

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

MINUTES

January 9, 2008

**EARL P. KING, JR.
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
For more information, call (225) 765-2806

AGENDA
LOUISIANA WILDLIFE AND FISHERIES COMMISSION
BATON ROUGE, LOUISIANA
JANUARY 9, 2008

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MINUTES OF THE MEETING
OF
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Wednesday, January 9, 2008

Chairman Earl P. King, Jr. presiding.

Frederic Miller
Patrick Morrow
Henry Mouton
Stephen Oats
Robert Samanie, III

Secretary Bryant Hammett, Jr. was also present.

Commissioner Wayne Sagera was absent from the meeting.

Chairman King called for a motion for approval of the **December 6, 2007 Commission Minutes**. A motion for approval was made by Commissioner Oats and seconded by Commissioner Samanie. The motion passed with no opposition.

Under **Commission Special Announcements/Personal Privilege** for this month, Commissioner Mouton stated he planned to attend a sentencing on January 24 for Dr. McCann from Avoyelles Parish and 2 other hunters who were cited with having 48 ducks, no plug in a gun and lead shot. Also, he mentioned that Mr. Phil Bowman had emergency surgery in December and was on a ventilator for 13 days. Commissioner Mouton added that Mr. Bowman was now out of the hospital and recovering at home.

Mr. Kell McInnis proudly announced the Louisiana Bass License Plate was now available with the Department of Motor Vehicles. This plate could go on cars, trucks and boat trailers. The Wildlife and Fisheries Foundation will be a beneficiary from some of the funds raised from the sale of these license plates. Chairman King thanked Mr. McInnis for making the information available.

Commissioner Mouton then read and presented a plaque to Chairman King for his service as a Commission member. Chairman King thanked everyone for the plaque.

To receive Recognition of the 2007 Rewards and Recognition Winners began with Secretary Hammett stating this item was to recognize employees performance. The program's goal was to improve morale, foster efficiency and productivity, improve customer

service and give employees a sense of accomplishment and let them know they are appreciated. Ms. Marianne Burke then announced the award recipients. Customer Service Award recipients for the Office of Wildlife were Ms. Selena Gardner, Ms. Connie Dunn and for the Office of Fisheries, Mr. Raymond Impastato. Employee of the Year Awards was divided into 3 categories. For Professional Employee of the Year for Office of Management & Finance - Mr. Alvin Henry, Office of Secretary - Mr. Douglas Anderson, Office of Wildlife - Mr. John Leslie. The second category was Employee of the Year for Support Services and recipients were Office of the Secretary - Ms. Janet Abbot, Office of Wildlife - Ms. Susan Falcon, Office of Fisheries - Ms. Holly LeBlanc. The Employee of the Year for Technical and Maintenance recipients were Office of Management & Finance - Ms. Lynnette Meekins, Office of Wildlife - Ms. Leisa Nunez, and Office of Fisheries - Mr. Scott Delaney. The next award was for Special Achievement by a Team and those winners were Office of Secretary - Enforcement Team from Region 3 (Captain Peter Oliver, Ms. Christy Ellington, Lt. Eric Stokes, Sgt. Joe Dewil, Special Agent Doug Anderson, Sgt. Travis Burnett, Sgt. Marcus Constance, Sgt. Gabe Guidry, Sgt. Rusty Perry, Special Agent Kevin Hill, Special Agent Spencer Cole, Special Agent Jay Callegari, Agent Adam O'Neal, Agent Byron Cammack, Lt. Bill Tyree, Sgt. David McAlpin, Sgt. Curtis Belton, Senior Agent Ronnie Robertson, Special Agent Maury Leone, Special Agent Eric Droddy, Special Agent Russell Brack, Special Agent Scott Delaney, Special Agent Carla Rachal, Special Agent Billy Shoemaker and Agent Jared Adams), Office of Wildlife - Wildlife Handicapped Blind Builders (Mr. Jonathan Bordelon, Mr. Jimmy Ernst, Mr. Jason Olszak, Mr. Errol Theriot, Mr. Jim Bondy, Mr. Kenneth Moreau, Mr. Francis Bordelon, Mr. Gregory Lachney, Mr. Jeffrey Dupuy, Mr. Paul Lemoine, Mr. Tom Woods, Mr. Guy Patout, and Mr. Tony Vidrine), and Office of Fisheries - Oyster Program POLR Team (Ms. Christy Lavergne, Mr. Vince Cefalu and Mr. Ty Lindsey). Recipients of the Secretary's Award were Office of Fisheries - Mr. Patrick Banks and Office of Secretary - Lt. Col. Keith LaCaze. Secretary Hammett gave thanks to all the Department employees for all that they do. He felt it was an eye opening experience for him to work with the Department and encouraged everyone "to keep on going".

Ms. Janice Lansing asked for a few minutes to recognize Secretary Hammett for his service to the Department. Even though the Secretary knew his term could only be a year, Ms. Lansing felt he embraced it with enthusiasm and a keen interest for the Department. The Department has benefitted from Secretary Hammett's leadership with the most significant accomplishment was his securing a stable funding source during the last legislative session. Ms. Lansing then noted she personally enjoyed working with the Secretary and read and presented a plaque to him. Secretary Hammett stated this was a 13 month detour in his life and was most pleasurable and rewarding. He added that he has learned a tremendous amount about what the Department does for the public and State. Secretary Hammett mentioned he did not make any wholesale changes when he first came in, but he tried to plant some seeds of change on where the Department needed to go. He was proud to have worked with each employee and would always remember the relationships he established. More awareness of the Department's funding needs was important.

