

Compressed Transcript



COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

March 13, 2012

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1 COMMISSION ON MARINE RESOURCES
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3 MEETING OF COMMISSION ON MARINE RESOURCES
4 March 13, 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 13TH DAY OF MARCH 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
16 JIMMY TAYLOR, Acting Chairman
17 RICHARD GOLLOTT
18 SHELBY DRUMMOND
19 STEVE BOSARGE
20
21
22 ALSO PRESENT:
23
24 DR. WILLIAM WALKER, Executive Director DMR
25 JOSEPH R. RUNNELS, ESQ., Asst. Attorney General
SANDY CHESNUT, ESQ., Asst. Attorney General

1 A. Call to Order
2 MR. TAYLOR: I'd like to call the meeting of the
3 March DMR to order.
4 B. Approval of Minutes Commission Meeting - February 14, 2012
5 MR. TAYLOR: And the first thing on the agenda
6 is the approval of the minutes.
7 MR. GOLLOTT: So moved, Mr. Chairman.
8 MR. TAYLOR: Okay. Second?
9 MR. DRUMMOND: So second the motion.
10 MR. TAYLOR: Any opposition? Motion passes.
11 C. Approval of Agenda
12 MR. TAYLOR: Okay. Item C, approval of the
13 agenda. I think there's some changes.
14 DR. WALKER: Yes, sir, Mr. Chairman. We need to
15 add an Item H-3(e), First National Banking Association permit
16 extension. And we also would ask you to move legal to the end
17 of the agenda. We have an item that we are going to ask you to
18 take up. We'd like to finish everything else up before we do
19 the legal business.
20 MR. TAYLOR: That would be L-4; right?
21 DR. WALKER: Right, L-4.
22 MR. TAYLOR: Do I have a second?
23 MR. GOLLOTT: I second.
24 MR. TAYLOR: ALL in favor. Opposed? Carries
25 unanimous. Okay.

1 MR. GOLLOTT: Mr. Chairman, did you get a motion
2 on that?
3 MR. TAYLOR: Okay. Need a motion.
4 MR. BOSARGE: I'll make a motion we accept the
5 changes.
6 MR. GOLLOTT: Second it.
7 MR. TAYLOR: All those in favor. Passes.
8 D. Public Comments
9 MR. TAYLOR: Okay. Next up are public comments.
10 And I think we have one. And it's three minutes. And Mr.
11 Vincent Nunez. When you come up, state your name and..
12 MR. NUNEZ: Yes, sir. My name is Vince Nunez.
13 I live at 139 Ridgewood in Pass Christian, Mississippi.
14 What I'd like to bring to the table today is
15 recently Timber Ridge Property Owners Association has left the
16 Department of Marine Resources the burden of preserving our
17 natural resource of our canals on you guys.
18 We had restrictive covenants of certain depths
19 to maintain with a boat shed. And in '06, a property owner put
20 a boat shed 21 feet out into the water. We filed suit. The
21 new owner signed a statement saying they would remove them.
22 And within the last six months, you people have issued a permit
23 that even builds a larger boat shed.
24 She has built a boat shed that is 40 feet wide
25 on a property that is 60 feet adjacent to another 60 foot

1 property. If somebody else were to build a 40 foot boat shed
2 there, neither one of these two people would be able to use
3 their boat hoist.
4 The neighbors are up in arms, and they want me
5 to file permits to build these long boat sheds on both sides.
6 And as my 15-year-old son said, we're not going to solve
7 anything doing that.
8 But I'd like to set a date that I could meet
9 with you guys and propose that these 17 other people that live
10 on the canal spent a large sum of money to keep this canal
11 looking pretty. And now somebody can come in there and just
12 build a boat shed 21 feet in front of their bulkhead, and even
13 my 15-year-old son has to take his boat, push it 12 feet to the
14 canal to go down the canal. It's a dead-end with a new boat
15 shed.
16 I have some pictures I'd like to leave before
17 the board so y'all can review and perhaps we can talk about
18 this some other time.
19 MR. TAYLOR: You can bring them forward.
20 (Discussion at head table, not at microphone.)
21 MR. TAYLOR: You have no microphone, and we have
22 to record everything.
23 What we'll do, we'll let coastal ecology look at
24 this and give us a recommendation. Okay? We, I don't think,
25 can enforce covenants of a subdivision, but we can enforce the

1 laws and what the statutes tell us is allowable.

2 MR. NUNEZ: In the Corps of Engineers statement,
3 it says that you're allowed to build out and up to a navigable
4 waterway. I mean, she's in eight feet of water now. Up
5 against the bulkhead you're in four feet of water. Unless you
6 plan on mooring a 50 foot boat, you don't need to be in eight
7 feet of water.

8 And these are our natural resources. There are
9 pilings that are driven eight inches apart that are impeding
10 the drainage flow of the canal.

11 MR. TAYLOR: We'll have coastal ecology look at
12 this and check it out, and they'll give us a report.

13 MR. NUNEZ: And somebody will get back to us?

14 MR. TAYLOR: Yes, sir.

15 MR. NUNEZ: Thank you, sir.

16 MR. TAYLOR: Thank you. Appreciate it.

17 Next up is Tom Becker.

18 MR. BECKER: Commissioners, Dr. Walker. My name
19 is Tom Becker. I'm speaking on behalf of myself.

20 Something was brought to my attention just
21 recently. Why has the dredging stopped out there and filling
22 in Ship Island?

23 I hear there's oil being found out there. If
24 this is the case, why isn't the public hearing about this?

25 And they have linked it to -- BP has supposedly

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1 bought the equipment that was out there dredging. And nobody
2 is hearing about this. Why not? That's my question. Why not
3 does the public know what's going on out there?

4 They keep saying that this thing is not over,
5 and yet BP wants to get us out for the lawyers and all this
6 stuff to get out of our claims.

7 But I'm just trying to find out what exactly is
8 going on out there. Are they finding oil and that's why they
9 stopped drilling and that's why the equipment has been bought
10 by BP and now moved?

11 Thank you.

12 MR. TAYLOR: Tom, I can answer just a little bit
13 of it.

14 I can't say that oil -- and that's the first
15 I've heard of that as a commission member. I don't know if any
16 of our other people have heard. But I do know that -- and I
17 can't say that the dredge has been bought. But the dredge is a
18 very small dredge, and I've talked with some of the people that
19 work on it, and they have to bring it in when the weather is
20 bad because it is so small.

21 That's one of the reasons you see it going in
22 and going out.

23 Now, I can't say and I don't know, I'd sure like
24 to find out myself, if there's oil. That would be real
25 serious.

6

1 MR. BECKER: Right. That's we are, too, we're
2 concerned about the oil being still out there, and that's what
3 we're concerned about. And nobody is hearing nothing about it.

4 I mean, you guys are the Department of Marine
5 Resources, and if we have problems out there you guys should be
6 the first ones that they'd call and be involved with it.

7 MR. TAYLOR: We should know. But again, the
8 first I've heard. Have any of y'all, have any of the
9 commissioners, anything been brought? Dr. Walker or anybody?

10 MR. BECKER: All right. Thank you.

11 MR. TAYLOR: Thank you. Okay.

12 E. Executive Director's Report

13 MR. TAYLOR: Executive director's report.

14 DR. WALKER: Thank you, Mr. Chairman.

15 First, you might notice that for the first time
16 in a long time you can actually hear what's being said in this
17 room. I want to thank Alan McArthur and his folks for getting
18 our sound system redone. It seems to be working very well.

19 And the other thing I'd like to do is
20 congratulate Commissioner Drummond, Bosarge, and Gollott for
21 being reappointed by Governor Bryant for four more years.
22 Welcome back to the board for another four years.

