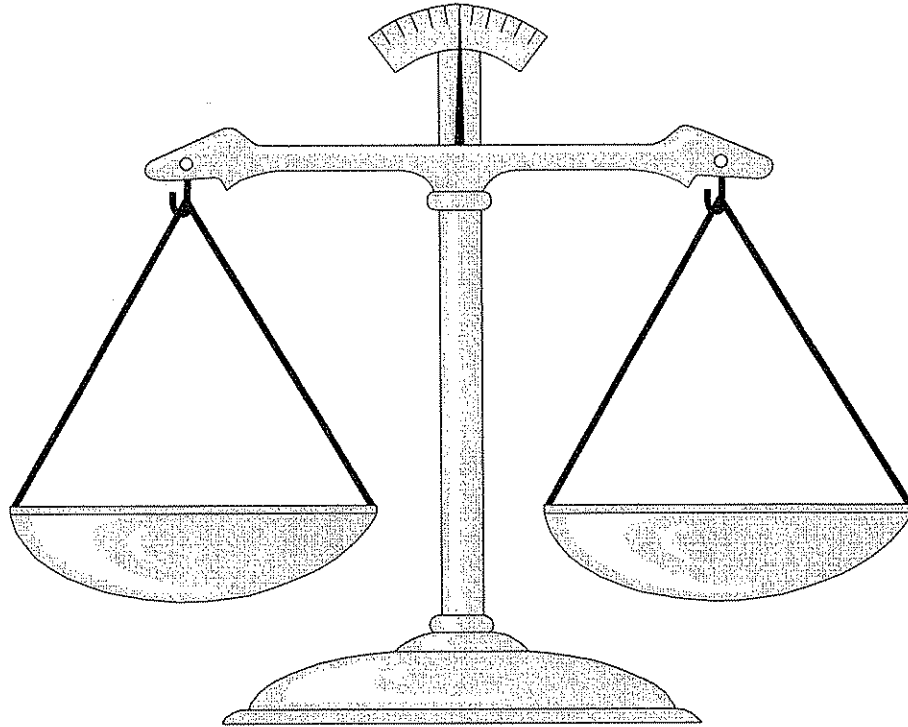


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COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

August 18, 2009

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

1 COMMISSION ON MARINE RESOURCES
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3 MEETING OF COMMISSION ON MARINE RESOURCES
4 August 18, 2009
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7 TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT
8 MISSISSIPPI STATE UNIVERSITY COASTAL RESEARCH EXTENSION CENTER,
9 1815 POPPS FERRY ROAD, BILOXI, MISSISSIPPI, ON THE 18TH DAY OF
10 AUGUST 2009 COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN
11 LADNER SOROE, CERTIFIED SHORTHAND REPORTER.
12 *****

13
14 COMMISSION MEMBERS PRESENT:

- 15 RICHARD GOLLOTT, Acting Chairman
16 SHELBY DRUMMOND
17 STEVE BOSARGE
18 JIMMY TAYLOR

19 ALSO PRESENT:

- 20 DR. WILLIAM WALKER, Executive Director DMR
21 SANDY CHESNUT, ESQ., Asst. Attorney General
22
23
24
25

1 come to the podium, state your case.
2 Mr. Eicke?
3 MR. EICKE: My name is F.J. Eicke. I'm with
4 CCA.
5 The only thing I want to do is make an
6 announcement that on September 12 with funding from DMR and
7 with the cooperation of a number of organizations, including
8 the DMR staff, Mississippi Wildlife Federation, our
9 organization, and some others that are throwing in their help,
10 we will have -- this year will be the third Casting for
11 Conservation, a term that we've kind of taken control over, I
12 think, and our logo that goes with it, kids fishing rodeo at --
13 I don't know what they call it. I guess it's called River Park
14 under the bridge in Pascagoula on the westbank of the
15 Pascagoula River where that pier is that people fish quite
16 often. There's a boat launch there and all.
17 It starts at eight o'clock. Would ask anyone in
18 this audience who wants to volunteer to give me their name, and
19 we'll be happy to have them in there. You'll have fun, I can
20 guarantee you that. And we have a lot of sponsors on the side,
21 in addition to the funding from DMR that we use for various
22 things.
23 And we appreciate the support of DMR in doing
24 this. And it's become a major part of what CCA does in terms
25 of our kids' activities.

1 A. Call to Order
2 MR. GOLLOTT: Let's call this meeting to order.
3 B. Approval of Minutes Commission Meeting - July 21, 2009 -
4 Action
5 MR. GOLLOTT: We'll start off by looking at the
6 minutes that were distributed and see if there's any changes or
7 corrections.
8 MR. TAYLOR: Make a motion we accept the
9 minutes.
10 MR. GOLLOTT: Do we have a second?
11 MR. DRUMMOND: Second.
12 MR. GOLLOTT: Have a second. All in favor.
13 Carries.
14 C. Approval of Agenda - Chairman - Action
15 MR. GOLLOTT: We'll look at the agenda now. We
16 have an agenda before us. Are there any changes to the agenda?
17 With no changes to the agenda, do we have a
18 motion to approve it?
19 MR. DRUMMOND: So moved.
20 MR. BOSARGE: I'll second that
21 MR. GOLLOTT: All in favor.
22 D. Public Comments
23 MR. GOLLOTT: Now we come to the public
24 comments. If there's anyone that wishes to speak about
25 anything, now is the time to raise your hand, be recognized,

1 MR. GOLLOTT: Thank you.
2 Executive director's report.
3 E. Executive Director's Report
4 DR. WALKER: Thank you, Mr. Chairman. I will
5 just take just a second to make a small announcement, as well,
6 or a short announcement, it's not really small.
7 About three years ago or three and a half years
8 ago, soon after Hurricane Katrina, the U.S. Congress directed
9 the Mobile Corps of Engineers to do a study to determine what
10 it would take to restore coastal Mississippi after that
11 devastating storm.
12 And the Corps of Engineers has just recently
13 completed that study and presented their report to Congress.
14 That report calls for a total of \$1.2 billion to
15 be spent in coastal Mississippi for restoration purposes.
16 And about a month ago now, Congress appropriated
17 the first installment of that money, \$439 million has been
18 provided to the Mobile Corps of Engineers for coastal --
19 offshore island restoration and coastal restoration.
20 So actually, the Corps of Engineers is meeting
21 today and tomorrow with various federal agencies and our agency
22 to determine exactly which project to try to move forward with.
23 So I at least wanted to let you all know that
24 that money -- the first part of that money is here now, that
25 the Mobile Corps is working on that, doing the engineering

1 studies, and hopefully would be underway maybe as early as
2 September or October this year, primarily to close the Camille
3 Cut in Ship Island and do some minor restoration on the other
4 offshore islands.

5 Thank you.

6 MR. GOLLOTT: Thank you very much, sir.

7 Now we move on to marine patrol. Mr.

8 Chatagnier.

9 F. Marine Patrol - Chief Walter J. Chatagnier

10 2. Marine Patrol Report - Chief Walter J.

11 Chatagnier - No Action

12 MR. CHATAGNIER: If it please the commission,
13 I'm going to let Lieutenant Pittman (inaudible, back of room).

14 MR. PITTMAN: Good morning, Mr. Chairman,
15 commissioners, Dr. Walker, Sandy.

16 You have the report in front of you from July.
17 You can see we were pretty busy.

18 The first thing that probably sticks out is
19 shrimping violations that we had. We had six of them on there
20 for shrimping during closed waters. That was before we opened
21 up all the waters, and we had several areas that were still
22 closed. The bottom two, they were caught in Back Bay Biloxi
23 around Popp's Ferry trying to set a trawl like they do in
24 Louisiana, like they do a wing net, trying to catch some
25 shrimp.

5

1 disaster relief recovery program. And they're building low
2 profile artificial reefs.

3 So far in the last month, they've been able to
4 put out nine reefs. Seven of those reefs are in Jackson
5 County. There's one in Harrison County and one in Hancock
6 County.

7 There's 12 more reefs that are planned for this
8 fall. And of the 12, five of those will be in Harrison County
9 and seven will be in Hancock County. We're trying to spread
10 these things out across all the counties to make it where it's
11 convenient for fishermen to get to some of these reefs from
12 almost anywhere they leave from.

13 This project should finish up in September. I'm
14 going to ask Kerwin to come sometime in September or October
15 and give you a full report.

16 Also, currently we are in the process of
17 purchasing some more reef balls. And we have the reef ball
18 company down here at our site on the Industrial Canal. And
19 they're currently building 230 reef balls. These are the reef
20 balls -- Kerwin give y'all a report on these this time last
21 year. They're five feet high, and they're six feet at the
22 base. We're going to place those on our offshore artificial
23 reefs.

