

Commission on Marine Resources

COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

Tuesday, March 21, 2017
9:00 a.m.
Bolton Building Auditorium
1141 Bayview Avenue
Biloxi, Mississippi 39530

Commission Members:

- Richard Gollott, Chairman
Steve Bosarge, Vice Chairman
Mark Havard
Ron Harmon
Jolynne Trapani

Also Present:

- Jamie M. Miller, Executive Director DMR
Sandy Chestnut, Esq., Assistant Attorney General

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COMMISSIONER GOLLOTT: Good morning. I would like to call this meeting to order. First, we will have the Pledge of Allegiance led by Jamie Miller. (Whereupon, the Pledge of Allegiance was recited.) COMMISSIONER GOLLOTT: Next we have approval of the minutes. Do we have a motion to approve, or any modifications of, the last minutes? COMMISSIONER BOSARGE: So moved, Mr. Chairman. COMMISSIONER GOLLOTT: We have a motion to approve. Do we have a second? COMMISSIONER HARMON: Second, Mr. Chairman. COMMISSIONER GOLLOTT: We have a motion and a second. All those in favor say aye. (All in favor.) COMMISSIONER GOLLOTT: Opposed? (None opposed.) COMMISSIONER GOLLOTT: Motion carries. Approval of the agenda. Do we have any modifications, or can we have a motion to approve the agenda?

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COMMISSIONER BOSARGE: I make a motion we approve the agenda as is. COMMISSIONER GOLLOTT: We have a motion. Do we have a second? COMMISSIONER TRAPANI: I'll second it. COMMISSIONER GOLLOTT: We have a motion and a second. All those in favor say aye. (All in favor.) COMMISSIONER GOLLOTT: Opposed? (None opposed.) COMMISSIONER GOLLOTT: Motion carries. Next we have the Executive Director's report. JAMIE MILLER: Chairman, I have a brief report. I would like to give the Commission a brief update on legislative items. We have had two bills successfully work their way through the senate and the house. The first bill was introduced as Senate Bill 2664. It was regarding a reciprocity issue with nonresident license. Some other states were beginning to require additional items for our Mississippi fishermen to go in other states and get their commercial license. We, basically, were successful to amend the law to require that any other state that has additional

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mandatory requirements for a commercial license, that they must also meet those same requirements for their fishermen to get a Mississippi license is the gist of it. The other was something relating to the opening, or keeping an area of the Mississippi Sound open for shrimping in the month of May. That area to the east and to the south of Intracoastal and to the east of the Gulfport ship channel will remain open year round, now. I think that was something Commissioner Bosarge had talked about last year. COMMISSIONER BOSARGE: That is great news. I'm glad to hear it. I think it will be good for the fishermen. JAMIE MILLER: I want to thank Senator Gollott. Of course, he is in Jackson this week, but he was the sponsor of both bills and successfully got both bills through the senate and the house and sent to the Governor. I want to give you a brief update on this year's House Bill 1518 which is the agency's appropriation bill. That bill has been invited to conference and will be sorted out this week and through the weekend. We will be in active conversation with some of our delegation this week. It is anticipated that our fiscal year 2018 budget which the legislature is working on will see a twenty-five, or fifty, thousand dollar reduction from last year's

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1 fiscal year.

2 I also wanted to mention, as you may have been  
3 aware just reading news articles, that the agency had to  
4 absorb three midyear budget cuts which totaled about a  
5 hundred and eighty-three thousand dollars.

6 We have been absorbing some of those cuts, and,  
7 then, also planning for a leaner fiscal year 2018.

8 Finally, some good news. Grace Bennett is a  
9 student at Long Beach.

10 Grace, come on up here real quick. You can  
11 bring your mother with you, or your family, whoever you  
12 want to bring.

13 Grace Bennett is the winner of the third annual  
14 Celebrate the Gulf Poster Contest. She was also the  
15 winner from the 2016 poster contest.

16 Her poster, as you see here on my right, your  
17 left, features marine life from the Gulf of Mexico.

18 She is a senior at Long Beach High School and  
19 was named the Best All Around Girl at the school this  
20 year.

21 The twenty-sixth annual Celebrate the Gulf  
22 Festival will be held Saturday, April the 1<sup>st</sup>, at War  
23 Memorial Park in Pass Christian, and Grace will be there  
24 to sign her poster, if you would like one.

25 If we could get someone to move the poster a

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1 changed, we have had five so far in possession of  
2 undersized Spotted Seatrout. This past Saturday, we had  
3 another one at Pearl River. One person had twelve  
4 undersized Spotted Seatrout.

5 Actually, since January the 16<sup>th</sup>, six is not a  
6 bad total. I think the word has gotten out and,  
7 hopefully, people will abide by the law.

8 That's all I have.

9 COMMISSIONER GOLLOTT: Rusty, the violation on  
10 transporting oysters without refrigeration, how cold was  
11 it in North Mississippi?

12 RUSTY PITTMAN: That vehicle did not have  
13 refrigeration at all.

14 COMMISSIONER GOLLOTT: Was it thirty degrees  
15 outside?

16 RUSTY PITTMAN: Outside, at that time, I think  
17 they said it was sixty-two, or sixty-three, degrees.

18 COMMISSIONER GOLLOTT: Thank you.

19 RUSTY PITTMAN: Thank you.

20 COMMISSIONER GOLLOTT: The Joe Jewell show.

21 JOE JEWELL: Good morning Commissioners.

22 We have two action items on the agenda for your  
23 consideration.

24 First up is Mr. Matt Hill with Title 22 Part 9  
25 final adoption.

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1 little bit and Grace come stand next to it, and, then, I  
2 would like to get the Commission to get behind her and let  
3 us get a picture.

