

**LOUISIANA WILDLIFE AND FISHERIES COMMISSION**

**MINUTES**

**June 5, 2008**

**PATRICK C. MORROW  
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  
JUNE 5, 2008**

		Page
1.	Roll Call	1
2.	Approval of Minutes of May 1, 2008	1
3.	Commission Special Announcements/Personal Privilege	1
4.	To receive and hear presentation on Property Title Transfer - Leased Acres Acquisitions for Joyce WMA	1
5.	To receive and hear presentation on Findings Related to Economic Importance of Fish, Wildlife and Boating Resources to Louisiana's Economy	3
6.	To consider Funding for Delta Waterfowl and Ducks Unlimited with Staff Present for Questions on NAWMP Rules and Regulations on NAWCA Grants	4
7.	To receive and hear presentation on President Bush's "Islands in the Stream" Concept	9
8.	To receive and hear Enforcement & Aviation Reports/May	9
9.	To receive and consider Declaration of Emergency and Notice of Intent on Oyster Cargo Vessels	10
10.	To receive and hear presentation on Department's Recognition for Participation and Commitment to "Cameron Creole Watershed - Marsh Terracing Project"	19
11.	To receive and hear presentation on Changes to 2009 Spring Turkey Season	19
12.	To receive and consider Declaration of Emergency and Notice of Intent on the Closure of Fishing in Iatt Lake During Drawdown	20

13.	To receive and consider Declaration of Emergency Closing the 2008 Recreational Season for Red Snapper in Louisiana State Waters to Coincide with the Closure of Federal Waters	25
14.	Set October 2008 Meeting Date	29
15.	Receive Public Comments	29
16.	Adjournment	30

MINUTES OF THE MEETING  
OF  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Thursday, June 5, 2008

Chairman Patrick Morrow presiding.

Earl King, Jr.  
Frederic Miller  
Stephen Oats  
Stephen Sagrera  
Robert Samanie, III

Secretary Robert Barham was also present.

Commissioner Henry Mouton was absent from the meeting.

Chairman Morrow called for a motion for approval of the **May 1, 2008 Commission Minutes**. A motion for approval was made by Commissioner Oats and seconded by Commissioner King. The motion passed with no opposition.

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

**To receive and hear presentation on Property Title Transfer - Leased Acres Acquisitions for Joyce WMA** began with Mr. Randy Myers stating he would highlight the culmination of a joint conservation effort. The sale would be executed between the Department and The Conservation Fund that would add over 7200 acres, known as the Octavia Tract, to Joyce WMA. The land would be permanently protected and available for use. Joyce WMA, located south of Pontchatoula in Tangipahoa Parish, consists of nearly 25,000 acres of bald cypress-tupelo gum swamp mixed with shrub scrub and open marsh habitat. The area provides a tremendous amount of outdoor recreational opportunities. A 1600 foot boardwalk, built in 1990, receives a considerable amount of daily use. In order to complete the acquisition, a unique partnership developed. The process began in 2001. The Department, The Conservation Fund and other partners were able to secure 2 federal grants (NOAA and NAWCA) which totaled \$4 million. A \$1.6 million grant from NOAA plus \$392,000 from NAWCA plus \$450,000 (\$250,000 from Shell Oil and \$200,000 from Ameriprise Financial Services) was secured by The Conservation Fund plus \$100,000 from the Department. Last October, Octavia Partners agreed to sign an agreement with The Conservation Fund who then immediately entered into a lease agreement with the Department which allowed the property to be immediately available to the public. Mr.

Myers recognized that without the donation from the Richard King Mellon Foundation of 61,000 acres, known as the Maurepas Swamp WMA, none of this would have been possible. The land from Maurepas Swamp WMA was used as leverage in order to receive the NOAA and NAWCA grants. He then introduced and recognized each partner attending the meeting, Mr. Ray Herndon, The Conservation Fund, Mr. Tim Osborn, NOAA, Mr. Barry Wilson, NAWCA, Mr. John Gin, Ameriprise Financial Services, and Mr. Michael Henican, Octavia Partners. Mr. Myers then read a message from Senator David Vitter.

Mr. Ray Herndon, The Conservation Fund, stated this project represented a long standing effort between the Department and The Conservation Fund. With this particular effort, the partnership has broadened, diversified and has become truly effective. He then thanked Senator Vitter, Senator Landrieu and their staff, NOAA, and representatives from NAWCA. Mr. Herndon then recognized the commitment by Octavia Partners and their willingness to go along with the project while working to get the funding sources. Also, he recognized Ameriprise Financial and their commitment to the project and their local and national interest in conservation and the environment. Mr. Herndon then thanked Mr. Myers for keeping the project on track. This project proved to be a point on the continuum of the partnership in the future for the benefit of all the citizens and the fish and wildlife that thrive on these lands, concluded Mr. Herndon.

Mr. John Gin, Ameriprise Financial, stated he received a telephone call from the corporate office asking if he would want to make the meeting and he noted he was glad to do that. The corporate office did not want to send someone from Minneapolis to the meeting. He thanked all of the partners involved for listening to the advisors and clients in Louisiana.

Mr. Tim Osborn, NOAA, began thanking the Commission and Department and all partners involved for working together. Partnerships and funding were not the real issues. He then commended the new Administration for having this event after only 6 months in office. Secretary Barham made it very clear of his commitment to environmental conservation and restoration and Mr. Osborn felt this project would be measured in generations not just years. He also thanked NAWCA and Mr. Herndon for his commitment and patience, to Ameriprise and Octavia. Mr. Osborn added that the Coastal and Estuarine Lands program of NOAA looked forward to working with the Department in the future. Thanks also was extended to the Congressional Delegates. Mr. Osborn then presented a plaque to Secretary Barham and Chairman Morrow in the purchase of this land that would be included in the Joyce WMA.

Secretary Barham, reflecting on what his Boss tells him, stated he did not want to ever see the Department treading water. This was just one step in making Louisiana better. Every day the Secretary comes to work, he wanted to look forward to such activities and to wonderful partners.

Chairman Morrow, on behalf of the Commission, felt it was a great day for the Department and Louisiana in terms of furtherance of its goals in acquiring and preserving a management area for use by all citizens of Louisiana. He then thanked each gentleman.

**To receive and hear presentation on Findings Related to Economic Importance of Fish, Wildlife and Boating Resources to Louisiana's Economy** began with Mr. Jack Isaacs introducing Mr. Rob Southwick of Southwick Associates. The report would give the economic benefits of fisheries, wildlife and boating resources for 2006. Mr. Isaacs then explained that Mr. Southwick takes pre-existing statistics from U.S. Fish and Wildlife Service, National Marine Fisheries Service and the Department and combines them into the report. This is the third report from Mr. Southwick, the first came in 1997 using data from 1996, in 2005 using data from 2003 and 2001 and now using data from 2006. This report does not purport to be an estimate of the value of the resources, but are confined to the portion that can be accounted for in dollars and cents.