Moving on to the next item, **To receive and hear Enforcement & Aviation Reports/December**, Lt. Col. Keith LaCaze stated this month was a huge hunting month for

the State. Activities included waterfowl, deer hunting and all other aspects of hunting. December was also an active month for search and rescue. Total cases were 1,340 criminal citations and 193 written warnings issued and agents helped in 47 public assists. Aviation Report showed the Department's 3 planes flew a total of 89.3 hours for the month. There were 7 boating accidents reported during December which totaled 151 for the year; 5 injuries for a total of 85 for the year and 4 fatalities which brought that total for the year to 27. The fatalities occurred in St. Tammany Parish, 2 from St. Charles Parish and St. Martin Parish. Lt. Col. LaCaze noted agents were involved in a search on White Lake area that day. News Releases discussed centered around 2 hunters cited for federal migratory bird violations, a high speed pursuit of night hunters ended with arrest, an alleged night hunting case along with a high speed chase, and a felony drug arrest on West Bay WMA. Commissioner Mouton asked if the agents kept a record on the number of hours spent on search and rescue. Lt. Col. LaCaze stated they track all of the man hours and determine on average the number of man hours it takes to create a case. The combination of a personal flotation device and use of a kill switch on a boat are always life savers but can end with a fatality when not used. Commissioner Mouton explained how his business partner was saved from serious injury by using a PFD when thrown out of a boat. Lt. Col. LaCaze was asked by a reporter why do more fatalities occur when boaters fall overboard at this time of year and he answered that it was due to the water temperature and the possibility of hypothermia.

To receive and consider Resolution and Notice of Intent to Prohibit the Use of Gill and Trammel Nets and Prohibit the Take of Grass Carp in the Spring Bayou Complex, Avoyelles Parish was handled by Mr. Gary Tilyou. He began stating the Spring Bayou Wildlife Management Area had some aquatic plant problems, but recently it has grown into an 80 percent coverage of hydrilla. This problem was impacting waterfowl hunting, fishing, property values, etc. The hydrilla has been treated but it was one of the most expensive plants to treat. A group of people from Avoyelles Parish was able to secure \$100,000 of funds through the Legislature to stock grass carp and conduct a study in the area. Staff were wanting to monitor the carp to see if they would stay in the area since it was an open system. Approximately 11,000 grass carp would be stocked in the back water areas during January to maximize the potential for them to stay. With the money being spent, Mr. Tilyou asked that the carp be protected. This action would affect very few people and no commercial fishermen since there was no place for them to set their nets. The Notice of Intent would remove gill and trammel nets and prohibit the take of grass carp in the Spring Bayou Complex. Hearing no questions, Commissioner Samanie made a motion to adopt the Notice of Intent and it was seconded by Commissioner Miller. The motion passed with no opposition.

(The full text of the Resolution and Notice of Intent are made a part of the record.)

**RESOLUTION
LOUISIANA WILDLIFE AND FISHERIES COMMISSION**

LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES
January 9, 2008

WHEREAS, it is the goal of the Department of Wildlife and Fisheries to use, where feasible, biological means to control nuisance aquatic plants, and

WHEREAS, the use of triploid grass carp to control certain species of nuisance aquatic plants has been shown to be effective in certain types of water bodies, and

WHEREAS, it is important to protect the states investment of grass carp stocked into a water body as a means of controlling nuisance aquatic plants, and

WHEREAS, a request has been received from the Spring Bayou Restoration Team to protect grass carp stocked into the Spring Bayou Complex, and

WHEREAS, the commercial and recreational harvest of fish has declined significantly in the past several years due to an overabundance of nuisance aquatic plants.

THEREFORE BE IT RESOLVED that the Wildlife and Fisheries Commission hereby promulgates a Notice of Intent, attached to and made a part hereof, to adopt a rule to prohibit the take of grass carp and prohibit the use of gill and trammel nets in specified water bodies of the state where triploid grass carp have been stocked to control nuisance aquatic plants.

BE IT FURTHER RESOLVED, that 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 Statements, the filing of the Notice of Intent and Final Rule and the preparation of reports and correspondence to other agencies of government.

Earl P. King, Jr., Chairman
Wildlife & Fisheries Commission

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission hereby advertises its intent to prohibit the take of grass carp and prohibit the use and possession of gill and trammel nets in designated areas stocked with triploid grass carp.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§112. Prohibit the Use and Possession of Gill Nets and Trammel Nets; Prohibit the Taking of Grass Carp

A. No person shall use or possess any gill net or trammel net in the areas designated below as restricted areas. No person shall take or sell any fish taken with the prohibited gear. Additionally, no person shall take or possess any grass carp within the restricted areas.

1. Restricted Areas

- Parish;
- a. Spring Bayou Wildlife Management Area (WMA), Avoyelles Parish;
 - b. Old River, Avoyelles Parish;
 - c. Little River, Avoyelles Parish.

B. Violation of the provisions of this Section constitutes a class two violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:21, R.S. 56:22.

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 statements, 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 on the proposed rule to Mr. Gary Tilyou, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, March 6, 2008.