4 Grace, I tried to make that last as long as I  
5 could. I know you've got to go back to school, now.

6 Thank you, again, for participating.

7 Chairman, that concludes my report.

8 COMMISSIONER GOLLOTT: Next we have Marine  
9 Patrol.

10 RUSTY PITTMAN: Good morning Mr. Chairman,  
11 Commissioners, Director Miller, Ms. Chestnut. I hope  
12 y'all are doing well this morning.

13 There are just a few things on the report that I  
14 want to mention this month.

15 Under the Oyster Violation Citations, those were  
16 on the trip up to North Mississippi. We sent a patrol up  
17 there checking seafood shops. We got reports from the  
18 public and some other seafood dealers up there called in.  
19 We had two officers go up there and spend a day checking.

20 Also, on page two, Miscellaneous Commercial  
21 Seafood Violation, that was up in North Mississippi, too.  
22 One of the shops had Cobia for sale and no paperwork to  
23 show.

24 Under Fishing Violation Citations, I do want to  
25 mention about the Spotted Seatrout. Since the size limit

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1 MATT HILL: Good morning Commissioners, Director  
2 Miller, Sandy.

3 I will try to make this brief. We brought this  
4 up at the last Commission meeting, and the Commission  
5 decided to take this out for Notice of Intent. This is  
6 more of a State Statute consistency issue that we had with  
7 the trip ticket reporting and the current license  
8 requirements.

9 This is located in Title 22 Part 9. It is  
10 updated language for Rules and Regulations for Statistical  
11 Reporting.

12 CMR did pass Notice of Intent at the last  
13 Commission meeting, on February 21<sup>st</sup>, 2017.

14 It was filed with the Secretary of State's  
15 office and accepted on February 22<sup>nd</sup>, 2017.

16 It did appear on our MDMR web page as a notice,  
17 on February 22<sup>nd</sup> of 2017.

18 The legal notice appeared in the Sun Herald, on  
19 February 26<sup>th</sup> of 2017.

20 Notice of Intent, like I said, was published on  
21 February 26<sup>th</sup>, 2017.

22 The public comment period ran from February 22<sup>nd</sup>,  
23 2017, through March 20<sup>th</sup>, 2017, which is a total of twenty-  
24 seven days, and we had no public comments received.

25 Basically, what this does is this clears up some

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1 issues that we were having with fishermen transporting  
2 their own catch out of state. We added the word "only" so  
3 it was very clear that they can transport only their catch  
4 and we took out where we scratched through, right there,  
5 "within the state". This, now, allows them to transport  
6 their catch out of state, as long as they have a valid  
7 fresh product permit which is currently a free permit that  
8 we offer.

9 In Chapter 06, in the actual Seafood Reporting  
10 Requirements, we tried to make it a little bit clearer in  
11 there, also, by allowing them and made sure that they  
12 understood that a trip ticket was required, if they sold  
13 to individuals other than a Mississippi dealer-processor,  
14 or they transported their catch out of state.

15 Once an individual transports his catch out of  
16 state, we have very, very limited jurisdiction. We cannot  
17 force him to sell his catch. We cannot regulate who he  
18 sells it to. What we are trying to do is, if he is  
19 transporting his commercially harvested catch out of state  
20 with the intent to sell, we want that trip ticket and we  
21 want that data at our fingertips so we can attribute that  
22 harvest to the State of Mississippi.

23 We, also, did strike out -- this is making it  
24 consistent with Mississippi Code 49-15-28 -- "Commercial  
25 fishermen who sell their catch to individuals other than a

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1 COMMISSIONER GOLLOTT: Motion carries.  
2 Thank you.

3 MATT HILL: Thank you.

4 JOE JEWELL: For our final agenda item, Mr.  
5 Jonathan Barr will present, for your consideration, the  
6 State finfish records.

7 JONATHAN BARR: Good morning Commissioners,  
8 Director Miller, Ms. Chestnut.

9 We have three new State records up for  
10 consideration. All three are conventional tackle.

11 The first one is an Oyster Toadfish, Opsanus  
12 Tau. The angler is Mr. Scott Floyd. The old record was  
13 two pounds four point two ounces. The new record is two  
14 pounds four point forty-eight ounces.

15 This is a picture of the fish, and, then, a  
16 picture of Mr. Floyd holding the fish.

17 The next one is a Southern Kingfish,  
18 Menticirrhus americanus. Some refer to this as a ground  
19 mullet. The angler is Mr. Mark Ross, Jr. The old record  
20 was one pound fourteen ounces. The new record is two  
21 pounds point eighty four ounces.

22 This is a picture of the fish, and this is a  
23 picture of Mr. Ross holding his fish.

24 The third and final one is a Red Lionfish,  
25 Pterois volitans. The angler is Mr. Elijah Troutman. The

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1 Mississippi licensed dealer/processor, or transport their  
2 catch out of state, are hereby required to purchase and  
3 possess a Dealer/Processor License and required to comply  
4 with all regulations governing Mississippi  
5 dealers/processors".

6 Like I said, in Mississippi Code 49-15-28, a  
7 commercial fisherman is allowed to transport his own catch  
8 out of state without a Dealer/Processor License. He just  
9 must have a fresh product permit.

10 This is more of a consistency issue that we  
11 wanted to clear up for the fishermen.

12 What is required for these changes is a motion  
13 for final adoption of regulatory changes to Title 22 Part  
14 9 from the Commission.

