

Commission on Marine Resources

COMMISSION ON MARINE RESOURCES
COMMISSION MEETING

Tuesday, August 15, 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
- Mark Havard
- Jolynne Trapani

Also Present:

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

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

1 COMMISSIONER BOSARGE: I would like to call the
2 meeting to order.
3 I would like to welcome everyone to our August
4 meeting of the Commission on Marine Resources. We've got
5 quite a crowd. I appreciate everybody taking the time out
6 of your day to come help us sort through all of this.
7 First on the agenda is the Pledge of Allegiance.
8 I would like to ask Commission Gollott to lead
9 us in the pledge.
10 (Whereupon, the Pledge of allegiance was
11 recited.)
12 COMMISSIONER BOSARGE: At this time, I'm going
13 to ask Jamie Miller to administer the oath of office to
14 Commissioner Mark Havard.
15 (Whereupon, the oath of office was given to Mark
16 Havard by Jamie Miller.)
17 COMMISSIONER BOSARGE: I think we had a request
18 to actually table the approval of the minutes until the
19 next meeting so the court reporter will have a chance to
20 look over them.
21 Do we have a motion?
22 COMMISSIONER GOLLOTT: I'll make the motion, Mr.
23 Chairman.
24 COMMISSIONER BOSARGE: Do we have a second?
25 COMMISSIONER TRAPANI: I'll second that.

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

1 COMMISSIONER BOSARGE: We have a motion and a
2 second.
3 All those in favor say aye.
4 (All in favor.)
5 COMMISSIONER BOSARGE: Opposed?
6 (None opposed.)
7 COMMISSIONER BOSARGE: Motion carries.
8 Do we have any modifications to the agenda?
9 COMMISSIONER GOLLOTT: Mr. Chairman, I would
10 like to make a motion that we add the Executive Session
11 right under the Executive Director's report.
12 COMMISSIONER BOSARGE: It is currently listed as
13 K1. We will move K1 to right under D. We have a motion.
14 Do we have a second?
15 COMMISSIONER HAVARD: I would like to second
16 that motion.
17 COMMISSIONER BOSARGE: All those in favor say
18 aye.
19 (All in favor.)
20 COMMISSIONER BOSARGE: Opposed?
21 (None opposed.)
22 COMMISSIONER BOSARGE: Motion carries.
23 Now, we will go to the Executive Director's
24 report.
25 JAMIE MILLER: No report, Your Honor.

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

1 COMMISSIONER GOLLOTT: With that, Mr. Chairman,
2 I would like to make a motion that we go into closed
3 session to determine the need to go into executive session
4 to consider pending litigation and personnel matters.
5 COMMISSIONER BOSARGE: We have a motion.
6 Do we have a second?
7 COMMISSIONER TRAPANI: I'll second that motion,
8 Mr. Chairman.
9 COMMISSIONER BOSARGE: Motion and a second.
10 All those in favor say aye.
11 (All in favor.)
12 COMMISSIONER BOSARGE: Opposed?
13 (None opposed.)
14 COMMISSIONER BOSARGE: Motion carries.
15 We will be just a little bit. Hopefully, we
16 will be right back. You guys just stick with us.
17 MEETING STANDS IN RECESS
18 COMMISSIONER BOSARGE: I would like to call the
19 meeting back to order.
20 I want to thank everybody for your patience
21 dealing with us in our executive session.
22 Ms. Chestnut, would you give us a report on the
23 meeting, please?
24 SANDY CHESTNUT: Yes, sir.
25 The motion was made at 9:08 by Commissioner

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

1 Gollott to go into closed session to discuss the need for
2 executive session and discuss the following pending
3 litigation and personnel matters. That motion was
4 seconded by Commissioner Trapani.

5 Present at the executive session were Steve
6 Bosarge, Ron Harmon, Richard Gollott, Mark Havard, Jolyne
7 Trapani, Sandy Chestnut, and the following were present at
8 some time, or another, during the executive session, Sean
9 Morrison, Attorney Holder, Ryan Bradley, Joe Jewell and
10 Paul Mickle.

11 At 9:12, a motion was made by Commissioner
12 Gollott and seconded by Ron Harmon to go into executive
13 session to discuss the same matters mentioned above, and
14 that motion was passed unanimously.

15 There was one motion made during the executive
16 session, made by Gollott, seconded by Harmon. The time
17 was 9:48, and the motion was to grant the Executive
18 Director and the attorney the authority to enter into
19 settlement negotiations in a pending litigation matter.
20 That motion also passed unanimously.

21 At 10:40, a motion was made by Commissioner
22 Gollott and seconded by Commissioner Harmon to end the
23 executive session and, obviously, that was passed
24 unanimously, as well.

25 COMMISSIONER BOSARGE: Thank you.

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

1 supervisor and he was awarded the award.

2 Come forward.

3 COMMISSIONER BOSARGE: Come on, now. You've got
4 a say a couple of words.

5 JACK EWING: This is a true honor. Thank you so
6 much for nominating me, Roy. I appreciate your hard work.

7 ROY LIPSCOMB: Thank you.

8 COMMISSIONER BOSARGE: I would just like to say
9 thank you, also. You guys are the backup to the backup to
10 the public, and we appreciate that.

11 ROY LIPSCOMB: Thank you.

12 KEITH DAVIS: Thank you so much for letting me
13 take time to do that. Again, it is important that we
14 support our military and those who work with us. We
15 certainly try to support Roy during his deployments.

16 You have the citation report, but two of you
17 have asked me to provide details about our Tails n' Scales
18 checks. That was requested by you, Chairman Bosarge.

19 Since we started tracking that data, we have
20 written seventeen citations. That's a combination of
21 courtesy citations and real court citations to individuals
22 for failure to register with Tails n' Scales.

23 In addition to that, we have written a couple of
24 citations for fishing in closed season.

25 We stopped a boat last month with possession of

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

1 Any questions?

2 (No response.)

3 COMMISSIONER BOSARGE: We will return to our
4 agenda.

5 Office of Marine Patrol, Chief Davis.

6 KEITH DAVIS: Good morning Commissioners,
7 Director Miller, Ms. Chestnut.

8 I would like to ask, Mr. Chairman, for a bit of
9 indulgence this morning. I have a special presentation
10 that I would like to do, dealing with our military and the
11 community support of the military. With everything that
12 is going on our country today, we must support our
13 military.

14 At this time, I'm going to ask Staff Sergeant
15 Roy Lipscomb to come up and make a presentation.

16 ROY LIPSCOMB: Good morning. Since the global
17 war on terrorism started in 2001, our nation's guard and
18 reserve forces have been called upon over and over and
19 over. This has placed a large strain on the civilian
20 employers.

21 The ESGR, Employer Support for Guard and Reserve
22 has national awards and local awards that they want to
23 recognize employers, or those employees, who have shown
24 support for the guard.

25 This year, I nominated Lieutenant Jack Ewing for

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

1 filets onboard, another boat that was fishing and had
2 undersized and over the limit of Red Snapper in Federal
3 waters, and closed season, undersized and over the limit
4 in Federal waters, and, then, we caught a vessel with
5 possession of red fish in Federal waters, and all of those
6 cases were transferred to NOAA for Federal prosecution.

7 Commissioner Gollott requested that we start
8 tracking Spotted Seatrout checks. Since we started
9 tracking that on July 20th, we have checked six hundred and
10 forty-seven fishermen who possessed nine hundred and
11 seventy-two trout. We have written thirteen citations for
12 undersized trout violations and two citations for over the
13 limit violations.

14 I would like to point out, night shift received
15 information that individuals were fishing at Courthouse
16 Pier and, because of the dynamics of how the pier is laid
17 out, whenever they saw a Marine Patrol truck, they were
18 dumping the fish overboard.

19 Last weekend our officers -- this will be in
20 next month's report -- because of Commissioner Gollott's
21 request on the speckled trout violations, those officers
22 got into unmarked clothes and were able to actually get
23 close enough to an individual and caught him with nineteen
24 undersized speckled trout.

25 It's things like that that we are trying to do

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

1 to be more creative and clamp down on these people who are
2 violating the speckled trout size and bag limit.

3 COMMISSIONER BOSARGE: we do appreciate that.
4 Since that fishery is overfished and undergoing
5 overfishing, we need all the help we can get to try to
6 rebuild that resource.

7 KEITH DAVIS: Yes, sir. We are diligently
8 working to minimize that as much as possible.

9 COMMISSIONER GOLLOTT: Can I ask you a question?

10 KEITH DAVIS: Yes, sir.

11 COMMISSIONER GOLLOTT: Failure to register with
12 Tails n' Scales, when you catch someone like that, do you
13 make them go ahead and turn in their fish they caught, and
14 all that kind of stuff?

15 KEITH DAVIS: Yes, sir, we do. We either return
16 the fish to sea. If it is an exorbitant amount -- like I
17 said, we caught some the other day with nine, or ten, fish
18 -- we give that fish to one of the food banks, Feed My
19 Sheep, or one of the others.

20 COMMISSIONER GOLLOTT: Did you make them
21 register the fish that they had?

22 In other words, are the fish they have onboard
23 accounted for, or you just give them a ticket and it goes
24 away?

25 KEITH DAVIS: We try to do one of two things.

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

1 we either do that, or we give them a citation and give
2 them an opportunity to register the trip, and they have so
3 many days to be able to register that trip.

4 COMMISSIONER GOLLOTT: Thank you, Chief.

5 KEITH DAVIS: There are a couple of things in
6 the report that I would like to highlight.

7 Under crab violations, officers wrote one
8 commercial fisherman for undersized crabs, and we caught
9 two commercial fishermen picking crabs in their backyard.

10 Miscellaneous commercial seafood violations. I
11 would like to highlight the fact that we did write one
12 roadside vendor a No Seafood Dealer's License last month.

13 Over the limit crabs on a shrimp boat.
14 Obviously, you can have thirty-six crabs, and this
15 particular individual was over the limit.

16 Then, one unique citation we wrote was taking a
17 Diamondback Terrapin without a license. The individual
18 did not possess the required small game hunting license.

19 In saving time, is there anything else y'all
20 would like to know about the report?

21 COMMISSIONER BOSARGE: I was just curious about
22 that Diamondback Terrapin.

23 were they taking it as a pet, or to eat, or do
24 you know?

25 KEITH DAVIS: I don't know that, but I'm told

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

1 that some individuals over in Hancock County where this
2 was caught do eat that.