Mr. Southwick began stating the primary source of data came from a survey from the U.S. Fish and Wildlife Service which is done every 5 years and done consistently comparing fishing, hunting and wildlife. Other data sources are used such as from the Department for commercial fisheries, boating industry, and harvest information for alligators, nutria, trapping and collecting of reptiles/ amphibians. The economic impacts involve jobs, tax revenue and the ripple effects from the activities managed by the Department. The expenditure data was run through an economic model called IMPLAN which captures the greater share of economic impacts. The following results were based on 2006 figures: hunters spent almost \$600,000 for hunting which supported 13,000 jobs and resulted in over \$60 million in state and local tax revenues. Another way to look at the economic impact on hunting was that the hunters in Louisiana outnumbered the people in the Alexandria metro area 2:1. Over 700,000 people went sport fishing in 2006, spent over \$1 billion, supported over 18,000 jobs which resulted in \$114 million in tax revenues. Another way to look at the fishing impact, Mr. Southwick noted 1 out of 7 residents fish in Louisiana. Commercial fisheries activities were a value added process with a dockside harvest value of \$271 million which generates \$1.8 billion for the state economy by the time it reaches the consumer, results in about 27,000 jobs, \$171 million in tax revenues, and 1 out of every 70 jobs. Mr. Southwick noted there are over 320,000 registered boats in Louisiana which resulted in almost \$1 billion in boating activities, almost 15,000 jobs depend on this industry and over \$80 million is received from tax revenues. The next activity, wildlife viewing, has been a growing area over the last 10 years across the country, according to Mr. Southwick. In 2006, almost 750,000 people participated in wildlife viewing, spent over \$300 million, supported over 6,000 jobs and resulted in \$32 million in tax revenues. The alligator industry resulted in \$60 million exchanging hands in Louisiana, supported almost 750 jobs, and resulted in almost \$6 million in tax revenue. Other activities such as fur trapping resulted in \$2 million in economic activity and the collection of reptile and amphibians resulted in another \$720,000 which totaled \$200,000 in state revenues. All activities combined resulted in \$4.6 billion, and 10 percent of retail expenditures could be contributed to fish, wildlife and boating resources. Louisiana is ranked #15 nationally in fishing and hunting. Total jobs, in all sectors of the economy, equaled to about 1 in every 17 jobs. State and local tax revenues combined equaled \$446 million. The total ripple effect (value) was just under \$7 billion which means that almost 6 percent of the economy depends on fish, wildlife and boating resources in Louisiana.

Commissioner King felt Mr. Southwick gave a very interesting presentation. Chairman Morrow felt the presentation highlighted the magnitude of involvement the Department has in the State's overall economy. He also felt the presentation was timely with the escalating cost and hoped the Legislature would consider these figures when determining the budgetary funding in Louisiana.

The discussion, **To consider Funding for Delta Waterfowl and Ducks Unlimited with Staff Present for Questions on NAWMP Rules and Regulations on NAWCA Grants**, began with Commissioner Fred Miller stating a public hearing was held last month. The vote from the Commission was left open for a month and the time was right for a vote. Commissioner Oats stated there have been extensive meetings with the staff, dial-in conference calls with both Delta Waterfowl and Ducks Unlimited. He then asked the Chairman's indulgence in hearing from the staff on the proposals. Commissioner Miller asked if this would be a part of the discussion from a motion. Again, Commissioner Oats explained he would like to hear from the staff since some of the Commissioners may be struggling with the issues. Commissioner Miller felt if the Department wanted to make any comments, it could be done as part of the discussion of the motion. Chairman Morrow asked if there were any objections from the Commission to Commissioner Oats' request. Commissioner Miller expressed objection. Chairman Morrow asked for a motion and then would open it for discussion. Commissioner Miller made a motion to accept the proposal made by Delta Waterfowl and award 50 percent of the 10 percent of the license sales available for use on the waterfowl nesting grounds to Delta and the remaining 50 percent be awarded to Ducks Unlimited for its proposals. The contract between the Department and Grantees would be for a 5 year term. Commissioner King seconded the motion. Commissioner Oats then requested to hear from the staff.

Mr. Larry Reynolds stated he would present the staff's views on important components as the Commission considers their decision. He began stating Louisiana was the most important wintering waterfowl state in North America and at or near the top in the number of ducks killed. The vast majority of the birds are raised on the prairie breeding areas in northern United States and Canada. Mr. Reynolds then read a portion of Revised Statutes (R.S.) 56:104. The Commission received 2 proposals; the first to spend monies doing predator management in North Dakota, implementing alternative land use services (ALUS) in prairie Canada and an Adopt-a-Pothole program in southwest Manitoba. The other proposal was to use the monies for habitat retention, wetland restoration, upland restoration and habitat management. Mr. Reynolds then noted the predator management proposal would trap predators on four 36 square mile blocks in North Dakota and would use 2/3 of the allocated money. New ALUS demonstrations in Saskatchewan and on-going demonstrations in Manitoba would be supported with 16.7 percent of the funds. Under the Adopt-a-Pothole program, perpetual wetland easements would be purchased in southwest Manitoba with the other 16.7 percent of the allocation. In regards to the second proposal, in terms of habitat retention, over half of the allocation would be used on conservation easements and agreements, land purchase, and range land stewardship. A small portion



would be used for wetland restoration such as restoring wetland basins. Forage conversion and winter wheat programs provide substantially better nesting cover for waterfowl (25%). Twenty percent of the allocation would be used for habitat management of acreage in existing agreements. Mr. Reynolds added there are hundreds of thousands of acres under existing agreements that requires periodic management to maintain their value. All of this work would be done in the Missouri Coteau Region of southwestern Saskatchewan. He then discussed some of the staff's concerns about the proposed activities. There are no concerns with the Adopt-a-Pothole program, habitat retention, wetland restoration, the conversion from grains to grassland and the expansion of the winter wheat program and habitat management program. There have been established benefits to waterfowl and associated species from these programs and are incorporated into implementation plans with the North American Waterfowl Management Plan and they are all eligible for matching funds. The Adopt-a-Pothole program would be matched at least one time with NAWCA funds and the other programs would be matched a number of times equaling up to 6 times the amount that was contributed. Next, Mr. Reynolds talked on predator control, which he noted was a controversial issue. Predator removal increases nest success where applied on average about 2 times, but it does not increase the number of birds nesting on trapped blocks; it also did not provide any residual effects once outside of the trapped blocks; and nest success on non-trapped blocks exceeded that necessary to grow waterfowl populations. On a large scale, predator management did not have much support. In 2003, the Mississippi Flyway Council passed a resolution not supporting predator management except in limited situations. After contacting all 14 states within the Flyway, Mr. Reynolds noted only 2 (Minnesota and Iowa) wanted to revisit the issue of predator management only in regards to adding emphasis to the exceptions in the limited situations. Predator management was not a technique sanctioned by the Saskatchewan NAWMP implementation committee; was not eligible as matching funds to leverage additional conservation funding and posed questions on compatibility with the statute terms of "preservation and development" of breeding grounds. High commodity prices and interest for alternative fuel sources are spurring rapid loss of habitat in the U.S. prairie breeding areas. This conversion was also occurring in Canada but at a much slower rate. Rapid habitat conversion and landowners willing to sell perpetual easements adds priority to focusing on habitat related activities and the matching funds before these lands are lost to agriculture. Talking about ALUS, Mr. Reynolds stated there was a need for a CRP-type program in Canada. ALUS was a potential mechanism that could slow wetland loss. There was support for ALUS from the Mississippi Flyway states (Tennessee, Mississippi, Illinois and Ohio). Half of the activities under ALUS are eligible for matching funds which would be rolled into the Adopt-a-Pothole program. In April 2007, the Department met with Delta Waterfowl and urged them to include ALUS in their proposals. At last month's meeting, Mr. Dean Smith with the Agriculture and Agri-Foods Canada, suggested ALUS would have a very low probability of success. Delta's proposal stated that for ALUS to be successful, there was a need for federal investments, but evidence from Mr. Smith showed they did not embrace the concept. Currently, there were 8 pilot ecological goods and services programs being tested of which ALUS was one. There was very little new habitat with the ALUS program which was unlike CRP and payments may not be high enough to stop wetland drainage. Even though the Department encouraged ALUS to be included in

