

Commission on Marine Resources

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COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

Tuesday, July 18, 2017
9:00 a.m.
Bolton Building Auditorium
1141 Bayview Avenue
Biloxi, Mississippi 39530

Commission Members:

Steve Bosarge, Chairman
Ron Harmon, Vice Chairman
Richard Gollott
Jolynne Trapani

Also Present:

Jamie M. Miller, Executive Director DMR
Sean Morrison, Esq., Assistant Attorney General

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2

1 COMMISSIONER GOLLOTT: Good morning. I would
2 like to welcome you to our July regular meeting of the
3 Commission on Marine Resources.
4 The first thing we are going to do is the Pledge
5 of Allegiance. We will ask Jamie Miller to lead us in the
6 Pledge.
7 (Whereupon, the Pledge of Allegiance was
8 recited.)
9 COMMISSIONER GOLLOTT: Next we need the
10 Commissioners to take the oath of office.
11 JAMIE MILLER: Commissioners, if y'all will
12 stand together, our court reporter is going to take you
13 through the oath of office together.
14 (Whereupon, the oath of office was given to
15 Steve Bosarge, Richard Gollott, Ron Harmon, Jolynne
16 Trapani by the court reporter.)
17 COMMISSIONER GOLLOTT: Next, every year in July
18 we elect officers. We start the election with the
19 Chairman, and, then, go to Vice Chairman.
20 Are there any nominations for Chairman?
21 (No response.)
22 COMMISSIONER GOLLOTT: I would like to nominate
23 Mr. Steve Bosarge as Chairman.
24 Can I get a second?
25 COMMISSIONER HARMON: So seconded, Mr. Chairman.

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1 COMMISSIONER GOLLOTT: We have a motion and a
2 second.
3 Any other nominations for Chairman?
4 (No response.)
5 COMMISSIONER GOLLOTT: No other nominations. We
6 will close the nominations for Chairman.
7 Commissioner Bosarge is now the new Chairman.
8 Are there any nominations for Vice Chairman?
9 COMMISSIONER BOSARGE: Yes, sir. I would like
10 to nominate Commissioner Ron Harmon.
11 COMMISSIONER GOLLOTT: We have a motion.
12 Do we have a second?
13 COMMISSIONER TRAPANI: I'll second that.
14 COMMISSIONER GOLLOTT: We have a motion for Vice
15 Chairman and a second.
16 Any other nominations?
17 (No response.)
18 COMMISSIONER GOLLOTT: No other nominations. We
19 close the nominations.
20 Congratulations, Mr. Harmon.
21 COMMISSIONER GOLLOTT: I guess we'll let Mr.
22 Bosarge take over, now.
23 COMMISSIONER BOSARGE: Oh, boy. It's going to
24 be interesting. I have some big shoes to fill, and I
25 appreciate the vote of confidence.

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4

1 We are ready to continue on. We need approval
2 of the minutes of the last meeting.
3 COMMISSIONER GOLLOTT: I make a motion we
4 approve the minutes as written.
5 COMMISSIONER BOSARGE: Do we have a second?
6 COMMISSIONER HARMON: So seconded, Mr. Chairman.
7 COMMISSIONER BOSARGE: All those in favor say
8 aye.
9 (All in favor.)
10 COMMISSIONER BOSARGE: Opposed?
11 (None opposed.)
12 COMMISSIONER BOSARGE: Motion carries.
13 We have approval of the agenda.
14 Do we have any modifications to the agenda?
15 (No response.)
16 COMMISSIONER BOSARGE: Do we have a motion to
17 approve the agenda as written?
18 COMMISSIONER HARMON: Mr. Chairman, I make the
19 motion that we approve the minutes.
20 COMMISSIONER GOLLOTT: I'll second it.
21 COMMISSIONER BOSARGE: All those in favor say
22 aye.
23 (All in favor.)
24 COMMISSIONER BOSARGE: Opposed?
25 (None opposed.)

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July 18, 2017

Commission on Marine Resources

1 COMMISSIONER BOSARGE: Motion carries.
 2 We move to Office of Marine Patrol, Chief Davis.
 3 KEITH DAVIS: Good morning Commissioners.
 4 Congratulations, Mr. Chairman.
 5 COMMISSIONER BOSARGE: Thank you, sir.
 6 KEITH DAVIS: You have the Office of Marine
 7 Patrol report for the month of June in front of you.
 8 I will entertain any questions that you may have
 9 regarding citations issued last month and activity of
 10 Marine Patrol.
 11 (No response.)
 12 KEITH DAVIS: I would like to point out that
 13 last meeting, Mr. Chairman, you requested a breakdown of
 14 the Tails n' Scales activity. We compiled that
 15 information for you, and I can tell you that since the
 16 beginning of snapper season, May 26th, we have checked
 17 sixty-five boats.
 18 Forty-one of those vessels were compliant with
 19 Tails n' Scales and twenty-four were not, and those
 20 twenty-four did receive citations for failure to register
 21 with Tails n' Scales.
 22 COMMISSIONER BOSARGE: That's the kind of
 23 information we need for us to see just how our program is
 24 working and how accurate our data is.
 25 I appreciate that.

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1 KEITH DAVIS: Yes, sir.
 2 COMMISSIONER BOSARGE: Hopefully, maybe we can
 3 just do some warnings, check people and say, hey, if you
 4 haven't had your Tails n' Scales, I'll write your name
 5 down and we're going to make sure, when I get back and
 6 before your trip has ended, that you have entered your
 7 data.
 8 KEITH DAVIS: Well, I would like to point out
 9 two things. When the Tails n' Scales program started and
 10 was implemented, we did have a grace period that we warned
 11 everyone. If I remember correctly, there was about sixty
 12 days that we gave that grace period.
 13 Even now, if an officer stops a vessel on their
 14 way out and they have not registered, we do ask them, or
 15 give them the opportunity to get registered, but, once
 16 they come in and they have not registered, we have been
 17 very non-lenient on citations.
 18 COMMISSIONER BOSARGE: I can understand that.
 19 They have already done what they weren't supposed to do.
 20 KEITH DAVIS: Yes, sir.
 21 COMMISSIONER BOSARGE: Thank you.
 22 Do we have any other questions for Chief Davis?
 23 (No response.)
 24 COMMISSIONER BOSARGE: Thank you, sir.
 25 KEITH DAVIS: Thank you.

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1 COMMISSIONER BOSARGE: I made my first mistake.
 2 I didn't ask for the Executive Director's report, so we
 3 will back up.
 4 JAMIE MILLER: That's the smallest mistake you
 5 could make because I don't have a report. No report,
 6 Chairman.
 7 COMMISSIONER BOSARGE: Now we have Office of
 8 Marine Patrol, Joe Jewell -- I'm sorry. Office of Marine
 9 Fisheries.
 10 JOE JEWELL: Thank you for clarifying that.
 11 I want to congratulate you, Chairman Bosarge.
 12 You have new responsibilities and you have new shoes to
 13 fill.
 14 I want to congratulate the good job that
 15 Commissioner Gollott did as the leader of the Commission.
 16 I also want to congratulate our new incoming
 17 Vice Chairman, Mr. Harmon.
 18 The Office of Marine Fisheries has six items on
 19 the agenda. Four of those are action items.
 20 Two of the items that we are going to consider
 21 are updates that the Commission has asked the Office of
 22 Marine Fisheries to periodically update them on.
 23 The first one is the Red Drum Tagging Program
 24 that will be presented by Mr. Wade Hardy.
 25 WADE HARDY: Good morning Commissioners,

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1 Director Miller, Mr. Morrison.
 2 Today, I want to update you on the DMR's Red
 3 Drum Tagging Project.
 4 The original objectives of the project are as
 5 follows:
 6 Obtain data on Red Drum ages three to five, in
 7 order to develop an accurate escapement rate and an age at
 8 length key.
 9 Describe age at maturity for Red Drum in
 10 Mississippi Coastal water.
 11 Collect samples of Red Drum from the For-Hire
 12 industry and recreational fishermen.
 13 This year, we have added a new component to the
 14 project which involves tracking Red Drum using acoustic
 15 telemetry methods, and the area of focus for this project
 16 is going to be the Biloxi Bay and out to Deer Island.
 17 The objectives for the acoustic telemetry
 18 portion, like I said, is to tag and track the movements of
 19 Red Drum in the Biloxi Bay area, gain a better
 20 understanding of the routine patterns and seasonal trends,
 21 and try to determine site fidelity between different age
 22 classes of Red Drum.
 23 Funds for the project came from a sport fish
 24 restoration grant that was issued by the U.S. Fish and
 25 Wildlife Service, and these funds made it possible for us

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1 to purchase the equipment necessary to proceed with the
 2 project.
 3 This is the equipment here on this slide that we
 4 are going to be using. The ruler and the double AA
 5 battery are there simply for scale.
 6 On the right is the acoustic transmitter, and
 7 this is what we place inside each Red Drum that we tag.
 8 The acoustic transmitter, basically, sends out sound
 9 waves, or pings, and those pings will be detected by the
 10 receivers that are placed in the Back Bay.
 11 On the left is the acoustic receiver, and
 12 receivers are placed in the water at various locations in
 13 the project area.
 14 The receiver is, basically, a listening device
 15 that can detect fish that travel within its range, and the
 16 range of these receivers is about two hundred meters in
 17 any direction.
 18 When a receiver detects a fish, it records the
 19 ID of that particular fish, along the date and the time.
 20 This map shows the locations of the receivers.
 21 We placed receivers in the project area to create areas of
 22 coverage and those areas are shaded in green.
 23 As you can see here, we have coverage in the
 24 Popp's Ferry area, Fort Bayou, across the mouth of the Bay,
 25 the channel at the west end of Deer Island, Davis Bayou

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1 and, currently, we are in the process of covering this
 2 area between Davis Bayou and the east end of Deer Island,
 3 and that area is shaded in red.
 4 With this receiver arrangement, this will allow
 5 us to gain a greater understanding of the movements of Red
 6 Drum within the project area, how many of those fish are
 7 moving in and out of the bay, and when and what time of
 8 year these movements occur.
 9 Next, this map shows the location where we have
 10 tagged Red Drum so far. To date, we have tagged ten fish.
 11 We started tagging Red Drum in May, and we plan to have
 12 twenty-five to thirty fish tagged by the end of the year.
 13 The tagging process. This slide shows how we
 14 tag our fish. We tag each fish with an internal
 15 acoustical transmitter. We place that in the belly of the
 16 fish. That is shown in the photo on the left-hand side,
 17 and we also tag each Red Drum with an external blue bar
 18 tag. Printed on that blue bar tag is the information
 19 necessary to report a tagged fish, in case it is
 20 recaptured.
 21 Results to date. We are in the very early
 22 stages of this project and the results are limited so far,
 23 but, to date, we have ten Red Drum tagged, five of those
 24 Red Drum have been detected by receivers, and we have
 25 actually had two of our tagged Red Drum recaptured by

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1 fishermen and reported.
 2 This slide shows one of our recaptures. You can
 3 see the blue external bar tag, and you can also see where
 4 we placed the internal acoustic transmitter into the belly
 5 of the fish. This fish was recaptured three weeks after
 6 it was tagged, and you can see the sutured area there is
 7 healing up quite nicely.
 8 Reporting tagged Red Drum. We would encourage
 9 all fishermen to, please, report and release any tagged
 10 fish. We have set up a Red Drum hotline number to make
 11 this a very easy thing to do, and that Red Drum hotline
 12 number is printed on the tag. You can't see it here.
 13 It's printed on the other side.
 14 When a fish is reported, we ask that the
 15 fisherman please report the tag ID number that is printed
 16 on the tag, the three-digit number, along with the
 17 location of the catch and, if possible, the length of the
 18 fish.
 19 That concludes my presentation. I would be
 20 happy to answer any questions.
 21 COMMISSIONER BOSARGE: In an effort to get this
 22 information out to the general public, is it on the
 23 website?
 24 WADE HARDY: It is. We sent out a press release
 25 and it is on the DMR website.

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1 COMMISSIONER BOSARGE: I can imagine somebody
 2 catching your fish with your transmitter and take it home.
 3 When will we have some results of the studies?
 4 WADE HARDY: It is going to take, I imagine,
 5 several months before we start to see, get a good amount
 6 of data so we can start to see what kind of patterns
 7 emerge from the movements of the fish. When we tag more
 8 fish, that will also help us gather more data as well. We
 9 need to transition from summer, fall and winter, and,
 10 then, we can start to see where the fish are moving.
 11 COMMISSIONER BOSARGE: Is this project going on
 12 for more than one year?
 13 WADE HARDY: We hope it is going to be a
 14 multiple-year project.
 15 COMMISSIONER BOSARGE: This year, with all the
 16 rain we've had, there is no telling what those migration
 17 patterns may, or may not, be either.
 18 WADE HARDY: It's been tough for sure.
 19 COMMISSIONER BOSARGE: Thank you, sir.
 20 WADE HARDY: Thank you.
 21 JOE JEWELL: The next presentation will be the
 22 Red Snapper Season Update, and that will be presented by
 23 Ms. Carly Somerst.
 24 CARLY SOMERSET: Good morning Commissioners,
 25 Chairman Bosarge, Director Miller, legal counsel.

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1 Today, I will be presenting an update on the
2 2017 Recreational Red Snapper Season.

3 First, just a few numbers on the 2017 Red
4 Snapper Season. If you remember from the last
5 presentation I gave in April for Red Snapper, the ACL, or
6 annual catch limit is interchangeable with the quota. I
7 have quota up here on the presentation, and the ACT, or
8 the annual catch target is the ACL, the annual catch limit
9 minus a twenty percent buffer (indicating slide).

10 The Gulf-wide allowable catch limit for both
11 sectors is thirteen point seven four million pounds whole
12 weights, and the Gulf-wide ACL is split between the
13 commercial and recreational sectors, with the commercial
14 at fifty-one percent and the recreational at forty-nine
15 percent.

16 This makes the commercial quota about seven
17 million pounds and the recreational quota six point six
18 million pounds roughly with the ACT. The recreational
19 quota is five point two eight two million pounds.

20 There are other allocations within the
21 recreational sector divided between private anglers and
22 the Federal for-hire sector. The private angler quota is
23 set at three point seven five five million pounds, with a
24 twenty percent buffer, making the ACT about three million
25 pounds. The Federal for-hire quota is two point eight four

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1 a valid Red Snapper permit may fish until 12:01 a.m. on
2 July 20th, essentially, the 1st through the 19th for fishing
3 day. Their season is open Monday through Sunday. They
4 don't have restrictions for weekends only.

5 On June 8th, there was a Red Snapper survey that
6 was sent to all recreational Red Snapper anglers
7 registered in Tails n' Scales. We sent out, roughly, two
8 thousand emails to all the anglers that fish for Red
9 Snapper and are registered in our system. The survey was
10 later posted on DMR social media, Facebook, for any
11 additional responses.

12 To date, there have been seven hundred and
13 thirty-four total responses. Six hundred and eighty-three
14 of those chose one of the three provided options. There
15 are about fifty that chose to leave comments only. They
16 did not vote on one of these three. They just decided to
17 voice their opinion on the matter.

18 The three options, in the survey that we sent
19 out, one was status quo. That was to continue with the
20 original State season, May 26th to September 4th, with the
21 three-day initial Federal season. Then, it would have
22 just continued to run through September 4th.

23 The second option was a twenty-seven day fishing
24 season. They extended the Federal season for twenty-seven
25 days, but it included fishing on Saturdays and Sundays

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1 eight million pounds, with a twenty percent buffer, making
2 the ACT two point two seven eight million pounds.

3 Since the opening of the initial three-day
4 Federal season, there have been some modifications to the
5 season length. Initially, the Federal season began on
6 June 1st for the recreational sector. Private anglers were
7 allowed to fish through June 3rd, in part, because of the
8 initial short Federal season. The initial State season
9 began on May 26th and continued through September 4th. That
10 would have been a total of a hundred and two days.

11 However, the Department of Commerce authorized
12 reopening the private angler component for Red Snapper in
13 Federal waters. This transition occurred on June 16th and
14 MDMR, as well as all the other Gulf states, modified their
15 state seasons to become compliant with the extended
16 Federal season, on that date. It reopened on Friday, the
17 16th, and will run through September 4th.

18 Fishing is allowed on Fridays, Saturdays and
19 Sundays only, with the exception of the holiday weekends
20 July 3rd and 4th, and, then, September 4th. Including the
21 original three days, the new Federal season will be a
22 total of forty-two days long.

23 The recreational Red Snapper harvest by the
24 Federal for-hire component remains unchanged. They also
25 started on June 1st, but the Federal for-hire vessels with

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1 only, with an option to reopen the State season at the
2 end.

3 Then, you can see the majority of responses
4 preferred the thirty-nine day fishing season which is the
5 one that I just explained; Fridays, Saturdays and Sundays
6 only, with no option to reopen the State season at the
7 end.

8 This is just an update for 2017 reporting data.
9 These are the weekly updates that you have been receiving.
10 The data uses preliminary raw data, before QA/QC. It does
11 change frequently, based on angler reporting, and, also,
12 these totals are based on angler reports taken directly
13 from the reporting system.