3 COMMISSIONER BOSARGE: Any other questions?
4 (No response.)

5 COMMISSIONER BOSARGE: Thank you, Chief.

6 KEITH DAVIS: Thank you.

7 COMMISSIONER BOSARGE: We move on to Marine
8 Fisheries, Mr. Joe Jewell.

9 JOE JEWELL: Good morning Commissioners.

10 First up for y'all's consideration is Title 22
11 Part 1, Basket Dredge Ban Petition for Reconsideration.

12 I want to give a short outline of the regulatory
13 events that occurred leading up to where we are today.

14 In April of this year, the Commission passed a
15 Notice of Intent.

16 On May the 16th, Attorney Morgan Holder presented
17 a Petition for Reconsideration at the Commission meeting.

18 At the May 16th Commission meeting, the
19 Commission took three actions.

20 First was a Motion to Deny the Petition for
21 Reconsideration as being prematurely filed and to consider
22 it a public comment.

23 The second motion was to extend the public
24 comment period to allow the time for a public hearing to
25 be conducted.

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

1 The third motion was directing the DMR staff to
2 report back to the Commission on matters identified by the
3 public comments received at that public hearing. In
4 particular, the Commission would like more information in
5 regard to the Economic Impact Statement.

6 On June 14th, a public hearing was conducted in
7 this room, the Commission room.

8 On June 20th, the CMR meeting on basket dredge
9 issues was tabled until the July meeting.

10 On July 18th, at the CMR meeting, I made a
11 presentation on basket dredge ban, Dr. Paul Mickle made a
12 presentation on the best science available, and the
13 Commission voted to move forward with final adoption.

14 The final adoption was filed on July 18th with
15 the Secretary of State's office and becomes effective on
16 September the 1st.

17 Today, we have before you the reconsideration.

18 COMMISSIONER GOLLOTT: Excuse me, Joe.

19 JOE JEWELL: Yes, sir.

20 COMMISSIONER GOLLOTT: Mr. Chairman, right here,
21 if it's proper, let me make a motion that we table the
22 Motion for Reconsideration of the basket dredge until next
23 month.

24 COMMISSIONER BOSARGE: Sandy, can we get some
25 clarification for that?

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

1 Is that something we can do?

2 SANDY CHESTNUT: Yes. If you want to table the

3 Petition for Reconsideration, you also need to make a

4 motion to amend the final adoption, the effective date of

5 the final adoption.

6 COMMISSIONER BOSARGE: Let's go with the motion

7 to table, first.

8 We have a motion to table this until the next

9 meeting.

10 COMMISSIONER GOLLOTT: Correct.

11 JAMIE MILLER: I think what we want clarity on

12 is a motion to amend is different than a motion to table.

13 SANDY CHESTNUT: You are dealing with a

14 petition, and, then, you are dealing with the regulation

15 change.

16 Right now, they are just tabling the petition to

17 be considered at the next meeting.

18 JAMIE MILLER: Okay.

19 COMMISSIONER BOSARGE: We have a motion.

20 Do we have a second?

21 COMMISSIONER HARMON: So seconded, Mr. Chairman.

22 COMMISSIONER BOSARGE: All those in favor say

23 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 COMMISSIONER TRAPANI: Mr. Chairman, I will make

4 a motion to amend the final adoption and delay it to the

5 effective date of October the 2nd.

6 COMMISSIONER GOLLOTT: I'll second that, Mr.

7 Chairman.

8 COMMISSIONER BOSARGE: We have a motion and a

9 second.

10 Any discussion?

11 (No response.)

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 I think you understand all of that, Joe.

19 JOE JEWELL: I do. I thank the Commissioners.

20 JAMIE MILLER: Joe, I apologize. We did have

21 one who requested to speak on that, Ms. Thao Vu.

22 Ms. Vu, would you still like to speak, or would

23 you like to wait until next meeting?

24 THAO VU: I'll speak.

25 Good morning Commissioners, Director Miller.

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

1 Thao Vu with Mississippi Coalition of

2 Vietnamese-American Fisher Folks and Families. I will

3 keep my comment brief.

4 I just want to reiterate the safety issues that

5 were brought up in previous meetings and how dangerous it

6 is, particularly for fishermen using this bag dredge,

7 especially when they have to stand on a boat during rough

8 conditions, or inclement weather.

9 I actually have a photo I want to show the

10 agency and Commissioners.

11 SANDY CHESTNUT: Ms. Vu, you are going to have

12 to speak into the microphone so the court reporter can

13 hear you.

14 THAO VU: Okay.

15 COMMISSIONER GOLLOTT: Ms. Vu, with all due

16 respect, aren't you going to want to present this at the

17 next meeting when we reconsider this?

18 THAO VU: Yes, sir, I will bring it up again.

19 COMMISSIONER GOLLOTT: In the interest of saving

20 some time, why don't you just bring it up again next

21 month?

22 THAO VU: Okay. Since this is a long meeting,

23 I'll do that. Thank you.

24 COMMISSIONER GOLLOTT: Thank you, ma'am.

25 COMMISSIONER BOSARGE: Thank you, Ms. Vu.

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

1 Mr. Joe, that was the only other comment they

2 had on that issue.

3 JOE JEWELL: Next up for the Commission's

4 consideration, as you know, earlier this month we had a

5 jubilee event that occurred from, approximately, Gulfport

6 Harbor and extended to Pass Christian, and Mr. Jonathan

7 Barr will give a presentation on those events.

8 JONATHAN BARR: Good afternoon Commissioners,

9 Director Miller, Ms. Chestnut.

10 Given the recent events, I'm going to brief the

11 Commission on our findings and, also, briefly explain some

12 of the things that have to take place for a jubilee to

13 occur.

14 Jubilee can, basically, be defined as a

15 naturally occurring phenomenon that takes place when

16 hypoxic, or poorly oxygenated, water traps fish and other

17 organisms in shallow, un-escapable areas.

18 On July 26th, 2017, we had several calls of a

19 localized possible jubilee event, mainly concentrated

20 around the Gulfport Harbor area.

21 We responded first thing that morning, and we

22 sampled from just west of Pass Christian Harbor to just

23 east of Broadwater Marina.

24 We sampled ten different locations within that

25 highlighted area. That's environmental data. We also

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

1 took water samples. We took samples from both the beach
2 and from a small vessel offshore.

3 The bottom DO was zero point nine nine six parts
4 per million. DO is the dissolved oxygen in the water.

5 Four to five and a half is a healthy marine eco
6 system. Anything below two puts fish and other organisms
7 under a tremendous amount of stress.

8 The temperature and the salinity weren't
9 necessarily alarming, just that it was warm at eighty-four
10 degrees and it was very salty at twenty-three point three
11 parts per thousand. Full strength sea water is about
12 thirty-two parts per thousand.

13 Here are a few pictures from the event. The
14 majority of the species that were affected were shrimp.
15 It was not a long event, so we didn't see a lot of finfish
16 involved. There weren't a lot of areas where we saw fish
17 washed up on the shore. For the most part, it was just
18 shrimp. This is a picture of the locals reaping benefits.

19 On July the 27th, we released this press release.
20 I'm not going to read it verbatim because it basically
21 just says about the same thing that I'm saying in the
22 presentation.

23 The very last paragraph, I highlighted, because
24 when an event like this takes place, we like the public to
25 know that bag and size limits do still take effect and you

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

1 also have to had proper licensing if you are going to
2 harvest any seafood from the beach (indicating slide).

3 There are a few things that can cause a jubilee.
4 They only happen during summer months, June to September,
5 when water temperatures are higher. That's above seventy
6 degrees. They happen during an incoming, or a neap tide.
7 They occur early in the morning before, or just after,
8 sunrise. They happen when conditions are calm with very
9 little wind.

10 The effect of this is that water layers are
11 stratified and don't mix well with these calm conditions.

12 Saltier, denser water settles to the bottom and
13 becomes stagnant.

14 In our case, a slight northern wind pushes the
15 fresher better oxygenated water south, but not at a rate
16 fast enough to mix the two.

17 The oxygen poor bottom layer drives benthic fish
18 and invertebrates to shallow shorelines where oxygen
19 levels are slightly higher.

20 This is a diagram of what I just read off. You
21 can't really see the pictures of the fish. They are in
22 white, but where atmospheric air meets that shallower
23 water it's a little bit higher in oxygen so it drives
24 those fish towards there. They are essentially pushed to
25 a dead end and trapped.

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

1 with that, do y'all have any questions?

2 COMMISSIONER GOLLOTT: Yes, sir, let me ask you
3 a question.

4 JONATHAN BARR: Yes, sir.

5 COMMISSIONER GOLLOTT: Fish are dying and they
6 are coming up on the beach and people are collecting them.
7 Is that right?

8 JONATHAN BARR: They are under stress. They are
9 not dead. I guess, if they were caught in these
10 conditions for long enough, eventually the hypoxic
11 atmosphere would, in fact, kill them, but, for the most
12 part, they do not persist long enough for what we would
13 consider a fish kill. They are just under distress.

14 A perfect example. On the 26th, it didn't
15 persist long enough for it to create a fish kill. They
16 swam back off and were fine.

17 No, sir, they are not dead. They get pushed up.

18 COMMISSIONER GOLLOTT: Let me ask the staff, if
19 it's all right, to look into suspending licenses and catch
20 limits and all that kind of stuff just during a jubilee in
21 that particular area that a jubilee is declared, and let
22 the public have whatever comes up on the beach. Look at
23 the ramifications for that and come back with some
24 recommendations.

25 Would it be practical?

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

1 JONATHAN BARR: We can definitely look into
2 that.

3 COMMISSIONER GOLLOTT: Thank you.

4 COMMISSIONER BOSARGE: When most people think of
5 a jubilee, that is an exciting time. In other words, it's
6 bad for the resource, but there were a lot of people that
7 sure enjoyed it.

8 I bet that one person with that ice chest full
9 of big shrimp, he enjoyed it.

10 SANDY CHESTNUT: Just to clarify, that would
11 require a regulation change to do what Commissioner
12 Gollott was suggesting, but I think he is just asking the
13 staff, now, to report back on the ramifications, if we did
14 go and do a regulation change.

15 JONATHAN BARR: Yes, ma'am.

16 COMMISSIONER BOSARGE: Look at it and come back
17 next meeting and give us a report. We appreciate it.

18 JONATHAN BARR: Yes, sir.

19 COMMISSIONER BOSARGE: Thank you.

20 JONATHAN BARR: Thank you.

21 JOE JEWELL: Just for the record for the
22 jubilee, I do want to state that counsel is correct. It
23 would take a regulatory change, but there are a lot of
24 things that impact the jubilee and that can be a factor.
25 I do want the Commission to understand that.

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

1 We will report all of the things that impact and
2 that are part of a jubilee, and some of those things can
3 be a health hazard, and we have to consider that because
4 all jubilees are not the same.