Delta's proposal, Mr. Reynolds noted there has been some recent skepticism to support the program. Summarizing, he noted there were long term, well established concerns about predator management, recent skepticism has arisen on the ALUS program, but the other conservation activities were well established and integral parts of large scale efforts at waterfowl conservation.

Commissioner Oats stated he planned to speak against the motion, explain the parts he disagreed with, and then make another motion to amend the original motion. He noted he also had a concern with predator management on a large scale. Commissioner Oats did not feel the split in funds should be 50-50 because of the leveraging opportunities. After talking with both groups, he learned a lot about NAWCA which was set for long term waterfowl projects and predator management was a short term project. However, Commissioner Oats felt predator management, under the right circumstances, was totally appropriate. He then added he would propose an amendment not to tell Delta Waterfowl they cannot use the funds on predator management, but to use it in the appropriate circumstances. He then made a comment that he was committed to getting Delta more money since their long term vision for predator management would be done on 150 to 200 areas which Delta felt would cost between \$6 million and \$7 million on an annual basis. This would produce another 800,000 to 900,000 ducks. Commissioner Oats was convinced the Department's bias was not against Ducks Unlimited or for or against Delta Waterfowl, but it was their issues on predator management. He then wanted to speak against the 5 year time period. He hoped that one day Ducks Unlimited's sites already secured could be used to trap predators and work with Delta. Commissioner Oats noted he planned to offer an amendment to go with a shorter time period.

Commissioner King thanked Commissioner Oats for his research and hard work. He stated that everyone agreed that 70 percent of the continent's waterfowl breed in the prairie pothole region. He suggested designating Delta's portion to the Adopt-a-Pothole program. Delta has promised to keep the Commission informed of what the money has accomplished and this has resulted in credibility and accountability. Commissioner King added that he likes accountability, transparency and documentation. He wanted to offer a friendly amendment to Commissioner Miller's motion to designate the funds for Delta Waterfowl to Adopt-a-Pothole where the breeding was occurring. Predator control was a short term fix and not a long term fix, commented Commissioner King. The yearly reports received from Delta Waterfowl were meaningful to the Commissioner; and he added, he did not get that on the other end.

Commissioner Sagrera agreed with most of Commissioner King's comments. He then asked the Commission to consider going with a 2 or 3 year contract instead of 5 years and look at the possibility of getting matching funds for predator control. The shorter time period would not tie the hands of future Commissioners that may have other views.

Commissioner Oats told Commissioner King that Louisiana and Arkansas were the only states that gives Delta Waterfowl funds for predator control. In his discussion with Delta Waterfowl on not allotting the money for predator control, Commissioner Oats was told it

was not what they wanted, but it freed up other monies that could be used for predator control. He then made a motion to amend the timeframe on Commissioner Miller's motion from 5 years to 2 years. Commissioner Sagrera seconded the motion. Commissioner Miller agreed to accept the amendment to his motion. The motion passed with no opposition. Chairman Morrow then noted the motion was for a 50-50 split of funds between Delta Waterfowl and Ducks Unlimited for a 2 year period. Commissioner King then made a friendly amendment to the motion that Delta Waterfowl's 50 percent should be directed to the Adopt-a-Pothole program. Commissioner Oats seconded the motion. He seconded the motion with the idea that it preserved habitat.

Dr. Frank Rohwer stated he had a concern with Mr. Reynold's first point in his presentation, that habitat was great and they wanted to protect habitat. The concern was that habitat did not produce ducks unless you get reasonable nest success. Dr. Rohwer felt Adopt-a-Pothole was fabulous and long term leases and easements on wetlands were needed, but the science proved that a lot of ducks could be produced with predator management. Dr. Rohwer felt a strong message was sent if predator management was cut off. Commissioner Oats explained his reasons for supporting Commissioner King's motion: the first was because it still gave Delta Waterfowl money which could free up other monies. He pledged to make sure the wrong signal does not get sent on predator management especially since everyone agreed, in the right circumstances, predator management was the way to go. The other reason was to dodge the problem of the legislation that says the money could only be given for development and preservation of the breeding grounds. Commissioner Miller felt pledging to try to fix something while not supporting it now accomplishes nothing. He noted that Delta has shown that while using their trapping techniques, more birds have been put into the air per square mile than Ducks Unlimited ever did. Now to tie their hands and not do trapping today, but fix it tomorrow was not a solution to the issue before the Commission. Six years ago, the Commission decided to support trapping and put Delta under stringent contractual obligations and they have proved that what they were doing works. Commissioner Miller added that if trapping was not done and ended the 5 percent nest success, the state would be out of the duck business within his life time. Despite Ducks Unlimited's best efforts and all of the money sent with no strings attached, the problem remains today that was occurring in the 1930's. The only bright star on the horizon for the last 6 years, according to Commissioner Miller was Delta Waterfowl and trapping; and to send no money now, but to fix it in the future was a specious argument. Commissioner Oats did not think it was specious since Delta would still get the money which would free up other monies. He did not want Delta to lose all of their money because predator management did not fit into the language of the statute.

