

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

MINUTES

December 2, 2010

STEPHEN W. SAGRERA
VICE-CHAIRMAN

BATON ROUGE, LOUISIANA

The following constitute minutes of the Commission Meeting
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Louisiana Department of Wildlife and Fisheries
2000 Quail Drive
Baton Rouge, Louisiana 70808.

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AGENDA
LOUISIANA WILDLIFE AND FISHERIES COMMISSION
BATON ROUGE, LOUISIANA
DECEMBER 2, 2010

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MINUTES OF THE MEETING
OF
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Thursday, December 2, 2010

Vice-Chairman Stephen Sagrera presiding.

Billy Broussard
Ronny Graham
Patrick Morrow
Ann Taylor
Mike Voisin

Secretary Robert Barham was also present.

Chairman Stephen Oats was absent from the meeting.

Vice-Chairman Sagrera welcomed a new member to the Wildlife and Fisheries Commission, Mr. Billy Broussard.

Vice-Chairman Sagrera called for a motion for approval of the **November 4, 2010 Commission Minutes**. A motion for approval was made by Commissioner Morrow and seconded by Commissioner Voisin. The motion passed with no opposition.

There were no **Commission Special Announcements/Personal Privilege** for this month.

To receive and hear Enforcement & Aviation Reports/November began with Lt. Col. Keith LaCaze stating there were 1,459 citations and 337 written warnings issued and agents helped with 41 public assists. November was a big hunting month with waterfowl and deer seasons. An overview of deer violations showed 111 citations issued for failure to tag a deer, 42 violations of hunting deer or quadrupeds at night and 168 citations issued for various migratory violations. During November, there were 6 boating accidents reported with 4 injuries and no fatalities. The Department's two planes (one plane was down for repairs) flew a total of 97.8 hours for the month. News releases discussed included a situation where 2 individuals went to the hospital following a weapon discharging in a vehicle while night hunting from the vehicle; a man arrested on fraud charges for a stolen boat; and a successful joint search and rescue mission with Enforcement agents, U.S. Coast Guard and

Cameron Parish Sheriff's Office looking for a gentleman overdue at a hunting camp.

The next agenda item, **To hear presentation on NAWCA Project Update on Russell Sage WMA**, was given by Mr. Paul Link, the North American Waterfowl Management Plan Coordinator. He began stating NAWCA was the North American Wetlands Conservation Act, signed in 1989, to provide matching grant funds to organizations and individuals that carry out wetlands conservation projects in the United States, Canada and Mexico. NAWCA was developed to support activities under the North American Waterfowl Management Plan (NAWMP) which provides a long term protection of wetlands for the benefit of ducks, waterfowl and other migratory birds. Congress authorized up to \$75 million a year up through 2012 for this program, but appropriations this year were \$47 million. Additional funding through fines, forfeitures and other penalties under the Migratory Bird Treaty Act as well as funds from the Federal Aid Sportfish Restoration and Wildlife Restoration Acts also supports NAWCA activities which equaled to about \$42 million this year. Russell Sage WMA is nearly 17,000 acres located in Ouachita and Richland Parishes. The project area, a small greentree reservoir, was constructed in 1968 and was approximately 1,900 acres in size bordering Bayou Lafourche. Several problems with the reservoir included showing signs of age, rotted corrugated pipes, and non-functioning screw gates. All of these problems contributed to poor management, commented Mr. Link. In 2007, the Department partnered with Ducks Unlimited and wrote a NAWCA grant to fix the problems at a cost of \$700,000. In 2008, the grant was awarded to the Department, but weather and contractor issues delayed the project. The dry conditions of this summer were perfect for the contractors to finish the project. The first order of business was to grub and elevate the levees and gravel them for easier access. Next came replacement of the screw gates with concrete weirs, along with replacement of the four water control structures and pipes, earth work around the spillway and rip rap. Slides of the completed project was then shown. The enhancements will allow for better management and support of the waterfowl habitat, acorn production and provide recreational opportunities for hunters.

To receive and consider Declaration of Emergency and Notice of Intent on Fisheries Closures due to Oil Spill was the first of two items for Mr. Marty Bourgeois. He asked the Commission to approve the existing commercial and recreational fishing closures, which was not much different from their November action. The existing recreational closures which did not include recreational angling and charter boat angling in the Barataria Basin were then reviewed. There has been no change in the Barataria Basin for the commercial closures, but a significant part of the Mississippi River Delta

between Pass-a-Loutre and Southwest Pass still remain closed to commercial fishing. The only change was an opening to commercial crabbing in a section of the area previously closed. Commissioner Morrow asked the reason for the closure and Mr. Bourgeois stated there was residual oil particularly in sediments. Commissioner Voisin made a motion to adopt the Declaration of Emergency, seconded by Commissioner Taylor and unanimously approved.