24 We're also going to purchase this year 540 bay
25 balls. These are two feet high and three feet at the base.

7

1 Under crab violations, we had several crab
2 violations.

3 Moving on over, we still have plenty of boat and
4 water safety violations, people still going without their PFDS
5 and not -- children under 12 not wearing them.

6 On over, we had two boat and water safety
7 classes this past month. We had three boating accidents with
8 injuries, one involved where two of our officers rescued one
9 person that was in the water off of Henderson Point. We had
10 three without injuries, three boating accidents without
11 injuries.

12 We did six special events.

13 And then on our JEA patrols, we had 23 patrols,
14 330 man hours, 134 contacts. We had one enforcement accident
15 report, and two state citations issued.

16 If there's any questions, I'll be glad to try to
17 answer them. Thank you very much.

18 MR. GOLLOTT: Dale Diaz.

19 G. Marine Fisheries - Dale Diaz

20 MR. DIAZ: Good morning, Commissioner Gollott,
21 commissioners, Ms. Chesnut.

22 I wanted to bring one thing to your attention.
23 The artificial reef bureau has been working really hard the
24 last month or so on our inshore reef restoration and creation
25 project. Most of this money is funded through our emergency

6

1 And we're going to place these at the fish havens located
2 around the barrier islands, Fish Haven 8, 9, and 10.

3 All of this material should be deployed sometime
4 in the month of September.

5 I do want to say snapper season just finished up
6 last Friday. And I have had several people tell me that they
7 had good fishing success fishing on our offshore artificial
8 reefs. I had a guy call me last week and said there was four
9 people on his boat, and they made three drifts in FH-13 and
10 caught their limit of snapper. It took them about 20 minutes.
11 And the snapper ranged from 16 to 24 inches. And I've heard
12 several reports similar to that over the last couple of months.
13 So these reefs are effective for our commercial and
14 recreational fishermen.

15 First up for marine fisheries is going to be
16 Buck Buchanan, and he's got the first three items.

17 The first one is regulatory alternatives for set
18 pole fishing. And the next two are some resolutions that you
19 asked us to draft for your consideration. And it's going to be
20 licensing considerations for individuals over 65 and to ask
21 permission for possession of one redfish per person in federal
22 waters.

23 Buck?

24 1. Staff Follow-Up Items

25 a. Regulatory Alternatives for Set Pole

8

1 Fishing Title 22 Part 7 - Buck Buchanan
 2 - Action
 3 MR. BUCHANAN: Hello. I'm Buck, Department of
 4 Marine Resources finfish bureau. Commissioners, Sandy, Dr.
 5 Walker.
 6 Last commission meeting, we had somebody came up
 7 and talk to us about problems they were having with poles set
 8 on bayous. And the commission directed us to try to take a
 9 look at some options for that.
 10 I would like to say right up that us and
 11 enforcement have had difference of opinion on what should and
 12 shouldn't be done. And let me see if I can get this to go.
 13 Okay. Do you have your thing open to the
 14 definition portion of the ordinance right there? Well, ignore
 15 it for a minute, forget the definition. Okay?
 16 There is one -- I did not put this in there.
 17 After consideration and talking with Joe and Sandy and
 18 everything, we put one thing in here that would seem to cover
 19 it all. But again, this is just one option. You don't have to
 20 define what a set pole is or anything.
 21 In essence, you would say anyone fishing with a
 22 hook and line with the exception of trot line fishing must be
 23 on site and attending their gear from a distance, and I put 50
 24 feet here, and be available to move the gear to allow for safe
 25 navigation.

1 The 50 feet is negotiable. It's whatever. I'm
 2 not exactly sure how far they should be away.
 3 Anyway, that would include anybody using a rod
 4 and reel or anybody using a cane pole, anybody hook and line
 5 fishing, except trot line fishing, must be attending their
 6 gear.
 7 Now, we will go back, if you look at the
 8 ordinance, we defined what a set pole was. Again, this
 9 definition could -- it maybe could use some refinement in and
 10 of itself. If you guys have got some ideas, I'm more than
 11 welcome to listen to them.
 12 A set pole and line shall be defined as a line
 13 attached to a pole, limb, or other structure located along the
 14 shoreline. This gear does not include rods and reels, does not
 15 include rods with an attached reel or cane poles actually
 16 attended onsite by fishermen engaged in fishing from the
 17 adjacent shoreline.
 18 So we tried to exclude those from these options
 19 that I am fixing to send -- that we're fixing to look at.
 20 And these are some of our preferred options.
 21 Okay. The top group. Anyone set pole and line
 22 fishing must be onsite and attending their gear. Okay? And
 23 then distance no greater than 50 feet. So they would have to
 24 be there. That is one option that you could use.
 25 They only could have one hook on them.

1 I mean, you could adopt any number, mix and
 2 match some of these things.
 3 You could -- they have to be removed from the
 4 hours of 1:00 p.m. to 6:00 p.m. I'm sorry. They have to be
 5 removed from 1:00 p.m. Friday to 6:00 p.m. Sunday of each week.
 6 And it's illegal to use more than ten set poles.
 7 I mean, everybody had their shot at this. I'm
 8 not sure it makes it more coherent or not.
 9 Some of the other options is just to make it
 10 illegal period or illegal to use it within any bay, bayou,
 11 stream, river, tributary, or canal in the marine waters.
 12 And we would appreciate any input you got
 13 because God knows enforcement obviously prefers the lower
 14 options there.
 15 MR. GOLLOTT: Buck, excuse me. This would have
 16 to go out to public hearing; wouldn't it?
 17 MR. BUCHANAN: That is correct.
 18 MR. GOLLOTT: And we could possibly get some
 19 feedback from the public.
 20 I understand they do this for catfish on the
 21 Pascagoula River, and they've never had a problem. So I'm not
 22 sure if they're using poles or just tying the lines to trees
 23 hanging over the river.
 24 MR. BUCHANAN: Well, I know what they're talking
 25 about over in Hancock County, but I've never seen them -- I'm

1 sure they do it over in Pascagoula.
 2 MR. TAYLOR: Why are we using I-10 as a
 3 boundary?
 4 MR. BUCHANAN: That's the end of our
 5 jurisdiction. Everything south of I-10 is -- that's not the
 6 end of our jurisdiction?
 7 DR. WALKER: No. You have statewide
 8 jurisdiction.
 9 MR. BUCHANAN: Well, I meant from I-10 south,
 10 that's what defines salt waters. No?
 11 MS. CHESNUT: Anything south of I-10 is
 12 considered salt water, and it's under the DMR jurisdiction.
 13 MR. BUCHANAN: From the Alabama to the Louisiana
 14 state line.
 15 MS. CHESNUT: Right. I-10 is the dividing line.
 16 MR. BUCHANAN: But if I'm wrong, we could change
 17 any of that.
 18 MR. GOLLOTT: What is your recommendation?
 19 MR. BUCHANAN: We have any number of preferred
 20 options right there.
 21 They have to be on site attending it.
 22 Got to have one hook.
 23 Or if they're not on site attending it, they
 24 have to have set poles and lines between 1:00 and 6:00, they
 25 have to remove them on the weekends.

1 Can't use more than ten.
 2 I mean, some of these you can mix and match, and
 3 some of them you really can't.
 4 And this was deemed to be a safety issue.
 5 MR. TAYLOR: What does -- does any of these
 6 options present a problem for enforcement?
 7 MR. BUCHANAN: Well, since it's a safety issue,
 8 I mean, I know what Tiny's preference is.
 9 MR. TAYLOR: My questions is: Would any of
 10 these options present a problem for y'all in enforcement?
 11 MR. CHATAGNIER: Well, the problem is we're not
 12 going to know whose pole they are unless they're standing on
 13 site. And that's not a problem -- that's not what's occurring
 14 now. What is occurring now, the poles are being put there and
 15 left. That's the problem. Nobody is there.
 16 Now -- and the cost of setting one of these
 17 poles up is probably under a dollar, so if he loses his pole,
 18 big deal, he lost a hook, they're cutting the cane, getting
 19 some cotton line and monofilament line.
 20 We are looking at it strictly from a safety
 21 standpoint of a line hanging out over the water, dangling over
 22 the water, with a hook on it giving the boat an option to hit
 23 the line, cause that hook to come flying out the water, and
 24 come back into the boat.
 25 That's -- whether it's hurting the fisheries, if