Chairman Morrow then restated the amendment to Commissioner Miller's motion to allocate 50/50 to Delta Waterfowl and Ducks Unlimited with the stipulation that Delta Waterfowl's allocation be used solely for Adopt-a-Pothole. Commissioner Miller asked Commissioner King if they could give Delta the money with the caveat that they cannot use it for predator trapping. Commissioner King again stated everyone agreed that 70 percent of the breeding occurs on the prairie pothole regions and not much good was said about ALUS. At the last meeting, he asked Delta about the predator management program, and

he had a problem with the way the trappers results were verified. Commissioner King then withdrew his motion. Chairman Morrow then mentioned Commissioner King's motion was now for a 50/50 split, for a 2 year agreement, with the stipulation for Delta Waterfowl that no funds be used for predator eradication. Commissioner Oats seconded the motion. The motion passed with opposition from Commissioner Miller. Commissioner Oats then made a motion to amend the 50/50 split to 1/3 to Delta Waterfowl and 2/3 to Ducks Unlimited. The motion died for lack of a second. Then Chairman Morrow asked for a vote on the amended motion to allocate the funds from license sales on a 50/50 basis, for the next 2 years, with the stipulation that the funds for Delta Waterfowl not be used for predator eradication. This motion passed with opposition from Commissioner Oats. Commissioner Miller asked if Commissioner Oats was going to explain how they would fix the predator management situation. Commissioner Oats stated that was taken care of with the last motion to eliminate predator control. The commitments Commissioner Oats made to the other Commissioners, the staff and Delta Waterfowl, he planned on fulfilling.

Next item, **To receive and hear presentation on President Bush's "Islands in the Stream" Concept** was handled by Commissioner Fred Miller. He stated there has been considerable newspaper coverage on an Executive Order by the President to create no fishing zones in the Gulf of Mexico. Commissioner Miller then introduced Mr. Jeff Angers with the Center for Coastal Conservation who would make a presentation. Mr. Angers stated the Center for Coastal Conservation focuses on marine conservation, laws and regulations on a federal level. This issue could gravely affect both commercial and recreational fishermen without any input. The proposal was to establish marine monuments in the Gulf of Mexico which would occur without a public process. Mr. Angers then asked the Commission to formally weigh in on the proposal. Some of the areas proposed for the monuments included the South Texas Banks, the Flower Gardens, the North Texas-Louisiana Banks, the Madison Swanson and Steamboat Lumps, the Florida Middle Grounds, and the Florida Keys. The proposal would close off these areas to all human activity and the method to close these areas might occur without public input. On June 15, 2006, the Bush Administration jumped the gun and declared the Northwest Hawaiian Islands a marine protected area (MPA). This is a 160,000 square mile area in which almost all human activity was outlawed. The advocates for establishing the MPA felt the public process was taking too long and the lobbyists convinced the White House to use the Antiquities Act to establish the monument at sea. This precedent may be followed in the Gulf of Mexico with only a few months left in this administration. Mr. Angers then read a portion of the letter he requested the Commission send to U.S. Secretary of Commerce Carlos Gutierrez. Hearing no questions, Commissioner Miller made a motion authorizing the Chairman to execute a letter to Secretary Gutierrez. Commissioner Samanie seconded the motion. The motion passed with no opposition.

Moving on to the next item, **To receive and hear Enforcement & Aviation Reports/May**, Lt. Col. Keith LaCaze stated the case report included issuing 1,843 citations, 652 written warnings and agents helped with 60 public assists. Emphasis for the month was boating safety and recreational fishing. The agents joined with the Alcohol Beverage Control Board

to do patrols in several Regions of the State to detect underage possession and to find out where the alcohol was being acquired. In the report, Region 7 made 16 DWI arrests and there were 14 cases of underage possession of alcohol. Another joint effort in the Region 3 area resulted in 4 cases being made of possession of alcohol by someone under the age of 21. Boating accidents for May included 23 reported accidents (69 total for the year), with 18 injuries (39 year to date) and 6 fatalities (22 total). The fatalities occurred in St. Martin, Tangipahoa (suspected alcohol abuse), St. Tammany Parish (no PFD), Ouachita (no PFD), Sabine, and Vernon (no PFD or kill switch) Parishes. Lt. Col. LaCaze stated they would continue with their patrols working on DWI's and underage drinking. The Department's three planes flew a total of 99.8 hours for the month. News Releases discussed included a sentencing on a night hunting case on hunting deer during illegal hours and from a moving vehicle, DWI arrest and boating violations, littering case on Ouachita River, an intentional littering case in Caldwell Parish, a sentencing in Lincoln Parish for a wild turkey violation case, and one of the agents encountered a woman having seizures and he assisted in getting medical services to the scene. Commissioner Samanie asked if the computers were broken in Region 9 with the 82 angling without a non-resident license citations issued. Lt. Col. LaCaze stated the anglers did not utilize the conveniences for them. Chairman Morrow felt there was a high number of boating accidents and asked if that was due to the holiday weekend. Lt. Col. LaCaze commented the weather was getting warmer and a lot of people were out on the water. Also, with the high fuel costs, the agents were still seeing the boats and people out there, but they were gathered in an area sitting still.

Chairman Morrow then asked if Mr. David Cresson wanted to speak in favor of Mr. Anger's proposal. When he found out Mr. Cresson already left, the Chairman apologized.

**To receive and consider Declaration of Emergency and Notice of Intent on Oyster Cargo Vessels** began with Lt. Col. Keith LaCaze stating the oyster industry was cooperatively managed by the Department, the Commission, the Department of Health and Hospitals and oversight was through the U.S. Food and Drug Administration. In order to comply with FDA requirements, the Office of Public Health and Molluscan Shellfish Program would promulgate additional rules to control the bacteria, Vibrio. Under the control plan, shell stock harvested for raw consumption during the months of May through October would be required to be placed under mechanical refrigeration at an air temperature not to exceed 45<sup>o</sup>F within 5 hours from the time harvesting begins. This rule would become effective on June 24, 2008. With the pending regulation, the Department had to move quickly in developing a way to meet the 5 hour refrigeration requirement. House Bill 1142, in the current Legislative Session, authorizes the Commission to promulgate rules for the operation of Oyster Cargo Vessels. The Department would issue permits for vessels with refrigeration onboard that would go to the private seed grounds where oysters were being harvested and this would meet the 5 hour requirement. With the fuel situation, the industry may also benefit from the use of the cargo vessels so the smaller boats would not have to make a trip back to the docks with their product. The Declaration of Emergency was being used since it would be a public health issue and on a fast track to get in compliance with the federal regulations. Lt. Col. LaCaze then read the Therefore Be It Resolved portion of

the Resolution. Commissioner Samanie made a motion to adopt the Resolution, it was seconded by Commissioner Oats and passed with no opposition.

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

## RESOLUTION

### OYSTER CARGO VESSEL PERMIT

June 5, 2008

WHEREAS, the Commission, pursuant to R.S. 56:6(10), shall adopt rules and regulations for the comprehensive control of shellfish, in accordance with the provisions of the Louisiana Administrative Procedure Act, and

WHEREAS, on or about June 24, 2008 new federal regulations will require oysters harvested for half-shell market during certain summertime months be placed under refrigeration within five hours of harvest, and

WHEREAS, the Louisiana Department of Health and Hospitals is currently undergoing rule-making in order that the state sanitary code (Title 51) will reflect the new federal regulations indicated above, and

WHEREAS, the Louisiana Oyster Task Force is in support of the permitting of oyster cargo vessels to assist with meeting the new federal and state refrigeration requirements, and

WHEREAS, House Bill 1142 of the 2008 Regular Legislative Session authorizing the Commission to promulgate rules and regulations for the operation of oyster cargo vessels is expected to be passed into law.