15 COMMISSIONER BOSARGE: I'll make the motion for  
16 final adoption of regulatory changes to Title 22 Part 9.

17 COMMISSIONER GOLLOTT: We have a motion.

18 Can we get a second?

19 COMMISSIONER TRAPANI: I'll second it.

20 COMMISSIONER GOLLOTT: We have a motion and a  
21 second.

22 All those in favor say aye.

23 (All in favor.)

24 COMMISSIONER GOLLOTT: Opposed?

25 (None opposed.)

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1 old record is one pound eleven point two ounces. The new  
2 record is one pound eleven point four one ounces. These  
3 don't get landed on hook and line very often.

4 This is a picture of the fish, and this is a  
5 picture of Mr. Troutman. Due to the toxic nature of the  
6 fish, I didn't require him to hold the Lionfish.

7 A motion to adopt.

8 COMMISSIONER GOLLOTT: Can I get a motion to  
9 adopt these records?

10 COMMISSIONER HARMON: Mr. Chairman, I make the  
11 motion these we adopt these new State records.

12 COMMISSIONER GOLLOTT: We have a motion.

13 Do we have a second?

14 COMMISSIONER BOSARGE: So seconded, Mr.  
15 Chairman.

16 COMMISSIONER GOLLOTT: We have a motion and a  
17 second.

18 All those in favor say aye.

19 (All in favor.)

20 COMMISSIONER GOLLOTT: Opposed?

21 (None opposed.)

22 COMMISSIONER GOLLOTT: Motion carries.

23 Thank you.

24 JONATHAN BARR: Thank you.

25 JOE JEWELL: That completes the agenda items for

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1 Marine Fisheries.  
 2 Any questions?  
 3 COMMISSIONER GOLLOTT: Thank you.  
 4 Mr. Jan Boyd.  
 5 JAN BOYD: Good morning Mr. Chairman,  
 6 Commissioners, Director Miller, Ms. Chestnut.  
 7 We have two action items for your consideration  
 8 this morning.  
 9 Jennifer Wilder will be presenting the first  
 10 one.  
 11 JENNIFER WILDER: Good morning.  
 12 I'm presenting a request for an exclusion by the  
 13 Mississippi State Port Authority.  
 14 The location is in the Mississippi Sound at 51  
 15 Pier Road at the south end of the East Pier at the State  
 16 Port of Gulfport.  
 17 The State Port is in the Industrial Development  
 18 Use District, and the agent is Brown, Mitchell and  
 19 Alexander.  
 20 They are requesting to fill point six seven  
 21 acres of non-vegetated water bottoms, and to build six  
 22 hundred and ninety-five linear feet of bulkhead to contain  
 23 the fill.  
 24 They are requesting two variances from the  
 25 Mississippi Coastal Program.

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1 significant public benefit, the public hearing was held on  
 2 March 6, 2017, and the activity requires a waterfront  
 3 location.  
 4 Similar projects have been approved and no  
 5 precedent setting effects are anticipated with this  
 6 project. The project is industrial, it does not impact  
 7 any vegetated Coastal Wetland, and acceptable mitigation  
 8 has been proposed.  
 9 There will be a loss of zero point six seven  
 10 acre of unvegetated water bottoms, but the mitigation  
 11 proposed should offset these losses.  
 12 The project will allow for faster fabrication of  
 13 the pipeline which may result in increased vessel traffic  
 14 in the area, due to a decrease in down time for the  
 15 vessels.  
 16 The applicant evaluated five rack alignment  
 17 alternatives based on five criteria necessary for the  
 18 project. Only the chosen alignment met all five of their  
 19 criteria.  
 20 They, then, evaluated two design alternatives,  
 21 along with the no-action alternative.  
 22 The no-action alternative would be no  
 23 construction and no impacts, but would not allow for the  
 24 expansion that they need.  
 25 Design one alternative is to fill the zero point

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1 This is a shot of the port with the project  
 2 location in red. You can see Highway 90 and Highway 49.  
 3 This is a closeup of the area that they want to  
 4 fill, the yellow line representing the bulkhead.  
 5 This is a picture looking south at the area that  
 6 they are requesting to fill.  
 7 The project has a significant public benefit  
 8 because it will allow for the installation of two  
 9 additional pipe racks, vehicular and equipment access  
 10 lanes, and additional ship marshaling area for an existing  
 11 business which supports the oil and gas industry in the  
 12 Gulf of Mexico.  
 13 The proposed project is allowable within the  
 14 Industrial Development Use District.  
 15 The variances that they are requesting:  
 16 The first is Chapter VIII, Section 2, Part  
 17 III.0.1, "Permanent filling of coastal wetlands because of  
 18 potential adverse and cumulative environmental impacts is  
 19 discouraged."  
 20 The second is Chapter VIII, Section 2, Part  
 21 I.E.2.c.iii, "Vertical face structures shall be aligned no  
 22 further waterward than mean high tide...".  
 23 They are justifying using Chapter VIII, Section  
 24 2, Part I.E.2.c.iii and Part I.E.2.c.iv, that there are no  
 25 feasible alternative sites available, there is a

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1 six seven acre of water bottoms. It meets all their  
 2 criteria and the need of the project, but would cause a  
 3 complete loss of any habitat along with benthic organisms.  
 4 The design two alternative, concrete, pile-  
 5 supported deck over the zero point six seven acre water  
 6 bottoms also meets all criteria and the purpose and need.  
 7 It shades the same amount of water bottoms as alternative  
 8 one, but causes a fifty-one percent increase in  
 9 construction costs and a fifty percent increase in  
 10 construction time.  
 11 The fill and bulkhead are to support the  
 12 McDermott facility which is already located within the  
 13 State Port of Mississippi.  
 14 The mooring of vessels requires a waterfront  
 15 location.  
 16 The site is located in an industrial area with  
 17 other industrial facilities located adjacent to the site.  
 18 Scenic qualities should not be impaired by the proposed  
 19 project.  
 20 The McDermott facility supports the national  
 21 energy policy by supporting the oil and gas industry.  
 22 Notification of the project appeared in The Sun  
 23 Herald, as required by law, and a public hearing was held  
 24 March 6<sup>th</sup>, 2017. There were no public comments received.  
 25 DEQ is reviewing the project.