23 That's all I have, Mr. Chairman.

24 MR. TAYLOR: Thank you.

25 F. Marine Patrol

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1 MR. TAYLOR: Next up is marine patrol. And
2 that's not Tiny. That's Olen Gunner.

3 MR. GUNNER: Good morning, Commissioners. I'm
4 Olen Gunner with the office of marine patrol.

5 You notice on our list, it's kind of small due
6 to the weather, lack of boating activity, our contacts are down
7 a little bit just because the people are not there.

8 Do you all have any questions?

9 MR. TAYLOR: Thank you.

10 MR. GUNNER: Thank you.

11 G. Marine Fisheries

12 MR. TAYLOR: Marine fisheries, Dale Diaz.

13 MR. JEWELL: Good morning, commissioners, Dr.
14 Walker, Sandy. Dale sends his regards. He's out representing
15 the agency at a state director's meeting on traceability and
16 sustainability.

17 He asked this morning that I mention a couple of
18 items. First, y'all may be aware of, we have done some public
19 outreach recently with our shrimping community in relation to
20 the number of turtle landings this past year.

21 Y'all probably have seen these CDs that have
22 gone out. We have mailed these out to all of our commercial
23 fishermen. They are sent out as a public awareness program on
24 behalf of the Department of Marine Resources.

25 It has also been translated into Vietnamese and

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1 has been sent out specifically to our Vietnamese community, our
2 Vietnamese fishermen.

3 And so they are out and available. It shows how
4 to install and properly measure the turtle excluder devices in
5 shrimping trawls.

6 And just as note, you probably have seen this.
7 This is one of our past public relations sent out, these
8 measuring devices also. There are several events that we have
9 engaged in with our shrimping community to assist them and help
10 them with this process. And we will continue to do so.

11 And second, I'd like to mention that we, in our
12 continuing public education outreach program, we're going to
13 hold another seminar. It's entitled Gentle Giants. It will
14 include topics on whale sharks, tarpon, manatees, and sturgeon.
15 And it will occur on March 22 in this room from 4:00 to 6:00
16 p.m. And we would like to thank (inaudible) from the Grand Bay
17 NERR who went above and beyond to help us set up that program.

18 So next up on our agenda is Mr. Mike Buck
19 Buchanan with two changes. He'll be presenting both of those.
20 Live mullet regulations and reef fish regulation.

21 3. Live Bait Mullet Regulation Options

22 MR. BUCHANAN: Thank you, Joe.

23 I'm Mike Buchanan with the finfish bureau. Dr.
24 Walker, commissioners, Sandy.

25 And at the last commission meeting, we had a

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1 couple of minnow fishermen come in and request some possible
2 options on how they could catch undersized mullet. And at
3 y'all's behest, we went ahead and put together a few options
4 after talking with enforcement and our legal counsel.

5 And I'm going to present some of the options
6 that we have come up with.

7 MR. GOLLOTT: Excuse me, Buck. Could you pull
8 that mic closer to you? We can't hear you.

9 MR. BUCHANAN: Okay. Sorry.

10 First option for live bait mullet. These would
11 be mullet that would be smaller than ten inches. The one thing
12 is you could keep the status quo. Currently, commercial mullet
13 right now is at ten inches.

14 The other thing you could do is remove the
15 minimum size limit altogether which would open it up to anybody
16 that wanted to catch undersized mullet, commercial, live bait,
17 anybody.

18 The other thing to do after talking with
19 enforcement and some of the other things, and I believe,
20 Commissioner Gollott, you requested that we put some sort of
21 restriction on it, but -- so we came up with some language
22 here.

23 Should be unlawful for any minnow fisherman or
24 live bait catcher boat to have in possession in excess of ten
25 pounds of dead mullet. This would hopefully kind of prevent

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1 just catching juvenile mullet and selling them as dead bait.

2 The commercial minimum length limit would not
3 apply to the resident licensed minnow fishermen, the live bait
4 catcher boats fishing below the CSX, or licensed live bait
5 dealers selling mullet for bait.

6 No fisherman can only sell mullet through
7 licensed Mississippi live bait dealers or Mississippi
8 recreational fishermen.

9 And enforcement had requested that we put it
10 shall be unlawful to possess mullet north of the CSX railroad
11 while engaged in minnow fishing. So they would have to check
12 their minnow traps or do whatever they were going to do and
13 could not actively be engaged in fishing at the time when they
14 were in possession of smaller mullet or mullet.

15 So this is some of the language that we came up
16 with. I didn't know if you wanted to take this out for -- come
17 up next week with a notice -- or next meeting with a notice of
18 intent or whatever is y'all's will and pleasure.

19 MR. TAYLOR: Any questions or...

20 MR. GOLLOTT: Yeah. I don't think we should say
21 that they can only sell them in Mississippi, Mississippi live
22 bait folks.

23 But, let's send this out for public hearing.
24 Let's see what people have to say about it. They might be
25 against it; they may be for it. We can always modify it once

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1 we bring it back; can't we, Buck?

2 MR. BUCHANAN: Yeah. But we have to take it out
3 for notice of intent first. Or is that the way it works out?

4 MS. CHESNUT: You have to take it out on notice
5 of intent and have a hearing on it.

6 MR. BUCHANAN: I have talked to the guys that --
7 the live bait or the guys that were doing this. They were okay
8 with most of this stuff. So I didn't know if that was that
9 they --

10 But you want to take this out for notice of
11 intent; is that the gist?

12 MR. GOLLOTT: I make a motion that we take it
13 out for notice of intent.

14 MR. TAYLOR: Is there a second?

15 MR. DRUMMOND: I'll second it.

16 MR. BOSARGE: I'll second it, but I have one
17 question.

18 You talk about only resident licensed
19 Mississippi live bait. Isn't that kind of the norm for most of
20 the things? I know it is for shrimping.

21 MR. BUCHANAN: Right.

22 MR. BOSARGE: So, I didn't quite -- Commissioner
23 Gollott, I didn't quite understand why we wanted to -- do you
24 think there's a need for it for other states? Is that what
25 you're thinking?

12

1 MR. BUCHANAN: Well, at least in Alabama -- we
2 have one minnow fisherman from Alabama right now, and I'm
3 checking on their laws particularly. Yeah.
4 I'm told that we are not allowed to go in their
5 state and do that, to actually fish for minnows in their state.
6 But I'm checking on that. The last time I
7 checked, it was okay that we did that. But then I'm getting
8 told that no, that is not the case, they were refused a license
9 to do it.

10 But the problem is is that mullet are not
11 classified. In state statute, they define what a saltwater
12 minnow is, and it's not a mullet. Mullet is not a saltwater
13 minnow.

14 So they would be required to actually get a
15 commercial license, and we probably would not sell them that
16 particular license because you can't go to Alabama and fish for
17 mullet there with any kind of nets.

18 MR. BOSARGE: I like what you have. I guess if
19 I had any concern at all it might be with you have a limit on
20 the dead weight of mullet, and would you think maybe --

21 MR. BUCHANAN: I asked them specifically about
22 that.

23 MR. BOSARGE: I'm talking about for the live.
24 There's a limit there.

25 MR. BUCHANAN: I didn't know exactly how to --

13

1 that's the reason I approached it from the standpoint from the
2 opposite way. I mean, they've never really done this before,
3 keeping bunches of mullet, so...

4 I don't know how many fish they would -- you
5 know -- catch --

6 MR. BOSARGE: I guess we can go back and modify
7 it at the time if we need to.

8 MR. BUCHANAN: Are you talking about a number of
9 individuals like 300? I mean, I don't know how to -- I mean,
10 they're going to be --

11 MR. BOSARGE: I don't, either. I guess time
12 will tell as to how good they were at catching those mullet,
13 whether or not they can --

14 MR. TAYLOR: Buck, is there any -- there's no
15 restriction here on the type of gear you could use. So they
16 could use a purse seine to do this, or what? You know what I'm
17 saying, a small purse seine? Well, you don't trap mullet.