5 Part of what they did for this particular
6 jubilee was go out and collect water sample tests for
7 harmful algae blooms and there are some harmful algae
8 blooms that are deleterious to the public for consumption.

9 When we consider altering the rules for the
10 public, we have to consider those things that are harmful
11 to the public, and we will report those in the upcoming
12 presentation to the Commission.

13 COMMISSIONER GOLLOTT: Joe, most people think,
14 when they come on WLOX and say there's been a jubilee,
15 that the fish and the shrimp and everything are free, and
16 it sounds so crazy that you've got to have a license. A
17 lot of people might be in the area that don't even know
18 what the rules and regulations are on finfish.

19 It's something I have in mind, and maybe we
20 could let the Director say, okay, this is a jubilee and
21 you can say for people to get whatever they are going to
22 get and only for thirty minutes in this area, or only an
23 hour this is going to last, instead of saying you've got
24 to have all these licenses.

25 JOE JEWELL: They only have to have one, a

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

1 recreational license, and it sounds good. When there are
2 fish up on the beach and shrimp up on the beach, it's a
3 jubilee. It's a fun event, and children are up on the
4 beach. It's an exciting thing to happen, but we are also
5 charged with public safety, and some of the reasons that
6 they are up on the beach can be a harmful thing for the
7 public, especially if they are going to consume these
8 things. Part of what the DMR is charged with is public
9 safety.

10 COMMISSIONER GOLLOTT: All I was saying was
11 recommendations. We are not asking to change anything.

12 JOE JEWELL: That's exactly right. Some of the
13 things that we are going to bring to the Commission are
14 our duties and that is testing for harmful algae blooms.

15 The Commission will get that report, and it's up
16 to the Commission to make that decision.

17 The next thing up for the Commission's
18 consideration is Title 22 Part 21, Crab Regulations
19 Petition for Reconsideration.

20 The Commission received this Petition for
21 Reconsideration on the regulation.

22 Before we get started, I want to state here on
23 the title slide there are three things that the Commission
24 has to consider for this particular one, before we
25 proceed, and I have to say these things on the public

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

1 record.

2 As respectfully as possible, the petition does
3 not meet the following requirements outlined in Title 22
4 Part 15, Chapter 2, Section 106, contesting proposed
5 rules.

6 The first thing is the person desiring to
7 contest the making of the regulation may do so by
8 attending the public meeting on the proposed regulation
9 and stating the basis of their objection, or by filing a
10 written objection to the regulation no later than time
11 allowed for the written comments.

12 The second part of this section, the only
13 persons complying with one of the two methods for
14 objecting to the proposed regulation will be allowed to
15 petition the Commission for consideration of the
16 regulation.

17 Number two. Chapter 2, Subsection 107.01, after
18 the Commission has acted upon the regulation, any party
19 opposed to the regulation that complies with Section 106
20 may request reconsideration of the Commission's decision
21 by filing a Petition for Reconsideration within fourteen
22 days of the final adoption of the regulation.

23 Final adoption was filed with the Secretary of
24 State's office and posted on the administrative bulletin
25 on July the 18th, 2017.

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

1 The filing date for filing a Petition for
2 Reconsideration would have been August 1st. The petition
3 was filed on August the 3rd.

4 The final thing the Commission has to consider
5 is in Chapter 2, Subsection 107.03. The petition shall
6 state specifically the points of law, or facts, that the
7 Commission overlooked, or misapprehended, and shall
8 contain a statement of the action which the party wishes
9 the Commission to take.

10 With that being said, this is the same slide
11 that I presented in the first Petition for
12 Reconsideration. The Commission has at its disposal four
13 action items.

14 The first item. The Commission can make final
15 disposition of the Petition by either granting, or
16 denying, the requested action without further argument.

17 Number two, the Commission can request a
18 response from the MDMR, prior to making the final
19 disposition.

20 Number three. Set the matter for an evidentiary
21 hearing.

22 Number four. Make such further order as it
23 deems appropriate under the circumstances.

24 COMMISSIONER BOSARGE: Joe, before we make any
25 decisions, we have some folks that would like to make

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

1 public comments.

2 When you finish yours, let's let them have a
3 chance to make their public comment.

4 JOE JEWELL: Yes, sir.

5 The final slide is simply the petition that was
6 submitted on August 3rd.

7 If any of the representatives are here in
8 attendance that would like to speak to the petition, they
9 can do that, now, or the public comments can occur.

10 JAMIE MILLER: We do have three that have
11 requested to make public comments.

12 Also, we want to make sure for the record that
13 the individual that had submitted the initial Petition for
14 Reconsideration also submitted a letter to the agency
15 yesterday late in the evening, notifying the Commission
16 that they would not be available to attend the meeting
17 today, but they did request that staff and Commission keep
18 open the opportunity to sit down in the next few weeks.

19 I just wanted to make sure that is part of the
20 record, that we did receive this letter and we will make
21 it available for the record in the future.

22 We do have three folks that have asked to speak.

23 COMMISSIONER BOSARGE: Mr. Bob Metz.

24 ROBERT METZ: I'm Robert Metz, crab fisherman
25 from Lakeshore. Good morning sirs. It's a privilege to

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

1 be able to be here and speak on behalf of crab fishermen
2 in our county.

3 The only thing I would like to say is, as I
4 understand it, the regulation to allow the fishermen to be
5 able to ship their crabs out of state, or in state,
6 without becoming a licensed processor, was a good idea for
7 the fishermen to be able to make a better living and not
8 be under monopolistic control.

9 We've got a number of Asian crab fishermen who
10 are here who are reluctant to get up and talk because of
11 language barriers.

12 If it would be possible, could these gentlemen
13 be asked to stand up, if they are crab fishermen in favor
14 of keeping the law that they don't have to be licensed
15 processors to be able to ship their crabs?

16 COMMISSIONER BOSARGE: Yes, sir.

17 We would ask those folks to stand up, please.

18 ROBERT METZ: The crab fishermen that want to
19 keep it where you can ship your crabs, please stand up and
20 be counted.

21 (Members of the audience standing.)

22 COMMISSIONER BOSARGE: Good deal. Thank you,
23 sir.

24 ROBERT METZ: I'm old and I wish I could retire,
25 but I can't. I'm sorry to be up here in front of y'all

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

1 with not being able to present myself on the issues as I
2 used to be able to do. Thank you very much for your time
3 and the opportunity to state our case.

4 COMMISSIONER BOSARGE: Just so we're clear, Mr.
5 Metz, your group is supporting to change the laws and
6 adopt what we proposed?

7 ROBERT METZ: To adopt what you proposed to
8 allow fishermen to ship their own crabs in state, or out
9 of state, without becoming licensed processors with all
10 the red tape and laws and regulations that go with that.

11 I've been doing this for thirty years, and you
12 can see that's why I'm wore out.

13 COMMISSIONER BOSARGE: I see you hobbling a
14 little bit.

15 ROBERT METZ: I got sick the other day and it
16 has kind of knocked me back, but these men know that if
17 they send crabs out that aren't good, they aren't going to
18 have any business, and they are conscientious about it. I
19 know most of them, the Asians and the Americans, and they
20 have to get it right to be able to have continued
21 business.

22 I hate to see just one person in this area be a
23 crab processor, buyer, and not have anybody else to be
24 able to get to.

25 I'm limited in what I can do because of who I

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

1 want to sell to and who I don't.

2 Thank you very much, sir.

3 COMMISSIONER BOSARGE: Thank you.

4 Adam Metz.

5 ADAM METZ: I won't take up much of your time.
6 I would just like to stand and show my support for the
7 decision you-all made and we hope it stands. To me, the
8 fact that the state issues a products license, and, then,
9 limits the fisherman's ability to sell his product is
10 crazy, and I'm here to support your decision and the Blue
11 Crab Task Force decision, and for a few other fishermen
12 that couldn't make it today. Thank you.

13 COMMISSIONER BOSARGE: Thank you, sir.

14 COMMISSIONER BOSARGE: Ryan Bradley.

15 RYAN BRADLEY: Thank you, Commissioner. My name
16 is Ryan Bradley. I'm the Director of the Mississippi
17 Commercial Fisheries United, Incorporated.

18 Just briefly, I wanted to say we talked to some
19 of our members and we thoroughly reviewed the proposed
20 changes to the regulation and we agree unanimously that
21 this is a good decision to move ahead with these
22 regulation changes.

23 We think it is going to allow fishermen and
24 dealers to be more flexible with where they sell their
25 catch.

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

Commission on Marine Resources

1 There have been some occurrences of possible
2 citations going on that the fishermen feel like they
3 should not have been cited. I think these changes will
4 clarify and clear up any discrepancies in the law.

5 We support the proposed changes. That's all I
6 have. Thank you.

7 COMMISSIONER BOSARGE: Thank you, sir.

8 Mr. Joe, I think we are ready for you.

9 JOE JEWELL: This was the petition that was
10 submitted to the Commission for reconsideration
11 (indicating slide).

12 As you know, yesterday the petitioners submitted
13 a letter requesting the Commission to delay action on this
14 item until they can followup with a meeting with the
15 Commission.

16 At this time, the Commission not only has those
17 four options available to them to take action.

18 Do y'all have any questions on that?
19 (No response.)

20 JOE JEWELL: Other than the four, there are two
21 other options available. I guess counsel can weigh in on
22 that. You could either move forward with the proposed
23 regulation here, consideration of the petition, or you
24 could delay action.

25 COMMISSIONER BOSARGE: I would like to hear

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

1 maybe what counsel has to say about this because there are
2 a lot of things that happened within this petition that we
3 need their opinion on.

4 SANDY CHESTNUT: The petition wasn't in proper
5 form, it wasn't submitted timely and the petitioners
6 didn't have standing to submit the petition.

7 If those are the factors that you want to
8 consider, then, you can deny the petition based on
9 procedural issues and move forward with adoption of the
10 final regulation.

11 Again, you would have two separate options. You
12 would have the action on the petition itself, and, then,
13 the action on the regulation adoption.

14 COMMISSIONER GOLLOTT: Mr. Chairman, I would
15 like to make a motion that we deny the Petition for
16 Reconsideration and move forward with the regulation.

17 COMMISSIONER BOSARGE: We have a motion.
18 Any further discussion?
19 (No response.)

20 COMMISSIONER BOSARGE: Do we have a second to
21 that motion?

22 COMMISSIONER HARMON: So seconded, Mr. Chairman.

23 COMMISSIONER BOSARGE: Seconded by Mr. Ron
24 Harmon.

25 All in favor say aye.

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

1 (All in favor.)

2 COMMISSIONER BOSARGE: Opposed?

3 (None opposed.)