14 These numbers over here are for all the dates.
15 We started the State season on May 26th, and, then, to July
16 17th (indicating slide).

17 The number of trips, a little over two thousand.
18 The number of Red Snapper harvested, a little over
19 fourteen thousand. The number of anglers to date, nine
20 thousand fifty-seven.

21 If you look at the fish per angler, it is close
22 to two fish per person. Anglers per trip were about four
23 anglers per boat. Right now, our overall average -- this
24 is a seasonal average -- is a little over six pounds.
25 That makes the total harvested so far a little over

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1 eighty-nine thousand pounds.
 2 I will take any questions.
 3 COMMISSIONER BOSARGE: Do any of the
 4 Commissioners have any questions?
 5 (No response.)
 6 COMMISSIONER BOSARGE: I have a couple of
 7 questions, of course.
 8 The number of discards, I didn't see that in the
 9 report.
 10 CARLY SOMERSET: It's there. The number of
 11 discards are in your complete report so you can see how
 12 they differ from the total harvested, but I removed
 13 discard on here because we were not able to validate them.
 14 Obviously, we can't go out on everyone's boat and count
 15 the number that they discard.
 16 COMMISSIONER BOSARGE: For the most part, it
 17 looks like two-to-one, two discards to one keeper.
 18 CARLY SOMERSET: It is much higher.
 19 COMMISSIONER BOSARGE: That's fine.
 20 The other question, I guess, I had, the
 21 management of Red Snapper, Federal management of Red
 22 Snapper, who does that?
 23 CARLY SOMERSET: Federal management is through
 24 the Gulf Council, and, then, the projections and the
 25 quotas, that's along with NOAA, but the Department of

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1 Commerce, they did extend the Federal season.
 2 COMMISSIONER BOSARGE: Did the council approve
 3 this extended season?
 4 Did it go through the council?
 5 CARLY SOMERSET: It did not.
 6 COMMISSIONER BOSARGE: I have issues with that.
 7 Over the years, being involved in especially the
 8 management of Red Snapper and seeing what has been
 9 mandated to the folks that interact with Red Snapper and
 10 watching the devastation that took place -- as the
 11 communities in Mississippi, we had probably one of the
 12 largest Red Snapper industries anywhere in Pascagoula. Of
 13 course, it is nothing, now -- watching what happened over
 14 the years and the people that were affected by it, and the
 15 changes that were mandated to us through the council and
 16 watching the fleet go down to just a very small handful of
 17 vessels, and, then, getting to the last component and
 18 trying to work out differences in what we need to do to
 19 make this work for everybody, and, then, to see everything
 20 change and not go through the same process, it is kind of
 21 disheartening; for me, it is anyway. It is what it is.
 22 I want to make one point. In the Federal
 23 register, when it was printed, it says that, basically,
 24 this approach may delay the ultimate rebuilding of the
 25 stock by as many as six years. This approach could not be

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1 continued through time, without significantly delaying the
 2 rebuilding time line, meaning that the private
 3 recreational sector would substantially exceed its annual
 4 catch limit which was designed to prevent overfishing the
 5 stock.
 6 What are we going to do about that, Joe?
 7 JOE JEWELL: I want to go back to discards. As
 8 you know, most stock assessments do not address discards.
 9 I did see the number of discards and I,
 10 personally, became very concerned with the discard and I
 11 worked with the staff on the discards. I addressed the
 12 top three number of discards.
 13 There is really no scientific way to interact
 14 with that. Ms. Somerset hit it right on the head. You
 15 would have to be physically on the boat each time to
 16 monitor that.
 17 The top number one discard person had actually
 18 reported discarding five hundred Red Snapper in a thirty-
 19 minute period, and on and on it went.
 20 I interacted. I called the individual and
 21 discussed with them the pros and cons of the program, the
 22 purpose of the program, what we were trying to achieve for
 23 the community that the Red Snapper program is trying to
 24 serve and on and on it went.
 25 Some of them were accidents. They clearly were

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1 accidents, and those could be adjusted, the individual.
 2 The requested other ones were intentionally put
 3 in the system to skew the data because they felt like, if
 4 we reported differently, then, somehow the quota would be
 5 different from the Federal perspective.
 6 There is no accurate way to adjust, or have a
 7 clear, scientific representation of discard. That's why
 8 they were not presented here in this forum because we need
 9 to find a better way to represent that data.
 10 COMMISSIONER BOSARGE: That data is alarming to
 11 me.
 12 JOE JEWELL: When you see those numbers, but
 13 those numbers are not accurate. There is no way to know
 14 if it's true, or not true. We just know that that is not
 15 accurate. That is not a true representation of what is
 16 going on in the discard community. It's just not.
 17 The next issue that you raised about the Federal
 18 season, that is true. This is a Federally-mandated
 19 species and it has been run through the Gulf Council.
 20 This was an attempt, by elected officials, to address that
 21 three-day season, and you have to find some sense of
 22 fairness in the overall industry.
 23 Our Federal partners, or Federally-elected
 24 officials looked at the reduced number of days that the
 25 private sector has to have each year, and it has dropped

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1 dramatically.

2 They looked at that, Steve, and you and I know
3 why they've got three days and we understand that. That's
4 exactly right, and what they did this year is going to
5 impact what happens next year. We understand that. That
6 is clear, but the big overall issue is they got three
7 days.

8 Is that fair?

9 I think you and I understand how they got that
10 three days and the fairness of that, but the issue at the
11 table that they had to address, when they looked at it,
12 was the three days, and that's what they tried to address.
13 The overall fairness of that process, they were trying to
14 address that.

15 Now, what you and I are talking about is how
16 they got that three days and what is going to happen next
17 year with what they are doing this year, and I understand
18 that.

19 COMMISSIONER BOSARGE: Bypass the process.

20 JOE JEWELL: Yes.

21 COMMISSIONER BOSARGE: Move on, Joe. We have a
22 long day.

23 JOE JEWELL: We do.

24 COMMISSIONER BOSARGE: I appreciate all the
25 information.

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1 JOE JEWELL: And I'm going to add to the length
2 of that with the next agenda item.

3 We are moving into the regulatory process of the
4 Marine Fisheries agenda, and I'm going to start that off
5 with consideration of final adoption to Title 22 Part 1,
6 consideration of banning the basket dredges.

7 As you know, the Commission passed a Notice of
8 Intent for the banning of basket dredges, on April 19th, at
9 their regular Commission meeting.

10 The Notice of Intent of this banning of basket
11 dredges appeared on the DMR web page, on April 20th, the
12 following day.

13 Legal Notice of the Notice of Intent for the
14 banning of basket dredges appeared in the Sun Herald, on
15 April the 24th.

16 The public hearing notice was filed with the
17 Secretary of State, on May the 23rd.

18 The public hearing notice was published on the
19 DMR web page, on May the 24th.

20 The public hearing notice appeared in the Sun
21 Herald, on June the 12th.

22 The individual notices of the parties that were
23 interested in the process and made notice that they were
24 interested in the process was sent to the attorney, Mr.
25 Morgan Holder, on May 27th, and, on May the 31st, notice

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1 was sent to Ms. Thao Vu who represents the Mississippi
2 Coalition of Vietnamese-American Fisher Folks and
3 Families.

4 Before we get into the comment section because
5 it gets kind of complicated, I wanted to just sort of give
6 a visual representation of those comments and what they
7 are and how we got to this.

8 There are really three types of comments. For
9 some reason, they are not showing up on the slide, but I
10 will read those into the public record.

11 You see how the circle is broken into three
12 parts.

13 There is the petition that was presented to the
14 Commission. There were seventy signatures on that
15 petition, and that represented fifty-six percent of the
16 comments.

17 There were public comments. There were forty-
18 six of those that represented thirty-seven percent.
19 Public comments were either hand-delivered to the DMR, or
20 they were emailed to us.

21 Then, the public hearing comments, and there
22 were eight of those, representing seven percent of the
23 total comments.

24 The overview of the comments, again, they are
25 not showing up on the slide, so I will read those to you.

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1 There were fifty comments that opposed the ban
2 and seventy-four that supported the ban for a total of one
3 hundred and twenty-four total comments.

4 I'm going to go through these individually and
5 speak to each one of those.

6 The petition comments that represented fifty-six
7 percent of the total comments. The petition was submitted
8 by Mr. Harold Strong at the public hearing that was
9 conducted on June 14th, with fifty-nine signatures that all
10 supported the banning of the basket dredge, and, then, an
11 addendum to the original petition was submitted by Mr.
12 Harold Strong at the Commission's regular meeting on June
13 the 20th, with an additional eleven signatures.

14 A summary of the Commission comments. Again,
15 there were seventy that supported it. If you read the
16 petition -- I mailed it to all the Commissioners -- it
17 said:

18 "To request the elimination of the basket
19 dredges on the public oyster reefs in the State of
20 Mississippi, due to the irreversible damage to the reefs
21 caused by the excess weight being applied to the dredges.

22 "Research and technology, through the side
23 scanning sonar, has shown the shrinkage of our public
24 reefs since the implementation of the basket dredge.

25 "We, the undersigned, are requesting our above-

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1 mentioned board members to act immediately to save our
2 public reefs and the future of our commercial industry."

3 That takes care of the petition comments.

4 Next up are the public comments. Like I said,
5 those were either hand-delivered to us at the DMR, or sent
6 via email, and that represented thirty-seven percent of
7 the total. There were a total of sixty-six, but, during
8 the comparison of the May 8th comments and those submitted
9 on June 9th and 12th, it showed that there were twenty of
10 the comments from the same people who submitted the same
11 comments.

12 They can be handled a couple of different ways.
13 You can total them all up which I eventually did. All
14 those comments on both dates were all submitted into the
15 public record, but I counted them only once because they
16 were the same comments which led to a total of forty-six.

17 On May the 2nd, as you recall, attorney Morgan
18 Holder submitted a Petition for Reconsideration. The
19 Commission found that it was premature, that the
20 Commission had not taken action, final action, but the
21 Commission did want that to be considered a public comment
22 and entered into the record.

23 On May 8th, 2017, Ms. Thao Vu hand-delivered
24 twenty comments representing, again, her coalition group
25 opposing the proposed ban on basket dredges.

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1 comments.

2 A public hearing was held at the Bolton Building
3 here in this room, Wednesday, June the 14th. The public
4 hearing officer was Mr. Erik Broussard, the Shellfish
5 Bureau Director. Commissioners present were, at that
6 time, Chairman Gollott, Commissioner Mark Havard and
7 Commissioner Jolynne Trapani. Our Executive Director, Mr.
8 Jamie Miller, was there. Our Chief Science Officer, Dr.
9 Paul Mickle, was there. Our Marine Patrol Chief, Mr.
10 Keith Davis, was there. Ms. Thao Vu, representing the
11 Mississippi Coalition for Vietnamese-American Fisher Folks
12 and Families, was there. Mr. Ryan Bradley, Mississippi
13 Commercial Fisheries United, was there.

14 Public hearing comments represented seven
15 percent of the total comments received. The number of
16 people that attended the meeting was thirty. Ten members
17 were from the general public. The number of people that
18 commented were eight. The number of people that were for
19 the regulation change was four. The number of people that
20 were against the regulation change was also four.

21 One of the things that the Commission did, when
22 they tabled the vote for the proposed regulation change
23 back in June, was they asked the staff to report back to
24 the Commission on matters that identified the public
25 comments received. In particular, the Commission would

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1 On May the 15th, Mr. Jesse Shifalo submitted an
2 email opposing the proposed ban on basket dredges.

3 On June 9th, Ms. Thao Vu hand-delivered an
4 additional thirty-four comments from the Mississippi
5 Coalition of Vietnamese-American Fisher Folks and
6 Families. They all opposed the banning of basket dredges.

7 On June 12th, Mr. Ryan Bradley hand-delivered ten
8 additional comments on behalf of Ms. Thao Vu, representing
9 her group, opposing the proposed ban of basket dredges.

10 When you look at the summary of the total
11 comments that were submitted by this group, there were a
12 total of forty-six comments. All forty-six comments
13 opposed the proposed banning of basket dredges.

14 Thirty-six of the comments mentioned that the
15 hundred and fifteen pound weight reduction was already an
16 economic hardship on the fishermen.

17 Nine comments mentioned the physical limitations
18 and inability to use a bag dredge, if basket dredges were
19 banned.

20 Forty-three of the comments requested the
21 science be produced for the proposed ban on basket
22 dredges.

23 Forty-four comments requested an economic impact
24 statement be conducted.

25 Now, I'm going to get to the public hearing

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1 like to have more information regarding the economic
2 impact statement and whether there is additional
3 scientific evidence available.

4 The DMR staff went out and queried these sites
5 and looked at this information that was available.

6 For further information on that, our Chief
7 Science Office, Dr. Paul Mickle, is going to take over
8 this part of the presentation and give some additional
9 more detailed information.

10 PAUL MICKLE: Good morning Commissioners,
11 Director Miller and Mr. Morrison. Congratulations to
12 Chairman Bosarge.

13 Today, I would like to present the scientific
14 findings for the best available science to address the
15 basket dredges. As the agency, I want to make sure that
16 the best available science was presented to you, before
17 final action. I want to present pretty much a funneled-
18 down literature search of the basket versus bag dredge and
19 a comparison.

20 Just to talk a little bit about the types of
21 scientific literature that is out there, we have varying
22 levels of kind of strength in our science that we look at,
23 when we make management-based decisions, and I want to
24 make sure that they are all presented to you here today.
25 On a global level, we looked absolutely everywhere.

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1 There is some gray literature, and this is used
2 by non-governmental organizations, NGO's. It is not peer
3 reviewed, but still there is some nice science out there
4 that is done. It's just not quite to the peer-reviewed
5 stage of these other levels.

6 The next level is our management agencies'
7 literature, and these can be the Federal government, state
8 agencies and all these different things. These are very
9 robust scientific studies that are reviewed internally.
10 They are done by PhD's for the most part, and they are
11 reviewed internally, and there is a lot of other
12 literature that is supplemented within that level of
13 literature.

14 The highest level is the peer-reviewed
15 scientific manuscripts. Within this high level, there are
16 various levels and strengths of each journal of these
17 different levels of science.

18 With that, I would like to move on and talk
19 about what exactly is out there, when looking at the
20 basket dredge versus bag dredge.

21 In the new day and age, we have these search
22 engines, these very powerful search engines that can
23 globally look at scientific literature on all these
24 different levels worldwide very quickly, and, then, we go
25 further and start looking in person and reading these

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1 when refining that down to actual basket dredging, there
2 were fifteen we found, but, again, that was just that it
3 had the words "basket dredge" in the document. They
4 didn't address comparing it to anything. Then, reports on
5 basket versus bag dredging, there were none found.

6 Stepping up to that next level of management
7 agency literature, similar findings. We found fifty-one
8 mentioning the term "oyster dredging", and, then, basket
9 dredging was four. Zero were found actually looking at
10 basket versus bag dredging.

11 It was very difficult to find because no one has
12 really done this comparison before.

13 Looking at the highest level of peer review with
14 external review of internal review by PhD's on that level
15 of experts in the field, these need massive search engines
16 looking globally which I am about to present to you.

17 Over nineteen thousand actually mentioned oyster
18 dredging in some form, and, then, the basket dredging
19 itself were over thirty-eight hundred mentioning that
20 term.

21 We found one publication that actually did the
22 comparison of basket versus bag dredging. Unfortunately,
23 it was for clams. It wasn't for oysters. We didn't
24 refine it down to oyster bagging and basket dredging.

25 We could talk about this being comparable, but,

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1 articles and bringing exactly what is relative science to
2 the gear issue questions to the Commission. In the
3 future, we will be doing this on other issues and
4 management.

5 I just want to go through and explain these
6 different levels and how much they take into affect these
7 different things they have looked at, trying to get the
8 best available knowledge to you, when you make your
9 management-based decisions.

10 We went to these search engines. We went to USM
11 Long Beach, GCRL and Cook Library in Hattiesburg.

12 Then, the management agency literature, that
13 next level up, we looked at all the NOAA documents,
14 suggesting different gear types in oyster fishing,
15 Department of Commerce, Interior, and, then, the state
16 agencies, pretty much any state agency that is managing
17 oysters. I wanted to make sure we looked at the different
18 literature.

19 In the gray literature, we looked at a lot of
20 reports, NGO documents that are out there.

21 Refining that down, we searched down to exactly
22 what you are interested in knowing, when making this
23 decision.

24 Looking at the reports on oyster dredging in the
25 gray literature, we found a hundred and seventy-four.

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1 in reality, the mechanics and the biology, clams are
2 subsurface. They are in the sediment. They are below the
3 surface of the sediment. These are designed to dig way
4 down in the sediment to get the clams out and filter all
5 the particulars out. I consider this incomparable because
6 the dredges that we have here in Mississippi are for
7 oysters that grow on top of the substrate, and the dredges
8 for clams are mechanically incomparable for this
9 publication. Even though it is comparing these types of
10 dredges, you can see they are different from what we use
11 here in Mississippi (indicating photographs).

