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COMMISSION ON MARINE RESOURCES

June 19, 2012

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1 COMMISSION ON MARINE RESOURCES  
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3 MEETING OF COMMISSION ON MARINE RESOURCES  
4 June 19, 2012  
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7 TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT  
8 BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAYVIEW  
9 AVENUE, BILOXI, MISSISSIPPI, ON THE 19TH DAY OF JUNE 2012  
10 COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LADNER  
11 SOROE, CERTIFIED SHORTHAND REPORTER.  
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14 COMMISSION MEMBERS PRESENT:

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

19 ALSO PRESENT:

- 20 WALTER J. CHATAGNIER, Acting Executive Director DMR
- 21 JOSEPH R. RUNNELS, ESQ., Asst. Attorney General
- 22 SANDY CHESNUT, ESQ., Asst. Attorney General

1 MR. TAYLOR: Okay.  
2 MR. GOLLOTT: Mr. Chairman, I'd like to look at  
3 the agenda be amended to add under Section G Marine Fisheries a  
4 discussion of NOAA's draft skimmer trawl regulations and the  
5 adoption of a resolution for the CMR.

6 MR. TAYLOR: Okay. G-7. Do I have a second?  
7 MR. DRUMMOND: I'll second that.

8 MR. TAYLOR: All in favor. Passes.  
9 Any other changes to the agenda? Okay. Can I have a motion to  
10 approve the full agenda?

11 MR. DRUMMOND: So moved, Mr. Chairman.

12 MR. GOLLOTT: Second, Mr. Chairman.

13 MR. TAYLOR: All in favor. Passes.

14 Next we have approval of contracts. That will  
15 be under the executive director.

16 E. Executive Director's Report

17 MR. TAYLOR: Marine patrol, Chief Walter  
18 Chatagnier.

19 MR. CHATAGNIER: Mr. Chairman, under the  
20 executive director's report, Mississippi Department of Marine  
21 Resources intends to enter into three contracts during the next  
22 fiscal year for FY13.

23 Proposed contract with William Corky Perret, L.  
24 L. Casey Nicholson, and Carolyn Sue Barnes. Each of these  
25 individuals are retirees from the state retirement system, and

1 A. Call to Order

2 MR. TAYLOR: We'll bring the June meeting of the  
3 Department of Marine Resources meeting to order. And before we  
4 get started, I'd like to recognize Senator Wiggins for being  
5 with us. He's chairman of the Ports & Marine Resources  
6 committee up in Jackson. So treat him nice.

7 SENATOR WIGGINS: Thank you. Appreciate it.

8 B. Approval of Minutes Commission Meeting May 15, 2012

9 MR. TAYLOR: Okay. Approval of the minutes. Do  
10 I have a motion to accept the minutes as mailed to you?

11 MR. GOLLOTT: So moved.

12 MR. DRUMMOND: I second, Mr. Chairman.

13 MR. TAYLOR: All those in favor. Any opposed,  
14 no. Passes.

15 D. Public Comments

16 MR. TAYLOR: I assume that we don't have any  
17 since we didn't get anything.

18 C. Approval of Agenda

19 MR. TAYLOR: I'm sorry. Can I have a motion to  
20 approve the agenda? Are there any changes --

21 MR. CHATAGNIER: I've got some changes to make,  
22 Mr. Chairman.

3 Item H-3(c) needs to be removed from the agenda.

24 Item E-1(a) and (b), those need to be removed  
25 from the agenda and rescheduled for next month.

1 when the contract with retirees exceeds \$20,000 a year, the  
2 commission is required to approve entering into the contract,  
3 and the department must notify the appropriate chairman of both  
4 the House and the Senate of the actions.

5 Therefore, we are requesting that y'all approve  
6 these contracts for Fiscal Year 13.

7 MR. TAYLOR: Do I have a motion?

8 MR. GOLLOTT: So moved, Mr. Chairman.

9 MR. TAYLOR: Second?

10 MR. DRUMMOND: I second the motion.

11 MR. TAYLOR: Any discussion? All those in  
12 favor. Passes unanimous.

13 Okay. Marine patrol is going to be Rusty.

14 F. Marine Patrol

15 2. Marine Patrol Report

16 MR. PITTMAN: Good morning, Mr. Chairman,  
17 commissioners, Colonel Chatagnier. How y'all doing this  
18 morning? Senator Wiggins.

19 In your report in front of you, notice the first  
20 thing we did have three shrimping during closed season cases  
21 that we made this year.

22 We had a no seafood dealer's license. The  
23 dealer didn't have his license when we checked him.

24 We also had a roadside vendor without a seafood  
25 dealer's license.

1 On our fishing license violations, we had 32  
2 this past month. If you notice, some of the over-the-limit  
3 speckled trout.

4 And we had got one under there, if I can find  
5 it, possession of undersized speckled trout, 12 and a half to  
6 13 and a half inches. That was by a commercial fisherman.

7 Insufficient PFDs, running lights. We had  
8 several safety violations this month.

9 We taught four boat and water safety classes,  
10 certified 61 students.

11 Boating accidents with injuries, we had two.

12 Boating accidents without injuries, we had  
13 three.

14 Marine patrol did five special events. Kids  
15 fishing rodeo in Waveland, one in Gulfport, one at St.  
16 Michael's, and one in Pascagoula. We worked the Smokin' The  
17 Lake boat races in Gulfport.

18 On the very back under the JEA totals, it wasn't  
19 put on here for some reason, I don't know why. But one of our  
20 officers or two of our officers at night made a case on skimmer  
21 boat, a tow time, supposed to be a 55 minute tow time. When  
22 they had them pick the nets up, it was 92 minutes that they  
23 were pulling the trawl, the skimmer. That case, if I remember  
24 right, has been turned over to NOAA through our JEA program.

25 MR. TAYLOR: Thank you. Just let me say, y'all

5

1 do a great job. This past weekend, I think they had a poker  
2 run. My boat is right behind them in the small craft harbor,  
3 and your officers were out there. I didn't see them give  
4 anybody a ticket, but stopping people for throwing a wake at  
5 the mouth of the harbors and all, but a lot of people just  
6 don't know. It's not posted except on the seawall there, and  
7 sometimes they don't see it. But it was very much appreciated.

8 MR. PITTMAN: Thank you, Mr. Chairman.

9 MR. TAYLOR: Okay. Next up, marine fisheries.  
10 Dale is not here.

11 G. Marine Fisheries

12 MR. JEWELL: Good morning, commissioners.  
13 Welcome, Senator Wiggins. We're always happy to see our  
14 elected officials here at our meeting.

15 I'd like to do a couple --

16 MR. DRUMMOND: Can't hear you, Joe.

17 MR. JEWELL: I'm sorry. The speaker is not  
18 designed for tall people.

19 I'm going to give y'all a short update on a  
20 couple of issues.

21 First up, we've had a rather rare beast caught  
22 in our Mississippi Sound. This is technically a tiger shrimp.  
23 It is a variant. It occurs genetically one in a hundred born  
24 to this particular shrimp. It is a same genus species of the  
25 typical tiger shrimp that we reported here in previous

6

1 commission meetings. It is *Penaeus monodon*. But it is a  
2 variant. It is a rare color variant. As you see, it's a  
3 rather dark shrimp. It's almost black with a red band running  
4 down the back of the shrimp.

5 It's only been reported in the Gulf in two  
6 states, Florida and now in Mississippi.

7 It was caught in Long Beach harbor in a minnow  
8 trap by a charter boat shrimperman.

9 These have been maricultured in Australia and in  
10 Hawaii. So it's the same species. It's the first tiger shrimp  
11 that's been reported here in Mississippi waters this year. Of  
12 course, we caught 16 of them last year.

13 And we have the same concerns that we normally  
14 do with non-indigenous species. They displace native stocks.  
15 They compete for food sources, and they're potential disease  
16 vectors for our native species.

17 So it's just an interesting variant of the tiger  
18 shrimp, and I thought y'all would be interested in seeing that.

19 Of course, we also typically this time of year,  
20 we report to y'all on sea turtle strandings.

21 First up, I wanted to report to y'all a  
22 comparison of where we were last year with this year. This  
23 data, this particular slide is a little different from the data  
24 you'll see in the next couple of slides because it's based on  
25 the Friday data, and the latter ones were based on Monday's

7

1 data.