18 MR. BUCHANAN: They'll be using a castnet is
19 what they'll probably be using.

20 Now, I'm not aware of utilizing a purse seine.

21 MR. TAYLOR: Isn't that in there, must be caught
22 by castnet?

23 MR. BOSARGE: I think castnet and probably some
24 traps according to probably the size of the minnow, wouldn't
25 you think?

14

1 MR. TAYLOR: Well, not minnow.

2 MR. BUCHANAN: Yeah, I talked with them about
3 that. They really -- they very rarely -- I mean, it's not that
4 they don't, but they very rarely catch any mullet in their
5 traps. They don't tend to gravitate towards --

6 MR. GOLLOTT: Just for argument's sake, and I
7 really don't -- you know, I'd like to see them -- they can do
8 this and make a living, help them, I'm all for it.

9 Don't you think we ought to just stick in there
10 some kind of total per year or something that they can take out
11 of the State of Mississippi?

12 And we don't have to put a number on it. But if
13 it's in there, it goes out for public hearing, then we can
14 adjust that to protect the species.

15 MR. BUCHANAN: So you want a specific number of
16 live mullet per year per fisherman?

17 MR. GOLLOTT: Put some kind of a bag limit or
18 something on it for total, just like speckled trout and
19 flounders and redfish.

20 And I'm not thinking of any specific number, but
21 I know if you don't send it out for public hearing, you can
22 never go back and address it.

23 MR. BUCHANAN: Okay. I'm trying to wonder what
24 the number should thereabouts be.

25 For a total, not per fisherman, you would have

15

1 like 50,000 --

2 MR. GOLLOTT: Total number, you know, in case it
3 gets out of hand you can say wait a minute, you know, you can
4 adjust the total weight, live minnows, or any way you want to
5 handle it.

6 MR. BUCHANAN: Are you talking about total dead
7 -- you're talking about dead bait?

8 MR. GOLLOTT: Both. I guess dead bait would
9 cover it, I mean...

10 MR. BUCHANAN: You can assume that -- well...

11 MR. GOLLOTT: Like I say, I don't have a number
12 in mind. I know you don't. Just stick it in there, and any
13 number that we can come back and adjust after the public
14 hearing or whatever.

15 MR. BUCHANAN: I'll try.

16 MR. DRUMMOND: Are the licensed mullet bait
17 fishermen the same thing as live bait fishermen? Do they have
18 the same license?

19 MR. GOLLOTT: I don't know of any --

20 MR. BUCHANAN: There's a minnow license. Okay?
21 We have 19 minnow fishermen in the state right now.

22 Now, I don't know what that's going to do once
23 we do this. I mean, anything could happen.

24 But we wouldn't be restricting -- but also the
25 live bait catcher boats would also be allowed to -- yeah --

16

1 possess these, you know, while they're trawling. I mean, they
2 can already possess so much pounds of dead bait in the live
3 bait ordinance or they can use them for chum. I doubt very
4 seriously they catch many mullet in trawls. But, I mean...

5 MR. GOLLOTT: The main thing I was trying to do
6 was just cover as much as we could so we wouldn't have to go
7 back. Public hearings happen and people have concerns about
8 something that we don't have to go back out for another public
9 hearing just to modify a little bit.

10 MR. BUCHANAN: Okay. So you want me to come up
11 with a total number of --

12 MR. GOLLOTT: It could be landings a year or
13 something like that.

14 MR. BUCHANAN: Live landed --

15 MR. GOLLOTT: Yeah.

16 MR. BUCHANAN: -- mullet. Okay. And castnet.
17 Only by castnet or --

18 MR. BOSARGE: I don't think we have to worry
19 about the gear. And if we go do like we do with the redfish
20 and trout, say a 40,000 pound limit, but you'll have to do the
21 math on how many to a pound on the small fish. Or do you want
22 to use numbers?

23 MR. BUCHANAN: I don't know.

24 MR. GOLLOTT: Mr. Chairman, has this motion been
25 made and seconded?

17

1 And we took a look at a lot of different
2 options. And I guess the first thing, this is more of a
3 housekeeping thing. I was trying to make recreational limits
4 the same as the Feds. And that would be reducing the grouper
5 aggregate from five to four. And that's all that would be
6 happening in the recreational portion of it.

7 And -- I'm sorry. With the gag grouper, only
8 two out of those four could be gag groupers. It's currently
9 being overfished, and overfishing is occurring.

10 MR. TAYLOR: Okay. What your motion needs -- or
11 are you ready for a motion?

12 MR. BUCHANAN: No. That's not the main thing.
13 That's not the main deal. Okay. That was a way of
14 housekeeping. Since we're bringing it up anyway, I just wanted
15 to change the recreational.

16 Commercial size, possession, and catch limits.
17 I want ahead and several different things are going on. The
18 main thing that's going on in here is that I've added all the
19 reef fish species that are in the NOAA fisheries reef fish
20 management plan into the ordinance. So they're all pretty much
21 here. I changed the minimum length limits to meet federal
22 regulations. The red snapper will go from 15 to 13. The red
23 grouper would go from 20 to 18. And the gag grouper would go
24 from 24 to 22. And this is essentially to help the commercial
25 sector eliminate discards so those fish will be counted against

19

1 MR. TAYLOR: No.

2 MR. GOLLOTT: I make it to go out -- what we
3 need to do is --

4 MR. TAYLOR: Oh, yeah.

5 MR. GOLLOTT: Then we need to modify it to come
6 up with these other ideas.

7 MR. BUCHANAN: These guys are in no rush.
8 They're catching minnows right now. It's not like it's a --

9 MR. TAYLOR: We have a motion on the floor
10 brought by Mr. Buchanan. We have a second. All those in
11 favor.

12 MR. GOLLOTT: Mr. Chairman, let me make a motion
13 to table this until next meeting. Come up with something,
14 Buck, that might be more acceptable. Not in a hurry. Trying
15 to get it right.

16 MR. BOSARGE: Yes.

17 MR. BUCHANAN: All right.

18 MR. TAYLOR: Second on tabling?

19 MR. BOSARGE: Second.

20 MR. TAYLOR: All in favor. Opposed? No.

21 Thank you, Buck.

22 4. Changes in Reef Fish Regulations

23 MR. BUCHANAN: The next thing is changing Title
24 22 Part 9. Enforcement had asked us to bring this issue to the
25 table.

18

1 the quota. All right? So we have all the reef fish species
2 included in here.

3 And I guess the crux of the matter would be for
4 any commercial fisherman, person, firm, or corporation, it
5 would be unlawful to sell, barter, or trade any species of reef
6 fish identified in that particular section without possessing
7 the proper federal permits and/or licenses required by the NOAA
8 Gulf of Mexico reef fish management plan and complying with any
9 other conditions set forth by federal or state regulations for
10 the management of the identified reef fish.

11 So, if you are going to deal in reef fish, I
12 guess the proposal is you would have to be federally licensed.

13 MR. TAYLOR: Any comments?

14 MR. BOSARGE: No. I'm with you in that because
15 there is a management plan, and because our regulations didn't
16 follow that management plan, I'm glad to see you change it
17 where hopefully the rebuilding of the species will continue.

18 MR. TAYLOR: Any other comments?

19 MR. DRUMMOND: I didn't hear what you said.

20 MR. BUCHANAN: He loves it.

21 MR. BOSARGE: I don't say I like it, but I'm
22 glad to see that we are falling in line with the federal
23 regulations and that the management plans that are in place
24 will continue to work.