12 To pretty much bring down the best available
13 science that we have and show what can be drawn out of it
14 from this massive search, these are three articles we
15 looked at, and I will talk briefly about the three that,
16 in my mind, with the massive literature search, brings
17 some information to your decision.

18 First, this New Zealand paper here which is in
19 your packet -- I think it's 2004 -- looks at dredging in
20 New Zealand, and it did bring some light talking about
21 some strong answers that oyster dredge weight increases
22 mortality of juvenile oysters. That was definitively said
23 in that manuscript and had other citations behind it.
24 That is a statement that we found, in looking at those
25 certain things. Take it as you may. It is New Zealand.

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1 Obviously, their substrates, I'm pretty sure, are quite
2 different from ours.

3 Again, that was a scientific study that did
4 start to show the weights are playing a factor in oyster
5 mortality, and it did talk about oyster mortality from
6 dredging increases with increased age. The younger an
7 oyster is, the higher instance of mortality dredging can
8 have on it. With any sort of dredging, larger oyster
9 mortality increases.

10 This other one was the NOAA report. I have it
11 right here. I brought it, if we want to get into it with
12 any questions you might have. I do want to read a part
13 out of it that kind of brings home why we struggle with
14 this kind of literature search; understanding there is an
15 impact versus different types of dredge types.

16 Very briefly, I would like to read a statement
17 at the end of this NOAA report.

18 "Despite an abundance of literature concerning
19 shellfish dredging, there are no definitive 'one size fits
20 all' answers to questions concerning the impact of
21 shellfish harvesting. From experimental studies, it is
22 clear that the observed physical, biological and chemical
23 effects of dredging are highly variable. The level of
24 impact resulting from shellfish dredging corresponds to
25 the spatial and temporal scale, sediment type, harvesting

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1 equipment, biological community" -- on and on.

2 There are a lot of variables that affect how
3 dredges work. Of course, how long you have them out from
4 the boat, how deep you are, these are all varying factors
5 with oyster dredging.

6 This last paper here is from Portugal. That is
7 the one I mentioned before. It talks a lot about the
8 design of this. They had divers behind the dredges
9 looking at what mortality was in the dredge and what
10 mortality of oysters was behind the dredge -- I'm sorry.
11 This is the clam paper I mentioned earlier. It is a
12 brilliant experimental design, but, again, it is looking
13 at clams and it is just really not applicable because of
14 it digging into the substrate and doing the substrate
15 sampling which, obviously, is just not applicable in
16 looking at oysters.

17 With that, I would like to just sum it up with,
18 after an exhaustive search of scientific literature, it is
19 inconclusive for the comparisons between the gears in
20 question.

21 I have taken it upon myself to read as much of
22 this literature as I could.

23 If you have any questions, or anything you would
24 like to ask, I will do my very best to answer. I brought
25 most of it with me and I can shed light on it, if you so

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1 choose.

2 With that, I will take questions.

3 COMMISSIONER GOLLOTT: Paul, is there any
4 evidence either way, any science that we can rely on with
5 this basket dredge versus a bag dredge?

6 PAUL MICKLE: Well, I pretty much brought the
7 peer-reviewed literature, the less of what we looked at to
8 bring to you. Reading these articles, you can draw from
9 it what we found that the weight of any sort of dredge
10 seems to play a factor in mortality. That is for certain,
11 in the literature. Looking at the different types of gear
12 and all these different things, we can pull from that a
13 lot of different types of management.

14 We can't do a scientific experiment on every
15 single thing in management. There is not enough money in
16 the world to do that. On the Federal level and the state
17 level and different agencies, when the best science is not
18 available, you base your management decisions on
19 experience and knowledge in the field.

20 You are appointed to these seats because you are
21 considered an expert in your field and that is what you so
22 choose.

23 When the best science is not available of this
24 caliber looking directly at two gear types, you can rely
25 on knowledge that is based in the field for that decision.

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1 Quotas on species of harvest of fish, there is
2 no stock assessments done on every single species in our
3 state waters. We presented one to you last year.

4 All these regulations that you have made, the
5 best available science out there leads you in that
6 direction. The Commission bases their decision on their
7 various knowledge in the fields out there.

8 I am bringing the best science available which
9 is minimal at best. We need to start understanding, on a
10 large scale, how we are going to get our oysters in a
11 better condition.

12 In my opinion, the oysters are in very, very
13 poor shape this year. It is no one's fault. This fresh
14 water has really decreased their overall mass, their
15 reproductive capabilities. They are really struggling in
16 the summer, and we need to start having conversations to
17 approach these large issues of fresh water and these
18 different sediment issues. We are dealing with sediment
19 issues that are changing our Mississippi Sound. These are
20 tough conversations we need to have right here in this
21 room.

22 Any more questions?

23 COMMISSIONER BOSARGE: Any more questions?

24 (No response.)

25 COMMISSIONER BOSARGE: I have one brief

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1 question.

2 When you were talking about the one comparison

3 you had to the Portuguese fishery, did they actually have

4 any results from the difference between the two dredges,

5 the basket dredge and the bag dredge?

6 PAUL MICKLE: Yes. The basket dredge, they

7 found it is so much larger. The width of it was over a

8 hundred and fifty percent larger than the widths of these

9 others. They found it was digging just as deep as these

10 smaller, less wide ones and, actually, that wide one was

11 having the most impact on the mortality of clams, but that

12 was because of the efficiency of the gear so to speak.

13 Again, I would have a lot of caution with this

14 because it quite different. The mechanics behind it, as

15 you know, are night and day between an oyster dredge.

16 Actually, how it captures an oyster and how these capture

17 clams, is totally different.

18 COMMISSIONER BOSARGE: Thank you.

19 PAUL MICKLE: It was that term of these

20 different gears being compared, but the experimental

21 design was very sound.

22 COMMISSIONER BOSARGE: Thank you.

23 JOE JEWELL: Thank you, Paul.

24 Let me continue with the final segment of our

25 presentation.

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1 In your Commission packet, you should find

2 available to you an economic impact statement from the

3 staff, in coalition with our attorneys, provided for

4 consideration for the basket dredge and bag dredge issue.

5 The economic impact statement was developed from

6 the specific requirements in the Administrative Procedures

7 Act that are in Section 25-43-3.105 and 25-43-4.104, and

8 we addressed seventeen of these requirements in the

9 Economic Impact Statement.

10 One of the main requirements of the

11 Administrative Procedures Act, when addressing Economic

12 Impact Statements, is what is the cost, or economic

13 benefit, to all persons directly affected by the new

14 regulation.

15 We addressed this by stating, most oyster dredge

16 fishermen in Mississippi do not currently use a basket

17 dredge. The vast majority of the fleet uses a bag dredge.

18 The cost to the oyster fishermen affected by the

19 regulation will range approximately anywhere from six

20 hundred to thirteen hundred and fifty dollars to replace

21 each basket dredge.

22 I will address those figures in the next slides,

23 how we got those figures in that range.

24 These costs are likely to be paid to local

25 businesses that create, or build, these new dredges.

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1 The big consideration that the staff had to

2 consider for the Economic Impact Statement was the dredge.

3 That's the big issue, the big equipment change that the

4 fisheries, the fishermen will have to make, should the

5 Commission take action and adopt Title 22 Part 1.

6 We reached to the Community that will build

7 these dredges, and we found a high approximation to build

8 the new bag dredge and a low estimate for that. They

9 range from a builder in Louisiana, South Louisiana that

10 gave us an estimate of six hundred dollars, and, then, a

11 local builder here in Biloxi that had the high end of

12 thirteen hundred and fifty dollars to produce a new bag

13 dredge.

14 The Economic Impact Statement asked us to

15 consider those costs.

16 How we did that was, we went through our stored

17 records and our license data base, and we estimated that

18 of the total fishermen that were fishing this past season

19 there were about thirty-two people that were using the

20 basket dredge.

21 If you assume that there are thirty-two

22 fishermen -- and we did -- and you multiply that for the

23 low end, thirty-two times six hundred, that figure is

24 nineteen thousand two hundred. If you wanted the highest

25 estimate possible, if you assume that all those thirty-two

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1 fishermen were pulling two bag dredges, you double that,

2 and we came up with thirty-eight thousand four hundred.

3 Now, if you use the figure thirteen hundred and

4 fifty dollars, the high end, you multiply thirty-two times

5 thirteen hundred and fifty, and we came up with forty-

6 three thousand two hundred. Again, if you assume all

7 thirty-two of the fishermen were using two basket dredges,

8 the total figure would be eighty-six thousand four

9 hundred.

10 Either one of those estimates that you use from

11 these individuals that could build a basket dredge would

12 not exceed the hundred thousand dollar threshold. That is

13 how we came up with that estimate.

14 Are there any questions, at this point?

15 COMMISSIONER TRAPANI: Mr. Jewell, I have a

16 question, just to clarify.

17 What you are saying is this estimate from six

18 hundred to thirteen fifty, that is to replace the entire

19 dredge?

20 JOE JEWELL: A brand new dredge.

21 COMMISSIONER TRAPANI: If they were to convert

22 the one they have, this estimate would be a lot lower and

23 that is possible for them to do?

24 JOE JEWELL: That's correct. We have ranges

25 anywhere from two hundred and fifty dollars to a thousand

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Commission on Marine Resources

1 dollars to convert the dredges they currently have which
2 is still less than the figures we used for a brand new
3 dredge.

4 Are there any other questions?

5 (No response.)

6 JOE JEWELL: Again, before we do the final
7 motion, I want to read into the public record the actual
8 language that will be inserted into Title 22 Part 1 that
9 will not allow the use of basket dredges in the State of
10 Mississippi.

11 That language in Title 22 Part 1, Chapter 7,
12 Section 102, will read:

13 "It shall be unlawful for any person, firm, or
14 corporation, to take, or attempt to take, any oysters from
15 the waters under the territorial jurisdiction of the State
16 of Mississippi by the use of a basket dredge. A basket
17 dredge is a type of oyster dredge, also known as a 'self-
18 dumping dredge' that utilizes a rigid framed basket,
19 instead of a flexible bag made out of rope, or chain, to
20 retain the harvested oysters."

21 Required:

22 Motion for final adoption of Regulatory Changes
23 to Title 22 Part 1 to include language in Title 22 Part 1,
24 Chapter 7, Section 102 banning the use of basket dredges.

25 COMMISSIONER BOSARGE: All right, Joe.

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1 is paid to somebody every single time the boat goes out.

2 We would point out that simply replacing the
3 dredges alone, the cost is going to well exceed a hundred
4 thousand dollars.

5 For thirty-two boats at the high end of your
6 estimate, you get eighty-six thousand four hundred
7 dollars. We think it is going to be double that. That
8 does not include the additional labor that it is going to
9 cost, when sending out these boats with bag dredges, as
10 compared with the self-dumping basket dredge.

11 In regards to the --

12 COMMISSIONER GOLLOTT: (Interposing) Can I ask
13 you a question?

14 MORGAN HOLDER: Sure.

15 COMMISSIONER GOLLOTT: Are these boats having
16 two people on the boat, or are they sending a boat out
17 with one person that handles both dredges on both sides of
18 the boat, or are there two people on the boat?

19 MORGAN HOLDER: It's my understanding that the
20 second dredge is normally used in case the first one
21 breaks down, but all of them have two dredges.

22 COMMISSIONER GOLLOTT: I had an oyster boat, and
23 we always had two people on the boat, but that is just
24 normal. It would be very dangerous for a person to go out
25 there and dredge oysters by themselves, just to interject

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1 Before we do the motion, we've got some public
2 comments from folks that want to speak on the issue.

3 Mr. Morgan Holder.

4 Mr. Holder, we are going to give you three
5 minutes.

6 MORGAN HOLDER: Three minutes. I will try to be
7 as quick as I possibly can.

8 Good morning Commissioners, counselor, Director
9 Miller. I appreciate y'all affording me the opportunity
10 to speak here today on behalf of Ms. Vu and her coalition.

11 I guess I'll just begin with my thoughts on the
12 economic impact analysis.

13 First and foremost, we think the estimated
14 number of boats using the basket dredge is dramatically
15 underestimated. We think it is at least fifty to sixty.

16 I do have an estimate from a local dredge
17 builder that estimates the cost of each is going to be one
18 thousand three hundred and eighty dollars and thirty cents
19 which is right in line with Mr. Jewell's high end.

20 What is not considered is the fact that these
21 basket dredges are self-dumping dredges. When you convert
22 to bag dredges, you have got to have extra labor on your
23 boat. You have to pay an extra deckhand.

24 I didn't see anywhere that that was considered,
25 in that analysis, and that is going to be something that

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1 that.

2 MORGAN HOLDER: Anyway, on the science, I think
3 Mr. Mickle pretty much stated it like it is. It is
4 extremely inconclusive.

5 Everything that was produced to me, pursuant to
6 my request, basically dealt with dredging in general.
7 There was no distinction between basket and bag dredging
8 at all that I could find.

9 As he stated, the important thing is the weight
10 which we know a couple of years ago was reduced to a
11 hundred and fifteen pounds.

12 The April 2017 directive from the State of
13 Alabama Department of Marine Resources requires people to
14 use basket dredges on public reefs. Obviously, their
15 science is not in line with the prohibition of basket
16 dredges.

17 So basically --

18 COMMISSIONER GOLLOTT: (Interposing) Again, let
19 me interrupt you there.

20 Alabama really doesn't have any dredging ground.
21 The only reason they have a dredging ground is so they can
22 buy licenses in Mississippi. If they have a dredging
23 ground, it's so small it really doesn't make any
24 difference at all.

25 MORGAN HOLDER: It may not make a difference,

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1 but it's their law insofar as they require it to be a
2 basket dredge.

3 COMMISSIONER GOLLOTT: I'll bet you money they
4 don't have any science to back it up. He was talking
5 about science.

6 MORGAN HOLDER: I don't think we do either. I
7 think it's just a general dredging issue.

8 COMMISSIONER GOLLOTT: All we've got to use is
9 the best science available, and I think our staff
10 presented it.

11 MORGAN HOLDER: I understand that. I think he
12 admitted that it is inconclusive. I mean, I don't think
13 he admitted that. I know he admitted it. I heard what he
14 just said. He said it's inconclusive. He said there were
15 zero comparisons between basket and bag dredges. Zero.
16 Not one out of the nineteen thousand articles and
17 treatises that he reviewed.

18 The New Zealand study focused on the weight
19 which this committee has already considered and made
20 accommodations for. The Portugal study was focused on
21 clams, not oysters. Completely different. The NOAA study
22 emphasized that you have to be careful.

23 There are numerous factors that go along into
24 what damages oyster reefs, whether it's environmental
25 stuff, or the BP oil spill stuff. There are hurricanes.

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1 States Supreme Court case, 1886. "If a dry cleaning
2 business" -- same type of issue -- "has a disparaging
3 impact on one group of people, it's unconstitutional.

4 COMMISSIONER GOLLOTT: I think you answered the
5 question earlier, when you said it's all about economics.
6 They want to go out with one person with the self-dumping
7 dredge so they don't have to hire another deckhand on the
8 boat.

9 MORGAN HOLDER: Well, I don't think it's all
10 economics. That's just going to be the economic impact of
11 the ban itself. They might have to hire another deckhand,
12 or will have to hire another deckhand. I don't think that
13 needs to be considered.

14 COMMISSIONER GOLLOTT: Thank you.

15 MORGAN HOLDER: Thank you.

16 COMMISSIONER BOSARGE: Next will be Thao Vu.

17 THAO VU: Good morning Commissioners, Director
18 Miller.

19 Mr. Tai Nguyen had an emergency. He just
20 stepped out, but I have his comments right here. If I
21 may, I will read it. His name is Tai, T-a-i. Last name
22 is N-g-u-y-e-n.

23 My name is Tai Nguyen, and I have been a
24 commercial fishermen for over twenty years. I use the
25 basket dredges because they are safer than the bag dredge.

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1 COMMISSIONER BOSARGE: You need to try to wrap
2 it up, Mr. Holder.

3 MORGAN HOLDER: With the science that we have
4 available which is inconclusive at the very best and the
5 fact that there has been no official economic impact
6 analysis done, this ban will simply have a dramatic effect
7 and treatment of one class of people. Up to thirty
8 percent of oyster fishermen use basket dredges.

9 There is no way the economic impact of that is
10 not over a hundred thousand dollars, and one hundred
11 percent of the Vietnamese use basket dredges.

12 COMMISSIONER GOLLOTT: One more question for
13 you.

14 If everybody has to use the same dredges, all
15 oyster fishermen, how is that disparaging a group?

16 MORGAN HOLDER: Because only one group has to
17 pay for that. They have to all use basket dredges, and
18 they have already been forced to do it once, when they
19 reduced the weight to a hundred and fifteen pounds.

20 COMMISSIONER GOLLOTT: All fishermen were forced
21 to reduce the weight. It wasn't just a certain group that
22 was forced to go to a hundred and fifteen pound dredge.