13

1 they're catching fish, not catching fish, we don't have any
 2 information on that. We're looking at it strictly from a
 3 standpoint of safety, boater safety.
 4 An option we could have, I mean, is just if
 5 nobody is around, I would instruct my officers just start
 6 picking them up. Pick them up, take them to the landfill. Cut
 7 the hooks off of them, take them to the landfill.
 8 MR. GOLLOTT: Okay. Thank you.
 9 Do we have a motion?
 10 MR. CHATAGNIER: Rusty lives in that area. He
 11 knows a little bit more about that problem.
 12 MR. PITTMAN: I know of a couple of instances
 13 when I used to live off of Mulatto Bayou with duck hunting, and
 14 used to run north of your pond early in the morning, you can't
 15 see them. They're sticking out about 15 feet from the
 16 shoreline into the water into the bank hanging up.
 17 I know a couple of instances where some Labs,
 18 Labrador retrievers, were hooked with these.
 19 So the big thing is the safety issue, like the
 20 chief was saying.
 21 MR. DRUMMOND: Is that salt water or fresh
 22 water?
 23 MR. PITTMAN: It's in brackish water. It's
 24 south of I-10.
 25 MR. CHATAGNIER: You can catch any species right

14

1 there. You can catch fresh or saltwater species right there.
 2 MR. GOLLOTT: Anyone else?
 3 MR. TAYLOR: I make a motion that we (inaudible)
 4 south of I-10.
 5 MR. GOLLOTT: The only concern I have is like I
 6 say I've been told that they've been doing this on the
 7 Pascagoula River for years at night for catfishing.
 8 MR. DRUMMOND: I don't know that they're using
 9 poles --
 10 MR. CHATAGNIER: What you're talking about, and
 11 they do it all over the South, it's called yo-yo fishing or
 12 limb fishing. They tie it up underneath a tree. If the boat
 13 hits the line and the hook, that's the least of his problems
 14 because he just smacked the tree. I mean, they're hanging
 15 virtually right off the limbs of the tree hanging right down to
 16 the base of the tree at the bottom of the stumps where they
 17 catch catfish and white perch and stuff.
 18 Those, like I say, if they hit those kind of
 19 lines, they've got bigger problems than the line.
 20 MR. BUCHANAN: We would have to change some
 21 stuff.
 22 MR. TAYLOR: I'm going to withdraw my motion.
 23 MR. BOSARGE: Maybe we make a motion where we
 24 take the first four options and put them before the public and
 25 let the public see what they want to do with it.

15

1 MR. GOLLOTT: Is that a motion?
 2 MR. BOSARGE: Yes, sir.
 3 MR. GOLLOTT: Do we have a second?
 4 MR. TAYLOR: Second.
 5 MR. GOLLOTT: All those in favor say aye. Those
 6 opposed. Motion carries.
 7 b. Resolution 081809-1 License for Individuals
 8 over 65 - Buck Buchanan - Action
 9 MR. BUCHANAN: The next thing is the resolutions
 10 that were -- y'all have them in your packet.
 11 The first one has to do with the National
 12 Fishing Angling Registry, where we're trying to get all our
 13 saltwater anglers registered. And one of the groups that are
 14 not is the over 65. And what this resolution would be doing
 15 would be asking you guys asking the legislature to eliminate
 16 the exemption of anglers over 65 from obtaining saltwater
 17 sportsfishing license and would authorize the commission to
 18 impose a fee for license issued 65 and older that's equal to
 19 the actual cost of issuing the license.
 20 And the reason that we are doing this National
 21 Fishing Angling Registry, we are going to presumably enter into
 22 a memorandum of agreement with National Marine Fisheries
 23 Service to provide them with data of our saltwater anglers.
 24 If we do not, then we are going to have to buy a
 25 federal license which is anywhere from fifteen to twenty-two

16

1 dollars.
 2 This is to try to improve the marine
 3 recreational fisheries survey. This is one of the things that
 4 the National Research Council basically said had to happen if
 5 you wanted to do this. So National Marine Fisheries Service is
 6 trying to do this.

7 So the resolution if before y'all. If y'all
 8 want to take it forward or -- I don't know what we do with
 9 these.

10 MR. GOLLOTT: Isn't there some matching funds to
 11 go with this if we do this, federal matching funds?

12 MR. BUCHANAN: What it will do is save the
 13 anglers of this state, you know, instead of money going to the
 14 feds, it would stay here if they make us, you know, buy a
 15 federal license.

16 MR. BOSARGE: What do you think the license is
 17 going to run?

18 MR. BUCHANAN: Anywhere from fifteen to
 19 twenty-two dollars is what they said.

20 MR. BOSARGE: I'm talking about the state. For
 21 our state, in other words, if we don't do it through the feds,
 22 we would do it through the state?

23 MR. BUCHANAN: You're talking about --

24 MR. BOSARGE: Sixty-five and over.

25 MR. BUCHANAN: No. It would be the cost of

1 better for them to pay the two or three dollar fee to the
 2 state?

3 But either way, they're going to have to pay
 4 something.

5 MR. DRUMMOND: They are?

6 MR. TAYLOR: Yes.

7 If you've attended one of these marine fishery
 8 meetings, especially the last several years, Buck and all, one
 9 of the biggest complaints from the recreational fishermen and
 10 the charter boat people is the MRFSS data. They said that the
 11 data was not good and that's what they base the closing of the
 12 snapper season on.

13 So what this will do is help them get better
 14 data to make the decisions and manage it better.

15 So to give you an example, they were calling
 16 people in Indiana and all that were red snapper fishing. They
 17 were catching redfish saying they were red snapper fishing and
 18 vice-versa. People didn't know what species they were fishing
 19 for.

20 This would eliminate a lot of that problem and
 21 give more accurate data.

22 Make a motion we accept the resolution as is.

23 MR. BOSARGE: I'll second that motion.

24 MR. GOLLOTT: All those in favor say aye.

25 Opposed?

1 issuing -- I don't know. What is it? It's a dollar
 2 eighty-five. It's a couple or three bucks. It would not be
 3 the total cost of, you know, the \$10 license or whatever it is.

4 MR. DRUMMOND: So the purpose of this is to do
 5 what, Buck? Get more information on the fisheries?

6 MR. BUCHANAN: That's correct. There's a whole
 7 group of people that are not being counted in the MRFSS survey
 8 in terms of effort, and that's the reason for doing this. It's
 9 to improve that, that recreational fisheries survey.

10 That's one of the charges by the National
 11 Research Council, the National Marine Fisheries Service, and
 12 all the hoopla about how the MRFSS, the marine recreational
 13 survey, basically sucked. So they said do this.

14 MR. DRUMMOND: People 65 and older are going to
 15 get denied fishing rights because they have to pay a fee.

16 MR. BUCHANAN: They're going to get the what?

17 MR. DRUMMOND: Denied their fishing rights
 18 without a fee. Without buying a license keeps them from
 19 fishing. Okay? Sixty-five and older.

20 Have you thought about that, how many are you
 21 going to affect?

22 DR. WALKER: Commissioner, the choice is to --
 23 they are going to have to pay a fee either way. The choice is
 24 do we want to -- is it better for them to pay a fifteen to
 25 twenty-five dollar fee to the federal government, or is it

1 MR. DRUMMOND: Aye.

2 MR. GOLLOTT: Motion carried.

3 c. Resolution 081809-2 Gulf Council Possession
 4 of One Red Fish Per Person in Federal
 5 Waters Excluding Captain/Crew -
 6 Buck Buchanan - Action

7 MR. BUCHANAN: The second resolution being
 8 brought before you has to do with red drum closure in the Gulf
 9 of Mexico.

10 What you are doing is requesting the National
 11 Marine Fisheries Service and Gulf Council to take a look at
 12 doing a stock assessment. But in order to do that, they need
 13 to open up the red drum fishery in the Gulf of Mexico so they
 14 can actually obtain some fish to do some work with.

15 And this resolution would basically allow for
 16 recreational fishermen to catch and possess one red drum per
 17 person in the EEZ for stock assessment and other scientific
 18 purposes and also allow for recreational fishermen fishing from
 19 a charter boat to catch and possess one red drum per person per
 20 day in the EEZ exclusive of captain and crew.

21 And this is the other resolution.

22 MR. BOSARGE: This resolution is the state
 23 asking the feds to allow this; correct?

24 MR. BUCHANAN: That is correct. This
 25 commission, yes, the state.

1 MR. BOSARGE: I make a motion that we accept the
2 resolution.

3 MR. TAYLOR: Second.

4 MR. GOLLOTT: Motion and a second. All those in
5 favor say aye. Opposed? Motion carries.

6 MR. BUCHANAN: Thanks, guys.

7 MR. DIAZ: Next up is going to be Scott Gordon,
8 and Scott's going to have the next two items.

9 The first one is -- asks for authority for
10 executive director to set the opening and closings of the
11 season for 2009-2010. And a notice of intent for Title 22 Part
12 1 and 17.