THEREFORE BE IT RESOLVED, that the Wildlife and Fisheries Commission does hereby promulgate a Declaration of Emergency and Notice of Intent to create and administer oyster cargo vessel permits.

BE IT FURTHER RESOLVED, 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, 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 declaration of emergency, notice of intent, and final rule, and the preparation of reports and correspondence to other agencies of government, and

BE IT FURTHER RESOLVED, the Declaration of Emergency and Notice of

Intent creating the oyster cargo vessel permit is attached to and made a part of this resolution.

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Patrick C. Morrow, Chairman  
Wildlife and Fisheries Commission

## DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The oyster fishery in the State of Louisiana is cooperatively managed and regulated by the Louisiana Department of Wildlife and Fisheries, the Wildlife and Fisheries Commission and the Louisiana Department of Health and Hospitals, Office of Public Health Molluscan Shellfish Program with oversight from the U. S. Food and Drug Administration (FDA). The National Shellfish Sanitation Program (NSSP) 2005 Model Ordinance is the federal/state cooperative program recognized by the FDA and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption.

In order to comply with FDA requirements, in June of 2008 the Office of Public Health Molluscan Shellfish Program will promulgate additional rules based on the *Vibrio parahaemolyticus* control plan. Under this control plan, shell-stock harvested in Louisiana for raw consumption during the months of May through October must be placed under mechanical refrigeration at an air temperature not to exceed 45 degrees F within five hours from the time harvesting begins. This rule is to become effective June 24, 2008.

Due to the distances and travel time involved in transporting oysters from many of the private leases and public oyster seed grounds in the remote oyster growing areas of the state, it is difficult to have shell-stock off-loaded at dockside and under refrigeration within five hours. While some larger oyster harvest vessels have the ability to place mechanical refrigeration on board in order to meet the refrigeration requirements, on-board refrigeration is not an option for smaller vessels and is cost prohibitive in some cases.

In order to provide a means of compliance with the five hour refrigeration requirements, the Wildlife and Fisheries Commission anticipates authorization, through pending legislation (HB 1142, Representative St. Germain), to adopt rules for the permitting of oyster cargo vessels. Such permitted vessels will be allowed to accept containerized and tagged molluscan species directly from oyster harvest vessels and placed them under refrigeration on board the permitted cargo vessel or to transport to dockside refrigeration within five hours from the beginning of harvest.

Standard rulemaking processes and delays will not permit final promulgation of this rule by June 2008; and failure to promulgate this rule in time for the FDA requirement to take effect will result in imminent peril to public health, the oyster fishery, as well as

individual fishermen, who will be unable to comply with the FDA requirement without the mechanism of the oyster cargo vessel. Therefore, it is necessary that this regulation be enacted initially by Declaration of Emergency pending promulgation of a permanent rule.

The process for Wildlife and Fisheries Commission adoption of rules for the permitting of Oyster Cargo Vessels can be expedited under the emergency provisions of the Administrative Procedure Act, R. S. 49:953(B).

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

##### **Chapter 5. Oysters**

###### **§523. Oyster Cargo Vessels**

A. Policy. The Oyster Cargo Vessel (OCV) permit is intended to assist oyster harvesters with meeting refrigeration requirements as set forth in the Louisiana Department of Health and Hospitals Shellfish Sanitation Code (Title 51) and to facilitate harvest and transport of shell-stock harvested from Louisiana water bottoms. It is also intended to provide an effective method of regulating the transfer of oysters from harvest vessels to cargo vessels which will land or off-load oysters. Violation of any provision of the rules, regulations or statutes concerning the oyster cargo vessel permit by the permittee, oyster harvester or vessel owner while operating under the OCV permit shall result in suspension and/or revocation of the permit in addition to any citations resulting from activities.

###### **B. Permit Procedures**

1. Permits shall be available from the Department of Wildlife and Fisheries (LDWF) licensing office in Baton Rouge at any time during regular business hours. The OCV permit may be purchased at any time of the year for the current license year and from November fifteenth for the immediately following year, and shall be valid for up to one calendar year beginning January 1 and expiring on December 31 of the same calendar year. The annual fee per permit shall be \$250 for residents and \$1105 for nonresidents.

2. Permits shall be issued in the name of the vessel owner and shall have the vessel identified on the license.

3. Any designee obtaining the permit on the vessel owners behalf must present to LDWF licensing a signed, notarized document from the vessel owner, which includes the vessel owner's name, address, social security number, date of birth and



driver's license number, and registration number or USCG document number of the vessel to be permitted, giving permission for the designee to obtain the permit. If the owner of such vessel is a corporation, the Louisiana Secretary of State's charter/organization identification number shall be required and the permission document shall be signed by a registered agent or director of the corporation as identified by the Louisiana Secretary of State's office. Permits shall only be issued to validly licensed vessels.

C. Operations. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The vessel must maintain the original permit on board at all times while operating under the permit, including times of fishing and transportation. The permitted vessel shall display signs, visible from either side of the vessel and from the air, with the words "OCV Permit" and the permit number shall be placed on these signs in letters at least twelve (12) inches in height.

1. All vessels operating as Oyster Cargo Vessels under this permit shall be required to meet Louisiana Department of Health and Hospitals Shellfish Sanitation Code requirements.

D. Records, Reporting. The applicant, vessel owner or a designee on board a legally permitted oyster cargo vessel shall only transport oysters taken by the other legally licensed commercial oyster harvesters on behalf of a certified dealer legally licensed in Louisiana and shall be required (on behalf of a certified dealer only) to complete all required records pertaining to oysters at the point oysters are transferred to the receiving vessel. No person shall transfer oysters to any commercial vessel for purposes of refrigeration, sale or transport unless the receiving vessel has an Oyster Cargo Vessel permit as described in R.S. 56:422(E).

E. Landing. All oysters taken from the reefs of this state and transported by a legally permitted Oyster Cargo Vessel must be landed in Louisiana in accordance with R.S. 56:424G(1). No person operating under an Oyster Cargo Vessel Permit shall land any oysters taken by another harvester outside the jurisdiction of Louisiana.

F. Tagging. All oysters transferred to an Oyster Cargo Vessel must be properly sacked or containerized and tagged in accordance with the provisions of R.S. 56:449 and must meet all Louisiana Department of Health and Hospital Shellfish Sanitation Administrative Code requirements that relate to the tagging of shellfish prior to being placed on board any Oyster Cargo Vessel.