23 MORGAN HOLDER: I understand that, but when you
24 have a subset of people, the vast, vast majority using one
25 thing, and I'll quote, Yick Wo versus Hopkins, United

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COURT REPORTER
(228) 396-8788

1 Using the bag dredge is very dangerous. Thank you.

2 This is his comments (indicating document).

3 COMMISSIONER BOSARGE: Thank you.

4 THAO VU: (Interpreting) His name is Lam Dang.
5 He says he is a commercial fisherman, and it is very
6 difficult for him to use the bag dredge, very, very
7 difficult.

8 COMMISSIONER BOSARGE: His name, Ms. Vu?

9 PAUL LE: My name is Paul Le.

10 THAO VU: (Interpreting) He does not want the
11 rule to be changed forcing them to use the bag dredge. He
12 said it is very hard. They lack the physical strength.
13 It is very difficult for them to use the bag dredge.

14 COMMISSIONER BOSARGE: Thank you and Paul Le.

15 THAO VU: He made the comments in the letter
16 that was submitted previously.

17 COMMISSIONER BOSARGE: Hoang Tran.

18 THAO VU: (Interpreting) His name is Hoang Tran.
19 He owns one boat. He and his spouse, his wife, work on
20 the boat, and it is very difficult -- it would be very
21 difficult for them to use the bag dredge.

22 If he has to use the bag dredge, he would have
23 to hire an extra deckhand to help, and he cannot
24 financially afford that. That is why he is against this
25 proposed regulation.

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

Commission on Marine Resources

1 COMMISSIONER GOLLOTT: Can I ask him a question.
 2 THAO VU: Yes.
 3 COMMISSIONER GOLLOTT: With all due respect, a
 4 lot of the other fishermen, the other people are pulling
 5 bag dredges. They have other deckhands on the boat, and
 6 they are able to make a living with a captain and the
 7 deckhand.
 8 Why couldn't he make a living?
 9 THAO VU: He responded that his wife, she
 10 doesn't have the physical strength, and he would not be
 11 able to do it alone.
 12 COMMISSIONER GOLLOTT: I understand that, but a
 13 lot of the other fishermen that are using the bag dredges,
 14 they have two deckhands. They have to hire a deckhand,
 15 and there is a captain on the boat, and they make a living
 16 with it.
 17 What would be the difference in him using a
 18 deckhand?
 19 THAO VU: (Interpreting) It is difficult. First
 20 of all, it's a financial hardship, and it is difficult to
 21 find a deckhand, if there is not much fishing.
 22 COMMISSIONER GOLLOTT: Thank you very much.
 23 COMMISSIONER BOSARGE: Mr. Bien Do.
 24 THAO VU: (Interpreting) My name is Bien Do. I
 25 have been a commercial fisherman on the Mississippi Gulf

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 Coast for over thirty years now. For the past several
 2 years, I have been using the basket dredge because of
 3 safety issues. It is much safer than the bag dredge. If
 4 we are forced to use the bag dredge, it is much more
 5 dangerous for us.
 6 I greatly urge the Commissioners not to change
 7 the regulation and allow us to continue to use the basket
 8 dredge for safety reasons.
 9 COMMISSIONER GOLLOTT: I have a question.
 10 Mr. Do, tell us why a basket dredge is less
 11 dangerous than a bag dredge?
 12 THAO VU: His response was since 1990, he did
 13 try the basket dredge, not one week though. He said it is
 14 not as safe because you actually have to stand and pull
 15 it. With the basket dredge, you don't have to stand to
 16 pull it.
 17 Again, he greatly urges and requests the
 18 Commissioners not to implement any new rules on this.
 19 COMMISSIONER GOLLOTT: I understand that. I
 20 have owned a dredge boat and I have dredged oysters, and I
 21 just can't imagine what the difference would be that you
 22 would have to pull a dredge.
 23 The dredge is pulled up by the winch until it
 24 hits a stop, and, then, you grab the bag and empty it.
 25 I understand you don't have to grab the bag and

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 empty it, with a self-dumping dredge, but two people
 2 usually do that, one on each side of the dredge. When the
 3 dredge stops, you grab the rings and empty it.
 4 I understand that, but I don't know how it would
 5 be more dangerous because the winch is picking up both of
 6 the dredges until it stops.
 7 THAO VU: He said, based on his experience and
 8 using it that one week, the basket dredge is safer.
 9 COMMISSIONER BOSARGE: Thank you.
 10 Tuat Nguyen.
 11 THAO VU: (Interpreting) My name is Tuat Nguyen.
 12 I have been harvesting oysters, specifically dredging
 13 oysters for approximately twenty-five years now. We have
 14 been allowed to use the basket dredge for decades now,
 15 and, based on my experience, it is much safer to use the
 16 basket dredge than the bag dredge because we lack the
 17 physical strength and we would have to climb on the table
 18 to try to pull that dredge in. When we do that, it is
 19 dangerous for us. That is less safe than the basket
 20 dredge.
 21 Again, just like the previous fishermen, I
 22 greatly urge that the Commissioners not adopt any new
 23 rules.
 24 The main thing is that traditional harvesting,
 25 when there is more rougher weather, windy conditions, more

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 current, that is more dangerous for fishermen.
 2 Again, I greatly urge and implore the
 3 Commissioners not to adopt any new rules so we can
 4 continue our livelihoods and we will survive and support
 5 our families.
 6 In the future, if any adverse incident should
 7 happen, accident, and we are injured, we will hold this
 8 agency liable.
 9 COMMISSIONER BOSARGE: Thank you.
 10 COMMISSIONER TRAPANI: I have a question.
 11 You are saying even if you have fishermen on the
 12 boat, you are going to have to stand up to pull it in?
 13 THAO VU: They have been longstanding fishermen
 14 so they know all the issues and challenges which is more
 15 safe and which is more dangerous.
 16 Yes, they would have to stand to pull it.
 17 COMMISSIONER BOSARGE: Thank you.
 18 Next will be Thao Vu.
 19 THAO VU: Commissioners, I will keep it very
 20 brief. I just want to, first of all, show you something.
 21 What I have is a photo, and I will show it to
 22 the Commissioners and everyone behind me, but this is
 23 basically during the 2014 oyster relay program implemented
 24 by the agency. I have a picture of the Conservationist,
 25 the agency's boat, and I would like everyone to look.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

Commission on Marine Resources

1 I will bring it closer, but it is a self-dumping
2 basket dredge that this agency's boat used for the oyster
3 relay program (indicating photograph).

4 COMMISSIONER GOLLOTT: Can I ask Mr. Joe Jewell
5 to address that?

6 What is this all about?

7 JOE JEWELL: I'm unsure of the point Ms. Thao Vu
8 is trying to make, but, unfortunately, this shows the
9 tragedy with the Conservationist when it sank in 2014.
10 That was in October of 2014.

11 If you recall, the Commission had requested that
12 the staff present to the Commission a comparison of bag
13 dredges versus basket dredges, and we did that in
14 September of 2014.

15 The Commission had directed the staff to do a
16 comparison of basket dredges versus bag dredges, an
17 ongoing study. Of course, it was basket dredges and bag
18 dredges on the Conservationist. We had an ongoing study.
19 We were doing ongoing reef management. We had done that
20 at the request of the Commission. There are bag dredges
21 available to the staff currently. It is not unusual. We
22 use that constantly in our management of the reefs. We
23 have an ongoing study between the two gear types. It is
24 what it is.

25 I guess you can ask Ms. Vu what her point is.

Lucille Morgan, CSR 1251
COURT REPORTER
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1 of it.

2 This is vitally important that any proposed
3 regulation greatly factor in to promote safety and ensure
4 that fishermen are kept safe. I want to stress the
5 importance of that, as well as the science.

6 There is very minimum science and no strong
7 scientific evidence to prove that the basket dredge is
8 damaging these reefs.

9 Additionally, I want to summarize the great
10 economic impact is more than actually buying, or
11 purchasing, a modified dredge, by having to hire
12 additional people, as well as lost economic revenue from
13 the inability to harvest oysters.

14 Thank you for the opportunity to comment.

15 COMMISSIONER BOSARGE: Thank you, Ms. Vu.

16 Next will be Mr. Harold Strong.

17 HAROLD STRONG: I would like to thank the
18 Commission.

19 As far as the dredges, I have heard a lot of
20 things. I would like somebody, Joe, to go back in the
21 records, go back to day one, and tell me how many people
22 got killed from bag dredges. I don't understand it. A
23 steel dredge, which is what a basket dredge is, is more
24 dangerous.

25 I would also be insulted if somebody kept

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1 COMMISSIONER BOSARGE: Joe, that dredge is on
2 the stern.

3 If it was hooked up, it would be on the bow.

4 Correct?

5 JOE JEWELL: It is not actually being used, at
6 that point. This was during one of the relays the
7 Conservationist was making from Pascagoula to Biloxi Bay,
8 in the fall of 2014.

9 COMMISSIONER GOLLOTT: The only dredges I have
10 seen on the Conservationist have been bag dredges. That
11 is what y'all normally use to relay oysters.

12 JOE JEWELL: It is, and that was being used
13 because of the request of the Commission to do those
14 studies between the two gear types.

15 We currently have, on the boat, bagless dredges
16 because of the cultivation activities.

17 COMMISSIONER GOLLOTT: Thank you, Joe.

18 THAO VU: I would like to really reiterate all
19 the safety issues of the fishermen and their comments.

20 I would like to cite Mississippi Code 49-15-2
21 that says:

22 "Conservation and management measures shall, to
23 the extent practicable, promote the safety of human life
24 at sea."

25 I cited it here, and I can give everyone a copy

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1 telling me that I was too weak to do something. that
2 doesn't make a bit of sense either.

3 A lot of the people in the back are my friends,
4 and I hope, when we leave here, they are my friends. I
5 don't want anything to come between us because I respect
6 every one of them. A bunch of them back there work for
7 me.

8 They know that you can use bag dredges. They
9 are better. They signed a petition that I turned in, so
10 they know.

11 No scientific evidence, you keep saying that.
12 It is correct that the more weight you put on a dredge the
13 more damage it does. The more weight you put in a basket
14 dredge, it gets heavier.

15 A bag dredge fits behind the dredge so it
16 doesn't put weight on the tooth bar. That is the
17 scientific evidence you are looking for.

18 We are not going to have a season this year for
19 sure and probably not next year from two things, basket
20 dredges and overfishing.

21 If we don't do something to manage these reefs
22 that we have, it is going to be a waste of time to keep
23 putting them out there. Somewhere along the line somebody
24 is going to have to do something right.

25 The first step is getting rid of the thing that

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1 is harming them the most. The second thing is managing
2 them.

3 We keep putting rocks out. Limestone is the
4 worst thing you can put. You need to be putting concrete.
5 I can show you evidence that it is five times to one over
6 limestone.

7 All of that being said, the thing that they are
8 doing in this is totally crazy because let's all go down
9 and see if any Vietnamese can pull two dredges.

10 They can't pull two basket dredges because the
11 outside dredge will tear the boat up and turn over every
12 single time. You have to pull it on the inside. That is
13 false right there.

14 There are only a few of us that can pull two
15 dredges. Most of the American boats -- we are all
16 Americans, as far as I know. They live here and they are
17 residents of the State of Mississippi, I hope, but we all
18 have to live by the same rules.

19 Yes, you have to put people on a boat to go to
20 work. I'm sorry. That's just the way it is. If you want
21 it to be easy, go find something that you can do easy.
22 This is not. I promise you.

23 I have been doing this since I was thirteen
24 years old when I owned my own boat and, at eight years
25 old, I could dump a dredge.

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1 There are Vietnamese right back there that work
2 for me on my boat. They have dumped dredges with me. In
3 fact, we bring back fifty sacks of oysters a day
4 sometimes. It can be done. There is nothing to it.

5 They just don't want to pay anybody. That's
6 what it boils down to.

7 The whole thing is it has got to be done to
8 manage the reefs. If you are not going to protect the
9 reefs -- it is all said and done in one thing, manage the
10 reefs because we are not going to have an oyster season
11 this year and probably not next year. It's from
12 overworking with all dredges.

13 We have got to start managing these reefs. It
14 all comes down to first things first. If they want to go
15 to Court, go to Court.

16 I will promise you I will have scientific
17 evidence at the next meeting to prove to you that the
18 basket dredge does more damage than a regular dredge, and
19 it's not that hard. You don't have to go out and put it
20 in the water.

21 I was talking to somebody in the back. Take a
22 tractor, put two inches of water in a field and pull two
23 dredges, one a basket dredge and one a bag dredge. Put
24 weight in a basket dredge that is on top of the water, put
25 it in a bag dredge that is behind it, and pull it across

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1 there and see which one turns into a plow.

2 COMMISSIONER BOSARGE: Mr. Strong, your time is
3 up.

4 HAROLD STRONG: Thank you.

5 COMMISSIONER BOSARGE: Thank you.

6 COMMISSIONER TRAPANI: Mr. Strong, I have a
7 question for you.

8 How long have you been a fishermen?

9 HAROLD STRONG: I've been doing it since I was
10 eight years old, and I owned my own boat when I was
11 thirteen. I've been doing it about fifty-five years.

12 COMMISSIONER TRAPANI: In your opinion, do most
13 boats go out with two people, or are there a lot that go
14 out with one person?

15 HAROLD STRONG: Everybody has two people on
16 their boat. If they don't, how are you going to steer the
17 boat and work the dredge at the same time. In fact, I
18 think you are required to have two people, if I'm not
19 mistaken, on a dredge boat.

20 It would be dangerous with any kind of dredge
21 because, if you got hurt, who would be there to help you?

22 You can get hurt on any boat at any time. That
23 is just the way it is.

24 COMMISSIONER TRAPANI: Thank you.

25 HAROLD STRONG: Thank you.

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1 COMMISSIONER BOSARGE: Up next is Mr. Chris
2 Lagarde.

3 CHRIS LAGARDE: Good morning.

4 Congratulations, Mr. Bosarge.

5 COMMISSIONER BOSARGE: Thank you, sir.

6 CHRIS LAGARDE: You drew the short straw, I
7 guess, on that deal.

8 Listening to Mr. Strong, Harold, obviously,
9 emotions on both sides of this issue are running high. I
10 am glad to see that both sides of the issue have come out
11 and brought their people to speak on this issue.

12 Again, I think this is just a distraction. I'm
13 not saying it doesn't have to be dealt with, but there are
14 so many other things that we need to be concerned with,
15 water quality and the amount of money that is being spent
16 on this BP Restore Act stuff that we ought to be hollering
17 at the way this money is being wasted.

18 Heaven forbid if we would have to buy these guys
19 dredges, the little bit of money it would cost to replace
20 these dredges. We couldn't get that money from the BP
21 money, but that would seem like a suitable cause.

22 Again, I think at some point, we are going to
23 realize that the basket dredges weren't the culprit.

24 I go back to the fall of 2004. During the
25 dredging season, we caught five hundred thousand sacks of

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Commission on Marine Resources

1 oysters. Pretty close to five hundred thousand.
2 Me and Mr. Strong agree on one thing,
3 management. We have got to do a better job of managing,
4 and managing doesn't mean, oh, there are some oysters
5 inside the Bay bridges; let's go get those. That is the
6 way we have managed these reefs in the past.

7 We may end up having to go to tonging, if the
8 projections that I'm hearing about what may, or may not,
9 be out there with all this freshwater we have had. I
10 don't know that we are going to have any resource left.

11 I don't think spending all this time on this
12 issue has done us, the State, or the agency, any good. We
13 have just wasted a lot of time talking about this one
14 issue, and there are a lot of things, water destruction,
15 water quality, all these issues that we really need to be
16 focusing on, yet we are worried about who killed the
17 reefs. We will never know who killed the reefs.

18 I'm pretty sure y'all are going to pass this
19 thing, and I'm going to suggest to the folks that they go
20 ahead and get bag dredges.

21 I don't want to see anybody have to spend money
22 to go to litigation, but I think the die is cast and y'all
23 are probably going to do what I think you are going to do.
24 I just wish you would consider some of this. Thank you.

25 COMMISSIONER BOSARGE: Thank you, Mr. Lagarde.

Lucille Morgan, CSR 1251
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1 certain spot, they put a bar in to stop the teeth, and,
2 then, you push the neck down and it empties the dredge.
3 Well, you can almost do that with a bag dredge,
4 if the oysters are in the bag. I mean, when it comes
5 over, it kind of goes up and you push the neck down, and
6 it helps you empty the oysters.

7 with that, that's about all I had to say. Thank
8 you.

9 COMMISSIONER TRAPANI: I would like to add
10 something to that.

11 I would like to, first, thank all the staff for
12 all the work and research that y'all have done on this
13 issue. You have come a long way with this.

14 I think today we really need to make the
15 decision that is the best thing for our reefs. This
16 change will help us to restore and rebuild our reefs and,
17 therefore, help our oyster industry.

18 Also, if we look back, this recommendation did
19 come out of the Oyster Council which was composed of
20 scientists and other fishermen, as well. A lot of things
21 pointed to this is where we are and this is what we need
22 to do.