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 at R.S. 49:972(B).

Earl P. King, Jr.
Chairman

To receive and consider Resolution and Declaration of Emergency on King Mackerel Commercial Season was the first item for Mr. Harry Blanchet. This action was an annual item which provided the Secretary, upon notice from the National Marine Fisheries Service, that the king mackerel season was being closed in federal waters and allowed him to close state waters. If modifications occur, the Secretary would be able to reopen and close the season as necessary. Commissioner Mouton made a motion to adopt the Resolution and Declaration of Emergency and it was seconded by Commissioner Oats. The motion passed unanimously.

(The full text of the Resolution and Declaration of Emergency are made a part of the record.)

RESOLUTION

2008 COMMERCIAL KING MACKEREL SEASON

January 9, 2008

WHEREAS, the king mackerel fishery in the Gulf of Mexico off the coast of Louisiana is cooperatively managed by the Louisiana Wildlife and Fisheries Commission, the Department of Wildlife and Fisheries (LDWF) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council), and

WHEREAS, regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U. S., which in Louisiana is generally three miles offshore, and

WHEREAS, NMFS requests consistent regulations in Louisiana state waters, which are preferable as they assist in enforcement of fishery rules, and

WHEREAS, the 2008 commercial king mackerel season in EEZ waters is scheduled to open on July 1, 2008, and

WHEREAS, R.S. 49:953(B) allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons by emergency rule and R.S. 49:967 allows the Wildlife and Fisheries Commission to set finfish seasons and all rules and regulations pursuant thereto by emergency rule, and

WHEREAS, R.S. 56:6(25)(a) and R.S. 56:326.3 provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish,

THEREFORE BE IT RESOLVED, that the Wildlife and Fisheries Commission hereby establishes the 2008 season for commercial harvest of king mackerel in Louisiana state waters, and

BE IT FURTHER RESOLVED, that the Commission grants authority to the Secretary of the Department of Wildlife and Fisheries to close the commercial king mackerel season in Louisiana state waters when he is informed by the National Marine Fisheries Service (NMFS) that the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested, such closure order shall close the season until 12:01 a.m., July 1, 2009, which is the date expected to be set for the re-opening of the commercial king mackerel season in Federal waters, and

BE IT FURTHER RESOLVED, that the Commission also authorizes the Secretary to open additional commercial king mackerel seasons in Louisiana state waters if he is informed that NMFS has opened such additional seasons and to close such seasons when he is informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled, and

BE IT FURTHER RESOLVED, that all applicable rules regarding the commercial king mackerel harvest including trip and size limits established by the Commission shall be in effect during the open season hereby established, and

BE IT FURTHER RESOLVED, that 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 Declaration of Emergency, and

BE IT FURTHER RESOLVED, that a Declaration of Emergency setting the 2008 commercial king mackerel season in Louisiana state waters is attached to and made part of this resolution.

Earl P. King, Jr., Chairman
Wildlife and Fisheries Commission

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2008 Commercial King Mackerel Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and all rules and regulations pursuant thereto by emergency rule, and R.S. 56:6(25)(a) and 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following season for the commercial harvest of king mackerel in Louisiana state waters:

The commercial season for king mackerel in Louisiana state waters will open at 12:01 a.m., July 1, 2008 and remain open until the allotted portion of the commercial king mackerel quota for the western Gulf of Mexico has been harvested or projected to be harvested.

The Commission grants authority to the Secretary of the Department of Wildlife and Fisheries to close the commercial king mackerel season in Louisiana state waters when he is informed by the National Marine Fisheries Service (NMFS) that the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested, such closure order shall close the season until 12:01 a.m., July 1, 2009, which is the date expected to be set for the re-opening of the 2009 commercial king mackerel season in Federal waters.

The Commission also authorizes the Secretary to open additional commercial king mackerel seasons in Louisiana state waters if he is informed that NMFS has opened such additional seasons and to close such seasons when he is informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled.

Effective with seasonal closures under this Emergency Rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade, or sell king mackerel, whether taken from within or without Louisiana territorial waters. Also effective with this closure, no person shall possess king mackerel in excess of a daily bag limit, which may only be in possession during the open recreational season by legally licensed recreational fishermen. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing such fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Earl P. King, Jr.
Chairman

Then Mr. Harry Blanchet handled the next agenda item, **To receive and consider Resolution and Declaration of Emergency on Reef Fish Commercial Seasons**. He stated this was a parallel Resolution and Declaration of Emergency to the one just adopted. This action involved all of the reef fish commercial seasons which open and close at

different times of the year and were managed under quotas. This action would allow for consistent regulations between state and adjacent federal waters. Commissioner Oats asked if this action was done in the past and Mr. Blanchet answered yes, it was an annual item. Commissioner Miller made a motion to adopt the Resolution and Declaration of Emergency. Commissioner Samanie seconded the motion and it passed with no opposition.

(The full text of the Resolution and Declaration of Emergency are made a part of the record.)