4 COMMISSIONER BOSARGE: Motion carries.

5 Do we need a motion, Joe, to proceed on with
6 final adoption?

7 COMMISSIONER GOLLOTT: I made that motion.

8 JOE JEWELL: I think the motion was to deny the
9 Petition for Reconsideration.

10 COMMISSIONER BOSARGE: Yes.

11 JOE JEWELL: The second motion would be for the
12 regulation.

13 Is that correct?

14 SANDY CHESTNUT: Yes.

15 COMMISSIONER GOLLOTT: I'll make that motion
16 that we adopt the final adoption on the regulation.

17 JOE JEWELL: To proceed with the final adoption,
18 correct.

19 SANDY CHESTNUT: What is the proposed effective
20 date of that, Joe?

21 JOE JEWELL: September the 1st.

22 SANDY CHESTNUT: Keep the same effective date
23 and move forward.

24 COMMISSIONER BOSARGE: Do we need to clarify
25 that motion more with the title and part?

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

1 JOE JEWELL: It's Title 22 Part 21.

2 COMMISSIONER BOSARGE: Can we incorporate that
3 into your motion?

4 COMMISSIONER GOLLOTT: Well, I make a second
5 motion to move forward with it.

6 JOE JEWELL: I think the motion would be to
7 proceed with the regulatory changes for Title 22 Part 21.

8 COMMISSIONER GOLLOTT: Correct.

9 COMMISSIONER BOSARGE: We have a motion.

10 Do we have a second?

11 COMMISSIONER HARMON: So seconded.

12 COMMISSIONER BOSARGE: Any further discussion?
13 (No response.)

14 COMMISSIONER BOSARGE: All those in favor say
15 aye.

16 (All in favor.)

17 COMMISSIONER BOSARGE: Opposed?

18 (None opposed.)

19 COMMISSIONER BOSARGE: Motion carries.

20 JOE JEWELL: Thank you, Commissioners.

21 If there are no other questions, that concludes
22 the Office of Marine Fisheries.

23 COMMISSIONER BOSARGE: Thank you, Joe.

24 We move on to Coastal Resources Management, Mr.
25 Jan Boyd.

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

1 JAN BOYD: Good morning Mr. Chairman,
 2 Commissioners, Director Miller, Ms. Chestnut.
 3 We have four action items for your consideration
 4 this morning and one program overview.
 5 Jennifer Wilder will be our first presenter.
 6 JENNIFER WILDER: Good morning.
 7 I will be presenting an update on the violation
 8 by Don Shaddix on Kings Bayou in Gautier, Mississippi.
 9 The original structures that were a violation
 10 was a keyhole boat slip that results in the destruction of
 11 Coastal wetlands and unauthorized pilings.
 12 This is a location map showing I-10, Gautier-
 13 Vancleave Road, Martin Bluff Road, and, then, here is the
 14 location of the violation.
 15 The Commission originally heard this violation
 16 in June.
 17 This is the area that contains the, now, keyhole
 18 slip from 2013, as it was originally, and these pictures
 19 are as it is now, with the exception that the pilings were
 20 removed before the June Commission meeting.
 21 June 20th, the violation was presented to the
 22 Commission and the Commission ruled that Mr. Shaddix be
 23 charged with restoring the area surrounding the keyhole
 24 slip, be issued a fine in the amount of eight thousand
 25 dollars, with four thousand being suspended, contingent on

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

1 that he restore the area around the keyhole slip within
 2 thirty days, pay the fine within ninety days and not have
 3 any more violations within two years.
 4 On July 20th, a site visit by staff showed the
 5 keyhole slip had not been restored.
 6 Staff recommends that this matter be forwarded
 7 to the Attorney General's office for further enforcement
 8 action.
 9 I will also point out that because he did not
 10 restore the slip within the thirty days as charged by the
 11 Commission that his fine reverts back to the eight
 12 thousand dollars.
 13 Any questions?
 14 COMMISSIONER BOSARGE: Do we have anybody here
 15 that wants to speak for Mr. Shaddix?
 16 JENNIFER WILDER: I haven't seen anyone.
 17 COMMISSIONER BOSARGE: Do we have any questions?
 18 (No response.)
 19 COMMISSIONER BOSARGE: Do we have a motion?
 20 COMMISSIONER HAVARD: Mr. Chairman, I'll make a
 21 motion we go with the staff's recommendations.
 22 COMMISSIONER BOSARGE: We have a motion.
 23 Do we have a second?
 24 COMMISSIONER HARMON: So seconded, Mr. Chairman.
 25 COMMISSIONER BOSARGE: Any further discussion?

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

1 (No response.)
 2 COMMISSIONER BOSARGE: All those in favor say
 3 aye.
 4 (All in favor.)
 5 COMMISSIONER BOSARGE: Opposed?
 6 (None opposed.)
 7 COMMISSIONER BOSARGE: Motion carries.
 8 Thank you.
 9 JENNIFER WILDER: Thank you.
 10 GREG CHRISTODOULOU: Good morning. I'm Greg
 11 Christodoulou. I will be presenting the next two items on
 12 Coastal's agenda this morning.
 13 We have a permit request by Cavenham Forest
 14 Industries. It's located on Turkey Creek in Gulfport,
 15 Mississippi. It's in the Industrial Development Use
 16 District. Environmental Management Services is the agent.
 17 This project is remediation at the former wood-
 18 treating facility. This is a much smaller project than
 19 what the Commission approved in 2012, a little bit
 20 different.
 21 The impacts with this project entail dredging
 22 the top two-and-a-half feet of an area in Turkey Creek
 23 with the dimensions given of two-hundred-and-ninety feet
 24 by forty feet, a bulkhead along the shoreline to protect -
 25 - with equipment working along the shoreline, there is

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

1 going to be no fill, no backfill with this bulkhead --
 2 and, then, the final step will be a six inch riprap layer
 3 in the dredged area to prevent scourrr.
 4 The location of the project is indicated on the
 5 aerial view by the yellow thumbtack. Turkey Creek is
 6 here, and, then, this will be Bayou Bernard, the
 7 Industrial Seaway.
 8 This is a diagram showing the project. The
 9 dredging will be in this red highlighted area here. The
 10 bulkhead will be this black dotted area here. This area
 11 along the shore will be the location of the work pads for
 12 the heavy equipment to utilize.
 13 The public benefits of the project will include
 14 the removal and reduced risk of contaminants entering
 15 Turkey Creek and the surrounding water and the aquatic
 16 food chain.
 17 The project is allowable in the Industrial
 18 Development Use District.
 19 The applicant has requested a variance from
 20 Chapter 8, Section 2, Part 111.0.1, and that's the
 21 variance that says permanent filling of coastal wetlands
 22 because of potential adverse and cumulative environmental
 23 impacts is discouraged.
 24 The justification by the applicant is that the
 25 impacts to coastal wetlands would be no worse than if the

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

1 guidelines were followed.

2 They are removing two-and-a-half feet of
3 sediment. The filling is only the riprap which is about
4 six inches in depth. The result of the fill is
5 negligible.

6 Similar projects have been approved by the
7 Commission.

8 The impacts to coastal wetlands will include
9 disturbance of the benthic fauna and an increased
10 turbidity in the area. This should be limited by the use
11 of best management practices and turbidity screens.

12 The purpose of the project is to protect the
13 biological integrity of the coastal wetlands and public
14 health.

15 Again, this is a remediation activity at a
16 former creosote, or wood-treating facility. There will
17 also be a temporary road with the impacts that I mentioned
18 earlier. The road will be in upland areas.

19 All the dredged material will be removed from
20 the site and properly disposed of in a location that will
21 accept the type of material.

22 Best management practices will be employed
23 throughout the process. The equipment will work from mats
24 adjacent to Turkey Creek.

25 No additional sites were considered.

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

1 The project site is in an Industrial Use area.
2 However, there are some residential areas to the south,
3 but the majority of the work will be below the surface of
4 the water. Scenic qualities should not be impacted by the
5 proposed project.

6 The project was placed on public notice in the
7 Sun Herald on May 21st, 28th and June 4th, and also on the
8 DMR website.

9 We had three requests for a public hearing, but,
10 when we had the hearing, we had no one to attend and there
11 were no comments.

12 DEQ is reviewing the project.

13 Archives and History has no objections.

14 Secretary of State says there are no lease
15 issues.

16 Wildlife, Fisheries and Parks recommends best
17 management practices.

18 Recommendation by the staff is that the project
19 would serve to remove and prevent these contaminants from
20 the former wood-treating facility entering the public
21 waters. The staff recommends approval of the variance
22 request and permit, contingent on DEQ's water quality
23 certification.

24 COMMISSIONER BOSARGE: Do we have any questions?
25 (No response.)

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

1 COMMISSIONER BOSARGE: I had one.

2 Greg, they will be able to do all of that work
3 the way they are planning?

4 GREG CHRISTODOULOU: They believe they will,
5 yes. They are matting down to the shoreline, putting in
6 the bulkhead to help stabilize the work there, and they
7 think they can get everything with a long stick.

8 They are going to take the material out, put it
9 in like a slurry box, and, then, pump it back to a bermed
10 area and place it in geo-tubes.

11 COMMISSIONER BOSARGE: This is going to be, I
12 guess, kind of similar to the work over in Gautier at that
13 wood-treating facility?

14 GREG CHRISTODOULOU: A little similar to that,
15 yes. Same type of stuff.

16 COMMISSIONER BOSARGE: You will be watching them
17 close.

18 GREG CHRISTODOULOU: We will make sure they have
19 their stuff up.

20 COMMISSIONER GOLLOTT: Mr. Chairman, I would
21 like to make a motion that we accept the staff's
22 recommendation on this project and move forward.

23 COMMISSIONER BOSARGE: We have a motion.

24 Do we have a second?

25 COMMISSIONER TRAPANI: I second that.

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

1 COMMISSIONER BOSARGE: Any further discussion?
2 (No response.)

3 COMMISSIONER BOSARGE: All those in favor say
4 aye.

5 (All in favor.)

6 COMMISSIONER BOSARGE: Opposed?

7 (None opposed.)

8 COMMISSIONER BOSARGE: Motion carries.

9 GREG CHRISTODOULOU: The next project is a
10 request for a permit by Mississippi Department of Marine
11 Resources. It's located in the Mississippi Sound. This
12 will be northwest of Round Island and the newly created
13 island from the beneficial use material. It is located in
14 the General Use District.

15 The applicant is proposing to create a two
16 hundred acre off-bottom oyster aquaculture lease site.
17 The site will be used for training by the DMR for
18 perspective aquaculture enthusiasts and for anyone who is
19 ready to go for a commercial lease area.