2 And this typically just shows to y'all that  
3 starting somewhere around in March, we see an increase in  
4 turtle strandings, and that continues on through May with the  
5 peak in April. So on average, we will see between two and  
6 three hundred turtle strandings in the Mississippi Sound  
7 between April and May.

8 I want take a look particularly at turtle  
9 strandings by month, and this is this year's data. And if  
10 you'll notice again, the trend is in March, April, and May with  
11 this year as a comparison to last year, the mortalities  
12 significantly dropped. We're finding more and more turtles  
13 alive. And most of these turtles that are alive are attributed  
14 to hook and line fishermen pier fishing.

15 Again, you see that most of the turtle landings  
16 are through April and May, and that is when fishing pressure,  
17 particularly commercial fishing pressure, shrimpermen are low.

18 And so our final slide, I wanted to take a look  
19 at a comparison between when the shrimping season was closed  
20 and when the shrimping season opened.

21 So that first bar there to your left shows that  
22 the turtle strandings prior to the opening of the shrimp season,  
23 that's where the majority of the strandings occurred. We have  
24 total strandings to date right now of 205. So 167 or about 82  
25 percent occurred prior to the opening of the commercial shrimp

8

1 season. So that means that most of the strandings occurred  
2 prior to the opening of the shrimp season.

3 Where if we look at after the commercial shrimp  
4 season, 38 strandings out of the 205 or about 19 percent. So  
5 after the shrimp season opened where most of the pressure of  
6 the commercial season occurs, you're seeing a lot less  
7 strandings occur.

8 So there really isn't a lot of rhyme or reason  
9 or relationship to the opening of the shrimp season in  
10 Mississippi waters. So all the more reason for more data  
11 collection or study to be occurring.

12 Any questions on that?

13 MR. BOSARGE: That's good news. I'm glad to  
14 hear that, especially after the season opened only nine, and I  
15 can't make the number -- is that 29? Those were turtles that  
16 were recovered alive, whether it be from hook and line or just  
17 found swimming alive?

18 MR. JEWELL: Yeah. Most of them were hook and  
19 line. There are a few that have been found that are alive that  
20 were stranded. But the vast majority of the 29 were found by  
21 hook and line interactions.

22 MR. BOSARGE: That's interesting, very  
23 interesting. Thank you.

24 MR. TAYLOR: Thank you very much on that.

25 MR. JEWELL: The final thing that I'd like to

1 future.

2 Any questions?

3 MR. TAYLOR: I do. You know, we are 18,000  
4 pounds over the quota. And you attribute that to better data  
5 is what you said?

6 MR. JEWELL: Well, there are many different  
7 reasons why that occurred. But certainly one of the primary  
8 ones is that we can now more accurately assess the data for the  
9 trip ticket program. That is the primary cause, but there are  
10 many different reasons for that.

11 MR. TAYLOR: Do you feel that maybe in the past  
12 that we might not have had -- we still might have been over but  
13 not because of the data not been able to recognize that we were  
14 over as much or...

15 MR. JEWELL: I think so, yeah.

16 MR. TAYLOR: Okay.

17 MR. DRUMMOND: Joe, I understand there's going  
18 to be a request by the commercial fishermen to increase that  
19 quota. Have you heard any of those rumors?

20 MR. JEWELL: We have been -- the staff has been  
21 approached with that request. I don't think they -- of course,  
22 at the last commission, you heard some of those requests. And  
23 certainly that's up to the commission to consider that. That  
24 would be a commission directive to have to increase that quota.

25 There are many different ways to go about

1 report to you is that, of course, at the last commission  
2 meeting, Dale advised y'all that we were approaching -- we're  
3 getting very close to the quota limit for the speckled trout.  
4 And I do need to report to y'all that not only have we -- of  
5 course, we closed the speckled trout season, commercial season,  
6 on May 19. But we have exceeded the quota. The quota is  
7 40,000 pounds, and now that the trip ticket program has engaged  
8 we can now more accurately tell where we're at in that program.  
9 We have officially landed 58,000 pounds.

10 So we have dramatically exceeded the quota. We  
11 typically go over a little bit, but never before have we  
12 exceeded the quota to this extent.

13 So needless to say, we are now internally  
14 examining how we go about reporting the quota, how we gather  
15 that data, and we are examining ways that we can prevent that  
16 overage occurring in the future. And we are assessing that in  
17 many different ways.

18 And, of course, at the last commission meeting,  
19 we addressed some of the questions that the commission had  
20 about the quota and the reporting system and interaction with  
21 the trip tickets. And we plan to come forward with a  
22 presentation. Buck is going to do that at the July meeting.

23 And so not only is he going to do that, he's  
24 been in preparation to do that, but we're certainly going to  
25 address that overage and how we intend to address that in the

1 addressing that issue. And that would be something that Buck  
2 intends to address during his presentation, yes.

3 So if there's no other questions, we are going  
4 to proceed with the agenda items.

5 First up on our agenda is shrimp season update  
6 by Ms. Traci Floyd.

7 3. Shrimp Season Update

8 MS. FLOYD: Good morning, Mr. Chairman,  
9 commissioners, Tiny and Sandy, and welcome Senator Wiggins.  
10 I'm Traci Floyd. This is the shrimp season  
11 report.

12 Mississippi shrimp season opened on Wednesday,  
13 May 30 at 6:00 a.m. And thanks to a mild winter and  
14 environmental conditions that were good for shrimp growth, this  
15 is one of our earliest openings on record.

16 For the new license season and going into the  
17 opening, we sold 421 resident commercial shrimping licenses,  
18 176 nonresident commercial, 127 resident recreational, and two  
19 nonresident recreational.

20 In our aerial survey on opening day, we counted  
21 210 boats working in Mississippi waters. And this is up by 48  
22 from last year.

23 This is just a view from the air some of the 100  
24 boats we saw concentrated north of Horn Island on opening day.

25 So to summarize by week since the opening, again

1 210 boats counted on opening day. Opening day is when we  
2 usually see by far the most trawling effort in our waters.

3           Going into the opening, the DMR samples showed  
4 an average brown shrimp of 49 count to the pound. On opening  
5 day, fishermen reported good numbers of predominantly 31-35 to  
6 36-40 count shrimp. And I'm referring to brown shrimp there.

7           The next week of June 7, that morning we counted  
8 30 boats working. The DMR sample again showed the average  
9 brown shrimp to be 49 count to the pound. And fishermen  
10 reported fair abundance of 41-50s to 61-70 count brown shrimp.

11           And then last week on the morning of June 13, 44  
12 boats were counted working. The DMR sample showed the average  
13 brown shrimp at 60 count per pound. Fishermen reported decent  
14 numbers, mostly south of the Intracoastal Waterway, in the  
15 36-40 count range.

16           As we usually see this time of year, there are  
17 larger white shrimp mixed in the catch, and since the opening  
18 we have seen 21-25s and larger. And as of last week, we begin  
19 to see 100 count and smaller size white shrimp which are  
20 indicative of the next generation.

21           This is very preliminary, but I wanted to share  
22 with you our landings. So far for 2012, all species heads on,  
23 the reports I've received from the port agent, getting close to  
24 about two million pounds.

25           And to break that down further, here we're

13

1 looking at the reports we've received, pounds of shrimp heads  
2 on landed for the first two weeks of shrimp season.

3           And that's a lot of numbers, so let me point it  
4 out. Here you see brown shrimp landed the first two weeks.  
5 And you can see here it's over a million pounds. And that's up  
6 from over 900,000 pounds last year.

7           Also, with this orange yellow line across, you  
8 can see by year since Katrina, the majority of brown shrimp are  
9 usually in the 41-50 count 51-60 count range, and that is the  
10 case this year with almost 500,000 in the 41-50 count range.

11           Also, the white shrimp I mentioned, so far this  
12 year for those two weeks, nearly 74,000 pounds were reported.

13           This is just an easier way to look at that.  
14 Here is 2012, again over a million pounds compared to the years  
15 since Katrina, you may recall 2007 we had a very good opening,  
16 so so far for 2012, as far as brown shrimp, the second highest  
17 two weeks since the opening.