RESOLUTION

2008-09 REEF FISH COMMERCIAL SEASONS

January 9, 2008

WHEREAS, the reef fish complex is composed of several groups of species that inhabit marine waters off the coast of Louisiana, including red snapper, other species of snappers, groupers, amberjacks, triggerfishes, grunts, wrasses, sea basses, tilefishes and porgies as listed in LAC 76:VII.335, and

WHEREAS, the reef fish fisheries are cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council), and

WHEREAS, some species are managed with species-specific regulations, while others are managed as species groups, such as the shallow-water and deep-water groupers and tilefishes, and

WHEREAS, the fisheries for reef fish continue to remain open as of January 1 except for some species with seasonal or permanent closures, established in LAC 76:VII.335 and 76:VII.337, and

WHEREAS, commercial quotas have been established for some of these species and groups, which have the potential to be filled during the course of the fishing year, and

WHEREAS, regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., generally three miles offshore, and

WHEREAS, the NMFS and the Gulf Council regularly request the Department of Wildlife and Fisheries to implement consistent regulations in Louisiana state waters which are preferable as they assist in enforcement of fishery rules, and

WHEREAS, in order to enact regulations in a timely manner, it is necessary that emergency rules be enacted, and

WHEREAS, R.S. 49:953(B) and R.S. 49:967 allow the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and all rules and regulations pursuant thereto, and

WHEREAS, R.S. 56:326.3 provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish,

THEREFORE BE IT RESOLVED, that the Wildlife and Fisheries Commission hereby establishes the 2008-09 seasons for commercial harvest of reef fish in Louisiana state waters as described in the attached Declaration of Emergency, and

BE IT FURTHER RESOLVED, that the Commission grants authority to the Secretary of the Department of Wildlife and Fisheries to close the season for the commercial harvest of any species or group of species of fishes listed in LAC 76:VII.335, and to re-open and re-close these seasons in Louisiana state waters if he is informed by the Regional Administrator of NMFS that the same season has been modified in the federal waters of the Gulf of Mexico, and that the Regional Administrator of NMFS requests that the season be modified in Louisiana state waters, and

BE IT FURTHER RESOLVED, that all applicable rules regarding reef fish harvest, including possession limits, permit requirements and size limits established by the Commission shall be in effect during the open seasons hereby established, and

BE IT FURTHER RESOLVED, that 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 Declaration of Emergency, and

BE IT FURTHER RESOLVED, that a Declaration of Emergency setting 2008-09 commercial reef fish seasons in Louisiana state waters is attached to and made part of this resolution.

Earl P. King Jr., Chairman
Wildlife and Fisheries Commission

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries

Wildlife and Fisheries Commission

2008-09 Reef Fish Commercial Seasons

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

The commercial fishing seasons for reef fish as listed in LAC 76:VII.335, Reef Fish – Harvest Regulations continue to remain open as of January 1 of each year unless otherwise provided for in LAC 76:VII.335 and LAC 76:VII.337, or as a result of actions by the Secretary as authorized below. These commercial fishing seasons include closed seasons for some species and species groups as listed in LAC 76:VII.335 and in LAC 76:VII.337, including prohibition on harvest of goliath and Nassau groupers.

In addition, the Secretary of the Department of Wildlife and Fisheries is hereby authorized to close the season for the commercial harvest of any species or group of species of the fishes listed in LAC 76:VII.335, Reef Fish – Harvest Regulations, in Louisiana state waters if he is informed by the Regional Administrator of NMFS that the applicable commercial quota has been harvested in the Gulf of Mexico, and if he is requested by the Regional Administrator of NMFS that the State of Louisiana enact compatible regulations in Louisiana state waters.

The Commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to re-open and close the commercial seasons described here in Louisiana state waters if he is informed by NMFS that the season dates for the commercial harvest of these fish species in the Federal waters of the Gulf of Mexico as set out herein have been modified, and that NMFS requests that the season be modified in Louisiana state waters. Such authority shall extend through January 31, 2009.

Effective with seasonal closures under this Emergency Rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade, or sell the affected species of fish, whether taken from within or without Louisiana territorial waters. Also effective with this closure, no person shall possess the affected species of fish in excess of a daily bag limit, which may only be in possession during the open recreational season by legally licensed recreational fishermen. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing such fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Earl P. King, Jr.
Chairman

The agenda item, **To receive and consider an Industry Request for a Declaration of Emergency for Season Adjustments and Harvest Limits for the Public Oyster Grounds East of the Mississippi River** began with Chairman King stating he received a letter from the United Commercial Fisherman's Association (UCFA), represented by Mr. George Barisich, and a letter from Mr. Dennis Pixton. The Chairman then stated that Mr. Barisich wanted the Commission to listen to their concerns about actions occurring in an area east of the Mississippi River. Mr. Barisich thanked the Commission on behalf of the oyster fishermen for the opportunity to convey an extreme situation that has occurred on Louisiana's state oyster grounds. In 2005, as much as 90 percent of the state and private grounds suffered oyster mortality in St. Bernard and Plaquemines Parishes. The fishermen were anxiously awaiting this upcoming oyster season as there was a good crop of marketable, legal-sized oysters and a healthy crop of seed oysters for bedding. When the season opened in September, the nightmare ensued with the local fleet and non-resident vessels choking the docks with a product that was not usually produced in Louisiana. This resulted in the price dropping from \$24 a sack to \$18 a sack in 4 days which affected local fishermen. When this occurred, most of the local fishermen chose to go bedding to help rebuild their reefs. The second split opened in November with the sack price increasing a little and demand was strong due to the holidays. The first 2 or 3 weeks were uneventful with the oyster fishermen working trying to recoup some of their losses. Then a fleet of non-resident vessel inundated the area deploying fishing practices that were destroying their reefs. Due to this, many of the marketable oysters and seed stock were being buried which resulted in a total loss. The Department responded to numerous calls from local fishermen on this issue, but there are no laws that addresses the problem except to shut the season down. Mr. Barisich commented that a complete closure was not an option. He added that three areas with the most production dropped from over 100 sacks per day to less than 30 sacks per day in a matter of weeks with some of the grounds looking worse than they did after Hurricane Katrina. The UCFA called a meeting of its oyster fishermen working this area to discuss options to handle this situation. The attendees voted to ask the Commission to 1) set a 65 sack per day limit for both resident and non-resident vessels; 2) establish a 5 day work week; and 3) suspend bedding operations in Areas 1 and 2 east of the River. Mr. Barisich then noted the Commission received a letter from the Oyster Task Force which stated that this issue should be studied by them and then give recommendations. He then asked the Commission to use their emergency powers to vote in favor of the 3 actions which may fix some of the problems. He concluded that for the Commission to do nothing was the wrong course of action for the industry and the remaining resource.

