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COMMISSION ON MARINE RESOURCES

January 15, 2013

**N.J. Soroie, 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 January 15, 2013
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 7 TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT
 8 BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAYVIEW
 9 AVENUE, BILOXI, MISSISSIPPI, ON THE 15TH DAY OF JANUARY 2013
 10 COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LADNER
 11 SOROE, CERTIFIED SHORTHAND REPORTER.
 12 *****
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 14 COMMISSION MEMBERS PRESENT:
 15 DR. VERNON ASPER, Chairman
 16 RICHARD GOLLOTT
 17 SHELBY DRUMMOND
 18 STEVE BOSARGE
 19 JIMMY TAYLOR
 20
 21 ALSO PRESENT:
 22 DANNY GUICE, Interim Executive Director DMR
 23 JOSEPH R. RUNNELS, ESQ., Asst. Attorney General
 24 SANDY CHESNUT, ESQ., Asst. Attorney General
 25

1 DR. ASPER: Is there a second?
 2 MR. DRUMMOND: I second the motion.
 3 DR. ASPER: Second by Commissioner Drummond.
 4 Those in favor say aye. It's carried.
 5 D. Public Comments
 6 DR. ASPER: We have a period of public comments,
 7 and we welcome input from anybody on just about anything. In
 8 order to do that, you need to fill out one of those little
 9 forms in the back. And I don't have any filled out, so unless
 10 somebody asks to be recognized, I don't guess we have any
 11 comments or questions.
 12 E. Executive Director's Report
 13 DR. ASPER: Okay. We'll move on to the
 14 executive director's report.
 15 MR. GUICE: We have administrative penalty cases
 16 that Sandy will handle, Mr. Chairman.
 17 MS. CHESNUT: This matter involves four adult
 18 individuals, Alexander Fogg, Cause Number 011412-01, Holland
 19 McCandless, 011512-02, Andrew Lamier, 011512-03, and Justin
 20 Goggins, 011512-04.
 21 On January 15, 2012, Officers Webb and Southern
 22 stopped these individuals in a recreational vessel bearing
 23 MI-6937-BA as they were coming into the Pascagoula ship channel
 24 in the Gulf of Mexico.
 25 Upon inspection of an ice chest containing red

1 A. Call to Order
 2 DR. ASPER: Good morning. I'd like to welcome
 3 everybody to the regular January meeting of the Commission on
 4 Marine Resources.
 5 B. Approval of Minutes
 6 DR. ASPER: Since the December meeting, we have
 7 had two special meetings. And I'd like to -- actually, since
 8 December we had a special meeting on December 28. We had a
 9 special meeting for personnel matters. We have therefore three
 10 sets of minutes in our packet. Are there any corrections to
 11 any minutes, either for the last meeting or for the special
 12 meeting on December 7 and the special meeting on December 28?
 13 Are there any corrections to the minutes, or is there a motion
 14 to approve as distributed?
 15 MR. DRUMMOND: So moved, Mr. Chairman.
 16 MR. GOLLOTT: Second.
 17 DR. ASPER: So we have a motion to approve all
 18 three sets of minutes. Those in favor say aye. Carries
 19 unanimously. Thank you.
 20 C. Approval of Agenda
 21 DR. ASPER: We have an agenda before us. Are
 22 there any additions or corrections to the agenda? Or is there
 23 a motion to approve as distributed?
 24 MR. GOLLOTT: I'll make a motion that we approve
 25 the agenda as distributed.

1 drum, triggerfish, and a bag of filets were discovered.
 2 Mr. Fogg was the captain of the boat and advised
 3 that the filets were white trout, that they were being used
 4 for bait, and that it was an unregulated fish, and that they
 5 were NOAA biologists in Pascagoula.
 6 Officer Southern advised that the filets
 7 appeared to be red snapper rather than white trout and it was
 8 illegal to possess filets until final destination.
 9 Upon further questioning, Mr. Fogg advised that
 10 the red fish on board were caught within 12 miles of the island
 11 around some oil rigs.
 12 Officer Southern informed Mr. Fogg that the red
 13 fish were caught in federal waters since there were no oil rigs
 14 located in Mississippi waters, and a citation was issued to Mr.
 15 Fogg for possession of filets.
 16 On January 25, 2012, Captain Armes discovered
 17 internet posts on two separate fishing websites by A. Fogg
 18 dated January 15, 2012, stating that he and his friends had
 19 moved offshore in 60 feet of water and had caught a bunch of
 20 red snapper, catfish, triggerfish, and a nice red drum.
 21 There were pictures of the total catch, a woman
 22 with a red snapper, a man holding red fish and a triggerfish,
 23 and a man and woman holding a red drum while fishing an oil
 24 rig.
 25 It was determined that the individuals in the

1 photographs were the four individuals listed above, and
2 citations were issued to all individuals for possession of red
3 drum in federal waters and possession of filets.

4 All four individuals were sent letters stating
5 that at the time of the -- I'm sorry. All four individuals
6 sent the department letters stating that at the time of the
7 incident they were unaware of the regulations and apologized
8 for their actions. They stated that they are now aware of the
9 regulations and that it would not happen again.

10 Three of the individuals, Holland McCandless,
11 Justin Goggins, and Andrew Lamier requested and attended an
12 informal settlement conference with Dr. Walker and Danny Guice.

