

Oyster Lease Moratorium Lifting Committee
December 15, 2015, 10:30am
2021 Lakeshore Dr., New Orleans, STE 210

Meeting called to order at 10:40am

Roll called by Allison West

John Tesvich
Mitch Juricich
Sam Slavich
Byron Encalade
Willie Daisy
Brad Robin
Brandt LaFrance
Cole Garrett- LDWF
Megan Terrell- Office of the attorney general
Larry Marino
Mark Schexnayder- LDWF

John Tesvich suggested that the TF and LDWF work on a draft timeline and sequential procedure order moving forward

Recommendations for lifting the moratorium:

1. Change requirements for bottom assessments conducted for Coastal Use Permit applications to keep them current. Coastal Management has an MOU with LDWF.
Can be handled interagency, will not affect moving forward with lifting the moratorium, but it is still a standing recommendation of the OLMLC.
Timeline within 1-yr. and has no bearing on the lifting of the moratorium
2. Allow landowners 90 days to protest the issuance of the new lease during which time, Office of State Lands will reevaluate ownership of the water bottoms and if the lease application is not protested in 90 days, LDWF would process the application.
Will be handled through legislative action and will be a component of the Moratorium Lifting Bill. Should be sequential priority and concurrent with the lifting of the moratorium. Timeline would be the 2016 legislative session. Cole Garrett proposed having an official effective date and post to website, local journal/ newspaper
3. Allow oyster lease applicants 90-days after the website posting during which they may withdraw their application and receive a full refund.
Should be handled through legislation, in the 2016 legislative session and coupled with recommendation 2.

Changing recommendation from 90 days to 120 days; allowing the applicant to have 30 days after determination or 120 days from the receipt of the application whichever is longer.

4. State auctioned leases will be considered new leases, and will be subject to all the recommendations contained in the final report; rent-delinquent leases become new leases.
Can be handled through regulatory action, concurrent or before the lifting of the moratorium and the issuance of any new leases. Timeline to accomplish this would be by the end of 2016. Change the wording of the recommendation to state “non-payment leases” instead of “rent-delinquent leases” and do away with the auction process.
5. 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.
This should be handled through legislation, concurrent with 2016 legislative session. Will work with DNR to establish buffer zones and access channels.
6. 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 shore-line 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 5.
This would be included in the Act, but does not affect statute; concurrent with the current legislative bill.
7. Lifting the moratorium application appointments should be assigned via lottery system developed by LDWF (Provide additional qualifications for participation?)
Handled through and included in the legislative Act, but does not affect the statute. It was the recommendation of the committee to use the existing qualifications as the default.
8. Reevaluate water bottom ownership. Amend the statute to allow landowners to protest current leases at least 3 years prior to expiration/ renewal, during which time the Office of State Lands will reevaluate ownership of the water bottoms.

Recommendation 8 was not adopted by the Committee, no further discussion had.

9. The CPRA would provide the DWF and the LOTF with maps, for reference purposes only, that will depict areas of coastal water-bottoms where projected salinity changes from river diversions will likely negatively impact the cultivation of oysters. This would apply to the cumulative effects of all existing river diversions and planned river diversions in a five, ten, and twenty-year timeframe.

Can be done through a formal request to CPRA invoking 56432.2, asking for public records and any documents; timeline to complete-by the next full OTF meeting.

10. (A) In reference to the issue of dual-claimed water-bottoms of the state, it is the general position of the committee that lifting the moratorium should not be held up because of this issue. Dual-claimed water-bottoms is a legal issue with prescriptions for adjudication already provided for, and suggesting to change anything with that is beyond the scope of this Committee.

This is position of the Committee and no action is required

(B) Prior to implementing the lottery phase, private landowner or his 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.

Provisions prescribed under Recommendation 6 would supersede this provision.

This recommendation would be handled through legislation, part of the current legislative bill and done in the 2016 legislative session.

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. This will be done after Recommendation 6 (500ft take up) and prior to the lottery.

11. The DWF, in working with the OLMLC would present recommended changes in the red line to define new area available for oyster leasing, and also define new area for public seed grounds (after relocation of oyster leases).

No action taken.

12. The lease-owners that dropped their leases due to the lawsuits surrounding the freshwater impacts of the Caernarvon Diversion 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 5.

Handled through legislation, and should be first priority part of the concurrent bill.

OLMLC meeting Tuesday, January 26 at 10:30am in New Orleans to go over draft legislation

Meeting adjourned at 1:24pm