Mr. Dennis Pixton, a member of the Oyster Task Force, reminded the Commission that in July 2007, one recommendation from the Task Force was to have a 75 sack limit for the first opening. At the August Commission Meeting, this action was not implemented. After talking with some of the fishermen present at the Commission meeting, Mr. Pixton asked that the sack limit be 75 per day and not 65 as proposed by Mr. Barisich.

Mr. Byron Encalade, President of Louisiana Oysters Association and President of Louisiana Association of Cooperative, strongly supported Mr. Barisich. He stated he has seen the ecosystem change due to the destruction on the oyster reefs. Not only are the oyster fishermen suffering, but recreational fishermen, commercial fishermen and finfish all depend on the reefs. Mr. Encalade urged the Commission to support the actions proposed by Mr. Barisich.

Mr. John Tesvich, a long time oyster fisherman, stated he knew what the previous speakers felt but noted he was in a different phase of the oyster business. He added that the oyster industry was changing with there being a limited resource and a limited market for oysters. There has been a growth in the number of boats that were harvesting the limited oyster crop which makes that piece of the pie smaller. With Texas having a poor production year, their fleet came into Louisiana and now there were twice as many boats fishing a limited resource. Mr. Tesvich stated when local fishermen are competing against outside fleets with hired crew that were “raping the resource”, it was disturbing. He added, that as a member of the Oyster Task Force, this issue was brought before the Task Force, and at the July meeting a 75 sack limit was recommended, but was not effectively brought before the Commission. Mr. Tesvich stated he supported the 75 sack limit, but the other issues were not discussed and he would take no position on them. A Committee from the Task Force was established to help with some issues and possible legislation may be presented during the next session. Commissioner Samanie asked what would be the purpose and results if bedding was suspended in Areas 1 and 2. Mr. Barisich stated the boats were fishing the reefs too hard. Louisiana has a lot of soft reefs, mixture reefs and lots of oysters in mud. The idea was to preserve the integrity of the reefs while fished. Chairman King asked what was the proposed sack limit. Mr. Barisich answered it was 75 sacks after he polled the members at the meeting. Commissioner Oats asked if 75 sacks was the Oyster Task Force’s recommendation and he was told yes. Then he asked if there was anything illegal with the harvesting techniques going on now. Mr. Barisich stated the problem was that you could not make a person fish a certain way. Louisiana produces 74 percent of the country’s oysters due to the fact that 90 percent of the fishermen fish responsibly. Now there are non-residents fishing the reefs that could care less, according to Mr. Barisich, and were here only for this season. If the limit was 75 sacks per day, then the reefs would not be fished as hard and which could result in a nice product.

Mr. Ivan Popich, a commercial oyster fisherman, stated Mr. Barisich and Mr. Tesvich touched on some of the issues. But he added that 75 sacks was better than 65 when it came to expenses. The question of why was he at the meeting was answered when he noted he makes his living strictly off of selling oysters. Mr. Popich stated that the market would take in the same amount of oysters no matter the sack limit. He mentioned he was not in favor of limits. If a limit was imposed, there will be a crew that would find a way around the limit. If limit both sacking and bedding, Mr. Popich knew oyster resources would be created during productive seasons. Then after 2 or 3 years, a dry cycle may occur which would deplete the resource. Another question asked was how would the limit be enforced. If a limit was installed, a possession limit would be imposed also. If fishermen can not have a 2 day possession limit, this would cut out 2 day trips. To preserve the

fishery, Mr. Popich felt there should be limited entry and this would prevent more boats from coming into the industry. He agreed that non-resident boats were moving into the state since they drove him out of Southwest Pass.

Representative-Elect Reed Henderson began noting he was still trying to learn about the issue. The livelihoods of the people he represented were at stake. The sack limit was not to drive up the prices, but to save the reefs. Most of the issues brought up by Mr. Popich were legislative and that could not be brought up until the season closed. He asked the Commission to try to address this issue in order to save the reefs and industry. Representative-Elect Henderson stated that whatever help the Commission could give the industry for the next 3 or 4 months would be greatly appreciated. He then noted that the damage that could be done within the next 2 or 3 months could take another 2 or 3 years to recover. Chairman King congratulated the Representative-Elect on his election and felt his constituents would be well represented.