25 MR. DRUMMOND: Thank you.

20

1 MR. GOLLOTT: I make a motion that we accept the
2 recommendation.

3 MR. BOSARGE: Second.

4 MR. TAYLOR: All those in favor. Passes
5 unanimous.

6 Thank you, Buck. Good job.

7 MR. BUCHANAN: Thank y'all.

8 H. Coastal Ecology

9 MR. TAYLOR: Next up coastal ecology.

10 MS. WITTMANN: Good morning. I'm Jennifer
11 Wittmann. Jan and Willa both send their apologies for not
12 being at the meeting today.

13 Coastal ecology has five action items on the
14 agenda. And Greg Christodoulou will be presenting the first.

15 3. Bureau of Wetlands Permitting

16 a. V.T. Halter Marine, Inc.

17 MR. CHRISTODOULOU: Good morning. My name is
18 Greg Christodoulou, and I will be presenting Items H-3(a) and
19 H-3(b) this morning.

20 First item H-3(a) is a permit modification for
21 V.T. Halter Marine. It's located on Bayou Casotte, 900 Bayou
22 Casotte Parkway, Pascagoula. It's in the industrial
23 development use district.

24 Project location is marked by the yellow thumb
25 tack. It's on the west bank of Bayou Casotte, U.S. 90.

21

1 Project description. The modification is to
2 help V.T. Halter be able to launch longer ships than they are
3 currently launching at one location on their yard.

4 The project involves maintenance dredging of a
5 launching basin approximately 186 feet by 225 feet to a depth
6 of 29 feet below mean low water. And that will be 10,700 cubic
7 yards of material.

8 And the material would be designated for
9 beneficial use by Mississippi code.

10 There will also be 186 feet of bulkhead proposed
11 for the project and 500 feet of riprap and also shoreline
12 straightening. In the bulkhead construction, there will be 570
13 square feet of fill of waterbottoms proposed.

14 Here is a picture of the site. If you see here,
15 this is the end of an existing concrete bulkhead. The bulkhead
16 would then go along the shoreline in this fashion and then line
17 up at mean high tide. So this area in here would be the area
18 that would need to be filled in to put in the new launching
19 mechanism.

20 Here is a diagram of the project. The areas
21 that are in blue are the proposed. This would be the proposed
22 extension of the bulkhead. This is the existing bulkhead in
23 green. Here is the 500 feet of riprap just to the north of the
24 bulkhead planned area. The area in gray would be the dredge
25 area proposed. And then the red area I have here is for the

22

1 proposed fill.

2 The launching system that they currently have
3 ends right here. In order to be able to launch the longer
4 vessels, the existing bulkhead would have to be extended in the
5 same line that it currently is so that the railway tracks that
6 they use to launch the vessels would line up.

7 And here is an area of waterbottoms that would
8 be created on the project site. This is on the southern end of
9 the property. And since they will be filling 570 square feet
10 of waterbottoms for the bulkhead for the straightening, they're
11 going to compensate by creating some waterbottoms over on the
12 southern end.

13 The project public benefits include increased
14 employment opportunities for construction of the expanded
15 launch structure and employment opportunities from contracts
16 received by the applicant to construct and service the larger
17 vessels.

18 The project is allowable within the industrial
19 development use district.

20 They have requested two variances to the
21 project. Chapter 8, Section 2, Part III.O.1 and Chapter 8,
22 Section 2, Part III.D.3, the first being permanent filling of
23 coastal wetlands because of potential adverse and cumulative
24 environmental impacts are discouraged and vertical face
25 structures shall be aligned no further waterward than mean high

23

1 tide.

2 The applicant has provided justification for
3 Chapter 8, Section 2, Part I.E.2.c.i of the Coastal Program by
4 saying the impacts to coastal wetlands would be no worse than
5 if guidelines were followed. And what they're saying with this
6 justification is that they are filling waterbottoms for this
7 project, but they are compensating by creating waterbottoms on
8 another location, so there would be no net loss of
9 waterbottoms.

10 Similar projects have been approved by the
11 commission, so this should not set a negative precedent.

12 Dredging operations, of course, will result in
13 temporary increase in turbidity and temporary decrease in
14 number of benthic organisms.

15 And there will be no net loss of coastal
16 wetlands from this project because the applicant has proposed
17 to create waterbottoms in an equal amount onsite. And this is
18 not tidal marsh so no vegetated wetlands or critical habitat
19 will be impacted by the project.

20 Best management practices will reduce any
21 adverse impacts.

22 And an alternative design would have been to
23 construct a bulkhead at mean high tide, but with the logistics
24 of the launching system that are there, that wouldn't have been
25 able to line up and they wouldn't be able to launch the longer

24

1 vessels.

2 No additional sites were considered as the
3 location is already used as vessel launching area.

4 The project is located in an industrial area
5 with similar shipbuilding facilities nearby so should not
6 impair scenic qualities of the area.

7 And V.T. Halter is contracted to construct and
8 service vessels for the military and for companies essential to
9 national energy policy.

10 Public notice was placed as required. No public
11 comments were received. Archives & History has no objections
12 to the project. DEQ is reviewing the project. Secretary of
13 State said the project will require a tidelands lease. And
14 Wildlife, Fisheries & Parks recommended that best management
15 practices be implemented.

16 And based on evaluation by the staff that the
17 project is a water-dependent industry and it's for vessels that
18 service the U.S. Military and nation's energy policy, as well
19 as creating jobs and providing economic benefit to local tax
20 base, staff recommends approval of the applicant's variance
21 request and issuance of the permit.

22 MR. TAYLOR: Any questions? Do I have a motion?

23 MR. DRUMMOND: Mr. Chairman, I make a motion we
24 approve this project.

25 MR. TAYLOR: Second?

25

1 application from Ms. Cunningham. And when we performed a site
2 visit, we found that an unauthorized pier had been constructed
3 on the property.

4 Here's a picture of the area in 2003. There's a
5 small little island with a Live oak on it, and it's been
6 surrounded by a bulkhead previously and some riprap. And
7 there's a small access pier leading out to the little island.

8 You can see that in 2007, the area looks fairly
9 the same. There's the access pier is still in place going to
10 the island.

11 And in 2012 when we did our site visit, a pier
12 had been constructed just in front of the island perpendicular
13 to the access pier.

14 Here is the area where most of the work will be
15 taking place. This pier that's existing will be extended to 18
16 feet out and then a new pier in this area here will go out
17 approximately 71 feet, and the boat lift pilings will be
18 installed in between the two piers.

19 Here's a diagram of the project. The green is
20 what is existing. The yellow are the proposed pilings, pier,
21 pier extension, and the unauthorized is the red.

22 Staff has conducted an evaluation of the
23 project. And we recommend approval of the after-the-fact and
24 the proposed structures and a fine in accordance with
25 Mississippi Code 49-27-51.

27

1 MR. BOSARGE: I'll second.

2 MR. TAYLOR: All those in favor. Unanimous.
3 Thank you.

4 b. Gretchen Cunningham

5 MR. CHRISTODOULOU: Next we have a violation
6 after-the-fact waiver by Gretchen Cunningham. It's located on
7 Kreb's Lake at 4615 Willow Street in Pascagoula. It's in the
8 general use district.

9 Here's an aerial of the project location. The
10 yellow thumb tack marks it here. It's on Kreb's Lake. This is
11 the U.S. 90 bridge in Pascagoula. So it's just to the north of
12 that.

13 The applicant has proposed installing four
14 pilings for boat lift, two piers, one an extension of an
15 existing pier 18 feet by 6 feet, and a new pier 71 feet by 6
16 feet, and debris removal of 100 feet of damaged bulkhead. And
17 then after-the-fact authorization for a pier 20 feet by 5 feet.

18 Chronology. In August of 2003, Ms. Cunningham
19 received a general permit to replace bulkhead and a pier on the
20 property.

21 She was not able to get that work done in the
22 three year period following the original permit. So she
23 applied for another permit in September of 2007 and received a
24 general permit to replace that same bulkhead and pier.