13 All of the supporting documentation including
14 photographs are being provided to each member of the
15 commission.

16 Based upon the foregoing information, the
17 executive director found that the allegations contained in the
18 enforcement reports had merit and that the department
19 recommended to the commission to impose an administrative
20 penalty against Alexander Fogg, Holland McCandless, Justin
21 Goggins, and Andrew Lamier in the amount of \$1,000, with \$500
22 suspended contingent upon no new fishing violations being
23 committed in any jurisdiction for a period of two years and
24 payment of the \$500 fine within 45 days of the approval of the
25 recommendation by the commission.

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1 The commission may accept or reject or modify
2 the department's recommendation upon motion by the commission.

3 All the individuals have been advised this
4 matter would be presented to the commission today, and they may
5 be here and wish to address the commission.

6 When you come forward, state your name.

7 MR. GOGGINS: Hi. My name is Justin Goggins,
8 and I just want to say that we are very sorry for what we've
9 done and didn't have our thinking caps on and seeking leniency
10 of this commission.

11 That's all I have to say.

12 MR. GOLLOTT: Mr. Goggins, was this a charter
13 trip, or was it just a friendly trip?

14 MR. GOGGINS: Just a friendly trip.

15 MR. GOLLOTT: And did the captain know where you
16 was at?

17 MR. GOGGINS: Yes, sir, I believe so. I didn't
18 realize at the time that we were offshore in federal waters,
19 but I believe he did know that.

20 MR. GOLLOTT: Thank you, sir.

21 MS. CHESNUT: Would anybody else like to address
22 the commission?

23 MR. LAMIER: Hi. I'm Andrew Lamier. And as Mr.
24 Goggins said, I would like to say how sorry we are for this
25 incident and appreciate the director and assistant director's

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1 leniency in their recommendation on us. And also, am truly
2 very sorry for this and hate to be a part of this entire
3 situation. I just want to make it right. Thank you.

4 MS. CHESNUT: If there are no further comments,
5 the commission can make a motion.

6 MR. GOLLOTT: Mr. Chairman, I think we ought to
7 -- I'll make a motion that we accept the director's
8 recommendation on everybody but the captain. And I think the
9 captain should pay at least a thousand dollars since he knew.
10 He was the one that broke the law really, and he knew where he
11 was at, and the captain is responsible for his boat and where
12 it's at.

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

14 DR. ASPER: Is there any further discussion?
15 Those in favor say aye. Those opposed. Carries unanimously.
16 That ends the administrative penalty cases. Is
17 there anything else from the executive director?

18 I'd like to make a few comments about the things
19 that have been going on in the department and the reports that
20 you're hearing in the newspaper and the TV.

21 I just want to let everybody know that we're as
22 distressed about these things as everybody else is and that we
23 promise you that in the future we are going to pay a lot closer
24 attention to what's going on in the department.

25 It's really hard to deal with the situation

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1 where you trust somebody explicitly and implicitly and that
2 person lets you down.

3 In this case, we trusted an individual, and we
4 gave that person free rein with everything. And we saw lots of
5 good things happening, and we never suspected that some of the
6 things were taking place that have been alleged.

7 So we are aggrieved with this.

8 Is there any other action?

9 MR. TAYLOR: Mr. Chairman, I'd like to make a
10 motion I want the commission to consider. On December 28,
11 2012, the commission met in executive session to discuss
12 personnel matters. The person at the center of discussion was
13 Executive Director Bill Walker.

14 The commission heard from Dr. Walker at the
15 meeting, and the commission reviewed information provided by
16 the commission's legal counsel.

17 The commission then voted to suspend Dr. Walker
18 without pay. However, upon further review and reflection in
19 light of continuing information received by the commission, it
20 appears that the commission has received sufficient information
21 that warrants the removal of the executive director for cause.

22 Therefore, in an attempt to move this matter
23 forward as soon as possible that will aid the department in a
24 swift recovery, I make the motion that Bill Walker be dismissed
25 immediately from his position as director of the Mississippi

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1 Department of Marine Resources.

2 DR. ASPER: Is there a second?

3 MR. BOSARGE: I second that motion.

4 DR. ASPER: Is there any further discussion?

5 Those in favor signify by saying aye. Those opposed. Carries
6 unanimously.

7 And I'd like to just say again on our behalf,
8 we're heartbroken by this. We think that Dr. Walker did a
9 fantastic job as director. And it's such a disappointment that
10 it has come to this. Hope those things are resolved and that
11 they're resolved quickly. We have been informed that it's not
12 going to be February. It's going to be much longer than that.
13 And it's going to be a very careful process. We have been
14 informed by the various investigators that they are doing their
15 job, but there's a lot to go through, so it's going to be a
16 while.

17 I'd also like to thank the media, especially the
18 Sun Herald, for bringing this to light. Although it's been
19 really painful, I think that they have been instrumental in
20 bringing this to the public in a way that it wouldn't have been
21 had they not been as diligent as they are.

22 And I'd like to encourage you to help us work
23 together to rebuild the agency because it is a good agency, and
24 we have so many tremendous fantastic employees here. Everybody
25 does their job diligently, their job accurately and in a

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1 friendly manner. We've got the best law enforcement that we
2 could ever imagine having. The permitting process is just
3 fantastic. Fisheries are being managed extremely well. Have
4 no complaints there.

5 I assume the next step in the process is going
6 to be to choose a new director. In the meantime, our deputy
7 director will be acting, and I would assume that we will be
8 starting the process which will be an open process. State
9 statute requires that we submit three names to the governor, so
10 we will be looking for the very best person we possibly can to
11 step in and fill Dr. Walker's shoes.