20 The impacts for the project are the floating
21 baskets that will be used to hold the oysters and they
22 will cover just a maximum of twelve percent of the site
23 area, and, then, the pilings, or the screw-down anchors
24 that will be used to anchor the cages and lines to the
25 bottom.

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

1 Here are the coordinates I marked off on an
2 aerial image showing each corner and the center location
3 near Singing River Island and the newly created Round
4 Island addition.

5 Here is a schematic of it.

6 I will try to explain the system that is going
7 to be used at this site. This is called the floating cage
8 system.

9 Basically, what you have is you have wire mesh
10 vinyl coated cages which hold the oysters. In most cases,
11 they will be down beneath the water column, and these are
12 floats, or pontoons, located above the cages (indicating
13 photographs).

14 At times, if the farmer sees that they are
15 starting to see some barnacles starting to attach to the
16 shells, or they see algae, or anything that might
17 disfigure the product, what they can do is they can flip
18 them over, basically, have the cages out of the water for
19 a period of time to remove the organisms.

20 Here is kind of the arrangement of how it works.
21 Basically, you will have a piling, or an anchor, on each
22 end. You will have lines tethered between them, and,
23 then, the baskets will be held onto that main line. Here
24 are some that are in the down position, and this would be
25 one that is in the up position (indicating photograph).

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

1 Decision factors. The applicant has stated that
2 the project will provide jobs and a product that is
3 available year round and, also, create near shore habitat
4 that is fish attractant and invertebrates attractant.

5 The use plan change will be required for the
6 project. Currently, it is a General Use area, and the
7 classification would need to be changed to S-2, or Special
8 Use Leased Wetlands for oyster cultivation, and S-3 which
9 is leased wetlands by the State for other purposes and, in
10 this case, it would be off-bottom oyster cultivation.

11 The justification provided by the applicants is
12 from Chapter 8, Section 2, Part 1.E.2.b.ii, and that is
13 there is a significant public benefit in the activity, the
14 impacts to public access and adverse environmental impacts
15 have been minimized, the general public and governmental
16 agencies were notified, and a public hearing was held. I
17 will get into a little bit more detail on those, as we go
18 along.

19 As far as precedent setting effects go, we are a
20 little bit unsure. I've been with the agency for almost
21 eleven years and I don't recall an off-bottom oyster
22 aquaculture project coming before the Commission. Anybody
23 who has been here longer may be able to correct me, but
24 I'm not sure if the Commission has ever had to rule on a
25 project like this. It could set a precedent.

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

1 If utilized to capacity, approximately twenty-
2 four acres of the two hundred acre site would be taken up
3 by the floating baskets. The installation of the pilings
4 and anchoring devices would create a minimum amount of
5 turbidity. When they are installed, you will have a
6 little minor bit of turbidity and a loss of benthic
7 organisms.

8 It can be anticipated that with the increased
9 usage of the area, you may see some litter and some
10 increased fuel discharges. However, the folks that are
11 leasing this area will be required to abide by the
12 regulations that are set forth by DMR in Mississippi
13 Administrative Code, Title 22 Part 13.

14 The applicant has stated that the culture gear
15 will be arranged so that reasonable ingress and egress by
16 small vessels would be allowed. Small boats would be able
17 to get in-between the rows that are set up, and, then,
18 portions of the two hundred acre lease site that are not
19 production could still be freely accessed by the
20 recreational and commercial fishing sector. Where they
21 are not actively farming an area, that will still be
22 allowed to be used by the public.

23 Additional sites were considered, and, if you
24 looked at your packet, I outlined a lot of factors that
25 were considered into locating one of these sites, things

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

1 like salinity, bottom, shelter from wind and waves,
2 riparian issues, Archives and History type issues.

3 This type of aquaculture does require a
4 waterfront location.

5 Preservation and natural scenic qualities.
6 Again, the location of the project is four tenths of a
7 mile from the newly created berm and almost nine tenths of
8 a mile from the southern shoreline of Singing River
9 Island. It's in a not very visible portion of the Sound.

10 The baskets, when they are in the upright
11 position, will be about two to three feet above the water
12 surface. The pilings, any of those that are out there,
13 will be a maximum of six feet above the water surface.

14 Now, the project could affect scenic qualities
15 in the area. However, again, that's an area that is only
16 really used by recreational and commercial fishermen and
17 people who are just going through the area.

18 Public notice was placed in both the Sun Herald
19 and the Mississippi Press, and a public hearing was held.
20 We received no public comments from the notice, or the
21 public hearing.

22 DEQ is reviewing the project.

23 Archives and History has not objections.

24 Secretary of State has said that a rent-exempt
25 lease will be required for the DMR training portion.

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

1 However, when it comes to an actual commercial venture,
2 there will be a market value lease required for those.
3 Wildlife, Fisheries and Parks recommends that
4 best management practices be utilized.

5 Staff's recommendation would be that this
6 project would establish a site for DMR to train those who
7 are interested in establishing an oyster aquaculture
8 venture. Also, the project would supplement the
9 traditional harvest of oysters that we see and possibly
10 reduce fishing pressure on those public reefs that we
11 have.

12 Staff recommends approval of the use plan change
13 and permit, contingent on 401 water quality certification
14 from DEQ.

15 COMMISSIONER BOSARGE: Do we have any questions?

16 COMMISSIONER HARMON: I've got one question.

17 I didn't see addressed in here hazards to
18 navigation, lighting.

19 GREG CHRISTODOULOU: It will have to have that.
20 Part of the permitting, not DMR's specific permitting part
21 of it, but, when it has to get a permit from the Corps of
22 Engineers, it has to go through their navigation folks and
23 it gets sent to the Coast Guard. The Coast Guard will
24 make sure that they have the correct lighting and the
25 correct markers around that site.

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

1 GREG CHRISTODOULOU: Thank you.

2 COMMISSIONER BOSARGE: Greg, before we actually
3 make any motions, Director Miller says we have one person
4 that would like to comment on this issue.

5 Mr. Ryan Bradley.

6 RYAN BRADLEY: Again, Ryan Bradley, Director of
7 Mississippi Commercial Fisheries United, Incorporated.

8 I just wanted to express our support for this
9 type of off-bottom aquaculture activity here in
10 Mississippi.

11 Just last weekend, I spent the day in Bayou
12 LaBatre visiting their oyster growing training ground and
13 this is some really cool stuff. Lots of great
14 opportunities.

15 I'm really looking forward to seeing this in
16 Mississippi. The eco system services provided by this
17 off-bottom aquaculture provides substantial benefits to
18 the entire public. The water quality increases.

19 You ought to see the fish anywhere around these
20 sites. There is good fishing all around there.

21 Obviously, being able to produce commercial
22 oysters is also a big benefit.

23 The public should be at ease from this type of
24 project and other types of projects because this is, now,
25 one of the most regulated activities in the State of

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

1 COMMISSIONER HARMON: Thank you, sir.

2 COMMISSIONER BOSARGE: One of my concerns is not
3 everybody is going to possibly know what this is. If we
4 could put some signs maybe on those markers stating
5 "Oyster Lease Area" where, once it gets out and people see
6 it and read it, they will realize what it is.

7 GREG CHRISTODOULOU: I think that can probably
8 be done.

9 COMMISSIONER BOSARGE: The only other, I guess,
10 concern I had is you guys put it in a good spot to protect
11 it from the weather, but that berm that we built at Round
12 Island seems to be a birding sanctuary.

13 Do you think that may pose any problem with the
14 runoff?

15 I don't mean it so much as a question. Just a
16 statement of what we may need to watch.

17 GREG CHRISTODOULOU: We do not anticipate that
18 being a problem. Generally, pollution concerns from the
19 animals is different than pollution concerns from humans,
20 and we don't think it is going to be a problem.

21 COMMISSIONER BOSARGE: I'm glad to see it. It
22 is something we have been needing to do. I know you guys
23 have looked up and down trying to find a spot. That looks
24 like as good a spot as any, and I'm glad to see it in
25 Jackson County. Thumbs up.

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

1 Mississippi. The public and environmental groups should
2 feel very comfortable with the regulations that have been
3 put forth, and we really hope to see this take off here in
4 Mississippi.

5 I applaud the Commission and the DMR for pushing
6 this along. Thank you very much.

7 COMMISSIONER BOSARGE: Thank you, Mr. Bradley.
8 We have the recommendation.

9 Do we have any further discussion?

10 (No response.)

11 COMMISSIONER BOSARGE: Do we have a motion?

12 COMMISSIONER GOLLOTT: Mr. Chairman, I'll make
13 the motion that we move forward with the staff's
14 recommendation and approving this site.

15 COMMISSIONER BOSARGE: Do we have a second on
16 that motion?

17 COMMISSIONER TRAPANI: I'll second that.

18 COMMISSIONER BOSARGE: Any further discussion?
19 (No response.)

20 COMMISSIONER BOSARGE: All those in favor say
21 aye.

22 (All in favor.)

23 COMMISSIONER BOSARGE: Opposed?

24 (None opposed.)

25 COMMISSIONER BOSARGE: Motion carries.

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

1 Thank you.

2 GREG CHRISTODOULOU: Thank you.

3 CHRIS PICKERING: My name is Chris Pickering. I
4 will be presenting a Petition for Reconsideration by Ms.
5 Juanita Starr. It's located on Tchoutacabouffa River at
6 12033 Motsie Circle in Biloxi, Harrison County,
7 Mississippi, and it's in the General Use District.

8 The project involves the construction of a
9 hundred and twenty linear feet of bulkhead which is out of
10 compliance with the general permit issued on July 5th,
11 2016.

12 On July 18th of this year, the Commission issued
13 fines to Ms. Starr and Mr. Shepler who is Ms. Starr's
14 authorized agent in the amount of a thousand dollars each
15 and ordered the bulkhead be brought in compliance with the
16 general permit.

17 On July 27th of this year, Michael Yentzen filed
18 a Petition for Reconsideration of the Commission's
19 decision on behalf of Ms. Starr.

20 Title 22 Part 15, Administrative Rules as
21 Required by Mississippi Administrative Procedures Law,
22 Chapter 2 Section 107 addresses the requirements for
23 petitions for reconsideration submitted to the Commission.

24 Chapter 2 Section 107.03 requires that the
25 petition shall state specifically the points of law, or

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

1 fact, which the party requesting the reconsideration
2 believes the Commission overlooked, or misapprehended.

3 The petitioner states that the fine issued by
4 the Commission was not supported by the evidence and was
5 arbitrary and capricious.

6 The petitioner also states that the letter which
7 serves as a formal outline of the Commission's ruling does
8 not properly characterize the Commission's ruling as it
9 does not allow Ms. Starr to apply for an after-the-fact
10 permit.