18           Also, for white shrimp, always a lesser amount,  
19 nearly 74,000 pounds.

20           So unless you have any questions or comments,  
21 that concludes my report.

22           MR. BOSARGE: It's nice to see some bigger  
23 shrimp this year, bigger than normal. That was great.

24           MS. FLOYD: Glad to hear it. Thank you.

25           4. Live Bait Shrimp Report.

14

1           MR. STEWART: Good morning, Mr. Chairman,  
2 commissioners, Ms. Sandy, ladies and gentlemen.

3           I have a live bait update for you for the  
4 2012-2013 license year.

5           And we will look at how many camps we have this  
6 year, the location. We'll look back at some historic data and  
7 also some rules and regulations that these facilities have to  
8 adhere to.

9           So start off, live bait inspection requirements,  
10 here's a few of the requirements, things we look for.

11           First of all, the facility must be able to  
12 safely serve the public. They also must have Mississippi state  
13 sales tax number and all privilege license. Anything required  
14 by any city, county, or municipality. They must have proper  
15 advertising signage, not only on the facility itself, but also  
16 adjacent to the nearest roadway, so they've got to advertise.

17           Their tanks must have adequate water flow for  
18 optimal survival of shrimp.

19           Their catcher vessels can have a maximum of 16  
20 foot trawl and four foot doors.

21           They must have covered tanks, so their tanks  
22 must be shaded.

23           The vessel must be clearly marked with live bait  
24 boat, as well as the name of the camp.

25           Catcher vessels and transport vehicles must pass

15

1 inspection in order to be permitted.

2           And looking at the live bait regulations, CMR  
3 Title 22 Part 6, this is sort of a change, a new change. They  
4 may submit an application any time. Of course, existing camps  
5 have to be reinspected each and every year.

6           And as far as any new potential camps, now  
7 they're able to submit an application any time. It used to be  
8 from January 1 to April 30 was the window of opportunity sort  
9 of to submit an application. So now that's changed, give them  
10 a little more flexibility to make sure they're able to adhere  
11 to all the rules and regulations, not have to cut corners.

12           Inspections will be completed within 30 days  
13 after receiving a fully completed application.

14           Live bait catcher boats are allowed to shrimp 12  
15 months out of the year. They're allowed to shrimp inside  
16 one-half mile of the shoreline. However, they are not allowed  
17 to shrimp at night, and their tow times are limited to 25  
18 minutes including pick-out. This is the clock starts when the  
19 tail end of the trawl hits the water until it's back on board.  
20 Everything is dumped in the sorting tank, and it has been  
21 picked out.

22           Of course, they cannot sell shrimp for  
23 consumption. There's no bulk sales. They can't have any  
24 interest in commercial shrimp activities.

25           They must report landings and sales monthly to

16

1 the DMR. And this is a live bait dealer report. This is what  
 2 they submit to us. These reports are due by the 15th of the  
 3 following month. And, of course, they'll have the month, the  
 4 year, license number, and there's a line for each day of the  
 5 months. So Day One, how many customers, how many purchasers  
 6 did they have that day. If their live bait catcher boat ran,  
 7 how many live shrimp did they catch. It's listed in numbers.  
 8 Live shrimp sold listed in numbers. Dead shrimp sold is listed  
 9 in pounds. They're only allowed to sell 16 ounce containers.  
 10 No bulk sales. Chum sold in pounds. Squid sold in pounds.  
 11 Hard crabs sold in numbers.

12 So with these reports, we're able to gather some  
 13 information. This is looking back from '01-02 all the way  
 14 through last year. Now, last year's data is preliminary  
 15 indicated by the asterisk on this slide, as well as the next  
 16 two slides.

17 But looking back, you can see the amount of  
 18 purchasers. Of course, you see the dip during Hurricane  
 19 Katrina when everything was devastated, and also in 2010 with  
 20 the DEEPWATER HORIZON event.

21 This is looking at live bait sales. Of course,  
 22 this is listed in numbers of shrimp. And you see a high of  
 23 over five million pounds back in '02-03, and you see the  
 24 Katrina dip and also the DWH dip right here.

25 And, of course, the blue line is live shrimp

17

1 caught and live shrimp sold is the red line.

2 This is dead bait sales. This is listed in  
 3 pounds. And again, you see the mirroring the big events on the  
 4 coast. And we had a high of over 50,000 pounds of dead bait.  
 5 And the red line indicates chum, squid, and crabs. Most of  
 6 that is made up of the squid. That's mainly what they sell.

7 This is looking back all the way to '96-97 the  
 8 number of live bait dealers and live bait catcher vessels. And  
 9 we had a high '96-97, 46 camps, 47 boats. And you can see a  
 10 sort of trending downward until Katrina, and then sort of  
 11 coming back up a little bit. We probably averaged about 15  
 12 camps, 15 boats, since Katrina. We had 14 last year. We  
 13 picked up one this year.

14 And with our 15 camps inspected and licensed, we  
 15 have three in Hancock County, and we have six in Harrison  
 16 County, six in Jackson County. We have 13 live bait vessels  
 17 inspected and licensed and seven live bait transport vehicles  
 18 have been inspected and permitted.

19 This is a map indicating the approximate area of  
 20 these camps. And you see our three over here in Hancock  
 21 County. We have LaFrance, Bordages, and Bay Marina.

22 And in Harrison County, we have Tackle Box Long  
 23 Beach Harbor, Tackle Box Gulfport Harbor, Brady's Gulfport  
 24 Harbor. We have Biloxi Small Craft Harbor has a camp,  
 25 Boardwalk Marina, a new one this year. And we have Crabby's,

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1 an inland camp, taking advantage of no longer being required to  
 2 be located within 200 yards of a navigable waterway. So that's  
 3 our only inland camp. And they've been around a while. Doing  
 4 good.

5 Jackson County, we have Marine Mart, Touzat  
 6 (ph.), Mary Walker, Fort Bayou, Bay Fox, and CC's.

7 And I believe that's all I have. Are there any  
 8 questions?

9 All right. Thank you.

10 MR. JEWELL: Our next presentation is John  
 11 Mitchell on the Deer Island cultch plan.

12 5. Deer Island Cultch Plant Report

13 MR. MITCHELL: Good morning, gentlemen, Ms.  
 14 Chesnut.

15 I have a brief report on the Deer Island north  
 16 reef enhancement that was completed by the shellfish bureau and  
 17 the artificial reef bureau. It was actually overseen by the  
 18 artificial reef bureau.

19 We are going to look at a quick video that was  
 20 taken.

21 The plant was actually at what they call the  
 22 north Deer Island reef or the Deer Island north reef. It was  
 23 completed on May 10.

24 And some of the benefits that we look at for  
 25 something like this, this was on the north side of Deer Island,

19

1 so we're creating oyster reef, 1500 cubic yards of limestone  
 2 was planted. And so in creating an oyster reef, we're looking  
 3 at creating artificial reef for recreational fishing and  
 4 potentially a commercial oyster tonging reef in the future.

5 And there was five bargeloads I believe, and it  
 6 was conducted all in one day.

7 Just another map of where it was actually

8 conducted. You see Deer Island there.

9 Just a closer zoomed-in shot.

10 Google Earth shot.

11 Artificial reef, as I said, actually oversaw the  
 12 project. It was conducted on May 10. These are just some  
 13 photographs I got when I actually visited the site.

14 As I said before, it was 1500 cubic yards of  
 15 limestone is conducted with five loads, and it was all in one  
 16 day on May 10.

17 Some more photographs.

18 One of the things that we saw was actually the  
 19 footprint of the reef, the original footprint of the north reef  
 20 was actually extended further to the east by three acres. And  
 21 again, the benefits was the oyster reef and fish habitat for  
 22 recreational fishing and biodiversity increase.

23 That concludes the presentation. Is there any  
 24 questions?

25 MR. DRUMMOND: What does the bottom look like

20

1 out there?

2 MR. MITCHELL: The bottom. I did not inspect  
3 it, but I was told that they actually extended it further east  
4 because it was harder out there. There was some hard substrate  
5 out there where they planted it.

6 MR. GOLLOTT: Do they have oyster material in  
7 that three acres?

8 MR. MITCHELL: Yes, sir.

9 MR. GOLLOTT: (Inaudible, not speaking into  
10 microphone.)

11 MR. MITCHELL: As I said, artificial reef  
12 actually oversaw the project, so I did not actually see what  
13 the bottom substrate looked like. But it was reported, like I  
14 said, that there was some hard substrate there, and that's why  
15 they continued to plant it eastward.