12 And at this point, we just have no idea who that
13 is going to be. So we're wide open for that search.

14 And with that, we will move on to marine patrol.

15 F. Marine Patrol

16 2. Marine Patrol Report

17 MR. CHATAGNIER: Good morning, Mr. Chairman,
18 commissioners, legal, deputy director.

19 I'd like to start out first by thanking the
20 people that work here at DMR with all the well wishes and
21 thoughts and prayers that helped me convalesce through this
22 surgery I had.

23 And I'd also like to tell you that there is a
24 bunch of good hardworking people here proud to come to work and
25 proud to do a good job for the citizens of the State of

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1 Mississippi.

2 I have a little letter I'd like to read just
3 telling you a little bit about some of the hardworking people
4 that work here.

5 I'm going to leave a word or two out of this
6 letter, but this letter came from the Criminal Investigation
7 Division for the United States Navy Headquarters in Quantico,
8 Virginia, for NCIS. This isn't the TV show. These are the
9 real people here.

10 On behalf of the criminal investigation service,
11 I'd like to take the opportunity to commend the marine patrol
12 dive team members, Tommy Jennings, Brice Gex, Matt Caspolich
13 (ph.), Donnie Ladner, and Scott Saucier for their assistance in
14 assisting them in trying to gather evidence from a 1995 cold
15 case homicide. And I'm not going to tell you what city it is
16 because some of the stuff is still under investigation.

17 But this person that was killed or came up
18 missing was an active member of the United States Navy, and his
19 body still hasn't been recovered.

20 But with short notice, Captain Donnie Armes and
21 a member of the dive team developed and executed operational
22 plan in September which used our boat, gear, and personnel for
23 several days. And it says the dive team was prepared,
24 professional, and they exhausted all search efforts in zero
25 visibility diving conditions, handling extremely sensitive

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case, eliminated several possible locations for the remains.

And like I say, this has come from Michael
Keeler, and I'm not sure exactly what his rank is with the U.S
Navy.

5 But they came to us. They solicit our help, our
6 dive team, for some of the work they've done in the past
7 recovering evidence in homicides in other cases.

8 Those are just some of the hardworking people
9 that you have working for you along the coast here.

10 We had a few cases of dredging on the tonging
11 reef.

12 We had one for failure to cull oysters, and one
13 case of a tonging boat that had a dredge on it which is
14 illegal.

15 Our crabbing cases, we had one with no
16 commercial license.

17 Gill net. We had a gill net violation.
18 Somebody forgot to tell this guy it was illegal to gill net in
19 St. Martin Bayou. He got caught and was charged with five or
20 six different counts.

21 Saltwater fishing license tickets went way down.
22 I think a lot of that had to do with the weather.

23 Even our possession of undersized seatrout, we
24 only and one case and only two red fish cases during the month.

25 We taught a marine class, St. Martin High

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1 School, during the month of December and certified 53 students.
 2 The outreach, went to the high school, some high
 3 school students at Point Cadet and conducted a little
 4 presentation for those students down there.

5 Christmas on the Water parade, Christmas by the
 6 River in Moss Point, Christmas on the Water fireworks in Pass
 7 Christian, Christmas on the Bayou in Gulfport, those are some
 8 of the events that we took and assisted these people with.

9 We only had one boating accident with injuries.
 10 Had no fatalities.

11 On JEA patrols, we're a little slower during the
 12 winter months. There's not quite as many people out there, but
 13 they're still doing some patrolling.

14 We ended up issuing one state citation and four
 15 enforcement action reports that went to the feds.

16 Any questions?

17 DR. ASPER: Thank you. Appreciate it.

18 G. Marine Fisheries

19 MR. DIAZ: Good morning, commissioners, Dr.
 20 Asper, Mr. Guice, Ms. Chesnut. Chief Chatagnier, we're glad to
 21 have you back. It's good to see you back at work.

22 I've got a few things I'd like to lead off with
 23 for marine fisheries to let you know about before we get
 24 started with our presentations.

25 First, we got a letter from FDA Southeast

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1 Region, and I'd like to read that to you if it's okay.

2 The letter says, enclosed please find a copy of
 3 the U.S. Food & Drug Administration FY 2012 annual program
 4 evaluation report on Mississippi shellfish sanitation program
 5 prepared by John Veazey (ph.), Southeast Regional Shellfish
 6 Specialist stationed in Baton Rouge, Louisiana, and David
 7 Wiggins, Southeast Regional Shellfish Specialist, stationed in
 8 Tallahassee, Florida.

9 Each year, the FDA evaluates program elements
 10 within each state's shellfish program to ensure compliance with
 11 the National Shellfish Sanitation Program guidelines to ensure
 12 the safety of molluscan shellfish shipped into interstate
 13 commerce.

14 We are pleased to report that the Mississippi
 15 shellfish sanitation program is in conformity with the NSSP
 16 requirements and would like to thank you and your staff for the
 17 cooperation provided through the 2012 evaluation.

18 And that is signed, Sincerely, Ellen Lehmann
 19 (ph.), Acting Director of State Cooperative Programs, Southeast
 20 Region for FDA.

21 So I'd like to commend Scott Gordon and Ruth
 22 Posadas and the shellfish staff and the seafood technology
 23 staff for the hard work that they do to keep us in compliance.
 24 It's very important that we stay in compliance because we have
 25 to be in compliance with all the elements to be able to ship

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1 shellfish in interstate commerce and keep our fishermen and our
 2 processors and a whole bunch of other people working.

