

Oyster Lease Moratorium Lifting Committee Meeting
Tuesday, January 26, 2016, 10:30am
2021 Lakeshore Dr., STE 210
New Orleans, LA 70122

Allison West called roll:

Mark Schexnayder
Byron Encalade
Karl Morgan
Mitch Jurisich
John Tesvich
Peter Vujnovich
Willie Daisy
Larry Marino
Su King
Cole Garrett
Jack Isaacs

Cole Garret went over the January 5, 2016 Oyster Lease Moratorium Lifting Committee recommendations and proposed legislation draft

Recommendation 1: Change requirements for oyster lease bottom assessments conducted for Coastal Use Permit applications to keep them current; requiring re-assessment within 2 years or upon request by oyster lease owner with substantiation.

Governed by the MOU between DNR and LDWF. This recommendation is not concurrent with the 2016 legislation and has a 1-year timeline

Recommendation 2a: New Oyster applications are to be posted on a public website. Allow landowners 90 days to protest the issuance of a new oyster lease application during which time the Office of State Lands would reevaluate ownership upon protest. After 90 days, and/or approval by State Lands after protest, the application would be processed by LDWF and oyster lease issued.

(Located on page 6, section 427

Recommendation 2b: Allow oyster lease applicant 120 days after the website posting, or 30 days after resolution from the State Lands Administrator, to withdraw his application and receive a full refund.

Recommendation 3: Oyster leases canceled due to non-payment shall be removed from the record and the area of water bottoms will become available for a new lease application

Changes/ Additions:

1. Lessee will have 60 days (instead of 30) after January 1 to settle any delinquency
2. On or before February 1 the department shall issue a written notice of delinquency by certified mail
3. The department shall publish the notice of delinquency in the official journal of the parish the delinquent lease is located
4. Lessees who pay rent on or after Feb. 1 will have to pay an additional 10% penalty fee

Recommendation 4: Amend statute to exempt oil and gas operator from damage liability if oil and gas CUP predates new oyster lease applications, provided that the operator does not violate the prescriptions in the CUP. And provide for limited liability for oil and gas assets that predate the oyster lease application within prescribed buffer zones and access channels where applicable. Leases reissued prior to this statutory change and those pursuant to section 2.B of Act 808 would not be subject to this provision.

The Task Force recommended adding some language to statute stating that the Department would consult with the oyster leaseholder of record prior to consenting to any determination regarding access channels

Recommendation 9: Oyster lease owners that had leases cancelled by the state due to coastal restoration projects shall have first right of refusal in cases where the previously leased area is determined to be currently leasable. The lease-owners that dropped their leases due to the lawsuits surrounding the freshwater impacts of the Caernarvon Diversion, and other coastal restoration projects shall have the first right of refusal to reapply for their original water-bottom of the pre-existing lease. These leases shall not be subject to provisions under Recommendation 4.

Recommendation 9 will be 'Phase 1' of the phases to be completed prior to lifting the moratorium.

Recommendation 5: Before general lifting of the moratorium to allow pre-existing lease-owners to expand their leases up to 500 feet in cases where a lease formerly abutted a shoreline and the shoreline has receded over time. Also, in cases where there is 500 feet or less between two or more oyster leases, the lease-owners will be allowed to take up additional area by agreeing to split the distance equally, or if one lease-owner declines the other(s) may take up the area. The newly added water bottom would be subject to the provisions of Recommendation 4.

Recommendation 5 will be 'Phase 2'

Changes/ Additions:

1. A lessee can expand up to 500 feet in instances where a lease was formerly bounded by an existing shoreline, according to the last recorded survey, or is within 1000ft of existing Louisiana coastline.
2. In areas where there is 500ft or less between two leases, the area shall be divided equally between the two. If there are three or more existing leases that apply to expand into this area, the lessees would need to provide LDWF with a written agreement 'under authentic act' that defines how the area will be allocated

Recommendation 8b: The committee recommends that prior to implementing the lottery phase, private land owners or their agent(s) would have first right of refusal to apply for an oyster lease in cases where they have actively engaged in the cultivation and legal harvest of oysters on what was initially private property, and which subsequently was deemed by the State Lands Office to be state owned water-bottoms. The private oyster lessee shall be required to have had a valid private oyster lease recorded with the Clerk of Courts in the appropriate jurisdiction prior to July 1, 2015. Provisions prescribed under Recommendation 5 would supersede this provision.

Recommendation 8b will be Phase 3 prior to lifting the moratorium

Changes/ Additions:

1. Water bottoms under private lease, recorded with the Clerk of Court prior to **February 1, 2016** will have the first right of refusal under this recommendation.

Recommendation 6: Initial applications for oyster leases post moratorium shall be appointments assigned via lottery system developed by LDWF. (Each appointment = one application within the current rules for oyster lease applications)

Recommendation 6 will be Phase 4 prior to lifting the moratorium

Changes/ Additions

1. Missed lottery appointments will be moved to the bottom of the lottery appointment list, and can be rescheduled. If the second scheduled appointment is missed all rights to a new lease under this phase will be forfeited.
2. Appearance, but failure to request a lease during the scheduled appointment will forfeit all rights to a lease during this phase

The Committee agreed to add 'Phase 5' to allow LDWF to establish a second lottery for submitting new lease applications, this phase could be foregone if deemed unnecessary

Meeting adjourned: 1:00PM