasing demand for these products throughout the Southeast.
8
9 Public notice was ran in the Sun Herald on these
dates. No comments were received.

10 Environmental Quality is currently reviewing the
11 project.
12 Archives & History has no comments.
13 And Secretary of State is currently reviewing
14 the project.
15 Some images of the site. This is looking out
towards the Sound. The area to the left is where the concrete
reevetment will be placed. Then the area to the right here
along the shoreline is also the area where the revetment is
going to be placed.

And looking out where the ship is, I believe
this is Berth 7A and 9.

Based on the results of department evaluation,
it's been determined that the project is consistent with the
Coastal Program because it serves a higher public purpose,
upgrading the refinery's abilities to process, ship, and store

1 petroleum products.
2 The project will also provide local jobs and tax
3 revenue.
4 Therefore, staff recommends the approval of the
5 project and it be contingent upon approval by DBQ and Secretary
6 of State.

And I believe Chevron has representatives here
if you have any questions.

MR. BOSARGE: I do have a couple of questions.
I understand that by the permit, are we --
because they're not going to do the improvements to 7, Berth 7
and --

MR. DAVIS: They're not doing the modification
of what was approved last time. This is a different set of
structures within the two berths.

MR. BOSARGE: And is this going to remain in the
permit to be done at a later time; is that what we're doing?

MR. DAVIS: No, sir. They're being wiped clean.
And what's proposed now is what's going to go there.

MR. BOSARGE: And could you put the slide back
up and show us where the actual fill will be?

MR. DAVIS: Yes, sir. The waterway is here.
The fill is going to be behind the revetment down this access
road and then back towards the refinery.

MR. BOSARGE: And the dredging taking place now,
The project serves a higher public purpose by
restoring adequate depths to the commercial dock for the
commercial shrimp fishing fleet to return with their boats to the
facility.

The project is allowable within the commercial
and recreational marinas use district.

Similar projects have been approved, and no
precedent setting effects are anticipated with the project.
There will be a temporary increase in turbidity
during dredging operations, and a loss of benthic organisms.
This is part of routine harbor maintenance, and adverse
environmental impacts should be minimal.
Best management practices will be utilized
during all phases of construction, including stage
construction, and turbidity screens around the immediate
project site.

This is a maintenance project, and no
alternatives have been considered.
The project is located in an area that has
historically been utilized as an industrial and commercial
area.

Notification of the project appeared in the Sun
Herald as required. No public comments were received.
DEQ has issued water quality certification.
Archives & History is reviewing the project.

The Secretary of State's Office has issued no
comment.
The Department of Wildlife, Fisheries & Parks
has recommended best management practices throughout all phases
of the project.
And the U.S. Army Corps of Engineers is also
reviewing the project.
The Biloxi downtown redevelopment area is
included — excuse me. The Biloxi downtown redevelopment areas
including the commercial and recreational small craft harbors
are designated as urban waterfronts within the special
management area.
Staff has conducted a thorough evaluation of the
project and determined that it is consistent with the
Mississippi Coastal Program because it serves a higher public
purpose and recommends approval of the request.
And there is a representative from the City of
Biloxi present if you have any questions.
MR. GOLIOTT: Mr. Chairman, I make a motion that
we accept the staff's recommendation on this permit.
DR. ASGER: Do I have a second?
MR. BOSARGE: Second.
DR. ASGER: All those in favor. Passes
unanimously. Thank you.

J. Administrative Services
2. Financial Report

MR. TAYLOR: Next on the agenda is financial report.

MS. VESA: Good morning. The budget today reflects the status as of August 31. Our budget remained at $6,267,493. On that date, we had spent $1,254,641, for a remaining balance of $5,012,852.

And our tidelands budget has all been obligated. Any questions today?

DR. ASPER: Thank you.

M. Other Business

MR. TAYLOR: Okay. Under other business, M, we have some items.

Mr. Chatagnier.

MR. CHATAGNIER: Earlier in the meeting, I talked about Title 22 Part 4, and I might have misspoke on taking that to public comment.

All I needed was a notice of intent to be filed right at this point in time. I haven’t met the criteria to go out for public comment.

I’d like clarification on that.

MS. CHESNUT: We need a motion to take this out on notice of intent, a revised motion.

MR. GOLLOTT: I make that motion.

MR. DRUMMOND: I’ll second the motion.

Carries unanimously.

You have a question?

MR. BOSARGE: No, I don’t have a question. I have another issue to bring up. I’m through with you.

MR. CHATAGNIER: Let me get out of the way, then.

MR. BOSARGE: Mr. Chairman, I believe, it’s my understanding in Robert’s Rules of Meetings that when there is an alternate motion made, the alternate motion is voted on first. I would like staff to look into that, and if that is the case, then I’d like to bring the issue of the trip tickets back to the board again next month.

But in the meantime, see if we can’t get the staff to put together a meeting with the rest of the commissioners to try and iron out some of these details.

But if I could get the staff to look into that, see if that is correct.

MR. TAYLOR: Thank you.

If we do that, do we have to publish it? If we have a meeting with more than two commissioners, do we have to publish it as a public meeting?

MS. CHESNUT: Yes, you have to notice it as an open meeting.

MR. GOLLOTT: Can we do it as a workshop?