3 So I appreciate the staff's hard work on that.

4 I'd also like to let you know that the
 5 Mississippi derelict crab pot cleanup is scheduled for February
 6 21st through the 23rd. Traci and the shrimp and crab bureau
 7 have been working closely with the crab task force planning for
 8 this event this year. The staff has sent out letters to all
 9 the fishermen, and they're aware that this program is going to
 10 be conducted. And we do this program in cooperation with GCRL,
 11 so it's a partnership. And we appreciate all of their help.

12 And lastly, I mentioned this I believe at the
 13 November meeting, but I wanted to let you know that this is
 14 coming up. The Gulf Council has scheduled scoping workshops
 15 around the Gulf of Mexico to get public input on a proposed
 16 amendment that examines regional management of recreational red
 17 snapper. Scoping workshops are the first and best opportunity
 18 for the public to make suggestions or raise issues and concerns
 19 before the council begins developing the amendments. The
 20 regional management of recreational red snapper would enable
 21 areas of the Gulf to propose management measures tailored to
 22 their specific regions. These scoping workshops will address
 23 regional management issues, including locally operable
 24 management measures, regional boundaries, allocation, and other
 25 components for the design of a regional management proposal.

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1 That scoping meeting is tonight, and it's going
 2 to be at the Four Points by Sheraton at 940 Beach Boulevard
 3 from 6:00 to 9:00 tonight. So if anybody can make that and
 4 give their input as to their thoughts on regional management of
 5 recreational red snapper.

6 If there's no questions, first up for marine
 7 fisheries is going to be Kerwin Cuevas, and he's going to do an
 8 inshore artificial reef update. This is a no action item.

9 3. Inshore Artificial Reef Update

10 MR. CUEVAS: Thank you, commissioners.

11 DR. ASPER: Kerwin, before you get started,
 12 there's clearly some misunderstanding among the commissioners
 13 and elsewhere and myself in particular regarding what the Rigs
 14 to Reefs program is all about and how it was set up, who runs
 15 it, and what our connection with the federal government is.

16 Could you just give us a quick briefing on what
 17 Rigs to Reefs is all about?

18 MR. CUEVAS: The Mississippi Department of
 19 Marine Resources has an artificial reef bureau. And the
 20 artificial reef bureau is funded through U.S. Fish & Wildlife
 21 Wallop-Breaux funds.

22 And in the bureau, there's a couple of
 23 components. The inshore reefs which is the reefs from a half
 24 mile inshore, and we usually utilize small cultch, two inch or
 25 less limestone, crushed concrete, that's usually oyster reefs

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1 that we utilize for reefs.

2 And then the offshore reefs are a half mile
3 offshore. I generally call those the offshore reefs.

4 And then you've got the Rigs to Reef which is in
5 offshore in federal waters.

6 So there's three types of programs underneath
7 the artificial reef bureau. It's one program, but there's
8 three type of facets underneath it.

9 DR. ASPER: So how do we interact with the
10 federal government on Rigs to Reefs? I mean, this is something
11 that takes place totally in federal waters. How is it that the
12 federal government isn't basically claiming those funds and
13 those activities for themselves or get involved?

14 MR. CUEVAS: What happens is the oil and gas
15 company comes to the state that they want to work with for a
16 reef to reef their platform. It saves the oil and gas
17 companies money. Instead of going ashore, they take it to one
18 of the state's reef sites. They put it in their reef site, and
19 they save funds.

20 But there's no -- the only government entity in
21 there is the Minerals Management Service, and that's called
22 BESSE. Now, they regulate the oil and gas companies offshore
23 in federal waters. But they let the states handle their own
24 Rigs to Reef program.

25 DR. ASPER: So this means that whoever -- which

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1 that's taking place now, are there very many more rigs in the
2 pipeline to be reefed for Mississippi?

3 MR. CUEVAS: Right now, we don't have -- we have
4 under contract two. But I'm not sure when that's going to
5 happen because there are so many -- we're east of the river.
6 Most of this is coming out west of the river, Texas and
7 Louisiana, of course. And the Main Pass area, there's very few
8 older jackets. It's a relatively new area. So we're kind of
9 slow on this area. And it wouldn't behoove the State of
10 Mississippi to go west of the river to look for, you know, reef
11 and jackets over there.

12 MR. BOSARGE: So you're saying that we're not
13 going west of the river --

14 MR. CUEVAS: No, sir.

15 MR. BOSARGE: -- to reef jackets?

16 MR. CUEVAS: Right. We'll just stay east of the
17 river south of Mississippi.

18 MR. BOSARGE: Thank you.

19 DR. ASPER: Sorry to interrupt like that, but
20 that was something that we just needed to have cleared up so
21 we're all on the same page.

22 So continue with your report, please.

23 MR. CUEVAS: Thank you. This is a NRDA project
24 that the inshore state Department of Marine Resources obtained
25 from, of course, the BP.

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1 state actually lays claim to this offshore water, it's not
2 theirs, it's federal water, but we've had discussion about the
3 state boundaries, and that means that where these boundaries
4 are drawn and who manages these offshore reefs really is
5 extremely important, not only for the reefs themselves, but for
6 this program.

7 MR. CUEVAS: That's correct. The state has to
8 go to a Corps of Engineers and get a permit in federal waters,
9 and they have to work -- the Corps of Engineers has to work
10 with BESSE, the former MMS, Minerals Management Service
11 Company, and to get a reef site. And then once a reef site is
12 obtained, then the state can reef that jacket, the state and
13 the oil and gas company can reef that jacket.