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1 The Department of Archives and History had no  
2 objections.

3 Secretary of State's office says there are no  
4 lease issues.

5 Wildlife, Fisheries and Parks recommended that  
6 best management practices should be utilized.

7 Based on departmental review and evaluation, it  
8 has been determined that the project is consistent with  
9 the Mississippi Coastal Program because it will have  
10 significant public benefit, the impacts have been  
11 minimized and acceptable mitigation for the proposed  
12 impacts have been offered.

13 Therefore, staff recommends approval of the  
14 requested variances and issuance of a Certificate of  
15 Exclusion, contingent on water Quality Certification from  
16 MDEQ.

17 There are representatives from the agent and the  
18 Port here, if you have any questions.

19 COMMISSIONER BOSARGE: I have one question  
20 regarding the mitigation.

21 What are they going to do for the mitigation?

22 JENNIFER WILDER: They are going to make a  
23 donation, a one-time donation to Coastal Preserves for  
24 conservation and restoration of eighty-six thousand three  
25 hundred forty dollars and twenty-one cents.

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1 a twenty-slip marina. Most of the structures associated  
2 with it are floating; the only exception being mooring  
3 pilings between the proposed slips.

4 On March 7<sup>th</sup>, 2017, Mr. Linton who is associated  
5 with Lighthouse Marina filed a Petition for  
6 Reconsideration, regarding the Commission's decision.

7 This is Title 22 Part 15 where the petitioner  
8 should state specifically the points of law, or facts,  
9 which the party requesting the reconsideration believes  
10 the Commission overlooked, or misapprehended.

11 The petitioner states that the decision to issue  
12 the permit contingent on the issue of ownership was not  
13 within the purview of the Commission.

14 Now, the Commission may do one of four things:

15 They may make a final disposition of the  
16 petition, by granting, or denying, the request.

17 They can request a response from the staff.

18 They can set the matter for an evidentiary  
19 hearing.

20 They can make such further order as they deem  
21 appropriate under the circumstances.

22 Staff has prepared a response, if you choose to  
23 hear that.

24 COMMISSIONER GOLLOTT: Go ahead. Let us hear  
25 it.

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1 COMMISSIONER BOSARGE: Thank you.

2 COMMISSIONER GOLLOTT: Do we have a motion?

3 COMMISSIONER BOSARGE: I'll make a motion we  
4 accept the staff's recommendations.

5 COMMISSIONER GOLLOTT: We have a motion.

6 Do we have a second?

7 COMMISSIONER HARMON: So seconded, Mr. Chairman.

8 COMMISSIONER GOLLOTT: We have a motion and a  
9 second.

10 All those in favor say aye.

11 (All in favor.)

12 COMMISSIONER GOLLOTT: Opposed?

13 (None opposed.)

14 COMMISSIONER GOLLOTT: Motion carries.

15 Thank you.

16 JENNIFER WILDER: Thank you.

17 GREG CHRISTODOULOU: Good morning. I'm Greg  
18 Christodoulou. I will be presenting the final item on  
19 Coastal's agenda this morning, and this is a petition for  
20 reconsideration by Lighthouse Marina, LLC.

21 It is located in an inlet, or canal, adjacent to  
22 the East Pascagoula River in Pascagoula in a General Use  
23 District.

24 This was the project that went before the  
25 Commission last month. A little more background. It was

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1 GREG CHRISTODOULOU: This is just kind of a  
2 chronology of the events.

3 On November 5<sup>th</sup>, 2015, Mississippi Department of  
4 Transportation issued a permit to the City of Pascagoula  
5 for construction of facilities in the right-of-way.

6 The upland parcel of property was acquired by  
7 MDOT for the construction of the Highway 90 Bridge coming  
8 into Pascagoula. Any structures on that upland area would  
9 require a permit from MDOT, and the City acquired that  
10 permit.

11 On August 1<sup>st</sup>, 2016, the City of Pascagoula  
12 entered into a Memorandum of Understanding with Mr. Linton  
13 with Lighthouse Marina to open and operate a marina  
14 located north of the Highway 90 Bridge and in the City of  
15 Pascagoula adjacent to Lighthouse Park.

16 Here is a copy of the memorandum that the City  
17 has with Mr. Linton. This is just the first page and the  
18 signature page. This was agreed to at, I believe, the May  
19 3<sup>rd</sup>, 2016, council meeting of the City of Pascagoula  
20 (indicating slide).

21 On August 6<sup>th</sup>, 2016, Patrick Driver who is  
22 managing member of Lighthouse Marina signed an application  
23 asserting that they have a legal interest in the property  
24 and a legal authority to seek the permit.

25 On the left is the signed application page by

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1 Mr. Driver, and, then, over to the right is a print of the  
2 limited liability company with registration with the  
3 Secretary of State's office, showing that Mr. Driver is a  
4 managing member of the corporation.

5 Staff's recommendation:

6 The DMR permit only signifies that the proposed  
7 projects meet the guidelines and the decision factors  
8 within the Mississippi Coastal Program.

9 DMR permits do not convey title to land and  
10 water, they do not constitute authority for reclamation of  
11 coastal wetlands, and they do not authorize invasion of  
12 private property, or rights in property.