G. Monitoring. The vessel utilized under this permit shall have on-board and in working order an electronic vessel monitoring system as required by R.S. 56:424, and as provided in LAC 76:VII.371. The owner or operator of any vessel issued an Oyster Cargo Vessel permit, must have an operable vessel monitoring system (VMS) installed on-board that meets the requirements of LAC 76:VII.371. The VMS unit must be certified, installed on board and operable, and the Department notified of the installation, before the vessel may begin receiving and transporting oysters.

H. Violation. Failure to abide by any regulation set forth regarding permitted Oyster Cargo Vessels shall be deemed a violation of this Section. All oysters placed on-board from another vessel, possessed, or transported by an oyster vessel in violation shall be considered illegally taken, possessed, or transported. All persons aboard vessels with oysters placed on-board from another vessel without complying with the requirements herein shall be in violation of the Oyster Cargo Vessel regulations. The provisions of this Section do not exempt any person from any other laws, rules, regulations and license requirements for this or other states as they pertain to the transfer or shipment of shellfish. Violations of this Section shall constitute a Class 4 violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:422(E).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34: .

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 Lt. Col. Keith LaCaze, Enforcement Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, September 4, 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).

Patrick C. Morrow  
Chairman

#### 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 regulations for an Oyster Cargo Vessel Permit.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

## **Part VII. Fish and Other Aquatic Life**

### **Chapter 5. Oysters**

#### **§523. Oyster Cargo Vessels**

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1. Permits shall be available from the Department of Wildlife and Fisheries (LDWF) licensing office in Baton Rouge at any time during regular business hours. The OCV permit may be purchased at any time of the year for the current license year and from November fifteenth for the immediately following year, and shall be valid for up to one calendar year beginning January 1 and expiring on December 31 of the same calendar year. The annual fee per permit shall be \$250 for residents and \$1105 for nonresidents.

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3. Any designee obtaining the permit on the vessel owners behalf must present to LDWF licensing a signed, notarized document from the vessel owner, which includes the vessel owner's name, address, social security number, date of birth and driver's license number, and registration number or USCG document number of the vessel to be permitted, giving permission for the designee to obtain the permit. If the owner of such vessel is a corporation, the Louisiana Secretary of State's charter/organization identification number shall be required and the permission document shall be signed by a registered agent or director of the corporation as identified by the Louisiana Secretary of State's office. Permits shall only be issued to validly licensed vessels.

C. Operations. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The vessel must maintain the original permit on board at all times while operating under the permit, including times of fishing and transportation. The permitted vessel shall display signs,

visible from either side of the vessel and from the air, with the words "OCV Permit" and the permit number shall be placed on these signs in letters at least twelve (12) inches in height.

1. All vessels operating as Oyster Cargo Vessels under this permit shall be required to meet Louisiana Department of Health and Hospitals Shellfish Sanitation Code requirements.

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H. Violation. Failure to abide by any regulation set forth regarding permitted Oyster Cargo Vessels shall be deemed a violation of this Section. All oysters placed on-board from another vessel, possessed, or transported by an oyster vessel in violation shall be considered illegally taken, possessed, or transported. All persons aboard vessels with oysters placed on-board from another vessel without complying with the requirements herein shall be in violation of the Oyster Cargo Vessel regulations. The provisions of this Section do not exempt any person from any other laws, rules, regulations and license requirements for this or other states as they pertain to the transfer or shipment of shellfish. Violations of this Section shall constitute a Class 4 violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:422(E).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34: .

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 Lt. Col. Keith LaCaze, Enforcement Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, September 4, 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).

Patrick C. Morrow  
Chairman

The next item, **To receive and hear presentation on Department's Recognition for Participation and Commitment to "Cameron Creole Watershed - Marsh Terracing Project"**, started with Mr. Tom Hess stating he was a biologist stationed at Rockefeller Refuge. He accepted an award, the Exemplary Ecosystem Initiative Award, on behalf of the Department from the Federal Highway Administration. This was given for the exceptional environmental stewardship provided to the Cameron Creole Watershed Marsh Terracing Project. The project consisted of new shoulders being constructed along Highway 27 to improve the hurricane evacuation route. The Department of Transportation and Development required mitigation to offset the negative impacts on the local wetlands. Once the terracing was accepted, a number of stakeholders turned a small mitigation project into a large scale wetlands conservation effort. The 27 miles of terraces worked to provide waterfowl habitat and estuarine fisheries habitat. Organizations involved in the project included the Federal Highway Administration, the Corps of Engineers, NRCS, the U.S. Fish and Wildlife Service, the U.S. Geological Survey, the Gulf Coast Conservation and Water District, the Department of Transportation and Development, the Cameron Parish Police Jury, Ducks Unlimited, Miami Corporation, North American Land Company, NAWCA, Shell Oil Company and the Department. The Department helped make the project a success by providing matching funds for terrace construction. In 1996, a 3-D seismic project was conducted on Rockefeller Refuge and the land rental fee, which totaled \$3.9 million, was used to rebuild 54 miles of levees. The value of that project was used to lever two \$1 million NAWCA grants. Staff from Rockefeller Refuge secured the Grants, provided technical assistance and logistical support for field trips. Chairman Morrow congratulated Mr. Hess and thanked him for all the work to protect the area.

**To receive and hear presentation on Changes to 2009 Spring Turkey Season** was handled by Mr. Fred Kimmel. He stated, this year staff was working under a new protocol for the turkey regulations process which was similar to the hunting seasons. At this meeting Mr. Kimmel stated he would just inform the Commission of the expected changes and the Notice of Intent would be presented at the July Commission Meeting. For 2009, staff recommended continuing the statewide opening framework on the 4<sup>th</sup> Saturday of March. The Area A season would run March 28-April 26; Area B - March 28-April 19; and Area C - March 28-April 12. Other changes would include mandatory tagging and validation; add a lottery hunt to Dewey Wills WMA; combine the 4<sup>th</sup> and 5<sup>th</sup> lottery hunts on Sicily Island WMA; add a youth hunt to Clear Creek WMA; reduce the Grassy Lake WMA season to 9 days from 16 days due to the prolonged flooding occurring in the area; open an area around Miller Lake in Evangeline Parish; and change the youth hunts to include those 16 and 17 years old.

Mr. Gary Tilyou presented the next item for the Commission's consideration, **To receive and consider Declaration of Emergency and Notice of Intent on the Closure of Fishing in Iatt Lake During Drawdown**. The proposal was to close Iatt Lake during the drawdown which began in May and was expected to be down 8 feet by June 9. The reason for the closure during the drawdown was that the water was confined to about 20 percent of the water body making the fish vulnerable to fishing. He then introduced Mr. Ricky Moses, District Manager for the area, to briefly explain the reasons for the drawdown.