14 DR. ASPER: Okay. Thank you for clearing that
15 up.

16 MR. BOSARGE: I have a question just for
17 clarification. How -- what's the furthest reef we have south
18 of here mileage-wise?

19 MR. CUEVAS: We have a reef in the south -- it's
20 not in the -- probably Main Pass 280.

21 MR. BOSARGE: Which is?

22 MR. GOLLOTT: Sixty miles or so.

23 MR. CUEVAS: It's approximately 80 miles south
24 of Pascagoula.

25 MR. BOSARGE: With all the de-commissioning

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1 Due to contractual obligations and going out for
2 public bids on the contractor, we did do some deployments just
3 before the first of the year. This is just an update on what
4 we did the first of the year. And it will restart up in March
5 to finish the whole 67. We've got a project to restore and
6 enhance all 67 of Mississippi's inshore reefs. As I stated,
7 due to the long time it took to go out on public notice to get
8 a contractor and all that, we just had a small window of
9 opportunity to deploy before the new year, and this is just an
10 update on what we deployed.

11 We deployed five reefs toward the eastern side
12 of the State of Mississippi. This is our map of the inshore
13 reefs. You can see, we have inshore reefs from state line of
14 Alabama to state line of Louisiana. These reefs are there for
15 our inshore fishermen, wade fishermen, and pier fishermen.
16 They're located near boat ramps for fishermen that utilize our
17 small skiffs and such. They're located where wade fishermen
18 can and do fish, and our pier fishermen who don't have boats,
19 they can get on the pier and still fish on the reefs.

20 The first reef was the Pascagoula Reef Site 1.
21 We put approximately 900 cubic yards of fresh concrete. And
22 J.E. Boories won the contract with this. And they did a good
23 job to everything -- they did everything that we asked to
24 create the habitat and create in a manner that will last a long
25 time.

20

1 Our next one was Pascagoula front beach reef,
2 approximately 900 cubic yards there.

3 And then this is the Pascagoula municipal pier
4 reef. We only put 400 cubic yards there due to the area. It's
5 a small area.

6 And the Graveline reef, 900 cubic yards. This
7 is one of the best reefs I hear from our fishermen on the Gulf
8 Coast. A lot of people utilize this Graveline reef.

9 And the Belle Fountain reef, another 900 cubic
10 yards there.

11 These are the five reefs. Approximately 4000
12 cubic yards of material was put on these reefs. And in March
13 when the tide is a little bit better for them to get in with
14 their tugs and their barges, we'll restart up in March and
15 finish the rest of the 67. So we look forward to enhancing and
16 restoring the rest of Mississippi's inshore reefs.

17 Any questions?

18 MR. BOSARGE: The same shell is what you're
19 going to put on that?

20 MR. CUEVAS: Yes, sir. Yes, sir. 57/67
21 limestone.

22 MR. BOSARGE: And basically working your way
23 from east to west?

24 MR. CUEVAS: It's going to be up to the
25 contractor. Where he has the staging sites, I imagine he'll

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1 have a couple of staging sites throughout the Gulf Coast. And
2 we will work with the contractor which sites he wants to do
3 and, you know, as it gets in summer, people are going to be
4 utilizing the reefs to fish in. So I'd like to get it, you
5 know, before it's heavily used so we don't bother our
6 fishermen.

7 MR. BOSARGE: And the reefs that are not around
8 the piers, are they marked in any kind of way?

9 MR. CUEVAS: Yes, sir. We do mark them.
10 They're marked with PVC poles with a sign. Sometimes people
11 tie up to them. But we try to keep them up because most of
12 your inshore fishermen -- not most -- some of your inshore
13 fishermen, they don't utilize GPSs on their small boats, so
14 it's easier for them to see with a pole.

15 MR. BOSARGE: Thank you.

16 MR. DRUMMOND: Kerwin, all these reefs in
17 Jackson County, are they strictly shell reefs?

18 MR. CUEVAS: Yes, sir. They're all low profile
19 limestone crushed concrete oyster reefs.

20 MR. DRUMMOND: Thank you.

21 DR. ASPER: And when you say this is a NRDA
22 project, NRDA means Natural Resource Damage Assessment. The
23 funding for that ultimately comes from BP?

24 MR. CUEVAS: Yes, sir. This is one of two Phase
25 1 projects. Scott has the other one from Mississippi.

22

1 DR. ASPER: Other questions?

2 MR. GOLLOTT: Kerwin, just a quick question. Is
3 the Katrina Reef, the one outside of Deer Island, in Jackson or
4 Harrison County?

5 MR. CUEVAS: Harrison County. It's close, but
6 it's in Harrison.

7 And we are going to utilize material from the
8 NRDA project to -- around the Katrina Key to deploy some
9 material more that's around there now.

10 MR. GOLLOTT: You know, I understand that there
11 was an oyster reef in that area years ago before we did all of
12 this. Is there a possibility that we could make a half-moon
13 and put an oyster reef in the middle, a tonging reef or
14 something, and could we look into that? Sounds like a good
15 idea.

16 MR. CUEVAS: Yes, sir, we'd be glad to look into
17 that for you.

18 I'd be glad to work with you. If you knew any
19 historical data where the reef was, we can utilize our side
20 scan and possibly look for it. And if permits allow, it's
21 something we could do, I'll get with Dale and Mr. Guice and
22 we'll do what we can do.