16 MR. GOLLOTT: It would be interesting to keep an  
17 eye on it and see if it sinks or it rolls. If the bottom is  
18 not just right, they won't take.

19 Thank you.

20 MR. TAYLOR: What is the depth of the water  
21 there?

22 MR. MITCHELL: I have no idea. I would say it's  
23 probably around five or six feet.

24 MR. TAYLOR: Thank you.

25 6. State Records

21

1 MR. JEWELL: Our next presentation, Matt Hill  
2 is going to do the state records.

3 MR. HILL: Good morning, commissioners, Sandy,  
4 Tiny. I have two new state records for your consideration.  
5 Both of them are going to be conventional tackle records.

6 The first is a bonnethead with an old record of  
7 12 pounds 11 ounces. The new record turned in is 13 pounds  
8 8.64 ounces. The angler is Austin Fox. Here's a picture of  
9 the fish and the angler with the fish. This is the first  
10 record for your consideration.

11 The second will be the Atlantic sharpnose shark.  
12 We had two of these turned in within a few days of each other,  
13 and this one was the larger one. The old record is 10 pounds  
14 4.16 ounces. The new record is 10 pounds 7.18 ounces. And the  
15 angler is Breanna Gray. And here's a picture of the fish. And  
16 this is her on the dock with the fish.

17 I present these two records for your  
18 consideration.

19 MR. TAYLOR: Do we have a motion?

20 MR. DRUMMOND: I make a motion we accept these  
21 new state records, Mr. Chairman.

22 MR. GOLLOTT: Second it, Mr. Chairman.

23 MR. TAYLOR: All those in favor. Passes  
24 unanimous. Thank you.

25 MR. HILL: Thank you.

22

1 7. NOAA TEDs Resolution

2 MR. JEWELL: We have one item that was added to  
3 the agenda. That would be G-7. That would be consideration of  
4 the NOAA TEDs resolution.

5 That should be in your commission packets.

6 If there's some discussion...

7 MR. GOLLOTT: Mr. Chairman, could Sandy, legal,  
8 read that motion -- I mean, that resolution --

9 MR. TAYLOR: Yes.

10 MR. GOLLOTT: -- please?

11 MS. CHESNUT: Resolution Number 061912-01.

12 Whereas, the Mississippi Commission on Marine  
13 Resources is a duly constituted governmental entity created to  
14 serve the Great State of Mississippi; and

15 Whereas, said service includes the conservation  
16 and management of Mississippi's marine resources; and

17 Whereas, increased sea turtle strandings are  
18 occurring in the northern Gulf of Mexico states; and

19 Whereas, there is a need to explore all options  
20 because timing of increased strandings does not match spatial  
21 distribution of shrimping effort, with 135 dead strandings  
22 occurring from January 1 through May 30, 2012, when there was  
23 little or no shrimping, and only eight dead strandings  
24 occurring in Mississippi since the opening of the shrimping  
25 season on May 30, 2012; and

23

1 Whereas, some are attributing increased  
2 strandings to shrimp harvesters; and

3 Whereas, the Mississippi Department of Marine  
4 Resources has responded proactively and taken precautionary  
5 measures to address fisheries interactions which may affect sea  
6 turtles in state waters, including education, free TED gear  
7 distribution, increased monitoring and enforcement efforts and  
8 temporary tow time restrictions; and

9 Whereas, the Mississippi Commission on Marine  
10 Resources recognizes the economic and cultural importance of  
11 the shrimping industry from the Mississippi Sound and the  
12 public's inherent right to access the plentiful fresh wild  
13 American shrimp food resource; and

14 Whereas, on April 17, 2012, U.S. Department of  
15 Commerce National Oceanic & Atmospheric Administration issued a  
16 draft environmental impact statement to reduce incidental  
17 bycatch and the mortality of sea turtles in the southeastern  
18 U.S. shrimp fisheries, and on May 8, 2012, issued proposed  
19 requirements in the southeastern shrimp fisheries and a new  
20 shrimp biological opinion (proposed rule), proposing to  
21 withdraw the tow time requirement and require all skimmer  
22 trawl, pusher-head trawl, and wing net (butterfly trawl)  
23 vessels rigged for fishing to use turtle excluder devices  
24 (TEDs) in their nets; and

25 Whereas, the Mississippi Commission on Marine

24

1 Resources considers its role in the management of marine sea  
2 turtles essential and recognizes the need to know the status  
3 and distribution of the listed sea turtle species in the state  
4 and all Gulf of Mexico waters before enacting regulations which  
5 may severely impact shrimp fisheries and dependent communities,  
6 and recognizes the Gulf States Marine Fisheries Commission has  
7 recently begun a Kemp's Ridley stock assessment which may take  
8 six months or more to accomplish.

9 Not therefore be it resolved, in a duly  
10 constituted and assembled meeting, that the Mississippi  
11 Commission on Marine Resources recommends that prior to the  
12 implementation of any new rules that the U.S. Department of  
13 Commerce National Oceanic & Atmospheric Administration first  
14 conduct a comprehensive Gulf of Mexico sea turtle population  
15 and distribution study to provide vital baseline data on the  
16 status of current populations of sea turtles and that the  
17 agency more fully investigate all possible causes of sea turtle  
18 mortality.

19 Done and resolved in this duly constituted and  
20 assembled meeting on this the 19th day of June 2012.

21 MR. TAYLOR: Any questions or comments?

22 I'm going to make a comment, and I made this  
23 several months ago when they were trying to shut the Gulf down  
24 -- and I'm not a shrimper -- the Gulf down because of the sea  
25 turtles.

25

1 Our group did a great job in compiling data and  
2 forwarding it to NOAA and actually stopped it.

3 And I think this is just another case of a  
4 federal agency that makes decisions based on bad data, you  
5 know, or no data, you know.

6 So, I mean, it's very obvious when you have  
7 eight turtles killed during the shrimp season, and a number of  
8 boats, and 160 something before the season opened during the  
9 year that there is no -- I don't want to say there's no  
10 correlation -- it just doesn't make sense.

11 Thank you. Thank y'all for your job, too.

12 We have a resolution.

13 MR. BOSARGE: I'd like to say same here, thanks  
14 for all you do. Because of the data that was produced within  
15 this, these folks within the audience, that was what stopped  
16 the industry from being shut down.

17 MR. JEWELL: I do want to take a minute to thank  
18 our staff, particularly the shrimp and crab bureau and our  
19 other bureaus that work inside of marine fisheries with that  
20 bureau to produce all this data. And we do work with NOAA.  
21 NOAA is our federal partner. We work very carefully with them.

22 And I do also want to thank the office of marine  
23 patrol. They work very closely with us and coordinate all  
24 these efforts. They are one of the main contributors that  
25 helped us with onboard assessments. They did the enforcement

26

1 part of it that helped us assist and accumulate that data.

2 And then I do want to take a moment to actually  
3 outline some of the things that you've heard me say here  
4 before.

5 You know, we did distribute almost 400 TEDS to  
6 Mississippi shrimpermen.

7 We did a very intensive mailout program, over  
8 66,000 recreational fishermen, that went off to just over 2,000  
9 commercial fishermen that advised them of the benefits of  
10 participating in the turtle release program.

11 We did an additional mailout in 2011 that was  
12 sent to all commercial fishermen that bought commercial  
13 licenses.

14 We distributed 475 TED angle meters that allow  
15 fishermen to do the proper measurement, the angle measurement,  
16 of the installation of the TED that marine patrol helped assist  
17 the commercial shrimpermen in knowing what that angle was to be  
18 in compliance with the rule.

19 We also provided TED DVDs to the fishermen to  
20 show how to install the TED correctly, the correct angle, how  
21 to shrimp with the TED device properly.

22 We also had that TED converted into Vietnamese  
23 so that the Vietnamese community would be aware of that  
24 process.

25 And as the commissioner pointed out, we did

27

1 reduce the maximum trawl time that was allowed in a proactive  
2 measure during this event.