23 With that said, I would like to make a motion
24 for the final adoption of the regulation.

25 COMMISSIONER BOSARGE: We have a motion for

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1 Those are all of the public comments.

2 Is there anybody else that wants to make a
3 comment on this issue?

4 COMMISSIONER GOLLOTT: I would like to make a
5 couple of statements on it.

6 As I have said in the past, considering this, I
7 called three, or four, major oyster dealers in Louisiana.
8 One of them told me he bought a boat. He had purchased a
9 boat with the basket dredges on it, he was dredging it
10 himself and he couldn't regulate the dredge because it
11 just kept getting heavier.

12 The way you regulate a dredge is you take up on
13 the slack between the dredge and the boat. Your winch
14 picks it up as you go, and he said he took those basket
15 dredges off because he just couldn't regulate the dredges.
16 They were just tearing his reefs up.

17 Nowhere that I can find in Louisiana -- and that
18 is a major oyster state in our area -- is anybody pulling
19 these basket dredges. A lot of them had them on and they
20 have taken them off.

21 I understand that there are some Vietnamese in
22 Buras, Louisiana, that are dredging oysters with the bag
23 dredge. I don't see the big deal.

24 Like I said, I have dredged oysters myself and,
25 the way a dredge comes up on the boat and stops on a

Lucille Morgan, CSR 1251
COURT REPORTER
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1 final adoption of regulatory changes to Title 22 Part 1.

2 JOE JEWELL: Including the staff's
3 recommendation it include the language to Chapter 7 Part 1
4 of 2 that prohibits the use of basket dredges.

5 COMMISSIONER TRAPANI: Yes.

6 COMMISSIONER BOSARGE: We have a motion.

7 COMMISSIONER GOLLOTT: I'll second the motion.

8 COMMISSIONER BOSARGE: Any further discussion?
9 (No response.)

10 COMMISSIONER BOSARGE: All those in favor say
11 aye.

12 (Commissioner Bosarge, Commissioner Gollott,
13 Commissioner Trapani in favor.)

14 COMMISSIONER BOSARGE: Opposed?

15 (Commissioner Harmon opposed.)

16 COMMISSIONER BOSARGE: Three to one. Motion
17 carries.

18 JOE JEWELL: Thank you, Commissioners.

19 JOE JEWELL: Next up for the Commission's
20 consideration --

21 COMMISSIONER BOSARGE: (Interposing) Joe, could
22 we take a quick break?

23 JOE JEWELL: Absolutely.

24 COMMISSIONER BOSARGE: We will take a ten-minute
25 break.

Lucille Morgan, CSR 1251
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Commission on Marine Resources

(whereupon, a short recess was taken.)
COMMISSIONER BOSARGE: I call this meeting back to order.
Mr. Joe, you are still here. I think we are on Item F4.
JOE JEWELL: Next up for the Commission's consideration is final adoption of Title 22 Part 21. Mr. Rick Burris will be presenting that.
RICK BURRIS: Good morning Mr. Chairman, Commissioners, Director Miller, Mr. Morrison.
First of all, I want to congratulate you, Chairman Bosarge, and Vice Chairman Harmon.
Thank you for your service, Commissioner Gollott.
Today, I want to present to the Commission Title 22 Part 21, Crab Processing Regulation Updates which is up for final adoption.
CMR passed the Notice of Intent on June the 20th, 2017, at your last meeting.
That notice was filed with the Secretary of State on the same date.
On June 21st, the proposed changes were placed on the MDMR web page.
On June 24th, the proposed changes were posted on the Sun Herald legal notice. It was an entire page, on

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COURT REPORTER
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the Sun Herald legal notice.
The public comment period ran from June 21st, 2017, through July 17th, 2017, for a total of twenty-seven days. To date, no public comments have been received.
We did present these changes to the Mississippi Crab Task Force, on July 11th, and no formal motions were made to file a public comment.
Before we move forward, I just want CMR to be reminded that none of these proposed changes will affect the way the currently licensed crab processors operate. They merely clear up some language.
A few months ago, there were several interpretations of the way the language should read, the way the language was reading, and we wanted the language to reflect the original intent. That is what these changes are for.
Also, I have read all of these into the record. If you do remember, it is very lengthy. I'm going to attempt to summarize each slide and, if there is a particular slide you want me to be more thorough on, please stop me, and I will do so.
The first change was to the title. It will now read, "Part 21, Rules and Regulations for the Processing of Saltwater Crabs in the State of Mississippi".
Chapter 01, the introduction, we summarized it

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to read, "This Part establishes the minimum requirements necessary to regulate the processing of saltwater crabs".
Chapter 02, Justification and Authority. Again, to be consistent with the title, we replaced "preparation, picking, packing, shipping and sale activities" to merely "processing".
We, then, removed Sections 102, 103 and 104 because they are all references to the statute.
Chapter 03, Definitions. We removed the definition of adulterated. We did not remove it from the document, just the definition.
Section 100, we added the definition of backing.
Sections 101 and 102, we just simplified those definitions.
Continuing on with Chapter 03.
Section 103, we made it consistent with the rest of the documents by adding, "a person, firm, or corporation". We, then, removed all the words except processing to be consistent, and we added "seafood processor's" instead of simply license.
Section 104, we replaced "time period" with "date".
Section 105, Container, we reworded that definition on the next page.
Section 107, Easily Cleanable, we just

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COURT REPORTER
(228) 396-8788

simplified that definition to make it easier to read.
Section 108, the definition of finished product container, will replace the previous definition of container.
We removed Section 110, Includes, or Including.
Section 110, Key Deficiency, we replaced "unwholesome" with "unsanitary".
Section 111, Label, we simply reworded that to read, "Any written, printed, or graphic, matter affixed to, or appearing upon, any finished product container" to be consistent with other definitions.
We removed the word "may", from Section 113.
We removed the definition of Person, from Section 116.
We reworded the definition of processing to read, "The act of preparing, changing into different market forms, manufacturing, preserving, picking, chilling, backing, packaging, labeling finished product containers and storage of processed saltwater crabs".
We reworded the definition of processor to read "any person, firm, or corporation".
We reworded the definition of saltwater crab so it is more definitive of all crabs that may be processed in the future, not just Callinectes.
Section 118, we reworded the definition of

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COURT REPORTER
(228) 396-8788

1 saltwater crab products to read, "The edible meat of a
 2 processed saltwater crab distributed for consumption".
 3 Sections 122 and 123, we removed those.
 4 We removed Sections 125 and 126, the definitions
 5 of shall and should.
 6 Moving on to Chapter 04, the Application
 7 chapter.
 8 In Section 100, we removed the reference to the
 9 statute.
 10 In Section 100.01, for consistency purposes, we
 11 added, "All persons, firms, or corporations". We, then,
 12 removed, "and operating under a certified crab plant
 13 certification number as issued by the MDMR". That was
 14 Marine Patrol's recommendation. It is easier to enforce
 15 without that language in there.
 16 Sections 100.03 and 100.04 were deleted for
 17 redundancy.
 18 Continuing on with Application, Section 101, The
 19 Provisions of this Part shall not apply to, we simply
 20 reworded 101.01 to make it easier to read. 101.02
 21 essentially said the same thing, so we deleted that for
 22 redundancy.
 23 Section 101.02 will now read, "The Provisions of
 24 this Part shall not apply to: Harvesting or transporting
 25 saltwater crabs, or saltwater crab products, without

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 engaging in processing". All we did was remove the word
 2 otherwise.
 3 Chapter 05, MDMR Program Management. We just
 4 cleaned this section up for some grammatical reasons.
 5 Chapter 06, Processor Certification.
 6 In Section 100.01, we added, "person, firm, or
 7 corporation" for consistency. We added, "process
 8 saltwater crabs" and "a seafood processor's license from
 9 the MDMR" to be more definitive.
 10 We removed 100.03 for redundancy.
 11 We renumbered 100.04.04. It is now 100.07,
 12 removed the word "may" and added, "has the authority to"
 13 to make it more authoritative.
 14 Continuing on, Section 101, we removed reference
 15 to Mississippi Code.
 16 Section 103, we added "person, firm, or
 17 corporation". We removed the rest of the chapter for
 18 simplification purposes.
 19 103.03, we removed the word "seafood" and
 20 replaced it with, "crab processor's" because that is what
 21 this part is dealing with.
 22 Chapter 07, Responsibility of Processor, Manager
 23 and Operator.
 24 Section 100, we placed the words "wholesome
 25 unadulterated" with "sanitary" to be more definitive.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 Section 101, we removed "properly at all times",
 2 per Marine Patrol recommendation. It is a lot more
 3 definitive this way.
 4 Within Section 103, we replaced the words "lot,
 5 or lots" with "saltwater crab products" and added
 6 "saltwater crab" ahead of anywhere that it said "products"
 7 to be more definitive of what we are talking about here.
 8 Chapter 8 Inspections.
 9 We made Section 101 more authoritative.
 10 Section 102, we replaced the word "will" with
 11 "shall" to be more authoritative.
 12 Chapter 9, Actions Triggered by Inspections.
 13 We added "saltwater crabs" to both sections.
 14 Then, we removed the words "potentially adulterated",
 15 again, to be more definitive.
 16 Moving on with Chapter 9, we made this whole
 17 Section 104, Subsections 104.01 through 104.03, more
 18 authoritative by changing some of the wording around. It
 19 still says the same thing. It was grammatically
 20 incorrect.
 21 Staying with Chapter 9, again, we reworded some
 22 of this to make it more authoritative.
 23 We added "saltwater crabs" to Subsection
 24 105.01.02, and, then, we removed the words "potentially
 25 adulterated".

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 Chapter 10.
 2 We removed this chapter altogether because there
 3 is no performance incentive program.
 4 Chapter 11, now Chapter 10, Labeling of
 5 Saltwater Crab Product.
 6 We reworded it to reiterate that the labeling
 7 applies to finished product containers.
 8 Then, Sections 101 and 102, we are going to move
 9 those out of the labeling chapter into the next chapter
 10 which is the Purchase and Sales Records chapter where it
 11 is more applicable.
 12 The Purchase and Sales Records chapter, Chapter
 13 12, now Chapter 11, we removed this part and replaced it
 14 with this part which is from the labeling chapter. This
 15 is just more concise than the previous language.
 16 Chapter 13, Transportation of Saltwater Crabs or
 17 Saltwater Crab Products, we removed this per the
 18 Commission's request, when we presented this for Notice of
 19 Intent.
 20 Chapter 4, Section 102, specifically states that
 21 this part shall not apply when transporting saltwater
 22 crabs, or saltwater crab products.
 23 Chapter 14, now Chapter 12, Adulterated or
 24 Misbranded Saltwater Crab Products.
 25 Section 100, we added "firm, or corporation" for

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

Commission on Marine Resources

1 consistency.

2 In Section 101, we replaced the word "sell" with

3 "sale". We removed "saltwater crabs".

4 Section 102, we removed "saltwater crabs". We

5 removed reference to the Mississippi Code and we changed

6 the language to be more authoritative.

7 Section 103, we removed the words "saltwater

8 crabs".

9 What was Chapter 15, now Chapter 13, Sanitation

10 Requirements.

11 Section 1004.01, we replaced "one hundred ten

12 degrees Fahrenheit" with "one hundred degrees Fahrenheit".

13 Section 110, we removed the word "segregating".

14 We replaced "seafood" with "saltwater crab products" to be

15 more definitive.

16 Section 110.05, we removed "saltwater crab",

17 and, then, included "saltwater crab products" to be more

18 definitive.

19 Section 110.06, again, we removed the words

20 "saltwater crabs".

21 Section 110.06.1, we replaced "seafood" with

22 "saltwater crab products".

23 Continuing on with Chapter 13, Sanitation

24 Requirements, in Section 110.07, we removed the word

25 "handling".

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 Section 110.09, we removed the words "saltwater

2 crabs".

3 Section 112.05, we simply reworded this to make

4 it more clear to understand.

5 What would be required is a Motion to Proceed

6 with Final Adoption of Amendments to Title 22 Part 21.

7 COMMISSIONER GOLLOTT: First of all, I would

8 like to thank everybody that worked on this. AS I

9 understand, y'all had a committee with enforcement and

10 your people.

11 RICK BURRIS: Yes, sir.

12 COMMISSIONER GOLLOTT: It was a great job going

13 through this and cleaning it up.

14 Saying that, I would like to make a motion that

15 we move to Final Adoption of this amendment.

16 COMMISSIONER BOSARGE: We have a motion.

17 Do we have a second?

18 COMMISSION HARMON: So seconded, Mr. Chairman.

19 COMMISSIONER BOSARGE: Any further discussion?

20 (No response.)

21 COMMISSIONER BOSARGE: I would like to say one

22 thing. You guys have done a great job. I think this is,

23 like, the fifth time I have been through this and looking

24 at what you have done and cleaning it up and making it

25 clearer. I think there were a lot of folks who had

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 concerns that we changed a bunch of things, but we haven't

2 changed anything. We just mostly cleared it up.

3 I hope, if there are any major concerns, they

4 will bring it to us and we will make them understand what

5 we did.

6 We have a motion and a second.

7 All in favor say aye.

8 (All in favor.)

9 COMMISSIONER BOSARGE: Opposed?

10 (None opposed.)

11 COMMISSIONER BOSARGE: Motion carries.

12 Thank you, Rick.

13 RICK BURRIS: Thank you.

14 JOE JEWELL: Thank you, Commissioners, and Rick.

15 Next up for consideration is final adoption of

16 Reclassification of Biloxi Bay, and that presentation will

17 be done by Mr. Erik Broussard.

18 ERIK BROUSSARD: Good morning Commissioners,

19 Director Miller, Mr. Morrison.

20 I will be presenting for final adoption Title 22

21 Part 1, Area V Biloxi Bay Reclassification.

22 At the last CMR meeting, Notice of Intent was

23 passed on June 20th.

24 I have a copy of the filing. It was filed the

25 same day with the Secretary of State, June 20th.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 It was posted to the MDMR web page the following

2 day, June 21st.

3 Here's a copy of the legal notice that appeared

4 in the Sun Herald on June 25th (indicating slide).

5 The public comment period ran from June 21st to

6 July 17th, and no public comments have been received to

7 date.

8 North of Biloxi East access channel would be

9 considered Area V "B", or restricted. South of the

10 channel is going to be Area V "A", conditionally approved,

11 with a half inch of rainfall. Those are the criteria

12 (indicating map).

13 I read this into the record at the last meeting,

14 so I will give a brief explanation. This establishes the

15 closing criteria of a half inch of rainfall in any twenty-

16 four consecutive hours, measured at Keesler Air Force

17 Base, the Air Force Base gauge, and it is reduced from one

18 inch to half an inch.

19 Since we just established the closing criteria,

20 in this part we are establishing the reopening criteria

21 for Area V "A".

22 Now that we have multiple area classifications

23 for Area V, this basically describes that; conditionally

24 approved, approved, prohibited and restricted.

25 This is the description of Area V "B", the area

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

Commission on Marine Resources

1 north of the channel that is going to be moved to
2 restricted. This is the description for that (indicating
3 slide).

4 Here we have the description for Area V "A"
5 which is south of the Biloxi east access channel that will
6 be approved with one half inch of rainfall.

7 What will be required to move forward is a
8 Motion for Final Adoption of Title 22 Part 1, Updated
9 Regulatory Language for Area V which includes the Updated
10 Management Plan Criteria and Subdivision of Area V.

11 COMMISSIONER BOSARGE: Are there any questions?
12 (No response.)

13 COMMISSIONER BOSARGE: Do I have a motion?

14 COMMISSIONER HARMON: Mr. chairman, I would like
15 to make a motion for Final Adoption of Title 22 Part 1,
16 Updated Regulatory Language for Area V, Updated Management
17 Plan Criteria and Subdivision of Area V.

18 COMMISSIONER BOSARGE: We have a motion.

19 Do we have a second?

20 COMMISSIONER TRAPANI: I will second the motion.

21 COMMISSIONER BOSARGE: Any further discussion?
22 (No response.)

23 COMMISSIONER BOSARGE: All in favor say aye.

24 (All in favor.)

25 COMMISSIONER BOSARGE: Opposed?

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 (None opposed.)

2 COMMISSIONER BOSARGE: Motion carries.

3 Thank you, Erik.

4 ERIK BROUSSARD: Thank you.

5 JOE JEWELL: Thank you, Commissioners, and Mr.
6 Broussard.

7 Our final presentation is consideration of a new
8 state saltwater fishing record, and Mr. Jonathan Barr will
9 be presenting that.

10 JONATHAN BARR: Good morning Commissioners,
11 Director Miller, Mr. Morrison.

12 My presentation is brief. We have one state
13 record up for consideration this month, and it's
14 conventional tackle.

15 It's a Bull Shark, Carcharhinus leucas. The old
16 record which was actually broken last year was two hundred
17 and three pounds. The new record is three hundred and
18 fifty-four pounds and four ounces. The angler is Mr.
19 Brett Rutledge.