23 MR. GOLLOTT: Thank you.

24 DR. ASPER: Thank you, Kerwin.

25 MR. DIAZ: Thank you, Kerwin.

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1 Next up for marine fisheries, Scott Gordon is
2 going to do an oyster season update. This is a no action item.

3 4. Oyster Season Update

4 MR. GORDON: Good morning, Mr. Chairman,
5 commissioners, Mr. Guice, Ms. Chesnut.

6 Just wanted to update you briefly on our limited
7 oyster season.

8 This is through today. The limited season
9 opened November 5. To date, we've had 53,251 sacks harvested.

10 As far as limited seasons go, I believe we have
11 been successful with it.

12 There have been 3,454 trips. That averages out
13 to 15.4 sacks per trip for all harvest types, tonging and
14 dredging.

15 The dredgers, they've harvested 51,442 sacks
16 over 3,173 trips. That averages out to 16.2 sacks per trip.
17 And we closed dredging season for this limited season December
18 22.

19 Tongers have harvested 1809 sacks over 281
20 trips. That averages out to 6.4 sacks per trip.

21 All areas have been closed since December 30 due
22 to the Pearl River stage. Once the Pearl River stage reaches
23 -- our two main points are at the ten foot level, that will
24 shut some of the inshore waters down. And then the 12 and a
25 half foot level, that will shut other waters down.

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1 I went back a month so you could see what the
2 Pearl River is doing. And as you can see, it's just been
3 steadily stair stepping upwards.

4 These little triangles below, this is the median
5 daily statistic over a 17 year period. So the Pearl River is
6 above what that 17 year average has been.

7 And to show you what it's forecast for the rest
8 of this week, they've got it forecast to going up to 17.7 feet,
9 which is just below the major flood stage of 18 feet and just
10 staying there. So we keep a watch on this.

11 And I thought it would be interesting just to
12 look at the past year what the Pearl River has done. Again,
13 these triangles on here that shows the median daily statistic,
14 and this is over a 14 year period. Largely, we are above that,
15 so this seems to be a wetter year. And generally slightly
16 wetter years, they tend to be conducive to good oyster
17 production.

18 So this looks good for the future. We don't
19 want to get too much fresh water, such as them opening up the
20 Bonnet Carre Spillway and killing a lot of oysters. But a good
21 steady supply of water is what is needed.

22 I wanted to tell you a couple other activities
23 that we have going on in the shellfish bureau.

24 The CONSERVATIONIST will be doing some
25 cultivation with bagless dredges. We're going to start in the

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1 west first, and we are hoping to improve some of the conditions
2 with the hook mussel problem that we have.

3 And also later on closer to the spring to clean
4 shell that will make it more conducive to getting a successful
5 spat set.

6 We're in the process, and they had bid openings
7 about a week or two ago, for a spring NRDA cultch plant which
8 could exceed 1400 acres. This is a leftover fall cultch plant
9 plus an additional spring cultch plant.

10 That would be in excess or has the potential in
11 excess of 140,000 cubic yards of material. We are working with
12 the Mississippi Department of Environmental Quality on this.
13 We have an MOA with them to provide oversight and supervision
14 of the deployment process.

15 To put that 1400 acres into perspective, one
16 oyster restoration group in the Chesapeake Bay area reported
17 restoring of about 1400 acres over more than a 15 year period.
18 And I made the comment to some of the folks I believe this may
19 be one of the largest single cultch plantings ever. I don't
20 have any proof of that, but I haven't been able to find
21 anything that exceeded this. But it's going to be a very large
22 undertaking. And if you were looking at large barges that
23 would hold a thousand cubic yards of material, we're talking in
24 excess of 141, 142 bargeloads. So that's a pretty sizeable
25 undertaking.

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1 Do you have any questions?

2 MR. BOSARGE: Where is this cultch plant, where
3 is most of it going?

4 MR. GORDON: This is going to go on the western
5 reefs. And those are the areas that we're normally able to
6 open up right now. And again, this is one of the early oyster
7 restoration projects. We're hopeful that we'll have some more
8 in the future that we can look at some other areas.

9 In addition, the shellfish bureau has two other
10 -- I'm sorry -- three other grants that we have received. One
11 of them is for about a ten acre site. And another is a 25 acre
12 site. Those are going to be in some of the bay areas. And
13 then we have another Deer Island restoration project where
14 they're putting the oyster shell in the bags trying to do some
15 shoreline stabilization and improve the oyster habitat in those
16 areas.

17 So we have a lot of different things going on.

18 MR. BOSARGE: You might have told me, but I
19 didn't hear you. When is the cultch plant going to take place,
20 or when do you think?

21 MR. GORDON: This spring.

22 MR. BOSARGE: Thank you.

23 MR. GORDON: Any other questions?

24 MR. DRUMMOND: What about all this fresh water
25 coming, Scott?

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1 MR. GORDON: As long as we don't get too much of
2 it, we're in good shape. In fact, I welcome the fresh water.
3 That helps keep oyster drills, you know, pushed back and out
4 of the areas and helps the oysters grow. So it's a healthy
5 thing to have fresh water, as long as we don't get too much of
6 it.

7 DR. ASPER: Okay. Thank you very much, Scott.
8 Now we'll move on to coastal ecology. Jan.

9 H. Coastal Ecology

10 MR. BOYD: Good morning, Mr. Chairman,
11 commissioners, Mr. Guice, and Ms. Chesnut.

12 Coastal ecology has one action item for your
13 consideration this morning, and Jennifer Wittmann will be
14 presenting that.