3 And then, you know, we had training sessions.  
4 At that training session, we had Vietnamese interpreters. And  
5 I could just go on and on and on down the list of things that  
6 the marine commission, the DMR, was proactive in assisting NOAA  
7 and our other federal partners in the management of this marine  
8 resource because the commission and the DMR are not only  
9 proactive with the shrimpermen in this event, but we also are  
10 concerned about the populations of marine turtles and  
11 protecting that resource.

12 MR. BOSARGE: And as fishermen, we interact with  
13 turtles. And the last thing we want to do is kill a turtle.

14 And I think that even your stats show the good  
15 this agency has done towards better protecting turtles. Nine  
16 turtle deaths after the season opened. That's amazing in my  
17 opinion.

18 But I guess thanks from my end of the industry  
19 for all you do.

20 MR. GOLLITT: I think the bottom line is our  
21 shrimpers don't need any more unnecessary regulations. I think  
22 Mississippi has been very proactive in regulating these  
23 turtles. And like you said, we furnished them with TEDs last  
24 year.

25 Our shrimpers don't need any more regulations

28



that will put them out of business. They're struggling now.

MR. JEWELL: I think with the data, I think what we're trying to say is that we need more data. We need more science, and so that's what we're trying to say. And I think that's what this resolution is trying to say with our partners, particularly with NOAA who is our partner, that what we'd like to see is some more science and some more scientific studies occur.

MR. BOSARGE: I agree. I believe just because we put TEDs in skimmer trawls is not going to change the problem. Until we find the problem and put our finger on the problem, we haven't solved it.

MR. TAYLOR: Okay. Any further discussion?

MR. GOLLOTT: Mr. Chairman, I'd like to make a motion that we adopt the resolution.

MR. TAYLOR: We have a motion on the floor to adopt the resolution. Do we have a second?

MR. BOSARGE: I'll second.

MR. TAYLOR: Seconded by Mr. Bosarge. All those in favor. Passes unanimous. Thank you for your work.

MR. JEWELL: That concludes marine fisheries.

MR. TAYLOR: Next up is coastal ecology, Jan Boyd.

H. Coastal Ecology

MR. BOYD: Good morning, Mr. Chairman,

1 commissioners, Chief Chatagnier, Ms. Chesnut.

2 Coastal ecology has three action items for your  
3 consideration this morning. And Lynn Moore will be presenting  
4 the first one.

5 3. Bureau of Wetlands Permitting

6 a. Wayne Bourgeois

7 MS. MOORE: Good morning. My name is Lynn  
8 Moore. I'll be presenting a request for a permit by Wayne  
9 Bourgeois. It is located on the Tchoutacabouffa River at 13247  
10 River Walk Circle in Biloxi, Harrison County, Mississippi.  
11 It is in the general use district. And the agent is Billy  
12 Culpepper.

13 This is a map of the project location. Here is  
14 I-110, Highway 15, and there's the project location.

15 A closeup of the project location.

16 Project description is a boathouse 44 feet by 24  
17 feet and a stairway 9.5 feet by four feet. And the square  
18 footage not to exceed 1532 square feet.

19 A diagram of the project.

20 A picture of the site.

21 Decision factors.

22 The project does not serve a higher public  
23 purpose.

24 The proposed project is allowed in a general use  
25 district.

1 Similar projects have been approved by the CMR,  
2 and this is not expected to set a precedent.

3 Piling installation may temporarily increase  
4 turbidity in the construction area which will result in  
5 temporary decrease in the number of benthic organisms.

6 The project would result in shading of no more  
7 than 1532 square feet of waterbottoms.

8 Best management practices will reduce any  
9 adverse impacts to coastal wetlands.

10 No alternative sites were considered because  
11 this is a private residential lot, and the project serves to  
12 allow the property owner access to the water.

13 There are other boathouses in the area, and this  
14 project is not expected to adversely affect the natural scenic  
15 qualities.

16 Public notice was in the Sun Herald on May 20,  
17 27, and June 3. No comments were received.

18 The Department of Archives & History is  
19 reviewing the project. Department of Environmental Quality is  
20 reviewing the project. Secretary of State stated no tidelands  
21 lease required. Department of Wildlife, Fisheries & Parks says  
22 best management practices.

23 The staff has conducted a thorough evaluation of  
24 the project and has made findings on decision factors in  
25 accordance with the Mississippi code. Based on the results of

1 this evaluation, it has been determined that the project is  
2 consistent with the Mississippi Coastal Program, and therefore  
3 staff recommends issuance of the requested permit.

4 Applicant was notified of the meeting today.

5 And I don't know if he's here if you have any questions.

6 MR. TAYLOR: Does anybody have any questions?  
7 Do I hear a motion?

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

10 MR. TAYLOR: Do I have a second?

11 MR. GOLLOTT: Second it, Mr. Chairman.

12 MR. TAYLOR: All those in favor. Passes  
13 unanimous

14 MS. MOORE: Thank you.

15 MR. TAYLOR: Thank you.

16 c. Warren Paving, Inc.

17 MR. OVERSTREET: Good morning. My name is  
18 Jeremy Overstreet, and I will be presenting a permit by  
19 Maritime Development Center.

20 The project is located in Gulfport on Gulfport  
21 Lake. It's in the industrial development use district. And  
22 the agent is Billy Culpepper.

23 This is the project location. That's I-10  
24 directly north and Lorraine Road on the east.

25 Closeup.

1 The project consists of a bulkhead 970 feet in  
2 length, the excavation of a keyhole boat slip, dredging of 1600  
3 cubic yards, and removal of existing piers and pilings.

4 This is a diagram of the project. This is the  
5 keyhole boat slip and the dredging in front of it. The  
6 bulkhead would be built around the slip.

7 This is a picture of the site.

8 Another picture. That's Trinity Yacht Center in  
9 the background.

10 Decision factors involved were that the public  
11 benefit to the project would include increased employment  
12 opportunities for the construction of the boat slip and  
13 bulkhead structure and employment opportunities from contracts  
14 received by the applicant to manufacture the vessels.

15 The proposed project is allowable within the  
16 industrial development use district.

17 The applicant was required to ask for a variance  
18 of the Mississippi Coastal Program that states indented boat  
19 slips with angled sides shall be used in preference to keyhole  
20 boat slips. And their justification was that the activity  
21 requires a waterfront location, there is a significant public  
22 benefit in the activity, and a public hearing has been held.

23 Similar projects have been approved by the  
24 commission, and this is not expected to set a negative  
25 precedent.

33

1 Dredging operations will result in a temporary  
2 increase in turbidity of the area, and there will also be a  
3 temporary decrease in the number of benthic organisms.

4 The Department of Environmental Quality has  
5 stated that they do not anticipate a permanent degradation of  
6 water quality.

7 Best management practices will reduce any  
8 adverse impacts.

9 No alternative sites were considered as no other  
10 sites could support the production scheme of Trinity Yachts,  
11 and the area in question is located adjacent to an existing  
12 operational facility belonging to Trinity Yachts.

13 Proposed site is in an industrial area with  
14 other shipbuilding facilities located adjacent to the site and  
15 should not negatively impact the scenic qualities of the area.

16 Notification of the project appeared in the Sun  
17 Herald on April 22, 29, and May 6. And a public hearing was  
18 held on May 8.

19 One comment was received at the public hearing,  
20 and it concerned the potential for the boat slip to cause  
21 sedimentation resulting in an increase of maintenance dredging.  
22 And DMR staff has done a thorough evaluation of the project,  
23 and we do not foresee a significant increase of sedimentation  
24 as a result of the project.

25 DEQ stated that they do not anticipate the

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1 permanent degradation of water quality. Department of Archives  
2 & History have no objections. Secretary of State have no  
3 objections. And the Department of Wildlife, Fisheries & Parks  
4 have requested that best management practices be implemented.

5 Based on departmental review and evaluation, it  
6 has been determined that the project is consistent with the  
7 Mississippi Coastal Program because it serves a higher public  
8 purpose by increasing the local tax base and creating jobs in  
9 the area, therefore staff recommends approval of the variance  
10 request and issuance of the requested permit.

11 And the applicant was notified that the project  
12 was coming to commission this month. And the agent Billy  
13 Culpepper is here if you have any questions.

14 MR. TAYLOR: Any questions? Can I entertain a  
15 motion?

16 MR. DRUMMOND: I'll make a motion we accept the  
17 recommendations of the staff, Mr. Chairman.

18 MR. TAYLOR: Do we have a second?

19 MR. BOSARGE: Second.

20 MR. TAYLOR: All those in favor. Passes  
21 unanimous. Thank you.

22 MR. OVERSTREET: Thank you.

23 d. Paul A. Lea, Jr.