20 This photo doesn't do this fish justice. This
21 is quite a specimen.

22 There is Mr. Rutledge and his catch (indicating
23 photograph).

24 What is required is a motion to adopt this new
25 State record.

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 COMMISSIONER BOSARGE: Do we have a motion?

2 COMMISSIONER GOLLOTT: Mr. Chairman, I'll make
3 that motion.

4 COMMISSIONER BOSARGE: We have a motion.

5 Do we have a second?

6 COMMISSIONER HARMON: I'll second it, Mr.
7 Chairman.

8 COMMISSIONER BOSARGE: We have a second.

9 All those in favor say aye.

10 (All in favor.)

11 COMMISSIONER BOSARGE: Opposed?

12 (None opposed.)

13 COMMISSIONER BOSARGE: Motion carries.

14 JONATHAN BARR: Thank you.

15 COMMISSIONER BOSARGE: Thank you.

16 JOE JEWELL: If there are no other questions,
17 that concludes the presentations of Marine Fisheries.

18 Again, congratulations Commissioner Bosarge, and
19 we thank you for your service, Mr. Gollott.

20 COMMISSIONER GOLLOTT: Thank you, sir.

21 COMMISSIONER BOSARGE: We move on to G1, Bureau
22 of Wetlands Permitting, Mr. Jan Boyd.

23 JAN BOYD: Good morning Mr. Chairman,

24 Commissioners, Director Miller, Mr. Morrison.

25 We have three action items for your

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 consideration this morning, and Kristyn McGuire will be
2 presenting the first two.

3 KRISTYN MCGUIRE: Good morning. My name is
4 Kristyn McGuire and I will be presenting the first two
5 violations

6 The first one is by Mr. Vincent Mikelonis and
7 Innovative Builders who is the contractor.

8 The location is on an unnamed canal adjacent to
9 The Jourdan River, at 4040 South Nassau Street, Bay St.
10 Louis.

11 It's in the General Use District, and the agent
12 was Innovative Builders, Incorporated.

13 It was forty-eight feet of bulkhead that was
14 reconstructed without authorization.

15 This is the diagram. The forty-eight feet are
16 on the right, and the existing boathouse was not included
17 in the permit application. There were changes to it.

18 This is a picture of the bulkhead that was
19 reconstructed.

20 On May 24th, 2017, an application to reconstruct
21 the bulkhead was submitted.

22 On June 27th, 2017, a site visit was performed
23 that revealed the proposed structure had already been
24 reconstructed.

25 On July 7th, 2017, a letter was sent to the

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

Commission on Marine Resources

1 applicant and the agent, notifying them of the upcoming
 2 Commission meeting.

3 The potential penalty range. The violation was
 4 discovered on June 27th, 2017. The duration was for
 5 twenty-one days. The maximum potential fine for this
 6 residential violation is ten thousand five hundred.

7 We are recommending a one thousand dollar fine
 8 to the agent, Roger Caplinger with Innovative Builders.

9 The decision factors included that Mr. Caplinger
 10 is aware that authorization must be issued prior to
 11 commencement of construction. This is not the first
 12 instance that Mr. Caplinger has begun construction prior
 13 to written authorization.

14 We are recommending that the Commission grant
 15 after-the-fact authorization because the project would
 16 have been authorized by general permit, if construction
 17 had not been completed prior to the permit's issuance.

18 We are recommending to issue a one thousand
 19 dollar fine to the agent to be paid within thirty days of
 20 the July Commission meeting, and we will forward the
 21 matter to the Attorney General's office, if this deadline
 22 is not met.

23 COMMISSIONER GOLLOTT: Back it up.
 24 When did he apply for this permit?
 25 KRISTYN MCGUIRE: May 24th.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 COMMISSIONER GOLLOTT: What took you so long to
 2 issue the permit?

3 KRISTYN MCGUIRE: We are extremely behind. In
 4 June, the second week, we were required to take a class in
 5 Alabama. That was a whole week. Two weeks after that, we
 6 had the rain. With the high waters, it is kind of
 7 impossible to go out and look to determine where the
 8 bulkhead should go.

9 We are kind of swamped right now. It's summer.
 10 Everybody wants a bulkhead right now.

11 COMMISSIONER GOLLOTT: Somebody should have been
 12 able to walk in and buy a permit and get it within a
 13 couple of weeks.

14 I think a thousand dollar fine is a little
 15 harsh.

16 KRISTYN MCGUIRE: Mr. Caplinger is here.

17 COMMISSIONER GOLLOTT: Let him speak.

18 ROGER CAPLINGER: Thank you. Roger Caplinger
 19 with Innovative Builders.

20 There is a little bit of mischaracterization
 21 going on here, in that the permit was applied for on May
 22 the 18th.

23 I was out of the country, at the time. My
 24 office personnel made the decision, based on the fact that
 25 they had cashed the check for the permit on June 9.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 Knowing that usually, when they cash the check,
 2 the permit is right there, they made a decision, based on
 3 one girl's brain, to start the bulkhead on June 21. They
 4 built the bulkhead on June 23.

5 I came back into town. My office personnel, I
 6 asked her where the permit was. She said the permit
 7 actually didn't come in the mail yet.

8 I said, well, you need to call DMR and let them
 9 know what is going on.

10 They did so. They let them know that we had
 11 done part of the work without actually having the permit
 12 in hand, and stopped the work.

13 The only thing we did after that was clean up
 14 the yard because it's a ninety-year old man and he was
 15 freaking out about his yard. I had them clean up the yard
 16 and dress everything up because I knew it was going to
 17 take a while for them to do whatever they were going to
 18 do.

19 In reality, it took them a month and a half to
 20 come back, just to do the site visit.

21 Now, I have been doing this for nineteen years.
 22 I built the Gulfport Harbor. I built all the piers for
 23 the City of Gulfport and Pass Christian Harbor after
 24 Katrina. I have done a lot of work here. I have employed
 25 thousands of people on the Coast doing marine

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 construction. In nineteen years, I have never been in
 2 front of you, not once in nineteen years.

3 The fact is DMR is taking -- by the way, we were
 4 much busier before Katrina. We were doing permits in a
 5 week to two weeks. Now, it's two months.

6 Yes, my office staff, they jumped the gun and,
 7 for that, I have no defense, but I will tell you a
 8 thousand dollar fine is ridiculous for something when I
 9 applied for the permit. This permit was applied for. The
 10 site visit didn't even happen for forty days, not even a
 11 site visit.

12 That's all I have to say. Thank you.

13 COMMISSIONER GOLLOTT: Would you address one
 14 other issue?

15 They had said you were a repeat offender.
 16 When was the last time?
 17 Can somebody enlighten us on that?

18 ROGER CAPLINGER: I'm not really sure what this
 19 repeat offender is because I have never been in front of
 20 y'all before.

21 WILLA BRANTLEY: Hi. My name is Willa Brantley.
 22 I'm the Bureau Director for wetlands Permitting.

23 I would like to say we are taking a little bit
 24 longer than we used to take to get out permits. We are
 25 down by two staff members. We have not gotten permission

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

Commission on Marine Resources

1 to rehire those people yet, and we are swamped with
 2 applications right now.
 3 There are also different regulations. Some of
 4 those we have to send out to other State and Federal
 5 agencies for a thirty-day review that we used to not have
 6 to send those out.
 7 This one wasn't one of those, but we couldn't do
 8 the site visits during the high water that we had for two
 9 weeks because we have to know where the mean high tide
 10 line is.
 11 They weren't able to do many of their site
 12 visits and accomplish anything, during that two-week
 13 period where we were having rain almost every day and the
 14 water was higher than the average high tide.
 15 I think Kristyn has the information on the other
 16 times that Mr. Caplinger has started work without a
 17 permit. We haven't brought those to the Commission. We
 18 dealt with those through staff, but, because it is
 19 becoming a repeat occurrence, that's why we wanted to
 20 bring this one because he actually was, I believe,
 21 finished with the bulkhead by the time they did the site
 22 visit.
 23 I'm not aware that we got any call prior to June
 24 27th, and I'm not aware that they had stopped work prior to
 25 June 27th.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 days.
 2 We were late on this, but we did have some
 3 weather issues that prevented them from doing site visits
 4 for a while.
 5 JAMIE MILLER: Willa, do you track what our
 6 normal average time is for permits?
 7 WILLA BRANTLEY: I try to, but our data base
 8 doesn't perform that function for us. It is pretty
 9 difficult. I can't even pull up an accurate picture of
 10 what our open files are, right now, on our data base.
 11 JAMIE MILLER: Can we think about, if we get
 12 into a similar situation due to the weather, or whatever
 13 the delay may be, that our project managers, at least,
 14 reach out proactively to whoever has applied and let them
 15 know what's going on?
 16 WILLA BRANTLEY: Yes.
 17 I believe they tried to. I don't know that we
 18 talked to everybody. They may have only talked to people
 19 who called in and asked. I had some feedback from several
 20 of them that they had let applicant's know.
 21 COMMISSIONER GOLLOTT: Willa, when somebody
 22 comes in to buy a permit and they give you their money, do
 23 you tell them it might be ninety days until they get their
 24 permit?
 25 WILLA BRANTLEY: We tell them what our policy

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 I was told they were still working on June 27th,
 2 when the staff showed up and told them to stop.
 3 COMMISSIONER BOSARGE: Can you give us the
 4 information about the other violations?
 5 KRISTYN MCGUIRE: Yes, sir. In 2014, Jennifer
 6 Wilder has a general permit submitted by Mr. Caplinger's
 7 office, and it was received on June 24th, 2014.
 8 On June 30th, a site visit was done and the
 9 bulkhead was complete and the boathouse was partially done
 10 before he had authorization.
 11 COMMISSIONER BOSARGE: Are there any more
 12 questions?
 13 JAMIE MILLER: Willa, I know there is a statute
 14 that governs some of the time lines that we have in order
 15 to get a permit back after we have all the information.
 16 When someone submits a complete application, how
 17 much time do we have before we give them an answer?
 18 WILLA BRANTLEY: When a complete application is
 19 received, we have ninety days.
 20 JAMIE MILLER: That's for the general permit?
 21 WILLA BRANTLEY: That is for all of our State
 22 permits. Our policy is to get the general permits out
 23 within thirty days, unless they are one of the four that
 24 have to be sent to Archives and History for a thirty-day
 25 comment period. We try to get those out within forty-five

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 is, that we try to get them out within thirty days, and
 2 the ones that can take up to forty-five days due that
 3 thirty-day notice period, we do tell them that, as well.
 4 We have been telling them for the past several
 5 months that we are swamped with applications and sometimes
 6 it is taking us a little bit longer to get them out than
 7 that.
 8 COMMISSIONER BOSARGE: No matter what, you don't
 9 start construction until you get the permit?
 10 WILLA BRANTLEY: Right.
 11 COMMISSIONER BOSARGE: Do we have any further
 12 discussion?
 13 (No response.)
 14 COMMISSIONER BOSARGE: Do we have a motion?
 15 COMMISSIONER TRAPANI: Since the time for the
 16 permit took so long and Mr. Caplinger also has an
 17 application completed and the weather, and he was under
 18 the understanding that the permit was complete, I would
 19 like to make a motion to reduce the fine to zero.
 20 COMMISSIONER BOSARGE: Reduce the fine to what?
 21 COMMISSIONER TRAPANI: Just to reduce it to zero
 22 because I think there are a bunch of discrepancies in the
 23 time lines, the weather and how long it took. Our staff
 24 is agreeing that, yes, this is taking a little longer and
 25 they are low on staff.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

Commission on Marine Resources

1 Mr. Caplinger, you understand that the next time
2 you have to have a permit in your hand, even if it does
3 take over thirty days.

4 COMMISSIONER GOLLOTT: I think he probably needs
5 a fifty dollar fine.

6 COMMISSIONER BOSARGE: Just to clarify the
7 motion, we are not going to accept the staff's
8 recommendation and set the fine at fifty dollars, instead
9 of one thousand.

10 Correct?

11 COMMISSIONER TRAPANI: Yes.

12 COMMISSIONER GOLLOTT: Mr. Chairman, I will
13 second that motion.

14 COMMISSIONER BOSARGE: We have a motion and a
15 second.

16 All those in favor say aye.

17 (All in favor.)

18 COMMISSIONER BOSARGE: Opposed?

19 (None opposed.)

20 COMMISSIONER BOSARGE: Motion carries.

21 Next, please.

22 KRISTYN MCGUIRE: The second one I am presenting
23 is a violation by Mr. Gerald Gillen. It is located on The
24 Pearl River at 5093 Levee Street in Pearlington. It is in
25 the General Use District. There is not an agent, but

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 contractor notifying them of the upcoming Commission
2 meeting, on July 11th.

3 The violation was discovered on May 25th, 2017,
4 with a duration of thirteen days.

5 The maximum potential fine for residential for
6 this project is six thousand five hundred dollars, with a
7 minimum of fifty dollars.

8 The recommended fines are two thousand to the
9 applicant, Mr. Gerald Gillen, and one thousand to the
10 contractor, DL Enterprises.

11 Mr. Gillen is aware that authorization must be
12 issued prior to commencement of construction. This is the
13 second time Mr. Gillen has constructed a structure without
14 written authorization.

15 The contractor was informed of the violation,
16 during the site visit, and he was advised to stop work.
17 He refused.

18 Our recommendation is that you grant the
19 applicant's request for after-the-fact authorization
20 because the project would have been authorized by
21 certificate of exclusion, if Mr. Gillen had submitted an
22 application prior to completing the structures.

23 We also recommend a fine of one thousand dollars
24 to the contractor, and a fine of two thousand dollars to
25 the applicant, both to be paid within thirty days of the

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 there is a contractor. He was not listed as an agent on
2 the application.

3 An access pier and a boathouse were constructed
4 without authorization.

5 This is the diagram. The boathouse is on the
6 right. There was a previously existing bulkhead and jet
7 ski ramps, but everything on the right is what was built
8 without authorization.

9 This is a picture of it.

10 On May 17th, 2017, a violation was reported to
11 DMR that a boathouse was being constructed without a
12 permit.

13 On May 25th, 2017, a site visit was performed,
14 revealing the construction of an access pier and a
15 boathouse without a permit. Staff informed the contractor
16 on site of the violation and advised him to stop work. He
17 refused.

18 On May 30th, 2017, Mr. Gillen submitted an
19 application for after-the-fact authorization.

20 On July 10, 2017, a site visit was performed to
21 confirm the dimensions of the access pier and boathouse.
22 A small area of SAV less than ten square feet was
23 observed. This SAV will be transplanted so that it will
24 not be shaded by the boathouse, once it is completed.

25 A letter was sent to the applicant and the

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 July CMR meeting. If they are not paid, the matter will
2 be forwarded to the Attorney General's office, if these
3 deadlines are not met.

4 Mrs. Gillen is here, if you guys have questions
5 for her.

6 I'm not sure if the applicant is here. We
7 haven't heard much from him. I did call him and let him
8 know, before we sent the Commission meeting letter, that
9 he is being taken to Commission. He is in Louisiana. I
10 don't know if he is here, or not.

11 SHELLY GILLEN: Hi. My name is Shelly Gillen.

12 COMMISSIONER BOSARGE: Can you explain to us
13 what happened?

14 SHELLY GILLEN: I can. A neighbor applied for a
15 permit to have this contractor come and build a boathouse,
16 and we were told that we would save a lot of money if we
17 would hurry up and build it while he was in the area
18 because, once he left and had to come back, we would be
19 charged a lot more money for the transportation. It takes
20 him about four hours to get up the river to where we are
21 located.

22 We knew that we would not get a permit in time
23 before he left. There is no excuse for negligence. We
24 shouldn't have built it without a permit. I felt like we
25 were stuck between a rock and a hard place.

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 I don't have an answer for the contractor not
 2 being here.

3 I think two thousand is a little bit hefty of a
 4 fine, considering what the place looked like before we
 5 cleaned it up, as you can see in the before and after
 6 pictures. We have improved the health of the river
 7 tremendously, in that little section where we cleaned it
 8 up. There were no plants growing at all and, now, there
 9 are plants prospering in that area.

10 Please take that into consideration, when giving
 11 us a fine.

12 COMMISSIONER BOSARGE: Do we have any questions
 13 for Mrs. Gillen?
 14 (No response.)

15 COMMISSIONER BOSARGE: Thank you.

16 SHELLY GILLEN: Thank you.

17 COMMISSIONER GOLLOTT: Mr. Chairman, I would
 18 like to make a motion that we go along with the staff's
 19 recommendation, with the modification of a thousand
 20 dollars each, instead of the two thousand.

21 COMMISSIONER BOSARGE: We have a motion.
 22 Do we have a second?
 23 COMMISSIONER HARMON: So seconded, Mr. Chairman.
 24 COMMISSIONER BOSARGE: We have a motion and a
 25 second.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 All those in favor say aye.
 2 (All in favor.)

3 COMMISSIONER BOSARGE: All opposed?
 4 (None opposed.)

5 COMMISSIONER BOSARGE: Motion carries.

6 CHRIS PICKERING: Good morning. My name is
 7 Chris Pickering. I will be presenting the next item for
 8 your consideration.