25 In 2012 just in January, we received an

26

1 The violation was discovered February 6, 2012.
2 The duration of the violation was 36 days. The maximum fine is
3 \$18,000; the minimum is fifty. The recommended fine in this
4 case is five hundred. And the decision factors: Ms.
5 Cunningham has been cooperative, and she does have knowledge of
6 the permitting process as she's applied for permits three
7 times. And basically it was self-reported violation. She put
8 the application in and knew a site visit was going to be
9 conducted.

10 MR. GOLLOTT: Do we have any comments from the
11 applicant?

12 MR. TAYLOR: Are they here?

13 MR. CHRISTODOULOU: I don't know. I don't think
14 they are here.

15 MR. TAYLOR: Okay.

16 MR. DRUMMOND: Mr. Chairman, I make a motion
17 that we go along with the staff's recommendation and we fine
18 them \$50.

19 MR. TAYLOR: Do I have a second?

20 MR. GOLLOTT: Second, Mr. Chairman.

21 MR. TAYLOR: All those in favor. Passes
22 unanimous.

23 c. Hall-Lily Harbor, LLC

24 MR. COLE: Good morning, everyone. My name is
25 Ron Cole, and I will be presenting the next two projects.

28

1 First up, we have request for a permit by
2 Hall-Lily Harbor. It's located on Old Fort Bayou off of Dixie
3 Street in Ocean Springs. It's in the general use district.
4 And the agent is Culpepper & Associates.

5 Here you can see an aerial of the project
6 location. It's located south of I-10, just west of Highway 57.

7 Here, the applicant is requesting authorization
8 to construct a 12 slip private multifamily pier comprised of
9 six finger piers and a boardwalk with two access piers which
10 will be crossing over submerged aquatic vegetation.

11 The regulated activities for this project
12 include a 497 foot by 10 foot wide boardwalk to be constructed
13 parallel to the shoreline of Old Fort Bayou. that boardwalk
14 will also have two access piers. The one on the west side of
15 the boardwalk will measure 20 foot long by 4 feet wide. The
16 one on the east side of the boardwalk will measure 33 feet long
17 by 6 feet wide, and it will be following the footprint of a
18 previously existing access pier.

19 The multifamily docking area will contain 12
20 residential boat slips and consist of two finger piers that
21 measure 25 feet in length and 4 feet in width and four finger
22 piers that measure 20 feet in length and 4 feet in width.

23 There will be removal of 300 linear feet of
24 existing bulkhead within the manmade canal.

25 And the applicant proposes to excavate

1 approximately 1,827 cubic yards of uplands that is adjacent to
2 this manmade canal and then go back in with 330 linear feet of
3 new replacement bulkhead landward of the excavation that's to
4 take place.

5 Here is an aerial photograph of the existing
6 conditions. You can see here you have Old Fort Bayou and then
7 directly adjacent to that you have a manmade canal.

8 And there is an existing pier out here on the
9 point.

10 This is a color diagram of the basic project
11 layout. You can see here some submerged aquatic vegetation
12 that follows the shoreline. Out in front of that, the
13 applicant is proposing the boardwalk that I discussed
14 previously. And within the manmade canal, they are proposing
15 the 12 residential slips.

16 Here is just an overlay of that project on the
17 aerial photograph just to give you a better idea of the
18 configuration.

19 And here is a detail of the crossing of the
20 submerged aquatic vegetation by the access piers. Like I said,
21 the access pier on the east side is going to follow the
22 footprint of the existing access pier, and it measures 33 feet
23 by 6 feet. And the access pier on the west side will follow
24 our standard guidelines of four feet wide over submerged
25 aquatic vegetation.

1 This is a detail of the 12 slips located within
2 the manmade canal. And the pink purple area here are the
3 uplands to be excavated. You have the green line here that
4 indicates the existing bulkhead, and the red line here
5 indicates the new bulkhead to be constructed. If you look down
6 here on the bottom right-hand side, you can see there's an
7 existing boat slip.

8 This is a picture looking down the manmade
9 canal. Just to the left-hand side, there's the existing
10 bulkhead. This is the one that is to be removed, and then
11 there's a section of uplands there to be excavated behind it.
12 And then a new bulkhead built landward of that.

13 This is a picture looking west down Old Fort
14 Bayou. And this is the existing pier that's on that point.
15 And this just indicates the basic location of the boardwalk
16 that's proposed.

17 So to go through the decision factors.

18 The placement of the 12 slip private multifamily
19 pier within a manmade canal is reduction from the originally
20 proposed 18 slip marina.

21 And the project will provide an increase to the
22 local tax base during the construction phase.

23 The project is allowable within the designated
24 general use district.

25 The project is not anticipated to set a

1 precedent. Similar projects have been approved by the
2 comission.

3 There will be a temporary increase in turbidity
4 and loss of benthic organisms during the excavation of the
5 uplands that is adjacent to the manmade canal.

6 And once the facility is up and operational, we
7 can expect an increase in litter, minor discharges of fuel and
8 oil, and increase in boat traffic.

9 Best management practices will be utilized
10 during all phases of construction.

11 The proposed boardwalk does include two access
12 piers that are to be constructed over submerged aquatic
13 vegetation. Typically, we only allow one access pier to a
14 boardwalk or pier or any other type structure. But because of
15 the size and configuration of this one, it is possible that
16 that could pose a safety hazard. If something happened on the
17 pier, it might be a while before someone could get to them.

18 The construction of the boardwalk will require a
19 public trust tidelands lease from the Secretary of State's
20 Office.

21 And the applicant is seeking to construct a
22 residential condominium complex on a nearby upland portion of
23 the property, and the boat slips will only be available for use
24 by those condominium owners. And there will be no permit
25 mooring along the boardwalk that runs along Old Fort Bayou.

1 All the permit mooring will be within that manmade canal.
 2 Modifications to the project's original design
 3 have eliminated approximately six boat slips, 2,848 cubic yards
 4 of excavation, and approximately 4,510 square feet of shading
 5 over submerged aquatic vegetation. And again, best management
 6 practices will be used throughout construction.

7 This is the diagram of the originally proposed
 8 project. As you can see here, four of these boat slips and
 9 more excavation was eliminated in the manmade canal. And then
 10 there is also a couple of boat slips that were proposed within
 11 the submerged aquatic vegetation in an existing slip down here
 12 on the western end. And then the access piers crossing over
 13 the SAV were larger than they're proposing at this time.

14 Alternative sites available. No offsite
 15 alternatives were considered because the applicant does own the
 16 area with the manmade canal, and they were seeking to utilize
 17 that area.

18 Several onsite alternatives were considered but
 19 it was determined that those onsite alternative may cause a
 20 greater impact to coastal wetlands.

21 Private multifamily pier and boardwalk do
 22 require a waterfront location.

23 It is likely that the boardwalk will have a
 24 minimal impact on the current scenic qualities of Old Fort
 25 Bayou, and the multifamily pier will be located within the

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1 manmade canal and should barely be visible from the public
 2 waterways.

3 The project has been out on public notice. No
 4 comments were received. The Department of Environmental
 5 Quality is currently reviewing the project. Archives & History
 6 did not offer a comment. Secretary of State's Office indicated
 7 that a lease will be required for the portion over Old Fort
 8 Bayou. And Department of Wildlife, Fisheries & Parks has
 9 recommended that SAV impacts be kept to a minimum and care be
 10 taken to prevent bulkheads from blocking the Alabama redbelly
 11 turtle from accessing uplands adjacent to marshes.

12 And these recommendations have been taken care
 13 of by the minimization of the size of the access piers and the
 14 fact that the bulkhead that is going to be constructed is just
 15 to replace an existing bulkhead that's already there.

16 So after our evaluation, it has been determined
 17 that the project is consistent with the Mississippi Coastal
 18 Program, and therefore staff recommends approval of the permit
 19 request contingent upon clearance from the Department of
 20 Environmental Quality and the Secretary of State's Office.