Chairman King then noted he had 26 comment cards in favor of the proposal but those individuals did not wish to speak.

Commissioner Mouton stated that this sounded like a conservation issue. He knew that the reefs were important in breaking the wave action.

Mr. Ralph Pausina stated he was neither for or against the proposal, he just wanted to provide information to the Commission. He added that he chairs the Committee of the Oyster Task Force discussing some of the issues and trying to make sense that would help everyone. The Committee has met once and divided the concerns into areas and made a recommendation on one of their issues. They would present that recommendation on seasons at the upcoming Task Force meeting. Then the Committee would meet again to discuss some of the items being discussed now. Mr. Pausina added that the area being discussed was a public seed ground and not a private place to sell oysters. He reminded the Commission that whatever action they take, they should consider what may happen next year. Commissioner Oats asked for the Oyster Task Force's thinking when it recommended the 75 sack limit. Mr. Pausina stated he was not at the meeting when that was discussed. Chairman King asked how many members are on the Oyster Task Force. Mr. Don Puckett answered 18 members. Chairman King asked Mr. Pausina how many members were on the Committee he chairs and was told 12.

Chairman King asked Mr. John Roussel if the Department had a recommendation. Mr. Roussel then asked Mr. Patrick Banks to talk about the resource and the unique situation with the leases and Lt. Col. Keith LaCaze to discuss enforcing a sack limit. He added staff developed a Declaration of Emergency that would address all of the issues that would make the rule work. Mr. Banks stated they have been diligently monitoring the harvest throughout the year as well as visiting with fishermen. As of now, a little less than 30 percent of the resource had been harvested off of the public grounds in the area compared to what was available at the beginning of the season. Especially in the St. Bernard Parish area, the rate of harvest has been at a fairly high rate, but well below the level of concern for the resource. Mr. Banks noted a sack limit would not harm the resource at this time.

Commissioner Samanie asked if there had been an obvious increase in out-of-state licenses. Mr. Banks stated there was not an obvious increase. Total out-of-state licenses sold in 2004 was 64, 2005 was 89, 2006 was 93 and 2007 was 88. Commissioner Samanie then talked about the closure in Sister Lake and added that some of the fishermen from that area would be in favor of a sack limit. Commissioner Oats asked if the staff recommended the 75 sack limit suggested by the Oyster Task Force. Mr. Banks stated the way they recommended managing the resource was to shorten seasons with an unlimited amount of harvest each day rather than sack limits. Commissioner Oats asked about working around problems in enforcing a 75 sack limit. Lt. Col. LaCaze stated that sack limits was not anything new for agents with there being a 10 sack limit in Calcasieu. Enforcement concerns were with the private leases in the area and having language that would not allow a fisherman to take oysters from his private lease and the public grounds on the same day. Bedding operations going on at the same time that sacking operations was another concern for Enforcement. Language for the size of a sack was the last concern. Commissioner Miller asked what was the sack limit now and Lt. Col. LaCaze stated there was no limit in the eastern portion of the state. Commissioner Miller asked if any enforcement cases have been made on any unlicensed out-of-state oyster fishermen. Lt. Col. LaCaze stated those fishermen do acquire their licenses, but the enforcement issues were related to size limits and where they are fishing (closed areas versus open areas and staying off private leases). Commissioner Miller then asked if there were any extraordinary enforcement problems for those non-resident boats abiding by the rules set by the Department for oyster fishing and Lt. Col. LaCaze answered no. Next Commissioner Miller asked if the out-of-state fishermen pay their severance taxes and submit their reports just as in-state fishermen were required. Lt. Col. LaCaze stated that the staff try their best to make sure they comply. The only difference in monitoring was landing of oysters. All oysters have to be landed in the state unless the fisherman holds an out-of-state landing permit. Commissioner Miller asked if the non-resident fishermen were under the same economic constraints as the local fishermen and he was told yes. Then Commissioner Miller stated this all boiled down to an economic issue. Mr. Banks mentioned that the proposal would help the industry with their economic return. Commissioner Miller asked when would the oyster season close and Mr. Banks stated it was scheduled to close on April 1. Commissioner Miller then asked what did House Bill 585 hope to accomplish.

Chairman King asked if Louisiana boats were allowed to fish Texas waters. (Members of the audience answered no.) The Chairman then felt that was a key point. Mr. Roussel asked that Mr. Banks be allowed to explain Texas' license provisions. Mr. Banks explained that Texas placed a moratorium on issuing new licenses several years ago, but there are a set number of licenses in Texas available for purchase from existing license holders. Mr. Banks was not sure the price of those Texas licenses. Mr. Roussel further explained that Texas passed a law that set a control date and made those licenses from that point forward transferable and saleable between 2 parties. Chairman King asked if the transfer was done on a bid basis and Mr. Roussel felt it was a private transaction. Commissioner Miller felt any fix to this matter did not lie with the Commission but with the Legislature. The request for the Commission was to make a decision on whether the fishermen go from an unlimited sack per day oyster harvest to a limit in a segment of the state for this season. Mr. Roussel