9 This is a violation by Juanita Starr, DMR-
 10 160363. It is located on the Tchoutacabouffa River at
 11 12033 Motsie Circle in Biloxi, Harrison County,
 12 Mississippi. It's in the General Use District, and the
 13 agent was Richard Shepler.

14 One hundred and twenty linear feet of bulkhead
 15 was constructed out of compliance with the previously
 16 issued general permit.

17 This is a diagram that was submitted with the
 18 original application from 2016.

19 This is the diagram that was authorized and sent
 20 out with her permit. As you can see, I added the waterway
 21 of three hundred and eighteen feet, and there were two
 22 fixed object measurements added for the bulkhead, and I
 23 added Ms. Starr's name, her address at the property
 24 location, and the DMR number. Those are the only things
 25 that changed on the diagram.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 This is a picture from the day we did the site
 2 visit looking north at the adjacent bulkhead.

3 This was the day we got notified of the
 4 violation at approximately the same location (indicating
 5 photograph).

6 This is on the south end. It's kind of hard to
 7 see the flags, but we flagged at the mean high tide line.
 8 I can tell you that we did the site visit for the original
 9 application on June 29th, of 2016. Low water was that
 10 morning at 8:06 and the mean high tide was that afternoon
 11 at 5:45, according to NOAA's website. I was there at
 12 approximately 2:00, or 2:30. We were going towards low
 13 tide. We were almost to low tide, while I was there
 14 (indicating photograph).

15 This is a picture of the bulkhead after it had
 16 been constructed. At a site visit we did with the agent,
 17 he had agreed to come off the corner with the stairs right
 18 here and cut straight across. This is where it would have
 19 cut straight across. We put two flags here, and, then, it
 20 would have tied in -- well, we agreed it to let him do a
 21 forty-five degree angle here and tie it into the
 22 neighbors.

23 On July 5th, 2016, DMR issued a general permit to
 24 Juanita Starr for a hundred and twenty feet of bulkhead to
 25 be constructed at, or above, the current line of mean high

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 water, as flagged by DMR personnel and in accordance with
 2 the measurements from the fixed object as indicated on the
 3 attached diagram.

4 Those measurements from the fix object were
 5 added on the diagram. We do that on every single permit
 6 we issue for a bulkhead for residential. It is on every
 7 single one of them, and this was the first condition in
 8 the permit.

9 Then, on April 27th, 2017, a violation was
 10 reported to DMR concerning the fill and the bulkhead being
 11 constructed further waterward than what was permitted. A
 12 site visit was performed, revealing forty feet of bulkhead
 13 had been constructed nine feet waterward of what was
 14 permitted.

15 On May 1st, staff called the agent to notify him
 16 of the violation. Staff explained that the bulkhead was
 17 permitted to be constructed thirty-nine feet from the
 18 house piling. Mr. Shepler stated that he measured the
 19 bulkhead at forty-eight feet from the house piling.

20 Staff also called and notified the applicant of
 21 the violation. Ms. Starr stated she was unaware of what
 22 was going on and that her kids had talked her into
 23 building a bulkhead. She paid for the bulkhead, but they
 24 were handling everything.

25 On May 2nd, staff met with the agent on site.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

Commission on Marine Resources

1 The agent agreed to bring the forty-foot section of
2 bulkhead into compliance. Staff agreed to allow the agent
3 to tie the bulkhead into the neighbors at a forty-five
4 degree angle to avoid possible stagnant water. The agent
5 asked for thirty days to complete the project.

6 On June 19th, staff called the agent and asked
7 about the status of the bulkhead. The agent stated that
8 the applicant told him not to do any work while she and
9 her family tried to find a way to keep the bulkhead as it
10 is. Staff called Ms. Starr, but no answer. It appears
11 Ms. Starr doesn't have voicemail.

12 The agent asked for thirty days to bring it into
13 compliance. I gave them forty-nine days, and nothing was
14 done.

15 On June 20th, a Notice of Violation was mailed to
16 the applicant and a copy was mailed to the agent.

17 On June 27th, staff received an email from the
18 agent stating the owner is requesting a meeting to discuss
19 any and all options.

20 On June 28th, staff emailed the agent a detailed
21 description of their options.

22 Staff, then, received an email from the daughter
23 of the applicant requesting an on-site meeting to put eyes
24 on the project.

25 The next day, on June 29th, staff met on site

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 The maximum potential fine is forty-one thousand
2 five hundred dollars. We are recommending a fine of one
3 thousand dollars to the applicant and one thousand dollars
4 to the agent.

5 The decision factors are:

6 Mr. Shepler received the permit, not the
7 applicant, and indicated, in a phone conversation with
8 staff, that he was aware the bulkhead was constructed
9 farther out than the fixed object measurement allowed.

10 Staff allowed the applicant and agent ample time
11 to bring the bulkhead into compliance, or apply for after-
12 the-fact authorization.

13 The applicant and her family have not been
14 willing to comply with regulations, or cooperate
15 throughout the process.

16 The applicant's attorney is here, and I believe
17 he would like to speak.

18 If y'all have any questions for me, I will
19 answer those, also.

20 COMMISSIONER GOLLOTT: A thousand dollar fine,
21 or a two thousand dollar fine, is not going to straighten
22 out this problem. What we need are some answers.

23 CHRIS PICKERING: We are recommending to issue a
24 fine of one thousand dollars each to the applicant and the
25 agent to be paid within thirty days of the July meeting,

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 with the applicant and members of her family, Michael
2 Yentzen, their attorney, Dreax Seghers, environmental
3 consultant, Ray Carter with the Secretary of State's
4 office, and the agent, Mr. Shepler.

5 Ray Carter explained Public Trust Tidelands had
6 been filled, and staff explained Coastal Wetlands had been
7 filled.

8 Staff explained the applicant could bring the
9 bulkhead into compliance with the previously issued
10 general permit, or apply for after-the-fact authorization.

11 On July 5th, staff received a letter from the
12 applicant's attorney stating they believed it would be
13 beneficial to both the applicant and the DMR to withhold
14 any further enforcement action, and they would be happy to
15 appear before the Commission on July 18th, 2017, which is
16 today.

17 Staff notified the attorney that in the absence
18 of an application for after-the-fact authorization, or a
19 statement that the bulkhead would be brought into
20 compliance with the general permit issued, the matter
21 would be placed on the agenda for the Commission meeting
22 on July 18th.

23 The violation was discovered on April 27th, 2017.
24 The violation duration has been eighty-three days to this
25 date.

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 and order the bulkhead to be brought into compliance with
2 the general permit issued on July 5th, 2016, within thirty
3 days of the July meeting, or that the matter will be
4 forwarded to the Attorney General's office, if these
5 deadlines are not met. We are recommending they fix it
6 and pay the fines.

7 COMMISSIONER GOLLOTT: We would like to hear
8 from the attorney, if possible.

9 COMMISSIONER BOSARGE: I have one question.

10 Did they give you a reason why they didn't do an
11 after-the-fact application?

12 CHRIS PICKERING: No. They did state that the
13 flags were not there, when they got ready to construct the
14 bulkhead.

15 I told them that they could have given us a
16 call. It was stated in their permit "as flagged by
17 staff". We flag every bulkhead. I would have been more
18 than willing to go out there and reflag it. They had the
19 measurements for the fixed objects. The agent, he said he
20 knew it was off.

21 COMMISSIONER BOSARGE: Is there an avenue, or a
22 path forward, to fill that water bottom?

23 CHRIS PICKERING: They can ask for it.

24 We told them we probably would not recommend
25 approval to y'all because they would be filling Coastal

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

Commission on Marine Resources

1 Wetlands. They would be filling Public Trust Tidelands.
2 They would have to get a Tidelands lease from the
3 Secretary of State's office. They would have to get
4 after-the-fact authorization from the Corps of Engineers,
5 also, for filling navigable waters.

6 It would be a process. They could go through
7 it. They would have to request two variances to the
8 Coastal Program and justify those variances, also. All of
9 that was detailed in that email that I have in my
10 chronology that I sent them.

11 COMMISSIONER BOSARGE: Thank you.

12 Let's hear from the attorney.

13 MICHAEL YENTZEN: Good morning. My name is
14 Michael Yentzen and I represent the applicant, Juanita
15 Staff. I'm an attorney in Gulfport. My address is 1914
16 24th Avenue, Gulfport.

17 I just wanted to informally go over some
18 information that we submitted, but, first of all, I wanted
19 to address what appears to be a mischaracterization of the
20 circumstances.

21 What happened was the applicant's agent, the
22 contractor, submitted a drawing, and I'm not disputing
23 what Mr. Pickering brought up as far as the actual drawing
24 that was permitted, comparing it to the original drawing,
25 but the things that he circled were not circled on the

1 side of the drawing be moved back nine feet, but, it
2 appears from the drawing that the indication was the DMR
3 wanted the entire bulkhead to be set back nine feet. It's
4 still not clear, in my opinion, what DMR wants.

5 I think that was offered to us as sort of a
6 compromise to just basically destroy one section of
7 bulkhead that is around forty feet long, and, then,
8 reconstruct it nine feet back behind the present
9 condition.

10 I don't know what that solves. I'm not sure
11 what that resolves. It just creates another area where
12 sediment can collect, and I think it would collect over
13 time anyway and create another beach.

14 JAMIE MILLER: Mr. Yentzen, let me interrupt you
15 for a moment.

16 MICHAEL YENTZEN: Sure.

17 JAMIE MILLER: I think you are speaking about
18 documents. When the Commission came back from the break,
19 these packets were up here.

20 Did you just present these (indicating
21 documents)?

22 MICHAEL YENTZEN: Yes, I did.

23 JAMIE MILLER: They were not aware of that.

24 MICHAEL YENTZEN: I'm sorry.
25 We have just gotten into the first two exhibits

1 permitted drawing.

2 I have given you the permitted drawing, along
3 with the permit and the applicant's drawing, initial
4 drawing.

5 If you could just look at it, it's really not
6 apparent, unless you are looking for the changes that were
7 made.

8 It is also important to note that the contractor
9 drew this, where it could be constructed. He designed it
10 to be constructed in a straight line from the existing
11 bulkheads that were on either side of the property, just
12 connecting those two end points with the existing
13 bulkheads to make a straight line so there are no waves,
14 or anything at all.

15 Also, the characterization that the contractor
16 was aware that he was not in compliance and yet went ahead
17 and built the bulkhead that way is not correct whatsoever.
18 It was just a misunderstanding and it was, quite frankly,
19 a lack of the DMR designating clearly what they wanted to
20 be done.

21 In fact, it's still not clear to me -- and I
22 understand everything about this situation -- what the DMR
23 wanted to be done pursuant to the drawing because Mr.
24 Pickering says that the DMR just requested the section
25 from the stairs to the existing wood bulkhead on the left

1 which are the permit, with the attached permitted drawing,
2 the approved permit and the submitted drawing by the
3 applicant's agent, by the contractor. Those are the first
4 two things in that packet.

5 I would like to reiterate that I appreciate what
6 Mr. Pickering did by showing the permitted drawing, but
7 all those red circles, they are not on the actual
8 permitted drawing.

9 JAMIE MILLER: Could we bring the permitted
10 drawing back up on the screen?

11 CHRIS PICKERING: Yes, sir. This is the
12 permitted drawing and, as he stated, when we issued the
13 permit, no, they were not circled. You can take off the
14 red circles, and that is what was issued with the permit
15 (indicating diagram).

16 COMMISSIONER BOSARGE: Just for clarification,
17 the drawing actually shows a straight bulkhead.

18 What you are asking for, or what I see as the
19 incorrect part, would be to the left of those stairs and
20 is supposed to step in nine feet?

21 CHRIS PICKERING: Yes. You can make the
22 argument that it's a straight bulkhead. They are saying
23 that this was shown even with that one. It's not a to-
24 scale drawing. It's not an engineered drawing. It's not
25 to scale. It also shows there is a gap there. People

Commission on Marine Resources

1 don't put gaps in their bulkhead.
 2 Yes, we were asking for a forty-foot section
 3 here. We were trying to work with them and let them work
 4 with us and keep some. This down here appears to be off
 5 two feet, also, and we were willing to let them keep that
 6 (indicating diagram).
 7 COMMISSIONER GOLLOTT: Where, on that drawing,
 8 do you show them how far out the bulkhead goes from the
 9 landmarks, or whatever you were measuring from?
 10 CHRIS PICKERING: Thirty-nine feet here from the
 11 house piling to the bulkhead, and, then, a hundred and
 12 four feet to the roof from the bulkhead is where they were
 13 permitted (indicating diagram).
 14 COMMISSIONER GOLLOTT: On the left-hand side,
 15 how much is it, now?
 16 CHRIS PICKERING: It's a hundred and six feet
 17 here, and here it's forty-eight feet here (indicating
 18 diagram).
 19 I believe Mr. Yentzen gave y'all a copy of the
 20 permit, and I think there is a copy in your writeup, also,
 21 but, if you read the first condition in the permit, it
 22 states:
 23 "A bulkhead a hundred and twenty feet in length
 24 and four feet above mean high tide in height shall be
 25 constructed at, or above, mean high water as flagged by

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 COURT REPORTER
 (228) 396-8788

1 DMR personnel and in accordance with the measurements from
 2 fixed objects as indicated on the attached diagram".
 3 COMMISSIONER GOLLOTT: Sir, no matter what we
 4 do, you've got some serious problems with the Secretary of
 5 State.
 6 Is this the permit that you were issued
 7 (indicating document)?
 8 MICHAEL YENTZEN: Yes, that is the permit my
 9 client was issued.
 10 COMMISSIONER GOLLOTT: Well, it clearly says
 11 from the house piling out thirty-nine feet, and it went
 12 forty-eight feet.
 13 MICHAEL YENTZEN: That wasn't observed by the
 14 contractor. What I'm saying is that the contractor looked
 15 at the permit and he saw his drawing, and that's the way
 16 he built it.
 17 COMMISSIONER GOLLOTT: But it's not the staff's
 18 fault.
 19 MICHAEL YENTZEN: No. I'm just saying it is a
 20 misunderstanding. I'm saying that as opposed to how they
 21 were depicted, the client and the agent have been in good
 22 faith this whole time. They haven't done anything
 23 intentionally against the staff's recommendations.
 24 COMMISSIONER GOLLOTT: They put the bulkhead out
 25 ten feet further than what they were permitted for.

Lucille Morgan, CSR 1251
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1 Let me say this. I have personal experience. I
 2 built a bulkhead behind my house. They come out and put
 3 these red flags down and tell you where you can put your
 4 bulkhead.
 5 I think the staff has done due diligence to show
 6 the contractor, but the contractor should have gotten with
 7 the staff, if they had any questions, before they started
 8 this bulkhead.
 9 You've got some serious problems here. I would
 10 suggest you get this thing in compliance because you are
 11 going to be dealing with Delbert Hosemann the rest of your
 12 life.
 13 MICHAEL YENTZEN: I have already talked to Mr.
 14 Carter and we have had discussions about that.
 15 We have a legal argument, as well, that I would
 16 like to bring up, but, as far as the flagging goes, the
 17 flags were not there when the contractor commenced work.
 18 COMMISSIONER GOLLOTT: Did the staff put the
 19 flags down, before the contractor began work?
 20 MICHAEL YENTZEN: Yes, the flags were in the
 21 pictures, on June the 29th.
 22 I'm saying that there is nothing apparent to the
 23 contractor, as far as flagging goes, to where the bulkhead
 24 should be constructed.
 25 The contractor submitted his drawing. The

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 permit was approved and contained a drawing that was
 2 almost identical to his drawing. His drawing could be
 3 constructed without those measurements that were put on
 4 the -- they were put on the drawing.
 5 COMMISSIONER GOLLOTT: But it's not the staff's
 6 job to go hold the contractor's hand.
 7 MICHAEL YENTZEN: No. I'm not talking about
 8 holding hands.
 9 I'm talking about clearly identifying what they
 10 wanted to be constructed, before it is constructed, and
 11 that's not an excuse and it's not a reason why it
 12 shouldn't be -- obviously, had the client known about this
 13 beforehand, the client would have had some conversations
 14 with the DMR and tried to work out some kind of solution
 15 because this just defies commonsense.
 16 Also, it's the staff's recommendation to -- I'm
 17 not sure what the staff is saying, as far as the
 18 orientation of the bulkhead because, if it's the staff's
 19 suggestion that the bulkhead on the left-hand side
 20 adjacent to the steps should be stepped back, then, why
 21 wasn't it depicted that way, or is it supposed to be a
 22 straight line.
 23 I don't know. There are a lot of questions
 24 still. It is very unclear. Here we are at the Commission
 25 meeting and it is still unclear.

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 COMMISSIONER GOLLOTT: What is very clear is
2 thirty-nine feet from the house piling out is where you
3 are supposed to have this bulkhead.

4 MICHAEL YENTZEN: Again, the contractor drafted
5 the drawing and submitted it to DMR. His drawing, what he
6 thought was his drawing was attached to the permit. He
7 didn't pick up on these minor notations that are obviously
8 apparent when you circle them in red, but, after the fact,
9 this is where we stand. This is why we are here.