11 The petitioner requests that the fine be reduced
12 against the applicant and the contractor to the minimum
13 fine allowed of fifty dollars, and allow the applicant
14 sixty days from the date of the reconsideration to apply
15 for an after-the-fact permit.

16 At this time, the Commission may do one of four
17 things.

18 You may make a final disposition of the
19 petition, by granting, or denying, their requested action
20 without further argument.

21 You may request a response from the DMR, prior
22 to making a final disposition.

23 You may set the matter for an evidentiary
24 hearing.

25 You may make such further order as the

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

1 Commission deems appropriate under the circumstances.

2 COMMISSIONER BOSARGE: Do we have any discussion
3 here?

4 COMMISSIONER GOLLOTT: Is the applicant here?

5 CHRIS PICKERING: Yes, they are here.

6 COMMISSIONER GOLLOTT: would they like to speak
7 to us?

8 CHRIS PICKERING: We have a response, if y'all
9 want that. If not, that's fine, too.

10 MICHAEL YENTZEN: Yes, I would like to speak.
11 I'm Michael Yentzen.

12 COMMISSIONER BOSARGE: Yes, sir.

13 MICHAEL YENTZEN: I think it is a very good
14 summary of what the Petition for Reconsideration states,
15 but I would like to give a little bit more detail.

16 I think the fines should be commensurate with
17 the culpability of the applicant and the contractor, and I
18 don't think they were. We respectfully request
19 reconsidering the fine amount.

20 If we go back to the July 18th, meeting, there
21 were two other violations that were brought before the
22 Commission.

23 One was a party that, by their own admission,
24 built a bulkhead without the proper permit, and they did
25 it because they figured that it would be less expensive to

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

1 get a permit after the fact than to actually apply for it
2 and go through the process.

3 The DMR recommendation was for a fine of two
4 thousand dollars for the applicant and a thousand dollars
5 for the contractor, and that was reduced, by the
6 Commission, to a thousand for the applicant and a thousand
7 for the contractor.

8 The same fine was levied on the applicant and
9 the contract in this situation which is a completely
10 different situation from the facts.

11 The facts are, in this situation, the applicant
12 went through the proper procedure. There is a
13 misunderstanding. There were some changes, very minor
14 changes that weren't brought to the contractor's
15 attention. The contractor built the bulkhead per the
16 drawing they submitted, thinking that was the approved
17 drawing.

18 There was a complete misunderstanding. There
19 was no intension to do anything in defiance of the DMR by
20 the applicant, or the contractor.

21 The other case that came before the Commission
22 at the July 18th meeting, was Roger Caplinger, Innovative
23 Builders. He built a bulkhead after he had applied for
24 the permit, but the permit was not issued.

25 The Commission exercised discretion and said

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

1 there were extenuating circumstances, and reduced the fine
2 from the thousand dollars recommended by the DMR to fifty
3 dollars which was the minimum fine.

4 We would request that the Commission do the same
5 for the applicant and the contractor in this situation,
6 considering the extenuating circumstances and that there
7 was no malicious intent by the applicant, or the
8 contractor, to do anything in defiance of the DMR, had
9 there been knowledge of the changes to the drawings, nor
10 there really should have been from a reasonable person
11 because they weren't apparent, the changes to the drawing
12 made by the DMR.

13 The second point that we are trying to make is
14 there is a back and forth, and, if you look at the minutes
15 of the meeting for the July 18th meeting, there is much
16 discussion about applying for an after-the-fact permit,
17 but, in the final, formal letter basically putting on
18 paper what the Commission's decision was, Executive
19 Director Miller did not allow for that option for the
20 after-the-fact permit application.

21 I think it was just an oversight, and that's why
22 we request this Petition for Reconsideration to allow us
23 to apply for an after-the-fact permit, and that wasn't an
24 option, like I said, in the formalized letter basically
25 explaining what the Commission's ruling was.

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

1 Like I said, I think if you look at the
2 transcript of the hearing, you will see that the intent of
3 the Commission was to allow the applicant to apply for an
4 after-the-fact permit. In fact, that was encouraged by
5 the Commission.

6 Do you have any questions about anything?

7 COMMISSIONER BOSARGE: I would like for Chris to
8 come up.

9 MICHAEL YENTZEN: Thank you.

10 COMMISSIONER BOSARGE: Thank you.

11 COMMISSIONER BOSARGE: Give us a little
12 clarification on what his arguments are.

13 COMMISSIONER GOLLOTT: I think you have a
14 response, don't you, Chris?

15 CHRIS PICKERING: Yes, if you want me to go
16 through the response.

17 COMMISSIONER GOLLOTT: Go through the response
18 real quick.

19 CHRIS PICKERING: To their first point that the
20 fine was issued by the Commission was not supported by the
21 evidence and was arbitrary and capricious, the applicant
22 was permitted for a bulkhead in accordance with the
23 condition of the July 5th, 2016, general permit.

24 Prior to issuance of the general permit, staff
25 placed flags along the shoreline at the current line of

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

1 mean high tide.

2 Two fixed object measurements were added to the
3 diagram and referenced in condition number one of the
4 general permit which also referenced the flags. We add
5 this on every bulkhead diagram we get in.

6 The bulkhead was constructed out of compliance
7 with that general permit.

8 DMR staff met onsite with Mr. Shepler, on May
9 2nd, 2017. He informed staff he would bring the bulkhead
10 into compliance within thirty days of that meeting. Staff
11 agreed to allow the agent to construct the last few feet
12 of the bulkhead at a forty-five degree angle to tie into
13 their neighbor's bulkhead. To date, the bulkhead is still
14 out of compliance.

15 Here are pictures. It's hard to see. There is
16 a flag there and a flag there and flags along the
17 shoreline here where we flagged it at mean high tide.

18 On June 19th, 2017, Mr. Shepler stated in a phone
19 conversation that he was told by the applicant and her
20 family not to bring the bulkhead into compliance while
21 they attempted to find a way to keep the bulkhead as is.

22 This matter was presented to the Commission last
23 month at the July 18th meeting. The Commission ruled to
24 issue a fine to Ms. Starr and Mr. Shepler in the amount of
25 one thousand dollars, each to be paid within sixty days of

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

1 the Commission's decision, or by September 16th, 2017.

2 The Commission also ruled to order the bulkhead
3 be brought into compliance with the general permit issued
4 on July 5th, 2016, within sixty days of the Commission's
5 decision, or by September 16th.

6 The fine was recommended in accordance with
7 Mississippi Code 49-27-51. The violation was discovered
8 on April 27th, 2017, at five hundred dollars a day, the
9 maximum potential fine was forty-one thousand dollars as
10 of last month's meeting.

11 To date, the violation has not been brought into
12 compliance and the applicant has not applied for after-
13 the-fact authorization.

14 SEAN MORRISON: Good morning Commissioners. I
15 just wanted to step in, at this point, because in the
16 Petition for Reconsideration, they do describe a decision
17 that y'all made as arbitrary and capricious.

18 Since that is a legal phrase, I wanted to give
19 you a little bit of idea of how the Mississippi Supreme
20 Court would describe that decision-making process.

21 The court states that an act is arbitrary when
22 it is done without adequately determining principle, not
23 done according to reason, or judgments, absolute in power,
24 tyrannical, despotic, none rational, implying either a
25 lack of understanding of, or a disregard for the

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

1 fundamental nature of things.

2 An act is capricious when it is done without
3 reason in a whimsical manner, implying either a lack of
4 understanding, or a disregard for the surrounding facts
5 and settled controlling principles.

6 One of the questions that the Commission has to
7 determine here, in looking at this fine amount is whether,
8 in fact, that decision was arbitrary and capricious.

9 There are a couple of things I would like to
10 highlight, based on Chris' presentation so far.

11 The maximum potential fine as of the last
12 meeting was forty-one thousand dollars, and that was as of
13 the last meeting. Because an after-the-fact permit hasn't
14 been filed, that number goes up every day since then.

15 The Commission issued fines in the amount of one
16 thousand dollars.

17 Now, the petition does say that other people
18 during that meeting were issued lesser fines, or under
19 different circumstances, but the Commission fully has the
20 power to consider different circumstances, especially when
21 they are unrelated permits completely, and issue fines
22 accordingly.

23 That's all I wanted to let you know.

24 COMMISSIONER BOSARGE: Thank you.

25 CHRIS PICKERING: On to the second point, the

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

1 petitioner states that the letter which serves as a formal
2 outline of the Commission's ruling does not properly
3 characterize the Commission's ruling as it does not allow
4 Ms. Starr to apply for an after-the-fact permit.

5 Staff sent an email on June 28th of this year
6 detailing what would be required to complete an after-the-
7 fact application.

8 Staff also informed everyone at the site
9 meeting, on June 29th, 2017, how to complete an after-the-
10 fact application.

11 Staff met with the applicant's attorney, on July
12 24th, 2017, which was shortly after the Commission's
13 meeting last month, handed him an application packet and
14 explained how to complete the after-the fact application,
15 and he was told, then, that it should be a part of the
16 Petition for Reconsideration.

17 Staff has reviewed the transcript of the July
18 18th, 2017, Commission meeting, and the Commission passed a
19 motion to issue a fine of one thousand dollars each to the
20 applicant and agent, to be paid within sixty days of the
21 July Commission meeting, order the bulkhead be brought
22 into compliance with the general permit issued on July 5th,
23 2016, within sixty days of the July Commission meeting, or
24 the matter will be forwarded to the Attorney General's
25 office, if these deadlines are not met.

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

1 This ruling was in accordance with staff's
2 recommendation, except for increasing the number of days
3 allowed for payment of the fines and for bringing the
4 bulkhead into compliance from thirty to sixty days.

5 The letter sent to Ms. Starr and copied to Mr.
6 Yentzen, dated July 20th, 2017, stated the Commission's
7 ruling and explained how to petition for reconsideration
8 of that ruling.

9 This is the letter that was sent. It describes
10 basically what y'all ruled for them, and this describes
11 how to petition for reconsideration (indicating slide).

12 Staff recommends the Petition for
13 Reconsideration filed by Mr. Yentzen on Ms. Starr's behalf
14 be denied.

15 COMMISSIONER GOLLOTT: Mr. Chairman, I would
16 like to make a motion that we deny this Petition for
17 reconsideration.

18 MICHAEL YENTZEN: Could I make a --

19 COMMISSIONER BOSARGE: (Interposing) One
20 second. Let us get our motion in, and, then, we will hear
21 what you have to say.

22 MICHAEL YENTZEN: I think I should have a chance
23 to respond to that, before you actually make a motion and
24 shut me down completely.

25 COMMISSIONER GOLLOTT: Mr. Chairman, I will

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

1 withdraw my motion, until after he speaks.