(The full text of the Declaration of Emergency is made a part of the record.)

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure

December 2, 2010

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all commercial fishing, effective immediately December 2, 2010, in the following area:

That portion of state and territorial waters bounded by the following coordinates: 1) 29 degrees 12 minutes 35 seconds north latitude 89 degrees 01 minutes 05 seconds west longitude, 2) 29 degrees 11 minutes 35 seconds north latitude 89 degrees 01 minutes 10 seconds west longitude, 3) 29 degrees 11 minutes 10 seconds north latitude 89 degrees 02 minutes 00 seconds west longitude, 4) 29 degrees 11 minutes 35 seconds north latitude 89 degrees 02 minutes 55 seconds west longitude, and that portion of state inside and outside territorial waters south of the southern shore of Pass a Loutre and 29 degrees 11 minutes 25 seconds north latitude westward to 89 degrees 25 minutes 00 seconds west longitude and the eastern shore of Southwest Pass of the Mississippi River and south of 29 degrees 08 minutes 35 seconds north latitude inside of a line extending seaward one-quarter mile or more from the shoreline beginning at 29 degrees 11 minutes 25 seconds north latitude 89 degrees 03 minutes 30 seconds west longitude; thence east southeast to 29 degrees 11 minutes 00 seconds north latitude 89 degrees 02 minutes 25 seconds west longitude; thence south southwest to 29 degrees 08 minutes 55 seconds north latitude 89 degrees 06 minutes 15 seconds west longitude; thence east southeast to 29 degrees 08 minutes 15

seconds north latitude 89 degrees 02 minutes 10 seconds west longitude; thence south southwest to 29 degrees 04 minutes 50 seconds north latitude 89 degrees 04 minutes 10 seconds west longitude; thence north northwest to 29 degrees 06 minutes 00 seconds north latitude 89 degrees 06 minutes 00 seconds west longitude; thence south southwest to 28 degrees 59 minutes 35 seconds north latitude 89 degrees 08 minutes 00 seconds west longitude; thence south southwest to 28 degrees 59 minutes 15 seconds north latitude 89 degrees 08 minutes 15 seconds west longitude; thence south southwest to 28 degrees 58 minutes 20 seconds north latitude 89 degrees 10 minutes 00 seconds west longitude; thence north northwest to 29 degrees 02 minutes 40 seconds north latitude 89 degrees 16 minutes 20 seconds west longitude; thence south southwest to 28 degrees 54 minutes 40 seconds north latitude 89 degrees 25 minutes 00 seconds west longitude excluding those waters within Pass a Loutre west of 89 degrees 02 minutes 00 seconds west longitude, Northeast Pass west of 89 degrees 02 minutes 10 seconds west longitude, Southeast Pass west of 89 degrees 04 minutes 10 seconds west longitude and South Pass west of 89 degrees 08 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the Baratavia Waterway, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 21 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 2) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude 89 degrees 57 minutes 30 seconds west longitude.

Recreational fishing is open in all state inside and outside territorial waters, except in the following areas, where only recreational angling and charter boat angling is allowed: that portion of state inside waters north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the Baratavia Waterway, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 21 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 2) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude 89 degrees 57 minutes 30 seconds west longitude.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of Louisiana's coastal waters. Efforts have been made and are continuing to minimize the potential threats to fish and other aquatic life.

The Commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to open, close, reopen-reclose, broaden or otherwise modify the areas closed and opened to fishing if biological, environmental and technical data indicate the need to do so, or as needed to effectively implement the provisions herein.