15 3. Bureau of Wetlands Permitting

16 a. Royal D'Iberville Development, Inc.

17 MS. WITTMANN: Good morning. I will be
18 presenting coastal ecology's only item on the agenda today.

19 We have a request for extension by the Royal
20 D'Iberville Development, Incorporated, located on the Back Bay
21 of Biloxi west of Boney Avenue in D'Iberville in Harrison
22 County. It is in the commercial fishing and recreational
23 marinas use district.

24 Project location is in this area right north of
25 the Back Bay of Biloxi. This is I-110 right there.

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1 The applicant is requesting a four year
2 extension of an existing permit. The current project
3 description as approved consists of a 500 room hotel, 2500
4 space multi-level parking garage, permanent mooring structures,
5 a 210 by 15 foot pier, 450 linear feet of bulkhead, four
6 mooring cassions, four entrance ramps, the dredging of 1500
7 cubic yards of material, and landside work includes porte
8 cochere, 425 foot space parking area, continuance of a hotel
9 and parking structure, road improvements to Boney Avenue,
10 Bayshore Drive, and the I-110 Rodriguez Street interchange,
11 construction of a sewer lift station, and a six inch force main
12 from the casino to the D'Iberville sewage treatment plant.

13 Special conditions included in the original
14 permit approved by the commission include that the non-water
15 dependent footprint over the water be no greater than 24,135
16 square feet and also no greater than anything approved by the
17 Secretary of State's Office.

18 The project should have minimal exterior
19 lighting with no bright lights directed on or towards the bay
20 so as to prevent disturbance to wildlife in the area.

21 Structures would have to comply with the Keesler
22 Air Force Base height restriction of 170 feet.

23 The permittee was required to submit \$100,000 to
24 the Mississippi Coastal Preserves Program.

25 And two wetland areas, one measuring 41,933

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1 square feet and the other 9,699 square feet, were required to
2 be restored and enhanced with Spartina alterniflora.

3 This is the project diagram. All the upland
4 areas are the lighter white areas, and the bay is down here.

5 And these areas are the Spartina alterniflora
6 marsh enhancement and restoration areas.

7 On November 10, 2003, a permit application was
8 submitted to DMR with the environmental impact statement.

9 On January 20, 2004, the commission approved
10 that permit with all work to be completed by January 20, 2007.

11 On April 17, 2007, the commission granted a two
12 year extension of the permit until January 20, 2009.

13 And on December 21, 2010, the commission granted
14 a four year extension of the permit, one of which was
15 retroactive until January 20, 2013.

16 Staff has conducted a thorough evaluation of the
17 project and recommends that the commission approve the four
18 year extension request with all work to be completed by January
19 20, 2017.

20 I know Mr. Terry Moran is here if you have
21 questions for him. And I would also be happy to answer any
22 questions.

23 MR. DRUMMOND: Jennifer, how many -- is there a
24 limit on the number of extensions that we can approve for this
25 project?

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1 MS. WITTMANN: No, sir, not that I'm aware of.

2 The project has changed over the --

3 MR. DRUMMOND: To give them an extension for
4 another four years?

5 MS. WITTMANN: Yes, sir.

6 We have typically extended permits in the past
7 for casino developments. When a lot of them were originally
8 approved, it was before Hurricane Katrina, and after the
9 hurricane there was some trouble getting new developers in.
10 Mr. Moran has told me that they do have a developer that is
11 looking at the site, and they do plan to move forward with the
12 project as soon as possible. They have received their approval
13 from the gaming commission.

14 The project will not be a barge as it was
15 originally approved. But they are planning to construct a
16 bulkhead. They will comply with the height restrictions from
17 Keesler Air Force Base. They will do the enhancement to the
18 marsh area. And they will also donate the \$100,000 to the
19 Coastal Preserves.

20 At this point, they are not planning to do the
21 dredging that had been permitted. They are not planning on
22 constructing the entrance ramps, the mooring cassions, or the
23 parking.

24 So the project has changed slightly, but it
25 won't move beyond the footprint of what has originally been

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approved

MR. DRUMMOND: We haven't heard this story
before?

MS. WITTMANN: I think all of the troubles that
the coast has had with moving forward because of the hurricane
and the BP oil spill. And then, like I said, we have given
other entities the opportunity to move forward.

Mr. Moran can probably answer some more
questions about what they currently have in the lineup, if
you'd like to hear from him.

MR. DRUMMOND: Not necessary.

DR. ASPER: Any other questions? Or is there a
motion?

MR. BOSARGE: I'll make a motion we accept
staff's recommendation.

MR. GOLLOTT: I'll second the motion.

DR. ASPER: Is there any further discussion?
Those in favor say aye. Those opposed. Carries unanimously.

MS. WITTMANN: Thank you.

DR. ASPER: That brings us to the end of coastal
ecology

We'll move on to our financial report.

3 Administrative Services

2. Financial Report

MS. VESA: Good morning, everyone. My name is

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1 Kara Vesa. I'll be giving the financial report today.
 2 As of December 31, 2012, our budget was
 3 \$6,152,176. On the same date of December 31, we had spent
 4 \$3,818,011, leaving a remaining balance of \$2,334,165.
 5 And our tideland funds remain obligated for this
 6 fiscal year.

7 Are there any questions?

8 DR. ASPER: We have lots of questions, but I
 9 think we're going to postpone those for now. We regret not
 10 being better informed about the full financial picture of the
 11 agency.