2 MICHAEL YENTZEN: I'm not sure exactly what is
3 happening here. Like I said, if you look at the
4 transcript from the prior meeting, there was much
5 discussion about applying for an after-the-fact permit.

6 In fact, when I met with staff here at this
7 building after the meeting, on July 18th, I was
8 specifically told that I needed to submit a Petition for
9 Reconsideration because the final ruling, or the final
10 disposition by the DMR in that letter did not allow for
11 the application for an after-the-fact permit.

12 I'm feeling like the rug is being pulled out
13 from under me because, now, staff has no knowledge of that
14 conversation where the staff specifically told me that
15 since the letter from the DMR didn't allow for an after-
16 the-fact application for a permit, that I needed to file a
17 Petition for Reconsideration.

18 In fact, if you deny my Petition for
19 Reconsideration, I have no options but to either --

20 COMMISSIONER BOSARGE: (Interposing) If I
21 remember correctly, the conversation that we had the last
22 time, the conversation was that if you did not file for an
23 after-the-fact permit, you kind of tied our hands with
24 what we could do.

25 MICHAEL YENTZEN: Right, but there was implied

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

1 in that the disposition for the Commission would be that
2 we would be allowed to file an after-the-fact application,
3 whereas the letter did not allow us that option. It said
4 that we needed to bring the bulkhead into compliance.

5 Basically, we needed to --

6 COMMISSIONER GOLLOTT: (Interposing) Excuse me,
7 sir.

8 Have you filed that?

9 MICHAEL YENTZEN: An after-the-fact application?

10 COMMISSIONER GOLLOTT: Yes.

11 MICHAEL YENTZEN: No, sir, we didn't because the
12 letter didn't allow for that, the ruling, the letter from
13 the Commission from the July 18th meeting, and I think that
14 was a recommendation that was made to us by the DMR staff,
15 that we file a Petition for Reconsideration just for that
16 point, and, now, I'm not understanding what is going on
17 because we just want the option to be able to apply for an
18 after-the-fact permit, and we haven't been given that
19 option yet.

20 I understand we had the option before the July
21 18th meeting.

22 COMMISSIONER BOSARGE: You have that option at
23 any time.

24 MICHAEL YENTZEN: That's not my understanding.

25 COMMISSIONER GOLLOTT: I think you have had this

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

1 option since June.

2 MICHAEL YENTZEN: Sir, that is not what I was
3 told by the DMR staff, and, if you look at the specific
4 language of the letter that talks about the Commission's
5 ruling, it doesn't allow for that option.

6 COMMISSIONER GOLLOTT: I believe our attorney
7 has the minutes.

8 SANDY CHESTNUT: The minutes are very clear on
9 what the motion was and I can read those, if you would
10 like.

11 Commissioner Gollott said one thing we could do
12 is give them a little more time to work on it, give them a
13 month to work on it. I would like to go along with
14 staff's recommendation.

15 Would y'all have a problem with sixty days?

16 Let's change it to sixty days. That will give
17 them more time to work on it.

18 Willa Brantley said, no, sir. We would not have
19 a problem with sixty days.

20 Commissioner Bosarge said, so, do you want to
21 put that in the form of a motion?

22 Commissioner Gollott: Yes. Go with staff's
23 recommendation with a fine of a thousand dollars, give
24 them sixty days to comply on both cases.

25 Then, Chris Pickering clarified. This is for

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

1 both the fine payment and bringing it back into the
2 permit.

3 Commissioner Gollott: If there is no legal
4 ramification.

5 Commissioner Bosarge: All right. We have a
6 motion.

7 Do we have a second?

8 Commissioner Harmon: So seconded.

9 Commissioner Bosarge: All in favor say aye.
10 All were in favor.

11 As far as what the Commission ruled on, it is
12 very clear from the transcript what the ruling was.

13 Now, I think there has been some discussion with
14 you and the staff about the after-the-fact permit. There
15 was actually a meeting, I'm understanding, where you-all
16 went through the process and what it would take to file
17 the after-the-fact application.

18 If Chris, or Sean, wants to address that, since
19 I wasn't present for that, we can hear that.

20 MICHAEL YENTZEN: Yes, ma'am, but my point is,
21 from a procedural standpoint, what transpired at the
22 meeting was all well and good. However, the official
23 ruling from the Commission was sent to me by letter which
24 didn't give me an option for applying for an after-the-
25 fact permit. That's why we filed the petition for

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

1 Reconsideration.

2 I think it's very clear that that was the
3 reason. The option for filing for an after-the-fact
4 permit wasn't a part of the letter from the DMR stating
5 specifically what the ruling of the Commission was.

6 SANDY CHESTNUT: But the after-the-fact permit
7 has been an option all along.

8 COMMISSIONER BOSARGE: It didn't say you could
9 not file for it.

10 MICHAEL YENTZEN: No. It says it needs to be
11 brought into compliance with the original permit which
12 implies that --

13 COMMISSIONER BOSARGE: (Interposing) Unless you
14 file an after-the-fact application.

15 MICHAEL YENTZEN: That's not the way I read it,
16 and that's not the way that the staff indicated to me that
17 I should file a Petition just for that very purpose. I
18 feel sort of...

19 SANDY CHESTNUT: But there had been discussions
20 about the after-the-fact permit way before last month's
21 Commission meeting, and you kind of boxed in the
22 Commission in the fact that they couldn't consider an
23 after-the-fact because you hadn't filed that after-the-
24 fact application. They had to just look at whether you
25 could keep this, or not.

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

1 MICHAEL YENTZEN: I understand, but I think had
2 the letter allowed for the after-the-fact permit
3 application, we would have filed the after-the-fact permit
4 application. That is all we're asking for, now.

5 I mean, as far as the -- obviously, the
6 Commission has the discretion to determine what the fines
7 are. I just respectfully think that if we compare our
8 situation to other situations, that the fine was too high,
9 but the main request for reconsideration was to allow the
10 option for us to file the after-the-fact application for
11 the permit which wasn't specifically authorized by the
12 letter from Executive Director Miller, explaining what the
13 Commission's ruling is.

14 Specifically, I was told, by willa, that we
15 needed to file a Petition for Reconsideration for that
16 very reason because we weren't allowed, by the letter, to
17 file for an after-the-fact permit. That's why we did
18 this.

19 COMMISSIONER GOLLOTT: Were you here at the last
20 meeting when we passed this?

21 COMMISSIONER BOSARGE: Yes, he was.

22 MICHAEL YENTZEN: Yes. I go by the letter from
23 the Executive Director of the Department of Marine
24 Resources to basically set forth what the ruling was, what
25 the determination was by this Commission.

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

1 COMMISSIONER BOSARGE: If I remember correctly,
2 your reasoning at the last meeting was the reason that you
3 didn't file the after-the-fact permit application was
4 because it was almost like admitting guilt. If I remember
5 correctly, that was your statement, at some point.

6 In other words, that you knew, if you filed the
7 after-the-fact permit application, that you had put the
8 bulkhead in the wrong place. That's what I remember.

9 At that point, we told you that if you didn't
10 file the after-the-fact permit application, you tied our
11 hands and there is nothing we can do.

12 Without the after-the-fact permit, we can't rule
13 whether you did right, or you did wrong, or they did
14 right, or they did wrong. You've got our hands tied.

15 MICHAEL YENTZEN: Yes, sir, I understand. There
16 is no misunderstanding about that.

17 The explanation that I made about why we didn't
18 file the after-the-fact permit application was the way
19 that the after-the-fact permit was explained by the DMR
20 staff, but, after talking to a consultant and looking into
21 it further, I think we can file, and we are happy to file
22 an after-the-fact permit application.

23 It's just that the letter from the DMR about the
24 Commission's ruling didn't clarify that. It wasn't an
25 option given to us by letter, and that's what I go by as

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

1 an attorney, as far as the official ruling of the
2 Commission.

3 I'm sorry if there is a misunderstanding. The
4 idea to file a Petition for Reconsideration was discussed
5 with staff for DMR. In fact, it was suggested by DMR
6 because of that specific fact, that the option for apply
7 for an after-the-fact permit wasn't allowed in the letter
8 from the DMR explaining the ruling by the Commission.

9 I know I keep rehashing this.

10 COMMISSIONER BOSARGE: I understand that. I
11 think a lot of it is that every letter they send out
12 doesn't list every option that you can possibly do. That
13 is your job to look at what options are available to you.

14 Now, if you ask them, yes, they will tell you
15 all of your options.

16 MICHAEL YENTZEN: Again, that was the suggestion
17 by the DMR staff that we file a Petition for
18 Reconsideration.

19 The letter that I received from the DMR about
20 the Commission's ruling did not allow for an option to
21 file the after-the-fact permit application.

22 We don't want to be contentious for the sake of
23 being contentious.

24 COMMISSIONER GOLLOTT: One more thing. We
25 brought the fine down from forty-one thousand dollars to a

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

1 thousand dollars, and you still think it's too much.

2 Mr. Chairman, I would like to go ahead and make
3 the motion that this Petition for Reconsideration is
4 denied, and move forward.

5 COMMISSIONER BOSARGE: I have a motion.

6 Do I have a second?

7 COMMISSIONER HARMON: So seconded, Mr. Chairman.

8 COMMISSIONER BOSARGE: All those in favor say
9 aye.

10 (All in favor.)

11 COMMISSIONER BOSARGE: Opposed?

12 (None opposed.)

13 COMMISSIONER BOSARGE: Motion carries.

14 Chris.

15 CHRIS PICKERING: Part of the Petition for
16 Reconsideration should have been them turning in an after-
17 the-fact application which we have not received.

18 COMMISSIONER BOSARGE: I agree.

19 Just for clarification, where are we right now
20 with this issue?

21 CHRIS PICKERING: They have, from what I
22 understand, sixty days from that Commission meeting -- I
23 think it was September 16th -- to bring it into compliance.

24 SANDY CHESTNUT: To pay the fines.

25 CHRIS PICKERING: To pay the fines and bring it

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

1 into compliance, or it will be forwarded to the Attorney
2 General's office.

3 COMMISSIONER BOSARGE: Thank you.

4 JENNIFER WITTMANN: That's it for permitting.

5 COMMISSIONER BOSARGE: Thank you.

6 JENNIFER WITTMANN: I'm Jennifer Wittmann and,
7 in June, I took over a new role in the Office of Coastal
8 Resources Management, and I will be Bureau Director of
9 Coastal Preserves.

10 I wanted to take an opportunity to very quickly
11 introduce Coastal Preserves to some of the new
12 Commissioners, and let you know some of the great things
13 that we have accomplished just in the last six months. I
14 promise to be brief.