stated a proposal by Mr. Barisich to only allow sacking and not allow bedding on public grounds was news to him. Commissioner Miller asked if the action would close the seed grounds. Mr. Roussel stated the season was set to close on April 1 and authority was given to the Secretary to close those grounds if there was a resource problem. As stated by Mr. Banks, the harvest rate was higher this year, but was not to the point of going to the Secretary and recommending the season be closed. Commissioner Samanie thought the only issue the Oyster Task Force dealt with was the 75 sack per day limit and not the other 2 issues. He added he would be willing to address just a 75 sack limit per day on all public seed grounds except for the Calcasieu area. Chairman King asked the Department for the thought process on the 5 day work week and suspension of bedding grounds in Area 1 and 2. Mr. Roussel stated the 5 day work week would slow down the rate of harvest only on the public grounds and bedding would deny the opportunity to continue making investments in their leases by removing seeds from the public grounds and planting them on their leases. He then asked Mr. Barisich to explain what could be accomplished by prohibiting any bedding. Mr. Barisich stated the 5 day week would limit production and take some pressure off of the reefs and this may maintain the price. With bedding, the fishermen were taking them off, putting them in their boats, putting them on their bedding grounds and then removing them the next day. The suspension was only for Areas 1 and 2, emphasized Mr. Barisich. He then commented to Commissioner Miller that it was not the same to have Texas boats and Louisiana boats fishing since the Texas boats have Mexican deckhands living on those boats. Commissioner Miller stated cheap labor was not something the Commission nor Department could deal with, it was an economic issue. Those entities could only deal with conservation issues. Mr. Barisich felt the 3 proposals were conservation efforts in conjunction with each other. Commissioner Morrow asked how would the 5 day work week impact the recreational fishermen. Mr. Barisich stated that a lot of recreational fishing was done around reefs and there would not be any user group conflicts occurring since the oyster fishermen would not be working on weekends. Commissioner Morrow asked if the 5 day work week would increase the opportunity for recreational fishermen. Mr. Barisich answered yes and added it would allow the reefs to rest. Commissioner Samanie asked if the oyster industry was prepared for the possibility of 3 or 4 days of bad weather. Mr. Barisich stated this was discussed and they felt the alternative was worse. Commissioner Samanie felt the bedding suspension would not be fair to lease holders in Areas 1 and 2 that actually seed oysters for bedding.

Then Commissioner Samanie asked that the staff's Declaration of Emergency be read. Mr. Banks advised the Commission they tried to incorporate a lot of the requests from the industry as well as enforcement concerns. He then read the following for the record: "the following provisions to take effect at one-half hour before sunrise on January 14, 2008 for the primary public oyster seed grounds east of the Mississippi River, as described in Louisiana Administrative Code (LAC) 76:VII.511 and LAC 76:VII.513, including the Bay Gardene Public Oyster Seed Reservation: 1) Any vessel from which any person(s) takes or attempts to take oysters from the public oyster seed grounds described above shall be: (a) limited to a daily take and possession limit not to exceed (whatever number) sacks of oysters per vessel. A sack of oysters for the purposes of this declaration of emergency

shall be defined as the size described in R.S. 56:440; and (b) shall be limited to either harvesting oysters for direct sale (sacking) or harvesting seed oysters for bedding purposes on any one day and is specifically prohibited from doing both; 2) If any person on a vessel takes or attempts to take oysters from the public oyster seed grounds described above, all oysters contained on that vessel shall be deemed to have been taken from said grounds; 3) Any oysters taken for direct sale (sacking) from the public oyster seed grounds described above must be contained within properly tagged sacks prior to departing the public oyster seed grounds; and undersized oysters that do not meet the requirements set forth in R. S. 56:433(A) and non-living reef material shall be immediately replaced and scattered broadcast upon the public oyster seed grounds from which taken; and 4) The fishing of oysters shall only be allowed during legal harvesting hours on Monday, Tuesday, Wednesday, Thursday, and Friday of any week.” Mr. Banks added that the draft did not include a reference to no bedding. Commissioner Miller asked if the references to sacking was current law under which the fishermen were operating today. Mr. Roussel answered yes, they wanted everything to be as consistent with the current law as possible. One of the main points Fisheries staff and Enforcement agents wanted to accomplish was that a vessel on public grounds was either sacking or bedding oysters. Commissioner Morrow asked if there was a possession limit and Lt. Col. LaCaze explained that the daily limit and possession limit were the same number. Mr. Roussel added that currently, with no sack limit, an oyster harvester can have multiple days of sacks on his vessel and there was no violation. Commissioner Morrow then thought the draft was to allow only a one days possession and Mr. Roussel said that was correct. Commissioner Samanie noted he could not support the draft unless it included all of the public oyster seed grounds and excluded point number 4 until the Oyster Task Force looked over it. Commissioner Oats agreed with Commissioner Samanie on excluding point number 4 since there was no recommendation from the Task Force. He then asked for more input on allowing only 75 sacks as opposed to 150 sacks. Mr. Banks responded that during this time of year, under the Department of Health and Hospital’s sanitary code, the vessels are allowed to stay out more than one day. The draft’s take and possession limit would cut the fishermen down to a one day trip. Commissioner Samanie asked if a two day possession limit could be put into the draft. Lt. Col. LaCaze mentioned a daily limit could not be enforced if fishermen were allowed a possession limit that was twice the daily bag limit on board a vessel. Commissioner Miller felt if the proposal was to offset non-resident boats, then a one day possession limit would go a ways in doing that.