24 MS. BRANTLEY: Good morning. My name is Willa  
25 Brantley. I'm going to be standing in for James Davis this

35

1 morning and presenting a violation by Paul A. Lea, Jr.

2 The location is on an unnamed canal  
3 adjacent to Bayou Portage at 5040 East Midway Drive in Pass  
4 Christian. It's in a general use district.

5 This is the project location. This is I-10 and  
6 Bay of St. Louis. The yellow thumb tack is the location.

7 This is a closeup on the site. This is the  
8 canal, and this is Mr. Lea's boathouse at the end of the canal.

9 The description is that a boathouse was  
10 constructed outside of the permitted guidelines. The permit  
11 stated that the structure could be no more than 25 feet above  
12 mean high tide in height. And what was constructed is  
13 approximately 30 feet 4 inches above mean high tide in height.

14 Wanted to give you a little bit of further back  
15 background than this specific violation. We've had a previous  
16 violation, in fact, a couple of violations, at this site. And  
17 it kind of gives some information toward this one and Mr. Lea's  
18 understanding of the permit and what was required. So we  
19 wanted to add it in this time.

20 On May 11, 2007, we issued a general permit to  
21 Paul A. Lea, Jr.

22 On November 19, 2007, a site visit revealed that  
23 the structures which were constructed by Mr. Lea did not fit  
24 what was issued under the general permit.

25 On December 6, 2007, Mr. Lea submitted an

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1 application for after-the-fact authorization for the structures  
2 that had been constructed but had not been authorized by the  
3 general permit that was issued.

4           On December 13, 2007, staff provided Mr. Lea  
5 information and documentation on why the height of his  
6 boathouse should be limited to no more than 25 feet above mean  
7 high tide in height. This included the general permit  
8 guideline which limits the height. It also included the  
9 decision factors that staff has to go through when we evaluate  
10 a permit. This included the requirements to consider the  
11 precedent setting effects. We had never allowed a structure  
12 higher than 25 feet above mean high tide in height, so that  
13 would set a precedent. And the scenic qualities of the area,  
14 we're required to consider the impact of any structures -- the  
15 impact that any structures would have on the scenic qualities  
16 of the area.

17           On December 14, Mr. Lea provided a  
18 cross-sectional diagram of his planned boathouse. What was  
19 shown on that diagram was a total height of 27 feet above mean  
20 high tide in height.

21           This is that diagram, and it's really hard to  
22 see. But this is his cross-section of the boathouse. And the  
23 height here from the water is 18 feet, and the height of the  
24 pitch of the roof is nine feet, which would give a total of 27  
25 feet.

1 meeting, Mr. Lea was reminded that he could not add a roof that  
2 added more than one foot ten inches to the height of his  
3 boathouse because at that time it was already 23 feet 2 inches  
4 high.

5           February 28, 2012, the current violation was  
6 reported to DMR.

7           On March 1, 2012, DMR staff performed a site  
8 visit and confirmed that a roof had been placed on top of the  
9 deck above the boathouse and the structure currently measured  
10 30 feet 4 inches in height above mean high tide.

11           On March 6, staff sent cease and desist notices  
12 to Mr. Lea.

13           On March 13, DMR staff had an e-mail exchange  
14 with Mr. Lea regarding the structure. He had questioned how it  
15 was measured and how to apply for after-the-fact authorization  
16 and how to correct the violation. Information on all those  
17 things was sent back to him.

18           On April 17, 2012, DMR staff presented the  
19 violation to the commission, and the commission agreed to give  
20 Mr. Lea the opportunity to apply for after-the-fact  
21 authorization to keep the boathouse at its current height.

22           On May 3, 2012, DMR staff received Mr. Lea's  
23 application for after-the-fact authorization.

24           On May 17, we sent Mr. Lea a request for  
25 additional information that would be required for the

1           And on December 18, Mr. Lea provided a new  
2 cross-sectional diagram that showed the total height of this  
3 structure, including the pitch of the roof, at 25 feet above  
4 mean high tide in height. And this is that diagram. Again, it  
5 shows 18 feet here, and it's down to seven feet here, which  
6 would total 25.

7           So Mr. Lea did have an understanding and agreed  
8 to build his boathouse at 25 feet above mean high tide or less.

9           On January 15, 2008, the commission issued an  
10 after-the-fact waiver for the boathouse. Condition 5 of the  
11 permit stated that open-sided covered boathouse 30 feet in  
12 length, 30 feet in width, and no more than 25 feet above mean  
13 high tide in height shall be constructed as indicated on the  
14 attached diagram.

15           On January 28, 2008, we received a copy of the  
16 issued permit that was signed by the applicant Mr. Lea to show  
17 his acceptance of the included conditions. Here is a copy of  
18 the permit. And the red box is really hard to see in this  
19 light, but it says, accepted this the 25th day of January, and  
20 then that is Mr. Lea's signature.

21           On May 11, 2009, an onsite meeting with Mr. Lea,  
22 DMR staff, legal counsel, and the Corps of Engineers was held.  
23 This was to discuss the second violation on site which involved  
24 fill that was placed on Mr. Lea's property running into the  
25 canal. And among other things which we discussed at that

1 evaluation of his application.

2           On May 25, DMR staff received a letter from Mr.  
3 Lea withdrawing his application.

4           Up on the screen is a copy of his letter, and  
5 you should have it in your mailout packets that were provided  
6 to you.

7           And even though it's kind of long, we did think  
8 it's best to read it into the record.

9           So that letter was dated May 22, 2012. It was  
10 received at DMR on May 25, 2012. It says: "Dear Mr Davis, as  
11 you may recall, your office has already charged me a fee for  
12 the boathouse in question and has approved same in a permit  
13 issued on January 15, 2008, in this matter. There has been no  
14 additional work done beyond the permit, but your office seems  
15 to believe it is above the appropriate height. Reapplication  
16 for the boathouse is therefore not appropriate and the  
17 additional documents you cited in yours of May 17, 2012, should  
18 indicate why that is. Clearly, the increase over the permit  
19 height does not warrant a comprehensive and environmental  
20 report addressing the project's effect on the wetlands when the  
21 original roof was permitted previously. Secondly, one would  
22 think that a mean high tide survey would have been required on  
23 your behalf in order to establish that roof in question may  
24 have been over your designated height. Please send the mean  
25 high tide survey at your earliest convenience. A detailed and

1 legible diagram drawn to scale of the 'proposed structure'  
2 cannot be appropriate when the structure in question has  
3 already been approved and the only item in dispute is whether  
4 the roof is higher than 25 feet above mean high tide level, and  
5 the question of submerged land leases certainly should have  
6 been explored by your department before you granted the  
7 original permit. I think it is best that I should withdraw my  
8 reapplication or new request for a permit. Please acknowledge  
9 your receipt of this correspondence and acknowledge that I have  
10 withdrawn my application. Yours very truly, Paul A. Lea, Jr."

11 You also should have received in your packet  
12 DMR's response to his letter. If you have any questions about  
13 our response, I can definitely go over those.

14 MR. GOLLOTT: Willa, what was your response?

15 MS. BRANTLEY: Okay. First, we did acknowledge  
16 his withdrawal of the application.

17 Second, we reminded him that it was established  
18 at the April 17, 2012, meeting, commission meeting, that  
19 after-the-fact application would be necessary in order for the  
20 commission to have the option to allow him to retain the  
21 boathouse at its current height.

22 We told him that because he had withdrawn the  
23 application, the matter would be presented today as a violation  
24 and staff would recommend that the commission require the  
25 boathouse to be brought into compliance with the after-the-fact

1 comprehensive environmental assessment would be required, and  
2 that's because the assessment is warranted by the fact that  
3 retention of the structure as built would set a new precedent  
4 for height of structures.

5 We informed him of the reason we needed a  
6 detailed and legible diagram. That's required by Mississippi  
7 Code 49-27-11(1)(c) which we enclosed. That's required in  
8 order for an application to be considered complete.