15 The Coastal Preserves Program was developed in
16 1992 by the authority of the Wetlands Protection Act, and
17 our program's objective is to acquire, protect and manage
18 sensitive coastal habitats along the Mississippi Gulf
19 Coast.

20 The area in yellow is the seventy-two acre
21 boundary of the lands that have been designated as Coastal
22 Preserves and currently the State owns title to
23 approximately forty thousand of those acres (indicating
24 slide).

25 We have several different groups out of our

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

1 office that work our invasive species patrols. From
2 January through the end of June this year, they conducted
3 forty-two waterway surveys of three hundred and ninety-
4 eight miles, did an aerial survey of one hundred and
5 ninety-five miles and twelve miles of ground survey in
6 areas that were not suitable for vehicular traffic.

7 Some of the things that they are looking for are
8 giant apple snails, cogon grass, we have feral hogs,
9 Chinese tallow tree, the tiger shrimp and salvenia.

10 We also have a prescribed fire group that works
11 in our office. One of those people is a Mississippi
12 Forestry Commission certified prescribed burn manager. We
13 have seven members on our prescribed fire burn team, with
14 DMR staff and NERR staff, and, then, we have two incident
15 qualification, or red card holders, but it should be noted
16 that all of our burn team members are qualified for that.
17 It's just that because of how we are licensed, we don't
18 have the ability to certify everyone to have a red card.

19 This is a prescribed fire at our wachovia site
20 over in Hancock County. This was a fire at Deer Island
21 and this was actually during one of our prescribed fire
22 training classes that we participated in (indicating
23 photograph).

24 Our beneficial use group recently placed new
25 material within the two hundred and twenty acre Round

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

1 Island beneficial use site that was recently completed.

2 We entered into a memorandum of agreement with
3 the City of Biloxi for fifty-five thousand cubic yards of
4 material to be placed within DIMR-2.

5 We coordinate the Mississippi Beneficial Use
6 Group with Federal, State, municipal, NGO's and industry
7 stake holders. We also work with mud to marshes volunteer
8 monitoring group on the beneficial use sites, Round Island
9 which you have already seen several times today, Deer
10 Island, and, then, Greenwood Island.

11 Something else we work with is public access.
12 We do regular maintenance on trails and parking areas.
13 Invasive species removal. We coordinate with Mississippi
14 Power for our Deer Island clean up. We have informational
15 kiosks and plant markers along the trails in most of our
16 preserves.

17 Again, pictures on trails and some of our
18 maintenance and kiosks locations.

19 We conduct biological monitoring on our preserve
20 sites. We work with the Coastal Stewardship program at
21 Deer Island.

22 We monitor the Pearlington, Mississippi, route
23 of the national amphibian monitoring program, and we are
24 also doing monitoring for Diamondback Terrapin on Deer
25 Island, Graveline Beach and Hancock County marshes.

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

1 We have a lot of interagency and NGO
2 coordination. I serve on the Mississippi Department of
3 Environmental Quality's permit board and on the U.S. Army
4 Corps of Engineers interagency review team for mitigation.

5 We worked with the U.S. Forest Service to set a
6 research station on a three-acre test tract at Deer Island
7 where we put in fourteen hundred slashh pine trees.

8 We worked with the USDA animal health inspection
9 wildlife services on a ferrill swine program.

10 We partnered with GCRL, wildlife Fisheries and
11 Parks, U.S. Fish and Wildlife Service, the Nature
12 Conservancy, the Land Trust and the Audubon Society.

13 These are some pictures of the ferrill hogs.
14 This was from the slashh pine planting at Deer Island, and
15 this was a wildlife Fisheries and Parks project that we
16 helped with.

17 In addition to that, we also do outreach and
18 education. We did three school presentations, reached two
19 hundred and fifteen students, and a community meeting with
20 the Bellefontaine Homeowners Association. We participated
21 in Salamander Saturday which was a nationwide event with
22 events all over the country on a Saturday in May.

23 We had an article written for the Mississippi
24 Wildlife Federal Magazine called "Destination Deer
25 Island".

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

1 We participate in a lot of coordination and
2 committees as well, the Turkey Creek Watershed Committee,
3 Pascagoula River Basin Alliance. We are working with the
4 Restore Act with all of the monies that are coming in from
5 the oil spill. Mike Hersley serves as the council
6 coordinator for the Mississippi Invasive Species Council.
7 We are a representative on the Mississippi Cooperative
8 Management area and the Mississippi Wild Hog Task Force.

9 Given all of that, we still face a lot of
10 challenges, and about a year and a half ago we came
11 forward to you with some proposed rules and regulations
12 that ultimately didn't come into place, but I hope that
13 you will see things from us a little more often, that we
14 can work together in the coming months to try to get some
15 commonsense rules and regulations to make sure that
16 everyone is safe and that our preserves are utilized to
17 the their best.

18 Trash is always going to be a big problem. The
19 top picture is from the 4th of July one year. Because our
20 preserves are wild areas and they are not heavily
21 maintained, people dump trash there and that's something
22 that we have to deal with on a regular basis.

23 This was a fire that was built on the boardwalk
24 at our Ansley Preserve, and, then, this was a campfire
25 that got out of control at Deer Island that was near the

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

1 new pier (indicating photographs).

2 We have had fences and gates broken down.
3 People use the areas to go mud riding, and this is the
4 Graveline Beach, and, then, this is a wildfire at our
5 Indian Point preserve that got out of control, and, then,
6 we have also had a camp that has been built on State
7 property on the Pascagoula River (indicating photographs).

8 I know that Coastal Preserves hasn't always
9 presented a lot to the Commission and please don't expect
10 to see us every single month. I would like to have maybe
11 once a quarter some different people in our office kind of
12 tell you some of the things that we are doing and, as I
13 said, look for emails from me about those rules and
14 regulations and things that you may see as potential
15 problems, or things you want to see us change and what our
16 starting point is because I think it is really important
17 for the general public, as well as the DMR and the
18 Commission, that we have some commonsense rules and
19 regulations so that everyone is safe and can enjoy our
20 properties to the best of their abilities.

21 COMMISSIONER BOSARGE: I tell you what, you have
22 been busy.

23 JENNIFER WITTMANN: I have an amazing new staff.
24 We are a staff of six, with one intern. The things that
25 these people have been able to accomplish in the last six

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

1 months is pretty amazing.

2 COMMISSIONER BOSARGE: I saw where you were
3 recognized, and I can't remember the name of the magazine,
4 but congratulations.

5 JENNIFER WITTMANN: Thank you very much.

6 COMMISSIONER BOSARGE: Do we have any other
7 questions?

8 (No response.)

9 COMMISSIONER BOSARGE: Thank you.

10 JENNIFER WITTMANN: Thank you.

11 COMMISSIONER BOSARGE: I would like to recognize
12 Mr. T. J. Moran from Congressman Palazzo's office. Thank
13 you for being here, sir.

14 T. J. MORAN: Thank you.

15 COMMISSIONER BOSARGE: That concludes Coastal
16 Resources Management.

17 Next is Ms. Kasey Williams.

18 KASEY WILLIAMS: Good morning. I will be brief.

19 These are the financial results as of July 31st,
20 2017. We are in a new fiscal year.

21 The report is not up, but I'll just go ahead and
22 tell you that at the end of July, our State Revenue and
23 our Total Agency Revenue was three million dollars.

24 Our State Net Income was two point seven
25 million, and our Total Agency Net Income was two point six

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

1 million.

2 As you can see, we are back in the black. We
3 are good.

4 After one month of this fiscal year, we still
5 have ninety-eight point two percent of our Operating Funds
6 Budget remaining, and ninety-nine point seven percent of
7 our Tidelands Budget remaining.

8 COMMISSIONER BOSARGE: Good job.

9 KASEY WILLIAMS: Any questions?

10 (No response.)

11 KASEY WILLIAMS: Thank you.

12 COMMISSIONER BOSARGE: Good to see us back in
13 the black. Thank you.

14 Ms. Melissa Scallan.

15 MELISSA SCALLAN: Good afternoon everybody.

16 The agency was mentioned seventy-four times in
17 local, state and national media, since the last CMR
18 meeting.

19 Some of the items that got the most attention
20 were the jubilee, as well as the beginning of the next
21 phase of our oyster cultch program that is going to happen
22 later this month.

23 I can tell you that went from Coast to Coast. We
24 were mentioned in Seattle and in Maryland. That is
25 something a lot of people are interested in.

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

1 we also participated in quite a few events, the
2 Natchez Food and Wine Festival, as well as the Great
3 American Seafood Cookoff. I'm sad to report we did not
4 win this year, but our chef made a good showing.

5 Megan Fleming and Sara Pace from the Finfish
6 Bureau represented the agency at the CCA Biloxi Bay
7 Chapter Kids Fishing Rodeo, on August the 5th at Point
8 Cadet.

9 we also had quite a few employees who helped
10 with the Southern Legislative Conference held on the Coast
11 late last month.

12 Marine Patrol officers also participated in
13 outreach events, including the CCA Kids Fishing Rodeo in
14 Ocean Springs, Safety Day at Biloxi Coastal Health and
15 several other fishing rodeos.

16 Marine Patrol also held three boat-and-water
17 safety classes in July and certified nineteen students.

18 COMMISSIONER BOSARGE: Thank you, Melissa.

19 Do we have any other business to come before
20 this Commission?

21 (No response.)

22 COMMISSIONER BOSARGE: Hearing none, I will ask
23 for a motion to adjourn.

24 COMMISSIONER GOLLOTT: You've got it, Mr.
25 Chairman. Motion to adjourn.

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

1 COMMISSIONER BOSARGE: Do we have a second?

2 COMMISSIONER HARMON: So seconded, Mr. Chairman.

3 COMMISSIONER BOSARGE: All those in favor say
4 aye.

5 (All in favor.)

6 COMMISSIONER BOSARGE: Opposed?

7 (None opposed.)

8 COMMISSIONER BOSARGE: Motion carries.

9 (Whereupon, at 12:30 o'clock, p.m., the August
10 15, 2017, meeting of the Commission on Marine Resources
11 was concluded.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

C E R T I F I C A T E

1 I, Lucille Morgan, Certified Shorthand Reporter, do
2 hereby certify that the above and foregoing is a true and
3 correct transcript of the August 15, 2017, meeting of the
4 Commission on Marine Resources, as taken by me at the time
5 and place heretofore stated in the aforementioned matter
6 in shorthand, with electronic verification, and later
7 reduced to typewritten form to the best of my skill and
8 ability; and, further, that I am not a relative, employee,
9 or agent, of any of the parties thereto, nor financially
10 interested in the cause.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



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