13 3. Authorize the DMR Executive Director to Set the
14 Opening and Closing of the 2009-2010 Oyster
15 Season - Scott Gordon - Acton

16 MR. GORDON: Good morning, Mr. Chairman,
17 commissioners, Dr. Walker, counselor.

18 I want to try to keep these fairly short.

19 What we're asking for this first item is --
20 pertains to the 2009-2010 Mississippi oyster season. And our
21 recommendation is to allow the executive director to open and
22 close the 2009-2010 Mississippi oyster season in Areas I-B,
23 II-A, II-B, II-C, and II-D conditionally approved waters, as
24 well as Area II approved waters, including any area
25 subdivisions.

1 come back to this if you would like.

2 This spring, we planted -- I'm sorry -- this
3 fall, late summer plant, we just completed 500 acres of cultch
4 plant out in the Area II approved waters.

5 We planted a total of 23,589 cubic yards of
6 material. That's 54 barge loads of material. And I'm not sure
7 if we set a record on that or not, but that was conducted over
8 a four day period of time. That has been very ambitious.

9 Since we've been doing this oyster recovery,
10 we've planted somewhere in the neighborhoods of 196,000 cubic
11 yards of material over 3600 acres. That's nearly 450 barge
12 loads.

13 And I would like to thank the business office
14 people. They've been very supportive in us getting through
15 this. And I also would like to thank the shellfish staff that
16 has -- they've been out there and had to personally measure
17 each barge and be on the scene and conduct the cultch planting
18 operations.

19 The oyster stewardship meetings, we have one set
20 up August 27. It's going to be a general stewardship meeting
21 at 5:00 p.m. at the West Harrison County Civic Center. That's
22 on Espy Avenue in Long Beach.

23 And then we're going to have a day -- actually,
24 it's two days on the Sound aboard The CONSERVATIONIST, leaving
25 Pass Christian Harbor around 8:00 in the morning.

1 Also to allow the executive director to close
2 areas to harvest to conserve resources.

3 A lot of these things are similar to what we've
4 had in the past.

5 Establish and adjust daily commercial sack
6 limits.

7 Establish checkout times no later than 4:00 p.m.
8 And that's a voluntary compliance with the Interstate Shellfish
9 Sanitation Conference's vibrio parahaemolyticus control
10 measures.

11 Designate oyster check stations at Bayou Caddy
12 and Pass Christian and to allow the check stations to be opened
13 and closed as needed. Check stations and all reefs closed
14 Sundays, Thanksgiving Day, Christmas Eve day, Christmas Day,
15 and New Year's Day.

16 And then all 2007, 2008, and 2009 cultch plant
17 sites will remain closed from harvest with the exception of
18 2008 and 2009 low level cultch plants which may be opened to
19 harvest. And other areas may be opened after biological
20 sampling by DMR.

21 And then the other standard season provisions,
22 such as additional requirements for the check stations, correct
23 change, etcetera.

24 While you're thinking about that, I could tell
25 you a little bit about some of our cultch plant activities and

1 September 1, we're going to have the oyster
2 dredgers and representatives and dealers and processors go out.

3 And on September 2, the tongers'
4 representatives.

5 And what we have done in the past with this is
6 we allow them to go out on the boat, and, okay, where would you
7 like to look. You know, you want to look in this reef area or
8 that reef area. So they know what they have in store for them.

9 So -- now, coming back to the -- I would also
10 like to invite personally all the commissioners to attend
11 either of these, to either the stewardship meeting on Espy
12 Avenue or the day on the Sound.

13 So now we come back to our oyster season
14 recommendations.

15 MR. GOLLOTT: One question. Do you think you
16 can handle all these (inaudible).

17 DR. WALKER: (Inaudible.)

18 MR. BOSARGE: I would like to make a motion that
19 we accept the recommendations.

20 MR. TAYLOR: Second.

21 MR. GOLLOTT: Have a motion and a second. All
22 in favor say aye. Opposed? Carries.

23 MR. GORDON: Thank you.

24 4. Title 22 Parts 1 and 17 Request for Notice of
25 Intent - Scott Gordon - Action

1 MR. GORDON: The next item -- and that's
2 probably one of the larger things in your packet. I'm going to
3 try to keep this brief and summarized. Title 22 Parts 1 and
4 17.

5 These are separate what we used to call
6 ordinances. Now they're Parts 1 and 17.

7 Part 1 is the rules and regulations for
8 shellfish harvesting, tagging, landing, unloading,
9 transporting, relaying, management, area classifications, and
10 other shellfish related activities in the the state and the
11 leasing of territorial waters under the jurisdiction of the
12 state of Mississippi.

13 We generally refer to that as the oyster
14 regulations.

15 Then Part 17, the regulation of shellfish
16 landing, unloading, transporting, processing, buying, selling,
17 opening, and other shellfish related activities in the state.

18 That's generally the processing side of things.

19 We haven't opened up the Part 1 in quite a
20 number of years for any significant changes. And why we
21 decided to open up these two at the same time is because of
22 some of the requirements that were coming out of the Interstate
23 Shellfish Sanitation Conference pertaining to especially vibrio
24 vulnificus and vibrio parahaemolyticus.

25 And we've been involved with this process for a
26

1 And one of them was just a technicality, to have
2 the bureau director authority or responsibility to more
3 accurately reflect the organizational structure. Where it
4 usually says executive director, office director, biological
5 program coordinator, so that's where we had that in there.

6 Authorizes the DMR to require additional shell
7 stock tagging requirements and additional time to temperature
8 requirements of shell stock.

9 And authorizes the executive director to adjust
10 the times and temperatures as may be required when necessary in
11 order to achieve current and future ISSC requirements of
12 illness reduction plans or management plans for vibrio
13 parahaemolyticus or vibrio vulnificus.

14 And this is being done to better protect the
15 public health or health of at risk consumers and to allow for
16 greater options to the industry and harvesters in meeting those
17 requirements.

18 And then there were a few editorial changes,
19 renumbering, etcetera, included since the mailout.

20 The description of two area lines were
21 rewritten, and that's different from what you got in your
22 mailout. There was an error in there, and I corrected those.

23 There were also some minor edits to the
24 authorization of the DMR to modify or change area specific
25 management provisions, including opening and closing criteria
26

1 number of years looking at the reduction of vibrio vulnificus
2 related deaths.

3 And it gets to be pretty complex. I've been in
4 I don't know how many meetings on those things, and there's a
5 lot of different options that are available. And so what we
6 wanted to do was to make some changes in our regulations to
7 allow us some flexibility to better meet the industry's and the
8 harvesters' needs.

9 Most of these things are going to come into play
10 in the warmer months and would affect in Mississippi primarily
11 the oyster leaseholders. Whenever you're talking about
12 severely reducing the time of first harvest to refrigeration,
13 then you try to look at whatever different options that can be
14 available to you at the time to make that possible.

15 And one of the things that we were looking at
16 was in talking to the processors and seeing if they can reduce
17 their time to get those oysters under refrigeration.

18 But the leaseholders, that's typically not a
19 problem because the oyster typically would be put under
20 refrigeration immediately.

21 Now, some of the cooldown times, a lot of the
22 depends on the equipment that they have available.

23 So anyway, that was the main reason that we
24 opened up these ordinances or these regulations. But while we
25 had them open, we decided to do a few other changes.
26

1 and directs that they be maintained and published as legal
2 notices.

3 This was kind of an indirect was in there to
4 begin with. This just added a little more specifics.

5 And in talking about area specific management
6 plans and the criteria, every year we are supposed to review
7 the area classification, and so that can change on a year to
8 year basis.

9 And whenever we had Hurricane Katrina come
10 through here, it changed so much of the coast that we lost area
11 classifications for everything. So we had to start back all
12 over again.

13 So there were differences between what was
14 already out there and what was in the regulations. You know,
15 they weren't accurate. So I tried to make this accurate and
16 bring it up to date.

17 But the main purpose of doing this is intended
18 to reduce confusion from the public concerning the current
19 regulations, as well, to reflect the technical processes
20 involved in managing and classifying shellfish growing areas
21 and allows for a more timely response to changing environmental
22 conditions necessary to protect the public health and help
23 maximize the resource harvest potential.