Stephen W. Sagrera
Vice-Chairman

The second item for Mr. Marty Bourgeois was **To consider Declaration of Emergency to Close Portions of State Outside Waters to Shrimping**. This action would close shrimping in a portion of offshore territorial waters extending from the western shore of Freshwater Bayou eastward to the U.S. Coast Guard light at Caillou Boca. If approved, the action would become effective at sunset on December 21, 2010. But the Commission could give the Secretary authority to delay the closing date if necessary. Recent sampling data indicated large numbers of white shrimp found in outside waters off of Vermilion Bay and fewer, but significant numbers, of overwintering white shrimp were found off of western Terrebonne Parish. Historically, by mid-December these populations average considerably smaller than 100 count per pound which statutorily would resume on the third Monday in December. Biologists have been seeing unusually warmer water temperatures which may allow the shrimp to grow to marketable size, which was the reason to give the Secretary authority to leave the season open. The action would protect the overwintering white shrimp and allow an opportunity to grow to larger, more valuable sizes. Also, the Declaration of Emergency would authorize the Secretary to close any part of remaining state outside waters if there was a need, reopen any closed area when the closure was no longer needed, and to open and close special seasons in portions of state inside waters. This action was very similar to those taken in previous years. Hearing no questions, Commissioner Voisin made a motion to adopt the Declaration of Emergency and seconded by Commissioner Taylor. The motion passed with no opposition.

(The full text of the Declaration of Emergency is made a part of the record.)

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping by zone each year as it deems appropriate, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of state outside waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the western shore of Freshwater Bayou Canal at 92 degrees 18 minutes 33 seconds west longitude to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at 29 degrees 03 minutes 10 seconds north latitude and 90 degrees 50 minutes 27 seconds west longitude. This closure is effective at official sunset, Tuesday, December 21, 2010.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) count per pound except during the time period from October fifteenth through the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that average white shrimp size in this portion of state outside waters is slightly larger than 100 count per pound; however, historical data indicate that significant numbers of smaller size white shrimp occupying coastal lakes and bays migrate into these waters as water temperatures drop in conjunction with the onset of winter. This action is being taken to protect these small white shrimp and provide them the opportunity to grow to a larger and more valuable size.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to delay the closing date, if marketable quantities of shrimp are available for harvest, and to close to shrimping, if necessary to protect small white shrimp, any part of remaining state outside waters, if biological and technical data indicate the need to do so or if enforcement problems develop, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters

where such a season would not detrimentally impact developing brown shrimp populations.

Stephen W. Sagrera
Vice-Chairman

Commissioner Voisin asked that the next item, **To consider Declaration of Emergency to open the Primary Public Oyster Seed Grounds East of the Mississippi River and the Hackberry Bay Seed Reservation** be put on the January agenda. He also asked for an update to be given at that time.

To consider Notice of Intent on Oyster Lease Relocation for Leases Not Available for Renewal Due to those Leases Being Located Within a Public Oyster Seed Ground began with Mr. Patrick Banks stating the Department has a long standing policy that does not renew oyster leases wholly contained within a public oyster seed ground. But Act 265 of the 2010 Legislature directed the Department to develop a program where these leases and their leaseholders not lose their acreage under this policy. There are currently 19 leases totaling approximately 700 acres which qualifies for relocation under this Act. Also, the Act provided the Department coordinate with the Office of Coastal Protection and Restoration and the Oyster Task Force in determining an area of relocation for the leases. If this action is approved by the Commission, it would be a first come - first serve scenario for the leases. Utilizing the assistance from the Oyster Task Force, the Department investigated 2 coastal areas for relocation which were preliminarily approved by the Office of Coastal Protection and Restoration. After investigating the 2 possible areas, the Oyster Task Force suggested discarding the northern area and expand and approve the southern area in Plaquemines Parish east of the Mississippi River. The next steps would be to ratify the Notice of Intent, continue working on the relocation area, bring this relocation area to the Office of Coastal Protection and Restoration for their okay, come back to the Commission to undesignate a portion of the public grounds so it can be used for the lease relocation and then ratify the Notice of Intent as a final rule. Hearing no questions, Commissioner Voisin made a motion to adopt the Notice of Intent, seconded by Commissioner Morrow and approved with no opposition.

(The full text of the Notice of Intent is made a part of the record.)

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby give notice of its intent to establish the following administrative rules for the efficient and effective relocation of oyster leases which were not renewed due to such leases being wholly contained within a public oyster seed ground. Authority to develop such rules for oyster lease relocation is vested in the Wildlife and Fisheries Commission by Act 265 of the 2010 regular legislative session.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§531. Oyster Lease Relocation for Leases Not Available for Renewal Due To Those Leases Being Wholly Contained Within a Public Oyster Seed Ground

A. Eligibility: Those leases which are currently located wholly within a public oyster seed ground, and any former leases which were determined by the Department of Wildlife and Fisheries to have been non-renewed since 1998 due to the fact that such leases were wholly contained within a public oyster seed ground, shall be eligible for relocation.