13 If you will look, on every permit that our  
14 agency issues, we have this highlighted in the permit that  
15 says:

16 "This certification conveys no title to land, or  
17 water, and does not constitute authority for reclamation  
18 of coastal wetlands, and does not authorize invasion of  
19 private property, or rights in property."

20 Now, based on the information that Mr. Linton  
21 has presented, Lighthouse Marina has presented sufficient  
22 evidence of the right to utilize the property as indicated  
23 in the permit application.

24 Also, if another party asserts ownership of any  
25 part of the parcel, or adjacent water bottoms, that matter

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1 y'all have on my project.

2 We have done a lot of research. We have done  
3 our due diligence with MDOT, receiving our permit with  
4 them and, also, with the City of Pascagoula with the  
5 agreement.

6 We are ready to go. We are just waiting for the  
7 go ahead from y'all.

8 COMMISSIONER GOLLOTT: Thank you, sir.

9 I think we have a Mr. Virgil Gillespie who would  
10 like to speak.

11 VIRGIL GILLESPIE: I'm Virgil Gillespie. I  
12 think my address is on the sheet I signed. I'm the  
13 attorney for the adjacent landowner which is Mr. Charles  
14 Graham's company.

15 I don't want to get into a lot of facts. That  
16 has already been before y'all.

17 The basic issue here is we've got a dispute  
18 about who can use this slip. This is one of the slips  
19 that was dug out. The company dug that slip in to build  
20 ships for us in world war I. That's how long it has been  
21 there, so it is subject to private ownership, and there  
22 have been lawsuits about this. There is going to be  
23 another lawsuit.

24 What we are asking y'all to do is to stick by  
25 the decision you made at your last meeting.

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1 is solely between the parties specifically asserting  
2 ownership.

3 Therefore, staff finds that Mr. Linton's request  
4 is reasonable and has merit, and the staff recommends that  
5 the Commission grant the petition for reconsideration and  
6 remove the contingency requiring proof of ownership prior  
7 to construction, and approve the proposed project  
8 contingent on water quality certification from DEQ.

9 I would like to note that on every one of our  
10 applications and on our permits we also say that issuance  
11 of certification from DMR and acceptance by the applicant  
12 does not release the applicant from other legal  
13 requirements including, but not limited to other  
14 applicable Federal, State, or local laws, ordinances,  
15 zoning codes and regulations.

16 Other agencies will need to issue permission,  
17 authorizations and permits for this, and we are just one  
18 piece of a larger puzzle in this project.

19 The applicant is here and the adjacent owners  
20 are here, and I think they would like to address you, if  
21 you have any questions for them.

22 COMMISSIONER GOLLOTT: Sure. Let's take the  
23 applicant first.

24 BRUCE LINTON: Good morning everyone. My name  
25 is Bruce Linton. I will be glad to answer any questions

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1 Now, I understand what the staff said, and I  
2 have talked to Sandy about this. I can call her Sandy  
3 because she was in law school with my daughter.

4 If this Commission gives their permission to  
5 start this, I understand what is said here. I understand  
6 y'all don't deal in ownership. I understand what you are  
7 telling them, but it is going to be a very strong  
8 implication that y'all have come down on one side, or the  
9 other, of this dispute.

10 I would just appreciate y'all sticking with your  
11 well reasoned decision that you made last month and let  
12 this matter play its way out in the Court, before anything  
13 is issued and this Commission takes a side one way, or the  
14 other.

15 Thank you.

16 COMMISSIONER GOLLOTT: Thank you, Mr. Gillespie.

17 Let me say this. We did get legal to come in on  
18 this decision, and we did bounce it around quite a bit at  
19 the last meeting.

20 I feel like we should deny the request for  
21 reconsideration.

22 At this time, I will ask if someone else on the  
23 Commission wants to say something.

24 COMMISSIONER BOSARGE: I guess I will have to  
25 refer to council. It appears we overstepped our bounds.

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1 At least, that's what it appears to me.  
 2 If there is a dispute over ownership, who owns  
 3 the water bottoms, or the slips, that's not in our domain.  
 4 SANDY CHESTNUT: As much as we would love to  
 5 have all ownership issues resolved before we issue a  
 6 permit, it really simply is not within our purview to do  
 7 that.  
 8 Most of the time when an applicant comes in and  
 9 signs the application, there is no question. We can go  
 10 ahead and issue a permit.  
 11 Now, a lot of times an issue comes up, and what  
 12 we do is we have that applicant show us some evidence that  
 13 they have the right to use that property.  
 14 whether it is complete ownership, or not, we  
 15 don't get into that, but we do try to resolve as much as  
 16 we can.  
 17 This case is one of those cases where, as Mr.  
 18 Gillespie has already said, it is going to Court. That is  
 19 out of our hands. That is exactly where it needs to be,  
 20 in the Court. The Court needs to decide this.  
 21 As long as we have that contingency in there, it  
 22 may, or may not, prevent something that has actually met  
 23 the guidelines.  
 24 Our only purview is determining whether the  
 25 project meets the guidelines, and staff has recommended