24 It also amends Area I-B conditional parameter to
25 comply with current management plan criteria.
26

1 It also establishes subdivisions of Areas II
2 approved and II-C to help limit the effects of future reef
3 balls. And I've got some maps in here that I can show you what
4 we're talking about with that.

5 And, of course, several areas are being
6 reclassified.

7 This is an overall view of the Mississippi
8 Sound. And these are going to be the classifications that
9 we're -- that would be taken care of right now.

10 And the two black outlined boxes in there, the
11 top part of that is Area II-C. We're asking for that to be
12 subdivided into Areas II-E, II-F, and II-G.

13 And we're going to request that the harvesters
14 whenever they -- each day they are going to tell us where they
15 were harvesting oysters. And that will be recorded. And so if
16 we were to have a recall in the future from particular oysters,
17 it's going to restrict it to just from that sub-area.

18 We tried to pick these areas to go along with
19 the natural reef areas, so II-E is going to be the Henderson
20 Point Square Handkerchief area; Area II-F is going to be the
21 Pass Christian reef area; and then Area II-G below that is
22 mainly going to be the northern portion of Telegraph and Pass
23 Marianne reefs.

24 And then we decided, well, we should probably do
25 this with Area II approved, as well, and so we split that east

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1 health or health of at risk consumers and allows for greater
2 options to the industry in meeting these requirements.

3 I need some water now.

4 MR. GOLLOTT: Any comments, questions?

5 MR. BOSARGE: I have one question. That
6 Graveline area, what was it classified as?

7 MR. GORDON: The Graveline area is currently
8 classified as -- well, it is unclassified.

9 We have looked at that in the past, and we just
10 can't get it to meet any approved criteria. I'm hoping in the
11 future that's going change, as well as with the Biloxi Bay
12 area. That would be one of my goals before I retire I would
13 like to see that area upwardly classified.

14 MR. DRUMMOND: What parts of Jackson County are
15 classified?

16 MR. GORDON: We have no areas in Jackson County
17 that are currently classified as conditionally approved or
18 approved.

19 MR. DRUMMOND: Why not?

20 MR. GORDON: Well, this Biloxi Bay area is
21 because of the water quality, and also the Area VIII, I
22 reported to the commission last year about the water sample
23 results in that area. And for some reason, the water quality
24 degraded. And so we were forced to reclassify that area.

25 As I recall, we had I think it was like seven

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1 and west, to Area II-H and II-I where II-H is the Telegraph
2 Reef area and II-I is the Pass Marianne area.

3 This is the central part of the coast showing up
4 in the Biloxi Bay area. That's a restricted area. Most
5 everything else is going to be unclassified. And we are
6 working to get those areas reclassified. We've reclassified
7 most of the areas where we already have significant amount of
8 oyster resources.

9 But that Biloxi Bay area, we had to do that
10 pretty quickly to allow for the oyster relay after Katrina.

11 And then this is the eastern side of the
12 Mississippi Sound. Most notably is Area VIII right next to
13 Alabama. That has been classified as restricted waters.

14 And then with Title 22 Part 17, the summary of
15 these proposed changes is to authorize the executive director
16 to establish additional labeling and tagging requirements,
17 establish other time and temperature controls on the shipping,
18 transportation, receiving, and storing of shell stock as may be
19 required or necessary.

20 These changes would give the executive director
21 the flexibility to seasonally adjust these respective
22 parameters or requirements in order to achieve current and
23 future ISSC requirements of illness reduction plans or
24 management plans for vibrio parahaemolyticus or vibrio
25 vulnificus to allow better -- to better protect the public

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1 out of nine of our compliance stations that were not able to
2 meet any criteria.

3 We are currently working with some researchers
4 at University of Southern Mississippi and in discussions with
5 the Food & Drug Administration and also our adjoining state of
6 Alabama to do some bacterial source tracking studies to see if
7 we can find out what the problem is and if it's a human problem
8 of addressing.

9 MR. GOLLOTT: Okay. I guess we need to go ahead
10 and address this. Do you want to state what you want to do
11 with this, Scott?

12 MR. GORDON: WE would just like to go out on a
13 notice of intent to adopt these.

14 MR. BOSARGE: I'll make the motion that we -- I
15 think it's Title 22 --

16 MR. GORDON: It's Title 22 Part 1 and Title 22
17 Part 17.

18 MR. BOSARGE: Part 1 and Part 17, that we go
19 ahead and seek public comment; is that correct?

20 MR. GORDON: Yes. And I am going to -- in the
21 stewardship meeting that we are going to have on Espy Avenue,
22 I'm going to discuss this and basically show the oyster
23 fishermen what I've shown y'all today on this.

24 MR. TAYLOR: I second that.

25 MR. GOLLOTT: We have a motion and a second.

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1 All those in favor say aye. Opposed? Motion carries.
 2 Scott, a quick question for you. How is the
 3 cultch material turning out? Have we had any assessment on
 4 like stuff that we planted last year, year before? And how is
 5 the growth coming on the new --
 6 MR. GORDON: It's coming along very nicely.
 7 It's encouraging to see, especially when we've done these
 8 limestone plants and you go out there in sampling, you've got a
 9 chunk of limestone with the small cluster of oysters on it. So
 10 I think the oyster fishermen, they can see that, as well, you
 11 know, whenever they go out. There's no doubt, sometimes when
 12 you put out oyster shells, even though we feel that's a better
 13 cultch material, when you put out something like limestone or
 14 crushed concrete and you've got an oyster set on there, you can
 15 say, oh, this is a direct result of the cultch plant
 16 activities.
 17 MR. GOLLOTT: Thanks, Scott.
 18 MR. DIAZ: Thank you, Scott.
 19 Last up for marine fisheries is going to be Mr.
 20 Erick Porche, and he's going to go over state records for
 21 conventional and fly fishing tackle.
 22 5. State Records - Erick Porche - Action
 23 MR. PORCHE: Good morning. We have seven
 24 records to submit for your approval this morning, two
 25 conventional records and five fly fishing.

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1 First up will be conventional tackle.
 2 First is a Atlantic sharpnose shark,
 3 Rhizoprionodon terraenovae, caught by our own Donnie Armes.
 4 Old record of 6 pounds 4 ounces; new record of 10 pounds 4.16
 5 ounces.
 6 Finetooth shark, Carcharhinus isodon. Old
 7 record of 21 pounds 11.84 ounces; new record of 22 pounds 9.66
 8 ounces caught by Nickolas Vaughn.
 9 For fly fishing, the first three records are all
 10 caught by Dwayne Armes. The first is Remora of Remora remora.
 11 It's a new record of 2 pounds 13.76 ounces.
 12 King mackerel, Scomberomorus cavalla. Old
 13 record of 5 pounds 3.2 ounces; new record of 13 pounds 11.3
 14 ounces.
 15 Atlantic sharpnose shark, rhizoprionodon
 16 terraenovae. Old record of 9 pounds 4.48 ounces; new record of
 17 10 pounds 6.24 ounces.
 18 Tripletail, Lobotes surinamensis. Old record of
 19 10 pounds 1.6 ounces. We have a new record of 14 pounds 12
 20 ounces caught by Rick Lauman.
 21 Blacktip shark, Carcharhinus limbatus. Old
 22 record of 34 pounds 10.9 ounces; new record of 55 pounds 0.32
 23 ounces caught by Doug Borries.
 24 Any questions?
 25 MR. TAYLOR: I make a motion we accept the

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1 records.
 2 MR. DRUMMOND: Second.
 3 MR. GOLLOTT: All those in favor say aye.
 4 Opposed? Motion carries.
 5 Mr. Jan Boyd, coastal ecology.
 6 H. Coastal Ecology - Jan Boyd
 7 MS. BRANTLEY: Good morning, commissioners, Dr.
 8 Walker, Sandy. Jan actually sends his apologies. He had to be
 9 at a meeting in Mobile this morning and was unable to attend.
 10 My name is Willa Brantley. I'm the bureau director of wetlands
 11 permitting.
 12 We have two items on the agenda. But first up I
 13 wanted to give you just a quick update. I told you about a
 14 workshop that we were putting on this past month, wetlands and
 15 water quality. We held that in all three of the coastal
 16 counties on August 4, 5, and 6, and we had a total of 100
 17 participants come to that workshop. We had lots of county
 18 workers, city workers, environmental consultants, a large range
 19 of people participating. And all three of the bureaus in
 20 coastal ecology participated in that. And also, we had DEQ who
 21 participated.
 22 I talked about 401 water quality certification
 23 and construction stormwater requirements. And we also had Ray
 24 Carter from the Secretary of State's office who talked about
 25 public trust doctrine and tidelands leases, and the Army Corps

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1 of Engineers and Fish & Wildlife also talked about their role
 2 in the permitting process. So we got a lot of good information
 3 packed into a one day workshop, and we really think that we're
 4 going to get some good feedback.
 5 And this was our second year to have this
 6 workshop, and hopefully this will become an annual workshop
 7 that we can hold and just get a lot more education about the
 8 permitting process and what wetlands are and why they're
 9 important to preserve.
 10 So that's my update on that. And now I believe
 11 Jana Guynes is up first with a permit action.
 12 3. Bureau of Wetlands Permitting
 13 a. Hancock County Board of Supervisors
 14 MS. GUYNES: I have a permit application by the
 15 Hancock County Board of Supervisors. It's located adjacent to
 16 Beach Boulevard in Bay St. Louis in a general use district.
 17 And Megan Deloret (ph.) from Compton Engineering is the agent.
 18 This shows the project location south of Highway
 19 90 and adjacent to Beach Boulevard.
 20 The project description.
 21 The applicant is applying for 150 foot by 7 foot
 22 extension of an existing pier with a 50 by 20 foot pier on the
 23 end and a 130 by 90 foot extension of an existing jetty.
 24 This shows the existing structures, the pier,
 25 jetties, and boat ramp.