B. Area of Relocation: An area as determined by the Department of Wildlife and Fisheries and approved by the Office of Coastal Protection and Restoration, in consultation with the Louisiana Oyster Task Force, shall be set aside from the Public Oyster Seed Grounds east of the Mississippi River, as described in Louisiana Administrative Code (LAC) 76:VII.511.

C. Amount Lease Acreage Available: Any new lease issued under this relocation program shall be for an amount of acreage not to exceed the acreage of the lease which is being relocated.

D. Notification and Application Process: The Department of Wildlife and Fisheries shall notify the leaseholder of an affected existing lease, or the leaseholder of record for a lease that was previously not renewed, of the option to relocate the lease. The affected leaseholder or leaseholder of record shall have sixty (60)

days from the date of notification to appear in person at the LDWF Oyster Lease Survey Section office to apply for a relocation lease. Applications shall be on application forms provided by the Department and shall be processed by the Department in the order in which they are received by the Department.

E. Issuance of Relocated Leases: Relocated leases shall be issued pursuant to LAC 76:VII.501 and 503.

F. Expiration Date: This rule shall expire on January 1, 2013.

AUTHORITY NOTE: Promulgated in accordance with Act 265 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR____.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments relative to the proposed rule until 4:30 p.m., February 4, 2011 to Patrick D. Banks, LDWF Fisheries Division, P.O. Box 98000, Baton Rouge, Louisiana, 70898-9000.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out in R.S. 49:972(B).

Stephen W. Segrera
Vice-Chairman

The Commissioners agreed to hold the **April 2011 Meeting** on Thursday, April 7, 2011, beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Next agenda item was to receive **Public Comments**. Ms. Mary Haik, a Louisiana resident, wanted to speak on the welfare of Tony the Tiger, the animal on exhibit at a truck stop in Grosse Tete, Louisiana. She felt this animal was currently the most talked about tiger in the world. Ms. Haik felt the Department could explain the allegations of non-compliance. The truck stop record

has demonstrated that they have not been in compliance with Iberville Parish Ordinance 3-91 from the year 2000 until November 4, 2010 and LAC 76:V.115 from the year 2006 until November 4, 2010. The Parish Ordinance stipulated that no one could keep an animal for exhibition purposes whether gratuitous or for a fee of which the Department acknowledged non-compliance. A Department letter dated October 17, 2008 was sent to Mr. Michael Sandlin, owner of the Truck Stop, that his permit was on hold pending confirmation that they were in compliance within 30 days. Then another Department letter, dated November 17, 2008, Secretary Barham denied the permit and ordered the tiger be removed within 30 days. Ms. Haik noted that the tiger was not removed during that timeframe. In 2006, the Department revised the Wild Quadrupeds rule which made ownership of tigers illegal unless exempted. The exemption allowed for wild animals to be kept if they were legally owned on August 15, 2006. In March 2009, the Parish Ordinance was amended, with a grandfather clause, exempting Mr. Sandlin retroactively to August 15, 2006. Ms. Haik felt the documented incidences was an obvious attempt to circumvent the law but it saddened her to say that this was one of those times the world thought Louisiana "reeked of corruption and idiocy". Since March 2009, when the Parish Ordinance was amended to legitimize the tiger, Mr. Sandlin carried a policy for only \$100,000 and not the required \$500,000. In a conversation Ms. Haik had with Ms. Maria Davidson, she was told the Department was not aware of the liability policy non-compliance and the Department did not take any action. The Ordinance states that if any provision was not adhered to, then the tiger shall be immediately removed. When the Iberville Parish President was approached on October 29, 2010, the tiger was not immediately removed, but the owner was given 2 weeks to comply. Ms. Haik asked that if the incidences of non-compliance were not enough to deny a permit, then what was. Also, she asked, if the laws were written to protect endangered species and not enforced as written, then why waste the time and tax payers money to make them. Vice-Chairman Sagrera thanked Ms. Haik for giving her thoughts. He added that the staff ensured that the facilities were thoroughly inspected and Mr. Sandlin was in compliance. Commissioner Morrow stated he took issue on Ms. Haik's comment that this reeks of corruption. Ms. Haik then read again the statement and stated it was not her opinion but the opinion of the majority of the world on the incidences and non-compliance with the tiger. Commissioner Morrow stated that the people he speaks to throughout the world do not have the perception of corruption and idiocy of Louisiana residents.

There being no further business, Vice-Chairman Sagrera **Adjourned** the meeting.

Stephen W. Sagrera
Vice-Chairman

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