Mr. Dennis Pixton stated there were concerns with a one day limit with the cost of fuel and other expenses. Having a two day limit of 150 sacks would not be a problem. Commissioner Miller asked why do a limit at all. Mr. Pixton answered due to the amount of oysters being taken from the reefs. He added that he wanted the Commission to implement the sack limit that was asked for by the Oyster Task Force.

Commissioner Oats asked Mr. Barisich if the recommendation was for a 75 sack limit. Mr. Barisich wanted to have a 75 sack per day limit but they wanted to stay out for 2 days. He felt the idea of allowing 150 sacks on a boat at one time would work which may take 2 days to catch. This could be documented by the log books. Commissioner Morrow asked if

someone did not talk about people not necessarily being truthful on their log times. Mr. Barisich stated they envisioned having 75 sacks per day for two days. Commissioner Morrow then asked if the proposal was to have a 75 per day sack limit with a 2 day possession limit and Mr. Barisich answered yes, which was the conservation part of the issue.

Commissioner Oats did not understand the problem with 75 sacks per day and two day possession. Lt. Col. LaCaze explained that to enforce a daily limit was to have the possession limit the same and no more could be on a vessel at any one time. If that was not enough, change it to 150 and if that was reached in one or two days that was fine. Commissioner Oats and Commissioner Morrow did not agree with allowing a fisherman the chance of getting 150 sacks in one day. They felt there was a need for 2 day possession. Lt. Col. LaCaze commented it was extremely difficult to enforce a 75 day limit if fishermen were allowed to have more on their vessels. Discussion ensued among the Commissioners on daily sack limits. Chairman King asked staff if they wanted the Commission to decide on the sack limit. Mr. Roussel stated they needed the number for the sack limit, whether the 5 day work week would stay in the draft and the proposal to prohibit any bedding in Areas 1 and 2 would have to be inserted. Commissioner Oats asked for more information on the question of just east of the River. Mr. Roussel's biggest concern about the Commission acting on public grounds beyond east of the River was that segment of the industry was not represented at the meeting. Also, the agenda item was not advertised to include those other areas. Commissioner Oats made a motion to approve the draft read by Mr. Banks with the exclusion of section 4 which was the Monday through Friday work week. Commissioner Morrow asked how many sacks and Commissioner Oats answered 75. Commissioner Miller asked staff to have action items given to them in writing. He then seconded the motion. Commissioner Oats noted the reason for excluding section 4 was that it was not discussed with the Oyster Task Force. Commissioner Miller wanted to know what was the Commission voting on. Mr. Roussel agreed that it was difficult to absorb something being read without a copy to look at. Chairman King defended the staff by noting this request came late. Mr. Roussel offered to reread the draft to reflect Commissioner Oats' motion. He read the draft as: "In accordance with the emergency provisions, the Commission hereby modifies the 07/08 oyster season by applying the following provisions to take effect one-half hour before sunrise on January 14 for the public grounds east of the Mississippi River. 1) Any vessel from which any person takes or attempts to take oysters from the public oyster seed grounds described above shall (a) be limited to a daily take and possession limit not to exceed 75 sacks of oysters per vessel. A sack of oysters for the purpose of this Declaration shall be defined as the size described in Title 56; (b) be limited to either harvesting oysters for direct sale or harvesting seed oysters for bedding purposes on any given day and is specifically prohibited from doing both. 2) If a person on a vessel takes or attempts to take oysters from the public grounds described above, all oysters contained on that vessel shall be deemed to have been taken from said grounds. 3) Any oysters taken for direct sale from the public grounds must be contained within properly tagged sacks prior to departing public grounds and undersized oysters that do not meet the requirements as set forth in Title 56 and non-living reef material shall be immediately replaced and broadcast upon the public grounds from which taken. All rules

and regulations set forth by the Commission through its Resolution and Declaration passed on August 2 and all statutes remain in effect.” Chairman King called for the question.

Mr. Barisich asked for clarification on the motion wondering if it would limit him to 75 sacks per day. The Commissioners answered that was correct. Mr. Barisich noted that was not the plan. He then talked to the other fishermen about the motion. Mr. Barisich was told by the Commission they would not go with the proposal of 150 sacks on a boat, it would be 75 sacks per day. He then thanked the Commission for their time, but noted 75 sacks per day would not be effective.

Chairman King stated that the question on the motion was called. Commissioners Miller, Oats and Chairman King voted for the motion whereas Commissioners Morrow, Samanie and Mouton voted against. The motion failed.

Election of Chairman and Vice-Chairman began with Commissioner Mouton nominating Commissioner Morrow for Chairman for 2008. Commissioner Morrow was elected Chairman by acclamation. Then Commissioner Oats nominated Commissioner Miller for Vice-Chairman. However, Commissioner Miller declined and then nominated Commissioner Samanie for Vice-Chairman. Commissioner Samanie was elected Vice-Chairman by acclamation of the Commission.

The Commissioners agreed to hold the **May 2008 Meeting** on Thursday, May 1, 2008, beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Next item was to receive **Public Comments** and none were heard.

There being no further business, Commissioner Miller made a motion to **Adjourn** the meeting and it was seconded by Commissioner Morrow.

Robert J. Barham
Secretary

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