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1 There are measures outside of us that the  
 2 parties can take to stop that construction.  
 3 COMMISSIONER GOLLOTT: Did we make the right  
 4 decision, at the last meeting?  
 5 SANDY CHESTNUT: Based on the information that  
 6 we had, with the fact that we thought the survey was going  
 7 to clear those issues up, it is the cleaner thing to do,  
 8 when you do have a definite ownership, but, when we see  
 9 that that is just not going to resolve the issue and there  
 10 is going to be more, then, that's not something we really  
 11 need to get into.  
 12 COMMISSIONER GOLLOTT: If we do not reconsider  
 13 this thing, it will still be resolved in court.  
 14 Right?  
 15 SANDY CHESTNUT: It will be resolved in court.  
 16 That's what Mr. Gillespie has indicated.  
 17 COMMISSIONER BOSARGE: If we leave it as is,  
 18 then, we are actually somewhat saying that we are  
 19 determining ownership.  
 20 SANDY CHESTNUT: That's right.  
 21 COMMISSIONER BOSARGE: I don't think we need to  
 22 be in that business.  
 23 SANDY CHESTNUT: That's right. We could be  
 24 overstepping our boundaries, in that regard.  
 25 COMMISSIONER BOSARGE: I know where the property

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1 that it does meet the guidelines.  
 2 I think it is very, very clear that if Mr.  
 3 Linton does proceed with construction, based on our  
 4 permit, then, he has overstepped his boundaries. If he  
 5 does construct anything, it is going to be at his risk and  
 6 it is going to be between those two parties.  
 7 I thought, at the last Commission meeting, they  
 8 were going to have the survey, the survey was going to  
 9 resolve all the issues, and the parties could move  
 10 forward, but, evidently, the survey is not definitive and  
 11 it is going to have to go to a Court for final  
 12 determination.  
 13 I would have to support staff's recommendation  
 14 of removing that contingency and letting the parties know  
 15 very clearly that that is not a statement of ownership at  
 16 all, that it is still going to have to be determined by  
 17 the courts.  
 18 COMMISSIONER GOLLOTT: Sandy, if we remove it,  
 19 will that allow the applicant to go forward with the  
 20 construction?  
 21 SANDY CHESTNUT: We are not saying that he can,  
 22 or can't, go forward. It is just simply saying that we  
 23 are not making that determination.  
 24 what we are saying, by issuing the permit, is  
 25 that the project meets the Coastal Program guidelines.

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1 is and there has been a lot of back and forth as to who  
 2 owns it for years and years and years and years and who  
 3 has rights to what.  
 4 I believe there is one Supreme Court case that  
 5 was done years ago.  
 6 I just don't think we need to be in the business  
 7 of determining ownership.  
 8 If they did everything as required in the permit  
 9 and we approve the permit, then, I think that's where our  
 10 responsibilities end.  
 11 SANDY CHESTNUT: Are you amending the motion?  
 12 COMMISSIONER BOSARGE: Yes. I would like to  
 13 amend the motion.  
 14 SANDY CHESTNUT: If you have a second on the  
 15 amendment, you can proceed with the vote on the amendment.  
 16 I think Gollott made a motion to deny the  
 17 petition, or did you make that motion?  
 18 COMMISSIONER GOLLOTT: No, I didn't make the  
 19 motion. I just made a statement.  
 20 SANDY CHESTNUT: Your original motion, then,  
 21 would be to grant the Petition for Reconsideration and  
 22 remove the ownership contingency.  
 23 COMMISSIONER BOSARGE: That's my motion.  
 24 COMMISSIONER GOLLOTT: We have a motion.  
 25 I still feel like we should leave it as is

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1 because it will be resolved in court.  
 2 Do we have a second on Steve's motion?  
 3 COMMISSIONER BOSARGE: I just feel that we are  
 4 probably setting a precedent, by continuing on.  
 5 It doesn't matter which way it goes. They are  
 6 going to settle it in court, and I think it would be  
 7 better if we weren't in the middle of it.  
 8 COMMISSIONER GOLLOTT: Well, we wouldn't be in  
 9 the middle of it. I mean, even if we leave it stay there,  
 10 it will resolve itself in court.  
 11 We don't have to testify, or anything.  
 12 Right?  
 13 SANDY CHESTNUT: We could be putting ourselves  
 14 in a position of holding up the project, if the parties  
 15 decide that they are going to go forward without the court  
 16 action. I doubt that would happen because I don't think  
 17 Mr. Gillespie would let that happen.  
 18 The short and simple answer is the Commission  
 19 does not determine ownership.  
 20 COMMISSIONER GOLLOTT: I'm going to give it one  
 21 more chance.  
 22 Do we have a second on Steve's motion?  
 23 COMMERCIAL TRAPANI: I'll second it.  
 24 COMMISSIONER GOLLOTT: We have a second.  
 25 Any discussion on it?

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1 Our State net income was one point five million.  
 2 Our total Agency net income was negative two point five  
 3 million.  
 4 After eight months of fiscal year 2017, we are  
 5 still good on our budget. We have fifty-seven point three  
 6 percent of our Operating Funds budget and forty-five point  
 7 seven percent of our Tidelands Fund budget.  
 8 Any questions?  
 9 COMMISSIONER GOLLOTT: Thank you, Kacey.  
 10 COMMISSIONER HAVARD: After reading your audit  
 11 results that you handed out last month, I commend you and  
 12 your staff for maintaining a fifty million dollar balance  
 13 sheet. That is not an easy task by any means. You guys  
 14 have done a good job.  
 15 KACEY WILLIAMS: Thank you. We appreciate it.  
 16 COMMISSIONER GOLLOTT: Melissa.  
 17 MELISSA SCALLAN: Good morning Commissioners,  
 18 Director Miller and Ms. Chestnut.  
 19 The agency was mentioned twelve times in local,  
 20 state and national media, since the February CMR meeting.  
 21 Some of the items that got attention were the  
 22 oyster season and some legislative bills that pertained to  
 23 seafood.  
 24 Marine Patrol has had two boat-and-water safety  
 25 classes and certified seven students. So far in this