12 I believe we have a motion.

13 MR. BOSARGE: Yes.

14 MR. GOLLOTT: We do, Mr. Chairman, at this time.
 15 Mr. Chairman, it is apparent that the commission needs to
 16 require that the executive director to be more forthcoming with
 17 information regarding the executive director's day to day
 18 operations for the Mississippi Department of Marine Resources.

19 Specifically, the commission needs to be
 20 informed about employee decisions, especially contract
 21 employees, land acquisition programs, and budget information.

22 The statute grants the executive director
 23 authority over personnel matters, but the commission has
 24 oversight of the department and the executive director. The
 25 commission needs to be advised when the executive director

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1 hires contract employees to be sure that there is a need for
 2 the employees and the resources to pay the salaries.

3 The commission needs to be informed about land
 4 acquisition programs to make sure that the programs are
 5 justified and that the properties acquired serve the mission of
 6 the Mississippi Department of Marine Resources and that the
 7 properties will not be a drain on the department's resources.

8 Finally, the commission needs periodic updates
 9 on the status of the budget from the executive director, and
 10 the commission needs to be specifically informed as to whether
 11 or not there are sufficient state funds available to meet the
 12 operational costs of the Mississippi Department of Marine
 13 Resources.

14 Therefore, I make the motion that the staff and
 15 legal counsel review the commission's administrative handbook
 16 and propose amendments to the duties of the executive director
 17 to specifically require the executive director to report to the
 18 commission on the matter that I just outlined.

19 DR. ASPER: Is there a second to this motion?

20 MR. DRUMMOND: I second the motion.

21 DR. ASPER: Just for clarification for the
 22 public, we as a commission have not been involved in the day to
 23 day management of the budget, and we have not been well
 24 informed of how that budget is being handled. And that is
 25 going to change. We are going to know as much as we possibly

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1 can about it, not because our staff is incapable of doing it,
 2 but simply because we are ultimately responsible for the
 3 agency. Therefore, we need to be better informed.

4 So that's what the intention of this is, to
 5 require more complete information. As you saw, Kara Vesa's
 6 report covered just basically the state appropriation and the
 7 money that we get from offshore vehicle taxes. It doesn't
 8 cover any federal grants, it doesn't cover any of those things.
 9 And we just feel that we need to be better informed. So that's
 10 where this is coming from.

11 Is there any further discussion? Those in favor
 12 say aye. Those opposed. Carries unanimously.

13 And I believe at this point, Sandy would like to
 14 address us.

15 MS. CHESNUT: Right. There have been
 16 allegations recently that the department has wrongly denied
 17 documents to the Sun Herald. And I just want to advise the
 18 commission on that matter so that they will be fully informed
 19 of what's going on.

20 The department has provided the Sun Herald
 21 numerous documents pursuant to the public records request in a
 22 timely and efficient manner. However, last week the department
 23 was served a subpoena which was issued by the state auditor's
 24 office and returnable to the grand jury.

25 This subpoena specifically mandated that the

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1 records requested by the subpoena may not be released to any
 2 other entity besides the state auditor's office.

3 To provide the requested documents to the Sun
 4 Herald would have violated the terms of the subpoena and would
 5 place the department in contempt of court pursuant to
 6 Mississippi Code Annotated 13-7-2.

7 Furthermore, any individual that violates the
 8 terms of a subpoena is subject to charges of obstruction of
 9 justice by the state auditor's office.

10 Accordingly, pursuant to the terms of the
 11 subpoena and upon the advice received from the state auditor's
 12 office, the department's only course of action was to comply
 13 with the subpoena and deny the release of records to the Sun
 14 Herald.

15 If the Sun Herald chooses to do so, they may
 16 challenge the validity of the state auditor's subpoena in a
 17 proper forum. Until then, the department will comply with the
 18 mandates of the subpoena, and requests for any documents
 19 subject to the state auditor's subpoena will be denied.

20 DR. ASPER: And I'll summarize that in one
 21 sentence. We're caught between trying to not negatively impact
 22 the investigation and want to, of course, comply with the
 23 subpoena, but on the other hand, we want to be as open as
 24 possible with all the information we have.

25 So our legal counsel is doing a really good job

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1 of walking the fine line between those two demands.
 2 And we're about to close the meeting. I just
 3 want to remind you again that we as a commission are trying to
 4 do our very best job to manage the resources for the State of
 5 Mississippi and trying to do the very best job we can with the
 6 agency. And we voted last December that if the media has
 7 questions the point person should be myself. I will be the
 8 person to answer any questions regarding our actions and
 9 activities. Of course, you're always welcome to contact the
 10 deputy director, as well.

11 With that, is there a motion to adjourn?

12 MR. DRUMMOND: I make a motion to adjourn.

13 MR. GOLLITT: I'll second.

14 DR. ASPER: We're adjourned.

15 (Meeting adjourned 9:55 a.m.)
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COMMISSION ON MARINE RESOURCES

COURT REPORTER'S CERTIFICATE

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 6 I, Norma Jean Ladner Soroe, Certified Shorthand
 7 Reporter, do hereby certify that to the best of my skill and
 8 ability I have reported the meeting of the Commission on Marine
 9 Resources and that the foregoing 37 pages constitute a true and
 10 correct transcription of said meeting held on the 15th day of
 11 January 2013.

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

16 Witness my signature this the 29th day of January
 17 2013.
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R SOROE, CSR #1297
 and Reporter

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N.J. SOROE, CSR #1297