21 MR. GOLLOTT: Ron, a question for you.

22 Is this considered commercial or residential?

23 MR. COLE: It will be commercial, yes, sir.

24 MR. GOLLOTT: It's commercial.

25 MR. COLE: The reason that we're calling the

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1 slips residential is because they will only be available to the
 2 residents of the condominium complex. It won't be available to
 3 the public to rent a slip.

4 MR. TAYLOR: Will the condominium owner own the
 5 slip?

6 MR. COLE: Yes.

7 MR. TAYLOR: Okay. Do I have a motion?

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

10 MR. TAYLOR: Second?

11 MR. GOLLOTT: Second.

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

14 d. Robert P. Meyers (Cleo Benward)

15 MR. COLE: Next up we have a violation
 16 after-the-fact general permit by Robert P. Meyers and also the
 17 contractor Cleo Benward located on an unnamed canal adjacent to
 18 Graveline Bayou in Gautier. It's in the general use district.

19 Here you can see an aerial. The project
 20 location is south of Highway 90 down on Dolphin (ph.) Street
 21 off of that area.

22 Description of the project. Cleo Benward, owner
 23 and operator of Save A Dollar Marine Construction, submitted an
 24 application to permitting staff on behalf of the property
 25 owners Mr. Meyers.

35

1 Mr. Benward constructed 62 linear feet of
 2 bulkhead before he received the permit that he applied for.

3 The bulkhead was constructed in two segments: a
 4 30 foot section and another 32 foot section.

5 January 3, DMR received the application
 6 requesting authorization to construct a bulkhead.

7 On January 13, DMR staff met with both the
 8 property owner and the contractor on site, and the two sections
 9 of the bulkhead were flagged and the project was discussed.

10 Based on the site conditions, it was determined
 11 that the existing armoring, there were some Quikcrete bags that
 12 had been placed on one section of the land at the water's edge,
 13 it was determined that that was adequately controlling erosion
 14 and that no further armoring was needed in that location.

15 And the Mississippi Coastal Program does state
 16 that riprap shall be used in preference to vertical seawalls.

17 Here you can see a photograph from our site
 18 visit. This is the armoring that I discussed previously with
 19 Quikcrete bags, and this is the flagging for the construction
 20 of the bulkhead that was placed on January 13.

21 On February 10, the property owner Mr. Meyers
 22 stopped by the DMR office to check on the status of the
 23 application. And staff informed him that the eastern section
 24 of the bulkhead seemed unnecessary and because of the existing
 25 cement structure appeared to be controlling the erosion, we

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1 were not planning to recommend approval of that segment of the
2 bulkhead.

3 At that time, Mr. Meyers requested that someone
4 else meet him on site once again.

5 So on February 14, staff met with Mr. Meyers and
6 discovered that both sections of the bulkhead had already been
7 constructed and that riprap had recently been placed waterward
8 of the eastern section.

9 Mr. Meyers indicated that Mr. Benward led him to
10 believe that the DMR staff's placement of those flags for the
11 location of the bulkhead was in fact approval of the bulkhead.
12 And that's not the case. You cannot construct a bulkhead until
13 you actually receive the permit in hand.

14 This is just a diagram overlaid on the aerial,
15 and you see the 30 foot section of bulkhead over here on the
16 right-hand side was -- DMR staff was planning to recommend
17 approval of that or was going to grant approval of that.

18 The 32 foot section on the northeastern side over here, we were
19 probably not going to recommend approval of. Well, both
20 sections were construction on the February 14 site visit.

21 These are some pictures from that site visit.
22 You can see the western segment of the bulkhead here and the
23 eastern segment of the bulkhead here.

24 Now, some riprap has been placed here, and I
25 believe that is because we discussed with the property owner

1 that we preferred riprap in place of a bulkhead, and the
2 property owner did go out and obtain some riprap and placed it
3 in front of the bulkhead that was constructed without
4 authorization.

5 So in this case, we've conducted a thorough
6 evaluation, and staff recommends that the commission issue an
7 after-the-fact general permit for the construction of the
8 bulkhead and that a fine be issued to Mr. Benward, the
9 contractor in this case, in accordance with Mississippi Code,
10 and staff is recommending the fine for the contractor in this
11 case because of his previous experience with the permitting
12 process. He's handled quite a few permits for other property
13 owners, and he's well aware of how things work in permitting.

14 The violation was discovered on February 14.
15 It's been in duration for 28 days. Maximum potential fine
16 would be \$14,000; minimum fine would be \$50.

17 Recommended fine in this case is \$1,000 to the
18 contractor. Our decision factors for this recommendation are
19 the contractor had previous knowledge of the permitting process
20 and led the property owner to believe that the approval was
21 placing the flags instead of receiving the permit in hand. And
22 also the project does meet general permit guidelines.

23 I believe the property owner and the contractor
24 are both here if you have any questions for them.

25 MR. TAYLOR: Would you like to speak?

1 MR. ROB MEYERS: I'm Rob Meyers. I'm here on
2 behalf of my father, the property owner, in this matter.

3 And I can assure you that my father at all times
4 has attempted to comply with all requirements and regulations
5 regarding wetlands and permitting.

6 He retained Mr. Benward to handle this project.
7 And it's my understanding that Mr. Benward, on behalf of my
8 father, took the application for approval, and that thereon
9 individuals came to the site, and there was a discussion, and
10 that construction started after that discussion on the site.

11 When the permit was not forthcoming, my father
12 took it upon himself because he had no contact with individuals
13 to find out what was the status of the actual piece of paper.

14 He then went and spoke with Ms. Willa Brantley
15 and learned for the first time that the northern section of the
16 bulkhead project proposal in fact had not been approved.

17 And there were discussions he had with Ms.
18 Brantley about -- I don't know the proper term, I'm not a
19 marine engineer or biologist -- but where the wave action would
20 erode from the bulkhead and how they preferred riprap.

21 And so based upon that discussion with Ms.
22 Brantley, it was his understanding that he needed to place
23 riprap against the bulkhead to prevent the refraction or wave
24 action.

25 And so my father and my mother at that time went

1 and purchased truckloads of riprap in an attempt to comply with
2 what Ms. Brantley wanted done in this case. And that's how the
3 riprap got against the bulkhead on the northern section.

4 So I think that in and of itself certainly shows
5 that my father was at all times trying to comply, thought he
6 had complied, retained somebody to comply. And when he learned
7 that it didn't, he did whatever was necessary and what Ms.
8 Brantley suggested.

9 So we don't really have any other things to
10 present to the commission. If you want to ask my father
11 questions, he's certainly here. I think he wanted the benefit
12 of free education of law school after 20 years, so I get to
13 speak on his behalf.

14 MR. TAYLOR: Thank you.

15 Mr. Benward.

16 MR. BENWARD: I was fully aware of that you have
17 to wait until you get the permit in hand. Me and Mr. Meyers
18 discussed that. Mr. Meyers told me that he wasn't going to
19 wait. And I had already obtained some of Mr. Meyers' money and
20 bought material to do that job, and it was either me give him
21 his money back, or I had to go ahead on and do the bulkhead
22 because I told him after the inspectors left that it's going to
23 be another two weeks or so before we get to do the job. And he
24 told me no. He said, I'm not going to wait no two weeks.

25 And I told him then, I said, Mr. Meyers, I said,

1 there's nothing else we can do because if you don't wait two
2 weeks, you know, we stand a chance of getting fined.

3 He said, well, look, he said, this is my
4 property. He say that I'm going to do what I want to do on my
5 property. He said, now, either you do this work or give me my
6 money back. And I couldn't turn the material back in because
7 once I buy the material, that's it.