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1 And this shows the proposed 130 by 90 foot jetty
2 extension, 150 by 7 foot pier extension, with another 50 by 20
3 foot pier on the end.

4 This project services a higher public purpose by
5 improving public access to the water.

6 It is allowable within the general use district.

7 There will be a temporary increase in turbidity
8 and sedimentation during construction and a loss of benthic
9 organisms. There will be a loss of approximately 11,700 square
10 feet of waterbottoms. However, riprap placement for jetty
11 construction will likely serve as habitat for marine
12 invertebrates and algae, as well as provide refuge for small
13 fish and crustaceans.

14 Best management practices will reduce any
15 adverse impacts.

16 No offsite alternatives were considered as this
17 is an extension of existing structures.

18 And the no action alternative would mean a
19 continuation of insufficient protection of the existing boat
20 ramp and overcrowding on the existing pier.

21 Notification of the project appeared in the Sun
22 Herald as required. To date, no public comments have been
23 received.

24 DEQ and Archives & History are currently
25 reviewing the project, and the Secretary of State's office has

1 going all the way back to 1992.

2 On August 5, 2008, DMR issued Mr. Hoover a
3 general permit to reconstruct a Katrina damaged access pier
4 over marsh vegetation and a dock over open water that were
5 originally permitted in 1992.

6 In January 2009, DMR issued Mr. Hoover a general
7 permit modification to remove the dock at the end of the access
8 pier and replace it with a boathouse.

9 And on June 8, 2009, we received a letter
10 stating that the structures that Mr. Hoover was constructing
11 were out of compliance with his issued permit.

12 So on June 17, we did a site visit and found out
13 that indeed the structures were out of compliance with his
14 issued permit. At the time, Mr. Hoover explained that it was
15 his intent to be permitted for a boathouse in addition to the
16 dock on the end of the access pier. And we agreed that there
17 was a miscommunication between Mr. Hoover and DMR, and he said
18 that he placed the pilings for the boathouse in what he felt
19 was the least intrusive location. And we would agree with that,
20 that he has done that.

21 However, at the time the miscommunication wasn't
22 brought up to DMR, and he just went on to construct the
23 structures out of compliance with his issued permits.

24 So in July, the project was presented before the
25 commission. And it was tabled at that time for the August

1 stated that a tidelands lease will be required.

2 Staff has evaluated the project, and since it's
3 consistent with the Mississippi Coastal Program and serves a
4 higher public purpose, we are recommending approval of the
5 project contingent on water quality certification from DEQ,
6 clearance from Archives & History, and an execution of a
7 tidelands lease from the Secretary of State's office.

8 MR. GOLLOTT: Any questions? Do we have a
9 motion?

10 MR. DRUMMOND: I make a motion we approve this
11 project and accept the recommendations of the staff.

12 MR. BOSARGE: I'll second that motion.

13 MR. GOLLOTT: We have a motion and a second.
14 All those in favor say aye. Opposed? Motion carries.

15 b. Huey James Hoover

16 MR. COLE: Good morning. My name is Ron Cole.
17 I'm going to be presenting a project that was tabled last

18 month... It's a violation/after-the-fact general permit by Huey
19 Hoover, Huey James Hoover. It's located on Bayou Heron at 149
20 Pittman Road. It's in the general use district.

21 Here you can see an aerial of the project
22 location. It's located just south of Old Spanish Trail off of
23 Pittman Road on Bayou Heron.

24 Mr. Hoover constructed an access pier and
25 boathouse that are out of compliance with the issued permits

1 meeting to give staff time to find a reasonable solution to
2 bring the access pier into compliance with the issued permit.

3 Shortly after that July meeting, we found a copy
4 of his 1992 permit. And it indicated that the conditions for
5 the access pier and as far as the width and the height over
6 marsh vegetation were exactly the same as what he currently
7 has. And that means that going all the way back to 1992 the
8 structure that he initially built was out of compliance from
9 1992 all the way to present time.

10 So we consulted with the Army Corps of Engineers
11 in Mobile who we issue these general permits on their behalf.
12 And it was agreed upon at that time that the access pier should
13 be brought into compliance with the existing conditions on the
14 permit.

15 This is a photograph of the current conditions.
16 You can see the access pier built there and the marsh
17 vegetation that was damaged in the process of constructing the
18 access pier.

19 The boathouse there was supposed to be lined up
20 centered with the dock on the end of the access pier. However,
21 he built it a little bit to the left, which is fine; it doesn't
22 create a navigational hazard or anything.

23 This is a scanned copy of the 1992 permit. And
24 the conditions in that permit that state that the access pier
25 should have been four feet wide and a minimum of one foot over

1 the top of the marsh vegetation.

2 And here is a slide indicating that what he
3 signed in agreeing to those conditions.

4 And now we're to our recommendation. Before I
5 read the recommendation, I'd like to say that Mr. Hoover is
6 here, and he has brought some pictures that he would like to
7 show the commissioners.

8 Mr. Hoover?

9 MR. HOOVER: Thank you, Ron. Thank you good
10 people for letting me appear before you today.

11 I'm certainly not an accomplished public
12 speaker, but I'm going to attempt to stumble through this. And
13 I hope you keep an open mind about what has transpired here.

14 As Ron mentioned, there was certainly some
15 miscommunication about my intent not to remove the end of my
16 pier.

17 I wish you could see this a little better
18 because I can see it clearly here. This is the remnants of my
19 existing pier after Katrina. It's two ten-foot lengths of the
20 original pier that shows the height over the marsh as it
21 existed previously. And my new pier was constructed exactly
22 that height.

23 These pictures, I'm afraid, aren't in any
24 particular order.

25 Again, can't see clearly here, but the entire

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1 the height of all of these.

2 This one in particular I want you to notice
3 because this is the Gulf Coast Research Lab facility's pier,
4 state pier. And that's it right here. My pier is mid-length,
5 it is six inches higher than this pier. And the marsh grass,
6 I'm assuming, is the same height.

7 This is looking from my back yard across the
8 bayou I'm guessing one or two hundred yards away. There is a
9 pier there.

10 I'm going to eventually -- this is the pier.
11 Please note the height of that.

12 Another pier further down the bayou. This is
13 one of the mysteriously appearing obstructions across from my
14 neighbor's home that I essentially have to patrol the bayou
15 each time before I go out with an anchor and a hook to see what
16 might have floated up since the previous time I'm out.

17 This is Ocean Springs walkway constructed along
18 Heron Bayou. I'm sure state, federal, and local governments
19 are exempt from such things as I'm entitled.

20 This is a sideways picture of the walkway in the
21 national park. You can see marsh grass growing up through it.
22 And it also is approximately two feet high.

23 Now, I'm sure that at some point someone has to
24 be made an example of as far as following your rules and
25 regulations. But I sure hate that it would begin with me along

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1 reason I'm here today is because my neighbor has a poor
2 understanding of tidal marshlands. That is my property that
3 you're looking at there, my home. And clearly, I am the upland
4 landowner of tidal land -- I mean, the upper landowner adjacent
5 to this tidal land.

6 My neighbor filed suit shortly after this pier
7 was constructed originally. And I was told it really had no
8 legal bearing. But at any rate, it went to the chancellor's
9 court. I prevailed in Chancery Court. He appealed it to the
10 Supreme Court; I prevailed in the Supreme Court. But he has
11 yet to give up this fight and continues it to today.