9 And the footprint of the structure was approved  
10 in his previous authorization, but the current height was not  
11 approved before an after-the-fact application to retain the  
12 portion of the boathouse that is more than 25 feet above mean  
13 high tide in height is required and a detailed and legible  
14 cross-sectional diagram showing the current and requested  
15 height of the structure is required.

16 We explained to him why we mentioned the  
17 submerged land lease, and that is because all applications at  
18 the request of Secretary of State are forwarded to that office.

19 We informed him that any decisions regarding  
20 such leases are made by that office and our letter included  
21 that information as a courtesy to him so that he would be fully  
22 informed of any potential requirements.

23 And then again, we reminded him that because he  
24 had withdrawn the application, the matter would be presented at  
25 today's meeting. We informed him when and where the meeting

1 certificate exclusion issued to him on January 15, 2008.

2 And we also informed him that the commission  
3 would have the ability to levy a fine in accordance with  
4 Mississippi Code 49-27-51 and provided a copy of that statute.

5 We explained why he was being charged an  
6 application fee, that this is a new application for new work,  
7 not a request for modification.

8 We informed him that he was not correct that no  
9 additional work had been done beyond the permit because the  
10 permit limits the height of the boathouse to no more than 25  
11 feet above mean high tide in height, and the current height of  
12 the structure is 30 feet 4 inches above mean high tide.

13 In case you notice a discrepancy in the letter,  
14 we stated that it was approximately 31 feet in height. That  
15 was based on measurements that were taken before we were able  
16 to accurately measure the pitch of the roof. So the actual  
17 measurement is 30 feet 4 inches.

18 We reminded him about the meeting on March 11,  
19 2009, when he was informed that his structure measured 23 feet  
20 2 inches and that no roof that added more than one foot ten  
21 inches to the height of the boathouse could be added without  
22 being in violation of his authorization and that because it's  
23 currently above that 25 feet in height requirement, additional  
24 work has been performed beyond the permit.

25 We also told him the reasons that a

1 would be held and informed him that if the commission reaches a  
2 ruling that he feels is unfavorable, the process for  
3 petitioning for reconsideration.

4 Lot of details, but we tried to be kind of  
5 thorough in that letter.

6 This is a picture of the structure as it was in  
7 2009 when it was 23 feet 2 inches.

8 This is the structure with the roof added. And  
9 you can see that railing is the same as the one when we  
10 measured it in 2009.

11 Staff has conducted a thorough evaluation of the  
12 project and recommends that the commission order Mr. Lea to  
13 remove all sections of the boathouse that are over 25 feet in  
14 height above mean high tide and also recommends a fine in  
15 accordance with Mississippi Code 49-27-51 that should be paid  
16 within 60 days.

17 If Mr. Lea fails to comply with the above action  
18 within 60 days, staff recommends that the project be forwarded  
19 to the Attorney General's Office for further enforcement  
20 action.

21 Here is the slide covering the penalty range.  
22 The violation was discovered February 28, 2012. The violation  
23 duration is 42 days. I believe that is based on the last time  
24 that it was presented at the commission meeting. It doesn't  
25 extend through today. So the maximum potential fine is

1 \$21,000. The minimum fine is 50. Staff recommends a \$1500  
2 fine and an addition of \$500 per day for each day after 60 days  
3 until the project is brought into compliance.

4 The decision factors we based this on is that  
5 the project does not meet guidelines. Mr. Lea has had previous  
6 violations at this site and is aware of the permitting process.  
7 Mr. Lea was previously told the roof on his boathouse could  
8 only add one foot ten inches in height over the deck because  
9 his boathouse measured 23 feet 2 inches in January of 2009.  
10 Mr. Lea was also informed of this violation in March 2012 and  
11 did not attempt to bring it into compliance. And the  
12 commission gave Mr. Lea additional time to apply for  
13 authorization. And while he did apply afterward, he withdrew  
14 his application because he felt it was not appropriate.

15 Did want to just say that because he withdrew  
16 his application, that really doesn't leave us any opportunity  
17 to give him after-the-fact authorization because he hasn't  
18 asked for it. It would have to be handled the way it was last  
19 time.

20 And Mr. Lea was informed to be here, and I  
21 believe he is present if you have any questions for him.

22 MR. GOLLITT: Would you let Mr. Lea speak so we  
23 can find out why?

24 MR. LEA: Good morning, commissioners. My name  
25 is Paul Lea.

1 got a chance.

2 In this particular case, I built the boathouse  
3 as high as I could to get it out of the water. In fact, we've  
4 since had a little bitty Category I storm that pushed ten feet  
5 of water up this particular end of this bayou and I was within  
6 inches of having my roof on my boat windshield crushed, but the  
7 dock is high enough that it wasn't actually crushed. I was  
8 able to stay out of the water.

9 I did want to put a roof on it. I was permitted  
10 for a roof. What we have here is a dispute over the height of  
11 the roof and the allowable height. Since that permit was  
12 issued, Mississippi has adopted the International Building Code  
13 which judges roof height as a mean of your peak and your eave  
14 as the total height, that is a standard to which this  
15 particular body has decided that is not applicable. When I  
16 built it, I understood it was Mississippi wide and particularly  
17 actually enforced in this county because of Katrina, the  
18 international buildig standards were adopted.

19 What we have here is a dispute over height. I  
20 understand the need to have regulations and build things  
21 appropriate and so forth, but the after-the-fact permit  
22 required all kinds of permitting and expenditures on my behalf  
23 and environmental assessments and so forth for something that's  
24 already been permitted. So, you know, while it originally  
25 seemed appropriate, subsequently it became clear that it

1 I have a boathouse, as you've heard. I think it  
2 sounds like I'm not trying to comply. I am. My total  
3 violations are three. One, I permitted properly a dock.  
4 However, the permit didn't have on it the accessory pier to get  
5 to the dock, which is permitted out in the middle of the water.  
6 Your regulations allowed as much as a 249 foot accessory piers  
7 to get to your boathouse. I added the accessory dock, and I  
8 was told that that was inappropriate. And so we have that  
9 permitted after the fact.

10 My only other violation, I had a horrible  
11 post-Katrina environment. I tore out an equally horrible  
12 amount of debris and dirt and end up with an old dock that I  
13 tore out and had just a big mud hole. And I said, you know, I  
14 don't know what to do with this, but let's put some sand on it  
15 and make it look nicer. And, of course, some of that sand was  
16 said to be flowing into this manmade bayou, the end of which I  
17 own. And that was a violation, so I had put in a retaining  
18 wall just to retain the sand from getting on the other sand  
19 that was in the bottom of the bayou. I spent \$3,000 doing  
20 that, and that's fine.

21 But my after-the-fact permit allowed me to put a  
22 roof on my structure. I built the structure as high as  
23 possible to try and get out of the tidal surge that we get in  
24 the bay. We all know how destructive that is. If you're in  
25 the water, you lose. If you're above the water, well, you've

1 wasn't.

2 This is purely a dispute over how to calculate  
3 height, and then, of course, the total height found. And that  
4 height has been found to be several different levels, frankly.  
5 All I wanted to do was improve this property and create a  
6 recreational opportunity for myself and my family and spend  
7 money in an area that was devastated, and I've tried to do that  
8 and I haven't always gotten it right. Dock building and  
9 boathouse building is not an exact science, frankly.

10 But I'm glad to try and keep my property from  
11 being destroyed by high water, and I'm also glad to spend the  
12 money to build these things. And I'm glad to bring it into  
13 compliance, but I prefer not to cut the roof off my boathouse  
14 because that seems a little unnecessarily destructive. And  
15 frankly, you know, this is a function of a dispute over height  
16 and a desire not to set a precedent. I don't know why that is  
17 particularly important if I'm six inches or two feet over the  
18 maximum height. That's the extent of this violation.

19 And again, I would just ask that the commission  
20 allow me to keep it. In fact, there was a motion to that  
21 effect last time with a fine. But frankly, it really boils  
22 down to whether or not the commission is going to acknowledge  
23 International Building Code. And I think it's appropriate for  
24 you guys as homeowners and businessmen to understand how  
25 regulations when applied without regard to the natural setting

1 that one finds himself in can result in an unfairness, it would  
2 be unfair in this particular case to suggest that this is  
3 anything other than a 24 inch violation in height which cannot  
4 adversely affect the environment or even the surroundings.