10 If I can continue, there are a couple of issues
11 and I think they are mitigating issues. One thing is that
12 there was no tidelands determination. There is no
13 tidelands survey. There was just a staff member came out
14 and took some pictures and that was it.

15 For example, the Tchoutacabouffa, on June 29th,
16 2016, was approximately two-and-a-half feet above the
17 normal river level. They didn't take that into
18 consideration.

19 The other thing, I have indicated and I have
20 provided some pictures of the site at various times,
21 beginning in 1986 and ending at the current date with the
22 present bulkhead construction, and, then, I have also gone
23 to Google Earth and identified the site to show what has
24 happened over time.

25 I have also included a copy of the Impact

Lucille Morgan, CSR 1251
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1 basically, it defines what avulsion is. It says if a
2 change in boundary stream so rapidly is suddenly made in
3 such a short time that change is distinctly perceptible,
4 or measurably visible at the time of its progress, and
5 that this doesn't change the property values.

6 There is another case --

7 COMMISSIONER GOLLOTT: (Interposing) Sir, can I
8 interrupt you?

9 MICHAEL YENTZEN: Sure.

10 COMMISSIONER GOLLOTT: You are going to have to
11 take that up with the Secretary of State. I don't think
12 we have the authority to do that kind of stuff.

13 What was the staff's recommendation on this one?

14 WILLA BRANTLEY: Can I interject one thing right
15 here?

16 COMMISSIONER GOLLOTT: Yes.

17 WILLA BRANTLEY: I just want to interject if you
18 want to hear these arguments, that's fine with the staff
19 that you hear these arguments, but they have been told, on
20 multiple occasions, that the Commission doesn't even have
21 the option of granting them after-the-fact authorization,
22 until they have made after-the-fact application, and they
23 haven't.

24 That is based on Statute 49-27-51 that says that
25 the Commission may issue after-the-fact authorization for

Lucille Morgan, CSR 1251
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1 Statement that was provided by the Corps of Engineers for
2 some work that was done across the river in 2011. It
3 contains a satellite photograph that shows there is a
4 significant beachhead in front of that whole peninsula.

5 Our argument is that construction of that
6 bulkhead, along with the adjacent bulkhead that is to the
7 left of the stairs on the drawing, created a situation
8 where there was a rapid removal of material from that area
9 that they are talking about between the steps and the
10 adjacent property.

11 We have case law on this that basically
12 differentiates erosion, or accretion, from a thing called
13 avulsion, and there are a couple of cases that I included.

14 Basically, what we are saying is that the fact
15 that the adjacent bulkhead was constructed we think in
16 2011, and the bulkhead across the river was constructed in
17 2011, that it created a situation where this area that
18 they are concerned about where they are saying we need to
19 move the bulkhead nine feet back, that area was scoured
20 very rapidly and it shouldn't have changed the property
21 lines.

22 I provided the Secretary of State's office with,
23 I think, five cases, but I included two cases in the
24 packet. Basically, one of them is a Supreme Court case
25 from 1943, Sharp versus Leonard (phonetic), and,

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

1 the work on proper application, and proper application has
2 not been made.

3 We told them if they want to stand up and make
4 these arguments to the commission for getting to keep the
5 fill in Coastal Wetlands and in Public Trust Tidelands in
6 State owned property, that they can make those arguments,
7 but there is a proper way to do it, and they have not
8 followed that procedure.

9 COMMISSIONER BOSARGE: That was my reason for
10 asking.

11 CHRIS PICKERING: If I can make one more point,
12 also.

13 COMMISSIONER BOSARGE: Yes.

14 CHRIS PICKERING: He is making the argument that
15 the agent was not aware of the forty-eight feet, thirty-
16 nine feet, whatever.

17 Well, in my phone conversation with the agent,
18 on May 1st, when I explained to him that the bulkhead was
19 permitted to be constructed thirty-nine feet from the
20 house piling, Mr. Shepler stated that he measured the
21 bulkhead at forty-eight feet. Before I even told him the
22 measurement, yes, was forty-eight feet, he stated to me
23 that it was forty-eight feet. He knew what the
24 measurement was.

25 Now, he can stand up here and argue he didn't

Lucille Morgan, CSR 1251
COURT REPORTER
(228) 396-8788

Commission on Marine Resources

1 say that, if he wants, but that is what I was told in our
 2 phone conversation.
 3 COMMISSIONER BOSARGE: I believe all of this is
 4 above and beyond what our authority is.
 5 MICHAEL YENTZEN: Yes, sir, but I think this
 6 board can use its discretion.
 7 The other thing about the application for an
 8 after-the-fact permit, that presumes that this property is
 9 Tidelands, and you have to get a lease with the Secretary
 10 of State which they have already stated they would not
 11 grant for a residential application. We are sort of
 12 painted into a box.
 13 We were given two things that we could do, two
 14 options, by the DMR. We could either do exactly what they
 15 told us to do, or we could apply for an after-the-fact
 16 permit which they would not agree to, or which they would
 17 not support, and which would, basically, make us agree
 18 that if the property that was filled was Tidelands which
 19 we don't agree --
 20 COMMISSIONER BOSARGE: (Interposing) You do
 21 understand that had you done the after-the-fact
 22 application, you could have come here and we could have
 23 discussed the facts and actually made a decision?
 24 MICHAEL YENTZEN: I wasn't aware of that because
 25 the way it was conveyed to me was that the after-the-fact

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 application presumes that the property is Tidelands, and I
 2 know that this involves the Secretary of State's office,
 3 as well.
 4 I have had conversations with Mr. Carter about
 5 this, but, as far as he is concerned -- I don't want to
 6 speak for him, but this is a permitting issue right now,
 7 at this point in time.
 8 I would just ask you to look at all the
 9 information I provided and try to come up with a
 10 reasonable solution for us.
 11 It is an unfortunate situation. It was not an
 12 intentional action on the agent's part, or the applicant's
 13 part.
 14 I think the applicant's agent really wanted to
 15 speak up and try to clarify some characterizations of what
 16 he said, or what he knew when he knew it, and I think that
 17 might be important as well.
 18 COMMISSIONER GOLLOTT: Well, what the staff is
 19 saying is that you have to file for an after-the-fact
 20 permit for us to do anything on this, except follow the
 21 staff's recommendation. You are really wasting time.
 22 MICHAEL YENTZEN: I guess we can file for an
 23 after-the-fact permit, but, again, what I said is that
 24 from what I understood -- and I had a whole packet on an
 25 after-the-fact application -- that presumes that it is

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 Tidelands, and we don't agree with that. We don't agree
 2 with that conclusion because of several reasons.
 3 SEAN MORRISON: Mr. Chairman, if I may.
 4 COMMISSIONER BOSARGE: Yes.
 5 SEAN MORRISON: Let me clarify it a little bit.
 6 First of all, the fact that a permit was filed already
 7 presumes the fact that Tidelands have been affected; maybe
 8 not Public Trust Tidelands, but Tidelands have been
 9 affected.
 10 The Commission's power is, in this case,
 11 essentially to issue a fine, if there is a violation of
 12 the permit that was issued, but it can't grant the permit
 13 that wasn't applied for.
 14 Does that make sense?
 15 Because the after-the-fact permit has not been
 16 applied for, this Commission can't give you the bulkhead
 17 as it is currently built.
 18 MICHAEL YENTZEN: Sure, I understand.
 19 Procedurally, sure.
 20 SEAN MORRISON: What I would say is that even if
 21 the Commission today issued a fine, but no after-the-fact
 22 permit is applied for, then, tomorrow that violation
 23 continues to accrue, and that daily five hundred dollar
 24 maximum continues to accrue.
 25 It seems like it would be pertinent to apply for

Lucille Morgan, CSR 1251
 COURT REPORTER
 (228) 396-8788

1 an after-the-fact permit, if for no other reason than to
 2 stop the bleeding on this fine that keeps growing every
 3 day.
 4 MICHAEL YENTZEN: Sure. We understand.
 5 Again, what I'm saying is that the after-the-
 6 fact permit was characterized, in written materials
 7 provided to me, as an agreement that there is Tidelands
 8 that were filled in, and we don't agree with that, but I
 9 understand what you are saying.
 10 We have no problem applying for the after-the-
 11 fact permit, now, and, then, maybe coming in front of the
 12 Commission at a future date. That's fine.
 13 WILLA BRANTLEY: I just want to address the
 14 reason why our letter stated that they would need to apply
 15 for filling of Coastal Wetlands and ask for those
 16 variances to fill in Coastal Wetlands, and it is because
 17 we actually have a letter on file from the Secretary of
 18 State's office -- I don't believe Chris has it with him,
 19 but he can go upstairs and get it, if we need to -- that
 20 states that the area is Public Trust Tidelands.
 21 We are not just making a guess, based on DMR
 22 permitting staff authority. We send all of our
 23 applications, at their request, to the Secretary of State
 24 and they make that determination for us so that we are not
 25 making wrong calls out in the field.

Lucille Morgan, CSR 1251
 COURT REPORTER
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Commission on Marine Resources

1 COMMISSIONER GOLLOTT: What was your
2 recommendation?
3 CHRIS PICKERING: A fine in the amount of one
4 thousand dollars issued to the applicant and the agent to
5 be paid within thirty days of the July Commission meeting,
6 and order the bulkhead be brought into compliance with the
7 general permit issued on July 5th, 2016, within thirty days
8 of the July Commissioner meeting, or forward the matter to
9 the Attorney General's office, if these deadlines are not
10 met.
11 COMMISSIONER BOSARGE: Do we have any further
12 discussion?
13 (No response.)
14 COMMISSIONER BOSARGE: I just want to make sure
15 you guys understand we can only do what we can do, and
16 this is where we can go.
17 COMMISSIONER GOLLOTT: One thing we could do is
18 give them a little bit more time to work on it, and I
19 would like to go along with the staff's recommendations.
20 Willa, would y'all have a problem with sixty
21 days?
22 WILLA BRANTLEY: No, sir. We would not have a
23 problem with sixty days.
24 COMMISSIONER GOLLOTT: Let's change it to sixty
25 days, and that will give them more time to work on it.

Lucille Morgan, CSR 1251
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1 COMMISSIONER BOSARGE: Do you want to put that
2 in the form of a motion?
3 COMMISSIONER GOLLOTT: Yes, follow the staff's
4 recommendation with a fine of a thousand dollars, and give
5 them sixty days to comply on both cases.
6 MICHAEL YENTZEN: That's for both the fine
7 payment and bringing it back into the permit?
8 COMMISSIONER GOLLOTT: Yes, sir.
9 COMMISSIONER BOSARGE: We have a motion.
10 Do we have a second?
11 COMMISSIONER HARMON: So seconded, Mr. Chairman.
12 COMMISSIONER BOSARGE: All those in favor say
13 aye.
14 (All in favor.)
15 COMMISSIONER BOSARGE: Opposed?
16 (None opposed.)
17 COMMISSIONER BOSARGE: Motion carries.
18 Next we have the Office of Finance and
19 Administration, Ms. Kacey Williams.
20 KACEY WILLIAMS: Good morning Commissioners,
21 Director Miller, Mr. Morrison.
22 Congratulations on the new appointments, and
23 thank you for your leadership, Commissioner Gollott.
24 These are the financial results as of June 30th,
25 2017.

Lucille Morgan, CSR 1251
COURT REPORTER
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1 Our State revenue is six point eight million.
2 Our total Agency revenue was twenty-eight point two
3 million.
4 Our State net loss was two point one million,
5 and our total agency net loss was two point four million.
6 Same as last month, we have some outstanding
7 revenues we are waiting for. That totals to about two
8 point four million for the State, and that will cover our
9 deficit here, and, then, we also have cash on hand, and a
10 total of four point six million for the total Agency.
11 Once we receive those revenues for the last
12 period, that will correct all of what you are seeing up
13 there (indicating slide).
14 Any questions?
15 COMMISSIONER GOLLOTT: Are we in good financial
16 condition?
17 KACEY WILLIAMS: We are.
18 Then, after twelve months of the fiscal year, we
19 still have an Operating Funds Budget of forty-eight point
20 three percent and Tidelands Trust Fund Budget of thirteen
21 point nine percent.
22 Keep in mind we still have the last period that
23 we will go through that ends in August. We are still
24 good.
25 COMMISSIONER BOSARGE: Thank you, Kacey.

Lucille Morgan, CSR 1251
COURT REPORTER
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1 KACEY WILLIAMS: Thank you.
2 COMMISSIONER BOSARGE: Public Affairs, Ms.
3 Melissa Scallan.
4 MELISSA SCALLAN: Good afternoon Commissioners,
5 Director Miller, Mr. Morrison.
6 Congratulations Commissioner Bosarge for being
7 the Chairman, and thank you Richard for your service, too.
8 Since the last Commission meeting, the agency
9 has been mentioned twenty-five times in local, state and
10 national media.
11 Some of the items of particular interest were
12 Marine Patrol's participation in Operation Dry Water, and
13 I got several messages on social media and email about how
14 courteous they are in doing the Operation Dry Water and
15 thanking them for their protection of people on the water.
16 We also were mentioned several times concerning
17 the fish caught during the Deep Sea Fishing Rodeo.
18 The agency did have a booth at the rodeo, and
19 there were quite a few of us who participated in that and
20 talked to them about regulations and gave out a lot of
21 items.
22 Jonathan Barr gave a presentation to the Osher
23 Lifelong Learning Institute at USM, on June 27th.
24 Marine Patrol also held eighteen boat-and-water
25 safety classes in fiscal year 2017 and certified two

Lucille Morgan, CSR 1251
COURT REPORTER
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Commission on Marine Resources

1 hundred and seventy-four students.
2 Any questions?
3 COMMISSIONER BOSARGE: Thank you, Melissa.
4 MELISSA SCALLAN: Thank you.
5 COMMISSIONER BOSARGE: Next we have Title 22
6 Part 14, Derelict Vessel Regulations, Mr. Jason Rider.
7 DALE DIAZ: Congratulations Chairman Bosarge,
8 and thank you for your service, Commissioner Gollott.
9 I'm filling for Jason Rider today. He is out of
10 town. Jason sends his regrets.
11 This is a short presentation aimed at taking
12 Final Action to repeal the Derelict Vessel Regulations,
13 Title 22 Part 14.
14 On July 1st, 2016, Senate Bill 2699 went into
15 effect changing the procedures in the Derelict Vessel Act.
16 MDMR has been using new statutory procedures
17 which often contradict the existing regulations.
18 MDMR is seeking to repeal the old regulations.
19 CMR passed the Notice of Intent, on June 20th,
20 2017, which was filed with the Secretary of State's
21 office. A copy of that filing is on the right-hand side
22 of the slide.
23 For public comments, a Notice of Intent was
24 published on June 20th, 2017. Public comment period was
25 June 20th, 2017, through July 18th, 2017. No public

Lucille Morgan, CSR 1251
COURT REPORTER
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1 comments have been received.
2 I just want to make one quick point for people
3 in the audience that might not have been here when this
4 was discussed at the last meeting.
5 This action is not getting rid of the Derelict
6 Vessel Program. MDMR will still be doing it, following
7 the new State statute.
8 A motion for Final Adoption to repeal and
9 reserve Title 22 Part 14 is required.
10 COMMISSIONER BOSARGE: Do we have any questions?
11 (No response.)
12 COMMISSIONER GOLLOTT: Mr. Chairman, I would
13 like to make a motion that we adopt this regulation.
14 COMMISSIONER BOSARGE: We have a motion.
15 Do we have a second?
16 COMMISSIONER HARMON: So seconded, Mr. Chairman.
17 COMMISSIONER BOSARGE: We have a motion and a
18 second.
19 All in favor say aye.
20 (All in favor.)
21 COMMISSIONER BOSARGE: Opposed?
22 (None opposed.)
23 COMMISSIONER BOSARGE: Motion carries.
24 DALE DIAZ: Thank you.
25 COMMISSIONER BOSARGE: Thank you.

Lucille Morgan, CSR 1251
COURT REPORTER
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1 I think we have come to the end of the meeting.
2 Do we have any other business to bring before
3 the Commission?
4 (No response.)
5 COMMISSIONER BOSARGE: Hearing none, I ask for a
6 motion to adjourn.
7 COMMISSIONER GOLLOTT: Motion to adjourn, Mr.
8 Chairman.
9 COMMISSIONER BOSARGE: Is there a second?
10 COMMISSIONER HARMON: Second.
11 COMMISSIONER BOSARGE: All in favor say aye.
12 (All in favor.)
13 COMMISSIONER BOSARGE: Thank you guys for being
14 here.
15 This meeting is adjourned.
16 (Whereupon, at 12:15 o'clock, p.m., the July 18,
17 2017, meeting of the Commission on Marine Resources was
18 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 audio recording of the July 18,
6 2017, meeting of the Commission on Marine Resources; and,
7 further, that I am not a relative, employee, or agent, of
8 any of the parties thereto, nor financially interested in
9 the cause.
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