

Oyster Lease Moratorium Lifting Recommendations

Approved by the Louisiana Oyster Task Force

January 5, 2016

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

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.

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 cancelled due to non-payment shall be removed from the record and the area of water bottoms will become available for a new lease application.

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.

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

Recommendation 7: Request that the CPRA annually provide updated maps to the DWF and the LOTF, for reference purposes only, that will depict areas of coastal water-bottoms where projected salinity changes due to coastal restoration projects 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 time-frame.

Recommendation 8 (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.

Recommendation 8 (b) The committee recommends that prior to implementing the lottery phase, private landowners 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 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 had 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.