5 As you may recall, this particular boathouse is  
6 in an 11 foot hole dug into the side of Arcadia Farms Road, and  
7 so it's not an eyesore by any stretch of the imagination. It's  
8 only ten feet above the ground around it.

9 And I would just ask that I be treated  
10 reasonably and that we be allowed to have an after-the-fact  
11 recognition of the fact that my builder followed the  
12 International Building Code and you guys have not yet  
13 acknowledged that, the staff hasn't in doing the overall  
14 calculation.

15 It's true that we were on the site and we  
16 discussed that 25 foot is the height of the roof structure.  
17 And I went over that with my builder. And he showed me the  
18 regulations. I confirmed that they were passed by your  
19 legislature. And that 25 feet is the height I have.

20 And if I'm over by any inches, it's a function  
21 of where the tide is measured, as we've heard already this  
22 morning, there is a one foot variation in various ideas about  
23 how high the structure is.

24 But I put the tape on it myself measuring it  
25 from below the top of my dock and at the mark we discussed when

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1 we put in our retention wall, I have a structure that's 25  
2 feet.

3 And if it's off at all, it's off by inches.  
4 Thank you.

5 MR. DRUMMOND: Could I ask you a couple of  
6 questions, Mr. Lea?

7 MR. LEA: Yes, sir.

8 MR. DRUMMOND: I probably missed it, but why did  
9 you withdraw your application?

10 MR. LEA: I withdrew the application because it  
11 struck me as inappropriate simply because there were -- the  
12 application treated the project as if it had never been  
13 permitted before.

14 The application that -- the pieces I was said  
15 needed to gather were completely unrelated to the issue of  
16 height. And by that, I'm referring specifically to a  
17 comprehensive and environmental assessment, a waterbottoms  
18 survey, a submerged land lease application, and another portion  
19 of the application was a mean high tide survey, all of which  
20 should be in this particular file because it was already gone  
21 through in the original application.

22 And I requested that those items be forwarded to  
23 me so I could include them in the application, and that in the  
24 meantime I'd like to withdraw the application until I get that  
25 information. That's why I requested it.

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1 If it's this board's desire that I reapply or  
2 reopen my application with that information, that's perfectly  
3 acceptable to me. I just don't have that information. I don't  
4 know how to get it. I believe it's in the file, and I know  
5 that it's already -- these steps have already been taken.

6 MR. DRUMMOND: Mr. Lea, do you think you're  
7 above abiding by the regulations?

8 MR. LEA: No, sir. I specifically asked my  
9 builder, and we went over the regulations. And the regulations  
10 call for the height to be 25 feet, and we made the calculations  
11 to come up with 25 feet. And I absolutely want to have the  
12 structure as high as I can but within the permitted height  
13 which is 25 feet.

14 And the top of my roof -- I mean, the  
15 measurements show that 25 feet is a foot below the standing  
16 portion of my pier. It makes sense when you're standing there  
17 if you measure it out, it's the mean height of my roof down to  
18 a foot below my dock, which is where the water regularly is, is  
19 25 feet.

20 MR. GOLLOTT: Mr. Lea, with all due respect, we  
21 went over this at the last meeting, and I made the motion to  
22 give you a way out, to give the commission a way out.

23 Our staff has a job to do. There's regulations  
24 that they have to follow. And we talked after the meeting, and  
25 I asked you, I said, get with the staff and let's resolve this

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1 in an amicable way.

2 But apparently, you decided to back up on this.

3 MR. LEA: I wanted to get the information that  
4 was requested of me. I don't possess it.

5 MS. BRANTLEY: Can I make a statement to that?

6 MR. TAYLOR: I want to make a statement, too.

7 MS. BRANTLEY: Mr. Lea's letter did not request  
8 anything other than that we acknowledge his withdrawal of the  
9 application. He did not ask for any explanation for the  
10 information we requested. He could have called us, e-mailed  
11 us. We would have gladly provided him with why that  
12 information was necessary. And he did not ask for that in his  
13 letter as he is now stating.

14 MR. TAYLOR: What day was it when you said they  
15 could build a roof over on one foot ten inches, more?

16 MR. LEA: That was in 2007.

17 MS. BRANTLEY: That was -- let me find it so I  
18 say it correctly -- March 11, 2009. And I would like to point  
19 out that I personally did the measuring at that time, myself  
20 and Jana Guynes. I was on the top of the boathouse and  
21 confirmed that it was 23 feet 2 inches, and I personally  
22 informed Mr. Lea at that time that he could not add anything to  
23 the boathouse that added more than one foot ten inches, that if  
24 he wanted to add a roof, he could take down part of that  
25 railing as long as the whole structure ended up not being over

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1 25 feet above mean high tide in height.  
2 MR. TAYLOR: I have a real problem with going  
3 ahead and building a boathouse when you're told that and just  
4 slapping our staff in the face. And that's what it looks like  
5 you did. You just disregarded, you know, the rules and  
6 regulations for the state. And there's no telling. They  
7 probably spent \$20,000 in time and hours which is taxpayers'  
8 money, two meetings, to do this. And yet, you went ahead and  
9 did what you were told not to do. That gripes me, I don't mind  
10 telling you.

11 MR. LEA: I understand.  
12 MS. BRANTLEY: And I would also like to point  
13 out that it's not 24 inches above the 25 feet, it's five feet  
14 four inches over the 25 foot height.

15 MR. LEA: And that's where we have a dispute.  
16 The mechanism for measuring the height of a roof in Mississippi  
17 is according to our building code, and that's what my builder  
18 advised me, and that's what I did.

19 The height that she's discussing, we're  
20 discussing, was the height of a railing that's approximately  
21 this high at the top of the structure.

22 MR. TAYLOR: Counsel, will you address that,  
23 please?

24 MR. GOLLOTT: Let me say something. Apparently  
25 Mr. Lea wants a judge to handle this, so let's just go ahead

1 On May 31, our budget is \$6,267,493, have all  
2 been spent, leaving zero funds remaining for this year, as well  
3 as our tidelands funds all being obligated.

4 And that concludes my report. Are there any  
5 questions?

6 MR. DRUMMOND: I make a motion we adjourn.

7 MR. GOLLOTT: Second.

8 MR. TAYLOR: Thank y'all.

9 (Meeting adjourned 10:30 a.m.)  
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1 and do what we're going to do, and let him take this to court  
2 and a judge can decide.

3 MR. TAYLOR: Do I have a motion?

4 MR. GOLLOTT: What's staff's recommendation?

5 MS. BRANTLEY: We recommend that Mr. Lea be  
6 required to remove all portions of the boathouse that are over  
7 25 feet in height above mean high tide within 60 days. We  
8 recommend a \$1500 fine to be paid within 60 days. If he fails  
9 to comply within 60 days that the project be forwarded to the  
10 Attorney General's Office for further enforcement action. And  
11 also if it goes past 60 days that he hasn't brought it into  
12 compliance, that it would add another \$500 per day fine for  
13 each day past that 60 days.

14 MR. GOLLOTT: Mr. Chairman, I make a motion we  
15 accept the staff's recommendation on this.

16 MR. TAYLOR: Do I have a second?

17 MR. DRUMMOND: I second the motion.

18 MR. TAYLOR: All those in favor. Opposed?  
19 Passes unanimous. Thank you.

20 MS. BRANTLEY: Thank you. And I believe that  
21 concludes coastal ecology.

22 J. Administrative Services

23 2. Financial Report

24 MS. VESA: Good morning. I'm Kara Vesa giving  
25 the financial report today.

1 COMMISSION ON MARINE RESOURCES  
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4 COURT REPORTER'S CERTIFICATE  
5

6 I, Norma Jean Ladner Soroe, Certified Shorthand  
7 Reporter, do hereby certify that to the best of my skill and  
8 ability I have reported the meeting of the Commission on Marine  
9 Resources and that the foregoing 55 pages constitute a true and  
10 correct transcription of said meeting held on the 19th day of  
11 June 2012.

12 I do further certify that my certificate annexed  
13 hereto applies only to the original and certified transcript.  
14 The undersigned assumes no responsibility for the accuracy of  
15 any reproduced copies not made under my control and direction.  
16 Witness my signature this the 5th day of July 2012.  
17  
18  
19



NORMA JEAN LADNER SOROE, CSR #1297  
Certified Shorthand Reporter