8 So I was put -- basically I've been doing this
9 work work for 15, 20 years, you never see me up here, you know.
10 But I was putting under the circumstances that I didn't have no
11 other choice. Either do it or give him his money back, and I
12 didn't have his money. His money was on the ground in
13 material.

14 So as far as him being aware of that, he was
15 aware of that because he called me -- when Greg called me and
16 told me that they wanted to come back out and look at the other
17 side of the bulkhead, I called Mr. Meyers.

18 And when I called Mr. Meyers, Mr. Meyers told
19 me, he said, look, what are we going to do. I said, well, I
20 don't know what we're going to do, Mr. Meyers, I said, because
21 the bulkhead is already out there, you know.

22 But basically I was, you know, put into a
23 predicament to where I either -- I had to put the bulkhead down
24 because he say he wasn't waiting no longer. And I didn't have
25 the money to give him his money back, and I had already bought

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1 the material.

2 MR. TAYLOR: Thank you.

3 MR. GOLLOTT: I think I'd like to hear from Mr.
4 Meyers if you don't mind.

5 MR. ROBERT MEYERS: My name is Robert Meyers. I
6 live at 2324 Santa Cruz Street in Gautier, Mississippi.

7 And I am the person of interest, the property
8 owner.

9 I sure didn't tell this guy to do what he said
10 he did.

11 Any questions?

12 MR. BOSARGE: I guess I have one question.

13 You stated that you bought the material. Do you
14 normally buy the material before you have the permit in hand?

15 MR. ROBERT MEYERS: When I went to see Ms.
16 Brantley over here, I hadn't heard anything in three or four
17 weeks in regards to the permit. And she reviewed, and she said
18 the one on the south side of the boat slip, boat ramp, is okay.
19 She didn't have any problem with that because the pier would
20 intercede and break up the wave action.

21 She said however on the north side, since you
22 have that bulkhead there, I want you to put some riprapp because
23 if you don't it will mack across the bayou and erode away that
24 marsh grass. And she said you don't want that to happen or we
25 don't want that to happen.

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1 I purchased the materials from Applewhite over
2 there.

3 MR. BOSARGE: And Mr. Benward, is it normally,
4 your -- do you normally buy the materials before you have the
5 permit in hand?

6 MR. BENWARD: Yes, sir, because a lot of people
7 get disgusted because of the length of time that they have to
8 wait, and I have actually lost jobs because people feel like
9 that once they pay for their permit that they're supposed to
10 get it right then and there.

11 And in Mr. Meyers' case, he called me three or
12 four times before Greg even come out to look at the job, and he
13 basically just told me he wasn't going to wait.

14 So, you know, I didn't have no -- you know,
15 nothing I could do. You know what I mean? Because I didn't
16 have the money to give him back, and they wasn't going to take
17 the material back.

18 MR. BOSARGE: I guess I would imagine -- I can't
19 imagine how you could buy the materials if you didn't know
20 exactly what you were going to have to do before you even had
21 the permit in hand. You see what I mean?

22 MR. BENWARD: Yeah, I understand that, you know.
23 But, you know, 99.9 percent of the time, you know, I've been
24 doing this about 15 or 20 years, and I can go out on a site
25 myself and I can just about tell whether he going to have

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1 problems getting that permit or he's not going to have
2 problems.

3 And when they came out, the two permitters said
4 that they wasn't going to have any problems getting it which I
5 already kind of speculated that.

6 But the thing about it, I wish that Mr. Meyers
7 would be truthful about it and tell the truth, that he was
8 aware of -- because I pulled him to the side after they left
9 because I had just waited a month for a couple of other
10 applicants, you know, I told him, I said, Mr. Meyers, I said,
11 it's going to be two or three weeks before you do this job.

12 And he basically just flat out told me he wasn't
13 going to wait. So, you know, I didn't have no other choice.

14 MR. GOLLOTT: Can I say something, Mr. Chairman?

15 This is a tough situation. You know, we don't
16 know who to believe. And, you know, I've built bulkheads, and
17 you have to order the material ahead of time, and sometimes it
18 takes a month or two to get the material because it has to be
19 Wolmanized, and there's only certain places you can order this
20 thing from.

21 I'd like to make a motion and see what everybody
22 thinks. I'd like to make a motion that we approve
23 after-the-fact permit as the staff has recommended and split
24 the fine \$500 apiece, and that way we, you know, we're not
25 blaming any one person.

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1 But Mr. Benward has never -- to my knowledge, he
2 hasn't been before us before. Right? Have you ever been
3 before us?

4 MR. BENWARD: No, sir. I've been doing it for
5 20 years. I never been before y'all before.

6 MR. DRUMMOND: Can I ask a question before we
7 vote on this motion?

8 Mr. Benward or Mr. Meyers, either one of you
9 have a receipt for the materials?

10 MR. BENWARD: I give all the receipts to Mr.
11 Meyers because he say he needed it for tax purposes.

12 MR. ROB MEYERS: We don't have any receipts
13 except for maybe --

14 MR. DRUMMOND: I was just wondering --

15 MR. BENWARD: Well, he gave -- he wrote a check
16 and give it to me, and I had the materials ordered, but I
17 brought him the receipt for it. But I can get a receipt for
18 it, you know, because the person that I ordered the material
19 for, he can give me a copy of it if you need it.

20 MR. ROB MEYERS: I think it is relevant, the
21 fact that after the January 13 meeting that my father had to go
22 to the office to see about the permit rather than Mr. Benward.

23 And I'll tell you that there were phone calls
24 made to Mr. Benward, and perhaps he now has a different
25 recollection, that went unanswered.

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1 And so my father took it upon himself to find
2 out what was the deal with the permit, that it wasn't
3 forthcoming.

4 And then he went down and met with Ms. Brantley.

5 Mr. Benward was nowhere to be found until this
6 enforcement and violation procedure was initiated with a phone
7 call or a letter from Mr. Cole.

8 And so my father has gone down and spoken with
9 Mr. Cole and spoke with Ms. Brantley, done everything to
10 cooperate in this matter.

11 And now as you can see today, we're getting a
12 different story from an individual who has a different
13 recollection of events.

14 I understand the motion, and I understand it is
15 a difficult case. But because it's a difficult case, I don't
16 think my father should be forced to pay \$500 when he hired the
17 expert, and now you're hearing a gentleman testify before you
18 that he knew it was a violation to start without the permit in
19 hand, and he went ahead and did it anyway. That's a knowing
20 violation.

21 And I will tell you right now that my father
22 denies ever telling this man to start this project. That's why
23 he hired the expert.

24 If he knew he was in violation, he certainly
25 wouldn't have gone down to the office and talked to Ms.

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1 Brantley to find out what was going on, why didn't I get my
2 permit.

3 In fact, he called the inspectors down. He
4 asked them to come down to the property.

5 So if he knew it was a violation, he sure
6 wouldn't call the enforcement procedure or agency down to your
7 property and then point out that you made a violation of the
8 process.

9 There is no guilt here. He didn't know he
10 committed anything. He relied upon the expert.

11 I think the facts show that.

12 MR. BENWARD: You know, sir, even though he's an
13 attorney, he can put words like -- but Mr. Meyers was fully
14 aware because I called Mr. Meyers after Greg left a message on
15 my phone, and I told Mr. Meyers that, you know, that Mr. Greg
16 didn't want to okay the other side of the bulkhead.

17 And he said, well, what are we supposed to do.

18 I said, well, Mr. Meyers, I said, what probably
19 going to have to happen is, I said, they going to want to come
20 back out there and see that, I said, and once they come back
21 out there and see that bulkhead is already there, I said, we
22 going to get fined.

23 And then that's when he got in touch with Ms.
24 Willa at that point there because he knew that just by sitting
25 there it wasn't going to do him any good. So he went on and

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1 get in touch with Ms. Willa at that point because he -- but he
2 clearly told me that either -- you know, that I had to -- that
3 he was not going to wait. He said he was not going to wait.
4 That's what he told me.