Mr. Ricky Moses noted Iatt Lake was a 7,100 acre cypress tupelo covered lake that averages about 4 1/2 feet. As stated, an 8 foot drawdown reduced the water volume tremendously. Since 1960, Iatt Lake has been drawn down every 3 to 5 years. Currently, 90 percent of the lake was infested with aquatic vegetation. Staff has met with the Grant Parish Police Jury and were fine with the management plan. During the meeting, of the 30 people attending, there were 2 or 3 that voiced opposition to closing the lake to fishing. Iatt Lake has been closed to fishing during a drawdown since 2000. Fish sampling data indicated the closures were working with 75 fish collected per hour as compared to less than 40 per hour before 2000.

Hearing no questions, Mr. Tilyou read the Therefore Be It Resolved portion of the Resolution. Commissioner Sagrera made a motion to adopt the Resolution. Commissioner Oats seconded the motion and it was unanimously approved.

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

## **RESOLUTION**

### **LOUISIANA WILDLIFE AND FISHERIES COMMISSION LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES**

**June 5, 2008**

WHEREAS, the aquatic vegetation in latt Lake has become a nuisance to boaters and fishermen and,

WHEREAS, the use of a controlled drawdown to reduce aquatic vegetation is the most feasible method of control and,

WHEREAS, latt Lake will undergo an eight (8) foot drawdown from early summer to fall in 2008 and,

WHEREAS, the surface acreage on latt Lake during drawdown will be reduced by 80%, and

WHEREAS, the fish in latt Lake will be concentrated and extremely vulnerable to fishing, very possibly resulting in over-harvest and,

WHEREAS, fishing was not closed during drawdowns conducted on latt Lake prior to 2000 and the department documented heavy fishing pressure during drawdowns and reduced catch rates of fish following drawdowns and,

WHEREAS, fishing was closed for the 2000, 2002, and 2004 drawdowns on latt Lake and catch rates have steadily increased over that time period and,

WHEREAS, the Wildlife and Fisheries Commission has the authority to close fishing in waters of the state when fishing is deemed detrimental to the interest of the state.

THEREFORE BE IT RESOLVED, the Louisiana Wildlife and Fisheries Commission hereby promulgates a Declaration of Emergency and a Notice of Intent attached to and made a part hereof, to temporarily close latt Lake to all fishing beginning on June 9, 2008 and authorizing the Secretary, by public notice, to reopen latt Lake to fishing when water levels return to pool stage. The lake will be reopened to fishing upon announcement by the Department, now anticipated to be October 2008.

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 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.

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Patrick C. Morrow, Chairman  
Wildlife & Fisheries Commission

## DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The Inland Fisheries Division of the Department of Wildlife and Fisheries conducts annual vegetative samples on water bodies in late summer, when aquatic vegetation infestations are most severe. Management plans are then written, approved by the Department and presented to local citizens. This year's management plan for Iatt Lake in Grant Parish calls for an eight-foot drawdown followed by stocking of triploid grass carp. This will reduce the surface acreage of Iatt Lake by 80% and substantially increase the vulnerability of fish to anglers. The Department has monitored fish populations in the past following drawdowns. Prior to 2000, drawdowns were conducted without closing the lake to fishing. Population catch statistics indicated reductions in fish populations. We have conducted 3 drawdowns since 2000, and fish catch rates have continually risen over that time period. The Department feels it in the best interest of the resource to prohibit fishing while the lake is drawn down to prevent the over-harvest of fish. Poor fish populations in subsequent years would negatively impact the welfare of businesses catering to Iatt Lake fishermen, some individuals living on the lake and the fishermen using the lake.

Traditionally, the Department has used late fall/winter drawdowns on Iatt Lake. To better accomplish its management goals, the 2008 drawdown began in May and will probably end in October. The time required to finalize a management plan, coupled with an earlier drawdown date, prevented the Department from utilizing only a Notice of Intent and necessitated a Declaration of Emergency.

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, and under the authority of R.S. 56:6(25)(a), R.S. 56:325.C and R.S. 56:326.3, the Wildlife and Fisheries Commission hereby declares:

### **Title 76**

### **WILDLIFE AND FISHERIES**

### **Part VII. Fish and Other Aquatic Life**

### **Chapter 1. Freshwater Sports and Commercial Fishing**

### **§114. Iatt Lake Fishing Closure**



A. Recreational and commercial fishing in latt Lake in Grant Parish shall be closed while the lake is in drawdown. The following provisions shall apply.

1. The area where the closure shall be in effect are the waters of latt Lake between the latt Lake spillway and Louisiana Highway 122.

2. The closure shall begin on June 9, 2008 and continue until the Secretary of the Department officially announces the reopening of the lake to fishing. This should occur sometime after October 6, 2008 when the lake reaches pool stage (83 feet MSL), but could occur earlier if rain events prompt the Department to abandon the drawdown effort before October 6, 2008.

3. Effective with the closure, no person shall take or possess or attempt to take any species of fish while on the waters of latt Lake or take or possess or attempt to take any fish from the waters of latt Lake.

4. Throughout this closure, no person shall possess while on the waters of latt Lake any fishing gear capable of taking fish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6(25)(a), R.S. 56:325.C, and R.S. 56:326.3.

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 on the proposed rule to Mr. Gary Tilyou, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, August 7, 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).

Patrick C. Morrow  
Chairman

## NOTICE OF INTENT

Department of Wildlife and Fisheries

Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission hereby advertises its intent to create a rule to close Iatt Lake to fishing while the lake is drawn down for vegetation control.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

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3. Effective with the closure, no person shall take or possess or attempt to take any species of fish while on the waters of Iatt Lake or take or possess or attempt to take any fish from the waters of Iatt Lake.

4. Throughout this closure, no person shall possess while on the waters of Iatt Lake any fishing gear capable of taking fish.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56.6(25)(a), R.S. 56:325.C, and R.S. 56:326.3.

**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.

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Patrick C. Morrow  
Chairman

**To receive and consider Declaration of Emergency Closing the 2008 Recreational Season for Red Snapper in Louisiana State Waters to Coincide with the Closure of Federal Waters** was addressed by Mr. Harry Blanchet. The Commission originally set the red snapper season to begin June 1 and end September 30. Re-analyses of the potential harvest rates by the National Marine Fisheries Service has issued a closure in federal waters effective August 5. The proposed action would provide for compatible regulations in Louisiana state waters and would help with enforcement. Chairman Morrow asked if Louisiana was suffering because Florida and Texas refused to alter their seasons which resulted in the Feds reducing the season length. Mr. Blanchet stated that was a major factor in their decision making. Right now, Texas has a year round season with 4 fish per person bag limit and Florida has a season that opens April 15 and closes October 31 with a 2 fish per person bag limit. Chairman Morrow asked what was the State coast line for Texas and he was told it was 9 nautical miles. Mr. Blanchet noted there was a Senate Concurrent Resolution going through the Legislature now requesting the states of Florida and Texas to implement state regulations identical to federal regulations. He then read the Therefore Be It Resolved portion of the Resolution. Commissioner Miller made a motion to adopt the Resolution and it was seconded by Commissioner Oats. The motion passed with no opposition.