12 Not only does he -- has he called the DMR to
13 report reconstruction on this pier -- and you won't be able to
14 see this, either, unfortunately. But what is in the bayou
15 right here is a roll of cement construction wire --
16 reinforcement wire, I should say -- right there. And that's
17 mysteriously appeared straight across from his property one day

18 at low tide. If it had not been low tide, I would have never
19 noticed that. And you can imagine what it would have wreaked
20 upon my inboard propeller which is right here.

21 This is my pier as it exists today and
22 boathouse. And please notice the height of it as it is.

23 These are piers that I took pictures of as I was
24 leaving Davis Bayou which Heron Bayou is just a few feet from
25 going out into the Gulf. And my pier is approximately twice

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1 this particular bayou.

2 As I showed you in the picture of my pier here,
3 these two lengths were clearly standing when Ron came out to
4 issue my permit originally. And if any issues were present
5 with the height of the pier, I think that would have been an
6 ideal time for him to mention that prior to issuing me a permit
7 to tie into this pier which was clearly my intent on my permit.

8 He came out subsequently two times after my new
9 pier was constructed and -- two or three times -- and made no
10 mention of height, an issue with height. It was not until the
11 third or fourth time when his director came out with him that
12 the issue was brought up.

13 Subsequently, when Ron and his protege Greg came
14 out, they were -- pretty much gave me the impression that when
15 this first meeting last month took place that any violations
16 would be waived by this commission, and there was really no
17 need for me to come.

18 So, until the last minute, I really had no
19 intent coming. But I'm certainly glad I did, even though it's
20 a little difficult for me to get off and be here today. I
21 would have had no clue what was transpiring had I not come.

22 In fact, I was so confident that all this was
23 going to be waived and just kind of blow over that I actually
24 signed a paper that Ron gave me that without reading it or any
25 knowledge of what was in it, which was stupid of me, but I was

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1 fully confident, I trusted, that this would be taken care of
 2 and would just kind of blow over.
 3 So if, indeed, I am to be made an example of and
 4 forced to raise my pier, I don't think that it would really
 5 benefit the marsh grass. I can only assure you that it would
 6 guarantee that I would lose my pier the first tidal surge
 7 because it's gone. I can't imagine any way to sturdily raise
 8 the pier and make it hurricane proof. Or I know there's no
 9 such thing as hurricane proof pier, but it would certainly be
 10 subject to damage with the slightest tidal waves.

11 So I just beg that you keep an open mind about
 12 this. I know I'm the underdog here and certainly at a
 13 disadvantage, but please understand what my point of view is
 14 that if, indeed, prior to me spending \$16,000 for a boathouse
 15 and a pier, some mention of the height -- I take full
 16 responsibility for the extra foot of pier, even though my
 17 intent was to have them narrow the pier when they built it,
 18 they tied into the exact dimensions and everything without -- I
 19 wasn't even there. And, in fact, the person I talked to about
 20 the pier wasn't even there. His crew came out and did it in
 21 like a matter of a day and was gone.

22 So please keep an open mind and help me out with
 23 this. Thank you so much.

24 MR. GOLLOTT: Mr. Hoover, unfortunately I think
 25 the commission is only looking at one thing here, that you were

1 But at this point, I'll let commissioners ask --
 2 MR. HOOVER: Yes, sir. Did I understand that my
 3 pier needs to be raised by three feet? Is that what I just
 4 understood you to say?

5 MR. COLE: Yes.

6 MR. HOOVER: I ask you to take a look at this
 7 pier which was constructed after Hurricane Katrina. My pier
 8 now is at four and a half feet. That would mean it would have
 9 to be seven and a half feet high.

10 This is a two foot pier. Every pier -- I have
 11 the highest pier on Davis Bayou. I invite anyone to come out
 12 to my house, I'll give you a personal tour of the surrounding
 13 piers on Davis Bayou.

14 And as I say, gentlemen, seven and a half feet?
 15 This is what the piers I saw along Davis Bayou --

16 MR. DRUMMOND: How tall is your pier now?

17 MR. HOOVER: Four and a half feet at mid-length
 18 from my house out to the end of the pier, mid-length is four
 19 and a half feet.

20 MR. GOLLOTT: I can only tell you, Mr. Hoover,
 21 what I did. I come over the marsh grass up high, and then when
 22 I got over the water, I dropped it down to where I wanted and
 23 came down. You don't have to carry this pier all the way out
 24 at that height.

25 MR. HOOVER: My pier is essentially over the

1 permitted in 1992 to build this pier to a certain height. And
 2 believe me, we are not trying to make an example out of you.
 3 Unfortunately, we've had to make people pull up bulkheads and
 4 stuff like that in the past.

5 And I live on the water. I have a pier. I've
 6 put money in it just like you have. So I can sympathize with
 7 you on this thing.

8 Let me ask the officer here. Is the only thing
 9 we're looking at is the height of the pier?

10 MR. COLE: The access pier is out of compliance
 11 by its height and by the width.

12 The width could be easily corrected by trimming
 13 the decking boards off even with the stringers. But the height
 14 could not be corrected so easily.

15 MR. GOLLOTT: What's the difference in the
 16 height?

17 MR. COLE: It's about three feet too low.

18 MR. GOLLOTT: Believe me, we are not looking --
 19 I don't think anybody on this commission is looking to make an
 20 example or hurt anyone. I mean, we go out of our way to try to
 21 work with people on this kind of stuff.

22 But I don't think we can allow a pier to be this
 23 far out of compliance because it sets a precedent, and then
 24 all piers in the future we wouldn't have a handle on this
 25 thing.

1 marsh grass to the very end.

2 As I say, this is a state facility right here.
 3 This is University of Southern Mississippi. My pier is six
 4 inches higher at mid-length than this pier.

5 MR. DRUMMOND: How tall is that pier?

6 MR. HOOVER: It's four feet high.

7 University of Southern Mississippi Research
 8 Center pier reconstructed after Hurricane Katrina just as mine.

9 MR. TAYLOR: Again, I don't think anybody here
 10 is making an example of anybody. But we are here to discuss
 11 your pier, not the other piers. And that's really what we have
 12 to deal with. If someone wants to bring a complaint or
 13 whatever, if you want to do it, with the piers, and they
 14 determine that it's out of compliance or something, we'll deal
 15 with it just like we have to deal with yours. It's not about
 16 -- definitely not about making an example or we wouldn't have
 17 tabled this to try to see if we could work something out last
 18 meeting. It was tabled.

19 MR. BOSARGE: And maybe by you bringing some of
 20 these piers that are out of compliance to our attention, you
 21 will have more neighbors that might not be too happy. But we
 22 have to deal with your situation. And your situation is that
 23 in 1992 you signed the contract that said you would put it
 24 where it was supposed to be, and it's not there.

25 MR. HOOVER: Sir, I hope I'm not interrupting

1 you. I previously mentioned that during litigation of the
2 first pier I built, I had coastal ecologists, I had people from
3 the DMR, I had Secretary of State representatives on my pier,
4 and there was never a mention of a height issue.

5 Naturally, when I constructed my pier, I looked
6 around what was -- everyone else had done, and I imitated what
7 they had done.

8 Obviously, the higher you go, the more risk you
9 are with hurricane damage. And you only reap so much -- the
10 marsh grass thrives. I have a picture that I showed you the
11 last time where the marsh grass is actually thriving under the
12 -- my old pier.

13 Now, I don't know why -- any reason why it
14 wouldn't thrive under this pier. It's the same exact
15 situation.

16 I passed this around last time. And marsh grass
17 is growing quite nicely on both sides.

18 MR. GOLLOTT: Mr. Hoover, what we're telling you
19 is two wrongs or ten wrongs don't make a right. And you signed
20 a paper saying that you would build this pier to the permit
21 specifications.

22 MR. HOOVER: Yes, sir, I did.

23 MR. GOLLOTT: And then you looked around, and
24 you decided to change it.

25 MR. HOOVER: No, sir, I did not change it. I

1 And also the 20 feet that had survived Hurricane
2 Katrina where all he needed to do is replace the decking
3 boards, like we said last month, we'd be happy for him to
4 replace the decking boards at that height.

5 But the length of the pier that he needed to
6 completely reconstruct under the new permit we would ask to
7 meet the guidelines.