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1 (No response.)  
 2 COMMISSIONER GOLLOTT: All those in favor say  
 3 aye.  
 4 (Commissioner Bosarge, Commissioner Harmon,  
 5 Commissioner Trapani in favor.)  
 6 COMMISSIONER GOLLOTT: Opposed?  
 7 (Commissioner Gollott, Mr. Havard opposed.)  
 8 COMMISSIONER GOLLOTT: Three in favor. It  
 9 passes.  
 10 That just simply takes the stipulation off of  
 11 it.  
 12 Right, Sandy?  
 13 SANDY CHESTNUT: That's correct. It is still  
 14 contingent on water quality certification from DEQ, and,  
 15 then, there may be a lot of other permits that he may have  
 16 to obtain, before he can proceed with the project.  
 17 COMMISSIONER GOLLOTT: Okay. Thank you.  
 18 I think we have Office of Finance next.  
 19 KACEY WILLIAMS: Good morning Commissioners,  
 20 Director Miller, Ms. Chestnut.  
 21 These are the financial results as of February  
 22 28<sup>th</sup>, 2017.  
 23 At the end of February, our State revenue was  
 24 eight million dollars. Our Agency revenue was twenty-one  
 25 million.

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1 fiscal year, Marine Patrol has held twelve classes with  
 2 eighty-five students.  
 3 Officers also helped out with Mardi Gras parades  
 4 in D'Iberville, Pass Christian and Biloxi.  
 5 Patrick Levine spoke at Career Day at St. Martin  
 6 High School, and Baron O'Grady participated in Career and  
 7 Safety Day at Pass Christian Middle. They also  
 8 participated in Touch A Truck which is an event that the  
 9 Long Beach Chamber holds where law enforcement brings  
 10 vehicles and boats, and kids can go and climb on them and  
 11 all of that. It is very popular.  
 12 On March the 3<sup>rd</sup>, Jill Zednick and Marty Jones  
 13 from the Office of Marine Fisheries represented DMR at  
 14 College and Career Day at West Harrison High School.  
 15 Jessica Rankin from the Office of Marine Fisheries  
 16 participated in the Merchants Healthcare Seminar at the  
 17 Mississippi Coast Coliseum, on March 7<sup>th</sup>. Jennifer Frey  
 18 and Jennifer Wittman, from Coastal Resources Management,  
 19 spoke to a group of students at Trinity United Methodist  
 20 Church Preschool.  
 21 Probably the biggest event we had in February  
 22 was the Science and Engineering Fair. We had several  
 23 employees from the Grand Bay NERR who helped with this.  
 24 We help judge and help plan.  
 25 Four students won DMR awards: Arny Gollott, IV,

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1 from Nativity BVM Elementary, Allen Arguello from Ocean  
2 Springs Upper Elementary, Jady Rhodes from Stone County  
3 Middle, and Marguerite Gelp from Our Lady Academy in Bay  
4 St. Louis.

5 We will bring those students to the meeting,  
6 like we did last year, probably in May, or June, when  
7 school gets out.

8 The NERR also had several other activities.  
9 They partnered with the Walter Anderson Museum to host an  
10 artist-naturalist workshop, and thirteen people  
11 participated. They also hosted, the next couple of days  
12 after that, a Teachers on the Estuary workshop, and there  
13 were eleven teachers from Jackson, Harrison, Stone and  
14 Forrest counties that participated.

15 I just wanted to remind y'all about Celebrate  
16 the Gulf. That is on Saturday, April the 1<sup>st</sup>, in Pass  
17 Christian at War Memorial Park. We will have lots of  
18 activities there.

19 The agency and the heritage area will have  
20 booths at the Mississippi Bicentennial Celebration which  
21 is Friday, March 31<sup>st</sup>, and Saturday, April 1<sup>st</sup>.

22 Any questions?

23 COMMISSIONER GOLLOTT: Thank you, Melissa.

24 MELISSA SCALLAN: Thank you.

25 COMMISSIONER GOLLOTT: We are going to move

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1 Building Conservation Trust and this department. It was  
2 very close and very cordial, and we all had that final  
3 objective in mind and we finally got there on February  
4 17<sup>th</sup>, on a beautiful day, by the way.

5 If I could put on another hat, Melissa mentioned  
6 the Marine Enforcement Division doing some classes. You  
7 may, or may not, be aware that I also have another hat  
8 which is the Squadron Education Officer for the  
9 Mississippi Gulf Coast Sail and Power Squadron, and we  
10 have completed two boating classes.

11 By the way, through a Memorandum of  
12 Understanding, our boating classes lead to boating safety  
13 certification by the Mississippi Department of Wildlife,  
14 Fisheries and Parks. There were two classes, and kind of  
15 unusual circumstances to an extent.

16 One was at the Ocean Springs Yacht Club which  
17 just completed and had seven students.

18 The more notable one is one of our members in  
19 Jackson completed a class of Sea Scouts at the Jackson  
20 Yacht Club, some big Sea Scouts who the member described  
21 as exceptional, with a couple of National Merit Scholars  
22 in it and one student applying to the Naval Academy.  
23 These are exceptional kids, and he had a great time  
24 teaching these kids basic boating which included the  
25 Mississippi component.

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1 public comments to next.

2 Do you have any comments, Mr. Eicke?

3 F. J. EICKE: I do.

4 COMMISSIONER GOLLOTT: Okay, Mr. Eicke.

5 F. J. EICKE: As a CCA representative, I would  
6 like to give a special thanks to the Artificial Reef  
7 Program. On February 17<sup>th</sup>, there was deployment of two  
8 hundred and seven tons of concrete culverts on the Cat  
9 Island Reef, with primary funding through a group called  
10 The Building Conservation Trust. It is a form of CCA  
11 dealing with habitat.