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

## RESOLUTION

### DECLARATION OF EMERGENCY TO MODIFY 2008 RECREATIONAL RED SNAPPER SEASON

Adopted by the

Louisiana Wildlife and Fisheries Commission

June 5, 2008

- WHEREAS, the reef fish resources in the Gulf of Mexico off the coast of Louisiana are cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF) and the National Marine Fisheries Service (NMFS) with the advice of the Gulf of Mexico Fisheries Management Council (Gulf Council), and
- WHEREAS, regulations promulgated by NMFS are applicable for waters of the Exclusive Economic Zone (EEZ) of the U.S., generally three miles offshore, and for federally permitted reef fish harvesters, and
- WHEREAS, regulations promulgated by the Louisiana Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, have provided rules for the harvesting of reef fish in Louisiana's state waters, and
- WHEREAS, NMFS is constrained by statute and court ruling to limit both recreational and commercial take of red snapper in the Gulf of Mexico, and
- WHEREAS, on January 29, NMFS published final rules for Amendment 27 / 14 in the Federal Register, which included a reduced total allowable catch of red snapper in the Gulf of Mexico to 5.0 million pounds, as well as a recreational season of June 1 through September 30, with a bag limit of 2 fish per person, other than for captain and crew of a vessel under charter, who had a bag limit of zero, and
- WHEREAS, the initial estimates of harvest within the season and bag limit framework were developed under the assumption that the adjoining states would enact compatible regulations, and
- WHEREAS, at their March 6, 2008 meeting, the Louisiana Wildlife and Fisheries Commission passed a declaration of emergency and notice of intent to modify permanent rules related to management measures for red snapper, including the recreational take and possession limit and season, and
- WHEREAS, adoption of compatible regulations for Louisiana state waters where feasible enhances effectiveness and enforceability of the regulations already in place for reef fishes harvested in the EEZ off of Louisiana, and
- WHEREAS, the states of Florida and Texas have not promulgated compatible regulations, which has led to an estimate by NMFS that substantial over-runs of the allowable harvest would occur within the recreational allotment, requiring a modification in regulations, and
- WHEREAS, on March 25, 2008 NMFS published a notice in the Federal Register announcing a closure of the recreational season for red snapper in the Gulf of Mexico to occur on August 5, 2008 at 12:01 a.m., based upon analyses

that showed that such a season had a 75% chance of constraining recreational harvest within the allowable quota, and

WHEREAS, fisheries for reef fishes also occur in Louisiana state waters that are significant to the citizens of the State of Louisiana and thus enactment of compatible regulations may also impact those persons involved in those fisheries, and

WHEREAS, R.S. 56:320.2(C) provides that all vessels fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal laws and regulations, and

WHEREAS, R.S. 56:6(25)(a), 56:320.2(C), 56:326.1, and 56:326.3 provide authority for adoption of this rule through the Wildlife and Fisheries Commission,

THEREFORE BE IT RESOLVED, that the Wildlife and Fisheries Commission hereby modifies the Declaration of Emergency passed in March 2008 to modify the closing date of the recreational fishery for red snapper in Louisiana waters by adoption of rules consistent with those in effect in Federal waters offshore of Louisiana, and

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

BE IT FURTHER RESOLVED, that the Commission also authorizes the Secretary to open additional recreational red snapper 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 recreational red snapper quota for the Gulf of Mexico has been filled, or is projected to be filled, and

BE IT FURTHER RESOLVED, that all applicable rules regarding the recreational red snapper 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 closing the 2008 recreational red snapper season in Louisiana state waters is attached to and made part of this resolution.

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Patrick C. Morrow, Chairman  
Wildlife and Fisheries Commission

## DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The reef fish fishery in the Gulf of Mexico is cooperatively managed by the Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). 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. Rules were promulgated by NMFS on January 29, 2008 to enact provisions of the red snapper rebuilding plan (Reef Fish Amendment 27 / Shrimp Amendment 14). These rules included establishing a recreational season of June 1 through September 30 of each year. A compatible season was established for Louisiana waters by the Wildlife and Fisheries Commission at their March 6, 2008 meeting. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

On March 25, 2008 NMFS announced a change in the closing date for the recreational season for the harvest of red snapper in Federal waters in the Gulf of Mexico to 12:01 a.m., August 5, 2008. The Regional Administrator of NMFS has requested that Louisiana enact compatible regulations for this fishery.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana water to coincide with the regulation set forth by NMFS, it is necessary that emergency rules be enacted. This emergency rule modifies the seasons set forth in the Emergency Rule passed by the Wildlife and Fisheries Commission at their March 2008 meeting.

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 recreational red snapper season is established to open on June 1, 2008, and remain open until 12:01 a.m., August 5, 2008. The recreational bag limit for red snapper shall be 2 fish per person per day during this open season. Captain and crew members shall not harvest or possess red snapper while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2. Their bag limit is zero for all of these species.

Patrick C. Morrow  
Chairman

Chairman Morrow noted he received Senate Concurrent Resolution 10 requesting the Commission permit the exemption of small game hunters during the first 9 days of squirrel season from having to pay for a WMA fee. He then asked the Department to review the Resolution and present it to the Commission at the appropriate time.

The Commissioners agreed to hold the **October 2008 Meeting** on Thursday, October 2, 2008, beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Under **Public Comments**, Mr. Joe Macaluso stated he wanted to make two points which could be read in the newspapers in the near future. The first was on the Delta Waterfowl and Ducks Unlimited debate. He felt there was a need for a meeting of the minds between the 2 organizations to determine where the monies would be best spent. Mr. Macaluso commented that the world was not making more land with the rising sea levels. This less land would have to produce more duck food and then someone would have to figure out where duck habitat would be the most productive and how to make the most from it. This would make predator control a factor. In 2 years, the discussions will be the same and somewhere along the way there will be a need for the 2 organizations, the Department and the U.S. Fish and Wildlife Service to come up with a plan that tells how many acres are needed for a sustainable waterfowl hunting population. Mr. Macaluso felt the Canadians would not give up their land. The second issue was the need to enhance the non-resident fishing license fees. The fee for a 5 day non-resident fishing license was exorbitant, commented Mr. Macaluso. The fee for 5-day fishing licenses in Colorado to fish prime streams was \$21 where Louisiana's fee was twice that amount. If the state wanted more people to come spend money, then the non-resident license fee would need to be reduced. Commissioner Miller reminded Mr. Macaluso there was a reduced step-on license for charter boats. Mr. Macaluso stated he has had people tell him they want to come fish with him, but that \$40 fishing license fee was becoming a bigger and bigger obstacle. Chairman Morrow felt that could be a possibility if the Department had additional funding.

There being no further business, Commissioner Oats made a motion to **Adjourn** the meeting and it was seconded by all other members.

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Robert J. Barham  
Secretary

scf