5 And I told him, I said, well, Mr. Meyers, I say,
6 well, you know, I can't give you your money back so I have to
7 do the job, you know. And that's the only reason why I did
8 that job because I had just got through waiting because I had
9 two other bulkheads previous from his I had just got through
10 waiting 30 days to get a permit for two other customers in the
11 same -- at the same inspectors.

12 MR. ROB MEYERS: How much money was spent on the
13 material? I think that's important because I think if you
14 spend a substantial sum of money, it may not necessarily be the
15 property owner that doesn't want to wait, it could be the
16 contractor who doesn't want to wait because he's fronted the
17 money for a significant amount of materials. And I think
18 that's what's going on here.

19 MR. GOLLITT: Mr. Chairman, can I say something?

20 Gentlemen, really, you know, the commission
21 could make you pull the bulkhead out and return it to the
22 previous state and they could fine you a lot of money.

23 This is really not a big deal. If I was you, I
24 would take the fine and, you know, forget about it. You got
25 your bulkhead. You got everything. I mean, you know, we're

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1 trying to stay out of a bad situation trying to see who's
2 telling the truth and everything. I think \$500 apiece is very
3 reasonable, and you should take it.

4 But it's up to the rest of the commission, I'm
5 sure.

6 MR. COLE: And again, this is Ron Cole with DMR.
7 I would like to state as this information may be relevant that
8 several phone calls were made to Mr. Benward during our
9 evaluation of the permit, and as he has confirmed, we did
10 receive the telephone calls. Didn't actually get in touch with
11 him personally, but left voice mails with him asking for a
12 return call. And we never received any return call.

13 Our first contact with the applicant or the
14 agent was when Mr. Meyers came to the office and requested to
15 get a status update on the project.

16 MR. BENWARD: And that's why he did that because
17 when you contacted me, I contacted Mr. Meyers.

18 MR. TAYLOR: We have a motion on the floor. Do
19 we have a second?

20 MR. BOSARGE: You know, it's he said, she said.
21 So like Commissioner Gollott, we don't know which way to go.
22 And as much as I want to believe both of you, I have no proof,
23 I have nothing to convince me.

24 Can we do an alternate motion, Mr. Gollott, if
25 you agree, and anyhow drop the fines to \$250 apiece?

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1 MR. GOLLOTT: That's fine with me.

2 MR. TAYLOR: We have a motion and a second.

3 MR. BOSARGE: Yes, sir, second.

4 MR. TAYLOR: All those in favor.

5 MR. BOSARGE: I made an alternate motion, and I
6 guess we need to vote on the alternate motion.

7 MR. GOLLOTT: I withdrew my motion, so you made
8 your motion. That's fine. I second it.

9 MR. TAYLOR: Second and a motion. All those in
10 favor. Opposed? No. Passes.

11 MR. ROBERT MEYERS: I'd still like to make one
12 more statement. Although I'm being fined, I'm not guilty and I
13 won't be guilty of this.

14 MR. TAYLOR: Thank you.

15 e. The First, a National Banking Association

16 MR. OVERSTREET: Good morning. My name is
17 Jeremy Overstreet, and I'm presenting a request for an
18 extension and modification by The First National Banking
19 Association. The project is located on the Escatawpa River and
20 O'Leary Lake in Moss Point. It's located in the general use
21 district.

22 This is the project location. This is Highway
23 613. This is the City of Moss Point. And this is the area.

24 This is the marina. This is the area that the
25 marina would be built.

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1 This is one structure that has already been
2 built, and it's about as far as they went so far.

3 The chronology is:

4 On February 2005, the commission approved a
5 permit for Bobby Tucker which expired on March 8, 2008.

6 On December 2005, a permit modification was
7 approved which removed one pier and added a covering of 156
8 slips from Piers D, E, and F, and authorized piers under the
9 covered portions to be solid and floating.

10 The commission approved two year extensions for
11 the permit on March 18, 2008, and on March 18, 2010.

12 On March 1, 2012, the DMR received a letter
13 requesting a two year extension and a modification just to
14 reflect new ownership of the marina site.

15 The applicant is requesting that the permit be
16 modified to reflect the new ownership of the marina site by The
17 First, a National Banking Association, and a two year extension
18 being granted.

19 The previously permitted project includes a
20 marina with six piers totaling 31,950 square feet, a bulkhead
21 900 feet in length, floating access piers 60 feet in length, a
22 floating fuel dock 30 feet in length.

23 This is a diagram of the current project.

24 Based on departmental review and evaluation, the
25 staff recommends that the commission approve the applicant's

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1 two year extension and request and modification to reflect new
2 ownership.

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

4 MR. BOSARGE: Second.

5 MR. TAYLOR: All those in favor. Passes
6 unanimous. Thank you.

7 Next up we have the financial report.

8 J. Administrative Services

9 2. Financial Report

10 MS. VESA: Good morning. My name is Kara Vesa.
11 I'll be giving the budget status as of February 29, 2012.

12 Our budget was \$6,267,493. On that date, we had
13 spent \$4,766,361, leaving a remaining balance on February 29 of
14 \$1,501,132.

15 Are there any questions?

16 MR. TAYLOR: No. Thank you.

17 L. Directorate

18 4. Legal

19 MR. TAYLOR: I think we have a motion. Joe
20 Runnels.

21 MR. RUNNELS: Good morning. I'm Joseph Runnels.
22 It's very rare that the department ever asks you to go into
23 executive session, but I have a matter of prospective
24 litigation that I need to discuss with you. And so I'd like
25 you to consider making a motion to go into closed session to

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1 determine the necessity of going into executive session.

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

3 MR. DRUMMOND: Second the motion.

4 MR. TAYLOR: All those in favor.

5 (Off the record 10:15 a.m.)

6 MS. CHESNUT: The commission is now in executive
7 session to discuss prospective litigation.

8 (Off the record 10:25 a.m.)

9 (On the record 10:34 a.m.)

10 MR. TAYLOR: We're back in open session now.
11 And Mr. Runnels.

12 MR. RUNNELS: Mr. Chairman, I'm going to report
13 on what happened in executive session.

14 At 10:19, the commission met in Room 205.

15 Present was Vice-Chairman Taylor, Commissioners Bosarge,
16 Drummond, Gollott, the executive director, and legal counsel
17 for the commission Sandy Chesnut and Joseph Runnels.

18 At that point, Joseph Runnels informed the
19 commission that they needed to go into executive session to
20 discuss some prospective litigation. Motion was made by
21 Commissioner Gollott, seconded by Commissioner Drummond, to
22 into executive session. That's at 10:25.

23 At that point, counsel for the staff, Joseph
24 Runnels, informed the commission of a matter involving
25 prospective litigation and potential resolution of that issue

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1 Commission made a motion by Commissioner
2 Gollott, seconded by Commissioner Bosarge, to authorize the
3 staff and legal counsel to resolve the prospective litigation.

4 At 10:31 a motion was made to return to open
5 session by Commissioner Gollott and seconded by Commissioner
6 Drummond.

7 All those motions passed unanimously.

8 So now we're back in open session.

9 MR. DRUMMOND: Mr. Chairman, I make a motion we
10 adjourn

11 MR. TAYLOR: Do I have a second?

12 MR. BOSARGE: I'll second it.

13 MR. TAYLOR: All those in favor.

14 (Meeting adjourned 10:36 a.m.)
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COMMISSION ON MARINE RESOURCES

COURT REPORTER'S CERTIFICATE

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 54 pages constitute a true and
10 correct transcription of said meeting held on the 13th day of
11 March 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 2nd day of April 2012.
17
18

NORMA JEAN SOROE, CSR #1297
Shorthand Reporter

22 ID # 25347
JEAN LADNER SOROE

Expires
May 11, 2013

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