8 MR. GOLLOTT: How many feet are we talking
9 about?

10 MS. BRANTLEY: It's 110 feet in total, so 90
11 feet minus that 20 feet at the end.

12 But a portion of the landward may be in
13 compliance right now.

14 MR. GOLLOTT: What is your recommendation?

15 MS. BRANTLEY: Let me get that slide back up.

16 MR. COLE: Our recommendation is that the
17 commission order Mr. Hoover to bring the access pier into
18 compliance with all of the issued permits and issue
19 after-the-fact general permit for the boathouse and pier.
20 Allow one full growing season for the damaged marsh vegetation
21 to recover. If the vegetation does not reach 50 percent
22 coverage in that time or the area becomes infested with
23 invasive species, Mr. Hoover should be required to restore the
24 area according to DMR's marsh restoration guidelines. Waive
25 the typical fine in this case because of the miscommunication

1 built it exactly like it was. In fact, as I mentioned --

2 MR. GOLLOTT: In '92, when you built the pier
3 the first time, you stated that you signed a paper saying that
4 you'd build it at a certain height. And then you turned around
5 and looked around and other piers were this low, so you decided
6 to go --

7 MR. HOOVER: No, sir. My pier is higher than --
8 was higher than the other piers.

9 The marsh grass changes. The marsh grass --
10 actually, I am a foot above the marsh grass as it starts out
11 from my yard. And it rises up at the end.

12 MS. BRANTLEY: Can I address that?

13 One thing that I want to point out is the three
14 feet is an estimation. What we're asking for is that it be
15 brought into compliance, which we would be happy to go out when
16 they place the stringers and tell him that that's going to be
17 in compliance, give him something in writing that that would be
18 in compliance.

19 And he is right. There are two different
20 species of marsh grass we're dealing with. At the waterward
21 end we're dealing with Juncus roemerianus which is
22 approximately five feet in height, four and a half to five
23 feet, somewhere in there. And then at the landward end, we're
24 dealing with a spartina species that is shorter. So that
25 portion of the pier may currently be in compliance.

1 that occurred between DMR and Mr. Hoover, and require
2 compliance of the access pier within 90 days or the matter
3 should be forwarded to the Attorney General's office for
4 further enforcement action.

5 MS. BRANTLEY: And also, I would like to talk
6 about this. Ninety days is our typical length for compliance,
7 but we'd be happy to allow Mr. Hoover some more time if he
8 needs it to bring that into compliance.

9 MR. GOLLOTT: One more question. And I would
10 ask Mr. Hoover could he do it in 90 days if he's intending on
11 doing it. But Mr. Hoover does have another route to go. He
12 could bring this up in court if he's not satisfied with what
13 the commission decides.

14 MS. BRANTLEY: I believe the first step is that
15 he would petition for reconsideration. It would come back
16 before the commission, and you would decide whether to hear
17 that or -- I think there's three or four different options that
18 Sandy can probably explain better than I can.

19 MR. GOLLOTT: Why don't you explain it to him so
20 he knows what his rights are.

21 MS. CHESNUT: He can bring it back before the
22 commission on a petition for reconsideration, bring any further
23 information to the commission's attention. And they vote on it
24 again. And they either deny it or approve it. If they deny it
25 again, then he can take it to Chancery Court.

1 MR. GOLLOTT: Thank you.
2 Do we have a motion?
3 MR. BOSARGE: Yes, sir. I'd like to make a
4 motion that we accept the staff's recommendation, other than we
5 give you 120 days to begin work on your pier.

6 MS. BRANTLEY: A hundred twenty days to begin?
7 Would you like to put any limit on when it's finished, or just
8 leave it at that?

9 (Several people speaking at one time.)

10 MR. BOSARGE: Let's say within a year. And we
11 are not, like I said, we're not trying to make an example of
12 you. We've got to follow the rules. And I appreciate you
13 bringing to the attention, our attention to the fact that
14 there's a bunch more piers that maybe are not in compliance.

15 MS. BRANTLEY: And we are happy to look into any
16 other piers that may not be in compliance. One thing that is a
17 problem for us is determining exactly when those piers were
18 built, when they were authorized, the old authorizations. And
19 this one we do have a clearcut old permit and the new permit.

20 MR. GOLLOTT: One more thing I'd like to say to
21 you. If you catch your neighbor putting stuff in the canal, it
22 is about a \$10,000 fine if you turn him over to the U.S. Coast
23 Guard.

24 MR. HOOVER: That sounds fine and good. But I
25 understand you have to have some evidence, and I don't know

1 Fiscal 2011 tidelands proposals. Again, we received proposals
2 by the July 1, 2009, deadline. Currently, we are in the
3 compliance review process and will start the merit review
4 process in the next week or two.

5 At the November 2009 CMR meeting, we will
6 hopefully have the recommendations for your approval at that
7 time.

8 In July, we received 104 applications totaling a
9 little over \$24 million. Forty-four of those were public
10 access projects, mostly submitted by the municipalities in the
11 three coastal counties on the coast. Those access projects
12 totaled almost \$15 million.

13 We received 60 management projects which are
14 mostly land acquisition and research projects totaling a little
15 over \$9 million.

16 Again, in Fiscal 2010, we have been appropriated
17 \$7 million in our appropriation bill. We hope to receive those
18 funds in December of this year.

19 Municipalities turned in 18 proposals at almost
20 \$9 million. As you can see, there's a chart of what entities
21 sent in proposals and how many.

22 Three coastal counties turned in 17 applications
23 at about \$3.8 million. And there's a breakout of the county
24 applications.

25 And then we had nine other proposals that were

1 anyone that's stupid enough to walk out in the middle of
2 daylight and say, hey, look at me, I'm going to throw this out
3 in the bayou. But I appreciate your advice.

4 MR. TAYLOR: Second.

5 MR. GOLLOTT: We have a motion and a second.
6 All those in favor say aye. Opposed? Motion carries. Thank
7 you, sir.

8 MR. HOOVER: Thank you.

9 MS. BRANTLEY: That wraps up coastal ecology.
10 Thank you.

11 I. Tidelands Office - Joe Ziegler

12 2. Program Status

13 a. FY2011 Tidelands Trust Fund Proposal Update
14 - Michaela Hill - No Action

15 MS. HILL: Good morning, commissioners, Dr.
16 Walker, and Sandy. I'd like to give a brief overview of the
17 proposals that we received in July for the Fiscal 2011

18 tidelands trust fund.

19 Before I do that, I want to give you a little
20 bit of historical information on the funding that we received.
21 This goes back eight years, but actually the funding started in
22 1996 which is 14 years ago. And since that time, we have
23 received approximately \$71 million to distribute in tidelands
24 funds.

25 This is the schedule that we have set up for the

1 submitted by nonprofits and other organizations at about \$2.3
2 million.

3 On the management side, we received again 60
4 proposals, a little over \$9 million. DMR submitted 19
5 proposals at \$3 million. Universities, which included
6 University of Southern Mississippi, Mississippi State
7 University, Jackson State University, and Mississippi Gulf
8 Coast Community College turned in a total of 28 projects at
9 \$4.5 million. And then we had other entities, mostly
10 nonprofits; turned in 13 projects at \$1.5 million.

11 This concludes my presentation. Any questions?

12 MR. GOLLOTT: Thank you, Michaela.

13 Okay. Other business? Any other business? Do
14 we have a motion to adjourn? Oh, financial report. I'm sorry.

15 J. Administrative Services - Tom Doster

16 2. Financial Report - Kara Vesa - No Action

17 MS. VESA: Okay. Today's report shows July 31

18 which was the beginning of our new fiscal year, Fiscal Year
19 2010. So our budget for this year is \$6,756,144. We have
20 spent \$621,108, leaving a remaining balance of \$6,135,036.

21 And as Michaela pointed out, our tidelands
22 budget for this year is \$7 million.

23 And that is my report. Are there any questions
24 today?

25 MR. GOLLOTT: Thank you, Kara.

1 Other business? No other business. A motion to
 2 adjourn?
 3 MR. DRUMMOND: I make a motion we adjourn.
 4 MR. BOSARGE: Second.
 5 MR. GOLLOTT: All those in favor. Adjourned.
 6 (Meeting adjourned 10:30 a.m.)
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1 BEFORE THE COMMISSION ON MARINE RESOURCES

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6 COURT REPORTER'S CERTIFICATE

7

8 I, Norma Jean Ladner Soroe, Certified Shorthand
 9 Reporter, do hereby certify that to the best of my skill and
 10 ability I have reported the meeting of the Commission on Marine
 11 Resources and that the foregoing 57 pages constitute a true
 12 transcription of said meeting held on the 18th day of August
 13 2009.

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

18 Witness my signature this the 2nd day of September
 19 2009.

20
21
22

23 Norma Jean Ladner Soroe, CSR #1297
 24 Certified Shorthand Reporter
 25