12 That project could not have happened without Mr.  
13 Sanders and his staff from the Artificial Reef Program.  
14 It was a delight for me, after all these years of setbacks  
15 of one type, or another, to finally see those culverts go  
16 splashing into the water.

17 There is a YouTube video on it that hopefully  
18 Melissa can share with y'all, or I can. It's a one minute  
19 and fifty second thing that shows these two hundred and  
20 seven tons going into the water in four different places  
21 and a special thank you to Jimmy and his staff who were  
22 really exceptional in getting the project to its  
23 conclusion.

24 I don't know if any of y'all have any questions,  
25 but this was a partnership between CCA Mississippi, the

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1 We hope to continue to do such things, but what  
2 makes that possible is the real cooperation of Lieutenant  
3 Patrick Levine from the Department, and we would like to  
4 give a pat on the back to Patrick for his help in this  
5 effort.

6 Let me conclude with that, and I didn't raise  
7 any issues today.

8 Thank you.

9 COMMISSIONER GOLLOTT: Thank you, Mr. Eicke.

10 Next we need a motion to go into executive  
11 session.

12 COMMISSIONER BOSARGE: I'll make the motion to  
13 go into executive session to discuss 360 evaluation and  
14 pending litigation update.

15 SANDY CHESTNUT: Excuse me. We actually need a  
16 motion to go into closed session to determine the need to  
17 go into executive session to discuss personnel matters and  
18 pending litigation.

19 COMMISSIONER BOSARGE: I'll make a motion that  
20 we go into --

21 COMMISSIONER GOLLOTT: (Interposing) Just make  
22 a motion that we go with Sandy's recommendation.

23 COMMISSIONER BOSARGE: I'll make the motion as  
24 Sandy stated.

25 COMMISSIONER GOLLOTT: We have a motion.

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1 Do we have a second?  
 2 COMMISSIONER HARMON: I so second the motion,  
 3 Mr. Chairman.  
 4 COMMISSIONER GOLLOTT: We have a motion and a  
 5 second.  
 6 All those in favor say aye.  
 7 (All in favor.)  
 8 COMMISSIONER GOLLOTT: Opposed?  
 9 (None opposed.)  
 10 COMMISSIONER GOLLOTT: We are going into closed  
 11 session to see if we need to go into executive session.  
 12 JAMIE MILLER: We were scheduled to have a  
 13 workshop on oyster management at 1:30. That notice was  
 14 posted on the door, as required.  
 15 Because of the short meeting this morning, we  
 16 are going to move that work session up to 11:30. Public  
 17 notice is required for at least one hour before you have a  
 18 meeting, so we are making that public notice, now, and we  
 19 will make the changes on the notice on the door.  
 20 We plan to have the oyster work session to begin  
 21 at 11:30, not 1:30.  
 22 MEETING STANDS IN RECESS  
 23 COMMISSIONER GOLLOTT: I call the meeting back  
 24 to order.  
 25 Sandy, will you give us a report?

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1 SANDY CHESTNUT: Yes, sir.  
 2 At 9:52, a motion was made by Commissioner  
 3 Bosarge to go into closed session to discuss the need for  
 4 executive session to discuss personnel matters and pending  
 5 litigation. That motion was seconded by Commissioner  
 6 Harmon. Present were Richard Gollott Chairman, Steve  
 7 Bosarge Vice-Chairman, Ron Harmon, Mark Havard, Jolynne  
 8 Trapani, legal counsel Sandy Chestnut and Sean Morrison,  
 9 and Jamie Miller Director.  
 10 At 10:02, a motion was made by Commissioner  
 11 Bosarge to go into executive session to discuss personnel  
 12 matters and pending litigation. That motion was seconded  
 13 by Commissioner Trapani. Discussion ensued. There were  
 14 no motions made and no actions taken by the Commission,  
 15 during executive session.  
 16 At 10:46, Commissioner Trapani made a motion to  
 17 end the executive session and return back into regular  
 18 session. That motion was seconded by Commission Bosarge.  
 19 That's the end of the report.  
 20 COMMISSIONER GOLLOTT: Do we have any more  
 21 business to come before the Commission?  
 22 (No response.)  
 23 COMMISSIONER GOLLOTT: With no more business, do  
 24 we have a motion to adjourn?  
 25 COMMISSIONER BOSARGE: So moved, Mr. Chairman.

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1 COMMISSIONER GOLLOTT: We have a motion to  
 2 adjourn.  
 3 Do we have a second?  
 4 COMMISSIONER HARMON: So seconded, Mr. Chairman.  
 5 COMMISSIONER GOLLOTT: We have a motion and a  
 6 second.  
 7 All those in favor say aye.  
 8 (All in favor.)  
 9 COMMISSIONER GOLLOTT: Adjourned.  
 10 (whereupon, at 10:52 o'clock, a.m., the March  
 11 21, 2017, meeting of the Commission on Marine Resources  
 12 was concluded.)  
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1 C E R T I F I C A T E  
 2  
 3 I, Lucille Morgan, Certified Shorthand Reporter, do  
 4 hereby certify that the above and foregoing is a true and  
 5 correct transcript of the March 21, 2017, meeting of the  
 6 Commission on Marine Resources, as taken by me at the time  
 7 and place heretofore stated in the aforementioned matter  
 8 in shorthand, with electronic verification, and later  
 9 reduced to typewritten form to the best of my skill and  
 10 ability; and, further, that I am not a relative, employee,  
 11 or agent, of any of the parties thereto, nor financially  
 12 interested in the cause.

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